

**ACTS**  
AND  
**RESOLVES**  
PASSED BY THE  
**General Court of Massachusetts**  
IN THE YEAR

**1985**

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PUBLISHED BY  
**Michael Joseph Connolly**  
SECRETARY OF STATE

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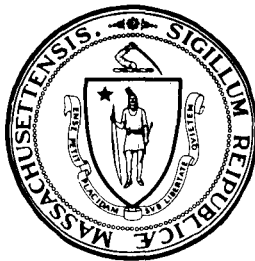
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**VOLUME 1**

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The General Court, which was chosen November 6, 1984 assembled on Wednesday the first day of January 1985 for its first annual session.

His Excellency Michael S. Dukakis continued to serve as Governor for the political year of 1985.



## ACTS

### **Chapter 1. AN ACT MAKING AN APPROPRIATION FOR CUSHING HOSPITAL FOR THE FISCAL YEAR ENDING JUNE THIRTIETH, NINETEEN HUNDRED AND EIGHTY-FIVE.**

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

**SECTION 1.** To provide for supplementing a certain item in the general appropriation act and for a certain new activity and project, the sum set forth in section two, for the several purposes and subject to the provisions of law regulating the disbursement of public funds and the conditions pertaining to appropriations in chapter two hundred and eighty-four of the acts of nineteen hundred and eighty-four, are hereby appropriated from the General Fund, unless specifically designated otherwise, for the fiscal year ending June thirtieth, nineteen hundred and eighty-five or for such period as may be specified, the sum so appropriated to be in addition to any amount available for the purpose.

#### **SECTION 2.**

##### **DEPARTMENT OF PUBLIC HEALTH.**

Item

4539-0001 For the administration of Cushing Hospital; provided, however, that not less than one hundred and thirty thousand dollars shall be expended for the purposes of the preparation of a determination of need application, including not more than five hundred and ninety-one permanent positions and forty temporary positions

\$5,671,254

**SECTION 3.** This act shall take effect upon its passage.

Approved February 5, 1985.

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### **Chapter 2. AN ACT MAKING AN APPROPRIATION TO FUND A COLLECTIVE BARGAINING AGREEMENT BETWEEN THE BOARD OF REGENTS OF HIGHER EDUCATION AND THE SOUTHEASTERN MASSACHUSETTS UNIVERSITY FACULTY FEDERATION, LOCAL 1895, AFT, AFL-CIO.**

Be it enacted, etc., as follows:

**SECTION 1.** To provide for the cost of salary adjustments and other employee economic benefits authorized by the collective bargaining agreement between the board of regents of higher education and the Southeastern Massachusetts University Faculty Federation, Local 1895, AFT, AFL-CIO, the sum set forth in section two of this act is hereby



**ACTS, 1985. - Chap. 2.**

appropriated, subject to the provisions of law regulating the disbursements of public funds and the conditions pertaining to appropriations in chapter two hundred and thirty-four of the acts of nineteen hundred and eighty-four.

**SECTION 2.**

**EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE.**

Collective Bargaining.

Item

1599-3226 For a reserve to meet the cost of salary adjustments and other employee economic benefits authorized by the collective bargaining agreement between the board of regents of higher education and the Southeastern Massachusetts University Faculty Federation, Local 1895, AFT, AFL-CIO; provided, however, that the commissioner of administration is hereby authorized to transfer from the sum appropriated to other items of appropriation for the fiscal year nineteen and eighty-five, such amounts as are necessary to meet the cost of said adjustments and benefits for the fiscal years nineteen hundred and eighty-four, nineteen hundred and eighty-five and prior years where the amounts otherwise available are insufficient for the purpose; provided, further, that the commissioner of administration is further authorized to allocate the cost of such salary adjustments and benefits to the several state or other funds to which such items of appropriation are charged; provided, further, that copies of each said collective bargaining agreement, together with an analysis of all cost items contained in said agreement and all changes to be made in the schedules of permanent and temporary positions required by said agreement, shall be filed with the house and senate committees on ways and means prior to the transfer or allocation of any amounts necessary to meet the cost of said adjustments and benefits; and provided, further, that no such transfers shall be made without the prior approval of the house and senate committees on ways and means

\$3,063,076

**SECTION 3.** This act shall take effect upon its passage.

Approved February 5, 1985.



**ACTS, 1985. – Chaps. 3, 4.**

**Chapter 3. AN ACT RELATIVE TO DETAINEES IN CERTAIN LOCKUP FACILITIES.**

Be it enacted, etc., as follows:

**SECTION 1.** Chapter 456 of the acts of 1984 is hereby amended by adding the following section:

Section 4. Section thirty-six B of chapter forty of the General Laws, inserted by section one of this act, shall take effect on October first, nineteen hundred and eighty-five.

**SECTION 2.** This act shall take effect as of February first, nineteen hundred and eighty-five.

Approved February 5, 1985.

EMERGENCY LETTER – February 7, 1985 @ 3.09P.M.

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**Chapter 4. AN ACT FURTHER REGULATING THE OPERATION OF THE DIVISION OF EMPLOYMENT SECURITY AND AUTHORIZING THE EXPENDITURE OF A CERTAIN FUND BY SAID DIVISION.**

Be it enacted, etc., as follows:

**SECTION 1.** Section 9L of chapter 23 of the General Laws is hereby amended by adding the following paragraph:

The director shall assure that all information secured as an incident to the public employment service program is used solely for the purpose of administering the commonwealth system of public employment offices as part of a national system of public employment offices, except that such information may be disclosed for other purposes in accordance with policies promulgated by the director, provided that such disclosure will not impede the operation of or be inconsistent with the purposes of the public employment service program, or where such disclosure is otherwise authorized or required by law. Whoever discloses such information other than as required or authorized by law shall be subject to the penalty set forth in section forty-six of chapter one hundred and fifty-one A.

**SECTION 1A.** Section 1 of chapter 151A of the General Laws is hereby amended by adding the following subsection:–

(y) "Payments in lieu of contributions", the money payments to the Unemployment Compensation Fund required by the provisions of subsection (b) of section fourteen A.

**SECTION 2.** Paragraph (2) of subsection (a) of section 14 of said chapter 151A, as most recently amended by section 16 of chapter 720 of the acts of 1977, is hereby further amended by striking out the first sentence and inserting in place thereof the following three sentences:–



**ACTS, 1985. - Chap. 4.**

"Reserve percentage", in relation to an employer's account, the net balance of such account on a computation date stated as a percentage of the employer's total taxable payroll for the period of twelve consecutive months ending on said computation date, except that if an employer has no taxable wages but has a balance, such employer's reserve percentage shall be deemed to be zero positive if the account balance is positive; or, seven per cent negative if the account balance is negative. If an employer has no taxable wages and has a zero account balance, such employer's reserve percentage shall be deemed to be zero positive. In relation to the solvency account, "reserve percentage" shall mean the annual balance of said account on a computation date as determined under subsection (f) stated as a percentage, rounded up to four decimal places, of the total taxable payrolls reported by all employers whose experience rate is determined under paragraph (1) of subsection (i), for the calendar year immediately preceding said computation date.

**SECTION 3.** Said section 14 of said chapter 151A is hereby further amended by striking out subsection (b), as most recently amended by section 17 of said chapter 720, and inserting in place thereof the following subsection:-

(b) No employer shall be assigned an experience rate of less than five and four tenths per cent with respect to any calendar year beginning on or after January first, nineteen hundred and eighty-five unless, as of the computation date applicable to such year:-

(1) Benefits have been or could have been charged to the employer's account throughout the twelve consecutive months' period ending on such date; and

(2) Such lower experience rate applies under subsection (i); and

(3) Permitting him to pay such lower experience rate is consistent with the conditions applicable to additional credit allowance under section 3303(a) of the federal Unemployment Tax Act, any other provision of this chapter to the contrary notwithstanding.

**SECTION 4.** Subsection (e) of said section 14 of said chapter 151A is hereby amended by striking out paragraph (3), as amended by section 3 of chapter 866 of the acts of 1970.

**SECTION 5.** Said subsection (e) of said section 14 of said chapter 151A, as most recently amended by section 19 of chapter 720 of the acts of 1970, is hereby further amended by striking out paragraphs (5) and (6) and inserting in place thereof the following two paragraphs:-

(5) Whenever, as of any computation date, an employer's account has a negative reserve percentage of more than fifteen per cent, the amount by which the negative balance of its account exceeds a negative reserve percentage of fifteen per cent shall be credited to the employer's account as of said computation date and charged to the solvency account as of the first day of October immediately following the computation date.

(6) Whenever, as of any computation date, an employer's account



**ACTS, 1985. – Chap. 4.**

has a reserve percentage of more than thirty per cent, the amount by which the balance of its account exceeds a reserve percentage of thirty per cent shall be charged to the employer's account as of said computation date and credited to the solvency account as of the first day of October immediately following the computation date.

**SECTION 6.** Said section 14 of said chapter 151A is hereby further amended by striking out subsection (f), as most recently amended by section 1 of chapter 829 of the acts of 1973, and inserting in place thereof the following subsection:—

(f) As of any computation date after nineteen hundred and eighty-four, the balance of the solvency account shall be determined by the director after applying such credits and charges to the solvency account as provided by subsection (e).

**SECTION 7.** Subsection (h) of said section 14 of said chapter 151A is hereby amended by striking out paragraph (2), as amended by section 20 of chapter 720 of the acts of 1977, and inserting in place thereof the following paragraph:—

(2) For the purpose of determining the reserve percentage in the solvency account the director shall determine the total taxable wages of all employers in the commonwealth, whose experience rate is determined under paragraph (1) of subsection (i) during the calendar year previous to the applicable computation date and shall prescribe the procedure and methods by which such total taxable wages shall be determined.

**SECTION 8.** Said section 14 of said chapter 151A is hereby further amended by striking out subsection (i), as most recently amended by section 66 of chapter 233 of the acts of 1983, and inserting in place thereof the following subsection:—

(i) The contribution rate of each employer shall be five and four tenths per cent of that part of its payroll subject to this chapter, except as follows:

(1) With respect to calendar years beginning on or after January first, nineteen hundred and eighty-five, the experience rate of an employer qualifying therefor under subsection (b) shall be the rate which appears in the column headed by the unemployment compensation fund reserve percentage as of the applicable computation date and on the line with the applicable employer account reserve percentage as set forth in the experience rate table:



# EXPERIENCE RATE TABLE.

## Unemployment Compensation Fund Reserve Percentage.

Employer Account Reserve Percentage	A. 2.3% and over	B. 2.0% or more but less than 2.3%	C. 1.7% or more but less than 2.0%	D. 1.4% or more but less than 1.7%	E. 1.1% or more but less than 1.4%	F. 0.8% or more but less than 1.1%	G. Less than 0.8%
<b>Negative Percentage</b>							
7.0 or more	5.4	5.7	6.0	6.3	6.6	6.9	7.2
6.5 but less than 7.0	5.3	5.6	5.9	6.2	6.5	6.8	7.1
6.0 but less than 6.5	5.2	5.5	5.8	6.1	6.4	6.7	7.0
5.5 but less than 6.0	5.1	5.4	5.7	6.0	6.3	6.6	6.9
5.0 but less than 5.5	5.0	5.3	5.6	5.9	6.2	6.5	6.8
4.5 but less than 5.0	4.9	5.2	5.5	5.8	6.1	6.4	6.7
4.0 but less than 4.5	4.8	5.1	5.4	5.7	6.0	6.3	6.6
3.5 but less than 4.0	4.7	5.0	5.3	5.6	5.9	6.2	6.5
3.0 but less than 3.5	4.6	4.9	5.2	5.5	5.8	6.1	6.4
2.5 but less than 3.0	4.5	4.8	5.1	5.4	5.7	6.0	6.3
2.0 but less than 2.5	4.4	4.7	5.0	5.3	5.6	5.9	6.2
1.5 but less than 2.0	4.3	4.6	4.9	5.2	5.5	5.8	6.1
1.0 but less than 1.5	4.2	4.5	4.8	5.1	5.4	5.7	6.0
0.5 but less than 1.0	4.1	4.4	4.7	5.0	5.3	5.6	5.9
0.0 but less than 0.5	4.0	4.3	4.6	4.9	5.2	5.5	5.8
<b>Positive Percentage</b>							
0.0 but less than 0.5	3.9	4.2	4.5	4.8	5.1	5.4	5.7
0.5 but less than 1.0	3.8	4.1	4.4	4.7	5.0	5.3	5.6
1.0 but less than 1.5	3.7	4.0	4.3	4.6	4.9	5.2	5.5
1.5 but less than 2.0	3.6	3.9	4.2	4.5	4.8	5.1	5.4
2.0 but less than 2.5	3.5	3.8	4.1	4.4	4.7	5.0	5.3
2.5 but less than 3.0	3.4	3.7	4.0	4.3	4.6	4.9	5.2
3.0 but less than 3.5	3.3	3.6	3.9	4.2	4.5	4.8	5.1
3.5 but less than 4.0	3.2	3.5	3.8	4.1	4.4	4.7	5.0
4.0 but less than 4.5	3.1	3.4	3.7	4.0	4.3	4.6	4.9
4.5 but less than 5.0	3.0	3.3	3.6	3.9	4.2	4.5	4.8
5.0 but less than 5.5	2.9	3.2	3.5	3.8	4.1	4.4	4.7
5.5 but less than 6.0	2.8	3.1	3.4	3.7	4.0	4.3	4.6
6.0 but less than 6.5	2.7	3.0	3.3	3.6	3.9	4.2	4.5
6.5 but less than 7.0	2.6	2.9	3.2	3.5	3.8	4.1	4.4
7.0 but less than 7.5	2.5	2.8	3.1	3.4	3.7	4.0	4.3
7.5 but less than 8.0	2.4	2.7	3.0	3.3	3.6	3.9	4.2
8.0 but less than 8.5	2.3	2.6	2.9	3.2	3.5	3.8	4.1
8.5 but less than 9.0	2.2	2.5	2.8	3.1	3.4	3.7	4.0
9.0 but less than 9.5	2.1	2.4	2.7	3.0	3.3	3.6	3.9
9.5 but less than 10.0	2.0	2.3	2.6	2.9	3.2	3.5	3.8
10.0 but less than 10.5	1.9	2.2	2.5	2.8	3.1	3.4	3.7
10.5 but less than 11.0	1.8	2.1	2.4	2.7	3.0	3.3	3.6
11.0 but less than 11.5	1.7	2.0	2.3	2.6	2.9	3.2	3.5
11.5 but less than 12.0	1.6	1.9	2.2	2.5	2.8	3.1	3.4
12.0 but less than 12.5	1.5	1.8	2.1	2.4	2.7	3.0	3.3
12.5 but less than 13.0	1.4	1.7	2.0	2.3	2.6	2.9	3.2
13.0 but less than 13.5	1.3	1.6	1.9	2.2	2.5	2.8	3.1
13.5 or more	1.2	1.5	1.8	2.1	2.4	2.7	3.0



#### ACTS, 1985. – Chap. 4.

(2) With respect to the calendar year beginning on January first, nineteen hundred and eighty-five, the experience rate of an employer qualifying therefor under subsection (b) shall be the rate which appears in the column designated "B" and on the line with the applicable employer account reserve percentage as set forth in the foregoing table.

(3) Each employer newly subject to this chapter shall pay contributions at the rate of three per cent until it has been an employer for not less than the twelve consecutive months' period specified in paragraph (1) of subsection (b); thereafter, its contribution rate shall be determined in accordance with the preceding provisions of this subsection.

For the purposes of this subsection, an employer newly subject to this chapter is one which was never previously subject to this chapter or, if previously subject, ceased to be subject under the provisions of section eleven and, in either case, is not a transferee within the meaning of subsection (n) and is not newly subject under the provisions of subsection (d), (g) or (h) of section eight.

**SECTION 9.** Said section 14 of said chapter 151A is hereby amended by striking out section (j), as most recently amended by section 4 of chapter 866 of the acts of 1970, and inserting in place thereof the following subsection:—

(j) For any calendar year beginning on or after January first, nineteen hundred and eighty-five, each employer whose experience rate is determined under paragraph (1) of subsection (i) shall have its account as of a computation date adjusted by the product of the reserve percentage for the solvency account and the employer's total taxable payroll for the period of twelve consecutive months ending on said computation date.

**SECTION 10.** Paragraph (5) of subsection (n) of said section 14 of said chapter 151A, as appearing in section 6 of chapter 473 of the acts of 1976, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:— If a transferee had no contribution rate applicable to it for that calendar year, the contribution rate of the transferee shall be the rate which appears in the column headed by the unemployment compensation fund reserve percentage as of the applicable computation date and on the line with an employer account reserve percentage of 0.0 but less than 0.5 positive as set forth in the experience rate table of subsection (i), or five and four-tenths per cent, whichever is the lesser.

**SECTION 11.** The first paragraph of subsection (a) of section 14A of said chapter 151A, as appearing in section 24 of chapter 720 of the acts of 1977, is hereby amended by striking out, in lines 1 and 2, the word "subsection (f)" and inserting in place thereof the word:— subsection (d).

**SECTION 12.** The second paragraph of said subsection (a) of said section 14A of said chapter 151A, as amended by section 1 of chapter 642 of the acts of 1979, is hereby further amended by striking out paragraph (5) and inserting in place thereof the following paragraph:—



**ACTS, 1985. – Chap. 4.**

(5) The director may for good cause extend the period within which a notice of election, or a notice of termination, shall be filed and may permit an election to be retroactive but not earlier than January first of the calendar year immediately preceding the date said notice was filed.

**SECTION 13.** Section 14C of said chapter 151A is hereby amended by adding the following subsection:-

(1) The director may for good cause extend the period within which a notice of election, or a notice of termination, shall be filed and may permit an election to be retroactive but not earlier than January first of the calendar year immediately preceding the date said notice was filed.

**SECTION 14.** Section 15 of said chapter 151A, is hereby amended by striking out subsection (b), as amended by section 6 of chapter 603 of the acts of 1948, and inserting in place thereof the following subsection:-

(b) The director may collect such overdue amounts, together with such interest or penalty, in a civil action or by petition for entry of judgment in the name of the commonwealth commenced within six years from January thirty-first next succeeding the last day of the calendar year in which wages were paid.

Notwithstanding the provisions of this subsection, if the director believes that the collection of contributions, interest or penalty will be jeopardized by delay, he may in his discretion commence a civil action to collect such amounts at any time prior to January thirty-first next succeeding the last day of the calendar year in which wages were paid, without regard to the date on which such contributions are due.

If an employer has failed to give notice to the director of the fact, not otherwise determined, that he believes he is subject to the provisions of this chapter and to request a determination of his liability, or if an employer has failed to file the wage and contribution reports required of him under this chapter showing the amounts of such wages and the contribution due thereon, or has filed false reports as to the amounts of such wages with intent to defraud, then the provisions of this subsection shall not apply and the director may bring a civil action at any time for all periods, without regard to the year in which wages were paid.

Actions brought under this subsection shall be given precedence over other civil cases except petitions for review arising under section forty-two.

**SECTION 15.** Said subsection (e) of said section 15 of said chapter 151A, as appearing in section 2 of chapter 489 of the acts of 1982, is hereby amended by striking out paragraph (6) and inserting in place thereof the following paragraph:-

(6) If an assessment, or any administrative decision upon review thereof has become final and the contributions, payments in lieu of contributions, interest or penalties thereby assessed remain unpaid, the director may file with the clerk of the municipal court department of the city of Boston or in the district court department in the judicial district where the employer has his principal place of business or any other judicial district in which the employer has real or personal



#### ACTS, 1985. - Chap. 4.

property, or with all of them, a certificate or a copy thereof under the director's official seal, stating: the name and address of the employer, the amount of contributions, payments in lieu of contributions, interest or penalties assessed and in default, and that the time in which administrative or judicial review is permitted pursuant to this section has expired without an appeal having been taken, and thereupon such clerk shall enter into the judgment records of the court the name of the employer mentioned in the certificate, the amount of such contributions, payments in lieu of contributions, interest or penalties assessed and in default, and the date such certificate is filed. Execution shall be issuable at the request of the director, the director's agent or attorney, in the same manner as a duly entered judgment of the court. No recording fee shall be paid by the director for the filing of a certificate, no exemption shall be allowed from the levy of an execution and no indemnifying bond shall be required by the sheriff or other officer before making a levy.

**SECTION 16.** Said chapter 151A is hereby further amended by inserting after section 15 the following section:-

**Section 15A.** In addition to and as an alternative to any other remedy provided by this chapter, and provided that a judgment under any provision of section fifteen has been obtained, the director may utilize for the collection of payments due the division the remedy provided in this section.

(a) If any employer fails to pay any amount required under this chapter within ten days from the date notice to satisfy a judgment has been mailed to such employer, the director may levy upon the account of such employer being maintained by any bank or other depository in the commonwealth. Upon such levy the bank or depository shall surrender the proceeds in the account, or discharge such obligation on behalf of the employer, to the director or the director's agent, except such part of the account that is, at the time of such demand, subject to an attachment or execution under any judicial process. The notice of levy may be served on the bank or depository by any designated agent of the director with a copy of said notice being mailed to the employer. The notice of levy shall remain in effect for six months from the date of service of the notice on the bank or depository or until the liability out of which such levy arose is satisfied, whichever comes first.

(b) Any bank or other depository which fails or refuses to surrender the proceeds of such account subject to levy shall be liable in a sum equal to the value of the collection of which such levy has been made, together with costs and interests on such sum at the rate specified in section fifteen from the date of such levy. Any amount, other than costs, recovered under this section shall be credited against the liability for the collection of which such levy was made.

(c) Compliance with the levy shall discharge the bank or other depository from any obligation or liability to the delinquent employer with respect to the proceeds or payments surrendered.

**SECTION 17.** Said chapter 151A is hereby further amended by striking



**ACTS, 1985. – Chap. 4.**

out section 16, as most recently amended by section 7 of chapter 473 of the acts of 1976, and inserting in place thereof the following section:–

Section 16. Judgments obtained under any provision of section fifteen and overdue contributions or payments in lieu of contributions, with interest thereon or penalties assessed in lieu of interest thereof, shall until collected be a lien upon the entire interest of the employer, legal or equitable, in any property, real or personal, tangible or intangible, subordinate, however, to claims for unpaid wages and prior recorded liens; provided, however, that no lien created by this section shall be valid against a subsequent purchaser or mortgagee in good faith and for value of real or personal property from or of such employer, or against a subsequent attaching creditor, unless with respect to real estate of the employer, a notice of such lien is recorded in the registry of deeds for the county where such real estate is located; and provided, further, with respect to personal property of the employer said notice is recorded with the clerk of the city or town where such personal property is located.

The notice of lien shall be filed within six years from January thirty-first next succeeding the last day of the calendar year in which wages were paid or within three years from the date the judgment was entered, whichever is later, and shall state the name and address of the employer, and the total amount then unpaid of the aforesaid overdue contributions, or payments in lieu of contributions, and interest thereon or penalties assessed in lieu of interest thereof, or of said judgment. A lien which results from a judgment shall terminate not later than twenty years from the date it was created. All other liens shall terminate not later than six years from January thirty-first next succeeding the last day of the calendar year in which wages were paid.

In any case where there has been a refusal or neglect to pay any amount owed by the employer under this chapter, the director, in addition to other modes of relief, may cause a civil action to be filed in a district or superior court department of the commonwealth in which the employer has real or personal property or in the municipal court department of the city of Boston or in the superior court department of Suffolk county to enforce a lien created by this section or to subject any property of whatever nature of the employer, or in which it has any rights, title or interest, to the payment of the amount owed the division by the employer.

No recording fee shall be paid by the director for filing a notice of lien under this section.

**SECTION 18.** Subsection (d) of section 29 of said chapter 151A is hereby amended by striking out paragraph (6), added by section 1 of chapter 518 of the acts of 1980, and inserting in place thereof the following paragraph:–

(6) Notwithstanding any of the foregoing provisions of this subsection, the amount of benefits otherwise payable to an individual for any week which begins in a period with respect to which such individual is receiving governmental or other pension, retirement or retired pay, annuity or any other similar periodic payment which is based on the previous work of such individual, shall be reduced by an amount equal to



#### ACTS, 1985. – Chap. 4.

the amount of such pension, retirement or retired pay, annuity or other payment, which is reasonably attributable to such week; provided, however, that such reduction shall apply only if then required by section 3304(a) (15) of the Internal Revenue Code of 1954; and provided, further, that any amendment of section 3304(a) (15) of the Internal Revenue Code of 1954 shall become part of this subsection on the effective date of such amendment; and provided, further, that if then allowed by section 3304(a) (15) of the Internal Revenue Code of 1954, such reduction shall apply only if a base period employer contributed to or maintained such pension, retirement or retired pay, annuity, or other payment plan, and in the case of a payment not made under the Social Security Act or the Railroad Retirement Act of 1974, or the corresponding provisions of prior law, services of the individual for such employer during the base period affected eligibility for or increased the amount of such pension, retirement or retired pay, annuity, or other similar plan; and provided further, that if the individual contributed to such plan, the amount of benefits otherwise payable to such individual shall be reduced by fifty per cent of the amount of such pension, retirement or retired pay, annuity, or other payment, notwithstanding the amount contributed by the individual to such plan, except that no payment shall reduce the amount of benefits otherwise payable unless the individual's date of entitlement for such payment occurred during the base period or benefit year.

**SECTION 19.** Section 30 of said chapter 151A is hereby amended by striking out the second paragraph, as amended by section 11 of chapter 473 of the acts of 1976, and inserting in place thereof the following paragraph:–

If in the opinion of the director, it is necessary for an unemployed individual to obtain further industrial or vocational training to realize employment, the total benefits which such individual may receive shall be extended by eighteen times the individual's benefit rate, if such individual is attending an industrial or vocational retraining course approved by the director, provided, that such additional benefits shall be paid to the individual only when attending such course and only if such individual has exhausted all rights to regular and extended benefits under this chapter and has no rights to benefits or compensation under this chapter or any other state unemployment compensation law or under any federal law; and provided, further, that any benefits paid to an individual under the provisions of this paragraph which would not be chargeable to the account of any particular employer under the provisions of section fourteen shall be charged to the solvency account.

**SECTION 20.** Subsection (3) of section 30A of said chapter 151A is hereby amended by striking out paragraph (c), as appearing in section 1 of chapter 866 of the acts of 1970, and inserting in place thereof the following paragraph:–

(c) An individual shall not be eligible to receive extended benefits with respect to any week of unemployment in his eligibility period: (1) during which such individual fails to accept any offer of suitable work, as



**ACTS, 1985. – Chap. 4.**

defined in paragraph (m) of subsection (1), or fails to apply for any suitable work to which he was referred by the employment office; or (2) during which such individual fails to actively engage in seeking work, unless such individual is (i) before any court of the United States or any State pursuant to a lawfully issued summons to appear for jury duty or (ii) hospitalized for treatment of an emergency or life-threatening condition. The eligibility for extended benefits of an individual who is determined not to be actively engaged in seeking work in any week for the reasons specified in clauses (i) or (ii) shall be decided pursuant to subsection (b) of section twenty-four without regard to the disqualification provisions otherwise applicable under this section. For the purposes of this paragraph, an individual shall be treated as actively engaged in seeking work during any week if: (i) the individual has engaged in a systematic and sustained effort to obtain work during such week, and (ii) the individual provides tangible evidence to the employment office of such effort.

**SECTION 21.** Said section 30A of said chapter 151A is hereby further amended by striking out subsection (6), as amended by section 16 of chapter 489 of the acts of 1982, and inserting in place thereof the following subsection:-

(6) Any benefit paid to an individual under the provisions of this section shall be charged in accordance with the provisions of paragraph (3) of subsection (d) of section fourteen to the extent that such benefits are not reimbursable by funds made available under any act of Congress.

**SECTION 22.** Section 35 of said chapter 151A is hereby amended by striking out the first paragraph, as amended by section 17 of chapter 489 of the acts of 1982, and inserting in place thereof the following paragraph:-

Except as provided in the second paragraph, no agreement by an individual to waive his right to benefits or any other right under this chapter, or to pay all or any portion of the contributions or payments in lieu of contributions required hereunder from his employer, shall be valid. No employer shall make, or permit or require, any deduction from wages or salary of any employee to finance in whole or in part the contributions or payments in lieu of contributions required of the employer, or require any waiver by an employee of any right hereunder. The director may make orders for the enforcement of this section, and shall cause all violations thereof and of this section to be prosecuted.

**SECTION 23.** Said chapter 151A is hereby further amended by striking out section 47, as most recently amended by chapter 706 of the acts of 1977, and inserting in place thereof the following section:-

Section 47. Whoever makes a false statement or misrepresentation to obtain or increase any benefit or other payment under any provision of this chapter, either for himself or for any other person, shall be punished by a fine of not less than one hundred nor more than one thousand dollars, or by imprisonment for not more than six months, or both; provided, however, that the provisions of this section shall not apply in



#### ACTS, 1985. – Chap. 4.

any instance where the provisions of subsection (a) of section twenty-five have been invoked. Each such false statement or misrepresentation shall constitute a separate offense.

Any employing unit, or any officer or agent of an employing unit who attempts in any manner to evade or defeat any contribution or payment in lieu of contribution or who knowingly makes a false statement or misrepresentation to avoid or reduce any contribution, payment in lieu of contribution, interest charge or benefit payment required of such employing unit under any provision of this chapter shall be guilty of a felony and, upon conviction thereof, shall be punished by a fine of not less than one thousand dollars nor more than five thousand dollars, or by imprisonment in the state prison for not more than five years, or both; and each such attempt to evade or defeat and each such false statement or misrepresentation, shall constitute a separate and distinct offense.

Any employing unit, or any officer or agent of an employing unit, who fails or refuses to pay any such benefit, contribution, payment in lieu of contribution or interest charge, or to furnish any report or information duly required by the director under any provision of this chapter, or makes or requires any deduction from wages to pay any portion of the contributions, payments in lieu of contributions or interest charges required from employers under any provision of this chapter, or attempts by threats or coercion of any kind to induce any individual to waive any rights under any provision of this chapter, or attempts by threats or coercion of any kind to prevent any individual from testifying at any hearing conducted under any provision of this chapter, shall be punished by a fine of not less than one hundred nor more than one thousand dollars, or by imprisonment for not more than six months or both; and each such failure or refusal to pay, each such deduction from wages and each such attempt to coerce, shall constitute a separate and distinct offense.

If such employing unit or the employer of such officer or agent is a corporation, the president, secretary and the treasurer, or officers exercising corresponding functions, shall each be subject to the aforesaid penalties for any violation of any provision of this section, of which they, respectively, had knowledge or, in the proper exercise of their duties ought to have had knowledge. The introduction into evidence of a certified copy of the Annual Report of Condition or, where no report has been filed, the Articles of Organization shall be prima facie evidence that the officers listed on the Annual Report of Condition or, where applicable the Articles of Organization, are the officers of the corporation responsible for violation of any provision of this section.

Any person convicted of a violation of any provision of this chapter or of a violation of any order, rule or regulation of the director or of the division made under the authority of any provision of this chapter, the punishment for which is not otherwise provided, shall be punished by a fine of not more than one hundred dollars for the first offense, and for any subsequent offense within a period of two years immediately following a final conviction of a like offense by a court of the commonwealth, shall be punished by a fine of not less than two hundred nor more than five hundred dollars, or by imprisonment for not more



#### **ACTS, 1985. – Chap. 4.**

than two years, or both.

Any person found guilty of violating any provision of this chapter, in addition to any other punishment, may be ordered to make restitution to the division of employment security in an amount not to exceed the amount specified in the complaint of the commonwealth plus any interest or penalties which have accrued under this chapter since filing of the complaint.

Complaint against any person for a violation of any provision of this section may be made within six years after the date of such violation. All fines collected under this section shall be paid to the director and after clearance shall be deposited in the Contingent Fund.

**SECTION 24.** The division of employment security is hereby authorized to expend a sum not to exceed five million, one hundred thousand dollars out of funds made available to the commonwealth under section 903 of the Social Security Act, as amended, for the purpose of acquiring automatic data processing equipment and other items necessary for the installation and use of said equipment by said division. All expenditures pursuant to this section shall be for expenses incurred after the effective date of this act.

**SECTION 25.** Expenditures pursuant to section twenty-four shall be subject to the limitations set forth in section fifty-three A of chapter one hundred and fifty-one A of the General Laws. The division of employment security shall not make such expenditures in a total amount during any fiscal year which exceeds the aggregate of the amounts credited to the account of the commonwealth by the federal government pursuant to Title IX of the Social Security Act during such fiscal year and the thirty-four preceding years, less the aggregate of the amounts of such funds used by the commonwealth and charged against the amounts credited to the account of the commonwealth during any such thirty-five fiscal years.

**SECTION 26.** The director of the division of employment security is hereby directed to provide the joint committee on commerce and labor with all information, requested by said committee, concerning government-assisted job training programs in the commonwealth. This information shall include but not be limited to: summary descriptions of all existing government-assisted job training programs, any relevant information pertaining to present and projected labor market supply and demand, and any other information said committee deems necessary to complete its investigation of employment training programs together with any recommendations for legislation.

**SECTION 27.** The division of employment security shall provide all requested information and recommendations under the provisions of section twenty-six of this act to the joint committee on commerce and labor on or before July first, nineteen hundred and eighty-five.

**SECTION 28.** No part of the monies authorized for expenditure by



**ACTS, 1985. – Chap. 5.**

section twenty-four shall be encumbered nor shall any contractual obligation be incurred hereunder after June thirtieth, nineteen hundred and eighty-six. As of June thirtieth, nineteen hundred and eighty-six, any unencumbered monies authorized for expenditure by said section twenty-four shall revert to the account of the commonwealth in the Unemployment Trust Fund. As of December thirty-first, nineteen hundred and eighty-six, any unexpended monies authorized for expenditure by said section twenty-four shall revert to the account of the commonwealth in the Unemployment Trust Fund.

**SECTION 29.** Section two shall apply to computation dates occurring on or after September thirtieth, nineteen hundred and eighty-five; provided, however, that the annual balance in the solvency account shall not include any credits or charges made to the solvency account prior to October first, nineteen hundred and eighty-four, including any amount credited to the solvency account during the month of October, nineteen hundred and eighty-four under the provisions of paragraph (1) of subsection (e) of section fourteen of chapter one hundred and fifty-one A of the General Laws and subsection (f) of said section fourteen of said chapter one hundred and fifty-one A except those amounts charged or credited to the solvency account on the computation date of September thirtieth, nineteen hundred and eighty-four, because of the application of paragraphs (5) and (6) of subsection (e) of said section fourteen of said chapter one hundred and fifty-one A. Sections three, eight, nine and ten shall take effect on January first, nineteen hundred and eighty-five. Section four shall apply to contributions due and paid on or after April first, nineteen hundred and eighty-five. Sections five, six and seven shall apply to computation dates occurring on or after September thirtieth, nineteen hundred and eighty-five. Section twenty-one shall apply to benefits paid for weeks of unemployment occurring on or after April first, nineteen hundred and eighty-five. The provisions of section eighteen shall take effect with respect to new claims for unemployment benefits filed on or after the effective date of this act. Section seventeen shall apply to all liens created on or after the effective date of this act, except that any lien in existence on the effective date of the act may be enforced in accordance with the provisions of the third paragraph of said section seventeen; provided, however, that such enforcement is commenced within four years from the effective date of this act or, where a judgment has been recorded, within the life of the judgment.

Approved February 15, 1985.

EMERGENCY LETTER – February 15, 1985 @ 1:53P.M.

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**Chapter 5.      AN ACT MAKING AN APPROPRIATION TO FUND A  
                     CERTAIN HAZARDOUS WASTE PROGRAM.**

Be it enacted, etc., as follows:



**ACTS, 1985. – Chap. 6.**

**SECTION 1.** To provide for supplementing a certain item in the general appropriation act and for a certain new activity and project, the sum set forth in section two for the several purposes is hereby appropriated, subject to the provisions of law regulating the disbursement of public funds and the conditions pertaining to appropriations in chapter two hundred and thirty-four of the acts of nineteen hundred and eighty-four, for the fiscal year ending June thirtieth, nineteen hundred and eighty-five or for such period as may be specified, the sum so appropriated to be in addition to any amount available for the purpose.

**SECTION 2.**

**DEPARTMENT OF REVENUE.**

Miscellaneous.

Item

1599-3406 For the reserve to fund the costs involved in the implementation of the provisions of chapter four hundred and seventy of the acts of nineteen hundred and eighty-three; provided, however, that the commissioner of administration is authorized to transfer from this item to other items of appropriation such amounts as are necessary to meet the costs of such implementation; and provided, further, that no such transfers shall be made without the approval of the house and senate committees on ways and means

\$410,237

**SECTION 3.** This act shall take effect upon its passage.

Approved February 19, 1985.

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**Chapter 6.**

**AN ACT MAKING AN APPROPRIATION TO FUND A COLLECTIVE BARGAINING AGREEMENT BETWEEN THE MASSACHUSETTS TRIAL COURT AND THE MIDDLESEX SUPERIOR COURT OFFICERS' ASSOCIATION.**

Be it enacted, etc., as follows:

**SECTION 1.** To provide for the cost of salary adjustments and other employee economic benefits authorized by the collective bargaining agreement between the Massachusetts trial court on behalf of the commonwealth and the Middlesex Superior Court Officers' Association, the sum set forth in section two of this act is hereby appropriated, subject to the provisions of law regulating the disbursement of public funds and the conditions pertaining to appropriations in chapter two hundred and thirty-four of the acts of nineteen hundred and eighty-four.



ACTS, 1985. – Chap. 6.

SECTION 2.  
EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE.  
Collective Bargaining.

Item

1599–3322 For a reserve to meet the cost of salary adjustments and other employee economic benefits authorized by the collective bargaining agreement between the Massachusetts trial court on behalf of the commonwealth and the Middlesex Superior Court Officers' Association; provided, however, that the commissioner of administration is hereby authorized to transfer from the sum appropriated to other items of appropriation for the fiscal year nineteen hundred and eighty-five, such amounts as are necessary to meet the cost of said adjustments and benefits for the fiscal year nineteen hundred and eighty-five and prior years where the amounts otherwise available are insufficient for the purpose; provided, further, that the commissioner of administration is further authorized to allocate the cost of such salary adjustments and benefits to the several state or other funds to which such items of appropriation are charged; provided, further, that copies of each said collective bargaining agreement, together with an analysis of all cost items contained in said agreement and all changes to be made in the schedules of permanent and temporary positions required by said agreement, shall be filed with the house and senate committees on ways and means prior to the transfer or allocation of any amounts necessary to meet the cost of said adjustments and benefits; and provided, further, that no transfers shall be made without the prior approval of the house and senate committees on ways and means

\$59,412

SECTION 3. This act shall take effect upon its passage.

Approved February 20, 1985.



ACTS, 1985. – Chap. 7.

Chapter 7.      **AN ACT MAKING AN APPROPRIATION TO FUND A  
COLLECTIVE BARGAINING AGREEMENT BETWEEN  
THE MASSACHUSETTS TRIAL COURT AND THE  
SUFFOLK SUPERIOR COURT OFFICERS'  
ASSOCIATION.**

Be it enacted, etc., as follows:

SECTION 1. To provide for the cost of salary adjustments and other employee economic benefits authorized by the collective bargaining agreement between the Massachusetts trial court on behalf of the commonwealth and the Suffolk Superior Court Officers' Association, the sum set forth in section two of this act is hereby appropriated, subject to the provisions of law regulating the disbursement of public funds and the conditions pertaining to appropriations in chapter two hundred and thirty-four of the acts of nineteen hundred and eighty-four.

SECTION 2.

**EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE.**

Collective Bargaining.

Item

1599-3324 For a reserve to meet the cost of salary adjustments and other employee economic benefits authorized by the collective bargaining agreement between the Massachusetts trial court on behalf of the commonwealth and the Suffolk Superior Court Officers' Association; provided, however, that the commissioner of administration is hereby authorized to transfer from the sum appropriated to other items of appropriation for the fiscal year nineteen hundred and eighty-five, such amounts as are necessary to meet the cost of said adjustments and benefits for the fiscal year nineteen hundred and eighty-five and prior years where the amounts otherwise available are insufficient for the purpose; provided, further, that the commissioner of administration is further authorized to allocate the cost of such salary adjustments and benefits to the several state or other funds to which such items of appropriation are charged; provided, further, that copies of each said collective bargaining agreement, together with an analysis of all cost items contained in said agreement and all changes to be made in the schedules of permanent and temporary positions required by said agreement, shall be filed with the house and



**ACTS, 1985. – Chap. 8.**

senate committees on ways and means prior to the transfer or allocation of any amounts necessary to meet the cost of said adjustments and benefits; and provided, further, that no transfers shall be made without the prior approval of the house and senate committees on ways and means

\$70,193

**SECTION 3.** This act shall take effect upon its passage.

Approved February 20, 1985.

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**Chapter 8. AN ACT AUTHORIZING AND REGULATING THE CONTINUATION OF THE OVERLAY DEFICIT IN THE CITY OF LYNN.**

Be it enacted, etc., as follows:

**SECTION 1.** Chapter 263 of the acts of 1982 is hereby amended by striking out sections 1 and 2 and inserting in place thereof the following five sections:–

Section 1. Notwithstanding any provisions of law to the contrary, the city of Lynn is hereby authorized to carry forward its overlay deficit, as it existed as of June thirtieth, nineteen hundred and eighty-two, and to raise said overlay deficit in the following manner: one-fifth of said deficit in fiscal nineteen hundred and eighty-three, the balance of said deficit to be raised in ten equal portions over the succeeding ten fiscal years.

Section 2. The city of Lynn is hereby authorized to borrow at one time or from time to time, a sum not to exceed three million five hundred thousand dollars, in the aggregate, from the commonwealth for the purpose of maintaining and operating schools in said city in fiscal year nineteen hundred and eighty-five. No interest shall be payable by said city on account of such loan.

Such loan or loans shall be payable not more than ten years from their dates.

For each loan, the amounts payable annually shall be as nearly equal from year to year as practicable in the opinion of the chief financial officer of the city of Lynn, or shall be arranged by said chief financial officer in accordance with a schedule providing for a more rapid amortization of the loan balance.

The state treasurer shall deduct and withhold the amount of principal due the commonwealth in any year on account of such borrowing from the distribution of educational aid payable to the city of Lynn pursuant to chapters fifty-eight and seventy of the General Laws.

Debts incurred under the authority of this act shall not be included in determining the limit of indebtedness of the city of Lynn as established by law.



## ACTS, 1985. – Chap. 8.

Section 3. All proceeds of any borrowing authorized by section two shall be deposited in a separate fund which shall be set up on the books of the city and maintained separate and apart from all other funds and accounts of said city. Such fund shall be called the City of Lynn Finance Control Fund of 1984, hereinafter in this act referred to as the fund. Amounts deposited in the fund shall, upon written direction of the school superintendent, approved by a majority vote of the school committee and by a majority vote of the finance control board of the city of Lynn as established in section four, be expended without further appropriation for the purpose of maintenance and operations of public schools in said city in fiscal year nineteen hundred and eighty-five.

In the event that any amount borrowed under the authority of section two remains undisbursed on June thirtieth, nineteen hundred and eighty-five for the purposes provided herein, said amount shall be returned to the commonwealth and deducted from the amount due the commonwealth by the city of Lynn on account of such loans made pursuant to said section two.

Section 4. Upon issuance of loans from the commonwealth to the city of Lynn under the authority of section two, there shall be established in the executive office for administration and finance, a city of Lynn finance control board, hereinafter referred to as the board, consisting of the secretary of administration and finance, or his designee; the commissioner of education or his designee; the commissioner of revenue, or his designee; the mayor of the city of Lynn, or his designee; the president of the city council of the city of Lynn, or his designee; the chief financial officer of the city of Lynn; a member of the city of Lynn school committee, to be selected by the said school committee; and a representative of the Lynn business community, to be appointed by the governor.

The board shall be constituted to assure the implementation of appropriate initiatives to secure the financial stability of the city of Lynn. The board is further empowered to approve disbursements from the fund established by section three solely for the purposes provided in said section three. The board shall report its findings and reviews to appropriate departments and agencies of the commonwealth and to the mayor and city council of said city. In addition, the board shall recommend to such departments and agencies any further action the board determines necessary.

The action of a majority of the members of the board shall constitute a valid action thereof. Whenever any action of the board is required to be in writing, said writing shall be signed by a majority of its members. The members of the board shall serve without compensation.

The board shall continue in existence until June thirtieth, nineteen hundred and eighty-six unless its members, by unanimous vote dissolve the board prior to such date.

Section 5. Prior to any disbursement of funds, the board shall require the filing of a detailed work plan by the school superintendent which has been approved by the school committee, setting forth certain actions which will be implemented by the school department in order to ensure greater efficiency in the delivery of educational services to the citizens



## ACTS, 1985. – Chap. 8.

of the city of Lynn.

The work plan shall include, but not be limited to the following: (1) a plan for improved financial and spending controls; (2) budget guidelines and objectives for the nineteen hundred and eighty-four – nineteen hundred and eighty-five and nineteen hundred and eighty-five – nineteen hundred and eighty-six school years; (3) a plan for curriculum review with the goal of revitalizing and upgrading of student tests scores on scholastic aptitude tests and state basic skills test; (4) a review of school facilities and school organization; (5) a professional and non-professional staffing plan; (6) a plan for conducting a comprehensive review of vocational and occupational programs and services; (7) a review of school transportation and school lunch programs; (8) a review of special education programs; and (9) other proposed savings to be implemented in the nineteen hundred and eighty-four – nineteen hundred and eighty-five and nineteen hundred and eighty-five – nineteen hundred and eighty-six school years.

The work plan shall also set forth a detailed implementation schedule. The school superintendent shall file a status report with the board on a monthly basis.

Upon presentation by the school superintendent, with the approval of the school committee, of a request for a proposed disbursement from the fund, the board shall determine if the detailed work plan has been filed and whether the implementation schedule has been met. Disbursements shall be approved only if a work plan has been adopted by the school committee which is expected, in the judgment of the board, to achieve substantial efficiency in the delivery of educational services.

Within twenty-one days after the submission of a request for disbursement, the board shall either authorize the disbursement, if it is satisfied that the disbursement is appropriate, by a resolution adopted by the board, or reject the proposed disbursement, if the board is not satisfied, by the adoption of a resolution stating the basis of its disapproval. Failure to adopt any such resolution within twenty-one days of said request shall be a denial thereof.

Unless otherwise indicated by the board, disbursements which are approved shall issue on the following three dates: January fifteenth, March fifteenth, and June fifteenth of nineteen hundred and eighty-five.

Prior to April first, nineteen hundred and eighty-five, the school committee shall file a detailed proposed budget for the nineteen hundred and eighty-five – nineteen hundred and eighty-six school year with the board. The board shall review the proposed budget and issue a report of its findings by June first, nineteen hundred and eighty-five.

**SECTION 2.** Article 3 of the charter of the city of Lynn which is on file in the office of the archivist of the commonwealth, as provided in section twelve of chapter forty-three B of the General Laws, is hereby amended by striking out paragraph (a) of section 3-7, and inserting in place thereof the following paragraph:–

(a) The following administrative officers of the city shall be chosen by vote of the city council: a city clerk, a city solicitor, and a city electrician, and two members of the board of assessors.



ACTS, 1985. – Chap. 8.

**SECTION 3.** Article 5 of said charter which is one file in said office of the archivist of the commonwealth is hereby amended by adding the following two sections:-

Section 5-7-Allotments

On or before August first of each year, or within ten days after the approval of the city council and the mayor of the annual appropriation order for such fiscal year, whichever shall occur later, the city officials in charge of departments or agencies including the superintendent of schools for the school department, shall submit to the chief financial officer, with a copy to the city clerk, in such form as the chief financial officer may prescribe, an allotment schedule of the appropriations of all personnel categories included in said budget, indicating the amounts to be expended by the department or agency for such purposes during each of the fiscal quarters of said fiscal year, or such shorter time periods as the mayor or chief financial officer may prescribe. Whenever said chief financial officer determines that any department or agency, including the school department, will exhaust or has exhausted its quarterly or shorter time period allotment and any amounts unexpended in previous periods, he shall give notice in writing to such effect to the department head, the mayor, the city solicitor, and to the city clerk who shall forthwith transmit the same to the city council. Upon such a determination and notice thereof, said chief financial officer shall provide such officers additional reports on at least a monthly basis indicating the status of such accounts.

The mayor within seven days after receiving such notice, shall determine whether to waive or enforce such allotment. If the allotment for such period is waived or is not enforced, as provided above, the department or agency head shall reduce the subsequent period allotments appropriately. If the allotment for such period is enforced or not waived, thereafter the department shall terminate all personnel expenses for the remainder of such period. All actions, notices, and decisions provided for in this section shall be transmitted to the city council and the city clerk within seven days.

No personnel expenses earned or accrued, within any department, shall be charged to or paid from such department's or agency's allotment of a subsequent period without approval by the mayor, except for subsequently determined retroactive compensation adjustments. Approval of a payroll for payment of wages, or salaried or other personnel expenses which would result in an expenditure in excess of the allotment shall be a violation of this section by the department or agency head, including the superintendent of schools and the school committee. If the continued payment of wages, salaries or other personnel expenses is not approved in a period where a department has exhausted the period allotment or allotments as specified above, or, in any event, if a department has exceeded its appropriation for a fiscal year, the city shall have no obligation to pay such personnel cost or expense arising after such allotment or appropriation has been exhausted.

Notwithstanding the provisions of chapter one hundred and fifty E of the General Laws, every collective bargaining agreement entered into by the city or the school department after the effective date of this act



ACTS, 1985. – Chap. 8.

shall be subject to and shall expressly incorporate the provisions of this section.

Section 5-8-Personal Liability for Expenditure in Excess of Appropriation

No official of the city of Lynn, except in the case of an emergency involving the health and safety of the people or their property, shall intentionally expend in any fiscal year any sum in excess of the appropriations duly made in accordance with law, nor involve the city in any contract for the future payment of money in excess of such appropriations.

Any official who violates the provisions of this section shall be personally liable to the city for any amounts so expended to the extent the city does not recover such amounts from the person to whom such sums were paid. The trial court of the commonwealth or a single justice of the supreme judicial court shall have jurisdiction of any claims brought by the city hereunder and shall order such equitable relief as the court may find appropriate to prevent further violations of this section.

SECTION 4. Article 6 of the said charter which is on file in said office of the archivist of the commonwealth is hereby amended by striking out section 6-8 and inserting in place thereof the following section:-

Section 6-8-Assessing Department

(a) Assessing Department – There shall be in the city a department known as the assessing department, which shall be under the charge of an officer, known as the director of assessing, appointed by the chief financial officer, subject to the approval of the city council, for a term of three years.

(b) Director of Assessing – The director of assessing, hereinafter referred to as the director, for the board of assessors, shall have all the powers, and perform the duties of assessors of cities in the commonwealth in accordance and in compliance with the General Laws, except as paragraph (c) shall otherwise provide. Said director shall appoint an operations director subject to confirmation by the city council and shall establish within the department such divisions as the director shall adjudge is necessary for the operation of the business of the department. Said director shall review every application for exemption or abatement of taxes and shall report his findings to the board of assessors.

(c) Board of Assessors – There shall be in the assessing department, hereinafter referred to as the department, a board, known as the board of assessors, consisting of the director of assessing and two assessors appointed by the city council. The members of said board of assessors appointed by the city council shall serve for a term of three years.

It shall be the duty of said board of assessors to review the findings of the director of assessing on applications for exemptions or abatements of taxes, and to grant or deny all such applications after such hearing as said board of assessors deems proper.

(d) Whenever a member of the board of assessors serves as a professional appraiser within the department, he shall be subject to the



ACTS, 1985. – Chap. 8.

direction of and report to the director of assessing.

**SECTION 5.** Said Article 6 of the said charter which is on file in said office of the archivist of the commonwealth is hereby further amended by adding the following section:-

**Section 6-11-Chief Financial Officer**

(a) A chief financial officer shall be appointed by the mayor subject to confirmation by the city council for a term of five years. The chief financial officer shall report to the mayor and shall be a person especially fitted by education, training, and experience to perform the duties of the office. Said chief financial officer shall not hold any elective office nor shall he engage in any other business or occupation; provided, however, that the mayor may appoint the chief financial officer to also hold the position of director of assessing, treasurer, tax collector, auditor, or director of data processing; and, provided further, that the city council shall establish appropriate compensation in such instance. Said chief financial officer shall appoint a treasurer, tax collector, auditor, director of data processing, and director of assessing, subject to the approval of the city council, for a term of three years.

(b) Said treasurer, tax collector, auditor, director of data processing, and director of assessing shall have such powers and duties as may be vested in those offices expressly by general or special law, but shall otherwise report to and be under the direction and supervision of the chief financial officer.

(c) The powers and duties of said chief financial officer shall include the following: coordination, administration, and supervision of all financial services and activities; assistance in all matters related to municipal financial affairs; implementation and maintenance of uniform systems, controls, and procedures for all financial activities in all departments, including the school department, and including but not limited to: maintenance of all financial and accounting data and records; implementation and maintenance of uniform data processing capabilities for all departments; supervision of all data processing activities; implementation and maintenance of uniform budget guidelines and procedures; assistance in development and preparation of all department budgets and spending plans; review of all contracts and obligations; monitoring of the expenditure of all funds, including periodic reporting to appropriate agencies of the status of accounts; establishment of a spending plan for each department; and the allotment of funds on a periodic basis as provided in section 5-7 of the charter. In all cases where the duty is not expressly charged to any other department or office, it shall be the duty of the chief financial officer to promote, secure, and preserve the financial interests of the city.

(d) All department budgets and requests for budget transfers must be submitted to the chief financial officer for review and recommendation prior to submission to the mayor, city council or school committee, as appropriate.

(e) The chief financial officer shall report on at least a quarterly basis to the mayor and city council of the financial status of the city.

(f) The treasurer, tax collector, auditor, director of data processing,



## **ACTS, 1985. – Chap. 8.**

and director of assessing shall be subject to removal for cause by the chief financial officer notwithstanding any other provision of the charter.

(g) The mayor with the approval of the city council, or the city council, without the approval of the mayor, by a two-thirds vote of all of its members, may remove the chief financial officer before the term of office expires. At least fifteen days before such proposed removal shall become effective there shall be filed with the city clerk a preliminary written resolution setting forth in detail the reason for the proposed removal and a copy of said resolution shall be served upon the person to be removed.

**SECTION 6.** Notwithstanding the provisions of section 6-8 of the charter of the city of Lynn, if the mayor of said city shall have failed to appoint a chief financial officer within ninety days after the effective date of this act, the City of Lynn Finance Control board, established pursuant to section four of chapter two hundred and sixty-three of the acts of nineteen hundred and eighty-two, shall appoint a chief financial officer to serve pursuant to the provisions of said section 6-8.

Notwithstanding the provisions of section 5-8 of the charter of the city of Lynn, if the chief financial officer shall have failed to appoint a director of assessing within one hundred and twenty days after passage of this act, the board, established pursuant to section four of chapter two hundred and sixty-three of the acts of nineteen hundred and eighty-two, shall appoint a director of assessing to serve pursuant to the provisions of said section 5-8.

**SECTION 7.** Notwithstanding the provisions of section 6-8 of the charter of the city of Lynn, the mayor of said city, subject to the approval of the city council, shall appoint a chief financial officer from a list of five names submitted by the commissioner of revenue. The provisions of this section shall expire June thirtieth, nineteen hundred and eighty-five.

**SECTION 8.** The provisions of this act are severable; and if any of its provisions shall be held invalid in any circumstance, such invalidity shall not affect any other provisions or circumstances.

**SECTION 9.** This act shall take effect upon passage, except that the provisions of section 5-7 of Article 5 of the charter of the city of Lynn and section five of chapter two hundred and sixty-three of the acts of nineteen hundred and eighty-two relative to the enforcement or waiver of allotments shall be in effect only with respect to quarters ending forty-five days or more after the effective date of this act; and an allotment schedule must be submitted as provided within fifteen days of the effective date of this act.

Approved March 26, 1985.



**ACTS, 1985. – Chaps. 9, 10.**

**Chapter 9. AN ACT RELATIVE TO THE DATES FOR ANNUAL TOWN MEETING AND THE SUBMISSION OF BUDGETS IN CITIES.**

Be it enacted, etc., as follows:

**SECTION 1.** Section 9 of chapter 39 of the General Laws, as most recently amended by section 1 of chapter 8 of the acts of 1974, is hereby further amended by inserting after the word "prescribe", in line 8, the words:– ; provided, however, that, notwithstanding the provisions of this section or of any other law, by-law, or charter to the contrary, a town, by the vote of its board of selectmen or town council may delay the annual town meeting; and provided, further, that such a delayed annual town meeting shall complete its business on or before June thirtieth.

**SECTION 2.** The first sentence of the first paragraph of section 32 of chapter 44 of the General Laws, as amended by section 1 of chapter 26 of the acts of 1975, is hereby further amended by striking out, in line 1, the word "ninety" and inserting in place thereof the word:– one hundred and twenty.

**SECTION 3.** The fourth paragraph of said section 32 of said chapter 44, as most recently amended by section 2 of said chapter 26, is hereby further amended by striking out, in line 1, the word "ninety" and inserting in place thereof the word:– one hundred and twenty.

**SECTION 4.** The provisions of section one shall not apply to any portion of the annual town meeting which provides for the elections and certification of officers and other matters to be determined by ballot. The annual town meeting and the election and certification of officers shall be called in pursuance of one or more warrants under the provisions of sections nine A and ten of chapter thirty-nine of the General Laws.

Approved March 29, 1985.

EMERGENCY LETTER: MARCH 29, 1985 @ 2:55 P.M.

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**Chapter 10. AN ACT AUTHORIZING THE TOWN OF NORTH READING TO CONVEY CERTAIN PARCELS OF LAND.**

Be it enacted, etc., as follows:

**SECTION 1.** The town of North Reading is hereby authorized to convey to EMJAY Realty Trust for private commercial use two parcels of park land now under the care and control of the recreation committee of said town, being bounded and described as follows:–

**PARCEL 1**

Beginning at a point which is 213.57 feet, S 53° 17' 50" W from the Northeastern property corner of Moynihans North Reading Lumber Company, Inc. and the Southerly Sideline of Chestnut Street. The line



**ACTS, 1985. – Chap. 10.**

runs S 53° 17' 50" W, a distance of 155.33 feet along property of the Town of North Reading, thence turning the line runs N 15° 14' 00" E along property of Moynihan North Reading Lumber Company, Inc., a distance of 21.46 feet, thence turning the line runs S 58° 45' 20" W along property of Moynihan North Reading Lumber Company, Inc. a distance of 139.07 feet to the point of beginning said Parcel, as described above, containing 1028 square feet being a portion of Parcel 61, Map 36.

**PARCEL 2**

Beginning at the most southerly property corner of Moynihan North Reading Lumber Company, Inc., the line runs S 25° 09' 00" E along property of the Town of North Reading, a distance of 252.77 feet, thence turning the line runs N 66° 32' 08" E along property of the Town of North Reading, a distance of 601.02 feet, thence turning the line runs along property of Moynihan North Reading Lumber Company, Inc., a distance of 587.71 feet to the point of beginning. Said parcel containing 2.04 acres being a portion of Parcel 61, Map 36, in consideration of the conveyance to the Town by Moynihan North Reading Lumber Company, Inc., of approximately 3037 square feet of land being shown as:

Said conveyance shall be in consideration of the sum of twenty-five thousand dollars and upon conveyance to the town by EMJAY Realty Trust a parcel of land being bounded and described as follows:— Beginning at a point which is 368.90 feet S 53° 17' 50" W from the Northeasterly property corner of Moynihan North Reading Lumber Company, Inc., on the Southerly sideline of Chestnut Street, the line runs S 15° 14' 00" W along property of the Town of North Reading a distance of 53.54 feet, thence turning the line runs S 81° 24' 00" W along property of the Town of North Reading a distance of 64.00 feet, thence turning the line runs N 62° 30' 00" W along property of the Town of North Reading a distance of 32.66 feet, thence turning the line runs N 66° 32' 08" E along property of Moynihan North Reading Lumber Company, Inc., a distance of 115.90 feet to the point of beginning. Said parcel containing 3,037 square feet, being a portion of Parcel 42, Map 36.

**SECTION 2.** The town of North Reading is hereby authorized to convey to Remo Scarfo and Joyce M. Scarfo for private residential use in consideration of the sum of two thousand dollars a parcel of park land being bounded and described as follows:—

beginning at a drill hole on the southerly sideline of Chestnut Street, being the northwesterly property corner of land, now or formerly of Scarfo, the line runs N 47° 43' 00" W along the southerly sideline of Chestnut Street a distance of 50.00 feet, thence turning the line runs S 40° 05' 17" W along property of the Town of North Reading and along a stonewall, a distance of 179.87 feet to a drill hole in said stonewall, thence turning the line runs N 18° 52' 00" E along property, now or formerly of Scarfo, a distance of 154.05 feet to the drill hole in the stonewall and the point of beginning, said parcel, as described above, containing 3,534 square feet and being a portion of parcel 61, Map 36.

**SECTION 3.** This act shall take effect upon its passage.

Approved April 1, 1985.



ACTS, 1985. – Chap. 11.

Chapter 11.     **AN ACT MAKING AN APPROPRIATION TO FUND A  
COLLECTIVE BARGAINING AGREEMENT BETWEEN  
THE BOARD OF REGENTS OF HIGHER EDUCATION  
AND THE MASSACHUSETTS COMMUNITY COLLEGE  
COUNCIL/MTA/NEA.**

Be it enacted, etc., as follows:

**SECTION 1.** To provide for the cost of salary adjustments and other employee economic benefits authorized by the collective bargaining agreement between the board of regents of higher education and the Massachusetts Community College Council/MTA/NEA, the sum set forth in section two of this act is hereby appropriated, subject to the provisions of law regulating the disbursements of public funds and the conditions pertaining to appropriations in chapter two hundred and thirty-four of the acts of nineteen hundred and eighty-four.

**SECTION 2.**  
**EXECUTIVE OFFICE OF ADMINISTRATION AND FINANCE.**  
Collective Bargaining.

Item  
1599-3262 For     a reserve to meet the cost of salary adjustments and other employee economic benefits authorized by the collective bargaining agreement between the board of regents of higher education and the Massachusetts Community College Council/MTA/NEA; provided, however, that the commissioner of administration is hereby authorized to transfer from the sum appropriated to other items of appropriation for the fiscal year nineteen and eighty-five, such amounts as are necessary to meet the costs of said adjustments and benefits for the fiscal year nineteen hundred and eighty-five and prior years where the amounts otherwise available are insufficient for the purpose; provided, further, that the commissioner of administration is further authorized to allocate the cost of such salary adjustments and benefits to the several state or other funds to which such items of appropriation are charged; provided, further, that copies of each said collective bargaining agreement, together with an analysis of all cost items contained in said agreement and all changes to be made in the schedules of permanent and temporary positions required by said agreement, shall be filed with the house and



**ACTS, 1985. – Chap. 12.**

senate committees on ways and means prior to the transfer or allocation of any amounts necessary to meet the cost of said adjustments and benefits; and provided, further, that no transfer or allocation shall be made without the prior approval of the house and senate committees on ways and means

\$10,029,732

**SECTION 3.** This act shall take effect upon its passage.

Approved April 2, 1985.

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**Chapter 12. AN ACT AUTHORIZING THE TOWN OF BARNSTABLE TO GRANT A LICENSE WITH RESPECT TO CERTAIN PARK LAND TO THE COTUIT LIBRARY ASSOCIATION.**

Be it enacted, etc., as follows:

The board of selectmen of the town of Barnstable is hereby authorized to grant an easement for the construction for parking purposes to the Cotuit Library Association to two certain parcels of park land bounded and described as follows:

Parcel 1.

Registered land beginning at a point on the westerly side of Main Street, Cotuit (Barnstable), Barnstable County, Massachusetts, thence by a curve to the southwest, with a radius of 58.67' and an arc distance of 58.58' to a point;

thence N81° 09min. 25sec. W., 80.58' to a point;

thence by a curve to the south with a radius of 7.14' and an arc length of 11.24', to a point;

thence S08deg. 40min. 49sec. W., 18.00', to a point;

thence N81deg. 19min. 11sec. W., 72.27', to a point;

thence N08deg. 40min. 49sec. E., 4.457', to a point;

thence N81deg. 29min. 20sec. E., 52.18', to a point;

thence N83deg. 33min. 00sec. E., 129.18', to a point;

thence S75deg. 29min. 00sec. E., 44.76', to a point;

thence S25deg. 50min. 00sec. W., 13.58', to the point of beginning, containing 3,166 square feet of land, more or less.

Parcel 2.

Beginning at a point at the northeasterly corner of the hereinafter described parcel;

thence S81deg. 29min. 20sec. W., 52.18', by registered land of Land Court No. 13564A, to a point;

thence N08deg. 40min. 49sec. E., 29.65', to a point;

thence S65deg. 23min. 20sec. E., 51.84', to the point of beginning;

containing 739 square feet of land, more or less.

Both parcels are shown on a plan entitled "Town of Barnstable, Plan to



**ACTS, 1985. – Chaps. 13, 14.**

accompany a petition of the Cotuit Library Association to Construct Additional Parking and Maintain Same in Cotuit, Barnstable, MA. as made by the Selectmen. Engineering Div., Dept. of Public Works, Scale 1" = 20'", dated June 22, 1983. The license authorized hereunder shall be granted by the said Board of Selectmen for consideration of one dollar.

Approved April 2, 1985.

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**Chapter 13. AN ACT AUTHORIZING THE CITY OF EVERETT TO  
SELL AND CONVEY A CERTAIN PARCEL OF PARK  
LAND IN SAID CITY.**

Be it enacted, etc., as follows:

The city of Everett is hereby authorized to sell by open bid at public auction and convey, for no less than thirty-one thousand five hundred and eighty-one dollars, a certain parcel of park land in said city containing seventeen thousand five hundred and ninety-nine square feet, said parcel being bounded and described as follows:-

NORTHERLY by lot number One as shown on a plan of land belonging to Joseph E. Nichols recorded with said deeds Plan Book 25, Plan 12 Eighty-five and 54/100 (85.54) feet;

WESTERLY by land now or formerly of Uriah Oakes Two Hundred (200) feet;

SOUTHERLY by land now or formerly of Carl P. Anderson Seventy-four and 75/100 (74.75) feet;

EASTERLY by lots One, Two, Seven and Eight on the first mentioned plan and said Court a total of Two Hundred (200) feet.

Approved April 2, 1985.

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**Chapter 14. AN ACT PROVIDING THAT ONE MEMBER OF THE  
CIVIC CENTER COMMISSION OF THE CITY OF  
WORCESTER BE A LABOR REPRESENTATIVE.**

Be it enacted, etc., as follows:

The first paragraph of section 3 of chapter 216 of the acts of 1976 is hereby amended by inserting after the word "members", in line 6, the words:- one of whom shall be a representative of organized labor, taken from a list of not less than two nor more than five names representing different unions and submitted by the Worcester Labor Council, A.F.L.-C.I.O., and the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America.

Approved April 2, 1985.



ACTS, 1985. – Chap. 15.

**Chapter 15. AN ACT AUTHORIZING THE CITY OF LOWELL TO CONVEY A CERTAIN PARCEL OF WATER SUPPLY LAND.**

Be it enacted, etc., as follows:

**SECTION 1.** The city of Lowell is hereby authorized to sell and convey upon such terms and conditions as the city may impose, a certain parcel of water supply land under the control of the division of water of the department of public works to MCTC Associates, Inc.

Said parcel is the land in Lowell with the buildings and improvements thereon, shown as the parcel entitled "City of Lowell" on a plan of land entitled "Plan of Land in Lowell & Chelmsford, MA. prepared for Lampert & Richardson, Scale: 1" = 100', December 18, 1984, Vanasse/Hangen Engineering, Inc., Consulting Engineers & Planners, 60 Birmingham Parkway, Boston, MA", said Plan recorded with Middlesex North District Registry of Deeds herewith, more particularly bounded and described according to said Plan as follows:

Beginning at a point on the Northerly sideline of Route 3, which point is 60.00 feet Westerly of a Massachusetts Highway Bound on the said Northerly sideline of said Route 3, and at the most Southerly corner of the granted premises;

Thence running Westerly by the Northerly sideline of said Route 3, in two courses a total of 1,997.23 feet to a point which is on the boundary line between the City of Lowell and the Town of Chelmsford;

Thence turning and running N 62° 08' 16" W by the said boundary line between the City of Lowell and the Town of Chelmsford, 660.50 feet to a point;

Thence turning and running N 23° 28' 15" W, 613.21 feet to a point;

Thence turning and running N 73° 06' 11" E, 342.65 feet to a stone bound on the Westerly sideline of Wilbur Street;

Thence turning and running S 16° 09' 34" E by the Westerly sideline of Wilbur Street, 433.99 feet to an iron pipe in the ground;

Thence turning and running N 78° 09' 30" E, 706.43 feet;

Thence turning and running S 12° 27' 24" E, 82.02 feet;

Thence turning and running N 79° 24' 04" E, 909.20 feet to a point in the center line of the Middlesex Canal;

Thence turning and running S 48° 06' 53" E by the center line of the Middlesex Canal, 1,151.91 feet;

Thence turning and running S 45° 38' 30" W, 134.30 feet to the point of beginning.

Containing, according to said plan, 35.273 acres of land.

**SECTION 2.** This act shall take effect as of July twenty-fourth, nineteen hundred and eighty-four.

Approved April 4, 1985.



ACTS, 1985. – Chap. 16.

**Chapter 16. AN ACT AUTHORIZING THE DEPUTY COMMISSIONER OF CAPITAL PLANNING AND OPERATIONS TO TRANSFER AND DIVERT CERTAIN PARCELS OF LAND IN ARLINGTON, BELMONT AND CAMBRIDGE FOR HIGHWAY AND PARKWAY USES IN CONNECTION WITH THE MASSACHUSETTS BAY TRANSPORTATION AUTHORITY'S ALEWIFE STATION INTERIM ACCESS PROJECT.**

Be it enacted, etc., as follows:

**SECTION 1.** The deputy commissioner of capital planning and operations is hereby authorized to transfer the care, custody and control of a certain parcel of public parkland in the town of Arlington to the department of public works. Said department of public works is hereby authorized to lay out and construct a state highway on said parcel of land in conjunction with access to the Alewife Red Line station and connecting local streets. Said land is presently being used by the metropolitan district commission for park purposes in the Alewife Brook reservation and shall be used by the department of public works for highway purposes. Said parcel of land is shown as Parcel A-20 on a plan entitled "Alewife Station Interim Access, MDC Parcels Affected, Dwg. No. M-1a", prepared by Sverdrup & Parcel and Associates, Inc., dated January 29, 1985, a copy of which is on file at the division of capital planning and operations, and which parcel of land is more particularly described as follows:—

Parcel A-20

Commencing at a point which is the intersection of the south layout line of the Massachusetts Department of Public Works' "Concord Turnpike" and the west right-of-way line of the Massachusetts Bay Transportation Authority's "Lexington Branch"; thence running S 20° – 29' – 26" E a distance of two hundred ninety and 14/100 feet (290.14') along the west right-of-way line of the Massachusetts Bay Transportation Authority's "Lexington Branch" to a point; thence turning and running N 60° – 11' – 22" W a distance of four and 81/100 feet (4.81') to a point; thence turning and running N 20° – 23' – 28" W a distance of one hundred and sixty-two and 98/100 feet (162.98') to a point; thence turning and running N 44° – 04' – 50" W a distance of one hundred and forty-three and 83/100 feet (143.83') to a point; thence turning and running N 67° – 46' – 10" W a distance of five hundred eighty-nine and 22/100 feet (589.22') to a point; thence turning and running S 88° – 55' – 16" W a distance of twenty-six and 75/100 feet (26.75') to a point; thence turning and running N 14° – 58' – 28" E a distance of twenty-five and 60/100 feet (25.60') along the property line of Acorn Properties, Inc. to a point; thence turning and following a curve to the right of a radius of seven thousand thirty-one and 41/100 feet (7,031.41') for a distance of sixty-six and 17/100 feet (66.17') along said property line of Acorn Properties, Inc. to a point; thence turning and running S 67° – 54' – 33" E for a distance of six hundred three and 49/100 feet (603.49') along the south layout line of the Massachusetts Department of Public Works'



ACTS, 1985. - Chap. 16.

"Concord Turnpike" to the point of beginning;

Containing twenty-five thousand, seven hundred and thirty-four square feet (25,734 S.F.) of land.

**SECTION 2.** The deputy commissioner of capital planning and operations is hereby authorized to authorize the department of public works to construct and maintain permanent highway drainage structures on two parcels of land in the town of Arlington. The two parcels are presently under the care, custody and control of the metropolitan district commission for public park purposes as part of the Alewife Brook reservation. The said parcels are shown as Parcel Nos. A-D-1 and A-D-2 on a plan entitled "Alewife Station Interim Access, MDC Parcels Affected, Dwg. No. M-1a", prepared by Sverdrup & Parcel and Associates, Inc., dated January 29, 1985, which parcels are more particularly described as follows:-

Parcel A-D-1

Commencing at a point on the easterly property line of Acorn Properties, Inc. which is located fifty-four and 37/100 feet (54.37') northerly measured along that line from its intersection with the Arlington Town line: thence running N 88° - 55' - 13" E along the southerly boundary line of Parcel A-20 (as shown on a plan entitled "Alewife Station Interim Access, MDC Parcels Affected") a distance of twenty-six and 75/100 feet (26.75') to a point; thence turning and running S 67° - 46' - 10" E along said southerly boundary line of Parcel A-20 a distance of eight and 50/100 feet (8.50') to a point; thence turning and running S 22° - 13' - 50" W a distance of thirteen feet (13.00') to a point; thence turning and running N 63° - 35' - 22" W a distance of thirty-three and 15/100 feet (33.15') to the point of beginning.

Containing two hundred and sixty square feet (260 S.F.) of land.

Parcel A-D-2

Commencing at a point on the southerly boundary line of Parcel A-20 (as shown on a plan entitled "Alewife Station Interim Access, MDC Parcels Affected", prepared by Sverdrup & Parcel and Associates, Inc.) which is located three hundred feet (300.00') westerly measured along that line from the southeasterly corner of said parcel; thence running N 67° - 46' - 10" W along southerly boundary line a distance of thirty feet (30.00') to a point; thence turning and running S 22° - 13' - 50" W a distance of twelve feet (12.00') to a point; thence turning and running S 67° - 46' - 10" E a distance of thirty feet (30.00') to a point; thence turning and running N 22° - 13' - 50" E a distance of twelve feet (12.00') to the point of beginning.

Containing three hundred and sixty square feet (360 S.F.) of land.

**SECTION 3.** The deputy commissioner of capital planning and operations is hereby authorized to authorize the department of public works to utilize temporarily for purposes of highway construction three parcels of land in the town of Arlington. The three parcels are presently under the care, custody and control of the metropolitan district commission for public park purposes as part of the Alewife Brook



ACTS, 1985. – Chap. 16.

reservation. The temporary uses for highway construction shall include, without limitation, the construction of the highway, associated pedestrian walkways and landscaping improvements. This temporary use for purposes of highway construction shall be extinguished at the completion of said construction. The said parcels are shown as Parcels A-30, A-31 and A-32 on a plan entitled "Alewife Station Interim Access, MDC Parcels Affected, Dwg. No. M-1a, prepared by Sverdrup & Parcel and Associates, Inc., dated January 29, 1985, which parcels of land are more particularly described as follows:–

Parcel A-30

Commencing at a point which is the intersection of the east right-of-way line of the Massachusetts Bay Transportation Authority's "Lexington Branch" and the south layout line of the Massachusetts Department of Public Works' "Concord Turnpike"; thence running S 68° – 03' – 49" E a distance of one hundred and eighty-four and 67/100 feet (184.67') along the south layout line of the Massachusetts Department of Public Works' "Concord Turnpike"; thence curving to the right on a 330.00' radius curve a distance of twenty-nine and 27/100 feet (29.27') along the south layout line of the Massachusetts Department of Public Works' "Concord Turnpike"; thence turning and running S 47° – 45' – 50" W a distance of fifteen and 90/100 feet (15.90') along the Cambridge City Line to a point; thence turning and running S 41° – 22' – 43" W a distance of fifty-five and 97/100 feet (55.97') along the Cambridge City Line to a point; thence turning and running S 4° – 56' – 33" W a distance of one hundred and seventy-one and 55/100 feet (171.55') along the Cambridge City Line to a point; thence turning and running N 60° – 11' – 22" W a distance of thirty and 09/100 feet (30.09') along the Cambridge City Line to a point; thence turning and running N 20° – 29' – 26" W a distance of three hundred and nine and 33/100 feet (309.33') along the east right-of-way line of the Massachusetts Bay Transportation Authority's "Lexington Branch" to the point of beginning.

Containing twenty-three thousand, nine hundred and seventy-seven square feet (23,977 S.F.) of land.

Parcel A-31

Commencing at a point on the Cambridge City line which is located four and 81/100 feet (4.81') measured along that line to the northwest of the intersection of that line with the west right-of-way line of the Massachusetts Bay Transportation Authority's "Lexington Branch"; thence running N 60° – 11' – 22" W a distance of thirty-seven and 50/100 feet (37.50') along the Cambridge City Line to a point; thence turning and running N 20° – 23' – 28" W a distance of one hundred and thirty-four and 17/100 feet (134.17') to a point; thence turning and running N 55° – 20' – 40" W a distance of two hundred and fifty-five and 80/100 feet (255.80') to a point; thence turning and running N 15° – 05' – 31" W a distance of twenty-three and 89/100 feet (23.89') to a point; thence turning and running S 67° – 46' – 10" E a distance of one hundred fifty and 24/100 feet (150.24') to a point; thence turning and running S 44° – 04' – 50" E a distance of one hundred forty-three and 83/100 feet (143.83') to a point; thence turning and running S 20° – 23' – 28" E a distance of one hundred sixty-two and 98/100 feet (162.98') along the



ACTS, 1985. - Chap. 16.

west right-of-way line of the Massachusetts Bay Transportation Authority's "Lexington Branch" to the point of beginning.

Containing twelve thousand six hundred eighty-three square feet (12,683 S.F.) of land.

Parcel A-32

Commencing at a point on the east property line of Acorn Properties Inc. which is located fifty-four and 37/100 feet (54.37') measured along that line to the north of the intersection of that line with the Arlington Town Line; thence running N 88° - 55' - 16" E a distance of twenty-six and 75/100 feet (26.75') to a point; thence turning and running S 67° - 46' - 10" E a distance of four hundred thirty-eight and 97/100 feet (438.97') to a point; thence turning and running S 15° - 05' - 32" E a distance of twenty-three and 89/100 feet (23.89') to a point; thence turning and running N 67° - 46' - 10" W a distance of four hundred seventy-six and 95/100 feet (476.95') to a point; thence turning and running N 14° - 58' - 28" E a distance of eight and 48/100 feet (8.48') along the property line of Acorn Properties Inc. to the point of beginning.

Containing eight thousand eight hundred ten square feet (8,810 S.F.) of land.

**SECTION 4.** The deputy commissioner of capital planning and operations is hereby authorized to transfer the care, custody and control of certain parcels of public parkland in the city of Cambridge to the department of public works. Said department of public works is hereby authorized to lay out and construct a state highway on said parcels of land in conjunction with access to the Alewife Red Line station and connecting local streets. Said land to be so transferred is presently being used by the metropolitan district commission for park purposes and shall be used by the department of public works for highway purposes. Said parcels of land are shown as Parcel C-20 and C-21 on a plan entitled "Alewife Station Interim Access, MDC Parcels Affected, Dwg. No. M-1a, prepared by Sverdrup & Parcel and Associates, Inc., dated January 29, 1985, which parcel of land is more particularly described as follows:-

Parcel C-20

Commencing at a point which is the intersection of the north right-of-way line of the Massachusetts Bay Transportation Authority's "Freight Cut-off" and the west right-of-way line of the Massachusetts Bay Transportation Authority's "Lexington Branch"; thence running S 73° - 43' - 31" W a distance of sixty-six and 10/100 feet (66.10') along the north right-of-way of the Massachusetts Bay Transportation Authority's "Freight Cut-off" to a point; thence turning and running N 6° - 39' - 02" E a distance of seventy-eight and 45/100 feet (78.45') to a point; thence turning and running N 8° - 30' - 34" W a distance of forty-eight and 10/100 feet (48.10') to a point; thence turning and running N 14° - 27' - 02" W a distance of one hundred sixty-one and 26/100 feet (161.26') to a point; thence turning and running N 20° - 23' - 28" W a distance of sixty-four and 11/100 feet (64.11') to a point; thence turning and running S 60° - 11' - 22" E a distance of four and 81/100 feet (4.81') along the



ACTS, 1985. - Chap. 16.

Cambridge City line to a point; thence turning and running S 20° - 29' - 26" E a distance of three hundred and forty-two and 50/100 feet (342.50') along the west right-of-way of the Massachusetts Bay Transportation Authority's "Lexington Branch" to the point of beginning.

Containing six thousand seven hundred sixty-two square feet (6,762 S.F.) of land.

Parcel C-21

Commencing at a point on the west property line of W. R. Grace Inc. which is located two hundred twenty-three and 33/100 feet (223.33') measured along that property line to the north of the intersection of that property line with the north right-of-way line of the Massachusetts Bay Transportation Authority's "Freight Cut-off" to a point; thence running N 71° - 55' - 55" W a distance of fifty-seven and 52/100 feet (57.52') to a point; thence turning and running N 86° - 24' - 52" W a distance of ninety-five and 7/100 feet (95.07') to a point; thence turning and running northerly along a curve to the right of a radius of six hundred sixty feet (660.00') a distance of one hundred feet (100.00') along the east layout line of the Metropolitan District Commission's "Alewife Brook Parkway" to a point; thence turning and running S 49° - 04' - 39" E a distance of eighty-two and 30/100 feet (82.30') to a point; thence turning and running S 86° - 24' - 52" E a distance of seventy and 69/100 feet (70.69') to a point; thence turning and running along a curve to the left of a radius of six hundred twenty-seven and 74/100 feet (627.74') for a distance of sixty-one and 68/100 feet (61.68') along the property line of W. R. Grace Inc. to a point; thence running S 14° - 06' - 09" E a distance of five and 3/100 (5.03') along the property line of W. R. Grace Inc. to the point of beginning.

Containing nine thousand and sixty-six square feet (9,066 S.F.) of land.

**SECTION 5.** The deputy commissioner of capital planning and operations is hereby authorized to authorize the department of public works to construct and maintain permanent highway drainage structures on three parcels of land in the city of Cambridge. The three parcels are presently under the care, custody and control of the metropolitan district commission for public park purposes as part of the Alewife Brook reservation. The said parcels are shown as Parcels C-D-1, C-D-2 and C-D-3 on a plan entitled "Alewife Station Interim Access, MDC Parcels Affected, Dwg. No. M-1a", prepared by Sverdrup & Parcel and Associates, Inc., dated January 29, 1985, which parcels are more particularly described as follows:-

Parcel C-D-1

Commencing at a point which is the intersection of the Arlington Town Line and the westerly boundary line of Parcel C-20 (as shown on a plan entitled "Alewife Station Interim Access, MDC Parcels Affected") and following said easterly boundary line S 20° - 23' - 28" E a distance of sixty-four and 11/100 feet (64.11') to a point; thence continuing along said easterly boundary line S 14° - 27' - 02" E a distance of one hundred and four feet (104.00') to the point of beginning; thence running S 14° - 27' - 02" E along said boundary line a distance of thirty-one feet (31.00') to a point; thence turning and running S 75° - 32' - 58" W a distance of



ACTS, 1985. - Chap. 16.

twenty-eight feet (28.00') to a point; thence turning and running N 14° - 27' - 02" W a distance of thirty-one feet (31.00') to a point; thence turning and running N 75° - 32' - 58" E a distance of twenty-eight feet (28.00') to the point of beginning.

Containing eight hundred and sixty-eight square feet (868 S.F.) of land.

Parcel C-D-2

Commencing at a point on the northerly Right-of-Way line of the Massachusetts Bay Transportation Authority's "Freight Cutoff Railroad" which is thirty-eight feet (38.00') westerly measured along that line from its intersection with the easterly Right-of-Way line of the Metropolitan District Commission's "Alewife Brook Parkway"; thence running N 16° - 14' - 25" W a distance of twenty-two feet (22.00') to a point; thence turning and running S 73° - 45' - 35" W a distance of thirty feet (30.00') to a point; thence turning and running S 16° - 14' - 25" E a distance of twenty-two feet (22.00') to a point; thence turning and running N 73° - 45' - 35" E along said northerly Right-of-Way line of the "Freight Cutoff" a distance of thirty feet (30.00') to the point of beginning.

Containing six hundred and sixty square feet (660 S.F.) of land. Parcel C-D-3

Commencing at the southerly corner of Parcel C-22 (as shown on a plan entitled "Alewife Station Interim Access, MDC Parcels Affected") and following the easterly boundary line of said parcel on a curve to the right having a radius of nine hundred and ten feet (910.00') for a distance of one hundred and one feet (101.00') to the point of beginning; thence continuing along said curve and boundary line for a distance of sixty and 25/100 feet (60.25') to a point; thence turning and running S 86° - 24' - 52" E of a distance of twenty-five and 86/100 feet (25.86') to a point; thence turning and running S 14° - 24' - 08" E a distance of fifty-seven and 16/100 feet (57.16') to a point; thence turning and running S 85° - 5' - 19" W a distance of thirty-seven feet (37.00') to the point of beginning.

Containing one thousand eight hundred and thirty-seven square feet (1,837 S.F.) of land.

**SECTION 6.** The deputy commissioner of capital planning and operations is hereby authorized to authorize the department of public works to utilize temporarily for purposes of highway construction four parcels of land in the city of Cambridge. The four parcels are presently under the care, custody and control of the metropolitan district commission for public park purposes as part of the Alewife Brook reservation. The temporary uses for highway construction shall include, without limitation, the construction of the highway, associated pedestrian walkways and landscaping improvements. This temporary use for purposes of highway construction shall be extinguished at the completion of said construction. The said parcels are shown as Parcels C-30, C-31, C-32 and C-33 on a plan entitled "Alewife Station Interim Access, MDC Parcels Affected, Dwg. No. M-1a", prepared by Sverdrup & Parcel and Associates, Inc. dated January 29, 1985, which parcels of land are more particularly described as follows:-

Parcel C-30



ACTS, 1985. – Chap. 16.

Commencing at a point which is the intersection of the north right-of-way line of the Massachusetts Bay Transportation Authority's "Freight Cut-off" and the east right-of-way line of the Massachusetts Bay Transportation Authority's "Lexington Branch"; thence running N 20° – 29' – 26" W a distance of two hundred and sixty-four and 84/100 feet (264.84') along the east right-of-way line of the Massachusetts Bay Transportation Authority's "Lexington Branch" to a point; thence turning and running S 60° – 11' – 22" E a distance of thirty and 09/100 feet (30.09') along the Arlington Town Line to a point; thence turning and running N 40° – 56' – 33" E a distance of one hundred and seventy-one and 55/100 feet (171.55') along the Arlington Town Line to a point; thence turning and running N 41° – 22' – 43" E a distance of fifty-five and 97/100 feet (55.97') along the Arlington Town Line to a point; thence turning and running N 47° – 45' – 50" E a distance of fifteen and 90/100 feet (15.90') along the Arlington Town Line to a point; thence turning right and curving right on a 330.00' radius curve, a distance of one hundred and eight and 45/100 (108.45') along the south layout line of the Massachusetts Department of Public Works' "Concord Turnpike" to a point; thence turning and running S 44° – 09' – 15" E a distance of one hundred and fifty-three and 35/100 feet (153.35') along the south layout line of the Massachusetts Department of Public Works' "Concord Turnpike" to a point; thence curving left on a 175.00' curve a distance of one hundred and four and 91/100 feet (104.91') along the south layout line of the Massachusetts Department of Public Works' "Concord Turnpike" to a point; thence continuing S 78° – 29' – 57" E a distance of sixty-four and 31/100 feet (64.31') along the south layout line of the Massachusetts Department of Public Works' "Concord Turnpike" to a point; thence curving to the right on an 80.00' radius curve a distance of eighty-one and 92/100 feet (81.92') along the south layout line of the Massachusetts Department of Public Works' "Concord Turnpike" to a point; thence continuing S 16° – 16' – a distance of forty-nine and 4/100 feet (49.04') along the west layout line of the Metropolitan District Commission's "Alewife Brook Parkway" to a point; thence turning and running S 73° – 43' – 32" W a distance of four hundred and thirty-four and 78/100 feet (434.78') along the north right-of-way line of the Massachusetts Bay Transportation Authority's "Freight Cut-off" to the point of beginning.

Containing one hundred nineteen thousand, five hundred and sixty-two square feet (119,562 S.F.) of land.

Parcel C-31

Commencing at a point on the north right-of-way line of the Massachusetts Bay Transportation Authority's "Freight Cut-off" which is located sixty-six and 10/100 feet (66.10') measured along that line to the west of the intersection of that line with the west right-of-way line of the Massachusetts Bay Transportation Authority's "Lexington Branch"; thence running S 73° – 43' – 31" W a distance of one hundred and seventy-three and 81/100 feet (173.81') along the north right-of-way line of the Massachusetts Bay Transportation Authority's "Freight Cut-off" to a point; thence turning and running N 15° – 5' – 32" W a distance of one hundred and twenty and 02/100 feet (120.02') to a point;



ACTS, 1985. - Chap. 16.

thence turning and running N  $73^{\circ} - 43' - 31''$  E a distance of one hundred and eighty-four and  $18/100$  feet (184.18') to a point; thence turning and running N  $16^{\circ} - 33' - 43''$  W a distance of two hundred and fifty-two and  $05/100$  feet (252.05') to the Arlington Town line; thence turning and running S  $60^{\circ} - 11' - 18''$  E a distance of thirty-seven and  $50/100$  feet (37.50') along the Arlington Town Line to a point; thence turning and running S  $20^{\circ} - 23' - 28''$  E a distance of sixty-four and  $11/100$  feet (64.11') to a point; thence turning and running S  $14^{\circ} - 27' - 02''$  E a distance of one hundred and sixty-one and  $26/100$  feet (161.26') to a point; thence turning and running S  $8^{\circ} - 30' - 34''$  E a distance of forty-eight and  $10/100$  feet (48.10') to a point; thence turning and running S  $6^{\circ} - 39' - 02''$  W a distance of seventy-eight and  $45/100$  feet (78.45') to the point of beginning.

Containing twenty-nine thousand nine hundred and forty-seven square feet (29,947 S.F.) of land.

Parcel C-32

Commencing at a point on the north right-of-way line of the Massachusetts Bay Transportation Authority's "Freight Cut-off" which is located two hundred thirty-nine and  $91/100$  feet (239.91') measured along that line to the west of the intersection of that line with the west right-of-way line of the Massachusetts Bay Transportation Authority's "Lexington Branch"; thence curving right on a curve of a radius of two thousand seven hundred eighty-eight and  $15/100$  feet (2,788.15') for a distance of eight hundred three and  $48/100$  feet (803.48') along the north right-of-way line of the Massachusetts Bay Transportation Authority's "Freight Cut-off" to a point; thence continuing N  $89^{\circ} - 45' - 48''$  W for a distance of four hundred seventy-six and  $32/100$  feet (476.32') along the north right-of-way of the Massachusetts Bay Transportation Authority's "Freight Cut-off" to a point; thence turning and running N  $0^{\circ} - 14' - 12''$  E for a distance of one hundred twenty feet (120.00') to a point; thence turning and running S  $89^{\circ} - 45' - 48''$  E for a distance of four hundred seventy-six and  $32/100$  feet (476.32') to a point; thence curving left onto a curve of a radius of two thousand six hundred sixty-eight and  $15/100$  feet (2,668.15') for a distance of seven hundred seventy-one and  $38/100$  feet (771.38') to a point; thence turning and running S  $15^{\circ} - 05' - 32''$  E for a distance of one hundred twenty and  $2/100$  feet (120.02') to the point of beginning.

Containing one hundred fifty-one thousand six hundred forty-nine square feet (151,649 S.F.) of land.

Parcel C-33

Commencing at a point which is about one hundred and ninety feet (190') east of the Alewife Brook Parkway centerline on the north right-of-way line of MBTA Railroad "Freight Cut-off"; thence running S  $73^{\circ} - 45' - 33''$  W a distance of two hundred and sixty-two and  $34/100$  feet (262.34') to a point; thence turning and running N  $16^{\circ} - 16' - 28''$  W a distance of forty-nine and  $4/100$  feet (49.04') to a point; thence turning and running N  $70^{\circ} - 10' - 26''$  E a distance of thirty feet (30.00') to a point; thence turning and running N  $19^{\circ} - 49' - 30''$  W a distance of forty-eight and  $69/100$  feet (48.69') to a point; thence turning and curving right along a 740.00' radius curve a distance of seven hundred



ACTS, 1985. – Chap. 16.

and seventy-nine and 97/100 feet (779.97') to a point; thence turning and running S 49° – 26' – 02" E a distance of one hundred and fifty-four and 83/100 feet (154.83') to a point; thence turning and curving left along a 522.88' radius curve a distance of one hundred and thirty-five and 15/100 feet (135.15') to a point; thence turning and curving left along a 627.74' radius curve a distance of two hundred fifty-six and 72/100 feet (256.72') to a point; thence turning and running N 86° – 24' – 52" W a distance of seventy and 69/100 feet (70.69') to a point; thence turning and running N 49° – 04' – 39" W a distance of eighty-two and 30/100 feet (82.30') to a point; thence turning and running along a curve to the left of a radius of six hundred sixty feet (660.00') a distance of one hundred feet (100.00') along the east layout line of the Metropolitan District Commission's "Alewife Brook Parkway" to a point; thence turning and running S 86° – 24' – 52" E a distance of ninety-five and 7/100 feet (95.07') to a point; thence turning and running S 71° – 55' – 55" E a distance of fifty-seven and 52/100 feet (57.52') to a point; thence turning and running S 14° – 06' – 09" E a distance of two hundred twenty-three and 33/100 feet (223.33') to the point of beginning "12".

Containing one hundred fifty-seven thousand five hundred twenty-three square feet (157,523 S.F.) of land.

**SECTION 7.** The deputy commissioner of capital planning and operations is hereby authorized to accept on behalf of the metropolitan district commission a transfer of two parcels of land, one in the city of Cambridge and the other in the town of Belmont, at no cost to the commonwealth, from the Massachusetts Bay Transportation Authority. Said lands which are presently used for transportation purposes shall after said transfer be in the care, custody and control of the metropolitan district commission for public park purposes in the Alewife Brook reservation. Said land to be so transferred is shown or referred to as Parcel C-23 in the City of Cambridge and B-20 in the Town of Belmont on a plan entitled "Alewife Station Interim Access, MDC Parcels Affected, Dwg. No. M-1a", prepared by Sverdrup & Parcel and Associates, Inc., dated January 29, 1985, which parcels of land are more particularly described as follows:-

Parcel C-23

Commencing at a point which is the intersection of the northerly Right-of-Way line of the "Freight Cut-off Railroad" and the westerly Right-of-Way line of the "Lexington Branch Railroad", both owned by the Massachusetts Bay Transportation Authority; and running S 73° – 43' – 31" W a distance of two hundred and thirty-nine and 91/100 feet (239.91') along said northerly Right-of-Way line to a point, thence continuing along said northerly Right-of-Way line on a curve to the right having a radius of two thousand seven hundred and eighty-eight and 15/100 feet (2,788.15') a distance of three hundred and forty-three and 48/100 feet (343.48') to the point of beginning; thence continuing along said curve and northerly Right-of-Way line a distance of four hundred and sixty feet (460.00') to a point; thence continuing N 89° – 45' – 48" W a distance of four hundred and seventy-six and 32/100 feet (476.32') along said northerly Right-of-Way line to a point; thence turning and



ACTS, 1985. - Chap. 16.

running N 89° - 22' - 22" W a distance of six hundred and sixty and 02/100 feet (660.02') along said northerly Right-of-Way line to a point; thence turning and running N 88° - 56' - 37" W a distance of four hundred and thirty-three and 81/100 feet (433.81') along said northerly Right-of-Way line to a point; thence turning and running S 89° - 48' - 56" W a distance of one hundred and forty-eight feet (148.00') along said northerly Right-of-Way line to a point; thence turning and running S 89° - 15' - 52" W a distance of five hundred and twenty-five and 11/100 feet (525.11') along said northerly Right-of-Way line to a point; thence continuing on the same bearing a distance of about two hundred and sixty feet (260'±) along said northerly Right-of-Way line to its intersection with the Belmont Town Line, thence turning and running approximately S 34° - 46' W a distance of about twenty-seven and 02/100 feet (27.02'±) along the Belmont Town Line to a point; thence turning and running N 89° - 15' - 52" E a distance of about eight hundred and 70/100 feet (800.70'±) along a line which is parallel to and twenty-two feet (22.00') southerly from the northerly Right-of-Way line of the Massachusetts Bay Transportation Authority's "Freight Cut-off Railroad", to a point, thence turning and running N 89° - 48' - 56" E a distance of one hundred and forty-seven and 66/100 feet (147.66') along a line which is parallel to and twenty-two feet (22.00') southerly from said northerly Right-of-Way line, to a point; thence turning and running S 88° - 56' - 37" E a distance of thirty-five feet (35.00') along a line which is parallel to and twenty-two feet (22.00') southerly from said northerly Right-of-Way line, to a point; thence turning at a right angle to the right and running S 01° - 03' - 23" W a distance of thirty feet (30.00') to a point; thence turning and running N 89° - 58' - 39" E a distance of one thousand three hundred and twenty-five and 23/100 feet (1,325.23') to a point, thence continuing along a curve to the left having a radius of three thousand two hundred feet (3,200.00') a distance of six hundred and seventy-five and 17/100 feet (675.17') to a point, thence turning and running N 09° - 12' - 58" W a distance of twenty-two feet (22.00') to the point of beginning.

Containing about ninety-seven thousand seven hundred and thirty-eight square feet (97,738 S.F.±) of land.

Parcel B-20

Commencing at a point which is the intersection of the northerly Right-of-Way line of the Massachusetts Bay Transportation Authority's "Freight Cut-off Railroad" and the Belmont Town Line; thence running approximately S 89° - 15' - 52" W, a distance of about seven hundred and twenty-five feet (725'±) along said northerly Right-of-Way line to the westerly Right-of-Way line of Brighton Street; thence turning and running approximately S 12° - 46' E a distance of about twenty-two and 63/100 feet (22.63'±) along said westerly Right-of-Way line of Brighton Street to a point; thence turning and running approximately N 85° - 15' - 52" E a distance of about seven hundred and four feet (704'±) along a line which is parallel to and twenty-two feet (22.00') southerly from the aforementioned northerly Right-of-Way line of the Massachusetts Bay Transportation Authority's "Freight Cutoff Railroad", to the Belmont Town Line; thence turning and running approximately N 34° - 46' E a



**ACTS, 1985. – Chap. 16.**

distance of about twenty-seven and 02/100 feet (27.02'±) along the Belmont Town Line, to the point of beginning.

Containing about fifteen thousand seven hundred and twenty square feet (15,720 S.F.±) of land.

**SECTION 8.** The deputy commissioner of capital planning and operations is hereby authorized to divert a parcel of land presently under the care, custody and control of the metropolitan district commission for public park purposes in the Alewife Brook reservation from said use to parkway use under the care, custody and control of the said metropolitan district commission. Said metropolitan district commission is authorized to lay out, and construct a parkway on said parcel. Said parcel of land is shown as Parcel C-22 on a plan entitled "Alewife Station Interim Access, MDC Parcels Affected, Dwg. No. M-1a", prepared by Sverdrup & Parcel and Associates, Inc., dated January 29, 1985, which parcel of land is more particularly described as follows:-

**Parcel C-22**

Commencing at a point on the easterly Dedicated Highway line of the Metropolitan District Commission's "Alewife Brook Parkway", said point being on a curve having a radius of six hundred and sixty feet (660.00'), and being twenty-four and 79/100 feet (24.79') measured along said curve from the southerly point of tangency; thence continuing along said Dedicated Highway line to the north on a curve to the right having a radius of six hundred and sixty feet (660.00') for a distance of five hundred and nineteen and 56/100 feet (519.56') to a point; thence turning to the South and running along a curve to the left having a radius of nine hundred and ten feet (910.00') for a distance of five hundred and thirteen and 01/100 feet (513.01') to the point of beginning.

Containing four thousand nine hundred and ninety-eight square feet (4,998 S.F.) of land.

**SECTION 9.** The deputy commissioner of capital planning and operations is hereby authorized to transfer the care, custody and control of two certain parcels of public parkland in the City of Cambridge to the department of public works. Said department of public works is hereby authorized to construct and maintain on said parcels a permanent span protecting electric utilities in connection with the laying out and construction of a state highway authorized by this act. Said lands to be transferred are presently being used by the metropolitan district commission for park purposes in the Alewife Brook reservation and shall be used by the department of public works for said highway related electric utilities. Said parcels of land are shown as Parcels C-U-1A and C-U-1B on a plan entitled "Alewife Station Interim Access, MDC Parcels Affected, Dwg. No. M-1a", prepared by Sverdrup & Parcel and Associates, Inc., dated January 29, 1985, which parcels of land are more particularly described as follows:-

**Parcel C-U-1A**

Commencing at corner of Parcel C-21 (as shown on a plan entitled "Alewife Station Interim Access, MDC Parcels Affected") and running N 86° - 24' - 52" W along the northerly boundary line of said Parcel C-21 a



ACTS, 1985. – Chaps. 17, 18.

distance of seventy and 69/100 feet (70.69') to a point, thence turning and running N 49° – 04' – 39" W along said northerly property line a distance of thirty-four and 29/100 feet (34.29') to the point of beginning; thence continuing N 49° – 04' – 39" W along said northerly property line Parcel C-21 a distance of thirty-two and 43/100 feet (32.43') to a point, thence turning and running N 11° – 00' – 00" W a distance of six and 67/100 feet (6.67') to a point; thence turning and running N 79° – 00' – 00" E a distance of twenty feet (20.00') to a point; thence turning and running S 11° – 00' – 00" E a distance of thirty-two and 20/100 feet (32.20') to the point of beginning.

Containing three hundred and eighty-nine square feet (389 S.F.±) of land.

Parcel C-U-1B

Commencing at the southwesterly corner of Parcel C-21 (as shown on a plan entitled "Alewife Station Interim Access, MDC Parcels Affected") and running S 86° – 24' – 52" E along the southerly boundary line of said Parcel C-21 a distance of thirty-three and 21/100 feet (33.21') to the point of beginning; thence continuing along said southerly boundary line S 86° – 14' – 52" E a distance of twenty and 67/100 feet (20.67') to a point, thence turning and running S 11° – 00' – 00" E a distance of fourteen and 64/100 feet (14.64') to a point, thence turning and running S 79° – 00' – 00" W a distance of twenty feet (20.00') to a point; thence turning and running N 11° – 00' – 00" W a distance of nineteen and 85/100 feet (19.85') to the point of beginning.

Containing three hundred and forty-five square feet (345 S.F.±) of land.

Approved April 9, 1985.

EMERGENCY LETTER: April 9, 1985 @ 3:28 P.M.

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Chapter 17.    **AN ACT REQUIRING PROCEDURES FOR THE  
ACQUISITION OF REAL PROPERTY BY AIRPORT  
COMMISSIONS.**

Be it enacted, etc., as follows:

Section 51G of chapter 90 of the General Laws, added by section 1 of chapter 613 of the acts of 1946, is hereby amended by striking out the second sentence.

Approved April 9, 1985.

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Chapter 18.    **AN ACT FURTHER REGULATING THE ELECTION OF  
OFFICERS IN CREDIT UNIONS.**

Be it enacted, etc., as follows:

Section 15 of chapter 171 of the General Laws is hereby further



**ACTS, 1985. – Chaps. 19, 20.**

amended by striking out the first two sentences, as most recently amended by chapter 179 of the acts of 1984, and inserting in place thereof the following three sentences:– The directors, at a regular scheduled meeting or at a special meeting of the directors called for that purpose and thereafter at their first meeting after the annual meeting shall elect a president and treasurer and may elect one or more vice presidents and one or more assistant treasurers any or all of whom may or may not be a director, who shall be officers and shall elect such other officers as may be necessary for the transaction of the business of the credit union, and shall elect from their own number a chairman of the board, one or more vice chairmen of the board, a clerk, who shall be officers of the corporation, a credit committee of not less than three members, an auditing committee of not less than three nor more than five members, and an investment committee of three members, all of whom shall hold office until their successors are qualified unless sooner removed as hereafter provided. The offices of president and treasurer shall not be held by the same person. The offices of president and chairman of the board may be held by the same person.

Approved April 9, 1985.

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**Chapter 19.    AN ACT DESIGNATING THE TRAFFIC ISLAND AT THE INTERSECTION OF INTERSTATE HIGHWAY ROUTE 395 NORTHBOUND ON AND OFF-RAMP AND STATE HIGHWAY ROUTE 16 IN THE TOWN OF WEBSTER AS THE ROBERT SIFF SQUARE.**

**Be it enacted, etc., as follows:**

The traffic island located at the intersection of Interstate highway route 395 at the northbound on and off-ramp, and state highway route 16 in the town of Webster shall be designated and known as the Robert Siff square, in recognition of his leadership in the business community, his contributions to the town's economic welfare and his extensive charitable efforts. The department of public works shall erect a suitable marker bearing said designation in compliance with standards of said department and as authorized by the Federal Highway Administration.

Approved April 9, 1985.

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**Chapter 20.    AN ACT DESIGNATING THE INTERSTATE HIGHWAY ROUTE 395 ACCESS RAMP FROM UNION POINT AT THOMPSON ROAD ON INTERSTATE HIGHWAY ROUTE 193 IN THE TOWN OF WEBSTER AS THE PRIVATE FIRST CLASS JOSEPH C. PARENT AND SERGEANT ARTHUR C. PARENT MEMORIAL ACCESS RAMP.**



**ACTS, 1985. – Chaps. 21, 22.**

**Be it enacted, etc., as follows:**

The Interstate highway route 395 access ramp from Union point at Thompson road Interstate highway route 193 in the town of Webster shall be designated and known as the Private First Class Joseph C. Parent and Sergeant Arthur C. Parent Memorial access ramp, in memory of Joseph C. Parent and Arthur C. Parent for their outstanding service and dedication to their country as exemplified by their many decorations and citations received during World War I and World War II, respectively. The department of public works shall erect a suitable marker bearing said designation in compliance with standards of said department and as authorized by the Federal Highway Administration.

Approved April 9, 1985.

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**Chapter 21.    AN ACT DESIGNATING THE TRAFFIC ISLAND AT THE  
INTERSECTION OF INTERSTATE HIGHWAY ROUTE  
395 SOUTHBOUND ON-RAMP AND STATE HIGHWAY  
ROUTE 16 IN THE TOWN OF WEBSTER AS THE  
HARRY SEDER MEMORIAL.**

**Be it enacted, etc., as follows:**

The traffic island located at the intersection of Interstate highway route 395 at the southbound on-ramp and state highway route 16 in the town of Webster shall be designated and known as the Harry Seder Memorial square, in memory of his outstanding contributions to the economic development of the Webster area. The department of public works shall erect a suitable marker at said intersection bearing said designation in compliance with standards of said department and as authorized by the Federal Highway Administration.

Approved April 9, 1985.

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**Chapter 22.    AN ACT DESIGNATING A CERTAIN BRIDGE IN THE  
CITY OF ATTLEBORO AS THE MANUEL O. CASTRO,  
SR., MEMORIAL BRIDGE.**

**Be it enacted, etc., as follows:**

The bridge over the Massachusetts Bay Transportation Authority right of way on Thacher street in the city of Attleboro shall be designated and known as the Manuel O. Castro, Sr., Memorial bridge, in memory of Manuel O. Castro, Sr. of said city. Suitable markers bearing such designation shall be attached thereto by the department of public works in compliance with the standards of said department.

Approved April 9, 1985.



ACTS, 1985. – Chap. 23.

Chapter 23. AN ACT RELATING TO THE ELECTION AND COMPOSITION OF THE BOARD OF ASSESSORS OF THE CITY OF SOMERVILLE.

Be it enacted, etc., as follows:

SECTION 1. Title VI of chapter 240 of the acts of 1899 is hereby amended by striking out section 36 and inserting in place thereof the following section:–

Section 36. **ASSESSORS**

(a) Composition of Board; Term of Office – The board of assessors shall consist of three members. They shall be appointed by the mayor subject to the approval of the board of aldermen. Each Assessor shall serve a three year term. Their terms shall be staggered so that only one term elapses at the end of each year.

The chairman of the board of assessors shall serve full-time. He shall be nominated as chairman by the mayor at the time of his appointment. As chairman of the board he shall also serve as the department head in the administration of the department.

The other two assessors shall serve part-time and constitute the other members of the Board of Assessors.

**QUALIFICATIONS**

(b) The members of the board of assessors shall possess the following minimum qualifications before assuming their official duties: a bachelor's degree from an accredited four year college or university with major course work in accounting, business or public administration, economics, statistics, real estate, computer science, engineering or mathematics and not less than three years of paid, full-time experience in the public or private sector where the primary task involved the assessment or appraisal of real property; provided, however, that possession of any one or more of the following certificates or memberships may be substituted for the bachelor's degree requirement: (1) Certified Massachusetts Assessor (CMA), (2) Certified Appraisal Evaluator (CAE), (3) Designated member of Society of Real Estate Appraisers (SREA), (4) Designated member of the American Institute of Real Estate Appraisers. The provisions of this paragraph may be waived by the mayor, with the approval of a two-thirds vote of the board of aldermen taken by a call of the yeas and nays, if the mayor determines that there is no reasonable expectation that qualified persons will be able and willing to accept appointment as an assessor, but in no case shall such a waiver be made for the position of chairman of the board of assessors; provided, however, that a waiver granted pursuant to this paragraph shall be renewed annually. If such waiver is not sought by the mayor by the first regularly scheduled meeting of the board of aldermen in February, then that assessor shall cease to hold office. If the board of aldermen fail to act upon the request for waiver by the end of March, then that assessor shall cease to hold office. The waiver provided for herein shall be granted for not more than three consecutive times as to each person.

(c) Powers and Duties – The members of the board of assessors shall



ACTS, 1985. – Chap. 23.

have all the powers and perform all the duties imposed upon them. They shall confer on a regular basis but not less frequently than twice each year, with the mayor and the board of aldermen in relation to matters involving local taxes and taxation, state and federal taxes or charges levied against the city and revenues received by city, and such other matters as they or the mayor and the board of aldermen shall deem necessary.

(d) Compensation of Members – The salary of members of the board of assessors shall be established by ordinance by the board of aldermen with the approval of the mayor.

(e) Quorum, Voting – A majority of the full board of assessors shall constitute a quorum. Every member of the board of assessors may vote on any question coming before it. The affirmative vote of at least two assessors (a majority of the assessors present and voting) shall be necessary for the approval of any matter, including, but not limited to, statutory and discretionary tax abatements.

(f) Rules – The board of assessors shall, from time to time, establish, amend or alter rules for its proceedings.

(g) Meetings – Regular meetings of the board of assessors shall be held at a time and place fixed by rule; provided, however, that at least one meeting shall be held each month. The chairman of the board of assessors or any two members thereof may, at any time, call a special meeting by causing written notices, stating the time of holding such meeting and the subject to be acted upon, and signed by the members calling the same, to be delivered in hand to each member of the board of assessors or left at his usual dwelling place, at least forty-eight hours in advance of the time set for such meeting. Except as may be authorized by law, all meetings of the board of assessors shall be open to the public and press.

(h) Journal – A full and accurate journal of the proceedings of the board of assessors shall be kept. Every matter which comes before the board of assessors for a vote shall be included in the journal.

(i) Roll Call Votes – All final votes of the board of assessors on questions involving the abatement of taxes in the amount of one thousand dollars or more or the granting of any special tax agreement, or upon the request of one member of the board of assessors, shall be taken by a call of the yeas and nays and shall be entered upon the records.

(j) Filling of Vacancies – If a vacancy shall occur in the office of assessor at any time, the mayor shall, subject to confirmation by the board of aldermen, appoint a qualified person to fill such vacancy for the balance of the unexpired term.

**SECTION 2.** Notwithstanding any election of assessors having occurred in November of nineteen hundred and eighty-one and in November of nineteen hundred and eighty-three, section one of this act shall operate to dissolve the currently elected board of assessors and their terms of office and powers shall terminate on the sixtieth day after the effective date of this act.

The first term of each assessor appointed pursuant to section one of this act shall be as follows: (1) the chairman shall be appointed for a full



**ACTS, 1985. – Chap. 24.**

three year term, (2) the two part-time assessors shall be appointed for a term of two years and one year, respectively and thereafter each assessor shall be appointed to a three year term or to fill an unexpired three year term.

Approved April 9, 1985.

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**Chapter 24. AN ACT ESTABLISHING A SPECIAL ACCOUNT FOR THE AMESBURY MUNICIPAL HOSPITAL.**

Be it enacted, etc., as follows:

**SECTION 1.** Notwithstanding the provisions of section fifty-three of chapter forty-four of the General Laws or any other provisions of law to the contrary, the town of Amesbury is hereby authorized to establish a special account to be known as the "Amesbury Municipal Hospital Operations Account", into which account shall be deposited all receipts, revenues and funds from any source derived from any activity of Amesbury Municipal Hospital. For the purpose of providing health care said town may, at any time during the fiscal year, appropriate monies into said account. Donations from private sources also may be received and placed into said account, as well as monies from other sources as authorized by law.

**SECTION 2.** Said account shall be maintained by the town treasurer of said town. Said treasurer may invest the monies in said account in the manner authorized by sections fifty-five and fifty-five A of chapter forty-four of the General Laws. The interest accruing upon said account shall inure solely to the benefit of Amesbury Municipal Hospital. Said account shall be maintained in accordance with law. The books and records of the hospital pertaining to said account shall be maintained in accordance with generally accepted principles of accounting. Said account shall be audited annually by an independent certified public accountant. Such audit reports shall be submitted to the board of trustees of said hospital and to the town manager, town accountant, town treasurer, finance committee, and the board of selectmen of said town.

**SECTION 3.** The administrator of Amesbury Municipal Hospital, with the town treasurer of said town, shall file with the board of trustees of said hospital; the board of selectmen, finance committee, town accountant, and the bureau of accounts of the commonwealth, a written report of the said account established pursuant to section one of this act within one hundred and twenty days after the books of said hospital are closed for each fiscal year. Such report shall include audited financial statements relating to the operations, maintenance, capital, and real and personal properties of said hospital.



**ACTS, 1985. – Chap. 25.**

**SECTION 4.** The town treasurer of said town, upon written request of said administrator, with the approval by said board of trustees of said hospital and the town manager of said town, and by a two-thirds vote of the board of selectmen of said town, shall advance funds from the general fund of the town, in anticipation of the receipt of revenues of Amesbury Municipal Hospital for the same fiscal year. All sums so advanced shall be deposited into the said account established under the provisions of section one of this act and said hospital shall, prior to the end of the fiscal year in which advances were made from the general fund, repay said advances from said account. Said repayment shall include an amount equal to the interest, as determined by the town treasurer of said town, allocable to any debt incurred by said town in anticipation of revenue, in order to make such advances to said hospital during the same fiscal year. Any deficiency resulting from advances hereunder shall be raised by taxation from among the residents of said town subject to all applicable provisions of chapter fifty-nine of the General Laws.

**SECTION 5.** Said administrator shall annually, not later than one hundred and twenty days prior to the expiration of each fiscal year, submit to the town manager of said town a proposed line-item budget as approved by the board of trustees of said hospital. Said town manager shall transmit to said board of selectmen and said finance committee within thirty days thereafter his recommendation concerning approval thereof in whole or in part. Said board of selectmen and said finance committee shall submit their recommendation at the annual town meeting of said town which shall act upon it in the same manner as all other budgets.

Expenditures from said account shall be made by said administrator with the consent and approval of the board of trustees of said hospital, town manager, and the town accountant of said town, to be used solely for the operation and maintenance and for the provisions of capital, equipment, and plant for said hospital.

**SECTION 6.** This act shall take effect upon acceptance by the town of Amesbury.

Approved April 10, 1985.

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**Chapter 25.     AN ACT RELATIVE TO THE REAL ESTATE TAX ON  
LAND FORMERLY OWNED BY THE UNITED STATES  
GOVERNMENT, THE COMMONWEALTH OR A  
COUNTY, CITY OR TOWN, OR ANY  
INSTRUMENTALITY THEREOF.**

Be it enacted, etc., as follows:

Chapter 59 of the General Laws is hereby amended by inserting after section 2B the following section:–



ACTS, 1985. – Chap. 26.

Section 2C. Except as provided in section sixty-three A of chapter forty-four, whenever in any fiscal year the United States, the commonwealth, or a county, city or town, or any instrumentality thereof, or any entity whose real estate is exempt under clauses Third, Four, Four A, Fifth, Sixth, Seventh, Eighth, Ninth, Tenth, Eleventh, Twelfth and Thirteenth of section five, shall sell any real estate after January first in any year, the grantee of the real estate shall pay a pro rata amount or amounts, as hereinafter defined, to the city or town where such real estate is located in lieu of taxes that would have been due for the applicable fiscal year under this chapter if the real estate had been so owned on January first of the year of sale and, with respect to a sale between January first and June thirtieth, if the real estate had been so owned on January first of the year of sale and the preceding year. The pro rata amounts payable to the city or town shall be determined as follows:

(a) A portion of a pro forma tax for the fiscal year in which such sale occurred allocable on a pro rata basis to the days remaining in such fiscal year from the date of sale to the end of the fiscal year; and

(b) A pro forma tax for the succeeding fiscal year where the sales take place between January first and June thirtieth of any year.

The pro forma tax shall be computed by applying the tax rate or the appropriate classified tax rate of the city or town for the fiscal year in which such sale occurs, to the sale price after crediting any exemption to which the grantee would have been entitled under this chapter if the real estate had been so owned on January first of the year of sale.

Such amounts shall be paid by the grantee to the collector of the city or town within thirty days of the date of the issuance by said city or town of a notification of such liability to said grantee or the date by which a tax assessed upon real estate would otherwise be payable without interest for the applicable fiscal year, whichever is later. Any amount not paid by said date shall bear interest from said date at the rate per annum provided in section fifty-seven. The collector shall have for the collection of sums assessed under this section all remedies provided by chapter sixty for the collection of taxes upon real estate.

Sums received under this section shall not be subject to section sixty-three of chapter forty-four, but shall be credited to the general fund of the city or town.

Approved April 10, 1985.

EMERGENCY LETTER: June 20, 1985 @ 4:43 P.M.

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**Chapter 26. AN ACT RELATIVE TO THE RECONSTRUCTION OF  
ROUTE 67 IN THE TOWNS OF NEW BRAINTREE,  
BARRE AND NORTH BROOKFIELD.**

Be it enacted, etc., as follows:

**SECTION 1.** The deputy commissioner of the division of capital planning and operations acting for and on behalf of the commonwealth is



ACTS, 1985. – Chap. 26.

hereby authorized to convey to the town of New Braintree, by deed approved as to form by the attorney general, certain parcels of land in said town, presently being used for recreational purposes, under the control of the division of fisheries and wildlife, for highway purposes. Said parcels are bounded and described as follows:

Parcel No. 40

A triangular shaped parcel of land, located on the easterly side of the proposed reconstruction of Barre Road (auto route 67, non-state highway), in the town of New Braintree about thirty (30) feet right of the main baseline at or about stations 149 + 05 to 149 + 70, bounded as follows:

Northerly by Barre Road (auto route 67, non-state highway), about sixty-five (65) feet; southerly by land of the Commonwealth of Massachusetts under control of the division of fisheries and wildlife about sixty-five (65) feet; westerly by land owned now or formerly by Julia Stogitis, two (2) feet; containing in all about seventy (70) square feet, more or less.

Parcel No. 40A

An irregular shaped parcel of land, located on the easterly side of the proposed reconstruction of Barre Road (auto route 67, non-state highway), in the town of New Braintree about thirty (30) feet right of the main baseline at or about stations 152 + 80 to 156 + 00, bounded as follows:

Northerly by Barre Road (auto route 67, non-state highway), about three hundred and twenty (320) feet; southeasterly and southwesterly by land of the Commonwealth of Massachusetts under control of division of fisheries and wildlife about three hundred and twenty (320) feet; containing in all about one hundred and eighty (180) square feet, more or less.

Parcel No. 41

An irregular shaped parcel of land, located on the easterly side of the proposed reconstruction of Barre Road (auto route 67, non-state highway), in the town of New Braintree, about thirty (30) feet right of the main baseline at or about stations 157 + 20 to 160 + 00, bounded as follows:

Northerly by Barre Road (auto route 67, non-state highway), about two hundred and eighty (280) feet; southeasterly and southwesterly by land of the Commonwealth of Massachusetts under control of the division of fisheries and wildlife, about two hundred and eighty (280) feet; containing in all about six hundred (600) square feet of land, more or less.

Parcel No. 42

An irregular shaped parcel of land, located on the westerly side of the proposed reconstruction of Barre Road (auto route 67, non-state highway), in the town of New Braintree, about fifteen (15) feet left of the main baseline at or about station 162 + 30 to twenty (20) feet left of the main baseline at or about station 183 + 95, bounded as follows:

Northerly by Barre Road (auto route 67, non-state highway), about two thousand one hundred and sixty-five (2,165) feet; westerly by land owned now or formerly by David P. Hetherman, of the town of New Braintree, about ten (10) feet; southerly by land of the Commonwealth of



ACTS, 1985. – Chap. 26.

Massachusetts under control of the division of fisheries and wildlife about two thousand one hundred and sixty-five (2,165) feet; easterly by land owned now or formerly by Julia Stolgitis, of the town of New Braintree, about fifteen (15) feet; containing in all about eighteen thousand (18,000) square feet, more or less.

Parcel No. 43

An irregular shaped parcel of land, located on the easterly side of the proposed reconstruction of Barre Road (auto route 67, non-state highway), in the town of New Braintree, about thirty (30) feet right of the main baseline at or about stations 165 + 15 to 168 + 20, bounded as follows:

Northerly by Barre Road (auto route 67, non-state highway), about three hundred and five (305) feet; southwesterly and southeasterly by land of the Commonwealth of Massachusetts under control of the division of fisheries and wildlife about three hundred and five (305) feet; containing in all about seven hundred and forty (740) square feet of land, more or less.

Lands herein described are to be diverted from their present recreational use to highway use as shown on a plan prepared by the Worcester County Engineer entitled "Plan of Barre Road in the town of New Braintree, Worcester County, Altered and Laid Out as a County Road by The County Commissioners, Plan Number H 4448 - R Decree Number 3435", which the department of public works is directed to file with the chief engineer of said department.

**SECTION 2.** The deputy commissioner of the division of capital planning and operations acting for and on behalf of the commonwealth is hereby authorized to grant a permanent drainage easement to the town of New Braintree in certain parcels of land located in said town presently being used for recreational purposes, under control of the division of fisheries and wildlife, for highway purposes. Said parcels are bounded and described as follows:

Parcel D-47

A certain parcel of land on the westerly side and abutting Parcel No. 42, at or about thirty (30) feet left of station 163 + 70, of the main baseline of the proposed reconstruction of Barre Road (auto route 67, non-state highway), in the town of New Braintree, approximately ten (10) feet wide and twenty (20) feet long; containing in all about two hundred (200) square feet of land, to be used as a site for permanent highway drainage.

Parcel D-48

A certain parcel of land on the westerly side and abutting Parcel No. 42, at or about thirty (30) feet left of station 166 + 55, of the main baseline of the proposed reconstruction of Barre Road (auto route 67, non-state highway), in the town of New Braintree, approximately ten (10) feet wide and twenty (20) feet long; containing in all about two hundred (200) square feet of land, to be used as a site for permanent highway drainage.

Parcel D-49

A certain parcel of land on the westerly side and abutting Parcel No.



ACTS, 1985. – Chap. 26.

42, at or about thirty (30) feet left of station 170 + 00, of the main baseline of the proposed reconstruction of Barre Road (auto route 67, non-state highway), in the town of New Braintree, approximately fifteen (15) feet wide and twenty (20) feet long, containing in all about three hundred (300) square feet of land, to be used as a site for permanent highway drainage.

Parcel D-50

A certain parcel of land on the westerly side and abutting Parcel No. 42, at or about thirty (30) feet left of station 173 + 65, of the main baseline of the proposed reconstruction of Barre Road (auto route 67, non-state highway), in the town of New Braintree, approximately ten (10) feet wide and twenty (20) feet long; containing in all about two hundred (200) square feet of land, to be used as a site for permanent highway drainage.

Parcel D-51

A certain parcel of land on the westerly side and abutting Parcel No. 42, at or about thirty (30) feet left of station 179 + 70, of the main baseline of the proposed reconstruction of Barre Road (auto route 67, non-state highway), in the town of New Braintree, approximately thirty (30) feet wide and forty (40) feet long; containing in all about twelve hundred (1,200) square feet of land, to be used as a site for permanent highway drainage.

Lands herein described are to be diverted from their present recreational use to highway use as shown on a plan prepared by the Worcester County Engineer entitled "Plan of Barre Road in the town of New Braintree, Worcester County, Altered and Laid Out as a County Road by the County Commissioners, Plan Number H 4448 – R Decree Number 3435", which the department of public works is directed to file with the chief engineer of said department.

**SECTION 3.** The deputy commissioner of the division of capital planning and operations acting for and on behalf of the commonwealth is hereby authorized to grant a permanent easement to the town of Barre in a certain parcel of land located in said town presently being used for transportation purposes, under control of the executive office of transportation and construction, for highway purposes. Said parcel is bounded and described as follows:

Parcel No. 43

An irregular shaped parcel of land, located on the westerly side of the proposed reconstruction of New Braintree Road (auto route 67, non-state highway), in the town of Barre about twenty (20) feet left of the main baseline at or about stations 87 + 15 and 87 + 95, as follows:

Northwesterly by New Braintree Road (auto route 67, non-state highway), about eighty (80) feet; westerly by land owned now or formerly by R.J. McDonald, Incorporated, of Barre about seven (7) feet; southeasterly and southwesterly by land of the Commonwealth of Massachusetts under control of the executive office of transportation and construction about eighty-five (85) feet; southeasterly by land of the Commonwealth of Massachusetts under control of the executive office of transportation and construction about ten (10) feet; containing in all



ACTS, 1985. – Chap. 26.

about six hundred and forty (640) square feet, more or less.

Lands herein described are to be diverted from their present transportation use to a highway use as shown on a plan prepared by the Worcester County Engineer entitled "Plan of New Braintree Road in the town of Barre, Worcester County, Altered and Laid Out as a County Road by the County Commissioners, Plan Number H 4447 – R Decree Number 3434", which the department of public works is directed to file with the chief engineer of said department.

**SECTION 4.** The deputy commissioner of the division of capital planning and operations acting for and on behalf of the commonwealth is hereby authorized to grant a permanent drainage easement to the town of Barre in a certain parcel of land located in said town presently being used for transportation purposes, under control of the executive office of transportation and construction for highway purposes. Said parcel is bounded and described as follows:

Parcel D-26

A certain irregular shaped parcel of land on the westerly side, at or about thirty (30) feet left of station 86 + 60, of the main baseline of the proposed reconstruction of New Braintree Road (auto route 67, non-state highway), in the town of Barre, approximately thirty (30) feet wide and thirty-five (35) feet long, containing in all about one thousand and fifty (1,050) square feet of land, to be used as a site for permanent highway drainage.

Lands herein described are to be diverted from their present transportation use to a highway use as shown on a plan prepared by the Worcester County Engineer entitled "Plan of New Braintree Road in the town of Barre, Worcester County, Altered and Laid Out as a County Road by the County Commissioners, Plan Number H 4447 – R Decree Number 3434", which the department of public works is directed to file with the chief engineer of said department.

**SECTION 5.** The town of North Brookfield is hereby authorized to use certain parcels of land in said town presently being used for conservation purposes for use for highway purposes. Said parcels are bounded and described as follows:

Parcel No. 2

An irregular shaped parcel of land, located on the westerly side of the proposed reconstruction of New Braintree Road (auto route 67, non-state highway), in the town of North Brookfield about thirty (30) feet left of the main baseline at or about stations 9 + 95 and 11 + 35, bounded and described as follows:

Northerly by New Braintree Road (auto route 67, non-state highway), about one hundred and forty (140) feet; easterly by land owned now or formerly by Edmund G. and Stephanie C. Savage, about eight (8) feet; southerly by land of the town of North Brookfield, about one hundred and forty (140) feet; westerly by land of the town of North Brookfield about seven (7) feet; containing in all about one thousand one hundred (1,100) square feet, more or less.

Parcel No. 7



**ACTS, 1985. - Chaps. 27, 28.**

An irregular shaped parcel of land, located on the westerly side of the proposed reconstruction of New Braintree Road (auto route 67, non-state highway), in the town of North Brookfield about thirty (30) feet left of the main baseline at or about stations 18 + 45 to 22 + 75, bounded and described as follows:

Northwesterly by New Braintree Road (auto route 67, non-state highway), about four hundred and thirty (430) feet; southeasterly by land of the town of North Brookfield, about four hundred and thirty (430) feet; containing in all about two thousand and sixty (2,060) square feet, more or less.

Lands herein described are to be diverted from their present conservation use to a highway use as shown on a plan prepared by the Worcester County Engineer entitled "Plan of New Braintree Road in the town of North Brookfield, Worcester County, Altered and Laid Out as a County Road by the County Commissioners, Plan Number H 4445 - R Decree Number 3436", which the department of public works is directed to file with the chief engineer of said department.

**SECTION 6.** Subsequent to the transfers of land authorized by sections one and three and subsequent to the granting of easements authorized by sections two and four, the department of public works shall make payment to the division of fisheries and wildlife or the executive office of transportation and construction as appropriate in accordance with the provisions of section one of chapter six hundred and ninety-three of the acts of nineteen hundred and fifty-five.

Approved April 11, 1985.

EMERGENCY LETTER: April 12, 1985 @ 9:50 A.M.

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**Chapter 27.      AN ACT EXEMPTING THE POSITION OF JUNIOR  
ENGINEERING AIDE IN THE TOWN OF TEWKSBURY  
FROM THE PROVISIONS OF THE CIVIL SERVICE LAW.**

Be it enacted, etc., as follows:

**SECTION 1.** The position of junior engineering aide in the town of Tewksbury shall be exempt from the provisions of chapter thirty-one of the General Laws.

**SECTION 2.** The provisions of section one shall not impair the civil service status of any person holding the position of junior engineering aide in said town on the effective date of this act.

**SECTION 3.** This act shall take effect upon its passage.

Approved April 16, 1985.

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**Chapter 28.      AN ACT DIRECTING THE SUPERINTENDENT OF**



**ACTS, 1985. – Chaps. 29, 30.**

**STATE OFFICE BUILDINGS TO FLY THE PRISONERS  
OF WAR AND MISSING IN ACTION FLAG ON THE  
GROUNDS OF CERTAIN STATE BUILDINGS.**

Be it enacted, etc., as follows:

**SECTION 1.** Chapter twenty-seven of the acts of nineteen hundred and eighty-four is hereby repealed.

**SECTION 2.** The state superintendent of state office buildings is hereby authorized and directed to fly the prisoners of war and missing in action flag on the grounds of the state house and the John W. McCormack state office building, Leverett Saltonstall state office building, Springfield state office building, Pittsfield state office building, Erich Lindemann building, Charles F. Hurley building, and any other state office buildings as are designated by law to be the responsibility of the state superintendent of state office buildings.

**SECTION 3.** The provisions of section two shall become inoperative on August first, nineteen hundred and eighty-six.

**SECTION 4.** This act shall take effect upon its passage.

Approved April 16, 1985.

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**Chapter 29. AN ACT RELATIVE TO THE REMOVAL OF COUNTY  
TREASURERS.**

Be it enacted, etc., as follows:

Chapter 211 of the General Laws is hereby amended by striking out section 4, as most recently amended by section 45 of chapter 1114 of the acts of 1973, and inserting in place thereof the following section:–

Section 4. A majority of the justices may, if in their judgment the public good so requires, remove from office a clerk of the courts or of their own court; and if sufficient cause is shown therefor and it appears that the public good so requires, may, upon a complaint, upon a summary hearing or otherwise, remove a clerk of the superior court in Suffolk county, or of a district court, a county commissioner, a county treasurer, sheriff, register of probate and insolvency or district attorney, or the recorder of the land court.

Approved April 16, 1985.

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**Chapter 30. AN ACT REGULATING THE USE OF PRIVATE  
AIRCRAFT LANDING AREAS.**

Be it enacted, etc., as follows:



**ACTS, 1985. – Chaps. 31, 32, 33.**

Section 39B of chapter 90 of the General Laws is hereby amended by inserting after the penultimate paragraph the following paragraph:–

A city or town in which is situated the whole or any portion of an airport or restricted landing area owned by a person may, as to so much thereof as is located within its boundaries, make and enforce rules and regulations relative to the use and operation of aircraft on said airport or restricted landing area. Such rules and regulations, ordinances or by-laws shall be submitted to the commission and shall not take effect until approved by the commission.

Approved April 16, 1985.

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**Chapter 31. AN ACT DESIGNATING A PORTION OF STATE HIGHWAY ROUTE 123 AS OLD SATUIT TRAIL.**

Be it enacted, etc., as follows:

State highway, route 123 in the town of Scituate, presently known as Cornet – Stetson road shall be designated and known as Old Satuit trail. The department of public works shall erect suitable markers along said highway bearing said designation in compliance with the standards of said department.

Approved April 16, 1985.

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**Chapter 32. AN ACT DESIGNATING A CERTAIN PARCEL OF LAND IN THE CITY OF CAMBRIDGE AS THE SENATOR MICHAEL LoPRESTI, SR. RIVERSIDE PARK.**

Be it enacted, etc., as follows:

The land between the bank of the Charles river and the Cambridge parkway from the Broad canal to the Lechmere canal in the city of Cambridge shall be designated and known as the Senator Michael LoPresti, Sr. Riverside Park, in memory of state Senator Michael LoPresti, Sr. A suitable marker bearing such designation shall be erected thereon by the metropolitan district commission.

Approved April 16, 1985.

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**Chapter 33. AN ACT RELATIVE TO INCREASING AID FOR SCHOOL CONSTRUCTION.**

Be it enacted, etc., as follows:

**SECTION 1.** Section 6 of chapter 394 of the acts of 1984 is hereby amended by inserting after the word "eighty-five", in line 6, the words:–



**ACTS, 1985. – Chaps. 34, 35.**

or fiscal year nineteen hundred and eighty-six.

**SECTION 2.** Said chapter 394 is hereby further amended by striking out section 7 and inserting in place thereof the following section:–

**Section 7.** This act shall apply to all grants approved after June twenty-fifth, nineteen hundred and eighty-four.

Approved April 16, 1985.

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**Chapter 34. AN ACT RELATIVE TO THE FILLING OF CERTAIN VACANCIES ON A BOARD OF SELECTMEN IN TOWNS.**

Be it enacted, etc., as follows:

Section 10 of chapter 41 of the General Laws, as amended by chapter 201 of the acts of 1954, is hereby further amended by adding the following paragraph:–

If there is a resignation which occurs in the office of selectmen creating a vacancy at some later time certain, and such resignation is filed with the town clerk in accordance with the provisions of section one hundred and nine, said town clerk shall certify a vacancy shall occur at the later time certain and the board may call a special election as provided in this section; provided, however, that no such election may be held prior to the effective date of the resignation creating such vacancy.

Approved April 16, 1985.

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**Chapter 35. AN ACT FURTHER REGULATING MOTOR VEHICLE EXCISE ABATEMENTS.**

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately clarify the procedure for payment of motor vehicle excise bills, 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.** The seventh paragraph of section 1 of chapter 60A of the General Laws is hereby amended by striking out the last sentence, as most recently amended by section 1 of chapter 33 of the acts of 1984, and inserting in place thereof the following sentence:– The excise imposed by this section shall in no event be less than five dollars; no abatement under this section shall reduce any such excise to less than five dollars; no abatement shall be granted in an amount less than five dollars; and no refund shall be paid in an amount less than five dollars.

**SECTION 2.** The provisions of this act shall apply to all motor vehicle



**ACTS, 1985. – Chaps. 36, 37.**

excises which are assessed and levied for calendar years beginning on or after January first, nineteen hundred and eighty-five.

Approved April 18, 1985.

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**Chapter 36. AN ACT REQUIRING A TWO-THIRDS VOTE AT A TOWN MEETING ON CERTAIN CONTRACTS OR LEASES OF THE MINUTEMAN REGIONAL VOCATIONAL SCHOOL DISTRICT.**

Be it enacted, etc., as follows:

Section 2 of chapter 196 of the acts of 1984 is hereby amended by striking out, in line 20, the word "majority" and inserting in place thereof the word:- two-thirds.

Approved April 19, 1985.

EMERGENCY LETTER: April 22, 1985 @ 9:52 A.M.

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**Chapter 37. AN ACT PROVIDING FOR RECALL ELECTIONS IN THE TOWN OF LEVERETT.**

Be it enacted, etc., as follows:

**SECTION 1.** Any holder of an elective office in the town of Leverett may be recalled therefrom by the registered voters of said town as herein provided, for reason of lack of fitness, incompetence, neglect of duties, corruption, malfeasance, misfeasance or violation of oath.

**SECTION 2.** Any ten registered voters of the town of Leverett may file an affidavit with the town clerk containing the name of the officer sought to be recalled and a statement of the grounds for recall. The town clerk shall thereupon deliver to said voters copies of printed form petition blanks addressed to the selectmen demanding such recall. The blanks shall be issued under the signature and official seal of the town clerk. They shall be dated, and shall contain the names of all persons to whom they are issued, the name of the person whose recall is sought, and the grounds of recall as stated in the affidavit. In addition, the petitions shall demand the election of a successor to the said office. A copy of the petition shall be entered in a record book to be kept in the office of town clerk. The recall petition shall be returned and filed with the town clerk within twenty days after the filing of the affidavit, with signatures, names and street addresses of at least twenty per cent of the registered voters of the town. Within twenty-four hours of receipt, the town clerk shall submit the petition to the registrars of voters in the town, and the registrars shall forthwith certify thereon the number of signatures which are names of registered voters of the town. If the petition shall be found and certified by the town clerk to be sufficient, it



**ACTS, 1985. - Chap. 37.**

shall be submitted with his certificate to the selectmen without delay.

**SECTION 3.** The board of selectmen shall forthwith give written notice of the receipt of the certificate to the officer sought to be recalled. If the officer does not resign within five days thereafter, the board of selectmen shall order a recall election to be held on a date fixed by them not less than thirty-five nor more than sixty-five days after the date of the town clerk's certificate that a sufficient petition has been filed; provided, however, that if any other town election is scheduled to occur within sixty days after the date of the certificate, the board of selectmen shall postpone the holding of the recall election to the date of such other election. If a vacancy occurs in said office after a recall election has been ordered, the election shall nevertheless proceed as provided in this section.

**SECTION 4.** Any officer sought to be recalled may be a candidate to succeed himself, and unless the officer requests otherwise in writing, the town clerk shall place said name on the ballot without nomination. The nomination of other candidates, the publication of the warrant for the recall election, and the conduct of the same, shall all be in accordance with the provisions of law relating to elections, unless otherwise provided in this act.

**SECTION 5.** The incumbent shall continue to perform the duties of his office until the recall election. If then reelected, the officer shall continue in office for the remainder of his unexpired term, subject to recall as before, except as provided in this act. If not reelected in the recall election, he shall be deemed recalled upon the qualification of a successor, who shall hold office during the unexpired term. If the successor fails to qualify within five days after receiving notification of election, the incumbent shall thereupon be deemed recalled and the office vacant.

**SECTION 6.** Ballots used in a recall election shall submit the following propositions in the order indicated:

For the recall of (name of officer)

Against the recall of (name of officer)

Immediately at the right of each proposition there shall be a square in which the voter, by making a cross mark (X), may vote for either of the said propositions. Under the proposition shall appear the word "Candidates", the directions to voters required by section forty-two of chapter fifty-four of the General Laws, and beneath this the names of candidates nominated as hereinbefore provided. If a majority of the votes cast upon the question of recall is in the affirmative, the candidate receiving the highest number of votes shall be declared elected. If a majority of votes on the question is in the negative the ballots for candidates need not be counted.

**SECTION 7.** No recall petition shall be filed against an officer within three months after he takes office, nor, in the case of an officer



**ACTS, 1985. – Chap. 38.**

subjected to a recall election and not recalled thereby, until at least six months have elapsed after the election at which the recall was submitted to the voters of the town.

**SECTION 8.** All holders of elective office as of the effective date of this act shall be subject to the provisions set forth herein.

Approved April 25, 1985.

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**Chapter 38.     AN ACT RELATIVE TO THE CHANGE OF CONTROL IN  
A STATE-CHARTERED STOCKHOLDER OWNED BANK.**

Be it enacted, etc., as follows:

**SECTION 1.** The fourth paragraph of section 34C of chapter 168 of the General Laws, inserted by section 16 of chapter 590 of the acts of 1983, is hereby amended by inserting after the word "twenty-four", in line 5, the following word:–, twenty-six A.

**SECTION 2.** The fourth paragraph of section 26C of chapter 170 of the General Laws, inserted by section 17 of said chapter 590, is hereby amended by inserting after the word "twenty-four", in line 5, the following word:–, twenty-six A.

**SECTION 3.** Chapter 172 of the General Laws is hereby amended by inserting after section 26 the following section:–

Section 26A. No person, acting directly or indirectly or through or in concert with one or more other persons, shall acquire control of any such corporation, through a purchase, assignment, transfer, pledge or other disposition of voting stock of such bank unless the commissioner has been given sixty days prior written notice of such proposed acquisition and within said sixty days the commissioner has not issued a notice disapproving the proposed acquisition or extending for up to another thirty days the period during which such a disapproval may issue. The period for disapproval may be further extended only if the commissioner determines that the acquiring party has not furnished all the material required hereinafter for a notice of proposed acquisition or that in the commissioner's judgment any material information submitted is substantially inaccurate. An acquisition may be made prior to expiration of the disapproval period if the commissioner issues written notice of his intent not to disapprove the action. A notice of proposed acquisition filed pursuant to this section shall contain the following information:

(1) The identity, personal history, business background and experience of each person by whom or on whose behalf the acquisition is to be made, including his material business activities and affiliations during the past five years, and a description of any material pending legal or administrative proceedings in which he is a party and any criminal indictment or conviction of such person by a state or federal court.

(2) A statement of the assets and liabilities of each person by whom



**ACTS, 1985. – Chap. 38.**

or on whose behalf the acquisition is to be made, as of the end of the fiscal year for each of the five fiscal years immediately preceding the date of the notice, together with related statements of income and source and application of funds for each of the fiscal years then concluded, all prepared in accordance with generally accepted accounting principles consistently applied, and an interim statement of the assets and liabilities for each such person, together with related statements of income and source and application of funds, as of a date not more than ninety days prior to the date of the filing of the notice.

(3) The terms and conditions of the proposed acquisition and the manner in which the acquisition is to be made.

(4) The identity, source and amount of the funds or other consideration used or to be used in making the acquisition, and if any part of these funds or other consideration has been or is to be borrowed or otherwise obtained for the purpose of making the acquisition, a description of the transaction, the names of the parties, and any arrangements, agreements, or understandings with such persons.

(5) Any plans or proposals which any acquiring party making the acquisition may have to liquidate the bank, to sell its assets or merge it with any company or to make any other major change in its business or corporate structure or management.

(6) The identification of any person employed, retained, or to be compensated by the acquiring party, or by any person on his behalf, to make solicitations or recommendations to stockholders for the purpose of assisting in the acquisition, and a brief description of the terms of such employment, retainer, or arrangement for compensation.

(7) Copies of all invitations or tenders or advertisements making a tender offer to stockholders for purchase of their stock to be used in connection with the proposed acquisition.

(8) Any additional relevant information and in such form as the commissioner may require by specific request in connection with any particular notice.

The commissioner may disapprove any proposed acquisition if: (1) the proposed acquisition of control would result in a monopoly; (2) the effect of the proposed acquisition of control may be substantially to lessen competition or to tend to create a monopoly or the proposed acquisition of control would in any other manner be in restraint of trade and the anti-competitive effects of the proposed acquisition of control are not clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served; (3) the financial condition of any acquiring person is such as might jeopardize the financial stability of the bank or prejudice the interests of the depositors of the bank; (4) the competence, experience, or integrity of any acquiring person or of any of the proposed management personnel indicates that it would not be in the interest of the depositors of the bank, or in the interest of the public to permit such person to control the bank; or (5) any acquiring person neglects, fails or refuses to furnish all the information required by the commissioner. Any disapproval shall be in writing to the acquiring party and shall include a statement of the basis for such disapproval. Within ten days of the



## ACTS, 1985. – Chap. 39.

receipt of a notice of disapproval the acquiring party may request a hearing to be held by the commissioner or his designee. Such hearing shall be held under the provisions of chapter thirty A and regulations issued thereunder.

For the purposes of this section, the term "person" shall mean an individual or a corporation, partnership, trust, association, joint venture, pool, syndicate, sole proprietorship, unincorporated organization, or any other form of entity not specifically listed herein; and the term "control" shall mean the power, directly or indirectly, to direct the management or policies of any such corporation or to vote twenty-five per centum or more of any class of voting securities of any such corporation.

The provisions of this section do not alter or amend the authorities of the commissioner or the Board of Bank Incorporation set out in any other sections of law.

Whoever violates the provisions of this section shall be punished by a fine of not more than five hundred dollars or by imprisonment for not more than six months, or both such fine and imprisonment.

Any acquiring person who complies with the provisions of any applicable federal law or the regulations of any federal agency, relative to the acquiring control of such corporation in a procedure substantially similar to the procedures set forth in this, shall be deemed to have complied with this section.

Approved April 25, 1985.

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### Chapter 39. AN ACT RELATIVE TO THE INTEREST RATE ON CERTAIN DEPOSITS IN TRUST COMPANIES.

#### Be it enacted, etc., as follows:

Chapter 172 of the General Laws is hereby amended by striking out section 35, as appearing in section 60 of chapter 155 of the acts of 1982, and inserting in place thereof the following section:–

Section 35. Any such corporation may pay interest on regular savings accounts at such rate as its board of directors may determine and may pay variable rates of interest on other types of savings accounts; provided, however, that the rates so paid shall be consistent with the maximum rates from time to time established by the appropriate federal supervisory agencies. In the event that such federal supervisory agencies cease to establish such maximum rates, then any such corporation may pay interest on regular savings accounts at such rate as its board of directors may determine, and may, with the approval of the commissioner, pay variable rates of interest on other types of savings accounts.

Interest may be paid on savings deposits from the date of deposit to the date of withdrawal and if its by-laws or regulations so provide such corporation may also pay interest on a savings deposit received during the first ten calendar days of any month calculated from the first day of such month until such deposit is withdrawn.



**ACTS, 1985. – Chaps. 40, 41.**

Interest not withdrawn shall be treated as deposits and, in computing the dividend next following, shall be considered as having been on deposit for the preceding dividend period.

Approved April 25, 1985.

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**Chapter 40. AN ACT AUTHORIZING CITIES AND TOWNS TO LEASE CERTAIN PROPERTY TO THE MASSACHUSETTS VIETNAM-ERA VETERANS ASSOCIATION, INC., FOR USE AS CHAPTER HEADQUARTERS.**

Be it enacted, etc., as follows:

The first sentence of section 9 of chapter 40 of the General Laws, as most recently amended by chapter 187 of the acts of 1982, is hereby further amended by inserting in line 15, after the letters "U.S.A.", the words:– , for the Massachusetts Vietnam-ERA Veterans Association, Inc. or any chapter thereof.

Approved April 25, 1985.

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**Chapter 41. AN ACT RELATIVE TO THE ISSUANCE OF NOTES BY THE MOHAWK TRAIL REGIONAL SCHOOL COMMITTEE.**

Be it enacted, etc., as follows:

**SECTION 1.** Chapter 398 of the acts of 1982 is hereby amended by striking out section 1 and inserting in place thereof the following section:–

Section 1. Notwithstanding the provisions of any law to the contrary, the chairman and treasurer of the district school committee of the Mohawk Trail Regional School District may, during any fiscal year, issue notes in anticipation of reimbursement by the commonwealth in the name and upon the full faith and credit of said district, in an amount not greater than the amount of payments to be made by said district to any regional vocational school district during the same fiscal year, acting in the role of trustee for state-aided vocational education in accordance with the provisions of chapter seventy-four of the General Laws, on behalf of those towns which are members of said district but which do not hold concurrent membership with any regional vocational-technical school district. The proceeds of reimbursement received from the commonwealth attributable to that fiscal year for such vocational education shall be applied to the discharge of any loan incurred under this act, without the necessity of further appropriation. Notes may be issued under this act for a period not exceeding three years from their dates. Notes issued for a shorter period may be refunded by the issue of other notes, provided that the period from the date of issue of an



**ACTS, 1985. – Chaps. 42, 43.**

original note to the date of maturity of any note issued to refund or pay the same debt shall not exceed three years; provided, however, that nonote shall be so refunded unless the chairman and treasurer shall determine that at the time of the refunding reimbursement from the commonwealth is expected in a total amount at least equal to the amount of the refunding loan. Costs incurred by the district under this act, including payments of interest and issuing costs, shall be apportioned among the towns upon whose behalf the payments are made.

**SECTION 2.** Said chapter 398 is hereby further amended by striking out section 2 and inserting in place thereof the following section:–

Section 2. This act shall take effect upon its passage.

**SECTION 3.** The issuance by the district of a note under the provisions of chapter three hundred and ninety-eight of the acts of nineteen hundred and eighty-two, dated March first, nineteen hundred and eighty-four and payable March first, nineteen hundred and eighty-five, is hereby validated and ratified.

**SECTION 4.** This act shall take effect upon its passage.

Approved April 26, 1985.

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**Chapter 42.     AN ACT PROVIDING THAT LIEUTENANT EDWARD F. CONNOLLY MAY CONTINUE EMPLOYMENT WITH THE POLICE DEPARTMENT OF THE CITY OF BOSTON.**

Be it enacted, etc., as follows:

**SECTION 1.** Notwithstanding the provisions of any law to the contrary and in order to promote the public good, the police commissioner of the city of Boston with the approval of the mayor shall provide tenure to Lieutenant Edward F. Connolly at his present civil service rank in said city. He shall hold said office during good behavior until he reaches age seventy, unless incapacitated by physical or mental disability from performing the duties thereof, but he may be removed therefrom for cause after a hearing in the manner provided by section forty-three of chapter thirty-one of the General Laws.

**SECTION 2.** This act shall take effect upon its passage.

Approved May 1, 1985.

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**Chapter 43.     AN ACT AUTHORIZING THE DIVISION OF CAPITAL PLANNING AND OPERATIONS TO GRANT AN EASEMENT OVER CERTAIN LAND IN THE TOWN OF ABINGTON.**



**ACTS, 1985. – Chap. 44.**

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately authorize the division of capital planning and operations to grant an easement over certain land in the town of Abington, 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.** The division of capital planning and operations, acting for and on behalf of the commonwealth, is hereby authorized to grant to Blueberry Hill Estates Corp. by deed approved as to form by the attorney general, an easement for drainage purposes on a certain parcel of land in the town of Abington, under the control of the department of environmental management, bounded and described as follows:-

Beginning at the southerly corner of said property owned by Blueberry Hill Estates Corp., it being the northwesterly corner of land of B.D.A. Incorporated at a concrete bound,

thence running southwesterly over land of the Commonwealth of Massachusetts approximately ninety-three feet (93') to a point at the easterly sideline of an existing bituminous concrete drive

thence turning and running northerly by said drive twenty-nine feet (29') more or less to a point

thence turning and running northeasterly parallel and 20' from the first course mentioned ninety-four feet (94') more or less to land of Blueberry Hill Estates Corp.

thence turning and running by said land of Blueberry Hill Estates Corp. thirty feet (30') more or less to a concrete bound and the point of beginning

Said easement being twenty feet (20') in width along all its length.

For a more particular description, reference should be made to "Plan of Land in Abington, Mass. prepared for Blueberry Hill Estates Corp. Scale: 1"=20' dated 1/17/85" prepared by the Russell A. Wheatley Co., Inc., 700 Bedford St., Abington, MA., and to be recorded with the grant instrument.

**SECTION 2.** Said conveyance shall be subject to such conditions and restrictions including restoration as may be deemed advisable by the deputy commissioner of capital planning and operations, in consultation with the commissioner of the department of environmental management.

Approved May 1, 1985.

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**Chapter 44. AN ACT FURTHER REGULATING THE RIGHTS OF OWNERS OF LAND WHICH ABUTS A STATE HIGHWAY.**

Be it enacted, etc., as follows:

Chapter 81 of the General Laws is hereby amended by striking out section 22, as appearing in the Tercentenary Edition, and inserting in



**ACTS, 1985. – Chap. 45.**

place thereof the following section:–

Section 22. No length of possession, or occupancy of land within the limits of a state highway by an owner or occupant of adjoining land shall give him any title thereto, and any fences, buildings or other objects encroaching upon a state highway shall, upon written notice by the department, be removed within fourteen days by the owner or occupant of adjoining land, and if not so removed, the department may either remove the same to such adjoining land or such encroaching objects, other than a building used for residential purposes, may be removed by the department forces and shall be placed in the nearest maintenance area of the department. Notice by certified mail, return receipt requested shall be given to the owner stating where such encroaching object is located and further stating that if not claimed within three weeks said object may be destroyed.

Approved May 6, 1985.

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**Chapter 45. AN ACT RELATIVE TO THE REVIEW OF MOBILE HOME PARK RULES.**

Be it enacted, etc., as follows:

**SECTION 1.** Section 32L of chapter 140 of the General Laws is hereby amended by striking out subsection 5, as appearing in section 2 of chapter 1007 of the acts of 1973, and inserting in place thereof the following subsection:–

5. If any mobile home park licensee promulgates, adds, deletes or amends any rule governing the rental or occupancy of a mobile home lot in a mobile home park, a new copy of all such rules shall be sent by certified mail, receipt requested, for review to the attorney general and the secretary of communities and development at least forty-five days prior to the effective date of such promulgation, addition, deletion or amendment. A copy of such rules shall be furnished to each mobile home park resident in such park along with a copy of the certified mail receipts signed by a representative of the attorney general and a representative of the secretary of communities and development. Such copies shall be furnished by the mobile home park licensee to said residents at least thirty days prior to the effective date of such promulgation, addition, deletion or amendment. Nothing in this section shall be deemed to be an approval of such rules by the attorney general or said secretary.

**SECTION 2.** Said chapter 140 is hereby further amended by striking out section 32P, as so appearing, and inserting in place thereof the following section:–

Section 32P. All terms and conditions of occupancy must be fully disclosed in writing by the mobile home park owner to any prospective mobile home park resident at a reasonable time prior to the rental or occupancy of a mobile home lot. Said disclosure shall include, but shall



## **ACTS, 1985. – Chap. 45.**

not be limited to, the amount of rent, an itemized list of any charges or fees, the names and addresses of all the owners of the mobile home park, and the rules and regulations governing the use of the mobile home lot and park. Said writing shall be signed by the mobile home park owner and contain the following notice printed verbatim in a clear and conspicuous manner:

### **IMPORTANT NOTICE REQUIRED BY LAW**

The rules set forth below govern the terms of your lease of occupancy arrangement with this mobile home park. If these rules are changed in any way, the addition, deletion or amendment must be delivered to you, along with a copy of the certified mail receipts indicating that such change has been submitted to and received by the Attorney General and the Secretary of Communities and Development. This notification must be furnished to you at least thirty days before the change goes into effect. The law requires all of these rules and regulations to be fair and reasonable, or else said rules and regulations cannot be enforced against you.

You may continue to stay in the park as long as you pay your rent and abide by the rules and regulations of the park. You may only be evicted for nonpayment of rent, violation of laws, or for substantial violation of the rules and regulations of the park. If the park will undergo a change of use, you must receive notification of the change at least two years prior to its occurrence. In addition, no eviction proceedings may be commenced against you until you have received notice by certified mail of the reason for the eviction proceeding and you have been given fifteen days from the date of the notice in which to pay the overdue rent or to cease and desist from any substantial violation of the rules and regulations of the park; provided, however, that only one notice of a substantial violation of the rules and regulations of the park is required to be sent to you during any six month period. If a second or additional violation occurs, except for nonpayment of rent, within six months from the date of the first notice then eviction proceedings may be commenced against you immediately.

If this park requires you to deal exclusively with a certain fuel dealer or other merchant for goods or services in connection with the use or occupancy of your mobile home lot, the price you pay for such goods or services may not be more than the prevailing price in this locality for similar goods and services.

You may not be evicted for reporting any violations of law or health and building codes to boards of health, the attorney general, or any other appropriate government agency. Receipt of notice of termination of tenancy by you, except for nonpayment of rent, within six months after your making such a report shall create a rebuttable presumption that such notice is a reprisal and may be pleaded by you in defense to any eviction proceeding brought within one year.

This law is enforceable by the consumer protection division of the attorney general's office.

Approved May 6, 1985.



**ACTS, 1985. – Chaps. 46, 47, 48.**

**Chapter 46. AN ACT DESIGNATING A CERTAIN SECTION OF MASSACHUSETTS PORT AUTHORITY LAND AT CASTLE ISLAND AS THE JAMES F. DAHILL HARBORVIEW.**

Be it enacted, etc., as follows:

The Massachusetts Port Authority land at Castle Island in the South Boston district of the city of Boston, being a grove of trees, known as a section of the Castle Island buffer zone adjacent to Sealand terminal, shall be designated and known as the James F. Dahill Harborview in honor of James F. Dahill, longtime community and civic leader. A suitable marker bearing said designation shall be erected, inscribed and maintained at such site by the metropolitan district commission.

Approved May 8, 1985.

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**Chapter 47. AN ACT ESTABLISHING A FAMILY LOBSTER LICENSE.**

Be it enacted, etc., as follows:

The first paragraph of section 38 of chapter 130 of the General Laws is hereby amended by striking out the second sentence, as appearing in section 2 of chapter 861 of the acts of 1970, and inserting in place thereof the following sentence:– A noncommercial lobster and crab permit shall authorize the holder and the members of holder's immediate family residing in the same residence as the holder to fish for, take or land by the use of pots only lobsters and edible crabs for consumption, and not for sale, by himself and the members of his immediate family residing in the same residence as the holder; provided, however, that the holder and such other persons shall not use more than ten traps for such fishing at any one time; and provided, further, that only one license shall be issued to one family in a single household in any calendar year; and provided, further, that for the purpose of this section the term "immediate family" shall mean the spouse, children, parents, grandparents, brothers and sisters of the holder.

Approved May 8, 1985.

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**Chapter 48. AN ACT AUTHORIZING THE DEPUTY COMMISSIONER OF CAPITAL PLANNING AND OPERATIONS TO TRANSFER A CERTAIN PARCEL OF LAND IN THE TOWN OF FLORIDA FROM THE DEPARTMENT OF ENVIRONMENTAL MANAGEMENT TO THE DEPARTMENT OF PUBLIC WORKS IN BEHALF OF THE TOWN OF FLORIDA FOR TOWN WAY PURPOSES.**

Be it enacted, etc., as follows:



**ACTS, 1985. – Chap. 49.**

The deputy commissioner of capital planning and operations is hereby authorized, subject to the provisions of sections forty E to forty J, inclusive, of chapter seven of the General Laws, to transfer a certain parcel of land in the town of Florida to the department of public works, in behalf of the town of Florida for use as a town way, in accordance with the provisions of section twenty-nine A of chapter eighty-one of the General Laws, in conjunction with the bridge replacement project replacing the Zoar Road and River Road bridge over the Deerfield River, designated as bridge number C-5-53, F-5-10. Subsequent to such transfer the department of public works shall make payment to the department of environmental management in accordance with the provisions of section one of chapter six hundred and ninety-three of the acts of nineteen hundred and fifty-five, as amended by chapter six hundred and fifty-seven of the acts of nineteen hundred and fifty-seven.

Said land to be diverted from its present recreational use to town way use is shown on a plan by Greiner Engineering Sciences, Incorporated entitled "Charlemont-Florida, Zoar Road-River Road Preliminary Right-of-Way Plan", which the department of public works is directed to file with the chief engineer of said department and which land is identified on a department layout plan as follows:

Parcel No. 1-1                      Area = 22,000 SF±

Parcel No. 1-1 is defined by a line which begins at a point on the westerly location line for River Road, said point being on the dividing line between the towns of Charlemont and Florida and extends thence southerly along said town line approximately 248' to a point; thence turning and running along the proposed westerly town location line for the relocation of River Road, N - 40° - 09' - 15" - W approximately 179'; thence turning and continuing along said proposed town location line N - 07° - 56' - 55" - W approximately 129'; thence turning and running southeasterly along the existing westerly town location line for River Road approximately 140' to the point of beginning.

For the purposes of this act, deputy commissioner of capital planning and operations is hereby authorized to divert said parcel from its present recreational use to highway use as a town way.

Approved May 8, 1985.

EMERGENCY LETTER: May 8, 1985 @ 3:41 P.M.

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**Chapter 49.      AN ACT AUTHORIZING THE TOWN OF TOWNSEND TO  
CONVEY A CERTAIN PARCEL OF PARK LAND TO  
RURAL HOUSING IMPROVEMENT, INC.**

Be it enacted, etc., as follows:

The town of Townsend is hereby authorized to sell and convey all right, title and interest in a certain parcel of park land described in the deed of Albert S. Howard to the inhabitants of the town and recorded in the southern district registry of deeds in the county of Middlesex, Book 3201, Page 42, dated November 13, 1905 and containing 4.58 acres, more



**ACTS, 1985. – Chaps. 50, 51.**

or less, to Rural Housing Improvement, Inc. Said parcel to be used for the development of federally assisted low to moderate income housing for the elderly and handicapped.

Approved May 15, 1985.

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**Chapter 50. AN ACT PROVIDING FOR A LIEN UPON AN AIRCRAFT TO PERSONS WHOM LAWFUL CHARGES ARE OWED FOR REPAIRS TO SUCH AIRCRAFT.**

Be it enacted, etc., as follows:

Section 31E of chapter 255 of the General Laws is hereby amended by adding the following paragraph:–

Any person who lawfully repairs an aircraft within the commonwealth shall have a lien upon such aircraft for proper charges due to him, which lien may be enforced as provided in sections twenty-six to thirty-one, inclusive.

Approved May 16, 1985.

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**Chapter 51. AN ACT AUTHORIZING THE CITY OF MEDFORD TO ISSUE CERTAIN BONDS.**

Be it enacted, etc., as follows:

**SECTION 1.** Notwithstanding the provisions of chapter forty-four of the General Laws or any other general or special law to the contrary, the city of Medford may issue and sell "minibonds", so-called, in an amount not to exceed five hundred thousand dollars in the aggregate, in accordance with and subject to the provisions of this act, provided that such bonds shall have been duly authorized by said city in the manner prescribed by law.

**SECTION 2.** The treasurer of the city of Medford, with the approval of the city manager of said city, is hereby authorized to issue or sell the bonds described in section one of such denomination or denominations of not less than five hundred nor more than five thousand dollars, as the treasurer, with such approval, may determine. Each minibond may provide that it shall be redeemed by or on behalf of the city upon due presentation by an appropriate person on any business day at the principal amount thereof plus interest accrued at such rate, or rates, which rate may be determined prior to the issuance thereof, provided that no minibond, so-called, shall mature more than five years from its date. The facsimile signatures of the city treasurer and the city manager on such minibonds shall have the same legal effect as their manual signatures and no such minibond need bear the manual signatures of such officers or of any trustee, authenticating agent, transfer agent



**ACTS, 1985. - Chap. 52.**

or other agent.

**SECTION 3.** Whenever the city of Medford shall have issued minibonds which are not payable in annual serial installments, the city shall appropriate annually an amount equal to the aggregate principal amount of each issue of such minibonds divided by the number of years from the date thereof to the maturity date of such issue, plus an amount equal to the interest thereon payable in that year less any amounts previously appropriated to pay such interest and available for such purposes in the fund hereinafter provided for or otherwise. The amount appropriated annually for the payment of minibonds, so-called, shall be held in a separate fund and in trust solely for the payment of redemption of such minibonds and the interest thereon. The funds so held may be invested in obligations issued or guaranteed by the United States, the commonwealth or any agency, authority or political subdivision thereof and the income derived from such investments shall be retained in the fund and may be expended by the city treasurer without further appropriation to pay the principal and interest on such minibonds at their maturity or earlier redemption. Said treasurer may provide that the yield on any investment in the fund shall be limited to any extent deemed by him to be necessary to assure that the interest paid on such minibonds shall be exempt from federal income taxation.

**SECTION 4.** The treasurer of the city of Medford, with the approval of the city manager, may enter into arrangements with a financial institution for a letter or line of credit or other credit facility in order to ensure that funds will be available to redeem any minibonds that may be presented for payment at any time in excess of the amount then available therefor, in the fund described in section three or otherwise, and, in that connection, may enter into agreements providing for reimbursement to the issuer of any such letter or line of credit or other credit facility for any sums advanced thereunder.

**SECTION 5.** This act shall take effect upon its passage.

Approved May 21, 1985.

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**Chapter 52. AN ACT AUTHORIZING ESTIMATED TAX PAYMENTS  
IN CERTAIN CITIES AND TOWNS.**

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately authorize estimated tax payments in certain cities and towns, 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.** Notwithstanding the provisions of any general or special



ACTS, 1985. – Chap. 53.

law to the contrary, any city or town undertaking a general revaluation of its property under a program approved by the commissioner of revenue for completion and implementation for fiscal year nineteen hundred and eighty-six; provided, however, that the commissioner of revenue is satisfied that full and fair valuations shall be established prior to February first, nineteen hundred and eighty-six for certification under paragraph (c) of section two A of chapter fifty-nine of the General Laws; and provided, further, that said commissioner certifies, in writing, that these conditions have been met, is hereby authorized to issue a first half notice of estimated tax in lieu of the actual assessment and issuance of the tax bill, and require the payment of such estimated tax, which shall in no event exceed fifty per cent of the tax payable during the preceding fiscal year. Upon the completion of such revaluation, but no later than April first, nineteen hundred and eighty-six, the assessors of such city or town shall establish the tax rate for fiscal year nineteen hundred and eighty-six. Payment of the balance of such tax bill, after credit is given for the estimated tax payment previously made, shall represent the second payment upon such bill that is payable on or before May first, nineteen hundred and eighty-six without payment of interest.

All provisions of law regarding the procedures for issuing, mailing and collecting tax assessments upon real and personal property and betterment assessments shall be applicable to the notice of estimated tax provided hereunder, including the payment of interest under section fifty-seven of said chapter fifty-nine. To the extent that any rights or remedies under law accrue from the date that the tax bill is issued, only the tax bill issued upon the establishment of the tax rate for fiscal year nineteen hundred and eighty-six shall govern such rights or remedies. The provisions of section twenty-one C of said chapter fifty-nine shall apply to the tax rate for fiscal year nineteen hundred and eighty-six established by such city or town.

**SECTION 2.** Notwithstanding the provisions of section one of this act, a city or town authorized to issue a notice of estimated tax in lieu of the tax bill for the fiscal year nineteen hundred and eighty-six may, with the prior written approval of the commissioner of revenue, require the payment of an estimated tax in excess of fifty per cent of the tax payable during fiscal year nineteen hundred and eighty-five to the extent that such excess represents one-half of the amount of tax accruing as result of the loss of exemption from tax that had been granted in the preceding fiscal year.

Approved May 21, 1985.

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**Chapter 53.     AN ACT RELATIVE TO THE LICENSING AND KEEPING  
                     OF DOGS IN THE TOWN OF FOXBOROUGH.**

Be it enacted, etc., as follows:

**SECTION 1.** Notwithstanding the provisions of section one hundred



**ACTS, 1985. – Chap. 54.**

and thirty-seven of chapter one hundred and forty of the General Laws or any other provision of law to the contrary, the registering, numbering, describing and licensing of dogs, if kept in the town of Foxborough shall be conducted in the office of the town clerk of said town.

**SECTION 2.** Notwithstanding the provision of section one hundred and thirty-nine of said chapter one hundred and forty or any other provision of law to the contrary, the annual fees to be charged by the town of Foxborough for the issuance of licenses for dogs shall be established by the board of selectmen of said town.

**SECTION 3.** Notwithstanding the provisions of section one hundred and forty-seven of said chapter one hundred and forty or any other provision of law to the contrary, all money received for licenses or from the sale of dog licenses by the town of Foxborough or recovered as fines or penalties by said town under the provisions of said chapter one hundred and forty relating to dogs, shall be paid into the treasury of said town and shall not thereafter be paid over by the town treasurer to Norfolk county.

**SECTION 4.** This act shall take effect upon its passage.

Approved May 21, 1985.

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Chapter 54.     **AN ACT MAKING APPROPRIATIONS FOR THE FISCAL YEAR ENDING JUNE THE THIRTIETH, NINETEEN HUNDRED AND EIGHTY-FIVE TO PROVIDE FOR SUPPLEMENTING CERTAIN EXISTING APPROPRIATIONS AND FOR CERTAIN NEW ACTIVITIES AND PROJECTS.**

Be it enacted, etc., as follows:

**SECTION 1.** To provide for supplementing certain items in the general appropriation act and for certain new activities and projects, the sums set forth in section two for the several purposes and subject to the provisions of law regulating the disbursement of public funds and the conditions pertaining to appropriations in chapter two hundred and thirty-four of the acts of nineteen hundred and eighty-four, for the fiscal year ending June thirtieth, nineteen hundred and eighty-five or for such period as may be specified, the sums so appropriated to be in addition to any amounts available for the purpose.

**SECTION 2.**  
Item

**LEGISLATURE.**  
House of Representatives.

0127-0030 For a legislative intern program providing one



**ACTS, 1985. – Chap. 54.**

intern for each legislator; provided, however, that each member of the house of representatives shall have the opportunity to select one intern to work in his office

\$153,600

**JUDICIARY.**

**Trial Court.**

0330–2100 For counsel to indigents; provided, however, that four hundred eighty-five thousand five hundred and eighty-two dollars shall be expended from this item for the purposes of the Roxbury defenders committee; provided, further, that salaries paid to attorneys employed by the Roxbury defenders committee shall be comparable to those paid to attorneys employed by the several district attorneys offices; provided further, that except as provided herein no increase in the rate of compensation for counsel to indigents shall be authorized until funds for such increase are appropriated by the general court; and, provided further, that funds may be expended from this item in payment for services rendered in prior fiscal years, prior appropriation continued

\$1,700,000

0330–2200 Item 0330–2200 of section 2 of chapter 234 of the acts of 1984 is hereby amended by striking out, in lines 13 and 14, the words "assessments in each county to member cities and towns shall be reduced by the same amount" and inserting in place thereof the words:– each county advisory board, upon receipt of the proposed budget by the county commissioners, shall have final approval of expenditure of funds received by a county for court rental under this item.

0330–3000 For the purchase and rentals of equipment in the trial court, to be allocated by the chief administrative justice; provided, however, that in purchasing said equipment the chief administrative justice shall utilize the approved vendor determined by the state purchasing agent for such equipment whenever the terms offered by such vendor



**ACTS, 1985. - Chap. 54.**

are more favorable than those otherwise available; and, provided further, that thirty-eight thousand five hundred dollars be allocated to the Worcester county housing court, prior appropriation continued

\$1,137,807

0330-3100 For the payments of indigent court costs, including costs incurred in prior fiscal years

\$400,000

**PROBATE AND FAMILY COURT DEPARTMENT.**  
For Salaries and Expenses.

0333-0800 Hampshire, including not more than fourteen permanent positions and one temporary position

\$56,000

**DISTRICT ATTORNEYS.**

For the Salaries of District Attorneys and Assistants for the Eleven Districts:

0340-0555 Hampden, for child support enforcement activities, including not more than six temporary positions

\$10,208

**SECRETARY OF THE COMMONWEALTH**

0519-0000 For the expenses of the state decennial census as authorized by chapter nine of the General Laws, including seventy-five per cent reimbursements of estimated costs of cities and towns and final costs upon certification of the secretary of the commonwealth as authorized by section seven A of said chapter nine; provided, however, that funds so distributed shall be deposited in the general fund of each city and town and shall be expended by the municipal census supervisor without further appropriation by the city or town to meet the costs incurred by it under the provisions of said section seven A of said chapter nine

\$6,000,000

**EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE.**  
Division of Public Employee Retirement Administration.

1140-0200 For the purposes of workmen's compensation paid to public employees, including previous fiscal



**ACTS, 1985. – Chap. 54**

years

\$3,100,000

Highway Fund

35.0%

General Fund

65.0%

**DEPARTMENT OF REVENUE.**

Bureau of Local Taxation.

1233–3400 For expenses of the farmland valuation advisory commission for developing and implementing a comprehensive farmland valuation study

\$65,000

**Miscellaneous.**

1599–3406 For a reserve to fund the costs involved in the implementation of the provisions of chapter four hundred and seventy of the acts of nineteen hundred and eighty-three; provided, however, that the commissioner of administration is authorized to transfer from this item to other items of appropriation such amounts as are necessary to meet the costs of such implementation; provided further, that no such transfers shall be made without the prior approval of the house and senate committees on ways and means; and, provided further, that the commissioner of administration shall convene a working committee made up of his own designee, a designee of the secretary of labor, a designee of the commissioner of the department of environmental quality engineering, and an appropriate designee of cities and towns, to define fully the role of the municipal coordinator in implementing the provisions of chapter four hundred and seventy of the acts of nineteen hundred and eighty-three, and to establish guidelines for purposes of reimbursing cities and towns for reasonable costs associated with the necessary activities of municipal coordinators; a report of this committee must be submitted to the house and senate committees on ways and means prior to the expenditure of any funds contained herein for reimbursement of local costs

\$938,299



ACTS, 1985. – Chap. 54.

1599–3409 For a reserve for payment of the fiscal year nineteen hundred and eighty-five and prior year costs of salary adjustments and other economic benefits authorized by chapter three hundred and thirty-nine of nineteen hundred and eighty-four and chapter four hundred and eleven of nineteen hundred and eighty-four; provided that the commissioner of administration is hereby authorized to transfer from the sum appropriated herein to other items of appropriation, based upon the recommendations of the chief administrative justice of the trial court, such amounts as are necessary to meet the costs of said adjustments

\$1,265,559

1599–3410 For a reserve to meet the fiscal year nineteen hundred and eighty-five and prior years' costs of salary adjustments and other employee economic benefits authorized by existing ratified collective bargaining agreements ratified during the fiscal years nineteen hundred and eighty-four and nineteen hundred and eighty-five; and to meet the cost of salary adjustments and other economic benefits necessary to provide equal salary adjustments or benefits to employees employed in "confidential" positions which would otherwise be covered by said collective bargaining agreements; provided that the personnel administrator, with the approval of the commissioner of administration, shall determine such salary adjustments and other economic benefits for "confidential" employees in accordance with the provisions of the collective bargaining agreement then in effect which would otherwise cover said positions; provided, that the commissioner of administration is hereby authorized to transfer from the sum appropriated herein to other items of appropriation and allocations thereof for the fiscal year nineteen hundred and eighty-five such amounts as are necessary to meet the cost of said adjustments and benefits for the fiscal year nineteen hundred and eighty-five and prior fiscal years where the amounts otherwise available are insufficient for the purpose; and



ACTS, 1985. – Chap. 54.

provided, that the commissioner of administration is further authorized to allocate the cost of such adjustments and benefits to the several state or other funds to which such items of appropriation are charged; and provided further, that the comptroller is hereby authorized to charge this item for the fiscal year nineteen hundred and eighty-four and other prior years' costs of said adjustments and benefits; and provided further, that in the event any said collective bargaining agreement requires a payment to a union or a joint union-management trust fund said payment made may be charged by the comptroller against this item; and provided further, that no transfer, payment, or payment to said unions or joint union-management trust fund shall be made from this item without the prior approval of the house and senate committees on ways and means after said committees have received copies of said collective bargaining agreement, together with an analysis of all cost items contained in said agreement and all changes to be made in the schedules of permanent and temporary positions required by said agreement which schedules shall be filed with the house and senate committees on ways and means prior to the transfer or allocation of any amounts necessary to meet with the cost of said adjustments and benefits

\$37,772,955

1599-3411 For a reserve to meet the fiscal year nineteen hundred and eighty-five and prior years' costs of salary adjustments and other employee economic benefits authorized by chapter four hundred and eighty-seven of the acts of nineteen hundred and eighty-four, including increases caused by amendments to the general or management salary schedules provided for by chapter thirty of the General Laws, and by chapter two hundred and four of the acts of nineteen hundred and eighty-four, including salary adjustments and other employee economic benefits for employees of the county cooperative extension services, that have been transferred to the employ of the commonwealth, and for employees of the



ACTS, 1985. - Chap. 54.

regents computer network; provided however, that the commissioner of administration is hereby authorized to transfer from the sum appropriated herein to other items of appropriation and allocations thereof for the fiscal year nineteen hundred and eighty-five such amounts as are necessary to meet the cost of said adjustments and benefits for the fiscal year nineteen hundred and eighty-five and prior fiscal years where the amounts otherwise available are insufficient for the purpose; provided further, that the commissioner of administration is further authorized to allocate the cost of such adjustments and benefits to the several state or other funds to which such items of appropriation are charged; provided further, that the comptroller is hereby authorized to charge this item for the fiscal year nineteen hundred and eighty-four and other prior years' costs of said adjustments and benefits; and, provided further, that no transfer or payment shall be made from this item without the prior approval of the house and senate committees on ways and means after said committees have received an analysis of all cost items contained in said agreement and all changes to be made in the schedules of permanent and temporary positions required by chapter four hundred and eighty-seven of the acts of nineteen hundred and eighty-four and chapter two hundred and four of the acts of nineteen hundred and eighty-four, which schedules shall be filed with the house and senate committees on ways and means prior to the transfer or allocation of any amounts necessary to meet with the cost of said adjustments and benefits

\$13,631,546

1599-3441 For the payment of a certain court judgment entered in Norfolk superior court civil action number 119308

\$595,000

MDC Parks Fund

100.0%

1599-3488 For a reserve to meet the cost of salary adjustments authorized by the collective bargaining agreement between the com-



ACTS, 1985. – Chap. 54.

monwealth and the Alliance, AFSCME/SEIU, AFL-CIO, Local 509, covering certain employees in bargaining unit 8 in the department of public welfare; provided, however, that the commissioner of administration is hereby authorized to transfer from the sum appropriated to other items of appropriation for the fiscal year nineteen hundred and eighty-five such amounts as are necessary to meet the cost of said adjustments for the fiscal year nineteen hundred and eighty-five where the amounts otherwise available are insufficient for the purpose; provided further, that the commissioner of administration is authorized to allocate the cost of such salary adjustments to the several state and other funds to which such items of appropriation are charged; and, provided further, that copies of said collective bargaining agreement, together with an analysis of all cost items contained in said agreement and all changes to be made in the schedules of permanent and temporary positions required by said agreement, shall be filed with the house and senate committees on ways and means prior to the transfer or allocation of any amounts necessary to meet the cost of said adjustments

\$1,449,045

1599-3489 For reimbursement to the town of Templeton for expenses involved in preventive maintenance and damages incurred as the result of a flood, provided, however, that such reimbursement shall be made only after certification of such actual incurred costs by said town to the comptroller

\$17,478

Local Aid Fund 100.0%

1599-3490 For a reserve to meet the costs of chapter four hundred and sixty-nine of the acts of nineteen hundred and eighty-four, pursuant to the conditions stated therein

\$5,531

Local Aid Fund 100.0%

1599-3491 For reimbursement to the town of New Salem for



**ACTS, 1985. – Chap. 54.**

tornado damage sustained on the fifth of July, nineteen hundred and eighty-four; provided, however, that such reimbursement shall be made only after certification of such actual incurred costs by said town to the comptroller

\$2,485

Local Aid Fund 100.0%

**EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS.**  
Department of Environmental Management.

2120-1800 For the establishment and administration of a program within the division of forests and parks to assist communities and state agencies with the control and suppression of gypsy moths; provided, however, that the state treasurer shall reimburse each such participating community a sum not to exceed fifty per cent of the actual costs incurred for said program; provided further, that such reimbursement shall be made only after certification of such actual incurred costs by said communities to the secretary of administration and the department; provided further, that only biological pest controls products shall be used; and provided that a chemical control agent shall be utilized as a last resort only; provided further, that any decision to utilize chemical agents shall be made after a public hearing held pursuant to chapter thirty A of the General Laws and shall be made in writing with an explanation as to the necessity of utilizing such a chemical agent; and, provided further, that no funds shall be expended for use of chemical agent in the control and suppression of gypsy moths without the prior approval of the house and senate committees on ways and means

\$400,000

**DEPARTMENT OF ENVIRONMENTAL QUALITY ENGINEERING.**  
Office of the Commissioner.

2250-0909 For a study and engineering survey to correct and restore the proper flow of stagnated water at Leesville Pond around the New Swedish Cemetery situated in Worcester and Auburn up to the dam at Webster Street, Worcester. Appropriation to expire June thirtieth, nineteen hundred and eighty-six



**ACTS, 1985. – Chap. 54.**

**\$30,000**

2250-0910 For the purpose of a grant to fund partially the construction of an alternative water system for the portions of the towns of Whately and Hatfield which have been affected by contamination with state regulated agricultural pesticides; said grant is to support implementation of the recommendations of the feasibility study performed for the town of Whately and approved by the department of environmental quality engineering; provided, however, that said grant is to be used only with funds furnished by a public water supplier with jurisdiction to serve the affected areas, with said supplier to be responsible for the total costs for said alternative water system in excess of one million two hundred and fifty thousand dollars; provided that of the funds appropriated herein not more than two hundred and fifty thousand dollars shall be provided to the town of Whately for a feasibility study to supply potable water in sufficient quantity and under adequate pressure to consumers in that town and in affected areas of the town of Hatfield; provided that such feasibility study shall be submitted to and approved by the Department of Environmental Quality Engineering and provided further that upon approval by the said Department such funds may be used for the purpose of implementation of the study recommendations as approved including preliminary design, surface or ground water exploration, geohydrologic investigations, sampling and laboratory analyses, long-term pumping tests and final design and construction of an alternative water supply; and provided further, that up to twenty-five thousand dollars shall be made available to the department for the administration of said grant

**\$1,000,000**

**DEPARTMENT OF THE METROPOLITAN DISTRICT COMMISSION.  
Administration.**

2410-9061 For the Massachusetts summer youth program, to



**ACTS, 1985. – Chap. 54.**

be allocated, with the approval of the commissioner of the department of metropolitan district commission and the commissioner of the department of public works, to those agencies selected as participants in the program; provided, however, that not less than forty per cent shall be allocated to participants in the city of Boston, twenty-five per cent shall be allocated to participants within those cities and towns which comprise the metropolitan parks, sewerage and water districts, and watershed management division projects, and thirty-five per cent shall be allocated to participants in cities and towns other than those which comprise said districts; provided further, that the provisions of section twenty-nine A of chapter twenty-nine of the General Laws shall not apply to expenditures made from this item; and, provided further, that allocation made in accordance with this item may be expended by the selected participants without further appropriation, prior appropriation continued

\$1,000,000

**Metropolitan Parks District.**

2444–9014 For expenses involved in the refurbishing of the Flynn rink in the city of Medford

\$350,000

2511–3000 For the administration of the division, including the pesticide bureau, the bureau of plant pest control, the bureau of farm products, the bureau of dairying, and the bureau of milk marketing; provided, that not more than ten thousand dollars shall be expended to develop regulations for herbicide use on public rights of way, including not more than thirty-nine permanent positions and not more than thirteen temporary positions

\$10,000

**EXECUTIVE OFFICE OF HUMAN SERVICES.**

Office of the Secretary.

4000–0610 For the administration and operation of a



**ACTS, 1985. – Chap. 54.**

correctional alcohol treatment facility in Hampden county, provided that the secretary of human services may contract with the Hampden county sheriffs department for said purposes

\$112,500

**DEPARTMENT OF PUBLIC HEALTH.**

4510-0750 For the cost of providing certificates of need, as required by section twenty-five C of chapter one hundred and eleven of the General Laws, including not more than nineteen temporary positions; provided, however, that any consultant hired pursuant to this appropriation shall be affiliated with a health planning agency or an academic institution

\$110,000

4516-0100 For the administration of the state laboratory; provided, however, that notwithstanding any provisions of law to the contrary, an amount not to exceed three hundred thousand dollars accrued through the program at the institute of laboratories of selling biological products and performing various laboratory tests may be expended without further appropriation subject to schedules approved by the commissioner of the department of public health and the house and senate committees on ways and means; provided further, that such approval schedules shall be placed on file with the state comptroller for the purpose of authorizing such expenditure for said program, including cost of materials, supplies and equipment, maintenance of laboratory facilities and compensation of laboratory employees; and, provided further, that not less than two hundred and thirty thousand dollars shall be expended for Varicella-Zoster Immune Globulin, Cytomegalovirus, and Whooping Cough vaccine programs, including not more than one hundred and fifty permanent positions and twenty-five temporary positions

\$143,674

**EXECUTIVE OFFICE FOR TRANSPORTATION AND CONSTRUCTION**  
Department of Public Works.



**ACTS, 1985. – Chap. 54.**

6030-7201 For the expenses of snow and ice control, including the removal of sand, and including the cost of sand, salt and chemicals \$6,000,000

Highway Fund 100.0%

**BOARD OF REGENTS.**

New England Board of Higher Education.

7105-0000 For the payment in final settlement of Edward Pasko v. board of regents of higher education, Massachusetts trial court, Suffolk superior court division, docket No. 18335 \$17,800

7452-0227 For the purchase, on behalf of the state secretary, from WGBH, of the documentary "Vietnam: A Television History", and for housing the same in an appropriate location in Boston; provided, however, that the William Joiner Center at the University of Massachusetts at Boston shall be responsible for the utilization of said documentary for the benefit of the people of the commonwealth \$300,000

**EXECUTIVE OFFICE OF PUBLIC SAFETY.**

Massachusetts Criminal Justice Training Council.

8200-0200 For the administration and operation of certain training programs to be conducted by the Massachusetts criminal justice training council, including a drug education and training program; provided, however, that fifty thousand dollars be expended on services to be provided by the New England Institute of Law Enforcement Management; provided, further, that not less than nine thousand dollars shall be expended for the development of a curriculum of rape victimology; and provided, further, that not less than one hundred and twenty-five thousand dollars shall be expended as the cost of providing training to county correctional personnel, including not more than seven permanent positions and twenty temporary positions \$500,000



**ACTS, 1985. – Chap. 54.**

**Division of State Police.**

8312-0110 To provide funding to compensate commissioned officers in the division of state police in accordance with the provisions of section nine T of chapter twenty-two of the General Laws, as most recently amended by chapter seven hundred and fifteen of the acts of nineteen hundred and eighty-three; provided, however, that funds appropriated herein shall be transferred to and may be expended from item 8312-0100; provided, further, that funds appropriated herein shall be used to compensate said commissioned officers for the fiscal year nineteen hundred and eighty-four and nineteen hundred and eighty-five; and provided, further, that increments in base salaries for said commissioned officers prior to January fourth, nineteen hundred and eighty-four shall be seven per cent

\$1,293,687

**Registry of Motor Vehicles.**

8400-0100 For expenses of the merit rating board authorized by chapter six of the General Laws; provided, however, that as of January first, nineteen hundred and eighty-five, that notwithstanding any general or special law to the contrary, no safe driver insurance plan shall require the payment of an unsafe driver point surcharge for the first offense for noncriminal, motor vehicle traffic violations as described in chapter ninety C of the General Laws, including not more than eighty-two temporary positions

\$2,470,902

**EXECUTIVE OFFICE OF MANPOWER AFFAIRS.**

**Division of Employment Security.**

9081-6611 For the expenses of collecting the excise payments authorized by section fourteen D of chapter one hundred and fifty-one A of the General Laws

\$1,110,000

**Division of Tourism.**



**ACTS, 1985. – Chap. 54.**

9091-0303 For the operation and promotion of the Spirit of Massachusetts winter/spring tour

\$100,000

**SECTION 3.** Item 1599-0103 of section 2 of chapter 188 of the acts of 1984 is hereby amended by striking out the wording and inserting in place thereof the following wording:- For a reserve to meet the cost of damages from the rainstorms and flood of April fifth, nineteen hundred and eighty-four, and May thirtieth, nineteen hundred and eighty-four to June fourth, nineteen hundred and eighty-four, suffered by certain cities and towns; provided, however, that the commissioner of administration is hereby authorized to transfer from the sum appropriated to the department of public works amounts necessary for repairs to highways, bridges and other public works, to the department of environmental quality engineering amounts necessary for repairs to wastewater treatment plants, and to the department of food and agriculture amounts necessary for a program of emergency financial assistance for certain losses sustained by any farmer within the commonwealth during said rainstorms or floods, and for soil conservation and for certain other preventive measures by farmers to minimize flood damage; provided further, that the commissioner of administration shall file a notice of such transfers with the house and senate committees on ways and means; and, provided further, that this appropriation shall expire on June thirtieth, nineteen hundred and eighty-seven.

**SECTION 4.** Item 1599-2038 of said section 2 of said chapter 188 is hereby amended by striking out, in line 2, the word "previous" and inserting in place thereof the words:- the fiscal year nineteen hundred and eighty-four and prior fiscal.

**SECTION 5.** Item 2250-0908 of section 2 of said chapter 188 is hereby amended by striking out, in line 4, the figure "1985" and inserting in place thereof the figure:- 1986.

**SECTION 6.** Item 4311-0100 of said section 2 of said chapter 188 is hereby amended by striking out, in lines 7 to 9, inclusive, the words "appropriation to expire on June thirtieth, nineteen hundred and eighty-five" and inserting in place thereof the words:- provided that the deputy commissioner of capital planning and operations is authorized to determine to undertake the design and construction of said buildings by utilizing one or more of the following construction techniques: construction management, fast-tracked or phased construction, turnkey procurement, design and build procurement, and the purchase or lease of pre-fabricated buildings; in the event that the deputy commissioner determines to utilize one or more of the aforementioned construction techniques, the procurement methods shall be open and competitive and shall comply, to the extent feasible, as determined by the deputy commissioner, with the policies and procedures of sections thirty-eight A 1/2 to thirty-eight O, inclusive, of chapter seven and section forty-four D of chapter one hundred and forty-nine of the General Laws,



**ACTS, 1985. – Chap. 55.**

appropriation to expire on June thirtieth, nineteen hundred and eighty-six.

**SECTION 7.** Item 4180-0100 of section 2 of chapter 234 of the acts of 1984 is hereby amended by inserting after the word "position", in line 6, the words:- and provided further, that notwithstanding the provisions of any general or special law to the contrary, revenues received by the home in excess of three million dollars but not exceeding three million three hundred thousand dollars may be expended by the home without further appropriation, subject to the approval of the secretary of human services and the secretary of administration and finance, through June thirtieth, nineteen hundred and eighty-six.

**SECTION 8.** Item 7061-0015 of said section 2 of said chapter 234 is hereby amended by inserting after the word "Laws", in line 3, the words:- including costs incurred during fiscal year nineteen hundred and eighty-four.

**SECTION 9.** Notwithstanding the provisions of chapter twenty-nine of the General Laws, an amount not to exceed forty-five thousand one hundred and eighty-eight dollars for certain contractual services rendered during the month of July, nineteen hundred and eighty-four is allowed and paid from item 1102-3301 of section two of chapter two hundred and thirty-four of the acts of nineteen hundred and eighty-four.

**SECTION 10.** Notwithstanding any general or special law to the contrary, Berkshire community college is authorized to pay from funds allocated to it from item 7100-0100 of section two of chapter two hundred and thirty-four of the acts of nineteen hundred and eighty-four an amount not to exceed six hundred and thirty-seven dollars and fifty-seven cents to satisfy a certain obligation incurred by the college prior to fiscal year nineteen hundred and eighty-five.

**SECTION 11.** This act shall take effect upon its passage.

Approved May 21, 1985.

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**Chapter 55.     AN ACT RELATIVE TO THE LICENSING AND KEEPING  
OF DOGS IN THE TOWN OF WELLESLEY.**

Be it enacted, etc., as follows:

**SECTION 1.** Notwithstanding the provisions of section one hundred and thirty-seven of chapter one hundred and forty of the General Laws or any other provision of law to the contrary, the registering, numbering, describing and licensing of dogs, if kept in said town, shall be conducted in the office of the town clerk of said town.

**SECTION 2.** Notwithstanding the provisions of section one hundred



**ACTS, 1985. – Chaps. 56, 57.**

and thirty-nine of said chapter one hundred and forty or any other provision of law to the contrary, the annual fees to be charged by the town of Wellesley for the issuance of licenses for dogs shall be as follows: unspayed females, seven dollars, spayed females and males four dollars.

**SECTION 3.** Notwithstanding the provisions of section one hundred and forty-seven of said chapter one hundred and forty or any other provision of law to the contrary, all money received for licenses or from the sale of dog licenses by the town of Wellesley, or recovered as fines or penalties by said town under the provisions of said chapter one hundred and forty relating to dogs, shall be paid into the town treasury of said town and shall not thereafter be paid over by the town treasurer to Norfolk county.

Approved May 21, 1985.

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**Chapter 56. AN ACT INCREASING THE PAR VALUE OF SHARES IN CREDIT UNIONS.**

Be it enacted, etc., as follows:

Section 10 of chapter 171 of the General Laws is hereby amended by striking out the second sentence, as appearing in chapter 279 of the acts of 1981, and inserting in place thereof the following sentence:– Shares shall be of a par value of twenty-five dollars each and shall be subscribed and paid for in such manner as the by-laws of the credit union shall prescribe.

Approved May 21, 1985.

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**Chapter 57. AN ACT RELATIVE TO THE LICENSING AND KEEPING OF DOGS IN THE TOWN OF READING.**

Be it enacted, etc., as follows:

**SECTION 1.** Notwithstanding the provisions of section one hundred and thirty-seven of chapter one hundred and forty of the General Laws or any other provision of law to the contrary, the registering, numeral listing, description and licensing of dogs, if kept in the town of Reading, shall be conducted in the office of the town clerk of said town.

**SECTION 2.** Notwithstanding the provisions of section one hundred and thirty-nine of said chapter one hundred and forty or any other provision of law or by-law of the town to the contrary, the annual fees to be charged by the town of Reading for the issuance of licenses for dogs shall be as follows: unaltered males and unspayed females, seven dollars; altered males and spayed females, four dollars or such other



**ACTS, 1985. – Chaps. 58, 59.**

annual fees as may be established from time to time by vote of the town at an annual or special town meeting.

**SECTION 3.** Notwithstanding the provisions of section one hundred and forty-seven of said chapter one hundred and forty or any other provision of law to the contrary, all money received for licenses or from the sale of dog licenses by the town of Reading or recovered as fines or penalties by said town under the provisions of said chapter one hundred and forty relating to dogs, shall be paid into the town treasury of said town and shall not thereafter be paid over to the Middlesex county.

Approved May 21, 1985.

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**Chapter 58.     AN ACT RELATIVE TO THE LICENSING AND KEEPING  
OF DOGS IN THE TOWN OF SHREWSBURY.**

Be it enacted, etc., as follows:

**SECTION 1.** Notwithstanding the provisions of section one hundred and thirty-nine of chapter one hundred and forty of the General Laws or any other provision of law to the contrary, the annual fees to be charged by the town of Shrewsbury for the issuance of licenses for dogs shall be set by the board of selectmen of said town.

**SECTION 2.** Notwithstanding the provisions of section one hundred and forty-seven of said chapter one hundred and forty or any other provision of law to the contrary, all money received for licenses or from the sale of dog licenses by the town of Shrewsbury, or recovered as fines or penalties by said town under the provisions of said chapter one hundred and forty relating to dogs, shall be paid into the treasury of said town and shall not thereafter be paid over to Worcester county.

**SECTION 3.** Notwithstanding the provisions of section one hundred and sixty-one of said chapter one hundred and forty or any other general or special law to the contrary, whoever suffers loss by the worrying, maiming or killing of his livestock or fowls by dogs shall be, after investigation as provided in said section one hundred and sixty-one, paid from the town treasury of said town, as provided by said section one hundred and sixty-one.

Approved May 21, 1985.

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**Chapter 59.     AN ACT RELATIVE TO THE LICENSING AND KEEPING  
OF DOGS IN THE TOWN OF DOVER.**

Be it enacted, etc., as follows:

**SECTION 1.** Notwithstanding the provisions of section one hundred



**ACTS, 1985. – Chaps. 60.**

and thirty-seven of chapter one hundred and forty of the General Laws or any other provision of law to the contrary, the registering, numbering, describing and licensing of dogs, if kept in the town of Dover, shall be conducted in the office of the town clerk of said town.

**SECTION 2.** Notwithstanding the provisions of section one hundred and thirty-nine of said chapter one hundred and forty or any other provision of law to the contrary, the annual fees to be charged by the town of Dover for the issuance of licenses for dogs shall be set by the board of selectmen of said town.

**SECTION 3.** Notwithstanding the provisions of section one hundred and forty-seven of said chapter one hundred and forty or any other provision of law to the contrary, all money received for licenses or from the sale of dog licenses by the town of Dover, or recovered as fines or penalties by said town under the provisions of said chapter one hundred and forty and all applicable town by-laws relating to dogs, shall be paid into the treasury of said town and shall not thereafter be paid over to Norfolk county.

**SECTION 4.** This act shall take effect on April first, nineteen hundred and eighty-six.

Approved May 21, 1985.

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**Chapter 60.     AN ACT RELATIVE TO THE LICENSING AND KEEPING  
                 OF DOGS IN THE TOWN OF HALIFAX.**

**Be it enacted, etc., as follows:**

**SECTION 1.** Notwithstanding the provisions of section one hundred and thirty-seven of chapter one hundred and forty of the General Laws or any other provisions of law to the contrary, the registering, numbering, describing, and licensing of dogs, if kept in said town, shall be conducted in the office of the town clerk of said town.

**SECTION 2.** Notwithstanding the provisions of section one hundred and thirty-nine of said chapter one hundred and forty or any other provisions of law to the contrary, the annual fees to be charged by the town of Halifax for the issuance of dog licenses shall be as determined by said town.

**SECTION 3.** Notwithstanding the provisions of section one hundred and forty-seven of said chapter one hundred and forty or any other provision of law to the contrary, all money received for licenses or from the sale of dog licenses by the town of Halifax, or recovered as fines or penalties by said town under the provisions of said chapter one hundred and forty relating to dogs, shall be paid into the treasury of said town and shall not thereafter be paid over by the town treasurer to Plymouth county.

Approved May 21, 1985.



**ACTS, 1985. – Chaps. 61, 62.**

**Chapter 61. AN ACT RELATIVE TO THE LICENSING AND KEEPING OF DOGS IN THE TOWN OF PETERSHAM.**

**Be it enacted, etc., as follows:**

**SECTION 1.** Notwithstanding the provisions of section one hundred and thirty-seven of chapter one hundred and forty of the General Laws or any other general or special law to the contrary, the registering, numbering, describing and licensing of dogs, if kept in the town of Petersham, shall be conducted in the office of the town clerk of said town.

**SECTION 2.** Notwithstanding the provisions of section one hundred and forty-seven of said chapter one hundred and forty or any other general or special law to the contrary, all money received for the issuance of dog licenses by the town of Petersham, or recovered as fines or penalties by said town under the provisions of said chapter one hundred and forty relating to dogs, shall be paid into the treasury of said town and shall not thereafter be paid over by the town treasurer to the treasury of Worcester county.

Approved May 21, 1985.

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**Chapter 62. AN ACT INCREASING THE PAYMENT OF CERTAIN DEATH BENEFITS TO MEMBERS OF THE WAKEFIELD POLICE RELIEF ASSOCIATION, INC. UPON THEIR RETIREMENT FROM THE POLICE DEPARTMENT OF THE TOWN OF WAKEFIELD.**

**Be it enacted, etc., as follows:**

**SECTION 1.** Chapter 330 of the acts of 1979 is hereby amended by striking out, in line 8, the word "three" and inserting in place thereof the word:– five.

**SECTION 2.** Said chapter 330 is hereby further amended by striking out the last sentence and inserting in place thereof the following sentence:– Such member shall have the further option to surrender his certificate of membership as aforesaid and receive the sum of twenty-five hundred dollars and a certificate of membership issued which shall entitle his beneficiary to the sum of twenty-five hundred dollars upon said member's death.

**SECTION 3.** This act shall take effect upon its passage.

Approved May 23, 1985.



**ACTS, 1985. – Chaps. 63, 64, 65.**

**Chapter 63. AN ACT RELATIVE TO THE LICENSING AND KEEPING OF DOGS IN THE TOWN OF IPSWICH.**

Be it enacted, etc., as follows:

**SECTION 1.** Notwithstanding the provisions of section one hundred and thirty-seven of chapter one hundred and forty of the General Laws or any other provision of law to the contrary, the registering, numbering, describing and licensing of dogs, if kept in the town of Ipswich, shall be conducted in the office of the town clerk of said town.

**SECTION 2.** Notwithstanding the provisions of section one hundred and forty-seven of said chapter one hundred and forty or any other provision of law to the contrary, all money received for licenses or from the sale of dog licenses by the town of Ipswich or recovered as fines or penalties by said town under the provisions of said chapter one hundred and forty relating to dogs, shall be paid into the treasury of said town and shall not thereafter be paid over by the town treasurer to Essex county.

Approved May 23, 1985.

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**Chapter 64. AN ACT RELATIVE TO THE DUTIES OF THE DIVISION OF WATER RESOURCES.**

Be it enacted, etc., as follows:

**SECTION 1.** The third paragraph of section 14 of chapter 21 of the General Laws, as appearing in section 9 of chapter 589 of the acts of 1983, is hereby amended by striking out, in line 2, the word "commission" and inserting in place thereof the word:- division.

**SECTION 2.** The first paragraph of section 15 of said chapter 21, as appearing in section 10 of said chapter 589, is hereby amended by striking out, in line 6, the word "commission" and inserting in place thereof the word:- division.

Approved May 23, 1985.

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**Chapter 65. AN ACT PROVIDING FOR THE ANNUAL OBSERVANCE OF YOUTH IN GOVERNMENT DAY.**

Be it enacted, etc., as follows:

Chapter 6 of the General Laws is hereby amended by inserting after



**ACTS, 1985. – Chaps. 66, 67, 68.**

section 15VV, inserted by chapter 223 of the acts of 1984, the following section:–

Section 15WW. The governor shall annually issue a proclamation setting apart the first Friday in August as "Youth in Government Day" to call attention to the youth of the commonwealth who intern and volunteer in state government and recommending that the said day be observed in an appropriate manner by the people.

Approved May 23, 1985.

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**Chapter 66. AN ACT PROVIDING FOR THE APPOINTMENT OF JOHN J. HANNA AS A MOTOR VEHICLE EXAMINER.**

Be it enacted, etc., as follows:

**SECTION 1.** Notwithstanding the provisions of section thirty-five of chapter thirty-one of the General Laws, the personnel administrator of the division of personnel administration is hereby authorized to approve the transfer of John J. Hanna of the town of Natick from the position of permanent corrections officer in the department of corrections to the position of motor vehicles examiner in the registry of motor vehicles and the registrar of motor vehicles is hereby authorized to appoint said John J. Hanna to said position.

**SECTION 2.** This act shall take effect upon its passage.

Approved May 28, 1985.

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**Chapter 67. AN ACT DESIGNATING A CERTAIN SECTION OF ROUTE 25 BETWEEN THE TOWNS OF WAREHAM AND BOURNE AS THE HONORABLE JEREMIAH F. CAHIR MEMORIAL HIGHWAY.**

Be it enacted, etc., as follows:

The section of state highway Route 25 from Plymouth road in the town of Wareham at the junction of Routes 6 and 28 to the Bourne bridge in the town of Bourne shall be designated and known as the Honorable Jeremiah F. Cahir Memorial Highway, in memory of Jeremiah F. Cahir, former member of the house of representatives. Suitable markers bearing said designation shall be attached thereto by the department of public works in compliance with the standards of said department and as authorized by the federal highway administration.

Approved May 28, 1985.

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**Chapter 68. AN ACT AUTHORIZING THE DEPARTMENT OF**



**ACTS, 1985. – Chaps. 69.**

**PUBLIC WORKS TO TAKE CERTAIN LANDS IN THE TOWN OF UXBRIDGE BEING USED AS A KNOWN OR SUSPECTED AMERICAN INDIAN BURIAL PLACE AND TO RELOCATE SAID BURIAL PLACE.**

Be it enacted, etc., as follows:

**SECTION 1.** The department of public works, acting in behalf of the commonwealth, is hereby authorized to take by eminent domain, in accordance with the provisions of chapter seventy-nine of the General Laws, certain lands in the town of Uxbridge for the relocation of state highway route 146 and state highway route 146A, being used as burial places known or suspected to contain the remains of one or more American Indians and to relocate said remains or take other action relative thereto, whether American Indian or not, under the provisions of section six B of chapter thirty-eight of the General Laws and in conformance with the provisions of section thirty-eight A of chapter seven or paragraph (7) of section twenty-six A of chapter nine of the General Laws, whichever is applicable.

Said land is shown on a plan, entitled "Town of Uxbridge Plan of Land Showing Probable Burial Grounds April 16, 1985", which plan shall be kept in the office of the chief engineer of the said department, and which lands are more particularly described as follows:

1. A certain parcel of land in the town of Uxbridge, at or about Station 169+00 of the main baseline of relocated route 146, rightabout thirty (30) feet, and being a rectangular parcel of land approximately fifty (50) feet by seventy-five (75) feet.

2. A certain parcel of land, in the town of Uxbridge, at or about Station 14+50 of the Ramp F baseline of relocated route 146, left about twenty (20) feet, and being a rectangular parcel of land approximately ten (10) feet by twenty (20) feet.

3. A certain parcel of land, in the town of Uxbridge, at or about Station 15+25 of the Ramp F baseline of relocated route 146, right about twenty (20) feet, and being a rectangular parcel of land approximately five (5) feet by ten (10) feet.

4. A certain parcel of land, in the town of Uxbridge, at or about Station 15+50 of the Ramp F baseline of relocated route 146, right about one hundred and twenty (120) feet, and being a rectangular parcel of land approximately five (5) feet by ten (10) feet.

**SECTION 2.** This act shall take effect as of February first, nineteen hundred and eighty-five.

Approved May 28, 1985.

EMERGENCY LETTER: May 28, 1985 @ 3:27 P.M.

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**Chapter 69. AN ACT AUTHORIZING THE TOWN OF HUBBARDSTON TO DEFER UNTIL FISCAL YEAR NINETEEN HUNDRED AND EIGHTY-EIGHT ITS**



ACTS, 1985. – Chap. 70, 71.

**ASSESSMENT OF TAXES FOR THE AMOUNT  
NECESSARY TO SATISFY ABATEMENTS GRANTED BY  
IT FOR FISCAL YEAR NINETEEN HUNDRED AND  
EIGHTY-THREE.**

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of section twenty-three of chapter fifty-nine of the General Laws, the town of Hubbardston is hereby authorized to defer until fiscal year nineteen hundred and eighty-eight its assessment of taxes for the amount necessary to satisfy abatements granted on account of the tax assessment of said town for fiscal year nineteen hundred and eighty-three, said amount to be deferred as follows: one-third of said amount to be deferred until fiscal year nineteen hundred and eighty-six, one-third of said amount to be deferred until fiscal year nineteen hundred and eighty-seven, and one-third of said amount to be deferred until fiscal year nineteen hundred and eighty-eight.

SECTION 2. This act shall take effect upon its passage.

Approved May 30, 1985.

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**Chapter 70. AN ACT INCREASING THE FINES FOR VIOLATIONS  
OF HEALTH REGULATIONS IN TOWNS.**

Be it enacted, etc., as follows:

Section 31 of chapter 111 of the General Laws, as most recently amended by section 2 of chapter 565 of the acts of 1982, is hereby further amended by striking out the first paragraph and inserting in place thereof the following paragraph:—

Boards of health may make reasonable health regulations. All regulations made by boards of health under this chapter shall be published once in a newspaper published in the town, and such publication shall be notice to all persons. Whoever, himself or by his servant or agent, or as the servant or agent of any other person or any firm or corporation, violates any reasonable health regulation, made under authority of this section, for which no penalty by way of fine or imprisonment, or both, is provided by law, shall be punished by a fine of not more than five hundred dollars.

Approved May 30, 1985.

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**Chapter 71. AN ACT RELATIVE TO ADMISSION OF YOUNG  
PERSONS TO ROLLER SKATING RINKS.**

Be it enacted, etc., as follows:



**ACTS, 1985. – Chaps. 72, 73.**

Chapter 140 of the General Laws is hereby amended by striking out section 198, as amended by chapter 51 of the acts of 1968, and inserting in place thereof the following section:–

Section 198. No proprietor, lessee or manager and no employee of a proprietor, lessee or manager of any public hall or room in which dancing is practiced, and for admission to which money or other valuable thing is accepted, shall admit, while dancing is practiced therein between six in the afternoon and six in the forenoon, any person fifteen years of age or under, unless such person is accompanied by a parent, guardian or adult member of the family with whom such person is residing; and any minor may be refused admission to or be excluded from any such hall or room while a dance is being carried on therein, unless such minor produces evidence satisfactory to the proprietor or his agent that he is over the age of fifteen years. This section shall not apply to a dance given by any charitable or religious society, or by any public or private school, or by any class, society or club the membership of which is restricted to some particular charitable or religious society or to some particular public or private school.

Approved May 30, 1985.

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**Chapter 72. AN ACT DESIGNATING A CERTAIN BRIDGE IN THE CITY OF FITCHBURG AS THE MAYOR HEDLEY BRAY BRIDGE.**

Be it enacted, etc., as follows:

The bridge carrying state highway Route 31 over state highway Route 2 in the city of Fitchburg shall be designated and known as the Mayor Hedley Bray Bridge, in honor of Hedley Bray. Suitable markers bearing said designation shall be attached thereto by the department of public works in compliance with the standards of said department and as authorized by the federal highway administration.

Approved May 30, 1985.

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**Chapter 73. AN ACT REQUIRING IMMUNIZATION OF CERTAIN COLLEGE STUDENTS.**

Be it enacted, etc., as follows:

**SECTION 1.** Chapter 76 of the General Laws is hereby amended by inserting after section 15B the following section:–

Section 15C. No full-time student under thirty years of age or any full-time or part-time undergraduate or graduate students in a health science who is in contact with patients shall, except as hereinafter provided, be registered at an institution of higher education except upon presentation of a medical certificate that such student has been



**ACTS, 1985. – Chaps. 74.**

immunized against measles, mumps, rubella, tetanus and diphtheria; provided, however, that a student may be registered at such institution upon certification made, in writing, by a physician who has personally examined such student and in whose opinion the physical condition of such student is such that his health would be endangered by any such immunization; and provided, further, that students who have attended an elementary or secondary school in the commonwealth may submit a copy of their school immunization record, indicating receipt of the above required immunizations, in lieu of such certificate; and provided, further, that unimmunized students may be registered on the condition that the required immunizations be obtained within ten days of registration.

In the absence of an emergency or epidemic of disease declared by the department of public health, no student who states in writing that such immunization would conflict with his religious beliefs shall be required to present such medical certificate in order to be admitted to such institution.

**SECTION 2.** The provisions of section one of this act shall apply only to students in institutions of higher education entering as freshmen on or after September first, nineteen hundred and eighty-six; to such students entering as freshmen or sophomores on or after September first, nineteen hundred and eighty-seven; to such students entering as freshmen, sophomores or juniors on or after September first, nineteen hundred and eighty-eight; to such students entering as freshmen, sophomores, juniors or seniors on or after September first, nineteen hundred and eighty-nine; and to all undergraduate and graduate students on or after September first, nineteen hundred and ninety and to all such students thereafter. The provisions of section one relative to health science students shall apply to all such students on and after September first, nineteen hundred and eighty-six.

Approved May 30, 1985.

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**Chapter 74.     AN ACT DESIGNATING A CERTAIN BRIDGE IN THE  
TOWN OF HOLDEN AS THE KOREAN AND VIETNAM  
WAR VETERANS MEMORIAL BRIDGE.**

**Be it enacted, etc., as follows:**

The bridge numbered H-18-2 on Reservoir street over the Providence-Worcester railroad tracks shall be designated and known as the Korean and Vietnam War Veterans Memorial Bridge. Suitable markers bearing such designation shall be attached thereto by the department of public works in compliance with the standards of said department.

Approved May 30, 1985.



ACTS, 1985. - Chaps. 75, 76.

**Chapter 75. AN ACT AUTHORIZING THE TOWN OF SWAMPSCOTT TO BORROW MONEY TO PAY CERTAIN COURT JUDGEMENTS.**

Be it enacted, etc., as follows:

**SECTION 1.** The town of Swampscott is hereby authorized, for the purpose of paying judgements rendered against said town in the superior court department of the trial court in the county of Essex, in the so-called "Blue Cross/Blue Shield" case, docket number 16884Z, 15771, 83166 and others, to appropriate and expend an amount not to exceed seven hundred thousand dollars.

**SECTION 2.** For the purpose authorized in section one, the town treasurer of the town of Swampscott, with the approval of the board of selectmen of said town, may borrow upon the credit of the town such sums as may be necessary, not exceeding, in the aggregate, seven hundred thousand dollars, and may issue bonds or notes of the towntherefor, which shall bear on their face the words, Town of Swampscott Loan, Act of 1985. The indebtedness incurred under the provisions of this act shall be deemed to be outside the debt limit as defined in section ten of chapter forty-four of the General Laws. The authorized issue shall be payable in not more than five years from its date. The bonds or notes shall be signed by said town treasurer and a majority of said board of selectmen. Said town may sell such securities at a public or private sale, upon such terms and conditions as said board of selectmen may deem proper, but not for less than their par value. Indebtedness incurred hereunder shall, except as herein provided, be subject to chapter forty of the General Laws.

**SECTION 3.** This act shall take effect upon its passage.

Approved June 4, 1985.

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**Chapter 76. AN ACT FURTHER REGULATING CLINICAL LABORATORIES.**

Be it enacted, etc., as follows:

The first paragraph of section 7 of chapter 111D of the General Laws, as appearing in section 1 of chapter 881 of the acts of 1975, is hereby amended by inserting after the word "laboratory", in line 40, the following words:- ; provided, however, that when a clinical laboratory is maintained by more than two physicians exclusively in connection with the diagnosis and treatment of patients, and the director is one of the physicians who maintains the laboratory, and the laboratory performs only procedures approved by the commissioner, the department, by regulation, may limit such educational requirements by providing that, as a minimum, said director holds a bachelor's degree with a chemical,



**ACTS, 1985. – Chaps. 77, 78.**

physical or biological science as his major subject and has had since graduation at least one year of related experience in a clinical laboratory.

Approved June 4, 1985.

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**Chapter 77. AN ACT FURTHER REGULATING PUBLIC ACCESS TO INFORMATION IN THE MASSACHUSETTS NATURAL HERITAGE PROGRAM DATA BASE.**

Be it enacted, etc., as follows:

Chapter 66 of the General Laws is hereby amended by striking out section 17D, inserted by chapter 328 of the acts of 1980, and inserting in place thereof the following section:–

Section 17D. Records of the division of fisheries and wildlife in the department of fisheries, wildlife and recreational vehicles known as the Massachusetts natural heritage program data base shall not be public records; provided, however, that they shall be open for inspection by agents of the commonwealth and the federal government for the purposes of protecting and preserving species and subspecies of nongame wildlife and indigenous plants. Except as otherwise determined by the administrator of the said data base, site-specific rare species information shall be released only upon the receipt of a statement, in writing, by the recipient that he shall keep such information confidential.

Approved June 4, 1985.

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**Chapter 78. AN ACT AUTHORIZING THE CITY OF SPRINGFIELD TO USE CERTAIN PARK LAND FOR RECREATIONAL OR OTHER PURPOSES.**

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of any general or special law to the contrary, the city of Springfield is hereby authorized to lease for a period not to exceed twenty-five years a parcel of land now owned and held by said city under the control of its parks department, bounded and described as follows:–

Beginning at a point at the northwesterly corner of a parcel of land described on a plan on file in the Springfield Engineering Division Office entitled JAMES P. HEADY – KIDDIELAND ZOO 1" = 40', December, 1968, from said northwesterly corner a tie course, running S 60° 31' 28" W along land of the City of Springfield a distance of 465.98 feet to the point of beginning of parcel to be described.

Beginning at this point; THENCE, S 18° 11' 19" E along land of the City of Springfield a distance of 400.00 feet to an angle point; THENCE, S 2° 57' 43" E along land of the City of Springfield a distance of 130.00



ACTS, 1985. – Chaps. 79, 80.

feet to an angle point; THENCE, N 86° 54' 57" W along land of the City of Springfield a distance of 185.00 feet to an angle point; THENCE, N 52° 59' 11" W along land of the City of Springfield a distance of 455.00 feet to an angle point; THENCE, N 1° 03' 00" E along land of the City of Springfield a distance of 175.00 feet to an angle point; THENCE, N 46° 21' 18" E along land of the City of Springfield a distance of 175.00 feet to an angle point; THENCE, S 76° 19' 04" E along land of the City of Springfield a distance of 295.00 feet to the point of beginning.

The above described premises contains about 4.802 acres of land, more or less, and is shown on a plan entitled "Plan of Land in Springfield, Massachusetts, Surveyed for the Forest Park Zoological Society, Scale 1" = 40', Dated June 1, 1984, Heritage Surveys, Bruce A. Coombs, R.I.S." Said Plan is on file in the Engineering Division of the Springfield Department of Public Works.

**SECTION 2.** Any nonprofit organization to which the city of Springfield may lease such parcel may set and charge, subject to the approval of the board of park commissioners of said city, reasonable fees for admission to any facilities or improvements made upon said parcel of land.

**SECTION 3.** This act shall take effect upon its passage.

Approved June 5, 1985.

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**Chapter 79. AN ACT AUTHORIZING THE CITY OF HOLYOKE TO CONVEY A CERTAIN PARCEL OF LAND IN SAID CITY FOR HOUSING PURPOSES.**

Be it enacted, etc., as follows:

The city of Holyoke is hereby authorized to sell and convey all right, title and interest in a certain parcel of land acquired for park, playground and recreational purposes for housing purposes. Said parcel contains twenty-eight thousand four hundred square feet and is shown on Assessors Map #15 as Parcel #8.

Approved June 5, 1985.

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**Chapter 80. AN ACT AUTHORIZING THE STATE SECRETARY TO AUTHORIZE THE SOLEMNIZATION OF A CERTAIN MARRIAGE.**

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately authorize the solemnization of a certain marriage, 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:



**ACTS, 1985. – Chaps. 81, 82.**

Notwithstanding the provisions of section thirty-nine of chapter two hundred and seven of the General Laws, the state secretary may authorize in the manner set forth under said section thirty-nine, the solemnization of a marriage by Kevin N. Christo, as he is a Justice of the Peace in North Hampton, New Hampshire, in the town of Southbridge on June eighth, nineteen hundred and eighty-five between Kathleen Jean Despres of the town of Southbridge and Ronald Gerard Graveline of the town of Southbridge, and the state secretary shall issue to said Kevin N. Christo in his capacity as aforesaid a certificate of such authorization.

Approved June 6, 1985.

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**Chapter 81. AN ACT RELATIVE TO CERTAIN CREDITABLE SERVICE FOR EDWARD R. VOKE, A PATROLMAN OF THE CAPITOL POLICE.**

Be it enacted, etc., as follows:

**SECTION 1.** Notwithstanding the provisions of any general or special law to the contrary, Edward R. Voke, a patrolman in the capitol police, is hereby authorized to continue in such position until and including June thirtieth, nineteen hundred and ninety, provided that he is mentally and physically capable of performing the duties of his office or position. Said Edward R. Voke shall annually, at his own expense, be examined by an impartial physician designated by the state retirement board to determine such capability. No further deductions shall be made from the regular compensation of said employee under the provisions of chapter thirty-two of the General Laws for service subsequent to June thirtieth, nineteen hundred and eighty-five, and upon retirement said employee shall receive a superannuation retirement allowance equal to that to which he would have been entitled had he retired on said date.

**SECTION 2.** This act shall take effect upon its passage.

Approved June 7, 1985.

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**Chapter 82. AN ACT FURTHER REGULATING THE POWERS OF THE BOARD OF DIRECTORS OF CREDIT UNIONS TO BORROW FUNDS.**

Be it enacted, etc., as follows:

Section 16 of chapter 171 of the General Laws is hereby amended by striking out the fifth sentence, as most recently amended by chapter 314 of the acts of 1972, and inserting in place thereof the following sentence:— Said board may, if the credit union has a deposit or share account therein, borrow money for and on behalf of the credit union, without the approval of the commissioner, from a savings bank,



**ACTS, 1985. - Chap. 83.**

co-operative bank, federal savings and loan association, national bank or trust company, the Central Credit Union Fund, Inc., or the Mass Cuna Corporate Central Federal Credit Union; provided that money borrowed from such institution is in an amount not exceeding said deposit or share account and is for a time not extending beyond the end of a one year period from the date on which the loan is made.

Approved June 7, 1985.

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**Chapter 83. AN ACT AUTHORIZING THE DIVISION OF CAPITAL PLANNING AND OPERATIONS TO TRANSFER CERTAIN PARCELS OF LAND IN THE TOWN OF WARWICK FROM THE DEPARTMENT OF ENVIRONMENTAL MANAGEMENT TO THE DEPARTMENT OF PUBLIC WORKS FOR TOWN WAY PURPOSES.**

**Be it enacted, etc., as follows:**

The deputy commissioner of capital planning and operations is hereby authorized to transfer the care, custody and control of certain parcels of land in the town of Warwick, presently under the control of the department of environmental management, to the department of public works, on behalf of the town of Warwick for use as a town way, in accordance with the provisions of section twenty-nine A of chapter eighty-one of the General Laws, in conjunction with the bridge replacement project replacing the Wendell Road bridge over Moss brook, designated as bridge number W-8-5. Subsequent to such transfer, the department of public works shall make payment to the department of environmental management in accordance with the provisions of section one of chapter six hundred and ninety-three of the acts of nineteen hundred and fifty-five.

Said lands to be diverted fromn their present recreational use to town way use are shown on a plan by C.E. Maguire, entitled "Warwick-Wendell Road Preliminary Right of Way Plan", which the department of public works is directed to file with the chief engineer of said department and which lands are identified on a department layout plan as follows:

Parcel No. -1

Begins at a point on the westerly location line of the existing county layout of 1826 for Wendell Road, said point bearing North  $39^{\circ} - 12' - 32''$  West and being 17.87 feet distant from station 31 + 31.75 and extends thence North  $36^{\circ} - 14' - 31''$  East 224.11 feet to a point on said location line, said point bearing North  $66^{\circ} - 12' - 14''$  West and being 22.10 feet distant from station 33 + 67.33 and extends thence South  $15^{\circ} - 01' - 10''$  West 126.00 feet along said location line to an angle point and extends thence South  $89^{\circ} - 23' - 42''$  West 116.00 feet along said location line to the point of beginning containing five thousand one hundred and thirty square feet, more or less.



**ACTS, 1985. – Chaps. 84, 85.**

**PARCEL D-1**

A permanent drainage easement, located about station 34 + 80, on the right and bounded as follows: northerly twenty-seven (27) feet, easterly twenty (20) feet, southerly twenty-seven (27) feet, all by other land of the Department of Environmental Management, and on the west twenty (20) feet by Wendell Road as proposed. Lot contains about five hundred and forty (540) square feet.

Parcel No. -2

Begins at a point on the easterly location line of the existing county layout of 1826 for Wendell Road, said point bearing South 52° - 12' - 07" East and being 65.90 feet distant from station 32 + 45.14 and extends thence North 15° - 01' - 10" East 325.00 feet to a point on said location line, said point bearing South 77 - 11' - 22" East and being 25.50 feet distant from station 35 + 50.00 and extends thence South 09° - 57' - 32" West 228.00 feet to a point bearing South 62° - 28' - 53" East and being 55.03 feet distant from station 33 + 34.84 and extends thence South 26° - 30' - 19" West 101.00 feet to the point of beginning containing three thousand eight hundred and thirty square feet, more or less.

Approved June 7, 1985.

EMERGENCY LETTER: June 26, 1985 @ 3:30 P.M.

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**Chapter 84. AN ACT RELATIVE TO THE TAXATION OF A CERTAIN RESOURCE RECOVERY FACILITY IN THE TOWN OF SAUGUS.**

Be it enacted, etc., as follows:

**SECTION 1.** Notwithstanding the provisions of any general or special law to the contrary, the town of Saugus is hereby authorized to agree to and to take all actions necessary and proper to carry out the provisions contained in paragraphs one, two, three, four and five of Article 1 in the agreement of the town of Saugus, Refuse Energy Systems Company and M. DiMatteo Construction Co. dated June fourth, nineteen hundred and eighty-four with regard to the taxation of the real and personal property which constitutes the resource recovery facility owned by Refuse Energy Systems Company situated in said town of Saugus.

**SECTION 2.** This act shall take effect as of June fourth, nineteen hundred and eighty-four.

Approved June 7, 1985.

EMERGENCY LETTER: June 7, 1985 @ 12:51 P.M.

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**Chapter 85. AN ACT PROVIDING FOR PRIVILEGED COMMUNICATIONS BETWEEN PATIENTS AND PSYCHIATRIC NURSE MENTAL HEALTH CLINICAL SPECIALISTS.**



**ACTS, 1985. – Chaps. 86, 87.**

Be it enacted, etc., as follows:

Section 20B of chapter 233 of the General Laws is hereby amended by striking out the definition of "Psychotherapist", as amended by chapter 817 of the acts of 1977, and inserting in place thereof the following definition:–

"Psychotherapist", a person licensed to practice medicine who devotes a substantial portion of his time to the practice of psychiatry or a person who is licensed as a psychologist by the board of registration of psychologists; provided, however, that such person has a doctoral degree in the field of psychology or a registered nurse licensed by the board of registration in nursing whose certificate of registration has been endorsed authorizing the practice of professional nursing in an expanded role as a psychiatric nurse mental health clinical specialist, pursuant to the provisions of section eighty B of chapter one hundred and twelve; and.

Approved June 7, 1985.

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**Chapter 86. AN ACT AUTHORIZING THE USE OF FACSIMILE SIGNATURES ON WARRANTS ISSUED BY TAX COLLECTORS IN CITIES AND TOWNS.**

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately authorize the use of facsimile signatures on warrants issued by tax collectors in cities and towns, 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:

The first paragraph of section 29 of chapter 60 of the General Laws, as appearing in section 4 of chapter 64 of the acts of 1980, is hereby amended by adding the following sentence:– A warrant issued under this section may be signed by the collector or his deputy, and a facsimile of the signature of the collector shall have the same validity as his written signature.

Approved June 7, 1985.

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**Chapter 87. AN ACT EXEMPTING ALL POSITIONS IN THE OFFICE OF THE BOARD OF ASSESSORS IN THE TOWN OF RANDOLPH FROM THE CIVIL SERVICE LAWS.**

Be it enacted, etc., as follows:

**SECTION 1.** All positions in the office of the board of assessors in the town of Randolph shall be exempt from the provisions of chapter thirty-one of the General Laws.



**ACTS, 1985. – Chaps. 88, 89, 90.**

**SECTION 2.** The provisions of section one shall not impair the civil service status of any person employed in any such position in said office on the effective date of this act.

**SECTION 3.** This act shall take effect upon its passage.

Approved June 11, 1985.

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**Chapter 88. AN ACT AUTHORIZING THE TOWN OF SHREWSBURY TO PAY CERTAIN UNPAID BILLS.**

Be it enacted, etc., as follows:

**SECTION 1.** The town treasurer of the town of Shrewsbury is hereby authorized to pay from available funds to Eastern Library Interiors, Inc. the sum of four thousand five hundred dollars for relocating and setting up shelving and to the Gorham Fire Equipment Co., Inc. the sum of one thousand six hundred and forty-two dollars for supplying three inch hose notwithstanding the failure of said town to comply with the appropriate provisions of law relative to competitive bidding in the awarding of these contracts.

**SECTION 2.** This act shall take effect upon its passage.

Approved June 11, 1985

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**Chapter 89. AN ACT RELATIVE TO THE SALE OF LAND BY A CITY OR TOWN THE VALUE OF WHICH IS FIVE THOUSAND DOLLARS, OR LESS.**

Be it enacted, etc., as follows:

The third sentence of section 79 of chapter 60 of the General Laws, as most recently amended by chapter 451 of the acts of 1979, is hereby further amended by striking out, in line 9, the words "two thousand five hundred" and inserting in place thereof the words:– five thousand.

Approved June 11, 1985.

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**Chapter 90. AN ACT AUTHORIZING THE SCHOOL DEPARTMENT OF THE CITY OF CHELSEA TO BE OPEN FOR BUSINESS JUNE SEVENTEENTH, NINETEEN HUNDRED AND EIGHTY-FIVE.**

Be it enacted, etc., as follows:

**SECTION 1.** Notwithstanding the provisions of sections twelve and



**ACTS, 1985. - Chaps. 91, 92.**

thirteen of chapter one hundred and thirty-six and chapter seventy-one of the General Laws and any other general or special law to the contrary, the school department of the city of Chelsea is hereby authorized to be open for business for all purposes including the instruction of students in classrooms on Monday, June seventeenth, nineteen hundred and eighty-five.

**SECTION 2.** This act shall take effect upon its passage.

Approved June 13, 1985.

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**Chapter 91. AN ACT FURTHER REGULATING THE PURCHASING OF MILK.**

**Be it enacted, etc., as follows:**

Chapter 94 of the General Laws is hereby amended by striking out section 48B, as amended by chapter 90 of the acts of 1983, and inserting in place thereof the following section:-

Section 48B. No institution supported in whole or in part by funds of the commonwealth shall use for its daily needs, milk produced, processed or packaged elsewhere than within the commonwealth; provided, however, that such institution may purchase milk from a dealer who is duly licensed as a milk dealer by a state which permits licensed Massachusetts dealers to sell milk to any institution in said state which is supported in whole or in part by funds of such state and provided, further, that if at any time the supply of milk so produced, processed or packaged is insufficient for the needs of such institution, or does not conform to the required standard for such milk, such institution, while and to the extent only that such insufficiency or lack of conformity exists, may use milk not so produced, processed or packaged. This section shall not apply to cream or to certified milk.

Approved June 13, 1985.

**EMERGENCY LETTER:** June 13, 1985 @ 4:30 P.M.

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**Chapter 92. AN ACT AUTHORIZING THE TREASURER OF MIDDLESEX COUNTY TO PAY CERTAIN UNPAID BILLS.**

**Be it enacted, etc., as follows:**

**SECTION 1.** The treasurer of Middlesex county, with approval of the county commissioners and the advisory board on county expenditures, is hereby authorized to pay from any available funds during the current fiscal year certain unpaid bills incurred by said county totalling twelve thousand nine hundred twenty dollars and thirty cents as set forth on a list on file in the office of the director of accounts in the department of revenue for goods supplied and services rendered to said county during



**ACTS, 1985. – Chaps. 93, 94.**

the years nineteen hundred and seventy-six through nineteen hundred and eighty-one, which bills are legally unenforceable against said county.

**SECTION 2.** No bill shall be approved by the county commissioners of said county or paid by said county treasurer under the authority of this act, unless and until a certificate has been signed and filed with said county treasurer stating, under penalties of perjury, that the goods or services for which said bill had been submitted were ordered by an official or an employee of said county, and that such goods were delivered and actually received by said county and that such services were rendered to such county, or both.

**SECTION 3.** This act shall take effect upon its passage.

Approved June 19, 1985.

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**Chapter 93. AN ACT PROVIDING FOR THE ANNUAL OBSERVANCE OF VISITING NURSE ASSOCIATION WEEK.**

**Whereas,** The deferred operation of this act would tend to defeat its purpose, which is to immediately provide for the annual observance of Visiting Nurse Association Week, 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:**

Chapter 6 of the General Laws is hereby amended by inserting after section 12II, inserted by chapter 180 of the acts of 1984, the following section:–

Section 12JJ. The governor shall annually issue a proclamation setting apart the third week in May as Visiting Nurse Association Week and recommending that said week be observed in the appropriate manner by the people.

Approved June 19, 1985.

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**Chapter 94. AN ACT AUTHORIZING THE APPROPRIATION OF A STABILIZATION FUND IN TOWNS AT SPECIAL TOWN MEETINGS AND IN DISTRICTS AT SPECIAL DISTRICT MEETINGS.**

**Be it enacted, etc., as follows:**

Section 5B of chapter 40 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out the third paragraph and inserting in place thereof the following paragraph:–

The stabilization fund may be appropriated in a town, at an



ACTS, 1985. – Chap. 95.

annual town meeting by a two-thirds vote or at a special town meeting by a two-thirds vote; in a district, at an annual district meeting by a two-thirds vote or at a special district meeting by a two-thirds vote; and in a city, by a two-thirds vote of the city council. Said fund may be appropriated for any purpose for which the town, district or city would be authorized to borrow money under section seven or eight of chapter forty-four or for such other municipal purpose as is approved by said emergency finance board. Said board, in addition to the powers and duties otherwise conferred or imposed upon it, is authorized to perform the further duties imposed by this section. Notwithstanding the foregoing, the stabilization fund may be appropriated for an approved school project by a two-thirds vote at a special town meeting, as provided by section nine of chapter six hundred and forty-five of the acts of nineteen hundred and forty-eight.

Approved June 19 , 1985.

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**Chapter 95.    AN ACT IMPOSING ADMINISTRATIVE PENALTIES FOR  
CERTAIN ENVIRONMENTAL VIOLATIONS.**

Be it enacted, etc., as follows:

SECTION 1. Chapter 21A of the General Laws is hereby amended by adding the following section:-

Section 16. As used in this section the following words shall, unless the context clearly requires otherwise, have the following meanings:-

"Department", the department of environmental quality engineering.

"Person", any agency or political subdivision of the commonwealth, any state, public or private corporation or authority, individual, trust firm, joint stock company, partnership, association or other entity or any group thereof or any officer, employee or agent thereof.

The department may assess a civil administrative penalty on a person who fails to comply with any provision of any regulation, order, license or approval issued or adopted by the department, or of any law which the department has the authority or responsibility to enforce; provided, however, that such noncompliance occurred after the department had given such person written notice of such noncompliance, and after reasonable time, as determined by the department and stated in said notice, had elapsed for coming into compliance; and provided, further, that the department may assess such penalty without providing such written notice if such failure to comply: (1) was part of a pattern of noncompliance and not an isolated instance, or (2) was willful and not the result of error, or (3) resulted in significant impact on public health, safety, welfare or the environment, or (4) consisted of failure to promptly report to the department (a) any unauthorized disposal of hazardous waste, as is defined by chapter twenty-one C, or (b) any unauthorized release or discharge of hazardous material into the environment, as are defined by chapter twenty-one E. Any such penalty shall be an alternative to any other civil penalty that may be



## ACTS, 1985. – Chap. 95.

prescribed by law. For the purpose of determining whether such noncompliance was part of a pattern of noncompliance and not an isolated instance, the department shall consider, but not be limited to, the following: whether the department had previously notified the person of such noncompliance on two occasions during the previous four-year period or of any noncompliance with the same provision of a law, regulation, order, license or approval as the current noncompliance during the previous five-year period; whether the current and previous noncompliances occurred at the same facility; and whether the current and previous noncompliances, considered together, indicate a potential threat to public health, safety, welfare or the environment or an interference with the department's ability to efficiently and effectively administer its programs or to enforce any regulation, order, license or approval it has issued or adopted or any law which it has authority or responsibility to enforce. If a person who has received a notice of noncompliance fails to come into compliance within the time period stated in such notice, the civil administrative penalty may be assessed by the department upon such person from the date of receipt of such notice.

Whenever the department seeks to assess a civil administrative penalty on any person, the department shall cause to be served upon such person, either by service, in hand, or by certified mail, return receipt requested, a written notice of its intent to assess a civil administrative penalty which shall include a concise statement of the alleged act or omission for which such civil administrative penalty is sought to be assessed, each law, regulation, order, license or approval which has not been complied with as a result of such alleged act or omission, the amount which the department seeks to assess as a civil administrative penalty for each such alleged act or omission, a statement of such person's right to an adjudicatory hearing on the proposed assessment, the requirements such person must comply with to avoid being deemed to have waived the right to an adjudicatory hearing and the manner of payment thereof if such person elects to pay the penalty and waive an adjudicatory hearing. After written notice of noncompliance or intent to assess a civil administrative penalty has been given, each such day thereafter during which such noncompliance occurs or continues shall constitute a separate offense and shall be subject to a separate civil administrative penalty if reasonable efforts have not been made to promptly come into compliance.

Whenever the department seeks to assess a civil administrative penalty on any person, such person shall have the right to an adjudicatory hearing under chapter thirty A whose provisions shall apply except when they are inconsistent with the provisions of this section.

Such person shall be deemed to have waived such right to an adjudicatory hearing unless, within twenty-one days of the date of the department's notice that it seeks to assess a civil administrative penalty, such person files with the department a written statement denying the occurrence of any of the acts or omissions alleged by the department in such notice, or asserting that the money amount of the proposed civil administrative penalty is excessive. In any adjudicatory hearing authorized pursuant to chapter thirty A, the department shall, by a



**ACTS, 1985. – Chap. 95.**

preponderance of the evidence, prove the occurrence of each act or omission alleged by the department.

If a person waives his right to an adjudicatory hearing, the proposed civil administrative penalty shall be final immediately upon such waiver.

If a civil administrative penalty is assessed at the conclusion of an adjudicatory hearing, said civil administrative penalty shall be final upon the expiration of thirty days if no action for judicial review of such decision is commenced pursuant to chapter thirty A.

Any person who institutes proceedings for judicial review of the final assessment of a civil administrative penalty shall place the full amount of the final assessment in an interest-bearing escrow account in the custody of the clerk/magistrate of the reviewing court. The establishment of such an interest-bearing escrow account shall be a condition precedent to the jurisdiction of the reviewing court unless the party seeking judicial review demonstrates in a preliminary hearing held within twenty days of the filing of the complaint either the presence of a substantial question for review by the court or an inability to pay. Upon such a demonstration, the court may grant an extension or waiver of the interest-bearing escrow account or may require, in lieu of such interest-bearing escrow account, the posting of a bond payable directly to the commonwealth in the amount of one hundred and twenty-five per cent of the assessed penalty. If, after judicial review, in a case where the requirement for an escrow account has been waived, and in cases where a bond has been posted in lieu of such requirement, the court affirms, in whole or in part, the assessment of a civil administrative penalty the department shall be paid the amount thereof together with interest at the rate set forth in section six C of chapter two hundred and thirty-one. If, after such review in a case where an interest-bearing escrow account has been established, the court affirms the assessment of such penalty, in whole or in part, the department shall be paid the amount thereof together with the accumulated interest thereon in such interest-bearing escrow account. If the court sets aside the assessment of a civil administrative penalty in a case where the amount of such penalty has been deposited in an interest-bearing escrow account, the person on whom the civil administrative penalty was assessed shall be repaid the amount so set aside, together with the accumulated interest thereon.

Each person who fails to pay a civil administrative penalty on time, and each person who issues a bond pursuant to this section and who fails to pay to the commonwealth on time the amount required hereunder, shall be liable to the commonwealth for up to three times the amount of the civil administrative penalty, together with costs, plus interest from the time the civil administrative penalty became final and attorneys' fees, including all costs and attorneys' fees incurred directly in the collection thereof. The rate of interest shall be the rate set forth in section six C of chapter two hundred and thirty-one.

In determining the amount of each civil administrative penalty, the department shall include, but not be limited to, the following in its considerations: the actual and potential impact on public health, safety and welfare and the environment of the failure to comply; the actual and



ACTS, 1985. – Chap. 95.

potential damages suffered, and actual or potential costs incurred, by the commonwealth, or by any other person; whether the person being assessed the civil administrative penalty took steps to prevent noncompliance, to promptly come into compliance and to remedy and mitigate whatever harm might have been done as a result of such noncompliance; whether the person being assessed the civil administrative penalty has previously failed to comply with any regulation, order, license or approval issued or adopted by the department, or any law which the department has the authority or responsibility to enforce; making compliance less costly than noncompliance; deterring future noncompliance; the financial condition of the person being assessed the civil administrative penalty; and the public interest.

No civil administrative penalty assessed hereunder shall be less than one hundred dollars. For each of the following failures to comply, the civil administrative penalty shall not exceed twenty-five thousand dollars; each release, discharge, or disposal of material into the environment without the approval of the department, or in a manner not approved by the department, whenever such release, discharge or disposal requires the approval of the department; engaging in any business or activity without a license or other authorization from the department, whenever engaging in such business or activity requires such license or authorization by the department; failure to promptly report to the department each unauthorized disposal of hazardous waste, as defined by chapter twenty-one C; and failure to promptly report to the department each unauthorized release or discharge of hazardous materials into the environment, as defined by chapter twenty-one E.

Any person who fails to comply with or otherwise violates the provisions of chapter one hundred and eleven F enforceable by the department shall be liable for a civil administrative penalty not to exceed two hundred and fifty dollars per day for each day that such violation continues and the department shall follow the procedures set forth therein in assessing such penalty. For any other failure to comply with any regulation, order, license or approval issued or adopted by the department, or any law which the department has authority or responsibility to enforce, the civil administrative penalty for each failure to comply shall not exceed one thousand dollars.

**SECTION 2.** No civil administrative penalty shall be assessed by the department pursuant to section sixteen of chapter twenty-one A of the General Laws, until the commissioner has promulgated regulations for assessing civil administrative penalties as required by chapter thirty A of the General Laws.

**SECTION 3.** By June thirtieth, nineteen hundred and eighty-six, the commissioner of the department shall promulgate, in compliance with chapter thirty A of the General Laws, regulations for assessing civil administrative penalties pursuant to section sixteen of chapter twenty-one A of the General Laws, inserted by section one of this act, for failure to comply with any provision of chapter twenty-one C of the



**ACTS, 1985. – Chap. 96.**

General Laws, or any regulation, order, or license adopted or issued thereunder. Said commissioner shall submit any regulations promulgated under the provisions of this section to the joint legislative committee on natural resources and agriculture for its review within sixty days prior to the effective date of said regulations.

**SECTION 4.** There is hereby established within the department an administrative penalties advisory committee, hereinafter called the committee, to provide advice and consultation to the department concerning civil administrative penalties. Said committee shall review the development and implementation of regulations for civil administrative penalties, and shall make recommendations for regulations establishing the manner in which the amount of civil administrative penalties shall be assessed. The committee shall consist of the attorney general or his designee and six members to be appointed by the governor, one of whom shall be a representative of the Massachusetts Municipal Association, one of whom shall be a representative of the Massachusetts Health Officers Association, one of whom shall be a representative of the Associated Industries of Massachusetts, one of whom shall be a representative of the Small Business Association of New England, one of whom shall be a representative of the Massachusetts Association of Conservation Commissions, and one of whom shall be a representative of a statewide organization for the promotion of protection of the environment. Members of the committee shall serve without compensation.

Approved June 20, 1985.

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**Chapter 96. AN ACT AUTHORIZING THE TREASURER OF NORFOLK COUNTY TO PAY CERTAIN UNPAID BILLS.**

Be it enacted, etc., as follows:

**SECTION 1.** The county treasurer of the county of Norfolk, with the approval of the county commissioners of said county, is hereby authorized to pay from any available funds during the current fiscal year, such of the unpaid bills incurred by said county and totaling two thousand four hundred thirty-six dollars and fifty-two cents as set forth in a list on file in the office of the bureau of accounts in the department of revenue for goods supplied and services rendered to said county during the years nineteen hundred and eighty through nineteen hundred and eighty-three, which bills are legally unenforceable against said county by reason of their being incurred in excess of available appropriations.

**SECTION 2.** No bill shall be approved by the county commissioners of said county or paid by the county treasurer thereof, under the authority of this act, unless and until a certificate has been signed and filed with said county treasurer stating under the penalties of perjury that the goods or services for which such bill had been submitted were ordered by



**ACTS, 1985. – Chaps. 97, 98, 99.**

an official or an employee of said county, and that such goods were delivered and actually received by said county and that such services were actually rendered to said county or both.

No payments shall be made hereunder until and unless approved by a vote of the Norfolk county advisory board with a quorum present and voting.

**SECTION 3.** This act shall take effect upon its passage.

Approved June 21, 1985.

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**Chapter 97. AN ACT DESIGNATING THE ADMINISTRATION BUILDING AT THE METROPOLITAN STATE HOSPITAL AS THE DOCTOR WILLIAM F. McLAUGHLIN BUILDING.**

Be it enacted, etc., as follows:

The administration building at Metropolitan state hospital shall be designated and known as the Doctor William F. McLaughlin building. Suitable markers bearing said designation shall be attached thereto by the department of mental health.

Approved June 21, 1985.

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**Chapter 98. AN ACT ALLOWING TENANTS TO BE EMPLOYED BY HOUSING AUTHORITIES.**

Be it enacted, etc., as follows:

The third paragraph of section 20 of chapter 268A of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out clause (e) and inserting in place thereof the following clause:—

(e) to a municipal employee who receives benefits from programs funded by the United States or any other source in connection with the rental, improvement, or rehabilitation of his residence to the extent permitted by the funding agency, or.

Approved June 21, 1985.

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**Chapter 99. AN ACT AUTHORIZING THE COUNTY COMMISSIONERS OF BARNSTABLE COUNTY TO PAY CERTAIN UNPAID BILLS.**

Be it enacted, etc., as follows:



**ACTS, 1985. – Chap. 100.**

**SECTION 1.** The county commissioners of Barnstable county, with the approval of the advisory board on county expenditures, are hereby authorized to pay from any available funds certain unpaid bills totalling six thousand nine hundred dollars and twenty cents, as set forth on a list on file in the office of the director of accounts in the department of revenue, for goods and services supplied or rendered to said county during the years nineteen hundred and seventy-nine through October thirtieth, nineteen hundred and eighty-one, which bills are legally unenforceable against said county.

**SECTION 2.** No bill shall be approved by said county commissioners or paid by the county treasurer of said county under the authority of this act unless and until a certificate has been signed and filed with said treasurer stating under the penalties of perjury that the goods and services for which said bill was submitted were ordered by an official or an employee of said county and that such goods were delivered and actually received by said county, or that such services were rendered to said county, or both.

**SECTION 3.** Any person who knowingly files a certificate required by section two, which is false, and who thereby received payment for services which were not rendered to said county or goods not received by said county shall be punished by imprisonment for not more than one year or by a fine of not more than three hundred dollars, or both.

Approved June 21, 1985.

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**Chapter 100. AN ACT ESTABLISHING THE TERM OF REPRESENTATION OF STUDENT MEMBERS ON THE BOARD OF TRUSTEES OF PUBLIC COLLEGES AND UNIVERSITIES.**

**Be it enacted, etc., as follows:**

Section 9 of chapter 15A of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:–

There shall be a board of trustees for each of the institutions named in section three, consisting of one full-time undergraduate student member from said institution, except that the University of Massachusetts board of trustees shall include two full-time undergraduate students one of whom is from the Amherst campus and one of whom is from the Boston campus and ten members to be appointed by the governor, one of whom shall be an alumnus of said institution and one member to be elected thereto by the alumni association of said institution. Each student member shall be elected by the student body annually, no later than May fifteenth. Of the two University of Massachusetts students, one shall be elected by the Amherst campus student body annually and one shall be elected by the Boston campus student body annually. The term of office



**ACTS, 1985. – Chaps. 101, 102.**

of each elected student member of the board shall be one year and shall commence on July first following their election and terminate on June thirtieth of the following year. The student member shall be eligible for re-election for as long as said student remains a full-time undergraduate student. If at any time during the elected term of office said student member ceases to be a full-time undergraduate student, the membership of said student on the board shall be terminated and the office of the elected student member shall be deemed vacant. A vacancy in the office of the elected student member prior to the expiration of a term shall be filled for the remainder of the term in the same manner as student elections to full terms. No member of a board of trustees shall be a member of the board of regents of higher education. No member of a board of trustees shall be principally employed by any public educational institution or school system, or by the commonwealth. Membership on a board of trustees shall terminate if a member ceases to be qualified for appointment. Each board of trustees shall elect a chairman.

Approved June 21, 1985.

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**Chapter 101. AN ACT INCREASING THE JURISDICTIONAL AMOUNT  
FOR SMALL CLAIM ACTIONS.**

Be it enacted, etc., as follows:

Section 21 of chapter 218 of the General Laws, as appearing in the 1984 Official Edition, is hereby further amended by striking out, in lines 9 and 32, the word "twelve" and inserting in place thereof, in each instance, the word:– fifteen.

Approved June 21, 1985.

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**Chapter 102. AN ACT RELATIVE TO THE LICENSING AND KEEPING  
OF DOGS IN HAMPDEN COUNTY.**

Be it enacted, etc., as follows:

**SECTION 1.** The county commissioners of Hampden county are hereby authorized to establish the Hampden county regional dog control program. Participation in said program is to be an option of each respective city and town in said county. The cities and towns which choose to participate in said dog control program shall enter into an agreement with the county commissioner of said county relative to the licensing and keeping of dogs in said county. Said county commissioners shall apportion the budget approved for dog control in accordance with agreements they have entered. Nothing in this act shall prevent a city or town in said county from establishing separate dog control programs, individually or collectively. If a city or town provides for their own dog



**ACTS, 1985. – Chap. 102.**

control, the provisions of this act shall not apply.

**SECTION 2.** Monies on hand in the Hampden county regional dog control program fund as of December thirty-first, nineteen hundred and eighty-three, established by chapter seven hundred and ninety-six of the acts of nineteen hundred and eighty-one shall be refunded to the General Fund of the county as follows: fifty thousand dollars emergency loan to the Hampden county regional dog control program fund shall be fully refunded to the General Fund of the county by June thirtieth, nineteen hundred and eighty-five; and nine thousand six hundred and thirty-four dollars to the reserve fund transfer to said regional dog control program fund shall be fully refunded to the General Fund of the county by June thirtieth, nineteen hundred and eighty-five.

Any other monies shall be refunded on the basis of the percentage interest in the dog account of the individual municipalities who have chosen not to join the program. Said refund amounts shall be determined by the county commissioners and the advisory board of Hampden county.

**SECTION 3.** Notwithstanding the provisions of section one hundred and thirty-seven of chapter one hundred and forty of the General Laws or any other provision of law to the contrary, the registering, numbering, describing, and licensing of dogs, if kept in said county, shall be conducted in the office of the clerk of the participating city or town of said county. Income from such fees shall be submitted to the treasurer of Hampden county and deposited in the Hampden county regional dog control program fund on a monthly basis.

**SECTION 4.** Notwithstanding the provision of section one hundred and thirty-nine of said chapter one hundred and forty, initial fees for dog licenses in Hampden county shall be ten dollars for unspayed females and unneutered males, and four dollars for spayed females and neutered males if the licensing authority is provided with proof thereof. This fee structure may be amended by a two-thirds vote of the county commissioners of Hampden county.

**SECTION 5.** Notwithstanding the provisions of section one hundred and forty-seven of said chapter one hundred and forty or any other provisions of law to the contrary, all money received by the county treasurer of Hampden county from the participating communities of the Hampden county regional dog program from dog licenses or from the sale of dog licenses, gifts or recovered as fines and penalties shall be deposited in a fund established by and under the direction and control of the Hampden county regional dog control program excluding the statutory fee retained by city and town clerks for licensing. Said fund shall be administered by the treasurer of said county and shall be separate and distinct from any other accounts under the purview of said treasurer.

In the event of a deficit or surplus within the fund of the Hampden county regional dog program, the commissioner shall apportion the balance of the shortfall or surplus of revenues for the main-



**ACTS, 1985. – Chap. 103.**

tenance and operation of the Hampden county regional dog control program among those cities and towns that are participants.

**SECTION 6.** The county commissioners of Hampden county shall hire all personnel necessary to implement the Hampden county regional dog control program, and such personnel shall be deemed Hampden county employees. All transactions of the said dog control program shall be under the control and supervision of the county commissioners of said county. Said county commissioners, with the approval of the county advisory board, are hereby authorized to build, construct, bond, lease or enter a purchase rental agreement for the purpose of establishing a dog shelter.

**SECTION 7.** Notwithstanding any provisions of law to the contrary, the Hampden county regional dog control program fund may borrow those funds needed to establish the program from Hampden county or a commercial lender in accordance with procedures and terms as approved by the county commissioners and the county advisory board of said county.

**SECTION 8.** Any fund established or operating under the provisions of this act shall operate under the fiscal year established for counties pursuant to section sixteen of chapter thirty-five of the General Laws.

**SECTION 9.** Chapter seven hundred and ninety-six of the acts of nineteen hundred and eighty-one is hereby repealed.

Approved June 21, 1985.

EMERGENCY LETTER: June 21, 1985 @ 1:35 P.M.

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**Chapter 103. AN ACT AUTHORIZING THE COMMISSIONER OF PUBLIC SAFETY TO MAKE CERTAIN APPOINTMENTS TO THE FIRST TRAINING CLASS OF THE MASSACHUSETTS STATE POLICE IN THE CURRENT YEAR.**

Be it enacted, etc., as follows:

Notwithstanding the provisions of section nine A of chapter twenty-two of the General Laws or any other general or special law or rule to the contrary, the commissioner of public safety is hereby authorized to select, for the purpose of training in preparation for appointment as a member of the Massachusetts state police force, a candidate who has successfully passed the oral board phase of the examination process and has become thirty years of age following the passing of said oral board phase; provided, however, that said applicant has successfully passed all other phases of the examination process and that such appointment is made within one hundred and twenty days of the applicant's thirtieth birthday. The provisions of this act shall apply only to appointments made to the first training class of the



**ACTS, 1985. – Chaps. 104, 105.**

Massachusetts state police in the current year.

Approved June 21, 1985.

EMERGENCY LETTER: June 21, 1985 @ 1:35 P.M.

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**Chapter 104. AN ACT AUTHORIZING THE TOWN OF CHELMSFORD TO GRANT A CERTAIN EASEMENT IN CONSERVATION LAND TO THE CHELMSFORD WATER DISTRICT.**

Be it enacted, etc., as follows:

**SECTION 1.** The town of Chelmsford acting through its conservation commission is hereby authorized to grant an access and use easement to the Chelmsford Water District on land owned by said town and held for conservation purposes under the provisions of section eight C of chapter forty of the General Laws, said parcel containing four and one-quarter acres of land located off Summit avenue in said town, all as shown on "Plan of Land prepared for the Chelmsford Water District, January 18, 1985", by Fleming, Bienvenu and Assoc., Inc. on file with the Chelmsford Water District. Said land and access shall remain under the administration, control and maintenance of said conservation commission, and all rights shall be retained for conservation and passive recreation use, as set forth in said section eight C of said chapter forty.

**SECTION 2.** This act shall take effect upon its passage.

Approved June 26, 1985.

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**Chapter 105. AN ACT RELATIVE TO THE LICENSING AND KEEPING OF DOGS IN THE TOWN OF BRIDGEWATER.**

Be it enacted, etc., as follows:

**SECTION 1.** Notwithstanding the provisions of section one hundred and thirty-seven of chapter one hundred and forty of the General Laws or any other provisions of law to the contrary, the registering, numbering, describing and licensing of dogs, if kept in the town of Bridgewater, shall be conducted in the office of the town clerk of said town.

**SECTION 2.** Notwithstanding the provisions of section one hundred and thirty-nine of said chapter one hundred and forty or any other provision of law to the contrary, the annual fees to be charged by the town of Bridgewater for the issuance of licenses for dogs shall be as follows: unspayed females, seven dollars, spayed females and males, four dollars.

**SECTION 3.** Notwithstanding the provisions of section one hundred



**ACTS, 1985. – Chap. 106.**

and forty-seven of said chapter one hundred and forty or any other provision of law to the contrary, all money received for licenses or from the sales of dog licenses by the town of Bridgewater or recovered as fines or penalties by said town under the provisions of said chapter one hundred and forty relating to dogs, shall be paid into the town treasury of said town and shall not thereafter be paid over by the town treasurer to Plymouth county.

**SECTION 4.** This act shall take effect upon its passage.

Approved June 26, 1985.

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**Chapter 106. AN ACT AUTHORIZING THE CITY KNOWN AS THE TOWN OF METHUEN TO TAKE, HOLD AND CONVEY ADDITIONAL WATER FROM THE MERRIMACK RIVER.**

Be it enacted, etc., as follows:

**SECTION 1.** Section 1 of chapter 532 of the acts of 1977 is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:–

The city known as the town of Methuen, in accordance with such conditions as may be set forth by the department of environmental quality engineering and the water resources commission, is hereby authorized to take, hold and convey into and through said municipality, from the Merrimack river at an approved point within said municipality, without liability to pay any compensation or other damages than the commonwealth itself would be legally liable to pay, sufficient water for the use of said municipality and the inhabitants thereof, and for bordering communities for the extinguishment of fires, domestic use, human consumption, irrigation, industrial, commercial and other purposes; and to also take and hold, by purchase or otherwise, land in said municipality for sinking wells or making excavations in order to obtain water by filtration or percolation, or from subterranean streams, and to construct such works as may be necessary therefor; and to lay and maintain reservoirs or canals and such other works as may be deemed necessary or proper for conveying, raising, forcing, retaining, distributing, or disposing of said water in such a manner as may be deemed in the public interest.

**SECTION 2.** Said chapter 532 is hereby further amended by inserting after section 1 the following section:–

Section 1A. Notwithstanding the provisions of sections thirty-eight to forty-two, inclusive, of chapter forty of the General Laws or any other general or special law to the contrary, said town of Methuen, by and through its town manager, is hereby authorized to make contracts with its bordering communities both in the commonwealth and the state of New Hampshire for the sale of water as acquired pursuant to section one for such terms and upon such conditions as is deemed in the best interest



**ACTS, 1985. – Chaps. 107, 108.**

of the said town by said town manager, in accordance with the charter of said town, and upon such conditions as may be set forth by the water resources commission; provided, however, that any additional costs assumed by said town or the commonwealth in the acquisition or distribution of such water shall be assumed and paid by the purchasing communities; and provided, further, that said town shall give priority to the water needs of bordering communities located within the commonwealth. The department of environmental quality engineering and the water resources commission shall annually approve or disapprove any acquisition of water supply between said town and the state of New Hampshire or any community thereof. For the purpose of this act the term "bordering communities" shall mean a community within five miles of said town, said distance being measured from the closest border limits of said community to the closest border limits of said town, which may include jurisdictions within the state of New Hampshire.

**SECTION 3.** This act shall take effect upon its passage.

Approved June 26, 1985.

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**Chapter 107. AN ACT PERMITTING A PHYSICIAN ASSISTANT TO PERFORM MEDICAL SERVICES IN ASSISTING A PHYSICIAN OTHER THAN A GENERAL PRACTITIONER.**

Be it enacted, etc., as follows:

The second paragraph of section 9E of chapter 112 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out, in line 9, the word "general".

Approved June 26, 1985.

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**Chapter 108. AN ACT RELATIVE TO THE LICENSING AND KEEPING OF DOGS IN THE TOWN OF ABINGTON.**

Be it enacted, etc., as follows:

**SECTION 1.** Notwithstanding the provisions of section one hundred and thirty-seven of chapter one hundred and forty of the General Laws or any other provision of law to the contrary, the registering, numbering, describing and licensing of dogs, if kept in the town of Abington shall be conducted in the office of the town clerk of the town of Abington.

**SECTION 2.** Notwithstanding the provisions of section one hundred and thirty-nine of said chapter one hundred and forty or any other provision of law to the contrary, the annual fees to be charged by the town of Abington for the issuance of licenses for dogs shall be established by the board of selectmen of said town.



**ACTS, 1985. – Chaps. 109, 110.**

**SECTION 3.** Notwithstanding the provisions of section one hundred and forty-seven of said chapter one hundred and forty or any other provision of law to the contrary, all money received for licenses or from the sale of dog licenses by the town of Abington or recovered as fines or penalties by said town under the provisions of said chapter one hundred and forty relating to dogs, shall be paid into the treasury of said town and shall not thereafter be paid over by the town treasurer to Plymouth county.

Approved June 26, 1985.

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**Chapter 109. AN ACT AUTHORIZING THE COUNTY COMMISSIONERS OF BARNSTABLE COUNTY TO PAY CERTAIN UNPAID BILLS.**

Be it enacted, etc., as follows:

**SECTION 1.** The county commissioners of Barnstable county, with the approval of the advisory board on county expenditures, are hereby authorized to pay from any available funds certain unpaid bills totalling eight thousand four hundred seventy-eight dollars and one cent, as set forth on a list on file in the office of the director of accounts in the department of revenue, for overdue charges and accumulated interest over several years, which bills are legally unenforceable against said county.

**SECTION 2.** No bill shall be approved by said county commissioners or paid by the county treasurer of said county under the authority of this act unless and until a certificate has been signed and filed with said treasurer stating under the penalties of perjury that the goods and services for which said bill was submitted were ordered by an official or an employee of said county and that such goods were delivered and actually received by said county or that such services were rendered to said county, or both.

**SECTION 3.** Any person who knowingly files a certificate required by section two, which is false, and who thereby received payment for services which were not rendered to said county or goods not received by said county shall be punished by imprisonment for not more than one year or by a fine of not more than three hundred dollars, or both.

(The foregoing was laid before the Governor on the 13th day of June, 1985 and after ten days it had the force of a law, as prescribed by the Constitution, as it was not returned by him with his objections thereto within that time.)

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**Chapter 110. AN ACT AUTHORIZING THE CITY OF CHICOPEE TO ISSUE CERTAIN REFUNDING BONDS FOR ELECTRIC**



**ACTS, 1985. - Chaps. 111, 112.**

**PURPOSES.**

Be it enacted, etc., as follows:

**SECTION 1.** Notwithstanding the provisions of section twenty-one of chapter one hundred and sixty-four A of the General Laws, the city of Chicopee may issue refunding bonds, and temporary notes in anticipation thereof, at any time or times for the purpose of paying or providing for payment at maturity or redemption of its sixteen million dollar Electric System Revenue Bonds, Series of 1978, dated as of June first, nineteen hundred and seventy-eight, and eight million dollar Electric System Revenue Bonds, Series of 1983, dated as of May first, nineteen hundred and eighty-three.

Such refunding bonds may mature at a time or times not exceeding forty years from their dates of issue.

**SECTION 2.** This act shall take effect upon its passage.

Approved June 27, 1985.

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**Chapter 111. AN ACT FURTHER REGULATING SCHOOL DEPARTMENT PERSONNEL FROM CIVIL LIABILITY FOR EMERGENCY FIRST AID.**

Be it enacted, etc., as follows:

Section 55A of chapter 71 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

No public school teacher and no collaborative school teacher, no principal, secretary to the principal, nurse or other public school or collaborative school employee who, in good faith, renders emergency first aid or transportation to a student who has become injured or incapacitated in a public school or collaborative school building or on the grounds thereof shall be liable in a suit for damages as a result of his acts or omissions either for such first aid or as a result of providing such emergency transportation to a place of safety, nor shall such person be liable to a hospital for its expenses if under such emergency conditions he causes the admission of such injured or incapacitated student, nor shall such person be subject to any disciplinary action by the school committee, or collaborative board of such collaborative for such emergency first aid or transportation.

Approved June 27, 1985.

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**Chapter 112. AN ACT ALLOWING CERTAIN EDUCATION PROFESSIONALS TO SERVE ON THE MASSACHUSETTS BOARD OF EDUCATION.**

Be it enacted, etc., as follows: 124



**ACTS, 1985. – Chaps. 113, 114.**

The first paragraph of section 1E of chapter 15 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out the third sentence and inserting in place thereof the following sentence:– No appointive member of said board shall be employed by or derive regular compensation from any school system, public or independent, in the commonwealth, be employed on a full time basis by any agency of the commonwealth, or serve as a member of any school committee.

Approved June 27, 1985.

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**Chapter 113. AN ACT ALLOWING A VOTER TO APPLY FOR AN ABSENTEE BALLOT AND VOTE OVER THE COUNTER DURING THE SAME VISIT.**

Be it enacted, etc., as follows:

Section 91 of chapter 54 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by inserting after the first sentence the following sentence:– Notwithstanding the provisions of the first sentence, if an application for an official absent voting ballot is received by the registrar, assistant registrar, or clerk of a city or town, from the voter who will be absent from said city or town on the date of the election and who requests to make application for an absent voting ballot and to vote in the presence of the registrar, assistant registrar, or clerk during the same visit, said registrar, assistant registrar, or clerk shall examine said application, and if he believes the signature thereon to be genuine and the person executing the signature to be a duly registered voter, shall execute the certification thereon and remain present while the voter marks the ballot as set forth in paragraph two of section ninety-two.

Approved June 27, 1985.

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**Chapter 114. AN ACT FURTHER DEFINING THE TERM VIETNAM VETERAN.**

Be it enacted, etc., as follows:

The eighth paragraph of clause Forty-third of section 7 of chapter 4 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out, in line 273, the words ", except that" and inserting in place thereof the words:– ; provided, however, that for the purposes of the application of the provisions of chapter thirty-one, it shall also include all active service between the dates May seventh, nineteen hundred and seventy-five and June fourth, nineteen hundred and seventy-six; and provided, further, that.



ACTS, 1985. – Chaps. 115, 116.

Approved June 27, 1985.

EMERGENCY LETTER: June 27, 1985 @ 3:24 P.M.

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**Chapter 115. AN ACT RELATIVE TO CORPORATORS AND TRUSTEES OF SAVINGS BANKS.**

Be it enacted, etc., as follows:

**SECTION 1.** Section 9 of chapter 168 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:— Such corporation shall have at least twenty-five corporators and may, at a legal meeting of the corporators, elect by ballot to be a corporator any person who is a resident of the commonwealth, or any person who resides in another state; provided, however, that not less than three-fourths of said corporators shall be citizens of the commonwealth and residents therein at any one time.

**SECTION 2.** Section 10 of said chapter 168, as so appearing, is hereby amended by striking out paragraph 2 and inserting in place thereof the following paragraph:—

2. Qualifications. — The business of such corporation shall be managed by the board of trustees, of which not less than three-fourths shall be citizens of the commonwealth and residents therein. A trustee shall at the time of his election or within thirty days thereafter, be a depositor of such corporation. At least two trustees of such board shall at the time of their election be residents of the city or town wherein the main office of such corporation is located.

Approved June 27, 1985.

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**Chapter 116. AN ACT EXEMPTING THE POSITION OF TREASURER-COLLECTOR IN THE CITY OF NEWBURYPORT FROM THE PROVISIONS OF THE CIVIL SERVICE LAW.**

Be it enacted, etc., as follows:

**SECTION 1.** The position of treasurer-collector of the city of Newburyport shall be exempt from the provisions of chapter thirty-one of the General Laws.

**SECTION 2.** The provisions of section one shall not impair the civil service status of any person holding the position of treasurer-collector in the city of Newburyport on the effective date of this act.

**SECTION 3.** The city of Newburyport is hereby authorized to enact a city ordinance providing for the appointment of the treasurer-collector



**ACTS, 1985. – Chaps. 117, 118, 119.**

for a three year term by the mayor subject to confirmation by the city council.

Approved June 27, 1985.

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**Chapter 117. AN ACT PROVIDING THAT THE POSITION OF MEDICAL WORKER AT THE MUNICIPAL HOSPITAL IN THE CITY OF SPRINGFIELD SHALL BE EXEMPT FROM THE PROVISIONS OF THE CIVIL SERVICE LAW.**

Be it enacted, etc., as follows:

**SECTION 1.** The position of medical worker at the Municipal hospital of the city of Springfield shall be exempt from the provisions of chapter thirty-one of the General Laws.

**SECTION 2.** The provisions of section one shall not impair the civil service status of any person holding the position of medical worker at the Municipal hospital in the city of Springfield on the effective date of this act.

**SECTION 3.** This act shall take effect upon its passage.

Approved June 28, 1985.

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**Chapter 118. AN ACT CLARIFYING THE STATUTORY PENALTIES FOR PERJURY BEFORE THE STATE ETHICS COMMISSION.**

Be it enacted, etc., as follows:

The last paragraph of section 7 of chapter 268B of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out, in lines 9 and 10, the words "a state prison for not more than two and a half years, or both" and inserting in place thereof the words:– the state prison for not more than three years, or in a house of correction for not more than two and one-half years, or both.

Approved June 28, 1985.

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**Chapter 119. AN ACT AUTHORIZING THE LICENSING AUTHORITY OF THE TOWN OF NEW MARLBOROUGH TO ISSUE AN ADDITIONAL LICENSE FOR THE SALE OF ALL ALCOHOLIC BEVERAGES NOT TO BE DRUNK ON THE PREMISES TO DAVID LOWMAN AND BARBARA LOWMAN.**



**ACTS, 1985. – Chap. 120.**

**Be it enacted, etc., as follows:**

Notwithstanding the provisions of section seventeen of chapter one hundred and thirty-eight of the General Laws, the licensing authority of the town of New Marlborough is hereby authorized to issue a license for the sale of all alcoholic beverages not to be drunk on the premises under the provisions of section fifteen of said chapter one hundred and thirty-eight to David Lowman and Barbara Lowman, d/b/a Southfield Store. Said license shall be subject to all the provisions of said chapter one hundred and thirty-eight except said section seventeen; provided, however, that the number of licenses for the sale of wine and malt beverages not to be drunk on the premises authorized for said town to grant under the provisions of said section seventeen shall be reduced by one such license; and provided, further, that the licensing authority shall not approve the transfer of said license within one year after the date of issuance by said licensing authority.

Approved July 1, 1985.

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**Chapter 120. AN ACT RELATIVE TO THE SELECTMEN – TOWN  
MANAGER FORM OF GOVERNMENT IN THE TOWN OF  
LEXINGTON.**

**Be it enacted, etc., as follows:**

**SECTION 1.** Section 2 of chapter 753 of the acts of 1968 is hereby amended by striking out clause (e), as amended by section 2 of chapter 284 of the acts of 1976, and inserting in place thereof the following clause:–

(e) The town manager shall appoint a town clerk, a town treasurer, a tax collector, a permanent building committee, a recreation committee, a board of assessors, constables, a chief of police, a fire chief, a director of civil defense, a planning director, with the approval of the planning board, a director of public works, a building commissioner, a cemetery superintendent and, except as provided in subparagraphs (a), (b), (c) and (d), all other officers, boards, committees, commissions and employees of the town with the exception of the elected officials specified in section one and secretarial assistants to the selectmen, employees of the school department and the housing authority and professional and semiprofessional employees of the library.

**SECTION 2.** Section 3 of said chapter 753 is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:– The board of fire commissioners shall be abolished, and its powers, duties and responsibilities shall be assumed by and devolve upon the fire chief, except those which are herein conferred upon the town manager.

**SECTION 3.** Section 5 of said chapter 753 is hereby amended by



**ACTS, 1985. – Chap. 120.**

striking out the first sentence and inserting in place thereof the following sentence:– The selectmen shall appoint, as soon as practicable, for a term not to exceed three years, a town manager, who shall be a professionally qualified person of proven ability who has had substantial involvement with municipal government and is appropriately fitted by education, training, and by previous full-time paid experience in a responsible administrative position to perform the duties of the office.

**SECTION 4.** Said section 5 of said chapter 753 is hereby further amended by striking out the sixth sentence and inserting in place thereof the following sentence:– The town manager shall not hold any elective office nor engage in any other business or occupation during his term except for part-time consultative or teaching duties, directly related to the profession of municipal management and with the specific consent of the selectmen.

**SECTION 5.** Section 7 of said chapter 753 is hereby amended by striking out the fifth and sixth sentences and inserting in place thereof the following sentence:– If the manager so requests the board of selectmen shall hold a public hearing not earlier than ten days nor later than twenty days after the filing of such request.

**SECTION 6.** Said chapter 753 is hereby further amended by striking out section 12 and inserting in place thereof the following section:–

**Section 12. Estimate of Capital Expenditures.**– All boards, departments, committees, commissions and officers of the town shall annually, at the request of the town manager, submit to him and to the capital expenditures committee in writing a detailed estimate of the capital expenditures as defined by by-law required for the efficient and proper conduct of their respective departments and offices for the next fiscal year and the ensuing four year period. The town manager shall submit in writing to the board of selectmen and to the capital expenditures committee a careful, detailed estimate of the recommended capital expenditures for the aforesaid periods, showing specifically the amount necessary to be provided for each office, department and activity and a statement of the amounts required to meet the interest and maturing bonds and notes or other indebtedness of the town. The selectmen shall consider the capital budget submitted by the town manager and make such recommendations relative thereto as they deem appropriate and proper in the interests of the town. The selectmen shall transmit a copy of the capital budget together with their recommendations relative thereto to the appropriation committee and to the capital expenditures committee. The calendar dates on or before which the budget, revenue statement and tax rate estimate are to be submitted and transmitted shall be specified by by-law.

**SECTION 7.** Said chapter 753 is hereby further amended by striking out section 13 and inserting in place thereof the following section:–

**Section 13. Estimate of Annual Expenditures.**– All boards,



**ACTS, 1985. – Chap. 121.**

departments, committees, commissions and officers of the town, except the school committee, shall annually, at the request of the town manager, submit to him in writing a detailed estimate of the appropriations required for the efficient and proper conduct of their respective departments and offices during the next fiscal year. The school committee shall submit to the manager, at his request, a total budget estimate for the next fiscal year. The town manager shall submit to each member of the board of selectmen in writing an annual budget, which shall contain a careful, detailed estimate of the probable expenditures of the town for the ensuing fiscal year, including a statement of the amounts required to meet the interest and maturing bonds and notes or other indebtedness of the town, and showing specifically the amount necessary to be provided for each office, department and activity, together with a statement of the expenditures for the same purposes in the two preceding years and an estimate of expenditures for the current year. He shall also submit a statement showing all revenues received by the town in the two preceding years, together with an estimate of the receipts of the current year and an estimate of the amount of income from all sources of revenue exclusive of taxes upon property in the ensuing year. He shall also report to the selectmen the probable amount required to be levied and raised by taxation to defray all of the proposed expenditures and liabilities of the town, together with an estimate of the tax rate necessary therefor.

The selectmen shall consider the proposed budget submitted by the town manager and make such recommendations relative thereto as they deem expedient and proper in the interest of the town. The selectmen shall transmit a copy of the budget together with their recommendations relative thereto to the appropriation committee and, for its information, a copy to the capital expenditures committee. The calendar dates on or before which the budget, revenue statement and tax rate estimate are to be submitted and transmitted shall be specified by by-law.

**SECTION 8.** This act shall take effect upon its passage.

Approved July 2, 1985.

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**Chapter 121. AN ACT VALIDATING THE PROCEEDINGS AT THE ELECTION SESSION OF THE ANNUAL TOWN MEETING OF THE TOWN OF MONSON HELD ON MARCH ELEVENTH, NINETEEN HUNDRED AND EIGHTY-FIVE.**

Be it enacted, etc., as follows:

**SECTION 1.** All acts and proceedings of the town of Monson at its election session of the annual town meeting held on March eleventh, nineteen hundred and eighty-five, and all actions subsequently taken pursuant thereto are hereby ratified, validated and confirmed to the same extent as if there were no defects or errors in the publication of the warrant.



**ACTS, 1985. – Chaps. 122, 123, 124**

**SECTION 2.** This act shall take effect upon its passage.

Approved July 2, 1985.

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**Chapter 122. AN ACT AUTHORIZING THE TOWN OF ANDOVER TO GRANT AN EASEMENT TO ARTHUR W. GAUTHIER AND THE ABBOT CORPORATION.**

Be it enacted, etc., as follows:

**SECTION 1.** The town of Andover, acting through its board of selectmen, is hereby authorized to grant an easement to Arthur W. Gauthier and the Abbot Corporation over a certain parcel of land acquired for open space and conservation purposes, presently under the care and control of the conservation commission of said town. Said easement being approximately 120.79 feet long, at its longest point over, upon and through land owned by said town and approximately 31.44 feet wide, at its widest point, as shown on a plan of land, entitled "Easement Plan of land in Andover, Massachusetts for Andover Conservation Commission, scale: 1" = 20', March 25, 1985", recorded with the northern district registry of deeds in Essex county as Plan #9823.

**SECTION 2.** This act shall take effect upon its passage.

Approved July 2, 1985.

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**Chapter 123. AN ACT RELATIVE TO THE LIMITATION OF CERTAIN CRIMINAL PROCEEDINGS.**

Be it enacted, etc., as follows:

Section 63 of chapter 277 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:— An indictment for the crime or crimes set forth in sections seventeen, eighteen, nineteen and twenty-one, twenty-two A, twenty-three, twenty-four and twenty-four B of chapter two hundred and sixty-five or section seventeen of chapter two hundred and seventy-two, or for conspiracy to commit such crime or crimes, or as accessory thereto, or any one or more of them may be found and filed within ten years of the date of commission of said crime or crimes.

Approved July 2, 1985

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**Chapter 124. AN ACT REPEALING THE REQUIREMENT OF CERTAIN AFFIDAVITS RELATIVE TO INITIATIVE AND REFERENDUM PETITIONS.**



**ACTS, 1985. – Chap. 125.**

Be it enacted, etc., as follows:

Section twenty-two B of chapter fifty-three of the General Laws is hereby repealed.

Approved July 2, 1985.

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**Chapter 125. AN ACT REQUIRING NURSING AND REST HOME RESIDENTS BE INCLUDED IN CERTAIN ANNUAL STREET LISTINGS.**

Be it enacted, etc., as follows:

**SECTION 1.** Chapter 51 of the General Laws is hereby amended by striking out section 10A, as appearing in the 1984 Official Edition, and inserting in place thereof the following section:–

Section 10A. Every innholder licensed under any provision of chapter one hundred and forty and every keeper of a lodging house or public lodging house licensed thereunder, every multi-dwelling unit owner, and every administrator of a nursing home as defined by section one hundred and eight of chapter one hundred and twelve and of a rest home as defined by section seventy-one of chapter one hundred and eleven, shall deliver to the person performing the duties required by section four, on a suitable blank to be furnished him by said person a statement, signed under the penalties of perjury, showing the name and date of birth of every person three years of age or older on January first of said year whose place of residence on said January first was at such inn, lodging house, public lodging house, multi-dwelling unit, nursing home or rest home. For the purposes of this section, "lodging house" shall include fraternity houses and dormitories of educational institutions. For the purposes of this section, "multi-dwelling unit" shall mean condominiums of any size and any residential apartment complex consisting of more than eight rental dwelling units. In the case of a fraternity house or dormitory, the statement required to be delivered by this section shall be the responsibility of the person in charge of each said fraternity house or dormitory. In the case of the multi-dwelling unit, the owner or his designated representative at such place, or in the case of condominiums only, the president or principal officer of the condominium association, shall provide the required information.

**SECTION 2.** Chapter 56 of the General Laws is hereby amended by striking out section 4, as appearing in the 1984 Official Edition, and inserting in place thereof the following section:–

Section 4. Whoever, being an inmate of a building and a resident seventeen years of age or upward, refuses or neglects to give the information required by section four of chapter fifty-one when asked by a registrar, assistant registrar, or anyone so authorized under section fourteen A of said chapter fifty-one to perform such duties, or whoever being an owner or an occupant of a building, or a clerk, superintendent,



**ACTS, 1985. – Chaps. 126, 127.**

manager, administrator, or other person having in charge the affairs of a hotel, lodging house, public lodging house, multi-dwelling unit, nursing home, or rest home, as referred to in section ten A of said chapter fifty-one refuses or neglects to give the full and true information within his or her knowledge relating to all persons residing in such building, home, or unit, when asked by such registrar or other authorized person, shall be punished by a fine of not more than five hundred dollars or by imprisonment for not more than one year. Whoever, being a licensed innholder, keeper of a lodging house, or public lodging house, keeper or owner of a multi-dwelling unit, or administrator of a nursing home or rest home, fails in any respect to make the reports required by said section ten A of said chapter fifty-one in the detail and manner and within the time therein provided shall be punished by a fine of not less than ten nor more than fifty dollars.

Approved July 2, 1985.

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**Chapter 126. AN ACT AUTHORIZING THE CONVEYANCE OF CERTAIN CEMETERY LAND LOCATED IN THE TOWN OF PAXTON TO THE FIRST CONGREGATIONAL CHURCH OF PAXTON.**

Be it enacted, etc., as follows:

The board of selectmen of the town of Paxton are hereby authorized to convey to the First Congregational Church of Paxton for the construction of an addition to said church, a parcel of land held for cemetery purposes, presently under the care, custody and control of the Paxton cemetery commission, such parcel being a rectangle containing approximately one thousand seven hundred square feet abutting other land of said church and including a permanent nonexclusive easement for access and maintenance and a temporary easement for construction all as shown on a plan by Richard Lamoureux & Assoc. and dated August 22, 1984. The consideration for such conveyance shall be the assumption by said church of expenses directly related to the petition and the subsequent conveyance.

Approved July 2, 1985.

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**Chapter 127. AN ACT FURTHER REGULATING MUNICIPAL VOTER REGISTRATION SESSIONS.**

Be it enacted, etc., as follows:

Section 28 of chapter 51 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by inserting after the word "before", in line 9, the words:– or after.

Approved July 2, 1985.



**ACTS, 1985. – Chaps. 128, 129, 130.**

**Chapter 128. AN ACT RELATIVE TO BOARDS OF PARK COMMISSIONERS.**

Be it enacted, etc., as follows:

Section 2 of chapter 45 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- In a town which has not elected a board of park commissioners or has not authorized the town planning board so to act, the selectmen shall act as such board of park commissioners and have authority to approve or disapprove the acquisition of lands by eminent domain as set forth in section seventy-nine of chapter ninety-two and shall have all other powers and duties of a park commission.

Approved July 2, 1985.

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**Chapter 129. AN ACT RELATIVE TO THE ANNUAL OBSERVANCE OF LABOR WEEK.**

Be it enacted, etc., as follows:

Chapter 6 of the General Laws is hereby amended by inserting after section 12JJ, inserted by chapter 93 of the acts of 1985, the following section:-

Section 12KK. The governor shall annually issue a proclamation setting apart the first week in September as Labor Week and recommending that said week be observed in an appropriate manner by the people.

It shall not be the intent of this legislation to allow any additional paid holidays or days off because of the passage of this act.

Approved July 2, 1985.

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**Chapter 130. AN ACT AUTHORIZING THE TRANSFER OF THE CARE, CUSTODY AND CONTROL OF CERTAIN PARCELS OF LAND IN THE TOWN OF BOURNE FROM THE DIVISION OF FISHERIES, WILDLIFE AND RECREATIONAL VEHICLES AND THE BUZZARDS BAY WATER DISTRICT TO THE DEPARTMENT OF PUBLIC WORKS FOR HIGHWAY PURPOSES.**

Be it enacted, etc., as follows:

**SECTION 1.** The deputy commissioner of the division of capital planning and operations is hereby authorized to transfer two parcels of land in the town of Bourne, presently under the care, custody and control of the division of fisheries, wildlife and recreational vehicles, to the



**ACTS, 1985. – Chap. 130.**

department of public works for the relocation of state auto Route 25 in said town. Said parcels are bounded and described as follows:–

PARCEL NO. 6–34

Northerly by land now or formerly of Hope G. Ingersoll and land of the Buzzards Bay Water District, about four hundred (400) feet; easterly by other land of the Commonwealth of Massachusetts, division of fisheries, wildlife and recreational vehicles, about two hundred and forty-seven (247) feet; southerly by land now or formerly of said Hope G. Ingersoll, about four hundred and one (401) feet; and westerly by other land of the Commonwealth of Massachusetts, division of fisheries, wildlife and recreational vehicles, about two hundred and forty-seven (247) feet. Containing in all an area of approximately two and twenty-seven hundredths (2.27) acres.

PARCEL NO. 6–3–T

Northerly and northwesterly, in three (3) courses, by existing Bournedale Road location, about two hundred and sixty-five (265) feet, about one hundred and ninety-eight (198) feet, and about thirty-two (32) feet; northerly by land now or formerly of Hope G. Ingersoll about forty (40) feet; southeasterly and southerly, in three (3) courses, by other land of the Commonwealth of Massachusetts, division of fisheries, wildlife and recreational vehicles, about two hundred and one (201) feet, on a curve to the right with radius of two hundred and eighty (280) feet, about one hundred and eighty-four (184) feet, and about one hundred forty-four (144) feet; containing an area of about five thousand seven hundred and eighty (5,780) square feet.

The land herein described is to be diverted from its present recreational use to highway use as shown on a plan prepared by C.E. Maguire, Incorporated, Waltham, Massachusetts, entitled "Plan of Land in Bourne, Massachusetts for proposed Legislation To Transfer Control From Commonwealth of Massachusetts, Division of Fisheries and Wildlife to Commonwealth of Massachusetts Department of Public Works, February, 1985", which is on file with the chief engineer of said department.

**SECTION 2.** The Buzzards Bay Water District is hereby authorized to transfer three parcels of land presently devoted to use as water district land pursuant to chapter one hundred and forty-five of the acts of nineteen hundred and thirty-seven and the deputy commissioner of capital planning and operations is authorized to accept such transfer of land. Said land shall be diverted from its present use for water district purposes to highway use. Said parcels are bounded and described as follows:–

PARCEL NO. 6–7–T

Northwesterly by the southeasterly location line of Bournedale Road about two hundred and three (203) feet; northeasterly by other land of Buzzards Bay Water District about seventy (70) feet; southeasterly, still by other land of Buzzards Bay Water District, about eighty-six (86) feet and by a curve to the left with a radius of three hundred and sixty (360) feet, about one hundred and twenty-seven (127) feet; and westerly by land of Hope G. Ingersoll about twenty-three (23) feet; containing an



**ACTS, 1985. – Chap. 131.**

area of about two thousand four hundred and fifty (2,450) square feet.  
**PARCEL NO. 6-41**

Northeasterly, more easterly, by other land of Buzzards Bay Water District about two hundred seventy-eight (278) feet; southerly by land of the Commonwealth of Massachusetts, division of fisheries, wildlife and recreational vehicles, about one hundred and nine (109) feet; and westerly by land of Hope G. Ingersoll about two hundred and eighty (280) feet; containing an area of fifteen thousand and ten (15,010) square feet.  
**PARCEL NO. 6-4-T**

Southeasterly by the northwesterly location line of Bournedale Road about one hundred and twenty-three (123) feet; southerly by the northerly location line of Bournedale Road about one hundred and twenty-three (123) feet; and northwesterly by other land of Buzzards Bay Water District along the arc of a curve to the left with a radius of four hundred (400) feet, about two hundred and thirty-eight (238) feet; containing an area of one thousand six hundred (1,600) square feet.

The land herein described is shown on a plan prepared by C.E. Maguire, Incorporated, Waltham, Massachusetts, entitled "Plan of Land in Bourne, Massachusetts for Proposed Legislation to Transfer Control From Buzzards Bay Water District to Commonwealth of Massachusetts Department of Public Works, February, 1985", which is on file with the chief engineer of said department.

**SECTION 3.** Subsequent to the transfer of land authorized by sections one and two, the department of public works shall make payment, if any, to the Buzzards Bay Water District, the division of fisheries, wildlife and recreational vehicles in accordance with the provisions of section one of chapter six hundred and ninety-three of the acts of nineteen hundred and fifty-five. In addition to the above payment the department of public works shall make improvements to the property remaining under the control of the division of fisheries, wildlife and recreational vehicles as agreed to by said agencies.

Approved July 2, 1985.

**EMERGENCY LETTER:** July 3, 1985 @ 9:36 A.M.

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**Chapter 131. AN ACT RELATIVE TO THE AMOUNT OF CERTAIN  
RETIREMENT AND DEATH BENEFITS WHICH MAY BE  
PAID BY THE BEVERLY POLICE RELIEF  
ASSOCIATION, INCORPORATED.**

Be it enacted, etc., as follows:

**SECTION 1.** The Beverly Police Relief Association, Incorporated, a corporation duly established under the laws of the commonwealth, is hereby authorized to pay an amount not exceeding four thousand dollars to a member of the association in good standing upon said member's retirement with twenty or more years of service as a permanent officer of the police department of the city of Beverly. Any member of the



**ACTS, 1985. – Chap. 132.**

association with less than twenty years of service who by reason of a disability retires with less than twenty years of service, shall receive one-twentieth of said four thousand dollars for every year served as a member in good standing of said Beverly Police Relief Association, Incorporated.

**SECTION 2.** The Beverly Police Relief Association, Incorporated is hereby authorized to pay an amount not exceeding one thousand five hundred dollars to the designated beneficiary of a retired or nonretired member of the association upon the death of said member.

**SECTION 3.** This act shall take effect as of April fourth, nineteen hundred and eighty-three.

Approved July 2, 1985.

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**Chapter 132. AN ACT RELATIVE TO THE COMMERCIAL TAKING,  
LANDING AND DISTRIBUTION OF FISH.**

Be it enacted, etc., as follows:

Section 80 of chapter 130 of the General Laws is hereby amended by striking out the second paragraph, as amended by section 3 of chapter 442 of the acts of 1971, and inserting in place thereof the following paragraph:–

A person shall not for commercial purposes acquire, handle, store, distribute, process, fillet, ship or sell raw fish, whether frozen or unfrozen in bulk or for resale, without first obtaining a wholesale dealer permit; provided, however, that the holder of a valid commercial fisherman permit who catches fish or takes lobsters and sells such fish or lobsters to wholesale or retail dealers exclusively shall be exempt from obtaining a wholesale dealer permit; and provided, further, that the holder of a wholesale dealer permit shall not procure raw fish, whether frozen or unfrozen, from any person who does not hold a valid commercial fisherman permit. A person shall not sell raw fish at retail, whether frozen or unfrozen without first obtaining a retail dealer permit; provided, however, that the holder of a valid wholesale dealer permit may sell fish at retail at one location which shall be named on the permit; and provided, further, that the holder of a retail dealer permit shall not procure raw fish, whether frozen or unfrozen, from any person who does not hold a valid commercial fisherman permit or a valid wholesale dealer permit. Upon application to the director and endorsement on the permit the holder of a retail dealer permit may take bait, except as provided in section seventy-eight, for sale under said permit.

Approved July 2, 1985.



ACTS, 1985. – Chap. 133.

Chapter 133. AN ACT AUTHORIZING THE TOWN OF  
MIDDLEBOROUGH TO GRANT CERTAIN EASEMENTS.

Be it enacted, etc., as follows:

The town of Middleborough is hereby authorized to grant to Hosea F. Maxim and Lucy M. Maxim in consideration of one dollar, easements over land in said town described in an Order of Taking by the board of selectmen of said town dated December 17, 1979 recorded in the registry of deeds in the county of Plymouth in Book 4771, Page 191 and shown on a plan entitled "Plan of the Spruce Street Municipal Well Site, Middleboro, Ma" dated December 30, 1976 by Robert A. Cattley, Surveyor which plan was recorded in said registry of deeds on December 19, 1979. Said land having been taken for public water supply purposes.

The easements shall be granted for the following purposes and on the following terms and conditions:-

A. An easement to use and maintain an existing well designated on said plan as "Existing well" for domestic water supply purposes which easement shall be appurtenant to and in connection with an existing single family dwelling owned by the within grantees located on the northerly side of Spruce street and located on remaining land of the within grantees.

B. An easement on foot and by vehicle over the roads presently existing on the ground from Spruce street to remaining land of the within grantees as shown on said plan and consisting of twenty-eight and ninety-eight hundredths acres more or less for the purpose of cutting trees and removing said trees from said remaining land. This easement shall be appurtenant to grantees' said remaining land.

The aforesaid well easement shall be subject to the following condition:

The easement shall terminate when said town uses the land on said plan for an operational well site as part of the town's public water supply system provided that the town extends a suitable water line to the aforesaid single family dwelling to replace the well as the source of water for the dwelling.

The aforesaid easement to use existing roads shall be on the following conditions:

(a) There shall be no pollution or spillage of fuel or other chemicals or contaminants in, on or within the land of the within grantor including the easement area. The owners of the remaining land shall reimburse said town for all expenses of cleanup of any such pollution or spillage.

(b) Said town may at its option and at its expense relocate all or any part of the easement to any location or locations within the grantor's well site property.

The within grantees shall execute and deliver in a form suitable for recording any documents as the grantor may reasonably request with respect to termination of the well easement or relocation of the access easement in accordance with the terms of this instrument. Grantees' obligations hereunder shall also apply to and be binding upon grantees' successors and assigns.

Approved July 2, 1985.



ACTS, 1985. – Chaps. 134, 135.

**Chapter 134. AN ACT AUTHORIZING THE COUNTY COMMISSIONERS OF BERKSHIRE COUNTY TO BORROW MONEY FOR A CLEAN LAKES PROGRAM GRANT FOR AN IMPLEMENTATION PROJECT ON PONTOOSUC LAKE IN THE CITY OF PITTSFIELD.**

Be it enacted, etc., as follows:

**SECTION 1.** The county commissioners of Berkshire county are hereby authorized to expend a sum of money not to exceed one hundred thirty-five thousand one hundred and twenty-five dollars as twenty-five per cent matching funds for a Massachusetts department of environmental quality engineering, division of water pollution control clean lakes program grant of five hundred forty thousand dollars for an implementation project on Pontoosuc lake in the city of Pittsfield.

**SECTION 2.** For the purposes of section one, the county treasurer of Berkshire county, with the approval of the county commissioners and the advisory board of said county, may borrow from time to time upon the credit of said county such sums as may be necessary, not exceeding, in the aggregate, one hundred thirty-five thousand one hundred and twenty-five dollars and may issue bonds or notes therefor, which shall bear on their face the words, Berkshire County Clean Lakes Program Loan, Act of 1985. Each authorized issue shall constitute a separate loan and such loans shall be payable in not more than four years from their date. The bonds or notes shall be signed by the county treasurer and countersigned by a majority of the county commissioners. The county may sell said securities at public or private sale, upon such terms and conditions as the county commissioners may deem proper, but not for less than par value. Indebtedness incurred hereunder shall, except as herein provided, be subject to chapter thirty-five of the General Laws.

**SECTION 3.** This act shall take effect upon its passage.

Approved July 3, 1985.

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**Chapter 135. AN ACT AUTHORIZING THE TOWN OF EASTHAMPTON TO ESTABLISH, INSTALL AND CONSTRUCT A HYDROELECTRIC POWER GENERATING FACILITY.**

Be it enacted, etc., as follows:

**SECTION 1.** The town of Easthampton, acting through the board of public works or its designee, is hereby authorized to establish, install and reconstruct a hydroelectric power generating facility at the Waterworks dam site on the Manhan river, provide and operate the required transmission lines, produce electrical power at the site, sell such power to a local utility or to others at rates to be approved by the department



**ACTS, 1985. – Chaps. 136, 137.**

of public utilities, displace electrical power used by the town, lease or otherwise rent the site and all its hydroelectric equipment, acquire by purchase, lease or otherwise such hydroelectric equipment and transmission lines as may be required at the site to produce and transmit electrical power, establish a special fund for receipt and transmittal of electrical power, establish a special fund for receipt and disbursement of money relating to the operation of a hydroelectric power generating site, and have any and all the powers necessary for the production, transmission, and sale of electrical power.

**SECTION 2.** This act shall take effect upon its passage.

Approved July 3, 1985.

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**Chapter 136. AN ACT FURTHER REGULATING THE PAINTING OF SCHOOL BUSES.**

Be it enacted, etc., as follows:

Section 7B of chapter 90 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out, in line 35, the words "body, fenders and grille", and inserting in place thereof the following words:– body and fenders ,– and by inserting after the word "black", in line 41, the following words:– or lusterless yellow.

Approved July 3, 1985.

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**Chapter 137. AN ACT FURTHER REGULATING THE FORM OF CERTAIN INSURANCE POLICIES.**

Be it enacted, etc., as follows:

**SECTION 1.** Subsection 1 of section 2B of chapter 175 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out clause (b) and inserting in place thereof the following clause:–

(b) It is printed, except for tables, in not less than ten point type, one point leaded.

**SECTION 2.** Clause Twelfth of section 99 of said chapter 175 is hereby amended by striking out the introductory paragraph, as appearing in the 1984 Official Edition, and inserting in place thereof the following paragraph:–

Said standard form of policy shall be plainly printed and all portions thereof shall be in type of at least ten point, one point leaded in size, and shall be substantively as follows:–.

**SECTION 3.** Said chapter 175, as so appearing, is hereby further



**ACTS, 1985. – Chaps. 138, 139.**

amended by inserting after section 99A the following section:–

Section 99B. The commissioner may approve for use within the commonwealth any form of policy for property insurance which is issued to insure a business, professional or governmental operation, and which does not correspond to the standard fire insurance policy as set forth in section ninety-nine; provided, however, that the approved policy assures to the policyholders and claimants protection no less favorable than they would be entitled to under said section ninety-nine.

Approved July 3, 1985.

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**Chapter 138. AN ACT PROVIDING FOR THE DISCLOSURE AND DISSEMINATION OF FIRE INSURANCE INFORMATION.**

Be it enacted, etc., as follows:

Section 32 of chapter 148 of the General Laws is hereby amended by striking out the first two paragraphs, as appearing in the 1984 Official Edition, and inserting in place thereof the following two paragraphs:–

The marshal or police or fire department or other appropriate law enforcement agency may request an insurance company to share information relative to an investigation concerning a loss due to fire of suspicious or incendiary origin, and to furnish other relevant materials, such as insurance policies, policy premium records, and history of previous claims. Said marshal of said departments or agencies shall, upon request, share the information so acquired with said marshal, department, or agency, as appropriate, requesting the same.

If an insurance company has reason to suspect that a fire loss to its insured's real or personal property was caused by incendiary means, the company shall furnish said marshal of said departments or agencies with all relevant material acquired during its investigation of the fire loss, cooperate with said marshal or any of said departments or agencies, and take such action as said marshal or any of said departments or agencies may reasonably request. Any other person may, by obtaining a court order, inspect records of such insurance company pertaining to the policy and the loss. Such insurance company may request access to information gathered by said marshal or any of said departments or agencies in an investigation into such fire loss of suspected incendiary origin.

Approved July 3, 1985.

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**Chapter 139. AN ACT RELATIVE TO THE SAFETY AND EMISSIONS INSPECTION LAW.**

Be it enacted, etc., as follows:

The first paragraph of section 7A of chapter 90 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking



**ACTS, 1985. – Chap. 139.**

out the first sentence and inserting in place thereof the following sentence:– The registrar shall establish rules and regulations providing for a periodic annual staggered safety and combined safety and emissions inspection of all motor vehicles; provided, however, that a motor vehicle with a gross vehicle weight rating of over eight thousand five hundred pounds, if gross weight rating is not available a registered weight in excess of eight thousand five hundred pounds, motorcycles, diesel powered vehicles, motor vehicles more than fifteen model years old before the date of inspection, and motor vehicles not capable of a speed greater than twenty-five miles per hour under any condition of operation or loading on a level surface shall be exempt from such emissions inspection but shall be subject to such safety inspection, and such vehicle shall be inspected for excessive smoke emissions, as provided in section sixteen.

Approved July 3, 1985

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ACTS, 1985. - Chap. 140.

Chapter 140. AN ACT MAKING APPROPRIATIONS FOR THE FISCAL YEAR NINETEEN HUNDRED AND EIGHTY-SIX FOR THE MAINTENANCE OF THE DEPARTMENTS, BOARDS, COMMISSIONS, INSTITUTIONS AND CERTAIN ACTIVITIES OF THE COMMONWEALTH, FOR INTEREST, SINKING FUND AND SERIAL BOND REQUIREMENTS AND FOR CERTAIN PERMANENT IMPROVEMENTS.

Be it enacted, etc., as follows:

SECTION 1. To provide for the maintenance of the several departments, boards, commissions and institutions, of sundry other services, and for certain permanent improvements, and to meet certain requirements of law, the sums set forth in section two, for the several purposes and subject to the conditions specified in said section two and section three, are hereby appropriated from the General Fund unless specifically designated otherwise in the item, subject to the provisions of law regulating the disbursement of public funds and the approval thereof, for the fiscal year ending June thirtieth, nineteen hundred and eighty-six, in this act referred to as the year nineteen hundred and eighty-six, or for such period as may be designated.

SECTION 2.

LEGISLATURE.

Senate.

Item

0111-0000 For the compensation of senators, prior appropriation continued	\$1,600,000
0111-8000 For expenses of senators, including travel, prior appropriation continued	\$200,000
0112-0000 For the office of the senate clerk, prior appropriation continued, including not more than eleven permanent positions	\$420,000
0112-0100 For in-house printing and duplicating	\$90,000
0113-0000 For the salary of the chaplain of the senate	\$6,000
0114-0000 For the office of the senate counsel, including not more than five permanent positions, prior appropriation continued	\$460,000
0115-0000 For administrative and legislative aides to the senators, prior appropriation continued	\$3,970,000
0116-0000 For secretarial and clerical assistance to the senators, prior appropriation continued	\$1,130,000
0116-0030 For a legislative intern program for the senate, prior appropriation continued	\$90,000
0117-0000 For the office of the senate committee on ways and means, prior appropriation continued, including not more than four permanent positions	\$895,000
0118-0000 For the office supplies and other expenses of the senators, prior appropriation continued	\$660,000
0119-0000 For the senate art committee, including furnishings and other expenses for the senate chamber, lobby, and reception room, prior appropriation continued.	



ACTS, 1985. - Chap. 140.

Item

House of Representatives.

0121-0000	For the compensation of representatives	\$5,232,500
0121-8000	For expenses of representatives, including travel	\$980,000
0122-0000	For the office of the clerk of the house of representatives, including not more than eleven permanent positions	\$421,000
0123-0000	For the salary of the chaplain of the house of representatives	\$11,168
0124-0000	For the office of the house counsel, including not more than eight permanent positions	\$875,000
0125-0000	For the office of the house committee on rules, including not more than fourteen permanent positions	\$1,090,000
0125-0010	For the expenses of standing and special committees of the house of representatives authorized by order of the house of representatives to sit and travel during the session and recess of the general court, said funds to be allocated to committees only upon written approval of the speaker; provided that no money shall be authorized for travel or reimbursement for travel expenses unless by prior vote of the house of representatives; and provided, further, that any member, committee staff person or others so authorized to travel shall file a report on the purpose and relevant information gathered from such travel	\$16,000
0125-0020	For expenses of standing and special committees of the house of representatives, authorized by the speaker under joint rule 3 to sit and travel during recess of the general court, said funds to be allocated to committees only upon written approval of the speaker	\$10,000
0126-0000	For the office of the house committee on ways and means, including not more than nine permanent positions	\$900,000
0127-0000	For clerical and other expenses of the members of the house of representatives, including not more than one permanent position	\$2,382,000
0127-0020	For administrative and legislative aides to the members of the house of representatives	\$2,988,000
0127-0021	For the two administrative assistants to work within the county in which they reside under the direction of the elected representative from the Cape and Islands District; provided, that such assistants shall be residents of the district; and provided, further, that each reside in separate counties and neither shall reside in the county in which the elected representative resides; and provided, further, that such assistants shall be appointed by said elected representative	\$48,323
0127-0030	For a legislative intern program providing one intern for each legislator; provided however that each member of the house of representatives shall	



ACTS, 1985. - Chap. 140.

Item

	have the opportunity to select one intern to work in his/her office, prior appropriation continued.	
0127-0040	For office supplies and other expenses of the house of representatives	\$610,500
0129-0000	For the expenses of televising sessions of the house of representatives	\$550,000
0130-0000	For a salary classification and compensation study to develop and implement an effective and uniform classification and compensation program for the pro- fessional, administrative and clerical staff of the house of representatives, provided that said study be conducted by a management or personnel consultant firm to be selected through a competitive bid process initiated by a request for proposals to be issued on or after January sixteenth, nineteen hundred and eighty-five, prior appropriation continued.	

Sergeant-at-Arms.

0131-0000	For the office of the sergeant-at-arms, including not more than eleven permanent positions, prior appropriation continued	\$329,000
0132-0000	For the salaries of the chief general court officers, assistant chief general court officer, general court officers and pages of the senate and house of representatives with the approval of the sergeant-at-arms, including not more than ninety-four permanent positions, prior appropriation continued	\$2,500,000
0132-1000	For the salaries of clerks employed in the legislative document room, includ- ing not more than thirteen permanent positions	\$345,000
0133-0000	For contingent expenses of the senate and house of representatives and neces- sary expenses in and about the state house, with the approval of the ser- geant-at-arms, prior appropriation continued	\$150,000
0135-0000	For the rental, maintenance and updating of an electric roll call system, prior appropriation continued	\$15,000

Other Expenses.

0141-0000	For the expenses of the legislative research council	\$9,000
0142-0000	For the legislative research bureau, prior appropriation continued	\$475,307
0143-0000	For the legislative service bureau	\$850,000
0143-0001	For the administration of the office of legislative data processing, prior appro- priation continued	\$850,000
0143-0003	For the compilation, indexing, annotating, printing and other expenses in connec- tion with the publication of the bulletin of committee hearings and of the daily list, with the approval of the joint committee on rules, including not more than three permanent positions, prior appropriation continued	\$140,000



ACTS, 1985. - Chap. 140.

Item

0144-0000	For legislative committee services for the house of representatives	\$3,879,145
0145-0000	For legislative committee services for the senate, prior appropriation continued	\$1,530,000
0147-0000	For the administration of the legislative engrossing division, including not more than five permanent positions, prior appropriation continued	\$170,000
0161-0000	For printing, binding and paper ordered by the senate and house of representatives, or by concurrent order of the two branches, for printing the manual of the general court, with the approval of the clerks of the respective branches, and for biographical sketches of certain state and federal officials and other expenses, prior appropriation continued	\$1,650,000
0161-1000	For telephone and telegraph service, prior appropriation continued	\$1,300,000
0161-2000	For the emergency service of a physician, for medical supplies in the state house and for expenses, including the purchase of equipment in connection therewith, subject to the approval of the joint committee on rules; provided, that section twenty-one of chapter thirty of the General Laws shall not apply to the payments made under this item, prior appropriation continued	\$26,000
0163-0000	For the expenses of the joint committee on rules and for clerical and other assistance to the joint committees, prior appropriation continued	\$175,000
0164-0010	For expenses of joint standing and special committees authorized by joint order to sit and travel during the session and recess of the general court, said funds to be allocated to committees only upon written approval of the president of the senate and the speaker of the house of representatives, prior appropriation continued	\$60,000
0164-0020	For expenses of joint standing and special committees authorized by the president of the senate and the speaker of the house of representatives under the provisions of joint rule 3 to sit and travel during the recess of the general court, said funds to be allocated to committees only upon written approval of the president and the speaker, prior appropriation continued.	
0165-0000	For membership fees and programs of legislative associations for the general court of the commonwealth, with the approval of the president of the senate and the speaker of the house of representatives, prior appropriation continued	\$80,753
0169-7102	For the office of legislative post audit and oversight bureau of the senate, prior appropriation continued	\$200,000
0169-7103	For the office of legislative post audit and oversight of the house of representatives	\$918,200
0181-5002	For the office of the Science Resource Network; provided, that these funds may be expended upon written approval of the president of the senate and the speaker of the house of representatives, prior appropriation continued	\$225,000
0181-5007	For an econometric model of the Massachusetts economy, prior appropriation continued	\$80,000
0185-7209	For the expenses of the special joint committee on uniform sentencing and revision	



ACTS, 1985. - Chap. 140.

Item		
	of the criminal law statutes, prior appropriation continued	\$50,000
0185-7509 For	an investigation and study relative to medical malpractice and liability insurance as authorized by section twelve of chapter three hundred and sixty-two of the acts of nineteen hundred and seventy-five; provided, that the amount authorized herein shall be borne by all insurance companies licensed by the commonwealth to provide liability, multiple peril or accident and health insurance coverage under the provisions of chapters one hundred and seventy-six A and one hundred and seventy-six B of the General Laws, prior appropriation continued.	
0185-7801 For	an investigation and study of hazardous waste and alternatives to and a prohibition of inground disposal and sanitary landfill disposal methods in accordance with the provisions of section fifty-seven of chapter three hundred and ninety-three of the acts of nineteen hundred and seventy-nine, prior appropriation continued	\$50,000
0185-7802 For	an investigation and study relative to the Massachusetts civil service system, prior appropriation continued.	
0185-7803 To	provide for an investigation and study by a special commission on the current local aid distribution formula in order to determine if said formulas provide a fair and equitable distribution to the cities and towns and regional school districts of the commonwealth. Said commission shall also investigate and study the commonwealth's assumption of certain expenditures for transportation of pupils pursuant to the provisions of section seven A, seven B, and thirty-seven D of chapter seventy-one of the General Laws; section fourteen of chapter seventy-one B of the General Laws; and section eight A of chapter seventy-four of the General Laws; and the commonwealth's assumption of the non-educational costs of residential school programs, including residential placement, for students placed by a local school district or ordered by the bureau of special education on appeals, as provided under chapter seventy-one B of the General Laws. Said commission shall consist of three members of the senate, seven members of the house of representatives and three members appointed by the governor, prior appropriation continued	\$50,000
0185-7804 For	the expenses of the special joint commission on the development of Boston Harbor, prior appropriation continued	\$50,000
0185-7806 For	a study of the procurement practices of the commonwealth relative to electronic data processing, computer hardware and software, prior appropriation continued	\$50,000
0185-7810 For	the expenses of the special joint legislative commission established to investigate and study the adequacy of water supply in the commonwealth, prior appropriation continued.	
0185-7812 For	the expenses of the special commission on low-level radioactive waste esta-	



ACTS, 1985. - Chap. 140.

Item

	blished pursuant to chapter seven hundred and thirty-eight of the acts of nineteen hundred and eighty-one and most recently revived and continued by chapter one of the resolves of nineteen hundred and eighty-five, prior appropriation continued	\$50,000
0185-7813	For a study by the house committee on ways and means relative to the private provider system of delivering human services in the commonwealth	\$100,000
0185-7814	For the expenses of the special committee to study the public employees retirement law contained in chapter thirty-two of the General Laws, prior appropriation continued.	
0185-7815	For a study by the joint committee on education relative to the improvement and modernization of the public school system in the commonwealth, prior appropriation continued.	
0185-7816	For a study by the senate committee on ways and means relative to United States federal court consent decrees concerning certain agencies of the commonwealth, prior appropriation continued.	
0185-7817	For a study by the senate committee on ways and means relative to employee productivity and operational efficiency of state government, prior appropriation continued.	
0185-7819	For a special commission on alcohol and drug abuse education, prior appropriation continued.	
0185-7821	For a special commission to study the causes of violence against children, prior appropriation continued.	
0185-7822	To provide for an investigation and study by a special commission of all state, local, special district and county taxation within the commonwealth in order to develop a tax reform program for the commonwealth. Said commission shall consist of six members of the senate, ten members of the house and nine members appointed by the governor, prior appropriation continued.	
0185-7823	For an investigation and study relative to comparable worth in employment and the extent to which sex segregation continues to exist in the state service, provided that criteria for the study shall include, but not be limited to (1) knowledge and skill required to carry out the duties of such position, (2) working conditions, (3) responsibility, (4) accountability, (5) interpersonal skills; provided that no rating factors shall be based on existing wage patterns, and provided further that said study shall be designed to determine, through the assignment of factors values, those classified positions studied for which compensation is not commensurate with positions of comparable worth, prior appropriation continued.	
0185-7824	To provide for an investigation and study by a special commission relative to municipal detention areas in order to determine the level of care for detainees	



ACTS, 1985. - Chap. 140.

Item

	and to prevent suicide by such detainees. Said commission shall consist of three members of the senate, five members of the house, the commissioner of corrections, the president of the Municipal Police Chiefs Association, the sheriff of Suffolk county, the commissioner of the department of social service and eight persons to be appointed by the governor; prior appropriation continued	\$19,500
0185-7826	For the expenses of the special commission to investigate and study the administration of efforts to advance foreign trade with the various underdeveloped countries, established by section twenty-one of chapter two hundred and ninety-seven of the acts of nineteen hundred and eighty-three, as most recently amended by section sixty of this act, prior appropriation continued	\$75,000
0185-7827	For the expenses of the special commission to investigate and study the needs of the hispanic population in the commonwealth established by section twenty of chapter two hundred and ninety-seven of the acts of nineteen hundred and eighty-three, prior appropriation continued.	
0185-7828	For the expenses of the special commission concerning the promotion of tourism in the commonwealth, established by section thirty-nine of chapter six hundred and thirty-seven of the acts of nineteen hundred and eighty-three, prior appropriation continued.	
0185-7830	For the expenses of the special commission to make an investigation and study relative to the adequacy of existing rules and regulations pertinent to the soft-shelled and hard-shelled clam industry, established by chapter five of the resolves of nineteen hundred and eighty-three, prior appropriation continued.	
0185-7831	For the expenses of the special commission to study and plan appropriate events to commemorate the three hundred fiftieth anniversary of the arrival of the first group of Africans to Massachusetts, established by chapter seven of the resolves of nineteen hundred and eighty-three, prior appropriation continued.	
0185-7834	To provide for a special commission to review and study all aspects of health care for the elderly, both in terms of costs and services, provided said commission shall consist of two members of the senate, two members of the house of representatives, the commissioner of insurance and four members to be appointed by the governor of whom one shall be a representative of the executive office of elder affairs, one shall be a representative of a non-profit hospital service corporation, one shall be a representative of a health maintenance organization, and one shall be an elderly consumer. The commission shall issue its final report by the last Wednesday of December, nineteen hundred and eighty-six, prior appropriation continued	\$50,000
0185-7835	For the expenses of the special commission to make an investigation and study relative to determining the adequacy of existing common law and statutory remedies	



ACTS, 1985. - Chap. 140.

Item

	available to the commonwealth to recover its costs of assessing, containing and removing oil and hazardous materials released or threatened to be released into the environment and to any other person for damage, injury, loss or other harm suffered as a result of such release of oil or hazardous material	\$100,000
0185-7836	For the expenses of the joint special committee on redistricting, established by House Order 5840	\$75,000
0185-7837	For the expenses of the special commission to make an investigation and study relative to lead paint poisoning prevention, established by section fifty-seven of this act	\$50,000
0185-7838	For the expenses of the special commission to make an investigation and study relative to the establishment of a small business incubator program in the commonwealth, established by section fifty-eight of this act	\$50,000
0185-7839	For the expenses of the special commission to make an investigation and study relative to the organization, staffing, equipment and other requirements for operation of the district attorneys' offices of the commonwealth, established by section fifty-nine of this act	\$50,000
0185-7840	For the expenses of the special commission to make an investigation and study relative to the existing laws and practices relating to divorce and its emotional and economic hardship on families, established by chapter fourteen of the resolves of nineteen hundred and eighty-four	\$75,000
0185-7841	For the expenses of the special commission to make an investigation and study relative to inefficient administrative practices of state government, established by section sixty-nine of this act	\$100,000

INSPECTOR GENERAL.

0200-0100	For the administration and expenses of the office of inspector general, including not more than one permanent position and thirty-two temporary positions	\$1,178,235
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JUDICIARY.

Supreme Judicial Court.

0320-0001	For the salaries, travelling allowances and expenses of the chief justice and of the six associate justices	\$554,100
0320-0003	For salaries and expenses of the supreme judicial court	\$3,112,893
0320-0004	For the salaries and expenses of recalled justices of the appellate courts	\$224,550
0321-0001	For expenses of the commission on judicial conduct; provided, that the commission shall submit annually to the clerks of the house of representatives and the senate and to the supreme judicial court a report of its activities which	



ACTS, 1985. - Chap. 140.

Item

shall include the number and type of complaints it has received, the number of investigations it has initiated and their disposition, the number and type of complaints it has forwarded to the supreme judicial court for further action, and the action taken on those cases

\$120,983

Board of Bar Examiners.

0321-0100 For the service of the board

\$489,878

0321-1500 For the committee for public counsel services as authorized by chapter two hundred and eleven D of the General Laws; provided further, that salaries paid to attorneys employed by the committee for public counsel services shall be comparable to those paid to attorneys employed by the several district attorneys offices and provided further that, except as provided herein no increase in the rate of compensation for counsel to indigents shall be authorized until funds for such increase are appropriated by the general court, including not more than fifty-three permanent positions and one hundred and forty temporary positions

\$15,872,588

0321-2000 For expenses of the mental health legal advisors committee, and for certain programs for the indigent mentally ill, as provided in section thirty-four E of chapter two hundred and twenty-one of the General Laws; provided, however, that no expenditure or commitment made pursuant thereto shall be incurred in excess of funds appropriated herein; and, provided further, that not less than fifty thousand dollars shall be expended from this item for the purposes of providing services pursuant to the Disability Benefits Project

\$271,687

0321-2100 For a correctional legal services committee

\$386,795

0321-4000 For disability representation for chronically mentally and physically handicapped persons; provided that the court may administer or may contract with any organization for the purpose of administering the project

\$910,958

0321-5000 For the Massachusetts Legal Assistance Corporation to provide representation of elderly and disabled persons in securing Medicare benefits under Title XVIII of the federal Social Security Act, provided that the first paragraph of section nine of chapter two hundred and twenty-one A of the General Laws shall not apply; and provided, further, that the Massachusetts Legal Assistance Corporation may contract with any organization for the provision of these services

\$250,000

Appeals Court.

0322-0001 For the salaries, travelling allowances and expenses of the chief justice and of the nine associate justices

\$730,751

0322-0002 For salaries and expenses of the appeals court

\$1,823,724



ACTS, 1985. - Chap. 140.

Item

Trial Court.

0330-0100	For the salaries of the justices of the trial court; notwithstanding this item the justices of the trial court shall continue their commission of appointment to a specific division within a department or to a department according to the terms of said commissions; provided that nothing herein shall be construed to limit the authority of the chief administrative justice as enumerated in chapter two hundred and eleven B of the General Laws, including not more than two hundred and seventy-nine permanent positions	\$18,857,250
0330-0200	For the salaries of the recalled justices of the trial court	\$1,129,150
0330-0300	For the salaries and expenses of the administrative staff, including not more than seventy-three permanent positions	\$2,738,731
0330-1000	For payments of expenses of juries	\$4,716,280
0330-2000	For salaries and expenses of certain law libraries, provided, that four hundred and forty thousand dollars of the amount appropriated herein shall be expended for the expenses of the social law library located in Suffolk county, including not more than thirty temporary positions	\$2,395,539
0330-2010	For expenses related to computerized legal research	\$105,520
0330-2020	For centralized law book purchases	\$172,935
0330-2100	For counsel to indigents; provided that funds may be expended from this item for services rendered in prior fiscal years, prior appropriation continued.	
0330-2101	For counsel to juvenile indigents	\$1,100,000
0330-2200	For the rental of court facilities, in accordance with section four of chapter twenty-nine A of the General Laws, provided that all payments made hereunder shall be pursuant to written leases; provided, further that no monies shall be paid to a city, town or county for such rental until a schedule detailing the costs of such maintenance, repairs and debt service on the rented facilities, attested to by the appropriate public official, have been submitted to and approved by the chief administrative justice of the trial court and filed with the house and senate committees on ways and means; and provided further, that every city, town or county which received funds under this item shall maintain such funds in a separate account which shall be used solely for the maintenance of the rented facilities; and provided further that, all rents paid to the counties shall be expended for courthouse maintenance costs in each county and provided further that each county advisory board, upon receipt of the proposed budget by the county commissioners, shall have final approval of expenditure of funds received by a county for court rental under this item, prior appropriation continued	\$33,713,898
0330-2210	For expenses to maintain, repair and operate the former Third District Court	



ACTS, 1985. - Chap. 140.

Item		
	building in East Cambridge, including not more than four temporary positions	\$100,000
0330-2211 For	expenses to maintain, repair and operate the former Third District Court building in New Bedford, including not more than four temporary positions	\$76,525
0330-2300 For	payments of witness fees	\$843,361
0330-2400 For	education and training programs to be allocated at the discretion of the chief administrative justice	\$200,686
0330-2500 For	clerical assistance for the divisions of the trial court, including not more than ten temporary positions	\$498,707
0330-2501 For	clerical assistance for the division of the trial court, provided, however, that all such funds shall be expended for child support enforcement activities; and provided further, that the administrative office of the trial court shall establish a cooperative agreement with the department of public welfare to obtain reimbursement from the federal government for such activities under the auspices of the Title IV-D program, including not more than twelve temporary positions	\$119,078
0330-2600 For	travel expenses of judicial personnel; provided, that the chief administrative justice of the trial court shall promulgate rules and regulations for the criteria governing the selection of justices for travel outside of the state for the purpose of judicial training; provided further, that such rules and regulations shall provide criteria such that newly appointed justices shall be given first priority for such training; and provided further, that no justice shall be allowed to participate in such training more than once in any five year period; prior appropriation continued	\$627,002
0330-2700 For	printing expenses, prior appropriation continued	\$1,329,501
0330-2800 For	repairs of equipment	\$957,686
0330-3000 For	the purchase and rentals of equipment in the trial court, to be allocated by the chief administrative justice; provided that in purchasing said equipment the chief administrative justice shall utilize the approved vendor determined by the state purchasing agent for such equipment whenever the terms offered by such vendor are more favorable than those otherwise available, prior appropriation continued	\$2,200,000
0330-3100 For	the payments of indigent court costs, including costs incurred in prior fiscal years, prior appropriation continued	550,000
0330-3200 For	the payment of salaries and expenses of superior court officers; provided that, any court officer scheduled to work nineteen hundred and fifty hours, or more, in fiscal year nineteen hundred and eighty-five shall be considered a full-time court officer for fiscal year nineteen hundred and eighty-six, all other per diem court officers shall be paid the daily rate in accordance with the collective bargaining agreement; including not more than one hundred and eighty-three	



ACTS, 1985. - Chap. 140.

Item

0330-3300	For permanent positions and two hundred and twenty-six temporary positions the payment of office, administrative, special, and maintenance and repair expenses in the trial court, to be allocated by the chief administrative justice, prior appropriation continued	\$10,221,877
0330-3600	For a reserve for court positions; provided that said positions shall be allocated among the various court divisions and administrative offices by the chief administrative justice; provided that the allocation from this account shall be based upon schedules approved by the house and senate committees on ways and means	\$482,926
		\$1,000,000

Superior Court.

0331-0100	For salaries and expenses of the administrative staff, including not more than nineteen permanent positions	\$630,000
0331-0200	For clerical assistance to the justices, including not more than thirty-three permanent positions and forty temporary positions	\$1,937,350
0331-0300	For payments to be made by the chief justice of the superior court to medical malpractice tribunals established in accordance with the provisions of section sixty B of chapter two hundred and thirty-one of the General Laws, including payments of the prior year	\$66,000
0331-0600	For the expenses of superior court probation services, including not more than two hundred and forty permanent positions	\$6,111,612

For Salaries and Expenses.

0331-2100	Barnstable superior court, including not more than seven permanent positions	\$185,811
0331-2200	Berkshire superior court, including not more than seven permanent positions	\$217,389
0331-2300	Bristol superior court, including not more than twenty-nine permanent positions	\$803,162
0331-2400	Dukes superior court, including not more than two permanent positions	\$50,536
0331-2500	Essex superior court, including not more than thirty-nine permanent positions and one temporary position	\$1,207,919
0331-2600	Franklin superior court, including not more than six permanent positions	\$171,323
0331-2700	Hampden superior court, including not more than thirty-five permanent positions	\$1,002,848
0331-2800	Hampshire superior court, including not more than eight permanent positions	\$261,887
0331-2900	Middlesex superior court, including not more than ninety-six permanent positions	\$2,660,000
0331-3000	Nantucket superior court, including not more than two permanent positions	\$55,243
0331-3100	Norfolk superior court, including not more than thirty permanent positions and two temporary positions	\$1,035,312
0331-3200	Plymouth superior court, including not more than thirty-two permanent positions	



ACTS, 1985. - Chap. 140.

Item

and two temporary positions	\$959,991
0331-3300 Suffolk superior civil court, including not more than one hundred and twenty-two permanent positions and one temporary position	\$2,948,119
0331-3310 Suffolk superior criminal court, including not more than sixty-nine permanent positions	\$1,569,755
0331-3400 Worcester superior court, including not more than forty-five permanent positions	\$1,224,731

Administration of District Courts.  
For Salaries and Expenses.

0332-0100 District court, administrative staff, including not more than fifteen permanent positions	\$527,833
0332-1100 First district court of Barnstable, including not more than forty-three permanent positions	\$1,092,601
0332-1200 Second district court of Barnstable (Orleans), including not more than twenty-four permanent positions and one temporary position	\$620,231
0332-1300 District court of northern Berkshire (Adams, North Adams, Williamstown), including not more than thirteen permanent positions	\$358,266
0332-1400 District court of central Berkshire (Pittsfield), including not more than twenty-two permanent positions	\$591,980
0332-1500 District court of southern Berkshire (Great Barrington, Lee), including not more than ten permanent positions	\$267,407
0332-1600 First district court of Bristol (Taunton), including not more than thirty-one permanent positions and one temporary position	\$770,000
0332-1700 Second district court of Bristol (Fall River), including not more than fifty permanent positions and one temporary position	\$1,200,000
0332-1800 Third district court of Bristol (New Bedford), including not more than fifty-two permanent positions	\$1,262,554
0332-1900 Fourth district court of Bristol (Attleboro), including not more than twenty-six permanent positions	\$629,284
0332-2000 District court of Edgartown, including not more than eight permanent positions	\$206,364
0332-2100 First district court of Essex (Salem), including not more than thirty-nine permanent positions	\$1,075,043
0332-2200 Second district court of Essex (Amesbury), including not more than eleven permanent positions	\$285,070
0332-2300 Third district court of Essex (Ipswich), including not more than six permanent positions	\$140,725
0332-2400 Central district court of northern Essex (Haverhill), including not more than thirty-three permanent positions	\$864,104



ACTS, 1985. - Chap. 140.

Item

0332-2500 District court of eastern Essex (Gloucester), including not more than eighteen permanent positions	\$481,645
0332-2600 District court of Lawrence, including not more than forty-seven permanent positions	\$1,211,431
0332-2700 District court of southern Essex (Lynn), including not more than forty-seven permanent positions and five temporary positions	\$1,218,833
0332-2800 District court of Newburyport, including not more than ten permanent positions and one temporary position	\$278,200
0332-2900 District court of Peabody, including not more than twenty-five permanent positions	\$679,639
0332-3000 District court of Greenfield, including not more than twenty-three permanent positions	\$580,783
0332-3100 District court of Orange, including not more than eleven permanent positions and one temporary position	\$272,651
0332-3200 District court of Chicopee, including not more than twenty-one permanent positions	\$542,458
0332-3300 District court of Holyoke, including not more than twenty-five permanent positions	\$655,561
0332-3400 District court of eastern Hampden (Palmer), including not more than seventeen permanent positions	\$467,569
0332-3500 District court of Springfield, including not more than one hundred and fourteen permanent positions	\$2,680,322
0332-3600 District court of western Hampden (Westfield), including not more than twenty permanent positions	\$545,184
0332-3700 District court of Hampshire (Northampton), provided that of the amount appropriated herein thirty-five thousand dollars shall be expended for an alternative probation program "Honor Court" so-called, including not more than forty-four permanent positions	\$1,108,256
0332-3800 District court of eastern Hampshire (Ware), including not more than ten permanent positions	\$243,527
0332-3900 District court of Lowell, including not more than sixty-nine permanent positions and eleven temporary positions	\$1,952,520
0332-4000 District court of Somerville, including not more than sixty-five permanent positions	\$1,663,807
0332-4100 District court of Newton, including not more than twenty-eight permanent positions	\$743,024
0332-4200 District court of Marlborough, including not more than twenty-three permanent positions	\$627,623
0332-4300 District court of Natick, including not more than seventeen permanent positions	\$435,984
0332-4400 District court of eastern Middlesex (Malden), including not more than fifty-eight permanent positions and two temporary positions	\$1,420,744
0332-4500 Second district court of eastern Middlesex (Waltham), including not more than forty-one permanent positions	\$995,310



ACTS, 1985. - Chap. 140.

Item

0332-4600 Third district court of eastern Middlesex (Cambridge), including not more than one hundred and five permanent positions	\$2,475,647
0332-4700 Fourth district court of eastern Middlesex (Woburn), including not more than fifty-six permanent positions	\$1,355,006
0332-4800 First district court of northern Middlesex (Ayer), including not more than thirty-two permanent positions	\$823,437
0332-4900 First district court of southern Middlesex (Framingham), including not more than fifty-four permanent positions	\$1,353,234
0332-5000 District court of central Middlesex (Concord), including not more than forty permanent positions	\$1,032,462
0332-5100 District court of Nantucket, including not more than six permanent positions and two temporary positions	\$147,822
0332-5200 District court of northern Norfolk (Dedham), including not more than forty-eight permanent positions	\$1,155,244
0332-5300 District court of east Norfolk (Quincy), including not more than ninety-five permanent positions and twenty-three temporary positions	\$2,793,026
0332-5400 District court of western Norfolk (Wrentham), including not more than thirty-four permanent positions	\$872,765
0332-5500 District court of southern Norfolk, including not more than forty permanent positions and four temporary positions	\$1,081,358
0332-5600 Municipal court of Brookline, including not more than twenty-three permanent positions and one temporary position	\$605,537
0332-5700 District court of Brockton, including not more than seventy-nine permanent positions	\$2,173,924
0332-5800 Second district court of Plymouth (Hingham), including not more than forty-two permanent positions	\$1,052,069
0332-5900 Third district court of Plymouth (Plymouth), including not more than thirty-six permanent positions and four temporary positions	\$998,356
0332-6000 Fourth district court of Plymouth (Wareham), including not more than twenty-nine permanent positions and two temporary positions	\$830,954
0332-6100 District court of Brighton, including not more than thirty-four permanent positions	\$930,803
0332-6200 District court of Charlestown, including not more than sixteen permanent positions	\$531,765
0332-6300 District court of Chelsea, including not more than forty-five permanent positions	\$1,124,020
0332-6400 District court of Dorchester, including not more than one hundred and ten permanent positions and one temporary position	\$2,707,669
0332-6500 District court of East Boston, including not more than forty-six permanent positions	\$1,125,415
0332-6600 District court of Roxbury, including not more than one hundred and eighteen permanent positions and provided further, that at least one hundred and forty	



ACTS, 1985. -- Chap. 140.

Item

	thousand dollars be used for the Juvenile Session Outreach Program of the Roxbury district court	\$3,231,694
0332-6700	District court of South Boston, including not more than twenty-four permanent positions	\$696,334
0332-6800	District court of West Roxbury, including not more than forty-five permanent positions	\$1,159,869
0332-6900	Central district court of Worcester, including not more than eighty-five permanent positions and one temporary position	\$2,016,692
0332-7000	District court of Fitchburg, including not more than twenty-five permanent positions	\$638,712
0332-7100	District court of Leominster, including not more than eleven permanent positions	\$299,936
0332-7200	District court of Winchendon, including not more than three permanent positions	\$107,391
0332-7300	First district court of northern Worcester (Gardner), including not more than twenty-five permanent positions	\$661,015
0332-7400	First district court of eastern Worcester (Westborough), including not more than thirty permanent positions	\$683,813
0332-7500	Second district court of eastern Worcester (Clinton), including not more than thirteen permanent positions	\$323,274
0332-7600	First district court of southern Worcester (Dudley), including not more than twenty-four permanent positions and two temporary positions	\$631,965
0332-7700	Second district court of southern Worcester (Uxbridge), including not more than fifteen permanent positions and one temporary position	\$379,703
0332-7800	Third district court of southern Worcester (Milford), including not more than eighteen permanent positions	\$489,883
0332-7900	District court of western Worcester (Spencer), including not more than nine permanent positions and two temporary positions	\$265,602
0332-8100	Middlesex juvenile probation district, including not more than twenty-five permanent positions	\$796,206
0332-8200	Northern Essex juvenile probation district, including not more than twelve permanent positions	\$316,743
0332-8300	Berkshire juvenile probation district, including not more than seven permanent positions	\$183,138
0332-8500	Northern Worcester juvenile probation district, including not more than eleven permanent positions	\$307,854
0332-8600	Southern Worcester juvenile probation district, including not more than ten permanent positions	\$272,258

Probate and Family Court Department.  
For Salaries and Expenses.



ACTS, 1985. - Chap. 140.

Item

0333-0001 Probate court, administrative staff, including not more than four permanent positions and one temporary position	\$193,858
0333-0100 Barnstable, including not more than twenty-one permanent positions and three temporary positions	\$607,391
0333-0200 Berkshire, including not more than eleven permanent positions and one temporary position	\$329,444
0333-0300 Bristol, including not more than forty-four permanent positions	\$1,162,882
0333-0400 Dukes, including not more than three permanent positions	\$88,552
0333-0500 Essex, including not more than fifty-two permanent positions and one temporary position	\$1,500,686
0333-0600 Franklin, including not more than eleven permanent positions	\$296,690
0333-0700 Hampden, including not more than fifty-seven permanent positions and two temporary positions	\$1,425,132
0333-0800 Hampshire, including not more than fifteen permanent positions and one temporary position	\$528,628
0333-0900 Middlesex, including not more than one hundred and seven permanent positions	\$2,943,819
0333-0911 For a demonstration project in the Middlesex probate court's family service clinic, including not more than six permanent positions	\$128,479
0333-0912 For a pilot project at the Middlesex Probate Family Clinic using video equipment in divorce matters	\$50,000
0333-1000 Nantucket, including not more than two permanent positions	\$54,037
0333-1100 Norfolk, including not more than sixty-six permanent positions and seven temporary positions	\$1,999,130
0333-1111 For a family service clinic in the Norfolk probate court, including not more than five permanent positions	\$99,806
0333-1200 Plymouth, including not more than forty-six permanent positions and two temporary positions	\$1,350,887
0333-1300 Suffolk, including not more than eighty-nine permanent positions	\$2,184,608
0333-1400 Worcester, including not more than fifty-four permanent positions and provided further that thirty-five thousand dollars be used for the Court Appointed Special Advocates (CASA) Programs	\$1,414,225

Land Court.

0334-0001 For the office of the land court, including not more than seventy-four permanent positions	\$1,955,197
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Boston Municipal Court.



ACTS, 1985. - Chap. 140.

Item

0335-0001 For salaries and expenses of the Boston municipal court, including not more than one hundred and eighty-four permanent positions \$4,425,184

Housing Court.  
For Salaries and Expenses.

0336-0100 Boston housing court provided that, notwithstanding the provisions of chapter two hundred and eleven B of the General Laws to the contrary, the administrative justice of the housing court department holding such office prior to the effective date of this act shall receive a salary equivalent to a justice of the trial court, including not more than twenty-eight permanent positions \$770,482  
0336-0200 Hampden housing court, including not more than eleven permanent positions \$278,089  
0336-0300 Worcester housing court, including not more than eleven permanent positions \$282,074

Juvenile Court.  
For Salaries and Expenses.

0337-0001 For salaries and expenses of the administrative staff, including not more than seven permanent positions \$321,350  
0337-0100 Boston juvenile court, provided that not less than one hundred thousand dollars of the amount appropriated herein shall be used for a statewide juvenile court clinic program, including not more than ninety-nine permanent positions and three temporary positions \$3,942,461  
0337-0200 Bristol juvenile court, including not more than thirty-nine permanent positions and six temporary positions \$1,225,213  
0337-0300 Springfield juvenile court, including not more than thirty-one permanent positions \$1,075,657  
0337-0400 Worcester juvenile court, including not more than twenty-five permanent positions and three temporary positions \$797,489

Committee on Probation.

0339-1001 For the office of the commissioner of probation, including not more than one hundred and twenty-eight permanent positions and four temporary positions \$3,313,264  
0339-2100 For the administration of Middlesex county, Essex county, Suffolk county, et als, juror selection and management, in accordance with chapter two hundred and thirty-four A of the General Laws, including not more than twenty-one permanent positions \$1,088,765

Judicial Council.



ACTS, 1985. - Chap. 140.

Item

0339-2200 For the service of the council, including not more than two permanent positions; prior appropriation continued	\$26,000
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DISTRICT ATTORNEYS.

For the salaries of district attorneys and assistants  
for the eleven districts:

0340-0100 Suffolk, including not more than one hundred and seventeen permanent positions and eighty-three temporary positions	\$6,890,751
0340-0111 Suffolk, for child support enforcement activities, including not more than five temporary positions	\$151,487
0340-0200 Northern, including not more than eighty-three permanent positions and seventy- three temporary positions	\$4,919,809
0340-0222 Northern, for child support enforcement activities, including not more than eight temporary positions	\$173,112
0340-0260 For the purposes of a federally funded grant entitled, Habitual, Services, and Violent Juvenile Offender Program General Federal Grants Fund 100.0%	\$300,000
0340-0300 Eastern, including not more than thirty permanent positions and fifty-three tem- porary positions	\$2,897,471
0340-0333 Eastern, for child support enforcement activities, including not more than seven temporary positions	\$157,783
0340-0400 Middle, including not more than fifty-four permanent positions and thirty-eight temporary positions	\$3,404,933
0340-0444 Middle, for child support enforcement activities, including not more than three temporary positions	\$81,917
0340-0500 Hampden, including not more than forty-two permanent positions and twenty-eight temporary positions	\$2,200,000
0340-0555 Hampden, for child support enforcement activities, including not more than six temporary positions	\$204,154
0340-0600 Northwestern, including not more than thirteen permanent positions and twenty- five temporary positions	\$1,194,435
0340-0666 Northwestern, for child support enforcement activities, including not more than three temporary positions	\$28,899
0340-0700 Norfolk, including not more than fifty-one permanent positions and twenty-seven temporary positions	\$3,204,569
0340-0777 Norfolk, for child support enforcement activities, including not more than four temporary positions	\$80,379
0340-0800 Plymouth, including not more than fifteen permanent positions and fifty-six tem-	



ACTS, 1985. - Chap. 140.

Item

	porary positions	\$2,229,280
0340-0888	Plymouth, for child support enforcement activities, including not more than four temporary positions	\$89,701
0340-0900	Bristol, including not more than twenty-two permanent positions and thirty-four temporary positions	\$2,400,000
0340-0999	Bristol, for child support enforcement activities, including not more than two temporary positions	\$33,669
0340-1000	Cape and Islands, including not more than thirteen permanent positions and nine temporary positions	\$966,202
0340-1011	Cape and Islands, for child support enforcement activities, including not more than two temporary positions	\$33,768
0340-1100	Berkshire, including not more than sixteen permanent positions and five temporary positions	\$806,193
0340-1111	Berkshire, for child support enforcement activities, including not more than two temporary positions	\$45,894
0340-2000	For a program of grants to various district attorneys' offices in accordance with the provisions of chapter two hundred and fifty-eight B of the General Laws; provided that the board may allocate funds from this item to the various district attorneys' offices to be expended thereby for the administration and operation of victim and witness assistance programs and said district attorneys are hereby authorized to expend said funds for the purpose of this item; provided that the Victim/Witness Assistance Board shall file a report with the ways and means committees of the house and senate relating to the manner by which each of the various grants affected the victims of crimes in Massachusetts; and provided further that said report shall be filed no later than April first, nineteen hundred and eighty-six	\$2,100,000
	Victim and Witness Assistance Fund	100.0%
<b>EXECUTIVE.</b>		
<u>Governor.</u>		
0411-1000	For the salaries of the governor and officers and employees in the governor's office	\$1,660,000
0411-1100	For office and administrative expenses and for the payment of extraordinary expenses not otherwise provided for, and for transfers to appropriation accounts where the amounts otherwise available are insufficient, provided that requests for such transfers shall be referred to the commissioner of administration, who after investigation, shall submit for approval of the governor his written recommendation as to the amount of funds required with facts pertinent thereto	\$390,000



ACTS, 1985. - Chap. 140.

Item

0411-1110 For the entertainment of distinguished visitors	\$15,000
0411-1120 For travel expenses of the governor and staff	\$5,000
0411-1130 For dues, membership fees and certain other expenses related to membership in the National Governors' Association, the Coalition of New England Governors, the New England Governors' Conference, and the Northeast-Midwest Institute	\$414,537
0411-1140 For personnel and administrative expenses for the Office of Constituent Services, Community Services and Women's Issues	\$235,000
0412-2000 For the office of federal-state relations	\$630,450
0412-2008 For federal-local relations	\$196,575

Governor's Council.

0413-1000 For the salaries and personal services of the council, for the expenses of the governor and council, and for the expenses and travel of the council from and to their homes	\$295,825
0431-9003 For the operation of the state house office of Vietnam Veterans of Massachusetts, Inc.	\$20,000
0431-9004 For locating, operating and maintaining an office of Vietnam Veterans of Massachusetts, Inc., at the state office building located at 436 Dwight street in the city of Springfield	\$20,000

SECRETARY OF THE COMMONWEALTH.

0511-0000 For the office of the secretary; provided that the positions of director of administrative services, council II, and assistant supervisor of public records, and the director and assistant director of the bilingual information center shall not be subject to the provisions of chapter thirty-one of the General Laws, including not more than one hundred and twenty-seven permanent positions, prior appropriation continued	\$4,718,784
0511-0200 For the administration of the Archives Division, including not more than twenty-one permanent positions	\$511,598
0511-0230 For the expenses of the Record Center, including not more than five permanent positions	\$232,723
0511-0250 For the maintenance and operation of the Archives Facilities, including not more than five permanent positions	\$582,011
0511-0260 For the administration of the Commonwealth Museum, including not more than three permanent positions	\$137,750
0517-0000 For the expense of printing various documents; including a public register listing all notices of contractual opportunities offered by any public agency or	



ACTS, 1985. - Chap. 140.

Item

	authority of the commonwealth; provided by that, notwithstanding any law to the contrary, all revenue accrued from the sale of such documents may be expended without further appropriation an amount up to five hundred thousand dollars subject to the approval of the secretary and the state comptroller for the expense of printing such documents including costs of materials, supplies, and equipment; and provided further that the secretary shall make quarterly reports to the house and senate committees on ways and means on the revenues accrued from the sale of such documents and on any measures which have been taken to increase such revenues, including not more than five permanent positions, prior appropriation continued	\$366,860
0518-0000	For the purchase and distribution of certain journals of the house of representatives	\$7,500
0519-0000	For the expenses of the state decennial census as authorized by chapter nine of the General Laws, as amended, prior appropriation continued	\$149,318
0521-0000	For preparing, printing and distributing ballots and other miscellaneous expenses for primary and other elections, including not more than six permanent positions, prior appropriation continued	\$500,000
0524-0000	For expenses of compiling and publishing information to voters	\$31,200

Massachusetts Historical Commission.

0526-0100	For the administration of the commission, including not more than one permanent position	\$445,530
0526-0105	For the purposes of a federally funded grant entitled, Massachusetts Historical Survey	\$562,517
	General Federal Grants Fund 100.0%	
0526-0115	For the purposes of a federally funded grant entitled, Massachusetts Historical Preservation	\$318,187
	General Federal Grants Fund 100.0%	
0526-0900	For a grant program for the preservation and maintenance of properties listed on the State Register of Historic Places	\$640,000

Ballot Law Commission.

0527-0100	For the compensation and expenses of the commissioners, including not more than five permanent positions	\$21,000
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Records Conservation Board.



ACTS, 1985. - Chap. 140.

Item

0528-0100 For the expenses of the board	\$21,233
0529-1300 For purposes of a federally funded grant entitled, Shays' Rebellion Exhibit	\$88,065
General Federal Grants Fund	100.0%

Commission on Interstate Cooperation.

0530-0100 For the expenses of the commission; provided, that all positions are exempted from the provisions of chapter thirty-one of the General Laws, including not more than three permanent positions	\$161,952
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Office of Campaign and Political Finance.

0531-0100 For the expenses and administration of the office of campaign and political finance, including not more than twelve permanent positions	\$371,913
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**TREASURER AND RECEIVER-GENERAL.**

0610-0000 For the office of the treasurer and receiver-general, including not more than one hundred and fifteen permanent positions, prior appropriation continued	\$6,982,385
Highway Fund	30.0%
General Fund	70.0%

0611-1000 For the administration and expenses of bonus payments to war veterans	\$146,348
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0611-5000 For the compensation to victims of violent crimes; provided, that notwithstanding the provisions of section five of chapter two hundred and fifty-eight A of the General Laws, if claimant is sixty years of age or older at the time of the crime, and is not employed or receiving unemployment compensation, such claimant shall be eligible for compensation in accordance with this chapter even if the claimant has suffered no out-of-pocket loss; provided, that compensation to such claimant shall be limited to a maximum of fifty dollars; provided, further, that, notwithstanding the provisions of any general or special law to the contrary, victims of the crime of rape shall be notified of all available services designed to assist rape victims including but not limited to the provisions outlined in section five of chapter two hundred and fifty-eight A of the General Laws, prior appropriation continued	\$1,289,184
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0611-5500 For additional assistance to cities and towns, to be distributed under the provisions of section three of this act; provided, however, that the final distribution of fiscal year nineteen hundred and eighty-six shall not be paid by the state treasurer until he receives certification from the commis-	
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ACTS, 1985. - Chap. 140.

Item

	tioner of revenue of the acceptance of the prior fiscal year's annual financial reporting requirements pursuant to the provisions of chapter forty-four, section forty-three of the General Laws		\$561,563,489
	Local Aid Fund	100.0%	
0611-5800	For distribution to each city and town within which racing meetings are conducted, provided that each city or town's distribution shall be proportionate to its share of the amount certified by the state racing commission, pursuant to section eighteen D of chapter fifty-eight of the General Laws, at the end of the calendar year nineteen hundred and eighty-five; and provided further no city or town shall receive more than the amount so certified for that city or town	100.0%	\$1,318,000
	Local Aid Fund	100.0%	
<u>State Board of Retirement.</u>			
0612-0100	For the administration of the board; provided, that the position of executive secretary of retirement board shall not be subject to the provisions of chapter thirty-one of the General Laws, including not more than fifty-five permanent positions, prior appropriation continued		\$2,418,188
0612-1000	For the payment of the commonwealth's share in financing the state employees' retirement system, prior appropriation continued; provided, that the amounts of all reimbursements received on account of retirement allowances paid and all contributions received from the federal government and authorities and agencies of the commonwealth and political subdivisions thereof on account of the retirement of employees are to be in addition to this item and to be available for expenditure without further appropriation		\$188,000,000
	Highway Fund	15.0%	
	General Fund	84.8%	
	Inland Fisheries and Game Fund	0.2%	
0612-1100	For the cost of living increases to former teachers, municipal, county, and district employees whose retirement expenses are assessed upon cities and towns, and state employees; provided that such increases to the above-mentioned groups shall not exceed four per cent; and for the costs of increased survivor benefits authorized by chapter three hundred and eighty-nine of the acts of nineteen hundred and eighty-four; and provided further, that subject to rules and regulations promulgated by the treasurer, the state board of retirement and each city, town, county or district shall verify the cost thereof and the treasurer shall be authorized to make such payments, prior appropriation continued		\$66,123,000
	Local Aid Fund	80.0%	



ACTS, 1985. - Chap. 140.

Item

	General Fund	15.0%	
	Highway Fund	5.0%	
0612-1500	For a reserve to meet the full cost of the commonwealth's share in financing the state employees' and teachers' retirement systems; provided, that the amounts herein shall be paid from and not exceed the revenues dedicated by clause (a) of the last paragraph of section twenty-one of chapter one hundred and thirty-eight of the General Laws; and, provided further, that no funds will be eligible to receive moneys from such reserve if such funds are invested in any company doing business in or with the Republic of South Africa after September first, nineteen hundred and seventy-nine		\$13,961,200
0612-1505	For a reserve to reduce the unfunded pension liability of public retirement systems pursuant to section seventeen of chapter six hundred and sixty-one of the acts of nineteen hundred and eighty-three		\$21,500,000
0612-1510	For a reserve for an increase in funding to reduce the unfunded pension liability of the state employees' and the teachers' retirement systems; provided that fifty million dollars shall be credited to the pension reserve fund of the state employees' retirement system and fifty million dollars shall be credited to the pension reserve fund of the teachers' retirement system; and provided further that none of the monies appropriated herein shall be used for the pension costs of any retirement system except as otherwise provided herein		\$100,000,000
0612-1900	For authorization of payment of retirement benefits pursuant to chapter seven hundred and twelve and seven hundred and twenty-one of the acts of nineteen hundred and eighty-one, respectively, and chapter one hundred and fifty-four of the acts of nineteen hundred and eighty-three		\$68,000
0612-2000	For the compensation of veterans who may be retired by the state board of retirement and for the cost of medical examinations in connection therewith		\$15,500,000
	Highway Fund	22.0%	
	General Fund	78.0%	

Pensions for Retired Justices.

0612-3000	For pensions of retired judges or their widows		\$2,400,000
0612-5000	For retirement allowances of certain employees formerly in the service of the administrative division of the metropolitan district commission		\$66,300
	Highway Fund	25.0%	
	General Fund	75.0%	
0612-6000	For retirement allowances of certain veterans and police officers formerly in the service of the metropolitan district commission		\$1,140,000
	Highway Fund	60.0%	



ACTS, 1985. - Chap. 140.

Item

	General Fund	40.0%	
0612-7000	For retirement allowances of certain veterans formerly in the service of the metropolitan sewerage district		\$250,000
0612-8000	For retirement of certain veterans formerly in the service of the metropolitan water system		\$543,000
0612-9000	For annuities for widows of certain former members of the uniformed branch of the state police		\$140,616
	Highway Fund	66.0%	
	General Fund	34.0%	

Commissioners on Firemen's Relief.

0620-0000 For the expenses of administration and for relief disbursed by the commissioner \$10,635

Emergency Finance Board.

0630-0000 For administration of the board, including not more than one permanent position \$79,949

State Lottery Commission.

0640-0000 For the expenses of the operation and administration of the state lottery, provided, that twenty-five per cent of this appropriation shall be transferred from the State Lottery Fund to the General Fund quarterly in advance; provided further, that all the positions in this item shall not be subject to chapters thirty and thirty-one of the General Laws; provided, that the director shall, so far as practicable in making appointments to such positions, promote employees of the commonwealth serving in positions which are classified under said chapter thirty-one and that any such employee so promoted from a position in which at the time of promotion he has tenure by reason of section nine A of chapter thirty of the General Laws shall, upon termination of this service in such unclassified supervisory position, be restored upon his request to the classified position from which he was promoted or to a position equivalent thereto in salary grade in the same state agency, without impairment of his civil service status or his tenure by reason of said section nine A or loss of seniority, retirement and other rights to which uninterrupted service in the classified position would have entitled him; provided, however, that if his service in such unclassified supervisory position is terminated for cause, his right to be so restored shall be determined by the civil service commission in accordance with the standards applied by said commission in adminis-



ACTS, 1985. - Chap. 140.

Item

	tering said chapter thirty-one, including not more than two hundred and eleven permanent positions, prior appropriation continued	\$49,802,004
0640-0100 For	the expenses of the operation and administration of the arts lottery	\$3,132,595

Arts Lottery Council.

0640-0300 For	the expenses of the operation of the arts lottery council	\$145,431
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Debt Service.

0699-1800 For	the payment of interest on certain bonded debt of the commonwealth previously charged to the State Recreation Areas Fund	\$3,258,760
0699-1801 For	the payment of discount on the sale of bonds of the Commonwealth previously charged to the State Recreation Areas Fund	\$15,222
0699-1900 For	certain serial bonds maturing, previously charged to the State Recreation Areas Fund	\$2,587,362
0699-2800 For	the payment of interest on certain bonded debt of the commonwealth; provided, that any deficit existing in this item at the close of the fiscal year shall be charged to the Inland Fisheries and Game Fund	\$22,145
	Inland Fisheries and Game Fund 100.0%	
0699-2900 For	certain serial bonds maturing; provided, that any deficit existing in this item at the close of this fiscal year shall be charged to the Inland Fisheries and Game Fund	\$174,000
	Inland Fisheries and Game Fund 100.0%	
0699-3800 For	the payment of interest on certain bonded debt of the commonwealth previously charged to the Metropolitan Water District Fund	\$5,726,294
0699-3801 For	the payment of discount on the sale of bonds of the Commonwealth previously charged to the Metropolitan Water District Fund	\$34,603
0699-3900 For	certain serial bonds maturing, previously charged to the Metropolitan Water District Fund	\$6,092,081
0699-4800 For	the payment of interest on certain bonded debt of the commonwealth previously charged to the Metropolitan Sewerage District Fund	\$4,698,313
0699-4801 For	the payment of discount on the sale of bonds of the Commonwealth previously charged to the Metropolitan Sewerage District Fund	\$34,971
0699-4900 For	certain serial bonds maturing, previously charged to the Metropolitan Sewerage District Fund	\$6,295,020
0699-5800 For	the payment of interest on certain bonded debt of the commonwealth previously charged to the Metropolitan Parks District Fund	\$4,218,519
0699-5801 For	the payment of discount on the sale of bonds of the Commonwealth previously	



ACTS, 1985. - Chap. 140.

Item			
	charged to the Metropolitan Parks District Fund		\$11,700
0699-5900	For certain serial bonds maturing, previously charged to the Metropolitan Parks District Fund		\$5,420,948
0699-6800	For the payment of interest on certain bonded debt of the commonwealth; provided, that any deficit existing in this item at the close of this fiscal year shall be charged to the Highway Fund debt service reserve, prior appropriation continued		\$42,723,506
	Highway Fund	100.0%	
0699-6801	For the payment of discount on the sale of bonds of the Commonwealth; provided, that any deficit existing in this item at the close of the fiscal year shall be charged to the Highway Fund debt service reserve		\$378,040
	Highway Fund	100.0%	
0699-6900	For certain serial bonds maturing; provided, that any deficit existing in this item at the close of this fiscal year shall be charged to the Highway Fund debt service reserve		\$48,753,476
	Highway Fund	100.0%	
0699-7800	For the payment of interest on certain bonded debt of the commonwealth; provided, that any deficit existing in this item at the close of this fiscal year shall be charged to the General Fund debt service reserve, prior appropriation continued		\$174,823,716
0699-7801	For the payment of discount on the sale of bonds of the Commonwealth; provided, that any deficit existing in this item at the close of the fiscal year shall be charged to the General Fund debt service reserve		\$1,769,397
0699-7900	For certain serial bonds maturing; provided, that any deficit existing in this item at the close of this fiscal year shall be charged to the General Fund debt service reserve		\$157,128,619
0699-8100	For the payment of interest on certain bonded debt of the commonwealth; provided, that any deficit existing in this item at the close of this fiscal year shall be charged to the Government Land Bank debt service reserve		\$2,003,718
	Government Land Bank Fund	100.0%	
0699-8101	For the payment of discount on the sale of bonds of the Commonwealth; provided, that any deficit existing in this item at the close of this fiscal year shall be charged to the Government Land Bank debt service reserve		331
	Government Land Bank Fund	100.0%	
0699-8200	For certain serial bonds maturing; provided, that any deficit existing in this item at the close of this fiscal year shall be charged to the Government Land Bank debt service reserve		1,268,925
	Government Land Bank Fund	100.0%	
0699-8300	For the payment of interest on certain bonded debt of the Commonwealth; provided,		



ACTS, 1985. - Chap. 140.

Item

	that any deficit existing in this item at the close of this fiscal year shall be charged to the Intercity Bus Capital Assistance Program debt service reserve	\$335,096
	Intercity Bus Capital Assistance Program Fund 100.0%	
0699-8302 For	certain serial bonds maturing; provided, that any deficit existing in this item at the close of this fiscal year shall be charged to the Intercity Bus Capital Assistance Program debt service reserve	\$435,000
	Intercity Bus Capital Assistance Program Fund 100.0%	
0699-9100 For	the payment of interest of issuance costs of notes issued pursuant to section forty-nine B of chapter twenty-nine of the General Laws; provided, that any deficit existing in this item at the close of the fiscal year shall be charged to the General Fund	\$11,000,000

AUDITOR OF THE COMMONWEALTH.

0710-0000 For	the office of the auditor, including not more than one hundred and thirty permanent positions, prior appropriation continued	\$8,676,100
	Highway Fund 30.0%	
	General Fund 70.0%	
0710-0100 For	the administration and expenses of the bureau of local mandates, prior appropriation continued	\$395,912
	Highway Fund 30.0%	
	General Fund 70.0%	

DEPARTMENT OF THE ATTORNEY GENERAL.

0810-0000 For	the office of the attorney general, including not more than fifty-three permanent positions, prior appropriation continued	\$10,916,481
0810-0014 For	the expenses incurred by the department pursuant to section eleven E of chapter twelve of the General Laws	\$500,000
0810-0021 For	the expenses of administering the medicaid fraud control unit; provided, that the federal reimbursement for any expenditure for this item shall not be less than seventy-five per cent of such expenditure	\$1,935,184
0810-0031 For	the expenses of administering the local consumer aid fund, established by section eleven G of chapter twelve of the General Laws	\$505,983
0810-0035 For	the administration and expenses of the Anti-Trust division	\$445,002
	Anti-Trust Enforcement Fund 100.0%	
0810-0201 For	expenses incurred in administrative or judicial proceedings as authorized by sections eleven E and eleven F of chapter twelve of the General Laws	\$400,000
0830-0100 For	the administration and expenses of the commission on uniform state laws	\$18,850



ACTS, 1985. - Chap. 140.

Item

0840-0100	For the administration and expenses of the Victim and Witness Assistance Board; provided, however, that said board shall prepare a report detailing the expenditures from each grant, including the types of services provided for general categories of crimes, and the effect of said grants on the victims of crime in the commonwealth; and provided, further, that a copy of said report shall be filed with the house and senate committees on ways and means no later than April first, nineteen hundred and eighty-six, including not more than four temporary positions		\$252,894
	Victim and Witness Assistance Fund	100.0%	

STATE ETHICS COMMISSION.

0900-0100	For the administration and expenses of the state ethics commission, including not more than twenty-six temporary positions		\$864,926
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EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE.

Office of the Commissioner.

1100-1100	For the office of the commissioner, provided that forecasts generated by the state economic model be filed semi-annually with the chairmen of the house and senate committees on ways and means, including not more than eleven permanent positions and four temporary positions		\$801,203
	Highway Fund	30.0%	
	General Fund	70.0%	
1100-1150	For the administration of tort claims, including not more than six temporary positions		\$145,295
1100-1165	For staff to the governor, including the Governor's Office of Economic Development, the Governor's Office of Human Resources, and the Governor's Office of Educational Affairs, including not more than twenty-eight temporary positions		\$1,158,796
1100-1514	For the purposes of a federally funded grant entitled, Protection and Advocacy Grant		\$250,000
	General Federal Grants Fund	100.0%	
1100-1523	For the purposes of a federally funded grant entitled, Economic Development 302 Planning Assistance		\$130,000
	General Federal Grants Fund	100.0%	
1100-1703	For the purposes of a federally funded grant entitled, Administering Agency for Developmental Disabilities		\$1,087,345
	General Federal Grants Fund	100.0%	
1100-1710	For the purposes of a federally funded grant entitled, Massachusetts Developmental Disabilities Service		\$282,238



ACTS, 1985. - Chap. 140.

Item

General Federal Grants Fund

100.0%

Fiscal Affairs Division.

1101-2100	For the administration of the division, including not more than thirty-four permanent positions and twenty temporary positions		\$2,100,000
	Highway Fund	30.0%	
	General Fund	70.0%	
1101-2300	For the administration of the bureau of computer services and the bureau of systems services, provided that no expenditure for systems and programming, and systems development activities, undertaken for, or by, the department of public welfare shall be made from this account; including not more than one hundred and thirty-seven permanent positions and one hundred and thirty-eight temporary positions		\$10,908,250
1101-2301	For a reserve for expanded central processing unit capacity and related peripherals for the bureau of computer services provided that said bureau shall complete a five-year central processing capacity plan for said bureau to be submitted to the house and senate committees on ways and means by January one, nineteen hundred and eighty-six; and provided further, that the commissioner of administration, upon the recommendation of the director of the office of management information systems, is authorized to expend directly from this reserve or to transfer from this item to other items of appropriation such amounts as necessary to meet the costs of such capacity expansion and provided, further, that no such expenditures or transfers shall be made without prior approval of the house and senate committees on ways and means		\$1,500,000
1101-2304	For the expenses relating to the personnel management information system, including all expenditures related to the systems and programming of said system, and to the training for operators of said system; provided that the executive office for administration and finance shall prepare and submit reports quarterly during fiscal year nineteen hundred and eighty-six on the progress of the statewide implementation of said system, including expenditures related thereto, to the house and senate committees on ways and means, including not more than five permanent positions and twenty-six temporary positions		\$1,238,320
1101-2380	For the administration of the office of management information systems, and the administration of the bureau of systems policy and planning, provided that no expenditures for systems and programming, and systems development activities, undertaken for, or by, the department of public welfare shall be made from this account; and provided further that said bureau of systems policy and planning shall conduct and complete an update to a data processing survey, of all state departments and agencies, including the judicial branch		



Item

and all educational institutions under the board of regents, and all said departments and agencies are hereby directed to provide the information o data on such forms as the bureau shall prescribe as follows: (1) a report of each such agency specifying all data processing equipment, and specifying whether said equipment is owned, leased or in the possession of such agency on July one, nineteen hundred and eighty-five, including a projection for fiscal year nineteen hundred and eighty-six, and in the case of an agency contracting for data processing services, listing the name of the vendor, the dollar amount of the contract and the terms thereof briefly summarized, a brief description of the product to be delivered, if applicable, and the purpose of each such contract; (2) a summary report of all the funds budgeted for fiscal year nineteen hundred and eighty-six for all agencies for data processing within said agencies according to subsidiary accounts, excluding projects with said bureau but including all salaries and equipment related expenses; and (3) a summary report of all funds budgeted for fiscal year nineteen hundred and eighty-six by all agencies for data processing to be done with said bureau specifying the name of each project, a brief description of the purposes to be accomplished by the project in fiscal year nineteen hundred and eighty-six, including the fiscal year nineteen hundred and eighty-six salaries and equipment related expenses to be expended by the agency, and provided further, that said bureau may call upon any state department, agency, judicial branch or educational institution, including an on-site visit to verify any such survey information and no department or agency shall refuse entry or fail to cooperate in such verification; provided, however, that the lottery commission, for the purposes of security of information, may impose reasonable restrictions and establish guidelines for proper supervision by it of any such on-site visit, and provided further that a complete report of the aforementioned summaries shall be filed on or before January fifteenth, nineteen hundred and eighty-six, with the house and senate committees on ways and means, including not more than twenty-five permanent positions and thirty temporary positions

\$1,961,564

Central Services Divisions.

1102-3210 For the administration of the division of capital planning and operations; provided, that notwithstanding any law to the contrary, the director of the division of capital planning and operations is hereby authorized and directed to provide suitable space in the McCormack State Office Building to be utilized as a day care center for the children of state employees provided that the operation of such day care center shall pay rent to the commonwealth for said space



ACTS, 1985. - Chap. 140.

Item

and shall reimburse the commonwealth for any state tax revenue expended for the purpose of making improvements to the space provided, and that said space requirements and any incidental expenses attendant thereto shall be at no cost to the commonwealth, including not more than one hundred and fifty-nine permanent positions and twenty-two temporary positions \$6,089,561

Bureau of State Buildings.

1102-3301	For the administration of the bureau of state buildings and for the maintenance and operation of buildings under the jurisdiction of the state superintendent of buildings, including not more than one hundred and fifty-six permanent positions and twelve temporary positions	\$17,826,081
1102-4010	For the administration and operation of certain central services, including not more than thirty-four permanent positions and eleven temporary positions	\$1,085,739
1102-4050	For the administration and operation of an office of telecommunications; provided that said office administer the purchase of currently leased telephone switching devices, including not more than twelve permanent positions and four temporary positions	\$562,975
1102-5201	For the expenses and administration of a motor vehicles management bureau, including not more than fourteen permanent positions and one temporary position	\$399,746
1102-5211	For purchase, operation and repair of certain motor vehicles, provided that not less than one million one hundred forty-five thousand dollars shall be obligated for fuel and not less than two million seven hundred and seventy-four thousand dollars shall be obligated for purchase and repair of motor vehicles; and provided that the commissioner of administration submit to the house and senate committees on ways and means quarterly reports of expenditures by subsidiary from this item, prior appropriation continued	\$3,519,007
1102-5231	For the expenses and administration, operation and maintenance of the Springfield State Office Building, prior appropriation continued	\$102,000

Comptroller's Division.

1103-1000	For the administration of the division, including not more than one hundred and nineteen permanent positions and two temporary positions	\$3,330,000
	Highway Fund	30.0%
	General Fund	70.0%
1103-5010	For the administration of the bureau of special investigations, including not more than fifty-six permanent positions and eighty-five temporary positions	\$4,072,517



ACTS, 1985. - Chap. 140.

Item

Purchasing Agent's Division.

1104-1000	For the administration of the division, including not more than thirty-one permanent positions and sixteen temporary positions		\$1,396,885
	Highway Fund	30.0%	
	General Fund	70.0%	

Other Administration and Finance.

1105-1000	For the administration of the division of employee relations; provided, that during the negotiation of any collective bargaining agreement the commissioner shall file with the house and senate committees on ways and means the provisions of each offer made by the commonwealth, the total estimated cost of such offer, and an analysis of the ability of the commonwealth to provide sufficient revenues to pay for said offer; and provided further, that such information shall be filed with said committee for each subsequent collective bargaining offer made by the commonwealth; including not more than sixteen permanent positions and four temporary positions		\$768,135
1105-1010	For the purposes of a federally funded grant entitled, Mediation and Conciliation Services		\$42,034
	General Federal Grants Fund	100.0%	

Department of Personnel Administration.

1107-1000 For the administration of the department; provided, that notwithstanding any special or general law or rule or regulation to the contrary, the department of personnel administration is hereby authorized and directed to establish a fee of not less than ten dollars for each civil service examination given on or after September thirtieth, nineteen hundred and eighty-four; provided, that not less than one hundred and eighty thousand dollars be expended for the purposes of the Massachusetts Employee Assistance Program, and that no funds are obligated for purposes of executive search programs except any executive search program which may be conducted pursuant to Executive Order No. 227 adopted on February 25, 1983, as amended, and provided further, that the department of personnel administration administer a program of state employee unemployment management, including, but not limited to, agency training and assistance; and provided further that not less than sixty-nine thousand dollars be used to enhance the quality of the guide charts utilized in the job evaluation process; including not



ACTS, 1985. - Chap. 140.

Item			
	more than one hundred and ninety-six permanent positions and thirty-seven temporary positions		\$6,117,605
	Highway Fund	20.0%	
	General Fund	80.0%	
1107-1011	For the administration of the civil service commission, including not more than eleven permanent positions		\$247,823
1107-2400	For the office of handicapped affairs, provided, that, the office of handicapped affairs is authorized to expend the sum of twenty-five thousand dollars for the purpose of conducting an investigation and study relative to services rendered to minority handicapped citizens; provided further, that not less than thirty-five thousand dollars be expended for the purposes of the Governor's commission on accessible transportation, including not more than seven permanent positions and six temporary positions		\$357,375
1107-2450	For the purposes of a federally funded grant entitled, Client Assistance Program		\$158,000
	General Federal Grants Fund	100.0%	
1107-2500	For the office of affirmative action, including not more than nine permanent positions and five temporary positions		\$411,163
1110-1000	For the administration of the division of administrative law appeals established by section four H of chapter seven of the General Laws; provided, that notwithstanding any provision of law to the contrary the cost of services rendered to any office or agency for an appeal shall be charged to such office or agency, such charges to include an allowance for overhead as determined by the commissioner of administration; provided further, that the payments for such services shall be paid to the General Fund; and provided further, that no such service shall be provided without a written contract filed with the comptroller, including not more than seven permanent positions and seven temporary positions		\$379,811
1111-0010	For the administration of the bureau of teachers' retirement, including not more than twenty permanent positions and twenty-eight temporary positions		\$1,115,773
1111-1001	For the payment of retirement assessments of teachers formerly in military or naval service		\$1,000
1111-1002	For reimbursement of certain cities and towns for pensions to retired teachers, prior appropriation continued		\$21,527,226
	Local Aid Fund	100.0%	
1111-1003	For the payment of the commonwealth's share in financing the teachers' retirement system, prior appropriation continued		\$181,310,780
	Local Aid Fund	100.0%	

Group Insurance Commission.



ACTS, 1985. - Chap. 140.

Item

1120-1000	For administration of the group insurance program; provided, that the commission shall submit to the house and senate committees on ways and means, no later than October first, nineteen hundred and eighty-five, an updated report relative to the modernization of its operation; including not more than eleven permanent positions and seventy temporary positions	\$1,856,744
1120-2000	For the commonwealth's share of the group insurance premium; provided, that the group insurance commission shall charge the division of employment security and other departments, authorities, agencies and divisions which have federal or other funds allocated to them for this purpose for that portion of the cost of the program as it determines should be borne by such funds, and shall notify the comptroller of the amounts to be transferred, after similar determination, from the several state or other funds, and amounts received in payment of all such charges or such transfers shall be credited to the General Fund; provided, that notwithstanding the provisions of section twenty-six of chapter twenty-nine of the General Laws, the commission is hereby authorized to negotiate, purchase and execute contracts by April first of each year for a policy or policies of group insurance as authorized by chapter thirty-two A of the General Laws; and provided further, that the present level of health insurance coverage shall be maintained but shall not constitute payments in full of charges for health care services; and provided further, that effective July first, nineteen hundred and eighty-five said commonwealth's share of the group insurance as provided, in section eight of said chapter thirty-two A shall be ninety per cent of the total monthly premiums or rates as established by the commission effective July first, nineteen hundred and eighty-five; and further provided, that no funds appropriated under this item shall be expended for the payment of abortions not necessary to prevent the death of the mother; and provided further that the commission shall notify the house and senate committees on ways and means, by April fifteenth of each year, of the commonwealth's actual cost of its share of group insurance premiums for the next fiscal year	\$160,874,000
1120-2001	For a reserve required to supplement the commonwealth's share of the group insurance premium provided for in item 1120-2000 to provide payment for health insurance claims incurred prior to July first, nineteen hundred and eighty-five, in addition to the allocation appropriated in item 1120-2000, submitted for payment in fiscal year nineteen hundred and eighty-six or in future fiscal years; and, provided, that no transfer from the reserve herein shall be made but upon schedules submitted by the commissioner of administration and approved by the house and senate committees on ways and means; and, provided further, that the group insurance commission shall charge the division of employment security and other departments, authorities, agencies and divisions which have	



ACTS, 1985. - Chap. 140.

Item

- federal or other funds allocated to them for this purpose for that portion of the cost of the program as it determines should be borne by such funds, and shall notify the comptroller of the amounts to be transferred, after similar determination, from the several state or other funds, and amounts received in payment of all such charges or such transfers shall be credited to the General Fund; and provided further, that no funds appropriated under this item shall be expended for the payment of abortions not necessary to prevent the death of the mother, prior appropriation continued.
- 1120-3000 For the group insurance premium for certain retired employees and their dependents; provided, that amounts received from cities, towns or districts are to be in addition to this item and to be available for expenditure without further appropriation; and further provided, that no funds appropriated under this item shall be expended for payment of abortions not necessary to prevent the death of the mother, prior appropriation continued.
- 1120-4000 For the group insurance premium for certain retired municipal teachers and their dependents, prior appropriation continued; and further provided, that no funds appropriated under this item shall be expended for the payment of abortions not necessary to prevent the death of the mother
- \$5,500,000

George Fingold Library.

- 1120-4005 For the administration of the library; provided that thirty-eight thousand seven hundred and fifteen dollars shall be expended from this item for the purposes of the Art Commission, including not more than twenty-six permanent positions
- \$887,787

Council on the Arts and Humanities.

- 1121-0100 For the administration of the council, including not more than fifteen temporary positions
- \$853,270
- 1121-0110 For projects and productions funded by the council provided that no funds appropriated herein shall be used for administrative expenses of the council; and provided further, that not less than seven per cent of said appropriations shall be expended on projects and productions which are community based non-professional activities to be in addition to any federal funds available for the purpose; provided further, that not less than three million dollars be spent for the purposes of the Community Resource Act as provided in chapter seven hundred and seventy-two of the acts of nineteen hundred and eighty-one; and provided further, that not less than one million one hundred fifty-eight thousand two hundred and seventy-seven dollars shall be spent for science cul-



ACTS, 1985. - Chap. 140.

Item

	tural organizations and programs		\$15,525,796
	General Fund	74.5%	
	Local Aid Fund	25.5%	
1121-9717	For the purposes of a federally funded grant entitled, Promotion of Arts, Basic State Grant		\$400,700
	General Federal Grants Fund	100.0%	
1121-9718	For the purposes of a federally funded grant entitled, Promotion of Arts, Artists in Education		\$92,100
	General Federal Grants Fund	100.0%	
1121-9719	For the purposes of a federally funded grant entitled, Design Arts		\$107,000
	General Federal Grants Fund	100.0%	
1121-9720	For the purposes of a federally funded grant entitled, Folk Arts		\$31,000
	General Federal Grants Fund	100.0%	

Division of Public Employee Retirement Administration.

1140-0100	For the administration of a division of public employee retirement, including not more than fifty-five temporary positions		\$1,630,059
1140-0120	For the management of state employee workers' compensation cases, including not more than five temporary positions, prior appropriation continued		\$976,135
1140-0200	For the purpose of workers' compensation paid to public employees, including previous fiscal years		\$10,542,533
	Highway Fund	35.0%	
	General Fund	65.0%	
1140-0300	For the purposes of medical panels of the division of public employee retirement		\$1,076,010

Massachusetts Commission Against Discrimination.

1150-5100	For the office of the commission; provided, that all positions except clerical are exempted from the provisions of chapter thirty-one of the General Laws; and provided further, that said commission shall pursue the highest rate of federal reimbursement per charge allowable; including not more than twenty-nine permanent positions and twelve temporary positions		\$1,315,630
1150-5329	For the purposes of a federally funded grant entitled, Fair Housing Assistance Program - Type II, Year III		\$150,000
	General Federal Grants Fund	100.0%	
1150-5338	For the purposes of a federally funded grant entitled, Fair Housing Assistance Program - Type I		\$155,000
	General Federal Grants Fund	100.0%	



ACTS, 1985. - Chap. 140.

Item

1150-5339 For the purposes of a federally funded grant entitled, Equal Employment Resolution Contract		\$421,920
General Federal Grants Fund	100.0%	

Retirement Law Commission.

1180-1000 For the administration of the commission, including not more than two permanent positions and one temporary position		\$117,295
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DEPARTMENT OF REVENUE.

1201-0100 For the administration of the department, including audits, of certain foreign corporations, and for the rental, maintenance and operation of offices to assist in the administration of the department; for the expenses of administering section forty-five A of chapter sixty-two C of the General Laws, for salaries and expenses of the wage reporting system; provided that not less than one million three hundred thousand dollars be spent for the expenses of the wage reporting system; provided, that said department shall establish and maintain an office in the town of Greenfield, to be open not less than three days per week; provided, that the comptroller shall transfer to the General Fund the sum of two hundred and sixty thousand dollars from the receipts of the cigarette tax in accordance with the provisions of paragraph (b) of section fourteen of chapter two hundred and ninety-one of the acts of nineteen hundred and seventy-five, including not more than two thousand and ten permanent positions and two temporary positions		\$62,432,459
Highway Fund	10.0%	
General Fund	90.0%	

Local Services.

1231-0100 For the administration of the bureaus of municipal data management and technical assistance, property tax, local assessment and accounts, including the expense of auditing municipal accounts where the circumstances require state assistance to accomplish a specific purpose in the protection of the public interest; for the operation of technical assistance and educational programs for financial officials of the cities and towns; for the monitoring of municipal audits performed by independent public accountants; for the supervision of the installation of accounting systems meeting generally accepted accounting principles; for the expenses of materials which may be sold to cities and towns, including the		
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ACTS, 1985. - Chap. 140.

Item

	expenses for developing and implementing a comprehensive and voluntary program of technical assistance and training for cities, towns and districts in local property tax assessment administration and accounting and financial management reviews; provided, however, that the department shall file quarterly reports with the house and senate committees on ways and means, detailing those cities, towns and districts receiving services including the cost and nature of said services, including not more than one hundred and eighty-two permanent positions	\$5,900,000
1231-1000	For the administration of the county personnel board, including not more than five permanent positions	\$50,722

Bureau of Local Taxation.

1233-1000	For reimbursing cities and towns for loss of taxes on land used for state institutions and certain other state activities	\$15,000,000
	Local Aid Fund 100.0%	
1233-1500	For reimbursing cities and towns for loss of taxes on land taken for flood control purposes	\$265,000
	Local Aid Fund 100.0%	
1233-2000	For reimbursing cities and towns for abatements granted	\$5,200,000
	Local Aid Fund 100.0%	
1233-2310	For reimbursing cities and towns for taxes abated	\$10,000,000
	Local Aid Fund 100.0%	
1233-3000	For reimbursing the city of Boston for loss of taxes on land for government center	\$357,570
	Local Aid Fund 100.0%	
1233-3100	For reimbursing certain cities and towns for fifty per cent of career incentive salary increases for police officers	\$5,511,234
	Local Aid Fund 100.0%	
1233-3200	For reimbursing the city of Boston for loss of taxes in the Park Square area	\$420,250
	Local Aid Fund 100.0%	

Appellate Tax Board.

1310-1000	For the personal services and expenses of the board; provided, that the board is hereby authorized to prepare official transcripts of hearings at no expense to the commonwealth and expend, in addition to the sum appropriated herein and without further appropriation, income derived from the sale of such transcripts, including not more than twenty-five permanent positions and eight temporary positions; and provided, further, that the board schedule hearings	
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ACTS, 1985. -- Chap. 140.

Item

in Barnstable, Lawrence, Pittsfield, Worcester and Springfield

\$946,797

Miscellaneous.

1599-0002 For	the payment of miscellaneous obligations of the commonwealth, including contributions toward the maintenance of the old provincial state house; for certain annuities and pensions of soldiers and others under the provisions of certain acts and resolves; for claims authorized by section one hundred and forty-nine D of chapter one hundred and seventy-five of the General Laws and for reimbursement for funds previously deposited in the treasury and escheated to the commonwealth; for claims for unpaid checks with the certification of the state treasurer to the comptroller of the amount due; and for the payment of expenses of prior fiscal years for which no funds are available in the current fiscal year; provided, that no payment shall be made unless the subsidiary account item to which the deficiency is to be charged contained a balance sufficient to meet the required payment; and provided the comptroller is hereby authorized to certify such payments and to allocate the cost of such payments to the several or other state funds to which the items of appropriation are charged	\$58,500
1599-0008 For	a reserve for tort claims	\$200,000
1599-0035 For	certain debt service contract assistance to the Massachusetts Convention Center Authority in accordance with the provisions of section thirty-nine I of chapter one hundred and ninety of the acts of nineteen hundred and eighty-two as amended by section fifteen of chapter six hundred and twenty-nine of the acts of nineteen hundred and eighty-two	\$12,629,725
1599-2025 For	a reserve to meet emergencies; provided, that the commissioner of administration is hereby authorized to transfer from the sum appropriated herein to other appropriation items where the amounts otherwise available are insufficient, such amounts as are necessary to protect the public interest; provided further, that no transfer shall be made as authorized herein until the existence of the said emergency shall have been certified by the agency and the secretary having jurisdiction over the requesting agency; and that the existence of the said emergency shall have been verified by the house and senate committees on ways and means; and provided further, that the commissioner of administration, is authorized to allocate the amount of said transfers to the several state or other funds to which such items of appropriation are charged	\$1,200,000
1599-2056 For	a reserve to meet the cost of the retirement law commission research project, provided, that the allocation of funds for the purpose of this item shall be based upon a recommendation of the commissioner of administration and finance and approval of the house and senate committees on ways and means	\$175,000



Item

- 1599-3100 For the payment of contributions to the unemployment compensation fund to support the cost of certain employment security benefits; provided, that notwithstanding the provisions of any general or special law to the contrary, as of July first, nineteen hundred and eighty-five, the commissioner of administration is hereby authorized to charge against individual appropriation accounts an amount for deposit into this item of appropriation which may be expended by the commissioner of administration without further appropriation for the purpose of this item, and the amount which is so charged, in the aggregate shall equal the contributions required by the provisions of chapter one hundred and fifty-one A of the General Laws, during the period beginning July first, nineteen hundred and eighty-five and ending June thirtieth, nineteen hundred and eighty-six. Said amount which is so charged shall be based upon the actual unemployment benefits which were paid to former employees funded through said appropriation accounts during the eighteen month period prior to July first, nineteen hundred and eighty-five.
- 1599-3192 For a reserve to fund certain projects, designed to improve the productivity and efficiency of agency operations, through innovative cost-saving measures and or equipment acquisition, provided that the commissioner of administration is authorized to transfer such funds, not to exceed seventy-five thousand dollars for any one project, to other appropriation items where he deems there exists a significant potential for increased productivity in agency operation that will result from the expenditure of these funds; provided, further, that the commissioner shall notify both the house and senate committees on ways and means of any such transfer of funds from this reserve, and shall provide quarterly reports to said committees on the status of the productivity reserve program, including the number of funding applications received, the identity of the agencies applying for funds, the amount of funding requested by each agency, a description of the projects for which funding has been requested, and the response, if any, to each agency's request, prior appropriation continued.
- 1599-3315 For the transportation of prisoners to and from the several departments of the trial court by the sheriffs of the various counties, including the cost of personal services and the purchase of vehicles and other equipment for said purposes; provided that, the commissioner of administration is hereby authorized to advance to the county treasurer of each county the sums set forth below for each respective county: Barnstable, one hundred ninety-seven thousand seven hundred and eighty-six dollars; Berkshire, one hundred thirty-eight thousand seven hundred and forty-two dollars; Bristol, two hundred thirty-nine thousand seven hundred and thirty-two dollars; Dukes, sixty-four thou-



Item

sand seven hundred and seventy-six dollars; Essex, three hundred sixteen thousand seven hundred and twelve dollars; Franklin, one hundred twenty-four thousand and thirty-eight dollars; Hampden, three hundred forty-three thousand and seventy-one dollars; Hampshire, one hundred fifty-five thousand and thirty-seven dollars; Middlesex, five hundred fifty-four thousand five hundred and fifty dollars; Norfolk, three hundred and four thousand three hundred and seventy-nine dollars; Plymouth, three hundred and seven thousand one hundred and ninety-one dollars; Suffolk, two hundred seventy-six thousand two hundred and forty dollars; Worcester, three hundred fifteen thousand nine hundred and seventy dollars; provided that the commissioner of administration, upon agreement of the respective sheriffs, may adjust such amounts in such fashion as is necessary to meet the actual cost of said transportation; and, provided, further, that each such treasurer shall deposit said amounts into a fund to be expended solely for the purpose of this item; and, provided that any interest earned by said fund shall be deposited to said fund and made available for expenditure for the purpose of this item in addition to the amounts appropriated herein and that any unexpended balance of such fund including interest as of June thirtieth, nineteen hundred and eighty-six, shall be returned to the commonwealth

\$3,338,224

Local Aid Fund 100.0%  
1599-3318 For equalizing distributions to cities and towns which are not a part of both the Metropolitan Parks District and the Metropolitan Sewerage District; provided that the amount herein appropriated shall be distributed to eligible cities and towns as herein defined. "Eligible cities and towns" are defined as those cities and towns which are not a part of both the metropolitan parks district and metropolitan sewerage district. The amount to be distributed hereunder to each eligible city and town shall be the amount of the equalizing municipal grant, as calculated pursuant to section eighteen C of chapter fifty-eight of the General Laws, multiplied by the adjusted population factor for each city and town as calculated hereunder. For cities and towns which are neither members of the metropolitan parks districts nor of the metropolitan sewerage district, the adjusted population factor shall be the "persons who reside in such city or town," as defined in said section eighteen C. For cities and towns which are members of either the metropolitan parks district or the metropolitan sewerage district, but are not members of both districts, the adjusted population factor shall be the "persons who reside in such city or town," as defined in said section eighteen C, divided by two

\$5,877,844

Local Aid Fund 100.0%  
1599-3388 For a reserve to fund the lease of certain data processing equipment by the commis-



ACTS, 1985. - Chap. 140.

Item

	sioner of administration pursuant to the provisions of section seventy-seven of chapter two hundred and thirty-four of the acts of 1984 provided that said commissioner is authorized to transfer funds herein appropriated to those appropriation items specified in said section seventy-seven; and provided further, that no such transfers or expenditures shall be made without the prior approval of the house and senate committees on ways and means, prior appropriation continued.	
1599-3403 For	a reserve to fund the development and implementation of certain management information systems; provided that the commissioner of administration, upon the recommendation of the director of the office of management information systems, is authorized to transfer funds from this item to other items of appropriation or to expend funds directly from this reserve; and provided further, that no such transfers or expenditures shall be made without the prior approval of the house and senate committees on ways and means, prior appropriation continued	\$3,975,000
1599-3407 For	the purpose of municipal reimbursements to be paid according to the provisions of chapter four hundred and seventy of the acts of nineteen hundred and eighty-three provided that the commissioner of administration shall convene a working committee made up of his own designee, a designee of the secretary of labor, a designee of the commissioner of the department of environmental quality engineering, and an appropriate designee of cities and towns, to define fully the role of the municipal coordinator in implementing the provisions of chapter four hundred and seventy of the acts of nineteen hundred and eighty-three, and to establish guidelines for purposes of reimbursing cities and towns for reasonable costs associated with the necessary activities of municipal coordinators; a report of this committee must be submitted to the house and senate committees on ways and means prior to the expenditure of any funds contained herein for reimbursement of local costs	\$1,300,000
1599-3408 For	a reserve to fund the collective purchase of motor vehicle equipment, including both passenger and non-passenger vehicles, for all agencies with the exception of the metropolitan district commissioner's water and sewer districts. The commissioner of administration shall establish a control system for the expenditure of funds from this line item and shall for said purpose review and approve or disapprove all requests from agencies to replace or purchase new motor vehicle equipment	\$6,090,000
	Highway Fund	50.0%
	General Fund	50.0%
1599-3415 For	a reserve to meet the fiscal year nineteen hundred and eighty-six costs of salary adjustments and other employee economic benefits authorized by existing	



ACTS, 1985. - Chap. 140.

Item

- ratified collective bargaining agreements; and to meet the costs of salary adjustments and other economic benefits necessary to provide equal salary adjustments or benefits to employees employed in "confidential" positions which would otherwise be covered by said collective bargaining agreements; provided that the personnel administrator, with the approval of the commissioner of administration, shall determine such salary adjustments and other economic benefits for "confidential" employees in accordance with the provisions of the collective bargaining agreement then in effect which would otherwise cover said positions; provided, that the commissioner of administration is hereby authorized to transfer from the sum appropriated herein to other items of appropriation and allocations thereof for the fiscal year nineteen hundred and eighty-six such amounts as are necessary to meet the cost of said adjustments and benefits for the fiscal year nineteen hundred and eighty-six where the amounts otherwise available are insufficient for the purpose; and provided, that the commissioner of administration is further authorized to allocate the cost of such adjustments and benefits to the several state or other funds to which such items of appropriation are charged; and provided further, that in the event any said collective bargaining agreement requires a payment to a union or a joint union-management trust fund said payment made may be charged by the comptroller against this item; and provided further, that no transfer, payment, or payment to said unions of a joint union-management trust fund shall be made from this item without the prior approval of the house and senate committees on ways and means after said committees have received copies of said bargaining agreement, together with an analysis of all cost items contained in said agreement and all charges to be made in the schedules of permanent and temporary positions required by said agreement which schedules shall be filed with the house and senate committees on ways and means prior to the transfer or allocation of any amounts necessary to meet with the cost of said adjustments and benefits
- 1599-3418 For a reserve for educational reform, so-called; provided that the commissioner of administration is authorized to expend directly from this reserve or to transfer from this item to other items of appropriation such amounts as are necessary to meet the costs of said reform; and provided further, that no such expenditures or transfers shall be made without the prior approval of the house and senate committees on ways and means
- Local Aid Fund 100.0%
- 1599-3472 For a reserve to meet the costs of improvements to lockup facilities of cities and towns of the Commonwealth, metropolitan district commission lockup facilities, and state police facilities as prescribed by section thirty-six B of

\$11,358,000

\$50,000,000



ACTS, 1985. - Chap. 140.

Item

	chapter forty of the General Laws, provided that the commissioner of administration is hereby authorized to distribute the sum appropriated herein to procure the materials and to remunerate the services of vendors authorized by the Commonwealth to provide said improvements, and to reimburse the documented, reasonable expenses of said cities and towns, state police, or metropolitan district commission incurred in making said improvements pursuant to contracts entered into prior to July first, nineteen hundred and eighty-five; provided that no said distribution shall be made until after inspection and certification by the Department of Public Health of the improvements for which such distribution is made; prior appropriation continued	\$783,288
1599-3500 For	a reserve to fund the assumption by the Commonwealth of certain costs of county jails and houses of corrections; provided that no funds shall be expended from his reserve without the prior approval of the house and senate committees on ways and means	\$15,000,000

Executive Office Of Environmental Affairs.

Office of the Secretary.

Notwithstanding any provision of law to the contrary, the secretary of environmental affairs shall provide the secretary of administration and finance and the house and senate committees on ways and means notification of any alterations in programmatic undertakings from those programs listed in the line item below. If, within thirty days of notification of said alterations in programmatic undertakings, no action has been taken by either the secretary of administration and finance or the house and senate committees on ways and means, said alterations shall take effect.	
2000-0100 For	the office of the secretary, including the expenses of the water resources commission, the division of conservation services, a program for coastal zone management, for a program of review of environmental impact reports pursuant to chapter thirty of the General Laws, and including an amount no less than one hundred and seventy-two thousand dollars for soil surveying, and including an amount no less than one hundred thousand dollars for operating expenses of the state conservation districts and for land use planning and development; provided, that not less than six hundred and one thousand dollars shall be expended to operate a data processing center for state agencies within the executive office of environmental affairs; provided, further that the comptroller is hereby authorized to allocate the cost of such data processing services to the several state and other funds to which the items of appropriation of such other agencies are charged, including not more than



ACTS, 1985. - Chap. 140.

Item

	forty-seven permanent positions and not more than twenty-five temporary positions	\$2,333,912
2000-0141	For the purposes of a federally funded grant entitled, Coastal Zone Management Development	
	General Federal Grants Fund 100.0%	\$1,640,000
2000-0143	For the purposes of a federally funded grant entitled, Estuarine Sanctuaries	\$1,800,000
	General Federal Grants Fund 100.0%	
2000-0150	For the expenses of the Martha's Vineyard Commission	\$115,000
2000-0300	For a program of acid rain research, provided that the comptroller shall allocate amounts herein appropriated to the department of environmental quality engineering, department of fisheries, wildlife and recreational vehicles, the department of environmental management, the metropolitan district commission, and the department of food and agriculture pursuant to schedules filed by the secretary of environmental affairs and approved by the house and senate committees on ways and means	\$500,000
2030-9701	For the purposes of a federally funded grant entitled, Outdoor Recreational Projects, Political Subdivision	\$2,500,000
	General Federal Grants Fund 100.0%	

Hazardous Waste Facility Site Safety Council.

2050-0100	For the administration of the hazardous waste facility site safety council, including not more than seventeen permanent positions	\$237,141
2050-0200	For technical assistance grants to cities and towns, as authorized in chapter twenty-one D of the General Laws; provided that not less than twenty-nine thousand dollars shall be expended for a feasibility study for a geographic information system for environmental data in Massachusetts, prior appropriation continued	\$329,000

DEPARTMENT OF ENVIRONMENTAL MANAGEMENT.

Notwithstanding any general or special law to the contrary, the department of environmental management, upon approval of the secretary of environmental affairs, shall provide the secretary of administration and finance and the house and senate committees on ways and means notification of any alterations in programmatic undertakings from those programs listed in the line item below. If, within thirty days of notification of said alterations in programmatic undertakings no action has been taken by either the secretary of administration and finance, or the house or senate committees on ways and means, said alterations shall take effect.



ACTS, 1985. - Chap. 140.

Item

- 2100-0100 For the administration of the department, for the operation of the division of forests and parks, including a program of public transportation assistance to the recreation areas and facilities of the Boston Harbor Islands, for the division of water resources, including the expenses of certain flood control commissions, for the expenses of the Ipswich river watershed commission, for the administration of the hazardous waste source reduction and facility siting program; provided that a sum not exceeding one hundred and ten thousand dollars be expended for a program in source reduction; for the dam safety program, for the maintenance of property in the town of Plymouth, for the operation and maintenance of state piers in New Bedford and Gloucester, for the expenses of the North river commission in an amount not to exceed fifteen thousand dollars, and for the expenses of the scenic rivers program; provided, further, that a sum not exceeding sixty-five thousand dollars be expended for the reconstruction of the scenic path at the Ames Nowell Park in the town of Abington; provided, further, that the position of the deputy commissioner of environmental management shall not be subject to the provisions of chapter thirty-one of the General Laws; provided, further, that the department of environmental management, with the approval of the secretary of environmental affairs, shall submit to the secretary of administration and finance and the house and senate committees on ways and means on or before August fifteenth, nineteen hundred and eighty-five, a plan for the distribution of the funds appropriated herein among the major programs as set forth above, such plan to include a narrative statement for each program contrasting the funding for that program in the plan for the fiscal year nineteen hundred and eighty-six and the amounts funded in fiscal year nineteen hundred and eighty-five and explaining the rationale for any major variations, the number of personnel to be assigned to each program and a subsidiary account analysis for each program for each quarter of the year; provided, further, that the department shall report quarterly to the secretary of administration and finance and the house and senate committees on ways and means on the status of each program including detailed descriptions of expenditures and explanation of any variances from the finance plan submitted on or before August fifteenth, nineteen hundred and eighty-five; including not more than one hundred and eight permanent positions and not more than thirty-four temporary positions
- 2100-0105 For study, preparation of plans and environmental impact report, acquisition of land and any buildings thereon for the construction of pools in the city of Lawrence, prior appropriation continued.
- 2100-0160 For the development of a supplemental master plan for the Blackstone River and Canal Heritage Park and include that portion of the Blackstone River and Canal

\$5,466,438



ACTS, 1985. - Chap. 140.

Item

	located within the boundaries of the city of Worcester within said Heritage Park project, prior appropriation continued.	
2100-0163 For	the development of final design and engineering plans, including the preparation of bidding documents, copies of engineer permits and other documents necessary for the implementation of the master plan for the Blackstone River and Canal Heritage State Park and for an economic impact study including technical assistance and recommendations including rezoning, greenway development, historic preservation and conservation restrictions, pertaining to the development of the Heritage State Park along the Blackstone River corridor beginning in the city of Worcester, south of the Massachusetts/Rhode Island state boundary. Said study recommendations and technical assistance shall be provided to the Blackstone Valley Chamber of Commerce for the marketing and promotion of economic development projects related to said Heritage State Park, prior appropriation continued	\$60,000
2100-0165 For	the development of final design and engineering plans, including the preparation of bidding documents, copies of engineer permits and other documents necessary for the implementation of Phase II of the master plan for the Blackstone River and Canal Heritage State Park within the Monument Square section of the town of Blackstone	\$100,000
2120-0300 For	the administration of the bureau of recreation, and for the operation of facilities under the management of the bureau of recreation including forests and parks, certain reservations, salt water beaches, and skating rinks and swimming pools; provided, however, that any positions assigned to skating rinks and swimming pools, including the positions of supervisor of rinks and pools and the district supervisor of rinks and pools shall not be subject to the provisions of chapter thirty-one of the General Laws; provided, further, that not less than thirty-three full time positions be assigned to region five; provided, further, that not less than four positions be assigned to the Natural Bridge State Park; provided, further, that not less than four positions be assigned to Blackstone River State Park; including not more than one hundred and thirty-six permanent positions and not more than two hundred and fifty temporary positions	\$16,515,000
2120-0315 For	the improvement of facilities at the Erving State Forest campground	\$300,000
2120-0350 For	the development of Nutting Lake beach in Billerica	\$50,000
2120-0400 For	restoration of the Charles River Museum of Industry, including an aerial gallery for exhibition space and to provide a framework for mechanical and electrical systems and to provide additional public access	\$75,000
2120-1100 For	the expense of programs in forest management and development, including forestry assistance projects, the office of the state fire warden, and suppression	



ACTS, 1985. - Chap. 140.

Item

	of insect pests and shade tree diseases; including not more than one hundred and twenty permanent positions and not more than seventeen temporary positions	\$3,668,304
2120-1500	For the purposes of the bureau of urban services for the administration of the urban heritage parks program including grants or service contracts; provided, further, that not less than twenty thousand dollars be expended for the Holyoke Heritage Park Railroad, Incorporated, including not more than twenty-three permanent positions	\$1,435,000
2120-9701	For the purposes of a federally funded grant entitled, Rural Community Fire Protection	\$26,500
	General Federal Grants Fund 100.0%	
2120-9707	For the purposes of a federally funded grant entitled, Urban and Community Forestry	\$75,000
	General Federal Grants Fund 100.0%	
2120-9708	For the purposes of a federally funded grant entitled, Improved Lumber Drying Program	\$77,000
	General Federal Grants Fund 100.0%	
2121-9709	For the purposes of a federally funded grant entitled, Forestry Planning	\$30,000
	General Federal Grants Fund 100.0%	
2121-9710	For the purposes of a federally funded grant entitled, Rural Fire Protection	\$148,480
	General Federal Grants Fund 100.0%	
2130-9701	For the purposes of a federally funded grant entitled, Clam River Watershed Project	\$1,000,000
	General Federal Grants Fund 100.0%	
2130-9703	For the purposes of a federally funded grant entitled, Washington Brook Watershed Project	\$500,000
	General Federal Grants Fund 100.0%	
2130-9705	For the purposes of a federally funded grant entitled, SUASCO Watershed Flood Control Reservoir	\$250,000
	General Federal Grants Fund 100.0%	
2130-9707	For the purposes of a federally funded grant entitled, Diamond Brook Watershed Project - Town of Walpole	\$175,000
	General Federal Grants Fund 100.0%	
2130-9711	For the purposes of a federally funded grant entitled, Baiting Brook Watershed Project	\$1,200,000
	General Federal Grants Fund 100.0%	
2150-0500	For a continuous program of cleaning and dredging of harbors and inland waters as authorized by chapter eight hundred and seventy-eight of the acts of nineteen hundred and seventy; provided, that a sum not exceeding fifteen thousand dollars shall be used for the development of final engineering plans, including the preparation of bidding documents, copies of engineer permits and other documents for the control of the outflow and water level of Lake Nipmuc in the town of Mendon; provided, further, that a sum not exceeding thirty-five thou-	



ACTS, 1985. - Chap. 140.

Item

- sand dollars shall be used to complete the Washington Street dam in Hudson; provided, further, that a sum not exceeding thirty thousand dollars shall be used for bank stabilization of the Mill Creek in Chelsea; and provided, further, that a sum not exceeding forty-four thousand dollars shall be used for repairs to a sluice gate in the South Charles Reservoir at Charlton, and provided, further, that a sum not exceeding sixty thousand dollars shall be used to clean and dredge Schoolhouse Brook in the town of West Springfield, prior appropriation continued \$169,000
- 2150-0501 For a continuous program of cleaning and dredging of harbors and inland waters, as authorized by chapter eight hundred and seventy-eight of the acts of nineteen hundred and seventy; provided that a sum not exceeding one hundred thousand dollars shall be used to clear and dredge the Salisbury Plain river and the Matfield river in the towns of West Bridgewater and East Bridgewater; provided, that the funds appropriated herein may be expended without further appropriation, subject to schedules approved by the house and senate committees on ways and means, prior appropriation continued.
- 2150-0503 For a continuous program of cleaning harbors and inland waterways, as authorized by chapter eight hundred and seventy-eight of the acts of nineteen hundred and seventy; provided that a sum not to exceed two hundred thousand dollars shall be used to dredge the Housatonic River and stabilize the stream bank in the vicinity of the Park Street Bridge in the village of Housatonic, prior appropriation continued \$50,000
- 2150-0504 For a continuous program of cleaning and dredging of harbors and inland waters, as authorized by chapter eight hundred and seventy-eight of the acts of nineteen hundred and seventy; provided, that an amount not exceeding four hundred thousand dollars shall be used for the rehabilitation and dredging of Mill Brook in Webster and the construction of a secondary outlet for Webster lake including related environmental reports and permits, engineering contingencies and such land and easement taking costs related thereto; provided further, that the funds appropriated herein may be expended without further appropriation subject to schedules approved by the house and senate committees on ways and means, prior appropriation continued.
- 2150-0506 For a continuous program of cleaning and dredging of harbors and inland waters as authorized by chapter eight hundred and seventy-eight of the acts of nineteen hundred and seventy; provided, that an amount not exceeding twenty thousand dollars be expended, without further appropriation by either town, for a study of water quality and for control and cleanup of weeds, algae and other aquatic nuisance at Lake Singletary in the towns of Milbury and Sutton including recommendations for the preservation of said lake \$20,000



ACTS, 1985. - Chap. 140.

Item

2150-0507	For a continuous program of cleaning and dredging of harbors and inland waters as authorized by chapter eight hundred and seventy-eight of the acts of nineteen hundred and seventy, provided that this appropriation be used for the rehabilitation and dredging of McKinstry Pond in Oxford, including related environmental reports or engineering studies that the division deems necessary prior to the actual commencement of dredging activities; provided, that the funds appropriated herein may be expended without further appropriation subject to schedules approved by the house and senate committees on ways and means, prior appropriation continued.	
2150-0509	For the dredging and erosion control including structures, if necessary, to improve flow conditions of the Aberjona River/Wedge Pond, Winchester; provided, that the funds appropriated herein may be expended without further appropriation subject to schedules approved by the house and senate committees on ways and means, prior appropriation continued	\$250,000
2150-0521	For channel excavation, dredging and structural repairs to Pine Tree Brook in the town of Milton, said work to be done in accordance with the plans and designs authorized by item 2270-0525 of chapter two hundred and four of the acts of nineteen hundred and eighty-three, and item 2150-0527, of chapter two hundred and eighty-nine of the acts of nineteen hundred and eighty-three	\$200,000
2150-0522	For a study of Bennets/Crystal Brook in Saugus for hydrologic analysis, erosion control, dredging, water quality improvement and dam rehabilitation	\$45,000
2150-0529	For the restoration of Great Head Drumlins in the town of Winthrop, subject to acceptance by town meeting in said town, prior appropriation continued	
2150-0550	For the design and engineering for a marina at Pope's Island in the city of New Bedford	\$70,000
2150-0560	For repairs to the Hatches Harbor Dike in Provincetown	\$30,000

DEPARTMENT OF ENVIRONMENTAL QUALITY ENGINEERING.

Office of the Commissioner.

Notwithstanding any general or special law to the contrary, the department of environmental quality engineering upon approval of the secretary of environmental affairs, shall provide the secretary of administration and finance and the house and senate committees on ways and means notification of any alterations in programmatic undertakings from those programs listed in the line item below. If, within thirty days of notification of said alterations in programmatic undertakings, no action has been taken by either the secretary of administration and finance, or the house and senate committees on ways and means said alterations shall take effect.



ACTS, 1985. - Chap. 140.

Item

2200-0100 For the administration of the department including the administration of the division of water pollution control, for the administration of the collection of sewer grants management program, for the administration of the division of water supply and the shellfish program, for the expenses of the Lawrence Experiment station, for the expenses of programs in air quality control, including the administration of six air pollution control districts, for programs in hazardous and solid waste disposal, for the operation of a wetlands program in accordance with the provisions of sections forty and forty A of chapter one hundred and thirty-one and section one hundred and five of chapter one hundred and thirty of the General Laws; provided, that not less than ten positions be used for the administration of the clean lakes program; provided, further, that not less than forty thousand dollars be expended to research groundwater supplies to the Cape Cod region; provided, further, that not less than two hundred thousand dollars be used for the testing of the Neponset Valley Aquifer in the towns of Canton, Norwood, Westwood and Dedham for possible contamination; provided, further, that not less than seventy-five thousand dollars be used for the testing of water quality in the Cochato River and the Richardi Reservoir in the towns of Braintree, Holbrook and Randolph; provided further that no more than three hundred thousand dollars shall be expended for the purposes of a contract with the University of Massachusetts for environmental research; provided, further, that the department of environmental quality engineering, with the approval of the secretary of environmental affairs, shall submit to the secretary of administration and finance and the house and senate committees on ways and means on or before August fifteenth, nineteen hundred and eighty-five, a plan for the distribution of the funds appropriated herein among the major programs as set forth above, such plan to include a narrative statement for each program contrasting the funding for that program in the plan for the fiscal year nineteen hundred and eighty-six and the amounts funded in fiscal year nineteen hundred and eighty-five and explaining the rationale for any major variations; the number of personnel to be assigned to each program and a subsidiary account analysis for each program for each quarter of the year; provided, further, that the department shall report quarterly to the secretary of administration and finance and the house and senate committees on ways and means on the status of each program including detailed descriptions of expenditures and explanation of any variances from the financial plan submitted on or before August fifteenth, nineteen hundred and eighty-five; including not more than one hundred and forty-five permanent positions and not more than three hundred and fifty-seven temporary positions

\$18,765,508



ACTS, 1985. - Chap. 140.

Item

2200-0111	For the purpose of implementing certain provisions of chapter four hundred and seventy of the acts of nineteen hundred and eighty-three, the "Right to Know" law, so called	\$570,372
2200-0198	For management improvements to the department, including consultants and data processing equipment; provided, that no expenditures shall be made from this item without the prior approval of the house and senate committees on ways and means	\$200,000
2200-0300	For a program of water conservation grants to cities, towns, and districts of the commonwealth, excluding the metropolitan district commission, which shall include the provisions of information and technical assistance to water consumers regarding the needs for water conservation and the methods by which the water supply can be conserved and protected, and projects which are designed specifically to promote the utilization of less water supply than currently is being sold to consumers by local water managers; provided, that said grants shall be matched by an equal amount appropriated by said cities, towns, and districts; and provided, that said program shall include the purchase and distribution of water conserving devices for the retrofit of water using fixtures in existing structures throughout the commonwealth; provided, that said funds shall be administered by the cities, towns, and districts of the commonwealth pursuant to standards and criteria established by the department of environmental quality engineering and approved by the water resources commission; and provided, that such standards and criteria establish that priority be given, for receipt of such funds, to such cities, towns, and districts that charge or are in the process of adopting a rate structure that charges the actual cost of water services to its consumers; and provided, further, that said cities, towns, and districts, shall distribute said devices at the cost of purchase to residents of said cities, towns, and districts; and for grants to cities, towns and regional planning agencies for programs to provide for the safe disposal of household hazardous waste, said program shall provide the establishment of disposal locations and the dissemination of information concerning said locations; provided further that grants may be made to the University of Massachusetts for the establishment of programs to assist cities, towns and regional planning agencies in undertaking programs to dispose of household hazardous waste; provided, further, that said funds shall be administered by cities, towns and regional planning agencies pursuant to standards and regulations established by the department of environmental quality engineering, prior appropriations continued.	
2200-0301	For the purpose of establishing a grant program for public education activities and environmental monitoring and testing relative to toxic contamination in	



ACTS, 1985. - Chap. 140.

Item

	the New Bedford area and other communities with hazardous waste sites, prior appropriation continued	\$80,000
2200-9704	For the purposes of a federally funded grant entitled, Solid Waste Disposal-Conservation and Recovery	\$1,100,000
	General Federal Grants Fund 100.0%	
2200-9705	For the purposes of a federally funded grant entitled, Underground Water Protection Program	\$75,000
	General Federal Grants Fund 100.0%	
2200-9706	For the purposes of a federally funded grant entitled, Water Quality Management Planning	\$1,259,000
	General Federal Grants Fund 100.0%	
2200-9709	For the purposes of a federally funded grant entitled, Multi-Site Cooperative Agreement	\$700,000
	General Federal Grants Fund 100.0%	
2240-0600	For reimbursement to the metropolitan district commission and any city or town or other political subdivision for the commonwealth's share of water pollution abatement projects	\$796,400
	Local Aid Fund 100.0%	
2240-9706	For the purposes of a federally funded grant entitled, Accelerated Construction	\$1,500,000
	General Federal Grants Fund 100.0%	
2240-9709	For the purposes of a federally funded grant entitled, Clean Lakes Program	\$1,600,000
	General Federal Grants Fund 100.0%	
2240-9710	For the purposes of a federally funded grant entitled, Administration of the Construction Program	\$3,800,000
	General Federal Grants Fund 100.0%	
2250-0900	For the control of algae, weeds, and other aquatic nuisances in lakes, ponds, streams and other waters within the commonwealth, to be in addition to any private or public funds available for the purposes; provided, further, that an amount not exceeding eighteen thousand dollars shall be used for weed control and cleanup at Hoosac Lake in the town of Cheshire; provided, that an amount not exceeding five thousand dollars shall be used for weed control of algae, weeds and other aquatic nuisances at Chandler's Pond in the Brighton section in the city of Boston; provided, that the department shall complete a study and prepare plans and cost estimates of said project, upon completion, shall submit copies of said studies, plans and cost estimates to the house and senate committees on ways and means; and provided, further, that no funds shall be expended for the development of plans except as approved by the house and senate committees on ways and means subsequent to the receipt of said studies, prior appropriation continued.	



ACTS, 1985. - Chap. 140.

Item

2250-0904	For the control of algae, weeds and other aquatic nuisances in Lake Noquochoke located in the town of Dartmouth, notwithstanding any general or special law to the contrary, for a study and clean-up of said lake, prior appropriation continued.	
2250-0906	For the control of algae, weeds and other aquatic nuisances in Turnpike Lake and Mirimichi Lake located in the towns of Plainville and Foxborough, notwithstanding any general or special law to the contrary, for a study and clean-up of said lakes, prior appropriation continued.	
2250-0907	For a grant to the town of Sutton for the design and construction of the "New Village" sewer renovation project in Manchaug, including new leach trenches, septic tanks, pumps and pumping chamber, pipes, grading and excavation; provided that the department of environmental quality engineering give prior notice of this project to the town of Sutton and its residents before this project begins, with informational meetings held with affected residents, prior appropriation continued	\$20,000
2250-9701	For the purposes of a federally funded grant entitled, Public Water Supply Supervision Program	\$450,000
	General Federal Grants Fund	100.0%
2250-9710	For the purposes of a federally funded grant entitled, Statewide Air Pollution Control Program	\$2,800,000
	General Federal Grants Fund	100.0%
2260-0220	For the administration of a program which shall be conducted as soon as possible to test the health of residents potentially affected by the PCB hazardous waste problem in Norwood and otherwise to test air, water and soil sediments to document the scope and magnitude of the problem, prior appropriation continued.	

DEPARTMENT OF FISHERIES, WILDLIFE AND  
RECREATIONAL VEHICLES.  
Office of the Commissioner.

2300-0100	For the office of the commissioner, including not more than nine permanent positions	\$304,614
	General Fund	100.0%

Division of Fisheries and Wildlife.

Federal funds received as reimbursements for expenditures from the following items shall be credited as income to the Inland Fisheries and Game Fund:

2310-0200 For the administration of the division of fisheries and wildlife, including ex-



ACTS, 1985. - Chap. 140.

Item

	penses of the fisheries and wildlife board; and payment of damages caused by wild deer, including not more than twenty-five permanent positions and not more than one temporary position		\$801,469
	Inland Fisheries and Game Fund	100.0%	
2310-0300	To develop and improve facilities for public use and division operation at fish hatcheries, game farms, wildlife, management areas, and field headquarters, prior appropriation continued		\$74,689
	Inland Fisheries and Game Fund	100.0%	
2310-0310	For acquisition of upland area, wetland areas, and in holdings, prior appropriation continued		\$200,000
	Inland Fisheries and Game Fund	75.0%	
	General Fund	25.0%	
2310-0311	For the expenses of preparing, printing and mailing "Massachusetts Wildlife"		\$90,000
	Inland Fisheries and Game Fund	100.0%	
2310-0315	For the purchase or lease of certain equipment, in accordance with a schedule approved by the house and senate committees on ways and means		\$277,785
	Inland Fisheries and Game Fund	100.0%	
2310-0400	For the administration of game farms and wildlife restoration projects, and for wildlife research and management, and for the administration of fish hatcheries, for the improvement and management of lakes, ponds and rivers, for fish and wildlife restoration projects, for the commonwealth's share of certain cooperative fishery and wildlife programs, and for certain programs reimbursable under the federal aid to fish and wildlife restoration act; provided, that an amount not to exceed one hundred forty-four thousand dollars shall be used by the University of Massachusetts for the purposes of wildlife and fisheries research; provided further, that expenditures for such programs shall be contingent upon prior approval of proper federal authorities for reimbursement of at least seventy-five per cent of the amount expended, including not more than one hundred and eight permanent positions and not more than six temporary positions		\$3,338,883
	Inland Fisheries and Game Fund	100.0%	
2310-0500	For the expenses of a state funded program in natural heritage; provided that an amount not less than seventy-five thousand dollars shall be allocated for the expenses of a program in greenway planning		\$181,041
2310-0550	The division of fisheries and wildlife is authorized and directed to monitor, evaluate and mitigate the impact acid deposition, commonly known as acid rain, on the inland fisheries and water resources of the commonwealth including a contract with the water resources research center at the University of Massachusetts for the purposes of continuing the program now being conducted by		



ACTS, 1985. - Chap. 140.

Item		
	the center	\$332,016
2315-0100 For	the administration of a program of non-game management and research, including not more than five permanent positions	\$297,436
	Non-Game Wildlife Fund	100.0%
	<u>Public Access Board.</u>	
2320-0100 For	the maintenance, operation, acquisition and improvement of public access land and water areas, as authorized by section seventeen A of chapter twenty-one of the General Laws; provided, that no less than twenty thousand dollars be allocated to Five Mile Pond, Loon Pond, Lake Lorraine and Lake Massasoit in the city of Springfield, provided, further, that the positions shall not be subject to the provisions of chapter thirty-one of the General Laws; including not more than three temporary positions, prior appropriation continued	\$147,079
	<u>Division of Marine Fisheries.</u>	
2330-0100 For	the administration of the division, including expenses of the Cat Cove marine research station, marine research program, marine recreational fisheries programs, and commercial fisheries, and for the operation of the shellfish treatment plant at Newburyport, provided, that the division conduct a long-term contaminant monitoring program of marine species in Boston and Salem harbors, including not more than thirty-one permanent positions and not more than thirty-seven temporary positions	\$1,887,164
2330-0310 For	a Marine Recreation Fish Survey	\$150,000
2330-0600 For	a program of self-help to cities and towns for the cultivation, propagation and protection of shellfish, provided that towns receiving funds under this program shall develop a shellfish management plan approved by the director of the division of marine fisheries and shall provide that division with an accurate accounting of the use of these monies; the treasurer of each participating city or town shall annually certify to the director the amounts appropriated by said city or town for the cultivation, propagation, and protection of shellfish, the director may expend such sums as may be appropriated but such sums as are expended shall not exceed two-thirds of the city or town's annual expenditure for the cultivation, propagation, and protection of shellfish in the preceding year; family use areas and recreational shellfish areas set aside pursuant to section fifty-two which are cultivated, propagated or protected under the funding or provision of this section shall be open to all inhabitants of the commonwealth upon payment of a reasonable fee	\$300,000



ACTS, 1985. - Chap. 140.

Item

	Local Aid Fund	100.0%	
2330-0900	For the purchase of equipment in the division of marine fisheries		\$23,500
2330-9706	For the purposes of a federally funded grant entitled, Extended Fisheries Jurisdiction		\$25,000
	General Federal Grants Fund	100.0%	
2330-9709	For the purposes of a federally funded grant entitled, Commercial Fisheries Research and Development		\$91,600
	General Federal Grants Fund	100.0%	
2330-9710	For the purposes of a federally funded grant entitled, Cod Aging		\$30,800
	General Federal Grants Fund	100.0%	
2330-9712	For the purposes of a federally funded grant entitled, Commercial Fisheries Statistics		\$126,993
	General Federal Grants Fund	100.0%	
2330-9718	For the purpose of a federally funded grant entitled, Striped Bass Landings		\$27,000
	General Federal Grants Fund	100.0%	
2330-9719	For the purposes of a federally funded grant entitled, Vessel Services-Assessment		\$36,000
	General Federal Grants Fund	100.0%	
2330-9721	For the purposes of a federally funded grant entitled, Anadromous Fish Management		\$40,000
	General Federal Grants Fund	100.0%	

Division of Marine and Recreational Vehicles.

2340-0100	For the administration of the division, including not more than sixty-two permanent positions and not more than ten temporary positions		\$1,868,548
2340-9701	For the purposes of a federally funded grant entitled, Safe Boating Program		\$200,000
	General Federal Grants Fund	100.0%	

Division of Law Enforcement.

2350-0100	For the administration of the division of law enforcement; provided, however, that each county in the commonwealth shall be assigned at least one full time natural resources officer, including not more than eighty permanent positions		\$2,526,343
	Inland Fisheries and Game Fund	15.0%	
	General Fund	85.0%	
2350-0101	For the hunter safety training program, including not more than four temporary positions; provided, that an amount of twenty-five thousand dollars be expended for repairs and construction on existing buildings and twenty-five hundred dollars for architect and engineering fees for the High Ridge Wildlife Management Area		\$196,157



ACTS, 1985. - Chap. 140.

Item

	Inland Fisheries and Game Fund	100.0%	
2350-9701	For the purposes of a federally funded grant entitled, Cooperative Law Enforcement		\$90,000
	General Federal Grants Fund	100.0%	

DEPARTMENT OF THE METROPOLITAN DISTRICT COMMISSION.

Notwithstanding any other provision of any general or special law to the contrary, the salaries of all officers and employees of the commission shall be charged in full to appropriations authorized under this heading:

Administration.

2410-1000	For general administration, including not more than thirty-seven permanent positions		\$1,283,588
	General Fund	75.0%	
	Highway Fund	25.0%	

2410-9061 For the Massachusetts summer youth program, to be allocated, with the approval of the commissioner of the department of metropolitan district commission and the commissioner of the department of public works, to those agencies selected as participants in the program; provided, that the metropolitan district commission and the department of environmental management shall use funds from this item for conservation activities; provided, further, that not less than forty per cent shall be allocated to participants in the city of Boston, twenty-five per cent shall be allocated to participants within those cities and towns which comprise the metropolitan parks, sewerage and water districts and watershed management division projects, and thirty-five per cent shall be allocated to participants in cities and towns other than those which comprise said districts; provided, that the provisions of section twenty-nine A of chapter twenty-nine of the General Laws shall not apply to expenditures made from this item; and provided, further, that allocations made in accordance with this item may be expended by the selected participants without further appropriation, prior appropriation continued

\$2,000,000

Division of Watershed Management.

2420-1400 For the operation of maintenance of the watershed management division, including not more than one hundred and sixty-six permanent positions and not more than fourteen temporary positions; provided that no water shall be diverted from the Connecticut and Sudbury rivers by the metropolitan district commission



Item

or the Massachusetts Water Resources Authority except if there is a water emergency as declared by the department of environmental quality engineering pursuant to section forty of chapter forty of the General Laws

\$5,323,237

Metropolitan Parks District.

2440-0010 For the administration of the metropolitan district commission parks and recreation division, including the Southwest Corridor Park System, division of central services and division of highways; for maintenance of parks, reservations and the Charles River Basin, for the maintenance of boulevards, parkways, locks, bridges and dams, for the maintenance of vehicles and metropolitan district commission parks' district garages and the purchase of supplies and equipment; and for a study for the general restoration, rehabilitation, flood control, water quality improvement and landscaping at Beaverbrook Reservation in the city of Waltham and the town of Belmont; and for a natural resources protection and management program at Breakheart Reservation; and for a reservations and interpretive services program at the Harbor Islands, Blue Hills, and Middlesex Fells reservations; including not more than five hundred and forty-five permanent positions and not more than sixteen temporary positions; provided, further, that the commission shall not permit access or curb cuts to Chestnut Hill reservoir driveway under its control to any proposed development which includes a structure of more than ten stories in height or two hundred feet in height until and unless an environmental impact study is filed with the commission and it is determined that such a structure does not adversely effect the use or enjoyment of such premises by the public; provided, further, that the division is hereby authorized to enter into contracts extending for a maximum term of five years, subject to appropriation, for the management and operation of the Franklin Park and Walter D. Stone Zoological Parks, provided, however, that a separate contract shall be entered into for each park only after the department has selected a contractor or contractors pursuant to a competitive procedure including issuance of a request for proposals and solicitation of responses thereto; provided, further, that such contract shall be reviewed at least once every six months by the division to determine compliance therewith, and in the event the division determines that significant portions of the contract are not being complied with and the welfare and well-being of the parks are endangered by said lack of compliance with the express terms of said contract, said division may cancel such contract at any time with no less than ninety days notice to said contractor; provided, however, that said contracts shall contain an article prohibiting discriminatory employment



Item

practices by said contractor because of race, creed, color, national origin, ancestry, military status, sex, age, or condition of handicap, and requiring said contractor to take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to such factors, consistent with the mandates of Executive Order No. 227 (The Governor's Code of Fair Practices), Executive Order No. 237 (Minority Business Development), and any relevant laws or regulations providing for equal employment or affirmative action; provided, further, that the division may directly or through said contracts require the charging and collection of admission fares at said zoological parks; provided, however, that said zoos shall be open for a reasonable period of time each day without such admission charge; provided, however, that persons of sixty-five years of age and over and uniformed members of the armed forces of the United States shall pay half price for such admission charge at all times when said charge applies and that school children in groups from Metropolitan District Commission Parks District communities shall be admitted without such admission charge on a scheduled basis; provided, further, that prior to issuance of the request for proposals the department shall submit for review and comment said request to the Special Senate Committee on Zoos; provided, further, that any contractor shall regularly submit to the division, to the special senate committee on zoos, and to the house and senate committees on ways and means a management plan for the operation of said zoos accompanied by an operating budget, said plan shall encompass a five year period and shall be kept current each year, and copies of a current annual phase of said plan shall likewise be submitted to said committees as aforesaid; provided, further, that the department shall submit to said committee for review and comment all responses to said request for proposals received by the department; provided, further, that during the term of any management contract herein authorized, the contractor shall meet at least semi-annually with said committee for the purpose of reporting on the operation of said zoos; provided, further, that the department shall report annually on March thirty-first to the house and senate committees on ways and means, the amounts of revenue generated from the collection of admission fees as authorized herein, the expenditures of the same, and the details of operations and maintenance of the zoological parks pursuant to said management contract; provided, further, that revenues collected from admission fees charged at each zoological park up to but not exceeding one hundred fifty thousand dollars may be expended by the department, without further appropriation, for the management and operation of said zoological park; provided, further, that said management contract may authorize any revenues collected by said contractor from such admission fees in excess



ACTS, 1985. - Chap. 140.

Item

	of one hundred fifty thousand dollars but not exceeding two hundred thousand dollars to be obtained, without further appropriation, by said contractor; and provided, further, that any revenues collected from such admission fees in excess of two hundred thousand dollars shall be transferred to a Capital Improvements Fund for each zoo which shall be established in the treasury of the commonwealth		\$29,581,760
	General Fund	33.0%	
	Highway Fund	67.0%	
2440-0011	For reimbursement to the town of Canton for the cost of certain capital equipment repairs to the metropolitan district commission indoor skating rink leased by the town		\$16,000
2440-0015	For the administration of the metropolitan district commission police division; provided, that notwithstanding any provisions of chapter thirty-one of the General Laws, certain members may be temporarily allocated to special secondary ratings in accordance with the schedule approved by the joint committee on ways and means, a copy of which is on file with the personnel administrator; including not more than five hundred and seventy-nine permanent positions and including not more than seventy-nine temporary positions		\$20,523,537
	General Fund	33.0%	
	Highway Fund	67.0%	
2440-0020	For payment to the city of Boston for maintenance and operation of the James Michael Curley recreation center, prior appropriation continued		\$310,000
2440-0021	For the purpose of providing a mounted patrol at Lynn Beach, Kings Beach and Nahant Beach. This sum shall be expended only for this purpose and the leasing of any necessary equipment, prior appropriation continued		\$55,000
2440-0022	For the purpose of increased nighttime police patrol at Revere Beach boulevard, prior appropriation continued		\$50,000
	General Fund	100.0%	
2440-0023	For the administration of the metropolitan district commission police southwest corridor park system, and Franklin Zoological park, including not more than thirty permanent positions, prior appropriation continued		\$745,000
2440-0024	For the purpose of increased patrols at the Chestnut Hill Reservoir Reservation, prior appropriation continued		\$30,000
2440-0027	For the purpose of increased patrols on Wollaston Beach and Quincy Shore Drive		\$20,000
2440-0028	For the purpose of increased patrols on Winthrop Beach and Winthrop Shore Drive, prior appropriation continued		\$35,000
	General Fund	100.0%	
2440-0032	For the operation and maintenance of the Southwest Corridor Park System, including not more than eleven temporary positions		\$240,101



ACTS, 1985. - Chap. 140.

Item

2440-0033	For the purpose of increased patrols at the Mary O'Malley waterfront park in the city of Chelsea	\$35,000
2440-0034	For the installation of rubber matting at Kasabuski Ice Rink	\$15,000
2443-3901	For the operation and management of the Franklin Park and Walter D. Stone zoological parks	\$300,000
2444-4591	For the Mystic sailing program at Shore Drive Boat House in Somerville	\$30,000
2444-5511	For a sailing program at Pleasure Bay	\$30,000
2444-9001	For the construction, reconstruction and improvement of boulevards and parkways, including bridges, and including the resurfacing and repairing thereof and the installation of traffic lights thereof, prior appropriation continued	\$1,420,804
	Highway Fund	100.0%
2444-9004	For certain payments for the maintenance and use of the Trailside Museum and the Chickatawbut Hill Center	\$325,000
2444-9005	For the operation of street lighting for parkways and boulevards; provided, however, that a sum not to exceed four hundred thousand dollars be expended for lighting improvements on Revere Beach Boulevard, prior appropriation continued	\$2,002,150
	Highway Fund	100.0%
2444-9006	For the expenses of holding band concerts	\$35,000
2444-9014	For expenses involved in the refurbishing of the Flynn rink in the city of Medford	\$350,000
2450-1000	For the personal services and expenses to employees previously paid from highway bond funds, including not more than seventeen temporary positions	\$560,901
	Highway Fund	100.0%

Construction Division.

2460-1000	For the maintenance of the construction division, including the personal services and expenses relating to employees previously paid from metropolitan water district bond funds; provided, that, notwithstanding any provisions of any general or special law to the contrary, all officers and positions shall be subject to classification under section forty-five to fifty, inclusive, of chapter thirty of the General Laws, including not more than one hundred and thirty-one temporary positions	\$3,638,810
	General Fund	33.0%
	Highway Fund	67.0%

Department of Food and Agriculture.

2511-0100	For the office of the commissioner, including the expenses of the board of agriculture, including not more than twenty-five permanent positions and not	
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ACTS, 1985. - Chap. 140.

Item

	more than one temporary position	\$493,588
2511-0310	For the purposes of a federally funded grant entitled, Pesticide Enforcement General Federal Grants Fund 100.0%	\$191,270
2511-0320	For the purposes of a federally funded grant entitled, Restricted Use of Pesti- cide Applicators General Federal Grants Fund 100.0%	\$20,467

Division of Regulatory Services.

2511-3000	For the administration of the division, including the pesticide bureau, the bureau of plant pest control, the bureau of farm products, the bureau of dairying, and the bureau of milk marketing; provided, that not more than one hundred thousand dollars shall be expended to develop regulations for herbicide use on public rights of way, including not more than thirty-nine permanent posi- tions and not more than thirteen temporary positions	\$1,514,477
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Division of Agricultural Development.

2511-4000	For the administration of the division, and for the expenses of the bureau of mar- kets and the bureau of land use, including for promotion of Massachusetts agri- culture, provided that a sum not less than ten thousand dollars be expended for the MassSeed program; provided, further, that a sum not less than twenty- five hundred dollars be expended for a position at the Canning Center of the Essex Agricultural and Technical Institute, including not more than sixteen permanent positions and eight temporary positions	\$837,205
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Division of Animal Health.

2515-1000	For the administration of the division, and for the inspection of poultry and poul- try products, including not more than twenty-one permanent positions and not more than one temporary position	\$685,147
2516-3000	For the purposes of a federally funded grant entitled, Crop Survey General Federal Grants Fund 100.0%	\$6,000
2516-9002	For the purposes of a federally funded grant entitled, Development of Institu- tional Marketing General Federal Grants Fund 100.0%	\$50,000

Division of Fairs.



ACTS, 1985. - Chap. 140.

Item

2518-1000 For the administration of the division; provided, that payments for state prizes and agricultural exhibits, including allotment funds for 4-H activities, may be made from this appropriation, and for the display of exhibits at certain fairs; provided, further, that not less than two hundred thousand dollars shall be used for certain prizes; provided, further, that not less than eighty-seven thousand five hundred dollars shall be used for rehabilitation purposes, including not more than three permanent positions and one temporary position, prior appropriation continued \$630,494

Division of Equine Activities.

2518-2500 For the administration of the division, including not more than five permanent positions \$128,347

2518-3000 For the payment of certain prizes to promote the breeding of thoroughbred horses in the commonwealth, in accordance with the provisions of section two of chapter one hundred and twenty-eight of the General Laws; provided, however, that the balance of any funds accruing to the Massachusetts thoroughbred breeding program under the provisions of section fourteen of chapter four hundred and ninety-four of the acts of nineteen hundred and seventy-eight and not appropriated hereunder or appropriated under item 2518-4000, shall be deposited by the treasurer in a separate account designated Massachusetts thoroughbred breeding program and shall not revert to the General Fund, prior appropriation continued \$460,000

2518-4000 For the expenses of an equine research, loans and scholarship program in cooperation with the Tufts University School of Veterinary Medicine, and in accordance with the provisions of section two of chapter one hundred and twenty-eight of the General Laws; provided, however, that the balance of any funds accruing to the Massachusetts thoroughbred breeding program under the provisions of section fourteen of chapter four hundred and ninety-four of the acts of nineteen hundred and seventy-eight and not appropriated hereinafter or appropriated under item 2518-3000, shall be deposited by the treasurer in a separate account designated Massachusetts thoroughbred breeding program and shall not revert to the General Fund, prior appropriation continued \$115,625

2518-5000 For the payment of certain prizes, to promote the breeding of standardbred horses in the commonwealth, in accordance with the provisions of section two of chapter one hundred and twenty-eight of the General Laws; provided, however, that the balance of any funds accruing to or allocated to the Massachusetts standardbred agricultural fair and breeding fund committee established under section



ACTS, 1985. - Chap. 140.

Item

ten of chapter one hundred and twenty-eight of the General Laws, as most recently amended by section fourteen of chapter four hundred and ninety-four of the acts of nineteen hundred and seventy-eight, shall be deposited by the treasurer in a separate account designated the Massachusetts standardbred agricultural fair and breeding fund and shall not revert to the General Fund, prior appropriation continued

\$345,000

State Reclamation Board.

2520-0100	For the administration of the board, provided that no less than one hundred and fifty thousand dollars will be made available for the prevention and control of eastern equine encephalitis and shall be expended based upon the advice of the department of public health that a reasonable threat to the health of the public exists, including not more than one permanent position and not more than one temporary position, prior appropriation continued	\$219,993
	For the expenses of the following mosquito control projects, provided that persons employed in these projects shall be exempt from the provisions of section twenty-nine A of chapter twenty-nine of the General Laws.	
2520-0300	Cape Cod	\$588,826
	Mosquito and Greenhead Fly Control Fund	100.0%
2520-0900	Suffolk county	\$127,346
	Mosquito and Greenhead Fly Control Fund	100.0%
2520-1000	Central Massachusetts	\$605,625
	Mosquito and Greenhead Fly Control Fund	100.0%
2520-1100	Berkshire county	\$80,375
	Mosquito and Greenhead Fly Control Fund	100.0%
2520-1200	Norfolk county	\$369,650
	Mosquito and Greenhead Fly Control Fund	100.0%
2520-1300	Bristol county	\$360,250
	Mosquito and Greenhead Fly Control Fund	100.0%
2520-1400	Plymouth county	\$432,468
	Mosquito and Greenhead Fly Control Fund	100.0%
2520-1500	Essex county	\$401,700
	Mosquito and Greenhead Fly Control Fund	100.0%

**EXECUTIVE OFFICE OF COMMUNITIES AND DEVELOPMENT.**

Office of the Secretary.

3000-0100 For the office of the secretary, and the general administration of the department;



ACTS, 1985. - Chap. 140.

Item

	provided, that not less than one hundred thousand dollars shall be obligated for the purposes of the Northern Tier economic development program; including not more than forty-one permanent positions and fifty-four temporary positions	\$3,013,006
3000-0200 For	a program of grants to cities and towns and the departments thereof, including school departments and school districts, to improve the efficiency and effectiveness of operations and to develop enhanced management capacity	\$3,000,000
	Local Aid Fund 100.0%	

Division of Community Development.

3722-9001 For	a reserve for grants to Neighborhood Housing Services Corporations to complete the commonwealth's obligation for a neighborhood housing rehabilitation loan program notwithstanding the provisions of chapter four hundred and ninety of the acts of nineteen hundred and eighty and chapter two hundred and forty-one of the acts of nineteen hundred and eighty-two; provided, that the allocation of funds for the purpose of this item shall be based upon the recommendation of the secretary of the executive office of communities and development; and provided further, that revenue not to exceed an amount of five hundred thousand dollars accrued from said loan program may be expended without further appropriation, including not more than one temporary position	\$850,000
3722-9002 For	certain financial assistance for housing projects for veterans	\$4,002,000
3722-9013 For	the purposes of a federally funded grant entitled, Existing Housing Allowance Program, Section 8	\$23,649,040
	General Federal Grants Fund 100.0%	
3722-9018 For	state financial assistance for a program of supportive services, job training, and adult education for the purpose of assisting the residents of public housing developments maintained by local housing authorities established pursuant to section three of chapter one hundred and twenty-one B of the General Laws, including not more than two temporary positions, prior appropriation continued	\$4,435,089
3722-9019 For	the purposes of a federally funded grant entitled, Moderate Rehabilitation, Section 8	\$10,050,204
	General Federal Grants Fund 100.0%	
3722-9020 For	the purposes of a federally funded grant entitled, New Construction, Section 8, H.U.D.	\$5,133,720
	General Federal Grants Fund 100.0%	
3722-9024 For	payments to housing authorities for deficiencies caused by certain reduced rentals in housing for the elderly, the handicapped, veterans and relocated persons pursuant to sections thirty-two and forty of chapter one hundred and	



Item

twenty-one B of the General Laws; provided, that of the funds appropriated herein, the sums set forth below shall be deposited in individual allocation accounts for the purpose of each respective housing subsidy program: twenty million one thousand nine hundred dollars for veterans and relocated persons, nine million seven hundred thousand dollars for the elderly, and one hundred fifty thousand dollars for the handicapped; provided further, that no monies shall be expended from this item for the purpose of reimbursing the debt service reserve and capital reserve included in the budget of the housing authorities; and provided further, that the secretary of the executive office of communities and development shall submit quarterly reports to the house and senate committees on ways and means detailing expenditures by each housing authority in said quarter of funds appropriated herein according to housing subsidy program. And, for a program of rental assistance for families and elderly of low-income; provided, that notwithstanding any provision of law to the contrary, first preference for admission shall be granted to the eligible elderly; provided further, that of the funds appropriated herein, thirty-one million seven hundred forty-one thousand three hundred and forty-six dollars shall be deposited in an individual allocation account for the purpose of the rental assistance program; and provided further, that not more than ten per cent of the amount expended for said rental assistance program may be used for administration of said program; and provided further, that the secretary of the executive office of communities and development shall submit quarterly reports to the house and senate committees on ways and means detailing expenditures, the number of certificates awarded and the number of new and existing units leased. Provided, that the house and senate committees on ways and means shall be notified within one week of any transfer of funds between allocation accounts as set forth in this item, including not more than five temporary positions, prior appropriation continued

\$59,592,693

3722-9027 For contracts with sponsors of rental housing projects, financed through the agency established pursuant to chapter seven hundred and eight of the acts of nineteen hundred and sixty-six, for financial assistance in the form of a loan by the commonwealth to facilitate the construction or rehabilitation of rental housing projects pursuant to the provisions of section seven of chapter five hundred and seventy-four of the acts of nineteen hundred and eighty-three; provided, that notwithstanding the provisions of section twenty-seven of chapter twenty-three B, or sections twenty-six and twenty-seven of chapter twenty-nine to the contrary, the department is hereby authorized to enter into such contracts for terms not exceeding fifteen years with annual payment obligations not to exceed fifteen million dollars

\$1,729,834



ACTS, 1985. - Chap. 140.

Item

3722-9060	For grants to local housing authorities for the purpose of eliminating violations of the state sanitary code existing in units operated by said authorities; provided, that first priority shall be given to bringing the most serious violations into compliance with the state sanitary code; provided further, that only those housing authorities having a vacancy rate of fifteen per cent or greater as of July first, nineteen hundred and eighty-five shall be eligible for said grants	\$5,000,000
3722-9101	For reimbursement of cities and towns for the commonwealth's statutory share of federally aided urban renewal	\$1,024,138
	Local Aid Fund	100.0%
3722-9102	For reimbursement of cities and towns for the commonwealth's share of certain non-federally aided urban renewal projects; provided, that, notwithstanding the provision of any general or special law to the contrary, an amount not exceeding three hundred thousand dollars may be reimbursed for surveys, plans, and administration	\$771,400.
	Local Aid Fund	100.0%
3722-9109	For a program to provide assistance to communities to respond to the impacts and opportunities of growth and development including but not limited to developing capital budgets, infrastructure, and growth management and development plans	\$550,000
	Local Aid Fund	100.0%
3722-9201	For an interest subsidy program; provided, that, notwithstanding any other provisions of law to the contrary, expenditures made hereunder shall be subject to the approval of the secretary of communities and development; and provided further, that, notwithstanding any other provisions of law to the contrary, no projects shall be approved on or after the effective date of this act which would cause the commonwealth's obligation for the purposes of this item to exceed the amount of this item; provided further, that the agency established pursuant to chapter seven hundred and eight of the acts of nineteen hundred and sixty-six may expend from its working capital fund for the purposes of this interest subsidy program	\$6,725,000
3724-3037	For the purposes of a federally funded grant entitled, CDBG-Small Cities; provided, that revenues not to exceed an amount of one million dollars accrued from said program may be obligated for the purposes of the economic development set-aside program without further appropriation	\$27,900,000
	General Federal Grants Fund	100.0%
3724-9009	For the purposes of a federally funded grant entitled, Substantial Rehabilitation, Section 8	\$3,913,897
	General Federal Grants Fund	100.0%



ACTS, 1985. - Chap. 140.

Item

Division of Community Services.

3731-2003 For	expenses of community development and housing program services, including not more than twenty-nine temporary positions	\$937,934
3743-2024 For	research and planning by the Blue Hill Avenue Regional Development Corporation; provided, however, that expenditures from this item shall be in accordance with a plan approved by the house and senate committees on ways and means, prior appropriation continued.	
3743-2027 For	providing funds for local community economic development; provided, that contracts are to be awarded to community based organizations; and provided that, a portion of the amount appropriated herein may be expended for the provision of technical assistance to such organizations, including not more than two temporary positions	\$1,300,489
3743-2030 For	the purposes of a federally funded grant entitled, Weatherization Assistance for Low Income Persons	\$6,022,243
	General Federal Grants Fund 100.0%	
3743-2033 For	the purposes of a federally funded grant entitled, Energy Assistance Program	\$82,701,151
	General Federal Grants Fund 100.0%	
3743-2034 For	the purposes of a federally funded grant entitled, Community Services Block Grant; provided, that ninety per cent of these funds be directly contracted with community action agencies	\$8,677,819
	General Federal Grants Fund 100.0%	
3743-2036 For	contracts with community-based organizations to provide housing services and assistance to low-income tenants, and to landlords, in privately owned housing to maintain or secure decent and affordable shelter within the private housing stock; provided, that such programs shall include Worcester and Hampden counties, including not more than one temporary position	\$150,000
3743-2037 For	contracts with community action agencies, and other community-based organizations, to provide housing services and assistance to low-income tenants in privately owned housing, and to landlords, to maintain and secure decent and affordable shelter within the private housing stock; and provided, that not less than three hundred and fifty thousand dollars shall be directly contracted with community action agencies as herein provided: for a program of services to alleviate the effects of poverty on local communities, provided, that these monies shall be in addition to federal funds available in item 3743-2034, and provided, that the first priority shall be to ensure that the minimum amount of combined monies received by each community action agency under this item and said item 3743-2034 shall not be less than one hundred and fifty thousand dollars, and the second prio-	



ACTS, 1985. - Chap. 140.

Item

	rity shall be to distribute the remainder of this state appropriation on a formula, using the nineteen hundred and eighty census figures, based on the proportionate levels of minority populations and persons living below the federal poverty line, prior appropriation continued	\$700,000
3743-2038 For	the development of Urban Business Identification and Development Systems for the Blackstone Valley and the Orange/Athol district, the Executive Office of Communities and Development is hereby authorized and directed to contract with the Blackstone Valley Economic Development Council Greater Orange/Athol Industrial Development Corporation for the purpose of developing in conjunction with the Northeast Economic Action Research Corporation and Urban Business Identification and Development System for each of the aforementioned development districts, prior appropriation continued.	
3743-2039 For	contracting services for the packaging and financing of the rehabilitation, interim management, or emergency repairs of tax delinquent and abandoned or deteriorating residential housing properties; provided that not less than one hundred thousand dollars of the amount appropriated herein shall be used to support the Boston Arson Prevention Commission in a program to support anti-arson efforts in the city of Boston. Said assistance shall be targeted to economically depressed areas and be for the benefit of low and moderate income households, and shall be provided through reimbursement of costs incurred by municipal agencies or community-based and tenant organizations as defined by the secretary of communities and development, prior appropriation continued	\$350,000
3744-4010 For	payments of stipends to corpsmen of the Commonwealth Service Corps to be paid at the rate of one hundred twenty dollars monthly commencing July first, nineteen hundred and eighty-four, chapter six hundred and twenty-two of the acts of nineteen hundred and sixty-four, as amended in chapter twenty-three B of the acts of nineteen hundred and sixty-eight, notwithstanding; subject to the condition that amounts paid to recipients of aid to families with dependent children shall not reduce the amount of their assistance checks	\$576,000
3745-1000 For	the purpose of providing periodic advance funding for a low income energy assistance program including, but not limited to, the purchase of bulk oil; provided, that such advances are reimbursed by the federal government upon the availability of federal funds under the "Low Income Home Energy Assistance Act of 1981", Title XXVI of the Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35) or any amendments or successor acts thereto, provided, further that an amount not to exceed three million dollars of any reimbursements received pursuant to such advances shall be credited to this item, and may be expended without further appropriation and for a program of supplemental energy crisis assistance for needy elders and families to be administered in accord-	



ACTS, 1985. - Chap. 140.

Item

	<p>ance with regulations promulgated under said "Low Income Home Energy Assistance Act of 1981" or any amendments or successor acts thereto; provided, that federal funds are not available at the time of application for assistance by said needy elders and families; and provided, further that expenditures for administration of this program shall be subject to the approval of the secretary of communities and development, and for a program of energy crisis assistance for needy elders and families whose income is above one hundred and fifty per cent of the federal poverty level or above sixty per cent of the state median income level, whichever eligibility level is adopted pursuant to the state plan for the Low Income Energy Assistance Program, but not over one hundred and seventy-five per cent of the federal poverty level for one and two-person families to be administered, except for the income eligibility requirements, in accordance with the aforementioned federal program or any amendments or successor acts thereto; and provided, further that funds from this item may be used for weatherization assistance, such funds to be in addition to any federal funds received for this purpose</p>	\$17,000,000
3745-2000 For	<p>a comprehensive emergency weatherization assistance program for needy Massachusetts individuals and families whose income is either at or below one hundred and seventy-five per cent of the poverty level as determined by the United States Office of Management and Budget or at or below the Bureau of Labor Statistics lower living standard, whichever is higher. The secretary of the executive office of communities and development shall on or before November first, nineteen hundred and eighty-two and on or before November first of each ensuing year the program is in operation, submit to the commissioner of administration and to the chairmen of the house and senate committees on ways and means, a plan for the annual distribution of funds under said program. Such plan shall include but not be limited to (a) a provision for public participation in the development of the plan; (b) a description of the weatherization work to be done, the estimated number of dwelling units to be weatherized, the weatherization materials to be used, and, the procedures by which eligible households will be identified and certified as participants in the program; (c) a description of the measures which will be taken to assure coordination of this program with all other energy conservation and energy audits administered by the executive office of energy resources; (d) and analysis and recommendation of cost-effective options available to the state for the provision of assistance to low-income persons in private housing; and (e) a detailed accounting of the costs of the program, provided that administrative costs shall not exceed ten per cent of the total amount allocated for the program in any year</p>	\$4,000,000



ACTS, 1985. - Chap. 140.

Item

3747-0001 For the administration of the Commission on Indian Affairs; provided, that not more than five thousand one hundred dollars of the sum appropriated herein shall be expended for the purpose of implementing the provisions of chapter seven hundred and thirteen of the acts of nineteen hundred and eighty-three, including not more than three temporary positions \$85,185

**Executive Office of Human Services.**

Office of the Secretary.

The secretary of human services shall submit to the house and senate committees on ways and means a copy of every report provided to the office of the secretary by health systems agencies funded by item 4000-0700.

4000-0100 For the office of the secretary, including the health facilities appeals board, provided that said office shall approve agency investigative procedures, review all reports of all human service agency investigations, conduct investigations into incidents whenever it is deemed appropriate by the general counsel of said office that the quality of patient care is threatened or jeopardized, and, whenever the secretary determines it appropriate, to investigate instances of malfeasance which come to the attention of said secretary, including not more than four permanent positions and fifty-seven temporary positions \$1,970,638

4000-0400 For an office of auditing and accounts only, notwithstanding the provisions of any special or general law to the contrary, to perform financial and compliance, economy and efficiency, program results, and investigative auditing of any human services agency, and human services vendors contracting with the commonwealth; provided that all human service agencies and all contracted human service vendors shall permit unlimited access to, and make available, to said office, all records, documents and data relative to such contracts in any form and wherever situated; provided that said office may recover commonwealth funds wherever appropriate and upon recovery shall deposit said funds in the General Fund; and provided further, that the office shall submit semi-annually to the house and senate committees on ways and means and to the rate setting commission a report on the audits performed, including the number, status and summary of such audits, and the status of such responses as are requested from government agencies and human services vendors, including not more than thirty-two temporary positions \$933,828

4000-0401 For an office of contract management to provide a review and authorization of all human services contracting; provided, however, that said office shall compile, not less than once every six months, commencing December first of the current year, a report containing the total amount of contract obligation and total



ACTS, 1985. - Chap. 140.

Item

	appropriation amounts obligated by department and service type, the number of contracts rejected, including the reasons in writing for such rejection; and provided further, that a copy of each said report shall be submitted, within thirty days after completion, to the house and senate committees on ways and means, including not more than eight temporary positions	\$225,000
4000-0510 For	a reserve to be administered by the executive office of human services to provide for the continuity of services to developmentally disabled persons whose age no longer entitles them to services under special education programs; provided, that funds appropriated herein shall be allocated pursuant to recommendations by the secretary of the executive office of human services to the commissioner of administration, to items of appropriation in the appropriate agency within the executive office of human services or within the executive office of manpower affairs; and provided further, that not more than one hundred and twenty-five thousand dollars of these funds may be expended for administrative costs incurred for the operation of the Bureau of Transitional Planning including a plan to be submitted to the joint committee on health care and to the house and senate committees on ways and means within six months of the effective date of this act for a pilot program for multiple-handicapped young adults who are residing in pediatric nursing homes and who have attained the age of twenty-two years, prior appropriation continued	\$500,000
4000-0700 For	the administration of the office of state health planning; provided, that not less than one hundred and fifty thousand dollars shall be expended for a program to provide technical assistance to community health programs administered by community health centers as referred to in section three hundred and thirty of the federal Public Health Services Act of 1978, as amended (Public Law 95-626); provided further, that not less than six hundred thousand dollars shall be expended for a program of regional health planning under contract to the office of state health planning, including, but not limited to, reviewing determination of need applications, determining eligibility for health manpower shortage areas and developing regional health plans; provided further, that the office of state health planning shall reserve funds for nursing homes in receivership, including not more than three temporary positions	\$1,140,824
4000-0760 For	a reserve to meet the needs of children who are otherwise ineligible for services provided by agencies or departments within the secretariat of human services including start-up costs for the development, implementation and coordination of a model residential facility for emotionally disturbed adolescents; provided, that the secretary of human services is hereby authorized to transfer from the sum appropriated herein to other appropriation items where the amounts otherwise available are insufficient, such amounts as are	



ACTS, 1985. - Chap. 140.

Item

	necessary to provide direct services to meet the needs of said children; provided further, that no transfer shall be made without the prior approval of the house and senate committees on ways and means, prior appropriation continued	\$150,000
4000-0780	For a program of operational grants to counties for the purpose of establishing and expanding minimum security and pre-release county correctional facilities and programs to reduce prison overcrowding pursuant to regulations established by the secretary of human services; provided that said regulations shall require the grant application to be filed by the sheriff of a county; and provided further, that no grant shall be awarded without the approval of the house and senate committees on ways and means	\$1,000,000
4000-1503	For the purposes of a federally funded grant entitled, Office of State Health Planning and Development Agency	\$373,239
	General Federal Grants Fund 100.0%	
4000-9400	For the purposes of a federally funded grant entitled, Alcohol, Drug Abuse and Mental Health Grant; provided that the mental health portion of block grant funds shall only be allocated for the provision of direct care mental health services and programs	\$18,240,000
	General Federal Grants Fund 100.0%	
<u>Rate Setting Commission.</u>		
4100-0010	For the administration of the commission, including not more than forty-eight permanent positions and one hundred and thirty-five temporary positions	\$5,250,000
<u>Massachusetts Commission for the Blind.</u>		
4110-0001	For the office of the commissioner and bureau of research, including not more than ten permanent positions and fourteen temporary positions	\$828,896
4110-1010	For aiding the adult blind, prior appropriation continued	\$7,207,427
4110-1020	For support of a medical assistance program for the blind, including such expenses incurred in previous fiscal years; provided that the commission for the blind shall reimburse the department of public welfare for any medical assistance claims paid by said department on the commission's behalf and administrative expenses incurred in order to process such claims as may be determined to be appropriate under an interagency agreement between said commission and the department of public welfare subject to the approval of the secretary of the executive office of human services; and provided, further, that said commission may continue previously existing arrangements for the payment of such	



ACTS, 1985. - Chap. 140.

Item

claims until such interagency agreement has become fully operative and including not more than three permanent positions and one temporary position \$28,794,097

Bureau of Individual Services.

4110-2010 For administration of a talking book program, including not more than two permanent positions \$423,424  
 4110-2020 For a reserve to be administered by the Massachusetts Commission for the Blind for the expansion and improvement of the regional talking book library, prior appropriation continued.  
 4110-2040 For certain social service programs, provided that not less than one hundred ninety-nine thousand dollars shall be expended for a radio reading program for the blind, including not more than sixty-one permanent positions \$2,348,441

Bureau of Rehabilitation.

4110-3010 For a program of vocational rehabilitation of the blind in cooperation with the federal government, provided that no funds from the federal vocational rehabilitation grant or state appropriation shall be deducted for pensions, group health and life insurance, and any other such indirect cost of the federally reimbursed state employees, provided that a sum of not less than two hundred and fifty thousand dollars shall be obligated for the purpose of purchasing electronic equipment to be utilized in the vocational rehabilitation of the blind within fields of competitive employment, prior appropriation continued \$1,651,728  
 4110-3020 For the purposes of a federally funded grant entitled, Vocational Rehabilitation, provided that the amount of funds used for personnel assumed by the state in line item 4110-0001, may be used only for direct services \$4,200,000  
 General Federal Grants Fund 100.0%

Bureau of Industrial Aid and Workshops.

4110-4000 For the administration of the bureau and the operation of local shops and the Cambridge Industries for the Blind; provided, however, that retired workshop employees shall receive grants equal to three-fourths of the salaries of current workshops employees; and provided further that, notwithstanding any law to the contrary, all revenue accrued through the program of selling blind industries' products and services may be expended without further appropriation subject to the approval of the commissioner of the blind and the state comptroller for said program, including cost of materials, supplies, and equipment,



ACTS, 1985. - Chap. 140.

Item

maintenance of industrial facilities and compensation to blind industry employees; and provided further, that this program shall be subject to a full audit and annual report by the state auditor; and provided further, that any remaining balance of the amount available for expenditure without further appropriation, as provided in this item, at the end of the fiscal year nineteen hundred and eighty-five shall not revert to the General Fund and shall be available for use for the purposes as provided herein during fiscal year nineteen hundred and eighty-six, including not more than nineteen permanent positions

\$1,292,589

Massachusetts Rehabilitation Commission.

- 4120-0010 For the administration of the commission; provided that the commissioner shall report quarterly to the house and senate committees on ways and means the number of clients served and the amount expended for each type of service provided; provided, further, that from the sum appropriated herein four hundred thousand dollars shall be expended for adaptive housing and van modification services for severely physically handicapped clients; provided, further, that no funds from the federal vocational rehabilitation grant or state appropriation shall be deducted for pensions, group health and life insurance, and any other such indirect cost of the federally reimbursed state employees; and provided, further, that upon the written request of the commissioner of revenue, the commissioner of rehabilitation shall provide lists of individual clients to whom or on behalf of whom payments have been made for the purpose of verifying eligibility and detecting and preventing fraud, error and abuse in the programs administered by the commission, and provided, further, that the information in such lists shall include the client's name and social security number and the payee's name and other identification, if different from the client's, including not more than one permanent position
- 4120-0015 For a reserve to meet the cost of providing a supplemental salary increase for direct care employees of private human service providers; provided that funds may be transferred from this reserve to other items of appropriation; and provided further that funds appropriated in this line item shall be expended according to the requirements of section sixty-three of this act
- 4120-0020 For the purposes of a federally funded grant entitled, Vocational Rehabilitation General Federal Grants Fund 100.0X
- 4120-0031 For a program of extended employment for the handicapped; provided that upon the written request of the commissioner of revenue, the commissioner of rehabilitation shall provide lists of individual clients to whom or on behalf of whom

\$6,500,000

\$200,000

\$24,900,000



ACTS, 1985. - Chap. 140.

Item

	payments have been made for the purpose of verifying eligibility and detecting and preventing fraud, error and abuse in the programs administered by the commission; and provided, further, that the information in such lists shall include the client's name and social security number and the payee's name and other identification, if different from the client's, including not more than five temporary positions	\$4,550,000
4120-0041 For	the administration of the office of deafness; provided that the office submit to the house and senate committees on ways and means a plan for the establishment of a sliding fee scale for said interpreter services no later than September thirtieth, nineteen hundred and eighty-five; provided further, that from the sum appropriated herein, two hundred and thirty-six thousand dollars shall be expended for a program of independent living services for the hearing impaired, including not more than one permanent position and nineteen temporary positions	\$668,048
4120-0051 For	a program of personal care assistance, including not more than two permanent positions	\$1,027,000
4120-0061 For	a program of independent living, provided that fifty-seven thousand nine hundred and twenty dollars shall be expended for a message relay system for the deaf in independent living centers; and provided, further, that said funds are to be used in addition to any federal funds received for this purpose	\$700,000
4120-0071 For	the development and implementation of services to the traumatically head injured, provided that not more than three hundred and forty-eight thousand three hundred and thirty dollars shall be expended for a pilot program of residential care and provided further that not more than one hundred and twenty-five thousand dollars shall be expended for a pilot program of day treatment services; provided that the case management staff shall conduct a needs assessment, which shall be submitted in writing to the house and senate committees on ways and means on or before February fifteenth, nineteen hundred and eighty-six	\$2,100,000
4120-0081 For	a program to determine eligibility for services under chapter six hundred and eighty-eight of the acts of nineteen hundred and eighty-four, including not more than three temporary positions	\$99,701
4120-0171 For	the purposes of a federally funded grant entitled, Teaching Grant and Traineeship in RSA	\$110,000
	General Federal Grants Fund 100.0%	
4120-0511 For	the purpose of a federally funded grant entitled, Determination of Disability	\$18,200,000
	General Federal Grants Fund 100.0%	
4120-0760 For	the purposes of a federally funded grant entitled, Independent Living, provided that not less than twenty-five thousand dollars shall be expended on	



ACTS, 1985. - Chap. 140.

Item

	a program for the deaf and hearing impaired		\$650,000
	General Federal Grants Fund	100.0%	
	Office for Children.		
4130-0001	For the office of the director, provided that all program personnel within the regions shall be paid out of the 01 and 02 subsidiaries, including not more than twenty-two permanent positions and two temporary positions		\$760,535
4130-0005	For field operations, provided that an on-site inspection of every day care facility and after school day care program shall be conducted prior to January first, nineteen hundred and eighty-seven; and provided further, that the office shall submit to the house and senate committees on ways and means by October thirtieth, nineteen hundred and eighty-five a plan for the completion of said inspections; provided further, that the office shall submit to the house and senate committees by May first, nineteen hundred and eighty-six a study of the regulations, procedures and standards for licensing all day care and substitute care facilities and any recommendations for change; provided further, that not less than two million five hundred and sixty thousand eight hundred and eleven dollars shall be obligated for a program of licensing; provided further, that not less than one hundred and ninety thousand dollars shall be obligated for the Individual Kid Money program, including not more than seventy-two permanent positions and one hundred and ninety-eight temporary positions		\$6,513,247
4130-0016	For child care resource and referral centers, provided that such centers shall provide matching funds or in-kind donations of twenty per cent of total cost during the first year of their operation; provided further, that subsequent to the first year of operation, the centers shall provide matching funds or in-kind donations of an increasing amount, that amount to be determined under a formula to be developed by the office for children, subject to the approval of the commissioner of administration, such formula to take into consideration community needs and resources		\$500,000
4130-2072	For the purpose of a federally funded grant entitled, Citizen Involvement for Quality Day Care		\$56,000
	General Federal Grants Fund	100.0%	
4130-2084	For the purposes of a federally funded grant entitled, Public/Private Agency Partnership to Improve Substitute Care Licensing		\$6,000
	General Federal Grants Fund	100.0%	

Commissioner of Veterans' Services.



ACTS, 1985. - Chap. 140.

Item

4170-0010	For the office of the commissioner, including not more than fifty-four permanent positions and three temporary positions	\$1,299,088
4170-0012	For a counseling program for Vietnam Veterans, including the maintenance and direction of not more than seven outreach centers	\$446,800
4170-0013	For the purpose of providing matching funds to a federal grant under Title IV C of the Jobs Training Partnership Act, an employment and training program for disabled Vietnam-era and recently discharged veterans	\$180,000
4170-0300	For the payment of annuities to certain disabled veterans	\$160,236
4170-0400	For reimbursing cities and towns for money paid for veterans' benefits and for payment to certain veterans in accordance with the following formula: seventy-five per cent to be reimbursed by the commonwealth and twenty-five per cent to be reimbursed by the cities and towns; provided, that the amounts contained in this item for the winter fuel allotment benefit provided for in section five of said chapter is hereby identified as energy assistance for veterans and dependents; provided further that not less than fifty-one thousand nine hundred and twenty-eight dollars shall be paid for prior year deficiencies, prior appropriation continued	\$11,596,235
	Local Aid Fund 100.0%	
4170-0500	For mortality studies, behavioral studies and laboratory tests to study the effects of agent orange as defined in section two hundred and ninety-one of chapter three hundred and fifty-one of the acts of nineteen hundred and eighty-one, on veterans of the Vietnam War and health problems of their children and other related matters, prior appropriation continued	\$160,000

Soldiers' Home in Massachusetts.

4180-0100	For the maintenance of the home, including not more than six hundred and fifty-nine permanent positions	\$14,396,695
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Soldiers' Home in Holyoke.

4190-0100	For the maintenance of the home, including not more than three hundred and sixty-three permanent positions and seven temporary positions	\$8,241,050
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DEPARTMENT OF YOUTH SERVICES.

4200-0010	For the administration of the department, including not more than sixty-two permanent positions and seven temporary positions	\$2,832,000
4202-0021	For the purchase of service for certain residential care programs, including cer-	



ACTS, 1985. - Chap. 140.

Item

tain secure programs, in accordance with the provisions of chapter twenty-eight A of the General Laws, and for certain nonresidential care programs from a list of vendors approved by and on file with the central office of the department; provided, that notwithstanding the provisions of section twenty-three of chapter twenty-nine of the General Laws, no monies shall be advanced to the department from this account without prior approval of the comptroller; provided further, that not less than one hundred and twenty-five thousand dollars shall be spent to establish a ten bed group home for Hispanic youth

\$22,859,291

Bureau of Clinical Services.

For the administration and maintenance of and for certain improvements at the institutions within the bureau:

4231-1010 Stephen L. French Youth Forestry Camp, including not more than twenty-eight permanent positions and seven temporary positions

\$830,517

4237-1010 For supervision, counseling, and other services by the department incidental to certain residential or nonresidential care programs; provided, that no expenditure shall be made hereunder for residential care which is not provided by departmental personnel, provided that notwithstanding the provisions of section twenty-three of chapter twenty-nine of the General Laws, no monies shall be advanced to the department from this account except for payroll and for necessary travel for department personnel, including not more than one hundred and fifty-one permanent positions and thirty-seven temporary positions

\$5,113,572

4237-1015 For a reserve to meet the cost of providing a supplemental salary increase for direct care employees of private human service providers; provided that funds may be transferred from this reserve to other items of appropriation; and provided further that funds appropriated in this line item shall be expended according to the requirements of section sixty-three of this act

\$400,000

4238-1000 For the operation of the secure facilities administered and operated by the department, including not more than two hundred and thirty-five permanent positions and one hundred and eight temporary positions

\$10,678,399

DEPARTMENT OF CORRECTION.

4311-0001 For administration; provided, that the persons employed under the division of classification of prisoners shall not be subject to the civil service law and rules; and provided, further, that notwithstanding any provisions of law to the contrary, the director of civil service shall certify to the commissioner of correction, on receipt of permanent requisitions, names of correction officers to



ACTS, 1985. - Chap. 140.

Item

	fill permanent vacancies, and the salaries of such officers for the official training period shall be paid from this item, including not more than sixty-six permanent positions and one hundred and sixty-four temporary positions	\$7,000,000
4311-0003 For	a program of correctional residential services, including not more than six permanent positions and twenty-two temporary positions	\$5,017,422
4311-0004 For	a health service program, including not more than fifty-seven permanent positions and ninety-five temporary positions	\$10,900,000
	For the maintenance of and for certain improvements at the following institutions under the control of the department:	
4311-0005 For	a prison industries program; provided that the commissioner of correction shall determine the cost of the manufacture of motor vehicle registration plates and certify to the comptroller the amounts to be transferred therefor from the Highway Fund to the General Fund; provided, further, that a custom woodshop be established at the North Central Correctional Institution at Gardner, including not more than eighty permanent positions and thirty-two temporary positions	\$4,013,022
4311-0009 For	a program of education services, including not more than twenty-six permanent positions and twenty-nine temporary positions	\$3,000,000
4311-0010 For	a farm services program; provided that the commissioner of correction shall determine the amounts to be charged for the products and services of said program, said amounts to be credited to the Farm Services Revolving Fund, including not more than twenty-one permanent positions and twenty-eight temporary positions	\$1,502,354
4311-0011 For	a MCI-Norfolk prisoner spiritual ministries reintegration program	\$65,000
4311-0013 For	a reserve to meet the cost of providing a supplemental salary increase for direct care employees of human service providers; provided that funds may be transferred from this reserve to other items of appropriation; and provided further that funds appropriated in this line item shall be expended according to the requirements of section sixty-three of this act	\$50,000
4349-0001 For	the administration and operation of the commonwealth's correctional facilities; provided that the commissioner is hereby authorized to enter into an agreement with the sheriff of Hampden County for the operation of a correctional alcohol treatment facility in Hampden County; provided further, that the commissioner is hereby authorized to make quarterly advances to the treasurer of Hampden County pursuant to said agreement; provided further, that said treasurer shall deposit said advances into a fund to be expended solely for the purpose of said agreement; provided further, that any interest earned by said fund shall be deposited to said fund and that any unexpended balance including interest remaining in said fund as of June thirtieth, nineteen hundred and eighty-six shall be returned to the commonwealth; and, provided further, that all persons	



ACTS, 1985. - Chap. 140.

Item

employed by said sheriff pursuant to said agreement shall be considered county employees; and provided further funds advanced to the county treasurer pursuant to this agreement may be spent for any services or items of supply or equipment which the sheriff requires to carry out the purpose of operating a correctional alcohol treatment facility, such expenditures may include but are not limited to salaries, travel, uniform allowance, purchase maintenance of equipment and selecting contractual and professional services; provided further, that no permission will be required for the sheriff to transfer funds among codes or sub codes at the county level, and that the department report quarterly to the house and senate committees on ways and means regarding expenditure of such funds; provided, further, that not less than four hundred and sixty thousand dollars be expended for third offender alcohol rehabilitation at the Longwood Treatment Center, including not more than one thousand six hundred and ninety-five permanent positions and one thousand four hundred and twenty temporary positions, said additional forty-five permanent positions to be filled at MCI-Norfolk

\$100,530,303

Parole Board.

4380-0001 For the office of the board; provided, that the position of employment officer, parole board, shall not be subject to the provisions of chapter thirty-one of the General Laws; provided, further, that the board submit quarterly reports to the house and senate committees on ways and means on the expenditure of funds for the purchase of contracted services; including not more than one hundred and fifty-two permanent positions and fifty-six temporary positions

\$6,241,725

**DEPARTMENT OF PUBLIC WELFARE.**

Notwithstanding any provision of law to the contrary, unless otherwise specified, all federal funds received for the purposes of the department of public welfare shall be credited to the General Fund, and the department shall submit on a monthly basis to the house and senate committees on ways and means a status report on program expenditures, savings and revenues, error rate measurements, and public assistance caseloads and benefits levels.

Notwithstanding any provision of law to the contrary, the department of public welfare shall prepare and promulgate rules and regulations to prevent abuse in the emergency assistance program. Said rules and regulations shall include but not be limited to a year to year cross check of recipients to determine if a person has received similar benefits in the previous year or years. The department shall sub-



ACTS, 1985. - Chap. 140.

Item

	mit a copy of the rules and regulations to the house and senate committees on ways and means no later than October first, nineteen hundred and eighty-five.	
4400-0900	For (03) subsidiary expenses of the department of public welfare; provided, that not less than six million dollars shall be expended for the purposes of the employment and training program	\$26,100,000
4400-0950	For the administration of local welfare offices; provided, that the consolidation of welfare offices shall be subject to prior approval of the house and senate committees on ways and means, including not more than two thousand two hundred and thirty-one permanent positions and five hundred and sixty-four temporary positions	\$69,184,649
4400-0999	For a reserve to meet the cost of salary adjustments authorized by the collective bargaining agreement between the Commonwealth and the Alliance, AFSCME, AFL/CIO, Local 509, covering certain employees in bargaining unit 8 in the department of public welfare; provided, however, that the commissioner of the department of public welfare is hereby authorized to transfer from the sum appropriated herein to other items of appropriation within the department for the fiscal year nineteen hundred and eighty-six such amounts as are necessary to meet the cost of said adjustments for fiscal year nineteen hundred and eighty-six where the amounts otherwise available are insufficient for the purpose; provided further, that the commissioner of the department of public welfare shall notify the house and senate committees on ways and means prior to any transfer of funds from this account	\$1,000,000
4400-1000	For the office of the commissioner; provided, that not less than three hundred thousand dollars be expended for training programs for local office supervisors and financial assistance workers, including not more than four hundred and fourteen permanent positions and two hundred and fifty-two temporary positions	\$29,300,000
4400-1003	For the administration of the medicaid program, including a central automated vendor payment system and utilization review of medical assistance services, including not more than thirty-eight permanent positions and one hundred and twelve temporary positions	\$5,000,000
4400-1004	For the administration of the child support enforcement unit; provided, that the department may enter into contracts with private collection agencies for the purpose of obtaining collections from absent parents and may expend through line item 4403-2000, as compensation therefor, without further appropriation, an amount not exceeding three million dollars from the monies recovered by said agencies; provided, further, that each contract shall be funded only from the monies recovered under said contract; provided further, that the department shall submit quarterly reports to the house and senate committees on ways and means detailing the collection agencies under contract, the first	



ACTS, 1985. - Chap. 140.

Item

	such report to be submitted no later than December first, nineteen hundred and eighty-five, or within ninety days of the completion of the first quarter of collection agency activity, including not more than one hundred and twenty-seven permanent positions and one hundred and eighty temporary positions	\$6,522,614
4400-1006 For	special child support enforcement projects; provided, that the department may allocate these funds to the division of state police, the district courts, the probate and family court department, and other state agencies for the performance of certain child support enforcement activities, and that these agencies are hereby authorized to expend such amounts for the purposes of this item	\$460,180
4400-1009 For	a voucher day care program, so-called, for any applicant or recipient of aid to families with dependent children who is participating in a training activity or program or for certain other current or former recipients; provided, that services are provided to current or former recipients upon their completion of employment and training programs in fiscal year nineteen hundred and eighty-six for up to twelve months from the date of employment; provided further, that said voucher day care program shall be managed by the department of social services; provided, further, that services shall be maintained and expenditures allocated in such a manner that will not cause said services to be terminated prior to the end of the fiscal year; provided, further, that said expenditures will not exceed appropriation	\$18,000,000
4400-1010 For	the development and maintenance of automated data processing systems and services in support of department operations; including not more than sixteen permanent positions and nine temporary positions	\$1,103,803
4400-1012 For	the purpose of a federally funded grant entitled, Medicaid Management Information System; provided, that not less than one million dollars shall be expended for the development of the medical assistance smartcard program; provided, further, that federal funds received for the purpose of Medicaid administration, not to exceed twelve million two hundred thousand dollars, shall be credited to this item	\$12,200,000
	General Federal Grants Fund 100.0%	
4400-1014 For	the purpose of a federally funded grant entitled, Child Support Data Processing Systems Development; provided, that federal funds received for the purpose of child support administration, not to exceed one million dollars, shall be credited to this item	\$1,000,000
	General Federal Grants Fund 100.0%	
4400-1200 For	the expenses of operating a food stamp program for eligible persons in the commonwealth; provided, further, that banking institutions within the commonwealth, the United States postal service, and other agencies shall process	



ACTS, 1985. - Chap. 140.

Item		
	the food stamps, including not more than one hundred and seven permanent positions and three hundred and ten temporary positions	\$8,691,740
4400-1400 For	a program of health services for certain recipients; provided, that the federal reimbursement for any expenditure from this item shall not be less than seventy-five per cent of such expenditure, including not more than twenty-six permanent positions and forty-two temporary positions	\$1,295,420
4402-1041 For	the purposes of a federally funded grant entitled, Conversion to Social Security Administration	\$120,000
	General Federal Grants Fund 100.0%	
4402-5000 For	a medical assistance program, including a program of special education medical services provided to medicaid children; provided, that the medical assistance standard for one-person families shall not be less than the payment standard, including state supplement, for a disabled individual living alone who is eligible for Supplemental Security Income payments under the provisions of Title XVI of the Social Security Act; provided, further, that no expenditure or commitment made pursuant to this item or to any agreements authorized by chapter eight hundred of the acts of nineteen hundred and sixty-nine, as amended, for the purpose of complying with the provisions of Public Law 89-97, Title XIX, shall be incurred in excess of available funds which have been appropriated therefor; provided further, that all judgments, appeals, rate changes and settlements authorized by chapter three hundred and seventy-two of the acts of nineteen hundred and eighty-two, as amended, for services provided in prior fiscal years, but finally determined during the current fiscal year may be paid from this item, subject to the approval of the house and senate committees on ways and means; provided further, that an amount not to exceed one hundred ninety million four hundred and twenty-two thousand dollars may be expended from this item for expenses incurred in a prior fiscal year; provided further, that collections of prior year expenditures from liens, estate recoveries, retroactive rate adjustments, and third party recoveries, not to exceed thirteen million two hundred thousand dollars, shall be credited to this item and may be expended without further appropriation for the purposes of this program; and provided further, that no funds appropriated under this item shall be expended for the payment of abortions not necessary to prevent the death of the mother	\$1,160,500,000
4402-5010 For	a one year demonstration project of medical services for pregnant women residing in the commonwealth who would otherwise be eligible for medical assistance pursuant to chapter one hundred eighteen E, but for excess income, and who lack health insurance or whose health insurance does not cover the pregnancy-related services as described below; provided, that the countable in-	



ACTS, 1985. - Chap. 140.

Item

	come of such pregnant women may not exceed such standards for eligibility as are established by the department; provided, further, that such standards shall be one hundred eighty-five per cent of the non-farm income poverty guidelines prescribed by the United States Office of Management and Budget; provided, further, that medical assistance furnished pursuant to this section shall be limited to medically necessary care and services related to pregnancy, delivery and childbirth, and post-partum obstetric and gynecological care and services; provided, further, that no funds appropriated under this item shall be expended for the payment of abortions not necessary to prevent the death of the mother; provided, further, that funds appropriated in this item shall constitute the sole obligation of the commonwealth to meet the costs of said services and that the entitlement provisions of the medical assistance program shall not apply to the program authorized in this section; provided, further, that the department of public welfare shall assess the need for this program in the event of any changes in the hospital reimbursement system and shall report on such assessment to the house and senate committees on ways and means; and provided, further, that the department shall submit a report, on a quarterly basis, to the house and senate committees on ways and means as to the number of women served during that quarter, categories of age, types of services provided, and expenditures made	\$6,000,000
4402-5300 For	the provision of a medical assistance program of mental health and mental retardation services pursuant to provisions of Public Law 89-97, Title XIX	\$45,100,000
4403-2000 For	a program of aid to families with dependent children; provided, that the payment standard shall be increased nine per cent as of July first, nineteen hundred and eighty-five, and rounded to the next whole dollar; provided, further, that a nonrecurring clothing allowance in the amount of one hundred twenty-five dollars be provided to each child eligible under this program on September first, nineteen hundred and eighty-five; provided further, that such allowance is federally reimbursable; provided further, that such clothing allowance shall not be counted as income for determination of eligibility or amount of benefits under the food stamp program; provided further, that such clothing allowance shall be included in the standard of need for the month of September, nineteen hundred and eighty-five; provided further, that a program of assistance, including medical assistance be provided to families otherwise eligible for aid to families with dependent children but for the temporary removal of the dependent child or children from the home by the department of social services in accordance with department procedures; provided further, that benefits under this program shall not be available to those families where a child has been removed from the household pursuant to a court order after a care and protection	



ACTS, 1985. - Chap. 140.

Item

	hearing on child abuse; provided further, that child support payments collected pursuant to Title IV-D of the Social Security Act, not to exceed an amount of sixty million dollars, shall be credited to this account and may be expended without further appropriation for the purposes of this program; provided further, that certain families which will suffer a reduction in benefits due to their loss of earned income and participation in retrospective budgeting may receive a supplemental benefit to compensate them for this loss	\$401,725,458
4405-2000 For	the state supplement to the supplemental security income program for the aged and disabled, including a program for emergency needs for supplemental security income recipients; provided, that the expenses of special grants to recipients in rest homes as provided in section seven A of chapter one hundred and eighteen A may be paid from this item, prior appropriation continued	\$100,899,920
4406-2000 For	a program of general relief, including a program of emergency assistance; provided, that the payment standard shall be increased nine per cent as of July first, nineteen hundred and eighty-five; provided further, that a nonrecurring clothing allowance in the amount of ninety dollars be provided to each recipient of the program eligible on September first, nineteen hundred and eighty-five; provided further, that no changes in the eligibility criteria for benefits under this program shall be implemented without the prior written approval of the house and senate committees on ways and means; provided further, that the department may expend up to five hundred thousand dollars for contract services to establish the eligibility of general relief recipients for supplemental security income	\$83,407,165
4406-3000 For	assistance to organizations which provide food, shelter and limited related services to the homeless and indigent; provided, that the department executes purchase of service contracts with said organizations in accordance with the provisions of the regulations promulgated by the executive office of administration and finance and appearing in the Code of Massachusetts Regulations 801 CMR 25.01 through 25.07; and provided further, that not less than four hundred thousand dollars shall be expended for the operation and maintenance of the Long Island shelter; provided, that not less than one hundred and fifty thousand dollars shall be expended for day programs for the homeless	\$6,913,098
4406-5000 For	a program of medical services for general relief recipients; provided, that notwithstanding the provisions of any law to the contrary, certain medical services shall be provided to general relief recipients, including laboratory services, durable medical equipment, eye care, home health care, pharmacy services, transportation for medical care, podiatry, rehabilitative services, family planning, psychological testing, and private duty nursing; provided further, that the department through said program may contract with competi-	



ACTS, 1985. - Chap. 140.

Item		
	tively selected hospitals and community-based agencies for the purpose of providing coordinated health care services to certain general relief recipients; provided further, that no funds appropriated under this item shall be expended for the payment of abortions not necessary to prevent the death of the mother	\$18,735,000
4407-1000	For a program of employment and training; provided, that the department may allocate funds to other agencies for this program; provided, further, that not less than three hundred thousand dollars shall be allocated for displaced homemakers, including not more than eighty-four permanent positions and thirteen temporary positions	\$3,900,000
4407-1010	For a pilot program of employment and training services for certain general relief recipients; provided, that not less than three hundred thousand dollars shall be expended for supported work programs for the mentally ill	\$1,350,000
4407-9001	For the purposes of a federally funded grant entitled, Work Incentive Demonstration Program; provided, that any federal funds received for the purpose of employment and training may be credited to this item; and provided, further, that the department may allocate these funds to other state agencies for the purposes of this item and an employment and training program, so-called	\$11,900,000
	General Federal Grants Fund 100.0%	
4409-3000	For a program of assistance for recently resettled refugees and repatriated citizens, and the administration of said program; provided, that funds received from the federal government for said purpose shall be in addition to the amount appropriated herein; and provided further, that the department may allocate funds to the department of social services for the purposes of a Refugee Unaccompanied Minor Program, so-called, and to the executive office of communities and development for the purpose of certain costs of a housing assistance program, and to other state agencies for the purposes of a program of alternative cash and medical assistance, prior appropriation continued.	
4409-3906	For the purposes of a federally funded grant entitled, Aid to Fitchburg Hmong Community	\$10,667
	General Federal Grants Fund 100.0%	
4409-3907	For the purposes of a federally funded grant entitled, Mutual Assistance Association Incentive Grant	\$8,525
	General Federal Grants Fund 100.0%	
4409-3908	For the purposes of a federally funded grant entitled, Targeted Assistance Grant to Foster Refugee Self-Sufficiency; provided, that the department may allocate these funds to the executive office of economic affairs	\$1,400,000
	General Federal Grants Fund 100.0%	
4409-3909	For the purposes of a federally funded grant entitled, Refugee Unmet Needs	\$100,000
	General Federal Grants Fund 100.0%	



ACTS, 1985. - Chap. 140.

Item

DEPARTMENT OF PUBLIC HEALTH.

Notwithstanding any provision of law to the contrary, applications for all private and federal grants and subventions by the department of public health shall be subject to approval of the commissioner of administration and the house and senate committees on ways and means prior to submission to the grantor. Unless otherwise advised by the ways and means committees in writing within thirty days after receipt of said application, the department may proceed with said application in accordance with existing law. The department of public health shall submit quarterly to the house and senate committees on ways and means a status report on all public health hospitals, by individual hospital, including, but not limited to, inpatient and outpatient utilization, costs, revenues, personnel, contract expenditures, and capacity by service and the use of such facilities by other state agencies and vendor programs. The department shall submit a detailed monthly report of all expenditures incurred for each of its driving under the influence programs and a monthly expenditure report for the Lemuel Shattuck Shelter, to the house and senate committees on ways and means and the secretary of administration and finance no later than the fifteenth day of the following month.

4500-1000 For the purposes of a federally funded grant entitled, Preventive Health Block Grant, provided that not less than one million and forty-eight thousand dollars shall be obligated for emergency medical services \$2,530,152

General Federal Grants Fund 100.0%

4500-2000 For the purposes of a federally funded grant entitled, Maternal and Child Health Block Grant \$9,178,000

General Federal Grants Fund 100.0%

4510-0100 For the administration of the department including a long term care information system for the state medicaid program; provided that the position of assistant commissioner shall not be subject to chapter thirty-one of the General Laws; and provided further, that not less than thirty thousand five hundred dollars shall be obligated for the salary of an assistant commissioner for hospital management and staff for said assistant commissioner, including not more than forty-two permanent positions and fifty temporary positions \$4,494,341

4510-0102 For the administration of the division of environmental epidemiology and toxicology, including not less than three hundred thousand dollars for a program, to be coordinated by the division of environmental health, to monitor remedial action of the so-called PCB (polychlorinated biphenyls) contamination in the Greater New Bedford area through a public information and education office to be located in said area, which shall act as a center for implementation and dissemination



ACTS, 1985. - Chap. 140.

Item

	ation of public and private education programs and materials and coordinate volunteer efforts in such manner as to assist and centralize chemical contamination cleanup information efforts in said area, and provided that said office may expend the amounts appropriated herein for said purposes, including such contracted services, as the division may approve, and provided that similar programs may be established to centralize and coordinate toxic contamination education in other communities with major potential health problems related to toxic contamination, including not more than twelve temporary positions, prior appropriation continued	\$680,012
4510-0103	For the administration of the division of health promotion; provided not less than two hundred and twenty-five thousand dollars shall be expended for community programs to reduce the prevalence of hypertension and other risk factors for heart disease and stroke; and provided, further, that not less than one hundred thousand dollars shall be expended to conduct a health survey, the results of which shall be reported back to the joint committee on health care and the house and senate committees on ways and means within seven months of the effective date of this act, including not more than one permanent position and twelve temporary positions	\$853,688
4510-0106	For a reserve to meet the cost of providing a supplemental salary increase for direct care employees of private human service providers, provided that funds may be transferred from the reserve to other items of appropriation; and provided further that funds appropriated in this line item shall be expended according to the requirements of section sixty-three of this act	\$710,000
4510-0110	For a community health center operational grants program; provided that the department of public health shall solicit grant proposals for said operational grants from community health centers which are operating under the requirements of section three hundred and thirty of Public Law 95-626, as most recently amended by Public Law 97-35 and shall establish appropriate standards and criteria for the awarding of not less than seven hundred and twenty thousand dollars in grant funds; and provided further, that in order to receive said operational grants, a center need not be eligible for funding under said section three hundred and thirty as a categorical program during fiscal year nineteen hundred and eighty-six; and provided further, that notwithstanding the above provisions, the department of public health shall obligate not less than two hundred and eighty thousand dollars for an operational grants program, which program shall include appropriate standards and criteria, for independently licensed community health centers who are not eligible to receive an allotment of funds under provisions of section 1926 of the Public Health Services Act as most recently amended by Public Law 97-35; provided however, that of this two hundred and eighty thou-	



ACTS, 1985. - Chap. 140.

Item

	sand dollars not more than eighty thousand dollars shall be expended for hospital-affiliated community health centers which, in conformance with the provisions of section three hundred and thirty of Public Law 95-626, have a community board of directors; and provided further, that in addition to the said amounts that no more than one hundred thousand dollars shall be obligated for the administration, monitoring and evaluation of said operational grants programs; and provided further, that in the event Massachusetts participates in the primary care block grant, funds appropriated herein shall be expended in conformance with the requirements of section 1926 (a)(4)(A) of the Public Health Services Act, as most recently amended by Public Law 97-35, unless otherwise provided herein; and provided further that not less than one hundred and twenty-five thousand dollars shall be obligated for the Dimock Community Health Center; and provided further that not less than seventy thousand dollars shall be obligated for the South Boston Neighborhood Health Center; including not more than three temporary positions	\$1,614,107
4510-0400 For	the purposes of a federally funded grant entitled, Health Insurance - Medicare General Federal Grants Fund 100.0%	\$940,600
4510-0600 For	an environmental health program, including control of radiation and nuclear hazards and consumer products protection, including food and drugs; a program of lead poisoning prevention; and the employment of the state lockup inspector; provided that the expenditures from this item for the fair packaging and labeling survey program shall be contingent upon the prior approval of the proper federal authorities for reimbursement of one hundred per cent of the amounts so expended; provided, however, that not less than thirty thousand dollars shall be obligated for a generic drug publication; provided, however, that not less than two hundred and ninety-five thousand dollars shall be obligated to expand the program of lead paint poisoning prevention; provided further, that the department shall report quarterly to the house and senate committees on ways and means concerning the status of the case management program for children hospitalized for lead paint poisoning including both the number of children for whom case management is provided, and those who are hospitalized; provided further, that notwithstanding any law to the contrary, all funds required for inspections for lead-based paint in day care facilities, in an amount not to exceed ten thousand dollars shall be paid from this item; and, provided further, that all fees charged for such inspections may be expended without further appropriation, subject to the approval of the commissioner of public health and the state comptroller, for the expenses of the inspections of day care facilities, including not more than thirty-eight permanent positions and sixty-four temporary positions	\$3,033,655



ACTS, 1985. - Chap. 140.

Item

4510-0604	For the purpose of implementing certain provisions of chapter four hundred and seventy of the acts of nineteen hundred and eighty-three, the "Right to Know" law, so-called, including not more than ten temporary positions	\$196,944
4510-0710	For the administration of the division of health care quality; provided that said division shall be responsible for assuring the quality of patient care provided by the commonwealth's health care facilities and services, and protecting the health and safety of patients who receive care and services in nursing homes, rest homes, clinical laboratories, clinics, institutions for the mentally retarded and ill, hospitals and infirmaries, including the inspection of ambulance services, including not more than fourteen permanent positions and one hundred and nineteen temporary positions	\$3,972,311
4510-0750	For the cost of providing certificates of need, as required by section twenty-five C of chapter one hundred and eleven of the General Laws, including not more than twenty-one temporary positions	\$741,402
4510-0790	For an office of emergency medical services, provided, however, that not less than three hundred and fifty thousand dollars shall be expended on the expansion of operations by regional emergency medical services councils and the expansion of operations by regional communication centers, including not more than eight temporary positions	\$614,252
4510-9019	For the purposes of a federally funded grant entitled, Environmental Monitoring Program	\$35,000
	General Federal Grants Fund 100.0%	
4512-0102	For the purpose of a federally funded grant entitled, Venereal Disease Control	\$445,335
	General Federal Grants Fund 100.0%	
4512-0103	For the administration of an Acquired Immune Deficiency Syndrome program, including, but not limited to, public information, counseling, hospice, home care services, health worker training, referral services, and scientific research	\$1,630,000
4512-0179	For the purposes of a federally funded grant entitled, Vaccination Assistance Project	\$526,493
	General Federal Grants Fund 100.0%	
4512-0200	For the administration of the division of alcoholism; provided that not less than two hundred thousand dollars shall be obligated for a program to reduce the incidence of alcohol use and abuse among pregnant women, including not more than eleven permanent positions and eighteen temporary positions	\$24,915,882
4512-0500	For a dental health program, including dental services at the state schools for the retarded, provided, however, that not less than two hundred and twelve thousand dollars shall be obligated for a community-based statewide dental program for the mentally retarded; and provided further, that not more than one million seven hundred and forty thousand dollars may be expended as the fiscal year nineteen hundred and eighty-six twelve month cost of providing	



ACTS, 1985. - Chap. 140.

Item

	dental services at the state schools, including not more than two permanent positions and four temporary positions	\$2,440,488
4512-0550	For the provisions of funds to cities and towns for fluoridation programs; provided that certain prior year's obligations may be paid from this item	\$108,163
4513-0200	For the division of drug rehabilitation including a residential drug treatment program for adolescents; provided that said division shall not license any new drug rehabilitation program or clinic until and unless it has made a determination of community need in the area where the clinic or the program is to be located; provided further, that not less than one hundred and fifty thousand dollars be obligated for drug rehabilitation services for pregnant women; and, provided further, that not less than one hundred and fifty thousand dollars shall be obligated for new drug programs for inmates of state correctional facilities, including not more than eight permanent positions	\$7,731,675
4513-1000	For the administration of a family health program, and for the provision of services to ventilator-dependent children under eighteen years of age who reside at home; provided that not less than ninety-four thousand dollars shall be expended for a diethylstilbestrol program to identify women who took diethylstilbestrol during their pregnancy and their offspring who were exposed prenatally; and to educate the public and medical professionals; and to establish screening clinics concerning the symptoms and prevention of associated malignancy and other changes; provided further, that not less than fifty thousand dollars shall be expended as the annualized cost of an environmental information service for pregnant women; and provided further, that not less than one hundred and ninety thousand dollars shall be expended as the annualized cost of a poison control hot line; provided further, that not less than five hundred and thirty thousand dollars shall be expended for a rape prevention and victim services program; provided further, that not less than fifty thousand dollars be obligated to study the cost of and need for providing medical services to genetically handicapped adults; provided further, that a multi-disciplinary team of health and allied health professionals shall certify all nursing home placements for individuals from birth to age twenty-two; and provided further, that in the event the medical review team denies certification, it shall recommend an alternative care program appropriate to each individual's needs, including not more than eighteen permanent positions and sixteen temporary positions	\$8,080,000
4513-1001	For a program of maternal and child health to be in addition to any federal funds received for this program, provided further, that two hundred and fifty thousand dollars shall be expended for an identification and screening program for high risk pregnant women and infants; provided further, that not less than one hundred and twenty thousand dollars shall be expended to support local and	



ACTS, 1985. - Chap. 140.

Item

	regional coalitions which address strategies for ensuring that comprehensive prenatal and infant care services are available for high risk pregnant women and infants; provided further, that not less than one hundred thousand dollars shall be expended for the conduction of a statewide media campaign that includes, but is not limited to, information on factors promoting healthy birth outcomes; and provided further, that not less than twenty-five thousand dollars shall be expended to establish comprehensive prenatal standard of care criteria	\$1,471,315
4513-1002 For	the administration of the office of nutritional services to be in addition to funds received under the federal nutrition program for women, infants, and children; provided that within thirty days of the effective date of this act the department shall report the total number of cases which can be supported with funds from this item without incurring a deficiency to the house and senate committees on ways and means; and, provided further, that the total number of said cases shall not be exceeded without the prior approval of the house and senate committees on ways and means; provided further, that the department shall report quarterly to the house and senate committees on ways and means on all expenditures from this item and from the federal nutrition program for women, infants and children including the numbers of participants in each program; and, provided further, that not less than four hundred thousand dollars shall be obligated for Failure-to-Thrive programs, including not more than three temporary positions	\$4,800,000
4513-1003 For	early intervention services, including not more than sixty permanent positions and forty-two temporary positions	\$7,622,444
4513-1010 For	a study of the feasibility and usefulness of testing newborn children for the disease of tuberous sclerosis	\$50,000
4513-1025 For	transportation services for early intervention clients, notwithstanding the provisions of any general or special law to the contrary; provided, however, that not more than seventy-five thousand dollars shall be expended on the administration of said services	\$1,475,000
4513-1500 For	the administration of local health services, including not more than eleven permanent positions and eleven temporary positions	\$780,000
4513-9007 For	the purposes of a federally funded grant entitled, Special Supplementary Food Program for Women, Infants, and Children (WIC)	\$25,679,171
	General Federal Grants Fund 100.0%	
4513-9014 For	the purposes of a federally funded grant entitled, Injury Prevention Implementation Project	\$337,500
	General Federal Grants Fund 100.0%	
4515-0113 For	the purposes of a federally funded grant entitled, Health Program for refugees	\$153,994
	General Federal Grants Fund 100.0%	



ACTS, 1985. - Chap. 140.

Item

4515-0115	For the purposes of a federally funded grant entitled, Outreach/Case Register Services for Tuberculosis		\$116,402
	General Federal Grants Fund	100.0%	
4516-1000	For the administration of the center for laboratory and communicable disease control services, including the division of communicable and venereal diseases, the division of tuberculosis control, and the state laboratory institute; provided that notwithstanding any provisions of law to the contrary, an amount not to exceed three hundred thousand dollars accrued through the program at the institute of laboratories of selling biological products and performing various laboratory tests may be expended without further appropriation subject to schedules approved by the commissioner of the department of public health and the house and senate committees on ways and means and the state comptroller; provided further, that not less than two hundred and thirty thousand dollars shall be expended for Varicella-Zoster Immune Globulin, cytomegalovirus, and Whooping Cough vaccine programs; provided further, that not less than eight hundred thousand dollars shall be used for the purpose of providing vaccines for childhood diseases and not less than four hundred thousand dollars shall be obligated for the purposes of providing influenza vaccines for the elderly and the chronically ill; provided further, that not less than two hundred thousand dollars shall be obligated for a new vaccine to prevent Haemophilus influenza type b disease; provided further, that not less than three hundred and fifty thousand dollars shall be obligated for the expansion of the drug analysis laboratory; provided further, that not less than two hundred thousand dollars shall be obligated for the purpose of providing laboratory services, counseling, and education related to screening and monitoring of research regarding Acquired Immune Deficiency Syndrome and its related complex; and provided further, that not less than two hundred thousand dollars shall be obligated for a toxoplasmosis screening program; including not more than one hundred and ninety-five permanent positions and fifty-one temporary positions		\$14,092,524
4518-0100	For the administration of the office of health statistics and analysis and for the operation of a cancer registry and an occupational lung disease registry, including not more than twenty-eight permanent positions and twenty temporary positions		\$1,700,000
4518-0300	For the purposes of a federally funded grant entitled, State Participation in Dialysis System Investigation		\$31,711
	General Federal Grants Fund	100.0%	
4518-1000	For the purposes of a federally funded grant entitled, National Death Index		\$60,000
	General Federal Grants Fund	100.0%	
For the maintenance of and for certain improvements at the following institutions under the			



ACTS, 1985. - Chap. 140.

Item

control of the department of public health:		
4531-0001	Lakeville Hospital Rehabilitation center, including not more than two hundred and eighty-seven permanent positions and fifty temporary positions	\$8,400,000
4532-0001	Lemuel Shattuck hospital, including not more than six hundred and seventy-one permanent positions and thirty-three temporary positions	\$20,600,000
4532-0101	For the operation of a shelter for the homeless to be located at Lemuel Shattuck hospital, including not more than five permanent positions and twenty temporary positions	\$665,004
4533-0001	Massachusetts hospital school, including not more than two hundred and seventy-two permanent positions and fifty-nine temporary positions	\$7,932,480
4535-0001	Rutland Heights hospital, including not more than three hundred and thirteen permanent positions and fifty-six temporary positions	\$7,500,000
4535-9601	For the purposes of a federally funded grant entitled, National Energy Conservation Act, Title III	\$106,000
	General Federal Grants Fund	100.0%
4536-0001	Tewksbury hospital, including not more than eight hundred and sixty-four permanent positions and two hundred and thirty-nine temporary positions	\$22,600,000
4536-0003	For the purchase of a ladder truck to be under custody, control, and maintenance of the town of Tewksbury for the protection of state property	\$280,000
4537-0001	Western Massachusetts hospital, including not more than two hundred and thirty-three permanent positions and thirteen temporary positions	\$6,300,000
4539-0001	Cushing Hospital; provided however, that not less than three hundred and seventy-five thousand dollars shall be expended for the development of a specialized center for the treatment of end-stage Alzheimer's Disease patients, including not more than five hundred and ninety-one permanent positions and sixty-seven temporary positions	\$13,900,000
4539-0002	For the purchase of a pumper truck to be under the custody, control, and maintenance of the town of Framingham for the protection of state property	\$125,000

DEPARTMENT OF SOCIAL SERVICES.

4800-0004	For the purpose of a federally funded grant entitled, Adoption Project to Increase Referrals and Placement of Children	\$60,000
	General Federal Grants Fund	100.0%
4800-0010	For the central administration and maintenance of a program of social services; provided that, unless otherwise authorized, all funds including any federal reimbursements received by the department shall be credited to the General Fund; and provided further, that purchased social services shall not be authorized at a level that will cause expenditures to exceed appropriation and allo-	



ACTS, 1985. - Chap. 140.

Item

cation from the SSI/SSA revolving fund; and provided further, that social services shall be maintained and expenditures allocated in such a manner that will not cause said social services to be terminated prior to the end of the fiscal year and provided further that said expenditures will not exceed appropriation and allocation from the SSI/SSA revolving fund; and provided further that, no monies appropriated under this item shall be expended for tutoring or remedial reading of children awarded to the department and attending public schools; provided further, that all contracts for day care services funded in this department shall be amended to reflect negotiated rates not to exceed maximums established by the rate setting commission; and provided further that the department may purchase babysitting at a fixed rate determined by it; and provided further, that the department of social services shall report quarterly to the house and senate committees on ways and means, the amount expended on programs for battered women and the amount expended in item 4800-1040 for day care. The reports on battered women's services shall be by region and shall include the type of program, number of available slots and occupancy rate. The reports for day care services shall be by region and shall include the total number of slots available by category, occupancy rates by category and the cost by category; provided further, that during the fiscal year ending on June thirtieth, nineteen hundred and eighty-six, the department of social services shall expend not less than three million two hundred thirty thousand seven hundred and four dollars on emergency services for battered women; including five hundred eighty-nine thousand three hundred and eighty-three dollars in item 4800-1040, provided that sufficient donations are received in the Public Private Partnership Program; and provided further, that the department shall report monthly to the house and senate committees on ways and means on current social worker caseloads by type of case and level of social worker assigned to cases; provided further that the department shall submit a plan for the implementation of proposed management efficiencies, including but not limited to prioritization of services and reallocation of resources including direct service staff positions, by October thirtieth, nineteen hundred and eighty-five; and, provided further, that it shall be the policy of the department of social services to place children in need of foster care exclusively in the care of persons whose sexual orientation presents no threat to the well-being of the child, including not more than forty permanent positions and one hundred and fifty-seven temporary positions

4800-0020 For the delivery of permanency services to children in the care of the department, including the provision of adoption, guardianship and subsidies; provided, that the department shall make assessment of all the children in its care longer

\$6,585,977



ACTS, 1985. - Chap. 140.

Item

	than twelve months for the appropriateness of adoption, and provided further, that the department shall establish a central registry and tracking system to monitor the progress of such children in the adoption process; provided further, that the department of social services shall report quarterly to the house and senate committees on ways and means, the number of adoptions finalized by the department and the number of adoptions pending decision. The reports shall include the percentage of adoptions of children by foster parents; and provided further that no funds shall be expended to provide subsidies to adoptive parents for children no longer in their care, including not more than twenty-seven temporary positions	\$10,737,009
4800-0023	For a reserve to fund new and existing programs; provided that not less than two hundred and fifty thousand dollars shall be obligated for a new staff secure treatment facility of not less than twelve beds; provided further that not less than one million five hundred thousand dollars shall be obligated to provide a rate increase for foster care, subsidized adoption, and subsidized guardianship; provided further that not less than one hundred and seventy-five thousand dollars shall be obligated for a demonstration program to establish new models of medical service delivery for the prevention of unwanted pregnancies for populations at risk; provided further that not less than one hundred and fifty thousand dollars shall be obligated for sexual abuse treatment programs; provided further that not less than two hundred and fifty thousand dollars shall be obligated for services to the homeless; and provided further that funds may be allocated from this reserve to other items of appropriation or may be expended directly from this reserve	\$4,300,000
4800-0025	For a reserve for a program of foster care review and for social work positions; provided that no social work positions shall be filled without the prior approval of the house and senate committees on ways and means; and provided further that funds may be expended directly from this reserve, including not more than one hundred temporary positions	\$2,000,000
4800-0027	For a reserve to meet the cost of providing a supplemental salary increase for direct care employees of private human service providers; provided that four million two hundred and fifty thousand dollars shall be obligated to increase salaries of day care workers, provided further that funds may be transferred from this reserve to other items of appropriation; and provided further that funds appropriated in this line item shall be expended according to the requirements of section sixty-three of this act	\$6,650,000
4800-0045	For the purposes of a federal grant entitled, Social Services Block Grant; provided that expenditures for the purposes of said grant may be made for direct services only and may not exceed, without the prior approval of the house and	



ACTS, 1985. - Chap. 140.

Item

	senate committees on ways and means, sixty-seven million three hundred ten thousand one hundred and twelve dollars, notwithstanding any general or special law to the contrary; provided further that no persons shall be employed under this grant without the prior approval of the house and senate committees on ways and means; provided further that the department shall submit an expenditure plan for this grant in accordance with the provisions of section six B of chapter twenty-nine of the General Laws, to the house and senate committees on ways and means; provided further that the department shall report quarterly to the house and senate committees on ways and means all expenditures, by region and by program category, from this grant	\$65,698,939
	General Federal Grants Fund	100.0%
4800-0050 For	the expenses and operation of the New Chardon Street Home for Women located in the city of Boston; provided, that all revenue accrued through the collection of fees, may be expended without further appropriation, up to one hundred thousand dollars, for the purchase of furniture and equipment, subject to the approval of the commissioner of the department and the state comptroller for said program; and provided further, that this program will be subject to a full audit; and provided further, that any unexpended balance in the revolving fund at the close of the fiscal year, shall be transferred to the General Fund, including not more than twenty-one temporary positions	
4800-0060 For	a program of day care services, provided that all contracts for day care services funded in this item shall reflect negotiated rates not to exceed the maximums established by the rate setting commission, and provided further, that the department shall report monthly to the commissioner of administration and finance and the house and senate committees on ways and means, on the utilization of all day care and babysitting services by type of client and category, by category of day care services provided; said reports shall be by region and shall include the number of slots available for each breakdown described above, the cost for the slots and include like information for services utilizing a voucher payment system, so-called and for the babysitting services; and provided further, that vacant contracted basic slots will be filled through an alternating intake system, monitored by the Department of Social Services, to insure that the Department of Social Services and the Department of Public Welfare authorized families as well as income-eligible families have access to state supported day care on a one to one basis; provided further, that the department may utilize a blanket contract for the area office model of voucher day care services; and provided further, that any federal reimbursement for this purpose, unless otherwise authorized to be expended, shall be credited to the General Fund; provided further that the department shall submit	\$561,398



ACTS, 1985. - Chap. 140.

Item

	to the house and senate committees on ways and means by September thirtieth, nineteen hundred and eighty-five a report indicating the number of consumers paying sliding fees, the incomes of said consumers, and the amount of fees collected; provided further that not less than five hundred thousand dollars shall be expended to provide a supplemental sub-unit rate increase for family day care providers in state-contracted family day care systems; and provided further that not less than five hundred thousand dollars shall be expended to increase rates for supportive day care services	\$55,833,693
4800-0070 For	a program of respite care for the developmentally disabled; provided that, services shall be maintained and expenditures allocated in such a manner that will not cause said services to be terminated prior to the end of the fiscal year; and provided further, that said expenditures will not exceed appropriation	\$3,900,000
4800-0080 For	a program for adolescent parents; provided that, services shall be maintained and expenditures allocated in such a manner that will not cause said services to be terminated prior to the end of the fiscal year; and provided further, that said expenditures will not exceed appropriations	\$1,081,600
4800-0100 For	the administration of the department's six regions including not more than sixty-four permanent positions and five hundred and ninety-three temporary positions	\$23,083,944
4800-0200 For	regional direct services, provided that, unless otherwise authorized, any federal reimbursements received for this purpose shall be credited to the General Fund; and provided further, that purchased social services shall not be authorized at a level that will cause expenditures to exceed appropriation and allocation from the revolving fund; and provided further, that no monies appropriated under this item shall be expended for tutoring or remedial reading of children awarded to the department and attending public schools; and provided further, that social services shall be maintained and expenditures allocated in such a manner that will not cause said social services to be terminated prior to the end of the fiscal year and provided further that said expenditures will not exceed appropriation and allocation from the revolving fund; provided further that not less than three million eight hundred eighty-eight thousand five hundred and eighty-five dollars shall be obligated for purchased social services in region I; provided further that not less than three million seven hundred thirty-nine thousand and twenty-four dollars shall be obligated for purchased social services in region II; provided further that not less than four million seven hundred eighty-five thousand nine hundred and fifty-one dollars shall be obligated for purchased social services in region III; provided further that not less than two million six hundred ninety-two thousand and ninety-seven dollars shall be obligated for purchased social services in region IV;	



ACTS, 1985. - Chap. 140.

Item

	provided further that not less than five million eight hundred thirty-two thousand eight hundred and seventy-two dollars shall be obligated for purchased social services in region V; provided further that not less than five million three hundred eighty-four thousand one hundred and ninety dollars shall be obligated for purchased social services in region VI, including not more than one thousand six hundred and eighty-three temporary positions	\$72,721,882
4800-1040 For	certain public/private partnership programs; provided that up to five hundred eighty-nine thousand three hundred and eighty-three dollars may be expended on emergency services for battered women, provided that sufficient donated funds are received; provided that not less than three million, three hundred thousand dollars be expended on day care services, provided that sufficient donated funds are received; provided that, any expenditures from this item shall be contingent upon receipt by the department of assurances from a program provider that such provider has obtained a commitment from a private or public source other than the commonwealth to provide funds equal to twenty-five per cent of the cost of any proposed public/private partnership program; provided further, that the department, subject to the provisions of chapter thirty A of the General Laws and with the approval of the executive office of human services, shall promulgate any rules and regulations as are deemed necessary to administer said programs; provided further, that such rules and regulations along with any amendments or repeals shall be submitted to the house and senate committees on ways and means prior to implementation; provided further, that purchased social services shall not be authorized at a level that will cause expenditures to exceed appropriations; and provided, further, that social services shall be maintained and expenditures allocated in such a manner that will not cause said social services to be terminated prior to the end of the fiscal year; and provided further, that said expenditures will not exceed appropriations; provided further, that any federal reimbursements received for this purpose, unless otherwise authorized to be expended, shall be credited to the General Fund	\$13,677,965
4899-0001 For	the purposes of a federally funded grant entitled, Child Welfare Services - Title IVB; provided that not less than two million nine hundred ninety-five thousand two hundred and sixty dollars shall be expended for direct services for protective needs children; and provided further, that the department shall report quarterly to the house and senate committees on ways and means all new initiatives and programs begun with Title IVB funds, and the status and funding of all programs operated under this grant	\$2,995,260
	General Federal Grants Fund 100.0%	
4899-0005 For	the purposes of a federally funded grant entitled, Child Abuse and Neglect	\$180,000



ACTS, 1985. - Chap. 140.

Item

General Federal Grants Fund

100.0%

DEPARTMENT OF MENTAL HEALTH.

- Notwithstanding any provision of law to the contrary, the department of mental health shall report quarterly to the house and senate committees on ways and means the status of all existing community based programs, including the total cost of each program, its client capacity, and the number of clients actually being served.
- For new program starts, the department of mental health shall report quarterly to the house and senate committees on ways and means expenditures made, by region, for the establishment of new community-based programs; status of community-based programs including starting dates, numbers of clients served per program, the cost for the start-up month and the cost for the full fiscal year.
- Notwithstanding any provision of law to the contrary, the department of mental health shall submit, quarterly, in writing, and by region to the house and senate committees on ways and means a status report on community placements including the identification of patients to be moved into the community as well as the program in which they will be placed, and the dates on which they are to be deinstitutionalized.
- Notwithstanding any provision of law to the contrary the department of mental health shall provide temporary residential respite care facilities for clients with behavioral and developmental disabilities. Said programs shall have as their main objective, the reduction of stress in families attempting to maintain disabled clients in the community in order to avoid long term or emergency admissions to institutional settings. Said services shall not be limited to clients of a specific district. In instances where clients must leave their region, to obtain such services, the region providing services shall be reimbursed by the region in which the client has permanent residence.
- Notwithstanding the provision of any law to the contrary, the department of mental health shall submit quarterly to the house and senate committees on ways and means a status report on all state schools and state hospitals including total cost of the operations of each institution, its client capacity, the number of clients being served and the use of such facilities by other state agencies.
- 5011-0000 For administration, except as otherwise provided, for the boarding out of children, as provided in chapter one hundred and twenty-three of the General Laws, with the consent of the parent or guardians; provided, that the position of assistant to the commissioner of mental health (executive in mental retardation) shall not be subject to the provisions of chapter thirty-one of the General Laws; provided further, that from the funds appropriated herein not more than



ACTS, 1985. - Chap. 140.

Item

	two hundred thousand dollars shall be expended for the development of individual service plans; provided further, that not more than four hundred thousand dollars shall be expended for the monitoring and evaluation of the implementation of said plans; and provided further, that not less than one million one hundred and thirty thousand dollars shall be obligated for data processing services and equipment for such services, including not more than one hundred and fifty-one permanent positions and not more than one hundred and thirteen temporary positions	\$11,772,631
5011-0002 For	the Mansfield resident autistic program	\$427,000
5011-0004 For	a reserve to meet the cost of providing a supplemental salary increase for direct care employees of private human service providers; provided that funds may be transferred from this reserve to other items of appropriation; and provided further, that funds appropriated in this line item shall be expended according to the requirements of section sixty-three of this act	\$2,650,000
5011-0006 For	the cost of providing for the continuity of services to developmentally disabled persons whose age no longer entitles them to services under special education programs, prior appropriation continued	\$4,000,000
5011-0007 For	an office of fiscal control, contracts management and monitoring, revenue and audit; provided, that not less than two hundred and fifteen thousand dollars shall be obligated for fiscal staff; and, provided further, that the department initiate contracts for the purpose of collecting accounts receivables at state institutions owed to the department, including not more than seven permanent positions and seventeen temporary positions	\$788,512
5011-0010 For	educational services for adult clients of the bureau of institutional schools, provided that not less than three hundred thirteen thousand dollars be obligated for clients residing in the Charles V. Hogan regional center and the John T. Berry rehabilitation center	\$473,687
5011-0011 For	a consolidated laundry program, including not more than one hundred and sixteen permanent positions and not more than sixteen temporary positions	\$3,449,378
5011-0015 For	new mental retardation programs; provided, that the department shall report quarterly to the house and senate committees on ways and means on all expenditures from this item	\$13,328,373
5011-0017 For	new community systems; provided, however, that no funds may be expended from this item for a medium secure treatment center located on the grounds of Taunton state hospital; provided that not less than one million seven hundred thousand dollars shall be obligated for programs for the mentally ill and retarded homeless citizens of the commonwealth; provided further, that no more than five million nine hundred fifty thousand and thirty-five dollars shall be expended on programs and community placement required by the <u>Brewster</u> consent decree;	



ACTS, 1985. - Chap. 140.

Item		
	provided further, that not less than one hundred ninety thousand dollars shall be obligated for the Mill Pond development for geriatric mentally ill in Littleton; provided further, that not less than three hundred and twenty thousand dollars shall be obligated for new community programs for the chronically mentally ill; and, provided further, that not less than three hundred and seventy thousand dollars shall be obligated for initiation and expansion of social clubs	\$10,900,000
5011-0020 For	the cost of providing laboratory and Hepatitis B inoculations services to staff and residents of Belchertown state school, Monson developmental center, the Walter E. Fernald state school, the Paul A. Dever state school, the Wrentham state school, the Irving A. Glavin regional center, the Charles V. Hogan regional center and the John T. Berry rehabilitation center and staff and residents of Department of Mental Health community programs, prior appropriation continued	\$316,189
5011-0021 For	a program of recreational services and activities involving olympic style games for the clients of the state schools for the mentally retarded and community residences within the commonwealth of Massachusetts	\$125,000
5011-0025 For	transportation services for mentally retarded persons attending educational, habilitational or day care services or facilities of the department, said persons being no longer eligible for such services under the provisions of chapter seven hundred and sixty-six of the acts of nineteen hundred and seventy-two, notwithstanding the provisions of any general or special law to the contrary; provided, however, that not more than four hundred and three thousand dollars shall be expended on the administration of said services, including not more than five temporary positions	\$15,278,000
5011-0040 For	the payment of wages to patients and residents in mental health and mental retardation facilities; provided, that the secretary of human services in conjunction with the commissioner of mental health, is hereby directed to conduct an audit of all expenditures from this reserve, to be filed with the house and senate committees on ways and means by March fifteenth, nineteen hundred and eighty-six, provided that the prior appropriation in item 1599-2012 is hereby continued, and provided, further, that said prior appropriation is hereby transferred to this item for expenditure	\$488,792
5011-0050 For	monitoring of seclusion and restraint at community mental health centers in accordance with chapter four hundred and sixty-four of the acts of nineteen hundred and eighty-four, including psychiatric coverage and not more than thirty-two temporary positions, provided that funds may be transferred from this reserve to other items of appropriation; and, provided further, that the commissioner of mental health shall report quarterly on all expenditures from	



ACTS, 1985. - Chap. 140.

Item

	this reserve, including the number of positions and types of services funded at each facility, to the commissioner of administration and the house and senate committees on ways and means	\$400,000
5012-9109	For the purposes of a federally funded grant entitled, Manpower Planning and Development Grant	\$100,000
	General Federal Grants Fund 100.0%	
5016-0104	For the expansion of services to retarded people in the community who are not eligible for services through chapter seventy-one B of the General Laws or consent decrees; provided however, that not less than one hundred and twenty-five thousand dollars shall be obligated for a day program in Charlestown for mentally retarded community clients; provided, further, that not less than one hundred ninety-five thousand dollars be obligated for clients residing in the Charles V. Hogan regional center and the John T. Berry rehabilitation center and, provided further, that the department of mental health shall submit quarterly, in writing, by region and by program, status reports, including all expenditures from this item, to the house and senate committees on ways and means, prior appropriation continued	\$6,995,118
5017-0100	For the office of the court monitor	\$132,601
5018-0100	For furnishings and equipment for capital projects at the state schools for the mentally retarded; provided, that any items purchased from this item shall have a value of not more than one hundred dollars or a life expectancy of less than five years, prior appropriation continued.	
5021-0000	For a program of children's services, for the purpose of providing mental health and mental retardation services to children and adolescents, including those who are inappropriately placed on adult inpatient units at state mental hospitals and mental health centers, provided, that not less than two million seven hundred and twenty thousand dollars shall be obligated for three residential programs to provide appropriate residential treatment for such children and adolescents; provided further, that not less than two hundred and eighty thousand dollars shall be obligated for prevocational rehabilitation programs for adolescents; provided further, that not less than one million two hundred thousand dollars shall be obligated for two statewide residential treatment programs; provided further, that not less than seventy-five thousand dollars shall be obligated for an after-school respite care program in the Wes-Ros-Park area for developmentally disabled children aged twelve to twenty-two; and, provided further, that the department of mental health shall submit quarterly, in writing, by region and by program, status reports, including all expenditures from this item, to the house and senate committees on ways and means	\$7,444,553
5021-9101	For the purposes of a federally funded grant entitled, Community Support Systems	



ACTS, 1985. - Chap. 140.

Item	Program		
	General Federal Grants Fund	100.0%	\$140,000
5024-0100 For	programs for children and adolescents who are inappropriately placed on adult inpatient units at state mental hospitals and mental health centers, prior appropriation continued		\$200,000
5025-0100 For	the training of psychiatric residents and multi-disciplinary trainees of the department of mental health through intensive statewide settings provided by the department; provided, that not less than nine hundred and thirty-five thousand dollars shall be obligated for a psychiatric residency program at the Cambridge/Somerville mental health center; provided however, that not less than two hundred and ninety thousand dollars shall be obligated for a psychiatric residency program at the Tufts Bay Cove mental health center; provided, further, that not less than sixty-seven thousand five hundred dollars be obligated for a psychiatric residency program at the University of Massachusetts Medical Center through the Greater Worcester Area; provided, further, that not less than fifty-four thousand two hundred and nine dollars be obligated for a multi-disciplinary training program in mental health at the Roxbury Multi-Service Center; provided, further, that not less than one hundred thousand dollars be obligated for a multi-disciplinary professional mental health training program in Greater Lawrence; and, provided further, that the audit unit of the executive office of human services is authorized and directed to perform an audit of all programs funded from this item of appropriation, including quality assurance, full financial disclosure of all sources of income for any recipient of said stipend, the level and discipline of each trainee, and any indirect program costs, including space rental costs, salary and fringe benefits, and any contracted services. Said audit shall be submitted to the house and senate committees on ways and means by March fifteenth, nineteen hundred and eighty-six		\$2,370,000
5095-0100 For	improvements in the quality of inpatient services, including, but not limited to, direct care positions, furniture and equipment, and psychiatric services, provided that all expenditures from this item shall be restricted to mental health hospitals and the Gaebler Children's Center and shall be subject to the approval of the assistant commissioner for hospital management and the commissioner of mental health; provided, however, that positions funded by this item shall not be used to replace hospital positions which are reassigned for use in community programs subsequent to June thirtieth, nineteen hundred and eighty-five; provided further, that the commissioner of mental health shall report quarterly on all expenses from this account, including the type of positions, services, and equipment purchased for each facility, to the commissioner of		



ACTS, 1985. - Chap. 140.

Item

	administration and the house and senate committees on ways and means; provided further, that expenditures be made directly from this item without transfer to other items, including not more than two hundred and thirty-eight temporary positions	\$3,100,000
5096-0100	For improvements in the management of and the provision of active treatment by hospitals within the department of mental health, provided that said department shall develop management plans for not less than four said hospitals, including but not limited to plans for Metropolitan state hospital, Danvers state hospital, Medfield state hospital, and Westborough state hospital; provided, however, that said management plans shall be subject to the approval of the house and senate committees on ways and means; and provided, further, that no monies shall be expended from this item except as provided for in said approved management plans, including not more than one hundred and thirty-two temporary positions	\$2,000,000

Region One.

5145-0000	For the administration of region one, including not more than two hundred and ten permanent positions and not more than eighty-three temporary positions	\$7,579,165
5146-0000	For mental health community services	\$20,249,700
5147-0000	For child and adolescent mental health services	\$6,133,689
5148-0000	For mental retardation community services	\$19,387,460
5183-0100	For the maintenance of the Belchertown state school, including not more than seven hundred and twenty-seven permanent positions and not more than six hundred and sixty-one temporary positions	\$29,510,768
5195-0100	For the maintenance of the Northampton state hospital; provided however, that no funds from this item may be expended for a contracted secure treatment facility; provided further, that no funds from this item may be expended for persons delivering services or performing administrative functions in community-based programs, including not more than four hundred and forty-two permanent positions and not more than fifteen temporary positions	\$10,818,460

Region Two.

5245-0000	For the administration of region two, including not more than two hundred and forty permanent positions and not more than fifty-three temporary positions	\$7,361,474
5246-0000	For mental health community services	\$5,005,162
5247-0000	For child and adolescent mental health services	\$1,938,959
5248-0000	For mental retardation community services	\$11,367,287



ACTS, 1985. - Chap. 140.

Item

5271-0100	For the maintenance of the Irving A. Glavin regional center at Shrewsbury, including not more than one hundred and fifty-nine permanent positions and seven- teen temporary positions	\$3,966,342
5283-0100	For the maintenance of the Monson developmental center, including not more than eight hundred and thirty-five permanent positions and not more than seven hun- dred and thirty-two temporary positions	\$33,548,001
5295-0100	For the maintenance of the Worcester state hospital; provided, however, that no funds may be expended from this item for salaries for persons delivering ser- vices or performing administrative functions in community-based programs, in- cluding not more than seven hundred and ten permanent positions and not more than eight temporary positions	\$17,767,568

Region Three.

5345-0000	For the administration of region three, including not more than two hundred and eight permanent positions and not more than twenty-seven temporary positions	\$5,982,264
5346-0000	For mental health community services; provided that not less than seventy thou- sand dollars shall be obligated for a day treatment and vocational rehabili- tation program for non-medicaid eligible individuals at the North Shore com- munity mental health center; provided further, that not less than one hundred and nine thousand dollars shall be obligated for a supervised apartment for men to be located in the city of Lawrence, including not more than eight tem- porary positions; and, provided further, that not less than eight hundred twenty- five thousand nine hundred and seventy-three dollars be obligated for providing community mental health services in the Greater Lowell Area	\$9,264,347
5347-0000	For child and adolescent mental health services; provided that not less than six hundred thirty-four thousand two hundred and eighty-two dollars be obligated for child and adolescent mental health services in the Greater Lowell Area	\$3,696,568
5348-0000	For mental retardation community services; provided that not less than one million five hundred seventy-two thousand and eighteen dollars be obligated for men- tal retardation community services in the Greater Lowell Area	\$14,530,587
5351-0100	For the maintenance of the Dr. Harry C. Solomon mental health center, including not more than one hundred and twenty-four permanent positions and not more than twenty-eight temporary positions	\$4,245,895
5377-0100	For the maintenance of the Charles V. Hogan regional center and the John T. Berry rehabilitation center, including not more than four hundred and sixty-five permanent positions and not more than three hundred and seventy-eight temporary positions, prior appropriation continued	\$17,801,015
5395-0100	For the maintenance of Danvers state hospital, provided that, no funds may be ex-	



ACTS, 1985. - Chap. 140.

Item

pendent from this item for salaries of persons delivering services or performing administrative functions in community-based programs, including not more than four hundred and twenty-five permanent positions and twenty-five temporary positions

\$11,505,156

Region Four A.

5445-0000	For the administration of region four A, including not more than one hundred and twenty-three permanent positions and not more than fourteen temporary positions	\$4,062,855
5446-0000	For mental health community services; provided however, that not less than seven hundred and forty-one thousand dollars shall be obligated for providing community mental health services in the Cambridge/Somerville area	\$4,713,878
5447-0000	For child and adolescent mental health services	\$1,270,573
5448-0000	For mental retardation community services	\$8,994,755
5451-0100	For the maintenance of the Cambridge/Somerville mental health and retardation center, including not more than one hundred and forty permanent positions	\$3,176,412
5483-0100	For the maintenance of the Walter E. Fernald state school, including not more than one thousand one hundred permanent positions and not more than one thousand two hundred and ninety-six temporary positions	\$53,282,026
5495-0100	For the maintenance of Metropolitan state hospital; provided that no funds may be expended from this item for salaries for persons delivering services or performing administrative functions in community-based programs, including not more than six hundred and forty-five permanent positions and not more than thirty-nine temporary positions	\$16,627,264
5496-0100	For the maintenance of the William C. Gaebler Children's Center, including not more than one hundred and twelve permanent positions and sixty temporary positions	\$3,727,056

Region Five.

5540-0100	For the maintenance of the Brockton multi-service center, including not more than two hundred and five permanent positions and fifty-two temporary positions	\$8,000,000
5541-0000	For the maintenance of the John C. Corrigan mental health center, including not more than seventy-five permanent positions and six temporary positions	\$4,525,000
5542-0000	For the maintenance of the Pocasset mental health center, including not more than thirty-nine permanent positions and not more than five temporary positions	\$1,391,775
5545-0000	For the administration of region five, including not more than three hundred and ninety-five permanent positions and not more than fifty temporary positions	\$9,474,146
5546-0000	For mental health community services	\$3,024,243



ACTS, 1985. - Chap. 140.

Item

5547-0000 For	child and adolescent mental health services	\$1,757,511
5548-0000 For	mental retardation community services	\$10,300,000
5551-0100 For	the maintenance of the treatment center at the Massachusetts correctional institute at Bridgewater, including not more than twenty-nine permanent positions and not more than forty-eight temporary positions	\$2,064,178
5583-0100 For	the maintenance of the Paul A. Dever state school, including not more than eight hundred and sixty-five permanent positions and not more than one thousand and eighty-four temporary positions	\$43,305,547
5592-0100 For	the maintenance of the Taunton state hospital; provided however, that no funds may be expended from this item for salaries for persons delivering services or performing administrative functions in community-based programs, including not more than three hundred and fifty-six permanent positions and not more than thirty-eight temporary positions	\$9,455,596

Region Six.

5645-0000 For	the administration of region six; provided that not more than the sum of two hundred and fifty thousand dollars shall be obligated for the twelve month fiscal year nineteen hundred and eighty-six cost for a rehabilitative day treatment program for chronically mentally ill homeless persons; provided however, that not more than one hundred and twenty-five thousand dollars shall be obligated for the twelve month fiscal year nineteen hundred and eighty-six share for a residential program for chronically mentally ill homeless persons; and provided further, that not less than two hundred ninety-eight thousand eight hundred and eighty dollars shall be obligated for salaries of personnel delivering services at the Boston juvenile court clinic, including not more than twenty-three permanent positions and not more than thirteen temporary positions	\$1,562,408
5646-0000 For	mental health community services; provided, that none of the amounts appropriated in this item shall be available for the payment of contracts from subsidiary accounts "03" and "07" for the operation of the Parker Street shelter, so-called	\$3,219,804
5647-0000 For	child and adolescent mental health services; provided, that not less than four hundred and ten thousand dollars shall be obligated for professional contractual services rendered by a teaching hospital currently providing child and adult psychiatric services to the bay cove catchment area for a range of clinical and psychiatric services to emotionally disturbed children and their families, with priority to the bay cove catchment area but also serving children throughout the commonwealth; and, provided further, that not less than one hundred and fifty thousand dollars shall be obligated for children's mental health services provided through the D Street child mental health and the school men-	



ACTS, 1985. - Chap. 140.

Item

	tal health teams formerly funded through a federal part F step five grant	\$2,925,388
5648-0000	For mental retardation community services	\$13,874,583
5651-0100	For the maintenance of the Massachusetts mental health center; provided, that the amount shall fund three temporary positions at the Allston-Brighton community mental health center, including not more than three hundred and five permanent positions and not more than eight temporary positions	\$8,389,812
5652-0100	For the maintenance of the Dr. Solomon Carter Fuller mental health center, including not more than one hundred and forty-seven permanent positions and not more than sixty-seven temporary positions	\$6,500,000
5653-0100	For the maintenance of the Erich Lindemann mental health center, including not more than two hundred and five permanent positions	\$5,331,885
5654-0100	For the maintenance of the Tufts mental health center, including not more than one hundred and forty permanent positions and not more than forty-five temporary positions	\$4,600,000
5655-0100	For the maintenance of the Dorchester mental health center, including not more than three hundred and four permanent positions and not more than two temporary positions	\$7,442,859
5656-0100	For the maintenance of the Wes-Ros-Park mental health center; provided, that not less than two hundred and fifty thousand dollars shall be obligated on a day treatment program for adolescents and young adults from the Wes-Ros-Park catchment area; provided further, that not less than two hundred and forty thousand dollars shall be obligated on services to mentally ill homeless persons or those in danger of becoming homeless, including not more than two hundred and twenty-eight permanent positions and not more than two temporary positions	\$5,076,832

Region Four B.

5845-0000	For the administration of region four B, including not more than two hundred and seventy-two permanent positions and not more than seventy-two temporary positions	\$8,783,905
5846-0000	For mental health community services	\$5,332,190
5847-0000	For child and adolescent mental health services	\$1,758,691
5848-0000	For mental retardation community services	\$12,700,000
5851-0100	For the maintenance of the Quincy mental health center, including not more than seventy-six permanent positions	\$2,284,694
5883-0100	For the maintenance of the Wrentham state school, including not more than six hundred and sixty-three permanent positions and one thousand five hundred and eighty-six temporary positions	\$48,292,011
5895-0100	For the maintenance of the Medfield state hospital; provided, that no funds may	



ACTS, 1985. - Chap. 140.

Item

	be expended from this item for salaries for persons delivering services or performing administrative functions in community-based programs, including not more than five hundred and fourteen permanent positions and one temporary position	11,124,000
5896-0100	For the maintenance of the Westborough state hospital; provided, that no funds may be expended from this item for salaries for persons delivering services or performing administrative functions in community-based programs, including not more than four hundred and sixteen permanent positions and not more than forty-six temporary positions	\$10,800,000

EXECUTIVE OFFICE FOR TRANSPORTATION AND CONSTRUCTION.

Office of the Secretary.

6000-0100	For the office of the secretary of transportation and construction, providing that the office shall submit quarterly expenditure reports on all permanent, temporary or contract personnel funded through capital outlay monies, including not more than two permanent positions and seven temporary positions	\$483,343
	Highway Fund 100.0%	
6000-0180	For the purposes of a federally funded grant entitled, Statewide Assistance Rural Public Transportation	\$1,600,000
	General Federal Grants Fund 100.0%	
6000-9923	For the purposes of a federally funded grant entitled, UMTA Technical Studies	\$127,000
	General Federal Grants Fund 100.0%	
6000-9936	For the purposes of a federally funded grant entitled, Transportation Systems Management - Lowell	\$200,000
	General Federal Grants Fund 100.0%	
6000-9937	For the purposes of a federally funded grant entitled, Transportation Systems Management - BRA	\$200,000
	General Federal Grants Fund 100.0%	
6000-9949	For the purposes of a federally funded grant entitled, Elderly and Handicapped Transportation	\$1,038,220
	General Federal Grants Fund 100.0%	
6000-9954	For the purpose of a federally funded grant entitled, Local Rail Service Assistance - B&M Bemis Branch	\$100,000
	General Federal Grants Fund 100.0%	
6000-9955	For the purposes of a federally funded grant entitled, Local Rail Service Assistance - B&M Bemis Branch	\$125,000
	General Federal Grants Fund 100.0%	
6000-9956	For the purposes of a federally funded grant entitled, Local Rail Deerfield - B&M East Deerfield	\$250,000



ACTS, 1985. - Chap. 140.

Item

	General Federal Grants Fund	100.0%	
6000-9960	For the purposes of a federally funded grant entitled, Public Transportation for Non-Urbanized Areas		\$100,000
	General Federal Grants Fund	100.0%	
6000-9970	For the purposes of a federally funded grant entitled, Local Rail Service Assistance Attleboro/Hyannis		\$10,000
	General Federal Grants Fund	100.0%	
<u>Massachusetts Bay Transportation Authority.</u>			
6005-0011	For additional assistance to the Massachusetts Bay Transportation Authority in accordance with the provisions of sections six and nine of chapter eight hundred and twenty-five of the acts of nineteen hundred and seventy-four, as amended by section four of chapter two hundred and ninety-one of the acts of nineteen hundred and seventy-five		\$128,182,000
	General Fund	80.0%	
	Highway Fund	20.0%	
6005-0012	For certain debt service contract assistance to the Massachusetts Bay Transportation Authority in accordance with the provisions of section twenty-eight of chapter one hundred and sixty-one A of the General Laws		\$72,007,962
	General Fund	80.0%	
	Highway Fund	20.0%	
6005-0013	For reimbursement to the Massachusetts Bay Transportation Authority for certain motor vehicle and fuel excise taxes in accordance with the provisions of paragraph (c) of section twenty-five B of chapter fifty-eight of the General Laws		\$504,00
	General Fund	80.0%	
	Highway Fund	20.0%	
6005-0014	For reimbursement to common carriers of passengers for certain motor vehicle and fuel excise taxes in accordance with the provisions of paragraph (c) of section twenty-five B of chapter fifty-eight of the General Laws		\$400,000
	General Fund	80.0%	
	Highway Fund	20.0%	
6005-0015	For certain assistance to regional transit authorities, provided that notwithstanding the provisions of section twenty-three of chapter one hundred and sixty-one B of the General Laws, the commonwealth's share of the net cost of service incurred in fiscal year nineteen hundred and eighty-five to be paid in fiscal year nineteen hundred and eighty-six, for each authority may exceed fifty per cent; provided however, the combined total allocated for contract assistance to said authorities shall not exceed the sum of thirteen million five hundred		



ACTS, 1985. - Chap. 140.

Item

	ninety-five thousand and five hundred dollars; provided that not less than five hundred thousand dollars be obligated for programs of operating grants and reimbursements to increase the accessibility of transit provided to the elderly and disabled under the mobility assistance program, the regional transit authority program and the intercity bus capital assistance program; and provided, further, the commonwealth, acting by and through the executive office for administration and finance, for the period beginning July first, nineteen hundred and eighty-five and ending June thirtieth, nineteen hundred and eighty-six, may enter into contract or contracts with the authorities created pursuant to this chapter providing that at least fifty per cent and up to sixty-six and two-thirds per cent of the net cost of service of each authority shall be paid by the commonwealth, and shall not be assessed upon the cities and towns constituting the authorities		
	General Fund	80.0%	\$13,595,500
	Highway Fund	20.0%	
6005-0017	For certain payments to cities and towns as authorized by clause (c) of section thirteen of chapter sixty-four A, clause (b) of section thirteen of chapter sixty-four E and clause (b) of section fourteen of chapter sixty-four F of the General Laws		\$21,957,640
	Highway Fund	100.0%	
6005-0018	For additional contract assistance to be allocated by the Massachusetts Bay Transportation Authority for the net additional expense of commuter rail service provided to and on behalf of the regional transit authorities and cities and towns outside the Massachusetts Bay Transportation Authority in amounts determined to be appropriate by the executive office of administration and finance, acting on behalf of the commonwealth, on the recommendation of the secretary of the executive office of transportation and construction, for the fiscal year nineteen hundred and eighty-six, in accordance with the provisions of section twenty-eight A of chapter one hundred and sixty-one A of the Massachusetts General Laws as amended; provided, that the total of such assistance allotted under this item shall not exceed eight million seven hundred thousand dollars		\$8,700,000
	General Fund	80.0%	
	Highway Fund	20.0%	
6005-0023	For the reimbursement of certain cities and towns for assessment charges authorized under sections eight, eight A and nine of chapter one hundred and sixty-one A of the General Laws, and as reduced by state contract assistance authorized under sections six and seven of chapter eight hundred and twenty-five of the acts of nineteen hundred and seventy-four, and as appearing on the notice to		



ACTS, 1985. - Chap. 140.

Item

	assessors, as authorized by section twenty-one of chapter fifty-nine of the General Laws, for the fiscal year nineteen hundred and eighty-five; provided that such reimbursements shall be made on the basis of a schedule approved by the house and senate committees on ways and means		\$4,855,913
	Local Aid Fund	100.0%	
6005-0027	For payments for certain projects for the construction, reconstruction, and improvement of town and county ways and under subdivision (a) of clause (2) of section thirty-four of chapter ninety and as authorized in clause (c) of section thirteen of chapter sixty-four A of the General Laws		\$18,300,000
	Highway Fund	100.0%	
6005-0100	For the expenses of commuter boat services		\$133,449
	<u>Massachusetts Aeronautics Commission.</u>		
6006-0003	For the administration of the commission, including personnel services and expenses of the commissioners, including not more than fifteen permanent positions		\$409,779
	<u>DEPARTMENT OF PUBLIC WORKS.</u>		
	<u>Highway Activities.</u>		
	<u>Personal Services.</u>		
6010-0001	For personal services of the department, provided, that notwithstanding the provisions of section four of chapter sixteen of the General Laws, the commissioner may appoint six additional assistants who shall serve at the pleasure of the commissioner and shall not be subject to chapter thirty-one of the General Laws and may also appoint a deputy chief counsel (counsel III) who shall not be subject to chapter thirty-one of the General Laws; including not more than two thousand eight hundred and sixty permanent positions and five hundred and fifty-eight temporary positions		\$82,200,000
	Highway Fund	100.0%	
6010-0009	For a program for planning and design of projects necessary to alleviate traffic congestion at various locations as determined by the department, prior appropriation continued		\$20,000
	Highway Fund	100.0%	
	<u>Administrative and Engineering Expenses.</u>		
6020-2401	For the purchase of all administrative and engineering equipment		\$100,000
	Highway Fund	100.0%	



ACTS, 1985. - Chap. 140.

Item

6020-2501 For certain administrative and engineering expenses of the commission, the office of the public works commissioner and the division of administrative services, highway engineering, highway maintenance, highway construction and the district and other highway activity offices; provided, that of the sum appropriated herein not less than one hundred and fifty thousand dollars shall be expended for the purpose of the design of a District Seven office to be located in Plymouth County; and provided further that not more than two hundred and fifty thousand dollars shall be expended for the rental of such office pending construction of said facility; and provided, further, the department of public works shall implement a system of inventory control and shall file a complete inventory report for fiscal year nineteen hundred and eighty-six on or before the fifteenth of January, nineteen hundred and eighty-six, with the house and senate committees on ways and means

\$6,325,000

Highway Fund 100.0%

Outdoor Advertising Division.

6020-2505 For the administration of the division, including not more than six permanent positions

\$106,052

Maintenance and Operation of State Highways and Bridges.

Appropriation under this heading may be expended for  
traffic safety control on certain city or town ways.

6030-7201 For the expenses of snow and ice control, provided that not less than three million dollars be obligated for two fully funded snow and ice removal projects in district 1 and district 2 and provided a detailed report on district cost comparisons for fiscal year nineteen hundred and eighty-six expenditures be filed with the house and senate committees on ways and means on or before May first, nineteen hundred and eighty-six; and provided further, that any surplus after May first, nineteen hundred and eighty-six from said demonstration projects may be expended, for bridge repairs in said districts; including the removal of sand, and including the cost of sand, salt and chemicals

\$14,219,426

Highway Fund 100.0%

6030-7301 For expenses in connection with traffic line painting, including the cost of materials

\$1,057,652

Highway Fund 100.0%

6030-7302 For a study, the preparation of plans, if necessary, and construction, purchase and installation of traffic signals at the intersection of Route 62 and High



ACTS, 1985. - Chap. 140.

Item		
	Street in the town of Wilmington	\$220,000
6030-7306 For	the installation and maintenance of traffic signal lights at the intersections of Route 44 and New Street and Route 44 and Blanding Road in the town of Rehoboth, prior appropriation continued.	
6030-7307 For	the completion of traffic signal lighting and design work at the intersection of Route 6 and Anthony Street/School Street/Warren Avenue in the town of Seekonk, prior appropriation continued.	
6030-7401 For	the purchase of materials and supplies for the maintenance and operation of state highways and bridges, excluding those specifically provided for in items 6030-7201, 6030-7301 and 6030-7603	\$2,122,875
	Highway Fund 100.0%	
6030-7403 For	the expenses of fleet management and maintenance equipment, prior appropriation continued	\$3,577,376
	Highway Fund 100.0%	
6030-7601 For	maintenance and operation of state highways and bridges including the provisions of chapter eight hundred and three of the acts of nineteen hundred and seventy-nine; provided, however, that an engineering plan and study for "Highland Avenue and Needham Street Concept Plan" in the town of Needham and in the city of Newton be completed, prior appropriation continued	\$6,010,851
	Highway Fund 100.0%	
6030-7603 For	the expenses of painting and repairing state bridges	\$5,500,000
	Highway Fund 100.0%	
6030-7605 For	expenses of repairing the erosion at the Fall River Bridge on Hoe Shop Road in the town of Bernardston	\$70,000
6031-0131 For	a property management program, prior appropriation continued	
	Highway Fund 100.0%	
6034-0008 For	reimbursements to cities and towns listed in section four of chapter eight hundred and twenty-five of the acts of nineteen hundred and seventy-four to be used solely for the provision of or payment for mass transportation services, including assessments for said services; provided that such amount reimbursed shall be based upon the amount which is expended for said services on or before June thirtieth, nineteen hundred and eighty-five and shall not exceed the amount specified for each city or town in said section four of said chapter eight hundred and twenty-five; and provided, further, that the town of Nahant be reimbursed nine thousand dollars	\$2,500,000
	Local Aid Fund 100.0%	
6034-0009 For	payment to cities and towns; provided, that each city and town shall receive the same amount in this fiscal year as was received in the prior fiscal year under the provisions of item 6034-0008 of section two of chapter six hundred	



ACTS, 1985. - Chap. 140.

Item

	and eighty-four of the acts of nineteen hundred and seventy-five	\$18,469,803
	Local Aid Fund 100.0%	
6034-0014	For evaluation of methods of reducing sodium contamination of water supplies, including tests of reduced application of sodium chloride, use of alternative deicing agents, use of alternative pavement materials, experimental equipment, or other appropriate methods or systems, and for the updating of the 1978 Snow and Ice Control Program Environmental Impact Report, prior appropriation continued	\$25,000
<u>EDUCATION.</u>		
<u>Libraries.</u>		
7000-9101	For the administration and expenses of the board of library commissioners, including not more than sixteen permanent positions and four temporary positions	\$647,113
7000-9401	For state aid to regional public libraries; provided that notwithstanding the provisions of section nineteen C of chapter seventy-eight of the General Laws or any other general or special law to the contrary, the Boston Public Library shall, as the library of last recourse for reference and research services for the commonwealth, be paid from this item an amount equal to forty-four and eight-tenths cents per resident in the commonwealth	\$8,760,229
	Local Aid Fund 100.0%	
7000-9501	For state aid to public libraries	\$2,869,591
	Local Aid Fund 100.0%	
7000-9502	For additional state aid to public libraries, provided that the amount distributed to each city or town shall be in the same proportion as their population is to the total population of all cities and towns within the commonwealth, excluding that which is provided for in subsection (4) of section nineteen C of chapter seventy-eight of the General Laws	\$1,500,000
	Local Aid Fund 100.0%	
7000-9503	For a fifty per cent matching grant program to be administered by the Board of Library Commissioners to assist communities with the planning, design, construction and renovation of public libraries; provided, however, that said state grant shall not exceed fifty thousand dollars; provided further, that only communities without a public library as of December thirty-first, nineteen hundred and eighty shall be eligible to apply	\$50,000
7000-9504	For the construction of a handicapped ramp at the Amesbury Public Library	\$30,000
7000-9703	For the purposes of a federally funded grant entitled, Interlibrary Cooperation - LSCA - Title III	\$418,843
	General Federal Grants Fund 100.0%	
7000-9705	For the purposes of a federally funded grant entitled, LSCA - Title I	\$1,736,376



ACTS, 1985. - Chap. 140.

Item

	General Federal Grants Fund	100.0%	
7000-9707	For the purposes of a federally funded grant entitled, Public Library Construction - LSCA - Title II		\$568,973
	General Federal Grants Fund	100.0%	

DEPARTMENT OF EDUCATION.

Board of Education and Commissioner's Office.

7010-0005	For the general administration of the department, including the expenses of the members of the board, the office of the commissioner, the division of administration and personnel, the division of state and federal assistance, the division of research and development, the bureau of equal educational opportunity and the bureau of assessment; including not more than sixty-two permanent positions and thirty-eight temporary positions	\$4,381,066
7010-0007	For maintaining, repairing, renovating and overhauling the U.S.S. Massachusetts, U.S.S. Joseph P. Kennedy Jr., U.S.S. Lionfish, and the U.S.S. Patrol Torpedo Boat No. 796, by the U.S.S. Massachusetts Memorial Committee, Inc.; provided that said vessels constituting the memorial exhibits shall be operated by said committee	\$2,500,000
7010-0012	For grants to cities, towns, or regional school districts for payments of certain costs incurred under the program for the elimination of racial imbalance; provided, that, reimbursements to a city, town or regional school district shall be limited by the board of education to actual and specifically documented incremental costs including those costs incurred pursuant to chapter seventy-one B of the General Laws incurred as a direct consequence of participation in the program whenever the reimbursements requested by such city, town or regional school district exceed the level of reimbursements received in fiscal year nineteen hundred and seventy-seven; provided further, that the board of education shall establish a uniform procedure by which the categories and amount of the incremental costs directly consequent to participation in the program shall be determined and reported by cities, towns and regional school districts; provided further, that the board of education shall certify to the accuracy of said incremental costs determination to the house and senate committees on ways and means before September first, nineteen hundred and eighty-five, provided, further, that reimbursements for incremental instructional costs shall in no case exceed the average per-pupil instructional costs, exclusive of administrative costs, and the incremental special education cost, as defined by the board of education for appropriate grade levels as incurred by the school district during the current school year; and, provided further, that payments to	



ACTS, 1985. - Chap. 140.

Item

	METCO, Inc. shall be made through one disbursing agent as designated by the board of education and that they be not less than twelve and one-half per cent of the nontransportation costs of the program; provided, further, that there shall be no discrimination on the basis of race, sex, color or creed; provided further, that no payments or approvals shall be given or made, on or after the effective date of this act, which would cause the commonwealth's obligation for the purpose of this item to exceed the amount of this appropriation, provided that not less than ten thousand dollars shall be expended for summer education programs to be conducted by METCO, Inc., in order to prepare new students in their transferral into new school systems	
	Local Aid Fund	100.0%
7010-0013	For the purposes of a federally funded grant entitled, Race Desegregation Assistance Administration	\$11,633,372
	General Federal Grants Fund	100.0%
7010-0014	For the costs of planning and development of a specialized high school in the commonwealth; provided, that a detailed report including but not limited to information and recommendations regarding facilities, curriculum, school characteristics, program definitions, and admissions policies, shall be filed on or before December first, nineteen hundred and eighty-five to the joint committee on education and the house and senate committees on ways and means; prior appropriation continued.	\$212,000
7010-0025	For the development, administration and scoring of a state wide assessment test; provided, that the department of education report, on a quarterly basis, the activities and results of said test to the house and senate committees on ways and means, prior appropriation continued.	
7010-0042	For grants to cities, towns or regional school districts for the cost of providing magnet educational programs in accordance with the provisions of section thirty-seven I and thirty-seven J of chapter seventy-one of the General Laws; provided, however, that any payment made under this appropriation shall be deposited with the treasurer of such city, town or regional school district and held as a separate account and shall be expended by the school committee of such city, town or regional school district without appropriation, notwithstanding the provisions of any general or special law to the contrary; provided further, that any portion of this appropriation item may be expended by the state board of education to purchase magnet educational programs; and provided, further, that no payments or approvals shall be given or made, on or after the effective date of this act, which would cause the commonwealth's obligation for the purpose of this item to exceed the amount of this appropriation	\$5,050,000
	Local Aid Fund	100.0%



ACTS, 1985. - Chap. 140.

Item

7010-0043	For grants to establish the Equal Education Improvement Fund for cities, towns or regional school districts under the provisions of section one I of chapter fifteen of the General Laws; provided, that notwithstanding the provisions of said section one I or section thirty-seven D of chapter seventy-one of the General Laws, pupils qualifying for funding under the Equal Education Improvement Fund shall also include those of Hispanic and Southeast Asian origin; provided, however, that any payment made under this appropriation shall be deposited with the treasurer of such city, town or regional school district and held as a separate account and shall be expended by the school committee of such city, town or regional school district without appropriation, notwithstanding the provisions of any general or special law to the contrary; provided, further, that no payments or approvals shall be given or made, on or after the effective date of this act, which would cause the commonwealth's obligation for the purpose of this item to exceed the amount of this appropriation		\$8,441,900
	Local Aid Fund	100.0%	
7010-9711	For the purposes of a federally funded grant entitled, National Desegregation Origin		\$158,000
	General Federal Grants Fund	100.0%	
7010-9728	For the purposes of a federally funded grant entitled, Sex Desegregation		\$250,000
	General Federal Grants Fund	100.0%	
7010-9732	For the purposes of a federally funded grant entitled, Education Consolidation and Improvement Act of 1981, Chapter II Administration		\$2,000,000
	General Federal Grants Fund	100.0%	

Division of Occupational Education.

7027-0001	For the administration of the division, to be in addition to any federal funds available for the purpose to comply with the requirement of federal authorities under the Carl D. Perkins Vocational Education Act of 1984 (Public Law - 98-524, as amended), including not more than fourteen permanent positions and thirty-five temporary positions		\$1,463,436
7027-0016	For matching grants for various school-to-work programs; provided, that the board of education shall establish guidelines for said programs in consultation with the secretary of manpower affairs; provided, further, that any funds that are distributed under this item to cities, towns, or regional school districts shall be deposited with the treasurer of such city, town, or regional school district, and held in a separate account and shall be expended by the school committee without further appropriation; provided, further, that each grant awarded herein shall be matched by the recipient from local, federal, or pri-		



ACTS, 1985. - Chap. 140.

Item

	vate funds; provided, further that the board of education may determine the percentage match required on an individual grant basis; provided, further, that the department of education shall file quarterly reports with the joint committee on education and the house and senate committees on ways and means detailing the expenditures made for each grant	\$1,500,000
7027-1001	For the administration of a fire fighting academy and training program, to be in addition to any federal funds available for the purpose, including not more than three permanent positions and ten temporary positions	\$694,774
7027-9001	For the purposes of a federally funded grant entitled, Carl D. Perkins Vocational Education Act of 1984	\$17,000,000
	General Federal Grants Fund 100.0%	
<u>Division of Special Education.</u>		
7028-0001	For the administration of the division of special education, to be in addition to any federal funds available for the purpose, including not more than sixty-two permanent positions	\$1,839,363
7028-0012	For the purposes of a federally funded grant entitled, Early Childhood Service Delivery	\$100,000
	General Federal Grants Fund 100.0%	
7028-0013	For the purposes of a federally funded grant entitled, Assessment of the Impact of Special Education	\$96,000
	General Federal Grants Fund 100.0%	
7028-0015	For the purposes of a federally funded grant entitled, Massachusetts Administrators Training Project	\$50,000
	General Federal Grants Fund 100.0%	
7028-0031	For the expenses of school age children in institutional school departments as required under section twelve of chapter seventy-one B of the General Laws, provided that the department shall provide services to eligible inmates in county houses of correction in accordance with and during the preliminary injunction issued by the United States District Court, District of Massachusetts, including not more than one hundred and five permanent positions and forty-three temporary positions	\$10,019,022
7028-0101	For "incentive grants" to be paid to cities, towns, and regional school districts, to pay for the approved costs of educating certain children transferred to local education programs, the amount of such approved costs to be determined in each case by the department of education; provided, that any "incentive grant" payments made under this appropriation shall be deposited with the treasurer of such city, town or regional school districts and held as a separ-	



ACTS, 1985. - Chap. 140.

Item

	ate account and shall be expended by the school committee of such city, town or regional school district without appropriation, notwithstanding the provisions of any general or special law to the contrary; and provided further, that any educational cost covered by an "incentive grant" payment made under this appropriation shall not be eligible for recovery under section two of chapter seventy of the General Laws		\$2,084,156
	Local Aid Fund	100.0%	
7028-0302 For	the educational expenses of certain school age children with special needs attending schools under the provisions of section two of chapter seventy-one B of the General Laws and for the educational expenses of school age children with special needs attending day or residential programs who have no father or mother or guardian living in the commonwealth; provided, that notwithstanding the provisions of any general or special law to the contrary, all increases in the rate paid to any institution or school for services provided in a prior fiscal year may be funded with monies appropriated herein; and provided further, that no payments or approvals shall be given or made, on or after the effective date of this act, which would cause the commonwealth's obligation for the purpose of this item to exceed the amount of this appropriation		\$14,551,254
7028-0303 For	expenses relating to the provisions of special education to certain children to be transferred from the department of public welfare to the department of education; provided, that said children were placed by the department of public welfare in a private special education program as of September first, nineteen hundred and seventy-four, have continued to attend such program at the expense of the department of public welfare up to the date of said transfer, and continue to need such special education program; and provided, further, that the total number of children to be transferred from the department of public welfare to the department of education shall not exceed the number that can be served by funds available in this appropriation		\$308,144
7028-0601 For	the purposes of a federally funded grant entitled, Education of the Handicapped - Administration		\$1,610,000
	General Federal Grants Fund	100.0%	
7028-0801 For	the purposes of a federally funded grant entitled, State-Operated Program for the Handicapped		\$9,590,000
	General Federal Grants Fund	100.0%	

Division of Curriculum and Instruction.

7030-0100 For the general administration of the division, including bilingual programs and



ACTS, 1985. - Chap. 140.

Item

	for the expenses of an educational television program; provided, however, that not more than twenty-five thousand dollars shall be expended for programming during the period of July first, nineteen hundred and eighty-five and September twelfth, nineteen hundred and eighty-five, including not more than forty-nine permanent positions and two temporary positions	\$2,648,380
7030-0191	For the purposes of a federally funded grant entitled, Coordination of Technical Assistance for Bilingual Education Programs S.E.A.S.	\$100,000
	General Federal Grants Fund 100.0%	
7030-9726	For the purposes of a federally funded grant entitled, Education Consolidation and Improvement Act of 1981, Chapter II - Distribution	\$8,000,000
	General Federal Grants Fund 100.0%	
7032-0210	For the administration of a program for gifted and talented school aged children, to be in addition to any federal funds available for the purpose	\$70,536
7032-0301	For grants to cities, towns and regional school districts through the Commonwealth Inservice Institute to provide school based educational training, provided, that, notwithstanding any law to the contrary, any funds distributed under this item shall be deposited with the treasurer of such city, town, or regional school district, and held in a separate account and shall be expended by the school committee of such city, town or regional school district	\$370,000
	Local Aid Fund 100.0%	
7032-0402	For the purposes of a federally funded grant entitled, Educationally Deprived Children - Administration	\$790,000
	General Federal Grants Fund 100.0%	
7032-0610	For grants to cities, towns and regional school districts for school based substance abuse programs; provided, that notwithstanding any law to the contrary, any funds distributed under this item shall be deposited with the treasurer of such city, town, or regional school district, and held in a separate account and shall be expended by the school committee without appropriation; provided, further, that all substance abuse programs shall be coordinated with the activities of the narcotics unit of the state police	\$100,000
7035-0001	For the adult education and extended services program; provided, that the division may, with the approval of the board of education, expend in addition to the sums herein appropriated, and without further appropriation, income derived from such courses as may be conducted at no expense to the commonwealth to an amount not exceeding four hundred thousand dollars, including not more than thirty permanent positions, prior appropriation continued	\$668,951
7035-0002	For the expenses of providing basic educational attainment and work related programs in reading, writing and mathematics at adult learning centers; provided that of the increase of five hundred thousand dollars over fiscal year nine-	



ACTS, 1985. - Chap. 140.

Item

	teen hundred and eighty-five funding, not less than two hundred and fifty thousand dollars shall be obligated to increase per student expenditures within currently contracted providers	\$2,000,000
7035-0004	For the reimbursement of cities, towns, and regional school districts, and independent vocational schools for certain expenditures for transportation of pupils pursuant to the provisions of sections seven A, seven B, and thirty-seven D of chapter seventy-one of the General Laws; section eight of chapter seventy-one A of the General Laws; section fourteen of chapter seventy-one B of the General Laws; and section eight A of chapter seventy-four of the General Laws; provided further that, of the amount appropriated herein not less than one million five hundred thousand dollars shall be obligated for the implementation of chapter six hundred and sixty-three of the acts of nineteen hundred and eighty-three; and, provided further, that any city, town, regional school district or independent vocational school which has not accepted the provisions of chapter six hundred and sixty-three of the acts of nineteen hundred and eighty-three shall be ineligible for any reimbursement of costs incurred during fiscal year nineteen hundred and eighty-six under this item or for reimbursement of such costs under any of the provisions of general law referred to herein; provided, that the commonwealth's obligation shall not exceed the amount appropriated herein provided further, that of the amount appropriated herein not less than sixty-one thousand dollars shall be expended for reimbursing regional school districts for the provisions of section eight A of chapter seventy-four of the General Laws	\$55,258,569
	Local Aid Fund 100.0%	
7035-0006	For the reimbursement of regional school districts for the transportation of pupils	\$23,569,015
	Local Aid Fund 100.0%	
7035-0007	For the administration of a transportation efficiency program by the department, including the development of pilot programs provided, that the commissioner shall file a report with the house and senate committees on ways and means detailing the type of automation system to be used under said programs; provided, further, that said program shall utilize all available resources within the institutions of higher education of the commonwealth, prior appropriation continued.	
7035-0010	For the purposes of a federally funded grant entitled, Educationally Deprived Children - Distribution	\$67,800,000
	General Federal Grants Fund 100.0%	
7035-0012	For the purposes of a federally funded grant entitled, Children in Institutions	\$300,000
	General Federal Grants Fund 100.0%	



ACTS, 1985. - Chap. 140.

Item

7035-0013	For the purposes of a federally funded grant entitled, Education of the Handicapped - Discretionary Allocation Accounts		\$1,200,000
	General Federal Grants Fund	100.0%	
7035-0014	For the purposes of a federally funded grant entitled, Children in State Adult Correctional Institutions		\$100,000
	General Federal Grants Fund	100.0%	
7035-0015	For the purposes of a federally funded grant entitled, Children of Migratory Workers		\$5,400,000
	General Federal Grants Fund	100.0%	
7035-0313	For the purposes of a federally funded grant entitled, Educationally Handicapped - Entitlement Subsidy		\$29,300,000
	General Federal Grants Fund	100.0%	
7035-0713	For the purpose of a federally funded grant entitled, Early Childhood Incentive		\$650,000
	General Federal Grants Fund	100.0%	
7038-0002	For the purposes of a federally funded grant entitled, Adult Basic Education		\$2,085,000
	General Federal Grants Fund	100.0%	
7038-9721	For the purposes of a federally funded grant entitled, Transitional Refugee Program Administration		\$7,500
	General Federal Grants Fund	100.0%	
7038-9722	For the purposes of a federally funded grant entitled, Transitional Refugee Program Distribution		\$750,000
	General Federal Grants Fund	100.0%	
7038-9724	For the purposes of a federally funded grant entitled, Emergency Immigrant Education Assistance		\$800,000
	General Federal Grants Fund	100.0%	

Division of School Facilities and Related Services.

7051-0005	For the general administration of the division, including the school building assistance bureau and the school lunch bureau, and for printing school registers and other school blanks for cities and towns, including not more than twenty-seven permanent positions and eight temporary positions		\$1,156,678
7052-0004	For grants and reimbursements to cities, towns, regional school districts and counties under the provisions of chapter six hundred and forty-five of the acts of nineteen hundred and forty-eight, for first annual payments on school projects approved on or after July first, nineteen hundred and seventy-five; provided, that the aggregate amount of first annual estimated payments for school projects approved by the board of education under the provisions of chapter six hundred and forty-five of the acts of nineteen hundred and forty-eight in the fiscal year ending June thirtieth, nineteen hundred and eighty-six shall not		



ACTS, 1985. - Chap. 140.

Item

	exceed ten million dollars of which amount not more than six million dollars shall be for projects ordered or approved by a court as necessary for desegregation or such projects as may be required in the judgment of said board to reduce or eliminate racial imbalance, prior appropriation continued	\$9,000,000
	Local Aid Fund 100.0%	
7052-0005	For grants and reimbursements to cities, towns, regional school districts and counties under the provisions of chapter six hundred and forty-five of the acts of nineteen hundred and forty-eight, for annual payments on accounts of school projects approved prior to July first, nineteen hundred and seventy-five, and all other school projects approved on or after said date on which the first annual payment has been made, provided, however, that one hundred per cent of the principal and interest of the project of the Blue Hills Regional School District shall be reimbursed as it comes due in accordance with the agreement between the Blue Hills School District Committee and the Board of Trustees of Massasoit Community College as referenced in item 7508-0104	\$99,063,680
	Local Aid Fund 100.0%	
7052-0006	For grants and reimbursements for cities, towns, regional school districts and counties under the provisions of chapter six hundred and forty-five of the acts of nineteen hundred and forty-eight, for (a) educational engineering and architectural services for regional school districts as set forth in section six of said act, (b) for surveys made of school building needs and conditions as set forth in section six A of said act, (c) for matching stabilization fund payments as set forth in section nine of said act, and (d) for costs of leasing buildings for vocational programs and originally equipping and furnishing said buildings for vocational programs as set forth in section nine of said act	\$2,190,000
	Local Aid Fund 100.0%	
7053-1907	For partial assistance in the furnishing of lunches to school children, as authorized by chapter five hundred and thirty-eight of the acts of nineteen hundred and fifty-one, and, if necessary, for supplementing federal funds allowed for the special milk program; provided, that notwithstanding the provisions of any general or special law to the contrary, payments so authorized in the aggregate for partial assistance in the furnishing of lunches to school children shall not exceed the required state revenue match contained in Public Law 79-396, as amended, cited as the National School Lunch Act, and in the regulations implementing said act, prior appropriation continued	\$275,000
7053-1909	For the reimbursement of cities and towns for partial assistance in the furnishing of lunches to school children and for supplementing funds allocated for the special milk program; provided, that notwithstanding any provisions of any general or special law to the contrary, payments so authorized in the aggregate	



ACTS, 1985. - Chap. 140.

Item

	for partial assistance in the furnishing of lunches to school children shall not exceed the required state revenue match contained in Public Law 79-396, as amended, cited as the National School Lunch Act, and in the regulations implementing said act, prior appropriation continued	\$4,795,175
7053-1910	For the reimbursement to cities and towns and partial assistance to private schools for a lunch program for needy elderly persons, prior appropriation continued	\$965,000
	Local Aid Fund	100.0%
7053-2105	For the purpose of a federally funded grant entitled, Cash in Lieu of Commodities	\$410,000
	General Federal Grants Fund	100.0%
7053-2111	For the purpose of a federally funded grant entitled, Special Milk Program	\$677,000
	General Federal Grants Fund	100.0%
7053-2112	For the purposes of a federally funded grant entitled, School Lunch, Sec. II - Special Assistance	\$39,930,000
	General Federal Grants Fund	100.0%
7053-2113	For the purpose of a federally funded grant entitled, Community School Lunch Program	\$11,100,000
	General Federal Grants Fund	100.0%
7053-2114	For the purposes of a federally funded grant entitled, School Breakfast Program	\$5,155,000
	General Federal Grants Fund	100.0%
7053-2117	For the purposes of a federally funded grant entitled, Child Care Food Program	\$13,390,000
	General Federal Grants Fund	100.0%
7053-2118	For the purpose of a federally funded grant entitled, Nutrition Education	\$110,000
	General Federal Grants Fund	100.0%
7053-2202	For the purposes of a federally funded grant entitled, Special Summer Food Services Program for Children	\$1,985,000
	General Federal Grants Fund	100.0%
7061-0003	For the reimbursement of regional school districts of the amount of school aid due under the provisions of section sixteen D of chapter seventy-one of the General Laws; provided, that notwithstanding any provisions of chapter seventy-one or any other general or special law to the contrary, the commonwealth's obligation shall not exceed the amount appropriated herein; provided, further, that notwithstanding any general or special law to the contrary, one million seven hundred thousand dollars of this appropriation shall be distributed among those regional school districts receiving a lesser amount of school aid pursuant to chapter seventy of the General Laws in fiscal year nineteen hundred and eighty-six than the amount received in fiscal year nineteen hundred and eighty-three; provided, further, that the distribution to each eligible regional school district from said one million seven hundred thousand dollars shall be in the same proportion as their reduction is to the total reduction	



ACTS, 1985. - Chap. 140.

Item

	of all regional school districts, as certified by the commissioner of education; provided, further, that such distribution shall not exceed the difference between the fiscal year nineteen hundred and eighty-three and fiscal year nineteen hundred and eighty-six chapter seventy distribution to eligible regional school districts; and provided, further, that no regional school district shall receive less under the provisions of section sixteen D of chapter seventy-one of the General Laws in fiscal year nineteen hundred and eighty-six than it received in fiscal year nineteen hundred and eighty-five	\$70,375,957
	Local Aid Fund 100.0%	
7061-0004	For additional assistance to cities and towns in which the total regional school assessment in fiscal year nineteen hundred and eighty-five exceeded eighty per cent of the fiscal year nineteen hundred and eighty-five allowable tax levy as determined by the commissioner of revenue. The amount to be distributed to each eligible municipality shall be equal to one-half of the amount by which said total assessment was in excess of eighty per cent of said allowable levy	\$100,000
7061-0008	For school aid to cities, towns, regional school districts, counties maintaining agricultural schools, and independent vocational schools under the provisions of chapter seventy of the General Laws and pursuant to section three of this act; provided, that the total amount of school aid received under said chapter shall not be less than seventy-four and nine-tenths per cent of the amount of school aid paid under said chapter during the fiscal year ending June thirtieth, nineteen hundred and seventy-nine and the chapter seventy percentage shall not be less than fifteen per cent; provided, that no more than four hundred thousand dollars may be expended for grants to cities, towns and regional school districts for direct cost of programs of instruction approved in accordance with chapter seventy-four, section seven B for apprentices as defined in chapter twenty-three, sections eleven E to eleven L; and, provided, further, that the calculation of aid to cities and towns to be received under this item shall be made on the basis of a total to be distributed of nine hundred thirty-nine million six hundred fifty-six thousand nine hundred thirty-six dollars; provided, further, that the amount paid to regional school districts from this item in fiscal year nineteen hundred and eighty-six shall be equivalent to the amounts listed in section three of this act	\$1,026,795,947
	Local Aid Fund 100.0%	
7061-0009	For the reimbursement to cities, towns and regional school districts of the tuition in the public schools of any school age child placed elsewhere other than in his own home town by, or under the control of, the department of public welfare or the department of social services under the provisions of sections seven	



ACTS, 1985. - Chap. 140.

Item			
	and nine of chapter seventy-six of the General Laws		\$8,200,000
	Local Aid Fund	100.0%	
7061-0010	For the reimbursement to cities, towns, and regional school districts of one-half of the cost of recreation programs for school age children with special needs, under the provisions of section eleven of chapter seventy-one B of the General Laws		\$500,000
	Local Aid Fund	100.0%	
7061-0012	For non-educational costs of residential school programs for students placed by a local school district or ordered by the bureau of special education on appeals, as provided under chapter seventy-one B of the General Laws; provided, that subject to rules and regulations promulgated by the commissioner of education, each city and town shall verify to the commonwealth the cost thereof and upon approval of the commissioner the treasurer shall be authorized to make such payments; and provided, further, that the commonwealth shall not pay more than sixty per cent of the cost of any such residential placement		\$7,488,000
	Local Aid Fund	100.0%	
7062-0008	For the purpose of a federally-funded grant entitled, State Administration Expenses		\$2,630,000
	General Federal Grants Fund	100.0%	

BOARD OF REGENTS.

7066-0000 For the office of the board of regents; subject to the condition that notwithstanding any provision of law to the contrary, as of the effective date of this act, the board of regents shall make no further assessment of funds of the divisions of continuing education of the various institutions of public higher education for expenses of maintenance and operation of said board; and subject further, to the condition that the board of regents shall initiate and maintain an enrollment auditing system; provided further, that the board shall submit quarterly reports to the commissioner of administration and the house and senate committees on ways and means including but not limited to the following: the number of state employees enrolled per institution, their respective state agencies, departments and authorities, collective bargaining units, particular program or course in which they are enrolled, and a detailed cost analysis; provided further, that the board of regents shall provide for each institution of public higher education, a detailed inventory of all federal funds, by federal program, received by said institution during fiscal year nineteen hundred and eighty-five and fiscal year nineteen hundred and eighty-six and projected for fiscal year nineteen hundred and eighty-seven, to the committees on ways and means, and the budget director of the commonwealth, by no later than December



ACTS, 1985. - Chap. 140.

Item

	thirty-first, nineteen hundred and eighty-five; provided further, that not less than two hundred ten thousand seven hundred and fifty dollars shall be for the operation of the scholarship office, including not more than sixty-nine temporary positions	\$3,000,000
7066-0001	For the administration of the intern program, including not more than two temporary positions	\$62,184
7066-0002	For intern program stipends and payments	\$125,000
7066-0003	For the initiation and maintenance of an enrollment auditing system by the board of regents	\$100,000

Compact for Education.

7066-0004	For a program for a silver-haired legislature	\$50,000
7066-0005	For the commonwealth's share of the cost of the compact for education	\$41,600
7070-0004	For a collaborative engineering program and a program of mathematics and science stipends; provided, that said programs shall be administered by the board of regents; provided further, that by the first day of October, nineteen hundred and eighty-five, the board shall submit to the house and senate committees on ways and means a detailed report of said programs including student residency requirements and the provisions of "payback" service or monetary payback to the commonwealth for the mathematics and science stipends program, prior appropriation continued	\$250,000
7070-0019	For the purposes of a business school at Roxbury Community College; provided, that the chancellor of the board of regents shall enter into a lease with the city of Boston for the land and building at 989 Commonwealth Avenue (the Boston Business School) for the sum of one dollar per annum	\$1,100,000

New England Board of Higher Education.

7077-0020	For the expenses of the New England Board of Higher Education and for the expenses of the members of said board	\$326,669
7077-0021	For payments to certain universities, on acceptance of certain Massachusetts students into medical, dental, veterinary medical and related health programs; provided, that new contracts relative thereto include a provision for payback service to the commonwealth for a period after said students have fulfilled all internship and residency requirements; provided further, that all contracts relative thereto are approved by the chancellor of the board of regents; and provided further, that no payment may be made from this item except in accordance with a schedule established by the chancellor of the board of regents	



ACTS, 1985. - Chap. 140.

Item

	and approved by the commissioner of administration and the house and senate committees on ways and means	\$1,448,721
7077-0022 For	payments to certain universities on acceptance of certain Massachusetts students into physical and occupational therapy programs; provided, that the contracts relative thereto shall include a provision for payback service to the commonwealth for a period after said students have fulfilled all internships and residency requirements and are approved by the chancellor of the board of regents; and provided further, that a detailed explanation of such contracts and verification of need for such contracts are submitted to the house and senate committees on ways and means on or before January first of each fiscal year	\$371,800
7077-0023 For	the commonwealth's share of the development and operating costs of the Tufts School of Veterinary Medicine; provided, that not less than three million dollars shall be expended solely for supportive veterinary science services provided to the commonwealth pursuant to contracts entered into by the chancellor of the board of regents and said school and approved by the house and senate committees on ways and means	\$3,600,000
7100-0100 For	a reserve for the administration and maintenance of the system of institutions of higher education, including the office of the president of the University of Massachusetts; provided, that notwithstanding any provision of law to the contrary, the board of regents shall allocate such appropriation in accordance with an allocation plan approved by the house and senate committees on ways and means; and provided further, that the University of Massachusetts board of trustees shall institute and maintain learning contracts for students admitted on or after the fall of nineteen hundred and seventy-eight which include provisions for "payback" service or monetary payback to the commonwealth for a period after said students have fulfilled all internship and residency requirements; and provided further, that all sums so approved shall be allocated and expended in accordance with the provisions of section twenty-seven and twenty-seven A of chapter twenty-nine of the General Laws and section thirty-one of chapter one thousand two hundred and thirty of the acts of nineteen hundred and seventy-three; provided, that of the sum appropriated herein, not less than twenty-four thousand five hundred dollars shall be obligated for the operation of a maritime oriented fire fighting training program at Massachusetts Maritime Academy, provided, that said program shall be conducted annually by said academy, utilizing the services and facilities of the Barnstable County Police and Fire Fighting Academy; and provided further, that said funds shall be administered by said Massachusetts Maritime Academy for the benefit of providing maritime oriented fire fighting training to the cadets of the regiment; provided further, that of the sum appropriated herein, not less than one hun-	



Item

dred thousand dollars shall be expended for a study of Massachusetts infrastructure, including but not limited to, the survey and assessment of capital projects, including educational facilities, public health care facilities, modes of transportation, and public utilities to be administered by the University of Massachusetts at Amherst; provided further, that said study shall include business and economic forecasting and the preparation of cost estimates relating to infrastructure options; provided further, that a copy of said study shall be filed with the house and senate committees on ways and means on or before the first day of January, nineteen hundred and eighty-six; provided further, that of the sum appropriated herein, not less than six hundred twenty thousand four hundred and forty-three dollars shall be expended for the purposes of the area health education centers program, also known as "AHEC" to be administered by the University of Massachusetts Medical School; provided further, that in the event any said collective bargaining agreement requires a payment to a union or a joint union-management trust fund said payment made may be charged by the comptroller against this item; and provided further, that no transfer, payment or payment to said unions or joint union-management trust fund shall be made from this item without the prior approval of the house and senate committees on ways and means after said committees have received copies of said collective bargaining agreement, together with an analysis of all cost items contained in said agreement, including not more than thirteen thousand five hundred and thirty-eight permanent positions and four hundred and two temporary positions

\$529,900,000

7100-0101 For a program in county cooperative extension works as authorized by sections forty through forty-five, inclusive, of chapter one hundred and twenty-eight of the General Laws, to be conducted by the University of Massachusetts at Amherst for the Berkshire, Franklin, Hampden, Hampshire, Suffolk, Essex and Norfolk County Cooperative Extension Services; provided further, that the chancellor of the University of Massachusetts at Amherst, the commissioner of the Department of Food and Agriculture, and the director of the County Cooperative Extension Services shall undertake a review of the services and programs of the County Cooperative Extension Services and make recommendations to eliminate duplication of service and make further recommendations as to which services should be retained and what additional programs, if any, should be added, and make recommendations as to the rental of space and proper disposition of equipment and materials in use by the County Cooperative Extension Services to the house and senate committees on ways and means by the first day of December, nineteen hundred and eighty-five, including not more than ninety-five temporary positions

\$2,842,788



ACTS, 1985. - Chap. 140.

Item

- 7100-0103 For a program in county cooperative extension work as authorized by sections forty through forty-five, inclusive, of chapter one hundred and twenty-eight of the General Laws, to be conducted by the University of Massachusetts at Amherst for the Middlesex County Cooperative Extension Services provided that on the first day of April, nineteen hundred and eighty-six, all persons employed and positions budgeted for immediately prior to January first, nineteen hundred and eighty-six shall be transferred to the employ of the commonwealth and nothing herein shall be construed to alter, impair, or modify the term or tenure of any such person in such employment and the retirement rights of any such persons currently in service or retired shall not be affected hereby; provided further that all books, papers, records, documents, land, buildings, and equipment purchased by Middlesex County or others for the custody and use of the Middlesex County Cooperative Extension Service prior to the effective date of this act shall become the property of the commonwealth to be held in custody by and for the use of the Middlesex County Extension Services; including not more than twenty-two temporary positions \$136,541
- 7100-0104 For a program in county cooperative extension work as authorized by sections forty through forty-five, inclusive, of chapter one hundred and twenty-eight of the General Laws, to be conducted by the University of Massachusetts at Amherst for the Worcester County Cooperative Extension Service; provided that on the first day of April, nineteen hundred and eighty-six, all persons employed and positions budgeted for immediately prior to January first, nineteen hundred and eighty-six shall be transferred to the employ of the commonwealth and nothing herein shall be construed to alter, impair, or modify the term or tenure of any such person in such employment and the retirement rights of any such person currently in service or retired shall not be affected hereby; provided further, that all books, papers, records, documents, and equipment purchased by Worcester County for the custody and use of the Worcester County Cooperative Extension Service prior to the effective date of this act shall become the property of the commonwealth to be held in custody by and for the use of the Worcester County Extension Service; including not more than twenty-seven temporary positions \$193,823
- 7100-0110 For a reserve for the establishment of collaborative education programs between the institutions of higher education and public elementary and secondary schools of the commonwealth; provided, that notwithstanding any provision of law to the contrary, the chancellor of the board of regents shall allocate such appropriation to said institutions of higher education in accordance with an allocation plan approved by the house and senate committees on ways and means; provided further, that such appropriation may be expended for the purpose of direct



ACTS, 1985. - Chap. 140.

Item

	assistance, including direct payments to local education agencies for the improvement of elementary and secondary education in the commonwealth; provided further, that such direct payments made to local education agencies shall be deposited with the treasurer of the city, town or regional school district and held as a separate account and shall be expended by the school committee of such city, town or regional school district without appropriation, notwithstanding any provision of law to the contrary, prior appropriation continued	\$3,850,000
7100-0119	For a program in county cooperative extension work as authorized by sections forty through forty-five, inclusive, of chapter one hundred and twenty-eight of the General Laws, to be conducted by the University of Massachusetts at Amherst for the Dukes/Nantucket County Cooperative Extension Services, provided that on the first day of April, nineteen hundred and eighty-six, all persons employed and positions budgeted for immediately prior to January first, nineteen hundred and eighty-six shall be transferred to the employ of the commonwealth and nothing herein shall be construed to alter, impair, or modify the term of tenure of any such person in such employment and the retirement rights of any such persons currently in service or retired shall not be affected hereby; provided further that all books, papers, records, documents, and equipment purchased by Dukes/Nantucket County for the custody and use of the Dukes/Nantucket County Cooperative Extension Service prior to the effective date of this act shall become the property of the commonwealth to be held in custody by and for the use of the Dukes/Nantucket Extension Services; including not more than five temporary positions	\$36,314
7100-0200	For a reserve for data processing and information systems for the system of higher education; provided that the chancellor of the board of regents shall allocate such funds; and provided further, that the board of regents shall submit quarterly reports to the commissioner of administration and the house and senate committees on ways and means including but not limited to the following: the allocation of funds, the expenditure of such funds and a detailed inventory of such expenditures	\$1,015,000
7100-9504	For the purchase of scientific, technological and other educational reference material for the libraries; provided, that notwithstanding any provision of law to the contrary, the board of regents shall allocate such appropriation in accordance with an allocation plan approved by the house and senate committees on ways and means	\$5,000,000
7100-9604	For a program of assistance for students from various racial backgrounds in disadvantaged environments; provided, that expenditures may be made for, but not limited to, scholarships, loans, matching federal and private grants, tutorial assistance and programs of cultural enrichment; and provided further, that the	



ACTS, 1985. - Chap. 140.

Item

7100-9704 For	<p>board of regents shall allocate not less than thirty-five thousand dollars for scholarships for native Americans who are residents of the commonwealth; and provided further that not less than one hundred thirty thousand dollars shall be used for a collaborative program for introductory ESL training; provided that such programs shall be administered by the board of regents the commonwealth's contribution toward federal student loan programs and federal work study programs at the state colleges and the community colleges; for not more than one hundred scholarships, as authorized by section seven C of chapter sixty-nine of the General Laws; for scholarships in accordance with section eighteen of chapter seventy-five B of the General Laws; for scholarships authorized by sections thirty-one and thirty-three of chapter seventy-five of the General Laws; provided, that a portion of the sum herein appropriated may be used for the commonwealth's contribution toward the national defense education act loan program and the office of economic opportunity student work program at the University of Massachusetts; and for a work scholarship program with the approval of the board of trustees of the University of Lowell; and for the state colleges to award scholarships to certain deserving students, the total number of scholarships to be determined by the amount of available funds under a formula to be established by the board of regents of higher education and approved by the house and senate committees on ways and means; provided further, that notwithstanding any provision of law to the contrary, that a portion of the sum herein appropriated may be used for the required match for public colleges and universities participating in the Massachusetts Educational Employment Program, the amount of the portion to be a certain percentage of the sum herein appropriated as fixed by the board of regents of higher education and approved by the house and senate committees on ways and means</p>	\$2,958,284
7105-0001 For	<p>the operation of a data processing system; provided, that notwithstanding any provision of law to the contrary, that services may be rendered to agencies of the commonwealth and educational institutions at no expense to the system; and provided further, that charges for such service shall be allocated to the agencies and institutions utilizing the systems; provided further, that the system shall maintain a schedule of fees for services provided to agencies and institutions of the commonwealth, provided further, that a report of said schedule shall be filed with the house and senate committees on ways and means on or before December first, nineteen hundred and eighty-five, including not more than thirty-seven temporary positions</p>	\$3,849,152
		\$2,500,000

University of Lowell.



ACTS, 1985. - Chap. 140.

Item

7220-0005	For the Northeast Consortium of Colleges and Universities in Massachusetts, subject to the condition that the funds appropriated herein will be for the express purpose of support of the Lawrence Project, so called, in conjunction with other state and private institutions which are members of the Northeast Consortium of Colleges and Universities	\$65,000
7400-0200	For the expenses of the Massachusetts corporation for educational telecommunications as established pursuant to chapter five hundred and sixty of the acts of nineteen hundred and eighty-two; provided, that the corporation shall prepare and file a plan for the coordination of its activities with those of the office of telecommunications within the executive office of administration and finance and with the house and senate committees on ways and means on or before the first day of December, nineteen hundred and eighty-five; provided further, that the corporation shall submit quarterly reports to the house and senate committees on ways and means detailing all expenditures, including but not limited to, all contractual services, and progress made by the corporation	\$677,000
7411-1008	For the expenses of a Drug Analysis Laboratory at University of Massachusetts Medical School, prior appropriation continued	\$125,300
7411-3000	For the operation of a Family Practice Residency program by the University of Massachusetts at Worcester; provided, that a report shall be filed with the house and senate committees on ways and means by October first, nineteen hundred and eighty-five, which includes the activities of said program, the number of participants and the place of employment after completion of residency, prior appropriation continued.	
7416-2005	For the expenses of a Public Policy Center at the University of Massachusetts at Boston	\$350,000
7416-2006	For expenses of a Gerontology Institute at the University of Massachusetts at Boston, College of Public and Community Service	\$235,000
7416-2007	For the purpose of research and analytical studies by the Black Studies Department at the University of Massachusetts at Boston	\$164,000
7416-2009	Urban Small Business Technical Assistance Program, Roxbury Community College	\$125,000
7452-0101	For the expenses of the William Joiner Center at the University of Massachusetts at Boston provided, that of the sum appropriated herein, not less than ninety-four thousand dollars shall be expended for the purposes by the University of Massachusetts at Boston; and provided further, that of the sum appropriated herein, not less than sixty thousand dollars shall be expended for the purposes of a Veterans Educational Training Program to be administered by the University of Massachusetts at Boston	\$300,000
7452-0200	For the purpose of club football at the University of Massachusetts at Boston	\$100,000
7508-0104	For the operation and maintenance of a Technical Institute at Massasoit Community	



ACTS, 1985. - Chap. 140.

Item

College; provided that the Blue Hills School District Committee shall enter into a purchase and sale agreement with the commonwealth acting by and through the Board of Trustees of Massasoit Community College under authority granted by the Board of Regents of Higher Education pursuant to applicable provisions of chapter fifteen A of the General Laws for the acquisition by the commonwealth of certain land with buildings thereon located on the site occupied by the Blue Hills Technical Institute at 100 Randolph Street, Canton, Massachusetts; provided further that no payment shall be made for the purchase of said property until said Committee shall enter into a merger agreement with said trustees for the continued operation and maintenance of said Technical Institute as a branch campus of Massasoit Community College; provided further, however, that said merger agreement shall not be effective until approved by the Chancellor of the Board of Regents of Higher Education, including not more than ninety-one permanent positions

\$2,600,000

EXECUTIVE OFFICE OF PUBLIC SAFETY.

Office of the Secretary.

8000-0100	For the office of the secretary, including not more than four permanent positions and five temporary positions		\$391,000
	Highway Fund	85.0%	
	General Fund	15.0%	
8000-0102	To meet the expenses of the operation of a road block program for the apprehension of drunk drivers and other motor vehicle violators, provided that no expenditure or commitment made pursuant thereto shall be incurred in excess of funds appropriated herein		\$100,705
8000-0105	For the administration of the office of chief medical examiner and payment for services to medical examiners as authorized by chapter seven hundred and seventy-three of the acts of nineteen hundred and eighty-one, including not more than forty-three temporary positions		\$2,956,544
8000-0110	For the administration and operation of the criminal justice information system, including not more than thirty-nine permanent positions and nine temporary positions		\$1,909,068
	Highway Fund	50.0%	
	General Fund	50.0%	
8000-0150	For the LEAPS/CJIS Terminal Network		\$1,189,997
	Highway Fund	50.0%	
	General Fund	50.0%	
8000-0160	For the operation of the State Board of Building Regulations and Standards, in-		



ACTS, 1985. - Chap. 140.

Item

cluding not more than five temporary positions for the purpose of implementing and enforcing the provisions of sections ninety-three through one hundred of chapter one hundred and forty-three of the General Laws, prior appropriation continued

\$194,983

Massachusetts Criminal Justice Training Council.

8200-0200 For the administration and operation of certain training programs to be conducted by the Massachusetts criminal justice training council, including not less than two hundred and eighty thousand six hundred and fifty-three dollars for the criminal justice training center in Agawam, not less than one hundred and two thousand three hundred and fifty-four dollars for the northeast regional police institute, not less than one hundred seven thousand one hundred and fifty-nine dollars for the south suburban police institute, and not less than one hundred and twelve thousand sixty-four dollars for the southeastern regional criminal justice training center, including not more than seven permanent positions and thirty-five temporary positions

\$2,104,282

8200-0250 For the administration of a crime prevention program encompassing support and services to assist various neighborhood Crime Watch programs through the local Crime Prevention Officer, including not more than four temporary positions

\$294,561

8200-0350 For the training in intervention, the detection and prevention of suicide. This training shall include: training in the nature and symptoms of suicide, training in communication with suicidal detainees, training in appropriate suicide prevention techniques and emergency procedures. This training shall be given to members of police departments, members of the police force of the metropolitan district commission and members of the uniformed branch of the state police. This training shall be approved and coordinated by the Massachusetts Criminal Justice Training Council and shall be included in the curriculum of all police training schools and academies, including the State Police Academy, including not more than one temporary position

\$37,000

Department of Public Safety.

8311-1000 For the administration of the department; including not more than eighty-one permanent positions and eleven temporary positions

\$1,727,418

8311-2060 For the administration and operation of the crime laboratory, including not more than eight permanent positions and twenty-three temporary positions

\$1,220,281

Division of State Police.



ACTS, 1985. - Chap. 140.

Item

8312-0100	For the administration of the division, provided, however, that not less than one hundred fifty thousand dollars be expended on investigations concerning pre-scription drug abuse to be conducted by the Drug Investigation Unit, so-called; provided, further, that not less than one hundred twenty-five thousand dollars shall be used for mounted units which shall patrol Walden Pond, Salisbury Beach and other state facilities as appropriate, provided further, that not less than two hundred thousand dollars shall be expended on the operation of a Missing Persons Resource Unit with particular emphasis placed on investigations concerning the location of missing children, including not more than one thousand eighty-seven permanent positions and fifty-seven temporary positions		\$40,216,210
	General Fund	15.0%	
	Highway Fund	85.0%	
8312-0200	For the administration of the narcotics unit in the bureau of investigative services within the division of the state police; provided, that there shall be a minimum of one hundred state police officers assigned to full time duty with said unit and under the command of a commissioned officer of the state police; all such officers shall be exclusively assigned on a full time basis to undercover operations, smuggling operations, the investigation of the diversion of legally manufactured drugs, and the investigation of illegal distributions of controlled substances among minors; officers assigned to said unit shall not be discharged to details other than those described above unless they are replaced by another officer, including not more than one hundred temporary positions		\$3,895,855
	General Fund	15.0%	
	Highway Fund	85.0%	
8312-0205	For a reserve to be administered by the executive office of public safety to provide for certain expenses associated with any state police officer position authorized by item of appropriation 8312-0200 and assigned by the commissioner of public safety to duty with various offices of district attorneys of the commonwealth. Funds appropriated herein shall be allocated to items of appropriation for various offices of district attorneys of the commonwealth, pursuant to recommendations by the commissioner of public safety, upon notification to the house and senate committees on ways and means, and to the commissioner of administration. Said district attorneys are hereby authorized to expend amounts allocated from this reserve for the purposes of said certain expenses		\$432,000
	General Fund	15.0%	
	Highway Fund	85.0%	
8312-6000	For the administration and operation of a Motor Carrier Safety Assistance Program		\$500,000
	Highway Fund	100.0%	



ACTS, 1985. - Chap. 140.

Item

8312-6050 For the administration and operation of a Drug Enforcement Administration Task Force \$250,000

Division of Fire Prevention.

8314-1000 For the administration of the division, provided that one hundred thousand dollars of the amount appropriated herein shall be expended for a Suffolk county based arson prevention program; provided, further, that said one hundred thousand dollars amount shall be assessed against insurance companies licensed to sell fire insurance in the commonwealth by the commissioner of insurance, and transferred to the General Fund, and such assessments shall be charged to the normal operating costs of each company and, provided further, that not more than ten per cent of the amount designated for said arson program shall be expended for the administrative cost of the program, including not more than six permanent positions and nine temporary positions \$403,279

8314-2000 For reimbursement of the costs of purchasing fire equipment; provided that such equipment shall remain under the custody, control and maintenance of the towns of Shirley, Taunton, and Lancaster, and shall be used for the protection of state institutions located in said towns \$685,000

Division of Inspection.

8315-1000 For the administration of the division; provided that, the position of examiner of elevator operators shall not be subject to the provisions of chapter thirty-one of the General Laws; provided, further, that not less than one hundred thousand dollars shall be used to reduce the backlog of cases in elevator inspections, including not more than thirty-nine permanent positions and seven temporary positions \$1,463,539

Board of Pipefitters and Refrigeration Technicians.

8315-1010 For the expenses of the board of pipefitters and refrigeration technicians pursuant to section ten A of chapter twenty-two of the General Laws, including not more than nine permanent positions and one temporary position \$40,000

State Boxing Commission.

8317-1000 For the administration of the commission, including not more than four permanent positions \$46,525  
8319-1000 For the administration of an eye examination program for all boxers participating



ACTS, 1985. - Chap. 140.

Item

in events regulated by the State Boxing Commission, prior appropriation continued.

Architectural Barriers Board.

8321-1000	For the expense of the board, including not more than five permanent positions and two temporary positions	\$51,144
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Board of Fire Prevention Regulations.

8340-1000	For the expenses of the board of fire prevention regulations pursuant to section fourteen of chapter twenty-two of the General Laws, including not more than fourteen permanent positions and one temporary position	\$49,447
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Registry of Motor Vehicles.

8400-0001	For the administration of the registry; provided that the positions of administrative assistant to the registrar, legislative assistants, executive secretary, assistant supervisor of public relations, executive assistant to the registrar, director of law enforcement, registry of motor vehicles and the director of employee relations shall not be subject to civil service law and rules, including not more than nine hundred and thirty-nine permanent positions and one hundred and fourteen temporary positions	\$25,670,010
	Highway Fund 100.0%	
8400-0002	For the administration of the certificate of title law, provided, however, that all employees of the title division perform only those duties that are directly related to the administration of the certificate of title law, including not more than one hundred and forty-eight permanent positions	\$3,340,000
	Highway Fund 100.0%	
8400-0004	For the expenses of making certain improvements to the electronic data processing system at the registry of motor vehicles, prior appropriation continued	\$886,804
	Highway Fund 100.0%	
8400-0007	For a staffing reserve for pilot programs at certain registry offices, provided that expenditures from this item shall be made pursuant to schedules approved by the house and senate committees on ways and means	\$600,000
8400-0040	For expenses of the Motor Vehicle Safety and Emissions Inspections Program authorized by chapter ninety of the General Laws, including not more than forty-two temporary positions	\$1,431,000
	Highway Fund 100.0%	



ACTS, 1985. - Chap. 140.

Item

8400-0100 For	expenses of the merit rating board authorized by chapter six of the General Laws; provided, however, that as of January first, nineteen hundred and eighty-five, that notwithstanding any general or special law to the contrary, no safe driver insurance plan shall require the payment of an unsafe driver point surcharge for the first offense for non-criminal, motor vehicle traffic violations as described in chapter ninety C of the General Laws, including not more than seventy-two temporary positions, prior appropriation continued	\$3,890,298
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Capitol Police.

8500-0001 For	the operation and administration of the capitol police force including a law enforcement co-op program under the jurisdiction of the state superintendent of buildings; provided that, notwithstanding any provision of chapter thirty-one of the General Laws, members of the capitol police force may be temporarily allocated to special secondary ratings in accordance with the schedule approved by the house and senate committees on ways and means, a copy of which is on file with the personnel administrator, including not more than eighty-three permanent positions, prior appropriation continued	\$2,464,880
8600-0001 For	the administration of the Committee on Criminal Justice, including not more than eleven temporary positions	\$291,956
8600-0002 For	the purposes of a federally funded grant entitled, Juvenile Justice Delinquency and Prevention Act Planning General Federal Grants Fund 100.0%	\$85,000
8600-0003 For	the purposes of a federally funded grant entitled, Juvenile Justice Delinquency and Prevention Act General Federal Grants Fund 100.0%	\$1,600,000

MILITARY DIVISION.

Notwithstanding the provisions of chapter thirty of the General Laws, certain military personnel in the military division may be paid salaries according to military pay grades, so-called.

Adjutant General.

8700-0001 For	the office of the adjutant general, including not more than twenty-one permanent positions	\$613,132
8700-0200 For	compensation for special and miscellaneous duty, for transportation of officers to and from military meetings and drills, for expenses of camps of instruc-	



ACTS, 1985. - Chap. 140.

Item

	tion, for compensation for accidents and injuries sustained in the performance of military duty, for small claims for damages to private property and for allowances to companies and other administrative units to be expended under the direction of the adjutant general, including not more than four permanent positions	\$347,000
8700-0500 For	the operation of the war records project, so-called, including not more than seven permanent positions and two temporary positions	\$178,251

State Quartermaster.

8700-1010 For	the office of the state quartermaster	\$10,324
8700-1110 For	the operation of armories of the first class; provided that, notwithstanding any law to the contrary, all revenue in an amount not to exceed four hundred thousand dollars, received from fees paid for the non-military rental or use of said armories may be expended without further appropriation, subject to the approval of the state quartermaster and the state comptroller, for the cost of energy audits for said armories, for the cost of a study for improvements in the fee rental structure used at said armories, for the cost of utilities and maintenance and for the implementation of energy conservation measures with regard to said armories; provided further, the state quartermaster shall report quarterly to the house and senate committees on ways and means the income derived from such rentals and funds expended for the cost of utilities and maintenance and for the implementation of energy conservation measures, including not more than seventy-one permanent positions and four temporary positions	\$2,612,849
8700-1300 For	the Camp Curtis Guild rifle range, including not more than seven permanent positions	\$130,969
8700-1410 For	certain storage and maintenance facilities, including not more than twenty-two permanent positions	\$356,649
8700-1510 For	certain national guard aviation facilities, including not more than eight permanent positions	\$229,289

Civil Defense Agency.

Notwithstanding any provision of law to the contrary, the civil defense agency shall not expend any of the funds herein appropriated for activities related to the planning for nuclear war.

Notwithstanding any provision of law to the contrary, the civil defense agency shall submit to the house and senate committee on ways and means, by October first, nineteen



ACTS, 1985. - Chap. 140.

Item

	hundred and eighty-five, a copy of the comprehensive agreement entered into by the agency and the federal emergency management agency.	
8800-0001	For the service of the civil defense agency; provided, that expenditures from this item shall be contingent upon the prior approval of the proper federal authorities and shall be expended with at least an equivalent amount of federal funds for the purposes of this item, including not more than forty permanent positions	\$602,775
8800-0002	For the services of the Civil Defense Agency Non-Matching Fund program; provided, however, that from the appropriated herein not less than one hundred four thousand dollars shall be expended to provide fuel, insurance, equipment, maintenance and miscellaneous expenses to sustain the operation of Massachusetts Wing, Civil Air Patrol relating to aerial surveillance duties of Massachusetts land and water areas to monitor for environmental pollution discharges, toxic waste dumps, transportation of hazardous materials and wastes and accidents involving said transport, in conjunction with the responsible agency insofar as is practicable, including not more than one temporary position	\$125,000
8800-0003	For the purposes of a federally funded grant entitled, Emergency Management Assistance - personnel and administrative expenses	\$859,120
	General Federal Grants Fund 100.0%	
8800-0004	For the purposes of a federally funded grant entitled, Emergency Management Assistance - Distribution to cities and towns	\$600,000
	General Federal Grants Fund 100.0%	
8800-0005	For the purposes of a federally funded grant entitled, Disaster Preparedness Assistance	\$25,000
	General Federal Grants Fund 100.0%	
8800-0006	For the purposes of a federally funded grant entitled, Radiological Systems Maintenance	\$162,058
	General Federal Grants Fund 100.0%	
8800-0007	For the purposes of a federally funded grant entitled, Radiological Defense Officer	\$61,679
	General Federal Grants Fund 100.0%	
8800-0008	For the purposes of a federally funded grant entitled, Population Protection Planning Program	\$275,949
	General Federal Grants Fund 100.0%	
8800-0009	For the purposes of a federally funded grant entitled, Emergency Management Training-state/local personnel	\$124,200
	General Federal Grants Fund 100.0%	
8800-0010	For the purposes of a federally funded grant entitled, Earthquake Loss Study	\$208,000
	General Federal Grants Fund 100.0%	
8800-0011	For the purposes of a federally funded grant entitled, National Shelter Protection	\$66,631



ACTS, 1985. - Chap. 140.

Item

	General Federal Grants Fund	100.0%	
8800-0012	For the purchase and installation of certain equipment to be allocated to the state civil defense program; provided that expenditures from this item shall be contingent upon the prior approval of the proper federal authorities and shall be expended with at least an equivalent amount of federal grants for the purposes of this item		\$10,460
8800-0013	For the purposes of a federally funded grant entitled, Emergency Management - Communications and Warning Systems		\$26,211
	General Federal Grants Fund	100.0%	
8800-0014	For the purposes of a federally funded grant entitled, Emergency Operating Center		\$50,000
	General Federal Grants Fund	100.0%	
8800-0015	For the purposes of a federally funded grant entitled, State and Local Support Material		\$50,000
	General Federal Grants Fund	100.0%	
8850-0001	For providing matching funds for a federal planning and administration grant to the governor's Highway Transportation Act of nineteen hundred and seventy-eight section two hundred and seven (d), including not more than nine temporary positions		\$131,750
	Highway Fund	100.0%	
8850-0002	For the purposes of a federally funded grant entitled, Governor's Highway Safety Program - Disbursements to Cities and Towns		\$800,000
	General Federal Grants Fund	100.0%	
8850-0003	For the purposes of a federally funded grant entitled, Highway Safety Programs - Administrative and Planning Expenses		\$195,000
	General Federal Grants Fund	100.0%	
8850-0004	For the purposes of a federally funded grant entitled, State Agency Programs		\$1,005,000
	General Federal Grants Fund	100.0%	

EXECUTIVE OFFICE OF ECONOMIC AFFAIRS.

Office of the Secretary.

9000-0100	For the office of the secretary; provided that not less than fifty thousand dollars of the amount appropriated herein shall be used to promote a corporate day care program, including not more than five permanent positions and five temporary positions		\$454,132
9000-0102	For the expenses of the Massachusetts Technology Park Corporation		\$1,687,500
9000-0105	For the expenses of the Comprehensive Offenders Employment Resources System; provided, that not less than seventy thousand dollars of the amount appropriated herein shall be used for an employment training and placement program designed for probationers, parolees, and ex-offenders; provided further, that increased		



ACTS, 1985. - Chap. 140.

Item		
	emphasis be placed on the provision of services to female offenders	\$672,137
9000-0300	For the employment training, counseling and placement to displaced homemakers, provided that said programs shall be administered by the Bay State Skills Corporation, and provided further that for purposes of administration of said programs, the displaced homemaker participants of said programs shall be considered as targeted individuals within the meaning of section four of chapter forty I of the General Laws	\$641,666
9000-0400	For the expenses of the Bay State Skills Corporation	\$1,862,500
9000-0505	For programs of supported work for the retarded, provided that said programs shall be administered by the Bay State Skills Corporation, and provided further that for the purposes of administration of said programs, the retarded participants of said programs, shall be considered as targeted individuals within the meaning of section four of chapter forty I of the General Laws	\$1,336,892
9000-1621	For purposes of a federally funded grant entitled, JTPA; provided, that the secretary of economic affairs shall file detailed quarterly expenditure reports for all administrative costs associated with this program with the joint committee on federal financial assistance and the house and senate committees on ways and means	\$84,584,935
	General Federal Grants Fund 100.0%	
9000-1700	For the expenses of the reemployment assistance programs as specified in section seventy-one D of chapter one hundred and fifty-one A of the General Laws, provided that not less than seventy-five thousand dollars be obligated for a study to determine the feasibility of maintaining the economic viability and employment of the Fore River Shipyard located in Quincy, prior appropriation continued	\$1,400,000
9000-1710	For the provision of capital for the economic stabilization fund, as provided by section seven to fifteen, inclusive, of chapter twenty-three C of the General Laws, to be used for making loans to or investments in businesses and persons that comply with said sections, prior appropriation continued.	
9000-1711	For the expenses of administering the industrial service program and economic stabilization fund as provided by chapter twenty-three C of the General Laws	\$332,000
	<u>Division of Employment Security.</u>	
9081-0100	For the purposes of a federally funded grant entitled, Administration	\$60,000,000
	General Federal Grants Fund 100.0%	
9081-7000	For the payment of reemployment assistance benefits as provided by section seventy-one F of chapter one hundred and fifty-one A of the General Laws, prior appropriation continued.	
9081-7001	For the expenses of administering section seventy-one A to seventy-one F, inclu-	



ACTS, 1985. - Chap. 140.

Item

9081-7002	For	sive, of chapter one hundred and fifty-one A of the General Laws research expenses relative to the implementation of sections seventy-one A to seventy-one F, inclusive, of chapter one hundred and fifty-one A of the General Laws	\$1,000,000
9081-7003	For	the payment of health insurance benefits in accordance with section seventy-one G of chapter one hundred and fifty-one A of the General Laws, prior appropriation continued.	\$500,000
9081-7004	For	the expenses of administering section seventy-one G of chapter one hundred and fifty-one A of the General Laws, prior appropriation continued.	

Department of Commerce and Development.

9091-0100	For	the administration of the department, provided that not less than one hundred thousand dollars be obligated to finance programs and expenses incurred by the Small Business Development Assistance Division as mandated under section fifteen to twenty-three of chapter twenty-three A of the General Laws, including not more than sixty-four permanent positions and one temporary position	\$1,679,706
9091-0102	For	the purpose of conducting a marketing study to determine the feasibility of locating a conference center at Southeastern Massachusetts University	\$30,000

Division of Tourism.

9091-0200	For	the operation of tourist information booths; provided, that no position in this item shall be subject to chapter thirty-one of the General Laws, including not more than eight permanent positions	\$135,009
9091-0211	For	financial assistance for local tourist councils, provided that the division develop a formula for the distribution of said funds which shall be filed with the house and senate committees on ways and means	\$1,800,000
9091-0300	For	the promotion of vacation travel within the commonwealth; provided, that all expenditures from this item shall be for the exclusive purpose of promoting the commonwealth's vacation and tourist industry including the heritage parks; provided, further, that no salaries or expenses of employees shall be chargeable to this item; provided, further, that, through the secretary of economic affairs and the commissioner of the department of commerce, the director of tourism shall develop and initiate planning and marketing strategies with both the council on arts and humanities and the department of environmental management for a comprehensive campaign for the promotion of travel and tourism within the commonwealth which incorporates the commonwealth's cultural and artistic attractions as well as its scenic and recreational resources; and	



ACTS, 1985. - Chap. 140.

Item

9091-0301 For	provided, further, that the director of tourism shall file a report of his/her findings and recommendations with the house and senate committees on ways and means or or before the thirty-first of December, nineteen hundred and eighty-five; provided, further, that no funds appropriated herein shall be used for the maintenance and administration of the department a program for the commemoration of the bicentennial of the city of Gardner; provided, that no funds appropriated herein shall be used for the maintenance and administration of the department	\$7,356,564  \$25,000
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Division of Economic Development.

9091-0400 For	expenses and operational support of industrial advertising, promotion, public relations and economic development expenses such as telephone, telegraph, freight costs, postage, printing, duplication expenses, photographic services, preparation of industrial development literature, preparation of industrial exhibits for conventions and trade shows, in-state and out-of-state travel to promote industrial development, attendance at major industrial convention and trade shows, and related costs; not including vacation travel and not including salaries or wages of employees; provided, that all industrial advertising, promotion, public relations and economic development activities carried on pursuant to this item shall wherever possible stress the substantial skills, training and educational resources of the commonwealth and the purpose and resources of the commonwealth and the purpose and resources of the commonwealth's Bay State Skills Corporation; and provided, further, that the department of commerce shall work in close cooperation with the Bay State Skills Corporation in this regard; and subject further to the condition that the commissioner shall file with the house and senate committees on ways and means a quarterly report of itemized expenditures in the eleven subsidiary (advertising and printing) provided, further, that no funds appropriated herein shall be used for the maintenance and administration of the department; provided, further, that not more than forty-five thousand dollars shall be expended to advertise and promote the use of railroad freight service with the commonwealth	\$1,000,000
9091-0404 For	the expenses of the Foreign Business Council; and provided that no funds from this account be expended for any travel by members of the general court	\$437,500
9091-0405 For	the purpose of financing the required state share of the cost of operating a small business development center; provided, that no funds shall be expended from this account until such time as the small business administration has executed a grant or contract with the University of Massachusetts for the operation of said center; provided further, that the funds expended from this account	



ACTS, 1985. - Chap. 140.

Item

	shall not exceed twenty-five per cent of the gross operation cost of said center; and provided further, that quarterly reports of expenditures shall be filed with the house and senate committees on ways and means	\$522,100
9091-0516	For the expenses of the State Office of Minority Business Assistance, including not more than thirteen permanent positions, of which no less than three shall be for the implementation of MBE certification and contract compliance pursuant to executive order 237 of 1984, and one temporary position	\$276,788

Massachusetts Technology Development Corporation.

9091-2001	For the expenses of the Massachusetts Technology Development Corporation; provided, that a detailed report of the expenditures shall be filed quarterly with the house and senate committees on ways and means	\$148,000
9091-2003	For the purpose of assisting the formation and expansion of technology-based small businesses in the commonwealth through the Corporations for Innovative Development Fund	\$800,000
9091-3001	For the administration of the Massachusetts Film Bureau provided, that quarterly reports documenting the economic activity of the film industry in the commonwealth be filed with the house and senate committees on ways and means	\$485,146

EXECUTIVE OFFICE OF ELDER AFFAIRS.

Office of the Secretary.

9100-0100	For the planning and administration of the executive office of elder affairs; provided, that the functions of the office of the secretary, planning and policy, and program planning and management are maintained, including not more than twenty-eight permanent positions and thirty-two temporary positions	\$2,229,000
9100-1510	For the purposes of a federally funded grant entitled, Ombudsman and Legal Assistance Program	\$50,000
	General Federal Grants Fund 100.0%	
9110-1074	For the purposes of a federally funded grant entitled, Title III-B, Social Services	\$6,846,632
	General Federal Grants Fund 100.0%	
9110-1173	For the purposes of a federally funded grant entitled, Title III-C, Nutrition	\$10,005,552
	General Federal Grants Fund 100.0%	
9110-1175	For the purposes of a federally funded grant entitled, Title IV-A, Training Project	\$87,646
	General Federal Grants Fund 100.0%	
9110-1178	For the purposes of a federally funded grant entitled, Community Service Employment Program	\$1,541,681
	General Federal Grants Fund 100.0%	



ACTS, 1985. - Chap. 140.

Item

9110-1181	For the purposes of a federally funded grant entitled, Cash in Lieu of Commodities Program		\$2,552,244
	General Federal Grants Fund	100.0%	
9110-1620	For volunteer programs for the elderly; provided, that not less than eight hundred twenty-two thousand eight hundred ninety-nine dollars shall be expended for an elder service corps; provided further, that all funds appropriated under this item for an elder service corps shall be for corpsmen stipends, for the cost of mailing corpsmen stipends and for corpsmen participation in group insurance programs, as set forth in chapter one thousand one hundred and sixty-eight of the acts of nineteen hundred and seventy-three; provided further, that the stipend for full-time corpsmen shall not exceed the maximum allowable under earnings limitation sections of the Social Security Act and stipend for part-time corpsmen shall not exceed one hundred and twenty-five dollars per month; provided further, that not less than one hundred twelve thousand five hundred dollars shall be expended for expansion of existing foster grandparent programs; provided further, that not less than thirty-seven thousand five hundred dollars shall be expended for expansion of existing senior companion programs; and provided further, that not less than fifty-four thousand dollars shall be expended for the retired senior volunteer program		\$1,026,899
9110-1630	For a home care program for the elderly eligible for home care services, including a program of protective services, pursuant to regulations adopted by the department, which shall include a sliding fee program in which all qualified elders shall participate; provided, that no new programs shall be established without prior approval of the house and senate committees on ways and means; provided further, that not less than two million dollars shall be expended for a program of respite care services to provide relief for care givers who normally provide care to severely impaired individuals, especially those with Alzheimer's disease; provided further, that not less than one million three hundred seventy-one thousand five hundred dollars shall be expended to fund certain protective services clients and contracts which were funded through the department of social services prior to fiscal year nineteen hundred and eighty-six; provided further, that not less than one million dollars shall be expended for the purpose of providing salary increases to case managers and supervisors; provided further, that said home care services shall be maintained and expenditures allocated in such a manner that will not cause said services to be terminated prior to the end of the fiscal year; provided further, that said expenditures will not exceed appropriation; provided further, that not more than two per cent of the funds appropriated herein may be used to meet matching requirements of Title III, the Older Americans Act; provided further, that the department of elder affairs		



ACTS, 1985. - Chap. 140.

Items

	shall submit a detailed monthly report of all caseload trends and expenditures for its home care program, including the purposes made therefor, to the house and senate committees on ways and means and the secretary of administration and finance, no later than the fifteenth day of the following month; provided further, that the department shall maximize available federal and third party reimbursement for program expenses including reimbursements made under Title XIX of the Social Security Act; provided further, that one hundred per cent of the sliding fee revenues from the home care program shall be credited to this account and may be expended without further appropriation for the purpose of providing community-based services for elders; and provided further, that any funds received from the federal government for the purpose of this item shall be credited to the General Fund, provided further that not less than one hundred thousand dollars shall be obligated for a demonstration grant program in Fall River to provide twenty-four hour in-home medical and social assessment services and crisis intervention to elders in need and to elderly patients recently discharged from acute care facilities, prior appropriation continued	\$103,984,516
9110-1640 For	a reserve to fund adult foster care programs and demonstration projects; provided, that not less than three hundred thousand dollars shall be expended for contracts for demand responsive transportation services for elders in certain rural regional transit authority districts; provided further, that a schedule of all adult foster care programs, demonstration projects and amounts allocated and expended for the purposes herein shall be filed on a quarterly basis with the house and senate committees on ways and means	\$532,417
9110-1660 For	a program of congregate and shared housing services for the elderly	\$284,100
9110-1670 For	the administration of a meals program for elderly persons; provided, that the department of elder affairs shall maximize federal reimbursement for meals served herein	\$2,292,368
9110-9002 For	grants to councils on aging	\$2,300,000

EXECUTIVE OFFICE OF CONSUMER AFFAIRS.

Office of the Secretary.

9200-0100 For	the office of the secretary, including not more than two permanent positions and eight temporary positions	\$372,456
9200-0150 For	new car arbitration, provided that the Secretary of the Executive Office of Consumer Affairs shall determine whether said activity shall be performed by existing personnel or by an independent contractor	\$71,000

State Racing Commission.



ACTS, 1985. - Chap. 140.

Item

9210-0001 For the administration of the commission, including not more than thirty-three permanent positions; provided that a sum not exceeding one hundred thousand dollars shall be expended by the commission to contract with an accredited school of veterinary medicine in the commonwealth, to establish a drug testing and research program to insure the legitimacy and integrity of the racing industry \$2,051,852

Alcoholic Beverage Control Commission.

9212-0001 For the administration of the commission, including not more than forty permanent positions; provided, however, that at least forty thousand dollars shall be expended to improve the data information on unredeemed deposits on beverages as are required to be reported by law \$1,157,252

Community Antenna Television Commission.

9215-0001 For the administration of the community antenna television commission, including not more than nine permanent positions \$275,034

Division of Standards.

9218-0100 For the personal services and expenses of the division of standards, including not more than twenty-six permanent positions and three temporary positions \$714,176

**DEPARTMENT OF BANKING AND INSURANCE.**

Division of Banks.

9221-1000 For the office of the commissioner, including not more than one hundred and eighty-six permanent positions \$4,708,186

Division of Insurance.

9222-0100 For the administration of the division, including expenses of the board of appeal, and certain other costs of supervising motor vehicle liability insurance and the expenses of fraudulent claims board; provided, that the positions of counsel I and counsel II shall not be subject to the provisions of chapter thirty-one of the General Laws; provided further, that contracts or orders for the purchase of statement blanks for the making of annual reports to the commissioner of insurance shall not be subject to the restrictions prescribed by



ACTS, 1985. - Chap. 140.

Item

section one of chapter five of the General Laws; provided further, that notwithstanding the provisions of section three of chapter seven hundred and twenty-eight of the acts of nineteen hundred and seventy-five, the provisions of section two of said chapter seven hundred and twenty-eight, including the levels of compensation therein authorized, shall continue to be effective after December thirty-first, nineteen hundred and seventy-eight; and, provided further, that a sum not to exceed ninety-eight thousand and fifty dollars shall be used for the purpose of the auto damage appraisers licensing board in accordance with the provisions of section eight G of chapter twenty-six of the General Laws; and provided further, that the division shall continue to maintain an office at its present location in the city of Springfield until such time as its new facility is available in the former federal building in the city of Springfield at which time the division shall move its office to such facility, including not more than one hundred and seventy-three permanent positions

\$4,542,662

	General Fund	65.0%	
	Highway Fund	35.0%	
9222-0199	For the expenses and administration of the board of appeal on motor vehicle liability policies and bonds, including not more than fifteen permanent positions and one temporary position		\$518,000
	Highway Fund	100.0%	

Division of Registration.

9230-0001 For the administration of the division; provided, that the position of investigator of radio-television technicians shall not be subject to chapter thirty-one of the General Laws; provided, however, that no fewer than nine positions shall be located in the western Massachusetts office, including not more than two hundred and ninety-six permanent positions and two temporary positions

\$3,585,039

For the services of the following agencies in the division:

9230-0150 Board of registration and discipline in medicine; including not more than eight permanent positions and sixteen temporary positions

\$697,560

Department of Public Utilities.

9270-0001 For the general administration, including not more than sixty-four permanent positions and thirty-five temporary positions

\$2,490,619

Commercial Motor Vehicle Division.



ACTS, 1985. - Chap. 140.

Item

9272-0001 For the administration of the division, including not more than nineteen permanent positions		\$531,713
Highway Fund	100.0%	

**EXECUTIVE OFFICE OF ENERGY RESOURCES.**

Notwithstanding any provision of law to the contrary, the executive office of energy resources shall administer energy programs including but not limited to the following: (1) an energy policy and data program, (2) a program to encourage energy conservation in publicly owned buildings, (3) a program to encourage energy conservation in residential buildings, (4) a program to encourage energy conservation in commercial buildings, and (5) a program to encourage the use of renewable energy resources; provided, further, that the executive office of energy resources shall report quarterly to the commissioner of administration and the house and senate committees on ways and means the status of all programs, including the total cost of each program, detailed description of expenditures made by program, and such other information as may be required by said committees from time to time.

9300-0003 For the administration of the executive office of energy resources, provided that an amount not less than one hundred sixty-one thousand and two hundred dollars be obligated for an energy forecasting program, including not more than one permanent position and twenty-five temporary positions	\$1,144,612
9300-0005 For a reserve to fund programs of energy conservation and weatherization to be expended by the executive office of energy resources, provided that expenditures from this item shall be pursuant to schedules approved by the house and senate committees on ways and means, prior appropriation continued.	

Energy Facilities Siting Council.

9300-0500 For the expenses of the energy facilities council; provided that, the expenditures from this item to the maximum amount of five hundred twenty-five thousand dollars shall be assessed upon utility companies in accordance with the provisions of chapter one hundred and sixty-four of the General Laws; provided further, that the excess over the appropriated amount shall be placed in an expendable trust account, to be spent or maintained from year to year by the council for the limited purpose of reviewing major energy facilities, without further appropriation and not subject to reversion to the General Fund; provided further, that the balance remaining in the expendable trust account shall be deducted from the following year's assessment of the electric and gas companies; pro-



ACTS, 1985. - Chap. 140.

Item

	vided that the amount collected from the utilities in the following year shall not be less than the amount appropriated for that year; provided, further, that the position of executive secretary of the council shall be exempt from the provisions and requirements of job classification by the personnel administrator under chapter thirty of the General Laws, including not more than one permanent position and ten temporary positions	\$420,538
9300-0600	For the administration of the residential conservation service program pursuant to chapter four hundred and sixty-five of the acts of nineteen hundred and eighty, and the commercial and apartment conservation service program pursuant to section twelve of chapter twenty-five A of the General Laws, including not more than two temporary positions	\$220,691
9300-0800	For the advancement of photovoltaic research, productivity improvement, cell and module manufacturing, and testing; to include a photovoltaic technology transfer program between private and public institutions of higher education in the commonwealth; provided that supplemental funds shall be sought from the federal government and from private sources; and provided further that said funds shall be jointly administered by the executive office of energy resources and the executive office of economic affairs, prior appropriation continued	\$300,000
9300-0900	For the purposes of a grant to the South Essex sewerage district for phase II of the development of a pilot plant for the extraction of methane gas from sewerage sludge, provided that the commonwealth's share of any royalties resulting from the commercial development of such a system shall be deposited in the general fund, and provided further that this appropriation shall be matched or exceeded by other private or public sector participants in the pilot project	\$150,000
9300-9642	For the purposes of a federally funded grant entitled, Institutional Conservation General Federal Grants Fund 100.0%	\$78,000
9300-9720	For the purposes of a federally funded grant entitled, No. 2 Fuel Oil General Federal Grants Fund 100.0%	\$10,000
9300-9741	For the purposes of a federally funded grant entitled, Energy Extension General Federal Grants Fund 100.0%	\$205,000
9300-9742	For the purposes of a federally funded grant entitled, State Energy Conservation Plan General Federal Grants Fund 100.0%	\$480,000
9300-9745	For the purposes of a federally funded grant entitled, Acceptable Peat Resources General Federal Grants Fund 100.0%	\$11,000
9300-9754	For the purposes of a federally funded grant entitled, Alternative Energy Newsletter General Federal Grants Fund 100.0%	\$10,000
9300-9755	For the purposes of a federally funded grant entitled, Solar Bank General Federal Grants Fund 100.0%	\$1,710,500
9300-9756	For the purposes of a federally funded grant entitled, Oil Overcharge, Section 155	\$3,694,287



ACTS, 1985. - Chap. 140.

Item

	General Federal Grants Fund	100.0%	
9300-9757	For the purposes of a federally funded grant entitled, Northeast Regional Biomass Program		\$30,000
	General Federal Grants Fund	100.0%	
9300-9758	For the purposes of a federally funded grant entitled, Oil Overcharge, AMOCO		\$290,000
	General Federal Grants Fund	100.0%	
9300-9759	For the purposes of a federally funded grant entitled, Oil Overcharge, Northeast Petroleum		\$583,014
	General Federal Grants Fund	100.0%	
9300-9760	For the purposes of a federally funded grant entitled, Oil Overcharge, Perry Gas Processors		\$1,325
	General Federal Grants Fund	100.0%	
9300-9761	For the purposes of a federally funded grant entitled, Oil Overcharge, National Helium Corporation/ARCO		\$217,025
	General Federal Grants Fund	100.0%	

EXECUTIVE OFFICE OF LABOR.

9400-0100	For the office of the secretary, including not more than one permanent position and ten temporary positions		\$373,651
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Department of Labor and Industries.

9400-0110	For the purposes of implementing certain provisions of chapter four hundred and seventy of the acts of nineteen hundred and eighty-three, the so-called "Right to Know" law, including not more than twenty-five temporary positions		\$682,443
9410-0100	For general administration of the department, including not more than seven permanent positions and three temporary positions		\$261,649
	For the personal services and expenses of the following agencies of the department:		
9411-0100	Division of industrial safety, including not more than sixty-two permanent positions and seven temporary positions		\$2,200,913
9411-2013	For the purposes of a federally funded grant entitled, Mine Safety and Health Training		\$115,198
	General Federal Grants Fund	100.0%	
9411-4203	For the purposes of a federally funded grant entitled, O.S.H.A. Statistical Survey		\$107,000
	General Federal Grants Fund	100.0%	
9411-4204	For the purposes of a federally funded grant entitled, Supplementary Data System		\$250,000
	General Federal Grants Fund	100.0%	
9411-9701	For the purposes of a federally funded grant entitled, O.S.H.A. Onsite Consulta-		



ACTS, 1985. - Chap. 140.

Item		
	tion program	\$756,664
	General Federal Grants Fund 100.0%	
9412-0100	Division of occupational hygiene, including not more than fourteen permanent positions	\$508,634
9412-0200	For the division of occupational hygiene; provided, that all funds appropriated under this item shall be for a program to evaluate the asbestos level in public schools and other public buildings; the division for this purpose may employ staff which shall not be subject to chapter thirty-one of the General Laws and engage engineering and medical and other consultants, including not more than nine temporary positions	\$378,523
9413-0100	For the expenses of the department in enforcing the minimum wage laws, including not more than fourteen permanent positions	\$328,890
9414-0100	Division of employment agencies, including not more than four permanent positions	\$103,927
	<u>Division of Apprentice Training.</u>	
9415-0100	For the administration of the division; provided, that no position in the division shall be subject to chapter thirty-one of the General Laws; including not more than twenty-three permanent positions	\$421,083
	<u>Board of Conciliation and Arbitration.</u>	
9420-0100	Board of conciliation and arbitration, including not more than seventeen permanent positions	\$552,637
9421-0100	For a Joint Labor-Management Committee	\$383,969
	<u>Labor Relations Committee.</u>	
9430-0100	For the administration of the commission, including not more than eighteen permanent positions and seven temporary positions	\$821,082
	<u>Division of Industrial Accidents.</u>	
9440-0100	For the administration of the division and for clerical and other assistance for the industrial accident rehabilitation board, including not more than one hundred and thirteen permanent positions and twelve temporary positions	\$2,995,994
	<u>Office of Self-Insurance.</u>	
9440-0300	For the service of the office, including not more than four permanent positions	\$94,816



ACTS, 1985. - Chap. 140.

Item

Industrial Accident Rehabilitation Board.

9440-0400 For the service of the board, including not more than six permanent positions \$32,532

SECTION 3. Notwithstanding the provisions of any general or special law to the contrary, during the nineteen hundred and eighty-six fiscal year, the amount paid to each city, town, regional school district and county maintaining an agricultural school, under the provisions of item 7061-0008, shall be distributed as is necessary under the provisions of chapter seventy of the General Laws, but in no event shall be greater than the total for each city or town, regional school district and county maintaining an agricultural school, as indicated herein below; provided, however, that the remaining balance, if any, after such distribution shall be further distributed and paid to such cities and towns under item 0611-5500. The total amount to be distributed and paid to each city, town, regional school district and county maintaining an agricultural school, pursuant to this section is as follows:

CITIES AND TOWNS:

ABINGTON	3,626,879
ACTON	1,515,794
ACUSHNET	1,724,270
ADAMS	683,555
AGAWAM	5,361,459
ALFORD	16,606
AMESBURY	4,113,907
AMHERST	4,977,030
ANDOVER	2,833,459
ARLINGTON	9,673,389
ASHBURNHAM	90,066
ASHBY	32,995
ASHFIELD	115,631
ASHLAND	1,382,616
ATHOL	1,191,496
ATTLEBORO	8,970,391
AUBURN	2,873,541
AVON	908,006
AYER	2,636,398
BARNSTABLE	2,260,529
BARRE	660,886
BECKET	65,280
BEDFORD	1,652,161
BELCHERTOWN	1,749,474



ACTS, 1985. - Chap. 140.

BELLINGHAM	4,303,120
BELMONT	2,727,622
BERKLEY	629,604
BERLIN	329,107
BERNARDSTON	234,053
BEVERLY	7,052,660
BILLERICA	8,657,343
BLACKSTONE	453,945
BLANDFORD	19,628
BOLTON	203,504
BOSTON	266,487,315
BOURNE	1,348,903
BOXBOROUGH	247,285
BOXFORD	512,792
BOYLSTON	342,699
BRAINTREE	6,904,017
BREWSTER	192,737
BRIDGEWATER	3,315,711
BRIMFIELD	264,853
BROCKTON	37,746,966
BROOKFIELD	528,463
BROOKLINE	7,268,267
BUCKLAND	115,433
BURLINGTON	4,736,548
CAMBRIDGE	29,245,276
CANTON	2,820,653
CARLISLE	305,960
CARVER	1,085,688
CHARLEMONT	68,105
CHARLTON	190,839
CHATHAM	373,831
CHELMSFORD	6,597,369
CHELSEA	12,917,823
CHESHIRE	129,925
CHESTER	53,886
CHESTERFIELD	86,861
CHICOPEE	16,600,525
CHILMARK	0
CLARKSBURG	546,966
CLINTON	4,161,095
COHASSET	1,008,854



ACTS, 1985. - Chap. 140.

COLRAIN	72,061
CONCORD	1,712,509
CONWAY	117,705
CUMMINGTON	52,792
DALTON	718,832
DANVERS	3,167,158
DARTMOUTH	3,312,309
DEEDHAM	4,090,102
DEERFIELD	400,986
DENNIS	229,344
DIGHTON	770,612
DOUGLAS	716,862
DOVER	203,615
DRACUT	5,244,298
DUDLEY	337,790
DUNSTABLE	123,752
DUXBURY	1,538,591
EAST BRIDGEWATER	2,565,244
EAST BROOKFIELD	373,576
EAST LONGMEADOW	2,122,101
EASTHAM	113,965
EASTHAMPTON	4,300,385
EASTON	3,380,823
EDGARTOWN	75,993
EGREMONT	58,724
ERVING	158,997
ESSEX	325,982
EVERETT	6,598,327
FAIRHAVEN	3,456,017
FALL RIVER	40,478,795
FALMOUTH	2,028,965
FITCHBURG	11,824,300
FLORIDA	39,879
FOXBOROUGH	2,755,302
FRAMINGHAM	10,110,273
FRANKLIN	4,632,671
FREETOWN	529,312
GARDNER	5,024,283
GAY HEAD	3,641
GEORGETOWN	1,359,357
GILL	19,838



ACTS, 1985. — Chap. 140.

GLOUCESTER	4,501,638
GOSHEN	32,870
GOSNOLD	586
GRAFTON	2,278,359
GRANBY	1,509,074
GRANVILLE	141,966
GREAT BARRINGTON	794,107
GREENFIELD	5,247,012
GROTON	452,628
GROVELAND	726,735
HADLEY	407,243
HALIFAX	938,334
HAMILTON	481,543
HAMPDEN	850,182
HANCOCK	65,006
HANOVER	2,992,999
HANSON	1,984,239
HARDWICK	426,510
HARVARD	1,750,199
HARWICH	715,096
HATFIELD	399,179
HAVERHILL	14,226,784
HAWLEY	13,334
HEATH	21,296
HINGHAM	2,722,989
HINSDALE	143,253
HOLBROOK	3,312,936
HOLDEN	1,822,496
HOLLAND	119,024
HOLLISTON	3,017,697
HOLYOKE	19,046,176
HOPEDALE	838,872
HOPKINTON	1,053,617
HUBBARDSTON	197,500
HUDSON	4,456,077
HULL	3,596,136
HUNTINGTON	86,600
IPSWICH	1,792,340
KINGSTON	698,094
LAKEVILLE	528,366
LANCASTER	1,185,120



ACTS, 1985. - Chap. 140.

LANESBOROUGH	421,581
LAWRENCE	24,201,052
LEE	1,268,584
LEICESTER	2,983,994
LENOX	1,086,969
LEOMINSTER	8,730,412
LEVERETT	110,473
LEXINGTON	3,379,480
LEYDEN	36,863
LINCOLN	574,139
LITTLETON	962,214
LONGMEADOW	2,631,183
LOWELL	33,568,402
LUDLOW	3,909,402
LUNENBURG	1,935,560
LYNN	34,087,899
LYNNFIELD	1,525,932
MALDEN	18,243,836
MANCHESTER	538,641
MANSFIELD	2,369,099
MARBLEHEAD	1,898,425
MARION	263,958
MARLBOROUGH	5,913,291
MARSHFIELD	4,012,180
MASHPEE	221,109
MATTAPANSETT	388,694
MAYNARD	2,155,779
MEDFIELD	1,898,168
MEDFORD	15,611,965
MEDWAY	2,095,681
MELROSE	7,514,917
MENDON	108,495
MERRIMAC	878,552
METHUEN	7,352,743
MIDDLEBOROUGH	4,329,164
MIDDLEFIELD	6,410
MIDDLETON	427,734
MILFORD	6,151,138
MILLBURY	3,409,437
MILLIS	1,396,917
MILLVILLE	103,338



ACTS, 1985. - Chap. 140.

MILTON	3,053,874
MONROE	13,490
MONSON	1,820,442
MONTAGUE	308,022
MONTEREY	33,222
MONTGOMERY	16,985
MOUNT WASHINGTON	3,245
NAHANT	398,493
NANTUCKET	224,789
NATICK	5,235,160
NEEDHAM	2,840,413
NEW ASHFORD	8,557
NEW BEDFORD	39,788,543
NEW BRAINTREE	124,279
NEW MARLBOROUGH	45,744
NEW SALEM	11,956
NEWBURY	450,900
NEWBURYPORT	3,298,130
NEWTON	9,059,500
NORFOLK	715,683
NORTH ADAMS	6,156,646
NORTH ANDOVER	2,129,037
NORTH ATTLEBOROUGH	4,763,716
NORTH BROOKFIELD	1,459,119
NORTH READING	2,304,933
NORTHAMPTON	6,749,066
NORTHBOROUGH	1,606,536
NORTHBRIDGE	3,581,171
NORTHFIELD	201,523
NORTON	3,803,189
NORWELL	1,926,362
NORWOOD	5,344,153
OAK BLUFFS	126,193
OAKHAM	87,440
ORANGE	1,591,654
ORLEANS	148,723
OTIS	56,798
OXFORD	4,055,779
PALMER	2,572,745
PAXTON	436,459
PEABODY	10,871,868



ACTS, 1985. - Chap. 140.

PELHAM	64,316
PEMBROKE	1,847,626
PEPPERELL	119,175
PERU	55,149
PETERSHAM	71,376
PHILLIPSTON	19,174
PITTSFIELD	16,409,431
PLAINFIELD	37,996
PLAINVILLE	688,052
PLYMOUTH	1,967,504
PLYMPTON	144,703
PRINCETON	306,744
PROVINCETOWN	298,019
QUINCY	26,222,054
RANDOLPH	7,814,020
RAYNHAM	1,477,442
READING	3,984,143
REHOBOTH	1,029,269
REVERE	14,835,390
RICHMOND	180,253
ROCHESTER	314,479
ROCKLAND	5,226,854
ROCKPORT	523,833
ROWE	25,723
ROWLEY	509,452
ROYALSTON	24,627
RUSSELL	40,537
RUTLAND	1,008,793
SALEM	8,227,735
SALISBURY	681,407
SANDISFIELD	44,473
SANDWICH	549,968
SAUGUS	4,331,040
SAVOY	84,146
SCITUATE	3,149,183
SEEKONK	1,955,502
SHARON	2,764,096
SHEFFIELD	162,728
SHELBURNE	142,007
SHERBORN	303,434
SHIRLEY	1,709,687



ACTS, 1985. - Chap. 140.

SHREWSBURY	3,475,692
SHUTESBURY	56,806
SOMERSET	1,658,436
SOMERVILLE	32,128,120
SOUTH HADLEY	3,843,386
SOUTHAMPTON	578,772
SOUTHBOROUGH	725,618
SOUTHBRIDGE	5,151,454
SOUTHWICK	1,646,341
SPENCER	2,996,566
SPRINGFIELD	69,037,080
STERLING	708,336
STOCKBRIDGE	103,395
STONEHAM	3,781,144
STOUGHTON	5,552,641
STOW	556,516
STURBRIDGE	690,125
SUDBURY	2,028,265
SUNDERLAND	297,186
SUTTON	1,076,543
SWAMPSCOTT	1,693,612
SWANSEA	2,977,689
TAUNTON	14,381,402
TEMPLETON	570,018
TEWKSBURY	5,660,399
TISBURY	161,860
TOLLAND	7,828
TOPSFIELD	649,728
TOWNSEND	223,862
TRURO	96,212
TYNGSBOROUGH	1,148,207
TYRINGHAM	17,914
UPTON	223,564
UXBRIDGE	1,775,248
WAKEFIELD	4,329,011
WALES	209,451
WALPOLE	3,564,129
WALTHAM	10,276,337
WARE	2,626,109
WAREHAM	2,891,901
WARREN	746,962



ACTS, 1985. - Chap. 140.

WARWICK	53,977
WASHINGTON	45,599
WATERTOWN	7,581,791
WAYLAND	1,663,753
WEBSTER	3,856,994
WELLESLEY	2,545,101
WELLFLEET	77,095
WENDELL	11,862
WENHAM	285,328
WEST BOYLSTON	1,067,134
WEST BRIDGEWATER	1,382,563
WEST BROOKFIELD	355,934
WEST NEWBURY	295,086
WEST SPRINGFIELD	4,418,423
WEST STOCKBRIDGE	80,865
WEST TISBURY	40,608
WESTBOROUGH	1,850,340
WESTFIELD	9,623,736
WESTFORD	2,906,359
WESTHAMPTON	74,604
WESTMINSTER	137,419
WESTON	888,617
WESTPORT	1,848,298
WESTWOOD	1,481,591
WEYMOUTH	14,899,689
WHATELY	87,595
WHITMAN	3,183,022
WILBRAHAM	1,842,747
WILLIAMSBURG	300,122
WILLIAMSTOWN	868,555
WILMINGTON	3,606,790
WINCHENDON	2,713,739
WINCHESTER	2,758,547
WINDSOR	35,915
WINTHROP	5,631,510
WOBURN	7,256,736
WORCESTER	66,024,393
WORTHINGTON	4,264
WRENTHAM	889,448
YARMOUTH	452,159



ACTS, 1985. - Chap. 140.

REGIONAL SCHOOL DISTRICTS:

ACTON-BOXBOROUGH	763,203
ADAMS-CHESHIRE	2,204,646
AMHERST-PELHAM	2,324,468
ASHBURNHAM-WESTMINSTER	1,315,758
ATHOL-ROYALSTON	2,812,431
BERKSHIRE HILLS	667,824
BERLIN-BOYLSTON	275,235
BLACKSTONE-MILLVILLE	2,100,285
BRIDGEWATER-RAYNHAM	1,276,209
BUCKLAND-SHELBURNE	388,062
CENTRAL BERKSHIRE	1,012,584
CONCORD-CARLISLE	437,927
DENNIS-YARMOUTH	1,533,793
DIGHTON-REHOBOTH	708,982
DOVER-SHERBORN	317,809
DUDLEY-CHARLTON	2,817,404
NAUSET	584,489
FREETOWN-LAKEVILLE	1,018,461
FRONTIER	231,466
GATEWAY	1,030,628
GROTON-DUNSTABLE	608,301
GILL-MONTAGUE	1,340,268
HAMILTON-WENHAM	620,905
HAMPDEN-WILBRAHAM	757,027
HAMPSHIRE	498,620
HAWLEMONT	43,139
KING PHILIP	1,316,318
LINCOLN-SUDBURY	636,997
MARTHA'S VINEYARD	195,675
MASCONOMET	656,952
MENDON-UPTON	771,462
MOUNT GREYLOCK	711,466
MOHAWK TRAIL	406,328
NARRAGANSETT	1,584,779
NASHOBA	302,348
NEW SALEM-WENDELL	113,382
NORTHBOROUGH-SOUTHBOROUGH	318,613
NORTH MIDDLESEX	3,214,797
OLD ROCHESTER	355,014



ACTS, 1985. - Chap. 140.

PENTUCKET	864,954
PIONEER VALLEY	121,567
PLYMOUTH-CARVER	1,344,050
QUABBIN	951,294
RALPH C. MAHAR	995,371
SILVER LAKE	2,444,491
SOUTHERN BERKSHIRE	362,338
SPENCER-EAST BROOKFIELD	1,027,350
TANTASQUA	904,397
TRITON	460,435
WACHUSETT	1,063,610
WARREN-WEST BROOKFIELD	660,342
WHITMAN-HANSON	1,597,932
ASSABET VALLEY	1,586,407
BLACKSTONE VALLEY	1,751,289
BLUE HILLS	1,797,796
BRISTOL-PLYMOUTH	1,774,884
CAPE COD	1,098,323
QUINOBIN REGIONAL	310,508
FRANKLIN COUNTY TECHNICAL	602,001
GREATER FALL RIVER	2,489,404
GREATER LAWRENCE	3,899,245
GREATER NEW BEDFORD	4,753,136
GREATER LOWELL	5,068,444
SOUTH MIDDLESEX	1,253,362
MINUTEMAN	1,477,398
MONTACHUSETT	2,515,945
NORTHERN BERKSHIRE	1,078,788
NASHOBA VALLEY	983,741
NORTHEAST METROPOLITAN	1,807,099
NORTH SHORE	691,755
OLD COLONY	950,353
PATHFINDER	623,329
SHAWSHEEN VALLEY	1,562,987
SOUTHEASTERN	3,087,855
SOUTH SHORE	767,537
SOUTHERN WORCESTER COUNTY	1,825,127
TRI-COUNTY	1,096,754
UPPER CAPE COD	427,701
WHITTIER	2,661,935



COUNTIES:

BRISTOL	519,703
ESSEX	1,069,313
NORFOLK	381,254

SECTION 4. Notwithstanding the provisions of section fifty-one of chapter thirty of the General Laws or any other general or special law to the contrary, the state purchasing agent is hereby authorized during the fiscal year nineteen hundred and eighty-six to incur liabilities and incidental expenses for the purchase of supplies, as provided by said section fifty-one, including material to be disposed of as surplus, so-called, by the federal government through agencies of the federal government in an amount not exceeding five hundred and fifty thousand dollars, in addition to any amount heretofore provided for the purpose, and the comptroller may certify for payment such incidental expenses and liabilities so incurred to an amount not exceeding five hundred and fifty thousand dollars, in addition to any amount heretofore provided for said purpose.

SECTION 5. Notwithstanding the provisions of any general or special law to the contrary, all persons eligible for public assistance, as determined by the department of public welfare, under the provisions of chapters one hundred and seventeen, one hundred and eighteen A, and one hundred and eighteen E of the General Laws, who are not maintaining their own homes but are receiving care in a licensed nursing home, a licensed rest home, a licensed chronic hospital or in an approved public medical institution, shall retain the first fifty-five dollars of their monthly income for clothing, personal needs and leisure time activities.

If there is no such income, or if it is less than fifty-five dollars, the recipient shall be paid monthly in advance the difference between such income and fifty-five dollars.

The department of public welfare shall by regulation provide that personal laundry costs shall not be charged to the amount retained by or paid to the recipient pursuant to this section. Personal laundry costs shall instead be reimbursable through the per diem rates established by the rate setting commission.

SECTION 6. Notwithstanding any provision of law to the contrary, the administrator of any facility licensed pursuant to section seventy-one of chapter one hundred and eleven of the General Laws shall deposit in an interest-bearing account of any bank organized and existing under the laws of the commonwealth funds of any person who is an inpatient or resident at such facility if such administrator agrees to manage such funds at the request of such person or the fiduciary of such person or if the administrator is a fiduciary for such person. The words "fiduciary" and "funds" shall have the same meaning found in section one of chapter one hundred and twenty-three of the General Laws. The interest earned on any interest-bearing account shall be distributed in one of the following ways, at the



lection of the facility: (a) pro-rated to each patient on an actual interest earned basis or individual accounts, or (b) pro-rated to each patient on the basis of his or her end of quarter or nearest end of month balance for collective accounts. The department of public health shall promulgate rules and regulations to implement this section.

SECTION 7. Notwithstanding the provisions of any general or special law to the contrary, revenues in an amount not to exceed five million dollars accrued through the program of selling correctional industries products and services, excluding monies received from the sale of farm products and services under programs maintained by the division of farm services, may be expended without further appropriation, subject to the approval of the commissioner of correction and the state comptroller, for said program including costs of materials, supplies and equipment, maintenance of industrial facilities and compensation to correctional industry employees; provided, however, that any remaining balance of the amount available to the department as provided in section twenty-nine of chapter two hundred and thirty-four of the acts of nineteen hundred and eighty-four shall not revert to the General Fund at the end of fiscal year nineteen hundred and eighty-five and shall be available to the department for use on the purposes provided herein during fiscal year nineteen hundred and eighty-six. The sale of correctional industries products and services, as provided in this section, shall be subject to a full audit and annual report by the state auditor.

SECTION 8. Notwithstanding the provisions of any general or special law to the contrary, any department, board, commission or institution expending federal funds appropriated in section two of this act shall submit a spending plan of such federal funds, by subsidiary breakdown, with the house and senate committees on ways and means and the joint standing committee on federal financial assistance no later than sixty days after the effective date of this act.

SECTION 9. Appropriations made in section two from the General Federal Grants Fund shall be recorded on the books of the commonwealth only in the amount of the actual receipts of federal funds and only the recorded amount shall be available for expenditure. Federal funds received in excess of the amount appropriated in said section two shall be expended only in accordance with the provisions of section six B of chapter twenty-nine of the General Laws.

SECTION 10. All sums appropriated under the provisions of this act shall be expended in a manner reflecting and encouraging a policy of nondiscrimination and equal opportunity for members of minority groups, women and handicapped persons. All officials and employees of any agency, board or division of the commonwealth receiving monies under section two shall take affirmative steps to ensure equality of opportunity in the internal affairs of state government, as well as in their relations with the public, including those persons



and organizations doing business with the commonwealth.

Each agency, board or division, in spending appropriated sums and discharging its statutory responsibilities, shall adopt measures to ensure equal opportunity in the areas of hiring, promotion, demotion or transfer, recruitment, layoff or termination, rates of compensation, inservice or apprenticeship training programs, and all terms and conditions of employment. Such affirmative action program shall include efforts required to remedy the effects of present and past discriminatory patterns and practices and any action necessary to guarantee equal opportunity for members of minority groups, women, and handicapped persons.

The commissioner of administration shall conduct an ongoing review of affirmative action steps taken by the various agencies, boards or divisions, to determine whether such agencies are complying with the intent of this section. Whenever such noncompliance is determined by the commissioner, he shall hold a public hearing on the matter and report his resulting recommendations to the head of the particular agency, board or division, the governor, and to the Massachusetts commission against discrimination.

**SECTION 11.** Notwithstanding the provisions of any general or special law to the contrary, the department of mental health, or any other state agency or department, shall not authorize or approve the construction of new facilities or the renovation or rehabilitation of existing facilities, to house either mental health or mental retardation community-based programs, including, but not limited to, intermediate care facilities, limited group residences, community residences and apartments, until such time as a schedule of start-up and full operating costs of the program to be housed at said location has been submitted to and approved by the house and senate committees on ways and means.

**SECTION 12.** Notwithstanding the provisions of any general or special law to the contrary, no department, board, commission, or other agency within the jurisdiction of the executive office of human services shall authorize contracted or purchased services to their client populations at an annualized cost which exceeds the amount of monies appropriated for such services in section two; provided, however, that the above provisions shall not apply to new programs funded in line items 4202-0021, 4800-0023, 5011-0006, 5011-0015, 5016-0104, 5021-0000, and 5024-0100 from which accounts new programming may be authorized at an annualized cost which is not greater than twice the amount of funding appropriated to start the programs. No expenditures or commitment of monies for such services, either by contract or other agreement, shall be made in excess of the amount of monies appropriated for such services.

**SECTION 13.** Notwithstanding the provisions of any general or special law to the contrary, revenues in an amount not to exceed two million dollars accrued from the sale of farm products and services under programs maintained by the division of farm services of the department of correction may be expended without further appropriation, subject to the



ACTS, 1985. - Chap. 140.

approval of the commissioner of correction and the state comptroller, for said programs including costs of materials, supplies and equipment, maintenance and construction of agricultural facilities, and compensation to farm employees; provided, however, that any remaining balance of the amount available to the department as provided in section forty-two of chapter two hundred and thirty-four of the acts of nineteen hundred and eighty-four shall not revert to the General Fund at the end of fiscal year nineteen hundred and eighty-five and shall be available to the department for use on the purposes provided herein during fiscal year nineteen hundred and eighty-six. The sale of farm products and services, as provided in this section, shall be subject to a full audit and annual report by the state auditor.

SECTION 14. Notwithstanding the provisions of section one of this act to the contrary, items 0320-0001 to 0340-1111, inclusive, in section two of this act are hereby charged as follows:-

General Fund	20.0%
Local Aid Fund	80.0%

SECTION 15. Notwithstanding the provisions of any general or special law to the contrary, ten per cent, but not more than two million dollars, of the revenues derived from the collection of admission fees, parking fees, and concessions at pools, rinks, parks, forests and beaches maintained by the department of environmental management may be expended by the department without further appropriation, subject to the approval of the secretary of environmental affairs and the state comptroller, for improvements to recreational programs at pools, rinks, parks, forests, and beaches maintained by said department, including material, supplies, equipment, promotional activities and interpretive materials; provided, however, that said revenues shall not be expended for the compensation of employees; and provided, further, that any remaining balance of the amount available to the department for expenditure without further appropriation, as provided in section forty-five of chapter two hundred and thirty-four of the acts of nineteen hundred and eighty-four, at the end of fiscal year nineteen hundred and eighty-five shall not revert to the General Fund and shall be available to the department for use as provided herein during the fiscal year nineteen hundred and eighty-six. The department shall report the amounts of revenue generated from the collection of admission fees, parking fees, and concessions, by category from each such pool, rink, park, forest and beach maintained by it, including a detailed summary of the expenditures made by it for each allowable purpose as provided herein at each such facility or area from the maximum two million dollars authorized for expenditure pursuant to this section, and shall file said report for fiscal year nineteen hundred and eighty-five with the house and senate committees on ways and means on or before October first, nineteen hundred and eighty-five, and for fiscal year nineteen hundred and eighty-six, a similar report shall be filed with said committees on or before December thirtieth, nineteen hundred and eighty-five, and a final report shall be filed with said committees on or before August first, nineteen hundred and eighty-six.

SECTION 16. The amount of any unexpended balance of federal grant funds received prior to June thirtieth, nineteen hundred and eighty-five, and not included as part of an appropriation item in section two, is hereby made available for expenditure during fiscal year nineteen hundred and eighty-six, in addition to any amount appropriated in said section two; provided that the state comptroller shall report to the senate and house committees on ways and means, no later than October first, nineteen hundred and



ACTS, 1985. - Chap. 140.

eighty-five, the amounts of any such unexpended balances for each item of appropriation including such unexpended balances as are appropriated in said section two.

SECTION 17. Each member of the general court shall be paid an allowance for each day after prorogation of the general court when on legislative business affairs in accordance with the schedule contained in section nine B of chapter three of the General Laws.

SECTION 18. Notwithstanding the provisions of any general or special law to the contrary, the comptroller shall not authorize the payment of regular compensation, including paid leave, vacations, salary in lieu of vacations, payments in lieu of maintenance, holiday pay, overtime pay, and salary differentials from any account funded by an appropriation in section two unless the following requirements are met: Each state agency receiving an appropriation in section two shall neither fill a total number of permanent positions which exceeds the number of permanent positions nor fill a total number of temporary positions which exceeds the number of temporary positions as specifically provided for in each item in said section two. For the purposes of this section, a "position" shall mean a full-time equivalent office or position in which one or more persons are currently employed. "Position" shall not mean any office or position in which no one is currently employed, provided, that for the purposes of this section such unfilled offices or positions shall be referred to as "vacant titles". "Permanent position" shall mean an authorized position created by statute or under the civil service law whether the incumbent holding the position is on a permanent, provisional, or temporary appointment. "Temporary position" shall mean all authorized positions other than permanent positions, seasonal positions as defined in section one of chapter thirty-one of the General Laws, excess quota positions, and positions for a period of ninety days or less.

The house and senate committees on ways and means shall forward to the commissioner of administration an approved list of all new permanent or temporary positions funded for fiscal year nineteen hundred and eighty-six on or before August fifteenth, nineteen hundred and eighty-five.

No person shall be hired by a state agency and assigned a permanent or temporary position or a previously vacant title unless such position or vacant title is included on said list of all new permanent or temporary positions or on a previously approved schedule; provided that the hiring of any persons from said list of all new permanent or temporary positions shall not cause any item of appropriation in section two of this act to be deficient at any time during the course of fiscal year nineteen hundred and eighty-six.

The secretary of administration and finance shall file a recommended schedule of all permanent or temporary positions and vacant titles no later than September fifteenth, nineteen hundred and eighty-five with the house and senate committees on ways and means. Such schedules shall include recommendations of the list of new permanent or temporary positions which were forwarded to said secretary on or before August fifteenth, nineteen hundred and eighty-five. Such schedules shall also include for approval all reallocation of permanent and temporary positions and vacant titles and changes in compensation rates.

The personnel administrator shall, not later than two weeks after the receipt of a personnel schedule approved by the house and senate committees on ways and means, notify said committees of the action taken by the personnel administrator regarding new permanent or temporary positions or reallocations of positions contained in said schedules.

The commissioner of administration shall file, when appropriate, a recommended schedule of all seasonal



ACTS, 1985. - Chap. 140.

positions and titles as defined in section one of chapter thirty-one of the General Laws, excess quota positions, and positions and titles to be appointed for a period of ninety days or less with the house and senate committees on ways and means. No seasonal position, excess quota position or position to be appointed for less than ninety days shall be hired by a state agency until it has been authorized by a schedule approved by the house and senate committees on ways and means. Until such time as a new schedule is so approved, the previous schedule shall remain in effect. Seasonal positions, excess quota positions and positions for a period of ninety days or less, so approved, shall be allowed in addition to permanent and temporary positions.

Nothing in this section shall be interpreted so as to affect any employee's civil service rights. Any employee who exercises any such right to return to a permanent position in any agency shall be allowed to exercise such right, notwithstanding the fact that such agency may have filled all the permanent and temporary positions allowed pursuant to this section. In such circumstances, said commissioner shall file a notice of the exercise of such right, including the position, number and agency affected, with the house and senate committees on ways and means.

State agencies are hereby authorized to transfer any authorized job title from the list of vacant titles to and from the list of scheduled permanent and temporary positions, subject only to notification of the personnel administrator and subject to the total number of permanent and temporary positions allowed under this section.

The provisions of this section, and of clause (d) of paragraph (4) of section forty-five of chapter thirty of the General Laws shall not apply to any office or position in the general court, the office of the governor, the office of the lieutenant governor, the office of the state secretary, the office of the state auditor, the office of the attorney general, the office of the state treasurer and any office or position included in item 5095-0100.

**SECTION 19.** Notwithstanding the provisions of section six of chapter fifteen A and of section twenty-nine of chapter twenty-nine of the General Laws to the contrary, all departments, offices, commissions, and institutions may transfer monies designated to subsidiary accounts within appropriations made in section two of this act without the prior approval of the house and senate committees on ways and means. The budget director of the fiscal affairs division shall report quarterly to the house and senate committees on ways and means any transfer of monies between subsidiary accounts for each item of appropriation contained in said section two.

**SECTION 20.** The rate setting commission is hereby authorized and directed to assume the costs incurred in the transfer of the responsibilities previously contracted for by said commission pursuant to section five of chapter one hundred and seventy-six A of the General Laws, subject to the reimbursement pursuant to section sixty-five of chapter six A of the General Laws, in an amount not to exceed the sum appropriated for this purpose in item 4100-0010 in section two of this act.

**SECTION 21.** Notwithstanding any special or general law to the contrary, no agency of the executive branch shall expend funds in excess of five hundred dollars for costs of printing, photocopying or for related graphic art or design work without the prior approval of the print review board within the



purchasing agent's division of the executive office for administration and finance. The commissioner of administration may charge other such agencies for the cost of printing, photocopying and related graphic art or design work produced by the bureau of central services; provided, that the proceeds received from such charges not exceeding two hundred thousand dollars in fiscal year nineteen hundred and eighty-six shall be credited to the central supply fund. Any charges so received by the commissioner of administration in excess of two hundred thousand dollars shall be credited to the General Fund. The purchasing agent is hereby authorized to incur liabilities and incidental expenses for fiscal year nineteen hundred and eighty-six for the purchase of printing and graphic art supplies and equipment. The comptroller may certify for payment such incidental expenses and liabilities so incurred to an amount not exceeding two hundred thousand dollars in addition to any amount provided in this act. The purchasing agent is hereby authorized and directed to file quarterly reports with the house and senate committees on ways and means stating the total amount charged to agencies under this section in the previous quarter and a detailed list of liabilities incurred by said purchasing agent pursuant to this section.

**SECTION 22.** Notwithstanding the provisions of any general or special law to the contrary, the commissioner of administration is authorized and directed to investigate and identify programs administered by state agencies which consider income, financial resources or both in determining eligibility therefor, and to propose other programs for inclusion in a wage reporting and bank match system, provided that he deems the inclusion of such program in the reporting system to be cost-effective, by submitting a proposal to the house and senate committees on ways and means. If within fourteen days of receipt of any such proposal no action has been taken by the house or senate committees on ways and means, the commissioner of administration may incorporate into the reporting system the program covered by the proposal. The commissioner of administration is authorized and directed to enter into such interagency agreements as he deems necessary to incorporate such additional programs into said reporting system.

The commissioner of revenue is hereby authorized and directed to design, develop, implement and operate a wage reporting and bank match system, hereinafter referred to as the reporting system, for the purpose of verifying financial eligibility of participants in those state or federally funded programs listed in sections three and four of chapter sixty-two E of the General Laws and in such other programs as may be identified and approved for such procedure pursuant to the first paragraph hereof.

The commissioner of revenue is hereby further authorized and directed to enter into such interagency agreements with other agencies of the commonwealth as said commissioner deems necessary to facilitate the implementation and utilization of the reporting system. Such written agreements shall include provisions requiring such agencies, their subgrantees, or local administering agencies, including local housing authorities to provide at a date specified by the commissioner a list of persons receiving benefits from such programs. Information in such lists shall include the recipient's name, social security number and other data required to assure positive identification. Such information shall be utilized in the reporting system as a post audit mechanism for the purpose of verifying eligibility and detecting and preventing fraud, error and abuse in said programs, or additional programs, included by the commissioner of administration. Said agencies, their subgrantees, or local administering agencies, including local housing authorities, are hereby authorized and directed to obtain and provide to the commissioner of revenue the information requested for the purposes of this reporting system.



ACTS, 1985. - Chap. 140.

Under the bank match system, the commissioner of revenue shall annually request in writing from the treasurer of every federal or state commercial or savings bank, including savings and loan associations and cooperative banks, federal or state credit unions, benefit associations, insurance or safe deposit companies or any other similar entity authorized to do business in the commonwealth, the amount deposited in such corporation, association or other entity to the credit of the persons listed in such request. Such listing shall include the names and other identifying data of persons receiving benefits under the foregoing programs and transmitted by the administering agencies to the commissioner of revenue for the purpose of verifying financial eligibility and detecting and preventing fraud, error and abuse in said programs. Said treasurer shall furnish said information within thirty days of the commissioner's request.

The said treasurers shall also furnish, upon request of the commissioner of revenue from time to time, the record of deposits and withdrawals during the past five years of any person listed in such request.

If any of the treasurers fail, without reasonable cause, to comply with such reporting requirements after notification by certified mail return receipt requested, and such failure continues for more than fifteen business days after mailing of such notification of the failure to comply, without reasonable cause, or if such treasurer willfully renders false information in reply to such request, said treasurer shall be liable for a penalty of one thousand dollars.

The commissioner of revenue shall examine the data available to him under the reporting system; make positive identification of cases in which recipients of programs included in the reporting system are receiving wages or have other assets in excess of any threshold requirement established by the administering agency or agencies, and furnish such agency or agencies the cases of recipients so identified. The information furnished to such agency or agencies shall include the name of the recipient, social security number and other data to assure positive identification, the name and identification number of the employer or the name and location of the state and federally chartered savings banks, state and federally chartered savings and loan associations, cooperative banks, state and federally chartered credit unions, trust companies, national banking associations, benefit associations, insurance companies or safe deposit companies, and the amount of wages received or amount of financial resources. Upon the receipt of such information, such agencies, and where appropriate, local administering agencies or local housing authorities, shall seek to verify the accuracy of the information presented in accordance with regulations promulgated by the fraudulent claims commission within the executive office for administration and finance which shall include the requirement of consultation with the recipient whose status is in question. If after such informal inquiry an agency, or where appropriate, local administering agencies or local housing authorities, determine that a recipient has incorrectly received benefits under such a program, such agency shall take appropriate formal action in accordance with state and federal law to correct the error, including, but not limited to termination of benefits. No adverse action shall be taken against any recipient in the unemployment insurance benefits program or the public assistance program of the department of public welfare, except after affording such recipient full opportunity to contest such action in accordance with law, including prior notice and hearing. No adverse action shall be taken against recipients in the other programs included in the reporting system except after meeting with such recipients, providing them with an explanation for the proposed action, detailing the evidence upon which the action is based, and allowing for any other procedures which an administering agency uses to take an adverse action against a recipient in its program.



When any agency has probable cause to believe that the receipt of incorrect benefits under any such program was a result of a fraudulent action by the recipient, such agency shall refer the case to the bureau of special investigations for further action in accordance with regulations promulgated by the fraudulent claims commission. Such regulations shall provide for consideration of the willingness of the recipient to make restitution or to submit to voluntary recoupment and shall include guidelines and procedures for administrative action and recoupment. The fraudulent claims commission shall promulgate said regulations in accordance with section two of chapter thirty A of the General Laws and after consultation with agencies as to how the financial solvency and the maintenance of integrity of their programs can be best served by restitution and referrals.

The director of the bureau of special investigations shall have access to agency, subgrantee or local administering agencies' records and accounts at reasonable times and may require the production of books, documents and vouchers by agencies, subgrantees and local administering agencies, relating to any matter within the scope of an investigation pursuant to this section.

Whenever the bureau finds probable cause to believe that a person has engaged in fraud in any such program, the bureau may, pursuant to procedures established by said commission, notify other state agencies of such information so that such state agencies may investigate whether such person has engaged in fraud in other programs.

No employee or agent of the commonwealth shall divulge any information referred to in this section, except in the manner herein prescribed, to any public or private agency or individual; provided, however that information may be disclosed and shared by and between any employee of an administering agency and any subgrantee, local administering agency, or any local housing authority for the purpose of verifying eligibility and detecting and preventing fraud, error and abuse in the programs included in the reporting system. Unauthorized disclosure of any such information shall be a violation punishable by a fine of one hundred dollars per offense; provided that the unauthorized release of such information about any individual shall be a separate offense from information released about any other individual. Such unauthorized release of information shall also be cause for administrative discipline of any employee who engages in such unauthorized release.

The commissioner of revenue shall file quarterly reports with the house and senate committees on ways and means describing the status of said system and a plan to implement it. The commissioner may process only a sample of the caseload of a program, when this method is determined to be cost-effective, provided that prior notification of such sampling technique is provided to the house and senate committees on ways and means.

Where the provisions of the wage reporting system established pursuant to chapter sixty-two E of the General Laws conflict with the provisions set forth in this section, the provisions set forth in this section shall govern.

**SECTION 23.** Notwithstanding the provisions of any general or special law to the contrary, a housing authority, as defined by section one of chapter one hundred and twenty-one B of the General Laws, is hereby authorized to purchase materials, supplies, or services pursuant to the consolidated supply program of the United States Department of Housing and Urban Development; provided, however, that the provisions of section thirty-nine M of chapter thirty, and sections forty-four A to forty-four H, inclusive, of chapter one



ACTS, 1985. - Chap. 140.

hundred and forty-nine of the General Laws shall not apply to such purchases; and provided, further, that no such purchase shall be undertaken if the amount involved therein is one thousand dollars or over, unless a notice thereof shall have been posted, not less than one week prior to the time of said purchase in a conspicuous place on or near the premises of the officer having charge of any such housing authority making such purchase, and, if the amount therein is in excess of five thousand dollars, unless such a notice shall also have been posted at least once not less than two weeks prior to the time so specified; and published at such other times prior thereto, if any, as the commissioner of administration shall direct, in the central register published by the state secretary pursuant to section twenty of chapter nine of the General Laws.

**SECTION 24.** Any reduction in the work force within the mental health centers and hospitals within the department of mental health, exclusive of Northampton State Hospital, shall consist of nondirect care positions and positions not providing services to patients.

**SECTION 25.** Each department, office, institution or agency assigned a single subsidiary account entitled "00 Subsidiary Expenditures" shall file a quarterly report with the commissioner of administration, the budget bureau, the comptroller, the appropriate executive office, if any, and the house and senate committees on ways and means which shall contain a listing of actual expenditures by each subsidiary account for the prior quarter and the year to date and a revised spending plan for the balance of the fiscal year. Each such report shall be filed within thirty days of the close of each quarter. The provisions of this section shall not apply to the offices of the governor, the general court and the supreme judicial court. Except as otherwise provided in section eighteen of this act, each department, office, institution or agency listed in this section shall be subject to the authorization by the house and senate committees on ways and means of personnel schedules as provided in this act. Single subsidiary accounts of "00 Subsidiary Expenditures" will apply to the legislature, the office of the governor, the supreme judicial court, the appeals court, the Lawrence Experimental Station, and the following line-items: 0330-0300, 0610-0000, 1100-1100, 1101-2100, 4380-0001.

**SECTION 26.** The department of public welfare shall provide for coverage under chapter one hundred and eighteen E of the General Laws, of psychiatric institutional services for children under the age of twenty-one. The department shall implement this benefit with administrative requirements to ensure appropriate provision and utilization of such services to persons eligible under the law. Such requirements may include but need not be limited to utilization review and case management. The department shall report on the status of the provision of coverage of such services quarterly to the house and senate committees on ways and means.

**SECTION 27.** Notwithstanding the provisions of any general or special law to the contrary, hospitals within the department of public health may expend certain revenues without further appropriation, subject to the approval of the commissioner of public health and the state comptroller, and further subject to the following schedule, for patient care. Each hospital shall report the amounts of revenue generated from the collection of charges for services from third party reimbursements and from individuals, by category of payor, and a detailed summary of the expenditures made by each hospital for inpatient care. Such reports



shall be filed quarterly with the commissioner of administration and the house and senate committees on ways and means. The hospitals and the authorized amounts of revenues to be expended are as follows: for Lakeville Hospital, revenues in excess of four million eight hundred and five thousand dollars but not exceeding five million five hundred and ninety thousand dollars; for Lemuel Shattuck Hospital, revenues in excess of seven million three hundred thousand dollars but not exceeding eight million seven hundred and thirty thousand dollars; for the Massachusetts Hospital School, revenues in excess of two million eight hundred and forty thousand dollars but not exceeding three million two hundred thousand dollars; for Rutland Heights Hospital, revenues in excess of three million five hundred thousand dollars but not exceeding four million four hundred thousand dollars; for Tewksbury Hospital, revenues in excess of ten million six hundred and five thousand dollars but not exceeding twelve million one hundred and seventy thousand dollars; for Western Massachusetts Hospital, revenues in excess of three million seven hundred and seventy-five thousand dollars but not exceeding four million two hundred and ninety thousand dollars; and for Cushing Hospital, revenues in excess of five million twenty thousand dollars but not exceeding five million eight hundred and fifty thousand dollars. Any remaining balances of the amounts available to the hospitals within the department, at the end of fiscal year nineteen hundred and eighty-five, pursuant to section sixty-one of chapter two hundred and thirty-four of the acts of nineteen hundred and eighty-four, shall not revert to the General Fund, but shall be available to said hospitals within the department for the purposes provided herein during fiscal year nineteen hundred and eighty-six.

**SECTION 28.** Notwithstanding the provisions of any general or special law to the contrary, the commissioner of administration is hereby authorized during fiscal year nineteen hundred and eighty-six to incur liabilities and incidental expenses for the purchase or rental of telecommunication lines, services and equipment in an amount not to exceed one million dollars, and is further authorized during said fiscal year to charge to other items of appropriation such costs as necessary to fairly allocate the costs of certain telecommunication lines, services and equipment that are centrally billed to the commonwealth. Amounts received from charges made against other items of appropriation shall be credited to the telecommunications account to be established by the comptroller. Said comptroller, with the approval of the commissioner of administration, may certify for payment such incidental expenses and liabilities incurred by the commissioner on behalf of state agencies for certain telecommunications services and equipment.

**SECTION 29.** Notwithstanding any general or special law to the contrary, monies received by the commonwealth from rentals, commission fees, parking fees and from any and all other sources pertaining to the operation of the state transportation building shall be credited on the books of the commonwealth to a fund to be known as the State Transportation Building Management Fund. Said fund shall be used for maintenance and operation of said building.

The division of capital planning and operations shall enter into a contract for the provision of building management services for the operation and maintenance of the state transportation building with one of the public agency tenants of said building, which agency shall have experience in operating building facilities.

The building manager shall collect all monies payable to the commonwealth relating to the operation of the State Transportation Building and deposit the same in the State Transportation Building Management Fund and may expend, without further appropriation, such monies from said fund as may be required to meet expenses



ACTS, 1985. - Chap. 140.

for the maintenance and operation of said building provided, however, that such monies collected in excess of seven million five hundred thousand dollars shall be transferred to the General Fund; and provided, further, that any remaining balance of the amount available to said building manager at the end of fiscal year nineteen hundred and eighty-five shall not revert to the commonwealth and shall be available to said building manager for use on the purposes as provided herein during the fiscal year nineteen hundred and eighty-six.

The division of capital planning and operations shall file, on a quarterly basis, an itemization of all such expenditures from the fund with the commissioner of administration and the house and senate committees on ways and means.

**SECTION 30.** Notwithstanding the provisions of any general or special law to the contrary, no state agency or office of the judiciary shall employ or hire for services from subsidiary account 03, except under written contract which contract shall contain the name of the agency or office, the person or firm so engaged, the specific services or duties to be performed, the manner in which the said services are to be rendered including the tools, implements, equipment necessary and a description of the physical setting in which said services are to be performed or rendered, the total amount to be paid for such services, the length of time said services shall be required; provided, however, that all contracts shall be reviewed by the secretary of administration and finance; except that in the system of higher education all such contracts shall be filed with the board of regents of higher education and in the various divisions of the trial court all such contracts shall be reviewed only by the chief administrative justice.

The said secretary shall quarterly submit to the house and senate committees on ways and means a complete report detailing each agency or office making such a contract for services, the action taken by said secretary, the number of employers and employees or firms so engaged and such other information and data as the said secretary may deem necessary to determine the extent of such employment and services in the commonwealth.

**SECTION 31.** The commissioner of administration shall conduct a review and study of the use by all state departments, boards, agencies, or offices of the judiciary, of all seasonal, intermittent, emergency appointments and temporary employment resulting in or which has resulted in payment of unemployment compensation benefits by any such department, state agency or office; said review and study shall include a detailed analysis of employment patterns and profiles in such departments or agencies, detailing the said department or agency management's reasons for the use of such employees and recommending specific measures which the department or agency intends to implement to reduce such employment compensation expenses.

Said commissioner shall compile said information and file a written report with the house and senate committees on ways and means on or before January thirty-first, nineteen hundred and eighty-six.

**SECTION 32.** Notwithstanding the provision of any general or special law to the contrary, the commissioner of administration shall submit quarterly to the house and senate committees on ways and means a written report listing by state agency, including the judiciary, the number of claims by former employees of said respective agencies for unemployment benefits filed after January first, nineteen hundred and eighty-three, with the division of employment security and which have not been contested.



SECTION 33. The commissioner of administration shall submit a written report to the house and senate committees on ways and means which shall list by individual job-title and annual salary, the number of full-time equivalents in every item of appropriation who are scheduled or paid as permanent, temporary or excess quota positions, as defined in section twenty-three of this act and who are assigned, whether expressly or impliedly, to another item of appropriation to which the performance of their functional job duties are related. Said report shall be filed by November thirtieth, nineteen hundred and eighty-five, and on November thirtieth of each succeeding calendar year.

SECTION 34. The commissioner of administration is hereby authorized and directed to update recommendations for a plan designed to centralize the management of the entire motor vehicle fleet of the commonwealth under the direct control and operation of the motor vehicle management bureau within the executive office for administration and finance. Said plan shall include a proposal for the assessment and evaluation of agency vehicle needs, vehicle acquisition and maintenance and fuel needs, a cost effective motor vehicle rental system to state agencies, and regulations governing the management of the motor vehicle fleet. Said commissioner shall include in said recommendations proposals for the motor vehicle management bureau to monitor closely and control the reimbursement to state employees who use privately-owned vehicles for official state business travel. Said commissioner shall investigate the possibilities for the sale to the highest bidder of surplus motor vehicles owned by the commonwealth, and to develop and implement where feasible, a plan for the sale of such vehicles, provided, that such plan shall be included in any recommendation made pursuant to this section. Said recommendations together with proposals for legislation that may be needed to implement the same, shall be filed with the governor and the house and senate committees on ways and means no later than September first, nineteen hundred and eighty-five.

Notwithstanding any general or special law to the contrary, no state agency may expend funds appropriated in this act to replace or purchase motor vehicles from any item of appropriation other than items 1102-5221, 1599-3408, 2310-0315, 2310-0400, 2315-0100, 2340-0100, 2350-0100, 2520-0300, 2520-0900, 2520-1000, 2520-1100, 2520-1200, 2520-1300, 2520-1400, 2520-1500 of section two of this act, unless justified by extraordinary circumstances certified by the commissioner of administration and submitted to the house and senate committees on ways and means.

SECTION 35. Notwithstanding the provisions of section forty-four A of chapter one hundred and forty-nine of the General Laws, the deputy commissioner of the division of capital planning and operations is hereby authorized during fiscal year nineteen hundred and eighty-six, to solicit proposals for, and award contracts to the lowest bidder demonstrably possessing the skill, ability and integrity necessary to faithfully perform energy management services at buildings constructed before nineteen hundred and eighty and owned by state agencies or building authorities; provided, however, that such awards shall be made pursuant to the provisions of section twenty A of chapter nine, section eight A of chapter twenty-nine, and sections forty-four D and forty-four J of chapter one hundred and forty-nine of the General Laws; and provided, further, that any invitation to bid on such energy conservation contracts, as authorized in this section, shall be filed with the executive office of energy resources at least sixty days prior to the publication of any notice of such invitations to bid.

Such contracts shall be subject to appropriation and may include terms of ten years or less, provisions



allocating between the parties any cost savings attributable to a reduction in energy consumption due to the contract's performance, and authorization for the contractor, subject to the approval of said deputy commissioner, to undertake various repairs and modifications to the mechanical systems of said buildings.

Notwithstanding the provisions of sections forty-four A to forty-four H, inclusive, of chapter one hundred forty-nine of the General Laws, cities, towns, and counties are hereby authorized during fiscal year nineteen hundred and eighty-six, to award contracts for the purchase of energy management services to the bidder demonstrably possessing the skill, ability and integrity to faithfully perform such services on the most favorable terms to the awarding authority; provided that such awards shall be made after (i) public advertising for proposals, at least two weeks before the date specified for the submission of proposals, in at least one newspaper, if any, published in the town, city, or county and in the central register published by the state secretary pursuant to section twenty A of chapter nine of the General Laws, and (ii) prompt publication of the successful bidder. Contracts awarded under this paragraph may include provisions allocating between the parties any cost savings attributable to a reduction in energy consumption due to the contractor's performance. Any invitation to bid on such energy conservation contracts, offered by any city, town or county shall be filed with the executive office of energy resources at least sixty days prior to the publication of any notice of such invitations to bid.

For the purposes of this section, the term "energy management services" shall include, but not be limited to, energy audits, energy conservation measures, and energy conservation projects as defined by section three of chapter twenty-five A of the General Laws, as well as building maintenance and financing services designed to decrease the cost of energy in operating said buildings. The executive office of energy resources shall monitor all energy conservation contracts entered into pursuant to this section and shall file reports on the status of such contracts to the house and senate committees on ways and means and the house and senate committees on energy by January first, nineteen hundred and eighty-six, and June thirtieth, nineteen hundred and eighty-six.

**SECTION 36.** The department of elder affairs is hereby authorized and directed to revise the sliding fee system for home care services. Such system shall consist of a graduated fee structure; provided that such system shall be developed to be compatible with the spend-down provisions of the medical assistance program administered by the department of public welfare. Such system shall allow persons whose income exceeds the maximum otherwise allowed to receive home care services at full cost.

The revised plan shall require that the fees be paid as a condition of participation in the home care program; provided, however that the secretary of elder affairs shall establish a procedure for waiver of such fee in cases of extensive hardship. Said secretary shall also establish procedures to monitor and enforce the provisions of the sliding fee system.

One hundred per cent of all fees collected from the sliding fee system pursuant to this section, in an amount not to exceed two million dollars, shall be credited to the home care program account (line-item 9110-1630) and may be expended without further appropriation for diversified home care services. All fees collected from persons whose income exceeds the maximum amount allowed for receipt of home care services shall be retained by the home care corporations.

Said secretary shall implement a revised sliding fee system no later than July first, nineteen hundred and eighty-five, and shall submit a report including promulgated regulations regarding the revised system no



later than September first, nineteen hundred and eighty-five.

SECTION 37. The commissioner of the department of public health is hereby authorized to establish and maintain an inspection crew to be known as the poisoning prevention inspections team to inspect for lead-based paint in day care facilities licensed or registered by the commonwealth and residential properties owned by public housing authorities, and to impose a fixed fee for such inspections, provided that the department shall establish standards for the waiver of such fees upon the showing of need. Notwithstanding any provisions of any special or general law to the contrary, all funds required to implement this section, in an amount not to exceed ten thousand dollars, shall be paid from item 4510-0600 of section two, and all fees charged for such inspections may be expended without further appropriation, subject to the approval of the commissioner of the department of public health and the state comptroller, for the expenses of the poisoning prevention inspections team; and provided further, that any remaining balance of the amount available to the department for expenditure without further appropriation, as provided in section eighty-two of chapter two hundred and thirty-four of the acts of nineteen hundred and eighty-four, at the end of fiscal year nineteen hundred and eighty-five shall not revert to the General Fund and shall be available to the department for use on the purposes as provided herein during the fiscal year nineteen hundred and eighty-six.

SECTION 38. Notwithstanding the provisions of any general or special law to the contrary, hospitals within the department of mental health may expend certain revenues without further appropriation, subject to the approval of the commissioner of mental health and the state comptroller, and further subject to the following schedule, for patient care. Each hospital shall report the amounts of revenues generated from the collection of charges for services from third party reimbursements and from individuals, by category of payor, and a detailed summary of the expenditures made by each hospital for inpatient care. Such reports shall be filed quarterly with the commissioner of administration and the house and senate committees on ways and means. The hospitals and the authorized amounts of revenues to be expended are as follows: for Danvers State Hospital, twenty per cent of revenues collected, but not exceeding forty-two thousand dollars; for Northampton State Hospital, twenty per cent of revenues collected, but not exceeding one hundred eleven thousand dollars; for Medfield State Hospital, twenty per cent of revenues collected, but not exceeding thirty-seven thousand dollars; for Metropolitan State Hospital, twenty per cent of revenues collected, but not exceeding one hundred twenty-nine thousand dollars; for Taunton State Hospital, twenty per cent of revenues collected, but not exceeding five hundred forty-one thousand dollars; for Westborough State Hospital, twenty per cent of revenues collected, but not exceeding nine hundred fifty-five thousand dollars; and for Worcester State Hospital, twenty per cent of revenues collected, but not exceeding one hundred fifty thousand dollars.

Upon application at the end of each quarter of fiscal year nineteen hundred and eighty-six, from each said hospital within said department, the comptroller shall transfer to the revenue retention account of each said hospital an amount equal to twenty per cent of revenues collected during each such quarter which may be expended without further appropriation. For the purposes of this section, revenue shall not include any monies collected as retroactive recoveries for prior year's services pursuant to Title XVIII and Title XIX of the Social Security Act; provided, however, that revenues collected pursuant to said Title XVIII and



ACTS, 1985. - Chap. 140.

Title XIX for services rendered in the fourth quarter of the fiscal year ending June thirtieth, nineteen hundred and eighty-five shall not be considered to be retroactive recoveries.

Any remaining balances at the end of fiscal year nineteen hundred and eighty-five of the amounts available to be expended without further appropriation authorized under section eighty-three of chapter two hundred and thirty-four of the acts of nineteen hundred and eighty-four, shall not revert to the General Fund, but shall be available to said hospitals within the department for the purposes provided herein during fiscal year nineteen hundred and eighty-six.

**SECTION 39.** Notwithstanding any special or general law to the contrary, each district attorney of the commonwealth is hereby authorized and directed to expend from the funds appropriated in section two the amounts specified therein to increase child support collections, provided that said efforts shall be undertaken pursuant to cooperative agreements between the district attorneys and the department of public welfare. Each district attorney shall submit to the department of public welfare a quarterly status report with the following information for all spousal and child support cases involving (i) applicants for or recipients of assistance under the program of aid to families with dependent children; (ii) all other individuals, prosecuted by said district attorney: the number, type and final disposition of cases prosecuted; the number, and amount of support orders entered, including orders of restitution and arrearages; the number and amount of orders for medical support; the number and amount of fines ordered; the number of defendants extradited and the disposition of their cases; the amount of actual collections received by probation offices as a result of the above orders; and such additional information as may be required for purposes of compliance with federal regulations and for maximization of federal financial participation.

The department of public welfare shall report semi-annually to the house and senate committees on ways and means the following information for all spousal and child support cases: (1) the total number and final disposition of cases prosecuted by each district; (2) the total number and amount of support orders entered, including orders for restitution and arrearages by each district; (3) the total amounts of orders for medical support by each district; (4) the total amounts of fines ordered for each district; (5) the total number of defendants extradited and the disposition of their cases by each district; and (6) the total amounts of actual collections received by probation offices.

**SECTION 40.** Notwithstanding any general or special law to the contrary, any state agency or office which is authorized in any section of this act or in section forty-seven of chapter ninety-four C of the General Laws, to expend certain revenues without further appropriation shall prepare within thirty days after the end of each quarter a report detailing the sources and amounts of all such revenues and the purposes and amounts of all expenditures therefrom. The commissioner of administration is hereby authorized and directed to notify each agency affected hereby of its reporting obligations, and to monitor the progress of such agencies in the preparation of said reports. The commissioner of administration is hereby authorized and directed to acquire said reports from each such agency and to forward said reports to the house and senate committees on ways and means within forty days after the end of each quarter.

**SECTION 41.** Notwithstanding the provisions of section fifty-three of chapter forty-four of the General



Laws or any other general or special law to the contrary, a city, town, or district may establish in its treasury a revolving fund which shall be kept separate and apart from all other monies by the treasurer and into which shall be deposited the receipts received in connection with the distribution of water conservation devices under a program of water conservation grants from the commonwealth administered by the department of environmental quality engineering. The receipts shall be expended at the direction of the authority, commission, board, or official of such city, town, or district with the responsibility for a water conservation program without further appropriation and only for the purpose of continuing a water conservation program.

SECTION 42. The bureau of computer services shall determine monthly the amount of all direct and indirect expenditures relating to the activities of the bureau and the operation of the bureau's facility, and the portion of such amount reasonably allocable to each agency of the commonwealth utilizing the bureau's services or facility. This allocation shall be based on a rate structure which shall provide incentives for efficient use of the bureau's resources and shall be subject to review and prospective amendment by the commissioner of administration. The bureau shall issue a memorandum invoice by the fifteenth day of each month to each user agency, itemizing the agency's proportionate share of the bureau's expenditures for the preceding month. The bureau shall submit to the comptroller a copy of the invoices for the department of mental health, the Massachusetts rehabilitation commission, the department of public health, the motor vehicle management bureau, and the state purchasing agent. The bureau may submit to the comptroller a copy of invoices for those services and functions provided for the first time during fiscal year nineteen hundred and eighty-five, and subsequent fiscal years, to all other agencies. Invoices submitted to the comptroller may not include invoices for services related to the personnel management information system, also known as "PMIS". The comptroller shall charge the amount of all invoices received to the respective agencies' appropriation account. All monies charged herein shall be transferred to the General Fund. The bureau shall submit a report to the house and senate committees on ways and means within thirty days after the end of each quarter summarizing each user agency's proportionate share of the bureau's expenditures for the quarter and for the fiscal year to date, the rate structure upon which these shares were based, and the effect of the pilot chargeback system upon the five participating agencies' use of the bureau's services and facility. The bureau shall also submit to the house and senate committees on ways and means a plan by January first, nineteen hundred and eighty-six, to optimize utilization of all computer capacity during off peak hours. In addition, the bureau shall submit to the house and senate committees on ways and means by January first, nineteen hundred and eighty-six a report containing plans for implementing a full chargeback system in fiscal year nineteen hundred and eighty-seven.

SECTION 43. The department of elder affairs and the agencies within the executive office of human services are hereby authorized to provide respite care services to their clients either with their own employees or through the purchase of such services from a private vendor. All such agencies and departments which offer respite care services shall establish a system of sliding fees charged for such services. Such system of sliding fees shall consider the income and resources of both the client and his family. For mentally or physically disabled clients, the maximum annual adjusted income allowable for a participating family shall be equal to thirteen thousand dollars per capita. The term "respite care services" shall mean



ACTS, 1985. - Chap. 140.

a support system for a family administering care to a client who is a member of such family, provided that such system uses planned or crisis relief on a short term basis for such family performed by a qualified respite care worker for a specified time in the home of such family, the home of such worker, or in another residential setting.

The executive office of human services is hereby authorized and directed to establish procedures to coordinate the respite care services of the agencies within said executive office to maximize client participation and to minimize overlapping and duplicative services.

**SECTION 44.** Any individual who has not attained the age of twenty-two shall not be confined or allowed to reside in any state mental health hospital or inpatient unit of a state funded mental health clinic under the direction and control of the department of mental health unless such individual is housed within a separate unit with individuals of the same age grouping. Such units shall provide living arrangements, staffing, mental health services, and other programs appropriate to the age grouping. Said department shall establish appropriate age groupings and programs and services designed to meet the needs of individuals in such age groupings.

**SECTION 45.** There is hereby established a regional student medical contract program under the New England Board of Higher Education with the purpose of increasing the number of physicians serving in areas of the state declared to be medically underserved or with a health manpower shortage pursuant to the criteria established by the United States department of health and human services or by the secretary of the executive office of human services. The area health education centers hereafter referred to as AHEC are hereby authorized to establish such program to require physicians who received financial assistance from the state to attend medical school to repay such assistance through service for an established period of time in such areas of the state after the completion of all internship and residency requirements. Such physicians, as a condition of the receipt of such assistance, shall agree to participate in such program administered by AHEC. Successful completion of such program by a physician is hereby declared sufficient to satisfy the payback requirement of item 7077-0021 of section two.

**SECTION 46.** Notwithstanding the provisions of any law to the contrary, agencies are authorized to initiate encumbrances or to make expenditures of funds for the maintenance, repair, replacement, alteration, or purchase of equipment, including motor vehicles and data processing equipment, in accordance with their appropriation amounts, subject to the subsidiary account procedures established pursuant to section twenty-nine of chapter twenty-nine of the General Laws, without prior approval of the house and senate committees on ways and means. The commissioner of administration shall establish a procedure for notification of said committees prior to the encumbrances or expenditure of such funds.

**SECTION 47.** Notwithstanding the provisions of any general or special law to the contrary during fiscal year nineteen hundred and eighty-six, the boards of trustees at each public college and university in the commonwealth are hereby authorized to increase the level of tuition at such college or university by no more than fifteen per cent in excess of the present levels of tuition as established pursuant to section five of chapter fifteen A of the General Laws; provided, however, that such increases in tuition shall be



implemented only after a majority vote to do so by the board of trustees of said college or university and a majority vote to do so by the board of regents of higher education. Any expenditure resulting from said tuition increase shall continue at no expense to the commonwealth. The board of trustees at each public college or university is hereby authorized to establish a tuition retention fund, hereinafter called the fund, for the collection and deposit of any tuition revenue generated pursuant to this section. Each such fund shall be subject to the control and authority of each such board of trustees; provided, however, that such college or university shall prepare a spending plan for the uses of the fund, subject to the approval of the board of trustees. Each such spending plan shall provide for expenditures of the fund only upon educational programs or purchases designed specifically to enhance and improve the quality of education at such college or university. Upon approval of a spending plan, the board of trustees shall file a copy of said plan with the house and senate committees on ways and means; and provided, further, that all non-resident alien students shall pay tuition rates commensurate with the full time equivalent cost for educational services delivered as determined by the board of regents; and provided, further, that the board of trustees of each college or university implementing such tuition increase shall file a detailed expenditure analysis on a quarterly basis with the said board of regents and the house and senate committees on ways and means.

SECTION 48. The department of social services is hereby authorized to continue the revolving fund to be known, as the SSI/SSA Revolving Fund, established during fiscal year nineteen hundred and eighty-four, for the receipt and expenditure of SSI and SSA cash benefits received by the department on behalf of children in its care. Said revolving fund may accrue receipts for expenditure of not more than the sum of five million dollars in the aggregate; but provided, that of said five million dollars, not more than the sum of one million nine hundred thousand dollars may be allocated to and expended during fiscal year nineteen hundred and eighty-six by item of appropriation 4800-0010; provided, further, that of said five million dollars, not more than the sum of three million one hundred thousand dollars may be allocated to and expended during fiscal year nineteen hundred and eighty-six for the purposes of offsetting the costs of substitute care within regional direct service appropriations 4800-0200, and within the social services block grant 4800-0045, but provided further, that said sums shall be allocated pursuant to recommendations submitted by the commissioner of said department and approved by the commissioner of administration and the house and senate committees on ways and means; and provided, further, that said cash benefits received in excess of five million dollars and the balance remaining in said revolving fund which is not expended during fiscal year nineteen hundred and eighty-six shall be credited to the General Fund.

SECTION 49. Notwithstanding the provisions of any general or special law to the contrary, in order to meet the estimated costs of employees fringe benefits provided by the state on account of employees of the Massachusetts State College Building Authority, the University of Lowell Building Authority, the University of Massachusetts Building Authority, and the Southeastern Massachusetts University Building Authority and in order to meet the estimated cost of heat, light, power and other services to be furnished by the commonwealth to projects of the Massachusetts State College Building Authority and the University of Lowell Building Authority, the boards of trustees of these state colleges and universities shall transfer to the General Fund from the funds received from the operation of said projects such costs as will be incurred for



ACTS, 1985. - Chap. 140.

the aforesaid purposes in the current fiscal year, as determined by the appropriate Building Authority, verified by the Board of Regents, and approved by the commissioner of administration and the house and senate committees on ways and means.

SECTION 50. In accordance with the provisions of section forty G of chapter seven of the General Laws, the deputy commissioner of capital planning and operations is hereby authorized to include an escalator clause in state agency leases of space entered into between July first, nineteen hundred and eighty-three and June thirtieth, nineteen hundred and eighty-seven, provided that the maximum escalation rate shall not exceed limits to be established in regulations promulgated by the deputy commissioner. The deputy commissioner shall file with the house and senate committees on ways and means any regulations adopted pursuant to this section, and any amendments thereto, immediately upon their adoption and shall report quarterly to said committees on any leases entered into subject to the provisions of this section and the maximum escalation rate pertaining thereto.

SECTION 51. Notwithstanding the provisions of any general or special law to the contrary, monies received by the commonwealth from rents charged to agencies occupying the Springfield state office building pursuant to agreements entered into between the division of capital planning and operations and such agencies shall be credited on the books of the commonwealth to a fund to be known as the Springfield State Office Building Management Fund. Said fund shall be used solely for maintenance and operation of said building.

The division of capital planning and operations with the approval of the commissioner of administration, shall collect all monies relating to the operation of the said building and deposit the same in the Springfield state office building management fund and may expend, without further appropriation, such monies from said fund as may be required to meet all necessary expenses for the maintenance and operation of said building; provided, however, that any amount collected in excess of three hundred and seventy-three thousand four hundred dollars and the balance remaining in said fund which is not expended during fiscal year nineteen hundred and eighty-six shall be transferred to the General Fund of the commonwealth.

The deputy commissioner of the said division shall file with the commissioner of administration, and the house and senate committees on ways and means, no later than September first of each year, an annual report of the fund's income, expenditures and balances, based upon the status of the fund on June thirtieth of the preceding fiscal year.

SECTION 52. Notwithstanding the provisions of any general or special law to the contrary, revenues not exceeding two hundred thousand dollars from a program of selling publications relating to, but not limited to, fisheries, wildlife and seafood, may be expended by the department of fisheries, wildlife and recreational vehicles without further appropriation, subject to the approval of the secretary of environmental affairs and the state comptroller, for the costs of said program including the preparation of printed materials and supplies and equipment incidental thereto; provided, however, that none of said revenues may be expended for the compensation of employees; provided, further, that any remaining balance of the amount available to the department for expenditure without further appropriation, as provided in this section, at the end of fiscal year nineteen hundred and eighty-five shall not revert to the General Fund and



ACTS, 1985. - Chap. 140.

shall be available to the department for the purposes as provided herein during fiscal year nineteen hundred and eighty-six; and provided, further, that no revenues received by said department from the sale of permits, licenses, stamps and tags under other programs administered by the said department shall be used for the purposes of this section.

SECTION 53. Notwithstanding the provisions of any general or special law to the contrary, revenues in excess of four million seven hundred thousand dollars but not exceeding five million seven hundred thousand dollars, from the collection of charges for services from third party reimbursements and from individuals by the Soldiers' Home in Massachusetts, located in the city of Chelsea, may be expended by said soldiers' home without further appropriation, subject to the approval of the secretary of human services and the state comptroller, for patient care; provided that any remaining balance of the amount available to the soldiers' home for expenditure without further appropriation, as provided in item 4180-0100 of section two of chapter two hundred and thirty-four of the acts of nineteen hundred and eighty-four, as amended, at the end of the fiscal year nineteen hundred and eighty-five shall not revert to the General Fund and shall be available to the home for the purposes as provided herein during fiscal year nineteen hundred and eighty-six. The soldiers' home shall report the amounts of revenue generated from the collection charges for services from third party reimbursements and from individuals, by category of payor, including a detailed summary of the expenditures made for patient care, and shall file said report quarterly with the secretary of administration and finance and the house and senate committees on ways and means.

SECTION 54. Notwithstanding the provisions of any general or special law to the contrary, revenues in excess of two million five hundred thousand dollars but not exceeding three million dollars, from the collection of charges for services from third party reimbursements and from individuals by the Soldiers' Home in Holyoke, may be expended by said soldiers' home without further appropriation, subject to the approval of the secretary of human services and the state comptroller, for patient care. The soldiers' home shall report the amount of revenue generated from the collection charges for services from third party reimbursements and from individuals, by category of payor, including a detailed summary of the expenditures made for patient care, and shall file said report quarterly with the secretary of administration and finance and the house and senate committees on ways and means.

SECTION 55. Notwithstanding the provisions of any general or special law to the contrary, the board of education shall submit quarterly reports to the house and senate committees on ways and means and the commissioner of administration detailing individual project expenditures in fiscal year nineteen hundred and eighty-six under the provisions of items 7052-0004, 7052-0005, and 7052-0006. Such report shall also include a schedule of all projects approved by the board of education for grants and reimbursements under the provisions of item 7052-0004 for payments in fiscal year nineteen hundred and eighty-six; provided, further, that such grants and reimbursements approved by the board of education for payments pursuant to item 7052-0004 in fiscal year nineteen hundred and eighty-six shall not be made until such schedule is approved by the house and senate committees on ways and means.

SECTION 56. Notwithstanding the provisions of any general or special law to the contrary, each public



ACTS, 1985. - Chap. 140.

institution of higher education shall file with the house and senate committees on ways and means a report detailing by subsidiary and by object code expenditures for all academic program costs, all administrative costs and all plant and facility costs for the fiscal years nineteen hundred and eighty-four, nineteen hundred and eighty-five and for the first quarter of fiscal year nineteen hundred and eighty-six; provided that such report shall identify and document all expenditures including, but not limited to, those made from state appropriated funds, federal appropriated funds, tuition retention funds and trust funds; provided, further, that such report shall be filed with the house and senate committees on ways and means by December first, nineteen hundred and eighty-five.

**SECTION 57.** A special commission, to consist of two members of the senate, one of whom shall be the senate chairman of the committee on health care, two members of the house of representatives, one of whom shall be the house chairman of the committee on health care; provided that said chairmen shall jointly serve as chairmen on said commission, and each may appoint an acting chairman in the event of his absence, the secretary of the executive office of communities and development or his designee, the commissioner of the department of public health or his designee, the director of childhood lead poisoning prevention program or his designee, the director of the office for children or his designee, a member of the housing court division of the trial court to be appointed by the chief administrative justice of the supreme judicial court, and eleven persons to be appointed by the governor, two of whom shall be officials of municipal lead poisoning prevention programs, one of whom shall be an official of the neighborhood health centers, one of whom shall be a hospital official with experience in lead poisoning treatment, two of whom shall be parents of lead poisoned children, one of whom shall be an individual with deleading experience in the private sector, one of whom shall be a representative of the real estate industry, one of whom shall be a director of a not-for-profit housing rehabilitation corporation, one of whom shall be an attorney employed by a legal services program which attorney has experience in lead paint enforcement, is hereby established for the purpose of making an investigation and study relative to the adequacy of lead poisoning prevention and control efforts in the commonwealth. Said investigation and study shall include, but not be limited to, consideration of the effectiveness of state and local programs in the prevention of lead poisoning, the availability and quality of private deleading services, the direction of federal agencies and courts in lead poisoning prevention and treatment, and the need for additional or alternative mechanisms to assist in the financing of deleading, the use of economic incentives to promote deleading by landlords and tenants, the effect of the single family exemption, the effectiveness of public education efforts, and the role of the judiciary in lead paint prevention and enforcement. Said commission shall report to the house of representatives the results of its investigation and study and its recommendations if any, together with drafts of legislation necessary to carry its recommendations into effect, by filing the same with the clerk of the house of representatives on or before the last Wednesday in December, nineteen hundred and eighty-six.

**SECTION 58.** A special commission to consist of three members of the senate, six members of the house of representatives, the deputy commissioner of commerce and development for small business assistance or his designee, and three persons to be appointed by the governor, one of whom shall be experienced in the operation of small businesses, is hereby established for the purpose of making an investigation and study relative to the feasibility of establishing a small business incubator which would accelerate job creation



by reducing the failure rate of small business. Said commission shall report to the house of representatives the results of its investigation and study, and its recommendations, if any, together with drafts of legislation necessary to carry its recommendations into effect, by filing the same with the clerk of the house of representatives on or before the last Wednesday in December, nineteen hundred and eighty-six.

**SECTION 59.** A special commission to consist of two members of the senate, three members of the house of representatives, one district attorney, appointed by the president of the district attorney's association, one superior court clerk and one district court clerk, appointed by the president of the clerk's association, one register of deeds appointed by the president of the registers of deeds association, and the land court recorder, is hereby established for the purpose of making an investigation and study relative to the organization, staffing, equipment, compensation, classification, and other requirements for operation of the offices of the district attorney, assistant district attorneys, clerks of court, registers of deeds, recorder of the land court of the commonwealth. Said commission shall report to the general court the result of its investigation and study, and its recommendations, if any, together with drafts of legislation necessary to carry its recommendations into effect, by filing the same with the clerk of the house of representatives on or before the last Wednesday in September, nineteen hundred and eighty-six.

**SECTION 60.** Chapter 297 of the acts of 1983 is hereby amended by striking out section 21 and inserting in place thereof the following section:-

**Section 21.** There is hereby established a special commission, to consist of five members of the senate, one of whom shall be a member of the minority party, and eleven members of the house of representatives, two of whom shall be members of the minority party, for the purpose of making an investigation and study relative to the advancement of foreign trade between the commonwealth and various underdeveloped countries, in particular, with those nations in the Caribbean area of the western hemisphere and with the nations of the African and Asian continent. The executive office of economic affairs shall provide full cooperation to the commission. Said commission shall report to the house of representatives the results of its investigation and study, and its recommendations, if any, together with drafts of legislation necessary to carry its recommendations into effect, by filing the same with the clerk of the house of representatives on or before the last Wednesday in December, nineteen hundred and eighty-six.

**SECTION 61.** The department of mental health shall develop a medium security facility under its control for the care and treatment of persons adjudged not guilty of a crime by reason of mental illness or mental defect. Said facility shall be established by August thirtieth, nineteen hundred and eighty-five, utilizing funds currently available to said department and, notwithstanding the provisions of any other law, regulation, or administrative ruling to the contrary, said facility shall not be located on the grounds of Medfield State Hospital.

**SECTION 62.** The group insurance commission is hereby authorized and directed to prepare a report on the cost of health insurance for state employees provided for by said commission. Said report shall include, but not be limited to, a comparison of the cost of health care for state employees and their dependents compared to the employees and dependents of the private sector with comparable health care benefit levels,



recommendations for containing costs for health care without reduction in employee benefits or health insurance coverage, including a recommendation reflecting a study of medical care utilization patterns of state insureds and addressing the requirement of a second medical opinion by a physician for all nonemergency elective surgery on an employee covered by medical insurance held by said commission as a precondition to said commission paying for said surgery, and the potential reduction to said commission paying for said surgery, and the potential reduction in cost to the commonwealth if the recommendation for cost containment are implemented. Said report shall be filed with the clerk of the house of representatives on or before January first, nineteen hundred and eighty-six, or before any negotiations for insurance coverage rates are completed for fiscal year nineteen hundred and eighty-seven, whichever occurs first.

SECTION 63. Funds appropriated in items 5011-0004, 4510-0106, 4237-1015, 4311-0013, 4800-0027 and 4120-0015 in section two to departments within the executive office of human services for the purpose of increasing the salaries of direct care workers in contracted social and rehabilitative programs shall be expended in conformance with the provisions of regulations promulgated by the executive office for administration and finance and appearing in the Code of Massachusetts Regulations, 801 CMR 25.01 through 25.07, guidelines issued by the secretary of the executive office of human services, and the provisions of applicable regulations of the rate setting commission; provided that such funds shall not be expended until said departments have first reallocated and applied to the upgrading of salaries of direct care workers in said programs all other available contract funds which may be unobligated or which can reasonably be deobligated through contract management efficiencies, including but not limited to historical cost budgeting; provided further, that any such salary increases shall be effective for the full fiscal year nineteen hundred and eighty-six; and provided further, that all costs for such salary increases during fiscal year nineteen hundred and eighty-six shall be provided for within this appropriation act or by funds previously appropriated for human service purposes. The secretary of the executive office of human services shall monitor such reallocations and expenditures for salary upgrading of direct care workers and shall submit a report by item of appropriation which shall detail the rationale for and method of disbursing appropriated direct care salary upgrading funds, including an itemized list of contract awards, providers receiving awards, existing salary levels and awarded salary increases by direct care position, and the amount of other funding which has been reallocated for salary increases, to the house and senate committees on ways and means no later than thirty days after the award of any salary upgrading funds.

SECTION 64. The secretary of the executive office for administration and finance shall submit to the house and senate committees on ways and means on or before January first, nineteen hundred and eighty-six for all state agencies and departments other than the judiciary and the legislative departments, a report identifying all state-funded contracts paid out of the "03" subsidiary accounts, pursuant to which contractors are expected to perform full-time services during fiscal year 1986 which would otherwise be performed by state employees paid out of the "01" or "02" subsidiary accounts, but for the inability of state agencies to hire such employees because position titles have not been authorized or allocated in sufficient numbers to permit such hirings. Said report shall identify by state agency and item of appropriation: (1) each contract identification number; (2) each contractor, by name; (3) the dollar amount of the maximum obligation under each contract; (4) the service or services to be rendered under each



contract; (5) the length of time each contract has been in existence; and, (6) the state position titles and job grades which correspond to the duties being performed by contracted workers and the number of such full-time equivalent positions funded under each contract.

**SECTION 65.** Any state agency or office with employees or consultants compensated from the proceeds of the sale of bonds or notes shall file with the house and senate committees on ways and means no later than August fifteenth, nineteen hundred and eighty-five a report detailing the total number of such employees or consultants so compensated during fiscal year nineteen hundred and eighty-five through the "01", "02", and "03" subsidiary accounts, respectively, and detailing the total dollar amounts so expended during fiscal year nineteen hundred and eighty-five through the "01", "02", and "03" subsidiary accounts, respectively. The following state officials shall file such a report on behalf of their state agency whether or not their state agency had any such employees: the deputy commissioner of capital planning and operations; the commissioner of environmental management; the commissioner of environmental quality engineering; the commissioner of fisheries, wildlife, and recreational vehicles; the commissioner of food and agriculture; the secretary of communities and development; the commissioner of correction; the commissioner of mental health; the secretary of transportation and construction; the commissioner of public works; and the chancellor of the board of regents, whose report shall include such employees of or consultants to any public institution of higher education in the commonwealth.

**SECTION 66.** Notwithstanding the provisions of any general or special law to the contrary, ten per cent, but not more than one million dollars, of the revenues derived from the collection of admission fees, parking fees, and concessions at pools, rinks, parks, forests, beaches, ski areas and golf courses maintained by the metropolitan district commission may be expended by the commission without further appropriation, subject to the approval of the secretary of environmental affairs and the state comptroller, for improvements to recreational programs at pools, rinks, parks, forests, beaches, ski areas and golf courses maintained by said commission including materials, supplies, equipment, promotional activities and interpretive materials; provided, however, that said revenues shall not be expended for the compensation of employees; and provided, further, that any remaining balance of the amount available to the commission for expenditure without further appropriation, as provided in section forty-four of chapter two hundred and thirty-four of the acts of nineteen hundred and eighty-four, at the end of fiscal year nineteen hundred and eighty-five shall not revert to the metropolitan district commission parks fund and shall be available to the commission for use on the purposes as provided herein during fiscal year nineteen hundred and eighty-six.

The commission shall report the amounts of revenue generated from the collection of admission fees, parking fees, and concessions, by category from each such pool, rink, park, forest, beach, ski area and golf course maintained by it, including a detailed summary of the expenditures made by it for each allowable purpose as provided herein at each such facility or area from the maximum one million dollars authorized for expenditures pursuant to this section, and shall file said report for fiscal year nineteen hundred and eighty-five with the house and senate committees on ways and means on or before October first, nineteen hundred and eighty-five and for fiscal year nineteen hundred and eighty-six a similar report shall be filed with said committees on or before December thirtieth, nineteen hundred and eighty-five, and a final report shall be filed with said committees on or before August first, nineteen hundred and eighty-six.



ACTS, 1985. - Chap. 140.

SECTION 67. Notwithstanding any general or special law to the contrary, and except as otherwise provided herein, the bureau of solid waste disposal within the department of environmental management, and all employees, duties, responsibilities, and powers of said bureau shall be transferred to the department of environmental quality engineering, effective January first, nineteen hundred and eighty-six; provided, however, that employees, duties, responsibilities, and powers of said bureau relative to hazardous waste facility siting shall remain within the department of environmental management. The secretary of the executive office of environmental affairs shall oversee and be responsible for said transfer and shall report to the house and senate committees on ways and means, by November first, nineteen hundred and eighty-five, as to the number and positions of employees to be transferred as a result of this section.

All employees of the bureau transferred under this section shall retain their positions without impairment of civil service status, seniority, retirement, or any other employee rights, without any interruption of service and without reduction in compensation and salary grade, notwithstanding any change in title or duties.

Nothing in this section shall be construed to confer upon any officer or employee any rights not held immediately prior to said effective date, or to prohibit any reduction of salary or grade, transfer, reassignment, suspension, discharge, layoff, or abolition of position not prohibited heretofore.

All books, papers, records, documents, plans, and property in the custody of the bureau immediately prior to said effective date, except those relating to hazardous waste facility siting, or otherwise determined by the secretary to be more appropriately retained within the department of environmental management, shall thereafter be placed within the custody of the department of environmental quality engineering.

All rules and regulations promulgated by, or otherwise relating to the bureau, in effect immediately prior to said effective date shall remain in full force and effect, to the extent not inconsistent with this section, until changed or repealed by an appropriate body.

All petitions, hearings, and other proceedings, duly pending before the bureau, and all prosecutions, legal or other proceedings duly commenced by or against the bureau prior to said effective date, except those relating to hazardous waste facility siting, shall be turned over and may be completed by the department of environmental quality engineering in accordance with existing laws, unless determined by the secretary to be more appropriately completed by the department of environmental management. All duly existing contracts, leases, and obligations of the bureau, in effect immediately prior to said effective date shall continue in full force and effect.

SECTION 68. Notwithstanding any special or general law to the contrary, the commissioner of administration is hereby authorized to charge other agencies for the cost of micrographics production services rendered by the bureau of administrative services; provided, that the proceeds received from such charges not exceeding one hundred and fifty thousand dollars shall be credited to the central supply fund established by section four. Any charges in excess of one hundred and fifty thousand dollars shall be credited to the General Fund. The purchasing agent is hereby authorized to incur liabilities and incidental expenses for fiscal year nineteen hundred and eighty-six for the purchase of micrographic supplies and equipment. The comptroller may certify for payment such incidental expenses and liabilities so incurred to an amount not exceeding one hundred and fifty thousand dollars in addition to any amount provided in this act. The purchasing agent is hereby authorized and directed to file quarterly reports with the house and



senate committees on ways and means stating the total amount charged to agencies under this section in the previous quarter and a detailed list of liabilities incurred by said purchasing agent pursuant to this section.

**SECTION 69.** A special commission to consist of three members of the senate, five members of the house of representatives, and five persons to be appointed by the governor, one of whom shall be a manager in a line agency with direct administrative experience in a position below assistant commissioner, one of whom shall be a member of a public employee union, and three of whom shall have training and experience in the management of large governmental or business organizations, is hereby established for the purpose of making an investigation and study relative to inefficient state administrative practices regarding personnel, fringe benefits, purchasing procedures, contracting procedures including construction contracts, equipment, and other areas which hamper efficient administrative practices by state agency managers. Said commission shall report to the general court the results of its investigation and study, and its recommendations, if any, together with drafts of legislation necessary to carry its recommendations into effect, by filing the same with the clerk of the house of representatives on or before the last Wednesday in December, nineteen hundred and eighty-six.

**SECTION 70.** Notwithstanding any special or general law to the contrary, the criminal justice committee, the governor's highway safety committee, the military division of the executive branch, and the civil defense agency shall fall within the jurisdiction of the executive office of public safety for budgetary and administrative purposes.

All employees of said entities shall retain their positions without impairment of civil service status, seniority, retirement, or any other employee rights, without any interruption of service and without reduction in compensation and salary grade, notwithstanding any change in title or duties.

Nothing in this section shall be construed to confer upon any officer or employee any rights not held immediately prior to said effective date, or to prohibit any reduction of salary or grade, transfer, reassignment, suspension, discharge, layoff, or abolition of position not prohibited heretofore.

**SECTION 71.** A special commission, to consist of three members of the senate, three members of the house of representatives and five members to be appointed by the governor, is hereby established for the purpose of making an investigation and study relative to the allocation of resources to colleges and universities in the Massachusetts higher education system. Said commission shall report to the general court the results of its investigation and study, and its recommendations, if any, together with drafts of legislation necessary to carry its recommendations into effect, by filing the same with the clerk of the senate on or before the last Wednesday in December, nineteen hundred and eighty-five.

**SECTION 72.** Notwithstanding the provisions of section thirteen of chapter seventy-one B of the General Laws or the provisions of any other general or special law to the contrary, children receiving clinical nursery school services pursuant to section twenty-seven of chapter nineteen of the General Laws, mentally retarded persons who qualify for educational, habilitational, or day care services pursuant to section twenty-four of chapter nineteen of the General Laws, and children of preschool age who received



ACTS, 1985. - Chap. 140.

early intervention services pursuant to chapter one hundred and eleven F of the General Laws, shall be provided transportation with respect to said services by the departments providing the services.

The departments shall take appropriate steps to ensure the safety of all persons transported under this section. If the department determines that said persons cannot be transported safely without the assistance of monitors, said transporting shall include provision of monitors. Nothing in this section shall preclude the ability of parents to serve as unpaid monitors when their children are being transported.

**SECTION 73.** Notwithstanding the provisions of any general or special law to the contrary, the Greater Athol-Orange chamber of commerce shall be eligible to receive funding under the provisions of item 9091-0211 of section two of this act.

**SECTION 74.** Notwithstanding any provision of law to the contrary, the department of public welfare, in conjunction with the executive office of communities and development, shall prepare a study of the costs of the rental housing market available to public assistance recipients, the ability of recipients to afford the costs of rental housing using basic welfare grants and other forms of income, and the relative disparity in housing costs between public assistance recipients living in publicly-subsidized housing and those who do not receive housing subsidies. Said study shall include an analysis of the state budget for programs to help public assistance recipients afford housing and recommend improvements to budgets for items including but not limited to the housing component of basic welfare grants, emergency assistance benefits, low-income energy assistance and weatherization, and state-subsidized housing programs, with an emphasis on programs that maximize federal reimbursement. The department of public welfare shall submit said study with recommendations to the house and senate committees on ways and means no later than December first, nineteen hundred and eighty-five.

**SECTION 75.** Notwithstanding the provisions of any general or special law to the contrary, the state comptroller is hereby authorized and directed to transfer sixty-four million two hundred and fifty thousand dollars from the General Fund to the pension reserve fund of the state employees' retirement system. Such transferred amount shall be recorded on the books of the commonwealth as of the date of June thirtieth, nineteen hundred and eighty-five and shall be charged against revenues received in the General Fund for the fiscal year ending on said date.

Notwithstanding the provisions of any general or special law to the contrary, the state comptroller is hereby also authorized and directed to transfer sixty-four million two hundred and fifty thousand dollars from the General Fund to the pension reserve fund of the teachers' retirement system. Such transferred amount shall be recorded on the books of the commonwealth as of June thirtieth, nineteen hundred and eighty-five and shall be charged against revenues received in the General Fund for the fiscal year ending on said date.

Said amounts transferred to the state employees' retirement system and the teachers' retirement system shall be reserved exclusively for the future costs of pension benefits of the members of each respective retirement system. Said amounts may be expended, subject to appropriation, only pursuant to an actuarial plan developed by the actuary within the division of public employee retirement administration.

**SECTION 76.** This act shall take effect as of July first, nineteen hundred and eighty-five.



ACTS, 1985. – Chaps. 141, 142.

This bill was returned July 3, 1985 by the Governor to the House of Representatives, the Branch in which said bill originated, with his objections in writing to the following:

Item 0330-3600 reduced to \$500,000,  
Item 0332-7700 reduced to \$332,728, and  
Sections 44,47 and 61.

The remainder of the bill was approved by the Governor on July 3, 1985.  
**Chapter 141. AN ACT EXEMPTING TRAILERS TRANSPORTING  
BULK MILK FROM CERTAIN WEIGHT LIMITATIONS.**

Be it enacted, etc., as follows:

The third paragraph of section 19 of chapter 90 of the General Laws is hereby amended by striking out the sixth sentence, as appearing in the 1984 Official Edition, and inserting in place thereof the following sentence:- Except as provided in this section, no trailer which with its load weighs more than five thousand pounds, other than a semitrailer, a heavy duty platform trailer, a cable-reel trailer, a house trailer, a trailer having at least two axles and used to collect and carry bulk milk from dairy farms to processing plants, or a trailer which is an apparatus or other object on wheels not used to transport other things for delivery, shall be operated or drawn on any way without a permit so to operate from the board or officer having charge of such way or, in case of a state highway or a way determined by the department of public works to be a through route, from said department.

Approved July 8, 1985.

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**Chapter 142. AN ACT AUTHORIZING THE APPREHENSION OF  
CERTAIN PERSONS WITHOUT A WARRANT FOR  
ENGAGING IN ILLEGAL SEXUAL CONDUCT FOR A  
FEE.**

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately increase the penalties for engaging in illegal sexual conduct, 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:

Chapter 272 of the General Laws is hereby amended by striking out section 54, as appearing in the 1984 Official Edition, and inserting in place thereof the following section:-

Section 54. Whoever is found in a public way or other public place, committing any offence or disorder set forth in sections fifty-three and fifty-three A, may be apprehended by a sheriff, deputy sheriff, constable or police officer or by any other person by the order of a magistrate or any of said officers, without a warrant and be kept in custody for not more than twenty-four hours, Sundays and legal holidays excepted, until he can be taken before a court or trial justice having jurisdiction of such



ACTS, 1985. – Chaps. 143, 144.

offence.

Approved July 11, 1985.

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**Chapter 143. AN ACT AUTHORIZING THE CITY OF TAUNTON TO CONVEY A CERTAIN PARCEL OF LAND TO THE COMMONWEALTH.**

Be it enacted, etc., as follows:

**SECTION 1.** The city of Taunton is hereby authorized to convey, by a deed approved as to form by the attorney general, to the division of capital planning and operations, acting for and on behalf of the commonwealth, a certain parcel of land presently being used for conservation purposes for the purpose of constructing a state armory. Said land being bounded and described as follows:–

Beginning at a corner located perpendicular to the centerline of the city of Taunton layout of the honorable Gordon M. Owen Riverway at station 34 + 39.85, said corner being N76°50'32"W 112.50 feet from the aforementioned station, thence running along and within land of said city of Taunton by the following courses:

THENCE S59°30'37" W 55.10 feet to a corner.

THENCE S81°31'37" W 166.66 feet to a corner.

THENCE N29°05'00" W 544.52 feet to a corner.

THENCE S43°05'23" E 439.76 feet to a corner.

THENCE S59°37'23" E 79.34 feet to a corner.

THENCE S36°02'23" E 91.54 feet to a corner and the point of beginning.

**SECTION 2.** This act shall take effect upon its passage.

Approved July 11, 1985.

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**Chapter 144 AN ACT AUTHORIZING THE TOWN OF FOXBOROUGH TO ACQUIRE BY PURCHASE OR OTHERWISE, LAND IN THE TOWN OF MANSFIELD AND TO LAY SEWAGE MAINS OVER SAID LAND AND TO CONNECT THE SAME WITH THE SEWAGE DISPOSAL SYSTEM OF THE TOWN OF MANSFIELD.**

Be it enacted, etc., as follows:

**SECTION 1.** For the purpose of tying into the sewage system of the town of Mansfield, the town of Foxborough is hereby authorized to construct, lay and maintain an interceptor sanitary sewer line and necessary appurtenances thereto, and in furtherance thereof the town of Foxborough is hereby authorized to acquire such easements as may be necessary for such purpose, pursuant to an agreement negotiated and entered into between the town of Mansfield and the town of Foxborough.

**SECTION 2.** This act shall take effect upon its passage.



ACTS, 1985. – Chap. 145.

Approved July 11, 1985.

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**Chapter 145. AN ACT TO PROVIDE FISCAL RELIEF TO CITIES AND TOWNS.**

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately provide fiscal relief to certain cities and towns, 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.** Section 16 of chapter 62C of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out subsection (j) and inserting in place thereof the following two subsections:—

(j) Every person licensed under chapter sixty-four J shall, on or before the twentieth day of each month file with the commissioner a return stating the number of gallons of aircraft fuel sold or used by him in the commonwealth during the preceding calendar month, and such further information as the commissioner may deem necessary, including information relative to the cost and gross receipts from the purchase and sale of such fuel.

(k) Every person subject to taxation under section twenty-one of chapter one hundred and thirty-eight shall file a return with the commissioner for each calendar month covering his sales of all alcoholic beverages or alcohol and all malt beverages imported into the commonwealth by him. Every such return shall be filed within twenty days after the expiration of the period covered thereby.

**SECTION 2.** Section 25 of said chapter 62C, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:— Every distributor, unclassified importer, unclassified exporter or purchaser referred to in section one of chapter sixty-four A, every stamper appointed under section thirty of chapter sixty-four C, every user-seller or supplier of special fuels, as defined in section one of chapter sixty-four E, every motor carrier required to be licensed under chapter sixty-four F, every operator required to register under chapter sixty-four G, every vendor required to register under chapter sixty-four H or sixty-four I, every user-seller or supplier of aircraft fuel, as defined in section one of chapter sixty-four J and every licensee referred to in section twenty-one of chapter one hundred and thirty-eight shall keep and preserve suitable records of taxable charges and such other books, papers, records, and data as the commissioner may require to determine the amount of the tax due under the provisions of those respective chapters.



**ACTS, 1985. – Chap. 145.**

**SECTION 3.** Section 66 of said chapter 62C, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:–

The commissioner may require any person required to be licensed or registered by any provision of chapters sixty-four A to sixty-four C, inclusive, or chapters sixty-four E to sixty-four J, inclusive, or subject to taxation under section twenty-one of chapter one hundred and thirty-eight, to file with him a bond, satisfactory to the commissioner, in such amount as the commissioner may determine, with a surety company authorized to transact business in the commonwealth as surety, to secure the payment of any tax, including any interest or penalty thereon, due or which may become due from such person under said chapters; provided, however, that the amount of such bond required from a vendor under chapter sixty-four H or sixty-four I shall not exceed the amount which the commissioner shall determine to be such vendor's average tax liability for a six month period.

**SECTION 4.** Section 67 of said chapter 62C, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:–

Each vendor, as defined in chapter sixty-four H or sixty-four I, and each operator as defined in chapter sixty-four G who desires to obtain a certificate of registration as required by those chapters, and each person who desires to obtain a license as a distributor, unclassified importer, or unclassified exporter, as defined in chapter sixty-four A, as a manufacturer, wholesaler, vending machine operator, unclassified acquirer, transportation company, or retailer, as defined in chapter sixty-four C, as a user-seller, supplier, or user of special fuels, as defined in chapter sixty-four E, or as a motor carrier, as defined in chapter sixty-four F or as a user-seller or supplier of aircraft fuel as defined in chapter sixty-four J shall file with the commissioner an application in such form as the commissioner prescribes, giving such information as the commissioner requires; provided, however, that in the instance of an application for a wholesaler's license, as defined in chapter sixty-four C, the commissioner shall require, in addition to such other information as may be deemed necessary, the filing of affidavits from three licensed manufacturers, as defined in said chapter sixty-four C, stating that the manufacturer will supply the wholesaler if the applicant is granted a license.

**SECTION 5.** Section 8A of chapter 64A of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by adding the following sentence:– For the purposes of this section, aviation fuel shall not include aircraft fuel as defined in section one of chapter sixty-four J.

**SECTION 6.** Chapter 64G of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by inserting after section 3 the following section:–

Section 3A. Any city or town which accepts the provisions of this section shall be authorized to impose a local excise tax upon the transfer



**ACTS, 1985. – Chap. 145.**

of occupancy of any room or rooms in a hotel, lodging house, or motel located within such city or town by any operator at a rate up to but not exceeding four per cent of the total amount of rent for each such occupancy. No excise shall be imposed if the total amount of rent is less than fifteen dollars per day or its equivalent or if the accommodation is exempt under the provisions of section two of this chapter. The operator shall pay the local excise tax imposed under the provisions of this section to the commissioner at the same time and in the same manner as the excise tax due the commonwealth. All sums received by the commissioner under this section as excise, penalties or forfeitures, interest, costs of suit and fines shall at least semi-annually be distributed, credited and paid by the state treasurer upon certification of the commissioner to each city or town that has adopted the provisions of this section in proportion to the amount of such sums received from the transfer of occupancy in each such city or town. This section shall only take effect in a city or town accepting the provisions of this section by a majority vote of the city council with the approval of the mayor, in the case of a city with a Plan A, Plan B, or Plan F charter; by a majority vote of the city council, in the case of a city with a Plan C, Plan D, or Plan E charter; by a majority vote of the annual town meeting or a special meeting called for the purpose, in the case of a municipality with a town meeting form of government; or by a majority vote of the town council, in the case of a municipality with a town council form of government. The provisions of this section shall take effect on the first day of the first calendar month following such acceptance; provided, however, that such day is at least fifteen days after such acceptance; and, provided further, that if such day is less than fifteen days after such acceptance it shall take effect on the first day of the second calendar month following such acceptance.

The commissioner of the department of revenue shall make available to any city or town requesting such information the total amount of room occupancy tax collected in the preceding fiscal year in the city or town requesting the information.

**SECTION 7.** The General Laws are hereby amended by inserting after chapter 64I the following chapter:—

**CHAPTER 64J.**

**TAXATION OF FUELS USED IN THE PROPULSION OF AIRCRAFT.**

Section 1. As used in this chapter, the following words shall, unless the context otherwise requires, have the following meanings:—

(a) "Aircraft", any machine or device, including airplanes and helicopters, capable of atmospheric flight.

(b) "Aircraft fuel", all combustible gases and liquids, used or sold for use in propelling turbine-propeller jet, turbojet and jet driven aircraft and jet aircraft engines.

(c) "Average price", the weighted average selling price per gallon of aircraft fuel exclusive of any federal and state aircraft fuel taxes imposed thereon sold by licensees, as determined by the commissioner on



ACTS, 1985. – Chap. 145.

a consistent basis from information furnished by suppliers and user-sellers with their monthly returns and from other statistical data reflecting the average level of such prices at the time such determination is made.

(d) "Commissioner", the commissioner of revenue.

(e) "Fuel", shall mean "Fuel" as defined in paragraph (d) of section one of chapter sixty-four A or "Special Fuel" as defined in paragraph (c) of section one of chapter sixty-four E.

(f) "Purchaser", shall include, but not be limited to, in addition to its usual meaning, a person who transfers aircraft fuel into an aircraft, or into a receptacle from which aircraft fuel is supplied by him to his own or other aircraft.

(g) "Sale", shall include, in addition to its usual meaning, the transfer of aircraft fuel by a supplier into an aircraft or into a receptacle from which aircraft fuel is supplied by him to his own or other aircraft, and all sales shall be deemed to occur at the place in the commonwealth where the fuel is transferred into the aircraft by which it is to be used.

(h) "Supplier", any person who sells or delivers fuel to a user-seller and any person who imports fuel into the commonwealth other than in the usual tank or receptacle connected with the engine of the aircraft in the operation of which the aircraft fuel is to be consumed, and resells or uses the same in an aircraft owned or operated by such person, and any person who otherwise would be a user-seller and who has elected instead to qualify and be licensed as a supplier.

(i) "Tax per gallon", five per cent of the average price, as determined by the commissioner for each calendar quarter, computed to the nearest tenth of a cent per gallon; provided, however, that such tax shall not be less than five cents per gallon.

(j) "Use", shall mean and include, in addition to its usual meaning, the receipt of aircraft fuel by any person into a fuel supply tank of an aircraft or into a receptacle from which aircraft fuel is supplied by any person to his own or other aircraft, and all uses shall be deemed to occur at the place in the commonwealth where the fuel is transferred into the aircraft by which it is to be used.

(k) "User-seller", any person, not licensed as a supplier, who dispenses aircraft fuel into the fuel tanks of, or attached to, aircraft or including any such person who so dispenses aircraft fuel for consumption in such aircraft owned, leased or operated by him. Any user-seller may, with the permission of the commissioner, elect instead to qualify and be licensed as a supplier.

Section 2. The commissioner may grant licenses to persons as user-sellers or suppliers of aircraft fuel in accordance with section sixty-seven of chapter sixty-two C.

No person other than a licensed supplier shall maintain storage facilities for aircraft fuel and dispense aircraft fuel therefrom into any fuel tank attached to an aircraft unless such person is the holder of an uncanceled license as a user-seller issued by the commissioner.

No person shall sell or deliver aircraft fuel within this commonwealth to a licensed user-seller unless such person is the holder of an uncanceled license as a supplier issued by the commissioner.



## ACTS, 1985. – Chap. 145.

Section 3. Each licensee shall keep a complete and accurate record of all purchases, sales and use of aircraft fuel, including the name and address of the person accepting delivery of said aircraft fuel to be used in an aircraft in the commonwealth, its place and date of delivery, the gross sales price or cost and the number of gallons of aircraft fuel purchased, sold and used and the complete and accurate record of the number of gallons imported, produced, refined, manufactured or compounded and the date of the importation, production, refining, manufacturing or compounding.

Every licensee shall also present with every consignment of aircraft fuel or delivery of the same to any person other than himself a written statement containing the date of the sale or use within the commonwealth, the date of delivery, the name of the person making the delivery and the name of the person receiving the same, the gross sales price and the number of gallons of aircraft fuel delivered and shall retain a duplicate of each such statement. In the case of use of aircraft fuel by the licensee himself, he shall keep an accurate record of all the deliveries received by him and the names and addresses of the persons from whom he received the same, giving the dates of deliveries, the cost of the aircraft fuel delivered and the number of gallons of such fuel involved in each delivery. Such records and written statements shall be in such form as the commissioner shall prescribe and shall be preserved by said licensees for a period of three years and shall be offered for inspection at any time upon oral or written demand by the commissioner or his duly authorized agent.

Section 4. At the time of filing a return required by section sixteen of chapter sixty-two C, every licensee shall pay to the commissioner an excise at the tax per gallon determined by the commissioner upon each gallon of aircraft fuel sold or used by him in any city or town within the commonwealth that has adopted the provisions of this chapter in accordance with section thirteen.

Section 5. Any person who shall buy any aircraft fuel on which an excise has been paid or is chargeable under this chapter, and shall consume the same in any manner except in the operation of an aircraft, shall be reimbursed the amount of said excise in the manner and subject to the conditions hereinafter set forth. All claims for reimbursement shall be for not less than one dollar, shall be made by affidavit in such form and containing such information as the commissioner shall prescribe, and shall be accompanied by original invoices or sales receipts of aircraft fuel. The commissioner may require such further information as he shall deem necessary for the determination of such claims, and shall transmit all claims approved by him to the comptroller for certification; and the amount approved by the commissioner and certified as aforesaid shall be paid forthwith from the proceeds of the excise tax levied under this chapter, without specific appropriation.

Section 6. Except as otherwise provided in section five, the tax in every instance shall be borne by the purchaser, and no person offering aircraft fuel for sale shall sell, advertise or offer for sale said aircraft fuel separately from the tax imposed by this chapter. For any violation of this section, the license to keep and sell crude petroleum or any of its



ACTS, 1985. – Chap. 145.

products, issued by the licensing authority under chapter one hundred and forty-eight, shall be suspended by the said authority on request of the commissioner for such time as said commissioner deems proper.

Section 7. Any person who violates any provision of this chapter for which a penalty is not otherwise provided shall be punished by a fine of not more than one thousand dollars or by imprisonment for one year, or both such fine and imprisonment.

Section 8. Whenever any licensee ceases to be a supplier or user-seller within the commonwealth by reason of the discontinuance, sale or transfer of the business of such licensee, he shall give notice thereof in writing to the commissioner. Such notice shall contain the date of discontinuance, and, in the event of a sale or transfer of the business, the date thereof and the name and address of the purchaser or transferee thereof. All taxes, penalties and interest due and payable under this chapter and current taxes shall, notwithstanding such provisions, become due and payable concurrently with such discontinuance, sale or transfer, and any such licensee shall make a return and pay all such taxes, interest and penalties, and shall surrender to the commissioner his license.

Unless such notice is given to the commissioner, the purchaser or transferee shall be liable to the commonwealth for the amount of all taxes, penalties and interest accrued under this chapter on the date of such sale or transfer against any such licensee, but only to the extent of the value of the property thereby acquired from such licensee.

Section 9. Any person not licensed under this chapter who delivers to any person other than a licensee under this chapter aircraft fuel upon which the tax due hereunder has not been paid, knowing, or who reasonably should know, that such aircraft fuel is to be used or sold for the purpose of propelling aircraft, shall be liable for the tax imposed by this chapter.

Any user who shall acquire aircraft fuel in the commonwealth for the purpose of propelling aircraft owned or leased by him upon which aircraft fuel the tax due hereunder has not been paid shall be liable for the tax imposed by this chapter, and the commissioner may collect said tax either from the seller thereof or from said user of aircraft fuel.

Section 10. No provision of this chapter shall apply or be construed to apply to foreign or interstate commerce, except in so far as the same may be permitted under the provisions of the constitution and laws of the United States.

Section 11. The supreme judicial or the superior court shall have jurisdiction to restrain the collection, upon any sale exempted by the constitution and laws of the United States, of the excise imposed by this chapter. The complaint shall be brought against the commissioner, whether the question of the collection of the excise is in the hands of the attorney general or pending before the appellate tax board or is still in the hands of the commissioner.

Section 12. All sums received under this chapter as excise, penalties or forfeitures, interest, costs of suit and fines shall be paid to the commissioner at the time required for filing required by section sixteen of chapter sixty-two C, and shall at least semi-annually, be distributed,



ACTS, 1985. – Chap. 145.

credited and paid by the state treasurer upon certification of the commissioner to each city or town that has adopted the provisions of this chapter in accordance with section thirteen in proportion to the amount of such sums received from the sale or use of aircraft fuel in each such city or town.

Section 13. The provisions of this chapter relative to the imposition, payment, collection and distribution of an excise tax on the sale or use of aircraft fuel shall apply in a city after acceptance by a majority vote of the city council with the approval of the mayor, in the case of a city with a Plan A, Plan B, or Plan F charter; by a majority vote of the city council, in the case of a city with a Plan C, Plan D or Plan E charter; by a majority vote of the annual town meeting or a special meeting called for the purpose, in the case of a municipality with a town meeting form of government; or by a majority vote of the town council, in the case of a municipality with a town council form of government. The provisions of this chapter shall take effect on the first day of the first calendar month following such acceptance; provided, however, that such day is at least fifteen days after such acceptance; and, provided further, that if such day is less than fifteen days after such acceptance it shall take effect on the first day of the second calendar month following such acceptance.

Section 14. Any city or town accepting the provisions of this chapter pursuant to section thirteen shall also establish a reserve to provide for extraordinary and unforeseen expenditures. Prior to the date when the tax rate for a fiscal year is fixed each city or town shall include in the appropriations for such fiscal year as a segregated reserve fund a sum not less than one per cent nor more than five per cent of the tax levy of the then current fiscal year; provided, however, that the amount required to be appropriated for such reserve fund in any fiscal year may be reduced by the amount, if any, remaining in the reserve fund established for the preceding fiscal year after all transfers have been made therefrom as hereinafter authorized, and such remaining amount shall be retained in the reserve fund provided for such fiscal year. Any direct draft or transfer against this fund shall be made by the mayor only with the approval of the city council, and in a city having a Plan D or Plan E form of charter only after approval by the city council with the consent of the city manager, or by the appropriating authority as specified in the charter of the city or town. Each draft or transfer made by the mayor, manager or board of selectmen shall be accompanied by written documentation detailing the amount of such draft or transfer and an explanation of the reason for the draft or transfer. If the reserve fund for a fiscal year beginning on or after July first, nineteen hundred and eighty-seven, is exhausted through transfers and the city incurs an appropriation or revenue deficit in such fiscal year, the reserve fund appropriation requirement shall increase by fifty per cent for the fiscal year following such fiscal year up to an amount no greater than five per cent of the tax levy of the current fiscal year. Notwithstanding the provisions of any general or special law to the contrary, the reserve fund established pursuant to this section shall become effective for the fiscal year beginning July first, nineteen hundred and eighty-six. For the



ACTS, 1985. – Chap. 146.

purpose of this section, a city or town shall be defined as a community with a population in excess of one hundred and fifty thousand inhabitants.

**SECTION 8.** Notwithstanding the provisions of section twenty-two of chapter five hundred and forty-six of the acts of nineteen hundred and sixty-nine, the additional tax imposed by such section shall not apply to any tax imposed by section three A of chapter sixty-four G of the General Laws.

**SECTION 9.** This act shall take effect as of July first, nineteen hundred and eighty-five.

Approved July 11, 1985.

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**Chapter 146. AN ACT FURTHER REGULATING THE OPERATION OF MOTOR VEHICLES WITHOUT A LICENSE ISSUED BY THE COMMONWEALTH.**

Be it enacted, etc., as follows:

Section 10 of chapter 90 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

No person under sixteen years of age shall operate a motor vehicle upon any way. No other person shall so operate unless licensed by the registrar unless he possesses a receipt issued under section eight for persons licensed in another state or country or unless he possesses a valid learner's permit issued under section eight B, except as is otherwise herein provided or unless he is the spouse of a member of the armed forces of the United States who is accompanying such member on military or naval assignment to this commonwealth and who has a valid operator's license issued by another state, or unless he is on active duty in the armed forces of the United States and has in his possession a license to operate motor vehicles issued by the state where he is domiciled, or unless he is a member of the armed forces of the United States returning from active duty outside the United States, and has in his possession a license to operate motor vehicles issued by said armed forces in a foreign country, but in such case for a period of not more than forty-five days after his return. The motor vehicle of a nonresident may be operated on the ways of the commonwealth in accordance with section three by its owner or by any nonresident operator without a license from the registrar if the nonresident operator is duly licensed under the laws of the state or country where such vehicle is registered and has such license on his person or in the vehicle in some easily accessible place. Subject to the provisions of section three, a nonresident who holds a license under the laws of the state or country in which he resides may operate any motor vehicle of a type which he is licensed to operate under said license, duly registered in this commonwealth or in any state or country; provided, that he has the



**ACTS, 1985. – Chaps. 147, 148.**

license on his person or in the vehicle in some easily accessible place, and that, as finally determined by the registrar, his state or country grants substantially similar privileges to residents of this commonwealth and prescribes and enforces standards of fitness for operations of motor vehicles substantially as high as those prescribed and enforced by this commonwealth.

Approved July 11, 1985.

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**Chapter 147. AN ACT AUTHORIZING THE CITY OF FALL RIVER TO ESTABLISH A SPECIAL ACCOUNT FOR THE PURPOSE OF MAKING IMPROVEMENTS AND REPAIRS TO THE MUNICIPAL INCINERATOR.**

Be it enacted, etc., as follows:

The city of Fall River is hereby authorized to establish a special separate account, to be administered by the city treasurer, into which fifteen per cent of all monies received by the department of public works as user fees in connection with the operation of the Fall River municipal incinerator, not to exceed sixty thousand dollars in any fiscal year, shall be deposited. The receipts held in such separate account shall be appropriated only for use by the department of public works for the purposes of capital improvements in and repairs to said incinerator and for equipment to be used at the incinerator, but in no event may the funds be used for salaries or ordinary maintenance. Said city may appropriate funds for the operation of the municipal incinerator, which funds shall be expended by said city in addition to funds provided from the separate account established herein.

Approved July 11, 1985.

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**Chapter 148. AN ACT AUTHORIZING THE TOWN OF WEYMOUTH TO CONVEY CERTAIN CONSERVATION LAND TO THE CHILDREN OF THE FORMER OWNER OF SAID LAND.**

Be it enacted, etc., as follows:

For the purpose of discharging a moral obligation the town of Weymouth is hereby authorized to convey to Donald R. Palmer of the town of South Weymouth, Alice R. Tebeau of the town of Norwell, David D. Palmer of West Wellington in the state of Connecticut and William J. Palmer of Mount Pleasant in the state of Michigan, the children of the former owner, as tenants in common for the consideration of one dollar certain land which was acquired for construction purposes.

Said land is shown as Lot seven on a plan drawn by Alfred J. Hogan, Civil Engineer, dated May 25, 1956, and filed as plan number 21913C in the land registration office of the land court.



ACTS, 1985. – Chaps. 149, 150.

Approved July 11, 1985.

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**Chapter 149. AN ACT AUTHORIZING THE TOWN OF WHITMAN TO ACQUIRE CERTAIN SEWER EASEMENTS IN THE CITY OF BROCKTON.**

Be it enacted, etc., as follows:

The board of selectmen of the town of Whitman, acting for and on behalf of said town, may take by eminent domain under the provisions of chapter seventy-nine of the General Laws or acquire by purchase or otherwise easements or other interests in land in the following areas of the city of Brockton: along the eastern Edison power easement from West Crock street to Beaver brook and then along the existing east side interceptor easement to the Brockton wastewater treatment plant with deviations along paper extensions to Southfield drive near the watermain and along the existing drainage and pole easements west of Sinclair road necessary to construct sewers and sewerage systems to convey wastewater to the wastewater treatment facility in said city as may be approved by the mayor of said city. Further easements and other interests in land may be acquired by eminent domain by said town in other locations in said city only with the approval of the mayor and the city council of the city of Brockton.

Approved July 11, 1985.

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**Chapter 150. AN ACT AUTHORIZING THE EXPENDITURE OF CERTAIN UNEXPENDED FUNDS BY MIDDLESEX COUNTY FOR THE INSTALLATION OF A TRAFFIC CONTROL DEVICE IN THE TOWN OF WILMINGTON.**

Be it enacted, etc., as follows:

Notwithstanding the provisions of any general or special law to the contrary, all monies appropriated under the provisions of sub-item 6 of item 10 of section one of chapter eight hundred and fifty-five of the acts of nineteen hundred and sixty-nine, sub-item 6 of item 10 of section one of chapter seven hundred and forty-eight of the acts of nineteen hundred and seventy, and sub-item 6 of item 10 of section one of chapter six hundred and thirty-six of the acts of nineteen hundred and seventy-one for the purpose of relocating and improving the Route 129 bridge, so-called, located in the town of Wilmington, which have not been expended on the effective date of this act, may be expended by Middlesex County, after approval by the Middlesex County Advisory Board, for the installation of traffic control devices, including the costs of preparing plans and specifications therefor, at the intersection of state highway Route 129 and state highway Route 38 in said town and for the improvement, repairs and renovations to streets and ways in



**ACTS, 1985. – Chaps. 151, 152.**

the vicinity of said intersection.

Approved July 16, 1985.

EMERGENCY LETTER: July 18, 1985 @ 9:25 A.M.

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**Chapter 151. AN ACT DESIGNATING A CERTAIN BRIDGE ON HURON AVENUE IN THE CITY OF CAMBRIDGE AS THE MAYOR LEONARD J. RUSSELL MEMORIAL BRIDGE.**

Be it enacted, etc., as follows:

The reconstructed bridge No. C-1-15 located on Huron avenue in the city of Cambridge shall be designated and known as the Mayor Leonard J. Russell Memorial bridge. A suitable marker bearing such designation shall be attached thereto by the department of public works in compliance with the standards of said department.

Approved July 16, 1985.

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**Chapter 152. AN ACT AUTHORIZING THE COUNTY TREASURER OF MIDDLESEX COUNTY TO EXPEND CERTAIN SUMS OF MONEY FOR PAYMENT OF CERTAIN UNPAID BILLS.**

Be it enacted, etc., as follows:

**SECTION 1.** The county treasurer of Middlesex county, with approval of the county commissioners and the advisory board on county expenditures, is hereby authorized to pay from any available funds during the current fiscal year, such of the unpaid bills incurred by said county and totalling three thousand two hundred and ninety-six dollars and fourteen cents for goods and services supplied to said county during the fiscal years nineteen hundred and eighty-two and nineteen hundred and eighty-three as set forth in a list on file in the office of the director of accounts in the department of revenue, which bills are legally unenforceable against said county.

**SECTION 2.** No bill shall be approved by the county commissioners of said county for payment or paid by the county treasurer under the authority of this act unless and until a certificate has been signed and filed with said county treasurer stating under penalties of perjury, that the goods and services for which said bill was submitted were ordered by an official or an employee of said county and that such goods were delivered and actually received by said county and that such services were actually rendered to such county.

**SECTION 3.** This act shall take effect upon its passage.

Approved July 17, 1985.



**ACTS, 1985. – Chaps. 153, 154.**

**Chapter 153. AN ACT ESTABLISHING THE CRIME OF ASSAULT AND BATTERY UPON CERTAIN PUBLIC TRANSPORTATION EMPLOYEES.**

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to increase immediately the security and safety of certain public transportation employees in providing essential services to the public, 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:

Chapter 265 of the General Laws is hereby amended by striking out section 13D, as appearing in the 1984 Official Edition, and inserting in place thereof the following section:–

Section 13D. Whoever commits an assault and battery upon a police officer, firefighter, correction officer, sheriff, deputy sheriff, court officer, parole officer, parole supervisor, constable, an employee of the registry of motor vehicles having police powers, a public school teacher, a public school administrator or any person in a public school system having duties similar to a teacher or administrator when such person is engaged in the performance of his duty at the time of such assault and battery, or a bus, trackless trolley, rail, or rapid transit motorman, operator, gateman, guard, or collector when such person is engaged in the performance of his duties at the time of such assault and battery, shall be punished by imprisonment for not less than ninety days nor more than two and one-half years in a house of correction or by a fine of not less than five hundred nor more than five thousand dollars.

Approved July 17, 1985.

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**Chapter 154. AN ACT RELATIVE TO THE APPOINTMENT OF CERTAIN DESIGNEES FOR LOCAL ASSESSMENT COMMITTEE MEMBERS.**

Be it enacted, etc., as follows:

**SECTION 1.** Clause (6) of the first paragraph of section 5 of chapter 21D of the General Laws, as so appearing in the 1984 Official Edition, is hereby amended by striking out, in line 13, the words "or their designees".

**SECTION 2.** Said first paragraph of said section 5 of said chapter 21D is hereby further amended by inserting after the second sentence the following sentence:– Alternate members shall serve on said committee in the absence of members appointed in accordance with clauses (6) and (7) who, in each instance, shall be appointed in the same manner as those members appointed pursuant to said clauses (6) and (7).

Approved July 17, 1985.



ACTS, 1985. – Chaps. 155, 156, 157, 158.

**Chapter 155. AN ACT FURTHER REGULATING THE ALTERATION  
OF AN ODOMETER ON CERTAIN MOTOR VEHICLES.**

Be it enacted, etc., as follows:

Section 141A of chapter 266 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:— Whoever, with the intent to misrepresent to a prospective or eventual purchaser the number of miles traveled by a motor vehicle, turns back or readjusts the speedometer or odometer thereof shall be punished by a fine of not less than five hundred nor more than one thousand dollars, or by imprisonment in a jail or house of correction for not less than thirty days nor more than two years, or both.

Approved July 17, 1985.

EMERGENCY LETTER: July 18, 1985 @ 9:25 A.M.

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**Chapter 156. AN ACT PROVIDING FOR UNFUNDED PENSIONS IN  
CERTAIN CITIES AND TOWNS.**

Be it enacted, etc., as follows:

The first sentence of section 25 of chapter 59 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by adding after the word "expenses", in line 11, the words:— the Pension Reserve Fund, established pursuant to section five D of chapter forty.

Approved July 17, 1985.

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**Chapter 157. AN ACT AUTHORIZING THE TOWN OF AMHERST TO  
CONVEY CERTAIN CEMETERY LAND.**

Be it enacted, etc., as follows:

**SECTION 1.** The town of Amherst may by a vote of its town meeting convey, alienate, lease or otherwise dispose of any portion or portions of The West Cemetery, so-called, located in said town, that have not actually been used for burial purposes.

**SECTION 2.** This act shall take effect upon its passage and shall become inoperative on June thirtieth, nineteen hundred and eighty-six.

Approved July 18, 1985.

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**Chapter 158. AN ACT PROVIDING FOR CIVIL SERVICE STATUS FOR  
MARYELLEN BARRY AS POLICEWOMAN STENO-  
GRAPHER IN THE POLICE DEPARTMENT OF THE**



ACTS, 1985. – Chap. 159.

TOWN OF TEWKSBURY.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of chapter thirty-one of the General Laws or any other law or rule to the contrary, Maryellen Barry is hereby granted civil service tenure in the position she held in the Tewksbury police department on November fifteenth, nineteen hundred and eighty-four.

SECTION 2. This act shall take effect upon its passage.

Approved July 18, 1985.

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Chapter 159, AN ACT RELATIVE TO THE DEBT SERVICE  
SCHEDULE FOR CERTAIN BONDS OR NOTES OF THE  
TOWN OF LEE.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of any general or special law to the contrary, any of the bonds or notes authorized in a principal amount, not to exceed one million dollars by the town of Lee pursuant to the vote passed under article one of the warrant for the special town meeting of September ninth, nineteen hundred and eighty-two, to be sold to the Farmers Home Administration, Department of Agriculture of the United States, may provide that the initial payment of principal of such bond or note may be deferred until up to ten years after the date thereof. To the extent that any deferral allowed by the Farmers Home Administration of principal or interest payments or of accrual of interest is measured from the date of completion of the project being financed by such bonds or notes or the date on which such project is used to provide water to the inhabitants of said town, such dates shall be determined by vote of the board of selectmen of said town or in such other manner as agreed to by said board of selectmen and the Farmers Home Administration, any such determination shall be conclusive evidence as to such dates. For all years, each such year being the one-year period beginning on the same calendar date in such year as the date of such bond or note, in which a payment of both principal of and interest on such bond or note, in which a payment of both principal of and interest on such bond or note is required, except for the first such year, the amounts payable in such years for principal and interest combined shall be as nearly equal as practicable in the opinion of the board of selectmen and town treasurer, or, in the alternative, in accordance with a schedule providing a more rapid amortization of principal. Except as otherwise provided herein, such bonds or notes shall be subject to all applicable provisions of chapter fourty-four of the General Laws.



**ACTS, 1985. – Chaps. 160, 161, 162.**

**SECTION 2.** This act shall take effect upon its passage.

Approved July 18, 1985

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**Chapter 160. AN ACT AUTHORIZING THE TOWN OF WAREHAM TO COMPENSATE ARLENE BARRETT AND LUCILLE ROBERGE FOR CERTAIN VACATION TIME.**

Be it enacted, etc., as follows:

**SECTION 1.** The town of Wareham is hereby authorized to appropriate and after such appropriation the treasurer of said town is hereby authorized to pay to Arlene Barrett and Lucille Roberge, employees in the public school department of said town the sum of seven hundred twenty-one dollars and twenty-five cents for vacation compensation due them in a prior fiscal year.

**SECTION 2.** This act shall take effect upon its passage.

Approved July 18, 1985.

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**Chapter 161. AN ACT PROVIDING THAT THE POSITIONS OF HEALTH AGENT AND PRINCIPAL CLERK IN THE BOARD OF HEALTH IN THE TOWN OF MILTON SHALL BE EXEMPT FROM THE CIVIL SERVICE LAW.**

Be it enacted, etc., as follows:

**SECTION 1.** The positions of health agent and principal clerk in the board of health in the town of Milton shall be exempt from the provisions of chapter thirty-one of the General Laws.

**SECTION 2.** The provisions of section one shall not impair the civil service status of any incumbent holding permanent civil service status in the position of health agent or principal clerk in the board of health in the town of Milton on the effective date of this act.

**SECTION 3.** This act shall take effect upon its passage.

Approved July 18, 1985.

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**Chapter 162. AN ACT AUTHORIZING THE TOWN OF MANSFIELD TO ESTABLISH A CAPITAL DEPRECIATION FUND.**

Be it enacted, etc., as follows:

**SECTION 1.** Notwithstanding the provisions of section fifty-three of



**ACTS, 1985. – Chaps. 163, 164.**

chapter forty-four of the General Laws or any other law to the contrary, the town of Mansfield is hereby authorized to establish in its treasury a special account which shall be known as the Mansfield Wastewater Treatment Plant Capital Depreciation Account. Said town may appropriate such funds each year by vote of the town meeting as it shall deem appropriate and such funds shall be kept separate from other monies. The town treasurer of said town shall be the custodian of the fund and may deposit the proceeds in national banks or invest the proceeds by deposit in savings banks, cooperative banks or trust companies organized under the laws of the commonwealth, or invest the same in such securities as are legal for the investment of funds of savings banks under the laws of the commonwealth or in federal savings and loan associations situated in the commonwealth. Any interest earned shall be added to and become part of the fund. Such funds and interest thereon shall be expended only for capital improvements and expansion of the wastewater treatment plant and sludge composting facility and only by a majority vote at a town meeting.

**SECTION 2.** This act shall take effect upon its passage.

Approved July 18, 1985.

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**Chapter 163. AN ACT RELATIVE TO APPROPRIATIONS BY THE TOWN OF ORLEANS FOR MUNICIPAL ADVERTISING.**

Be it enacted, etc., as follows:

**SECTION 1.** Chapter 2 of the acts of 1961 is hereby amended by striking out section 2, as amended by chapter 71 of the acts of 1976, and inserting in place thereof the following section:–

**Section 2.** The town of Orleans may appropriate annually a sum not exceeding ten thousand dollars for the purpose of advertising and promoting the advantages of said town, and for the erection and maintenance of information booths therein; provided, however, that a sum at least equal to the amount of such appropriation shall be contributed by public subscription or by donation or legacy, and paid into the town treasury to be expended, in addition to the sums appropriated for the aforesaid purposes. The money so appropriated and so contributed shall be expended under the direction of the board of selectmen.

**SECTION 2.** This act shall take effect upon its passage.

Approved July 18, 1985.

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**Chapter 164. AN ACT AUTHORIZING THE TOWN OF DEDHAM TO APPOINT A SPECIAL COMMITTEE TO ARRANGE FOR A CELEBRATION COMMEMORATING THE THREE**



ACTS, 1985. – Chap. 164.

HUNDRED FIFTIETH ANNIVERSARY OF THE  
INCORPORATION OF DEDHAM AS A TOWN.

Be it enacted, etc., as follows:

SECTION 1. The board of selectmen of the town of Dedham is hereby authorized to appoint a committee, to be known as the Dedham '86 committee, which shall consist of not more than fifteen members, who shall be residents of said town. The members of said committee shall include one member from each of the nine voting districts of the town, one member from the board of selectmen, one member from the park and recreation commission, one member from the Dedham Historical Society, one member from the Dedham school committee and two members of the general public. Said committee shall devise ways and means of celebrating the three hundred fiftieth anniversary of the town of Dedham, and to handle all arrangements in connection with the celebration thereof.

The board of selectmen shall designate one of said members as treasurer of said committee, who shall deposit all receipts of said committee into a special revolving fund established in section three. Said treasurer shall give bond for the faithful performance of his duties in such form and such amount as the selectmen shall determine. Said committee shall elect from its membership a chairman, vice chairman, and secretary, and may establish any subcommittees deemed necessary. Said committee may expend for the aforesaid purposes such sums as it deems necessary, including the expenses for stationery, advertising, and stenographic services. The members of said committee shall receive no compensation for their services. Said committee is hereby authorized to receive donated grants, contributions, and other monies necessary in carrying out the purposes of this act.

Said committee shall be empowered, in relation to any activity or proposal directly related to the three hundred fiftieth anniversary celebration, to review such activity or proposal and make to the town clerk such recommendations, endorsements, or comments as they may deem appropriate regarding the use of the town seal by said town clerk as provided in section forty-seven of chapter forty of the General Laws.

Said committee shall have exclusive authority to use or to authorize the use in any manner whatsoever of the official logotype or symbol, as well as the official title of the town celebration; it shall have exclusive authority to approve, schedule, or otherwise regulate all events and activities which may comprise any portion of the official celebration.

SECTION 2. The town of Dedham is hereby authorized to appropriate such sums as it may determine to be necessary to carry out the purposes of this act.

SECTION 3. Pursuant to the provision of Clause (27) of section five of chapter forty of the General Laws, and notwithstanding the provisions of section fifty-three of chapter forty-four of the General Laws, the town of Dedham is hereby authorized to establish in its treasury a special



**ACTS, 1985. – Chap. 165.**

revolving fund in which shall be deposited any and all appropriations, receipts, contributions, grants, and other monies of the committee established to celebrate the three hundred fiftieth anniversary of the incorporation of the town of Dedham. Said funds shall be kept separate by the town treasurer from any other money, funds, or property of said town, and the principal and interest thereof shall, from time to time by authorization of the majority of the committee established by this act, be expended without further appropriation for the purposes of said celebration in the year of such celebration and in the year preceding or succeeding same. All such funds shall be fully accounted for by said committee to the board of selectmen at the end of each fiscal year while such fund is in existence and after such celebration is concluded. Any surplus remaining in said special revolving fund after payment of all expenses for such celebration shall be transferred into the treasury of said town.

**SECTION 4.** This act shall take effect upon its passage.

Approved July 18, 1985.

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**Chapter 165. AN ACT EXTENDING THE TIME FOR REVISION OF PRECINCTS IN TOWNS AND OF PRECINCTS AND WARDS IN CITIES AND THE FILING OF SAID PLANS WITH THE SECRETARY OF THE COMMONWEALTH.**

Be it enacted, etc., as follows:

**SECTION 1.** Notwithstanding the provisions of any general or special law to the contrary, the annual street listing required by section four of chapter fifty-one of the General Laws for the year nineteen hundred and eighty-six shall include an inquiry, in a form prescribed by the state secretary, as to each resident's race and primary language. For the purpose of such inquiry, sections one to eight, inclusive, of chapter fifty-six of the General Laws shall apply, and the state secretary shall have all the powers provided in sections seven and nine of chapter nine of the General Laws. On or before June first, nineteen hundred and eighty-six the registrars or listing board shall return the resulting information to the state secretary, in a form prescribed by him and in the manner provided by section seven of chapter nine of the General Laws. The state secretary shall file the same with the clerk of the house of representatives as soon as possible thereafter, for the supplemental and informational use of the general court in making its new division of the commonwealth into representative, senatorial, and executive councillor districts, under Article CI of the Amendments to the Constitution. Subject to any special law, in making such redivision into wards and precincts required in the year nineteen hundred and eighty-five by sections one, two and six of chapter fifty-four of the General Laws, a city council or board of selectmen shall make use of racial and ethnic information collected by the most recent federal



**ACTS, 1985. – Chap. 166.**

census. Such redivision need not be made until September fifteenth, nineteen hundred and eighty-five, and the time required for any other action by said sections is hereby extended for a period of ninety days.

**SECTION 2.** The provisions of sections one, two and six of chapter fifty-four of the General Laws shall not apply in the years nineteen hundred and eighty-five and nineteen hundred and eighty-six to any municipality with less than twelve thousand population that is contiguous by land with only one other municipality or is surrounded by water.

**SECTION 3.** This act shall take effect upon its passage.

Approved July 18, 1985.

EMERGENCY LETTER: July 19, 1985 @ 9:43 A.M.

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**Chapter 166. AN ACT AUTHORIZING AN ADDITIONAL TIME PERIOD FOR THE CITY OF EVERETT TO ACT ON TAX ABATEMENTS FOR FISCAL YEAR NINETEEN HUNDRED AND EIGHTY-FIVE.**

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately authorize an additional time period for the city of Everett to act on tax abatements for fiscal year nineteen hundred and eighty-five, 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.** Notwithstanding the provisions of section sixty-three of chapter fifty-nine of the General Laws or any other general or special law to the contrary, if the board of assessors of the city of Everett fail to take action on an application for abatement for taxes levied for fiscal year nineteen hundred and eighty-five for a period of six months following the filing thereof, such board shall, within ten days after such period, notify the applicant of such inaction in writing.

**SECTION 2.** Notwithstanding the provisions of section sixty-four of said chapter fifty-nine or any other general or special law to the contrary, for taxes levied for fiscal year nineteen hundred and eighty-five, whenever the board of assessors for the city of Everett, before which an application in writing for the abatement of a tax is or shall be pending, fails to act upon said application, except with the written consent of the applicant, prior to the expiration of six months from the date of filing of such application, it shall then be deemed to be denied and said assessors shall have no further authority to act thereon; provided, however, that during the period allowed for the taking of an appeal said assessors may by agreement with the applicant abate the tax in whole or in part in final settlement of said application, and shall also have the authority granted to them by section seven of chapter



**ACTS, 1985. – Chaps. 167, 168.**

fifty-eight A of the General Laws to abate in whole or in part, any tax as to which an appeal has been seasonably taken.

**SECTION 3.** This act shall take effect as of June twenty-ninth, nineteen hundred and eighty-five.

Approved July 18, 1985.

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**Chapter 167. AN ACT FURTHER REGULATING THE TRANSPORTATION DEVELOPMENT AND IMPROVEMENT PROGRAM OF THE COMMONWEALTH.**

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately regulate the transportation development and improvement program of the commonwealth, 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.** Clause (a) of section 2 of chapter 637 of the acts of 1983 is hereby amended by striking out, in line 1, the words "two hundred" and inserting in place thereof the following word:– ninety.

**SECTION 2.** Clause (b) of said section 2 of said chapter 637 is hereby amended by inserting after the word "hundred", in line 1, the following words:– and eighty-nine.

**SECTION 3.** Clause (c) of said section 2 of said chapter 637 is hereby amended by striking out, in line 1, the word "sixty" and inserting in place thereof the following word:– eighty.

**SECTION 4.** Clause (d) of said section 2 of said chapter 637 is hereby amended by striking out, in line 1, the word "four" and inserting in place thereof the following word:– five.

Approved July 18, 1985.

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**Chapter 168. AN ACT INCREASING THE AMOUNT OF PROPERTY DAMAGE NECESSARY FOR THE MANDATORY REPORTING OF MOTOR VEHICLE ACCIDENTS.**

Be it enacted, etc., as follows:

The first paragraph of section 26 of chapter 90 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:– Every person operating a motor vehicle which is involved in



**ACTS, 1985. – Chaps. 169, 170.**

an accident in which any person is killed or injured or in which there is damage in excess of one thousand dollars to any one vehicle or other property shall, within five days after such accident, report in writing to the registrar on a form approved by him and send a copy thereof to the police department having jurisdiction on the way where such accident occurred; provided, however, that such police department shall accept a report filed by an owner or operator whose vehicle has been damaged in an accident in which another person has unlawfully left the scene of such accident.

Approved July 18, 1985.

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**Chapter 169. AN ACT AUTHORIZING THE CONVEYANCE OF LAND IN THE TOWN OF MIDDLEBOROUGH OWNED BY A CERTAIN TRUST TO THE CENTRAL BAPTIST CHURCH OF MIDDLEBOROUGH.**

Be it enacted, etc., as follows:

The trustees under a certain indenture of trust dated August twenty-sixth, eighteen hundred and twenty-eight, by and between Levi Pierce, Peter H. Pierce, Levi Tinkham, Tisdale Lincoln, Silvanus Barrows, Elisha Tucker, James M. Leonard, and Joseph Clark, the trustees, and their successor trustees, are hereby authorized to convey all their rights, title and interests in a certain parcel of land in the town of Middleborough to The Central Baptist Church of Middleborough, a religious corporation established by chapter three hundred and twenty-eight of the acts of nineteen hundred and seventy-two. Said parcel of land is located at the corner of Union street and Nickerson avenue in said town, containing seven thousand two hundred and fifty-four square feet, and is shown as Lot 137 on assessors map U57 of said town.

Approved July 18, 1985.

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**Chapter 170. AN ACT RELATIVE TO THE SOUTH ESSEX SEWERAGE DISTRICT.**

Be it enacted, etc., as follows:

**SECTION 1.** The second paragraph of section 2 of chapter 339 of the acts of 1925, as appearing in section 3 of chapter 643 of the acts of 1972, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:-

The director of public services of the city of Salem, the director of public services of the city of Peabody and the commissioner of public works of the city of Beverly shall be members of said board.



ACTS, 1985. - Chap. 170.

**SECTION 2.** The third paragraph of said section 2 of said chapter 339, as so appearing, is hereby amended by adding the following two sentences:- In the event of the incapacity of an appointed member of said board other than the chairman, the mayor of the city represented by such member of the board, committee or officer having charge of sewerage in the town represented by such member, as the case may be, shall appoint an interim member to serve for the duration of such incapacity, and the chairman shall be notified in writing of such appointment. Said interim member shall represent his respective city or town as a member of the board, with full powers, including the right to vote, and shall receive the rate of compensation paid to the appointed member for the period served, provided that any compensation paid to the interim member shall be deducted from the annual compensation of said regular member.

**SECTION 3.** Section 14 of said chapter 339, as amended by section 2 of chapter 384 of the acts of 1935, is hereby further amended by adding the following paragraph:-

The board may make reasonable charges for any permits it may issue pursuant to regulations adopted under this section and may issue orders to users directing compliance with the terms of such permits and regulations. The board may take action to enjoin any violation of the regulations adopted under this section or of any permits or orders issued thereunder. Whoever violates any provision of this section, any regulation, order or permit issued hereunder or who knowingly makes any false representation in an application, record, report or plan, or falsifies, tampers with or renders inaccurate a monitoring device or method required by any regulation, order or permit issued hereunder (a) shall be punished by a fine of not less than one thousand nor more than ten thousand dollars for each day such violation continues or by imprisonment for not more than one year, or both; or (b) shall be subject to a civil penalty not to exceed ten thousand dollars per day of such violation which may be assessed in an action brought on behalf of the board in a court having jurisdiction as provided by this chapter.

**SECTION 4.** Said chapter 339 is hereby further amended by striking out section 20, as amended by section 3 of said chapter 384, and inserting in place thereof the following section:-

Section 20. The superior court shall have jurisdiction over all matters arising under the provisions of this chapter except for those matters herein reserved to the supreme judicial court.

The supreme judicial court shall fix and determine the compensation of all commissioners appointed by it under the provisions of section nineteen, which compensation shall be paid in the first instance by said district and shall be added to the cost of maintenance and operation of said sewers and other works for the year in which it is paid. Said court may, in its discretion, award costs against the losing party.

Approved July 18, 1985.



ACTS, 1985. – Chaps. 171, 172.

Chapter 171. AN ACT PLACING THE TOWN OF BELLINGHAM UNDER THE JURISDICTION OF THE DIVISION OF THE COUNTY HOUSING COURT DEPARTMENT OF WORCESTER COUNTY.

Be it enacted, etc., as follows:

Section 1 of chapter 185C of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:– The housing court department, established under section one of chapter two hundred and eleven B, shall be composed of a division for Hampden county, a division for Worcester county, including the town of Bellingham in Norfolk county, and a division for the city of Boston.

Approved July 18, 1985.

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Chapter 172. AN ACT AUTHORIZING, RATIFYING AND CONFIRMING THE MERGER OF WILLISTON ACADEMY AND NORTHAMPTON SCHOOL FOR GIRLS, INC.

Be it enacted, etc., as follows:

SECTION 1. The merger of Williston Seminary, also known as Williston Academy, incorporated under chapter twenty-eight of the acts of eighteen hundred and forty-one, and Northampton School for Girls, Inc., incorporated under the provisions of chapter one hundred and eighty of the General Laws, into one charitable corporation under the name Williston Northampton School, hereinafter called the merged corporation, pursuant to an agreement between the said corporations dated April seventeenth, nineteen hundred and seventy-one, hereinafter called the agreement, is hereby authorized, ratified and confirmed upon the filing of a certified copy of the agreement with the state secretary.

SECTION 2. The merged corporation shall have all the privileges, powers and immunities which said prior existing corporations had heretofore acquired and enjoyed under the laws of the commonwealth.

SECTION 3. As of the effective date of the merger, all property of Williston Seminary and Northampton School for Girls, Inc., including all bequests, devises, gifts and transfers of any kind theretofore and thereafter made for the benefit of either of them, shall be deemed transferred to and vested in the merged corporation without further act or deed. The merged corporation shall have the same powers, rights and privileges with respect to such property and with respect to such bequests, devises, gifts and transfers as would have been possessed by the merged corporation had such bequests, devises, gifts and transfers been made directly to it and for its purposes, so far as such powers,



ACTS, 1985. – Chap. 173.

rights and privileges can be constitutionally conferred by the general court and without prejudice to any court proceeding, and otherwise shall have with respect to such property and such bequests, devises, gifts and transfers the same powers, rights and privileges as would have been possessed by Williston Seminary and Northampton School for Girls, Inc. had such merger not been effected.

**SECTION 4.** The merged corporation shall be deemed to have assumed and shall be liable for all liabilities and obligations of Northampton School for Girls, Inc.

**SECTION 5.** This act shall take effect as of July first, nineteen hundred and seventy-one.

Approved July 18, 1985.

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**Chapter 173. AN ACT FURTHER REGULATING THE SALE OR LEASE OF REAL PROPERTY OF A COUNTY.**

Be it enacted, etc., as follows:

Section 14 of chapter 34 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out the last two sentences and inserting in place thereof the following five paragraphs:-

At least ninety days prior to contracting for the sale or lease of such real estate, the commissioners shall notify in writing the city council or board of selectmen of the city or town in which such real estate is located; the members of the general court representing said city or town; the advisory board on county expenditures of the county in which such real estate is located; and the regional planning agency of the region in which such real estate is located.

Such notification shall include information as to the real estate's present use; the reason for its sale or lease; the new activity or purpose for which it will be used; and a copy of an independent appraisal done within the past fiscal year. Such appraisal shall be by a qualified appraiser approved by the executive committee of the advisory board on county expenditures of the county in which such real estate is located.

At least forty-five days but not more than sixty days prior to contracting for the sale or lease of said real estate, the commissioners shall cause a public hearing to be held in the town or city in which such real estate is located.

The commissioners shall publish on at least two occasions, in at least two newspapers serving the city or town in which such real estate is located, the time and place of said hearing. Such publication shall occur at least fourteen days prior to said hearing.

Any contract for the sale or lease of real estate executed in violation of this section shall be voidable; provided, however, that no action for violation of this section may be commenced subsequent to the date of the delivery of the deed conveying such real estate.



**ACTS, 1985. – Chaps. 174, 175.**

Approved July 18, 1985.

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**Chapter 174. AN ACT AUTHORIZING KEVIN GILE TO TAKE A CIVIL SERVICE EXAMINATION FOR MOTOR VEHICLE EXAMINER NOTWITHSTANDING THE MAXIMUM AGE REQUIREMENTS.**

Be it enacted, etc., as follows:

Notwithstanding the provisions of any general or special law or rule to the contrary regulating the maximum age of applicants for appointment as a motor vehicle examiner in the registry of motor vehicles, Kevin Gile of the town of Stoneham shall be eligible to take the next open competitive examination for motor vehicle examiner, and provided he meets all other requirements, shall be eligible for certification and appointment.

Approved July 18, 1985.

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**Chapter 175. AN ACT RELATIVE TO TRUSTEES OF SOLDIERS' MEMORIALS.**

Be it enacted, etc., as follows:

**SECTION 1.** Chapter 41 of the General Laws is hereby amended by striking out section 105, as appearing in the 1984 Official Edition, and inserting in place thereof the following section:–

Section 105. Towns which accept gifts or bequests or appropriate money for the purpose of properly commemorating the services and sacrifices of the soldiers, sailors, marines and airmen who have served the country in war or persons who have rendered military service for the commonwealth in time of war may provide for a board of trustees to have charge and control of the construction of any such memorial, and to have the custody and care thereof after its construction. In cities the board shall consist of the mayor, and five members appointed by him and approved by the council, two of whom shall not be veterans of any war; two members shall be appointed for one year, two for two years, and one for three years, and as the term of each member expires, a successor shall be appointed for three years. Any vacancy shall be filled in the same manner for the unexpired term. In towns the said board shall consist of the chairman of the board of selectmen, and five members elected by the town in the same manner as other town officers, two of whom shall not be veterans of any war; two members shall be elected for one year, two for two years and one for three years, and as the term of each member expires, a successor shall be elected for three years; but until such board is elected, the selectmen may appoint a temporary board to serve until the next annual town meeting. Any vacancy occurring in the town board shall be filled for the unexpired term by the



**ACTS, 1985. – Chaps. 176, 177.**

remaining members. Such board may make such rules and regulations relative to the use of said memorials as they deem necessary. "War" as used in this section shall include, but not be limited to, the following military actions: Korean, Vietnam, Lebanon, and Grenada.

**SECTION 2.** Nothing in this act shall affect the term of existing trustees of soldiers' memorials.

Approved July 18, 1985.

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**Chapter 176. AN ACT AUTHORIZING THE CONSERVATION COMMISSION OF THE TOWN OF YARMOUTH TO OPERATE AND MAINTAIN CRANBERRY BOGS.**

Be it enacted, etc., as follows:

The conservation commission of the town of Yarmouth is hereby authorized to operate and maintain cranberry bogs either by contract or other means on land under the care, custody and control of said commission for the purpose of selling the produce from such bogs. Any income received from such sales shall be deposited in a special fund in the office of town treasurer by said commission and shall be appropriated from said special fund for the payment of any outstanding debt incurred by the taking or purchase of such land and upon the retirement of such debts all funds shall be deposited in the conservation land acquisition fund of said town. The town accountant of said town shall annually audit said special fund and shall submit a copy of said audit thereof to the board of selectmen.

Approved July 18, 1985.

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**Chapter 177. AN ACT RELATIVE TO THE MEMBERSHIP OF THE ADVISORY COUNCIL ON ORGAN TRANSPLANTS.**

Be it enacted, etc., as follows:

The first paragraph of section 15 of chapter 17 of the General Laws, as appearing in section 3 of chapter 693 of the acts of 1983, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:– There shall be an advisory council on organ transplants consisting of the commissioner of public health, the commissioner of public welfare, the president of the Massachusetts Medical Society, and six persons experienced in the field of organ donations or transplants to be appointed by the governor, at least one of whom shall be a recipient of a donated organ.

Approved July 18, 1985.



**ACTS, 1985. – Chap. 178.**

**Chapter 178. AN ACT FURTHER REGULATING THE SPRINGFIELD PARKING AUTHORITY.**

Be it enacted, etc., as follows:

**SECTION 1.** The first paragraph of section 3 of chapter 674 of the acts of 1981 is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:– The Authority is hereby constituted a public instrumentality, and the exercise by the Authority of the powers conferred by this act shall be deemed and held to be the performance of essential governmental functions.

**SECTION 2.** The eighth paragraph of said section 3 of said chapter 674 is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:– The mayor of the city shall appoint annually one of the members as chairman of the Authority who, unless he is removed or resigns, shall serve as chairman for the term of his appointment and thereafter until his successor is appointed, and the Authority shall elect a secretary-treasurer who need not be a member of the Authority.

**SECTION 3.** The ninth paragraph of said section 3 of said chapter 674 is hereby amended by inserting after the first sentence the following sentence:– In selecting other forms of sureties, the mayor may approve a single surety company bond of such type and with such limits as he approves which insures the members and some or all of the employees of the Authority.

**SECTION 4.** Clause (t) of section 5 of said chapter 674 is hereby amended by striking out, in line 8, the word "and".

**SECTION 4A.** Said section 5 of said chapter 674 is hereby further amended by adding the following two clauses:–

(v) Notwithstanding the provisions of clause (k) of section two of this act, to own, operate or manage parking ticket validation systems under which a person other than the person parking a motor vehicle in a parking facility located in the city, whether the facility is owned or operated by the Authority or by any other person or persons, and whether the facility is located in or outside of the geographic boundaries of the Authority, pays all or a part of the charges for such parking; and

(w) To grant temporary or perpetual easements to the commonwealth, city or any agency or department of either of them or to any persons, natural or corporate, on, under or over any real property which is owned by the Authority for the purposes of (i) providing pedestrian or vehicular travel, or (ii) the installation, maintenance, servicing and removal of pipes, conduits, ducts, wires, meters, transformers or appliances for the transmission of fuel, power, energy and intelligence, on such terms and conditions as the Authority and the mayor may approve, which approval may include granting an exemption as to such easement area from the requirements that the grantee make payments to the city in lieu of taxes



**ACTS, 1985. – Chap. 178.**

which may otherwise be required by section fifteen of this act.

**SECTION 5.** The third paragraph of section 6 of said chapter 674 is hereby amended by striking out, in line 9, the word "clause (h)" and inserting in place thereof the word:– clause (l).

**SECTION 6.** Section 7 of said chapter 674 is hereby amended by adding the following sentence:– The words "convey" and "conveyance" as used in this section shall include, without limitation, the leasing of property owned by the city, the subletting of any estates in which the city holds a leasehold or other possessory interest and the assignment of any such lease or possessory interest except to the extent that any such leasing, subletting or assignment is prohibited or restricted by the terms of any deed, lease or other agreement between the city and the grantor of any such estate.

**SECTION 7.** The seventh paragraph of section 15 of said chapter 674 is hereby amended by striking out, in line 1, the word "August" and inserting in place thereof the following word:– October.

**SECTION 8.** Said seventh paragraph of said section 15 of said chapter 674 is hereby further amended by adding the following sentence:– Notwithstanding any provision of this act or any general or special law to the contrary, the city auditor of the city at its expense shall have the right, from time to time, to audit all of the records, books and affairs of the Authority at its principal office during its normal hours of operation.

**SECTION 9.** Section 16 of said chapter 674 is hereby amended by inserting after the word "organization", in line 30, the following words:– or may retain and use the same for the purposes of this act.

**SECTION 10.** Section 17 of said chapter 674 is hereby amended by striking out, in line 8, the word "solely".

**SECTION 11.** Said section 17 of said chapter 674 is hereby further amended by adding the following paragraph:–

The city and its board of assessors shall pro rate any real estate taxes, personal property taxes, and betterment and special assessments assessed to any property title to which is acquired by the Authority as of the date of such acquisition, and shall abate the pro rated share thereof which pertains to the time on and after said date of acquisition. The pro rating of any tax or assessment shall be done on a per diem basis for the time span to which such tax or assessment pertains. Any abatement granted hereunder shall not relieve the grantor to the Authority of that person's obligations to pay the pro rated share of the taxes or assessments for the period preceding the conveyance to the Authority.

**SECTION 12.** Paragraph (b) of section 18 of said chapter 674 is hereby amended by adding the following sentence:– The city is authorized to expend for projects of the Authority or to grant to the Authority funds



**ACTS, 1985. – Chap. 178.**

for such purpose which the city receives under chapter four hundred and eighty-six of the acts of nineteen hundred and eighty and chapter seven hundred and eighty-four of the acts of nineteen hundred and eighty-one, but subject nevertheless to any conditions or restrictions imposed on the grant of such funds to the city under said acts and any regulations promulgated by the secretary of administration except such as designate the agency of the city which was or is the recipient of any such grant.

**SECTION 13.** Section 19 of said chapter 674 is hereby amended by striking out, in line 13, the word "way" and inserting in place thereof the following word:– ways.

**SECTION 14.** Clause (d) of said section 19 of said chapter 674 is hereby amended by inserting after the word "court", in line 7, the following words:– or to the city, except so much thereof as may be payable to the registry of motor vehicles or any other department or agency of the commonwealth.

**SECTION 15.** Said chapter 674 is hereby further amended by inserting after section 19 the following two sections:–

**Section 19A. Enforcement of Parking Regulations on Public Ways.** The enforcement of rules and regulations established from time to time by the city governing the parking of motor vehicles on public ways in the city which are within the geographic area of the Authority may be delegated by the city council and the mayor to the Authority from time to time on such terms and conditions as the city and the Authority may approve; provided, however, that (a) any such delegation shall be revocable on thirty days prior written notice to the Authority by the mayor, and (b) in enforcing such rules and regulations, the Authority shall only use persons who are either (i) police officers of the city or (ii) are appointed as special police officers by the board of police commissioners of the city at the request of the Authority for that purpose. If special police officers are used by the Authority, the secretary-treasurer of the Authority or his designee shall be deemed to be their "commanding officer" wherever those words are used in statutes applicable to violations of such rules and regulations in the city, and such special police officers shall be deemed to be employees of the Authority and not of the city or its police department. Notwithstanding the provisions of any general or special law to the contrary, any such delegation may, but need not, provide that all costs of such enforcement shall be borne by the Authority, and that part or all of the fines and penalties paid to the city as a result of such enforcement activities of the Authority shall be paid by the city to the Authority forthwith on receipt thereof by the city except to the extent any portion thereof is payable to the registry of motor vehicles or any other department or agency of the commonwealth under any statute.

**Section 19B. Parking Violations in Projects of the Authority.** (a) The Authority is authorized to regulate parking in its projects in such manner as it deems appropriate from time to time, including without limitation, by the use of parking meters, and to establish fines and penalties for



ACTS, 1985. – Chap. 178.

over-time parking to the same extent that the city is authorized to do with respect to parking on its public ways by virtue of section twenty A 1/2 of chapter ninety of the General Laws.

(b) The Authority is authorized to appoint persons to take cognizance of any violation of any provision of any rule, regulation or order of the Authority regulating the parking of motor vehicles in its projects. The persons so appointed shall have the same rights, powers and obligations with respect to such violations as are conferred on police officers by the second, third and fourth paragraphs of said section twenty A 1/2; and the secretary-treasurer of the Authority or its designee shall be deemed to be and shall perform the duties of their commanding officer as specified in said section twenty A 1/2.

(c) With respect to tags and notices of violations issued by the Authority, the parking clerk of the city is authorized to exercise all rights conferred on him by said section twenty A 1/2 with respect to tags and notices of violations of parking regulations pertaining to public ways in the city, provided however, that (i) the Authority at its expense shall cause to be printed the tags as described in the third paragraph of said section twenty A 1/2 for use with respect to violations of its rules and regulations, which tags shall be color coded to distinguish them from tags issued by the city, and which in addition to the requirements of said third paragraph of said section twenty A 1/2 shall state that it is issued by the Authority, and if it is not issued by a police officer, the identity and title of the representative of the Authority issuing the same, and the office address of the Authority. (ii) if tags are affixed to a motor vehicle by a person other than a police officer in lieu of the provisions of the fourth paragraph of said section twenty A 1/2, such person shall, on or before the beginning of the next business day, deliver copies of each notice to the secretary-treasurer of the Authority or his designee who shall then comply with the duties of the commanding officer referred to in said fourth paragraph. (iii) in lieu of the provisions of the sixth paragraph of said section twenty A 1/2, the Authority from time to time shall establish by rule or regulation a schedule of fines for violations of its rules applicable to its projects; provided, however, that all such fines shall be uniform for the same offense committed in the same project and shall not exceed the penalties provided for in clause (h) of section four.

(d) Notwithstanding any general or special law to the contrary, upon receipt of payments of fines for violations of the rules of the Authority, the parking clerk of the city shall deposit so much thereof as is not payable to the registry of motor vehicles under said section twenty A 1/2 in a special bank account of the Authority designated by it and shall transmit to the Authority each day a notice of said deposits.

(e) The city shall not be required to perform its obligations hereunder unless the Authority agrees to reimburse the city all reasonable costs incurred by the city in processing notices of violations with respect to the projects of the Authority, and to pay the city a reasonable fee for its services hereunder.

**SECTION 16.** Section 20 of said chapter 674 is hereby amended by striking out the second sentence and inserting in place thereof the



**ACTS, 1985. – Chap. 178.**

following sentence:– No member or employee of the Authority shall be deemed to be an official or employee of the city, the commonwealth or of any political subdivision thereof, other than the Authority, nor shall the appointment or employment of any member or employee of the Authority be subject to chapter thirty-one, thirty-two A or thirty-two B of the General Laws as they may now or hereafter be amended.

**SECTION 17.** Said section 20 of said chapter 674 is hereby further amended by adding the following two sentences:– For the purposes of chapter two hundred and sixty-eight A of the General Laws, the Authority shall be deemed a municipal agency of the city, the mayor shall be deemed the official responsible for the appointment of the members of the Authority, the said members shall be deemed the official responsible for the appointment of and head of the agency as to all persons employed, retained or appointed by the Authority, and the secretary-treasurer of the Authority shall perform the functions vested in the city clerk by said chapter two hundred and sixty-eight A as to all matters pertaining to the Authority. No activities of the members, employees or representatives of the Authority who also may be employees or special employees of the city, any county or the commonwealth in negotiating or implementing agreements between the Authority and the city, any county or the commonwealth, or acting on behalf of the Authority in any particular matter between it and the city, any county or the commonwealth shall be deemed a violation of any provision of said chapter two hundred and sixty-eight A because of said dual employment notwithstanding that the interests of the Authority and the city, county or commonwealth, as the case may be, are adverse in any such particular matter; provided however, that this exemption shall not extend to any activities of such person which are otherwise restricted or prohibited by said chapter by virtue of the interest of such person or of the family members, partner, employer or prospective employer of such person or of any business entity in which such person has a financial interest.

**SECTION 18.** Section 23 of said chapter 674 is hereby amended by adding the following sentence:– Upon the dissolution of the Authority, title to all of the assets of the Authority shall automatically vest in the city; provided, however, that if any such asset is then subject to any encumbrances, liens, rights, restrictions, leases, or agreements, the city shall acquire title to such asset subject to the same.

**SECTION 19.** Said chapter 674 is hereby further amended by inserting after section 24B the following section:–

**Section 24C. Application of Laws.** The Authority shall be governed by the provisions of sections twenty-three A, twenty-three B, twenty-three C and twenty-four of chapter thirty-nine of the General Laws, but the provisions of chapter thirty A of the General Laws shall not apply to the Authority.

**SECTION 20.** Paragraph (b) of section 25 of said chapter 674 is hereby



**ACTS, 1985. – Chap. 178.**

amended by striking out, in line 3, the word "two" and inserting in place thereof the following word:– four.

**SECTION 21.** Paragraph (c) of said section 25 of said chapter 674 is hereby amended by striking out, in line 3, the word "two" and inserting in place thereof the following word:– four.

**SECTION 22.** Paragraph (e) of said section 25 of said chapter 674 is hereby amended by adding the following two clauses:–

(v) conveyances or transfers of title to or interests in real or personal property or the leasing, subletting or granting of assignments thereof or easements therein, or the provision of services, whether for or without the payment of consideration, when the same occur between the Authority and the commonwealth or any agency or political subdivision thereof or the city or any department or agency thereof including, without limitation, the Springfield Redevelopment Authority, the Springfield Housing Authority, the Springfield civic center commission and similar local authorities and boards, departments or commissions of the city.

(vi) easements and restrictive covenants governing the use of land or buildings between the Authority as grantor or grantee and any person pertaining to any garage project or any part of a garage project or to the land or buildings of the other party to such easement or covenant.

**SECTION 23.** Said chapter 674 is hereby further amended by inserting after section 25 the following section:–

**Section 25A. Air Rights.** The Authority may acquire, sell, lease, as lessor or lessee, sublet, as sublessor or sublessee, or grant or accept easements upon such negotiated or competitive basis as it may determine for the right to occupy and use the space above or under any garage projects for any use other than or in addition to the parking of motor vehicles together with the right to use and occupy such space within any garage projects as may be necessary for the purposes of support of structures occupying space above such garage projects, for providing utility service, water and sewer service, or ventilation to structures occupying space above or below such garage projects, or for access or for any other purpose related to the development and use of such space above or below such garage projects. Any such sale, lease, easement or subletting shall only be for such uses as are permitted by the zoning ordinances of the city or by virtue of variances or special permits granted therefrom or thereunder, and only on such terms and conditions as the mayor may approve. Any structures constructed over or under a garage project shall be exempt from real estate taxes, personal property taxes, betterment and special assessments; but in lieu of such taxes and assessments, if the owner, lessee or sublessee thereof is a person whose real estate is not otherwise exempt from taxation, such owner and the successors in interest to the owner's said estate shall pay to the city each year during their respective terms of ownership an amount, which may, but need not, be a percentage of the gross income received by such person from such structure, which is approved by the



**ACTS, 1985. – Chaps. 179, 180, 181.**

mayor and expressed in a written agreement between the owner thereof and the city acting through the mayor which shall be incorporated in or executed simultaneously with the conveyance, easement, leasing or subletting, to or from the Authority.

**SECTION 24.** All actions performed by the Authority or actions of the city relating to the Authority which are permitted by the provisions of this act, are hereby ratified and confirmed.

**SECTION 25.** This act shall take effect upon its acceptance by the mayor and city council of the city of Springfield.

Approved July 18, 1985.

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**Chapter 179. AN ACT AUTHORIZING THE PARKING CLERK OF THE CITY OF MEDFORD TO ACCEPT CASH FOR PAYMENT OF CERTAIN FINES.**

Be it enacted, etc., as follows:

Notwithstanding the provisions of section twenty A of chapter ninety of the General Laws or any other provision of law to the contrary, the parking clerk of the city of Medford is hereby authorized to accept cash as well as postal notes, money orders and checks in payment of fines levied under the provisions of said section twenty A of said chapter ninety.

Approved July 18, 1985.

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**Chapter 180. AN ACT AUTHORIZING THE CITY OF WORCESTER TO ABATE A CERTAIN BETTERMENT ASSESSMENT.**

Be it enacted, etc., as follows:

Notwithstanding the provisions of sections twelve and thirteen of chapter eighty of the General Laws, the assessors in the city of Worcester are hereby authorized to grant abatements of all charges, interest and demand charges for street betterments which were assessed on October second, nineteen hundred and seventy-nine against Richard R. Black and Mary G. Black, as said charges pertain to Lot #3, on the southerly side of Patch Reservoir drive for the year nineteen hundred and seventy-six.

Approved July 18, 1985.

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**Chapter 181. AN ACT FURTHER REGULATING THE DUTIES OF REGISTRARS OF VOTERS.**



**ACTS, 1985. – Chap. 182.**

**Be it enacted, etc., as follows:**

Section 61 of chapter 51 of the General Laws is hereby amended by striking out the first paragraph, as appearing in the 1984 Official Edition, and inserting in place thereof the following paragraph:–

They shall forthwith, after the final day for registration before a biennial state or regular city or town election, certify to the state secretary the number of registered voters in the city or town, and in each ward and precinct therein.

Approved July 18, 1985.

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**Chapter 182. AN ACT AMENDING THE CHARTER OF THE CITY KNOWN AS THE TOWN OF METHUEN PROVIDING THAT THE TOWN COUNCIL, NOT THE TOWN MANAGER, SHALL HIRE THE TOWN SOLICITOR.**

**Be it enacted, etc., as follows:**

**SECTION 1.** Article 2 of the charter of the city known as the town of Methuen, which is on file in the office of the archivist of the commonwealth, as provided in section twelve of chapter forty-three B of the General Laws, is hereby amended by striking out subsection (c) of section 2-8 and inserting in place thereof the following two subsections:–

(c) Town Solicitor – The Town Council shall, on or before July 1st in the year it organizes under Article 2, Section 2-2, elect, by ballot or otherwise, a Town Solicitor to hold office for a term of two years and until his/her successor is qualified.

The Town Solicitor shall represent the municipality in all court matters, advise the Town Council and municipal boards and officers upon all legal questions and perform such other duties as the Town Council may prescribe in addition to such duties as may be prescribed by law.

(d) Salaries – The Town Council shall set the salaries of the Town Accountant, Clerk of the Council, Town Manager and Town Solicitor.

**SECTION 2.** Article 10 of said charter which is on file in said office of the archivist of the commonwealth, is hereby amended by inserting after section 10-8 the following section:–

Section 10-9 Town Solicitor Appointment/Time of Taking Effect.

The provisions of Section 2-8(c) relative to the appointment of the Town Solicitor shall take effect on July 1, 1986, provided, however, that the Town Council shall, upon the effective date of the act, assume supervision and direction of the Town Solicitor and he/she shall become directly responsible and accountable to the Town Council.

**SECTION 3.** This act shall be submitted to the voters of the city known as the town of Methuen in the form of the following question which shall be placed on the ballot for the next municipal election:–

"Shall an act passed by the general court in the year nineteen hundred



**ACTS, 1985. – Chap. 183.**

and eighty-five, entitled 'An act amending the charter of the city known as the town of Methuen providing that the town council, not the town manager, shall hire the town solicitor', be accepted?"

If a majority of the votes cast in answer to said question is in the affirmative, this act shall take effect, but not otherwise.

Approved July 18, 1985.

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**Chapter 183. AN ACT AUTHORIZING THE DIVISION OF CAPITAL PLANNING AND OPERATIONS TO CONVEY TO M. GORDON EHRLICK AND LAWRENCE I. SILVERSTEIN TWO EASEMENTS ACROSS THE WACHUSETT AQUEDUCT IN THE TOWN OF NORTHBOROUGH.**

Be it enacted, etc., as follows:

**SECTION 1.** The division of capital planning and operations, acting in the name of and on behalf of the commonwealth, is hereby authorized to convey, by deed approved as to form by the attorney general, and subject to such terms and conditions as prescribed by the division of capital planning and operations in consultation with the metropolitan district commission, to M. Gordon Ehrlick and Lawrence I. Silverstein, for the purpose of constructing a roadway, two forty foot easements across the Wachusett aqueduct on land under the control of the metropolitan district commission located in the town of Northborough. Said easements are bound and described as follows:–

Parcel one. Beginning at a point on the Northerly sideline of the Wachusett Aqueduct, Said Point being 352.61 from land of consolidated rail corporation. Thence Running: Along a curve to the left with radius of 674.06' a length of 46.36' to a point. Thence Running: S-01 -13'-40"W 111.59' to a point on the southerly sideline of Said Aqueduct, Said point being 123.20' from Bearfoot Road. Thence Running: Along a curve to the right with a radius of 774.06' a length of 44.55' to a point. Thence Running: N-01 -13'-40"E 115.41' to the point of beginning.

Parcel two. Beginning at a point on the property line which divides land of Commonwealth of Massachusetts & Lot 206A, Said point is N-16 -02'-50"E 160.00' from the Northerly sideline of the Wachusett Aqueduct. Thence Running: N-73 -57'-10"W 40.00' to a point at lot 206A. Thence Running: N-16 -02'-50"E 40.00' by Lot 206A to a point. Thence Running: S-73 -57'-10"E 40.00' to a point at lot 206A. Thence Running: S-16 -02'-50"W 40.00' by lot 206A to the point of beginning.

Consideration to be paid for said easements shall be the average of two independent appraisals. The appraisers shall be selected by the division of capital planning and operations in consultation with the metropolitan district commission. The cost of preparing these appraisals shall be paid by the grantee.

**SECTION 2.** This act shall take effect upon its passage.

Approved July 19, 1985.

EMERGENCY LETTER: August 1, 1985 @ 3.01 P.M.



**ACTS, 1985. – Chaps. 184, 185.**

**Chapter 184. AN ACT AUTHORIZING THE TOWN OF NORTH ATTLEBOROUGH TO PAY A CERTAIN ANNUITY TO MURIEL MILDRED ROBERTS.**

Be it enacted, etc., as follows:

**SECTION 1.** Chapter 572 of the acts of 1973 is hereby amended by striking out, in line 5, the words "an annuity not to exceed seven hundred and twenty" and inserting in place thereof the words:- a total disability annuity not to exceed twelve hundred.

**SECTION 2.** This act shall take effect upon its passage.

Approved July 19, 1985.

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**Chapter 185. AN ACT AUTHORIZING THE DIVISION OF CAPITAL PLANNING AND OPERATIONS TO GRANT EASEMENTS TO AUDREY C. FIELDS AND BARBARA F. WALKER, TRUSTEE.**

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately authorize the division of capital planning and operations to grant certain easements 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:

The deputy commissioner of capital planning and operations, acting for and on behalf of the commonwealth, is hereby authorized to convey by deed, approved as to form by the attorney general, the following easements:

(1) an easement to Audrey C. Fields and her heirs and assigns, for driveway purposes, and an easement to said Audrey C. Fields and her heirs and assigns, and to Barbara F. Walker, Trustee, and her heirs and assigns, for the maintenance of utility lines over and within land of the commonwealth situated on Old Randolph street in the town of Canton. Said land is bounded and described as follows:-

Beginning at a point in the common property line of the Commonwealth of Massachusetts and Audrey C. Fields said point being 44.00 feet from a stake situated in the common property line of said Commonwealth of Massachusetts, said Audrey Fields and Donald L. and Barbara O'Sullivan; thence running S 45° 03' 30" W by land of said Audrey C. Fields 32.44 feet to a point; thence turning and running N 7°, 65.20 feet by land of said Commonwealth of Massachusetts to said Old Randolph Street; thence turning and running Easterly by said Old Randolph Street by a curve having a radius of 200.00 feet, 20.28 feet to a point; thence turning and running S 7° W by land of said Commonwealth of Massachusetts, 43.00 feet to the point of beginning.



**ACTS, 1985. – Chaps. 186, 187.**

Said premises are shown on a plan entitled "Easement Plan of Land, Canton, Mass.", dated Aug. 6, 1984, Sharon Survey Service; and

(2) an easement to Audrey C. Fields and her heirs and assigns and Barbara F. Walker, Trustee and her heirs and assigns, from their respective premises over Oliver Wentworth road to and from Old Randolph Street, all as shown on the aforementioned plan, including the maintenance of water lines therein located.

Notwithstanding the preceding provisions, if the commonwealth, in the future, realigns Oliver Wentworth road or makes any changes in utilities affecting the easements granted herein, said easements shall, if necessary, be revised to accomplish the purpose of this act.

Approved July 19, 1985.

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**Chapter 186. AN ACT RELATIVE TO THE JURISDICTION OF THE EAST BOSTON DISTRICT COURT DEPARTMENT.**

Be it enacted, etc., as follows:

Section 1 of chapter 218 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out the sixth paragraph under the caption "Suffolk" and inserting in place thereof the following paragraph:—

The East Boston district court, held at East Boston in Boston; Winthrop and wards one and two of Boston as they existed on March first, eighteen hundred and eighty-six; provided that said court shall have territorial jurisdiction in matters that arise in the Sumner tunnel, so-called, and Lieutenant William F. Callahan, Jr. tunnel including any property, toll plazas and approach roads thereto under the ownership, care, custody and control of the Massachusetts Turnpike Authority as provided by chapter five hundred and ninety-eight of the acts of nineteen hundred and fifty-eight.

Approved July 19, 1985.

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**Chapter 187. AN ACT RELATIVE TO EVIDENCE OF INSURANCE REQUIRED BY MORTGAGEES.**

Be it enacted, etc., as follows:

Chapter 183 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by adding the following section:—

Section 65. Any mortgagee doing business in the commonwealth who makes in excess of five mortgage loans per year shall accept a written memorandum of a preliminary contract of insurance pursuant to section ninety-eight of chapter one hundred and seventy-five as evidence of insurance from any duly licensed agent, broker or insurance company.

Approved July 19, 1985.



**ACTS, 1985. – Chap. 188.**

**Chapter 188. AN ACT IMPROVING THE PUBLIC SCHOOLS OF THE COMMONWEALTH.**

Be it enacted, etc., as follows:

**SECTION 1.** The purpose of this act is to ensure educational excellence and equity for all students in elementary and secondary schools of cities and towns, regional school districts and independent vocational schools of the commonwealth. This act is intended to increase accountability of teachers and students, provide resources for creative educational improvements at the local level and provide resources to equalize educational opportunity. It is further intended that funds provided under this act should be used to augment, not replace, current and future educational spending at the local level.

**SECTION 2.** Chapter 10 of the General Laws is hereby amended by inserting after section 35E the following section:–

Section 35F. There shall be established and set up on the books of the commonwealth a separate fund, to be known as the School Improvement Fund, to improve the quality of education at the school building level. Said fund shall consist of all monies appropriated therefor in each fiscal year and shall be allocated and expended pursuant to the provisions of section fifty-one of chapter fifteen. Notwithstanding the provisions of section nine B of chapter twenty-nine, all monies appropriated to said fund shall be made available for distribution upon appropriation.

**SECTION 3.** Section 1E of chapter 15 of the General Laws is hereby amended by striking out the third paragraph, as appearing in the 1984 Official Edition, and inserting in place thereof the following paragraph:–

The chairperson of the board shall be appointed by the governor.

**SECTION 4.** Section 1G of said chapter 15, as so appearing, is hereby amended by adding the following three paragraphs:–

The board shall develop guidelines for establishing programs for expanded responsibilities for teachers. Such guidelines and requirements may include, but not be limited to, training of teachers, developing curricula, providing special assistance to dropouts or potential dropouts, and serving as in-service instructors or consultants. In order to provide financial incentives for qualified teachers and to encourage the improved utilization of teaching resources by school committees, the board, subject to appropriation, shall award grants of up to two thousand five hundred dollars per teacher, for teachers who shall undertake such expanded responsibilities; provided, however, that the total dollar amount of grants to a school district in any fiscal year shall be no higher than two thousand dollars multiplied by six per cent of the teachers within the district. For purposes of such grants, teachers who perform such expanded responsibilities shall be known as "Horace Mann teachers".

Deductions for retirement, as required under section twenty-two of chapter thirty-two, shall not be made for money awarded as grants to teachers in expanded roles under this section. In determining retirement



**ACTS, 1985. – Chap. 188.**

allowances under sections five, six, seven, or nine of said chapter thirty-two regular compensation shall not include grants awarded under this section.

The board shall promulgate regulations which establish the principles to be used by school committees for the evaluation of teachers and administrators. Such regulations shall provide for the observation of classroom performance of teachers to ensure that teachers possess language and communication skills and maintain competence in their teaching subjects. Such regulations shall provide that administrators possess and develop skills in resource and personnel management and in academic planning. Nothing in this section shall prevent a school committee from providing for more rigorous or stringent evaluation of teachers and administrators than is required by such regulations.

**SECTION 5.** Section 1G of chapter 15 of the General Laws is hereby amended by inserting after the fourteenth paragraph, as appearing in section 2 of chapter 572 of the acts of 1965, the following three paragraphs:—

The board of education shall set criteria for a minimum state standard for school districts within the following parameters: in the academic year in which a school district evaluates its success in meeting its objectives, a school district will be deemed not to have met the minimum criteria if the failure rate on the basic skills test is fifty per cent or more above the state average; and if the scores on the curriculum assessments are twenty per cent or more below state norms; and if the annual drop out rate is fifty per cent or more above the previous year's rate for that school district and; if the ratio of teachers to students is twenty per cent or more below the state average.

Forthwith upon the adoption of such criteria, the said board shall file a copy thereof with the clerks of the senate and house of representatives who, with the approval of the president of the senate and the speaker of the house of representatives, shall refer such criteria to an appropriate committee of the general court. Within thirty days after such filing, the said committee shall hold a public hearing on the criteria, shall issue a report, and file a copy thereof with the board of education. Said board shall adopt final criteria making such revisions in the interim regulations as it deems appropriate in view of such report and shall forthwith file a copy of the criteria with the chairpeople of the committee of the general court to which the interim regulations were referred and not earlier than thirty days after the date of such filing, the board of education shall file the final criteria with the state secretary and said criteria shall thereupon take effect. The board may determine the manner in which all or part of state funds allocated under chapter seventy to the municipality or municipalities constituting the school district shall be withheld until such time as the district is meeting the board standard.

**SECTION 6.** Said chapter 15, as so appearing, is hereby further amended by adding the following twelve sections:—

Section 49. The board is authorized and directed to gather



**ACTS, 1985. – Chap. 188.**

information, herein specified, for the purpose of evaluating individual public schools and all school systems. All information filed pursuant to the following two paragraphs shall be filed in the manner and form prescribed by the department. Each school district shall be reimbursed for reasonable costs incurred thereby in accordance with section sixty.

Each school committee shall file the following information with the department every year:

- an outline of the curriculum and graduation requirements of the district;

- pupil/teacher ratios and class size policy and practice;

- teacher and administrator evaluation procedures;

- statistics, policies, and procedures relative to truancy and dropouts;

- statistics, policies, and procedures relative to expulsions and in-school and out-of-school suspensions;

- per cent of school-age children attending public schools;

- racial composition of teaching and administrative staff.

Each school committee shall file a description of the following instructional procedures and programs with the department every year:

- art and music programs;

- programs for gifted and talented students;

- adult education programs;

- library and media facilities;

- condition of instructional materials including textbooks, workbooks, audio-visual materials, laboratory materials;

- types and condition of computers and computer software;

- basic skills remediation programs;

- drug and alcohol abuse programs.

The board shall assess annually all schools and school districts on the basis of a comprehensive analysis of the data compiled pursuant to this section and of the results of the testing programs required in section fifty. Such assessment shall be part of the basis for awarding equal educational opportunity grants and other educational assistance grants provided by the commonwealth. The board shall annually provide the results of this analysis to school districts and shall make such results available to the public.

Section 50. The board shall conduct a statewide testing program to improve curriculum and instruction and to identify those students needing assistance in mastering basic skills.

To improve curriculum and instruction, the board shall test all students, at three grade levels to be determined by the board, in major curriculum areas. The curriculum testing shall be conducted biennially by the board with the assistance of each school district, on a date set by the board. The results of the curriculum testing shall be reported at the school level where feasible, and at the school district and statewide levels. Such results for all school districts shall be made available to the public. The results shall provide sufficient data for comparison at the national level.

To identify students with basic skills deficiencies and to determine which students need remediation, the board shall annually test all students at grade three, at a later elementary grade, and at a secondary



**ACTS, 1985. – Chap. 188.**

grade to be determined by the board, for mastery of basic skills in reading, writing, mathematics and such other areas as the board determines. Basic skills tests shall be uniform statewide tests conducted by the board with the assistance of each school district, on a date set by the board. The board shall compile the results of the basic skills test at the school, school district and statewide levels, and, except as otherwise provided in this section, shall make the results available to the public. The board shall establish standards for determining mastery on the basic skills tests. School districts may establish higher standards for mastery of the basic skills tests than those standards established by the board.

The tests conducted pursuant to this section shall reflect no racial, ethnic or cultural bias. No student shall be tested twice within the same half school year pursuant to this section. The results of tests conducted pursuant to this section for any individual shall not be made available to the public. Notwithstanding the provisions of section seven of chapter four, all test questions and answers, scoring keys and other test data prepared and used by the board in conducting tests under this section shall be exempt from disclosure until the results of the tests have been reported. Parents or guardians of students in special education programs may waive, on behalf of such students, the testing requirements of this section, after such parents or guardians and students have been informed in writing of the consequences of such a waiver.

The board shall be responsible for the development of all tests required under this section and shall deliver at no cost to each school district an amount of test instruments sufficient to permit the testing of each student required to be tested under this section.

The results of both the curriculum testing and basic skills testing required by this section shall be a part of the basis for the annual assessment by the board of each school and school district, as provided for in section forty-nine.

Each school district shall administer all tests required pursuant to this section in accordance with the instructions of the board, and shall be reimbursed for reasonable costs incurred thereby in accordance with section sixty of this chapter.

Section 51. The board shall allocate such funds as are appropriated to the School Improvement Fund, established under the provisions of section thirty-five F of chapter ten, to each school building containing any of the grades from kindergarten to six, inclusive, in the fiscal year nineteen hundred and eighty-six, and in every school building containing any of the grades from kindergarten to twelve, inclusive, in the fiscal year nineteen hundred and eighty-seven and each fiscal year thereafter, which has filed information set forth in section forty-nine of chapter fifteen in the following manner: an amount of money equal to the total number of full-time equivalent students in grades kindergarten to six, or kindergarten to twelve in attendance there during the preceding school year multiplied by ten dollars in the fiscal year nineteen hundred and eighty-six and each fiscal year thereafter.

Funds appropriated by the board shall be deposited with the town, city or regional treasurer in a separate account for expenditure by the councils pursuant to this section.



**ACTS, 1985. – Chap. 188.**

The proceeds of the fund shall be used, at the school building level, to establish innovative academic programs, expanded services to students, purchase of instructional equipment, alternative education programs, cultural education programs, community or parental involvement programs, business and education partnership programs, staff training, or for any other purposes consistent with the intent of this section.

Such funds shall not be used for current operating costs, supplies, utilities, existing building and equipment maintenance, existing staff salaries and wages, or to supplant current school costs.

At each school the expenditure of said funds shall be determined exclusively by a council consisting of the school principal who shall serve as chairman; three teachers, elected annually by the teachers of the building; two parents of children attending said school building chosen in elections held annually by the local parent-teacher organization under the direction of the principal of such school or, if none exists chosen by the school committee, and one person who is not a parent of a child attending said school building, appointed by the school committee.

To the extent possible said councils shall be broadly representative of the racial and ethnic diversity of the school building and community.

All decisions of the local school improvement council regarding the expenditure of funds under this section shall be submitted to the school committee who may veto same by a majority recorded vote. If no such vote is rendered by the committee within thirty days of receipt of said decision, it shall be assumed to be approved. Should the school committee veto a decision of the local school improvement council, said matter shall not be re-submitted for a period of one year from said veto. Decisions of the local school improvement council shall not be subject to chapter one hundred and fifty E, provided, however, that such expenditures or decisions of said councils shall not be in violation of local collective bargaining contracts in existence at the time of passage of this act; and provided, however, that decisions of the local school improvement council regarding matters brought before it, including, but not limited to the expenditure of funds under this section, shall not interfere with any power, authority or statutory obligation lawfully vested in any school committee.

All members of the school improvement council shall be subject to the provisions of chapter two hundred and sixty-eight A and shall not be subject to the provisions of chapter two hundred and sixty-eight B. The operation of the councils shall be subject to the provisions of section eleven A one-half of chapter thirty A, sections thirty-five to forty-six A, inclusive, of chapter forty-four and section ten of chapter sixty-six.

The council shall annually submit a complete and detailed report of expenditures of funds under this section to the commissioner of education by the end of the school year.

The department shall prepare and distribute to each school superintendent and school improvement council a report specifying the use of school improvement funds statewide.

Section 52. The board shall establish an essential skills discretionary grant program. The board may make grant awards to school districts with high concentrations of low income students, high concentrations of



## ACTS, 1985. – Chap. 188.

students deficient in basic skills, or high concentrations of students likely to drop out of school, as determined by the board for basic skills remediation programs or dropout prevention programs. The board shall primarily use the statewide basic skills test results in determining recipients of essential skills grants under this section for basic skills remediation programs.

Basic skills remediation programs may provide supplemental instructional materials, additional teachers or teachers aides, counseling or guidance personnel, remedial instruction and tutoring, extended day tutorial programs, and enhanced instruction within the regular classroom and other classrooms to students in grades one through nine. Said board shall solicit proposals for the basic skills remediation program. Applications shall include: a statement of need, of how funds will be targeted to students in need of basic skills remediation, and of how local efforts will be evaluated. School committees shall use the statewide basic skills test as part of their program evaluation but may use other criteria as well.

Dropout prevention programs may include counseling programs to improve school discipline, work-study or cooperative education, alternative education part-time employment and school-to-work transition programs. The board shall solicit proposals for dropout prevention programs for students in grades seven to twelve, inclusive. Applications shall include a statement of need, program objectives and implementation, program evaluations, and proposed linkages with business, labor, higher education and other agencies. Proposals which provide matching funds from local, federal and private sources shall be given priority. Each school committee applying for funds for a dropout prevention program shall appoint an advisory council comprised of parents, teachers, administrators and representatives of business, labor, higher education and other community agencies. Council members shall be broadly representative of the racial and ethnic diversity of the commonwealth. The advisory council shall assist in the development of the application proposal and in program implementation.

The board shall evaluate proposals, provide technical assistance. Programs and services provided under this section shall supplement, not supplant, programs and services provided under chapters seventy-one A, seventy-one B, and seventy-four. Seventy-five per cent of funds appropriated for the essential skills grant programs shall be allocated to the basic skills remediation programs, and twenty-five per cent of said funds shall be allocated to dropout prevention programs.

Section 53. The board shall establish, within the division of curriculum and instruction in the department of education, an office for the gifted and talented. Said office may provide technical assistance, curriculum, materials, consultants, support services and other services to schools and school districts.

Section 54. The board shall establish an early childhood discretionary grant program.

The board annually may award grants to school committees to develop innovative early childhood education programs in the following three areas: pre-kindergarten programs for three and four year old children,



**ACTS, 1985. – Chap. 188.**

enhanced kindergarten and transitional first grade classes, and programs which seek to develop creative approaches to combining early childhood education and day care. Such combined programs may include, but not be limited to, extended day programs and day care programs in schools. In the case of transitional classrooms, no child shall be required to participate in such classroom beyond age six without the permission of parents or guardians. Programs approved under the provisions of this section shall be funded for a two year period, subject to appropriation.

At least seventy-five per cent of the funds appropriated for grants awarded under this section shall be allocated to programs serving low income sites, as determined by the board. Criteria for determining what constitutes a low income site shall include, but not be limited to, the same criteria which are used to qualify schools for Chapter 1 of the Federal Education Consolidation and Improvement Act of 1981.

Funds under this provision shall be used to assist current pre-kindergarten programs or to supplement and establish new programs in pre-kindergarten, kindergarten and transitional first grade.

The board shall establish standards for pre-kindergarten programs which meet or exceed the existing office for children standards for programs which serve three and four year old children in whole and half day programs.

School committees applying for funds under this grant program shall appoint an advisory council comprised of a principal, teacher, parent, a member of the local resource and referral agency and others with experience in the care and education of young children. Council members shall be broadly representative of the racial and ethnic diversity of the community. The council shall develop a proposal for funds which shall be approved by the school committee.

School committees may contract with other public and private agencies for services, provided that any teacher employed by the contracting school committee in pre-kindergarten, kindergarten and transitional first grade classes is not displaced as a result of such contract.

Proposals which describe linkages with other human service agencies and which seek to combine a number of funding sources shall be given priority by the board. Other agencies and programs may include, but are not limited to, state and federal nutrition programs, public health programs, and state funded day care programs.

Applications for said grants shall include the following: a statement of need, a description of unmet needs and existing resources, program objectives and implementation plan, evaluation and dissemination components, contractual arrangements with other service providers, and linkages and funding arrangements with other public or private agencies. Applications shall also describe how such programs will interact with programs for children with special needs.

The board shall establish an early childhood office which shall have the following functions: developing program standards for early childhood programs, providing technical assistance to school committees, conducting program evaluations, and, jointly with bureau of teacher certification, developing certification standards for early childhood



**ACTS, 1985. – Chap. 188.**

teachers.

The board shall appoint a state advisory council on early childhood education. Members of the advisory council may include, but are not limited to, teachers, parents, representatives of state human service agencies, day care agencies, higher education, business, labor and government. Council members shall be broadly representative of the racial and ethnic diversity of the commonwealth. The advisory council shall be charged with conducting a comprehensive study of future trends in early childhood education and day care, including the provision of services to children from birth to age three, and shall report their findings to the board by January first, nineteen hundred and eighty-seven, and each year thereafter. In addition, the advisory council shall review early childhood program evaluations, certification and program standards, and make recommendations to the board on needed program changes. The board shall report on the progress of the early childhood grant program and make recommendations to the general court by filing the same with the clerk of the house of representatives and the clerk of the senate on or before June thirtieth, of each year.

Section 55. The board shall grant awards for educational achievement hereinafter referred to as REACH awards. Award recipients shall be selected based on the assessments of school systems required by section fifty and each year shall be made to six school districts according to the following cycle: in fiscal nineteen hundred and eighty-eight and every third year thereafter awards shall be made in the category of kindergarten through sixth grade, in fiscal nineteen hundred and eighty-nine and every third year thereafter awards shall be made in the category of seventh and eighth grades, and in fiscal nineteen hundred and ninety and every third year thereafter awards shall be made in the category of ninth through twelfth grades.

Each category shall contain three divisions comprised of school systems under the jurisdiction of cities, towns and regional school districts whose per capita incomes are as follows: Division A, per capita incomes of thirty-nine hundred dollars to sixty-five hundred and ninety-nine dollars; Division B, per capita incomes of sixty-six hundred dollars to seventy-nine hundred and ninety-nine dollars; and Division C, per capita incomes of eight thousand dollars or more. Per capita income ranges shall be adjusted by the board in accordance with decennial revisions in state per capita income so as to maintain, as nearly as possible, the original population balance among the categories.

Within each division each year awards shall be granted for best overall educational performance and for the most improved educational performance based on system-wide school performance in the grade level category being considered in that year.

Section 56. The governor shall appoint a nine member council, known as the state educational technology advisory Council, to advise the board and department of education. The membership of the council shall be representative of the racial, ethnic, and cultural diversity of the commonwealth, and shall include, but not be limited to, representatives of the public schools, higher education, and business, who are involved in the use of computers in education. Members of the council shall be



## ACTS, 1985. -- Chap. 188.

appointed for terms of three years, except that of the first members appointed, three shall serve for one year, three shall serve for two years, and three shall serve for three years. Members may be reappointed. Members shall serve without compensation.

The council shall seek to foster the appropriate use of computers in instruction by making recommendations to the board relative to the development of a state plan for the use of computers in instruction; keeping abreast of technological changes with implications for the use of computers in education; seeking private sector support for the use of computers in public education in the commonwealth; monitoring the implementation of computer technology in instruction; recommending the standards of approval of school district plans for the use of educational technology; recommending guidelines under which school districts and schools may contract with nonprofit corporations for advice, consultation and assistance relative to the use of computers in instruction; and issuing annual reports to the general court and the public on its activities.

The board, subject to appropriation, may award grants to school districts to assist them in the purchase of instructional materials related to technology. Applicants for such grants must present a plan to the board for the use of such instructional material.

In order to provide for a comprehensive program for the provision and beneficial use of technology in the public schools, there is hereby established a trust fund to be managed by the board of education, which shall be known as the Educational Technology Trust Fund and into which shall be credited funds received from any corporation, whether public or private, and from any government. Upon receipt, such funds shall be deposited in the state treasury and credited to the trust fund and, subject to appropriation, may be expended by the board for the purposes of this section after consultation with the state educational technology advisory Council.

Section 57. The board shall establish an instructional materials grant program to provide financial assistance to school districts for the purchase of textbooks, workbooks, audio-visual materials, library books and materials, laboratory kits, and other instructional materials. Grants shall be awarded to those districts in need of assistance as determined by the board following inventories of such materials conducted by the board from time to time. In awarding grants under this section, the board shall give priority to school districts receiving equal educational opportunity grants pursuant to chapter seventy A.

Section 58. The board shall establish a unit designated as the leadership academy which shall provide training to school principals and other supervisory personnel. Such training shall include, but not be limited to: training in personnel evaluation methods, techniques for developing cooperative relationships with parents and community organizations, school based management skills and curriculum development.

Section 59. The board shall establish a Lucretia Crocker dissemination program for the purpose of replicating and disseminating exemplary educational programs throughout the commonwealth.



ACTS, 1985. – Chap. 188.

For the purpose of this section "exemplary educational programs" shall mean programs which have been shown to advance academic and creative achievement, create a better school climate, expand services to students or provide alternative learning environments.

Nominations of exemplary programs shall be made to the board by local school committees. Said board may contract with a nonprofit or public institution which has knowledge and experience in evaluating and disseminating exemplary educational programs for the purposes of validating nominated programs.

Upon the validation of nominated exemplary programs said board shall develop dissemination strategies which shall include the awarding of fellowships to public school teachers for sabbatical leaves to perform technical assistance, training, and monitoring necessary to ensure that programs are successfully transferred from school to school and system to system; and the granting of funds for the replication and distribution of materials used in exemplary programs.

The annualized amount of the fellowship shall not exceed the annual salary of the recipient and shall be awarded in place of and not in addition to the recipient's salary.

The governor shall appoint an advisory council to assist the board in the implementation of the Lucretia Crocker Program. The advisory council shall consist of five deans of graduate schools of education in the commonwealth. Members of the council shall serve for three year staggered terms and may be reappointed provided however that of those first appointed, one member shall serve for one year, two shall serve for two years and two shall serve for three years. Members shall serve without compensation.

Section 60. The commissioner of administration shall convene a working committee made up of his own designee, a designee of the commissioner of education and a designee of the local government advisory committee to establish guidelines for purposes of reimbursing cities and towns for the reasonable costs associated with the implementation of sections forty-nine and fifty of this chapter and section thirty-eight of chapter seventy-one. Such guidelines shall be filed by the working committee with the house and senate committees on ways and means and shall become effective only upon approval by said committees. Reimbursements of costs made pursuant to such guidelines shall constitute complete satisfaction of the obligation of the commonwealth to assume such costs pursuant to any general or special law.

**SECTION 7.** Section 7 of said chapter 15A is hereby amended by adding the following two paragraphs:-

The board of regents, subject to appropriation, shall establish a commonwealth scholars program for the purpose of providing grants to high school seniors who are planning to attend an institution of higher education within the commonwealth. Said board of regents shall establish rules and regulations for the program, including the levels of academic, leadership, extracurricular, and other achievement needed to qualify as a commonwealth scholar. Based upon such rules and



**ACTS, 1985. – Chap. 188.**

regulations, the board of education shall nominate as commonwealth scholars public and private high school students from each school district. Each student who qualifies as a commonwealth scholar shall receive a grant of up to one thousand dollars.

Said board of regents, subject to appropriation, shall establish a Massachusetts teacher incentive program, for the purpose of providing grants for the cost of education, including tuition and fees, for students in institutions of higher education within the commonwealth who agree to teach on a full time basis within a public educational system located in the commonwealth, for a period to be determined by the board. Said board shall institute and maintain learning contracts for all students admitted in the teacher incentive program, which shall include provisions for "payback" service for a period commencing after such students have fulfilled all graduation requirements, or for repayment to the commonwealth of the full amount of such grants on terms established by said board. Said board shall promulgate regulations governing the administration of the teacher incentive program, including the establishment of eligibility criteria based upon the indexed financial need of the student.

**SECTION 8.** Said chapter 15A is hereby amended by inserting after section 7 the following section:–

Section 7A. The board of regents, subject to appropriation, shall establish a program entitled the "teaching learning corps".

The program shall provide school districts choosing to participate, which contain a significant proportion of low-income students or a significant proportion of students deficient in basic skills, as determined by the board of education with college students as instructional aides. Instructional aides shall assist teachers in instructional activities during regular school programs or extended day programs, but shall not replace existing school personnel. Funds provided under this section shall be used first to provide matching funds for work-study college students, and in the case where work-study students are not available, to hire college students not enrolled in work-study programs. The board of regents, in cooperation with the board of education, shall promulgate rules and regulations for said program, including selection criteria for public school sites, cooperative agreements between colleges and public schools, yearly program evaluation procedures, program duration standards, and other rules.

**SECTION 9.** Subdivision (5) of section 16 of chapter 32 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:– The provisions of this section relative to the right of any member to a hearing or to the right of review by the district court shall not apply to any teacher or principal or superintendent of schools employed at discretion or any superintendent employed under a contract, for the duration of his contract, or any principal or supervisor, who has been dismissed, demoted, or removed from a position by a vote of a school committee under the provisions of section forty-two,



**ACTS, 1985. – Chap. 188.**

forty-two A or section sixty-three of chapter seventy-one.

**SECTION 10.** Chapter 63 of the General Laws is hereby amended by inserting after section 38J the following section:–

Section 38K. In determining the net income subject to tax under this chapter, a domestic or foreign corporation organized under chapter one hundred and fifty-six or under chapter one hundred and fifty-six B may deduct, in addition to any other allowable deduction under this chapter, an amount equal to fifty per cent of the cost to such taxpayer, but in no case exceeding fifty per cent of the fair market value, of computer hardware, computer software or other instructional equipment donated to and accepted by the commonwealth, a political subdivision thereof, or any organization exempt from taxation by the federal government pursuant to section 501(c)(3) of the internal revenue code that provides elementary or secondary education in the commonwealth which is for use in such programs of elementary or secondary education.

**SECTION 10A.** Section thirty-eight K of chapter sixty-three of the General Laws is hereby repealed.

**SECTION 11.** Chapter 70 of the General Laws is hereby amended by striking out section 6, as appearing in the 1984 Official Edition, and inserting in place thereof the following section:–

Section 6. The aid paid to any city or town under this chapter in the fiscal year ending June thirtieth, nineteen hundred and eighty-three shall not be less than one hundred and seven per cent of the amount due said city or town during the fiscal year ending June thirtieth, nineteen hundred and seventy-nine under the provisions of this chapter. This amount shall be termed the chapter seventy minimum guarantee for the fiscal year ending June thirtieth, nineteen hundred and eighty-four.

In the fiscal years ending June thirtieth, nineteen hundred and eighty-four to June thirtieth, nineteen hundred and ninety-three, inclusive, the chapter seventy minimum guarantee of any city or town shall be the chapter seventy minimum guarantee of such city or town in the preceding fiscal year less an amount equal to ten per cent of the chapter seventy minimum guarantee for such city or town in the fiscal year ending June thirtieth, nineteen hundred and eighty-three. This shall not apply to any regional school district or independent vocational school.

The chapter seventy minimum guarantee of any regional school district or independent vocational school shall be the chapter seventy guarantee received in the fiscal year ending June thirtieth, nineteen hundred and eighty-four.

**SECTION 12.** The General Laws are hereby amended by inserting after chapter 70 the following chapter:–

**CHAPTER 70A.**

Section 1. The purpose of the equal educational opportunity grant provided by this chapter is to accelerate the achievement of the



ACTS, 1985. – Chap. 188.

objectives set forth in section one of chapter seventy and to assist such cities, towns, regional school districts or independent vocational schools to achieve the minimum expenditure requirements set forth in section seven of said chapter seventy prior to the date such requirements will become effective under the provisions of said section.

Section 2. As used in this chapter, the following words shall, unless the context clearly requires otherwise, have the following meanings:

"Average direct service expenditure per pupil in regular day programs in cities, towns and regional school districts of the same classification of school districts", the sum of the total expenditures, including expenditures from federal funds made available under 20 USC 238, for all pupils enrolled in regular day programs in public schools in all cities, towns and regional school districts of the same classification of school district in the commonwealth during a fiscal year, divided by the total of the sums of full time equivalent pupils enrolled in regular day programs in all cities, towns, and regional school districts of such same classification of school district during said year; provided, however, that the numerator of the fraction described in this paragraph shall include expenditures for instructional services, attendance services, health services, fixed charges, and food services only. Expenditures for administration, athletic and other student activities, plant operation and maintenance, capital outlays, transportation, and food for food services shall not be included in the numerator of said fraction.

"Average direct service expenditure per pupil in vocational education programs in cities, towns, regional school districts, and independent vocational schools of the vocational schools classification of school districts", the sum of the total expenditure, including expenditures from federal funds made available under 20 USC 238, for all pupils enrolled in vocational education programs in public schools in all cities, towns, regional school districts and independent vocational schools of the vocational schools classification of school district in the commonwealth during a fiscal year, divided by the total of the sums of full time equivalent pupils enrolled in vocational education programs in all cities, towns, regional school districts and independent vocational schools of such vocational schools classification of school district during said year; provided, however, that the numerator of the fraction described in this paragraph shall include expenditures for instructional services, attendance services, health services, fixed charges, and food services only. Expenditures for administration, athletic and other student activities, plant operation and maintenance, capital outlays, transportation, and food for food services shall not be included in the numerator of said fraction.

"Classification of school district", a group of cities, towns, regional school districts or independent vocational schools which offer similar academic or vocational programs and which maintain classes in a similar number of grades. Such classifications shall be as follows: (1) nonoperating district, those cities and towns which do not maintain a public school; (2) grades kindergarten through twelfth, regional vocational school member, those cities and towns which maintain classes in academic programs in grades kindergarten through the twelfth



ACTS, 1985. – Chap. 188.

and are also members of a regional school district; (3) grades kindergarten through twelfth, not a regional vocational school member, those cities and towns which maintain classes in academic programs in grades kindergarten through the twelfth and also maintain their own vocational education programs; (4) elementary, those cities, towns and regional school districts which maintain classes in academic programs in elementary grades only; (5) high school, those cities, towns, regional school districts and independent vocational schools which maintain academic programs in high school grades only; and, (6) vocational schools, those cities, towns, regional school districts and independent vocational schools which maintain classes primarily in programs leading to a vocational education.

"Equal educational opportunity grant for a fiscal year", for the fiscal year ending June thirtieth, nineteen hundred and eighty-six, the sum received in that fiscal year pursuant to the first sentence of section four; for any subsequent fiscal year, the excess of the entire grant received in that year pursuant to section four over the grant received pursuant to section four in the previous fiscal year.

"Sum of weighted full time equivalent pupils, in cities, towns or regional school districts in classification of school districts other than vocational schools", the number of full time equivalent pupils enrolled in regular day, special needs, vocational or transitional bilingual education programs multiplied by the pupil weight cost factor for the program or programs in which the pupil is enrolled as set forth in section two A of chapter seventy, except that a full time equivalent pupil enrolled in a transitional bilingual education program in accordance with the provisions of chapter seventy-one A and the regulations promulgated thereunder shall be assigned a pupil weight of 2.00 and the additional weight for low income pupils shall be 1.00.

"Sum of weighted full time equivalent pupils in cities, towns, regional school districts and independent vocational schools in the vocational school classification of school districts", the number of full time equivalent pupils enrolled in regular day, special needs, vocational or transitional bilingual education programs multiplied by the pupil weight cost factor for the program or programs in which the pupil is enrolled as set forth in section two A of chapter seventy, except that a full time equivalent pupil enrolled in a vocational education program shall be assigned a pupil weight of 1.00 and a pupil enrolled in a transitional bilingual education program in accordance with the provisions of chapter seventy-one A and the regulations promulgated thereunder shall be assigned a pupil weight of 2.00 and the additional weight for low income students as determined by the board shall be 1.00.

For the purpose of this chapter the definitions set forth in section two of chapter seventy shall apply.

Section 3. The commissioner of education shall annually on or before December first, calculate (1) the minimum amount which each city, town, regional school district and independent vocational school would have been required to expend during the preceding fiscal year for the direct service expenditures for pupils in public school, (a) if such minimum had been the product of eighty-five per cent of the average



ACTS, 1985. – Chap. 188.

direct service expenditure per pupil in regular day programs in all cities, towns and regional school districts of the same classification of school districts, except vocational schools, multiplied by the sum of weighted full time equivalent pupils in each such city, town or regional school district, or (b) if such minimum had been the product of eighty-five per cent of the average direct service expenditure per pupil in vocational education programs in cities, towns, regional school districts and independent vocational schools of the vocational schools classification of school district multiplied by the sum of weighted full time equivalent pupils in each city, town, regional school district or independent vocational school, and (2) the actual amount so expended.

Immediately after completing the calculations required, the said commissioner shall determine and certify to the commissioner of administration (1) each city, town, regional school district or independent vocational school in which the actual amount expended was less than the minimum amount which should have been expended and (2) an amount equal to the difference between the minimum amount which should have been so expended and the actual amount so expended.

Section 4. One-sixth of the amount determined to be the difference between the minimum amount which should have been expended and the actual amount so expended as calculated pursuant to section three shall be made available by the department as an equal educational opportunity grant in the fiscal year ending June thirtieth, nineteen hundred and eighty-six, to each city, town, regional school district or independent vocational school which is certified as provided in the last paragraph of section three. In the fiscal year nineteen hundred and eighty-seven, and in each fiscal year thereafter, the amount of the grant shall be equal to the total of the amount of the grant in the preceding fiscal year and an additional amount for the current fiscal year equal to one-sixth of the amount so determined for the most recent year in accordance with section three, between the minimum amount which should have been so expended and the actual amount so expended.

The equal educational opportunity grant shall be deposited with the treasurer of such city, town, regional school district or independent vocational school to be expended by the school committee, without further appropriation, for the purpose of increasing direct service expenditures for pupils in public schools.

Section 5. Each city, town or district, which accepts, by majority vote of both the school committee and the appropriating authority of such city or town, and each regional school district which accepts by majority vote of the school committee and by majority vote of two-thirds of the appropriating authorities of the member towns and cities an equal educational opportunity grant made available under the provisions of section four shall expend for direct service expenditures for pupils in public school in the current year, an amount which is at least as great as the sum of (1) the product of the number of weighted full time equivalent pupils for the current year multiplied by the amount expended per weighted full time equivalent pupil in the preceding fiscal year, including amounts received under the provisions of section four in that year, and (2) a proportionate share of the excess of the sum of any in-



**ACTS, 1985. – Chap. 188.**

crease in the total of school aid and additional assistance received by such city, town, or regional school district and any increase in the property tax levy in such city or town in the current fiscal year over the sum of increases in the costs of debt service, court judgments, and pensions in the current fiscal year over the preceding fiscal year; or an amount sufficient to reduce by one-third the difference between the minimum amount of direct service expenditures as determined by the commissioner of education under section three and the actual amount expended in the preceding fiscal year for direct service expenditures by such city, town, or regional school district. For the purposes of this paragraph, "proportionate share" shall mean the proportion which (a) direct service expenditures for pupils in public schools in the preceding fiscal year less the total amount received pursuant to section four in said preceding fiscal year bears to (b) the sum total of school aid and additional assistance received by such city, town, or regional school district in said preceding fiscal year and the total property tax levy of such city or town in said preceding fiscal year.

In order for a city, town or district which does not qualify for an equal educational opportunity grant under the provisions of section four in the fiscal year nineteen hundred and eighty-six to so qualify in any fiscal year thereafter such city or town must expend in the fiscal year nineteen hundred and eighty-six and in each fiscal year thereafter an amount which is at least as great as the sum of (1) the product of the number of weighted full time equivalent pupils for the current year multiplied by the amount expended per weighted full time equivalent pupil in the preceding fiscal year and (2) a proportionate share of the excess of the sum of any increase in the total of school aid and additional assistance received by such city or town and any increase in the property tax levy in such city or town in the current fiscal year over the sum of increases in the costs of debt service, court judgments, and pensions in the current fiscal year over the preceding fiscal year. For the purposes of this paragraph, "proportionate share" shall mean the proportion which total expenditures for all pupils in all programs, as defined in section two of chapter seventy, in the preceding fiscal year bears to the sum of the total of school aid and additional assistance received by such city or town in the preceding fiscal year and the total property tax levy of such city or town in the preceding fiscal year.

In order for a regional school district or independent vocational school which does not qualify for an equal educational opportunity grant under the provisions of section four in the fiscal year nineteen hundred and eighty-six to so qualify in any fiscal year thereafter, such regional school district or independent vocational school shall expend in the fiscal year nineteen hundred and eighty-six and in each fiscal year thereafter an amount per weighted full time equivalent pupil not less than the amount per such pupil expended in the preceding fiscal year and any increase in the total of school and regional school aid received by such regional school district or independent vocational school in that fiscal year.

In cases where unusual changes in enrollment or educational costs occur and the requirements of the preceding paragraph would impose an



ACTS, 1985. – Chap. 188.

undue fiscal hardship on a city or town or the cities or towns which are members of a regional school district, such city, town or district may appeal to the commissioner of education for a remedy. Such remedy may include, but not be limited to a one-year waiver of the requirements of the preceding paragraph.

Section 6. Notwithstanding the provisions of section seven of chapter seventy of the General Laws, no city, town, regional school district or independent vocational school shall have its school aid reduced pursuant to the provisions of said section seven for any fiscal year in which it receives an equal educational opportunity grant.

**SECTION 13.** There is hereby established a professional development grant program for the purpose of supplementing teacher compensation in cities, towns, and regional school districts, educational collaborative or independent vocational schools.

Each city, town or regional school district, educational collaborative or independent vocational school shall receive, subject to appropriation, as hereinafter provided, a professional development grant; provided, however, that such city, town or regional school district has accepted the provisions of this section. Cities and towns may accept the provisions of this section by a majority vote of the school committee and the appropriating authority. Regional school districts may accept the provisions of this section by a majority vote of the regional school committee and approval of two-thirds of the appropriating authorities of the member cities and towns.

On or before February fifteen, nineteen hundred and eighty-six the commissioner of education shall distribute an amount not to exceed nineteen million nine hundred and fifty thousand dollars to cities, towns, and regional school districts. The purpose of such distribution shall be to award professional development grants. The amount awarded to a city, town, regional school district, educational collaborative, or independent vocational school shall be the amount nineteen million nine hundred and fifty thousand dollars multiplied by a fraction, the numerator of which shall be the number of pupils enrolled in the day program of the city, town, or regional school district and the denominator of which shall be the total number of pupils enrolled in day programs of all cities, towns, and regional school districts, educational collaboratives and independent vocational schools.

On or before August fifteen, nineteen hundred and eighty-six the commissioner of education shall distribute an amount not to exceed seventeen million and one hundred thousand dollars to cities, towns, and regional school districts, educational collaboratives and independent vocational schools. The purpose of such distribution shall be to award professional development grants. The amount awarded to a city, town or regional school district, educational collaborative, or independent vocational school shall be the amount seventeen million and one hundred thousand dollars multiplied by a fraction, the numerator of which shall be the number of pupils enrolled in the day program of the city, town or regional school district, educational collaborative, or independent vocational school and the denominator of which shall be the total number



**ACTS, 1985. – Chap. 188.**

of pupils enrolled in day programs of all cities, towns, and regional school districts, educational collaboratives and independent vocational schools.

On or before February fifteen, nineteen hundred and eighty-seven the commissioner of education shall distribute an amount not to exceed fourteen million and two hundred and fifty thousand dollars to cities, towns, and regional school districts, educational collaboratives and independent vocational schools. The purpose of such distribution shall be to award professional development grants. The amount awarded to a city, town, regional school district, educational collaborative or independent vocational school shall be the amount fourteen million and two hundred and fifty thousand dollars multiplied by a fraction, the numerator of which shall be the number of pupils enrolled in the day program of the city, town, or regional school district and the denominator of which shall be the total number of pupils enrolled in day programs of all cities, towns, regional school districts, educational collaboratives and independent vocational schools.

On or before August fifteen, nineteen hundred and eighty-seven the commissioner of education shall distribute an amount not to exceed eleven million and four hundred thousand dollars to cities, towns, regional school districts, educational collaboratives and independent vocational schools. The purpose of such distribution shall be to award professional development grants. The amount awarded to a city, town, regional school district, educational collaborative or independent vocational school shall be the amount eleven million and four hundred thousand dollars multiplied by a fraction, the numerator of which shall be the number of pupils enrolled in the day program of the city, town, regional school district, educational collaborative or independent vocational school and the denominator of which shall be the total number of pupils enrolled in day programs of all cities, towns, regional school districts, educational collaboratives and independent vocational schools.

Professional development grants shall be deposited with the treasurer of such city or town to be expended by the school committee, without further appropriation, for teacher compensation for school teachers employed in any public school in the commonwealth, except persons in training and those employed as temporary substitutes. Any such grant so made available to a regional school district, educational collaborative or independent vocational school shall be deposited with the treasurer of such district or school to be expended for the purpose of teacher compensation. Said grants shall be apportioned by the school committee or board subject to an agreement negotiated between said school committee, educational collaborative board or board of trustees of independent vocational schools and the appropriate employee organization pursuant to the provisions of chapter one hundred and fifty E of the General Laws.

**SECTION 14.** Section 38 of chapter 71 of the General Laws is hereby amended by adding the following four paragraphs:–

Subject to the collective bargaining provisions of chapter one hundred and fifty E, the school committee may designate each year Horace Mann



**ACTS, 1985. – Chap. 188.**

teachers who meet the requirements and guidelines developed by the board of education pursuant to section one G of chapter fifteen. Any position designated as a Horace Mann teacher shall be included in an appropriate teacher collective bargaining unit. Each year the school committee may designate Horace Mann teachers who meet the requirements and guidelines developed by the board of education; provided, however, that a teacher may not be designated as a Horace Mann teacher more than two consecutive years.

The school committee shall, by means of a comprehensive evaluation, evaluate the performance of all teachers and administrators within its school district, using the principles of evaluation established by the board of education pursuant to section one G of chapter fifteen, such principles shall be free of racial or cultural bias. School committees shall evaluate teachers and administrators not serving at discretion every year and shall evaluate teachers and administrators serving at discretion at least once every two years. The procedures for conducting such evaluations shall be subject to the collective bargaining provisions of chapter one hundred and fifty E.

The results of such evaluations may be used in decisions to dismiss, demote or remove a teacher or administrator pursuant to sections forty-two, forty-two A and sixty-three.

Each school district shall conduct evaluations of teachers and administrators in accordance with the regulations of the board and shall be reimbursed for reasonable costs incurred thereby in accordance with section sixty of chapter fifteen.

**SECTION 15.** Section 38G of chapter 71 of the General Laws is hereby amended by adding the following paragraph:-

The board shall further require that all persons seeking to meet the requirements for certification under this section shall have successfully passed a standardized exam in his or her teaching subject field, a standardized exam of communication and language skills and shall have successfully completed a seminar on teaching skills and methods.

**SECTION 16.** Section 40 of said chapter 71, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentences:-

The compensation of each teacher, except a person in training and except a person employed as a temporary substitute, upon a majority vote of the respective school committee and the appropriating authority or, in the case of a regional school district, upon acceptance as provided hereafter, shall be at a rate of not less than eighteen thousand dollars for school years commencing after July first, nineteen hundred and eighty-five. In the case of a regional school district, acceptance shall require the approval of two-thirds of the appropriating authorities of the municipalities in such regional school district.

**SECTION 17.** Any city, town, regional school district, educational collaborative or independent vocational school district which employs teachers at salaries below eighteen thousand dollars and which accepts



ACTS, 1985. – Chap. 188.

the minimum salary provisions of section forty of chapter seventy-one of the General Laws for school years commencing after July first, nineteen hundred and eighty-five shall receive a minimum teachers salary grant from the commonwealth in fiscal years nineteen hundred and eighty-six and nineteen hundred and eighty-seven equal to the cost incurred by such city, town or regional school district during said fiscal years as a result of increasing to eighteen thousand dollars the salary of each teacher whose salary was below that level prior to July first, nineteen hundred and eighty-five.

Any city, town, regional school district, educational collaborative or independent vocational school which employs teachers at salaries below eighteen thousand dollars and which accepts the minimum salary provisions of section forty of chapter seventy-one of the General Laws for school years commencing after July first, nineteen hundred and eighty-six, shall receive a minimum teachers' salary grant from the commonwealth in fiscal year nineteen hundred and eighty-seven equal to the cost incurred by such city, town or regional school district during said fiscal year, as a result of increasing to eighteen thousand dollars the salary of each teacher whose salary was below that level prior to July first, nineteen hundred and eighty-five.

**SECTION 18.** Said chapter 71, as so appearing, is hereby further amended by striking out section 42 and inserting in place thereof the following section:–

Section 42. The school committee may dismiss any teacher, but no teacher and no superintendent, other than a union superintendent and the superintendent of schools in the city of Boston, shall be dismissed unless by a two-thirds vote of the whole committee. A teacher not employed at discretion under section forty-one and who has been teaching for more than ninety days shall not be dismissed for any reason unless at least fifteen days, exclusive of customary vacation periods, prior to the meeting at which the vote is to be taken, he shall have been notified of such intended vote and, if he so requests, he shall have been furnished by the committee with a written statement of the cause or causes for which the dismissal is proposed and if he so requests, he has been given a hearing before the school committee at which he may be represented by counsel, present evidence and call witnesses to testify in his behalf and examine them, and the superintendent shall have given the committee his recommendation thereon. In every such town a teacher or superintendent employed at discretion under section forty-one or a superintendent employed under a contract, for the duration of his contract, shall not be dismissed, except for inefficiency, incompetency, incapacity, conduct unbecoming a teacher or superintendent, insubordination or other good cause, nor unless at least thirty days, exclusive of customary vacation periods, prior to the meeting at which the vote is to be taken, he shall have been notified of such intended vote; nor unless, if he so requests, he shall have been furnished by the committee with a written charge or charges of the cause or causes for which his dismissal is proposed; nor unless, if he so requests, he has been given a hearing before the school committee which may be either public



**ACTS, 1985. - Chap. 188.**

or private at the discretion of the school committee and at which he may be represented by counsel, present evidence and call witnesses to testify in his behalf and examine them; not unless the charge or charges so have been substantiated; not unless, in the case of a teacher, the superintendent shall have given the committee his recommendation thereon. The change of marital status of a female teacher or superintendent shall not be considered cause for dismissal under this section. Neither this section nor section forty-one shall affect the right of a committee to dismiss a teacher whenever an actual decrease in the number of pupils in the schools of the town renders such act advisable. In case a decrease in the number of pupils in the schools of a town renders advisable the dismissal of one or more teachers, a teacher who is serving at the discretion of a school committee under section forty-one shall not be dismissed if there is a teacher not serving at discretion whose position the teacher serving at discretion is qualified to fill. No teacher or superintendent who has been lawfully dismissed shall receive compensation for services rendered thereafter.

**SECTION 19.** Section 42A of said chapter 71, as so appearing, hereby further amended by inserting after the word "inefficiency", line 5, the word:— , incompetency.

**SECTION 20.** Sections seven and seven A of chapter sixty-five of the acts of nineteen hundred and eighty-four are hereby repealed.

**SECTION 21.** Notwithstanding the provisions of section thirty-eight (38) of chapter seventy-one of the General Laws, the board may authorize school committees to employ as apprentice teachers for a maximum of two years, candidates for certification who have earned a bachelor's or higher degree from an accredited college or university, with honors, or the equivalent and who have met the subject matter requirements in the teaching field established by the board.

**SECTION 22.** The board of education is hereby authorized and directed to prepare and present to the governor and to the joint committee on education, no later than December thirty-first, nineteen hundred and eighty-five, a management plan for the department of education, reflecting the role of the department as a service provider to local school districts, assessing the use of existing staff and resources, addressing the responsibilities and requirements placed on the department of education by the provisions of this act, and recommending any legislation necessary for implementing said management plan.

**SECTION 23.** Upon the adoption by the board of education of any regulations promulgated pursuant to the provisions of this act, said board shall file a copy thereof with the clerk of the house of representatives who shall refer such regulations to an appropriate committee of the general court for review. Within thirty days after such filing, the said committee shall hold a public hearing on the regulations, shall issue a report, and file a copy thereof with the board of education. Said board



**ACTS, 1985. – Chap. 188.**

shall adopt final regulations making such revisions in the interim regulations as it deems appropriate in view of such report and shall forthwith file a copy of the regulations with the chairpersons of the committee of the general court to which the interim regulations were referred. No earlier than thirty days after the date of filing, the board of education shall file the final regulations with the state secretary and the said regulations shall thereupon take effect.

**SECTION 24.** Upon the adoption by the board of regents of any regulations promulgated pursuant to the provisions of this act, said board shall file a copy thereof with the clerk of the house of representatives who shall refer such regulations to an appropriate committee of the general court for review. Within thirty days after such filing, the said committee shall hold a public hearing on the regulations, shall issue a report, and file a copy thereof with the board of regents. Said board shall adopt final regulations making such revisions in the interim regulations as it deems appropriate in view of such report and shall forthwith file a copy of the regulations with the chairpersons of the committee of the general court to which the interim regulations were referred and not earlier than thirty days after the date of such filing, the board of regents shall file the final regulations with the state secretary and the said regulations shall thereupon take effect.

**SECTION 25.** For purposes of this act, "public elementary and secondary school", shall include public schools in all cities, towns, regional school districts, independent vocational schools, educational collaboratives, public agricultural schools maintained by the counties of Bristol, Essex and Norfolk and Smith's Agricultural School. "School committee" shall include school committees in all cities, towns and regional school districts, local and district trustees for vocational education, educational collaborative boards and boards of trustees for the county agricultural schools. "Superintendent" shall include the chief appointed executive officer of each school district.

**SECTION 26.** Amounts received by a city, town, or regional school district pursuant to this act shall be included in the determination required of the commissioner of revenue by section twenty-five A of chapter fifty-eight of the General Laws.

**SECTION 27.** There is hereby established a special commission to study the levels and manner of compensation of public elementary and secondary school teachers in the commonwealth. The commission shall be comprised of nine members, four of whom shall be appointed by the governor, three of whom shall be members of the house of representatives appointed by the speaker including the house chairman of the joint committee on education, and two of whom shall be members of the senate appointed by the president including the senate chairman of the joint committee on education. The commission's work shall include an analysis of the level and manner in which teachers are compensated in the commonwealth, minimum salary requirements including health,



**ACTS, 1985. – Chap. 189.**

retirement, and vacation benefits, and a comparison of teacher salaries and benefits in the commonwealth with teacher salaries and benefits in other states. The commission shall file a report, including recommendations for legislation, with the clerk of the house of representatives on the last Wednesday of December nineteen hundred and eighty-six.

**SECTION 27A.** There is hereby established a special commission to consist of three members of the senate, five members of the house of representatives, and five members to be appointed by the governor, for the purpose of making an investigation and study relative to the granting of awards for educational achievement and the effectiveness of local school improvement councils.

Said commission shall report to the general court the results of its investigation and study, and its recommendations, if any, together with drafts of legislation necessary to carry its recommendations into effect, by filing the same with the clerk of the house of representatives no later than April fifteenth, nineteen hundred and eighty-seven.

**SECTION 28.** Notwithstanding any other provision of this act to the contrary, during fiscal year nineteen hundred and eighty-six neither the department of education nor the board of education shall approve or commit to the expenditure of any funds pursuant to any provision of this act until monies sufficient for that purpose have been made available pursuant to an expenditure or transfer of funds from the reserve account established by line item 1599-3418 of section two of chapter one hundred and forty of the acts of nineteen hundred and eighty-five in accordance with a schedule approved by the house and senate committees on ways and means; and in no event shall the total amount of expenditures so approved or committed to by the board or the department exceed the amounts provided for such purposes in said schedule.

**SECTION 29.** The first curriculum testing required by section fifty of chapter fifteen, as inserted by section four of this act, shall be made no later than June first, nineteen hundred and eighty-six. The first basic skills testing required by said section fifty shall be made no later than December first, nineteen hundred and eighty-six.

**SECTION 30.** Section three of this act shall take effect on February twenty-eighth, nineteen hundred and eighty-six. Section five shall take effect on September first, nineteen hundred and eighty-seven. Section ten of this act shall take effect on January first, nineteen hundred and eighty-six, and shall apply to taxable years commencing on or after that date. Section ten A of this act shall take effect on December thirty-first, nineteen hundred and eighty-eight.

Approved July 23, 1985.

EMERGENCY LETTER: July 24, 1985 @ 11:23 A.M.



ACTS, 1985. – Chap. 190.

LINES IN THE HARBOR OF LYNN.

Be it enacted, etc., as follows:

SECTION 1. Chapter 313 of the acts of 1867 is hereby amended by striking out section 2, as most recently amended by chapter 516 of the acts of 1980, and inserting in place thereof the following section:–

Section 2. The harbor line begins at a point in said Lynn Harbor at the southeasterly corner of the northerly abutment wall of the Eastern Railroad Bridge over the Saugus River, and runs on a straight line, S 43° 49' 58" E, 964 feet to a point southwesterly 466 feet from monument A; thence southeasterly and easterly on an arch of a circle of 466 feet radius, of which said monument A is the centre, for a distance of 430 feet;

thence on a straight line N 83° 17' 52" E, 812.02 feet to a point;  
thence on a straight line S 73° 59' 01" E, 1838.47 feet to a point;  
thence on a straight line N 84° 00' 59" E, 925.00 feet to a point;  
thence on a straight line N 05° 50' 01" W, 800.00 feet to a point;  
thence on a straight line S 84° 00' 59" W, 447.88 feet to a point;  
thence on a straight line N 73° 59' 01" W, 706.76 feet to a point;  
thence on a straight line N 49° 12' 48" E, 1800.00 feet to a point;  
thence on a straight line N 62° 05' 14" E, 224.41 feet to a point;  
thence on a straight line N 49° 12' 48" E, 646.22 feet to a point;  
thence on a straight line S 44° 49' 27" E, 45.00 feet to a point;  
thence on a straight line N 45° 10' 33" E, 405.00 feet to a point;  
thence on a straight line N 25° 35' 55" W, 83.11 feet to a point;  
thence on a straight line N 36° 09' 11" E, 260.93 feet to a point  
thence on a straight line N 48° 12' 07" E, 800.00 feet to a point,  
southeasterly 350 feet from monument C;

thence easterly and southeasterly, on an arc of a circle of 1185.00 feet radius, for a distance of 2400.00 feet to a point due west of monument D, and 828.00 feet therefrom;

thence southerly on an arc of a circle of 11,325.00 feet radius, for a distance of 4273.00 feet to a point due west of monument E, and 80 feet therefrom. The above-mentioned monuments, marked, respectively, A, B, C, D, E, are granite posts and have the letters H. L. inscribed thereon.

SECTION 2. This act shall take effect upon its passage.

Approved July 24, 1985.

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Chapter 190. AN ACT AUTHORIZING THE CITY OF PITTSFIELD TO GRANT AN EASEMENT ON CERTAIN PARK LAND IN SAID CITY.

Be it enacted, etc., as follows:

SECTION 1. The city of Pittsfield is hereby authorized to grant an easement to the New England Telephone Company in certain park land



**ACTS, 1985. – Chap. 191.**

bounded and described as follows:

Beginning at a point in the northerly street line of Hancock Road; said point being sixteen (16) feet easterly of the intersection of the southeast corner of land now or formerly of Bertha C. Zelanzo and the southwest corner of land of the City of Pittsfield (Pontoosuc Park); thence running N17 -13' -39"E, perpendicular to the northerly street line of Hancock Road, a distance of twenty-six and no hundredths (26.00) feet to a point; thence running S72 -46' -21"E, parallel with the northerly street line of Hancock Road, a distance of ten and no hundredths (10.00) feet to a point; thence running S17 -13' -39"W, parallel with the first described course, a distance of twenty-six and no hundredths (26.00) feet to the northerly street line of Hancock Road; thence running N72 -46' -21"W, in the northerly street line of Hancock Road, a distance of ten and no hundredths (10.00) feet to the place of beginning.

The above described parcel of land contains two hundred sixty (260) square feet of land be the same more or less. All as shown on a plan entitled, "TELEPHONE EASEMENT LAND OF CITY OF PITTSFIELD", dated Jan 1985 on file in the office of the commissioner of public works. Said plan being PLAN NO. 1/85.

**SECTION 2.** This act shall take effect upon its passage.

Approved July 24, 1985.

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**Chapter 191. AN ACT AUTHORIZING THE CITY OF PITTSFIELD TO USE CERTAIN LAND IN SAID CITY FOR WATER SYSTEM IMPROVEMENTS.**

Be it enacted, etc., as follows:

**SECTION 1.** Notwithstanding the provisions of section three of chapter seven hundred and fifty-nine of the acts of nineteen hundred and seventy-nine, the city of Pittsfield is hereby authorized to construct water system improvements on certain land in said city acquired for park and school purposes bounded and described as follows:-

Beginning at a concrete H monument set in the westerly sideline of the town way known as Valentine Road, said point being located opposite station 36+78.77 as shown on the 1894 City Government layout of said road;

Running thence southerly in a curve to the left having a radius of 1,620.23 feet and along the westerly sideline of said Valentine Road a distance of 109.51 feet to a concrete H monument set marking the northeasterly corner of a parcel of land identified by Land Court Docket #13324, which docket identifies the parcel as land of the Commonwealth of Massachusetts Department of Mental Health;

Running thence north 77 degrees, 32 minutes, 4 seconds west along the northerly line of said Department of Mental Health's land a distance of 483.93 feet to a 4 inch concrete bound marking the southeasterly corner of the City of Pittsfield's Burbank Park;



**ACTS, 1985. – Chap. 192.**

Running thence north 11 degrees, 53 minutes, 59 seconds east along the easterly line of said Burbank Park a distance of 430.00 feet to a concrete H monument;

Running thence south 78 degrees, 6 minutes, 1 second east along remaining land of the grantor herein a distance of 330.00 feet to a concrete H monument;

Running thence south 11 degrees, 53 minutes, 59 seconds west along remaining land of the grantor herein a distance of 326.42 feet to a concrete H monument;

Running thence south 78 degrees, 6 minutes, 1 second east along remaining land of the grantor herein a distance of 169.59 feet to the place of beginning;

The above described parcel of land contains 3.668 acres and is a portion of the same premises taken by the Commonwealth of Massachusetts Department of Mental Health by deed dated August 26, 1969 and recorded in the Berkshire Middle District Registry of Deeds in Book 879, Page 479;

The above described premises are further shown and described on a plan entitled, "Survey of Land in Pittsfield, Mass. Prepared for the City of Pittsfield", dated November 1, 1984 and prepared by Dennis C. Drumm & Associates, which plan is to be recorded in the Berkshire Middle District Registry of Deeds simultaneously herewith.

Said land being a portion of certain land conveyed by the commonwealth, acting by and through its commissioner of mental health, to the city of Pittsfield by deed dated May fourteenth, nineteen hundred and eighty, under the provisions of said chapter seven hundred and fifty-nine.

**SECTION 2.** This act shall take effect upon its passage.

Approved July 24, 1985.

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**Chapter 192. AN ACT AUTHORIZING EARL F. ENOS TO TAKE A CIVIL SERVICE EXAMINATION FOR THE POSITION OF POLICE OFFICER IN THE TOWN OF WILMINGTON NOTWITHSTANDING THE MAXIMUM AGE REQUIREMENTS.**

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately authorize Earl F. Enos to take a civil service examination for the position of police officer in the town of Wilmington notwithstanding the maximum age requirements, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public safety.

Be it enacted, etc., as follows:

Notwithstanding the provisions of any general or special law or rule to the contrary regulating the maximum age of an applicant for



ACTS, 1985. – Chap. 193.

appointment as a police officer, Earl F. Enos shall be eligible to take the next open competitive examination for police officer in the town of Wilmington, and provided he meets all other requirements, he shall be eligible for certification and appointment.

Approved July 24, 1985.

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**Chapter 193. AN ACT ESTABLISHING THE DEDHAM-WESTWOOD WATER DISTRICT.**

Be it enacted, etc., as follows:

**SECTION 1.** The inhabitants of the towns of Dedham and Westwood liable to taxation in said towns and residing within the territory comprised within the territorial limits of said towns shall constitute a water district and are hereby made a body politic and corporate by the name of the Dedham-Westwood Water district, hereinafter called the district, for the purpose of supplying themselves with water for the extinguishment of fires and for domestic and other purposes, with power to lay water mains, to establish fountains and hydrants and to relocate and discontinue the same, to regulate the use of such water and to fix and collect rates to be paid therefor, and for the purposes of assessing and raising taxes as provided herein for the payment of such services, and for defraying the necessary expenses of carrying on the business of the district, with all the powers and privileges and subject to the limitations provided for in all general laws now or hereafter in force relating to such districts, except as otherwise provided herein. The district shall also have for its purpose the construction and financing of such water treatment works and facilities as may be necessary to deliver pure and healthful drinking water, including without limitation thereof, a proposed treatment plant for the White Lodge Well Field, and for this purpose, the district shall seek, obtain and accept any available capital and operating funds from the commonwealth or the Federal government or any authority or entity created by either of said governments. The district shall have power to prosecute and defend all actions relating to its property and affairs and shall be deemed a public employer for purposes of chapter two hundred and fifty-eight of the General Laws.

**SECTION 2.** For the aforesaid purposes the district, acting by and through its board of water commissioners hereinafter provided for:

(a) May contract with any municipality, acting through its water department, or with any water company, or with any water district, or with the Massachusetts Water Resources Authority for the purchase or sale of whatever water may be required, authority to furnish the same being hereby granted, and may enter into such other contracts as may be necessary to effectuate the purposes of this act;

(b) May, in addition to the powers granted to it by section ten, take by eminent domain under the provisions of chapter seventy-nine or chapter eighty A of the General Laws, or acquire, by lease, purchase or



ACTS, 1985. – Chap. 193.

otherwise, and hold, the waters, or any portion thereof, of any pond, spring or stream, or of any ground sources of supply by means of driven, artesian or other wells, within the territorial limits of the towns of Dedham and Westwood not already appropriated for the purposes of a public water supply by another governmental body, and the water and flowage rights connected with any such water sources; may take as aforesaid, or acquire by purchase or otherwise, and hold, all lands, rights of way and other easements necessary for collecting, storing, holding, purifying and preserving the purity of the water and for conveying the same to any part of the district; provided, that no source of water supply or lands necessary for preserving the quality of such water shall be so taken or used without first obtaining the advice and approval of the department of environmental quality engineering, and that the location and arrangement of all dams, reservoirs, springs, wells, pumping, purification and filtration plants and such other works as may be necessary in carrying out the provisions of this act shall be subject to the approval of said department;

(c) May construct and maintain on the lands acquired and held under this act proper dams, wells, springs, reservoirs, standpipes, tanks, pumping plants, buildings, fixtures and other structures, including the establishment and maintenance of filter beds and purification works or systems, and may make excavations, procure and operate machinery and provide such other means and appliances, and do such other things as may be necessary for the establishment and maintenance of complete and effective water works; and for that purpose may construct pipe lines, wells and reservoirs, may establish pumping works, and may construct, lay, acquire and maintain aqueducts, conduits, pipes and other works under or over any land, water courses, railroads, railways, and public or other ways and along such ways, in said towns, in such manner as not unnecessarily to obstruct the same;

(d) May, for the purpose of constructing, laying, maintaining, operating and repairing such aqueducts, conduits, pipes and other works, and for all other purposes of this act, dig up or raise and embank any such lands, highways or other ways in such manner as to cause the least hindrance to public travel on such ways; provided, that the manner in which all things are done upon any such way shall be subject to the direction of the selectmen of the respective towns in which such lands, highways or other ways are located; and provided, further, that the district shall not enter upon, or construct or lay any conduit, pipe or other works within the location of any railroad corporation except at such time and in such manner as it may agree upon with such corporation or, in case of failure to so agree, as may be approved by the department of public utilities;

(e) May enter upon any lands for the purpose of making surveys, test wells or pits and borings, or any of them, and may take or otherwise acquire the right to occupy temporarily any lands necessary for the construction of any work or for any other purpose authorized by this act;

(f) May, pursuant to chapter three hundred and seventy-two of the acts of nineteen hundred and eighty-four, as may be amended from time to time, derive all or any part of its water supply from the



**ACTS, 1985. – Chap. 193.**

Massachusetts Water Resources Authority;

(g) May from time to time sell such of the property of the district as shall, in the opinion of its board of water commissioners hereinafter provided for, be no longer useful in the conduct of the affairs of the district;

(h) May employ personnel and may engage architectural, engineering, accounting, management, legal, financial and environmental consulting and other professional services; and

(i) May do all things necessary, convenient or desirable for carrying out the purposes of this act or the powers expressly granted or necessarily implied by this act.

**SECTION 3.** Any person sustaining damages in his property by any taking under this act or any other thing done under authority thereof may recover such damages from the district under the provisions of said chapter seventy-nine or said chapter eighty A; but the right to damages for the nonexclusive taking of any water, water right or water source, or for any injury thereto, shall not vest until water is actually withdrawn or diverted under authority of this act.

**SECTION 4.** The district, for the purposes of paying the cost of, and expenses incurred in connection with, the taking or the acquisition of the properties of the Dedham Water Company as hereinafter provided, and for putting such properties in a satisfactory operating condition as may be in the district's opinion needed and as approved by the department of environmental quality engineering, may, from time to time, borrow such sums, as may be necessary, and may issue bonds or notes therefor, which shall be payable in not less than thirty years from their dates and shall bear on their face the words Dedham-Westwood Water District Water Loan, Act of 1985. Any bonds issued pursuant to the preceding sentence shall not be included in the amount of debt which is subject to limit prescribed by sections eight, nine and ten of chapter forty-four of the General Laws. The district, for the purpose of paying other necessary expenses and liabilities incurred under this act, other than expenses of maintenance and operation, may from time to time borrow such additional sums as may be necessary, not exceeding, in the aggregate, the amounts permitted by law to be borrowed by water districts, and may issue bonds or notes therefor which shall bear on their face the words Dedham-Westwood Water District Water Loan and such other distinguishing designation as may be determined by said board of water commissioners. The district may borrow from time to time such sums as may be necessary for the purposes of this act in anticipation of revenue. Indebtedness incurred under this act shall, except as otherwise provided herein, be subject to the provisions of said chapter forty-four pertaining to such districts. Each such borrowing and each such issue of bonds or notes shall constitute a separate loan, shall be authorized by the affirmative vote of not less than two-thirds of all the members of said board of water commissioners, and shall be upon the full faith and credit of the district. All bonds or notes issued under the provisions of this act shall be obligatory upon the district and its inhabitants and the property



## ACTS, 1985. – Chap. 193.

within the limits of the district according to the tenor and purport thereof.

**SECTION 5.** The district, acting by and through said board of water commissioners, shall, subject to the applicable provisions of law, fix just and equitable prices and rates for the use of water and shall prescribe the time and manner of payment. Notwithstanding the foregoing, such prices and rates shall be fixed and adjusted so as to provide funds at least sufficient in each fiscal year, together with other revenues and funds of the district, if any, available therefor, to pay the full cost of operation of the district for that fiscal year, including all current expenses; all debt service on bonds or notes of the district; all costs of maintenance, repair and replacement, including the establishment of reasonable sinking funds, stabilization funds, replacement reserves and other similar funds in accordance with generally accepted accounting principals, as determined by the board of water commissioners to be necessary or desirable to be funded as current expenses; and all other amounts which the district may be obligated to pay or provide for by law or contract. Such prices and rates shall be reviewed on not less than an annual basis and as necessary shall be revised. In the event that the water system operated by the district shall have been taken by eminent domain, or otherwise acquired, from the Dedham Water Company, the district acting through said board of water commissioners, shall immediately after such taking or acquisition fix the rates to be paid within the territorial limits of the towns of Dedham and Westwood. If in any fiscal year a tax has been levied upon the inhabitants of the district under the provision of section six of this act, the board of water commissioners shall fix such prices and rates for the use of water as to raise within the shortest practicable period as determined by the board of water commissioners the amount of such tax and shall, at the end of each fiscal year thereafter until both towns of Dedham and Westwood shall have been reimbursed an amount equal to the amount of the taxes so paid to the district by the inhabitants of each town respectively, pay to each such town so much, if any, of the revenue of the district as is in excess of the cost of operation. Payments shall be made to each such town in the same proportions of such excess as those in which deficits were apportioned to each of such towns under the provisions of said section six. If there should be a net surplus remaining at the end of any fiscal year after the payment of all costs of operation and the aforesaid reimbursements, such net surplus shall be applied to pay costs of operation for the district for the succeeding fiscal year. The fiscal year of the district shall commence July first and end June thirtieth, or as otherwise provided in the bylaws of the district.

**SECTION 6.** If for any reason the revenues and available funds of the district, including revenues from prices and rates for the use of water as provided in section five hereof, shall be determined by the board of water commissioners not to be sufficient to pay the full cost of operation of the district, said board of water commissioners shall levy a tax upon the property of the district, and promptly thereafter the clerk



ACTS, 1985. – Chap. 193.

of the district shall apportion the amount of said tax between the property subject to tax under this act in the towns of Dedham and Westwood in proportion to the assessors' valuation of said property in each town and shall furnish a certified copy of the vote imposing said tax, together with said apportionment of the tax, to the assessors of said towns, who shall assess said tax on the property within the district in the same manner in all respects in which town taxes are required by law to be assessed. No estate shall be subject to any tax assessed on account of the system of water supply under this act, if, in the judgment of the board of water commissioners, after a hearing, due notice whereof shall have been given, such estate is so situated that it will receive no aid in the extinguishment of fire from said system of water supply, and if such estate is so situated that the buildings thereon, or the buildings that might be constructed thereon, could not be supplied with water from said system in any ordinary or reasonable manner; but all other estates in the district shall be deemed to be benefited and shall be subject to such tax. A certified list of the estates exempt from taxation under the provisions of this section shall be sent by said board of water commissioners to said assessors, at the same time at which the clerk shall send a certified copy of the vote as aforesaid. The assessments shall be committed to the respective town collectors, who shall collect said tax in the manner provided by law for the collection of town taxes, and shall deposit the proceeds thereof with the district treasurer for the use and benefit of the district. The district may collect interest on overdue taxes in the manner in which interest is authorized to be collected on town taxes, provided the board of water commissioners at the time of voting to levy the tax shall so determine and shall also fix a time when said tax is due.

**SECTION 7.** The management and control of all property acquired by, and the exercise of all the powers, privileges and duties conferred upon, the district pursuant to any of the provisions of this act shall be vested in and exercised by a board of water commissioners which shall be constituted as provided in section eight; provided, that no vote of the board of water commissioners authorizing the issue of bonds or notes under the provisions of section four, other than for temporary borrowings in anticipation of revenue, shall become effective before the expiration of twenty days from the date on which notice of such vote, stating the principal amount of the bonds or notes to be issued and the purposes of such issue, shall have been published in a newspaper or newspapers of general circulation in the towns of Dedham and Westwood. If no petition as hereinafter provided for relative to any such vote is filed within said period of twenty days, such vote shall become effective upon the expiration of said period. If within said period a petition signed by registered voters of the towns of Dedham and Westwood at least equal in number to twenty per cent of the total number of such registered voters in the district shall be filed with the clerk of the district asking that the question of approving or disapproving such vote be submitted to the voters of the towns of Dedham and Westwood, such vote shall be further suspended from becoming effective and the board of water commissioners shall forthwith request the respective selectmen of the



ACTS, 1985. – Chap. 193.

towns of Dedham and Westwood to call town meetings in their respective towns to act upon the question of approving or disapproving such order. The selectmen of the towns of Dedham and Westwood shall thereupon call town meetings of their respective towns for the purposes specified in such request. If a vote of the district submitted as aforesaid shall be approved by a majority of those voting at each of such town meetings, or shall be approved by a majority of those voting at one of such meetings and disapproved by less than two-thirds of those voting at the other one of such town meeting, such vote shall at once become effective, but not otherwise in case of such petition.

**SECTION 8.** The board of water commissioners provided for in section seven shall consist of six members, three of whom shall be inhabitants of and registered voters in the town of Dedham and three of whom shall be inhabitants of and registered voters in the town of Westwood. No such member shall hold any elective or appointive office, or be an employee of, either of said towns. Each board of selectmen of the towns of Dedham and Westwood, after both towns shall have accepted this act as hereinafter provided, shall appoint three inhabitants of and registered voters in their town to serve as members of the board of water commissioners, of whom one shall serve until January first, nineteen hundred and eighty-nine, one shall serve until January first, nineteen hundred and eighty-eight, and one shall serve until January first, nineteen hundred and eighty-seven, or until their successors are appointed and qualified. Beginning January first, nineteen hundred and eighty-seven and annually thereafter one inhabitant of and registered voter in each town shall be appointed by the board of selectmen of that town to serve as a member of the board of water commissioners for the term of three years, or until a successor is appointed and qualified. Members of the board of water commissioners shall serve without pay but may be compensated for their actual expenses as approved by the board of water commissioners.

The district acting through its initial board of water commissioners shall promptly adopt bylaws describing by whom and how meetings of the board may be called, notified and conducted, establish rules and regulations for the management of its affairs not inconsistent with this act or any other provision of law, shall appoint, each for such term as it may determine, a clerk and a treasurer of the district, and such other officers and employees not specifically provided for in this act as it may deem necessary and proper and shall fix their compensation. The treasurer shall not be a member of the board of water commissioners and shall give bond to the district in such amount as may be approved by said board with a surety company authorized to transact business in the commonwealth as surety. At meetings of the board of water commissioners four members, of which two must be from the town of Dedham and two must be from the town of Westwood shall constitute a quorum. Any member of the board of water commissioners may be removed by the board of selectmen who appointed said member for misfeasance, malfeasance or wilful neglect of duty or other cause after notice and a public hearing unless such notice and hearing shall be



**ACTS, 1985. – Chap. 193.**

expressly waived in writing. Vacancies occurring in the membership of the board of water commissioners from any cause may be filled for the remainder of the unexpired term by the board of selectmen entitled to appoint such member. No vacancy occurring in the membership of the board of water commissioners shall disqualify the board of water commissioners from taking any action authorized or permitted by this act.

In appointing officers and employees of the district, if it shall have taken by eminent domain or otherwise acquired the properties of the Dedham Water Company, the district, in its sole discretion, may give preferential recognition to the prior experience in the employment of employees of the Dedham Water Company at the time of said taking or acquisition.

The district shall annually prepare and provide to the board of selectmen of both of the towns of Dedham and Westwood and to each user of water in the district who requests the same a written report of the condition of the system, the actions of the board of water commissioners and the receipts and expenditures of the district for the preceding fiscal year. The district shall furnish the selectmen of the towns of Dedham and Westwood with such other information as to the condition of the system, the actions of the board of water commissioners and the district and the receipts and expenditures of the district as may be reasonably requested by the selectmen of either of said towns, and such information shall be furnished within a reasonable time after receipt of such a request.

**SECTION 9.** Whoever wilfully or wantonly corrupts, pollutes or diverts any water obtained or supplied under this act, or wilfully or wantonly injures any reservoir, well, standpipe, aqueduct, pipe or other property owned or used by the district for any of the purposes of this act, shall forfeit and pay to the district three times the amount of damages assessed therefor, to be recovered in an action of tort, and upon conviction of any of the above wilful or wanton acts shall be punished by a fine of not more than three hundred dollars or by imprisonment for not more than one year, or both.

**SECTION 10.** The district, upon the acceptance of this act as hereinafter provided by the towns of Dedham and Westwood, is hereby authorized and empowered to purchase all the rights, franchises, privileges, and properties, tangible and intangible, real and personal, including furniture and equipment, inventories and material supplies, of the Dedham Water Company, at a price and upon such terms and conditions as may be agreed upon between the district and said corporation. In the event that the district shall elect to purchase such rights and properties, it shall give said corporation written notice of such intention, addressed to such corporation at its principal place of business, mailed by registered mail, postage prepaid. If at the expiration of sixty days after the date of such notice the district and said corporation shall have been unable to agree upon the price for such rights and properties, the district may take the same by eminent domain,



**ACTS, 1985. – Chap. 193.**

or by purchase pursuant to the rights described below.

In addition to the right of the district to take or otherwise acquire the rights, franchises and properties of the Dedham Water Company as above provided, the district shall have the right, with the consent of said corporation and its stockholders, to purchase at a price to be agreed upon between the district and said corporation or its stockholders all the outstanding capital stock of said corporation for the sole purpose of dissolving and liquidating said corporation and immediately acquiring by transfer all its franchises, properties, rights, powers and privileges. Such purchase may, but need not necessarily be, conditioned upon the stockholders paying any excess of the current liabilities over current assets, discharging its tax liability and assuming all other liabilities, fixed or contingent.

The district shall not acquire the assets or capital stock of the Dedham Water Company pursuant to an agreed purchase price until said price shall have been approved by majority votes adopted at town meetings of each of the towns of Dedham and Westwood.

Failing agreement on a price as set out in the first three paragraphs of this section, the district may purchase the corporate property, rights and privileges of the Dedham Water Company pursuant to any one or more of the rights granted to the towns of Dedham and Westwood by section ten of chapter one hundred and thirty-eight of the acts of eighteen hundred and seventy-six, as amended by chapter twelve of the acts of eighteen hundred and eighty-two, and by section five of Part I of chapter two hundred and forty-eight of the acts of nineteen hundred and thirty. The purchase price for the corporate property, rights and privileges of the Dedham Water Company pursuant to the foregoing statutes shall be determined by the department of public utilities, subject to acceptance of said determination by the supreme judicial court. Upon tender of said purchase price by the district, the Dedham Water Company shall deliver to the district good and sufficient conveyances of all of its right, title and interest in all of its corporate privileges, rights and property. The provisions of this section shall be enforceable in equity in the event of refusal by the Dedham Water Company of said tender immediately upon the deposit by the district of the tendered purchase price with the clerk of the superior court in the county of Norfolk. A justice of said superior court may thereafter convey all of the right, title and interest of the Dedham Water Company in all of its corporate property, rights and privileges to the district.

No rights granted to the district by this section shall be deemed to diminish or supersede the rights of the town of Dedham under section ten of chapter one hundred and thirty-eight of the acts of eighteen hundred and seventy-six, as amended by chapter twelve of the acts of eighteen hundred and eighty-two, or the rights of the town of Westwood under section five of Part I of chapter two hundred and forty-eight of the acts of nineteen hundred and thirty, except that upon acquisition of the assets of the Dedham Water Company by the district said rights shall terminate.

**SECTION 11.** The acceptance of this act by the towns of Dedham and Westwood shall constitute an acceptance by the district of sections



## **ACTS, 1985. – Chap. 194.**

forty-two A to forty-two I, inclusive, of chapter forty of the General Laws and promptly after the formation of the district the clerk shall file a certificate in the registry of deeds in the county of Norfolk signifying the acceptance by the district of sections forty-two A to forty-two F, inclusive, of said chapter forty.

**SECTION 12.** This act shall be accepted by each town in the same manner as is provided by section four of chapter four of the General Laws for acceptance of statutes by towns; provided both towns shall have accepted this act within four years after its passage.

**SECTION 13.** The provisions of this act are severable, and if any provision hereof shall be held invalid in any circumstances, such invalidity shall not affect any other provisions or circumstances. This act shall be construed in all respects so as to meet all constitutional requirements. In carrying out the purposes and provisions of this act, all steps shall be taken that are necessary to meet constitutional requirements whether or not such steps are required by statute.

**SECTION 14.** This section and sections twelve and thirteen shall take effect upon their passage, and the remaining sections shall take effect upon acceptance of this act by both of the towns of Dedham and Westwood as provided in section twelve.

Approved July 24, 1985.

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### **Chapter 194. AN ACT AUTHORIZING CERTAIN REGISTRY OF MOTOR VEHICLE PERSONNEL WITH POLICE POWERS TO INSPECT CERTAIN COMMERCIAL MOTOR VEHICLES.**

#### Be it enacted, etc., as follows:

Chapter 159B of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out section 14A and inserting the following section:–

Section 14A. Every motor carrier, including private carriers and interstate licensees, their agents and employees, when requested by a duly authorized state police officer or an investigator or examiner of the commercial motor vehicle division, or registry of motor vehicles personnel with police powers, who is in uniform or displays the proper insignia of his office, shall stop and submit to said duly authorized state police officer or investigator or examiner or registry of motor vehicles personnel with police powers, all transportation documents, including bills of lading, way bills and other papers relating to his cargo which are in his possession and shall submit the cargo and other contents, if any, of his motor vehicle to such reasonable examination as may be necessary to inform the duly authorized state police officer or investigator or examiner or registry of motor vehicles personnel with police powers



**ACTS, 1985. – Chaps. 195, 196.**

of the nature and the weight thereof. No detail examination of the cargo shall be made that requires the removal of the cargo from the vehicle except at a place where the motor vehicle stops for the purpose of loading or delivery, and such motor vehicle may be required to detour to the nearest available scale within a distance of not more than five miles for the purpose of determining the weight thereof. Any such carrier who, personally or by his agent, or any such driver who violates any provision of this section, shall be punished by a fine of not less than two hundred and fifty nor more than five hundred dollars for the first offense and not less than five hundred nor more than one thousand dollars for subsequent offenses.

Approved July 24, 1985.

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**Chapter 195. AN ACT REQUIRING CLASSIFICATION OF LICENSES FOR OPERATORS OF COMMONWEALTH VEHICLES AND TRAILERS.**

Be it enacted, etc., as follows:

Section 8 of chapter 90 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out the fifth paragraph and inserting in place thereof the following paragraph:–

A person to whom a license has been issued under this section shall not operate motor vehicles other than those for which such license has been made valid by the registrar. All operators of motor vehicles and trailers which are regarded as registered under a general distinguishing number or mark as provided in section five and motor vehicles and trailers owned and operated by the commonwealth or any of its political subdivisions shall be subject to the rules and regulations establishing classifications for operator's licenses. In absence of a registered gross weight for such vehicle or trailer, the gross vehicle weight rating as established by the original manufacture of the chassis shall be used to determine the class of license required to operate the aforementioned motor vehicles and trailers.

Approved July 24, 1985.

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**Chapter 196. AN ACT INCREASING THE REWARD FOR INFORMATION LEADING TO A CONVICTION FOR RINGING A FALSE ALARM.**

Be it enacted, etc., as follows:

Section 10 of chapter 276 of the General Laws is hereby amended by striking out the second paragraph, as appearing in the 1984 Official Edition, and inserting in place thereof the following paragraph:–

The aldermen or the selectmen may offer a reward of five hundred



**ACTS, 1985. – Chaps. 197, 198.**

dollars for information leading to the arrest and conviction of a person making or circulating or causing to be made or circulated a false alarm of fire.

Approved July 24, 1985.

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**Chapter 197. AN ACT INCREASING THE PENALTIES FOR THE DUMPING OF RUBBISH ON PUBLIC LAND, IN OR NEAR COASTAL OR INLAND WATERS OR ON THE PROPERTY OF ANOTHER.**

Be it enacted, etc., as follows:

Section 16 of chapter 270 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:—Whoever places, throws, deposits, discharges, or causes to be placed, thrown, deposited or discharged, any trash, bottles or cans, refuse, rubbish, garbage, debris, scrap, waste or any other material of any kind on a public highway or within twenty yards thereof, or on any other public land, or in or upon coastal or inland waters, as defined in section one of chapter one hundred and thirty-one, respectively, or within twenty yards of any such water, or on property of another, shall be punished by a fine of not more than one thousand dollars for the first offense and not more than ten thousand dollars for each subsequent offense, and the court may require, in addition thereto, that such person remove, at his own expense, such trash, refuse, rubbish, debris or materials.

Approved July 24, 1985.

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**Chapter 198. AN ACT AUTHORIZING THE DIVISION OF CAPITAL PLANNING AND OPERATIONS TO CONVEY EASEMENTS IN TWO PARCELS OF LAND IN THE TOWN OF ASHLAND FOR HIGHWAY AND DRAINAGE PURPOSES.**

Be it enacted, etc., as follows:

The deputy commissioner of capital planning and operations, acting for and on behalf of the commonwealth, is hereby authorized, in accordance with the provisions of sections forty E to forty J, inclusive, of chapter seven of the General Laws, in consultation with the metropolitan district commission, to convey by deed approved as to form by the attorney general, easements in certain parcels of land located in the town of Ashland, to Middlesex county, acting by and through its county commissioners for highway and drainage purposes. Said easements are shown on a plan entitled "Plan of land Ashland, Massachusetts, Fountain



ACTS, 1985. – Chap. 199.

and Union Streets, prepared by Middlesex county engineering department dated April 1984". Said parcels being bounded and described as follows:

Parcel No. 1. An easement for highway purposes. Beginning at the southeasterly corner thereof at a point in the present northerly line of Union Street in a course bearing  $N.62^{\circ}11'59''E.$ , 271.74 feet in length as laid out and altered by the Massachusetts Department of Public Works in 1955 on behalf of the town of Ashland; said point of beginning being located 93.47 feet distant southwesterly as measured from the northeasterly end of said course bearing  $N.62^{\circ}11'59''E.$ , 271.74 feet in length; the aforesaid course bearing  $N.62^{\circ}11'59''E.$ , in the present northerly side of Union Street as laid out in 1955 shall for the purpose of this grant be considered to bear  $N.62^{\circ}11'59''E.$ , in present northerly side line of Union Street as laid out in 1955 shall for the purpose of this grant be considered to bear  $N.62^{\circ}25'02''E.$ ;

Thence  $S.62^{\circ}25'02''W.$ , by the present northerly side line of Union Street 59.59 feet to a point at the intersection of the said northerly line of Union Street and the present easterly line of Fountain Street in a course bearing  $N.04^{\circ}45'E.$ , 577.9 feet in length as laid out by the County Commissioners by their relocation of Fountain Street in 1892; said point of intersection being located 13.89 feet from the southwesterly end of the course bearing  $N.04^{\circ}45'E.$ , 577.9 feet in length; thence following the said present easterly side line of Fountain Street  $N.04^{\circ}45'00''E.$ , 123.00 feet to a point; thence in a general southeasterly direction on a curve of 170.00 feet radius, turning to the left 88.01 feet to a point; thence continuing in a southeasterly direction on a curve of 20.00 feet radius, turning to the left 32.35 feet to the point of ending and the beginning point first described in the present northerly line of Union Street – all as shown by the plan hereinbefore mentioned.

Containing according to said plan about 1, 540 square feet.

Parcel No. 2. An easement for drainage purposes. Beginning at the northwesterly corner thereof at a point in the present southerly side line of Union Street in a course bearing  $N.68^{\circ}15'E.$ , as laid out by the County Commissioners in 1892 for the relocation of Union Street; said point of beginning being located  $N.68^{\circ}15'E.$ , and 180.00 feet distant measured along the said southerly line of Union Street from the northwesterly property corner of land of the Commonwealth of Massachusetts, Metropolitan District Commission on the southerly side of said way; thence  $S.21^{\circ}45'E.$ , 40.00 feet to a point; thence  $N.68^{\circ}15'E.$ , 20.00 feet to a point; thence  $N.21^{\circ}45'W.$ , 40.00 feet to a point; thence  $S.68^{\circ}15'W.$ , 20.00 feet to the point of ending and the beginning point first described in the present southerly line of Union Street – all as shown on the plan hereinbefore mentioned.

Containing according to said plan about eight hundred square feet.

Approved July 24, 1985.

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Chapter 199. AN ACT RELATIVE TO THE COLLECTION OF OVERDUE AMBULANCE BILLS BY THE TOWN OF HULL.



ACTS, 1985. – Chaps. 199, 200.

Be it enacted, etc., as follows:

The town of Hull, acting through its treasurer-collector or board of selectmen, is hereby authorized to engage the services of a collection agency for the purpose of collecting overdue ambulance bills owed to said town. Said town may impose a surcharge on such overdue bills which shall not exceed the amount to be charged by said collection agency to collect same. The treasurer-collector may pay out of any funds, so collected, the collection agency's charge for collecting same with further appropriation.

Approved July 24, 1985.

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Chapter 200. **AN ACT MAKING APPROPRIATIONS FOR THE FISCAL YEAR ENDING JUNE THE THIRTIETH, NINETEEN HUNDRED AND EIGHTY-FIVE TO PROVIDE FOR SUPPLEMENTING CERTAIN EXISTING APPROPRIATIONS AND FOR CERTAIN NEW ACTIVITIES AND PROJECTS.**

Be it enacted, etc., as follows:

**SECTION 1.** To provide for supplementing certain items in the general appropriation act and for certain new activities and projects, the sums set forth in section two for the several purposes and subject to the provisions of law regulating the disbursement of public funds and the conditions pertaining to appropriations in chapter two hundred and thirty-four of the acts of nineteen hundred and eighty-four, for the fiscal year ending June thirtieth, nineteen hundred and eighty-five or for such period as may be specified, the sums so appropriated to be in addition to any amounts available for the purpose.

**SECTION 2.**

**LEGISLATURE.**

House of Representatives.

Item		
0124-0000	For the office of the house counsel, including not more than eight permanent positions	\$92,500
0125-0000	For the office of the house committee on rules, including not more than fourteen permanent positions	\$86,563
0127-0000	For clerical and other expenses of the members of the house of representatives, including not more than one permanent position	\$225,202



**ACTS, 1985. – Chap. 200.**

- 0127-0020 For administrative and legislative aides to the members of the house of representatives, provided, further, that this appropriation shall expire June thirtieth, nineteen hundred and eighty-six \$52,000
- 0127-0021 For the two administrative assistants to work within the county in which they reside under the direction of the elected representative from the Cape and Islands District; provided, that such assistants shall be residents of the district; and provided, further, that each reside in separate counties and neither shall reside in the county in which the elected representative resides \$1,497
- 0127-0030 For a legislative intern program providing one intern for each legislator; provided, however, that each member of the house of representatives shall have the opportunity to select one intern to work in his office \$48,000
- 0127-0040 For office supplies and other expenses of the house of representatives \$74,443

Other Expenses.

- 0143-0001 For the administration of legislative data processing, prior appropriation continued \$75,000

**JUDICIARY.**

Supreme Judicial Court.

- 0321-1500 For the committee for public counsel services as authorized by chapter two hundred and eleven D of the General Laws; provided, that four hundred eighty-five thousand five hundred and eighty-two dollars shall be expended from this item for the purposes of the Roxbury defenders committee; provided further, that salaries paid to attorneys employed by the Roxbury defenders committee and salaries paid to attorneys employed by the committee for public counsel services shall be comparable to those



ACTS, 1985. – Chap. 200.

paid to attorneys employed by the several district attorney offices and provided further that, except as provided herein no increase in the rate of compensation for counsel to indigents shall be authorized until funds for such increase are appropriated by the general court, including not more than fifty-three permanent positions and one hundred and sixteen temporary positions and provided, that this appropriation shall expire on June thirtieth, nineteen hundred and eighty-six

\$1,200,000

Trial Court.

0330-1000 For payments of expenses of juries	\$500,000
0330-2101 For counsel to juvenile indigents	\$577,974

Superior Court.

0331-0300 For payments to be made by the chief justice of the superior court to medical malpractice tribunals established in accordance with the provisions of section sixty B of chapter two hundred and thirty-one of the General Laws, including payments of the prior year	\$10,000
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Administration of District Courts.  
For Salaries and Expenses.

0332-1600 First district court of Bristol (Taunton), including not more than thirty-one permanent positions and one temporary position	\$5,635
0332-2400 Central district court of northern Essex (Haverhill), including not more than thirty-one permanent positions and one temporary position	\$16,246
0332-2700 District court of southern Essex (Lynn), including not more than forty-five permanent positions and five temporary positions	\$20,400
0332-3200 District court of Chicopee, including not more	



ACTS, 1985. – Chap. 200.

than twenty permanent positions

\$11,503

0332–5300 District court of east Norfolk (Quincy), including not more than ninety-five permanent positions and twenty-three temporary positions, and provided, that this appropriation shall expire on June thirtieth, nineteen hundred and eighty-six

\$69,120

0332–7700 Second district court of southern Worcester (Uxbridge), including not more than thirteen permanent positions and one temporary position

\$11,952

**DISTRICT ATTORNEYS.**

For the salaries of district attorneys and assistants for the eleven districts:

0340–0400 Middle, including not more than fifty-four permanent positions and thirty-eight temporary positions and provided, that this appropriation shall expire on June thirtieth, nineteen hundred and eighty-six

\$25,000

0340–0600 Northwestern, including not more than thirteen permanent positions and twenty-five temporary positions, and provided, that this appropriation shall expire on June thirtieth, nineteen hundred and eighty-six

\$100,000

**EXECUTIVE.**

**MILITARY DIVISION.**

Adjutant General.

0431–0200 For compensation for special and miscellaneous duty, for transportation of officers to and from military meetings and drills, for expenses of camps of instruction, for compensation for accidents and injuries sustained in the performance of military duty, for small claims for damages to private property and for allowances to companies and other administrative units to be expended under the direction of the adjutant general,



**ACTS, 1985. – Chap. 200.**

provided that prior year expenses in the amount of eighty-four thousand and seven dollars may be paid from this item, including not more than four permanent positions

**\$180,672**

**State Quartermaster.**

0431-1110 For the operation of armories of the first class, provided that, notwithstanding any law to the contrary, all revenue in an amount not to exceed four hundred thousand dollars, received from fees paid for the non-military rental or use of said armories may be expended without further appropriation, subject to the approval of the state quartermaster and the state comptroller, for the cost of energy audits for said armories, for the cost of a study for improvements in the fee rental structure used at said armories, for the cost of utilities and maintenance and for the implementation of energy conservation measures with regard to said armories; provided further, the state quartermaster shall report quarterly to the house and senate committees on ways and means the income derived from such rentals and funds expended for the cost of utilities and maintenance and for the implementation of energy conservation measures, provided that prior year expenses in the amount of two hundred seventy-seven thousand seven hundred and ninety dollars may be paid from this item, provided, further, that not less than thirty-four thousand dollars, to expire June thirtieth, nineteen hundred and eighty-six, be expended for emergency lighting at the Milford armory, including not more than seventy-one permanent positions and four temporary positions

**\$424,790**

**TREASURER AND RECEIVER GENERAL.**

0611-5800 For distribution to cities and towns, pursuant to section eighteen D of chapter fifty-eight of the General Laws, as amended, the sum of one-quarter of one per cent of the total pari-mutuel wager for calendar year nineteen hundred and eighty-four; provided, that from the amount appropriated herein the city of



**ACTS, 1985. – Chap. 200.**

Boston shall receive five hundred and six thousand two hundred dollars and thirty-one cents, the city of Revere shall receive three hundred and fifty-five thousand four hundred and five dollars and sixty-three cents, the town of Raynham shall receive three hundred and thirty-four thousand one hundred and seventy-three dollars and fifty-two cents, the town of Foxborough shall receive one hundred and thirty-four thousand eight hundred and eighty-two dollars and forty-nine cents, the town of Marshfield shall receive seven thousand nine hundred and eight dollars and forty-eight cents, and the city of Northampton shall receive thirteen thousand one hundred and forty-four dollars and thirty-five cents

**\$1,351,715**

Local Aid Fund

100.0%

**State Board of Retirement.**

0612-1100 For cost of living increases to former teachers, municipal, county and district employees whose retirement expenses are assessed upon cities and towns, and state employees; provided that such increases to the above-mentioned groups shall not exceed four per cent; and for the costs of increased survivor benefits authorized by chapter three hundred and eighty-nine of the acts of nineteen hundred and eighty-four; and provided further, that subject to rules and regulations promulgated by the treasurer, the state board of retirement and each city, town, county or district shall verify the cost thereof and the treasurer shall be authorized to make such payments; appropriation to expire June thirtieth, nineteen hundred and eighty-six

**\$5,130,000**

Local Aid Fund

80.0%

General Fund

15.0%

Highway Fund

5.0%

**Debt Service.**

0699-1800 For the payment of interest on certain bonded debt of the commonwealth; provided, that any deficit existing in this item at the close



**ACTS, 1985. – Chap. 200.**

	of this fiscal year shall be charged to the State Recreation Areas Fund		
	State Recreation Areas Fund	100.0%	\$254,164
0699-1900 For	certain serial bonds maturing; provided, that any deficit existing in this item at the close of this fiscal year shall be charged to the State Recreation Areas Fund		
	State Recreation Areas Fund	100.0%	\$155,315
0699-3800 For	the payment of interest on certain bonded debt of the commonwealth; provided, that any deficit existing in this item at the close of this fiscal year shall be charged to the Metropolitan Water District Fund		
	MDC Water District Fund	100.0%	\$103,709
0699-4800 For	the payment of interest on certain bonded debt of the commonwealth; provided, that any deficit existing in this item at the close of this fiscal year shall be charged to the Metropolitan Sewerage District Fund		
	MDC Sewerage District Fund	100.0%	\$409,157
0699-7900 For	certain serial bonds maturing; provided, that any deficit existing in this item at the close of this fiscal year shall be charged to the General Fund debt service reserve		
			\$2,879,025
0699-8100 For	the payment of interest on certain bonded debt of the commonwealth; provided, that any deficit existing in this item at the close of this fiscal year shall be charged to the Government Land Bank debt service reserve		
	Government Land Bank Fund	100.0%	\$534,527
0699-8200 For	certain serial bonds maturing; provided, that any deficit existing in this item at the close of this fiscal year shall be charged to the Government Land Bank debt service reserve		
	Government Land Bank Fund	100.0%	\$116,704



**ACTS, 1985. – Chap. 200.**

0699-9100 For the payment of interest of issuance costs of notes issued pursuant to section forty-nine B of chapter twenty-nine of the General Laws; provided, that any deficit existing in this item at the close of the fiscal year shall be charged to the General Fund

\$2,300,000

**EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE.**  
Central Services Division.

1102-3210 For the administration of the division of capital planning and operations; provided, that notwithstanding any law to the contrary, the director of the division of capital planning and operations is hereby authorized and directed to provide suitable space in the McCormack State Office Building to be utilized as a day care center for the children of state employees provided that the operator of such day care center shall pay rent to the commonwealth for said space and shall reimburse the commonwealth for any state tax revenue expended for the purpose of making improvements to the space; provided, and that said space requirements and any incidental expenses attendant thereto shall be at no cost to the commonwealth; provided further, that notwithstanding the provisions of section twenty-nine A of chapter twenty-nine of the General Laws or of any other special or general law to the contrary, an amount not to exceed thirty thousand eight hundred and ninety-one dollars shall be allowed and paid from this item for certain contracted services rendered in fiscal years nineteen hundred and eighty-three and nineteen hundred and eighty-four for which certain regulations and procedures adopted under the authority of said section twenty-nine A or any other special or general law were not properly followed, including not more than one hundred and fifty-nine permanent positions and twenty-two temporary positions.

\$30,891

Bureau of State Buildings.



**ACTS, 1985. – Chap. 200.**

- 1102-3301 For the administration of the bureau of state buildings and for the maintenance and operation of buildings under the jurisdiction of the state superintendent of buildings, including not more than one hundred and seventy-five permanent positions and twelve temporary positions  
\$1,901,000
- 1102-3425 For the operation and administration of the capitol police force including a law enforcement co-op program under the jurisdiction of the state superintendent of buildings; provided that, notwithstanding any provision of chapter thirty-one of the General Laws, members of the capitol police force may be temporarily allocated to special secondary ratings in accordance with the schedule approved by the house and senate committees on ways and means, a copy of which is on file with the personnel administrator, including not more than eighty-three permanent positions  
\$40,000

**DEPARTMENT OF REVENUE.**

- 1201-0100 For the administration of the departments, including audits, of certain foreign corporations, and for the rental, maintenance and operation of offices to assist in the administration of the department; for the expenses of administering section forty-five A of chapter sixty-two C of the General Laws, for salaries and expenses of the wage reporting system; provided that not less than one million three hundred thousand dollars be spent for the expenses of the wage reporting system; provided, that said department shall establish and maintain an office in the town of Greenfield, to be open not less than three days per week; provided, that the comptroller shall transfer to the General Fund the sum of two hundred and sixty thousand dollars from the receipts of the cigarette tax in accordance with the provisions of paragraph (b) of section fourteen of chapter two hundred and ninety-one of the acts of nineteen hundred and seventy-five; and provided further, that prior years expenses in



ACTS, 1985. - Chap. 200.

an amount not to exceed thirty-four thousand seven hundred and forty-nine dollars shall be allowed and paid pursuant to a certain arbitration award, including not more than two thousand one hundred and eleven permanent positions and two temporary positions.

1233-1000 For reimbursing cities and towns for loss of taxes on land used for state institutions and certain other state activities; provided, that no city or town shall receive less from this item in fiscal year nineteen hundred and eighty-six than it received from this item in the prior fiscal year; and provided, further, that this appropriation shall expire on June thirtieth, nineteen hundred and eighty-six

\$3,210,224

Local Aid Fund 100.0%

Bureau of Local Taxation.

1233-3200 For reimbursing the city of Boston for loss of taxes on land in the Park Square area

\$410,000

Local Aid Fund 100.0%

Miscellaneous.

1599-0008 For a reserve for tort claims

\$50,016

1599-2038 For the payment of deficiencies in certain appropriations for previous years based upon schedules approved by the house and senate committees on ways and means; provided, that the comptroller is hereby authorized to allocate the amounts of such payments to the several state or other funds to which said payments would have been chargeable if appropriations had been available thereof; and, provided further, that this appropriation shall expire on June thirtieth, nineteen hundred and eighty-six

\$500,000

1599-3100 For the payment of contributions to the unemployment compensation fund to support the cost of certain employment security benefits; provided, that notwithstanding the



**ACTS, 1985. – Chap. 200.**

provisions of any general or special law to the contrary, as of January first, nineteen hundred and eighty-five, the commissioner of administration is hereby authorized to charge against individual appropriation accounts an amount for deposit into this item of appropriation which may be expended by the commissioner of administration without further appropriation for the purposes of this item, and the amount which is so charged, in the aggregate shall equal the contributions required by the provisions of chapter one hundred and fifty-one A of the General Laws, during the period beginning January first, nineteen hundred and eighty-five and ending June thirtieth, nineteen hundred and eighty-five. Said amount which is so charged shall be based upon the actual unemployment benefits which were paid to former employees funded through said appropriation accounts during the eighteenth month period prior to January first, nineteen hundred and eighty-five. Upon notification to the house and senate committees on ways and means, the commissioner may, in his discretion and due to insufficiency of the reserve funds appropriated herein, implement the provisions of this section prior to January first, nineteen hundred and eighty-five, provided, that the amount so charged, pursuant to this provision, shall in the aggregate be equal to said required contributions during the period beginning on the date of implementation of this discretionary provision and ending on June thirtieth, nineteen hundred and eighty-five; and provided, further, that the amount so charged against individual appropriation accounts shall be based upon the actual unemployment insurance benefits which were paid to former employees funded through said individual appropriation accounts from July first, nineteen hundred and eighty-three to the date of said discretionary implementation, provided that the commissioner is authorized to transfer from the amount appropriated herein to other items of appropriation which are so charged, such amounts as may be necessary to eliminate any deficit in said accounts only



ACTS, 1985. - Chap. 200.

for the purposes of "year end" closeouts; and provided further, that any such transfer to another item of appropriation does not exceed any deficit in that item directly caused by charges made for the purposes of the unemployment fund as described above

\$530,195

- 1599-3267 For a reserve to meet the cost of salary adjustments and other employee economic benefits authorized by the collective bargaining agreement between the commonwealth and the State Police Association (Unit 5A); provided, however that the commissioner of administration is hereby authorized to transfer from the sum appropriated to other items of appropriation for the fiscal year nineteen hundred and eighty-five, such amounts as are necessary to meet the cost of said adjustments and benefits for the fiscal years nineteen hundred and eighty-four, nineteen hundred and eighty-five and prior years where the amounts otherwise available are insufficient for the purpose; provided, further, that the commissioner of administration is further authorized to allocate the cost of such salary adjustments and benefits to the several state or other funds to which such items of appropriation are charged; provided further, that a copy of said collective bargaining agreement, together with an analysis of all cost items contained in said agreement and all changes to be made in the schedules of permanent and temporary positions required by said agreement, shall be filed with the house and senate committees on ways and means prior to the transfer or allocation of any amounts necessary to meet the cost of said adjustments and benefits; and provided further, that the comptroller shall notify the house and senate committees on ways and means of any transfers made from this item and of any charges made directly against this item

\$66,359

- 1599-3315 For the transportation of prisoners to and from the several departments of the trial court by the sheriffs of the various counties, including



ACTS, 1985. – Chap. 200.

the cost of personal services and the purchase of vehicles and other equipment for said purposes; provided that, the commissioner of administration is hereby authorized to advance to the county treasurer of each county the sums set forth below for each respective county: Barnstable, one hundred eighty-eight thousand eight hundred and two dollars; Berkshire, one hundred thirty thousand and eighty-six dollars; Bristol, two hundred thirty-five thousand eight hundred and nineteen dollars; Dukes, forty-two thousand nine hundred and ninety-seven dollars; Essex, two hundred seventy-six thousand six hundred and seventy-eight dollars; Franklin, one hundred twenty-three thousand and ninety-nine dollars; Hampden, two hundred eighty-three thousand seven hundred and sixteen dollars; Hampshire, one hundred thirty-seven thousand five hundred and twenty-one dollars; Middlesex, five hundred thirty-two thousand six hundred and fifty-four dollars; Norfolk, two hundred ninety-eight thousand three hundred and seventy-nine dollars; Plymouth, two hundred sixty-eight thousand and seventy-nine dollars; Suffolk, two hundred and thirty-two thousand five hundred and eighty-seven dollars; Worcester, two hundred ninety-seven thousand four hundred and twenty-eight dollars; provided further, that each such treasurer shall deposit said amounts into a fund to be expended solely for the purpose of this item and that any unexpended balance of such fund as of June thirtieth, nineteen hundred and eighty-five, shall be returned to the commonwealth

\$11,430

Local Aid Fund 100.0%

1599–3318 For equalizing distributions to cities and towns which are not a part of both the metropolitan parks district and the metropolitan sewerage district; provided, that the amount herein appropriated shall be distributed to eligible cities and towns as herein defined. "Eligible cities and towns" are defined as those cities and towns which are not a part of both the metropolitan parks district and metropolitan



ACTS, 1985. - Chap. 200.

sewerage district. The amount to be distributed hereunder to each eligible city and town shall be the amount of the equalizing municipal grant, as calculated pursuant to section eighteen C of chapter fifty-eight of the General Laws, multiplied by the adjusted population factor for each city and town as calculated hereunder. For cities and towns which are neither members of the metropolitan parks district nor of the metropolitan sewerage district, the adjusted population factor shall be the "persons who reside in such city or town", as defined in said section eighteen C. For cities and towns which are members of either the metropolitan parks district or the metropolitan sewerage district, but are not members of both districts, the adjusted population factor shall be the "persons who reside in such city or town", as defined in said section eighteen C, divided by two

\$5,996,404

Local Aid Fund

100.0%

1599-3384 For a reserve to pay certain court judgments and settlements, filed with the house and senate committees on ways and means, which judgments and settlements were entered during fiscal year nineteen hundred and eighty-five and prior fiscal years; provided, that the comptroller is hereby authorized to make payments for such judgments and settlements; provided further, that notwithstanding the provisions of any general or special law to the contrary payments for such judgments and settlements may, at the discretion of the commissioner of administration, be charged to items of appropriation in section two of chapter one hundred and eighty-eight of the acts of nineteen hundred and eighty-four and to items of appropriation in section two of chapter two hundred and thirty-four of the acts of nineteen hundred and eighty-four; provided further that no expenditures shall be made from this reserve without the prior approval of the house and senate committees on ways and means

\$4,073,498



**ACTS, 1985. – Chap. 200.**

1599–3386 For a reserve to meet the cost of certain personnel classification appeals, approved and granted by the personnel administrator in accordance with the provisions of section forty-nine of chapter thirty of the General Laws as amended, and the cost of certain classification requests recommended by the personnel administrator in accordance with the provisions of section forty-five of chapter thirty of the General Laws, as amended; provided, that the governor, upon recommendation of the commissioner of administration, is hereby authorized to transfer from the sum appropriated to other items of appropriations and allocations thereof such amounts as are necessary to meet the costs of such appeal decisions and classification requests for fiscal year nineteen hundred and eighty-six and prior fiscal years where the amounts otherwise available are insufficient for the purpose, to be in addition to amounts otherwise appropriated for such purposes for said fiscal years; and, provided further, that the governor, upon recommendation of the commissioner of administration, is further authorized to allocate the cost of such salary adjustments to the several state or other funds to which such items of appropriation are charged, prior appropriation continued.

1599–3411 For a reserve to meet the fiscal year nineteen hundred and eighty-five and prior years' costs of salary adjustments and other employee economic benefits authorized by chapter four hundred and eighty-seven of the acts of nineteen hundred and eighty-four, including increases caused by amendments to the general or management salary schedules provided for by chapter thirty of the General Laws, and by chapter two hundred and four of the acts of nineteen hundred and eighty-four, including salary adjustments and other employee economic benefits for employees of the county cooperative extension services, that have been transferred to the employ of the commonwealth, and for employees of the regents computer network; provided however, that the commissioner of administration is hereby authorized to transfer from the sum



ACTS, 1985. – Chap. 200.

appropriated herein to other items of appropriation and allocations thereof for the fiscal year nineteen hundred and eighty-five such amounts as are necessary to meet the cost of said adjustments and benefits for the fiscal year nineteen hundred and eighty-five and prior fiscal years where the amounts otherwise available are insufficient for the purpose; provided further, that the commissioner of administration is further authorized to allocate the cost of such adjustments and benefits to the several state or other funds to which such items of appropriation are charged; provided further, that the comptroller is hereby authorized to charge this item for the fiscal year nineteen hundred and eighty-four and other prior years' costs of said adjustments and benefits; and provided further, that an analysis of all cost items and all changes to be made in the schedules of permanent and temporary positions required by chapter two hundred and four of the acts of nineteen hundred and eighty-four shall be filed with the house and senate committees on ways and means prior to the transfer or allocation of any amounts necessary to meet with the cost of said adjustments and benefits; and provided further, that the comptroller shall notify the house and senate committees on ways and means of any transfers made from this item and of any charges made directly against this item

\$39,937

1599-3414 For the reimbursement to the city of Northampton of the cost of collecting, cataloging and maintaining the post-presidential correspondence of President Calvin Coolidge, in accordance with the provisions of chapter four hundred eighty of the acts of nineteen hundred and eighty-two

\$15,000

1599-3421 For the reimbursement by the state treasurer to certain insurers, as filed with the house and senate committees on ways and means, pursuant to the provisions of section seven of chapter one hundred and fifty-two of the General Laws as amended

\$163,163



ACTS, 1985. – Chap. 200.

1599–3422 For payment, notwithstanding the provisions of section twenty-nine A of chapter twenty-nine of the General Laws or of any other special or general law to the contrary, for certain contracted services rendered in fiscal year nineteen hundred and eighty-five and prior fiscal years in connection with bonded projects administered by the division of capital planning and operations for which certain regulations and procedures adopted under the authority of said section twenty-nine A or any other special or general law were not properly followed

\$109,445

1599–3435 For a reserve to meet the cost of salary adjustments and other employee economic benefits authorized by the collective bargaining agreement between the division of employee relations, on behalf of the commonwealth, and the Alliance, AFSCME/SEIU, AFL-CIO, Local 509, covering certain employees in bargaining units 8 and 10 in the department of education; provided, however, that the commissioner of administration is hereby authorized to transfer from the sum appropriated to other items of appropriation for the fiscal year nineteen hundred and eighty-four and nineteen hundred and eighty-five such amounts as are necessary to meet the cost of said adjustments and benefits for the fiscal year nineteen hundred and eighty-four and prior years where the amounts otherwise available are insufficient for the purpose; provided, further, that the commissioner of administration is further authorized to allocate the cost of such salary adjustments and benefits to the several state and other funds to which such items of appropriation are charged; provided further, that a copy of said collective bargaining agreement, together with an analysis of all cost items contained in said agreement and all changes to be made in the schedules of permanent and temporary positions required by said agreement, shall be filed with the house and senate committees on ways and means prior to the transfer or allocation of any amounts necessary to meet the cost of



**ACTS, 1985. – Chap. 200.**

said adjustments and benefits; and provided further, that the comptroller shall notify the house and senate committees on ways and means of any transfers made from this item and of any charges made directly against this item

**\$48,372**

1599–3465 For the payment of a certain court judgment entered in Suffolk superior court civil action number 12545

**\$390,000**

**EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS.**  
Department of Environmental Management.

2120–0510 For a study, and the preparation of plans for the restoration of the Mattapoisett dam, provided that this appropriation shall expire on June thirtieth, nineteen hundred and eighty-six

**\$50,000**

2150–0507 For a continuous program of cleaning and dredging of harbors and inland waters as authorized by chapter eight hundred and seventy-eight of the acts of nineteen hundred and seventy, provided that this appropriation be used for the rehabilitation and dredging of McKinstry Pond in Oxford, including related environmental reports of engineering studies that the division deems necessary prior to the actual commencement of dredging activities; provided, that the funds appropriated herein may be expended without further appropriation subject to schedules approved by the house and senate committees on ways and means, prior appropriation continued, appropriation to expire June thirtieth, nineteen hundred and eighty-six

**\$225,000**

2150–0510 For the transport and disposal of dredge material and for subsurface cover material, for the Pickman Park in the city of Salem, provided, further, that this appropriation shall expire on June thirtieth, nineteen hundred and eighty-six

**\$55,000**



**ACTS, 1985. – Chap. 200.**

- 2150-0523 For the repairs and replacement of certain parts of the control house at Irish Dam controlling the water level of Flint Pond and Lake Quinsigamond in the town of Grafton \$70,000
- 2150-0531 For the study, design and preparation of plans, if necessary, and the dredging and cleaning of and the construction of flood control improvements to Lee's Pond in the city of Attleboro, prior appropriation continued \$60,000
- 2150-0535 For a dredging project at Massachusetts Maritime Academy to accommodate a new training ship \$100,000
- 2150-0570 For repairs to pipe conduits at the Snipatuit Road and the sluiceway and fish ladder at Snipatuit Pond in Rochester \$70,000

**DEPARTMENT OF ENVIRONMENTAL QUALITY ENGINEERING.**

- 2240-0500 For reimbursements to cities, towns and districts for certain chemical costs in accordance with the provisions of section thirty-seven of chapter twenty-one of the General Laws; prior appropriation continued \$270,791
- Local Aid Fund 100.0%

Metropolitan District Commission.

- 2440-9850 For the Revere Beach Erosion Control Project; provided, that the state contribution for said project shall not exceed fifty per cent of total project costs; provided further, that this appropriation shall expire on June thirtieth, nineteen hundred and eighty-six \$4,000,000
- 2444-9015 For repairs to the Connery skating rink in the city of Lynn; provided, that this appropriation shall expire on June thirtieth, nineteen hundred and eighty-six \$239,500
- 2444-9016 For repairs to the Emmons, Horrigan, and O'Neil rink in Charlestown \$550,000



**ACTS, 1985. – Chap. 200.**

**Construction Division.**

2460–1000 For the maintenance of the construction division, including the personal services and expenses relating to employees previously paid from metropolitan water district bond funds; provided, that, notwithstanding any provisions of any general or special law to the contrary, all officers and positions shall be subject to classification under section forty-five to fifty, inclusive, of chapter thirty of the General Laws; and provided further, that prior years expenses in an amount not to exceed fifty-four thousand dollars shall be allowed and paid pursuant to a certain civil service commission decision, including not more than one hundred and ninety-two temporary positions

\$54,000

MDC Sewerage District Fund	50.0%
MDC Water District Fund	50.0%

**DEPARTMENT OF FOOD AND AGRICULTURE.**

2520–1200 Norfolk county; provided, that this appropriation shall expire on June thirtieth, nineteen hundred and eighty-six

\$33,000

2520–1400 Plymouth county; provided, however, that seven thousand five hundred and eighty-six dollars of such fund be expended in the town of Halifax; and, provided further, that such appropriation shall expire on September first, nineteen hundred and eighty-five

\$7,586

Mosquito and Greenhead Fly Control Fund	100.0%
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**EXECUTIVE OFFICE OF COMMUNITIES AND DEVELOPMENT.**

3000–0101 For payments to cities and towns for a program to combat the outbreak and otherwise contain the disease known as hepatitis B in certain areas of the commonwealth; provided, however, that the commonwealth's participation in any such program in any city or town shall not exceed seventy per cent of the total amount granted to any such city or town

\$300,000



**ACTS, 1985. – Chap. 200.**

**Division of Community Services.**

3747-0010 For the purpose of a contract between the executive office of communities and development and an association providing services to Hispanic residents of Worcester, appropriation to expire June thirtieth, nineteen hundred and eighty-six.

\$51,125

**EXECUTIVE OFFICE OF HUMAN SERVICES.**

**Massachusetts Commission for the Blind.**

4110-1020 For support of a medical assistance program for the blind, including such expenses incurred in previous fiscal years; provided that the commissioner for the blind shall reimburse the department of public welfare for any medical assistance claims paid by said department on the commission's behalf and administrative expenses incurred in order to process such claims as may be determined to be appropriate under an interagency agreement between said commission and the department of public welfare subject to the approval of the secretary of the executive office of human services; and provided, further, that said commission may continue previously existing arrangements for the payment of such claims until such interagency agreement has become fully operative and including not more than three permanent positions and one temporary position.

\$1,100,000

**Office for Children.**

4130-0010 For a program of licensing, in accordance with the provisions of section four of chapter twenty-eight A of the General Laws, including not more than sixteen permanent positions and sixty-nine temporary positions

\$69,994

**DEPARTMENT OF YOUTH SERVICES.**

4202-0021 For the purchase of service for certain residential care programs, including certain secure programs, in accordance with the



**ACTS, 1985. – Chap. 200.**

provisions of chapter twenty-eight A of the General Laws, and for certain non-residential care programs from a list of vendors approved by and on file with the central office of the department; provided, that notwithstanding the provisions of section twenty-three of chapter twenty-nine of the General Laws, no monies shall be advanced to the department from this account without prior approval of the comptroller; and provided, further, that not less than three hundred and forty thousand dollars be spent in the southeast region for a program of testing, counseling and associated services

**\$512,000**

**DEPARTMENT OF PUBLIC WELFARE.**

4400-1016 For the development of the Massachusetts Public Assistance Control System; provided, that any federal funds received for the purpose of this item shall be credited to the General Fund; and provided, further, that this appropriation shall expire on June thirtieth, nineteen hundred and eighty-six

**\$14,962,157**

4402-5000 For a medical assistance program including a program of special education medical services provided to medicaid children; provided that, beginning January first, nineteen hundred and eighty-five, the income eligibility standards for medical assistance for families of three or more shall be increased by ten per cent; provided further, that all federal funds received for the purpose of this item shall be credited to the General Fund; provided further, that no expenditure or commitment made pursuant to this item or to any agreements authorized by chapter eight hundred of the acts of nineteen hundred and sixty-nine, as amended, for the purpose of complying with the provisions of Public Law 89-97, Title XIX, shall be incurred in excess of available funds which have been appropriated therefor; provided further, that all judgments, appeals and rate changes for services provided in a prior fiscal year but finally determined during the current fiscal year may be paid from this



ACTS, 1985. – Chap. 200.

account, subject to the approval of the house and senate committees on ways and means; provided, however, that no payment be made for this item for adjustments to administratively necessary day rates resulting from the decision in New England Memorial Hospital v. Rate Setting Commission, 475 N.E.2d 740 (1985), or from any other decision based upon the rationale of the New England Memorial Hospital decision; provided further, that an amount not exceeding one hundred eighty million eighty-eight thousand dollars shall be expended from this item for expenses incurred in the prior fiscal year; and provided further, that no funds appropriated under this item shall be expended for the payment of abortions not necessary to prevent the death of the mother, appropriation to expire June thirtieth, nineteen hundred and eighty-six

\$48,000,000

4402-5009 For the costs of adjustments to administratively necessary day rates for August thirteenth, nineteen hundred and eighty-one through September thirtieth, nineteen hundred and eighty-two and for costs associated with judgments or settlements related to these adjustments for the plaintiff hospitals in New England Memorial Hospital v. Rate Setting Commission, 475 N.E.2d 740 (1985), and any other hospital entitled to a similar adjustment based upon the rationale of the New England Memorial Hospital decision which has made a timely filing for said adjustments; provided, that any unexpended balance after payment of these costs may be spent in accordance with the provisions of line item 4402-5000, appropriation to expire June thirtieth, nineteen hundred and eighty-six

\$16,000,000

4403-2000 For a program of aid to families with dependent children; provided, that the standard of need shall be increased by five per cent as of January first, nineteen hundred and eighty-five and rounded to the next whole dollar; provided further, that the payment standard shall be increased four per



ACTS, 1985. – Chap. 200.

cent as of July first, nineteen hundred and eighty-four, and rounded to the next whole dollar; provided further, that the amount of assistance shall be computed by subtracting the income of the family, after the application of any federally required exemptions and deductions, from the standard of need; provided further, that no family shall receive a monthly payment greater than said payment level; provided further, that a non-recurring clothing allowance in the amount of one hundred twenty-five dollars be provided to each child eligible under this program on September first, nineteen hundred and eighty-four; provided further, that such allowance is federally reimbursable; provided further, that such clothing allowance shall not be counted as income for determination of eligibility or amount of benefits under the food stamp program; provided further, that such clothing allowance shall be included in the standard of need for the month of September, nineteen hundred and eighty-four; provided further, that the commissioner of the department of public welfare shall establish a program of assistance, including medical assistance in accordance with the standards established by chapters one hundred and eighteen and one hundred and eighteen E of the General Laws, to families otherwise eligible for aid to families with dependent children but for the temporary removal of the dependent child or children from the home, so long as said child or children are in the care of the department of social services; provided further, that benefits under this program shall not be available to those families where a child has been removed from the household pursuant to a court order after a care and protection hearing on child abuse; provided further, that the department of public welfare, in conjunction with the department of social services, shall promulgate regulations which shall include the specification of which families would receive this assistance, establish other reasonable criteria for eligibility, and set a reasonable limit on the number of months of assistance which will be provided under this program; and provided



**ACTS, 1985. – Chap. 200.**

further, that said department of public welfare shall maximize its efforts to obtain available federal reimbursements for expenditures for this program; and provided, however, that said commissioner shall file on or before September first, nineteen hundred and eighty-four a copy of the regulations, so established, and amendments thereto, with the house and senate committees on ways and means; provided further, that two million six hundred thousand eight hundred and eighty dollars of accrued Title IV-B funds shall be expended on child care services; provided further, that the department of public welfare shall offer a program of emergency assistance to general relief families in accordance with federal law; provided further, that child support payments collected pursuant to the Title IV-D of the Social Security Act, not to exceed an amount of sixty million dollars, shall be credited to this account and may be expended without further appropriation for the purposes of this program; provided further, that certain families which will suffer a reduction in benefits due to their loss of earned income and participation in retrospective budgeting may receive a supplemental benefit to compensate them for this loss; and provided further, that all federal funds received for the purpose of this item shall be credited to the General Fund

\$38,821,000

**DEPARTMENT OF PUBLIC HEALTH.**

4513-1002 For the administration of the office of nutritional services to be in addition to funds received under the federal nutrition program for women, infants, and children provided that, not less than four hundred thousand dollars shall be expended for Failure-To-Thrive programs, including not more than three temporary positions

\$1,000,000

4531-0001 Lakeville Hospital Rehabilitation center, including not more than two hundred and eighty-seven permanent positions and fifty temporary positions

\$574,591



ACTS, 1985. – Chap. 200.

- 4531-0002 For the purchase of a pumper truck to be used under the custody, control and maintenance of the town of Lakeville for the protection of state property  
\$125,000
- 4532-0001 Lemuel Shattuck Hospital; provided that the hospital shall submit a detailed monthly report of all expenditures incurred for its homeless shelter, including the purposes made therefor, to the house and senate committees on ways and means no later than the fifteenth day of the following month; provided further, that notwithstanding the provisions of section twenty-nine A of chapter twenty-nine of the General Laws or of any other special or general law to the contrary, an amount not to exceed four hundred and seventy-four thousand eight hundred and forty-eight dollars shall be allowed and paid from this item for certain contracted services rendered in fiscal year nineteen hundred and eighty-five for which certain regulations and procedures adopted under the authority of said section twenty-nine A or any other special or general law were not properly followed, including not more than six hundred and seventy-six permanent positions and fifty-three temporary positions  
\$1,770,703
- 4533-0001 Massachusetts hospital school, including not more than two hundred and seventy-two permanent positions and fifty-nine temporary positions  
\$189,997
- 4539-0001 For the administration of Cushing Hospital; provided, however, that not more than one hundred and thirty thousand dollars shall be expended for the purposes of the preparation of a determination of need application, including not more than five hundred and ninety-one permanent positions and forty temporary positions; and provided further, that of the amount appropriated herein one hundred and thirty thousand dollars in the 03 subsidiary, so called, shall expire on June thirtieth, nineteen hundred and eighty-six.



ACTS, 1985. - Chap. 200.

DEPARTMENT OF MENTAL HEALTH.

Region One.

- 5183-0100 For the maintenance of the Belchertown state school, including not more than seven hundred and twenty-seven permanent positions and not more than six hundred and sixty-one temporary positions \$233,901
- 5195-0100 For the maintenance of the Northampton state hospital; provided however, that no funds from this item may be expended for a contracted secure treatment facility; provided further, that no funds from this item may be expended for persons delivering services or performing administrative functions in community-based programs, including not more than five hundred and twenty-three permanent positions and not more than twenty-two temporary positions \$427,000

Region Two.

- 5295-0100 For the maintenance of the Worcester state hospital; provided, however, that no funds may be expended from this item for salaries for persons delivering services or performing administrative functions in community-based programs, including not more than seven hundred and ten permanent positions and not more than eight temporary positions \$35,000

Region Four A.

- 5445-0000 For the administration of region four A, including not more than one hundred and twenty-seven permanent positions and not more than fourteen temporary positions \$85,000

Region Six.

- 5651-0100 For maintenance of the Massachusetts mental health center; provided, that the amount shall fund three temporary positions at the Allston-Brighton community mental health center, including not more than three



**ACTS, 1985. – Chap. 200.**

hundred and five permanent positions and not more than four temporary positions

\$230,202

**Region Four B.**

5883-0100 For the maintenance of the Wrentham state school, including not more than six hundred and sixty-three permanent positions and one thousand five hundred and eighty-six temporary positions

\$358,070

**EXECUTIVE OFFICE FOR TRANSPORTATION AND CONSTRUCTION.**

**Massachusetts Aeronautics Commission.**

6006-1011 For the expenses of the Massachusetts aeronautics commission necessary to meet the commonwealth's share of the federal Airport Improvement Program; provided, however, that no monies from this item shall be expended if capital monies for said program are appropriated prior to October one, nineteen hundred and eighty-five; appropriation to expire June thirtieth, nineteen hundred and eighty-six

\$512,815

**DEPARTMENT OF PUBLIC WORKS.**

**Highway Activities.**

**Personal Services.**

6010-0001 For personal services of the department, provided, that notwithstanding the provisions of section four of chapter sixteen of the General Laws, the commissioner may appoint six additional assistants who shall serve at the pleasure of the commissioner and shall not be subject to chapter thirty-one of the General Laws and may also appoint a deputy chief counsel (counsel III) who shall not be subject to chapter thirty-one of the General Laws; provided further that the department shall reconstruct a portion of Route 109 from the Medway, Millis line to Route 115 in Millis, said reconstruction shall be completed by December thirty-first, nineteen hundred and eighty-five; provided further that the reconstruction of highway Route 140 from the Sterling-West Boylston town line to the



ACTS, 1985. – Chap. 200.

Sterling-Princeton town line as provided for in section six C of chapter eight hundred and fifty-nine of the acts of nineteen hundred and seventy-five be completed by June thirtieth, nineteen hundred and eighty-five; and provided further, that an amount not to exceed seventy-five thousand dollars shall be allowed and paid for certain salary adjustments incurred in prior fiscal years as granted by grievance decisions or agreements between the office of employee relations and the appropriate unions, including not more than two thousand eight hundred and sixty permanent positions and four hundred and eighty-three temporary positions.

Highway Fund 100.0%

Administrative and Engineering Expenses.

6020-2502 For expenses of a feasibility study and, if necessary, engineering and design plans to increase the capacity and safety of the Neponset Street corridor in the town of Norwood by the construction of a new connector roadway between interstate Route 95 and U.S. Route 1 or by other means of increasing safety and traffic capacity in said corridor provided that said study shall seek to reduce traffic congestion on Neponset Street in Norwood and provided further that the department is hereby authorized and directed to complete said study prior to September thirtieth, nineteen hundred and eighty-six and provided further that said study shall be conducted in close cooperation with the Norwood town manager and board of selectmen and that at least one public hearing shall be held in said town in conjunction therewith, appropriation to expire June thirtieth, nineteen hundred and eighty-six.

\$100,000

DEPARTMENT OF EDUCATION.

Board of Education and Commissioner's Office.

7010-9732 For the purposes of a federally funded grant entitled, Education Consolidation and Improvement Act of 1981, Chapter II – Administration; provided, that notwith-



ACTS, 1985. - Chap. 200.

standing the provisions of section twenty-nine A of chapter twenty-nine of the General Laws or of any other special or general law to the contrary, an amount not to exceed four hundred and forty dollars shall be allowed and paid from this item for certain contracted services rendered in fiscal year nineteen hundred and eighty-five for which certain regulations and procedures adopted under the authority of said section twenty-nine A or any other special or general law were not properly followed.  
General Federal Grants Fund 100.0%

Division of Special Education.

7028-0001 For the administration of the division of special education, to be in addition to any federal funds available for the purpose; provided that the comptroller is hereby authorized to write off certain amounts totalling forty-eight dollars and fifty cents deemed uncollectable by the attorney general, including not more than sixty-four permanent positions.

7028-0031 For the expenses of school age children in institutional school departments as required under section twelve of chapter seventy-one B of the General Laws, provided that the department shall provide services to eligible inmates in county houses of correction in accordance with and during the preliminary injunction issued by the United States District Court, District of Massachusetts; provided further, that the comptroller is hereby authorized to write off certain amounts totalling one hundred ninety-four dollars and seventy-one cents deemed uncollectable by the attorney general, including not more than one hundred and ten permanent positions and forty-five temporary positions.

Division of Curriculum and Instruction.

7030-0100 For the general administration of the division, including bilingual programs and for the expenses of an educational television program; provided, however, that not more than twenty-five thousand dollars shall be



**ACTS, 1985. – Chap. 200.**

expended for programming during the period of July first, nineteen hundred and eighty-four and September twelfth, nineteen hundred and eighty-four; provided further, that the comptroller is hereby authorized to write off certain amounts totalling forty-three dollars and ninety-four cents deemed uncollectable by the attorney general, including not more than forty-nine permanent positions and two temporary positions.

- 7051-0015 For the administration of the Temporary Emergency Food Assistance Program, in addition to any federal funds available for the purpose; provided that this appropriation shall expire June thirtieth, nineteen hundred and eighty-six  
\$250,000
- 7061-0015 For the costs of transportation of certain mentally retarded residents to day programs, pursuant to sections twenty-seven and twenty-eight of chapter nineteen of the General Laws, including costs incurred during fiscal year nineteen hundred and eighty-four  
\$1,038,699
- 7061-0054 For the payment to cities, towns, regional school districts, counties maintaining agricultural schools, and independent vocational schools of net increases in the distribution of funds under section eighteen A of chapter fifty-eight of the General Laws for fiscal year nineteen hundred and eighty-three as certified by the commissioner of education; provided that pursuant to section three A of chapter one hundred and eighty-eight of the acts of nineteen hundred and eighty-four there shall be no net decrease or withholding of funds from any city, town, regional school district, county maintaining agricultural schools, or independent vocational school through local aid distribution for general or special education charges for fiscal year nineteen hundred and eighty-three  
\$272,780

**BOARD OF REGENTS.**  
Compact for Education.



**ACTS, 1985. – Chap. 200.**

7070-0006 For scholarship programs, as provided in section seven of chapter fifteen A of the General Laws, chapter seven hundred and twelve of the acts of nineteen hundred and sixty-six and section seven B of chapter sixty-nine of the General Laws including expenses for the last two prior fiscal years, as well as for senatorial honor scholarships and a statewide program in consortium scholarships to provide an opportunity for pursuing programs in the private sector that are not presently available in the public sector; provided, that all applicants for such consortium scholarships must be approved by the board of regents and be subject to the rules and regulations with respect to eligibility as established by said board; and provided further that this appropriation shall expire on June thirtieth, nineteen hundred and eighty-six

\$15,000,000

7070-0060 For the administration of a program of matching scholarship grants as provided in section seven of chapter fifteen A of the General Laws and for payments of such grants to participating Massachusetts independent regionally accredited colleges, universities, schools of nursing, with funds to be apportioned according to amounts appropriated for each fiscal year; provided, that the chancellor of the board of regents may establish policies and regulations relating to the program, including an audit procedure to insure that institutions are in compliance with such policies and regulations; provided further, that a participating institution shall be eligible to receive an amount equal to the institution's expenditure for scholarship aid to needy Massachusetts undergraduate students enrolled in said institution as full-time matriculating students in a course of study leading to an associate or bachelor's degree; provided further, that each participating institution shall agree to expend the grant awarded hereunder in direct financial assistance to needy Massachusetts students; and provided further, that this appropriation shall expire on June thirtieth, nineteen



ACTS, 1985. – Chap. 200.

hundred and eighty-six.

\$4,000,000

7070-0065 For a reserve for the administration of scholarship programs; provided, that not less than twenty-eight million and seventy-five thousand dollars shall be expended for the state scholarship program as defined by section seven of chapter fifteen A of the General Laws; provided further, that not less than three million eight hundred and seventy-five thousand dollars shall be expended for the program of matching scholarship grants as defined by section seven of chapter fifteen A of the General Laws; provided, further, that not less than six million five hundred and fifty thousand dollars in the aggregate shall be expended for the purposes of the Massachusetts graduate scholarship grant program, the Massachusetts educational employment program, the Massachusetts adult learners program, the Massachusetts low interest student educational loan program, the commonwealth scholars program, and the Massachusetts teacher incentive program; provided further, that the limitations on the total amount of scholarships awarded to students of institutions of higher education supported by the commonwealth as set forth in section seven of chapter fifteen A of the General Laws shall not apply to scholarships awarded hereunder; and, provided further, that this appropriation shall expire on June thirtieth, nineteen hundred and eighty-six

\$38,500,000

7070-0070 For the expenses of the administration of the scholarship programs

\$275,000

7411-1009 For a reserve for renovation and equipment for a Drug Analysis Laboratory at University of Massachusetts Medical School; provided, that all expenditures from this reserve shall be based upon recommendations of the board of regents and that no expenditures shall be made without the prior approval of the house and senate committees on ways and means; provided further that this appropriation shall



**ACTS, 1985. - Chap. 200.**

expire June thirtieth, nineteen hundred and eighty-six

\$319,799

**EXECUTIVE OFFICE OF PUBLIC SAFETY.**  
**Massachusetts Criminal Justice Training Council.**

8200-0350 For the training in intervention, the detection and prevention of suicide. This training shall include: training in the nature and symptoms of suicide, training in communication with suicidal detainees, training in appropriate suicide prevention techniques and emergency procedures. This training shall be given to members of police departments, members of the police force of the metropolitan district commission and members of the uniformed branch of the state police. This training shall be approved and coordinated by the Massachusetts Criminal Justice Training Council and shall be included in the curriculum of all police training schools and academies, including the State Police Academy, appropriation to expire June thirtieth, nineteen hundred and eighty-six.

\$67,000

**Division of State Police.**

8312-0100 For the administration of the division, provided, however, that not less than one hundred fifty thousand dollars be expended on investigations concerning prescription drug abuse to be conducted by the Drug Investigation Unit, so-called; provided, further, that not less than one hundred twenty-five thousand dollars shall be used for mounted units which shall patrol Walden Pond, Salisbury Beach and other state facilities as appropriate provided, further, that not less than two hundred thousand dollars shall be expended on the operation of a Missing Persons Resources Unit with particular emphasis placed on investigations concerning the location of missing children, including not more than one thousand eighty-seven permanent positions and fifty-seven temporary positions

\$619,219

General Fund	15.0%
Highway Fund	85.0%



**ACTS, 1985. -- Chap. 200.**

8312-0200 For the administration of the narcotics unit in the bureau of investigative services within the division of the state police; provided, that there shall be a minimum of one hundred state police officers assigned to full time duty with said unit and under the command of a commissioned officer of the state police; all such officers shall be exclusively assigned on a full time basis to undercover operations, smuggling operations, the investigation of the diversion of legally manufactured drugs, and the investigation of illegal distributions of controlled substances among minors; officers assigned to said unit shall not be discharged to details other than those described above unless they are replaced by another officer, including not more than one hundred temporary positions

\$150,860

General Fund	15.0%
Highway Fund	85.0%

**EXECUTIVE OFFICE OF ELDER AFFAIRS**  
Department of Elder Affairs.

9110-1075 For grants to Area Agencies on Aging in Suffolk County for social services to be in addition to funding received under Title III-B of the Older Americans Act; provided, that expenditures for the purposes of this item shall be only for eligible services as authorized under Title III-B of the Older Americans Act

\$125,000

**EXECUTIVE OFFICE OF CONSUMER AFFAIRS.**  
State Racing Commission.

9210-0001 For the administration of the commission, including not more than thirty-three permanent positions; provided that a sum not exceeding one hundred thousand dollars shall be expended by the commission to contract with an accredited school of veterinary medicine in the commonwealth, to establish a drug testing and research program to insure the legitimacy and integrity of the racing industry

\$55,000



ACTS, 1985. – Chap. 200.

DEPARTMENT OF BANKING AND INSURANCE.

Division of Insurance.

9222-0115 For the purchase of special equipment necessary to automate certain functions of the Division, said appropriation to expire June thirtieth, nineteen hundred and eighty-six \$200,000

EXECUTIVE OFFICE OF LABOR.

Department of Labor and Industries.

For the personal services and expenses of the following agencies of the department:

9411-0100 Division of industrial safety; provided that prior years expenses in an amount not to exceed twenty thousand six hundred and ninety-three dollars shall be allowed and paid as granted by a certain agreement between the office of employee relations and the Massachusetts Organization of State Engineers and Scientists, including not more than sixty-two permanent positions and six temporary positions \$20,693

SECTION 2A. For the purpose of making available for expenditure in the fiscal year nineteen hundred and eighty-six certain balances of appropriations which otherwise would revert on June thirtieth, nineteen hundred and eighty-five, the unexpended balances of the items shown below are hereby reappropriated for the fiscal year nineteen hundred and eighty-six.

0121-9000  
0122-0000  
0125-0030  
0320-0003  
0321-1500  
0330-0300  
0330-1000  
0330-2101  
0330-2300  
0330-2400  
0330-2800  
0332-3600  
0332-8811  
0332-8812  
0337-0100  
0340-0100  
0340-0600  
0411-8000



**ACTS, 1985. – Chap. 200.**

0431-8811  
0511-8811  
0526-0200  
0526-0900  
1100-1560  
1100-1561  
1100-8751  
1100-8757  
1100-8758  
1100-9510  
1102-3210  
1102-3425  
1102-3901  
1102-3915  
1102-5221  
1102-8773  
1102-8785  
1102-8791  
1102-8792  
1102-8793  
1102-8796  
1102-8801  
1102-8804  
1102-8812  
1102-8813  
1102-8814  
1102-8815  
1102-8816  
1102-8817  
1102-8818  
1102-8819  
1102-9792  
1102-9801  
1102-9802  
1102-9805  
1185-8813  
1233-3400  
1599-2025  
1599-2038  
1599-2056  
1599-3351  
1599-3386  
1599-3406  
1599-3417  
2000-0300  
2050-0200  
2120-0302  
2120-0904  
2120-1507  
2120-1700



**ACTS, 1985. -- Chap. 200.**

2120-8802  
2120-8803  
2120-8805  
2120-8807  
2120-8812  
2120-8813  
2120-8814  
2120-8815  
2120-8816  
2120-8817  
2121-8842  
2121-9731  
2130-8772  
2140-0150  
2150-0500  
2150-0502  
2150-0503  
2150-0505  
2150-0508  
2150-0520  
2150-0523  
2150-0527  
2150-0530  
2150-0531  
2150-0532  
2150-0534  
2150-0535  
2150-0536  
2150-0537  
2150-0538  
2240-0500  
2240-8801  
2250-0905  
2250-0910  
2250-1001  
2250-1010  
2260-0300  
2270-0500  
2270-0506  
2270-0522  
2270-0523  
2270-0524  
2270-0526  
2270-8771  
2270-8772  
2270-8773  
2270-8774  
2270-8775  
2270-8791  
2270-8804



**ACTS, 1985. – Chap. 200.**

2270-8806  
2270-8807  
2270-8811  
2270-8812  
2270-8813  
2270-8814  
2270-8815  
2270-8816  
2270-8817  
2270-8818  
2320-8791  
2320-8813  
2320-8815  
2320-9811  
2320-9812  
2410-8801  
2410-8802  
2440-0029  
2440-0030  
2440-8773  
2440-8776  
2440-8782  
2440-8787  
2440-8796  
2440-8797  
2440-8798  
2440-8802  
2440-8803  
2440-8804  
2440-8806  
2440-8812  
2440-8813  
2440-8815  
2440-8816  
2440-8817  
2440-8819  
2440-8838  
2440-9812  
2440-9813  
2440-9814  
2444-8812  
2444-9014  
2449-7260  
2449-7350  
2449-7395  
2449-8754  
2449-8755  
2449-8791  
2511-3000  
2511-8812



**ACTS, 1985. – Chap. 200.**

2611-8751  
2681-9029  
2685-9011  
2685-9050  
3722-9015  
3724-9001  
3724-9002  
4000-9002  
4170-0012  
4180-8801  
4190-8811  
4202-8811  
4224-8791  
4231-8801  
4311-8811  
4314-8721  
4314-8812  
4314-8813  
4315-8801  
4315-8811  
4315-8812  
4316-8801  
4316-8811  
4316-8812  
4316-8813  
4343-8811  
4345-8811  
4348-8801  
4348-8811  
4348-8812  
4510-0750  
4516-0100  
4516-8801  
4531-8801  
4532-8811  
4536-8811  
4536-8812  
5011-8752  
5011-8771  
5011-8772  
5011-8781  
5011-8791  
5011-8801  
5011-8802  
5011-8811  
5011-8812  
5191-8801  
5294-8772  
5294-8781  
5295-8801



ACTS, 1985. – Chap. 200.

5471-8801  
5481-8801  
5491-8721  
5495-8811  
5561-8721  
5581-8801  
5593-8781  
5593-8801  
5651-8811  
5700-8802  
5895-0100  
5897-8811  
6000-0161  
6000-3500  
6000-3510  
6000-3520  
6000-3530  
6000-3540  
6004-8753  
6004-8756  
6005-0027  
6006-8735  
6010-0010  
6020-2914  
6020-2501  
6032-4030  
6032-4037  
6032-4038  
6032-7000  
6032-8611  
6034-0001  
6034-0008  
6034-0010  
6034-0011  
6034-0015  
6034-0016  
7070-8811  
7070-8812  
7111-8801  
7113-8712  
7114-8693  
7114-8721  
7114-8801  
7115-8801  
7116-8801  
7220-0007  
7220-8791  
7220-8801  
7220-8802  
7220-8803



**ACTS, 1985. – Chap. 200.**

7310-8785  
7310-8801  
7410-7812  
7410-8772  
7410-8774  
7410-8781  
7410-8783  
7410-8791  
7410-8801  
7410-8812  
7410-8846  
7411-8811  
7416-8801  
7416-8811  
7416-8812  
7490-8657  
7490-8692  
7490-8712  
7504-8801  
7504-8811  
7505-8802  
7506-8771  
7510-8791  
7514-8811  
8000-0150  
8000-0165  
8000-2170  
8200-0200  
8311-1500  
8312-8791  
8312-8801  
8314-9705  
8400-0100  
8400-8811  
9300-2801  
9300-3901  
9300-3902

**SECTION 2B.** For the purpose of making available for expenditure in the fiscal year nineteen hundred and eighty-six certain balances of appropriations which otherwise would revert on June thirtieth, nineteen hundred and eighty-five, the unexpended balances of the items shown below are hereby reappropriated for the fiscal year nineteen hundred and eighty-six, provided that the unexpended balances in any other items of appropriation included by reference in the accounts listed below are not reappropriated.

1102-8771  
1102-8777  
1102-8797  
1102-8806



**ACTS, 1985. – Chap. 200.**

2030-8811  
2120-8774  
2120-8775  
2120-8777  
2120-8781  
2120-8782  
2120-8791  
2120-8797  
2130-8771  
2440-8793  
2440-8794  
2681-8751  
4110-3015  
4315-8791  
4315-8792  
4316-8794  
4532-8791  
4532-8792  
4533-8791  
4535-8791  
4537-8791  
4537-8792  
5163-8741  
5164-8741  
5181-8741  
5181-8781  
5191-8741  
5293-8791  
5361-8791  
5391-8771  
5766-8741  
6059-0000  
7108-8692  
7109-8791  
7110-8723  
7114-8791  
7114-8802  
7116-8751  
7410-8784  
7416-8772  
7490-8702  
7490-8706  
7490-8721  
7490-8722  
7490-8751  
7490-8753  
7503-8751  
7503-8791  
7507-8771  
7507-8791



ACTS, 1985. – Chap. 200.

7509-8721

7512-8751

7514-8751

**SECTION 2C.** For the purpose of making available for expenditure in the fiscal year nineteen hundred and eighty-six certain balances of appropriations which otherwise would revert on June thirtieth, nineteen hundred and eighty-five, the unexpended balances as of June thirtieth, nineteen hundred and eighty-five of the items shown below are hereby reappropriated for the fiscal year nineteen hundred and eighty-six; provided that the secretary of administration shall determine the portion of said unexpended balances necessary to fulfill fiscal year nineteen hundred and eighty-five and prior fiscal years' costs of collective bargaining agreements ratified during the fiscal year nineteen hundred and eighty-five and prior fiscal years; provided further, that only that portion of said balances necessary to meet said fiscal year nineteen hundred and eighty-five and prior fiscal years' costs of said collective bargaining agreements ratified during the fiscal year nineteen hundred and eighty-five and prior fiscal years shall be reappropriated; and provided further that said secretary shall report to the house and senate committees on ways and means by September first, nineteen hundred and eighty-five the balances reappropriated and not reappropriated for each item:

1599-3219

1599-3223

1599-3227

1599-3228

1599-3234

1599-3267

1599-3276

1599-3322

1599-3346

1599-3401

1599-3409

1599-3410

1599-3411

1599-3435

**SECTION 2D.** For the purpose of making available for expenditure in the fiscal year nineteen hundred and eighty-six certain balances of appropriations which otherwise would revert on June thirtieth, nineteen hundred and eighty-five, the unexpended allocated balances as of June thirtieth, nineteen hundred and eighty-five of the items shown below are hereby reappropriated for the fiscal year nineteen hundred and eighty-six; provided that the unexpended unallocated balances of said items as of June thirtieth, nineteen hundred and eighty-five shall not be reappropriated; provided further, that the secretary of administration shall determine the portion of said unexpended allocated balances necessary to fulfill fiscal year nineteen hundred and eighty-five and prior years' costs of collective bargaining agreements ratified during the



**ACTS, 1985. – Chap. 200.**

fiscal year nineteen hundred and eighty-five and prior fiscal years; provided further, that only that portion of said balances necessary to meet said fiscal year nineteen hundred and eighty-five and prior years' costs of said collective bargaining agreements ratified during the fiscal year nineteen hundred and eighty-five and prior fiscal years shall be reappropriated; and provided further, that said secretary shall report to the house and senate committees on ways and means by September first, nineteen hundred and eighty-five the balances reappropriated and not reappropriated for each item:

1599-3218  
1599-3271  
1599-3324  
1599-3350  
1599-3413  
1599-3436

**SECTION 3.** Section 68 of chapter 6A of the General Laws, as most recently amended by chapter 347 of the acts of 1984, is hereby further amended by inserting after the first sentence of paragraph (e) in subsection C the following sentence:– Notwithstanding the foregoing or any other provision of law to the contrary, the medicaid payment ratio for each year subsequent to fiscal year nineteen hundred and eighty-two shall be calculated using an administratively necessary day rate of seventy dollars per administratively necessary day patient per day, unless such rate for fiscal year nineteen hundred and eighty-two is adjusted based on a specific finding that in fiscal year nineteen hundred and eighty-two an individual hospital met the criteria for an administrative adjustment set forth by regulations promulgated by the rate setting commission published on February twelve, nineteen hundred and eighty-one.

**SECTION 4.** The fourth paragraph of section 3B of chapter 7 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out, in lines 26 and 27, the words "For the period beginning July first, nineteen hundred and eighty, and ending June thirtieth, nineteen hundred and eighty-five," and inserting in place thereof the following words:– For the period ending June thirtieth, nineteen hundred and eighty-six,.

**SECTION 5.** Sections fifty-seven, fifty-eight and fifty-nine of chapter ninety-two of the General Laws are hereby repealed.

**SECTION 6.** Section four, five and six of chapter one hundred and thirty-two A of the General Laws are hereby repealed.

**SECTION 7.** Section 416 of chapter 572 of the acts of 1980 is hereby amended by striking out, in lines 2 to 4, inclusive, the words "for the period beginning July first, nineteen hundred and eighty, and ending December thirty-first, nineteen hundred and eighty-two" and inserting in place thereof the following words:– for the period ending June thirtieth,



**ACTS, 1985. - Chap. 200.**

nineteen hundred and eighty-six.

**SECTION 8.** Section four hundred and seventeen of said chapter five hundred and seventy-two is hereby repealed.

**SECTION 9.** Section four hundred and seventeen B of said chapter five hundred and seventy-two is hereby repealed.

**SECTION 10.** Section 1 of chapter 325 of the acts of 1984 is hereby amended by striking out in line 6 the words "eighty-five" and inserting in place thereof the following words:- eighty-six.

**SECTION 11.** Chapter 140 of the acts of 1985 is hereby amended, in section 2, by striking out, in item 2440-0010, the wording and inserting in place thereof the following wording:-

For the administration of the metropolitan district commission parks and recreation division, including the Southwest Corridor Park System, division of central services and division of highways; for maintenance of parks, reservations and the Charles River Basin, for the maintenance of boulevards, parkways, locks, bridges and dams, for the maintenance of vehicles and metropolitan district commission parks' district garages and the purchase of supplies and equipment; and for a study for the general restoration, rehabilitation, flood control, water quality improvement and landscaping at Beaverbrook Reservation in the city of Waltham and the town of Belmont; and for a natural resources protection and management program at Breakheart Reservation; and for a reservations and interpretive services program at the Harbor Islands, Blue Hills, and Middlesex Fells reservations; including not more than five hundred and forty-five permanent positions and not more than sixteen temporary positions; provided, further, that the commission shall not permit access or curb cuts to Chestnut Hill reservoir driveway under its control to any proposed development which includes a structure of more than ten stories in height or two hundred feet in height until and unless an environmental impact study is filed with the commission and it is determined that such a structure does not adversely effect the use or enjoyment of such premises by the public; provided, further, that the division is hereby



**ACTS, 1985. – Chap. 200.**

authorized to enter into contracts extending for a maximum term of five years with the option to renew for three subsequent five year terms, subject to appropriation, for the management and operation of the Franklin Park and Walter D. Stone Zoological Parks, provided, however, that a separate contract shall be entered into for each park only after the department has selected a contractor or contractors pursuant to a competitive procedure including issuance of a request for proposals and solicitation of responses thereto; provided, further, that such contract shall be reviewed at least once every six months by the division to determine compliance therewith, and in the event the division determines that significant portions of the contract are not being complied with and the welfare and well-being of the parks are endangered by said lack of compliance with the express terms of said contract, said division may cancel such contract at any time with no less than ninety days notice to said contractor; provided, however, that said contracts shall contain an article prohibiting discriminatory employment practices by said contractor because of race, creed, color, national origin, ancestry, military status, sex, age, or condition of handicap, and requiring said contractor to take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to such factors, consistent with the mandates of Executive Order No. 227 (The Governor's Code of Fair Practices), Executive Order No. 237 (Minority Business Development), and any relevant laws or regulations providing for equal employment or affirmative action; provided, further, that the division may directly or through said contracts require the charging and collection of admission fares at said zoological parks; provided, however, that said zoos shall be open for a reasonable period of time each day without such admission charge; provided, however, that persons of sixty-five years of age and over and uniformed members of the armed forces of the United States shall pay half price for such admission charge at all times when said charge applies and that



**ACTS, 1985. – Chap. 200.**

school children in groups from Metropolitan District Commission Parks District communities shall be admitted without such admission charge on a scheduled basis; provided, further, that prior to issuance of the request for proposals the department shall submit for review and comment said request to the Special Senate Committee on Zoos; provided, further, that any contractor shall regularly submit to the division, to the special senate committee on zoos, and to the house and senate committees on ways and means a management plan for the operation of said zoos accompanied by an operating budget, said plan shall encompass a five year period and shall be kept current each year, and copies of a current annual phase of said plan shall likewise be submitted to said committees as aforesaid; provided, further, that the department shall submit to said committee for review and comment all responses to said request for proposals received by the department; provided, further, that during the term of any management contract herein authorized, the contractor shall meet at least semi-annually with said committee for the purpose of reporting on the operation of said zoos; provided, further, that the department shall report annually on March thirty-first to the house and senate committees on ways and means, the amounts of revenue generated from the collection of admission fees as authorized herein, the expenditures of the same, and the details of operations and maintenance of the zoological parks pursuant to said management contract; provided, further, that revenues collected from admission fees charged at each zoological park may be retained separately for each park, without further appropriation, by said contractor; and provided further, that ten per cent of the revenues collected from such admission fees shall be transferred annually to a capital maintenance fund for each zoo.

**SECTION 12.** Section 25 of chapter 140 of the acts of 1985 is hereby amended by inserting at the end thereof the following figure:- 9300-0003.



**ACTS, 1985. – Chap. 200.**

**SECTION 13.** Section 43 of chapter 140 of the acts of 1985 is hereby amended by inserting at the end thereof the following paragraph:–

Notwithstanding the provisions of the preceding paragraph or of any other special or general law to the contrary, in order to meet the estimated cost of heat, light, power and other services and the estimated costs of employee fringe benefits to be furnished by the commonwealth to projects of the Massachusetts State College Building Authority and the University of Lowell Building Authority, the board of trustees of state colleges shall transfer to the General Fund from the funds received from the operation of said projects of sum of nine hundred and sixty-five thousand dollars for the current fiscal year, and the board of trustees of the University of Lowell shall transfer to the General Fund from the funds received from the operation of said projects the sum of seventy-five thousand dollars for the current fiscal year.

**SECTION 14.** Notwithstanding the provisions of any general or special law to the contrary, the department of public welfare shall submit to the house and senate committees on ways and means within thirty days of the effective date of this act, a detailed report for fiscal year nineteen hundred and eighty-five and quarterly reports beginning in fiscal year nineteen hundred and eighty-six, which shall include, but not be limited to, total payments under the emergency assistance program, and total number of participants in the emergency assistance program, and the average expenditures per client in the following categories of assistance: rent, security deposits, emergency shelters, advance rent, mortgage arrearages, moving expenses, utility services, and fuel. Said report shall also include, but not be limited to, a numerical breakdown by service offices of utilization of the program by clients, and the total number of recipients who have received any category of assistance more than once within the same or previous calendar year. Said department shall undertake managerial and programmatic initiatives to insure the effective management and control of the said emergency assistance program and provide details of such initiatives in said report.

**SECTION 15.** Notwithstanding any other provisions of law to the contrary, the commissioner of administration shall not increase or reduce any existing fee or charge or establish any new fee or charge set pursuant to the provisions of section three B of chapter seven of the General Laws above or below the amount authorized for such fee or charge on December thirty-first, nineteen hundred and eighty-three, unless notice of such increase or decrease is filed with the clerks of the house and senate while the general court is in session and the general court has failed to pass a resolve disapproving such proposed action within the next thirty days after such filing.

**SECTION 16.** The department of social services is hereby authorized to establish an expendable receipt account for the sole purpose of depositing additional federal fiscal year nineteen hundred and eighty-five social services block grant allocations as federally specified for day care training; provided, that both the department of social



**ACTS, 1985. – Chap. 200.**

services and the office for children shall be authorized to expend such additional allocations specified for day care training only in such amounts as the executive office of human services shall determine and allocate; provided further, that expenditures may not exceed six hundred and twenty thousand seven hundred and thirty-eight dollars.

**SECTION 17.** From the unexpended balance of item 7061-0003 of section two of chapter two hundred and thirty-four of the acts of nineteen hundred and eighty-four, the sum of one hundred eighty-three thousand five hundred eighty-six dollars is hereby transferred to item 7035-0006 of said section.

**SECTION 18.** As of June thirtieth, nineteen hundred and eighty-five the comptroller shall transfer from the General Fund to the Highway Fund the amount of the Highway Fund deficit, if any, for the fiscal year nineteen hundred and eighty-five.

**SECTION 19.** Notwithstanding the provisions of section twenty-nine A of chapter twenty-nine of the General Laws or of any other special or general law to the contrary, the comptroller is hereby authorized to make payments for certain contracted services rendered in fiscal year nineteen hundred and eighty-five for which certain regulations and procedures adopted under the authority of said section twenty-nine A or any other such special or general law were not properly followed; provided, however, that the secretary of the executive office overseeing the agency which was a party to such a contract shall certify in writing that such services were actually performed; provided further, that such payments shall be based on schedules approved by the house and senate committees on ways and means; provided further, that sufficient funds for such payments existed within the appropriate line-item accounts as of June thirtieth, nineteen hundred and eighty-five and that such amounts were encumbered for the purpose of making said payments by such agencies; provided further, that said comptroller is hereby authorized to make payments for certain contracted services rendered in prior fiscal years for which certain regulations and procedures adopted as aforesaid were not properly followed; provided further, that the secretary of the executive office overseeing the agency which was a party to such a contract shall certify in writing that such services were actually performed and that such payments shall be based on schedules approved by the house and senate committees on ways and means and charged to an account established for the purpose of paying prior year deficiencies and shall not be paid from any such current agency appropriation; and provided further, that this section shall not apply to payments authorized pursuant to section two for such purposes.

**SECTION 20.** As of June thirtieth, nineteen hundred and eighty-five the comptroller shall transfer from the General Fund to the Local Aid Fund the amount of the Local Aid Fund deficit, if any, for the fiscal year nineteen hundred and eighty-five.



**ACTS, 1985. - Chap. 200.**

**SECTION 21.** As of June thirtieth, nineteen hundred and eighty-five the comptroller shall transfer from the Local Aid Fund to the MDC Parks District Fund the amount of the MDC Parks District Fund deficit, if any, for the fiscal year nineteen hundred and eighty-five.

**SECTION 22.** Notwithstanding the provisions of any general or special law to the contrary, the department of community affairs may require the payment of reasonable fees by parties seeking to finance projects pursuant to the provisions of paragraph (m) of section twenty-six of chapter one hundred and twenty-one B of the General Laws. Such fees shall be assessed in an amount sufficient to cover the costs incurred by the department in the regulation of such projects, provided, however, that any such fee shall not exceed one-half of one per cent of the value of the bonds issued to finance the project. Notwithstanding the provisions of any general or special law to the contrary, revenues in an amount not to exceed five hundred thousand dollars in fiscal year nineteen hundred and eighty-six accrued from the payment of such fees may be expended without further appropriation by the department, subject to the approval of secretary of the executive office of communities and development and the state comptroller, for the costs of regulation of projects financed pursuant to said paragraph (m) of section twenty-six of chapter one hundred and twenty-one B. Any revenues so collected by the department in excess of five hundred thousand dollars shall be credited to the General Fund. The department shall report the amount of revenue generated from the collection of such fees and shall provide a detailed summary of the expenditure of such revenues on a quarterly basis during fiscal year nineteen hundred and eighty-six to the commissioner of administration and the house and senate committees on ways and means.

**SECTION 23.** Notwithstanding any provision of section twelve of chapter forty J of the General Laws to the contrary, the secretary of the executive office of energy resources shall have sole authority during fiscal year nineteen hundred and eighty-six to administer the programs and activities of the photovoltaic center of excellence referred to in said section.

**SECTION 24.** This act shall take effect on June thirtieth, nineteen hundred and eighty-five.

Approved July 24, 1985.

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**Chapter 201. AN ACT AUTHORIZING THE CITY OF CAMBRIDGE TO PAY CERTAIN BENEFITS TO THE WIDOW OF THE LATE MAYOR LEONARD J. RUSSELL.**

Be it enacted, etc., as follows:

The city of Cambridge is hereby authorized to pay to the widow of the



**ACTS, 1985. – Chaps. 202, 203, 204.**

late Leonard J. Russell, who died while serving as mayor of said city, the salary and all other benefits to which he would have been entitled had he lived and served until the end of the term for which he was elected.

Approved July 24, 1985.

EMERGENCY LETTER: July 24, 1985 @ 2:27 P.M.

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**Chapter 202. AN ACT RELATIVE TO THE NANTUCKET ISLANDS LAND BANK.**

Be it enacted, etc., as follows:

**SECTION 1.** Section 14C of chapter 669 of the acts of 1983, as amended by section 4 of chapter 407 of the acts of 1984, is hereby further amended by striking out the first sentence and inserting in place thereof the following sentence:– The provisions of this act are severable, and if any provision hereof, including without limitation any exemption from the fee imposed hereby, shall be held invalid in any circumstances such invalidity shall not affect any other provisions or circumstances.

**SECTION 2.** This act shall take effect upon its passage.

Approved July 29, 1985.

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**Chapter 203. AN ACT AUTHORIZING TERRY L. McKENNA TO TAKE A CIVIL SERVICE EXAMINATION FOR FIREFIGHTER IN THE TOWN OF WILMINGTON.**

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately authorize Terry L. McKenna to take a civil service examination for firefighter in the town of Wilmington, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public safety.

Be it enacted, etc., as follows:

Notwithstanding the provisions of any law or rule to the contrary regulating the maximum age of applicants for appointment as a firefighter, Terry L. McKenna shall be eligible to take the next open competitive entrance examination for firefighter in the town of Wilmington and, provided he meets all other requirements, shall be eligible for certification and appointment as a firefighter in said town.

Approved July 29, 1985.

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**Chapter 204. AN ACT AUTHORIZING THE TOWN OF TRURO TO**



**ACTS, 1985. – Chap. 204.**

**RECALL ELECTED OFFICIALS.**

Be it enacted, etc., as follows:

**SECTION 1.** Any holder of an elective office in the town of Truro with more than six months remaining in the term of the office, may be recalled, and removed therefrom by the qualified voters of said town in the manner provided for herein.

**SECTION 2.** One hundred or more qualified voters may make and file with the town clerk an affidavit containing the name of the officer sought to be recalled and a statement of the grounds for recall. Said town clerk shall thereupon deliver to the ten persons first named on such affidavit a sufficient number of petition blanks demanding such recall. These forms, available from the town clerk, may be completed by printing or typewriter and they shall contain the names of the ten persons to whom they are issued, the name of the person sought to be recalled, the office from which recall is sought, and the grounds for recall as stated in the affidavit. They shall demand the election of a successor to the office and they shall be dated, signed and sealed by the town clerk. Said recall petition shall be returned to the office of the town clerk not later than three o'clock in the afternoon on or before the first work day following twenty days after the date they are issued, signed by at least twenty per cent of the total number of qualified persons registered to vote in the town as of the date of the most recent town election and to every such signature shall be added the place of residence of the signer, giving the street and number, if any. Such signatures need not all be on one paper. One of the ten persons to whom the recall petition forms is issued shall make an affidavit on each page that the statements therein contained are true, and that each signature appended to the petition is the genuine signature of the person whose name it purports to be.

The town clerk shall, within one work day following the day of such filing with the office of the town clerk, submit the recall petition forms to the board of registrars of voters which shall, within five work days after the day of receipt, certify in writing thereon the number of signatures which are those of qualified voters as of the date of the most recent town election. Signatures of persons who qualified to vote after the date of the most recent town election, shall not be certified. The board of registrars of voters, upon the completion of their certification, shall return the recall petition forms to the town clerk.

**SECTION 3.** If said recall petition forms shall be certified by the board of registrars of voters to contain at least twenty per cent of the qualified persons registered to vote as of the date of the most recent town election, the town clerk shall immediately give notice, in writing, to the elected officer whose recall is sought by sending to said officer a copy of the affidavit and the recall petition form together with notice of the number of qualified voters certified by the board of registrars of voters who signed the recall petition forms and the total number of



**ACTS, 1985. – Chap. 204.**

qualified voters in the town as of the most recent town election.

If the officer to whom notice is directed by the town clerk does not resign the office within five days following receipt of the aforesaid notice from the town clerk, the town clerk shall give notice in writing to the board of selectmen not later than one work day following the expiration of the foregoing five days. The board of selectmen shall order a special election to be held not less than thirty-five nor more than sixty-five days after the receipt of notice from the town clerk as aforesaid. If, however, a regular town election is to be held within ninety days of receipt by the board of selectmen of notice from the town clerk, the recall election shall be held at such time and in conjunction with such regular election. If a vacancy occurs in the office for any reason after a recall election has been ordered by the board of selectmen, the recall election shall nevertheless proceed as provided for herein, but only the ballots for candidates need be counted.

**SECTION 4.** An officer whose recall is sought may be a candidate to succeed himself in the event the question of recall is voted in the affirmative. The number of signatures of qualified voters required to place the name of a candidate on the official ballot for use at a recall election shall not be less than twenty-five. The publication of the warrant for the recall election and the conduct of the recall election shall be in accordance with the General Laws regulating elections, unless otherwise provided.

**SECTION 5.** The ballots used at the recall election shall submit the following proposition in the order indicated:

For the recall of (name of officer).

Against the recall of (name of officer).

Immediately at the right of each proposition there shall be a square in which the voter, by making a cross mark (X) may vote for either of such propositions. Under the propositions shall appear the word "candidates" and the directions for the voters required by law, and beneath the word "candidates" shall be the names of candidates nominated in accordance with the provisions of law. If a majority of the votes cast is against the recall, the votes for the candidates need not be counted. If a majority of the votes cast is in favor of the recall, and further provided that at least twenty per cent of the total number of qualified voters as of the date of the most recent town election have participated at such recall election, the officer shall be deemed to be recalled and the ballots for candidates shall then be counted. The candidate receiving the higher number of votes shall be declared elected. If the officer is recalled, he shall be deemed removed upon certification of the election results by the town clerk. The candidate receiving the highest vote and therefore elected, shall serve for the balance of the unexpired term of the officer removed.

**SECTION 6.** No recall affidavit shall be filed against an officer within three months after his election, nor, in the case of an officer elected in a recall election, until three months after that election. No recall shall be filed against an officer subjected to a recall election and not thereby



**ACTS, 1985. – Chaps. 205, 206.**

recalled until at least six months after the election at which his recall was not approved by the qualified voters.

**SECTION 7.** This act shall take effect upon its passage.

Approved July 29, 1985.

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**Chapter 205. AN ACT PROVIDING FOR ADDITIONAL FINANCING  
FOR CONSTRUCTION OF FACILITIES AT ROXBURY  
COMMUNITY COLLEGE.**

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately authorize additional financing for construction of facilities at Roxbury Community College, 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.** Item 7515–8811 of section 2 of chapter 578 of the acts of 1980 is hereby amended by striking out the figure "30,000,000" and inserting in place thereof the figure:– 37,500,000.

**SECTION 2.** Section 9 of said chapter 578 of the acts of 1980 is hereby amended by striking out, in lines 4 and 5, the words "the sum of one hundred and thirty-five million, four hundred and eighty-seven thousand, and four hundred and thirty-nine dollars" and inserting in place thereof the words:– one hundred and forty-two million, nine hundred and eighty-seven thousand, and four hundred and thirty-nine dollars.

Approved July 29, 1985.

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**Chapter 206. AN ACT RELATIVE TO THE INVESTMENT OF FUNDS  
OF THE TOWN OF ARLINGTON SCHOLARSHIP FUND.**

Be it enacted, etc., as follows:

Section 2 of chapter 405 of the acts of 1983 is hereby amended by striking out, in lines 9 to 12, inclusive, the words "legal for the investment of funds of savings banks under the laws of the commonwealth or in federal savings and loan associations situated in the commonwealth" and inserting in place thereof the words:– allowable under the provisions of chapter one hundred and eighty A of the General Laws.

Approved July 29, 1985.



**ACTS, 1985. – Chaps. 207, 208.**

**Chapter 207. AN ACT EXEMPTING THE POSITION OF CHIEF OF POLICE OF THE TOWN OF AVON FROM THE PROVISIONS OF THE CIVIL SERVICE LAW.**

Be it enacted, etc., as follows:

**SECTION 1.** The office of the chief of police in the town of Avon shall be exempt from the provisions of chapter thirty-one of the General Laws.

**SECTION 2.** The provisions of section one of this act shall not impair the civil service or probationary status of the present incumbent acting chief of police of said department holding such status on the effective date of this act.

Approved July 29, 1985.

EMERGENCY LETTER: July 31, 1985 @ 4:09 P.M.

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**Chapter 208. AN ACT FURTHER REGULATING THE CARE AND PROTECTION OF DETAINEES IN CERTAIN LOCKUP FACILITIES.**

Be it enacted, etc., as follows:

**SECTION 1.** Chapter 40 of the General Laws is hereby amended by striking out section 36B, as appearing in the 1984 Official Edition, and inserting in place thereof the following section:—

**Section 36B.** Each cell utilized for the detention of persons within a city, town, or state lockup facility which is under the jurisdiction of a local police department, the state police, or the metropolitan district commission police shall have a protective covering of high-impact, transparent wall facing. Such protective covering shall cover all bar structures accessible to such detained persons. Adequate ventilation shall be provided to persons detained in the cell.

At least one such cell within such lockup facility shall have installed within it, but beyond the access of any person detained within such cell, an electronic audio system whereby a police officer or other lockup personnel at the duty desk within such lockup facility is brought within audible range of such cell; provided, however, that no such electronic audio system is required to be installed if at least one such cell within such lockup facility is within audible range of the duty desk without electronic assistance.

Each such lockup facility shall have installed within the cell area an electronic security device which will record the times of cell checks by police officers or other lockup personnel. Such device shall be positioned so that a cell check cannot be recorded until the police officer or other lockup personnel has walked past such occupied cell. Each occupied cell within such a lockup facility shall be physically and visibly checked by a police officer or other lockup personnel every fifteen minutes.



**ACTS, 1985. – Chaps. 209, 210.**

**SECTION 2.** This act shall take effect as of October first, nineteen hundred and eighty-five.

Approved July 29, 1985.

EMERGENCY LETTER: July 31, 1985 @ 4:09 P.M.

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**Chapter 209. AN ACT REQUIRING CLERK/MAGISTRATES OF THE DISTRICT COURTS TO REPORT CERTAIN CHILD ABUSE CASES.**

Be it enacted, etc., as follows:

The first paragraph of section 51A of chapter 119 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:— Any physician, medical intern, hospital personnel engaged in the examination, care or treatment of persons, medical examiner, psychologist, emergency medical technician, dentist, nurse, chiropractor, podiatrist, osteopath, public or private school teacher, educational administrator, guidance or family counselor, day care worker, probation officer, clerk/magistrate of the district courts, social worker, foster parent, firefighter or policeman, who, in his professional capacity shall have reasonable cause to believe that a child under the age of eighteen years is suffering serious physical or emotional injury resulting from abuse inflicted upon him including sexual abuse, or from neglect, including malnutrition, or who is determined to be physically dependent upon an addictive drug at birth, shall immediately report such condition to the department by oral communication and by making a written report within forty-eight hours after such oral communication; provided, however, that whenever such person so required to report is a member of the staff of a medical or other public or private institution, school or facility, he shall immediately either notify the department or notify the person in charge of such institution, school or facility, or that person's designated agent, whereupon such person in charge or his said agent shall then become responsible to make the report in the manner required by this section.

Approved July 29, 1985.

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**Chapter 210. AN ACT PROVIDING FOR A HEARING BEFORE REMOVAL OF A MUNICIPAL CHIEF OF POLICE.**

Be it enacted, etc., as follows:

Chapter 41 of the General Laws is hereby amended by inserting after section 21 the following section:—

Section 21A. In any city or town which accepts the provisions of this section, any person who is appointed to the position of chief of police or head of the municipal police department in a city, town, or district, shall



**ACTS, 1985. – Chaps. 211, 212, 213.**

not be removed from such position until a hearing is held by the appointing authority. For the purpose of this section only failure of reappointment shall be deemed to be a removal. The provisions of this section shall apply only to persons appointed to such positions under the provisions of section twenty-one.

Approved July 29, 1985.

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**Chapter 211. AN ACT RELATIVE TO THE ANNUAL OBSERVANCE OF JOSHUA JAMES DAY.**

Be it enacted, etc., as follows:

Chapter 6 of the General Laws is hereby amended by inserting after section 15WW, inserted by chapter 65 of the acts of 1985, the following section:–

Section 15XX. The governor shall annually issue a proclamation setting apart the third Sunday in May as Joshua James Day, the first keeper of the Point Allerton Life Saving Station, in the town of Hull and the most decorated member of the U.S. Lifesaving Service, and recommending that said day be observed in an appropriate manner by the people.

Approved July 29, 1985.

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**Chapter 212. AN ACT RELATIVE TO THE TERM OF OFFICE FOR THE SUPERINTENDENT OF SCHOOLS IN THE CITY OF BOSTON.**

Be it enacted, etc., as follows:

SECTION 1. The first paragraph of section 1 of chapter 231 of the acts of 1906, as appearing in section 1 of chapter 333 of the acts of 1978, is hereby amended by striking out the first and second sentences and inserting in place thereof the following sentence:– The school committee of the city of Boston may award a contract to a superintendent of schools for a period not exceeding six years.

SECTION 2. The second paragraph of said section 1 of said chapter 231, inserted by section 20 of chapter 190 of the acts of 1982, is hereby amended by striking out the last sentence.

Approved July 29, 1985.

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**Chapter 213. AN ACT RELATIVE TO THE ESTABLISHMENT OF CERTAIN HISTORIC DISTRICTS IN THE TOWN OF CONCORD.**



**ACTS, 1985. - Chaps. 214, 215.**

Be it enacted, etc., as follows:

**SECTION 1.** Chapter 345 of the acts of 1960 is hereby amended by striking out section 2 and inserting in place thereof the following section:-

**Section 2. Establishment of Districts.** - (a) There is hereby established in the town of Concord the following historic districts:

**BARRETT FARM DISTRICT.**

**AMERICAN MILE DISTRICT.**

**NORTH BRIDGE - MONUMENT SQUARE DISTRICT.**

**MAIN STREET DISTRICT.**

(b) The locations and boundaries of the historic districts shall be as shown on the map on file in the office of town clerk entitled "HISTORIC DISTRICTS, TOWN OF CONCORD" scale of 1" = 100', consisting of 15 sheets, dated January 1985 as may be amended from time to time in accordance with section twelve.

(c) For purposes of interpretation of the "HISTORIC DISTRICTS" map, the following shall apply:

(1) Boundaries which appear to follow streets, railroad rights of way, or rivers and streams, shall coincide with the centerline thereof.

(2) Where a district boundary appears to divide a lot, the entire lot shall be considered to be within the historic district for the purposes of this act.

**SECTION 2.** Section 3 of said chapter 345 is hereby amended by inserting after the definition of "Historic districts" the following definition:-

"Lot", an area of land in one ownership with definitive boundaries ascertainable from a recorded deed or recorded plan.

Approved July 29, 1985.

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**Chapter 214. AN ACT EXTENDING THE TIME IN WHICH THE TOWN OF TEWKSBURY MAY COMMENCE CONSTRUCTION OF A POLICE STATION BEFORE TITLE REVERTS TO THE STATE.**

Be it enacted, etc., as follows:

Chapter 779 of the acts of 1979 is hereby amended by striking out, in line 18, the word "five" and inserting in place thereof the word:- ten.

Approved July 29, 1985.

EMERGENCY LETTER: July 29, 1985 @ 4:19 P.M.

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**Chapter 215. AN ACT INCREASING THE AMOUNT OF RETIREMENT BENEFIT WHICH MAY BE PAID BY THE NEEDHAM FIREMAN'S MUTUAL RELIEF INC.**



ACTS, 1985. – Chap. 216.

Be it enacted, etc., as follows:

**SECTION 1.** Chapter 271 of the acts of 1966 is hereby amended by striking out, in line 5, the words "such sum, not exceeding one thousand dollars" and inserting in place thereof the words:– an amount equal to one-half the death benefit of such member.

**SECTION 2.** The provisions of this act shall apply to persons who retired on or after January first, nineteen hundred and eighty.

**SECTION 3.** This act shall take effect upon its passage.

Approved July 31, 1985.

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**Chapter 216. AN ACT AUTHORIZING THE CITY OF SOMERVILLE TO ENTER INTO CERTAIN AGREEMENTS FOR THE USE OF ITS MUNICIPAL INCINERATOR.**

Be it enacted, etc., as follows:

**SECTION 1.** In addition to any other power conferred by law, and notwithstanding the provisions of sections three and four of chapter forty of the General Laws, the city of Somerville may from time to time, with the approval of the department of environmental quality engineering, contract for the operation by others of its municipal incinerator, or may from time to time, with like approval, lease the same to others for operation by them either as an incinerator or as some other type of facility for the disposal of refuse, garbage or waste, and may contract, with the approval of the department of environmental quality engineering, with any such operator for the disposal of refuse, garbage or waste, or for any of the foregoing, or for the purchase or use of by-products or residue resulting from the operation of such facility. All other cities, towns and other public agencies, with the approval of the emergency finance board, and private parties are also authorized from time to time to contract with the city of Somerville or with any such operator for the disposal of refuse, garbage and waste, or for any of the foregoing, or for the purchase or use of by-products or residue resulting from the operation of such facility. Without limiting the generality of the foregoing, contracts hereunder may include provisions for the delivery of minimum amounts of refuse, garbage and waste and payments for the use of such facility to be based thereon, unit prices, which may be graduated, and adjustments thereof. Any such contract or lease by a city or town, including the city of Somerville, may be entered into by the appropriate officers acting under general authorization of the city council, board of aldermen or town meeting, and may run for a period not exceeding twenty years from the date of the contract or lease.

Notwithstanding the language of the previous sentence, if such a contract or lease has been entered into by the city of Somerville, then the city of Somerville may modify the conditions and extend the term of



**ACTS, 1985. – Chap. 217.**

any such contract or lease in order to provide for the modification of existing facilities and for the construction and operation of a resource recovery facility that will dispose, recycle or both dispose and recycle municipal solid waste. Such extensions and modifications may provide for the continued operation of a transfer station in conjunction with a resource recovery facility. Such extensions and modifications may be entered into by the appropriate officers acting under the general authorization of the board of aldermen, and, such extensions may run for an additional period not exceeding fifteen years from the original expiration date of such contract or lease.

A contract or lease by a city or town hereunder shall not be precluded by the acceptance of section nine A of chapter ninety-two of the General Laws. Neither the city of Somerville nor any person operating such facility under contract or lease shall be required to pay any property taxes or assessments levied pursuant to chapter fifty-nine of the General Laws on any real or personal property included in such facility or any sales, use of similar tax on the sale, use, storage or consumption of any personal property in such operations; provided, however, that such contract or lease shall provide for payments to the city in lieu of taxes and assessments, which payments, for waste processed in the resource recovery system, shall be calculated in accordance with the provisions of section twenty-four A of chapter sixteen of the General Laws, including any amendments thereto in force and effect prior to June first, nineteen hundred and eighty-five.

**SECTION 2.** If the provisions of this act conflict with the provisions of chapter eight hundred and four of the acts of nineteen hundred and seventy-four the provisions of this act shall be deemed to prevail.

**SECTION 3.** This act shall take effect upon its passage.

Approved July 31, 1985.

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**Chapter 217. AN ACT AUTHORIZING THE CITY KNOWN AS THE TOWN OF WATERTOWN TO BORROW MONEY TO PAY FOR A CERTAIN COURT JUDGMENT.**

Be it enacted, etc., as follows:

**SECTION 1.** The city known as the town of Watertown is hereby authorized, for the purpose of paying to the Boston Edison Company sums owed as a result of a judgment rendered against said town involving the abatement of taxes for fiscal years nineteen hundred and seventy-six to nineteen hundred and seventy-eight, inclusive, to appropriate and expend an amount not to exceed eight hundred thousand dollars.

**SECTION 2.** For the purpose authorized in section one, the town treasurer of the town of Watertown, with the approval of the manager of said town, may borrow upon the credit of said town such sums as may be



**ACTS, 1985. – Chaps. 218, 219.**

necessary, not exceeding, in the aggregate, eight hundred thousand dollars, and may issue bonds or notes of the town which shall bear on their face the words, town of Watertown Loan, Act of 1985. The authorized issue shall be payable in not more than two years from its date. The bonds or notes shall be signed by the town treasurer and by the town manager. Said town may sell such securities at a public or private sale, upon such terms and conditions as said town manager may deem proper, but not for less than their par value. Indebtedness incurred hereunder shall, except as herein provided, be subject to chapter forty-four of the General Laws.

**SECTION 3.** This act shall take effect upon its passage.

Approved July 31, 1985.

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**Chapter 218. AN ACT RELATIVE TO CONDOMINIUM CONVERSION  
IN THE CITY OF SOMERVILLE.**

Be it enacted, etc., as follows:

**SECTION 1.** Chapter 37 of the acts of 1976 is hereby amended by adding the following section:–

Section 14. Notwithstanding the provisions of sections one through thirteen, inclusive, of this act, or the provisions of chapter five hundred and twenty-seven of the acts of nineteen hundred and eighty-three or any other general or special law to the contrary the city of Somerville may establish a condominium review board, and may by ordinance regulate the conversion of housing accommodations in said city to the condominium or cooperative form of ownership and the eviction of tenants incident to the conversion or sale of condominiums. Such ordinance may include, but is not limited to, provisions for investigations into and hearings on condominium conversions or proposed conversions, a permit process, tenant notification requirements and other measures to protect tenants, control of evictions, and penalties for violation of the ordinance. Nothing contained in sections two through thirteen, inclusive, of this chapter shall limit the regulatory powers of the city of Somerville with respect to condominium conversion or evictions incident thereto. The condominium review board may exercise such powers as it is given by ordinance.

**SECTION 2.** This act shall take effect upon its passage.

Approved July 31, 1985.

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**Chapter 219. AN ACT ALLOWING FOR A TURKEY HUNTING  
SEASON IN A CERTAIN AREA OF THE MOUNT  
GREYLOCK STATE RESERVATION.**



**ACTS, 1985. – Chaps. 220, 221.**

**Be it enacted, etc., as follows:**

Section 1 of chapter 608 of the acts of 1959 is hereby amended by striking out the second paragraph, as most recently amended by chapter 264 of the acts of 1966, and inserting in place thereof the following paragraph:–

The remainder of said reservation shall be open to hunting, fishing and trapping, subject to the provisions of chapter one hundred and thirty-one of the General Laws and to such restrictions as may be contained in any grant, deed or devise of property which forms a part of said reservation; provided, however that from May twentieth to the date Columbus Day is observed by the commonwealth, both dates inclusive, no person shall use a bow and arrow or a firearm of any kind, including, but not limited to, a firearm as defined in section one hundred and twenty-one of chapter one hundred and forty of the General Laws, on said reservation.

Approved July 31, 1985.

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**Chapter 220. AN ACT FURTHER DEFINING PUBLIC RECORDS.**

**Be it enacted, etc., as follows:**

Clause Twenty-sixth of section 7 of chapter 4 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by adding the following subclause:–

(l) test questions and answers, scoring keys and sheets, and other examination data used to administer a licensing examination; provided, however, that such materials are used to administer another examination.

Approved July 31, 1985.

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**Chapter 221. AN ACT RELATIVE TO CONSOLIDATION OF CASES IN THE TRIAL COURT.**

**Be it enacted, etc., as follows:**

Chapter 223 of the General Laws is hereby amended by striking out section 2A, as appearing in the 1984 Official Edition, and inserting in place thereof the following section:–

Section 2A. Whenever cross actions between the same parties or two or more actions, including for the purposes hereof other court proceedings and actions transferred under section one hundred and two C of chapter two hundred and thirty-one, arising out of or connected with the same accident, event or transaction are pending in more than one division of the same department of the trial court, the administrative justice of such department of the trial court may, upon motion of any party to such action in such court, order the consolidation of such actions for the purpose of trial together in any division of said depart–



**ACTS, 1985. -- Chaps. 222, 223.**

ment of the trial court to be designated in the order. The party making such motion shall give notice thereof to the clerks, clerk magistrates or registers of probate of the divisions in which said actions are pending, to all parties to such actions, and to the administrative justice of the respective department of the trial court. Thereafter, none of said actions shall be placed on any trial list until after the disposition of said motion. This section shall apply only to actions as to which the time limit for removal to the superior court department under section one hundred and four of chapter two hundred and thirty-one has expired.

Approved July 31, 1985.

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**Chapter 222. AN ACT FURTHER REGULATING THE CONDUCT OF BAZAARS.**

Be it enacted, etc., as follows:

Section 7A of chapter 271 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by adding the following paragraph:—

No organization issued a permit under this section shall conduct more than three bazaars in any single calendar year nor shall such organization conduct more than one bazaar in any single calendar day. The operation of a bazaar shall be limited to five consecutive hours.

Approved July 31, 1985.

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**Chapter 223. AN ACT RELATIVE TO LIQUOR LEGAL LIABILITY INSURANCE.**

Be it enacted, etc., as follows:

**SECTION 1.** As used in this section, and sections two to twelve, inclusive, the following words shall have the following meaning:—

"Association", the joint underwriting association established pursuant to the provisions of this section.

"Commissioner", the commissioner of insurance.

"Licensee", any person, firm, corporation, association or other combination of persons presently holding a valid license for the sale of alcoholic beverages pursuant to chapter one hundred and thirty-eight.

"Liquor legal liability insurance", insurance coverage against the legal liability of the insured and against loss, damage, or expense incident to a claim arising out of death or injury to any person as the result of negligence in the distribution, sale or serving of alcohol by any licensee, or by any other person or entity to whom a policy of liquor legal liability insurance has been issued or an employee, or agent thereof, except that no payment under a policy of liquor legal liability insurance issued by the association shall be made where the cause of action giving rise to a



**ACTS, 1985. – Chap. 223.**

claim is the result of the actions of an intoxicated person which occurred off of and away from the premises of the licensee excluding however, those causes of action arising out of the intoxicated individual's operation of a motor vehicle.

"Net direct premiums", gross direct premiums written on personal injury liability insurance written pursuant to the provisions of chapter ninety and one hundred and seventy-five of the General Laws, including the liability component of multiple paid package policies as computed by the commissioner, less all premiums and dividends credited or returned to policyholders or the unused or unabsorbed portions of premium deposits.

**SECTION 2.** There is hereby established a temporary, nonexclusive, joint underwriting association consisting of all insurers authorized to write and engage in writing, within the commonwealth on a direct basis, personal injury liability insurance pursuant to the provisions of chapters ninety and one hundred and seventy-five of the General Laws including insurers covering such perils in multiple peril packages policies. Every such insurer shall be a member of the association and shall remain a member as a condition of its authority to continue to transact such kind of insurance within the commonwealth. The purpose of the association shall be to provide liquor legal liability insurance on a self supporting basis.

**SECTION 3.** The association shall, pursuant to the provisions of this chapter and the plan of operation with respect to liquor legal liability insurance, on behalf of its members, issue or cause to be issued, policies of insurance to applicants, including incidental coverages and subject to limits as specified in the plan of operation, but not to exceed five hundred thousand dollars for each claimant under one policy and one million dollars for all claimants under one policy in any one cause of action to underwrite such insurance and to adjust and pay losses with respect thereto, to appoint service companies to perform these functions; to assume reinsurance from its members; and to assign reinsurance.

**SECTION 4.** The commissioner shall, after consultation with the joint underwriting association, representatives of the public, the Alcoholic Beverage Control Commission, Massachusetts Package Store Association, Massachusetts Restaurant Association, Western Massachusetts Cafe Owners, Hospitality Industry Association, and other affected individuals and organizations, promulgate a plan of operation consistent with the provisions of this section to become effective and operative no later than thirty days from the effective date of this act. Said plan of operation shall provide for economic, fair and non-discriminatory administration, and for the prompt and efficient provision of liquor legal liability insurance, and shall contain other provisions including, but not limited to, preliminary assessment of all members for initial expenses necessary to commence operations, establishment of necessary facilities, management of the association,



## **ACTS, 1985. – Chap. 223.**

assessment of members to defray losses and expenses, commission arrangements, reasonable and objective underwriting standards, acceptance and cession of reinsurance, appointment of servicing carriers and procedures for determining amounts of insurance to be provided by the association. Said plan of operation shall establish specific limits of coverage based upon type of license, gross volume of liquor sales or service, employee participation in alcohol awareness training programs approved by the governing board of the association, and such other criteria as the directors shall develop. Said plan shall also provide for the offering of an installment payment plan for each policy which either gives the insured the option to pay the annual premium in a minimum of six monthly installments or gives the insured the option to pay the annual premium in a minimum of six monthly installments or gives the insured the option to pay the annual premium in four quarterly installments. Said plan shall also provide for sufficient levels of reserves achieved by the association. Amendments to the plan of operation may be made by the directors of the association subject to the approval of the commissioner, or shall be made at the direction of the commissioner.

**SECTION 5.** Any licensee, or any person or entity which is engaged in serving alcoholic beverages as an incident of its business but for which where a license is not required, upon proof that the licensee or such person or entity has made a reasonable effort to obtain insurance and has been unable to obtain it, shall be entitled to apply to the association for such coverage. Such application shall be made on behalf of an applicant by a broker or agent authorized by the applicant. If the association determines that the applicant meets the underwriting standards of the association as prescribed in the plan of operation, and there is no unpaid, uncontested premium due from the applicant for prior insurance as shown by the insured having failed to make written objection to premium charges within thirty days after billing, the association, upon receipt of the premium, or such portion thereof as is prescribed in the plan of operation, shall cause to be issued a policy of liquor legal liability insurance for a term of one year. The joint underwriting association shall establish and promulgate rules and regulations for a mandatory offer for insurance, and the criteria pertaining thereto under the provisions of this statute and subject to the approval of the commissioner.

**SECTION 6.** The rates, rating plans, rating rules, rating classifications and policy forms applicable to the insurance written by the association and statistics relating thereto shall be subject to the provisions of chapter one hundred and seventy-five A of the General Laws. Within such time as the commissioner shall direct, the association shall submit for the approval of the commissioner, in such form as he shall require, an initial filing, of policy forms applicable to liquor legal liability insurance to be written by the association. In the event the commissioner disapproves such initial filing, the association shall amend such filing, in whole or in part, in accordance with the direction of the commissioner. If the commissioner is unable to approve such filing or amended filing,



**ACTS, 1985. – Chap. 223.**

within the time specified, he shall promulgate the policy forms, and rules to be used by the association in writing such insurance.

Any deficit sustained by the association in any one year shall be recouped, pursuant to the plan of operation and the rating plan then in effect by an assessment upon the policyholders, or a rate increase applicable prospectively, or both; provided however, that in no event shall a deficit incurred by the association be charged directly or indirectly, to any person other than the insured under a policy of liquor legal liability insurance; and provided, further, that for purposes of this sentence, when deficits sustained on account of liquor legal liability coverage are being recouped, the term "policyholders" shall mean all those licensees insured under a policy of liquor legal liability insurance, whether obtained through the joint underwriting association or not.

Effective after the initial year of operation, rates, rating plans and any provision for recoupment through policyholder assessment or premium rate increase, shall be based upon the association's loss and expense experience, and investment income from unearned premium and loss reserves together with such other information based upon such experience as the commissioner may deem appropriate. The resultant premium rates shall be on an actuarially sound basis and shall be calculated to be self-supporting. In the event that sufficient funds are not available for the sound financial operation of the association, pending recoupment as provided hereinbefore, all members shall, on a temporary basis contribute to the financial requirements of the association in the manner hereinafter provided. Any such contribution shall be reimbursed to the members following recoupment as provided in this section. The association shall offer policies on both a claims made and occurrence basis so that applicants may select either policy at their option; provided, however, that the rates charged for both claims made and occurrence policies shall be at rates established on an actuarially sound basis and which are calculated to be self-supporting.

**SECTION 7.** All insurers which are members of the association shall participate in its writings, expenses, and losses in the proportion that the net direct premiums of each such member, excluding that portion of premiums attributable to the operation of the association written during the preceding calendar year, bears to the aggregate net direct premiums written in the commonwealth by all members of the association. Each insurer's participation in the association shall be determined annually on the basis of such net direct premiums of each such member, excluding that portion of premiums attributable to the operation of the association written during the preceding calendar year, bears to the aggregate net direct premiums written in the commonwealth by all members of the association. Each insurer's participation in the association shall be determined annually on the basis of such net direct premiums written during the preceding calendar year, bears to the aggregate net direct premiums written in the commonwealth by all members of the association. Each insurer's participation in the association shall be determined annually on the basis of such net direct premiums written during the preceding calendar year, as reported in the annual statements



## ACTS, 1985. – Chap. 223.

and other reports filed by the insurer with the commissioner. No member shall be obligated in any one year to reimburse the association on account of its proportionate share in the deficit from operations of the association in that year in excess of one per cent of its surplus to policyholders and the aggregate amount not so reimbursed shall be reallocated among the remaining members in accordance with the method of determining participation prescribed in this chapter after excluding from the computation the total net direct premiums of all members not sharing in such excess deficit. In the event that the deficit from operation allocated to all members of the association in any calendar year shall exceed one per cent of their respective surplus to policyholders, the amount of such deficit shall be allocated to each member in accordance with the method of determining participation prescribed in this chapter.

**SECTION 8.** The association shall be governed by a board of thirteen directors, eight of whom shall be elected by cumulative voting by the members of the association, whose votes in such election shall be weighed in accordance with each member's net direct premiums written during the preceding calendar year. Four directors shall be appointed by the commissioner as representatives of the licensees. One shall be appointed by the commissioner as a representative of the insurance producers. The eight elected directors serving on the first board shall be elected at a meeting of members, or their authorized representatives, which shall be held at a time and place designated by the commissioner. The other five directors serving on the first board shall be appointed on or before the date of such meeting.

**SECTION 9.** Any applicant to the association, any person insured pursuant to this section, or their representatives, or any affected insurer, may appeal for review to the commissioner within thirty days after any ruling, action, or decision by or on behalf of the association, with respect to those items the plan of operation defines as appealable matters. On receipt of any such appeal, the commissioner shall, after due hearing and investigation enter such finding or decision as he deems shall best meet the purpose of this section.

**SECTION 10.** Any person aggrieved by any such finding, order or decision and any person aggrieved by any other rule or regulation of the commissioner made pursuant to this chapter may, within thirty days of the filing of any such finding, order, decision, rule or regulation in the office of the commissioner, appeal therefrom to the superior court for the county in which the complainant resides. The court shall, after such notice to the parties as it deems reasonable, hold a summary hearing on such appeal and shall have jurisdiction to review all question of fact and law, and to affirm or reverse such finding or order and to make any appropriate judgment.

**SECTION 11.** The association shall file in the office of the commissioner, annually on or before the first day of March, a statement



**ACTS, 1985. – Chap. 223.**

which shall contain information with respect to its transactions, condition, operations and affairs during the preceding year. Such statement shall contain such matters and information as are prescribed and shall be in such form as is approved by the commissioner. The commissioner may, at any time, require the association to furnish additional information with respect to its transactions, conditions or any matter connected therewith considered to be material and of assistance, in evaluating the scope, operation and experience of the association.

**SECTION 11A.** The commissioner of insurance is hereby authorized to make an annual estimated assessment against each insurer who is required under the provisions of this act to be a member of the joint underwriting association relative to liquor legal liability insurance. Said estimated assessment shall be in an amount determined and certified by the commissioner as necessary to cover the costs to be incurred by the division of insurance in carrying out its responsibilities under sections one through twelve, inclusive, of this act. Said estimated assessment shall be made against each such insurer in the same proportion as would apply under the provisions of this act to such insurer's participation in the writings, expenses and losses of the association and shall be paid to the commissioner within thirty days after the date of the notice from the commissioner of such estimated assessments. The commissioner shall subsequently determine and assess proportionately the amount of actual costs against each such insurer and shall make assessment adjustments for any variation between estimated and actual costs.

**SECTION 12.** The commissioner shall make an examination into the affairs of the association at least annually. Such examination shall be conducted and the report thereon filed in the manner prescribed in section four of chapter one hundred and seventy-five of the General Laws.

There shall be no liability on the part of, and no cause of action of any nature shall arise against the association, its agents or employees, an insurer, any licensed agent or broker, or the commissioner or his authorized representatives, for any statements made in good faith by them in any reports or communications concerning risks insured or to be insured by the association, or at any administrative hearing conducted in connection therewith.

**SECTION 13.** Section one to twelve, inclusive, of this act shall expire on December thirty-first, nineteen hundred and eighty-seven.

**SECTION 14.** Section 24J of chapter 90 of the General Laws, as appearing in section 10 of chapter 373 of the acts of 1982, is hereby further amended by striking out the second paragraph and inserting in place thereof the following paragraph:–

Any information so acquired by the court shall be transmitted to the office of the attorney general, the office of the district attorney for the district in which the establishment is located, and the establishment.



**ACTS, 1985. – Chap. 223.**

**SECTION 15.** Chapter 175 of the General Laws is hereby amended by inserting after section 112 the following two sections:–

**Section 112A.** Liquor legal liability insurance shall provide insurance coverage against the legal liability of the insured and against loss, damage or expense incident to a claim arising out of death or injury to any person as the result of negligence in the distribution, sale, or serving of alcohol by a licensee or an employee, or agent thereof, or any other person or entity to whom a policy of liquor legal liability insurance has been issued, except that no payment shall be made where the cause of action giving rise to a claim is the result of the actions of an intoxicated person which occurred off of and away from the premises of the licensee excluding, however, those causes of action arising out of the intoxicated individual's operation of a motor vehicle.

**Section 112B.** Effective sixty days after the inception of a liquor legal liability insurance contract, no notice of intention to terminate the contract or, if the contract is a renewal, no notice of intention not to renew the contract shall be effective unless the insurer at least sixty days prior to the effective date of such cancellation or the end of the contract period, as the case may be, mails or delivers to the insured at the address shown on the policy such notice of cancellation or intention not to renew except where the cancellation is for non-payment of premium, or where the insured has lost his license.

**SECTION 16.** Chapter 175 of the General Laws is hereby further amended by adding after section 195 the following section:–

**Section 196.** Where a payment is made by an insurer under the terms of a policy of liquor liability insurance, it shall be the duty of the insurer to give notice of said payment to the office of the Attorney General within ten days of payment.

Said notice shall include, but not be limited to the following: the name of the insured, name of claimant(s), amount paid, date(s) or incident for which payment is made.

In the absence of fraud, malice or criminal act, no insurance company, or person who furnished information on its behalf, or any duly licensed insurance agent or broker, through whom the policy was issued shall be liable for damages in a civil action or subject to criminal prosecution for any conduct reasonably undertaken pursuant to the provisions of this section.

**SECTION 17.** Chapter 231 of the General Laws is hereby amended by inserting after section 60E, the following section:–

**Section 60F.** Every action for negligence in the distribution, sale or serving of alcoholic beverages to a minor or to an intoxicated person shall be commenced in the superior court department and shall proceed according to the Massachusetts Rules of Civil Procedure unless otherwise provided for by this section.



**ACTS, 1985. – Chap. 224.**

The plaintiff shall file, together with his complaint, or at such later time not to exceed ninety days thereafter, an affidavit setting forth sufficient facts to raise a legitimate question of liability appropriate for judicial inquiry.

Any party may make a motion for summary judgment pursuant to Rule 56 of the Massachusetts Rules of Civil Procedure. Any such motion shall be heard and decided promptly after issue is joined as to any party, unless the court enlarges the time for discovery. Said enlarged time for discovery shall not exceed ninety days, except on further order of the court.

On or within thirty days of filing a notice of appeal from summary judgment adverse to a plaintiff, the plaintiff shall file a bond in the amount of two thousand dollars for each adverse party on appeal secured by cash or its equivalent with the clerk of the appellate court in which the case is pending. Said bond shall be payable to the named adverse party or parties for costs assessed and attorney fees on appeal, if the appellant does not prevail on appeal. Upon motion filed by the plaintiff, and a determination by a single justice of the appellate court that the plaintiff is indigent, said justice may reduce or eliminate the amount of the bond.

If a judgment is entered for a plaintiff, the court shall report its judgment to the alcoholic beverages control commission.

**SECTION 18.** Chapter 231 of the General Laws is hereby amended by adding after section 85R the following section:–

Section 85S. In any action for personal injuries, property damage or consequential damages caused by or arising out of the negligent serving of alcohol to an intoxicated person by a licensee properly licensed under chapter one hundred and thirty-eight or by a person or entity serving alcohol as an incident of its business but for which no license is required, no such intoxicated person who causes injuries to himself, may maintain an action against the said licensee or person or entity in the absence of wilful, wanton, or reckless conduct on the part of the licensee or such person or entity.

Approved July 31, 1985.

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**Chapter 224. AN ACT EXEMPTING THE COMMONWEALTH FROM THE ALTERNATIVE MORTGAGE TRANSACTION PREEMPTION PROVISIONS OF THE DEPOSITORY INSTITUTIONS ACT OF NINETEEN HUNDRED AND EIGHTY-TWO.**

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately provide for exempting the commonwealth from the alternative mortgage transaction preemption



**ACTS, 1985. – Chaps. 225, 226.**

provisions of the Depository Institutions Act of 1982, 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.** The commonwealth hereby declares and explicitly states by the terms of this act that it does not want the preemption provided in section 804 of Public Law 97-320 to apply with respect to alternative mortgage transactions, as defined in said law, subject to the provisions of chapter one hundred and sixty-seven E or section sixty of chapter one hundred and eighty-three of the General Laws.

**SECTION 2.** This act shall take effect on October first, nineteen hundred and eighty-five.

Approved August 1, 1985.

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**Chapter 225. AN ACT EXEMPTING ALL AIDE AND CLERICAL POSITIONS IN THE TAUNTON SCHOOL DISTRICT IN THE CITY OF TAUNTON FROM THE PROVISIONS OF THE CIVIL SERVICE LAW.**

Be it enacted, etc., as follows:

**SECTION 1.** All aide and clerical positions in the Taunton school district in the city of Taunton shall be exempt from the provisions of chapter thirty-one of the General Laws.

**SECTION 2.** The provisions of section one of this act shall not impair the civil service status of any person employed in an aide or clerical position in the Taunton school district in the city of Taunton on the effective date of this act.

**SECTION 3.** This act shall take effect upon its passage.

Approved August 1, 1985.

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**Chapter 226. AN ACT EXEMPTING THE POSITION OF SUPERVISOR OF VEHICULAR MAINTENANCE IN THE CITY OF TAUNTON FROM THE PROVISIONS OF THE CIVIL SERVICE LAW.**

Be it enacted, etc., as follows:

**SECTION 1.** The position of supervisor of vehicular maintenance in the city of Taunton shall be exempt from the provisions of chapter thirty-one of the General Laws.



**ACTS, 1985. – Chaps. 227, 228.**

**SECTION 2.** The provisions of section one shall not impair the civil service status of any person employed in the position of supervisor of vehicular maintenance in the city of Taunton on the effective date of this act.

**SECTION 3.** This act shall take effect upon its passage.

Approved August 1, 1985.

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**Chapter 227. AN ACT EXEMPTING THE POSITIONS OF MUNICIPAL HEALTH SAFETY AGENT AND ZONING CODE ENFORCEMENT OFFICER IN THE CITY OF TAUNTON FROM THE PROVISIONS OF THE CIVIL SERVICE LAW.**

Be it enacted, etc., as follows:

**SECTION 1.** The positions of municipal health safety agent and zoning code enforcement officer in the city of Taunton shall be exempt from the provisions of chapter thirty-one of the General Laws.

**SECTION 2.** The provisions of section one shall not impair the civil service status of any person employed in the position of municipal health safety agent and zoning code enforcement officer in the city of Taunton on the effective date of this act.

**SECTION 3.** This act shall take effect upon its passage.

Approved August 1, 1985.

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**Chapter 228. AN ACT MAKING CERTAIN CORRECTIVE CHANGES TO THE LAW RELATIVE TO CONSTRUCTION IN THE COMMONWEALTH.**

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to correct immediately certain serious deficiencies in the law relative to construction in the Commonwealth, 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.** Paragraph (f) of section 38H of chapter 7 of the General Laws, as appearing in section 6 of chapter 484 of the acts of 1984, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:—

(f) A public agency shall not enter into a contract for design services unless the public agency or the designer has obtained professional liability insurance covering negligent errors, omissions and acts of the



**ACTS, 1985. – Chap. 229.**

designer or of any person or business entity for whose performance the designer is legally liable arising out of the performance of the contract. The total amount of such insurance shall at a minimum equal the lesser of one million dollars or ten per cent of the project's estimated cost of construction, or such larger amounts as the public agency may require, for the applicable period of limitations. A designer required by the public agency to obtain all or a portion of such insurance coverage at his own expense shall furnish a certificate or certificates of insurance coverage to the public agency prior to the award of the contract. For purposes of this paragraph only, "public agency" shall have the meaning set forth in section thirty-nine A.

**SECTION 2.** Section 29B of chapter 149 of the General Laws as inserted by section 43 of chapter 484 of the acts of 1984 is hereby amended by striking out said section and inserting in place thereof the following section:–

29B. No provision in specifications inviting bids for construction work reserving the right to waive or cancel the requirement for furnishing a payment bond shall be valid as a defense against a claimant who relied upon the provision requiring the furnishing of the payment bond unless that reservation appears in the specifications immediately following the provision requiring the furnishing of the payment bond.

**SECTION 3.** Section 29C of chapter 149 of the General Laws as inserted by section 43 of chapter 484 of the acts of 1984 is hereby amended by striking out said section and inserting in place thereof the following section:–

29C. Any provision for or in connection with a contract for construction, reconstruction, installation, alteration, remodeling, repair, demolition or maintenance work, including without limitation, excavation, backfilling or grading, on any building or structure, whether underground or above ground, or on any real property, including without limitation any road, bridge, tunnel, sewer, water or other utility line, which requires a subcontractor to indemnify any party for injury to persons or damage to property not caused by the subcontractor or its employees, agents or subcontractors, shall be void.

**SECTION 4.** This act shall take effect as of April 7, 1985.

Approved August 1, 1985.

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**Chapter 229. AN ACT RELATIVE TO THE RECORDS OF VETERANS.**

Be it enacted, etc., as follows:

The fifth paragraph of subsection (b) of section 15 of chapter 33 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by inserting after the word "towns", in line 40, the words:– and shall provide, upon request, said rosters to such cities and towns.

Approved August 1, 1985.



**Chapter 230. AN ACT ESTABLISHING THE POSITION OF  
EXECUTIVE ADMINISTRATOR IN THE TOWN OF  
WEYMOUTH.**

Be it enacted, etc., as follows:

**SECTION 1.** There is hereby established in the town of Weymouth, hereinafter referred to as the town, the position of executive administrator. Such position shall be filled by a person qualified in accordance with the by-laws of the town who shall devote full time to the duties of his position and shall neither hold nor be a candidate for any public elective office or engage in any other business or occupation during his term. Any person appointed or reappointed to such a position shall meet such additional qualifications as may be established by by-law, or until adoption of any such by-law, by the personnel board of the town jointly with the appointing authority. The person appointed to the position of executive administrator shall be or become, and remain as a resident of and domiciled in the town at the time of or within six months after appointment.

**SECTION 2.** The board of selectmen shall, by majority vote of the members thereof, appoint the executive administrator for a term of three years and may by majority vote of the members thereof appoint a temporary or interim executive administrator; provided, however, that no person shall hold a temporary or interim appointment to such position for more than ninety days. Compensation shall be established within the classification and pay plan of the town by-law for the salary of the executive administrator and as set by the personnel board. Any person holding the position of executive administrator may be removed therefrom by a four-fifths vote of the members of the board of selectmen taken after due written notice to the executive administrator and a public hearing at which the reasons for removal shall be set forth and at which the executive administrator shall be entitled to be heard.

**SECTION 3.** The duties and responsibilities of the position of executive administrator shall be as follows:

(a) except as otherwise expressly prohibited by General Law or by-law of the town, he shall supervise, direct and be responsible for the efficient administration, including the preparation of budgets, of all departments and employees within the jurisdiction of, or appointed by, the board of selectmen;

(b) he shall recommend to the board of selectmen persons from among those meeting the qualifications established by General Law, by-laws of the town or regulations established thereunder for appointment as department heads of all departments the heads of which are appointed by the board of selectmen, from which recommendations such appointments shall be made; all such department heads shall appoint from among those meeting the qualifications established by General Law, by-laws of the town or regulations established thereunder, and have power to remove all assistants and employees of such departments, subject only to contrary



**ACTS, 1985. – Chap. 230.**

provisions of the General Laws, by-laws of the town or regulations established thereunder, and the prior approval in writing by the executive administrator or persons so appointed or of such removal; he shall recommend in writing to the board of selectmen the removal of any such department head for cause, setting forth in such recommendation specific reasons and fact supporting such recommendation;

(c) he shall have access to all town books, papers, and records for information necessary for the proper performance of his duties; and

(d) he shall have such additional duties and responsibilities as may from time to time be delegated by the board of selectmen or authorized by by-law, and he shall be relieved of such duties and responsibilities as so provided by by-law;

(e) he shall attend all regular and special meetings of the board of selectmen unless excused, and have a voice but no vote in all of its discussions;

(f) he shall attend all sessions of the town meetings, answer questions and provide information as requested;

(g) he shall exercise general supervision and authority over the personnel, organization, systems and practices of the board of selectmen's office;

(h) he shall keep the board of selectmen informed as to the financial conditions and needs of the town, in conjunction with the town accountant, and shall make such recommendations to the board of selectmen as he deems necessary or expedient;

(i) he shall enforce the policies of the board of selectmen, votes of town meetings, by-laws and provisions of the General Laws;

(j) he may negotiate collective bargaining agreements for the board of selectmen which shall be subject to final approval by the board;

(k) he shall be responsible for the proper maintenance and repair of town-owned property under the jurisdiction of the board of selectmen; shall prepare and administer lease agreements as executed by the board of selectmen;

(l) he shall hold periodic meetings with department heads under the control of the board of selectmen;

(m) he shall represent the board of selectmen before state, county and federal officials.

**SECTION 4.** The board of selectmen shall make the initial appointment of the position of executive administrator within ninety days after this act shall become effective. Subsequent appointment shall be made during the month of June, to become effective on July first. Any person so appointed shall not have served in an elective office in or for the town of Weymouth for at least one year prior to appointment, except as an elected town meeting member.

**SECTION 5.** Upon the fifteenth day the initial appointment to the position of executive administrator, the office of town administrator shall cease and terminate.

**SECTION 6.** This act shall become effective upon enactment by the



**ACTS, 1985. – Chap. 231.**

general court without further action by the town. If any provision of this act or the application of any provision to any person or circumstances shall be determined to be invalid or unenforceable, then such determination shall not affect any other provisions of this act or the application of said provision to any other person or circumstances, all of which other provisions shall remain in force and effect.

Approved August 13, 1985.

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**Chapter 231. AN ACT RELATIVE TO THE ORGANIZATION OF THE DIVISION OF LAW ENFORCEMENT, DEPARTMENT OF FISHERIES, WILDLIFE AND ENVIRONMENTAL LAW ENFORCEMENT.**

Be it enacted, etc., as follows:

**SECTION 1.** Section 7 of chapter 2 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out the third sentence and inserting in place thereof the following sentence:– The provisions of this section shall be enforced by all officers in the division of law enforcement in the department of fisheries, wildlife and environmental law enforcement.

**SECTION 2.** Section twelve of chapter sixteen of the General Laws is hereby repealed.

**SECTION 3.** Section 5 of chapter 21 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:– The division of marine fisheries shall be within the department of fisheries, wildlife and environmental law enforcement in the executive office of environmental affairs and shall be under the administrative supervision of a director who shall be called the director of marine fisheries.

**SECTION 4.** Said chapter 21 is hereby amended by striking out section 6, as so appearing, and inserting in place thereof the following section:–

Section 6. The division of law enforcement shall be within the department of fisheries, wildlife and environmental law enforcement in the executive office of environmental affairs and shall be under the administrative supervision of a director who shall be called the director of law enforcement. The director shall be qualified by training, experience and executive ability and shall not be subject to the provisions of chapter thirty-one. The commissioner of the department of fisheries, wildlife and environmental law enforcement shall appoint said director and may remove him with the approval of the secretary. Said director shall appoint and may remove with the approval of the commissioner such deputy directors of enforcement and chiefs of enforcement as may be necessary to carry out the duties of the division;



**ACTS, 1985. – Chap. 231.**

provided, however, that the chief of enforcement of the boating and recreation vehicle safety enforcement bureau shall be appointed and may be removed by the director with the approval of the boating and recreational vehicle safety advisory board established pursuant to section eleven of chapter twenty-one A. Such positions shall not be subject to the provisions of chapter thirty-one. The deputy directors of enforcement, assisted by law enforcement coordinators, shall perform such enforcement and administrative duties as assigned by the director.

The director may with the approval of the commissioner designate employees of the commonwealth and the United States as deputy environmental police officers.

The director is authorized to promulgate rules and regulations necessary for implementation of sections six to six E, inclusive, provided, however, that no rule or regulation promulgated under the provisions of this section shall take effect before the thirtieth day next following the date on which a copy of such rule or regulation has been filed with the joint committee on natural resources and agriculture.

**SECTION 5.** The second paragraph of section 6A of said chapter 21, as so appearing, is hereby amended by striking out, in line 9, the word "field" and inserting in place thereof the words:– environmental police.

**SECTION 6.** Said chapter 21 is hereby further amended by striking out section 6B, as so appearing, and inserting in place thereof the following section:–

Section 6B. The secretary, undersecretary, commissioner, his assistants, director, deputy directors of enforcement, chiefs of enforcement and all deputy chiefs of enforcement, law enforcement coordinators, and the wardens, as defined in section one of chapter one hundred and thirty-one, and all environmental police officers and deputy environmental police officers shall have and exercise throughout the commonwealth, subject to such rules and regulations as the director, with the approval of the commissioner, may from time to time adopt, all the authority of police officers and constables, except the service of civil process. Such rules and regulations shall be filed with the state secretary in accordance with section thirty-seven of chapter thirty. The director may authorize in writing any such deputy directors of enforcement, chiefs of enforcement, deputy chiefs of enforcement, and any environmental police officer to have in their possession and carry a firearm, revolver, club, billy, handcuffs, twistors, or any other weapon or article required in the performance of official duty.

**SECTION 7.** Said chapter 21 is hereby further amended by striking out section 6C, as so appearing, and inserting in place thereof the following section:–

Section 6C. Each deputy director of enforcement, chief of enforcement, deputy chief of enforcement, warden, environmental police officer or deputy environmental police officer, when on duty and in uniform shall wear on his outer clothing or otherwise display a metallic badge bearing the seal of the commonwealth and appropriate words to



**ACTS, 1985. – Chap. 231.**

identify his position, together with a number to be assigned by the director.

The director may, with the approval of the commissioner of the department of fisheries, wildlife and environmental law enforcement, prescribe by rules and regulations a standard form of uniform to be worn by such personnel. Such badge or uniform or any distinctive part thereof so prescribed shall be worn only by such personnel entitled thereto under said rules and regulations.

Whoever violates this section by wearing such badge or uniform without authority or by impersonating an officer authorized to wear such badge or uniform shall be punished by a fine of not less than ten or more than one hundred dollars.

**SECTION 8.** Said chapter 21 is hereby further amended by striking out section 6D, as so appearing, and inserting in place thereof the following section:-

Section 6D. The secretary, commissioner, his assistants, director, deputy directors of enforcement, chiefs of enforcement, deputy chiefs of enforcement, environmental police officers and deputy environmental police officers, may in the performance of their duties enter upon; and pass through or over private property or lands whether or not covered by water, and may keep or dispose of sick, dead, injured, or helpless fish, birds or mammals, that may come into their possession subject to such rules and regulations as said director, with the approval of said commissioner, is hereby authorized to adopt.

**SECTION 9.** Section 6E of said chapter 21, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- Notwithstanding the provisions of chapter one hundred and forty-nine or of any other general or special law to the contrary, the director, with the approval of the commissioner, shall make rules and regulations governing the tours of duty and hours of work for the deputy directors of enforcement, chiefs of enforcement, deputy chiefs of enforcement and environmental police officers.

**SECTION 10.** Section 6F of said chapter 21, as so appearing, is hereby amended by striking out, in lines 1 and 2, the words "his assistants and any natural resource officer" and inserting in place thereof the words:- deputy directors of enforcement, chiefs of enforcement, deputy chiefs of enforcement and any environmental police officers.

**SECTION 10A.** Said section 6F of said chapter 21, as so appearing, is hereby further amended by striking out the last paragraph and inserting in place thereof the following paragraph:-

The director with the approval of the commissioner of the department of fisheries, wildlife and environmental law enforcement shall adopt rules and regulations consistent with the provisions of this chapter and shall file said regulations in accordance with the provisions of section thirty-seven of chapter thirty.



**ACTS, 1985. – Chap. 231.**

**SECTION 11.** Section 7 of said chapter 21, as so appearing, is hereby amended by striking out, in line 2, the words "recreational vehicles" and inserting in place thereof the words:– environmental law enforcement.

**SECTION 12.** Said chapter 21 is hereby further amended by striking out section 7C, as so appearing, and inserting in place thereof the following section:–

Section 7C. No board member shall hold any other position in the department of fisheries, wildlife and environmental law enforcement while serving as such, nor for a period of one year thereafter.

**SECTION 13.** Section 17A of said chapter 21, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:– There shall be in the department of fisheries, wildlife and environmental law enforcement a board to be known as the public access board composed of the director of the division of fisheries and wildlife, the director of the division of law enforcement, the director of the division of marine fisheries, the director of the division of forests and parks and the deputy chief engineer of the division of waterways or their respective designees and the chairmanship of said board shall rotate annually among said members.

**SECTION 14.** Section 7 of chapter 21A of the General Laws, as so appearing, is hereby amended by striking out, in line 4, the words "recreational vehicles" and inserting in place thereof the words:– environmental law enforcement.

**SECTION 14A.** Section 7 of said chapter 21A, as so appearing, is hereby amended by striking out, in line 20, the words "recreational vehicles" and inserting in place thereof the words:– environmental law enforcement.

**SECTION 15.** Section 8 of said chapter 21A, as so appearing, is hereby amended by striking out the fourth paragraph and inserting in place thereof the following paragraph:–

The department of fisheries, wildlife and environmental law enforcement shall include the fisheries, wildlife and environmental law enforcement advisory board, division of fisheries and wildlife, fisheries and wildlife board, division of law enforcement, boating and recreational vehicle safety advisory board, public access board, division of marine fisheries and the marine fisheries advisory commission. The transfer of the said divisions to the department of fisheries, wildlife and environmental law enforcement shall not operate to limit the function of said divisions nor the provisions of chapters twenty-one and one hundred and thirty-one affecting said division.

**SECTION 16.** Said section 8 of said chapter 21A, as so appearing, is hereby further amended by striking out the fifth paragraph and inserting in place thereof the following paragraph:–

There shall be within the department of fisheries, wildlife and



**ACTS, 1985. – Chap. 231.**

environmental law enforcement an advisory board to be known as the fisheries, wildlife and environmental law enforcement advisory board. Said board shall consist of two members of the fisheries and wildlife board, one member of the nongame advisory committee, three members of the marine fisheries advisory commission and three members of the boating and recreational vehicles safety advisory board, of which at least one member shall represent boating interests. The fisheries and wildlife board, the nongame advisory committee, the marine fisheries advisory commission and the boating and recreational vehicles safety advisory board shall each appoint from its own members by majority vote the persons on said board representative of such board, committee or commission. Each member appointed to the advisory board will serve for a term of three years and may be reappointed for similar terms. The advisory board shall advise the commissioner on matters relevant to the affairs of the department, shall meet at least quarterly and at the request of the commissioner. The members of the advisory board shall receive no compensation but shall be reimbursed by the department for expenses necessary to the performance of their duties.

**SECTION 17.** The sixth paragraph of said section 8 of said chapter 21A, as so appearing, is hereby amended by striking out the first sentence.

**SECTION 18.** Section 8A of said chapter 21A, as so appearing, is hereby amended by striking out, in line 9, the words "recreational vehicles" and inserting in place thereof the words:– environmental law enforcement.

**SECTION 19.** Said chapter 21A is hereby further amended by striking out section 11, as so appearing, and inserting in place thereof the following section:–

Section 11. There is hereby established within the division of law enforcement an advisory board to be designated as the boating and recreational vehicle safety advisory board. Said board shall consist of seven members to be appointed by the governor, one such member shall be representative of the boating public and hold a certificate relative to boating registration, one such member shall represent the commercial boating business; one such member shall represent the snowmobiling public and hold such a recreational vehicle registration, one such member shall represent the commercial snowmobile industry; one member shall represent the trail bike industry, and one member shall represent the trail associations. Each member shall serve for a term of three years. The chairman of said board shall be appointed annually by the governor. Board members shall be appointed or reappointed for terms of three years.

The boating and recreational vehicle safety advisory board shall meet at least quarterly and a majority of members shall constitute a quorum. The chiefs of enforcement of the coastal enforcement bureau and the inland enforcement bureau established under section six of chapter twenty-one, or their designees, shall attend all meetings of said board



**ACTS, 1985. – Chap. 231.**

and shall provide such information as said board shall request.

Said board shall review the budgetary recommendations of the director and the secretary of the executive office of environmental affairs concerning the expenditure of federal funds allocated to the division for recreational boating safety each fiscal year prior to the submission of such recommendations to the secretary or the governor, as the case may be. In the event said board disapproves of any such recommendation it may file a report noting its objection and such report shall be transmitted to the governor and to the house and senate committees on ways and means.

**SECTION 19A.** Section 14 of chapter 21C of the General Laws, as so appearing, is hereby amended by striking out, in line 2, the words, "natural resources" and inserting in place thereof the words:— environmental police.

**SECTION 19B.** Clause (41) of section 5 of chapter 40 of the General Laws, as so appearing, is hereby amended by striking out, in line 394, the words "recreational vehicles" and inserting in place thereof the words:— environmental law enforcement.

**SECTION 20.** Section 96B of chapter 41 of the General Laws, as so appearing, is hereby amended by striking out, in line 6, the words "recreational vehicles" and inserting in place thereof the words:— environmental law enforcement.

**SECTION 20A.** Said section 96B of said chapter 41, as so appearing, is hereby further amended by striking out, in line 19, the words "recreational vehicles" and inserting in place thereof the words:— environmental law enforcement.

**SECTION 21.** Section 1 of chapter 90B of the General Laws, as so appearing, is hereby amended by striking out the definitions of "Director" and "Division" and inserting in place thereof the following four definitions:—

"Commissioner", – the commissioner of the department of fisheries, wildlife and environmental law enforcement.

"Department", – the department of fisheries, wildlife and environmental law enforcement of the executive office of environmental affairs.

"Director", – the director of the division of law enforcement of the department of fisheries, wildlife and environmental law enforcement.

"Division", – the division of law enforcement of the department of fisheries, wildlife and environmental law enforcement.

**SECTION 22.** Section 4A of said chapter 90B, as so appearing, is hereby amended by striking out, in line 5 and line 13, in each instance, the word "motorboats" and inserting in place thereof in each instance the words:— law enforcement.



**ACTS, 1985. – Chap. 231.**

**SECTION 23.** Section 12 of said chapter 90B, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:– The provisions of this chapter and all rules and regulations made under the authority thereof shall be enforced by the director, deputy directors of enforcement, chiefs of enforcement, deputy chiefs of enforcement, environmental police officers and deputy environmental police officers of the division of law enforcement, department of fisheries, wildlife and environmental law enforcement, by harbor masters and assistant harbor masters, by police officers assigned to harbor patrol, by fish and game wardens, by members of the state police, and by city, town and metropolitan district commission police officers assigned to patrol the waters of the commonwealth.

**SECTION 24.** Section 20 of said chapter 90B, as so appearing, is hereby amended by striking out the definition of "Law enforcement officer" and inserting in place thereof the following definition:–

"Law enforcement officer", the director, deputy directors of enforcement, chiefs of enforcement, deputy chiefs of enforcement, environmental police officers and deputy environmental police officers of the division of law enforcement, department of fisheries, wildlife and environmental law enforcement, registrar or his authorized agents, police officers, fish and game wardens, members of the state police and city, town and metropolitan district commission police officers or employees of the commonwealth having police powers on public lands.

**SECTION 25.** Section 30 of said chapter 90B, as so appearing, is hereby amended by striking out, in line 7, the words "recreational vehicles" and inserting in place thereof the words:– environmental law enforcement.

**SECTION 26.** Section 32 of said chapter 90B, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:– The provisions of sections twenty-one to thirty-four, inclusive, and of all the rules and regulations made under the authority thereof shall be enforced by the commissioner, his assistants, the director, deputy directors of enforcement, chiefs of enforcement, deputy chiefs of enforcement, environmental police officers and deputy environmental police officers of the department of fisheries, wildlife and environmental law enforcement, wardens as defined in section one of chapter one hundred and thirty-one, police officers, members of the state police and by city, town and metropolitan district commission police officers.

**SECTION 27.** Section 1 of chapter 130 of the General Laws, as so appearing, is hereby amended by striking out the definition of "Commissioner" and inserting in place thereof the following definition:–

"Commissioner", the commissioner of the department of fisheries, wildlife and environmental law enforcement.

**SECTION 27A.** Said section 1 of said chapter 130, as so appearing, is



**ACTS, 1985. – Chap. 231.**

hereby further amended by striking out the definition of "Department" and inserting in place thereof the following definition:–

"Department", the department of fisheries, wildlife and environmental law enforcement of the executive office of environmental affairs.

**SECTION 28.** Said chapter 130 is hereby further amended by striking out section 8A, as so appearing, and inserting in place thereof the following section:–

Section 8A. In a city or town bordering on coastal waters, a police officer employed on a full time, provisional or reserve basis shall, for the enforcement of sections thirty-one, thirty-seven, thirty-eight, thirty-eight A, thirty-nine, forty-one, forty-one A, forty-three and forty-four, have the authority granted to an environmental police officer, subject to such rules and regulations as the director with the approval of the commissioner are hereby authorized to adopt.

**SECTION 29.** Section 9 of said chapter 130, as so appearing, is hereby amended by striking out, in lines 1 and 2, the words "his assistants, a natural resource officer or deputy:" and inserting in place thereof the words:– the deputy directors of enforcement, chiefs of enforcement, deputy chiefs of enforcement and all environmental police officers and deputy environmental police officers.

**SECTION 30.** Section 13 of said chapter 130, as so appearing, is hereby amended by striking out, in lines 1 and 2, the words "his assistants, a natural resource officer or deputy" and inserting in place thereof the words:– the deputy directors of enforcement, chiefs of enforcement, deputy chiefs of enforcement and all environmental police officers and deputy environmental police officers.

**SECTION 31.** Section 15A of said chapter 130, as so appearing, is hereby amended by striking out, in line 10, the words "natural resource officers, deputy natural resource officers" and inserting in place thereof the words:– environmental police officers of the division of law enforcement including deputy environmental police officers.

**SECTION 32.** Section 39 of said chapter 130, as so appearing, is hereby amended by striking out, in lines 7 and 8, the words "his assistants, a natural resource officer or deputy" and inserting in place thereof the words:– deputy directors of enforcement, chiefs of enforcement, deputy chiefs of enforcement, environmental police officers and deputy environmental police officers.

**SECTION 33.** Section 76 of said chapter 130, as so appearing, is hereby amended by striking out, in line 2, the words "recreational vehicles" and inserting in place thereof the words:– environmental law enforcement.

**SECTION 34.** The definition of "Commissioner" in section 1 of chapter 131 of the General Laws, as so appearing, is hereby amended by striking



**ACTS, 1985. – Chap. 231.**

out, in lines 18 and 19, the words "recreational vehicles" and inserting in place thereof the words:– environmental law enforcement.

**SECTION 34A.** The definition of "Department" in said section 1 of said chapter 131, as so appearing, is hereby further amended by striking out, in lines 22 and 23, the words "recreational vehicles" and inserting in place thereof the words:– environmental law enforcement.

**SECTION 34B.** The definition of "Deputy" in said section 1 of said chapter 131, as so appearing, is hereby further amended by striking out, in line 24, the words "natural resource" and inserting in place thereof the words:– environmental police.

**SECTION 34C.** Said section 1 of chapter 131, as so appearing, is hereby further amended by striking out the definition of "Natural resource officer".

**SECTION 34D.** Said section 1 of said chapter 131, as so appearing, is hereby further amended by inserting after the definition of "Division" the following definition:–

"Environmental police officer", an enforcement officer appointed under the authority of section six of chapter twenty-one.

**SECTION 35.** Clause (14) of section 4 of said chapter 131, as so appearing, is hereby amended by striking out, in lines 127 and 128, the words "natural resource" and inserting in place thereof the words:– environmental police.

**SECTION 36.** Section 12 of said chapter 131, as so appearing, is hereby amended by striking out, in lines 6 and 7, the words "recreational vehicles" and inserting in place thereof the words:– environmental law enforcement.

**SECTION 37.** Section 14 of chapter 131, as so appearing, is hereby amended by striking out, in line 25, the words "recreational vehicles" and inserting in place thereof the words:– environmental law enforcement.

**SECTION 38.** Section 20 of said chapter 131, as so appearing, is hereby amended by striking out, in lines 13, 25, 29 and 33, the words "natural resource" and inserting in place thereof in each instance the words:– environmental police.

**SECTION 39.** Section 25 of said chapter 131, as so appearing, is hereby amended by striking out, in lines 34 and 35, the words "his assistants, and natural resource" and inserting in place thereof the words:– his deputy directors of enforcement, chiefs of enforcement, deputy chiefs of enforcement and environmental police.

**SECTION 40.** Section 26A of said chapter 131, as so appearing, is hereby amended by striking out, in lines 13 and 14, the words "his



**ACTS, 1985. – Chap. 231.**

assistants, natural resource" and inserting in place thereof the words:– deputy directors of enforcement, chiefs of enforcement, deputy chiefs of enforcement, and environmental police.

**SECTION 41.** Section 27 of said chapter 131, as so appearing, is hereby amended by striking out, in lines 31 and 32, the words "his assistants and natural resource" and inserting in place thereof the words:– deputy directors of enforcement, chiefs of enforcement, deputy chiefs of enforcement and environmental police.

**SECTION 42.** Section 32 of said chapter 131, as so appearing, is hereby amended by striking out, in line 7, the words "his assistants, natural resource" and inserting in place thereof the words:– deputy directors of enforcement, chiefs of enforcement, deputy chiefs of enforcement, environmental police officers, deputy environmental police.

**SECTION 43.** Section 37 of said chapter 131, as so appearing, is hereby amended by striking out, in line 17, the words "natural resource" and inserting in place thereof the words:– environmental police.

**SECTION 44.** Section 40 of said chapter 131, as so appearing, is hereby amended by striking out, in line 280, the words "natural resource officers, deputy natural resources" and inserting in place thereof the words:– environmental police officers, deputy environmental police.

**SECTION 45.** Section 40A of said chapter 131, as so appearing, is hereby amended by striking out, in line 139, the word "game" and inserting in place thereof the word:– wildlife.

**SECTION 46.** Section 45 of said chapter 131, as so appearing, is hereby amended by striking out, in line 55, the words "marine and recreational vehicles" and inserting in place thereof the words:– law enforcement.

**SECTION 47.** Section 59 of said chapter 131, as so appearing, is hereby amended by striking out, in line 11, the words "assistants, natural resource officers, deputies" and inserting in place thereof the words:– deputy directors of enforcement, chiefs of enforcement, deputy chiefs of enforcement, environmental police officers, deputy environmental police officers.

**SECTION 48.** Section 63 of said chapter 131, as so appearing, is hereby amended by striking out, in line 2, the words "assistants, natural resource officers, a deputy" and inserting in place thereof the words:– deputy directors of enforcement, chiefs of enforcement, deputy chiefs of enforcement, environmental police officers, deputy environmental police officers.

**SECTION 49.** Section 82 of said chapter 131, as so appearing, is hereby amended by striking out, in lines 13 and 18, the words "assistants,



**ACTS, 1985. – Chap. 231.**

natural resource" and inserting in place thereof, in each instance, the words:– deputy directors of enforcement, chiefs of enforcement, deputy chiefs of enforcement, environmental police.

**SECTION 50.** Section 87 of said chapter 131, as so appearing, is hereby amended by striking out, in lines 1 and 2, the words "assistants, natural resource officers, deputies" and inserting in place thereof the words:– deputy directors of enforcement, chiefs of enforcement, deputy chiefs of enforcement, environmental police officers and deputy environmental police officers.

**SECTION 51.** Section 88 of said chapter 131, as so appearing, is hereby amended by striking out, in lines 1 and 2, the words "assistants, natural resource officers, deputies" and inserting in place thereof the words:– deputy directors of enforcement, chiefs of enforcement, deputy chiefs of enforcement, environmental police officers and deputy environmental police officers.

**SECTION 52.** Section 89 of said chapter 131, as so appearing, is hereby amended by striking out, in lines 5 and 6, the words "assistants, natural resource" and inserting in place thereof the words:– deputy directors of enforcement, chiefs of enforcement, deputy chiefs of enforcement, environmental police.

**SECTION 53.** Section 131H of chapter 140 of the General Laws, as so appearing, is hereby amended by striking out the third paragraph and inserting in place thereof the following paragraph:–

The director of law enforcement of the department of fisheries, wildlife and environmental law enforcement, deputy directors of enforcement, chiefs of enforcement, deputy chiefs of enforcement, environmental police officers and deputy environmental police officers, wardens as defined in section one of chapter one hundred and thirty-one, members of the state police, members of the metropolitan district commission police in areas over which they have jurisdiction, and all officers qualified to serve criminal process shall arrest, without a warrant, any person found with a firearm, rifle or shotgun in his possession if they have reason to believe that he is an alien and if he does not have in his possession a valid permit as provided in this section.

**SECTION 54.** The definition of "Life stock or fowls" in section 136A of said chapter 140, as so appearing, is hereby amended by striking out, in line 27, the words "recreational vehicles" and inserting in place thereof the words:– environmental law enforcement.

**SECTION 55.** Section 161A of said chapter 140, as so appearing, is hereby amended by striking out, in line 8, the words "recreational vehicles" and inserting in place thereof the words:– environmental law enforcement.

**SECTION 56.** Section 30C of chapter 149 of the General Laws, as so



ACTS, 1985. – Chap. 231.

appearing, is hereby amended by striking out, in line 3, the words "natural resource" and inserting in place thereof the words:—  
environmental police.

**SECTION 56A.** With the approval of the commissioner of the department of fisheries, wildlife and environmental law enforcement, the director of law enforcement shall appoint, subject to the provisions of chapter thirty-one of the General Laws, such deputy bureau chiefs, enforcement officers and administrative and clerical personnel as may be necessary to carry out the duties of the division. There is hereby established within the division of law enforcement the following branches, bureaus, sections, and units:

The administration and enforcement branch which shall include, but not be limited to, the boating and recreational vehicle safety enforcement bureau and the hunter safety enforcement bureau, each bureau to be administered by a chief of enforcement, and an administration and registration section, such section to be administered by a deputy chief of administration. The deputy director of the administration and enforcement branch shall exercise jurisdiction and control over the bureaus and sections thereunder. Each chief of enforcement shall perform such duties as the deputy director of administration and enforcement branch with the approval of the director may require in addition to such other duties as may be required by law. The deputy chief for the administration and registration section shall be appointed and removed by the director with the approval of the boating and recreational vehicle safety advisory board.

The law enforcement branch shall include, but not be limited to, the coastal enforcement bureau and the inland enforcement bureau, each bureau to be administered by a chief of enforcement. The coastal enforcement bureau shall include, but not be limited to, the coastal north section, the coastal south section, and the coastal boat section, each section to be administered by a deputy chief of enforcement. The inland enforcement bureau shall include, but not be limited to, the inland west section, the inland central section and the inland eastern section, each section to be administered by a deputy chief of enforcement. There shall be within the inland enforcement bureau a hazardous waste unit under the control of the inland chief of enforcement. The deputy director of the law enforcement branch shall exercise jurisdiction and control over the bureaus and units thereunder. Each chief of enforcement shall perform such duties as the deputy director of the law enforcement branch with the approval of the director may require in addition to such other duties as may be required by law.

Environmental enforcement officers appointed under the authority of this section shall be assigned to the inland enforcement bureau, the coastal enforcement bureau, the boating and recreational vehicle safety enforcement bureau, or the hunter safety enforcement bureau within the division, and may be reassigned as required. Officers appointed under this section shall be known as environmental police officers.

Only employees of the division who have and exercise the authority of police officers and constables under section six B of chapter twenty-one



**ACTS, 1985. – Chap. 231.**

of the General Laws, except deputy environmental police officers, shall be classified in Group 4 under paragraph (g) of subdivision (1) of section three of chapter thirty-two of the General Laws.

**SECTION 56B.** All powers, duties and other statutory provisions which prior to the effective date of this act were assigned to, or exercised by the division of marine and recreational vehicles of the department of fisheries, wildlife and recreational vehicles, are hereby transferred to the division of law enforcement of the department of fisheries, wildlife and environmental law enforcement, except as such powers, duties or other statutory provisions are modified by the provisions of this act.

**SECTION 57.** All petitions, hearings and other proceedings duly brought before, and all prosecutions and legal and other proceedings duly begun by the division of marine and recreational vehicles or any official or agency thereof, the powers and duties of which are transferred to the division of law enforcement by the provisions of this act, and which arise from or relate to the exercise of such powers or the performance of such duties, and which are pending immediately prior to the effective date of this act, shall continue unabated and remain in force notwithstanding the passage of this act, and shall thereafter be completed before or by the appropriate bureau or administrative unit of the division of law enforcement.

All orders, rules and regulations duly made, and all licenses, permits, certificates and approvals duly granted by the division of marine and recreational vehicles or by any official or agent thereof, the powers and duties of which are transferred to the division of law enforcement by the provisions of this act, which arise from or relate to the exercise of such powers or the performance of such duties, and which are in force immediately prior to the effective date of this act, shall continue in force and the provisions thereof shall thereafter be enforced, until superseded, revised, rescinded or cancelled in accordance with law, by the appropriate bureau or administrative unit of the division of law enforcement.

All questions regarding the identification of such petitions, hearings, proceedings, prosecutions, orders, rules, regulations, licenses, permits, certificates and approvals, and of the bureaus or administrative units of the division of law enforcement to which the completion or enforcement thereof is so transferred, shall be determined by the commissioner of the department of fisheries, wildlife and environmental law enforcement.

**SECTION 58.** All books, papers, records, documents, equipment, land, interest in land, buildings, facilities and other property both personal and real, which immediately prior to the effective date of this act are in the custody or maintained by the division of marine and recreational vehicles, the powers and duties of which are transferred to the division of law enforcement by the provisions of this act, and which relate to or are maintained for the purpose of the exercise of said powers or the performance of such duties of said division are hereby transferred to the appropriate bureau or administrative unit of the division of law



## **ACTS, 1985. – Chap. 231.**

enforcement. All questions regarding the identification of such books, papers, records, documents, equipment, lands, interest in land, buildings, facilities and other property and of the offices, bureaus, sections or other administrative units to which they are so transferred shall be determined by the commissioner of the department of fisheries, wildlife and environmental law enforcement.

**SECTION 59.** All monies heretofore appropriated for the division of marine and recreational vehicles and remaining unexpended on the effective date of this act are hereby transferred to and shall be available for expenditure by the division of law enforcement and the offices, bureaus, sections and other administrative units established thereunder by this act for the purpose of the exercise of the powers and the performance of the duties for which such monies were appropriated. All questions regarding the identification of such monies and of the offices, bureaus, sections or administrative units to which they are so transferred shall be determined by the commissioner of the department of fisheries, wildlife, and environmental law enforcement.

**SECTION 60.** All duly existing contracts, leases and obligations of the division of marine and recreational vehicles which are in force immediately prior to the effective date of this act, shall be performed by the division of law enforcement and the bureaus, sections and other administrative units established thereunder by the provisions of this act in accordance with law. This provision shall not affect any renewal provision or option to renew contained in any such lease in existence on the effective date of this act. All questions regarding the identification of such contracts, leases and obligations and of the offices, bureaus, sections or administrative units to which the performance thereof is so transferred shall be determined by the commissioner of the department of fisheries, wildlife, and environmental law enforcement.

**SECTION 61.** All managerial, administrative, enforcement, and clerical employees on the effective date of this act who hold positions in the division of law enforcement of the department of fisheries, wildlife, and recreational vehicles shall as of the effective date of this act be reassigned to comparable positions in the reorganized division of law enforcement of the department of fisheries, wildlife, and environmental law enforcement, without interruption of service, without impairment of seniority, retirement, or other rights of the employee, and without reduction in compensation or salary grade, notwithstanding any change in title or duties resulting from such reorganization.

The reorganization shall not impair the civil service status of any such reassigned employee who immediately prior to the effective date of this act either holds a permanent appointment in a position classified under chapter thirty-one of the General Laws or has tenure in a position by reason of section nine A of chapter thirty of the General Laws.

Any such reassigned employees who immediately prior to the effective date of this act hold provisional appointments to enforcement positions pursuant to chapter thirty-one of the General Laws shall be deemed to



## **ACTS, 1985. - Chap. 231.**

have all rights of permanent appointment to comparable enforcement positions under chapter thirty-one of the General Laws upon successful completion of a course of instruction conducted by the Massachusetts criminal justice training council and of a civil service qualifying examination of their training and experience. Any other such reassigned employees who immediately prior to the effective date of this act hold provisional appointments to their positions pursuant to chapter thirty-one of the General Laws shall be deemed to have all rights of permanent appointment to comparable positions under said chapter thirty-one upon successful completion of a civil service qualifying examination of their training and experience.

**SECTION 62.** All managerial, administrative, enforcement, and clerical employees who immediately prior to the effective date of this act hold positions in the division of marine and recreational vehicles of the department of fisheries, wildlife, and recreational vehicles are, as of the effective date of this act, transferred to comparable positions in the reorganized division of law enforcement of the department of fisheries, wildlife, and environmental law enforcement, without interruption of service, without impairment of seniority, retirement, or other rights of employee, and without reduction in compensation or salary grade, notwithstanding any change in title or duties resulting from such transfer.

All such employees who are transferred to enforcement positions shall be deemed to have all rights of permanent appointment to comparable positions under chapter thirty-one of the General Laws upon successful completion of a course of instruction conducted by the Massachusetts criminal justice training council and of a civil service qualifying examination of their training and experience. All other such transferred employees shall be deemed to have all rights of permanent appointment to comparable positions under chapter thirty-one of the General Laws upon successful completion of a civil service qualifying examination of their training and experience.

**SECTION 62A.** The date which is used in computing in length of service for purposes of determining seniority of any employee who is granted rights of permanent appointment to a position because of the provisions of section sixty-one or sixty-two shall be the earliest date of continuous employment, which has not been interrupted by an absence from the payroll, other than an absence specified in clauses (1) and (2) of the first paragraph of section thirty-three of chapter thirty-one of the General Laws, in the division which employed such employee immediately prior to the effective date of this act. Such seniority date shall be used for all civil service purposes, including the grading of promotional examinations. Any employee who is eligible to be granted rights of permanent appointment to a position because of the provisions of said sections sixty-one and sixty-two but who fails to complete successfully any required qualifying examination or course of instruction may be continued by the director of the division of law enforcement in a position other than an enforcement position, but the provisions of the civil service law and rules shall not apply to such employee unless such



## ACTS, 1985. – Chap. 231.

requirement is successfully completed; provided, however, that the commissioner of the department of fisheries, wildlife and environmental law enforcement may permit such employee to retake such examination or course of instruction no more than once. No grant of rights of permanent appointment because of the provisions of said sections sixty-one and sixty-two shall have the effect of impairing the civil service status of any employee who had rights of permanent appointment to a position in the division of law enforcement prior to the effective date of this act.

Any employee who is reassigned or transferred under said section sixty-one or sixty-two to a comparable position may be provisionally promoted to a position with a higher classification under chapter thirty-one of the General Laws than such comparable position, pending the completion of the civil service examination and list certification process for each such promotion.

The positions to which employees are transferred or assigned pursuant to sections sixty-one or sixty-two shall be listed on a schedule of positions filed by the commissioner of the department of fisheries, wildlife, and environmental law enforcement with the personnel administrator and approved by the house and senate committees on ways and means; provided, however, that said schedule shall also list the titles of the positions held by said employees prior to the effective date of this act; and provided, further, that when the titles of said positions held by said employees prior to the effective date of this act are assigned to a comparable position in the division of law enforcement all of the positions within said titles shall be assigned to the same comparable position in said division.

All vacancies subject to the provisions of chapter thirty-one of the General Laws existing as of the effective date of this act and all vacancies subject to the provisions of said chapter thirty-one created after the effective date of this act in the division of law enforcement shall be filled on a provisional basis pending the certification of a list resulting from an examination conducted pursuant to the provisions of said chapter thirty-one. Notwithstanding any other provision of law to the contrary, employees who are eligible to be granted rights of permanent appointment because of the provisions of sections sixty-one and sixty-two shall as of the effective date of this act be eligible to take any promotional examination conducted pursuant to said chapter thirty-one for which they meet the examination requirements.

**SECTION 62B.** In the event that the initial appointee to the position of chief of enforcement of the boating and recreation vehicles safety enforcement bureau is removed, except for cause, pursuant to the provisions of section six of chapter twenty-one of the General Laws, such person shall be reassigned to another position within the division of law enforcement without interruption of service, impairment of seniority, retirement or other rights of the employee and without reduction in compensation or salary grade, notwithstanding any change in title or duties.



**ACTS, 1985. – Chap. 232.**

**SECTION 63.** The positions of director, deputy director, chief, and deputy chief shall be classified in accordance with section forty-five of chapter thirty of the General Laws and their salaries shall be determined in accordance with section forty-six C of said chapter thirty.

**SECTION 64.** Wherever in the General Laws or in special laws reference is made to the enforcement thereof, of wardens, coastal wardens, conservation officers, natural resource officers, or deputies, said reference shall mean the director, deputy directors of enforcement, chiefs of enforcement, deputy chiefs of enforcement, environmental police officers, and deputy environmental police officers appointed under the provisions of section six of chapter twenty-one of the General Laws.

**SECTION 64A.** On the effective date of this act a member appointed to the marine and recreational vehicles advisory board pursuant to section eleven of chapter twenty-one of the General Laws whose term has not expired shall be transferred to the boating and recreational vehicle safety advisory board established by section nineteen of this act and shall serve the remainder of such term. Such transfer shall be considered an appointment under the provisions of said section nineteen.

**SECTION 65.** This act shall take effect as of July first, nineteen hundred and eighty-five.

Approved August 13, 1985.

EMERGENCY LETTER: August 13, 1985 @ 3:51 P.M.

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**Chapter 232. AN ACT AUTHORIZING THE TREASURER OF THE  
CENTRAL BERKSHIRE REGIONAL SCHOOL DISTRICT  
TO EXPEND CERTAIN FUNDS.**

Be it enacted, etc., as follows:

**SECTION 1.** Notwithstanding any provision of the law to the contrary in the event that the annual regional school district budget for the Central Berkshire Regional School District has not been approved under section sixteen B of chapter seventy-one of the General Laws before July first, nineteen hundred and eighty-five, by the member municipalities, the treasurer of each municipality shall pay to the treasurer of said Central Berkshire Regional School District, on or before July fifteenth, nineteen hundred and eighty-five and on or before the fifteenth of each succeeding month until said budget has been so approved, but in no case beyond October fifteenth, nineteen hundred and eighty-five, a sum equal to one-twelfth of the total amount apportioned and certified to such municipality for the preceding fiscal year. The treasurer of said Central Berkshire Regional School District is hereby authorized to expend all funds so paid by each member municipality and in addition thereto, all available funds, state receipts and any other funds ordinarily received for the operation of said Central Berkshire Regional School District, at a level no higher than the annual budget for



**ACTS, 1985. – Chaps. 233, 234.**

the fiscal year nineteen hundred and eighty-five.

Upon approval of the annual regional school district budget for the fiscal year nineteen hundred and eighty-six, by the member municipalities, the treasurer of the Central Berkshire Regional School District shall deduct from the amounts so certified or recertified to each member municipality, all amounts previously paid to the district on account of said fiscal year nineteen hundred and eighty-six and the balance payable by each such municipality shall be paid to the Central Berkshire Regional School District in accordance with the terms of the agreement.

**SECTION 2.** This act shall take effect as of July first, nineteen hundred and eighty-five.

Approved August 13, 1985.

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**Chapter 233. AN ACT PROVIDING FOR THE ANNUAL OBSERVANCE OF SOCIAL SECURITY DAY.**

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to commemorate the fiftieth anniversary of the signing of the Social Security Law on August fourteenth, nineteen hundred and thirty-five, therefore it is hereby declared to be an emergency law, necessary for the immediate observation of that historic law and day and the preservation of the public convenience.

Be it enacted, etc., as follows:

Chapter 6 of the General Laws is hereby amended by inserting after section 12KK the following section:–

Section 12LL. The governor shall annually issue a proclamation setting apart the fourteenth day of August as Social Security Day in recognition of the contribution of the Social Security system to the dignity and well-being of Americans of all ages and recommending that said day be observed in an appropriate manner by the people.

Approved August 14, 1985.

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**Chapter 234. AN ACT AUTHORIZING CERTAIN MUNICIPAL LIGHT COMPANIES TO PURCHASE OIL AND OTHER FUEL SUPPLIES WITHOUT BIDS.**

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately authorize certain purchases of oil and other fuel supplies without bids, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.



**ACTS, 1985. – Chaps. 235, 236.**

**Be it enacted, etc., as follows:**

**SECTION 1.** The provisions of section fifty-six D of chapter one hundred and sixty-four of the General Laws shall not apply to the purchase of oil or other fuel supplies by a municipal light commission or manager thereof, provided that such purchase has obtained the prior written approval of the auditor, treasurer and mayor, in the case of a city, or the board of selectmen in the case of a town.

**SECTION 2.** The provisions of the first paragraph of subsection (f) of section nineteen of chapter seven hundred and seventy-five of the acts of nineteen hundred and seventy-five shall not apply to the purchase of oil or other fuel supplies.

**SECTION 3.** This act shall become inoperative on July first, nineteen hundred and eighty-seven.

Approved August 16, 1985.

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**Chapter 235. AN ACT AUTHORIZING THE ESTABLISHMENT OF A WATER SUPPLY AND WATER DISTRIBUTION SYSTEM IN THE TOWN OF WESTPORT.**

**Be it enacted, etc., as follows:**

**SECTION 1.** Notwithstanding the provisions of section thirty-nine A of chapter forty of the General Laws and notwithstanding the operation of any water district or a private corporation supplying water in and to certain portions of the town of Westport, said town of Westport is hereby authorized to establish a municipal water department and maintain and operate the same in accordance with section thirty-nine B to thirty-nine G, inclusive, of said chapter forty.

**SECTION 2.** The town of Westport is hereby authorized to establish a revolving fund which shall be kept separate and apart from all other monies by the treasurer of said town and in which shall be deposited the money received in connection with the operation of said municipal water department. Said revolving fund shall be used for water payments to the city of Fall River and for the operation of the said municipal water department.

**SECTION 3.** This act shall take effect upon its passage.

Approved August 16, 1985.

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**Chapter 236. AN ACT ALLOWING PASTORAL COUNSELING OF PRISONERS.**



**ACTS, 1985. – Chaps. 237, 238.**

Be it enacted, etc., as follows:

Chapter 127 of the General Laws is hereby amended by inserting after section 36A the following section:–

Section 36B. The superintendent shall not abridge the right of an inmate of any correctional or penal institution in the commonwealth to confer with any accredited member of the clergy of said inmate's choice. Said clergy may visit inmates at such times and under such conditions as may be established under rules promulgated by the commissioner.

Approved August 16, 1985.

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**Chapter 237. AN ACT INCREASING THE AMOUNT OF INSURANCE ON DEBTORS OF A BANK, ASSOCIATION, FINANCIAL OR OTHER INSTITUTION.**

Be it enacted, etc., as follows:

Section 133 of chapter 175 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out clause (c) and inserting in place thereof the following clause:–

(c) a group of persons who at any time are debtors of a bank, association, financial or other institution, including its subsidiary or affiliated institutions, if any, for a loan, or of the vendor of any property for its purchase price, or of a guarantor of the obligation, under an agreement to pay any such indebtedness, or any balance thereof, in instalments over a period of not more than ten years, or who at any time have been granted a policy loan pursuant to a policy provision therefor, written under a policy issued, with or without medical examination, and made payable to such creditor or the assignee of the indebtedness, or the insurance company granting the policy loan, including the insurance company which issues such policy, and insuring the life of each debtor, or the person granted such policy loan, for an amount not exceeding his individual indebtedness or policy loan with interest, and not exceeding twenty-five thousand dollars; provided, however, that not less than one hundred persons shall become insured under such a group policy each year after its date of issue; and provided, further, that no such debtor shall be insured in such a group for a period of more than ten years on account of a debt arising out of said loan or an obligation for the said purchase price.

Approved August 21, 1985.

EMERGENCY LETTER: September 5, 1985 @ 3:50 P.M.

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**Chapter 238. AN ACT FURTHER REGULATING CERTAIN BORROWING BY CITIES, TOWNS AND DISTRICTS.**

Be it enacted, etc., as follows:



**ACTS, 1985. – Chaps. 239, 240, 241.**

Section 4 of chapter 44 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out the last sentence and inserting in place thereof the following two sentences:– Such notes shall be payable, and shall be paid, not later than one year from their date and said one-year term may occur within the span of two separate fiscal years. Such notes shall not be renewed or paid by the issue of new notes, except as provided in section seventeen.

Approved August 26, 1985.

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**Chapter 239. AN ACT RELATIVE TO MANDATORY RETIREMENT.**

Be it enacted, etc., as follows:

Paragraph (b) of subsection 17 of section 4 of chapter 151B of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out, in line 390, the word "twenty-seven" and inserting in place thereof the following word:– forty-four.

Approved August 26, 1985.

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**Chapter 240. AN ACT RELATIVE TO MUNICIPAL LOCKUP.**

Be it enacted, etc., as follows:

Section 34 of chapter 40 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out, in line 1, the word "three" and inserting in place thereof the word:– five.

Approved August 26, 1985.

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**Chapter 241. AN ACT PROVIDING THAT CERTAIN SEXUALLY DANGEROUS PERSONS MAY BE PROSECUTED FOR ESCAPING FROM CONFINEMENT.**

Be it enacted, etc., as follows:

Chapter 268 of the General Laws is hereby amended by striking out section 16, as appearing in the 1984 Official Edition, and inserting in place thereof the following section:–

Section 16. A prisoner of any penal institution or a person committed under the provisions of section five or six of chapter one hundred and twenty-three A to a treatment center or branch thereof described in sections two and four of said chapter one hundred and twenty-three A, who escapes or attempts to escape from any such institution or from land appurtenant thereto, or from the custody of any officer thereof while being conveyed to or from said institution, center or branch, or



**ACTS, 1985. – Chap. 242, 243.**

fails to return from any temporary release from said institution under the provisions of section ninety A of chapter one hundred and twenty-seven, or fails to return from any temporary release from said institution, center or branch, may be pursued and recaptured and shall be punished by imprisonment in the state prison for not more than ten years or by imprisonment in a jail or house of correction for not more than two and one-half years.

Approved August 26, 1985.

EMERGENCY LETTER: August 26, 1985 @ 4:45 P.M.

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**Chapter 242. AN ACT AUTHORIZING THE CERTIFICATION AND APPOINTMENT OF RONALD ALLAN NICKERSON AS A FIREFIGHTER NOTWITHSTANDING THE MAXIMUM AGE REQUIREMENTS.**

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately authorize the certification and appointment of Ronald Allan Nickerson as a firefighter, 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:

The personnel administrator of the division of personnel administration shall examine and certify Ronald Allan Nickerson for appointment as a firefighter according to the grade he received in the examination for firefighter held in June nineteen hundred and eighty-three, notwithstanding the fact that he has attained the maximum age for said position; provided however, that he fulfills all other requirements for certification and appointment as a firefighter.

Approved August 27, 1985.

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**Chapter 243. AN ACT PROVIDING FOR THE INCLUSION OF CABLE TELEVISION COMPANIES AS PART OF THE UTILITY UNDERGROUND PLANT DAMAGE PREVENTION SYSTEM.**

Be it enacted, etc., as follows:

Chapter 164 of the General Laws is hereby amended by striking out section 76D, as appearing in the 1984 Official Edition, and inserting in place thereof the following section:–

Section 76D. All natural gas pipeline companies, cable television companies and public utility companies, as defined in section three of chapter twenty-five, shall create, participate in and be responsible for the administration of a utility underground plant damage prevention system. Said system shall be operated during normal business hours each



**ACTS, 1985. – Chaps. 244, 245.**

day of the year, exclusive of Saturdays, Sundays and legal holidays, for the purpose of receiving notices of proposed excavations in public ways, utility right of ways, and in privately owned land under which any public utility company, municipal utility department, cable television company or natural gas pipeline company maintains underground facilities, including pipes, mains, wires or conduits, as are required by the provisions of section forty of chapter eighty-two. Said system shall be responsible, upon receipt of such notices, for immediately notifying such natural gas pipeline companies, public utility companies, cable television companies, and municipal utility departments as supply gas, electricity, cable television service or telephone service in or to such city or town where such excavation is to take place of such proposed excavation. The cost of operating the utility underground plant damage prevention system shall be apportioned equitably among all natural gas pipeline companies, public utility companies, cable television companies and municipal utility departments as supply gas, electricity, cable television service or telephone service within the commonwealth according to a formula to be fixed by agreement of the companies.

The department is authorized to investigate the operation of said system and to adopt procedures necessary and appropriate to hear and resolve complaints for failure to comply with the provisions of section forty of chapter eighty-two.

Approved August 30, 1985.

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**Chapter 244. AN ACT RELATIVE TO PETITIONS DISPENSING WITH PARENTAL CONSENT IN CERTAIN ADOPTIONS.**

Be it enacted, etc., as follows:

Paragraph (b) of section 3 of chapter 210 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by adding the following sentence:— A temporary or permanent custody decree shall not be a requirement to the filing of such petition.

Approved August 30, 1985.

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**Chapter 245. AN ACT AUTHORIZING THE APPOINTMENT OF MICHAEL A. MORABITO AS A POLICE OFFICER IN THE CITY OF CHELSEA.**

Be it enacted, etc., as follows:

Notwithstanding the provisions of chapter thirty-one of the General Laws or any rule or regulation to the contrary, the city of Chelsea is hereby authorized to appoint Michael A. Morabito as a police officer.

Approved August 30, 1985.



**ACTS, 1985. – Chaps. 246, 247.**

**Chapter 246. AN ACT EXEMPTING THE POSITION OF TOWN ACCOUNTANT IN THE TOWN OF COHASSET FROM THE PROVISIONS OF THE CIVIL SERVICE LAW.**

Be it enacted, etc., as follows:

**SECTION 1.** The position of town accountant in the town of Cohasset shall be exempt from the provisions of chapter thirty-one of the General Laws.

**SECTION 2.** The provisions of section one shall not impair the civil service status of any incumbent of the position of town accountant in the town of Cohasset on the effective date of this act.

Approved August 30, 1985.

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**Chapter 247. AN ACT EXEMPTING THE TOWN OF HARVARD FROM CERTAIN LISTING REQUIREMENTS WITH RESPECT TO RESIDENTS OF FORT DEVENS.**

Be it enacted, etc., as follows:

**SECTION 1.** The town of Harvard shall be exempt from the provisions of section four of chapter fifty-one of the General Laws with respect to the listing of residents of buildings in said town located on land under the control of the United States presently known as Fort Devens.

**SECTION 2.** The town of Harvard shall be exempt from the provisions of section six of chapter fifty-one of the General Laws with respect to listing of residents of buildings in said town located on land under the control of the United States presently known as Fort Devens.

**SECTION 3.** Notwithstanding any general or special law to the contrary, all voting precincts in the town of Harvard established pursuant to section six of chapter fifty-four of the General Laws shall be allowed to vote at a single polling place using a single set of election officers until such time as the board of selectmen of said town deem it necessary to use separate polling places and separate sets of election officers.

**SECTION 4.** The town of Harvard shall be exempt from the provisions of section ten of chapter two hundred and thirty-four A of the General Laws with respect to the listing of residents or buildings in said town located on land under the control of the United States presently known as Fort Devens.

Approved August 30, 1985.



**ACTS, 1985. – Chaps. 248, 249, 250.**

**Chapter 248. AN ACT EXEMPTING THE POSITION OF LIGHT PLANT MANAGER IN THE TOWN OF HULL FROM THE PROVISIONS OF THE CIVIL SERVICE LAW.**

Be it enacted, etc., as follows:

**SECTION 1.** The position of light plant manager in the town of Hull shall be exempt from the provisions of chapter thirty-one of the General Laws.

**SECTION 2.** The provisions of section one shall not impair the civil service status of any incumbent holding the position of light plant manager in the town of Hull on the effective date of this act.

Approved August 30, 1985.

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**Chapter 249. AN ACT AUTHORIZING THE STATE SECRETARY TO AUTHORIZE THE SOLEMNIZATION OF A CERTAIN MARRIAGE.**

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately authorize the state secretary to authorize the solemnization of a certain marriage, 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:

Notwithstanding the provisions of section thirty-nine of chapter two hundred and seven of the General Laws, the state secretary may authorize in the manner set forth under said section thirty-nine, the solemnization of a marriage by Michael Waitzkin, as he is an attorney in Washington, District of Columbia, in the town of Falmouth on September eighth, nineteen hundred and eighty-five between Cynthia Guyer of Portland, Oregon, and Jeffrey Malachowsky of Portland, Oregon, and the state secretary shall issue to said Michael Waitzkin in his capacity as aforesaid, a certificate of such authorization.

Approved September 3, 1985.

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**Chapter 250. AN ACT RELATIVE TO THE ADVERTISING TO PERFORM MARRIAGES.**

Be it enacted, etc., as follows:

Chapter 207 of the General Laws is hereby amended by striking out section 58, as appearing in the 1984 Official Edition, and inserting in place thereof the following section:—



**ACTS, 1985. – Chaps. 251, 252.**

Section 58. A justice of the peace or other person authorized to solemnize marriages may advertise his name or any trade name, business address, telephone number, rate of compensation as provided by law, regular hours of availability and any ability in a second language, in any newspaper, magazine, telephone directory or other publication of general circulation. Whoever advertises to perform or to procure the performance of a marriage ceremony by any other means shall be punished by a fine of not less than ten nor more than one hundred dollars; provided, however, that this section shall not be construed to prohibit the use of a business card by a justice of the peace or other person authorized to perform marriage ceremonies; and provided, further, that if a justice of the peace uses a business card said card shall not display the seal of the commonwealth.

Approved September 3, 1985.

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**Chapter 251. AN ACT AUTHORIZING THE TOWN OF COHASSET TO REIMBURSE MARTIN W. DOOLEY, FIRE CHIEF OF SAID TOWN FOR CERTAIN LEGAL EXPENSES INCURRED BY HIM.**

Be it enacted, etc., as follows:

The town of Cohasset is hereby authorized to appropriate and the treasurer of said town is hereby authorized to pay from said appropriation or from available funds the sum of three thousand seven hundred and seventy dollars to Martin W. Dooley, the fire chief of said town, as reimbursement for certain legal expenses incurred by him as a result of an investigative hearing conducted by the board of selectmen of said town relative to a fire of November twenty-fifth, nineteen hundred and eighty-three.

Approved September 3, 1985.

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**Chapter 252. AN ACT PERMITTING A TOWN COUNCIL MEMBER IN A MUNICIPALITY TO BE EMPLOYED BY SUCH MUNICIPALITY.**

Be it enacted, etc., as follows:

**SECTION 1.** The first sentence of section 6A of chapter 39 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by inserting after the word "city", in line 7, the following words:— , except that a member of a town council in a municipality with a town council form of government may receive a salary for serving as a municipal employee of said municipality in lieu of receiving compensation for serving as a member of said council.



**ACTS, 1985. – Chap. 253.**

**SECTION 2.** The first sentence of section 17A of chapter 43 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by inserting after the word "city", in line 4, the following words:– , except that a member of a town council in a municipality with a town council form of government may receive a salary for serving as a municipal employee of said municipality in lieu of receiving compensation for serving as a member of said council.

**SECTION 3.** Section 20 of chapter 268A of the General Laws is hereby amended by adding the following paragraph:–

This section shall not prohibit an employee of a municipality with a town council form of government from holding the elected office of councillor in such municipality, nor in any way prohibit such an employee from performing the duties of or receiving the compensation provided for such office; provided, however, that no such councillor may vote or act on any matter which is within the purview of the agency by which he is employed or over which he has official responsibility; and provided, further, that no councillor shall be eligible for appointment to such additional position while a member of said council or for six months thereafter. Any violation of the provisions of this paragraph which has substantially influenced the action taken by a municipal agency in any matter shall be grounds for avoiding, rescinding or cancelling such action on such terms as the interest of the municipality and innocent third parties require. No such elected councillor shall receive compensation for more than one office or position held in a municipality, but shall have the right to choose which compensation he shall receive.

**SECTION 4.** Section 20 of chapter 268A of the General Laws, as most recently amended by chapter 98 of the acts of 1985, is hereby further amended by adding the following paragraph:–

This section shall not prohibit an employee in a town having a population of less than three thousand five hundred persons from holding more than one appointed position with said town, provided that the board of selectmen approves the exemption of his interest from this section.

Approved September 9, 1985.

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**Chapter 253. AN ACT FURTHER REGULATING COMMERCIAL SHOOTING PRESERVES.**

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately regulate commercial shooting preserves, 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:

The second paragraph of section 31 of chapter 131 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by



**ACTS, 1985. – Chaps. 255, 256.**

striking out clause (1) and inserting in place thereof the following clause:–

(1) Each commercial shooting preserve shall be posted conspicuously with printed notices at intervals of not more than one hundred fifty feet apart. Such notices shall be supplied by the director to the permittee at cost.

Approved September 11, 1985.

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**Chapter 254. AN ACT EXEMPTING THE POSITION OF CHIEF OF POLICE IN THE TOWN OF MAYNARD FROM THE PROVISIONS OF THE CIVIL SERVICE LAW.**

Be it enacted, etc., as follows:

**SECTION 1.** The position of the chief of police in the town of Maynard shall not be subject to the provisions of chapter thirty-one of the General Laws.

**SECTION 2.** The provisions of section one shall not impair the civil service status of any person holding the position of chief of police in the town of Maynard on the effective date of this act.

**SECTION 3.** This act shall take effect upon its passage.

Approved September 11, 1985.

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**Chapter 255. AN ACT DIRECTING THE DIVISION OF PERSONNEL AND STANDARDIZATION TO PERMIT ROBERT SWIFT OF THE CITY OF SOMERVILLE TO TAKE THE NEXT FIREFIGHTER EXAMINATION NOTWITHSTANDING THE MAXIMUM AGE REQUIREMENT.**

Be it enacted, etc., as follows:

**SECTION 1.** Notwithstanding any general or special law or rule or regulation to the contrary regulating the maximum age of applicants for appointment as a firefighter, Robert Swift of the city of Somerville shall be eligible to take the next open and competitive examination for firefighter and, provided he meets all other requirements, shall be eligible for certification and appointment as a firefighter.

**SECTION 2.** This act shall take effect upon its passage.

Approved September 11, 1985.

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**Chapter 256. AN ACT RELATIVE TO WAIVER OF INDICTMENT.**



**ACTS, 1985. – Chaps. 257, 258.**

Be it enacted, etc., as follows:

Section 38 of chapter 276 of the General Laws is hereby amended by adding the following two sentences:– Nothing contained herein shall be construed to prohibit the enforcement of the waiver provisions of Rule 3 of the Massachusetts Rules of Criminal Procedure. A defendant charged with an offense as to which he has the right to be proceeded against by indictment may elect a probable cause hearing in accordance with Rule 3 of the Massachusetts Rules of Criminal Procedure, but in such event shall be deemed to have waived his right to be proceeded against by indictment.

Approved September 11, 1985.

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**Chapter 257. AN ACT DESIGNATING A CERTAIN BOAT RAMP IN THE TOWN OF SHREWSBURY AS THE LEO R. CORAZZINI BOAT RAMP.**

Be it enacted, etc., as follows:

The public boat ramp off North Quinsigamond Avenue in the town of Shrewsbury shall be designated and known as the Honorable Leo R. Corazzini Boat Ramp in honor of Leo R. Corazzini from the town of Shrewsbury, a former member of the house of representatives. A suitable marker bearing said designation shall be attached thereto by the department of environmental management.

Approved September 11, 1985.

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**Chapter 258. AN ACT AUTHORIZING THE STATE SECRETARY TO AUTHORIZE THE SOLEMNIZATION OF A CERTAIN MARRIAGE.**

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately authorize the solemnization of a certain marriage, 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:

Notwithstanding the provisions of section thirty-nine of chapter two hundred and seven of the General Laws, the state secretary may authorize in the manner set forth under said section thirty-nine, the solemnization of a marriage by Vanessa M. Wilson, as she is a justice of the peace of the state of New Hampshire, in the town of Chilmark on September fourteenth, nineteen hundred and eighty-five between Leslie E. Meras of the town of West Tisbury and Kenneth B. Hurd, III of said



**ACTS, 1985. – Chap. 259.**

town, and the state secretary shall issue to said Vanessa M. Wilson in her capacity as aforesaid a certificate of such authorization.

Approved September 13, 1985.

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**Chapter 259. AN ACT RELATIVE TO THE MASSACHUSETTS HOUSING FINANCE AGENCY.**

Be it enacted, etc., as follows:

**SECTION 1.** Section 25 of chapter 23B of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out the definition of "Low and moderate income rental housing project" and inserting in place thereof the following definition:–

"Low and moderate income rental housing project", a rental housing project which shall be rented to (a) low income persons or families; (b) moderate income persons or families; or (c) other persons or families whose annual rental for the unit to be occupied shall be at least equal to the rentals charged for similar units in the market area, as determined by the department so that any benefit to the tenants who are not low or moderate income persons or families derived from the assistance provided to sponsors of rental housing projects pursuant to section twenty-seven will be at most incidental to and no greater than is necessary for achieving proper housing for low and moderate income persons and families.

**SECTION 2.** Section 1 of chapter 708 of the acts of 1966, as most recently amended by section 17 of chapter 574 of the acts of 1983, is hereby further amended by inserting after paragraph (k) the following paragraph:–

(l) "Housing development area", any blighted open area, or any decadent area, or any substandard area, as respectively defined in section one of chapter one hundred and twenty-one B of the General Laws, and as determined by MHFA.

**SECTION 3.** Section 6 of said chapter 708, as most recently amended by section 23 of said chapter 574, is hereby further amended by striking out paragraph (b) and inserting in place thereof the following paragraph:–

(b) Subject only to the rights of FHA, if any, the rents to be charged for housing units which receive loans hereunder must be approved by the MHFA. In each project financed under this act, not less than twenty per cent of the units in the project shall be rented at all times to low income persons or families at the adjusted rental. Up to an additional five per cent of the units in each project shall be rented to low or moderate income persons or families if (1) the MHFA determines the additional low or moderate income units are needed in the area in which the project is located; and (2) state or federal housing subsidy funds are available to the MHFA to pay to the mortgagor the difference between the rental paid by such persons or families, which in the case of low-income persons and families shall not exceed the adjusted rental, and the below market rental for each additional unit rented to such low or moderate



**ACTS, 1985. – Chap. 259.**

income persons or families. The remaining units not made available to low-income persons or families shall be made available at rents sufficiently high as determined by MHFA to achieve and maintain a fiscally sound project, provided, in each project which is not located in a housing development area, such units not made available to low or moderate income persons or families shall be made available at rentals at least equal to the rental charged for similar units in the market area, as determined by MHFA so that any benefit to the tenants who are not low and moderate income persons or families derived from the assistance provided to sponsors of projects will be at most incidental to and no greater than is necessary for achieving proper housing for low and moderate income persons and families. Such determinations shall be reviewed by MHFA from time to time, but not less often than once every two years and may be adjusted if necessary, by MHFA from time to time.

**SECTION 4.** Said chapter 708 is hereby further amended by striking out section 7, as most recently amended by section 7 and 8 of chapter 855 of the acts of 1970, and inserting in place thereof the following section:–

**Section 7.** Prior to making a loan commitment under this act, the MHFA shall approve a tenant selection plan submitted by the applicant for such a loan. The MHFA shall publish regulations from time to time governing the terms of such tenant selection plans. Such plans shall include criteria for tenant selection which establish income limits for eligible tenants which may vary with the size and circumstances of the persons or family. Tenant selection plans provide that as between applicants equally in need and eligible for occupancy of the unit, preference shall be given to persons displaced by public action or natural disaster, pursuant to such regulations as the department of community affairs may formulate. Tenant selection plans shall also provide with respect to apartment units designated for rent at the adjusted rental that the housing authority in the city or town in which the project is located, or such other agency as the executive office of community and development may from time to time designate, shall have the rights to designate tenants, who are otherwise eligible, for such units as they become available, either in the initial renting of the projects or as vacancies thereafter occur.

**SECTION 5.** Paragraph (b) of section 8 of said chapter 708, as most recently amended by section 25 of chapter 574 of the acts of 1983, is hereby further amended by striking out the last sentence and inserting in place thereof the following sentence:– The aggregate principal amount of notes and bonds of the MHFA and the MHMFA issued to make loans pursuant to section five A of this chapter and chapter eight hundred and forty-six of the acts of nineteen hundred and seventy-four outstanding at any one time shall not exceed the sum of one billion and eighty million dollars.

**SECTION 6.** The second paragraph of section 9C of said chapter 708, as appearing in section 16 of chapter 264 of the acts of 1982, is hereby amended by adding the following sentence:– Notwithstanding anything



**ACTS, 1985. – Chap. 260.**

herein to the contrary, the MHFA shall not at any time issue bonds secured by a Capital Reserve Fund as provided in this section without the prior approval of the governor or his designee, after consultation with the finance advisory board.

**SECTION 7.** The third paragraph of said section 9C of said chapter 708, as so appearing, is hereby amended by striking out the second sentence and inserting in place thereof the following two sentences:– The chairperson of the MHFA shall annually, on or before December first, make and deliver to the governor the chairperson's certificate stating the amount, if any, required to restore a Capital Reserve Fund to the amount aforesaid and the amount so stated, if any, shall be appropriated and paid to the MHFA during the then current fiscal year of the commonwealth. Such amount, if any, shall be repaid as soon as possible by the MHFA from monies in excess of the amount required to make and keep MHFA self-supporting.

**SECTION 8.** The second paragraph of section 8 of chapter 846 of the acts of 1974 is hereby amended by striking out the seventh sentence, as most recently amended by section 23 of chapter 264 of the acts of 1982, and inserting in place thereof the following sentence:– The aggregate principal amount of notes and bonds of the MHMFA and the MHFA issued to make loans pursuant to this chapter and section five A of chapter seven hundred and eight of the acts of nineteen hundred and sixty-six outstanding at any one time shall not exceed the amount set forth in paragraph (b) of section eight of said chapter seven hundred and eight.

Approved September 13, 1985.

EMERGENCY LETTER: September 16, 1985 @ 2:19 P.M.

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**Chapter 260. AN ACT AUTHORIZING AND DIRECTING THE  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
ENGINEERING TO REISSUE A CERTAIN LICENSE.**

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately authorize and direct the department of environmental quality engineering to reissue a certain license, 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:

Notwithstanding the provisions of section eighteen of chapter ninety-one of the General Laws, the department of environmental quality engineering is hereby authorized and directed to reissue to Mellin G. Nelson License No. 939, authorizing him to construct and maintain certain structures in the Waters river and Danvers river in the town of Danvers and said Mellin G. Nelson shall have sixty days from the date of said reissuance to record said license and required plans in the registry of deeds of Essex county; provided, however, that said Mellin G. Nelson shall comply with all other applicable provisions of said chapter ninety-one, which were in effect on the date of the original issuance of



**ACTS, 1985. – Chaps. 261, 262, 263.**

said License No. 939.

Approved September 17, 1985.

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**Chapter 261. AN ACT AUTHORIZING THE ESTABLISHMENT OF A REVOLVING FUND FOR CERTAIN LICENSE FEES IN THE TOWN OF TISBURY.**

Be it enacted, etc., as follows:

**SECTION 1.** Notwithstanding the provisions of section fifty-three of chapter forty-four of the General Laws, the town of Tisbury may establish in the town treasury a revolving fund which shall be kept separate and apart from all other monies by the treasurer of said town, and in which shall be deposited seventy-five per cent of the receipts received from the issuance of all shellfish permits and licenses by said town. The principal and interest thereon shall be expended without further appropriation under the direction of the shellfish constable, subject to the final approval of the board of selectmen of said town, and only for the propagation, cultivation, protection and study of shellfish. Such money may be expended in conjunction with, or as the matching portion of state or federal reimbursement or grants.

**SECTION 2.** This act shall take effect upon its passage.

Approved September 17, 1985.

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**Chapter 262. AN ACT EXEMPTING EMPLOYEES IN THE OFFICE OF THE BOARD OF ASSESSORS IN THE TOWN OF ARLINGTON FROM THE PROVISIONS OF THE CIVIL SERVICE LAW.**

Be it enacted, etc., as follows:

**SECTION 1.** All employees in the office of the board of assessors in the town of Arlington shall be exempt from the provisions of chapter thirty-one of the General Laws.

**SECTION 2.** The provisions of section one shall not impair the civil service status of any person holding said positions on the effective date of this act.

**SECTION 3.** This act shall take effect upon its passage.

Approved September 17, 1985.

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**Chapter 263. AN ACT RELATIVE TO THE APPOINTMENT OF THE CITY ENGINEER IN THE CITY OF LOWELL.**



**ACTS, 1985. – Chap. 264.**

Be it enacted, etc., as follows:

**SECTION 1.** The position of city engineer in the city of Lowell shall be exempt from the provisions of sections eighty-one D to eighty-one T, inclusive, of chapter one hundred and twelve of the General Laws; provided, however, that said city engineer has previously attained a civil service rating of at least assistant civil engineer.

**SECTION 2.** The provisions of section one of this act shall become inoperative one year following the effective date of this act, and no incumbent city engineer appointed pursuant to the provisions of this act shall continue to serve in said position unless said incumbent shall have met the requirements for such service as set forth in sections eighty-one D to eighty-one T, inclusive, of chapter one hundred and twelve of the General Laws.

**SECTION 3.** This act shall take effect upon its acceptance by the city of Lowell.

Approved September 17, 1985.

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**Chapter 264. AN ACT AUTHORIZING THE DIVISION OF CAPITAL PLANNING AND OPERATIONS TO GRANT A UTILITY EASEMENT TO THE TOWN OF BREWSTER.**

Be it enacted, etc., as follows:

**SECTION 1.** Notwithstanding the provisions of any general or special law to the contrary, the division of capital planning and operations, for and on behalf of the commonwealth, is hereby authorized to grant a permanent easement in land located in the town of Brewster, under the control of the department of environmental management, to said town and to its water department, for the purpose of constructing and maintaining a sixteen inch water main and for constructing and maintaining underground power lines along Silas road through property of the commonwealth in said town. Said easement is described as follows:

Beginning at the Nickerson State Property about 1300' from Millstone Road along Fern Lane, thence running in a southerly direction along Silas Road about 4,400 feet more or less; thence turning and running in an easterly direction along Silas Road 3,600' more or less to the Town of Brewster land and Pump Station No. 3 near Rafe Pond as shown on Assessors Maps No. 46, 43, and 32, scale 1" = 200' on file in the Assessor's Office, Town of Brewster, Massachusetts and as shown on a plan entitled Compilation of Assessor's Sheets No. 46, 43, and 32 dated February, 1984, scale 1" = 400'.

**SECTION 2.** In consideration for the above described easement, the town of Brewster shall supply fire hydrants along Silas road for fire protection for Nickerson state park and any security protection for said



**ACTS, 1985. – Chaps. 265, 266.**

park deemed necessary by the regional forest and parks supervisor or his designee. Upon project completion, Silas road shall be returned to its original condition. The town of Brewster shall maintain said water main and power line and shall release the department from any liability caused by or incurred in its use and operation.

**SECTION 3.** This act shall take effect upon its passage.

Approved September 18, 1985.

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**Chapter 265. AN ACT FURTHER REGULATING THE CITY OF  
SPRINGFIELD'S AUTHORITY TO LEASE THE COBBLE  
MOUNTAIN HYDROELECTRIC FACILITY.**

Be it enacted, etc., as follows:

**SECTION 1.** The city of Springfield, acting by and through its board of water commissioners, is hereby authorized to include in any lease of the Cobble Mountain hydroelectric facility executed under the provisions of chapter two hundred and sixty-seven of the acts of nineteen hundred and twenty-eight terms requiring the lessee to obtain design services, construct, reconstruct, install, operate, maintain, repair or demolish improvements on or associated with the land so leased; provided, however, that no work undertaken pursuant to said lease shall be subject to any general or special law, rule, regulation, or ordinance requiring competitive bidding.

**SECTION 2.** The provisions of this act shall apply to any and all leases entered into on or after June first, nineteen hundred and twenty-eight.

**SECTION 3.** This act shall take effect upon its passage.

Approved September 18, 1985.

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**Chapter 266. AN ACT ESTABLISHING A DEPARTMENT OF PUBLIC  
WORKS IN THE TOWN OF DUXBURY.**

Be it enacted, etc., as follows:

**SECTION 1.** There shall be established in the town of Duxbury a department of public works, hereinafter called the department, which shall be under the jurisdiction of the board of selectmen. The department shall have all of the powers and duties now vested in or exercised by any of the following departments, which are hereby renamed divisions and included within the department of public works: cemetery, land and natural resources, highway and water. No contracts, obligations or liabilities in force on the date when this act becomes effective shall be affected hereby, but the department shall in all



**ACTS, 1985. – Chap. 266.**

respects be the lawful successor of the departments now included as divisions in the department of public works.

**SECTION 2.** The board of selectmen shall appoint a director of public works, whose qualifications, powers and duties shall be determined and prescribed by said board, and who shall be responsible to said board. The director shall have full authority for carrying out the policies of said board and over the operations of the department. The director shall appoint and remove such staff assistants and employees as he deems necessary, subject to available appropriations and with the approval of said board. Such staff may include a supervisor for each division, and a town engineer. The position of assistant to the board of selectmen for engineering services is hereby abolished. The director shall hold office subject to the will of said board. Said director shall not be subject to the provisions of chapter thirty-one of the General Laws.

**SECTION 3.** The board of selectmen shall prepare and provide proper job descriptions for employees of the department of public works.

**SECTION 4.** Upon the effective date of this act, the offices of cemetery trustees and water commissioners shall be appointed by the town moderator for three-year staggered terms, and water commissioners renamed the water advisory board. The present cemetery trustees and water commissioners shall continue as members of said boards until the end of their current terms. The cemetery trustees and the water advisory board shall serve said town as advisory boards and as specified in the by-laws of the town; provided, however, that the cemetery trustees shall also control the care and expenditure of perpetual care funds as provided in section twenty-five of chapter one hundred and fourteen of the General Laws.

**SECTION 5.** The town of Duxbury may after the expiration of three years from the effective date of this act vote at annual town meeting to revoke this act and the question of revocation shall be submitted to the voters in the form of the following question, which shall be placed on the official ballot used for the election of town officers: "Shall the department of public works established by an act passed by the general court in the year nineteen hundred and eighty-five, entitled 'An Act establishing a department of public works in the Town of Duxbury', be discontinued?"

If a majority of the votes cast in answer to said question is in the affirmative, then at the next annual town election held after such vote, the town shall elect such officers as are necessary to exercise and perform the powers, rights and duties transferred to the department of public works by said act. Such action shall not affect any contract or liability then created or existing. All general laws respecting town administration and town officers and any special laws relative to said town, the operation of which has been suspended or superceded by this act, shall then be in full force and effect. Any by-law inconsistent with such special or general laws shall be revoked thereby. Any subsequent



**ACTS, 1985. – Chap. 267.**

vote to revoke this act shall not be taken more often than once in three years.

**SECTION 6.** This act shall take effect upon its passage.

Approved September 18, 1985.

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**Chapter 267. AN ACT AUTHORIZING THE TOWN OF BARNSTABLE  
TO ESTABLISH THE TOWN OF BARNSTABLE  
SCHOLARSHIP FUND.**

Be it enacted, etc., as follows:

**SECTION 1.** There is hereby established in the town of Barnstable a fund to be known as the town of Barnstable scholarship fund.

The board of selectmen of the town of Barnstable is hereby authorized, subject to the approval of the commissioner of revenue, to redesign its municipal tax bills, particularly the real estate property tax bill, providing a place thereon whereby a taxpayer of said town may voluntarily check off his desire to donate and pledge an amount not less than one dollar to said fund, which will increase the amount of tax otherwise due.

The purpose of said fund is to provide financial aid to Barnstable residents in accordance with criteria determined by the scholarship committee established under the provisions of section three.

**SECTION 2.** Said fund shall be under the jurisdiction of the board of selectmen, and all monies which are collected as a result of the voluntary checkoff shall be deposited in said fund. The town treasurer shall be the custodian of the fund and may deposit the proceeds in national banks or invest the proceeds by deposit in savings banks, cooperative banks, or trust companies organized under the laws of the commonwealth, or invest the same in such securities as are legal for the investment of funds of savings banks under the laws of the commonwealth or in federal savings and loan associations situated in the commonwealth.

**SECTION 3.** A scholarship committee to consist of the superintendent of schools or his designee, a member of the board of selectmen and three citizens of the town shall be appointed to a three year term by the board of selectmen.

**SECTION 4.** The scholarship committee shall utilize, as much as practicable, the full net income received from the fund, and annually grant as much financial aid as the full income shall provide. Excess income, if any, shall be reserved and added to the net income of said fund the following year.

**SECTION 5.** In selecting the annual recipients of financial aid from the the town of Barnstable scholarship fund, the scholarship committee



**ACTS, 1985. – Chap. 268.**

shall be guided by the following criteria:

(1) The recipients of financial aid must be residents of the town who have been accepted to pursue education beyond the secondary school level at an institution deemed accredited by said committee.

(2) Said committee shall also take into consideration each recipient's financial need, character, scholastic record and involvement in community work as well as extracurricular school activities.

(3) Each recipient shall be interviewed by said scholarship committee prior to the award of any financial aid.

**SECTION 6.** All costs incurred in carrying out the provisions of this act shall be paid out of the town of Barnstable scholarship fund, with the exception of the printing of real estate tax bills.

**SECTION 7.** This act shall take effect upon its passage.

Approved September 18, 1985.

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**Chapter 268. AN ACT AUTHORIZING THE CITY OF LAWRENCE TO CONVEY CERTAIN PARK LAND TO THE LAWRENCE HOUSING AUTHORITY FOR USE FOR PARK PURPOSES.**

Be it enacted, etc., as follows:

**SECTION 1.** The city of Lawrence is hereby authorized to convey a certain parcel of park land in said city to the Lawrence Housing Authority. The park land to be transferred is to be used by the Lawrence Housing Authority to be used by said authority for park purposes.

Said parcel is bounded and described as follows:

Beginning at a point in the northerly side of Richmond Street. Said point is west of Bodwell Street as shown on said plan.

Thence running S 17°-43' '16" W for a distance of 107.13 feet along the westerly terminus of Richmond Street and 143.93 feet along land of the Lawrence Housing Authority. Said distances total 251.06 feet to a point;

Thence running S 21°-24' -46" W for a distance of 56.10' to a point;

Thence running S 16°-37' ' 57" W for a distance of 60.16 feet to a point;

Thence running S 39°-05' - 37" W for a distance of 52.89 feet a point;

Thence running S 46°-19' - 52" W for a distance of 89.50 feet to a point;

Thence running S 63°-56' - 07" W for a distance of 52.08 feet to a point;

Thence running S 73°-35' - 51" W for a distance of 47.78 feet to a point;

Thence running N 86°-00' - 00" W for a distance of 50.38 feet to a point;

Thence running S 86°-13' - 01" W for a distance of 41.87 feet to a



**ACTS, 1985. – Chaps. 269, 270.**

point;

All of the last nine previous courses are bounded by land of the Lawrence Housing Authority.

Thence turning and running N 30°– 23' – 20" E for a distance of 36.94 feet to a point;

Thence running N 25°–06' – 30" E for a distance of 61.47 feet to a point;

Thence running N 13°–44' – 40" E for a distance of 72.94 feet to a point;

Thence running N 45°–47' – 40" E for a distance of 321.52 feet to a point;

Thence running N 44°–49' – 20" E for a distance of 147.95 feet to the point of beginning.

The last five courses are bounded by land of the City of Lawrence known as the John J. Mullaney Park.

Said parcel is to be conveyed subject to a sewer easement to the City of Lawrence.

Said easement is shown on the aforementioned plan.

Said parcel contains approximately 66,380 square feet of land. Being the same premises conveyed to the City of Lawrence by deed of the Essex Company dated November 19, 1873 and recorded with the Essex North District Registry of Deeds, Book 322 Page 709.

**SECTION 2.** This act shall take effect upon its passage.

Approved September 18, 1985.

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**Chapter 269. AN ACT RELATIVE TO THE SCHEDULING OF SPECIAL TOWN MEETINGS IN THE TOWN OF BROOKLINE.**

Be it enacted, etc., as follows:

**SECTION 1.** Notwithstanding any general or special law to the contrary, the selectmen in the town of Brookline shall hold a special town meeting requested by more than two hundred registered voters under the provisions of section ten of chapter thirty-nine of the General Laws not later than ninety days after the receipt of such request.

**SECTION 2.** This act shall take effect upon its passage.

Approved September 18, 1985.

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**Chapter 270. AN ACT ESTABLISHING THE POSITION OF TOWN ADMINISTRATOR IN THE TOWN OF BROOKLINE.**

Be it enacted, etc., as follows:

**SECTION 1.** Notwithstanding any provision of any general or special



**ACTS, 1985. – Chap. 270.**

law to the contrary, there shall be a town administrator, hereinafter called the administrator, in the town of Brookline, who shall be appointed by the board of selectmen for a three year term. During the term of appointment, the administrator may only be removed after notice stating the reason for such removal and a public hearing, by a vote of at least three selectmen.

**SECTION 2.** The administrator shall be the chief administrative officer of the town. Without limiting the foregoing, the administrator shall perform and discharge the following functions and duties:

- (a) daily administration of the town;
- (b) recruitment and recommendations for appointment by the board of selectmen of all department heads, except the librarian, school personnel, treasurer/collector, town clerk, and any department head whose appointment is otherwise provided for by statute;
- (c) supervision, written evaluation and training of all department heads except personnel in the school department;
- (d) coordination of intra- and inter-governmental affairs;
- (e) acting as the administrative spokesperson for the town;
- (f) formulation of the annual financial plan, including detailed projections of all revenues and expenditures;
- (g) recommendations with respect to departmental and non-departmental expenditures, the capital improvement plan submitted by the planning board, the financial impact of warrant articles, and guidelines for collective bargaining;
- (h) approval of payment and expense warrants upon the treasury of the town, under section fifty-six of chapter forty-one of the General Laws;
- (i) recommendations for the removal for just cause, by the board of selectmen, of any department head appointed by the selectmen;
- (j) recommendations concerning collective bargaining proposals for the town, exclusive of the school department;
- (k) performance of such other duties and responsibilities as are delegated to the administrator by the board of selectmen.

**SECTION 3.** The administrator shall not be responsible for matters which are the responsibility of the school committee.

**SECTION 4.** The board of selectmen shall implement the administrative organization set forth herein and may delegate any additional administrative function, or any civil service appointment, removal or discharge authority or responsibility to the administrator or, upon the recommendation of the administrator, a department head.

**SECTION 5.** The town may, through its by-laws, delegate any licensing authority, except the licensing of innholders, lodging houses, common victuallers, food vendors, secondhand motor vehicles, open air parking, liquor sales and theaters and entertainment.

**SECTION 6.** The administrator shall be subject to the authority and direction of the board of selectmen. He shall render reports to the board



**ACTS, 1985. -- Chaps. 271, 272.**

of selectmen on a regular basis, including in such reports a summary of current activities, a list of both current and long-range issues and objectives and programs in response thereto, and suggestions concerning the goals and objectives of the community.

**SECTION 7.** This act shall take effect upon its passage.

Approved September 18, 1985.

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**Chapter 271. AN ACT FURTHER REGULATING DEATH BENEFITS FOR CERTAIN VETERANS.**

Be it enacted, etc., as follows:

Section 8 of chapter 115 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out the first sentence and inserting in place thereof the following two sentences:-- Amounts expended by the burial agent under the provisions of section seven shall not exceed eleven hundred dollars for the funeral and burial of any person under this chapter, provided that the cost of funeral and burial does not exceed fifteen hundred dollars and there are insufficient resources in the estate of said person to pay for the cost of such funeral and burial. Any resources of said person shall be deducted from the maximum cost of the funeral and burial allowance hereunder and the difference, subject to the limitation set forth in this paragraph, shall be paid by the burial agent.

Approved September 18, 1985.

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**Chapter 272. AN ACT PROVIDING FOR THE REMOVAL OF CERTAIN MEMBERS OF THE BOARD OF ENVIRONMENTAL MANAGEMENT.**

Be it enacted, etc., as follows:

Section 2B of chapter 21 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by adding the following two paragraphs:--

The absence of a board member from three consecutive meetings, except for sickness supported by the certificate of a physician, shall be deemed neglect of duty, and shall be a cause for removal as provided herein.

In case of the resignation, removal or death of a board member, his successor shall be appointed to fill the remainder of the unexpired term in the same manner and subject to the same qualifications as his predecessor.

Approved September 18, 1985.



**ACTS, 1985. – Chaps. 273, 274, 275.**

**Chapter 273. AN ACT DIRECTING THE COMMONWEALTH TO REIMBURSE THE TOWN OF ASHBURNHAM FOR CERTAIN MONIES EXPENDED FOR VETERANS' SERVICES.**

Be it enacted, etc., as follows:

There shall be allowed and paid out of the state treasury to the town of Ashburnham, subject to appropriation and subject to the approval of the commissioner of veterans' services, a sum, not to exceed fourteen thousand two hundred fifty-three dollars, being a sum said town would have been entitled to receive in reimbursement for veterans' benefits paid by said town in the fiscal years nineteen hundred seventy-eight, seventy-nine, eighty, eighty-one, eighty-two and eighty-three, under the provisions of section six of chapter one hundred and fifteen of the General Laws, had said town made a proper and seasonable report thereof to said commissioner as required by said section six of said chapter one hundred and fifteen. As a condition of payment said commissioner shall require the town of Ashburnham to present evidence that the said sum was paid in compliance with section five of said chapter one hundred and fifteen.

Approved September 18, 1985.

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**Chapter 274. AN ACT ABOLISHING CAUSES OF ACTION FOR ALIENATION OF AFFECTION AND CRIMINAL CONVERSATION.**

Be it enacted, etc., as follows:

**SECTION 1.** Chapter 207 of the General Laws is hereby amended by inserting after section 47A, under the caption ALIENATION OF AFFECTION AND CRIMINAL CONVERSATION NOT ACTIONABLE, the following section:—

Section 47B. Alienation of affection and criminal conversation shall not constitute an injury or wrong recognized by law, and no action, suit or proceeding shall be maintained therefor.

**SECTION 2.** This act shall not affect any cause of action to recover damages for alienation of affection or criminal conversation which shall have been commenced prior to the effective date of this act.

Approved September 18, 1985.

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**Chapter 275. AN ACT RELATIVE TO WATER CONSERVATION.**

Be it enacted, etc., as follows:

**SECTION 1.** Chapter 40 of the General Laws is hereby amended by



**ACTS, 1985. – Chap. 276.**

inserting after section 39I the following section:–

Section 39J. In any city or town which accepts the provisions of this section, either by a vote of the city council, board of selectmen, board of water commissioners, or by vote of said city or town in a general election or town meeting, said city or town shall for the purposes of water conservation, water resource management, water resource planning and comprehensive financial management, adopt a pricing system which includes the costs of the provision of water and sewer services to the residents and industrial and commercial users of said city or town receiving said services. The definition of costs as used in this section shall include, but not be limited to, costs of pipe and related appurtenances, replacement stock for water and sewer, costs relating to the replacement and repair thereof including street work, maintenance of all equipment and related appurtenances necessary for the provision of water or the removal of wastewater services, all costs relating to the metering of water, all related costs of police and fire protection, all administrative costs relating to the collection of said water and sewer fees, all costs of chemicals relating to the treatment of water and wastewater, all costs relating to the personnel of the departments, as well as any long term planning costs for the continued provision of said services, and any costs of land acquisition relating to long range planning and future water supply development or wastewater treatment facilities.

**SECTION 2.** The method of accounting to be used by any city or town adopting section thirty-nine J of chapter forty of the General Laws, shall conform to the principals and guidelines established by the state bureau of accounts and known as the Universal Massachusetts Accounting System Handbook.

**SECTION 3.** Any city or town of the commonwealth, or any city or town whose residents and industrial and commercial users are served by a district or a water and sewer commission, otherwise eligible to receive state assistance for any project involving water or sewer works of any kind, administered by any agency of the executive office of environmental affairs shall be given priority consideration if such a city or town has a pricing system which reflects the costs of water and sewer service as defined in section thirty-nine J of chapter forty of the General Laws.

Approved September 18, 1985.

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**Chapter 276. AN ACT REPEALING THE AUTHORITY OF COUNTY COMMISSIONERS TO LAY OUT, ALTER OR ACCEPT A TOWN WAY OR PRIVATE WAY UPON REFUSAL OF THE TOWN.**

Be it enacted, etc., as follows:

Sections twenty-six and twenty-seven of chapter eighty-two of the



ACTS, 1985. – Chap. 277.

General Laws are hereby repealed.

Approved September 18, 1985.

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**Chapter 277. AN ACT TO IMPLEMENT THE SETTLEMENT OF GAY HEAD INDIAN LAND CLAIMS.**

Be it enacted, etc., as follows:

**SECTION 1.** It is hereby found and declared that:–

(a) there is pending before the United States Court for the District of Massachusetts a civil action that involves Indian claims to certain lands within the town of Gay Head;

(b) pendency of this lawsuit has resulted in severe economic hardships for the residents of the town of Gay Head by clouding the titles to much of the land in said town, including lands not involved in the lawsuits;

(c) the general court shares with the United States and the parties to the lawsuit a desire to remove all clouds on titles resulting from such Indian land claims; and

(d) the parties to the lawsuit and others interested in the settlement of Indian land claims within the commonwealth executed a settlement agreement which requires implementing legislation by the Congress of the United States and by the general court.

**SECTION 2.** For the purpose of this act, the following words shall have the following meanings:

(a) "Tribal council", the Wampanoag Tribal Council of Gay Head, Inc.;

(b) "Lawsuit", means the actions entitled Wampanoag Tribal Council of Gay Head, et al v. Town of Gay Head, et al., C.A. No. 74-5826-McN (D. Mass.).

(c) "Private settlement lands", approximately one hundred and seventy-five acres of privately held land described in paragraph 6 of the settlement agreement that are to be acquired by the Secretary of the Interior from certain private landowners;

(d) "Public settlement lands", the lands described in paragraph 4 of the settlement agreement that are to be conveyed by the Town of Gay Head to the tribal council;

(e) "Settlement lands", those lands defined in clauses (c) and (d);

(f) "Settlement agreement", the document entitled "Joint Memorandum of Understanding concerning Settlement of the Gay Head, Massachusetts Indian Land Claims", executed as of November nineteenth, nineteen hundred and eighty-three and November twentieth, nineteen hundred and eighty-three, by representatives of the parties to the lawsuit, as filed with the state secretary, or any extension or renewal thereof;

(g) "Cook lands", the lands described in paragraph 5 of the settlement agreement that are to be conveyed by the town of Gay Head to the Tribal council.



**ACTS, 1985. – Chap. 277.**

**SECTION 3.** Notwithstanding any general or special law to the contrary, the town of Gay Head is hereby authorized to convey to the Tribal council, or an appropriate subsidiary, the Cook lands and the public settlement lands.

**SECTION 4.** All federal, state, and town laws shall apply to the settlement lands subject only to the following special provisions:–

(a) The settlement lands shall not be treated as real property subject to taxation pursuant to chapter fifty-nine of the Massachusetts General Laws, or any successor provision of law, but the Tribal council or any successor in interest will make payments in lieu of property taxes to the town of Gay Head or other appropriate entity if and when improvements are placed on those lands. The quantity of land subject to such payments in connection with each improvement shall be the minimum land area established by the density requirements of the town zoning ordinance for such an improvement. The amount of such payment shall be determined by assessing the value of the improvement and the value of the land attributable to such improvement, as determined in accordance with this section, and applying the town property tax rate or any other applicable tax rates just as though the improvements and attributable land were held by any private person. With respect to in-lieu payments that remain unpaid, neither the town nor any other person shall have the right of foreclosure against the settlement lands. Instead of its right of foreclosure, the town or any other person otherwise entitled to foreclosure may enforce a lien against other assets of the Tribal council or any subsidiary thereof, or any other entity controlled by the Tribal council. If the in-lieu payments are not fully paid three years after they are due, the town may seize the land and improvements on which the in-lieu payments are in arrears and lease such land and improvements on reasonable terms for periods of time not to exceed five years, the sums realized from such leases to be applied, after costs, to the payment of the amount in arrears. Seizure by the town under this provision shall in no way affect title to the land, which shall remain with the Tribal council, and at the expiration of any lease period during which all arrearages have been paid in full, control of the land and improvements shall be returned to the Tribal council.

(b) The Tribal council or any successor in interest will have the right, after consultation with appropriate state and local officials, to establish its own regulations concerning hunting, but not trapping or fishing, by Indians on the settlement lands by means other than firearms or crossbow. These regulations by the Tribal council need not conform to state or local law, but shall impose reasonable standards of safety for persons and protection of wild life, and the absence of such safety regulations shall be deemed unreasonable. These safety and protection standards shall be subject to review for reasonableness in an action in the superior court and may be enforced by state and local law enforcement officers. Hunting by firearm or crossbow shall remain subject to state law.

(c) The zoning and subdivision ordinances and regulations of the town of Gay Head shall not be applicable to the settlement lands except to the



**ACTS, 1985. – Chap. 278.**

extent and in the manner provided in the settlement agreement. The settlement lands shall be subject to the land use plan made a part of the settlement agreement which shall be enacted as part of the zoning ordinance of the town of Gay Head, and such plan as embodied in the zoning ordinance may be amended only with the agreement of the Tribal council or any successor in interest, and by the town of Gay Head at two town meetings not less than one month apart, at least one of which shall be held during the month of July or August.

(d) The zoning laws of the town of Gay Head which are currently in force shall continue to apply to the Cook lands and any changes in those zoning laws shall apply to the Cook lands only if adopted in the manner provided by the settlement agreement.

**SECTION 5.** Except as provided in this act, all laws, statutes and bylaws of the commonwealth, the town of Gay Head, and any other properly constituted legal body, shall apply to all settlement lands and any other lands owned now or at any time in the future by the Tribal council or any successor organization.

**SECTION 6.** This act shall take effect upon enactment of legislation by the United States providing for extinguishment of aboriginal and all other Indian tribal land claims in the town of Gay Head which are maintained under laws of the United States that are specifically applicable to transfers of land or natural resources from, by or on behalf of any Indian nation or tribe of Indians, provided that the conveyance of the Cook lands and the public settlement lands authorized by section three shall take effect upon the actual extinguishment of such aboriginal and other Indian tribal land claims.

Approved September 18, 1985.

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**Chapter 278. AN ACT FURTHER REGULATING BUSINESS PRACTICES FOR CONSUMERS' PROTECTION.**

Be it enacted, etc., as follows:

**SECTION 1.** The first paragraph of section 11 of chapter 93A of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by inserting after the word "proper", in line 12, the words:– ; provided, however, that both such persons have a place of business within the commonwealth at the time of said loss.

**SECTION 2.** The second paragraph of said section 11 of said chapter 93A, as so appearing, is hereby amended by striking out, in line 13, the word "property" and inserting in place thereof the words:– ; provided, however, that such injunction shall not be obtained unless both parties have a place of business in the commonwealth at the time the unfair method of competition, act or practice is employed.



**ACTS, 1985. – Chaps. 279, 280.**

**SECTION 3.** Said section 11 of said chapter 93A is hereby further amended by adding the following paragraph:–

No action under the provisions of this section shall be brought or maintained in any court unless the parties to such action have a place of business in the commonwealth at the time the unfair method of competition, act or practice is employed.

Approved September 18, 1985.

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**Chapter 279. AN ACT FURTHER REGULATING THE REQUIREMENTS OF WRITTEN LEASES OR RENTAL AGREEMENTS OF PERSONAL PROPERTY.**

Be it enacted, etc., as follows:

Chapter 93 of the General Laws is hereby amended by adding the following section:–

Section 77. Every written lease or rental agreement of personal property used primarily for household or family use shall include a designation by the lessor identifying each item of such property as being either new or used property. Whoever so leases or rents personal property and fails to comply with the provisions of this section, whether by failing to include such designation or by intentionally making a false designation, shall be assessed a civil penalty of not more than five hundred dollars for each such violation. Each written lease or rental agreement which fails to conform to the provisions of this section shall constitute a separate violation.

The attorney general may bring an action in the name of the commonwealth against any person violating this section by applying for a temporary restraining order or a preliminary or permanent injunction prohibiting further such violations by said person and may petition the court for an assessment of the civil penalties provided for in this section. Such actions shall be brought in the superior court of the county in which the person charged with such violations has his principal place of business.

This section shall not apply to the lease or rental of motor vehicles, as defined in chapter ninety, personal property used in business or to the rental of tools or garden equipment.

Approved September 18, 1985.

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**Chapter 280. AN ACT AUTHORIZING CREDIT UNIONS TO INVEST IN FEDERAL FUNDS WITH BANKING CORPORATIONS.**

Be it enacted, etc., as follows:

The second paragraph of section 21 of chapter 171 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by



**ACTS, 1985. – Chaps. 281, 282, 283.**

striking out paragraph (o) and inserting in place thereof the following paragraph:–

(o) Participate in federal funds with those banking corporations which are listed as eligible for such an investment, on the list of legal investments prepared pursuant to section fifteen A of chapter one hundred and sixty-seven.

Approved September 18, 1985.

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**Chapter 281. AN ACT AUTHORIZING A REFUND OF OVERPAYMENT DETERMINED AFTER CERTAIN TAXPAYER AUDITS.**

Be it enacted, etc., as follows:

Section 27 of chapter 62C of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by adding the following sentence:– If, as a result of such examination, the commissioner determines that the taxpayer has overpaid any tax, he shall reduce the assessment accordingly and refund the overpayment in accordance with the provisions of section thirty-six.

Approved September 18, 1985.

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**Chapter 282. AN ACT INCREASING THE AGGREGATE AMOUNT PERMITTED TO BE LOANED ON MOBILE HOMES BY CREDIT UNIONS.**

Be it enacted, etc., as follows:

The last sentence of subdivision (E) of section 24 of chapter 171 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out, in line 453, the word "five" and inserting in place thereof the following word:– ten.

Approved September 18, 1985.

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**Chapter 283. AN ACT AUTHORIZING THE DESIGNATION AND APPOINTMENT OF AN AFFIRMATIVE ACTION OFFICER IN COUNTIES.**

Be it enacted, etc., as follows:

Chapter 35 of the General Laws is hereby amended by inserting after section 53 the following section:–

Section 53A. The county commissioners of each county shall designate or appoint a director of affirmative action who shall be the chief



ACTS, 1985. – Chap. 283.

affirmative action officer for their respective county. Said person so designated shall not be a county commissioner. The person so designated shall presently be employed by said county. The person to be designated or appointed to said position shall possess: three years full-time or equivalent part-time experience in personnel administration or in a related field, or in a program or position in which their duties significantly involve affirmative action programs, or significant involvement in a community organization dealing with minority employment, or has earned a baccalaureate degree from a recognized college or university in the field of public administration, business administration, personnel administration, urban planning, social work, counseling, or in any related field of study or has successfully completed courses toward a graduate degree in the above fields. The person so designated shall receive no additional compensation for such appointment, and the county shall not consider the position held prior to such appointment vacant and shall not hire any additional employee in consideration of this appointment. In addition, said person shall also have a knowledge of the problems of minorities, females, and other affected groups when seeking employment, a knowledge of the elements of affirmative action programs, laws, regulations and guidelines, a knowledge of the various personnel selection processes, a knowledge of social psychology and its application, a knowledge of interviewing and counseling techniques, the ability to analyze written and statistical data in conjunction with planning abilities, good writing skills and oral expression, the ability to coordinate effectively with other public and private agencies, and the administrative skills to operate and supervise the office of affirmative action. The director of affirmative action shall report to and be under the direct supervision of the county commissioners.

Said director, with the assistance of the county personnel director, shall develop a county affirmative action plan. The purpose of this plan shall be to highlight equal employment opportunity discrepancies and to establish affirmative measures to ensure equal opportunity in the areas of hiring, promotion, demotion, transfer, recruitment, layoff, termination, rate of compensation, inservice or apprenticeship training programs, grievance procedures, and all terms and conditions of employment. Such affirmative actions shall include efforts required to remedy the effects of present and past discriminatory patterns and practices, as well as actions necessary to guarantee equal employment opportunity for all people. Said director shall also monitor all county contracts with outside vendors to ensure that every effort is made to utilize minority and women vendors and that contractors engaged for county work have instituted their own affirmative action plans.

Said director shall, from time to time, but at least every three months, report to the commissioners of the progress being made by all appointing and hiring authorities in meeting their affirmative action plans. Said director, with the approval of the county commissioners, may designate certain employees as department or office affirmative action representatives. Said affirmative action representatives shall monitor the implementation of and compliance with the affirmative



**ACTS, 1985. – Chaps. 284, 285.**

action plan in their departments or offices and report on same for said director.

Approved September 18, 1985.

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**Chapter 284. AN ACT INCREASING THE LIABILITY INSURANCE LIMITS ON MOTOR VEHICLE INSURANCE POLICIES IN COUNTIES.**

Be it enacted, etc., as follows:

Section 28 of chapter 35 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out, in line 28, the word "forty" and inserting in place thereof the words:– one hundred,– by striking out, in lines 29 and 30, the words "hundred thousand" and inserting in place thereof the word:– million,– and by striking out, in line 30, the word "ten" and inserting in place thereof the words:– one hundred.

Approved September 18, 1985.

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**Chapter 285. AN ACT RELATIVE TO THE LICENSING AND KEEPING OF DOGS IN THE TOWN OF PEPPERELL.**

Be it enacted, etc., as follows:

**SECTION 1.** Notwithstanding the provisions of section one hundred and thirty-seven of chapter one hundred and forty of the General Laws or any other provision of law to the contrary, the registering, numbering, describing and licensing of dogs if kept within the town of Pepperell shall be conducted by the town clerk of said town.

**SECTION 2.** Notwithstanding the provisions of section one hundred and thirty-nine of said chapter one hundred and forty or any other provision of law to the contrary, the annual fees to be charged by the town of Pepperell for the issuance of licenses for dogs shall be established by the board of selectmen of said town.

**SECTION 3.** Notwithstanding the provisions of section one hundred and forty-seven of said chapter one hundred and forty or any other provision of law to the contrary, all money received for licenses or from the sale of dog licenses by the town of Pepperell, or recovered as fines or penalties by said town under the provisions of said chapter one hundred and forty relating to dogs, shall be paid into the town treasury of said town and shall not thereafter be paid over to Middlesex county.

**SECTION 4.** Any and all costs which would otherwise be paid out of the Middlesex county dog fund shall not be paid by the county. The town



**ACTS, 1985. – Chaps. 286, 287, 288.**

of Pepperell shall be responsible for all costs and expenses relating to the regulation of dogs.

Approved September 18, 1985.

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**Chapter 286. AN ACT FURTHER REGULATING MOTOR VEHICLE INSURANCE.**

Be it enacted, etc., as follows:

Subsection (C) of section 113H of chapter 175 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by inserting after the second paragraph the following paragraph:–

No insurer acting as servicing carrier of the plan, or their employees or agents, no member company, employee or agent, or any employee of the plan or any official or officer of any law enforcement agency, shall be subject to civil or criminal liability in a cause of action of any kind for furnishing any evidence or information to any specific investigative unit created pursuant to this section, its employees or any law enforcement agency or any other insurer relating to an investigation conducted involving losses under liability or physical damage coverages for motor vehicles.

Approved September 18, 1985.

EMERGENCY LETTER: September 18, 1985 @ 3:30 P.M.

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**Chapter 287. AN ACT AUTHORIZING THE GOVERNOR TO DESIGNATE AN ADDITIONAL JUSTICE OF THE PEACE TO SOLEMNIZE MARRIAGES IN THE TOWN OF ACTON.**

Be it enacted, etc., as follows:

Notwithstanding the provisions of section thirty-nine of chapter two hundred and seven of the General Laws regulating the number of justices of the peace that may be designated, the governor is hereby authorized to designate an additional justice of the peace in the town of Acton to solemnize marriages under the provisions of said section thirty-nine.

Approved September 18, 1985.

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**Chapter 288. AN ACT INCREASING THE ESTABLISHMENT OF CERTAIN BRANCH BANKS IN ONE CALENDAR YEAR.**

Be it enacted, etc., as follows:

The fourth paragraph of section 3 of chapter 167C of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out, in line 27, the word "three" and inserting in place thereof



**ACTS, 1985. – Chap. 289, 290, 291.**

the word:– five.

Approved September 18, 1985.

EMERGENCY LETTER: October 4, 1985 @ 2:40 P.M.

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**Chapter 289. AN ACT DECREASING CERTAIN NOTICE REQUIREMENTS REGARDING THE USE OF COMMON SEWERS IN CITIES AND TOWNS.**

Be it enacted, etc., as follows:

Section 10 of chapter 83 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:– Such rules and regulations shall be published once in a newspaper published in the city or town, if there be any, and if not, then in a newspaper published in the county, and shall include a notice that said rules and regulations shall be available for inspection by the public, and shall not take effect until such publication has been made.

Approved September 18, 1985.

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**Chapter 290. AN ACT PROVIDING FOR A CHANGE IN THE BOUNDARY LINE OF A CERTAIN HISTORICAL DISTRICT IN THE TOWN OF FALMOUTH.**

Be it enacted, etc., as follows:

Section 3 of chapter 654 of the acts of 1975, as amended by chapter 159 of the acts of 1984, is hereby further amended by inserting after the word "Street", in line 55, the following words:– ; a strip 200 feet wide on the Northerly and Southerly sides of Water Street ending at the Easterly side of the Eel Pond drawbridge; a strip 200 feet wide on the Easterly and Westerly sides of School Street ending at the Northerly intersection of Millfield and School Streets; a strip 200 feet wide on the Eastern and Western boundaries of Church Street running along Church Street from the intersection of Church Street and Woods Hole Road to the Northeastern property line of the parcel of land owned by the town of Falmouth shown as parcel 50 on Assessor's sheet 51 at which Nobska Road begins; a strip 200 feet wide on the Westerly and Easterly sidelines of Little Harbor Road; a strip 200 feet wide on the Northerly and Southerly sideline of Cowdry Road; a strip 200 feet wide on the Easterly and Westerly sidelines of Luscombe Avenue; a strip 200 feet wide on the North and South sideline of Butler Street; a strip 200 feet wide on the Northerly and Southerly sidelines of Railroad Avenue.

Approved September 18, 1985.

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**Chapter 291. AN ACT RELATIVE TO THE MEMBERSHIP OF THE**



**ACTS, 1985. – Chaps. 291, 292, 293.**

**HISTORIC DISTRICT COMMISSION FOR THE TOWN OF  
NANTUCKET.**

Be it enacted, etc., as follows:

Section 3 of chapter 395 of the acts of 1970 is hereby amended by striking out, in lines 10 to 12, inclusive, the words "there shall be elected at the annual town meeting in each year one member of such commission to serve for the term of five" and inserting in place thereof the words:— upon the expiration of any term, the members of the commission shall be elected at the annual town meeting for the term of three.

Approved September 18, 1985.

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**Chapter 292. AN ACT RELATIVE TO THE COMPOSITION OF THE  
PLANNING BOARD OF THE TOWN OF OAK BLUFFS.**

Be it enacted, etc., as follows:

Notwithstanding the provisions of any general or special law to the contrary, in the election for planning board members to be held in the town of Oak Bluffs in the year nineteen hundred and ninety, one person shall be elected for a term of four years and one person shall be elected for a term of five years. Persons elected thereafter shall be elected for terms of five years.

Approved September 18, 1985.

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**Chapter 293. AN ACT AUTHORIZING THE ESTABLISHMENT OF A  
LIEN UPON REAL ESTATE FOR UNPAID SEPTAGE  
DISPOSAL CHARGES ASSESSED IN CONNECTION  
WITH THE WAYLAND/SUDBURY SEPTAGE FACILITY.**

Be it enacted, etc., as follows:

**SECTION 1.** Any city, town or sewerage district which may now or hereinafter use the joint facility known as the Wayland/Sudbury septage facility located in the town of Wayland and the town of Sudbury for the receipt and disposal of privy, cesspool and septic tank contents, assesses a charge for the use of such facilities directly upon the owner or tenant of real estate from which such contents have been collected, and such charge is not paid on or before the due date, then such charge together with interest thereon and costs relative thereto shall be a lien upon such real estate which shall take effect and be enforced in the same manner as provided under sections sixteen B to sixteen F, inclusive, of chapter eighty-three of the General Laws. For purposes of this act, whenever in said sections sixteen B to sixteen F, inclusive, the words "board or officer in charge of the sewer department" or their equivalent appear,



**ACTS, 1985. – Chaps. 294, 295.**

they shall also mean and include the board or officer responsible in any city, town or district for assessing any charge upon receipt and disposal of privy, cesspool and septic tank contents as described above.

**SECTION 2.** The provisions of this act shall become effective in any city, town, or sewerage district using said facility upon acceptance by the participating city, town or sewerage district and by the filing by the respective clerk of a certificate of such acceptance in the proper registry of deeds.

Approved September 18, 1985.

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**Chapter 294. AN ACT AUTHORIZING THE TOWN OF CLINTON TO USE A CERTAIN PARCEL OF PARK LAND FOR HIGHWAY PURPOSES.**

Be it enacted, etc., as follows:

The town of Clinton is hereby authorized to use a certain parcel of park land for highway purposes. Said parcel of land is situated on the southerly side of Sterling street and the westerly side of Main street in said town and bounded and described as follows:

NORTHWESTERLY by land of Gary D. O'Connell by one course measuring twelve (12'  $\pm$ ) feet more or less:

SOUTHERLY by other land of the Town of Clinton Memorial Park by one course measuring one hundred seventy-three (173'  $\pm$ ) feet more or less:

SOUTHERLY, SOUTHWESTERLY & WESTERLY by said Park by one arc measuring forty-eight (48'  $\pm$ ) feet more or less:

EASTERLY by said Main Street by one course measuring forty (40'  $\pm$ ) feet more or less:

NORTHERLY by said Sterling Street by one course measuring one hundred ninety-seven (197'  $\pm$ ) feet more or less:

CONTAINING 2,275 square feet more or less:

BEING shown as Parcel "A" on a plan entitled "Land in Clinton, Mass. surveyed for Town of Clinton" dated April, 1984 and revised June 11, 1985 by Charles A. Perkins Co., Inc.; Civil Engineers & Surveyors; Clinton, Mass. Plan No. 5388-A1.

Approved September 18, 1985.

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**Chapter 295. AN ACT ESTABLISHING THE ASHLAND WATER AND SEWER COMMISSION AND DEFINING THE POWERS THEREOF.**

Be it enacted, etc., as follows:

**SECTION 1.** It is hereby declared essential that the town of Ashland, for the benefit of the people of the town, shall continue to maintain



## ACTS, 1985. – Chap. 295.

economical and efficient sewer and water systems; that the town be provided a means to improve its water and sewer services operated in a modern, efficient, financially self-sustaining, and environmentally sound manner; that just, equitable and sufficient fees, rates and charges for water and sewer service within the town be established and all consumers, public and private, taxpayer and tax exempt, pay their fair share of the costs of such services; all to the public benefit and good, as and to the extent and in the manner provided herein. This act may be referred to and cited as the Ashland Water and Sewer Reorganization Act of 1985.

**SECTION 2.** Sewer Works System: shall mean the existing sewer works system in the possession of and under the jurisdiction, ownership, control and regulation of the town and its sewer commission, and all facilities, betterments, extensions, improvements, enlargements thereto hereafter constructed or acquired.

Water Works System: shall mean the existing water supply and distribution system in the possession of and under the jurisdiction, ownership, control, and regulation of the town and its water commission, and all facilities, betterments, extension, improvements, and enlargements thereto hereafter constructed or acquired.

**SECTION 3.** Except as otherwise provided in this act, the powers of the commission shall be exercised by a board consisting of five members. Such persons shall be elected by ballot at the annual town election next after acceptance of this act, with two commissioners to be elected for a term of three years, two commissioners to be elected for a term of two years, and one commissioner to be elected for a term of one year. Upon the expiration of the initial terms, each of the said commissioners shall be thereafter elected for three-year terms.

**SECTION 4.** The commission shall appoint, employ and determine the duties and conditions of employment of a superintendent and such other employees and consultants as the commission may deem necessary, subject to the applicable laws of the town and commonwealth. All appropriations for wages and salaries of personnel, and the establishment or amendment of a wage and salary classification plan, shall be subject to the provisions of the town personnel by-law, as amended. The superintendent shall be the chief executive officer of the commission and shall administer and direct its affairs as authorized or approved by the commission and shall have such of the powers and perform such of the duties of the commission as the commission may from time to time delegate to him and not recalled. The commission and its employees shall be subject to the provisions of chapter one hundred and fifty E of the General Laws, to the extent that said provisions are applicable. For the purposes of said chapter one hundred and fifty E, and without otherwise limiting the generality of the foregoing, the town shall be considered an "employer" or "public employer" as defined therein. The commission shall operate on the same fiscal year as the town of Ashland and subject to what sums of money the town may vote, for such purposes as the town



## **ACTS, 1985. – Chap. 295.**

may vote, at either an annual or special town meeting, to raise and appropriate or transfer from available funds to pay interest and maturing debts; for charges, expenses, outlays; for a reserve fund.

**SECTION 5.** The commission shall assume all of the rights, duties and obligations of the town of Ashland's sewer commission and the town of Ashland's water commission. It shall assume the care, custody, and control of all property, personal or real, which as of that date resides in the care, custody, and control of the aforesaid sewer and water commissions. All orders, rules, regulations and by-laws duly promulgated by the town or the aforesaid sewer and water commissions shall remain in full force and effect, to the extent consistent with this act, until superseded, revised or rescinded by the commission and or town as applicable. All contracts, including collective bargaining agreements, leases, and agreements, including interdepartmental agreements, pertaining to the sewer and water works system shall continue in full force and effect until their expiration dates. All benefits and obligations thereunder, and all other rights and benefits pertaining to the sewer and water works system and existing by-law, including, without limiting the generality of the foregoing, all rights, benefits and obligations not inconsistent with the provisions of this act, which pertain to the sewer and water works system and which are vested in the aforesaid sewer and water commissions by general or special law, shall be transferred to, assumed by and imposed upon the commission by operation of law.

**SECTION 6.** This act shall be submitted to an annual or special town meeting for acceptance, and if accepted, shall be effective upon the date of election of the board of commissioners at the annual town election next after its acceptance. On the effective date of this act, employees in the existing Ashland sewer and water commissions shall be transferred to the new commission and become employees of the commission, subject to the provisions of this act; and the existing Ashland sewer and water commissions and departments shall be abolished. The terms of office of such employees shall not be deemed to be interrupted by such transfer. The right, seniority, wages, salaries, hours and working conditions of such employees, including, but only so long as such an employee holds the position which is comparable to the position in which he or she was classified prior to transfer, rights under chapter thirty-one of the General Laws, shall be preserved in their employment by the commission, provided that after such transfer, such employees shall perform their duties subject to the direction, control, and supervision of the commission. Nothing in the foregoing shall be construed as a limitation on the powers of the commission, subject to the provisions of this act and other applicable laws, to thereafter create, amend or abolish job positions in furtherance of the aforesaid intent of this act to provide the people of the town of Ashland an efficient, modern and financially self-sustaining sewer and water works system.

**SECTION 7.** The commission shall have all the rights and powers



**ACTS, 1985. – Chaps. 296, 297.**

which presently exist and reside in the Ashland sewer and water commissions under the General Laws of the commonwealth and under applicable special acts, including, without limitation, chapter eighty-six of the acts of nineteen hundred and forty-six and chapter four hundred and fifty-six of the acts of nineteen hundred and eight, insofar as these do not conflict with the provisions of this act.

**SECTION 8.** Upon the effective date of this act, except as otherwise provided herein, any provisions of any special laws and parts of special laws, and all by-laws and parts of by-laws pertaining to the sewer and water works system, which are inconsistent with the provisions of this act, shall be inoperative and cease to be effective.

**SECTION 9.** This act, being necessary for the welfare and living conditions of the town and its inhabitants, shall be liberally construed to effect the purposes hereof.

**SECTION 10.** The provisions of this act are severable, and if any provisions hereof shall be held invalid in any circumstances, such invalidity shall not affect any other provisions or circumstances. This act shall be construed in all respects so as to meet all constitutional requirements. In carrying out the purposes and provisions of this act, all steps shall be taken which are necessary to meet constitutional requirements, whether or not required by statute.

Approved September 18, 1985.

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**Chapter 296. AN ACT AUTHORIZING THE TOWN OF MEDFIELD TO APPROPRIATE AND PAY A CERTAIN SUM OF MONEY TO JOSEPH ERSKINE.**

Be it enacted, etc., as follows:

The town of Medfield is hereby authorized to appropriate, and after such appropriation, the treasurer of said town is hereby authorized to pay, the sum of seven hundred thirty-two dollars and fifteen cents to Joseph Erskine as compensation for loss of wages resulting from an injury received in performance of his duties as inspector of wires for said town.

Approved September 18, 1985.

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**Chapter 297. AN ACT RELATIVE TO CERTIFICATES OF TITLE IN MORTGAGE TRANSACTIONS.**

Be it enacted, etc., as follows:

Section 70 of chapter 93 of the General Laws is hereby amended by



**ACTS, 1985. – Chaps. 298, 299.**

striking out the second paragraph, as appearing in the 1984 Official Edition, and inserting in place thereof the following paragraph:–

For the purposes of this section, said certification shall include a title examination which covers a period of at least fifty years with the earliest instrument being a warranty or quitclaim deed which on its face does not suggest a defect in said title; provided, however, that in the case of registered land, it shall be sufficient to start the said examination with the present owner's certificate of title issued by the land court, except that bankruptcy indices and federal and state liens shall be examined. The term record title, as used herein, shall mean the records of the registry of deeds or registry district in which the mortgaged premises lie and relevant records of registries of probate.

Approved September 19, 1985.

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**Chapter 298. AN ACT RELATIVE TO A PATIENT'S RIGHT TO CERTAIN INFORMATION PRIOR TO TREATMENT BY CERTAIN PHYSICIANS.**

Be it enacted, etc., as follows:

**SECTION 1.** Chapter 112 of the General Laws is hereby amended by inserting after section 12X the following section:–

Section 12Y. Each physician licensed pursuant to sections two and two A, each podiatrist licensed pursuant to section sixteen and each chiropractor licensed pursuant to section ninety-one who treats medicare-eligible individuals shall post, in a conspicuous place, his policy regarding medicare assignment and shall inform all eligible persons of his policy regarding medicare assignment prior to the delivery of care and services.

**SECTION 2.** Section 3 of chapter 176B of the General Laws is hereby amended by adding the following paragraph:–

Any medical service corporation which contracts with any agency of the United States of America to provide benefits under Title XVIII of the Social Security Act shall require that a practitioner who participates in said program shall post, in a conspicuous place, his policy regarding the acceptance of medicare assignment, and also require that said practitioner shall inform all eligible persons of his policy regarding medicare assignment prior to the delivery of care and services.

Approved September 19, 1985.

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**Chapter 299. AN ACT AUTHORIZING THE CITY OF NEW BEDFORD, THE TOWN OF DARTMOUTH AND THE GREATER NEW BEDFORD REGIONAL REFUSE MANAGEMENT DISTRICT TO ENTER INTO A CONTRACT FOR THE SUPPLY OF WATER TO SAID TOWN FOR A TERM TO**



ACTS, 1985. – Chap. 300.

EXCEED TWENTY YEARS.

Be it enacted, etc., as follows:

Notwithstanding the provision of section four of chapter forty of the General Laws or any other general or special law to the contrary, the town of Dartmouth, acting by and through its department of public works, the city of New Bedford acting by and through its water board, and the Greater New Bedford Regional Refuse Management District, acting by and through its district committee, may enter into a contract for a term in excess of twenty years requiring said city of New Bedford to supply water to the town of Dartmouth in the event of contamination of said town's water supplies by landfill activities of said district, and may provide for payment by said district of a portion of the charges for such water.

Approved September 19, 1985.

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**Chapter 300. AN ACT INCREASING THE TIME ALLOWED FOR FILING APPLICATION FOR CERTAIN LOCAL TAX EXEMPTIONS AND RELATED MATTERS.**

Be it enacted, etc., as follows:

**SECTION 1.** Section forty-nine of chapter fifty-nine of the General Laws is hereby repealed.

**SECTION 2.** Section 59 of said chapter 59, as appearing in the 1984 Official Edition, is hereby amended by striking out the third paragraph and inserting in place thereof the following paragraph:—

An application for exemption under clause Seventeenth, Seventeenth C, Twenty-second, Twenty-second A, Twenty-second B, Twenty-second C, Twenty-second D, Twenty-second E, Thirty-seventh, Thirty-seventh A, Forty-first or Forty-first B of section five may be made on or before December fifteenth of the year to which the tax relates, or if the bill or notice is first sent after September fifteenth of such year, within three months after the bill or notice is so sent.

**SECTION 3.** Section eighty-four of said chapter fifty-nine is hereby repealed.

**SECTION 4.** Said chapter 59 is hereby further amended by striking out section 94, as appearing in the 1984 Official Edition, and inserting in place thereof the following section:—

Section 94. An assessor who neglects to comply with section forty-six shall be punished by a fine of not more than two hundred dollars.

**SECTION 5.** Section 69 of chapter 62C of the General Laws, as so appearing, is hereby amended by striking out, in line 4, the word



**ACTS, 1985. – Chaps. 301, 302, 303.**

"forty-nine".

**SECTION 6.** Sections one, three, four and five of this act shall apply to assessors' valuation books required to be filed with the commissioner of revenue in nineteen hundred and eighty-five and thereafter. Section two shall apply to taxes levied for fiscal years commencing on or after July first, nineteen hundred and eighty-five.

Approved September 19, 1985.

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**Chapter 301. AN ACT EXEMPTING THE POSITION OF TAX COLLECTOR IN THE CITY OF BROCKTON FROM THE PROVISIONS OF THE CIVIL SERVICE LAW.**

Be it enacted, etc., as follows:

**SECTION 1.** The position of tax collector in the city of Brockton shall not be subject to the provisions of chapter thirty-one of the General Laws, and shall be appointed by the mayor, subject to confirmation by the city council, for a term of three years.

**SECTION 2.** The provisions of section one shall not impair the civil service status of any person holding said position of tax collector in the city of Brockton on the effective date of this act.

Approved September 19, 1985.

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**Chapter 302. AN ACT EXEMPTING THE POSITION OF TOWN HALL CUSTODIAN IN THE TOWN OF DEDHAM FROM THE PROVISIONS OF THE CIVIL SERVICE LAW.**

Be it enacted, etc., as follows:

**SECTION 1.** The position of town hall custodian in the town of Dedham shall be exempt from the provisions of chapter thirty-one of the General Laws.

**SECTION 2.** The provisions of section one shall not impair the civil service status of any person holding the position of town hall custodian in the town of Dedham on the effective date of this act.

Approved September 19, 1985.

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**Chapter 303. AN ACT RELATIVE TO THE MARTHA'S VINEYARD REFUSE DISPOSAL AND RESOURCE RECOVERY DISTRICT.**



**ACTS, 1985. – Chap. 303.**

Be it enacted, etc., as follows:

**SECTION 1.** The Martha's Vineyard Refuse Disposal and Resource Recovery District, consisting of the towns of Chilmark, Edgartown, Gay Head, Oak Bluffs, Tisbury and West Tisbury is hereby constituted and continued as a body politic and corporate known as the Martha's Vineyard Refuse Disposal and Resource Recovery District under the provisions of sections forty-four A to forty-four K, inclusive, of chapter forty of the General Laws and the provisions of the agreement dated January fifth, nineteen hundred and eighty-three relating thereto, notwithstanding any failure of any such town to have complied in full with all of the requirements of said chapter forty with respect to the adoption, approval, execution or delivery of said agreement.

**SECTION 2.** The Martha's Vineyard Refuse Disposal and Resource Recovery District shall be subject to the provisions of section twenty A of chapter fifty-nine of the General Laws, except that the limitation therein may be exceeded by a two-thirds vote of the district's governing board followed by approval by a two-thirds vote by the boards of selectmen in at least four of the member towns of said district. Each such member town's apportioned share of principal and interest on bonds, notes or certificates of indebtedness issued by the Martha's Vineyard Refuse Disposal and Resource Recovery District shall be exempt from the provisions of section twenty-one C of said chapter fifty-nine.

**SECTION 3.** The Martha's Vineyard Refuse Disposal and Resource Recovery District may, in order to perform its functions:

(i) enter into any long-term lease; provided, however, that the purpose and maximum period of such lease shall have been approved by the member towns in the manner provided with respect to bonds and notes by the said agreement; (ii) enter into any service agreement, including a service agreement under the provisions of subsection (g) of section twenty-one of chapter forty D of the General Laws with any party such that said party shall be obligated to provide a facility for solid waste disposal or resource recovery, or both, or to provide solid waste disposal services; (iii) establish a system of user fees based on actual, projected, approximate or estimated use of the facility or services provided by it or on such other basis as will equitably allocate the cost of the facilities or service among the users or categories of users thereof provided that the collection of user fees shall be taken into account in the preparation of the annual district budget and shall reduce proportionally the sums apportioned to the member towns; and (iv) create and maintain from bond proceeds such reserve, replacement, maintenance and improvement funds in connection with any capital project funded by bonds as it may deem necessary and prudent to enable it to carry out its functions in an orderly fashion, provided, however, that the aggregate of such funds for any one project shall not exceed ten per cent of the principal amount of bonds issued for such project.

**SECTION 4.** Without the need for further district action or approval



**ACTS, 1985. – Chaps. 304, 305.**

by the member towns thereof, the Martha's Vineyard Refuse Disposal and Resource Recovery District is hereby authorized to issue one million, five hundred thousand dollars in principal amount of bonds for the purposes stated in the vote of the regional district committee adopted on April fifth, nineteen hundred and eighty-four, including, but not limited to, reimbursing the district for all funds previously expended in connection with the planning and implementation of the facility described, the amount of any such reimbursement to be taken into account in the preparation of the next annual district budget after its receipt and the sums apportioned to the member towns to be reduced proportionally.

**SECTION 5.** This act shall take effect upon its passage.

Approved September 23, 1985.

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**Chapter 304. AN ACT AUTHORIZING THE TOWN OF HANOVER TO ESTABLISH A GUARANTEED DEPOSIT FUND.**

Be it enacted, etc., as follows:

Notwithstanding the provisions of section fifty-three of chapter forty-four of the General Laws, the town of Hanover may establish in the town treasury a guaranteed deposit fund which the town treasurer of said town shall keep separate and apart from all other monies and in which fund shall be deposited any design review fees collected by the conservation commission, under the authority of the town's wetlands protection by-law, for plans filed with said commission requiring design review costs. The principal and interest thereon may be expended at the direction of the conservation commission by said treasurer to pay for all reasonable design review costs incurred by said town in processing said applications, including but not limited to, any professional consulting services. Any such application fees paid in excess of the cost incurred by the town for design review shall be returned to the applicant by said treasurer.

Approved September 23, 1985.

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**Chapter 305. AN ACT AUTHORIZING THE COMMISSIONER OF LABOR AND INDUSTRIES TO SUSPEND THE OPERATION OF CERTAIN LABOR LAWS.**

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately authorize the commissioner of labor and industries to suspend the operation of certain labor laws, 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:



**ACTS, 1985. – Chaps. 306, 307.**

**SECTION 1.** The commissioner of labor and industries is hereby authorized, in conformity with Article XX of Part the First of the Constitution of the Commonwealth, to suspend until July first, nineteen hundred and ninety the application or operation of any provision of chapter one hundred and forty-nine of the General Laws or any rule or regulation made thereunder, regulating, limiting or prohibiting the employment of persons, or of minors over the age of sixteen, or both. The commissioner shall exercise this authority when he finds, after opportunity has been given to interested parties to be heard, that an emergency exists or that conditions of hardship in an industry, branch of an industry, or individual establishment require or justify the suspension of any provision of such laws, rules or regulations. Suspensions issued by the commissioner shall prescribe, and may be either granted or limited to, one or more particular departments, operations or occupations within an establishment or a particular industry or branch of an industry. The commissioner shall appoint industry advisory committees, on which employers and employees shall be equally represented, to consult and advise with him in matters relating to the suspension authorized by this act.

**SECTION 2.** This act shall take effect as of July first, nineteen hundred and eighty-five.

Approved September 26, 1985.

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**Chapter 306. AN ACT INCREASING THE MAXIMUM FINE FOR CERTAIN CRIMES OF LARCENY.**

Be it enacted, etc., as follows:

**SECTION 1.** Paragraph (1) of section 30 of chapter 266 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out, in line 10, the words "six hundred" and inserting in place thereof the words:– twenty-five thousand.

**SECTION 2.** Paragraph (4) of said section 30 of said chapter 266, as so appearing, is hereby amended by striking out, in line 59, the words "six hundred" and inserting in place thereof the words:– twenty-five thousand.

Approved September 26, 1985.

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**Chapter 307. AN ACT INCREASING THE SALARY OF THE DIRECTOR OF THE OFFICE OF HANDICAPPED AFFAIRS.**

Be it enacted, etc., as follows:



**ACTS, 1985. – Chap. 308.**

**SECTION 1.** Section 185 of chapter 6 of the General Laws, as appearing in section 289 of chapter 351 of the acts of 1981, is hereby amended by striking out the fourth sentence and inserting in place thereof the following sentence:– The director shall receive a salary of no less than thirty-nine thousand dollars and shall devote his full time during business hours to the duties of the office.

**SECTION 2.** This act shall take effect as of July first, nineteen hundred and eighty-four.

Approved September 26, 1985.

EMERGENCY LETTER: September 26, 1985 @ 4:39 P.M.

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**Chapter 308. AN ACT AUTHORIZING CITIES AND TOWNS TO ASSUME RESPONSIBILITY AND LIABILITY FOR DOG LICENSING, CONTROL AND REGULATION.**

Be it enacted, etc., as follows:

Chapter 140 of the General Laws is hereby amended by inserting after section 147 the following section:–

Section 147A. Any city or town which accepts the provisions of this section is hereby empowered to enact by-laws and ordinances relative to the regulation of dogs. Except as hereinafter provided in clauses (a), (b) and (c), and notwithstanding any contrary provision of sections one hundred and thirty-seven to one hundred and seventy-four D, inclusive, relating to the regulation of dogs, such by-laws and ordinances may relate to, but not be limited to dog licensing, establishing dog fees, disposition of fees, appointment of dog officers, kennel licensing and regulations, procedures for the investigation of and reimbursement for damage caused by dogs, restraining of dogs and establishing penalties for a breach thereof. No such by-law or ordinance shall be inconsistent with the provisions of this chapter relating to (a) the turning over or sale of animals to any business or institution licensed or registered as a research facility or animal dealer, as provided in section one hundred and fifty-one; (b) the minimum confinement period of dogs as provided in section one hundred and fifty-one A; and (c) the methods of execution, as provided in said section one hundred and fifty-one A.

In any city or town which accepts this section, all money received from licenses or recovered as fines under any by-law or ordinance enacted pursuant to the provisions of this section, shall be paid into the treasury of said town or city and shall not thereafter be paid over by the town or city treasurer to the county in which said town or city is located.

Any and all functions relating to the regulation of dogs pursuant to section one hundred and thirty-seven to one hundred and seventy-four D, inclusive, which would otherwise be performed by the county, by the county commissioner or otherwise, shall not be performed by the county on behalf of any city or town which is not a member of the county dog fund.

Any and all costs which would otherwise be paid out of the county dog



**ACTS, 1985. – Chaps. 309, 310, 311.**

fund shall not be paid by the county to any city or town which is not a member of the county dog fund, or to any city or town which accepts this section and such cities and towns shall thereupon be responsible for all costs and expenses relating to the regulation of dogs.

Approved September 26, 1985.

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**Chapter 309. AN ACT EXEMPTING THE POSITION OF PLUMBING INSPECTOR IN THE TOWN OF MATTAPOISETT FROM THE PROVISIONS OF THE CIVIL SERVICE LAW.**

Be it enacted, etc., as follows:

**SECTION 1.** The position of plumbing inspector in the town of Mattapoisett shall be exempt from the provisions of chapter thirty-one of the General Laws.

**SECTION 2.** The provisions of section one shall not impair the civil service status of any person holding the position of plumbing inspector in the town of Mattapoisett on the effective date of this act.

Approved September 26, 1985.

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**Chapter 310. AN ACT AUTHORIZING THE REIMBURSEMENT FOR LOSS OF PAY FOR CERTAIN CALL FIREFIGHTERS IN THE TOWN OF DARTMOUTH.**

Be it enacted, etc., as follows:

Notwithstanding the provisions of section one hundred of chapter forty-one of the General Laws, the Dartmouth Fire Districts One, Two and Three are hereby authorized to indemnify their call firefighters to an amount not exceeding thirty thousand dollars per annum for loss of pay as a result of said accident or hazard in addition to indemnifying them against all of the charges and expenses listed in said section. The amount of indemnification for call firefighters of each district shall be determined by a vote of the district meeting.

Approved September 26, 1985.

EMERGENCY LETTER: October 4, 1985 @ 2:40 P.M.

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**Chapter 311. AN ACT RELATIVE TO VENUE OF SMALL CLAIMS ACTIONS.**

Be it enacted, etc., as follows:

Section 21 of chapter 218 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out the third



**ACTS, 1985. – Chap. 312.**

sentence and inserting in place thereof the following sentence:– Actions under this section and sections twenty-two to twenty-five, inclusive, shall be brought, at the option of the plaintiff, in the judicial district where either the plaintiff or the defendant lives or has his usual place of business or employment; provided, however, that actions brought against a landlord or lessor of land or tenements rented for residential purposes, and arising out of such property or rental, may also be brought in the judicial district in which the property is located; provided, further, that each division within the district court department shall have civil jurisdiction of such actions commenced in such division which should have been brought in some other division, to the extent that the action may be heard and disposed of by the court in the division in which it was begun if the venue of said action is waived or, if venue requirements are not waived, the court may, on motion of any party, order the action, with all papers relating thereto, transferred for hearing and disposition to the division in which the action should have been commenced.

Approved September 26, 1985.

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**Chapter 312. AN ACT PROVIDING FOR A CERTAIN PENALTY FOR THE BREAKING AND ENTERING OF A VEHICLE.**

Be it enacted, etc., as follows:

**SECTION 1.** Chapter 266 of the General Laws is hereby amended by striking out section 16, as appearing in the 1984 Official Edition, and inserting in place thereof the following section:–

Section 16. Whoever, in the night time, breaks and enters a building, ship, vessel or vehicle, with intent to commit a felony, or who attempts to or does break, burn, blow up or otherwise injures or destroys a safe, vault or other depository of money, bonds or other valuables in any building, vehicle or place, with intent to commit a larceny or felony, whether he succeeds or fails in the perpetration of such larceny or felony, shall be punished by imprisonment in the state prison for not more than twenty years or in a jail or house of correction for not more than two and one-half years.

**SECTION 2.** Said chapter 266 is hereby further amended by striking out section 17, as so appearing, and inserting in place thereof the following section:–

Section 17. Whoever, in the night time, enters without breaking, or breaks and enters in the day time, a building, ship, vessel, or vehicle, with intent to commit a felony, the owner or any other person lawfully therein being put in fear, shall be punished by imprisonment in the state prison for not more than ten years.

Approved September 26, 1985.



**ACTS, 1985. – Chaps. 313, 314**

**Chapter 313. AN ACT FURTHER REGULATING THE SELECTION OF JURORS IN THE COMMONWEALTH.**

Be it enacted, etc., as follows:

Chapter 234 of the General Laws is hereby amended by striking out section 27, as appearing in the 1984 Official Edition, and inserting in place thereof the following section:–

Section 27. If, by challenge or otherwise, a sufficient number of jurors duly drawn and summoned cannot be obtained for the trial of a case, the court shall cause jurors to be returned from the bystanders or from the county at large, to complete the panel, if there are on the jury not less than seven of the jurors who were originally drawn and summoned as before provided.

Before causing additional jurors to be returned for service the jury pool officer shall file an affidavit with the court stating that more than the usual number of jurors are required on the case and that the jury pool has been exhausted. The judge sitting on the case shall make a finding as to the accuracy of said affidavit prior to the return of additional jurors.

The jurors from the bystanders shall be returned by the sheriff or his deputy or by a disinterested person appointed therefor by the court, and shall be such as are qualified and liable to be drawn as jurors.

Approved September 26, 1985.

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**Chapter 314. AN ACT FURTHER DEFINING THE CONCURRENT APPELLATE JURISDICTION OF THE APPEALS COURT AND THE SUPREME JUDICIAL COURT.**

Be it enacted, etc., as follows:

**SECTION 1.** Section 13 of chapter 58A of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out, in lines 13, 26, 44 and in lines 48 and 49, the words "supreme judicial" and inserting in place thereof, in each instance, the following word:– appeals.

**SECTION 2.** Section 39I of chapter 119 of the General Laws, as so appearing, is hereby amended by adding the following paragraph:–

Review may be had in the appeals court in the same manner as is provided for trials of civil cases held in the superior court department.

**SECTION 3.** Section 42 of chapter 151A of the General Laws, as so appearing, is hereby amended by striking out, in line 34, the words "supreme judicial" and inserting in place thereof the following word:– appeals.

**SECTION 4.** Section 10 of chapter 211A of the General Laws, as so appearing, is hereby amended by striking out the first paragraph and



**ACTS, 1985. – Chap. 314.**

inserting in place thereof the following paragraph:–

Subject to such further appellate review by the supreme judicial court as may be permitted pursuant to section eleven or otherwise, the appeals court shall have concurrent appellate jurisdiction with the supreme judicial court, to the extent review is otherwise allowable, with respect to a determination made in the appellate tax board and in the superior court department, the housing court department, the land court department, the probate and family court department, the Boston municipal court department in jury session, the Boston municipal court department appellate division, the juvenile court department, the district court department in jury session, and the district court department appellate divisions, except in review of convictions for first degree murder. A report from any such department of the trial court of any case, in whole or in part, or any question of law arising therein shall be deemed to be within the concurrent appellate jurisdiction of the supreme judicial court and the appeals court.

**SECTION 5.** The second paragraph of said section 10 of said chapter 211A, as so appearing, is hereby amended by striking out the introductory paragraph and inserting in place thereof the following paragraph:–

Without regard to whether review is by appeal, report or otherwise, appellate review of decisions made in the appellate tax board and in the superior court department, the housing court department, the land court department, the probate and family court department, the Boston municipal court department and the appellate division thereof, the juvenile court department, and the district court department, and the appellate divisions thereof, if within the jurisdiction of the appeals court, shall be in the first instance by the appeals court except in the following cases in which appellate review shall be directly by the supreme judicial court without the necessity of any prior hearing or decision by the appeals court on the merits of the issues sought to be reviewed:.

**SECTION 6.** Section 19A of chapter 218 of the General Laws, as so appearing, is hereby amended by striking out, in line 13, the words "supreme judicial" and inserting in place thereof the following word:– appeals.

**SECTION 7.** The second paragraph of section 19B of said chapter 218, as so appearing, is hereby amended by striking out, in line 21, the words "supreme judicial" and inserting in place thereof the following word:– appeals.

**SECTION 8.** Section 109 of chapter 231 of the General Laws, as so appearing, is hereby amended by striking out the first and second sentences and inserting in place thereof the following sentence:– An appeal to the appeals court shall lie from the final decision of the appellate division of any division of the district court department including appeals taken hereunder from the appellate division of the



**ACTS, 1985. – Chaps. 315, 316.**

Boston municipal court department.

**SECTION 9.** Said section 109 of said chapter 231, as so appearing, is hereby further amended by striking out, in lines 14 and 15, the words "supreme judicial" and inserting in place thereof the following word:— appeals.

**SECTION 10.** This act shall take effect on January first, nineteen hundred and eighty-six and shall apply to all proceedings, determinations, orders, and judgments entered on or after that date in any department of the trial court and in the appellate tax board.

Approved September 26, 1985.

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**Chapter 315. AN ACT AUTHORIZING THE APPOINTMENT OF GUARDIANS FOR AUTISTIC CHILDREN.**

Be it enacted, etc., as follows:

Chapter 201 of the General Laws is hereby amended by striking out section 34, as appearing in the 1984 Official Edition, and inserting in place thereof the following section:—

Section 34. If, under the terms of a written instrument or otherwise, a minor, a mentally retarded person, an autistic person, or person under disability, or a person not ascertained or not in being, may be or may become interested in any property real or personal, or in the enforcement or defense of any legal rights, the court in which any action, petition or proceeding of any kind relative to or affecting any such estate or legal rights is pending may, upon the representation of any party thereto, or of any person interested, appoint a suitable person to appear and act therein as guardian ad litem or next friend of such minor, mentally retarded person, autistic person, or person under disability or not ascertained or not in being; and a judgement, order or decree in such proceedings, made after such appointment, should be conclusive upon all persons for whom such guardian ad litem or next friend was appointed.

Approved September 26, 1985.

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**Chapter 316. AN ACT FURTHER REGULATING THE ADOPTION OF CHILDREN BY CERTAIN PERSONS.**

Be it enacted, etc., as follows:

Section 11A of chapter 210 of the General Laws is hereby amended by striking out the first sentence, as appearing in the 1984 Official Edition, and inserting in place thereof the following sentence:— Any person or entity other than a duly authorized agent or employee of the department of social services or a child care or placement agency licensed under the provisions of chapter twenty-eight A, who causes to be published in the



**ACTS, 1985. – Chaps. 317, 318.**

commonwealth an advertisement or notice of children offered or wanted for adoption, or in any way offers to place, locate or dispose of children offered or wanted for adoption, or who holds himself out in any way as being able to place, locate or dispose of children for adoption shall be punished by a fine of not less than one hundred nor more than one thousand dollars.

Approved September 26, 1985.

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**Chapter 317. AN ACT INCREASING MINIMUM DEPOSIT FOR SAVINGS ACCOUNTS EARNING INTEREST.**

Be it enacted, etc., as follows:

The second paragraph of section 20A of chapter 170 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out, in line 6, the word "ten" and inserting in place thereof the following word:— twenty-five.

Approved September 26, 1985.

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**Chapter 318. AN ACT AUTHORIZING THE TOWN OF EASTHAM TO RECALL ELECTED OFFICIALS.**

Be it enacted, etc., as follows:

**SECTION 1.** Any holder of an elective office in the town of Eastham may be recalled, and removed therefrom by the qualified voters of said town as herein provided.

**SECTION 2.** Any qualified voter of the town of Eastham may file with the town clerk of said town an affidavit containing the name of the officer sought to be recalled and a statement of the grounds of recall. Said town clerk shall thereupon deliver to the voter making such affidavit a sufficient number of copies of petition blanks demanding such recall, printed forms of which he shall keep on hand. The blanks shall be issued by the town clerk with his signature and official seal attached thereto; they shall be dated and addressed to the selectmen of said town, shall contain the name of the person to whom issued, the number of blanks so issued, the name of the person sought to be recalled, the grounds of recall as stated in said affidavit, and shall demand the election of a successor to such office. A copy of the petition shall be entered in a record book to be kept in the office of the town clerk. Said recall petition shall be returned and filed with said town clerk within twenty days after the filing of the affidavit. Said petition before being returned and filed shall be signed by twenty per cent of the qualified voters in said town, and to every signature shall be added the place of residence of the signer, giving the street and number. The said recall



**ACTS, 1985. – Chap. 318.**

petition shall be submitted, at or before five o'clock in the afternoon of the Monday preceding the day on which it must be filed, to the registrars of voters in said town, and the registrars shall forthwith certify thereon the number of signatures which are names of voters in said town.

**SECTION 3.** If the petition shall be found and certified by said town clerk to be sufficient, he shall submit the same with his certificate to said selectmen without delay and said selectmen shall forthwith give written notice to said officer of the receipt of said certificate and shall, if the officer sought to removed does not resign within five days thereafter, thereupon order an election to be held on a date fixed by them not less than seventy days after the date of the town clerk's certification that a sufficient petition is filed; provided, however, that if any other town election is to occur within sixty days after the date of said certificate, said selectmen may, in their discretion, postpone the holding of said recall election to the date of such other election. If a vacancy occurs in said office after a recall election has been so ordered, the election shall nevertheless proceed as in this section provided.

**SECTION 4.** Any officer sought to be recalled may be a candidate to succeed himself, and, unless he requests otherwise in writing, said town clerk shall place his name on the official ballot without nomination. The nomination of other candidates, the publication of the warrant for the recall election, and the conduct of the same, shall all be in accordance with the provisions of law relating to elections, unless otherwise provided in this act. A majority of those voting at the recall election shall be sufficient to recall such elected officer.

**SECTION 5.** The incumbent shall continue to perform the duties of his office until the recall election. If then re-elected, he shall continue in office for the remainder of his unexpired term, subject to recall as before, except as provided in section seven. If not re-elected in the recall election, he shall be deemed removed upon the qualification of his successor, who shall hold office during the unexpired term. If the successor fails to qualify within five days after receiving notification of his election, the incumbent shall thereupon be deemed removed and the office vacant.

**SECTION 6.** Ballots used in a recall election in said town shall submit the following propositions in the order indicated:

For the recall of (name of officer).

Against the recall of (name of officer).

Immediately at the right of each proposition there shall be a square in which the voter by making a cross mark (X) may vote for either of such propositions. Under the proposition shall appear the word "Candidates" and the direction "Vote for One" and beneath this the names of candidates nominated as hereinbefore provided. In case of machine voting, or punch card balloting, or other forms of balloting, appropriate provision shall be made to allow the same intent of the voter.

If a majority of the votes cast on the recall question is in the



**ACTS, 1985. – Chaps. 319, 320.**

affirmative, then the candidate that received the highest number of votes in the special election to fill the vacancy shall be elected. If a majority of the votes on the question is in the negative, the ballots for candidates to fill the potential vacancy need not be counted, or take any action relative thereto.

**SECTION 7.** No recall petition shall be filed against an officer of said town within six months after he takes office, nor in the case of an officer subjected to a recall election and not removed thereby, until at least six months after that election.

**SECTION 8.** No person who has been recalled from an office in said town, or who has resigned from office while recall proceedings were pending against him, shall be appointed to any town office within two years after such removal by recall or resignation.

Approved September 26, 1985.

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**Chapter 319. AN ACT RELATIVE TO CREDIT CARD FRAUD.**

Be it enacted, etc., as follows:

Section 1 of chapter 223 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:– A transitory action shall, except as otherwise provided, if any one of the parties thereto lives in the commonwealth, be brought in the county where one of them lives or has his usual place of business; provided, however, that if the instrument of the crime is a forged check, credit card, or other negotiable instrument, intending on its face to be presented for payment at another place in another county and the value of the money, goods or services involved is in excess of one hundred dollars, the action may be brought in the county where the instrument was presented or at the place where the instrument was presented for payment, if such place of payment is located in the commonwealth; and provided, further, that except in actions upon negotiable instruments if the plaintiff is an assignee of the cause of action, it shall be brought only in a county where it might have been brought by the assignor thereof.

Approved September 26, 1985.

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**Chapter 320. AN ACT INCREASING THE PENALTY FOR ILLEGAL USE OF A BOMB.**

Be it enacted, etc., as follows:

Section 102 of chapter 266 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out, in line 11, the word "five" and inserting in place thereof the word:– twenty-five.

Approved September 26, 1985.



**ACTS, 1985. – Chaps. 321, 322, 323.**

**Chapter 321. AN ACT AUTHORIZING THE DOMESTIC INSURANCE COMPANIES TO INVEST IN CERTAIN OBLIGATIONS OF THE AFRICAN DEVELOPMENT BANK.**

Be it enacted, etc., as follows:

Section 63 of chapter 175 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out paragraph 3A and inserting in place thereof the following paragraph:–

3A. In bonds, notes or obligations issued, assumed or guaranteed by the International Bank for Reconstruction and Development, the Inter-American Development bank, the Asian Development bank or the African Development bank.

Approved September 26, 1985.

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**Chapter 322. AN ACT FURTHER EXTENDING CERTAIN IMMUNITY TO MUNICIPAL ARSON SQUADS.**

Be it enacted, etc., as follows:

Section 32 of chapter 148 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out the third paragraph and inserting in place thereof the following paragraph:–

In the absence of fraud, malice or criminal act, no insurance company, or person who furnished information on its behalf, or any duly licensed insurance agent or broker, or any employee of such agent or broker, through whom the policy was issued nor any member of the local municipal arson squad of the fire or police department shall be liable for damages in a civil action or subject to criminal prosecution for any conduct reasonably undertaken pursuant to the provisions of this section.

Approved September 26, 1985.

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**Chapter 323. AN ACT AUTHORIZING THE MAILING OF CERTAIN DOCUMENTS IN TORT OR CONTRACT ACTIONS BY CERTIFIED MAIL ONLY.**

Be it enacted, etc., as follows:

The first paragraph of section 79G of chapter 233 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:– In an action of tort or contract, or for consequential damages arising therefrom, an itemized bill for medical, dental or hospital services rendered to a person injured, subscribed and sworn to under the penalties of perjury, by the physician, dentist, optometrist, chiropractor, physical therapist or podiatrist, or authorized



**ACTS, 1985. – Chaps. 324, 325.**

agent of the hospital rendering such services, shall be admissible as evidence of the necessary, fair and reasonable charge for such services; provided, that said bill shall include only the date and place of each service rendered because of said injury and the charge therefor without reference to the injury itself or the history thereof; and provided, further that written notice of the intention to offer such a bill as such evidence, together with a copy thereof, has been given to the opposing party or parties, or to his or their attorneys, by mailing the same by certified mail not less than ten days before the trial, and that an affidavit of such notice is filed with the clerk of the court forthwith.

Approved September 26, 1985.

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**Chapter 324. AN ACT REQUIRING A NONBINDING QUESTION ON THE BALLOT REGARDING A NATIONAL HEALTH PROGRAM.**

Be it enacted, etc., as follows:

For the purpose of ascertaining the will of the voters relative to a national health care program, the secretary of state shall cause to be placed on the official ballot to be used at the biennial state election in the year nineteen hundred and eighty-six the following question:—

"Shall the commonwealth of Massachusetts urge the United States Congress to enact a national health program which:—

provides high quality comprehensive personal health care including preventive, curative and occupational health services; is universal in coverage, community controlled, rationally organized, equitably financed, with no out-of-pocket charges, is sensitive to the particular health needs of all, and is efficient in containing its cost; and whose yearly expenditure does not exceed the proportion of the Gross National Product spent on health care in the immediately preceding fiscal year? This question is nonbinding".

Approved September 30, 1985.

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**Chapter 325. AN ACT PROVIDING FOR THE CONFIDENTIALITY OF COMMUNICATIONS MADE DURING CERTAIN MEDIATION OF DISPUTES.**

Be it enacted, etc., as follows:

Chapter 233 of the General Laws is hereby amended by inserting after section 23B the following section:—

Section 23C. All memoranda, and other work product prepared by a mediator and a mediator's case files shall be confidential and not subject to disclosure in any judicial or administrative proceeding involving any of the parties to any mediation to which such materials apply. Any



ACTS, 1985. – Chap. 326.

communication made in the course of and relating to the subject matter of any mediation and which is made in the presence of such mediator by any participant, mediator or other person shall be a confidential communication and not subject to disclosure in any judicial or administrative proceeding; provided, however, that the provisions of this section shall not apply to the mediation of labor disputes.

For the purposes of this section a "mediator" shall mean a person not a party to a dispute who enters into a written agreement with the parties to assist them in resolving their disputes and has completed at least thirty hours of training in mediation and who either has four years of professional experience as a mediator or is accountable to a dispute resolution organization which has been in existence for at least three years or one who has been appointed to mediate by a judicial or governmental body.

Approved October 1, 1985.

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**Chapter 326. AN ACT FURTHER REGULATING POLICE STATIONS, LOCKUPS, HOUSES OF DETENTION, JAILS, HOUSES OF CORRECTION, PRISONS AND REFORMATORIES.**

Be it enacted, etc., as follows:

**SECTION 1.** Chapter 111 of the General Laws is hereby amended by striking out section 20, as appearing in the 1984 Official Edition, and inserting in place thereof the following section:–

Section 20. The department shall, semiannually, inspect each correctional institution, as defined in section one of chapter one hundred and twenty-five, and shall, annually, inspect each lockup established pursuant to the provisions of section thirty-four of chapter forty or under the jurisdiction of the metropolitan district commission or the state police, and shall file a report of its findings and recommendations, with respect to the compliance of each such facility with the rules and regulations promulgated under the authority of section twenty-one, with the department of correction, the secretary of human services, the superintendent or administrator of each such facility and the general court.

**SECTION 2.** Said chapter 111 is hereby further amended by striking out section 21, as so appearing, and inserting in place thereof the following section:–

Section 21. The department shall make rules and regulations for police station houses, lockups, houses of detention, jails, houses of correction, prisons and reformatories, regarding the care and use of drinking cups and of dishes used for food, the care and use of bedding, appropriate clothing for detainees, the ventilation of the buildings, the minimum plumbing facilities for human habitation, and the general health and safety of the detainee. A copy of such rules as are applicable to station houses, houses of detention or lockups shall be sent by the said



**ACTS, 1985. – Chap. 327.**

department to the mayor of every city and to the selectmen of every town to which the rules apply; and a copy of such rules as are applicable to jails, houses of correction, prisons or reformatories shall be sent by the department to the proper authorities. Said officials shall enforce said rules.

The commissioner shall, following a public hearing, cause any facility failing to comply with the rules and regulations promulgated under the authority of this section to close until said facility is found to be in compliance and receives written notification from the department to that effect.

**SECTION 3.** Said chapter 111 is hereby further amended by striking out section 22, as so appearing, and inserting in place thereof the following section:–

Section 22. No station house, house of detention or lockup shall be built until the department has approved, in writing, the plans for the provisions for lighting, heating, ventilation and plumbing, the dimensions and form of construction and the location of the cells. The commissioner may cause any facility failing to comply with the provisions of this section to close until such time as the department has approved the plans of such facility and has inspected the facility in accordance with the provisions of section twenty.

**SECTION 4.** Chapter 465 of the acts of 1984 is hereby amended by striking out section 4, inserted by section 1 of chapter 3 of the acts of 1985, and inserting in place thereof the following section:–

Section 4. Section thirty-six B of chapter forty of the General Laws shall take effect on April thirtieth, nineteen hundred and eighty-six.

Approved October 2, 1985.

EMERGENCY LETTER: October 3, 1985 @ 12:44 P.M.

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**Chapter 327. AN ACT AUTHORIZING THE DIVISION OF CAPITAL PLANNING AND OPERATIONS TO CONVEY AN EASEMENT IN CERTAIN LAND UNDER THE CONTROL OF THE DEPARTMENT OF ENVIRONMENTAL MANAGEMENT IN THE TOWN OF BREWSTER TO THE VILLAGES DEVELOPMENT COMPANY.**

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately effect the conveyance of an easement by the division of capital planning and operations to The Villages Development Company, Inc. over land owned by the commonwealth in the town of Brewster, 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.** The deputy commissioner of capital planning and operations, acting for and on behalf of the commonwealth, in



ACTS, 1985. – Chap. 327.

consultation with the department of environmental management, is hereby authorized to grant to The Villages Development Company, Inc. its successors, assigns, and all others who may be lawfully entitled, a permanent easement approved as to form by the attorney general, on a parcel of land in the town of Brewster acquired by the department of environmental management in nineteen hundred and seventy-eight for conservation and recreation purposes. Said easement shall be for a roadway to be built over said parcel, to be used as ways are commonly used in said town, and for the laying out and maintenance of utility pipes, wires and conductors for the transmission of water, electricity, cable or telephone communications under the property of the commonwealth, described as follows:

Commencing at a point in common with the property lines of lands of the Commonwealth of Massachusetts, Stephen T. Hopkins and The Villages Development Company, being the southeast corner of the herein described parcel and the point of beginning;

Thence, S 49° 20' 48" W, 100 feet to a corner;

Thence, N 29° 34' 06" W, 84.07 feet to a corner;

Thence, N 49° 20' 48" E, 100 feet to a corner;

Thence, S 29° 34' 06" E, 84.07 feet to a point of beginning.

Containing 8250 square feet, more or less, and being shown on a plan of land entitled "Plan Showing a Portion of Cape Cod Rail Trail" prepared for: "The Villages Development Co." 1" = 40' dated 30 August, 1984, by Nickerson & Berger, Inc., Registered Land Surveyor and P.E., Orleans, Mass.

**SECTION 2.** In consideration for the conveyance provided for in section one, The Villages Development Company, Inc. shall pay fair market value for the easement as determined by an independent appraisal process, arranged and paid for by said company and approved by the department, or shall make an exchange in land of equal value. In further consideration, The Villages Development Company, Inc. shall construct the roadway referred to in said section one over the existing grade of the easement hereby authorized and shall construct an underpass to said roadway to allow unobstructed passage of bicycles, pedestrians and horses. Construction of the underpass shall be done according to plans and specifications approved by and prepared at no expense to the department of environmental management, and all costs, assessments, taxes or charges generated in connection with the construction, maintenance or use of the roadway or underpass shall be borne by The Villages Development Company, Inc. Further, construction of said roadway and underpass, as well as, installation of the pipes, wires and conductors provided for in said section one, shall be done so that material interruption in public use of the Cape Cod Rail Trail is avoided, wherefore The Villages Development Company, Inc. shall establish a schedule of construction to ensure such avoidance. The terms and conditions of the easements hereby authorized shall be set out in an instrument to be recorded in the registry of deeds in the county of Barnstable.

Approved October 4, 1985.



**ACTS, 1985. – Chaps. 328, 329, 330.**

**Chapter 328. AN ACT FURTHER REGULATING INSPECTION OF CERTAIN ANIMAL DEALERS.**

Be it enacted, etc., as follows:

Chapter 129 of the General Laws is hereby amended by striking out section 9, as appearing in the 1984 Official Edition, and inserting in place thereof the following section:–

Section 9. The agents of the Massachusetts Society for the Prevention of Cruelty to Animals and the agents of the Animal Rescue League of Boston may visit all places at which neat cattle, horses, mules, sheep, swine or other animals are delivered for transportation or are slaughtered, any pet shop where animals, birds, fish or reptiles are sold, or exhibited, or for sale, any guard dog business, any hearing dog business and any stable where horses are kept for hire or any animal dealer licensed with the United States Department of Agriculture, for the purpose of preventing violations of any law and of detecting and punishing the same and such agents shall have the power to prosecute any such violation coming to their notice. Any person who prevents, obstructs or interferes with any such agent in the performance of such duties shall be punished by a fine of not more than one hundred dollars or by imprisonment for not more than two months, or both.

Approved October 4, 1985.

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**Chapter 329. AN ACT AUTHORIZING THE SHOOTING OF CERTAIN WOUNDED MIGRATORY GAME BIRDS FROM A POWERED BOAT.**

Be it enacted, etc., as follows:

Section 65 of chapter 131 of the General Laws is hereby amended by striking out the second paragraph, as appearing in section 1 of chapter 802 of the acts of 1967, and inserting in place thereof the following paragraph:–

Nothing in this section shall prohibit the shooting of wounded or crippled migratory game birds from a powered craft in coastal waters seaward of the first upstream bridge, or the picking up or retrieving of dead or injured migratory game birds by means of a motorboat, sailboat or other water craft.

Approved October 4, 1985.

EMERGENCY LETTER: October 4, 1985 @ 2:40 P.M.

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**Chapter 330. AN ACT RELATIVE TO APPEALS OF CERTAIN ORDERS OF THE LABOR RELATIONS COMMISSION.**

Be it enacted, etc., as follows:



**ACTS, 1985. – Chaps. 331, 332.**

**SECTION 1.** Section 6 of chapter 150A of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out subsections (e) to (i), inclusive, and inserting in place thereof the following two subsections:–

(e) The commission may institute appropriate proceedings in the appeals court for enforcement of its final orders.

(f) Any party aggrieved by a final order of the commission may institute proceedings for judicial review in the appeals court within thirty days after receipt of said order.

The proceedings in the appeals court shall, insofar as applicable, be governed by the provisions of section fourteen of chapter thirty A.

**SECTION 2.** Section 5 of chapter 211A of the General Laws, as so appearing, is hereby amended by inserting after the word "to", in line 8, the following words:– section six or section six A of chapter one hundred and fifty A or.

**SECTION 3.** Chapter 212 of the General Laws is hereby amended by striking out section 30, as so appearing, and inserting in place thereof the following section:–

Section 30. In any action or proceeding involving or arising under section twenty B, twenty C or twenty-four of chapter one hundred and forty-nine, or section six or six A of chapter two hundred and fourteen, the chief justice shall designate three associate justices to hear and determine the action or proceeding. The decision of said court shall be subject to review in accordance with the provision of subsection (6) of section six of chapter two hundred and fourteen.

Approved October 4, 1985.

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**Chapter 331. AN ACT INCREASING THE TOTAL LIABILITY OF ANY ONE MEMBER ON FIRST MORTGAGES OF REAL ESTATE GRANTED BY CREDIT UNIONS.**

Be it enacted, etc., as follows:

Paragraph 8 of subsection (b) of subdivision (B) of section 24 of chapter 171 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out, in line 310, the words "one hundred and forty-five", and inserting in place thereof the following words:– two hundred.

Approved October 4, 1985.

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**Chapter 332. AN ACT RELATIVE TO THE QUALIFICATIONS OF CERTAIN PUBLIC COMMISSIONS.**

Be it enacted, etc., as follows:



**ACTS, 1985. – Chaps. 333, 334.**

Chapter 30 of the General Laws is hereby amended by striking out section 12, as appearing in the 1984 Official Edition, and inserting in place thereof the following section:–

Section 12. A person appointed to an office by the governor with or without the advice and consent of the council shall be notified of his appointment by the state secretary and his commission delivered to him upon qualification, and if he does not, within three months after the date of such appointment, take and subscribe the oaths of office, his appointment shall be void, and the secretary shall forthwith notify him thereof, and shall also certify said facts to the governor. This section shall be printed on every such commission.

Approved October 4, 1985.

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**Chapter 333. AN ACT RELATIVE TO CONTRACT NEGOTIATIONS.**

Be it enacted, etc., as follows:

The fourth paragraph of section 23B of chapter 39 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out clause (3) and inserting in place thereof the following clause:–

(3) To discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the governmental body, to conduct collective bargaining sessions or contract negotiations with nonunion personnel.

Approved October 4, 1985.

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**Chapter 334. AN ACT SETTING CRITERIA FOR THE PLACEMENT OF JUVENILES IN A SECURE DETENTION FACILITY.**

Be it enacted, etc., as follows:

Section 68 of chapter 119 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by inserting after the first paragraph the following two paragraphs:–

The court may recommend that a child who has attained the age of fourteen and who is committed to the care of the department shall be held in a secure detention facility if the court further determines that the child (a) is a fugitive from another jurisdiction on a delinquency petition; or (b) is charged with murder in the first or second degree; or (c) is charged with a crime of violence other than first or second degree murder which, if committed by an adult, would be punishable by imprisonment in the state prison; provided, however, that such child is already detained or on conditional release in conjunction with another delinquency proceeding, or has demonstrated a recent record of willful



**ACTS, 1985. – Chap. 335.**

failure to appear at juvenile court proceedings, or has demonstrated a recent record of violent conduct resulting in physical injury to others.

The court shall forward such recommendation and the reasons therefor, in writing, to the department. Such recommendation shall not be binding upon the department, but if the department chooses not to comply with such recommendation, the department shall inform the court within two business days.

Approved October 4, 1985.

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**Chapter 335. AN ACT RELATIVE TO THE PENALTIES FOR VIOLATIONS OF THE AIR POLLUTION CONTROL LAW.**

Be it enacted, etc., as follows:

**SECTION 1.** Chapter 111 of the General Laws is hereby amended by striking out section 142A, as appearing in the 1984 Official Edition, and inserting in place thereof the following section:–

Section 142A. The department of environmental quality engineering, in this section and in sections one hundred and forty-two B to one hundred and forty-two E, inclusive, hereinafter called the department, may from time to time, subject to the approval of the governor and council, after a hearing, adopt or amend regulations to prevent pollution or contamination of the atmosphere, effective upon filing with the state secretary as provided in section thirty-seven of chapter thirty, or at such later date as may be specified by the department. Such filing shall create a presumption, which may be rebutted, of compliance with the requirements of section two of chapter thirty A in the adoption or amendment of such regulations. Any municipality, corporation or person, which, after due notice, continues to violate any such regulation: (a) shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than five thousand dollars for the first offense and not more than ten thousand dollars for every succeeding offense, or (b) shall be subject to a civil penalty of not more than five thousand dollars for each such violation. Each day such violation continues shall be a separate offense. The civil penalty may be assessed in an action brought on behalf of the commonwealth in any court of competent jurisdiction.

**SECTION 2.** Section 142B of said chapter 111, as so appearing, is hereby amended by striking out the fifth paragraph and inserting in place thereof the following paragraph:–

The department shall have power to order any person, corporation, or political subdivision having control of an air contamination source, other than an employee, to stop or abate violation of any of the rules and regulations adopted pursuant to this section or of any of the rules and regulations adopted under the provisions of section one hundred and forty-two A and standards adopted under section one hundred and forty-two A and regulations adopted under section one hundred and



**ACTS, 1985. – Chap. 336.**

forty-two D. Said order shall inform the alleged violator in writing of his right to request, within ten days, a hearing under the provisions of chapter thirty A, but if no such request is made within ten days, said person, corporation, or political subdivision shall be deemed to have consented to the order. If said person, corporation, or political subdivision requests a hearing, the commissioner of environmental quality engineering, in this section and section one hundred and forty-two E called the commissioner, or his designee, shall within a reasonable time hold a hearing under the provisions of said chapter thirty A. The commissioner may reissue such order as is warranted and all orders, permits, or other determinations of the commissioner, except those consented thereto, shall be subject to judicial review as provided in chapter thirty A. Any person, corporation, or political subdivision violating any order of the department (a) shall be punished by a fine of not more than five thousand dollars for the first offense and not more than ten thousand dollars for every succeeding offense, or (b) shall be subject to a civil penalty not to exceed five thousand dollars for each such violation. The civil penalty may be assessed in an action brought on behalf of the commonwealth in any court of competent jurisdiction. For the purpose of this paragraph each subsequent day or part thereof of violation of such an order, whether such violation be continuous or intermittent, shall be construed as a separate and succeeding offense. The superior court sitting in equity, on petition of the department or any person authorized by the department shall have jurisdiction to enforce any such order and to restrain violations of any rules or regulations adopted pursuant to this section until such rules and regulations have been complied with.

Approved October 4, 1985.

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**Chapter 336. AN ACT RELATIVE TO INVESTMENT ADVISORS OF DOMESTIC LIFE INSURANCE COMPANIES.**

Be it enacted, etc., as follows:

The second paragraph of section 64 of chapter 175 of the General Laws, as most recently amended by section 2 of chapter 459 of the acts of 1969, is hereby further amended by striking out the second sentence and inserting in place thereof the following sentence:– The board of directors, or committee thereof, referred to above, may authorize by vote duly recorded in the books of the domestic company one or more officers of the domestic company or of any other company in the investment advisory business which controls, is controlled by, or is under common control with such domestic company to acquire or dispose of investments for such company between meetings of said board, or committee, under such restrictions as the board of directors, or committee, shall deem advisable, and a copy of such authorization shall be filed with the commissioner.

Approved October 4, 1985.



**ACTS, 1985. – Chap. 337.**

**Chapter 337. AN ACT PROVIDING FOR THE FILING AND RENEWAL OF CERTIFICATES STATING THE REAL NAME OF THE PERSON TRANSACTING BUSINESS.**

Be it enacted, etc., as follows:

**SECTION 1.** Chapter 110 of the General Laws is hereby amended by striking out section 5, as appearing in the 1984 Official Edition, and inserting in place thereof the following section:–

**Section 5.** Any person conducting business in the commonwealth under any title other than the real name of the person conducting the business, whether individually or as a partnership, shall file in the office of the clerk of every city or town where an office of any such person or partnership may be situated a certificate stating the full name and residence of each person conducting such business, the place, including street and number, where, and the title under which, it is conducted, and pay the fee as provided by clause (20) of section thirty-four of chapter two hundred and sixty-two. Such certificate shall be executed under oath by each person whose name appears therein as conducting such business and shall be signed by each such person in the presence of the city or town clerk or a person designated by him or in the presence of a person authorized to take oaths. The city or town clerk may request the person filing such certificate to produce evidence of his identity and, if such person does not, upon such request, produce evidence thereof satisfactory to such clerk, the clerk shall enter a notation of that fact on the face of the certificate. A person who has filed such a certificate shall, upon his discontinuing, retiring or withdrawing from such business or partnership, or in the case of a change of residence of such person or of the location where the business is conducted, file in the office of said clerk a statement under oath that he has discontinued, retired or withdrawn from such business or partnership or of such change of his residence or change of the location of such business, and pay the fee required by clause (21) of said section thirty-four. In the case of death of such a person, such statement may be filed by the executor or administrator of his estate. The clerk shall keep a suitable index of all certificates so filed with him which are currently in force and effect, setting forth the pertinent facts, including a reference to any statement of discontinuance, retirement or withdrawal from, or change of location of, such business, or change of residence of such person. A certificate issued in accordance with this section shall be in force and effect for four years from the date of issue and shall be renewed each four years thereafter so long as such business shall be conducted and shall lapse and be void unless so renewed. Copies of such certificates shall be available at the address at which such business is conducted and shall be furnished on request during regular business hours, to any person who has purchased goods or services from such business. Violations of this section shall be punished by a fine of not more than three hundred dollars for each month during which such violation continues.

**SECTION 2.** Such certificates in force and effect on the effective



**ACTS, 1985. – Chaps. 338, 339, 340.**

date of this act shall remain in effect until July first, nineteen hundred and eighty-seven and shall be renewed on or before July first, nineteen hundred and eighty-seven unless a statement of discontinuance, retirement or withdrawal from such business has been filed with the city or town clerk.

Approved October 4, 1985.

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**Chapter 338. AN ACT RELATIVE TO CERTAIN PLUMBERS AND GAS FITTERS.**

Be it enacted, etc., as follows:

Section 16 of chapter 142 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by inserting after the word "person", in line 10, the words:– so licensed.

Approved October 4, 1985.

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**Chapter 339. AN ACT FURTHER REGULATING CERTAIN SHELLFISH LICENSES.**

Be it enacted, etc., as follows:

Section 57 of chapter 130 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by inserting after the first paragraph the following paragraph:–

Any license issued under the provisions of this section shall, upon the death of the licensee, continue in full force and effect, subject to the same terms, conditions, and regulations imposed upon the original license, for the balance of the unexpired term, or one year whichever is longer, for the use of the members of the immediate family of the deceased licensee. For the purposes of this section, immediate family shall mean the spouse, son, daughter, mother, father, brother and sister of said deceased licensee.

Approved October 4, 1985.

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**Chapter 340. AN ACT RELATIVE TO USE OF FALSE IDENTIFICATION TO GAIN ENTRANCE TO DRINKING ESTABLISHMENTS.**

Be it enacted, etc., as follows:

The third paragraph of section 34B of chapter 138 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by inserting after the word "card", in line 37, the words:– or motor vehicle



**ACTS, 1985. – Chaps. 341, 342, 343.**

license.

Approved October 4, 1985.

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**Chapter 341. AN ACT FURTHER REGULATING PAYMENT AND PERIODIC ESTIMATES ON SUB-BIDS TO CONTRACTORS ON CONTRACTS FOR CERTAIN PUBLIC CONSTRUCTION PROJECTS.**

Be it enacted, etc., as follows:

The third paragraph of section 39K of chapter 30 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:— All periodic estimates shall contain a separate item for each filed subtrade and each sub-subtrade listed in sub-bid form as required by specifications and a column listing the amount paid to each subcontractor and sub-subcontractor as of the date the periodic estimate is filed.

Approved October 4, 1985.

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**Chapter 342. AN ACT PROVIDING FOR SERVICE OF A CAPIAS IN CONTEMPT ACTIONS BY SHERIFF, CONSTABLE OR OTHER PERSONS DESIGNATED BY COURT.**

Be it enacted, etc., as follows:

The second paragraph of section 34A of chapter 215 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by inserting after the word "sheriff", in line 10, the words:— , constable, or upon motion any person designated by the court to make such service.

Approved October 4, 1985.

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**Chapter 343. AN ACT RELATIVE TO THE REPORTING OF CERTAIN SEXUAL OFFENSES AGAINST CHILDREN TO THE DISTRICT ATTORNEY.**

Be it enacted, etc., as follows:

Clause (4) of section 51B of chapter 119 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out subclause (b) and inserting in place thereof the following subclause:—

(b) a child has been sexually assaulted, as set forth in sections thirteen B, thirteen H, twenty-two, twenty-two A, twenty-three, twenty-four, and twenty-four B of chapter two hundred and sixty-five or



**ACTS, 1985. – Chap. 344.**

section thirty-five A of chapter two hundred and seventy-two.

Approved October 4, 1985.

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**Chapter 344. AN ACT PROVIDING FOR DISTRICT COURT  
ADJUDICATIONS OF COMPETENCY AND MEDICAL  
TREATMENT, INCLUDING TREATMENT WITH  
ANTIPSYCHOTIC MEDICATIONS.**

Be it enacted, etc., as follows:

**SECTION 1.** Section 5 of chapter 123 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by inserting after the words "I.C.U.", in line 4, the words:- or for medical treatment including treatment with antipsychotic medication.

**SECTION 2.** Said chapter 123 is hereby further amended by inserting after section 8A the following section:-

Section 8B. (a) With respect to any patient who is the subject of a petition for a commitment or an order of commitment for care and treatment under the provisions of section seven, eight, fifteen, sixteen or eighteen, the superintendent of a facility or medical director of the Bridgewater state hospital may further petition the district court in whose jurisdiction the facility is located (i) to adjudicate the patient incapable of making informed decisions about proposed medical treatment, (ii) to authorize, by an adjudication of substituted judgment, treatment with antipsychotic medications, and (iii) to authorize according to the applicable legal standards such other medical treatment as may be necessary for the treatment of mental illness.

(b) A petition filed under this section shall be separate from any pending petition for commitment and shall not be heard or otherwise considered by the court unless the court has first issued an order of commitment on the pending petition for commitment.

(c) Whenever a court receives a petition filed under the provisions of this section, such court shall notify the person, and his nearest relative or guardian of the receipt of such petition and of the date a hearing on such petition is to be held. The hearing shall be commenced within fourteen days of the filing of the petition unless a delay is requested by the person or his counsel, provided that the commencement of such hearing shall not be delayed beyond the date of the hearing on the commitment petition if the petition was filed concurrently with a petition for commitment.

(d) After a hearing on the petition regarding antipsychotic medication treatment, the court shall not authorize medical treatment unless it (i) specifically finds that the person is incapable of making informed decisions concerning the proposed medical treatment (ii) upon application of the legal substituted judgment standard, specifically finds that the patient would accept such treatment if competent, and (iii) specifically approves and authorizes a written substituted judgment



**ACTS, 1985. – Chap. 344.**

treatment plan. The court may base its findings exclusively upon affidavits and other documentary evidence if it (i) determines, after careful inquiry and upon representations of counsel, that there are not contested issues of fact and (ii) includes in its findings the reasons that oral testimony was not required.

(e) The court may delegate to a guardian who has been duly appointed by a court of competent jurisdiction the authority to monitor the antipsychotic medication treatment process to ensure that an antipsychotic medication treatment plan is followed, provided such a guardian is readily available for such purpose. Approval of a treatment plan shall not be withheld, however, because such a guardian is not available to perform such monitoring. In such circumstances, the court shall monitor the treatment process to ensure that the treatment plan is followed.

(f) Any authorization for treatment that is ordered pursuant to the provisions of this section shall expire at the same time as the expiration of the order of commitment that was in effect when the authorization for treatment was ordered; provided that subsequent authorizations may be ordered and any party may at any time petition the court for modification of a medical treatment authorization that has been ordered pursuant to the standards and procedures established in this section.

(g) An adjudication of competency or incompetency with respect to treatment for mental illness by a court pursuant to this section shall be binding upon the probate court in any subsequent guardianship proceedings only with respect to matters which were the subject of the district court adjudication.

(h) Any privilege established by section one hundred and thirty-five of chapter one hundred and twelve or by section twenty B of chapter two hundred and thirty-three, relating to confidential communications, shall not prohibit the filing of reports or affidavits, or the giving of testimony, pursuant to this section, for the purpose of obtaining treatment of a mentally ill or mentally retarded person, provided that such person has been informed prior to making such communications that they may be used for such purpose and has waived the privilege.

**SECTION 3.** Said chapter 123 is hereby further amended by striking out section 9, as so appearing, and inserting in place thereof the following section:–

Section 9. (a) Matters of law arising in commitment hearings, antipsychotic medication hearings or incompetency for trial proceedings in a district court may be reviewed by the appellate division of the district courts in the same manner as in civil cases generally.

(b) Any person may make written application to a justice of the superior court at any time and in any county, stating that he believes or has reason to believe that a person named in such application is retained in a facility or the Bridgewater state hospital, or the I.C.U. who should no longer be so retained, or that a person named in such application is the subject of a medical treatment order issued by a district court pursuant to section eight B and should not be so treated, giving the names of all persons interested in his confinement or medical treatment



**ACTS, 1985. – Chap. 345.**

and requesting his discharge or other relief. The justice within seven days thereof shall order notice of the time and place for a hearing to be given to the superintendent or medical director or director of the I.C.U. and to such other persons as he considers proper; and such hearing shall be given promptly before a justice of the superior court in any county. The justice shall appoint an attorney to represent any applicant whom he finds to be indigent. The alleged mentally ill person may be brought before the justice at the hearing upon a writ of habeas corpus, upon a request approved by the justice. Pending the decision of the court such person may be retained in the custody of the superintendent or medical director or the director of the I.C.U. If the justice decides that the person is not mentally ill or that failure to retain the person in a facility or the Bridgewater state hospital would not create a likelihood of serious harm, or finds that the woman in the I.C.U. is not mentally ill; has not engaged in repeated and recent incidents of serious self-destructive behavior or assaultive behavior as an inpatient at a facility or an inmate of a place of detention; can be properly treated in any other facility licensed, operated or regulated by the department or a place of detention in the case of a woman under the sentence; and there is not a substantial likelihood that the woman's condition will continue to cause her to inflict serious harm upon herself or others, said person shall be discharged. If the justice decides that a patient at the Bridgewater state hospital does not require strict security, he shall be transferred to a facility. If the justice decides that a person who is the subject of a medical treatment order issued by a district court pursuant to section eight B should not be so treated, the justice shall issue an appropriate order modifying or vacating such order and, where such previous order is modified, the court shall monitor said modified order by means of a guardian or otherwise as provided in paragraph (e) of section eight B.

Approved October 4, 1985.

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**Chapter 345. AN ACT PROHIBITING THE SALE OR DISTRIBUTION OF TOBACCO PRODUCTS TO PERSONS UNDER THE AGE OF EIGHTEEN.**

Be it enacted, etc., as follows:

Chapter 270 of the General Laws is hereby amended by striking out section 6, as appearing in the 1984 Official Edition, and inserting in place thereof the following section:–

Section 6. Whoever sells a cigarette, chewing tobacco, snuff or any tobacco in any of its forms to any person under the age of eighteen or, not being his parent or guardian, gives a cigarette, chewing tobacco, snuff or tobacco in any of its forms to any person under the age of eighteen shall be punished by a fine of not less than one hundred dollars for the first offense, not less than two hundred dollars for a second offense and not less than three hundred dollars for any third or subsequent offense.

Approved October 4, 1985.



**ACTS, 1985. – Chaps. 346, 347, 348.**

**Chapter 346. AN ACT DESIGNATING A CERTAIN STATE FOREST ON BOTH SIDES OF STATE HIGHWAY ROUTE 8A IN THE TOWNS OF HAWLEY AND PLAINFIELD AS THE KENNETH M. DUBUQUE MEMORIAL STATE FOREST.**

**Be it enacted, etc., as follows:**

The state forest, north of state highway route 116 and on both sides of state highway route 8A, in the towns of Hawley and Plainfield shall be designated and known as the Kenneth M. Dubuque Memorial state forest, in memory of Kenneth M. Dubuque, a former employee of the department of environmental management. A suitable marker bearing said designation shall be placed thereon by the department of environmental management.

Approved October 4, 1985.

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**Chapter 347. AN ACT MAKING IT A CRIME TO INTERFERE WITH AN EMERGENCY MEDICAL TECHNICIAN, AN AMBULANCE OPERATOR, OR AN ATTENDANT IN THE LINE OF DUTY.**

**Be it enacted, etc., as follows:**

Chapter 265 of the General Laws is hereby amended by inserting after section 13H the following section:–

Section 13I. Whoever commits an assault on an emergency medical technician, an ambulance operator, or an ambulance attendant, while said technician, operator or attendant is treating or transporting, in the line of duty, a person, shall be punished by imprisonment in the house of correction for not less than ninety days nor more than two and one-half years, or by a fine of not less than five hundred nor more than five thousand dollars, or both.

Approved October 4, 1985.

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**Chapter 348. AN ACT RELATIVE TO DEFRAUDING CERTAIN INNKEEPERS.**

**Be it enacted, etc., as follows:**

**SECTION 1.** Section 12 of chapter 140 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:– Whoever puts up at a hotel, motel, inn, lodging house or boarding house and, without having an express agreement for credit, procures food, entertainment or accommodation without paying therefor, and with intent to cheat or defraud the owner or keeper thereof; or, with



**ACTS, 1985. – Chap. 349.**

such intent, obtains credit at a hotel, motel, inn, lodging house or boarding house for such food, entertainment or accommodation by means of any false show of baggage or effects brought thereto; or with such intent, removes or causes to be removed any baggage or effects from a hotel, motel, or inn while a lien exists thereon for the proper charges due from him for fare and board furnished therein, shall, if the value of food, entertainment or accommodation exceeds one hundred dollars, be punished by imprisonment in a jail or house of correction for not more than two years, or by a fine of not more than six hundred dollars, or if the value of the food, entertainment or accommodation does not exceed one hundred dollars, shall be punished by imprisonment for not more than one year or by a fine of not more than one thousand dollars; and whoever, without having an express agreement for credit, procures food or beverage from a common victualler without paying therefor and with intent to cheat or defraud shall be punished by a fine of not more than five hundred dollars or by imprisonment for not more than three months.

**SECTION 2.** Chapter 231 of the General Laws is hereby amended by striking out section 94B, as so appearing, and inserting in place thereof the following section:–

Section 94B. In an action for false arrest or false imprisonment brought by any person by reason of having been detained for questioning on or in the immediate vicinity of the premises of a merchant or an innkeeper, if such person was detained in a reasonable manner and for not more than a reasonable length of time by a person authorized to make arrests or by the merchant or innkeeper or his agent or servant authorized for such purpose and if there were reasonable grounds to believe that the person so detained was committing or attempting to commit a violation of section thirty A of chapter two hundred and sixty-six, or section twelve of chapter one hundred and forty, or was committing or attempting to commit larceny of goods for sale on such premises or larceny of the personal property of employees or customers or others present on such premises, it shall be a defense to such action.

Approved October 4, 1985.

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**Chapter 349. AN ACT FURTHER REGULATING THE CARRYING OF DANGEROUS WEAPONS.**

Be it enacted, etc., as follows:

Subsection (b) of section 10 of chapter 269 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by inserting after the word "shot," in line 58, the word:– blowgun.

Approved October 4, 1985.

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**Chapter 350. AN ACT AUTHORIZING THE TOWN OF ADAMS TO**



**ACTS, 1985. – Chaps. 351, 352.**

**LEASE A CERTAIN PARCEL OF LAND TO THE ADAMS  
AGRICULTURAL FAIR ASSOCIATION.**

Be it enacted, etc., as follows:

Notwithstanding the provisions of section three of chapter forty of the General Laws or any other provision of law to the contrary, the town of Adams is hereby authorized to lease to the Adams Agricultural Fair Association, for a period of twenty-five years, a certain parcel of land, commonly known as Bowe Field, owned by said town and recorded in the northern district registry of deeds in the county of Berkshire in book 528, page 205.

Approved October 4, 1985.

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**Chapter 351. AN ACT RELATIVE TO THE DURATION OF CERTAIN  
CONSERVATION RESTRICTIONS.**

Be it enacted, etc., as follows:

**SECTION 1.** The first paragraph of section 26 of chapter 184 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out clause (c) and inserting in place thereof the following clause:— (c) conservation, preservation and agricultural preservation restrictions, as defined in section thirty-one which have the benefit of section thirty-two, and other restrictions held by any governmental body, if the instrument imposing such conservation, preservation, agricultural preservation or other restriction is duly recorded and indexed in the grantor index in the registry of deeds or registered in the registry district of the land court for the county or district wherein the land lies so as to affect its title, and describes the land by metes and bounds or by reference to a recorded or registered plan showing its boundaries.

**SECTION 2.** Section 33 of said chapter 184, as so appearing, is hereby amended by striking out the fifth paragraph.

Approved October 4, 1985.

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**Chapter 352. AN ACT AUTHORIZING THE CITY OF TAUNTON TO  
RECEIVE AND ADMINISTER THE PROPERTY OF THE  
TAUNTON CEMETERY.**

Be it enacted, etc., as follows:

**SECTION 1.** The Taunton Cemetery, a duly established corporation, hereinafter called the cemetery may, by deed duly executed, convey and transfer to the city of Taunton, and said city is hereby authorized and



ACTS, 1985. – Chap. 353.

empowered to receive, and thereafter to hold and maintain, for cemetery purposes only, and subject to all rights heretofore existing in any burial lots, the real and personal property of the cemetery not subject to any trust, and, thereupon, and upon the transfer of the trust funds as hereinafter provided, the cemetery shall be dissolved; and the cemetery shall be and become a public burial place, ground or cemetery.

**SECTION 2.** Insofar as authorized by a decree of a court of competent jurisdiction and in compliance with the terms and conditions of such decree, said city may receive from the cemetery a conveyance and transfer of, and administer, all funds or other property held by the cemetery in trust for the perpetual care of the lots in the cemetery and for other purposes, and also any property devised or bequeathed to the cemetery under the will of any person living at the time of said transfer or conveyance or under the will of any deceased person not then probated. Interest and dividends accruing on funds deposited in trust with any savings bank under authority of section twenty-five of chapter one hundred and sixty-eight of the General Laws, or with any other banking institution, for the benefit of the cemetery, or any lots in the cemetery may, after such conveyance, be paid by such bank or institution to the treasurer of said city, and upon such payment said treasurer shall use the same for the purposes of said trusts.

**SECTION 3.** All real and personal property and property rights, acquired by said city from the cemetery under authority of this act, shall be held and managed by said city in the same manner in which cities and towns are authorized by law to hold and manage property for cemetery purposes; provided, that all rights which any persons have acquired in the cemetery or any lots therein shall remain in force to the same extent as if this act had not been enacted and such transfer had not occurred. The records of the cemetery shall be delivered to the clerk of said city and said clerk is authorized to certify copies thereof.

Approved October 4, 1985.

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**Chapter 353. AN ACT REQUIRING THE REPORTING OF THE RESULTS OF CERTAIN ELECTIONS RELATIVE TO DOG OR HORSE RACING TO THE STATE SECRETARY.**

Be it enacted, etc., as follows:

Chapter 128A of the General Laws is hereby amended by adding after section 14C the following section:—

Section 14D. A certified copy of the results of a vote on a question submitted to the voters of a political subdivision, in accordance with the provisions of this chapter, relative to granting a license for a horse or dog racing meeting or horse or dog races at fairs, shall be sent by the state secretary, or by the city or town clerk in the case of a vote by a city or town, to the commission, within ninety days after the election.



**ACTS, 1985. – Chaps. 354, 355.**

**Chapter 354. AN ACT AUTHORIZING THE TREASURER OF ESSEX COUNTY TO PAY CERTAIN UNPAID BILLS.**

Be it enacted, etc., as follows:

**Chapter 1.** The treasurer of Essex county is hereby authorized, with the approval of the county commissioners, to pay from any available funds certain unpaid bills totaling eighty-two thousand eight hundred four dollars and twenty-nine cents to the following vendors for goods and services supplied or rendered to said county in past fiscal years, which bills are legally unenforceable against said county: commonwealth of Massachusetts, board of retirement, twenty-four thousand one hundred seven dollars and ninety-three cents; commonwealth of Massachusetts, division of employment security, three thousand six hundred seventy-five dollars and thirty-nine cents; Cat Scanner Assoc. of North Shore, two hundred seventy dollars; South Essex Sewerage District, forty-four thousand six hundred ninety-one dollars and seventy-two cents; Doctor Albert W. Shub, two thousand ninety-eight dollars and ninety cents; Doctor George W. Curtis, one thousand four hundred dollars; Francis Luz, three thousand four hundred ninety-three dollars and forty cents; Richard Visadone, two thousand eight hundred forty-five dollars; Lawrence General Hospital, seventy dollars; Lawrence General Hospital, thirty-one dollars and ninety-five cents; Lemuel Shattuck Hospital, one hundred twenty dollars.

**SECTION 2.** No bill shall be approved by the county commissioners of said county or paid by said county treasurer thereof under authority of this act, unless approved by the county advisory board and until a certificate has been signed and filed with said treasurer stating under the penalties of perjury that the goods and services for which said bill was submitted were ordered by an official or employee of said county and that such were delivered and actually received by said county or that such services were rendered to said county, or both.

Approved October 4, 1985.

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**Chapter 355. AN ACT RELATIVE TO PRESERVATION OF EVIDENCE OF RAPE.**

Be it enacted, etc., as follows:

Section 97B of chapter 41 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by adding the following paragraph:-

A hospital licensed pursuant to the provisions of chapter one hundred and eleven shall inform a victim of rape that the evidence of rape preserved in said kit shall be kept for a period of at least six months upon the written request of the victim at the time the evidence is obtained upon forms provided to such victim by such hospital.

587      Approved October 4, 1985.



**ACTS, 1985. – Chaps. 356, 357, 358.**

**Chapter 356. AN ACT PROVIDING FOR THE ANNUAL OBSERVANCE OF LEIF ERICSON DAY.**

Be it enacted, etc., as follows:

Chapter 6 of the General Laws is hereby amended by inserting after section 15XX, inserted by chapter 211 of the acts of 1985, the following section:–

Section 15YY. The governor shall annually issue a proclamation setting apart October eighth as Leif Ericson Day and recommending a period of special attention to the Norse explorer who ventured across uncharted waters in the year 1003 A.D. to the continent of North America, and whose courageous exploration recorded in the Icelandic sagas, led others to the shores of our country, and recommending that said day be observed in an appropriate manner by the people.

Approved October 4, 1985.

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**Chapter 357. AN ACT PROVIDING FOR CONFIDENTIALITY OF WORK PRODUCTS OF MEDIATORS, FACTFINDERS AND ARBITRATORS.**

Be it enacted, etc., as follows:

**SECTION 1.** Chapter 150 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by inserting after section 10 the following section:–

Section 10A. Any person acting as a mediator in a labor dispute, including any person acting as such pursuant to the provisions of this chapter, who receives information as a mediator relating to the labor dispute shall not be required to reveal such information received by him in the course of mediation in any administrative, civil or arbitration proceeding. Nothing herein contained shall apply to any criminal proceedings.

**SECTION 2.** Section 9 of chapter 150E of the General Laws, as so appearing, is hereby amended by adding the following paragraph:–

Any person acting as a mediator in a labor dispute, including any person acting as such pursuant to the provisions of this chapter, who receives information as a mediator relating to the labor dispute shall not be required to reveal such information received by him in the course of mediation in any administrative, civil or arbitration proceeding. Nothing herein contained shall apply to any criminal proceedings.

Approved October 4, 1985.

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**Chapter 358. AN ACT INCREASING THE PENALTIES FOR VIOLATIONS OF THE SEWER REGULATIONS OF THE**



ACTS, 1985. – Chap. 359.

TOWN OF SOUTHBRIDGE.

Be it enacted, etc., as follows:

Section 14 of chapter 228 of the acts of 1899 is hereby amended by striking out, in line 6, the words "not exceeding twenty" and inserting in place thereof the words:– not less than three hundred.

Approved October 4, 1985.

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**Chapter 359. AN ACT FURTHER REGULATING THE ISSUANCE OF  
INDUSTRIAL DEVELOPMENT BONDS BY  
MUNICIPALITIES.**

Be it enacted, etc., as follows:

**SECTION 1.** Section 3 of chapter 40D of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out the second and third paragraphs and inserting in place thereof the following two paragraphs:–

Membership on the board of directors of an industrial development financing authority shall be restricted to residents of the municipality or in case of a consolidated authority to residents of the constituent municipality from which they are appointed. No person shall be disqualified from serving as a director by reason of holding any other appointive or elective office in the municipality. For the purposes of chapter two hundred and sixty-eight A, the directors of such authority shall be deemed to be special municipal employees.

Upon the expiration of the term of any director of an authority, his successor shall be appointed in like manner for a term of five years, or in the case of an appointment made to fill a vacancy, for the unexpired term. Any director shall continue in such capacity upon the expiration of his term until his successor is appointed and qualified.

**SECTION 2.** Section 4 of said chapter 40D, as so appearing, is hereby amended by striking out the second paragraph and inserting in place thereof the following two paragraphs:–

A director who ceases to be a resident of the city or town shall be removed upon the date of his change of residence by operation of law.

The provisions of chapter two hundred and sixty-eight A shall apply to all directors, officers and employees of the authority, except that the authority may purchase from, sell to, borrow from, loan to, contract with or otherwise deal with any person in which any director of the authority is in any way interested or involved provided, however, that such interest or involvement is disclosed in advance to the members of the board and recorded in the minutes of the board; and provided further, that no director having such an interest or involvement may participate in any decision of the board relating to such person. Employment by the municipality or service in any agency or board thereof shall not be



**ACTS, 1985. – Chap. 359.**

deemed to be such an interest or involvement.

**SECTION 3.** Section 5 of said chapter 40D, as so appearing, is hereby amended by striking out the fourth paragraph and inserting in place thereof the following two paragraphs:–

Three members of the board shall constitute a quorum and the affirmative vote of three members of the board shall be necessary for any action taken by the board. No vacancy in the membership of the board shall impair the right of a quorum to exercise all the rights and perform all duties of the board.

Any documentary materials or data whatsoever made or received by any director, officer, agency or employee of the authority or the governing body of a municipality and consisting, or to the extent that such materials or data consist of trade secrets or commercial or financial information regarding the operation of any business conducted by an applicant for any form of assistance which the municipality is empowered to render or regarding the competitive position of such applicant in a particular field of endeavor, shall not be deemed public records of the municipality and specifically shall not be subject to the provisions of section ten of chapter sixty-six. Any discussion or consideration of such trade secrets or commercial or financial information may be held by the authority or governing body in executive sessions closed to the public notwithstanding the provisions of section twenty-three B of chapter thirty-nine, but the purpose of any such executive session shall be set forth in the official minutes of the authority or the governing body, as the case may be, and no business which is not directly related to such purpose shall be transacted nor shall any vote be taken during such executive session.

**SECTION 4.** Section 6 of said chapter 40D, as so appearing, is hereby amended by striking out the second paragraph.

**SECTION 5.** Paragraph (a) of section 7 of said chapter 40D, as so appearing, is hereby amended by striking out, in line 32, the word "foregoing." and inserting in place thereof the word:– foregoing;– and by adding the following clause:–

(ix) to consent, subject to the provisions of any contract with bondholders, and without the requirement for making additional findings pursuant to section twelve, whenever it deems it necessary or desirable in the fulfillment of the purposes of this chapter, to the modification, with respect to rate of interest, time of payment of any installment of principal or interest, maturity date or any other terms, of any bond, mortgage, mortgage loan, mortgage loan commitment, contract or agreement of any kind to which the municipality, acting by and through an authority, is a party.

**SECTION 6.** Section 10 of said chapter 40D, as so appearing, is hereby amended by inserting after the third paragraph the following paragraph:–

Notwithstanding the provisions of this section or any other provisions of this chapter, the resolution or resolutions authorizing the issuance of



**ACTS, 1985. – Chap. 359.**

bonds of the municipality, acting by and through an authority, may delegate to the chairman, vice chairman, or any director of the authority or any combination of them, the power to determine any of the matters set forth in this section and the power to award the bonds to a purchaser or purchasers at public sale or to negotiate a sale to a purchaser or purchasers; provided, however, that in the latter case that such issue of bonds is to be reoffered to the public.

**SECTION 7.** Subsection (2) of section 12 of said chapter 40D, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:–

The board of directors of the Massachusetts Industrial Finance Agency, hereinafter called the MIFA board, shall have approved the bonds to be issued under this chapter. To obtain such approval, an authority shall first submit to the MIFA board an application therefor in such form and containing such information, data and exhibits as may from time to time be prescribed by the MIFA board, to which application shall be appended as part thereof, in substantially the form proposed to be executed, copies of the trust indenture or agreement, including the form of bonds, securing the bonds which are the subject of the petition, the resolution of the authority authorizing the issuance of the bonds in question and the financing document.

**SECTION 8.** The third paragraph of said subsection (2) of said section 12 of said chapter 40D, as so appearing, is hereby amended by striking out the introductory clause and inserting in place thereof the following introductory clause:–

The MIFA board shall review the complete application and shall approve the bonds described in said application, if it finds that:.

**SECTION 9.** Said third paragraph of said subsection (2) of said section 12 of said chapter 40D, as so appearing, is hereby further amended by striking out clause (k) and inserting in place thereof the following clause:–

(k) the project has, so far as feasible, been located in a low income area of a municipality so that employment opportunities will become available to residents of such area, and, in the case of a project including a commercial enterprise or incidental thereto, the project is located in a predominantly commercial area for which a commercial area revitalization plan has been adopted by the governing body of the municipality and approved by the secretary of communities and development and the project is consistent with the plan. The purposes of a commercial area revitalization plan shall be to prevent or arrest and reverse the decay of the area covered by the plan. The plan shall describe the area and set forth the development or redevelopment, including public improvements, proposed to carry out the purposes of the plan. Nothing herein shall preclude the undertaking of such development or redevelopment through urban renewal or an economic development and industrial corporation or by other means, subject to the laws applicable thereto. In exercising the power of approval granted by this



**ACTS, 1985. – Chap. 360.**

the secretary shall, among other lawful and relevant considerations, seek to avoid and correct the deterioration of older commercial centers which result from the movement of commercial enterprise to previously noncommercial areas.

**SECTION 10.** The fifth paragraph of said subsection (2) of said section 12 of said chapter 40D, as so appearing, is hereby amended by striking out the first two sentences and inserting in place thereof the following two sentences:– Such review shall be accomplished as expeditiously as practicable and in any event the MIFA board shall act with respect to the bonds described in an application within twenty days, Sundays and holidays excluded, of the submission of said application. If the MIFA board does not approve the issuance of bonds, it shall state its reasons therefor and offer the applicant an opportunity to submit an application as amended so as to meet the MIFA board's objections.

**SECTION 11.** Said subsection (2) of said section 12 of said chapter 40D, as so appearing, is hereby further amended by striking out the sixth paragraph.

Approved October 4, 1985.

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**Chapter 360. AN ACT FURTHER REGULATING THE RIGHTS OF CERTAIN FIREFIGHTERS AND POLICE OFFICERS WHO WERE LAID OFF IN THE YEARS NINETEEN HUNDRED AND EIGHTY-ONE AND NINETEEN HUNDRED AND EIGHTY-TWO.**

Be it enacted, etc., as follows:

**SECTION 1.** Chapter three hundred and twenty-four of the acts of nineteen hundred and eighty-three is hereby repealed.

**SECTION 2.** In any city or town which accepts this act, any firefighter or police officer, whose employment was terminated in nineteen hundred and eighty-one or nineteen hundred and eighty-two due to a reduction in force and subsequently was reinstated to his former position on or before July first, nineteen hundred and eighty-three, shall be credited with active service for such period of unemployment. Such credited service shall be included as part of his length of service, and shall be applied to his seniority, promotional examinations and retirement; provided, however, that said firefighter or police officer shall be required to pay into the Annuity Savings Fund of the retirement system in one sum, or in installments upon conditions as the retirement board shall prescribe, an amount equal to the accumulated regular deductions otherwise payable by him had he remained an active member in service during said period of unemployment at the rate of compensation he was receiving at the time of the aforesaid termination of employment together with the regular interest thereon to his date of



**ACTS, 1985. – Chap. 361.**

reinstatement; and provided, further, that said firefighter or police officer shall be required to pay into the Annuity Savings Fund of the retirement system in one sum, or in installments upon conditions as the retirement board shall prescribe, an amount equal to the accumulated regular deductions withdrawn by him, if any, with the regular interest to the date of his reinstatement.

**SECTION 3.** This act shall take effect upon its passage.

Approved October 8, 1985.

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**Chapter 361. AN ACT AUTHORIZING ESTIMATED TAX PAYMENTS  
FOR THE CITY OF LYNN FOR THE FIRST HALF OF  
FISCAL YEAR NINETEEN HUNDRED AND EIGHTY-SIX.**

Be it enacted, etc., as follows:

**SECTION 1.** Notwithstanding the provisions of any general or special law to the contrary, the city of Lynn is hereby authorized to issue a first half notice of the estimated tax in lieu of the actual assessment and issuance of the tax bill for the fiscal year nineteen hundred and eighty-six and require the payment of such estimated tax, which shall in no event exceed fifty per cent of the tax payable during the preceding fiscal year. Payment of the balance of the tax bill after the establishment of the tax rate for fiscal year nineteen hundred and eighty-six, after credit is given for the estimated tax payment previously made, shall represent the second payment upon such bill; such payment shall be payable without interest on or before May first, nineteen hundred and eighty-six or thirty days after the mailing of the actual tax bill, whichever is later, and any interest upon such payment shall be calculated from April first, nineteen hundred and eighty-six or the date of mailing of the bill, whichever is later.

All provisions of law regarding the procedures for issuing, mailing, and collecting tax assessments upon real and personal property and betterment assessments shall be applicable to the notice of estimated tax provided hereunder, including the payment of interest under section fifty-seven of chapter fifty-nine of the General Laws. To the extent that any rights or remedies under law accrue from the date that the tax bill is issued, only the tax bill issued upon the establishment of the tax rate for fiscal year nineteen hundred and eighty-six shall govern such rights or remedies. The provisions of section twenty-one C of said chapter fifty-nine shall apply to the tax rate for the fiscal year nineteen hundred and eighty-six established by said city of Lynn.

**SECTION 2.** This act shall take effect upon its passage.

Approved October 8, 1985.

EMERGENCY LETTER: October 8, 1985 @ 3:46 P.M.



**ACTS, 1985. – Chaps. 362, 363, 364.**

**Chapter 362. AN ACT DESIGNATING THE STAFFORD STREET BRIDGE IN THE TOWN OF CHARLTON AS THE CHARLTON VIETNAM VETERANS MEMORIAL BRIDGE.**

Be it enacted, etc., as follows:

The bridge located on Stafford street in the town of Charlton shall be designated and known as the Charlton Vietnam Veterans Memorial Bridge. Suitable markers bearing said designation shall be attached thereto by the department of public works in compliance with standards of said department and as authorized by the Federal Highway Administration.

Approved October 8, 1985.

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**Chapter 363. AN ACT EXEMPTING THE POSITION OF SCHOOL TRAFFIC SUPERVISOR AND THE POSITION OF ASSISTANT TOWN ENGINEER IN THE TOWN OF RANDOLPH FROM THE CIVIL SERVICE LAW.**

Be it enacted, etc., as follows:

**SECTION 1.** The positions of school traffic supervisor and assistant town engineer in the town of Randolph shall be exempt from the provisions of chapter thirty-one of the General Laws.

**SECTION 2.** The provisions of section one shall not impair the civil service status of any person holding the position of school traffic supervisor or the position of assistant town engineer in the town of Randolph on the effective date of this act.

Approved October 8, 1985.

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**Chapter 364. AN ACT FURTHER REGULATING THE DISPENSING OF CERTAIN CONTROLLED SUBSTANCES.**

Be it enacted, etc., as follows:

Section 9 of chapter 94C of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by inserting after subsection (b) the following subsection:—

(b 1/2) Notwithstanding the provisions of subsection (b) and section seventeen, a physician, when acting in good faith and providing care under a program funded in whole or in part by 42 USC 300, or a nurse authorized by said physician, may lawfully dispense controlled substances pursuant to schedule VI of section three to recipients of these services in such quantity as needed for treatment, and shall be exempt from the requirement that such dispensing be in a single dose or as necessary



**ACTS, 1985. – Chaps. 365, 366, 367.**

for immediate treatment. The department may establish rules and regulations controlling the dispensing of said medications, including but not limited to the types and amounts of medications dispensed and appropriate safeguards for dispensing.

Approved October 8, 1985.

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**Chapter 365. AN ACT PROVIDING FOR THE WAIVING OF CERTAIN CHARGES BY LOCAL TAX COLLECTORS.**

Be it enacted, etc., as follows:

Section 15 of chapter 60 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by adding the following paragraph:–

The collector may, in his discretion, waive such interest, charges and fees when the total amount thereof is five dollars or less.

Approved October 8, 1985.

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**Chapter 366. AN ACT DESIGNATING THE CRIMINAL JUSTICE TRAINING CENTER IN THE CITY KNOWN AS THE TOWN OF AGAWAM AS THE EDWARD W. CONNELLY CRIMINAL JUSTICE TRAINING CENTER.**

Be it enacted, etc., as follows:

The Massachusetts criminal justice training center in the city known as the town of Agawam shall be designated and known as the Edward W. Connelly Criminal Justice Training Center.

Approved October 8, 1985.

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**Chapter 367. AN ACT RELATIVE TO THE BOUNDARIES OF HIGHWAYS AND OTHER PUBLIC PLACES, AND ENCROACHMENTS THEREON.**

Be it enacted, etc., as follows:

Chapter 86 of the General Laws is hereby amended by striking out section 1, as appearing in the 1984 Official Edition, and inserting in place thereof the following section:–

Section 1. The aldermen, selectmen or road commissioners shall cause permanent bounds to be erected at the termini and angles of all ways laid out by them. Such bounds shall be of stone, Portland cement or concrete not less than three feet long, two feet of which at least shall be set in the ground, or of stone not less than three feet long with holes drilled therein and filled with lead placed a few inches below the



**ACTS, 1985. – Chaps. 368, 369, 370.**

traveled part of the way, or if stone, Portland cement or concrete bounds are impracticable, a heap of stones, a living tree, a permanent rock, or the corner of a building, or such other permanent bounds as said officers may determine.

Approved October 8, 1985.

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**Chapter 368. AN ACT INCREASING THE MAXIMUM CHARGE MADE BY SMALL LOAN LICENSEES AND OTHER FINANCIAL INSTITUTIONS AFTER MATURITY OF A LOAN.**

Be it enacted, etc., as follows:

The fourth paragraph of section 100 of chapter 140 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out, in line 11, the words "six per cent per annum" and inserting in place thereof the words:– twelve per cent per annum or the original rate of interest on the note evidencing the loan, whichever is less,.

Approved October 8, 1985.

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**Chapter 369. AN ACT RELATIVE TO THE LICENSING AND KEEPING OF DOGS IN THE TOWN OF MONTGOMERY.**

Be it enacted, etc., as follows:

**SECTION 1.** Notwithstanding the provisions of section one hundred and thirty-seven of chapter one hundred and forty of the General Laws or any other provision of law to the contrary, the registering, numbering, describing and licensing of dogs, if kept in said town, shall be conducted in the office of the town clerk of said town.

**SECTION 2.** Notwithstanding the provisions of section one hundred and forty-seven of said chapter one hundred and forty or any other provision of law to the contrary, all money received for or from the sale of dog licenses by the town of Montgomery, or recovered as fines or penalties by said town under the provisions of said chapter one hundred and forty relating to dogs, shall be paid into the treasury of said town and shall not thereafter be paid over by the town treasurer to Hampden county.

Approved October 8, 1985.

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**Chapter 370. AN ACT PROVIDING FINANCING INCENTIVES FOR COGENERATION, SMALL POWER PRODUCTION FACILITIES AND INDUSTRIAL ENERGY CONSERVATION.**



**ACTS, 1985. – Chap. 370.**

Be it enacted, etc., as follows:

**SECTION 1.** Section 1 of chapter 40D of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by inserting after paragraph (c) the following paragraph:–

(c 1/2) "Cogeneration facility", as defined in section one of chapter one hundred and sixty-four.

**SECTION 2.** Paragraph (1) of said section 1 of said chapter 40D, as so appearing, is hereby amended by inserting after the first sentence the following sentence:– Industrial enterprise shall also include an enterprise primarily or incidentally engaged in cogeneration by means of cogeneration facilities or in production of electric energy by means of small power production facilities.

**SECTION 3.** Said section 1 of said chapter 40D is hereby further amended by striking out paragraph (m), as so appearing, and inserting in place thereof the following paragraph:–

(m) "Industrial development facilities", facilities used in connection with any industrial, or research and development enterprise or any part thereof, located within or partially within the municipality creating an authority, including any or all buildings, docks, wharves, ships, improvements, additions, extensions, replacements, appurtenances, land, rights in land, riparian rights, water rights, franchises, machinery, equipment, furnishings, landscaping, utilities, approaches, roadways, energy conservation facilities, facilities designed to reduce consumption of petroleum products and other facilities necessary or desirable in connection therewith or incidental thereto, such as, but not limited to, office, warehouse, terminal, transportation and back-up power generating facilities, which facilities need not merely be in connection with or incidental to other facilities if the operation of such facilities themselves is an industrial enterprise.

**SECTION 4.** Said section 1 of said chapter 40D is hereby further amended by inserting after paragraph (q), as so appearing, the following paragraph:–

(q 1/2) "Small power production facility", as defined in section one of chapter one hundred and sixty-four.

**SECTION 5.** Section 7 of said chapter 40D is hereby amended by striking out paragraph (c), as appearing in the 1984 Official Edition, and inserting in place thereof the following paragraph:–

(c) Nothing in this chapter shall be deemed to permit the financing by a municipality of a plant for the manufacture or distribution of gas or electricity except (i) back-up power generating or distribution facilities or other facilities for the supply of gas or electricity to occupants of an industrial development project financed under this chapter, (ii) pollution control facilities, (iii) solid waste disposal facilities, (iv) small power production facilities, and (v) cogeneration facilities.



**ACTS, 1985. – Chaps. 371, 372.**

**SECTION 6.** Said chapter 40D is hereby further amended by striking out section 23, as appearing in the 1984 Official Edition, and inserting in place thereof the following section:–

Section 23. A municipality acting by and through an authority in connection with a project for pollution control facilities, cogeneration facilities or small power production facilities financed or to be financed under this chapter may apply for and accept and use any grant, loan, or grant and loan of federal or state funds for such pollution control facilities, cogeneration facilities or small power production facilities.

Approved October 8, 1985.

EMERGENCY LETTER: October 8, 1985 @ 3:46 P.M.

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**Chapter 371. AN ACT PROVIDING THAT THE OFFICE OF ASSISTANT MANAGER OF THE MUNICIPAL LIGHTING COMMISSION OF THE CITY OF PEABODY SHALL BE SUBJECT TO THE PROVISIONS OF THE CIVIL SERVICE LAW.**

Be it enacted, etc., as follows:

**SECTION 1.** Section 2 of chapter 286 of the acts of 1951, as most recently amended by section 1 of chapter 431 of the acts of 1953, is hereby further amended by striking out the second sentence and inserting in place thereof the following sentence:– Said manager and assistant manager shall not be members of the commission and the manager shall not be subject to the provisions of chapter thirty-one of the General Laws and the rules made thereunder.

**SECTION 2.** Notwithstanding the provisions of any other general or special law to the contrary, Victor Unhao, the present incumbent of the office of assistant manager of the municipal lighting commission for the city of Peabody is hereby granted tenure subject to the provisions of chapter thirty-one of the General Laws.

Approved October 8, 1985.

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**Chapter 372. AN ACT AUTHORIZING ESTIMATED TAX PAYMENTS FOR THE TOWN OF LUDLOW FOR THE FIRST HALF OF FISCAL YEAR NINETEEN HUNDRED AND EIGHTY-SIX.**

Be it enacted, etc., as follows:

Notwithstanding the provisions of any general or special law to the contrary, the town of Ludlow is hereby authorized to issue a first half notice of estimated tax in lieu of the actual assessment and issuance of the tax bill for the fiscal year nineteen hundred and eighty-six and require the payment of such estimated tax, which shall in no event



**ACTS, 1985. – Chaps. 373, 374.**

exceed fifty per cent of the tax payable during the preceding fiscal year. Payment of the balance of the tax bill after establishment of the tax rate for fiscal year nineteen hundred and eighty-six, after credit is given for the estimated tax payment previously made, shall represent the second payment upon such bill that is payable on or before May first, nineteen hundred and eighty-six without payment of interest.

All provisions of law regarding the procedures for issuing, mailing and collecting tax assessments upon real and personal property and betterment assessments shall be applicable to the notice of estimated tax provided hereunder, including the payment of interest under section fifty-seven of chapter fifty-nine of the General Laws. To the extent that any rights or remedies under law accrue from the date that the tax bill is issued, only the tax bill issued upon the establishment of the tax rate for fiscal year nineteen hundred and eighty-six shall govern such rights or remedies.

The provisions of section twenty-one C of said chapter fifty-nine shall apply to the tax rate for the fiscal year nineteen hundred and eighty-six established by said town of Ludlow.

Approved October 8, 1985.

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**Chapter 373. AN ACT ESTABLISHING A MUNICIPAL WATER DEPARTMENT IN THE TOWN OF WHATELY.**

Be it enacted, etc., as follows:

In accordance with section thirty-nine A of chapter forty of the General Laws and the ongoing existence of the Whately Water District, a private corporation supplying water in and to certain portions of the town of Whately, said town of Whately is hereby authorized to establish a municipal water department and maintain and operate the same in accordance with sections thirty-nine B to thirty-nine G, inclusive, of said chapter forty under the control of a three member water commission. The board of selectmen is hereby authorized to appoint three members to serve as water commissioners until the next town election after the effective date of this act. At such town election three water commissioners shall be elected for terms of one, two and three years and at each election thereafter a water commissioner shall be elected for a term of three years.

Approved October 8, 1985.

EMERGENCY LETTER: October 8, 1985 @ 3:46 P.M.

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**Chapter 374. AN ACT AUTHORIZING THE BOARD OF REGISTRATION IN MEDICINE TO IMPOSE FINES AND OTHER SANCTIONS IN DISCIPLINARY CASES.**

Be it enacted, etc., as follows:



**ACTS, 1985. – Chaps. 375, 376.**

Section 5 of chapter 112 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by inserting after the word "censure," in line 7, the following words:– impose a fine not to exceed ten thousand dollars for each classification of violation, require the performance of up to one hundred hours of public service, in a manner and at a time and place to be determined by the board, require a course of education or training.

Approved October 8, 1985.

EMERGENCY LETTER: October 8, 1985 @ 3:46 P.M.

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**Chapter 375. AN ACT EXCUSING THE ABSENCE OF STUDENTS FOR THEIR RELIGIOUS BELIEFS.**

Be it enacted, etc., as follows:

Chapter 151C of the General Laws is hereby amended by inserting after section 2A the following section:–

Section 2B. Any student in an educational or vocational training institution, other than a religious or denominational educational or vocational training institution, who is unable, because of his religious beliefs, to attend classes or to participate in any examination, study, or work requirement on a particular day shall be excused from any such examination or study or work requirement, and shall be provided with an opportunity to make up such examination, study, or work requirement which he may have missed because of such absence on any particular day; provided, however, that such makeup examination or work shall not create an unreasonable burden upon such school. No fees of any kind shall be charged by the institution for making available to the said student such opportunity. No adverse or prejudicial effects shall result to any student because of his availing himself of the provisions of this section.

A copy of this section shall be published by each institution of higher education in the catalog of such institution containing the list of available courses.

Approved October 8, 1985.

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**Chapter 376. AN ACT AUTHORIZING THE DIVISION OF CAPITAL PLANNING AND OPERATIONS TO LEASE A CERTAIN BUILDING IN THE CITY OF NEWTON.**

Be it enacted, etc., as follows:

The deputy commissioner of capital planning and operations is hereby authorized, subject to the provisions of sections forty E to forty J, inclusive, of chapter seven of the General Laws, to lease for a term not to exceed twenty-five years the building situated at 2391 Commonwealth Avenue in the Auburndale section of the city of Newton,



**ACTS, 1985. – Chap. 377.**

being the former sanitary and garage building for the metropolitan park commission. Said building is shown on a plan filed in the office of the Parks Engineering Division of said commission and is entitled "The Sanitary and Garage Building for the Metropolitan Park Commission, Auburndale, Massachusetts" dated October 7, 1921. During the term of said lease, said building shall be used only for purposes which directly or indirectly facilitate public education, public recreation or contribute to the enhancement of public recreational resources or environmental quality. Operation of said building shall be in accordance with such terms and conditions as the deputy commissioner, in consultation with the metropolitan district commission, requires to be included in said lease.

Approved October 8, 1985.

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**Chapter 377. AN ACT AUTHORIZING THE WINCHESTER POLICE RELIEF ASSOCIATION, INC., TO ARRANGE FOR THIRD PARTY FUNDING OF BENEFITS WHICH IT MAY PROVIDE UNDER ITS BY-LAWS AND TO BROADEN THE RANGE OF BENEFITS WHICH IT MAY PROVIDE TO ITS MEMBERSHIP.**

Be it enacted, etc., as follows:

**SECTION 1.** The Winchester Police Relief Association, Inc. is hereby authorized to provide for the funding of any part or all of any benefits which it may provide and any expenses which it may incur under its by-laws, by such lawful agreements as the board of directors of the Association shall approve with any entity authorized by the commonwealth to transact insurance business in Massachusetts and any entity authorized by the United States or the commonwealth to conduct banking or other financial business.

**SECTION 2.** The Winchester Police Relief Association, Inc. is hereby authorized to provide annuities to its members in lieu of death benefits to the survivors of its members. Annuities provided under the authority of this section may include arrangements for payment of any remainder existing at the time of death of a member receiving benefits under such annuity to the survivors of that member.

**SECTION 3.** The Winchester Police Relief Association, Inc. is hereby authorized to pay expenses incident to meetings of the Association, observances upon the death of members of the Association, and such other occasions as the membership of the Association may from time to time deem appropriate.

**SECTION 4.** The Winchester Police Relief Association, Inc. is hereby authorized to engage in any lawful activities beneficial to its membership as the membership of the Association may from time to



**ACTS, 1985. – Chaps. 378, 379.**

time deem appropriate, and to incur and pay expenses incident to such activities.

**SECTION 5.** The Winchester Police Relief Association, Inc. is hereby authorized to delegate to the board of directors of the Association the power to take any action which the membership itself might take at any meeting of the Association at which such action might properly be taken. Such delegations shall be made by such amendments to the by-laws as the membership of the Association shall from time to time deem appropriate. No delegations pursuant to this section shall include power to dissolve the Association, change the purposes of the Association, or amend the by-laws of the Association.

Approved October 8, 1985.

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**Chapter 378. AN ACT EXEMPTING CERTAIN POSITIONS IN THE TOWN OF WINTHROP FROM THE PROVISIONS OF THE CIVIL SERVICE LAW.**

Be it enacted, etc., as follows:

**SECTION 1.** The positions of town accountant, senior bookkeeper, data processing operator, all clerical employees and clerks, building inspector, plumbing inspector, gas inspector, water superintendent, assistant water superintendent, health department agent, health department nurse and school physician in the town of Winthrop shall be exempt from the provisions of chapter thirty-one of the General Laws.

**SECTION 2.** The provisions of section one shall not impair the civil service status of any person holding said positions on the effective date of this act.

**SECTION 3.** This act shall take effect upon its passage.

Approved October 15, 1985.

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**Chapter 379. AN ACT FURTHER REGULATING THE TRANSPORTATION OF ALCOHOLIC BEVERAGES.**

Be it enacted, etc., as follows:

Section 22 of chapter 138 of the General Laws is hereby amended by adding the following paragraph:—

Notwithstanding any other provision of this section, any individual, partnership, or corporation, regularly and lawfully conducting a parcel delivery service, or a general express or trucking business, or regularly and lawfully engaged in the business of leasing trucks for hire, with or without drivers, may, if authorized by a permit issued by the



**ACTS, 1985. – Chaps. 380, 381.**

commission, transport or deliver the products sold at retail by farmer-winery licensees under section nineteen B, or farmer-brewery licensees under section nineteen E to the ultimate consumers of such products. There shall be no fee for such permit, and persons operating a vehicle when engaged in such transportation or delivery shall not be required to carry such permit or certified copy thereof. Parcels transported or delivered under this paragraph shall be clearly labeled as containing alcoholic beverages and requiring the signatures of, and delivery to, a person legally authorized to consume alcoholic beverages in the commonwealth. No such delivery shall exceed twenty liters.

Approved October 15, 1985.

EMERGENCY LETTER: October 16, 1985 @ 9:17 A.M.

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**Chapter 380. AN ACT RELATIVE TO THE LARCENY OF MOTOR VEHICLES AND TRAILERS.**

Be it enacted, etc., as follows:

Subsection (a) of section 28 of chapter 266 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:—

Whoever steals a motor vehicle or trailer, whoever buys, receives, possesses, conceals, or obtains control of a motor vehicle or trailer, knowing or having reason to know the same to have been stolen, or whoever takes a motor vehicle without the authority of the owner and steals from it any of its parts or accessories, shall be punished by imprisonment in the state prison for not more than ten years or by imprisonment in jail or house of correction for not more than two and one-half years or by a fine of not more than ten thousand dollars, or both.

Approved October 15, 1985.

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**Chapter 381. AN ACT ELIMINATING TENURE OF CERTAIN SCHOOL UNION SUPERINTENDENTS.**

Be it enacted, etc., as follows:

**SECTION 1.** Section 63 of chapter 71 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out the last paragraph.

**SECTION 2.** Any superintendent in a union, employed under the provisions of chapter seventy-one of the General Laws, who, upon the effective date of this act, has served continuously in the same union for more than three years and who has been employed at least twice as superintendent in said union, each for a term of three years, shall not be removed except for inefficiency, incapacity, conduct unbecoming a



**ACTS, 1985. – Chaps. 382, 383.**

superintendent, insubordination or other good cause, nor without full compliance with the provisions of section forty-two of said chapter seventy-one, relative to teachers and other superintendents, as to notice of intention to dismiss, specification of charges, hearing and substantiation of charges.

Nothing in this section shall be construed to prevent a joint school committee from voting to employ a union superintendent who has completed three or more years service to serve at its discretion.

Approved October 15, 1985.

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**Chapter 382. AN ACT PROVIDING FOR AN APPEAL FROM DENIAL OF A RESIDENTIAL EXEMPTION.**

Be it enacted, etc., as follows:

Section 5C of chapter 59 of the General Laws is hereby amended by adding the following two paragraphs:—

In those cities and towns in which an exemption is made available hereunder, a taxpayer aggrieved by the failure to receive such residential exemption may apply for such residential exemption to the assessors, in writing, on a form approved by the commissioner within three months after the date on which the bill or notice of assessment was sent.

A timely application filed hereunder shall, for the purposes of this chapter, be treated as a timely filed application pursuant to section fifty-nine.

Approved October 15, 1985.

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**Chapter 383. AN ACT PROVIDING FOR ABSENTEE BALLOT APPLICATIONS TO BE SENT TO PERMANENTLY DISABLED VOTERS.**

Be it enacted, etc., as follows:

Section 86 of chapter 54 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by inserting after the third sentence the following sentence:— Not later than twenty-eight days before every primary, preliminary election or election, the city or town clerk shall send to each voter whose name appears on the permanently disabled voters' list an application for an absent voting ballot, which application said clerk shall complete so far as possible except for the voter's signature.

Approved October 15, 1985.



**ACTS, 1985. – Chaps. 384, 385, 386.**

**Chapter 384. AN ACT RELATIVE TO DESIGNATION AND IMPROVEMENT OF SCENIC ROADS.**

Be it enacted, etc., as follows:

Section 15C of chapter 40 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:–

Upon recommendation or request of the planning board, conservation commission or historical commission of any city or town, such city or town may designate any road in said city or town, other than a numbered route or state highway as a scenic road; provided, however, that a numbered route may be designated by a city or town as a scenic road if its entire length is contained within the boundaries of said city or town, and no part of said route is owned or maintained by the commonwealth.

Approved October 15, 1985.

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**Chapter 385. AN ACT RELATIVE TO THE PENALTY FOR FAILING TO HAVE A MOTOR VEHICLE INSPECTED.**

Be it enacted, etc., as follows:

The last paragraph of section 20 of chapter 90 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:– Any person who fails to have a motor vehicle owned by him inspected for the safety inspection or safety and emissions inspection, as required pursuant to the provisions of sections seven A and seven V, or operates or allows a motor vehicle owned by him to be operated without a certificate of inspection or a certificate of rejection displayed in accordance with the provisions of said sections seven A and seven V and the rules and regulations relating thereto, shall be punished by a fine of fifty dollars.

Approved October 15, 1985.

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**Chapter 386. AN ACT PROVIDING FOR THE REVOCATION OF THE LICENSE OF PERSONS CONVICTED OF VIOLATING THE MOTOR VEHICLE IDENTIFICATION LAW.**

Be it enacted, etc., as follows:

Section 139 of chapter 266 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by adding the following paragraph:–

A conviction of a violation of this section or any adjudication that a person is a delinquent child by reason thereof shall be reported forthwith



**ACTS, 1985. – Chaps. 387, 388.**

by the court or magistrate to the registrar of motor vehicles who shall revoke immediately the license to operate motor vehicles or the right to operate motor vehicles of the person so convicted or adjudged, and no appeal, motion for new trial or exceptions shall operate to stay the revocation of such license or right to operate. The registrar of motor vehicles after having revoked the license or right to operate of any such person so convicted or adjudged shall issue a new license or reinstate such right to operate, if the prosecution of such person is finally terminated in his favor; otherwise, no new license shall be issued nor shall such right to operate be reinstated until sixty days after the date of revocation following his original conviction or adjudication if for a first offense, or until one year after the date of revocation following any subsequent conviction or adjudication.

Approved October 15, 1985.

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**Chapter 387. AN ACT RELATIVE TO THE TAXATION OF AGRICULTURAL AND HORTICULTURAL LAND.**

Be it enacted, etc., as follows:

**SECTION 1.** The second paragraph of section 4 of chapter 61A of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:— All such land which is contiguous or is deemed contiguous for purposes of this chapter shall not exceed in acreage one hundred per cent of the acreage which is actively devoted to agricultural, horticultural or agricultural and horticultural uses.

**SECTION 2.** Section 9 of said chapter 61A, as so appearing, is hereby amended by adding the following paragraph:—

All recording fees paid pursuant to the provisions of this chapter whether for statements of liens, certificates, releases or otherwise shall be borne by the owner of record of the land.

Approved October 15, 1985.

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**Chapter 388. AN ACT RELATIVE TO THE REGULATION OF BOXING MATCHES.**

Be it enacted, etc., as follows:

Chapter 147 of the General Laws is hereby amended by striking out section 50A, as appearing in the 1984 Official Edition, and inserting in place thereof the following section:—

**Section 50A.** Courses of instruction in boxing, boxing or sparring matches or exhibitions sponsored and conducted by recognized boys' clubs, youth organizations, schools and colleges, or by municipal or state



**ACTS, 1985. – Chaps. 389, 390.**

park or recreational departments, under the supervision of qualified instructors and directors, may take place or be conducted in any city or town; provided, however, that fraternal and veteran organizations shall not conduct such boxing or sparring matches more than twice in one calendar year.

Approved October 15, 1985.

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**Chapter 389. AN ACT RELATIVE TO THE TRANSPORTATION OF CERTAIN ALCOHOLIC BEVERAGES FOR ONE'S OWN USE.**

Be it enacted, etc., as follows:

Section 22 of chapter 138 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:–

Any person may, but only for his own use and that of his family and guests, transport alcoholic beverages or alcohol, without any license or permit, but not exceeding in amount, at any one time, twenty gallons of malt beverages, three gallons of any other alcoholic beverage, or one gallon of alcohol, or their measured equivalent; provided, that any person may, without any license or permit, transport from his place of residence to a new place of residence established by him alcoholic beverages manufactured by him for his own private use.

Approved October 15, 1985.

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**Chapter 390. AN ACT FURTHER REGULATING THE AVAILABILITY OF CERTAIN INFORMATION UNDER THE CONTROL OF THE REGISTRAR OF MOTOR VEHICLES.**

Be it enacted, etc., as follows:

Chapter 90 of the General Laws is hereby amended by striking out section 30A, as appearing in the 1984 Official Edition, and inserting in place thereof the following section:–

Section 30A. The registrar shall not allow direct or indirect use of the computer terminals under his control, whether for inquiry into computer data files or otherwise, except by persons employed by the commonwealth or a political subdivision thereof, law enforcement agencies, the special investigative unit of the plan created pursuant to section one hundred and thirteen H of chapter one hundred and seventy-five only to the extent authorized therein, insurance companies and their authorized agents and service carriers to the extent authorized in the safe driver insurance plan and the trial courts or computer manufacturers or data processing consultants under contract with the commonwealth.

Approved October 15, 1985.



**ACTS, 1985. – Chaps. 391, 392.**

**Chapter 391. AN ACT FURTHER REGULATING THE SUSPENSION OR REVOCATION OF LICENSES TO OPERATE A MOTOR VEHICLE.**

Be it enacted, etc., as follows:

Section 22 of chapter 90 of the General Laws is hereby amended by striking out paragraph (c), as appearing in the 1984 Official Edition, and inserting in place thereof the following paragraph:–

(c) If the registrar shall receive official notice that any resident has been convicted in another state or country of operating under the influence of narcotic drugs or alcohol or, in the case of a moving violation resulting in the injury or death of another where such resident was found to be at fault, and has had his right to operate suspended or revoked, in such state or country, the registrar shall after a hearing, suspend or revoke his license, if any, or his right to operate in this commonwealth, and any reinstatement or renewal of such license or reinstatement of such right to operate shall be subject to the provisions of section twenty-four as if the operator had been convicted of operating under the influence of narcotic drugs or alcohol, or a moving violation resulting in the injury or death of another in the commonwealth.

Approved October 15, 1985.

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**Chapter 392. AN ACT RELATIVE TO THE GREATER SPRINGFIELD REGIONAL WASTEWATER TREATMENT FACILITY.**

Be it enacted, etc., as follows:

**SECTION 1.** As used in this act, the following words shall, unless the context otherwise requires, have the following meanings:–

"Facility", the greater Springfield regional wastewater treatment facility, including a device and system used in the storage, treatment, recycling and reclamation of sewage or industrial wastes of a liquid nature. It also includes sewers, pipes and other conveyances if they convey wastewater to the facility.

"Participating municipality", any city, town or district, including the permit holder which contributes, causes or permits the contribution of wastewater into the facility.

"Permit holder", the city of Springfield, which is the holder of a permit issued pursuant to the Clean Water Act, 33 USC 1251 et seq. for the operation of the facility.

"User", any person, corporation, business, or other entity who or which contributes, causes or permits the contribution of wastewater into the facility.

"Wastewater", the liquid and water carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities and institutions, whether treated or untreated, which is contributed into or permitted to enter the facility.



## **ACTS, 1985. – Chap. 392.**

**SECTION 2.** Any city, town, district or user discharging, or seeking to discharge wastewater into the facility, shall be subject to the provisions of this act.

**SECTION 3.** Any city, town, district or user discharging, or seeking to discharge wastewater into the facility, shall enter into an agreement with the permit holder for the purpose of authorizing said permit holder to enforce federal, state, city, town, or district laws and regulations on water pollution as required by the Pretreatment Standards of the Clean Water Act of 1977 and the General Pretreatment Regulations as set forth in section 403 et seq. of chapter 40 of the Code of Federal Regulations in such city, town, or district discharging, or seeking to discharge wastewater in the facility. The permit holder shall have the enforcement authority to seek civil, injunctive, or criminal remedies.

**SECTION 4.** Any city, town or district discharging, or seeking to discharge wastewater into the facility, shall enter into an agreement with the permit holder that said city, town or district shall adopt and be subject to sewer ordinances that are at least as stringent as those adopted by the city of Springfield. The permit holder shall have the authority to enforce all sewer ordinances as required by the Pretreatment Standards of the Clean Water Act of 1977 and the General Pretreatment Regulations as set forth in section 403 et seq. of chapter 40 of the Code of Federal Regulations in such city, town or district. Any such agreement shall not be subject to the termination provisions of section four A of chapter forty of the General Laws.

**SECTION 5.** Authorized agents of the permit holder may enter at reasonable times any public or private property of a user for the purposes of (a) inspecting, sampling, and gauging any sewage, drainage, substances or wastes discharged into the facility, (b) inspecting any monitoring equipment or procedures maintained with respect to wastewater, (c) examining any records or matters pertaining to such wastewater or to the operation of pretreatment works, and (d) determining any matter of compliance with requirements under this act. Entry upon private property for the purposes of this section shall be made (a) under warrant, including, without limitation, warrants for administrative inspection upon a probable cause showing of a reasonable and valid public interest in the effective enforcement of matters governed by this act in accordance with a general plan justifying administrative inspection of premises specified in the application for such warrant, or (b) under procedures for warrantless entry of non-residential premises during business hours conducted by administrative inspectors in accordance with regulations which the permit holder shall adopt. This section shall not limit entries and administrative inspections, including seizures of property, without a warrant (a) with the consent of the user, (b) in situations presenting imminent danger to health or safety, (c) in any other exceptional or emergency circumstances where time or opportunity to apply for a warrant is lacking, or (d) in all other situations in which a warrant is not



**ACTS, 1985. – Chap. 392.**

required by the laws and the constitution of the commonwealth or the United States.

**SECTION 6.** The permit holder in the exercise of the authority vested in it by any city, town or district shall not be held liable for any injury or damage to persons or property, except in accordance with the provisions of chapter two hundred and fifty-eight of the General Laws. Any amount of liability incurred by the permit holder shall be paid solely from the Regional Wastewater Facility Fund created by the permit holder solely as a reserve for unforeseen expenses, costs or damages assessed against said facility.

**SECTION 7.** No user shall discharge or cause to be discharged directly or indirectly into the facility any pollutant or wastewater which is not in compliance with all applicable state and federal laws required by the Pretreatment Standards of the Clean Water Act of 1977 and the General Pretreatment Regulations as set forth in section 403 et seq. of chapter 40 of the Code of Federal Regulations. Any violation of this section shall be presumed to constitute deliberate harm to the health, welfare, and safety of the public and to the environment. Such presumption may be rebutted by introduction of competent evidence.

**SECTION 8.** A certified copy of the contract or agreement between the city, town or district and the permit holder as provided by section three of this act shall be prima facie evidence of the authority of the permit holder to enforce all applicable federal, state, city, town or district laws and regulations required by the Pretreatment Standards of the Clean Water Act of 1977 and the General Pretreatment Regulations as set forth in section 403 et seq. of chapter 40 of the Code of Federal Regulations in said city, town or district. In the trial of any complaint or action, the report of any inspector serving in the facility, or of any city, town or district that discharges wastewater into the facility shall be prima facie evidence of the facts stated therein.

**SECTION 9.** Any user who is found to be in violation of the provisions of section seven of this act shall pay the permit holder's court costs including reasonable attorney and expert witness fees. In addition any user who is found to be in violation of the provisions of said section seven shall be:

(a) punished by a fine of not more than one thousand dollars for each violation; provided, however, that each day a violation continues shall be a separate offense; and

(b) subject to a civil penalty not to exceed one thousand dollars for each violation; provided, however, that each day a violation continues shall be a separate violation; and

(c) liable for any damage to the facility caused by said violation or to the property of a participating municipality caused by said violation; and

(d) liable for the full amount of any fines or penalties assessed to the permit holder by any government agency as a result of said violation; and

(e) liable for any consequential damages to the permit holder caused



**ACTS, 1985. – Chap. 393.**

by said violation, including, but not limited to, the costs to the permit holder for alternative disposal of wastewater.

**SECTION 10.** Fifty per cent of all fines, monetary penalties, or forfeitures imposed by the court under the provisions of clause (a) or (b) of section nine of this act shall be paid to the treasurer of the commonwealth and fifty per cent to the permit holder.

All monetary penalties, fines or damages imposed by the court under the provisions of clause (d) or (e) of section nine shall be paid to the permit holder; provided, however, that if the property of a participating municipality is damaged all monies received for said damage shall be paid to said participating municipality.

All monies paid to the permit holder pursuant to this section shall be deposited into the Greater Springfield Regional Wastewater Facilities Fund and shall only be expended for purposes to carry out the provisions of this act.

Approved October 15, 1985.

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**Chapter 393. AN ACT RELATIVE TO CEMETERY CORPORATIONS.**

Be it enacted, etc., as follows:

**SECTION 1.** Section 80 of chapter 156B of the General Laws is hereby amended by striking out clause (5), as appearing in the 1984 Official Edition, and inserting in place thereof the following clause:—

(5) all of the estate, property, rights, privileges, powers and franchises of the constituent corporations and all of their property, real, personal and mixed, and all the debts due on whatever account to any of them, as well as all stock subscriptions and other choses in action belonging to any of them, shall be transferred to and vested in the resulting or surviving corporation, without further act or deed; provided, however, that upon consolidation or merger of a cemetery corporation or association established pursuant to chapter one hundred and fourteen and a nonprofit corporation established pursuant to chapter one hundred and eighty, the surviving corporation shall not be liable for any claim, cost, loss, expense or damage in connection with or related to said constituent cemetery corporation or association which occurs prior to the consolidation or merger, except to the extent of the assets or income attributable to such assets of said constituent cemetery corporation or association, and all claims, demands, property and other interest shall be the property of the resulting or surviving corporation, and the title to all real estate vested in any of the constituent corporations shall not revert or be in any way impaired by reason of the merger or consolidation, but shall be vested in the resulting or surviving corporation.

**SECTION 2.** Section 4 of chapter 180, as so appearing, is hereby amended by adding the following clause:—

(m) for the purpose of purchasing, holding, preserving and maintaining



**ACTS, 1985. – Chap. 394.**

burial grounds in accordance with the provisions of chapter one hundred and fourteen.

**SECTION 3.** Section 10 of said chapter 180, as so appearing, is hereby amended by inserting after the word "corporations", in line 3, the first time it appears, the words:– and any cemetery association or corporation organized under chapter one hundred and fourteen may consolidate or merge with a corporation under this chapter.

Approved October 15, 1985.

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**Chapter 394. AN ACT PROHIBITING THE PAINFUL KILLING OF IMPOUNDED DOGS.**

Be it enacted, etc., as follows:

**SECTION 1.** The first paragraph of section 151A of chapter 140 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:– In the several cities and towns of the several counties, except Suffolk county, the mayor or board of selectmen shall annually within ten days after June first issue a warrant to such dog officer or officers directing him or them to seek out, catch and confine all dogs within the city or town which then have not been licensed, collared or harnessed, and tagged, as required by this chapter, and to enter and prosecute a complaint for failure to comply with the provisions of this chapter against the owners or keepers thereof, if known, and to kill or cause to be killed by methods of execution other than gunshot except in case of emergency, T-61, so-called, an euthanasia solution not under the control of the federal Drug Enforcement Administration, unless by a veterinarian, succinylcholine chloride, any drugs that have curariform-like action, electrocution or any other method which causes an unnecessarily cruel death each such dog which after being detained by or for him for a period of ten days shall not then have been licensed, collared or harnessed, and tagged; provided, that at the end of ten days such dog officer may make available for adoption any male or any spayed female dog not found to be diseased, for a sum not less than three dollars and shall keep an account of all moneys received by him for such adoption and shall forthwith pay over such sums to the town treasurer who shall forward all such money to the county treasurer in the same manner as dog license money as provided in section one hundred and forty-seven.

**SECTION 2.** The fourth paragraph of said section 151A of said chapter 140, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:– In the cities and towns of Suffolk county, the mayor or board of selectmen shall annually within seven days after June first issue a warrant to such dog officer or officers directing him to seek out, catch and confine all dogs within



**ACTS, 1985. – Chap. 395.**

the city or town which then have not been licensed, collared or harnessed, and tagged, as required by this chapter, and to enter and prosecute a complaint for failure to comply with the provisions of this chapter against the owners or keepers thereof, if known, and to kill or cause to be killed by methods of execution other than gunshot except in case of emergency, T-61, so-called, an euthanasia solution not under the control of the federal Drug Enforcement Administration, unless by a veterinarian, succinylcholine choline, any drugs that have curariform-like action, electrocution or any other method which causes an unnecessarily cruel death each such dog which after being detained by or for him for a period of seven days shall not then have been licensed, collared or harnessed, and tagged; provided, that at the end of seven days such dog officer may make available for adoption any male or any spayed female dog not found to be diseased, for a sum not less than three dollars and shall keep an account of all moneys received by him for such adoption and shall forthwith pay over such sums to the town treasurer who shall forward all such money to the county treasurer in the same manner as dog license money as provided in section one hundred and forty-seven.

**SECTION 3.** The first paragraph of section 153 of said chapter 140, as so appearing, is hereby amended by striking out, in lines 15 and 16, the words "under the supervision of a veterinarian, electrocution, succinylcholine choline and inserting in place thereof the words:- by a veterinarian, succinylcholine choline, any drugs that have a curariform-like action, electrocution.

**SECTION 4.** Said first paragraph of said section 153 of said chapter 140, as so appearing, is hereby further amended by striking out, in lines 58 and 59, the words "under the supervision of a veterinarian, electrocution, succinylcholine choline" and inserting in place thereof the words:- by a veterinarian, succinylcholine choline, any drugs that have a curariform-like action, electrocution.

Approved October 15, 1985.

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**Chapter 395. AN ACT RELATIVE TO THE ISSUANCE OF A LICENSE TO ENGAGE IN THE PRIVATE DETECTIVE BUSINESS.**

Be it enacted, etc., as follows:

Section 24 of chapter 147 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out the third sentence and inserting in place thereof the following sentence:- The applicant, or, if the applicant is a corporation, its resident manager, superintendent or official representative, shall be at least twenty-five years of age and of good moral character, and, unless such application is for a license to engage in the business of watch, guard or patrol agency, shall have been regularly employed for not less than three years as a



**ACTS, 1985. – Chaps. 396, 397.**

detective doing investigating work, a former member of an investigative service of the United States, a former police officer, of a rank or grade higher than that of patrolman, of the commonwealth, any political subdivision thereof or an official police department of another state, or a police officer in good standing formerly employed for not less than ten years with the commonwealth, or any political subdivision thereof or with an official police department of another state.

Approved October 15, 1985.

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**Chapter 396. AN ACT GRANTING COUNTY ADVISORY BOARDS  
FURTHER AUTHORITY OVER CERTAIN  
EXPENDITURES.**

Be it enacted, etc., as follows:

Section 32 of chapter 35 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out the tenth paragraph.

Approved October 15, 1985.

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**Chapter 397. AN ACT REQUIRING CERTAIN PUBLIC AGENCIES TO  
FOLLOW WRITTEN DESIGNER SELECTION  
PROCEDURES.**

Be it enacted, etc., as follows:

Section 38C of chapter 7 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out subparagraph (b) and inserting in place thereof the following subparagraph:-

(b) The board shall grant an exemption for two years from its jurisdiction to each public agency within the provisions of paragraphs (3) and (4) of section forty A, but in no event to any public agency within the provisions of paragraphs (1) and (2) of said section forty A, if the agency has filed a written application for an exemption pursuant to subparagraph (c) of this section; provided, however, that the board shall withhold an exemption if the board determines that the designer selection procedure proposed by the public agency does not substantially incorporate the procedures required in section thirty-eight B to thirty-eight J, inclusive, and section thirty-eight M, or that the selection of finalists will not be made with the advice of design professionals or that the procedure proposed by the public agency does not satisfy the purposes of sections thirty-eight A 1/2 to thirty-eight O, inclusive, as set forth in said section thirty-eight A 1/2, or that withholding such an exemption is in the best interest of the commonwealth; provided, however, that nothing in this section shall be interpreted to require the establishment of a board as prescribed in section thirty-eight B or to waive or in any way diminish the



**ACTS, 1985. – Chap. 398.**

requirements imposed by any other provision of the General Laws. No withholding of an exemption shall take effect until the board shall have specified in writing the reasons for withholding an exemption and any changes in the agency's procedures which are required before an exemption will be granted. An agency granted an exemption or renewal thereof from the jurisdiction of the board shall, during any period such exemption or renewal is in effect, advertise for designers, select any designers to perform any design services, and continue or extend the services of any designers in accordance with the agency's last written designer selection procedures approved by the board in conformity with this section.

Approved October 15, 1985.

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**Chapter 398. AN ACT ESTABLISHING THE LEINO PARK WATER DISTRICT IN THE TOWN OF WESTMINSTER.**

Be it enacted, etc., as follows:

**SECTION 1.** The inhabitants of the town of Westminster, liable to taxation in said town and residing within the territory comprised within the following boundary lines, to wit:

Lots 1 through and inclusive of Lot 118 shown on Plan entitled "Revised Plan of Land of Otto A. Leino, et ux", dated September 12, 1923, and recorded with Worcester Northern District Registry of Deeds in Plan Book 35, Plan 10a and 10b, shall constitute a water district, and are hereby made a body corporate by the name of the Leino Park Water District hereinafter called the district, for the purpose of supplying themselves and others, for fair consideration, with water for the extinguishment of fires and for domestic and other purposes, with power to establish fountains and hydrants and to relocate and discontinue the same, to regulate the use of such water and to fix and collect rates to be paid therefor, and for the purposes of assessing and raising taxes as provided herein for the payment of such services, and for defraying the necessary expenses of carrying on the business of the district, subject to all general laws now or hereafter in force relating to such districts, except as otherwise provided herein. The district shall have power to prosecute and defend all actions relating to its property and affairs.

**SECTION 2.** For the purposes aforesaid, the district, acting by and through its board of water commissioners hereinafter provided for, may contract with any municipality, acting through its water departments, or with any water company, or with any water district, for whatever water may be required, authority to furnish the same being hereby granted, and may take by eminent domain under chapter seventy-nine or chapter eighty A of the General Laws, or acquire by lease, purchase or otherwise, and hold, the waters, or any portion thereof, of any pond, spring or stream, or of any ground sources of supply by means of driven artesian or other wells within the limits of the district and not already



**ACTS, 1985. – Chap. 398.**

appropriated for the purposes of a public supply and the water and flowage rights connected with any such water sources; and for said purposes may take as aforesaid, or acquire by purchase or otherwise, and hold, all lands, rights of way and other easements necessary for collecting, storing, holding, purifying and preserving the purity of the water and for conveying the same to any part of said district; provided, that no source of water supply or lands necessary for preserving the quality of the water shall be so taken or used without first obtaining the advice and approval of the department of environmental quality engineering and that the location and arrangement of all dams, reservoirs, springs, wells, pumping, purification and filtration plants and such other works as may be necessary in carrying out the provisions of this act shall be subject to the approval of said department. The district may construct and maintain on the lands acquired and held under this act proper dams, wells, springs, reservoirs, standpipes, tanks, pumping plants, buildings, fixtures and other structures, including also the establishment and maintenance of filter beds and purification works or systems, and may make excavations, procure and operate machinery and provide such other means and appliances, and do such other things as may be necessary for the establishment and maintenance of complete and effective water works; and for that purpose may construct pipe lines, wells and reservoirs and establish pumping works, and may construct, lay, acquire, and maintain aqueducts, conduits, pipes and other works under or over any land, water courses, railroads, railways and public or other ways, and along such ways, in said towns, in such manner as not unnecessarily to obstruct the same; and for the purposes of constructing, laying, maintaining, operating and repairing such aqueducts, conduits, pipes and other works, and for all proper purposes of this act, the district may dig up or raise and embank any such lands, highways or other ways in such manner as to cause the least hindrance to public travel on such ways; provided, that the manner in which all things are done upon any such way shall be subject to the direction of the selectmen of the town of Westminster. The district may enter upon any lands for the purpose of making surveys, test wells or pits and borings, and may take or otherwise acquire the right to occupy temporarily any lands necessary for the construction of any work or for any other purpose authorized by this act.

**SECTION 3.** Any person sustaining damages in his property by any taking under this act or any other things done under authority thereof may recover such damages from the district under chapter seventy-nine or chapter eighty A of the General Laws; but the right to damages for the taking of any water, water right or water source, or for any injury thereto, shall not vest until water is actually withdrawn or diverted under authority of this act.

**SECTION 4.** For the purposes of applying the necessary expenses and liabilities incurred under this act, other than expenses of maintenance and operation, the district may borrow from time to time such sums as may be necessary and may issue bonds or notes therefor which shall bear



**ACTS, 1985. – Chap. 398.**

on their face the words "Leino Park Water District Loan Act of 1985". Each authorized issue shall constitute a separate loan and such loans shall be payable in not more than forty years from their dates. Indebtedness incurred under this act shall be subject to the provisions of chapter forty-four of the General Laws pertaining to such districts.

**SECTION 5.** The district shall, at the time of authorizing any loan or loans, provide for the payment thereof and, when a vote to that effect has been passed, a sum which, with the income derived from water rates, shall be sufficient to pay the annual expense of operating its water works and the interest as it accrues on the bonds or notes issued as aforesaid by the district, and to make such payments on the principal as may be required under this act, shall without further vote be assessed upon the district by the assessors of said town of Westminster annually thereafter until the debt incurred by said loan or loans is extinguished.

**SECTION 6.** Any land taken or acquired under this act shall be managed, improved and controlled by the board of water commissioners hereinafter provided for, in such manner as they shall deem for the best interest of the district. All authority vested in said board by this section shall be subject to section nine.

**SECTION 7.** Whenever a tax is duly voted by the district for the purposes of this act, the clerk shall send a certified copy of the vote to the assessors of said town, who shall assess the same on property within the district in the same manner in all respects in which town taxes are required by law to be assessed; provided, that no estate shall be subject to any tax assessed on account of the system of water supply under this act if, in the judgment of the board of water commissioners hereinafter provided for, after a hearing, due notice whereof shall have been given, such estate is so situated that it will receive no aid in the extinguishment of fire from the said system of water supply, or if such estate is so situated that the buildings thereon, or the buildings that might be constructed thereon, could not be supplied with water from said system in any ordinary or reasonable manner; but all other estates in the district shall be deemed to be benefited and shall be subject to such tax. A certified list of the estates exempt from taxation under the provisions of this section shall annually be sent by said board of water commissioners to said assessors, at the same time at which the clerk shall send a certified copy of the vote as aforesaid. The assessment shall be committed to the town collector, who shall collect said tax in the manner provided by law for the collection of town taxes, and shall deposit the proceeds thereof with the district treasurer for the use and benefit of the district. The district may collect interest on overdue taxes in the manner in which interest is authorized to be collected on town taxes.

**SECTION 8.** Any meeting of the voters of the territory included within the boundaries set forth in section one to be held prior to the acceptance of this act, and any meeting of the voters of the district



ACTS, 1985. – Chap. 398.

to be held prior to the qualification of a majority of the water commissioners, shall be called, on petition of ten or more legal voters therein, by a warrant from the selectmen of said town, or from a justice of the peace, directed to one of the petitioners, requiring him to give notice of the meeting by posting copies of the warrant in two or more public places in the district seven days at least before the time of the meeting. Such justice of the peace, or one of the selectmen, shall preside at such meeting until a clerk is chosen and sworn, and the clerk shall preside until a moderator is chosen. At any meeting held hereunder prior to the acceptance of this act, after the choice of a moderator for the meeting the question of the acceptance of this act shall be submitted to the voters, and if it is accepted by a majority of the voters present and voting thereon, it shall thereupon take effect, and the meeting may then proceed to act on the other articles in the warrant. After the qualification of a majority of the water commissioners, meetings of the district shall be called by warrant under their hands, unless some other method be provided by by-law or vote of the district.

**SECTION 9.** The district shall, after the acceptance of this act as aforesaid, elect by ballot, either at the same meeting at which this act shall have been accepted, or thereafter, at an annual meeting or at a special meeting called for the purpose, three persons, inhabitants of and voters in the district, to hold office, one until the expiration of three years, one until the expiration of two years, and one until the expiration of one year from the day of the next succeeding annual district meeting, to constitute a board of water commissioners; and at every annual district meeting following such next succeeding annual district meeting one such commissioner shall be elected by ballot for the term of three years. The date of the next annual meeting shall be fixed by by-laws or by vote of the board of water commissioners, but in no event shall it be later than fifteen months subsequent to the date on which the water commissioners were first elected. All the authority granted to said district by this act, except section five, and not otherwise specifically provided for, shall be vested in said board of water commissioners who shall be subject, however, to such instructions, rules and regulations as the district may by vote impose. At the meeting at which said water commissioners are first elected and at each annual district meeting held thereafter, the district shall elect by ballot, each for a term of one year, a clerk and a treasurer of the district. The treasurer shall not be a water commissioner and shall give bond to the district in such an amount as may be approved by said water commissioners and with a surety company authorized to transact business in the commonwealth as surety. A majority of said water commissioners shall constitute a quorum for the transaction of business. Any vacancy occurring in said board from any cause may be filled for the remainder of the unexpired term by the district at any legal meeting called for the purpose. No money shall be drawn from the treasury of the district on account of its water works except from the treasury of the district on account of its water works except upon a written order of said water commissioners or a majority of them.



**ACTS, 1985. – Chap. 398.**

**SECTION 10.** Said board of water commissioners shall fix just and equitable prices and rates to account for all costs and shall prescribe the time and manner of payment. The income of the water works shall be appropriated to defray all operating expenses, interest charges and payments on the principal as they shall accrue upon any bonds or notes issued under authority of this act. If there should be any surplus remaining after providing for the aforesaid charges, it may be appropriated for such new construction as said water commissioners may recommend. Said water commissioners shall annually, and as often as the district may require, render a report upon the condition of the works under their charge, and an account of their doings, including an account of receipts and expenditures.

**SECTION 11.** The district may adopt by-laws, prescribing by whom and how meetings of the district may be called, notified, and conducted; and, upon the application of ten or more legal voters in the district, meetings may also be called by warrant as provided in section eight. The district may also establish rules and regulations for the management of its water works, not inconsistent with this act or with any other provision of law, and may choose such other officers not provided for in this act as it may deem necessary or proper.

**SECTION 12.** Whoever wilfully or wantonly corrupts, pollutes or diverts any water obtained or supplied under this act, or wilfully or wantonly injures any reservoir, well, standpipe, aqueduct, pipe or other property owned or used by the district for any of the purposes of this act, shall forfeit and pay to the district three times the amount of damages assessed therefor, to be recovered in an action of tort, and upon conviction of any of the above wilful or wanton acts shall be punished by a fine of not more than three hundred dollars or by imprisonment for not more than one year, or both.

**SECTION 13.** Upon a petition in writing addressed to said board of water commissioners requesting that certain real estate, accurately described therein, located in said town and abutting on said district and not otherwise served by a public water supply be included within the limits thereof, and signed by the owners of such real estate, or a major portion of such real estate, said water commissioners shall cause a duly warned meeting of the district to be called, at which meeting the voters may vote on the question of including said real estate within the district. If a majority of the voters present and voting thereon vote in the affirmative the district clerk shall within ten days file with the town clerk of said town and with the state secretary an attested copy of said petition and vote; and thereupon said real estate shall become and be part of the district and shall be holden under this act in the same manner and to the same extent as the real estate described in section one.

**SECTION 14.** This act shall take effect upon its acceptance by a majority vote of the voters of the territory included within said district established by section one of this act present and voting thereon, by the



**ACTS, 1985. – Chap. 399.**

use of a check list, at a district meeting called, in accordance with section eight, within four years after its passage.

Approved October 15, 1985.

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**Chapter 399. AN ACT FURTHER REGULATING THE RENT CONTROL AND EVICTIONS IN THE CITY OF CAMBRIDGE.**

Be it enacted, etc., as follows:

**SECTION 1.** Section 5 of chapter 36 of the acts of 1976 is hereby amended by adding the following paragraph:–

(f) The provisions relating to adjudicatory proceedings in chapter thirty A of the General Laws, except for section nine and the provisions of paragraph (1) of the third paragraph of section fourteen which relates to the court in which judicial review may be sought, shall be applicable to the adjudicatory hearings held by the board.

**SECTION 2.** Section 8 of said chapter 36 is hereby amended by striking out paragraph (d).

**SECTION 3.** Said chapter 36 is hereby further amended by striking out section 10 and inserting in place thereof the following section:–

Section 10. (a) Any person who is aggrieved by any action, regulation or order of the board may file a complaint for judicial review against the board either in the third eastern Middlesex division of the district court department or the superior court department for Middlesex county. If the complaint is filed in the third eastern Middlesex division of the district court department, said court shall be authorized to take such action with respect thereto as is provided in the case of the superior court under the provisions of chapter two hundred and thirty-one A of the General Laws, except that section three of said chapter two hundred and thirty-one A shall not apply. Judicial review of adjudicatory decisions shall be conducted in accordance with section fourteen of chapter thirty A of the General Laws. Judicial review of regulations shall be in accordance with section seven of said chapter thirty A.

(b) The third eastern Middlesex division of the district court department and the superior court department for Middlesex county shall have concurrent original jurisdiction over actions arising out of the provisions of section eleven. Notwithstanding any other provision of law relating to appeals, appeal from the judgment of whichever court enters the judgment either under the provisions of section ten or eleven shall be to the appeals court.

**SECTION 4.** Section 11 of said chapter 36 is hereby further amended by adding the following paragraph:–

(d) The board may elect to enforce the provisions of this or any rule or regulation promulgated hereunder either in a civil action for damages



**ACTS, 1985. – Chap. 400.**

for declaratory or injunctive relief or under the provisions of section twelve.

Approved October 15, 1985.

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**Chapter 400. AN ACT MAKING AN APPROPRIATION TO FUND A COLLECTIVE BARGAINING AGREEMENT BETWEEN THE BOARD OF REGENTS AND THE UNIVERSITY OF MASSACHUSETTS, BOSTON PATROLMEN'S ASSOCIATION.**

Be it enacted, etc., as follows:

**SECTION 1.** To provide for the cost of salary adjustments and other employee economic benefits authorized by the collective bargaining agreement between the board of regents of higher education and the University of Massachusetts, Boston Patrolmen's Association, the sum set forth in section two of this act is hereby appropriated, subject to the provisions of law regulating the disbursements of public funds and the conditions pertaining to appropriations in chapter one hundred and forty of the acts of nineteen hundred and eighty-five.

**SECTION 2.**

**EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE.**

Collective Bargaining.

Item

1599–3112 For a reserve to meet the cost of certain salary adjustments and other employee economic benefits authorized by the collective bargaining agreement between the board of regents of higher education and the University of Massachusetts, Boston Patrolmen's Association; provided, however, that the commissioner of administration is hereby authorized to transfer from the sum appropriated to other items of appropriation for the fiscal year nineteen hundred and eighty-six, such amounts as are necessary to meet the costs of said adjustments and benefits for the fiscal year nineteen hundred and eighty-five and prior years where the amounts otherwise available are insufficient for the purpose; provided, further, that said commissioner of administration is authorized to allocate the cost of such salary adjustments and benefits to the several state or other funds to which such items of appropriation are charged; and, provided further, that copies of said collective



**ACTS, 1985. – Chaps. 401, 402.**

bargaining agreement, together with an analysis of all cost items contained in said agreement and all changes to be made in the schedules of permanent and temporary positions required by said agreement, shall be filed with the house and senate committees on ways and means prior to the transfer or allocation of any amounts necessary to meet the cost of said adjustments and benefits

\$82,787

**SECTION 3.** This act shall take effect upon its passage.

Approved October 18, 1985.

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**Chapter 401. AN ACT PROVIDING FOR ELECTION OF A MODERATOR FOR A THREE YEAR TERM IN THE TOWN OF WINTHROP.**

Be it enacted, etc., as follows:

**SECTION 1.** Section 6 of chapter 427 of the acts of 1920 is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:– A moderator shall be elected by ballot at the annual election for a term of three years and shall serve as moderator of all town meetings, except as otherwise provided by law, until a successor is elected and qualified, commencing with the town election in nineteen hundred and eighty-six.

**SECTION 2.** This act shall take effect upon its passage.

Approved October 18, 1985.

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**Chapter 402. AN ACT RELATIVE TO THE ORDER OF CERTAIN PERSONS ON ELIGIBLE LISTS FOR APPOINTMENT AS FIREFIGHTER OR POLICE OFFICER.**

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately facilitate the appointment of firefighters and police officers on eligible lists, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public welfare.

Be it enacted, etc., as follows:

**SECTION 1.** Section 26 of chapter 31 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out the seventh paragraph and inserting in place thereof the following three



**ACTS, 1985. – Chap. 403.**

paragraphs:–

Notwithstanding any other provisions of this chapter or of any other law, a son or daughter of a firefighter or police officer who passes the required written and physical examination for entrance to the fire or police service shall have his or her name placed in the first position on the eligible list for appointment to such fire or police service if: (1) in the case of a firefighter, such firefighter while in the performance of his duties and as the result of an accident while responding to an alarm of fire or while at the scene of a fire was killed or sustained injuries which resulted in his death; or (2) in the case of a police officer, such police officer while in the performance of his duties and as a result of an assault on his person was killed or sustained injuries which resulted in his death.

Notwithstanding any other provision of this chapter or of any other law, the son or daughter of a firefighter or police officer who passes the required written and physical examination for entrance to the fire or police service shall have his or her name placed on the eligible list for appointment to such fire or police service immediately below the names of disabled veterans as provided for in the first paragraph, provided that said firefighter or police officer has been retired at a yearly amount of pension equal to the regular rate of compensation which he would have been paid had he continued in said service at the grade held at the time of retirement, pursuant to a special act of the legislature in which said firefighter or police officer is determined to be permanently or totally disabled, provided further that (1) in the case of a firefighter, such firefighter while in the performance of his duties and as the result of an accident while responding to an alarm of fire or while at the scene of a fire sustained injuries which resulted in his being permanently and totally disabled; or (2) in the case of a police officer, such police officer while in the performance of his duties and as a result of an assault on his person sustained injuries which resulted in his being permanently and totally disabled. Should more than one applicant be eligible for appointment pursuant to the provisions of this paragraph, said applicants shall be ordered according to their respective standings.

For the purposes of determining the order of persons on eligible lists pursuant to this section, the presumptions created by sections ninety-four and ninety-four A of chapter thirty-two, shall not be applicable to the death or disablement of any firefighter or police officer whose son or daughter is eligible for appointment.

**SECTION 2.** The provisions of section twenty-six of chapter thirty-one of the General Laws, as amended by section one, shall apply to all appointments made from eligible lists promulgated by the administrator after the effective date of this act.

Approved October 18, 1985.

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**Chapter 403. AN ACT RELATIVE TO THE NOMINATION AND ELECTION OF TOWN MEETING MEMBERS IN THE**



ACTS, 1985. – Chap. 404.

TOWN OF MILFORD.

Be it enacted, etc., as follows:

**SECTION 1.** Chapter 271 of the acts of 1933 is hereby amended by striking out section 4, as amended by chapter 116 of the acts of 1983, and inserting in place thereof the following section:–

**Section 4.** Notwithstanding the provisions of the fourth paragraph of section ten of chapter fifty-three of the General Laws or any other general or special law to the contrary, nominations of all candidates for town meeting members, including incumbents, to be elected under this act shall be made by nomination papers, which shall bear no political designation, shall be signed by not less than thirty voters of the precinct in which the candidate resides, and shall be filed with the town clerk at least ten days before the elections. No nomination papers shall be valid in respect to any candidate whose written acceptance is not thereon or attached thereto when filed.

**SECTION 2.** Said chapter 271 is hereby further amended by inserting after section 4 the following section:–

**Section 4A.** Notwithstanding the provisions of any general or special law to the contrary, upon close of the period for nomination and establishing candidacy for town meeting members, the board of registrars shall meet for the purpose of determining the order in which names of candidates for town meeting member shall appear on the ballot for each precinct. The registrars shall transcribe the names of candidates for each precinct on separate sheets of paper of uniform size. For each precinct, such sheets shall be placed in a box whereupon the box shall be shaken and mixed by one of the registrars who shall then, without seeing the names thereon, openly draw each sheet of paper from said box reading the name of each candidate as each such sheet is drawn. The registrars shall record the order in which such names are drawn and the names of candidates shall appear on the ballot in such order. This process shall be repeated for each precinct.

**SECTION 3.** This act shall take effect upon its passage.

Approved October 18, 1985.

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Chapter 404. **AN ACT MAKING AN APPROPRIATION TO FUND A COLLECTIVE BARGAINING AGREEMENT BETWEEN THE COMMONWEALTH AND THE NATIONAL ASSOCIATION OF GOVERNMENT EMPLOYEES, LOCAL RI-207 (UNIT 6).**

Be it enacted, etc., as follows:

**SECTION 1.** To provide for the cost of salary adjustments and other employee economic benefits authorized by the collective bargaining



**ACTS, 1985. -- Chap. 404.**

agreement between the commonwealth and the National Association of Government Employees, Local R1-207 (Unit 6) the sum set forth in section two is hereby appropriated, subject to the provisions of law regulating the disbursements of public funds and the conditions pertaining to appropriations in chapter one hundred and forty of the acts of nineteen hundred and eighty-five.

**SECTION 2.**

**EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE.**

Collective Bargaining.

**Item**

1599-3501 For a reserve to meet the cost of salary adjustments and other employee economic benefits authorized by the collective bargaining agreement between the commonwealth and the National Association of Government Employees, Local R1-207 (Unit 6); and to meet the cost of salary adjustments and other economic benefits necessary to provide equal salary adjustments or benefits to employees employed in confidential positions which would otherwise be covered by said collective bargaining agreement; provided, however, that the personnel administrator, with the approval of the commissioner of administration, shall determine such salary adjustments and other economic benefits for confidential employees in accordance with the provisions of the collective bargaining agreement then in effect which would otherwise cover said positions; provided, further, that the commissioner of administration is hereby authorized to transfer from the sum appropriated to other items of appropriation for the fiscal year nineteen and eighty-six such amounts as are necessary to meet the cost of said adjustments and benefits for the fiscal year nineteen hundred and eighty-six and prior fiscal years where the amounts otherwise available are insufficient for the purpose; provided, further, that the commissioner of administration is authorized to allocate the cost of such salary adjustments and benefits to the several state or other funds to which such items of appropriation are charged; provided, further, that any payment made to a union or a joint union-management trust fund required by said collective bargaining agreement may be



**ACTS, 1985. – Chap. 405.**

charged by the comptroller against this item; provided, further, that copies of said collective bargaining agreement, together with an analysis of all cost items contained in said agreement and all changes to be made in the schedules of permanent and temporary positions required by said agreement, shall be filed with the house and senate committees on ways and means prior to the transfer or allocation of any amounts necessary to meet the cost of said adjustments and benefits; and provided, further, that no transfers, payments, or allocations shall be made from this item without the prior approval of the house and senate committees on ways and means and that no payments to said unions or joint union-management trust fund shall be made from this item without the prior approval of the house and senate committees on ways and means

\$22,972,000

**SECTION 3.** This act shall take effect upon its passage.

Approved October 18, 1985.

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**Chapter 405. AN ACT RELATIVE TO DEPOSIT INSURANCE.**

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately facilitate the acquisition of federal deposit insurance coverage by Massachusetts thrift institutions, 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.** Chapter 167F of the General Laws is hereby amended by striking out sections 6 and 7, as appearing in the 1984 Official Edition, and inserting in place thereof the following section:–

Section 6. A bank may become a member of (i) the Federal Deposit Insurance Corporation, subject to the provisions of the act of Congress approved in nineteen hundred and fifty, known as the Federal Deposit Insurance Act, or (ii) the Federal Savings and Loan Insurance Corporation, subject to the provisions of the act of Congress, approved in nineteen hundred and thirty-four, known as the National Housing Act, or (iii) or any successor of either corporation. A member of the Deposit Insurance Fund of the Mutual Savings Central Fund, Inc., established by chapter forty-three of the acts of nineteen hundred and thirty-four, shall also be subject to sections twelve to seventeen, inclusive, of said



ACTS, 1985. – Chap. 405.

chapter forty-three. A member of the Share Insurance Fund of The Co-operative Central Bank, established by chapter seventy-three of the acts of nineteen hundred and thirty-four, shall also be subject to the provisions of sections eleven to sixteen, inclusive, of said chapter seventy-three.

The Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation, upon payment of the insured portion of any share, deposit or other accounts in a bank so insured, shall, subject to the provisions of said section seventeen of said chapter forty-three, or the provisions of section sixteen of said chapter seventy-three, be subrogated to the rights of the person to whom the insurance was so paid to receive the same distribution from the proceeds of the assets and claims of the bank as would have been payable to that person on a claim for the portion of the deposit insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation; but such person shall retain the right to receive distribution on so much of such person's claim as represents the uninsured portion of the share, deposit or other account.

**SECTION 2.** Section 36 of chapter 168 of the General Laws, as so appearing, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraphs:–

Upon the acceptance by such corporation of a federal charter, it shall cease to be a member bank in the Mutual Savings Central Fund, Inc. and shall be entitled to receive from the Mutual Savings Central Fund, Inc. an amount not to exceed the actual deposits made by it to the Liquidity Fund pursuant to the provisions of section four of chapter forty-four of the acts of nineteen hundred and thirty-two less its indebtedness, if any, to said Mutual Savings Central Fund, Inc.; provided, however, that no part of the income, surplus, undivided profits or other reserves of the Liquidity Fund shall be so paid. All amounts required to be paid by the corporation pursuant to the provisions of sections one and seventeen of chapter forty-three of the acts of nineteen hundred and thirty-four, including the income, surplus, undivided profits and other reserves of the Deposit Insurance Fund, shall be retained by the Mutual Savings Central Fund, Inc. as a charge for the insurance of deposits of such corporation while it was a member bank. Such corporation shall participate in any distributions made under the provisions of section ten of said chapter forty-three, but the aggregate amount of such distributions, including the amount of any dividend paid as an advanced dividend distribution in connection with the partial dissolution and liquidation of the fund, shall be limited to an amount equal to the amount the corporation would have received had the Deposit Insurance Fund been liquidated at the time such corporation acquired its federal charter; provided, however, that such corporation may also participate in any dividends paid pursuant to section three of said chapter forty-three to the extent the board of directors of said Mutual Savings Central Fund, Inc. declares dividends for payment to former member banks which have accepted federal charters, subject to the prior approval of the commissioner as provided for in said section three of said chapter forty-three.



## ACTS, 1985. – Chap. 405.

Any such corporation which accepts or has accepted a federal charter after January first, nineteen hundred and eighty-three may apply to the Mutual Savings Central Fund, Inc. for insurance coverage of its deposits in excess of the amount insured by a federal deposit insurance agency, hereinafter referred to as "excess insurance", in accordance with the requirements of chapter forty-four of the acts of nineteen hundred and thirty-two and chapter forty-three of the acts of nineteen hundred and thirty-four; provided, however, that no such corporation shall apply for such excess insurance unless such corporation shall have capital and surplus if a stock institution or surplus if a mutual institution, less any intangible asset value, equal to or greater than six per cent of total assets. The Mutual Savings Central Fund, Inc. shall not accept for excess insurance coverage any such corporation which fails to meet the requirements specified above or the requirements set out in section nineteen of said chapter forty-three. For purposes of this section, federal deposit insurance agency shall mean Federal Deposit Insurance Corporation or Federal Savings and Loan Insurance Corporation or any successor to either corporation.

**SECTION 3.** Section 37 of said chapter 168, as so appearing, is hereby amended by striking out the seventh paragraph and inserting in place thereof the following paragraph:—

All amounts required to be paid by the corporation pursuant to the provisions of sections one and seventeen of chapter forty-three of the acts of nineteen hundred and thirty-four, including the income, surplus, undivided profits and other reserves of the Deposit Insurance Fund, shall be retained by the Mutual Savings Central Fund, Inc. as a charge for the insurance of the deposits of such corporation while it was a member bank. Such corporation shall participate in any distributions authorized and made pursuant to section ten of said chapter forty-three, but the aggregate amount of such distributions, including the amount of any dividend paid in connection with the partial dissolution and liquidation of the fund, shall be limited to an amount the corporation would have received had the Deposit Insurance Fund been liquidated at the time such corporation accepted its federal charter; provided, however, that such corporation may also participate in any dividends paid pursuant to section three of said chapter forty-three to the extent that the board of directors of said Mutual Savings Central Fund, Inc. declares dividends for payment to former member banks which have accepted federal charters, subject to the prior approval of the commissioner as provided in said section three of said chapter forty-three.

**SECTION 4.** The fifth paragraph of section 28 of chapter 170, as so appearing, is hereby amended by striking out clause 1 and inserting in place thereof the following clause:—

1. The central bank shall pay to said succeeding association from the fund representing deposits of member banks made pursuant to said chapter forty-five, hereinafter called the Reserve Fund, an amount equal to not more than the aggregate of all deposits made by the predecessor corporation held in said Reserve Fund on the effective date



**ACTS, 1985. – Chap. 405.**

of the conversion, less all indebtedness of such corporation to the central bank; provided, however, that no part of the income, surplus, undivided profits or other reserves held by the central bank in said Reserve Fund shall be so paid.

**SECTION 5.** Clause 2 of said fifth paragraph of said section 28 of said chapter 170, as so appearing, is hereby amended by striking out the first two sentences and inserting in place thereof the following two sentences:– All amounts required to be paid by the predecessor corporation while a member bank to the Share Insurance Fund of the central bank pursuant to section one of chapter seventy-three, including the income, surplus, undivided profits and other reserves of the Share Insurance Fund, shall be retained by the central bank as a charge for insurance of the shares of such corporation while a member of the said Share Insurance Fund. Such corporation shall, participate in any distributions authorized and made pursuant to section nine of chapter seventy-three of the acts of nineteen hundred and thirty-four, but the aggregate amount of such distributions shall be limited to an amount equal to the amount the corporation would have received had the Share Insurance Fund been liquidated at the time such corporation accepted its federal charter.

**SECTION 6.** The first paragraph of section 10 of chapter 171 of the General Laws, as so appearing, is hereby amended by striking out the sixth sentence and inserting in place thereof the following sentence:– The preceding limitations shall also apply to members of credit unions which are insured by the administrator of the National Credit Union Administration; provided, however, that no such credit union shall accept deposits or payments for shares for the account or accounts of a shareholder or depositor in excess of the amount which is insured by said administrator unless the excess is insured by the Massachusetts Credit Union Share Insurance Corporation pursuant to section six D of chapter two hundred and ninety-four of the acts of nineteen hundred and sixty-one.

**SECTION 6A.** Section 1 of chapter 44 of the acts of 1932 is hereby amended by adding the following two paragraphs:–

Any federal savings bank with its main office located in the commonwealth and which has converted from a state charter shall be eligible and may apply for insurance coverage by the Deposit Insurance Fund of its deposits in excess of the amount insured by a federal deposit insurance agency in accordance with the requirements of chapter forty-three of the acts of nineteen hundred and thirty-four.

The term federal deposit insurance agency as used in this act shall mean Federal Deposit Insurance Corporation or Federal Savings and Loan Insurance Corporation or any successor to either corporation.

**SECTION 7.** Section 2A of said chapter 44, as amended by section 2 of chapter 229 of the acts of 1981, is hereby further amended by striking out subsection (a) and inserting in place thereof the following



**ACTS, 1985. – Chap. 405.**

subsection:–

(a) For the purpose of election of directors, each of the counties of Essex, Hampden, Middlesex, Suffolk and Worcester shall constitute an election district, the counties of Barnstable, Bristol, Dukes County, Nantucket, Norfolk, and Plymouth as a group shall constitute an election district, and the counties of Berkshire, Franklin and Hampshire as a group shall constitute an election district. Three directors shall be elected from the trustees or officers of member banks of each election district. Each director shall be elected for a two year term.

**SECTION 8.** Section 4 of said chapter 44, as amended by section 4 of said chapter 229, is hereby further amended by inserting after the first sentence the following sentence:– No part of the income, surplus, undivided profits or other reserves held by the Mutual Savings Central Fund in the Liquidity Fund may be subject to withdrawal, except where a member bank is in liquidation.

**SECTION 9.** Said chapter 44 is hereby further amended by striking out section 9 and inserting in place thereof the following section:–

Section 9. So much of the deposits of member banks as is deposited with the Liquidity Fund under the provisions of this act shall, so long as they remain deposited therewith, be exempt from taxation.

**SECTION 10.** Section 1 of chapter 45 of the acts of 1932, as amended by section 2 of chapter 323 of the acts of 1956, is hereby further amended by striking out the last paragraph and inserting in place thereof the following paragraph:–

The deposits of the member banks under the provisions of this act and chapter seventy-three of the acts of nineteen hundred and thirty-four, together with any surplus which may hereafter be accumulated by the central bank, shall constitute its capital structure. The central bank shall be exempt from all state and local taxation, except in respect to any real estate owned or used by it for its corporate purposes; provided, however, that within thirty days of the vote of the corporation to dissolve and liquidate the Share Insurance Fund, declared eligible for distribution, in accordance with section nine of said chapter seventy-three, and prior to any distribution to member banks, an excise of five million dollars shall be paid by the corporation to the commissioner of revenue as an excise for the privilege of dissolving and liquidating said fund in whole or in part. No such excise shall be paid for such privilege subsequent to the initial distribution made in accordance with said section nine. After payment of such excise, the balance of the proceeds declared eligible for distribution shall be distributed in accordance with said section nine. Such excise shall be subject to all other relevant provisions of applicable law consistent with the provisions of this section; provided, however, that the application of such relevant provisions shall in no way diminish the amount of such excise. The revenues received by the commonwealth from the excise imposed by this section shall be placed in a separate fund to be applied solely to defray the cost of the purposes set forth in chapter twenty-one E of



**ACTS, 1985. – Chap. 405.**

the General Laws.

**SECTION 11.** Section 2 of said chapter 45, as most recently amended by section 1 of chapter 176 of the acts of 1984, is hereby further amended by striking out subsection (a) and inserting in place thereof the following subsection:–

(a) There shall be fifteen directors of the Central Bank elected from the board of directors or officers of member banks by delegates as provided herein.

**SECTION 12.** Section 6 of said chapter 45, as most recently amended by section 79 of chapter 371 of the acts of 1983, is hereby further amended by adding the following sentence:– For purposes of this section, no part of the income, surplus, undivided profits or other reserves held by the central bank in the Reserve Fund may be subject to withdrawal, except where a member bank is in liquidation.

**SECTION 12A.** Section 8 of said chapter 45, as amended by section 3 of chapter 219 of the acts of 1943, is hereby further amended by striking out, in line 2, the words "central bank" and inserting in place thereof the words:– Reserve Fund.

**SECTION 12B.** Section 1 of chapter 43 of the acts of 1934 is hereby amended by adding the following paragraph:–

The term "federal deposit insurance agency" as used in this act shall mean Federal Deposit Insurance Corporation or Federal Savings and Loan Insurance Corporation or any successor to either corporation.

**SECTION 12C.** Section 1A of said chapter 43 is hereby amended by adding the following paragraph:–

If the directors determine that a special examination and audit, including a current appraisal of the assets, of any federally chartered bank which has excess insurance pursuant to section nineteen would be in the interests of its depositors or in the interests of the sound and effective operation of the Deposit Insurance Fund, the board of directors by vote of at least two-thirds of its members may cause a special examination, audit and appraisal to be made by a certified public accountant in such form and manner as the directors may prescribe. The corporation may engage any qualified appraiser for the purpose of making a current appraisal of such federally chartered bank's assets. The expense of such examination, audit and appraisal shall be paid by the Deposit Insurance Fund. After receiving the reports of such accountant or appraiser, the corporation shall promptly furnish to the federally chartered bank copies of such reports. The directors shall have the authority to make recommendations to any federally chartered bank for the purpose of correcting practices or policies of the bank in conducting its business, including loan or dividend policies, which the directors deem to be unsafe or unsound, or to have a tendency to impair the financial condition of such federally chartered bank. If such federally chartered



**ACTS, 1985. – Chap. 405.**

bank fails to follow such recommendations within a reasonable time, the directors may give written notice of such failure to the commissioner who may give written notice of such failure to the federally chartered bank and to the federal regulatory agency having regular supervisory authority over such bank and to the federal deposit insurance agency for such federally chartered bank. If it appears to the directors that such practices or policies have impaired or are likely to impair the solvency of such bank, or are unreasonably increasing the insurance risk of the Deposit Insurance Fund with respect to such federally chartered bank, the directors may include a statement to such effect, together with a report of the facts and circumstances, in the aforesaid notice to the commissioner who may include such a statement and report in his aforesaid notice to the federally chartered bank and to the appropriate federal regulatory agency and to the federal deposit insurance agency for such federally chartered bank.

**SECTION 13.** Section 3 of said chapter 43, as amended by section 5 of chapter 276 of the acts of 1984, is hereby further amended by striking out the last sentence and inserting in place thereof the following sentence:– In the case of a merger or consolidation of a savings bank with one or more other savings banks under section thirty-four of said chapter one hundred and sixty-eight, or in the case of a sale of assets of such bank to and the assumption of the liabilities by one or more other savings banks under section thirty-five of said chapter one hundred and sixty-eight, the continuing bank shall succeed to any of the rights of the discontinuing bank in the assessments theretofore paid by the discontinuing bank; provided, however, that if the continuing bank is, and the discontinuing bank is not, a member of a federal deposit insurance agency the provisions of section fifteen shall apply to such assessments of the discontinuing bank as though such bank had become a member of a federal deposit insurance agency as provided in sections twelve to fifteen, inclusive.

**SECTION 14.** Said chapter 43 is hereby further amended by inserting after section 3A the following section:–

**Section 3B.** The directors of the corporation, with the prior approval of the commissioner, may take any action which they deem necessary to facilitate for member banks the acquisition of membership in a federal deposit insurance agency.

**SECTION 15.** Said chapter 43 is hereby further amended by striking out section 8 and inserting in place thereof the following section:–

**Section 8.** So much of the deposits of member banks as is deposited with the corporation under the provisions of this act shall, so long as they remain deposited therewith, be exempt from taxation; provided, however, that within thirty days of the vote of the corporation to dissolve and liquidate the Deposit Insurance Fund, declared eligible for distribution, in accordance with section ten, and prior to any distribution to member banks, an excise of sixteen million dollars shall be paid by the corporation to the commissioner of revenue as an excise for the privilege



ACTS, 1985. – Chap. 405.

of dissolving and liquidating said fund in whole or in part. No such excise shall be paid for such privilege subsequent to the initial distribution made in accordance with section ten. After payment of such excise, the balance of the proceeds declared eligible for distribution shall be distributed in accordance with section ten. Such excise shall be subject to all other relevant provisions of applicable law consistent with the provisions of this section; provided, however, that the application of such relevant provisions shall in no way diminish the amount of such excise. The revenues received by the commonwealth from the excise imposed by this section shall be placed in a separate fund to be applied solely to defray the cost of the purposes set forth in chapter twenty-one E of the General Laws.

**SECTION 16.** Said chapter 43 is hereby further amended by striking out section 10 and inserting in place thereof the following section:–

**Section 10.** The corporation, at special county or district meetings held in accordance with the bylaws and with section two of said chapter forty-four, and called by the directors for this special purpose, may determine, by four-fifths vote of all member banks, that, as a fact, the deposits of all member banks are adequately insured by a federal deposit insurance agency and that the Deposit Insurance Fund is needed solely for the insurance of deposits in excess of the sum covered by a federal deposit insurance agency hereinafter referred to as excess insurance or that the fund is no longer needed for such excess insurance. If the commissioner concurs with such determination of fact, he shall determine the portion of the fund, if any, required for the excess insurance of deposits of member banks and shall declare any balance of such fund, after payment of losses, expenses and obligations of the corporation, eligible for distribution to member banks upon any dissolution and liquidation of the fund in whole or in part; provided, however, that the corporation, by simple majority vote of its board of directors, agrees with the commissioner on the amount required for said excess insurance. If the corporation does not agree with the commissioner's determination of said amount, then a three-member panel, consisting of the commissioner or his designee, a member chosen by the corporation and a member chosen by agreement of the commissioner and the corporation, shall, by majority vote, determine the amount required for said excess insurance. The corporation shall immediately furnish to the commissioner any and all information he deems necessary to assist him in his determination of what is required for excess insurance. The corporation may, by a like four-fifths vote of all member banks and with the approval of the commissioner, vote to dissolve and liquidate the balance of the fund so declared eligible for distribution. When voting for the purposes provided in this section, each member bank shall have one vote for each ten million dollars or fraction thereof of deposits then insured by the Deposit Insurance Fund, including excess deposits, if any, referred to in section seventeen, as shown by such member bank's latest report to the commissioner or to the corporation. Upon any such vote to dissolve and liquidate the Deposit Insurance



**ACTS, 1985. – Chap. 405.**

Fund, the corporation shall distribute, over a period of not more than twelve months, the amount of the fund so voted for distribution pro rata to the member banks based upon their total amounts of assessments and participations in said fund. Loans made by the corporation to member banks shall not be deemed part of any amount required for the excess insurance of deposits.

**SECTION 17.** Said chapter 43 is hereby further amended by striking out section 12, as amended by section 88 of chapter 371 of the acts of 1983, and inserting in place thereof the following section:–

**Section 12.** Any member bank which shall apply for membership in a federal deposit insurance agency referred to in section six of chapter one hundred and sixty-seven F of the General Laws, shall forthwith give written notice thereof to the Mutual Savings Central Fund, Inc., and to the commissioner. If such application is accepted and such member bank is notified that said corporation is willing to insure its deposits, such member bank may become a member of a federal deposit insurance agency subject to the terms and conditions set forth in this section and in sections thirteen, fourteen, fifteen and seventeen; provided, however, that such membership shall have been approved by vote of at least two-thirds of the trustees or directors of such banks.

**SECTION 18.** Said chapter 43 is hereby further amended by striking out section 13, inserted by section 10 of chapter 324 of the acts of 1956, and inserting in place thereof the following section:–

**Section 13.** When any member bank which has applied for membership in a federal deposit insurance agency shall have complied with all requirements prerequisite to such membership and shall have received notice in writing from said agency that it is a member thereof and its deposits are insured thereby, such member bank shall file copies of said notice and of the votes of its trustees or directors, provided in section twelve, certified by its president and its clerk, with the commissioner and with the Mutual Savings Central Fund, Inc., and shall thereupon give written notice thereto and to the commissioner of the acquisition of such membership. On the effective date of such membership, the insurance of the deposits of such bank by the Deposit Insurance Fund, to the extent that such deposits shall then or thereafter be insured by a federal deposit insurance agency shall terminate, and such bank shall not be liable for any further annual or other assessments required by section one except for (a) unpaid annual assessments due and payable on or before the preceding October first, and (b) for any other unpaid assessments due and payable prior to the effective date of such membership, but shall be liable for all annual excess insurance assessments required of such bank by section seventeen.

**SECTION 19.** Section fourteen of said chapter forty-three is hereby repealed.

**SECTION 20.** Said chapter 43 is hereby further amended by striking out section 15, inserted by section 10 of chapter 324 of the acts of 1956,



**ACTS, 1985. – Chap. 405.**

and inserting in place thereof the following section:–

**Section 15.** Upon the acquisition of membership by any member bank in a federal deposit insurance agency, the following provisions shall apply to the assessments theretofore paid by such bank into the Deposit Insurance Fund:

(a) The Deposit Insurance Fund shall repay in cash to such bank an amount equal to its assessment of one-fourth of one per cent of its deposits paid or payable to said fund in nineteen hundred and thirty-four, sometimes referred to as the "original assessment"; provided, however, that such payment shall not be made to such bank prior to the expiration of six months from the effective date of its membership in the federal deposit insurance agency as provided in section thirteen, but the directors of the Mutual Savings Central Fund, Inc., with the approval of the commissioner may, by a two-thirds vote, provide for earlier payment thereof by agreement with such bank;

(b) The sums representing all annual assessments, referred to in section one, and any other assessments at any time paid by such bank as provided in sections one and seventeen, including the income, surplus, undivided profits and other reserves of the Deposit Insurance Fund, shall be retained by the Deposit Insurance Fund, and such bank shall be entitled to participate in the net assets of the fund in the event of its dissolution and liquidation in the manner and to the extent provided in section ten.

**SECTION 21.** Section sixteen of said chapter forty-three is hereby repealed.

**SECTION 22.** Said chapter 43 is hereby further amended by striking out section 17, as most recently amended by section 89 of chapter 371 of the acts of 1983, and inserting in place thereof the following section:–

**Section 17.** The portions of the deposits of all member banks which shall have become members of a federal deposit insurance agency, in excess of ten thousand dollars or of such other sums as from time to time shall be covered by the insurance of the federal deposit insurance agency, hereinafter referred to as excess deposits, shall continue to be insured in full by the Deposit Insurance Fund, hereinafter referred to as excess insurance, subject to the following conditions and limitations:

(a) On October first of each year after becoming a member of a federal deposit insurance agency, such member bank shall pay to the Deposit Insurance Fund an annual excess insurance assessment at the same percentage rate fixed for the annual assessment for such year under section one, computed upon the member bank's excess deposits as of the date of the trial balance of deposit accounts of such member bank taken immediately after the payment or provision for payment of the bank's last preceding dividend, as shown by a statement filed with the Deposit Insurance Fund at least ten days prior to said October first and certified by an authorized officer of such bank.

(b) During the time that such member bank is a member of a federal deposit insurance agency, it shall not be liable for any assessments to the Deposit Insurance Fund except as hereinbefore provided in paragraph (a).



**ACTS, 1985. – Chap. 405.**

(c) Notwithstanding the provisions of section eleven of this act, sections twenty-two to thirty-six, inclusive, of chapter one hundred and sixty-seven of the General Laws shall apply and sections four, five and six of this act shall not apply to a member bank so long as it is a member of and its deposits are insured in whole or in part in a federal deposit insurance agency.

(d) Upon payment by the Deposit Insurance Fund of all or any part of the portion of any deposit insured by the fund in any member bank, the fund shall be subrogated to the rights of the person to whom such insurance was so paid to receive the same distribution from the proceeds of assets and claims of such bank as would have been payable to him on a claim for the portion of his deposit so paid by the Deposit Insurance Fund, but he shall retain his right to receive distribution of so much of his claim against said assets to which he may be entitled after reimbursement pro rata of the claims for subrogation to the Deposit Insurance Fund as provided in this paragraph and to a federal deposit insurance agency as provided in section six of chapter one hundred and sixty-seven F of the General Laws.

(e) Notwithstanding any other provisions hereof, if the federal deposit insurance agency is at any time a depositor, either directly or through any other governmental agency, in any member bank which is a member of a federal deposit insurance agency, the amounts deposited, directly or indirectly, by the federal deposit insurance agency shall not be deemed insured to any extent by the Deposit Insurance Fund.

**SECTION 22A.** Said chapter 43 is hereby further amended by adding the following two sections:-

**Section 19.** The portions of the deposits of any state-chartered savings bank which accepts or has accepted a federal charter after January first, nineteen hundred and eighty-three in excess of those insured by a federal deposit insurance agency, hereinafter referred to as excess deposits, may be insured in full by the Deposit Insurance Fund, hereinafter referred to as excess insurance, subject to the following conditions and limitations:

(a) Any such bank shall first give notice in writing to the corporation and the commissioner of its desire to obtain such excess insurance and shall make application for the same on such form and in such manner as the corporation, with the approval of the commissioner, may prescribe. Any such bank shall also submit such financial statements and other information concerning its assets, liabilities and affairs as the commissioner and the corporation may require.

(b) No such bank shall apply for such excess insurance unless such bank shall have capital and surplus if a stock institution or surplus if a mutual institution, less any intangible asset value, equal to or greater than six per cent of the total assets.

(c) Any such bank shall first enter into a binding agreement with the corporation. Under such agreement, which shall be subject to the approval of the commissioner, such bank shall be required to provide to the corporation copies of examination reports and other reports and information regarding such bank comparable in form and substance to



ACTS, 1985. - Chap. 405.

information requested and received by the corporation with respect to state member banks and to comply with such other terms and conditions, including a provision permitting the corporation to terminate, subject to the approval of the commissioner, such bank's excess insurance if arrangements satisfactory to the corporation have not been made by such bank in connection with any merger, consolidation or purchase of assets and assumption of liabilities affecting such bank, as the directors deem to be appropriate.

(d) The directors of the corporation, with the approval of the commissioner, shall determine the eligibility of each such bank for acceptance. The directors shall not accept for excess insurance any such bank which fails to meet the requirements of paragraphs (a), (b) and (c).

(e) Any such bank, upon acceptance by the corporation for excess insurance, shall be categorized as a "federal member bank", which, for the purposes of this act, shall mean any state-chartered savings bank which has accepted a federal charter and which has been accepted for excess insurance by the corporation.

(f) Federal member banks shall not have any of the rights and privileges of member banks except as expressly provided otherwise herein.

(g) On October first of each year, such bank shall pay to the Deposit Insurance Fund an annual excess insurance assessment at the same percentage rate fixed for the annual assessment for such year for a member bank under section one, computed on such bank's excess deposits as of the date of the trial balance of deposit accounts of such bank taken immediately after the payment or provision for payment of the bank's last preceding dividend, as shown by a statement filed with the Deposit Insurance Fund at least ten days prior to said October first and certified by an authorized officer of such bank.

(h) Such bank shall not be liable for any assessments to the Deposit Insurance Fund except as hereinbefore provided in paragraph (g).

(i) Upon payment by the Deposit Insurance Fund of all or any part of the portion of any deposit insured by the fund in such bank, the fund shall be subrogated to the rights of the person to whom such insurance was so paid to receive the same distribution from the proceeds of assets and claims of such bank as would have been payable to him on a claim for the portion of his deposit so paid by the Deposit Insurance Fund, but he shall retain his right to receive distribution of so much of his claim against said assets to which he may be entitled after reimbursement pro rata of the claims for subrogation to the Deposit Insurance Fund as provided in this paragraph and to the Federal Deposit Insurance Corporation as provided in section six of chapter one hundred and sixty-seven F of the General Laws.

(j) Notwithstanding any other provisions hereof, if a federal deposit insurance agency is at any time a depositor, either directly or through any other governmental agency, in any federal member bank, the amounts deposited, directly or indirectly, by such federal deposit insurance agency shall not be deemed insured to any extent by the Deposit Insurance Fund.

Section 20. If the corporation shall not have received such requested



## ACTS, 1985. – Chap. 405.

reports or information from any federal member bank as defined in section nineteen within a reasonable time, or if such federal member bank shall otherwise be in breach of such agreement made pursuant to paragraph (c) of section nineteen, or if such federal member bank shall fail to maintain the capital and surplus requirements of paragraph (b) of said section nineteen, the corporation shall give written notice to such federal member bank, specifying the breach or failure which remains uncured. If such breach is not cured within sixty days after such written notice or if such capital and surplus requirements are not cured by a reasonable time specified, the directors may at any time thereafter, subject to the approval of the commissioner, terminate the excess insurance of such federal member bank. Notice of such termination shall be given to the federal member bank and subsequently to all of its depositors in such manner as the corporation, with the approval of the commissioner, may require.

**SECTION 23.** Section 1 of chapter 73 of the acts of 1934, as most recently amended by section 5 of chapter 323 of the acts of 1956, is hereby further amended by striking out the fifth and sixth sentences.

**SECTION 23A.** Section 3 of said chapter 73, as amended by section 91 of chapter 371 of the acts of 1983, is hereby further amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

In case of the merger or consolidation of a co-operative bank with one or more other co-operative banks under section twenty-five of chapter one hundred and seventy of the General Laws, or in the case of a sale of assets of such bank to and the assumption of its liabilities by one or more other co-operative banks under section seven of this chapter or under section twenty-four of said chapter one hundred and seventy, the continuing bank shall succeed to any of the rights of the discontinuing bank in the assessments theretofore paid by the discontinuing bank; provided, however, that if the continuing bank is, and the discontinuing bank is not, a member of a federal deposit insurance agency, the provisions of section fourteen shall apply to such assessments of the discontinuing bank as though such bank had become a member of a federal deposit insurance agency as provided in sections eleven to fourteen, inclusive. For purposes of this act, the term federal deposit insurance agency shall mean Federal Deposit Insurance Corporation or Federal Savings and Loan Insurance Corporation or any successor to either corporation.

**SECTION 24.** Said chapter 73 is hereby further amended by inserting after section 3A the following section:-

**Section 3B.** The directors of the corporation, with the prior approval of the commissioner, may take any action which they deem necessary to facilitate for member banks the acquisition of membership in a federal deposit insurance agency.

**SECTION 25.** Said chapter 73 is hereby further amended by striking



**ACTS, 1985. – Chap. 405.**

out section 9 and inserting in place thereof the following section:–

**Section 9.** The corporation, at a special meeting called for this purpose and held in accordance with the by-laws and with section five of said chapter forty-five, may determine, by four-fifths vote of all member banks, that, as a fact, the deposits of all member banks are adequately insured by a federal deposit insurance agency and that the Share Insurance Fund is needed solely for the insurance of deposits in excess of the sum covered by a federal deposit insurance agency hereinafter referred to as excess insurance or that the fund is no longer needed for such excess insurance. If the commissioner concurs with such determination of fact, he shall determine the portion of the fund, if any, required for the excess insurance of deposits of member banks and shall declare any balance of such fund, after payment of losses, expenses and obligations of the corporation, eligible for distribution to member banks upon any dissolution and liquidation of the fund in whole or in part; provided, however, that the corporation, by simple majority vote of its board of directors, agrees with the commissioner on the amount required for said excess insurance. If the corporation does not agree with the commissioner's determination of said amount, then a three-member panel, consisting of the commissioner or his designee, a member chosen by the corporation and a member chosen by agreement of the commissioner and the corporation, shall, by majority vote, determine the amount required for said excess insurance. The corporation shall immediately furnish to the commissioner any and all information he deems necessary to assist him in his determination of what is required for excess insurance. The corporation may, by a like four-fifths vote of all member banks and with the approval of the commissioner, vote to dissolve and liquidate the balance of the fund so declared eligible for distribution. When voting for the purposes provided in this section, each such member bank, by a delegate authorized by its board of directors, shall have one vote. Upon any such vote to dissolve and liquidate the Share Insurance Fund, the corporation shall distribute, over a period of not more than twelve months, the amount of the fund so voted for distribution to the then member banks in the following order of priority: First, in payment pro rata of the balance of the original assessment referred to in section one and of special assessments referred to in section one; Second, in payment pro rata of all annual assessments paid by the then member banks under section one; and Third, the balance, if any, shall be distributed pro rata to the then member banks based upon their total amounts of assessments paid into said fund. Loans made by the corporation to member banks shall not be deemed part of any amount required for the excess insurance of deposits.

**SECTION 26.** Said chapter 73 is hereby further amended by striking out section 11, as amended by section 94 of chapter 371 of the acts of 1983, and inserting in place thereof the following section:–

**Section 11.** Any member bank which shall apply for membership in a federal deposit insurance agency, referred to in section six of chapter one hundred and sixty-seven F of the General Laws, shall forthwith give written notice thereof to The Co-operative Central Bank, and to the



**ACTS, 1985. – Chap. 405.**

commissioner. If such application is accepted and such member bank is notified that either said insurance corporation is willing to insure its shares, accounts and deposits, referred to as accounts in this section and in sections twelve to sixteen, inclusive, such member bank may become a member of a federal deposit insurance agency subject to the terms and conditions set forth in this section and sections twelve, fourteen and sixteen; provided, however, that such membership shall have been approved by vote of at least two-thirds of the directors of such bank.

**SECTION 27.** Said chapter 73 is hereby further amended by striking out section 12, inserted by section 12 of chapter 324 of the acts of 1956, and inserting in place thereof the following section:–

Section 12. When any member bank which has applied for membership in a federal deposit insurance agency shall have complied with all requirements prerequisite to such membership and shall have received notice in writing from either said corporation that it is a member thereof and its accounts are insured thereby, such member bank shall file copies of said notice and of the votes of its directors provided in section eleven, certified by its president and its clerk, with the commissioner and with The Co-operative Central Bank, and shall thereupon give written notice thereto and to the commissioner of the acquisition of such membership. On the effective date of such membership, the insurance of the accounts of such bank by the Share Insurance Fund, to the extent that such accounts shall then or thereafter be insured by the federal deposit insurance agency shall terminate and such bank shall not be liable for any further assessments to the Share Insurance Fund, except for (a) unpaid annual assessments due and payable on or before the preceding July first, and (b) for any other unpaid assessments due and payable prior to the effective date of such membership, and (c) for all annual excess insurance assessments and special assessments required of such bank by section sixteen.

**SECTION 28.** Section thirteen of said chapter seventy-three is hereby repealed.

**SECTION 29.** Said chapter 73 is hereby further amended by striking out section 14, inserted by section 10 of chapter 324 of the acts of 1956, and inserting in place thereof the following section:–

Section 14. Upon the acquisition of membership by any member bank in a federal deposit insurance agency in the manner prescribed in sections eleven and twelve, the following provisions shall apply to the assessments theretofore paid by such bank into the Share Insurance Fund:

(a) The Share Insurance Fund shall, subject to any repayment made under section one, repay in cash to such bank an amount equal to one-half of its assessment of one per cent of share liabilities made under section one in nineteen hundred and thirty-four, sometimes referred to as the "original assessment"; provided, however, that such repayment shall not be made to such bank prior to the expiration of six months from the effective date of its membership in the federal deposit insurance agency as provided in section twelve, but the directors of The



**ACTS, 1985. – Chap. 405.**

Co-operative Central Bank, with the approval of the commissioner, may, by a two-thirds vote, provide for earlier payment thereof by agreement with such bank.

(b) The sums representing the unpaid portion of said original assessment and all annual assessments and unpaid special assessments made under sections one and sixteen and any other assessments at any time paid by such bank including any assessments under section fifteen, including the income, surplus, undivided profits and other reserves of the Share Insurance Fund, shall be retained by the Share Insurance Fund, and such bank shall be entitled to participate therefore in the net assets of the fund in the event of its dissolution and liquidation in the manner and to the extent provided in section nine.

**SECTION 30.** Section fifteen of said chapter seventy-three is hereby repealed.

**SECTION 31.** Said chapter 73 is hereby further amended by striking out section 16, as amended by section 95 of chapter 371 of the acts of 1983, and inserting in place thereof the following section:–

**Section 16.** The portions of the shares and accounts of all member banks which shall have become members of a federal deposit insurance agency, in excess of ten thousand dollars or of such other sums as from time to time shall be insured by a federal deposit insurance agency, hereinafter referred to as excess accounts, shall continue to be insured in full by the Share Insurance Fund, hereinafter referred to as excess insurance, subject to the following conditions and limitations:

(a) On July first of each year after becoming a member of a federal deposit insurance agency, such member bank shall pay to the Share Insurance Fund an annual excess insurance assessment at the same percentage rate fixed for the annual assessment for such year under section one, computed upon the member bank's excess accounts and notes payable as shown by its last preceding annual report to the commissioner. Such member bank shall pay to the Share Insurance Fund any special assessment made under the provisions of said section one, computed upon the bank's excess accounts and notes payable as above for annual assessments.

(b) During the time that such member bank is a member of a federal deposit insurance agency, it shall not be liable for any assessments to the Share Insurance Fund except as provided in section twelve and in paragraph (a).

(c) Notwithstanding the provisions of section ten of this act, sections twenty-two to thirty-six, inclusive, of chapter one hundred and sixty-seven of the General Laws shall apply to a member bank so long as it is a member of and its accounts are insured in whole or in part in a federal deposit insurance agency.

(d) Upon payment by the Share Insurance Fund of all or any parts of the portion of any account insured by the fund in any member bank, the fund shall be subrogated to the rights of the person to whom such insurance was so paid to receive the same distribution from the proceeds of assets and claims of such bank as would have been payable to him on a



**ACTS, 1985. – Chap. 405.**

claim for the portion of his account so paid by the Share Insurance Fund but he shall retain his right to receive distribution of so much of his claim against said assets to which he may be entitled after reimbursement pro rata of the claims for subrogation to the Share Insurance Fund as provided in this paragraph and to a federal deposit insurance agency as provided in section six of chapter one hundred and sixty-seven F of the General Laws.

**SECTION 32.** Chapter 294 of the acts of 1961 is hereby amended by inserting after section 6G the following section:–

Section 6H. The directors of the corporation, with the prior approval of the commissioner, may take any action which they deem necessary to facilitate for credit unions the acquisition of insurance from the administrator of the National Credit Union Administration.

**SECTION 33.** Notwithstanding the provisions of section ten of chapter forty-three of the acts of nineteen hundred and thirty-four, if the commissioner makes a determination that all member banks have either (1) obtained insurance from the Federal Deposit Insurance Corporation or from the Federal Savings and Loan Insurance Corporation for their deposits or (2) applied to the Federal Deposit Insurance Corporation or to the Federal Savings and Loan Insurance Corporation for such deposit insurance, the commissioner may declare a portion of the Deposit Insurance Fund, not to exceed one hundred and ten million dollars, eligible for distribution to member banks as an advance dividend distribution in connection with the partial dissolution and liquidation of the fund. The corporation may, by majority vote of its board of directors and with the approval of the commissioner, authorize the advance dividend distribution in the amount so declared eligible for distribution by the commissioner. Upon such vote, the corporation shall proceed to distribute forthwith the amount of the fund so declared eligible for advance dividend distribution pro rata to the member banks based upon their total amounts of assessments and participations in said fund.

Notwithstanding any provision of law to the contrary, each member bank shall pay as part of its excise imposed under chapter sixty-three of the General Laws a tax to the commonwealth in an amount equal to ten per cent of any advance dividend distribution or other dividend distribution made to it by the corporation in connection with the partial dissolution and liquidation of the fund under this section. The liability of each member bank for such tax shall be satisfied by the corporation deducting, withholding and paying over to the commonwealth the amount of such tax prior to making the associated dividend distribution.

Notwithstanding the provisions of chapter sixty-three of the General Laws or any other provision of law the distributions made under this section shall not be considered gross income for the purpose of determining net income as defined in section one of chapter sixty-three of the General Laws.

Former member banks shall participate in dividends paid and distributions made under this section as provided in section thirty-six of



ACTS, 1985. – Chap. 405.

chapter one hundred and sixty-eight of the General Laws.

**SECTION 34.** Every bank as defined in section one of chapter sixty-three of the General Laws shall pay, as part of its excise imposed under that chapter, an amount equal to twelve and fifty-four one-hundredths per cent of any proceeds received pursuant to section ten of chapter forty-three of the acts of nineteen hundred and thirty-four or section nine of chapter seventy-three of the acts of nineteen hundred and thirty-four; provided, however, that if the amount of any distribution pursuant to said section ten combined with the total amount of advanced dividend distributed pursuant to section thirty-three of this act is two hundred and fifty million dollars or more, such excise applicable to the amounts received under said section ten shall be an amount equal to ten per cent; and provided, further, if the amount of distribution pursuant to said section nine is thirty million dollars or more then such excise applicable to the amounts received under said section nine shall be an amount equal to ten per cent. The proceeds subject to tax under this section shall not be considered gross income for purposes of determining net income as defined in section one of said chapter sixty-three.

**SECTION 35.** There is hereby established and set up on the books of the commonwealth a fund to be known as the Massachusetts Housing Partnership Fund, hereinafter referred to as the fund. It shall be the sole purpose of the fund to provide funds within the limits and in the manner hereinafter described to provide programs designed to: (a) produce housing for low and moderate income households, (b) broaden opportunities for homeownership for low and moderate income persons and families, and (c) aid in the reclamation of abandoned property for use as housing. Such programs may include contracts, grants, loans for writing down the cost of home ownership, or front-end costs, so called, associated with the reclamation of abandoned property including securing options to purchase such property, preparation of plans and interim management.

The fund shall be organized as follows:

(a) There shall be seven members of the board of directors, which shall govern the operations of the fund, one of whom shall be the secretary of administration and finance or his designee, one of whom shall be the secretary of communities and development, or his designee, two of whom shall be appointed by the governor from among persons recommended by the Savings Bank Association of Massachusetts; provided, however, that one of the two such recommended persons shall be from an area encompassing the counties of Hampden, Hampshire, Worcester, Franklin, and Berkshire, one of whom shall be recommended by the Co-operative Bank League of Massachusetts, and two of whom shall be a member of the Massachusetts Housing Partnership. Each such appointment shall be made by letter to the appointee with a copy to the secretary of administration and finance and each person so appointed shall serve at the pleasure of the governor or organization which made the appointment and until his successor has been appointed



**ACTS, 1985. – Chap. 406.**

in like manner.

(b) The initial organizational meeting of the board of directors shall be held at a date and time to be determined by the secretary of the executive office of administration and finance; provided, however, that at least two weeks prior notice shall be given to the other members of such meeting. At such meeting, said board shall elect a chairman, vice-chairman and secretary from among the members.

(c) The board of directors shall have the authority to exercise all the powers of the fund. Said board shall have the authority to make, amend, and repeal by-laws, rules and regulations to govern the management and affairs of the fund. A majority of the members of said board shall constitute a quorum for the purpose of conducting the business of said board and said board shall act by a majority vote of the whole board in exercising its authority. A meeting of said board shall be held at least monthly and at such other times as may be provided in its by-laws.

(d) Said board of directors shall have the authority to enter into such service and other contracts as it deems necessary or incidental to the performance of its duty to conduct the management and affairs of the fund.

(e) The members of said board of directors shall serve without compensation but shall be paid their necessary expenses incurred in the discharge of their official duties.

(f) Said board of directors shall file a certificate with the state secretary to the effect that the Massachusetts Housing Partnership Fund has been organized and listing the names and addresses of its officers and members. A copy of its by-laws and rules and regulations adopted by the board of directors shall be filed with the state secretary. Amendments to such certificate, by-laws or rules and regulations shall be filed with the state secretary.

(g) Said board of directors shall file a report of the activities and accomplishments of the fund with the governor and the commissioner of administration and the house and senate committees on ways and means on or before January first, nineteen hundred and eighty-six and each year thereafter. Said board shall file copies of said report with the clerk of the house of representatives.

(h) All reasonable expenses incurred pursuant to this section shall be considered to be incidental administrative expenses of the fund.

Revenues received by the commonwealth in an amount not to exceed thirty-five million dollars from the excise imposed by sections thirty-three and thirty-four of this act and from any loan repayments received pursuant to the programs established by this section, shall be placed in the Massachusetts Housing Partnership Fund to be applied solely to defray the costs of the programs established.

Approved October 18, 1985.

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**Chapter 406. AN ACT RELATIVE TO BID BONDS IN PUBLIC WORKS CONSTRUCTION CONTRACTS.**



**ACTS, 1985. – Chap. 407.**

Be it enacted, etc., as follows:

**SECTION 1.** Paragraph (a) of section 39M of chapter 30 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out the third sentence and inserting in place thereof the following sentence:– The amount of such bid deposit shall be five per cent of the value of the bid.

**SECTION 2.** Section one shall apply only to contracts executed after the effective date of this act.

Approved October 18, 1985.

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**Chapter 407. AN ACT AUTHORIZING THE DEPARTMENT OF ENVIRONMENTAL MANAGEMENT TO REIMBURSE CERTAIN FEDERAL AGENCIES FOR WORK PERFORMED ON CERTAIN STATE PROPERTY.**

Be it enacted, etc., as follows:

**SECTION 1.** Item 2120–8844 of section 2B of chapter 723 of the acts of 1983 is hereby amended by inserting after the word "eighty", in line 9, the words:– ; provided, however, that the department of environmental management may contract with the National Park Service of the United States Department of the Interior for the rehabilitation of certain historic structures in the Lowell Urban Heritage State Park and for the purpose of such contract shall be exempt from the provisions of section fifty-two of chapter thirty of the General Laws and from sections forty-four A to forty-four H, inclusive, of chapter one hundred and forty-nine of the General Laws;.

**SECTION 2.** Item 2121–9731 of section 2 of chapter 234 of the acts of 1984 is hereby amended by striking out the wording and inserting in place thereof the following wording:– For the purposes of a federally funded grant entitled, Recreational Capital Expenditures – Federal Share; provided, however, that the department of environmental management may contract with the National Park Service of the United States Department of the Interior for the rehabilitation of certain historic structures in the Lowell Urban Heritage State Park and for the purpose of such contract shall be exempt from the provisions of section fifty-two of chapter thirty of the General Laws and from sections forty-four A to forty-four H, inclusive, of chapter one hundred and forty-nine of the General Laws

General Federal Grants Fund	100.0%
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Approved October 18, 1985.



**ACTS, 1985. – Chaps. 408, 409, 410.**

**Chapter 408. AN ACT RELATIVE TO ISSUANCE OF SPECIAL PERMITS FOR ZONING PURPOSES.**

Be it enacted, etc., as follows:

The ninth paragraph of section 9 of chapter 40A of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out, in line 90, the words "and including" and inserting in place thereof the words:- which shall not include.

Approved October 18, 1985.

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**Chapter 409. AN ACT DESIGNATING THE BRIDGE OVER INTERSTATE ROUTE 395 IN THE TOWN OF OXFORD AS THE HUGUENOT FORT BRIDGE.**

Be it enacted, etc., as follows:

The bridge on Huguenot Road over Interstate route 395 in the town of Oxford shall be designated and known as the Huguenot Fort Bridge in memory of the first settlers of the town of Oxford. Suitable markers bearing such designation shall be attached thereto by the department of public works in compliance with the standards of said department.

Approved October 18, 1985.

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**Chapter 410. AN ACT PLACING CERTAIN QUESTIONS ON THE BALLOT AT THE NEXT CITY ELECTION IN THE CITY KNOWN AS THE TOWN OF AGAWAM.**

Be it enacted, etc., as follows:

**SECTION 1.** The city known as the town of Agawam is hereby authorized to place the following proposed amendments to the town charter on the ballot in the next annual city election.

"I. Shall Agawam approve the following Charter amendment proposed by the Council summarized below?

YES\_\_\_ NO\_\_\_

The total number of councilors shall be fifteen (15) and be composed as follows:

Eight (8) at large councilors to be elected from the voters townwide

Seven (7) precinct councilors

One (1) councilor to be elected by the voters of each precinct Agawam is divided into Seven Precincts."

"II. Shall Agawam approve the following Charter amendment proposed by the Council summarized below?



ACTS, 1985. - Chap. 411.

YES\_\_\_ NO\_\_\_

The total number of councilors shall be eleven (11) and be composed as follows:

Eleven (11) at large councilors to be elected from the voters townwide Agawam is divided into Seven Precincts."

The proposal receiving the highest number of affirmative votes shall take effect provided it receives a majority of the votes cast on that proposal.

**SECTION 2.** The town clerk of the city of Agawam shall prepare the summaries required by section eleven of chapter forty-three B of the General Laws.

Approved October 18, 1985.

EMERGENCY LETTER: October 18, 1985 @ 4:20 P.M.

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**Chapter 411. AN ACT FURTHER REGULATING CERTAIN MOTOR VEHICLE WINDOWS.**

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to further regulate motor vehicle windows, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public safety.

Be it enacted, etc., as follows:

Chapter 90 of the General Laws is hereby amended by striking out section 9D, as appearing in the 1984 Official Edition, and inserting in place thereof the following section:-

Section 9D. No person shall operate any motor vehicle upon any public way or upon any way to which the public shall have the right of access with any of the following affixed thereto:

(1) a sign, poster or sticker on the front windshield, the side windows immediately adjacent to the operator's seat and the front passenger seat, the side windows immediately to the rear of the operator's seat and the front passenger seat and the rear window in such a manner so as to obstruct, impede or distort the vision of the operator.

(2) nontransparent or sunscreen material, window application, reflective film or nonreflective film used in any way to cover or treat the front windshield, the side windows immediately adjacent to the right and left of the operator's seat, the side windows immediately to the rear of the operator's seat and the front passenger seat and the rear window, so as to make such windshield and said window glass areas in any way nontransparent or obscured from either the interior or exterior thereof.

This section shall not apply to:

(1) motor vehicles manufactured with windshields and window glass areas equipped in accordance with specifications of 49 Code of Federal Regulations 571.205 as authorized by 15 USC 1407.

(2) the use of draperies, louvers, or other special window treatments, except those specifically designated in this section, on the rear window,



**ACTS, 1985. – Chap. 411.**

or a side window to the rear of the driver if the vehicle is equipped with two outside mirrors, one on each side, adjusted so that the driver has a clear view of the highway behind the vehicle.

(3) federal, state and local law enforcement agencies, watch guard or patrol agencies licensed under the provisions of section twenty-five of chapter one hundred and forty-seven and college, university and hospital police agencies appointed under the provisions of section ten G of said chapter one hundred and forty-seven utilizing K-9 teams in a motor vehicle while in the regular performance of their duties provided said motor vehicle is equipped with two outside mirrors, one on each side, adjusted so that the driver has a clear view of the highway behind the vehicle.

(4) the use of nontransparent or sunscreen material or window application which has a total visible light reflectance of not more than thirty-five per cent or a visible light transmittance of not less than thirty-five per cent on the side windows immediately adjacent to the right and left of the operator's seat, the side windows immediately to the rear of the operator's seat and the front passenger seat or on the rear window if the vehicle is equipped with two outside mirrors, one on each side, adjusted so that the driver has a clear view of the highway behind the vehicle.

(5) the use of any transparent material limited to the uppermost 6" along the top of the windshield, provided such strip does not encroach upon the driver's direct forward viewing area as more particularly described and defined in applicable Federal Motor Vehicle Safety Standards.

(6) a vehicle registered in another state, territory or another country or province.

(7) the use of nontransparent or sunscreen material, window application, reflective film or nonreflective film used in any way to cover or treat the side windows immediately to the rear of the operator's seat and the front passenger seat and the rear window so as to make such window glass areas in any way nontransparent or obscured from either the interior or exterior thereof of a private passenger motor vehicle registered under the provisions of this chapter for public livery and hired for that purpose for any period of time which exclusion shall not include a taxicab.

(8) special window treatment or application determined necessary by a licensed physician, for the protection of the owner or operator of a private passenger motor vehicle who is determined to be light or photosensitive. Applications for such exemption based upon such medical reason or reasons shall be made in writing to the medical advisory board established under section eight C. All applications must be supported by a written attestation of a physician licensed to practice in this commonwealth of the necessity thereof. Upon granting of such exemption by the board, the registrar shall issue a sufficiently noticeable sticker to the applicant which shall be affixed to the side window immediately adjacent to the operator. The registrar shall keep a record of all such exemption stickers so issued.

The registrar shall, in accordance with the provisions of section



**ACTS, 1985. – Chaps. 412, 413.**

thirty-one, establish rules and regulations to provide standards to measure the aforementioned percentage of reflectance and transmittance of light, and shall provide for testing of any motor vehicle glazing alleged to be in violation of this section. A statement from the registrar attesting that such glazing treated or covered with nontransparent or sunscreen material window application or reflective film is in compliance with the provisions of this section shall be prima facie evidence of such compliance in any prosecution thereof.

No person shall manufacture, sell, offer for sale or trade, equip or operate a motor vehicle in the commonwealth in violation of the provisions of this section; provided, however, that nothing in this section shall be construed to prohibit the manufacture or sale of reflective or nonreflective film in the commonwealth.

Violations of any provisions of this section shall be punishable by a fine of not more than two hundred and fifty dollars. Upon a third or subsequent conviction of a violation of the provisions of this section, the registrar shall suspend the operator's license of a person so convicted for a period not to exceed ninety days.

Approved October 22, 1985.

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**Chapter 412. AN ACT RELATIVE TO THE PROCEEDS FROM THE SALE OF CERTAIN REAL ESTATE BY THE TOWN OF HOPEDALE.**

Be it enacted, etc., as follows:

**SECTION 1.** Notwithstanding the provisions of section sixty-three of chapter forty-four of the General Laws or any other general or special law to the contrary, the town of Hopedale is hereby authorized to expend for any governmental purposes the proceeds of the sale of real estate known as the Boncompagni House, located at 35 Adin street in the town of Hopedale.

**SECTION 2.** This act shall take effect upon its passage.

Approved October 22, 1985.

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**Chapter 413. AN ACT AUTHORIZING THE ESTABLISHMENT OF A TRAINING CENTER FOR WASTEWATER TREATMENT FACILITY OPERATORS IN THE UPPER BLACKSTONE WATER POLLUTION ABATEMENT DISTRICT.**

Be it enacted, etc., as follows:

Section 12 of chapter 752 of the acts of 1968 is hereby amended by adding the following paragraph:-

The district may file application for, accept and use any federal or



**ACTS, 1985. – Chaps. 414, 415, 416.**

state funds available for the purpose of constructing a facility for training and technical assistance in wastewater treatment. Said district may enter into inter-agency agreements with the commonwealth for the purpose of providing facilities for training and technical assistance in wastewater treatment.

Approved October 22, 1985.

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**Chapter 414. AN ACT FURTHER REGULATING THE RIGHT TO VOTE IN CERTAIN DISTRICTS.**

Be it enacted, etc., as follows:

Section 1 of chapter 51 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by inserting after the first sentence the following sentence:– Notwithstanding any special law to the contrary, every such citizen who resides within the boundaries of any district, as defined in section one A of chapter forty-one, may vote for district officers and in any district meeting thereof, and no other person may so vote.

Approved October 22, 1985.

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**Chapter 415. AN ACT FURTHER REGULATING THE RIGHT OF CERTAIN ELIGIBLE PERSONS TO RECEIVE HOUSING SUBSIDY.**

Be it enacted, etc., as follows:

Section 20 of chapter 268A of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by inserting after the word "section", in line 50, the words:– or (g) to a municipal employee who has applied in the usual course and is otherwise eligible for a housing subsidy program administered by a local housing authority, unless the employee is employed by the local housing authority in a capacity in which he has responsibility for the administration of such subsidy programs.

Approved October 22, 1985.

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**Chapter 416. AN ACT REQUIRING THE USE OF SAFETY BELTS IN CERTAIN MOTOR VEHICLES.**

Be it enacted, etc., as follows:

**SECTION 1.** Section 1 of chapter 90 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by inserting after the definition of "Operator" the following definition:–



**ACTS, 1985. – Chap. 416.**

"Occupant crash protection device", a passive restraint device which operates in accordance with the specifications of 49 Code of Federal Regulations 571.208, as authorized by 15 USC 1392, in effect on July first, nineteen hundred and eighty-five.

**SECTION 2.** Section 7A of said chapter 90, as so appearing, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:–

The purpose of the safety and combined safety and emissions inspection regulations shall require that motor vehicles are provided with the following equipment maintained in good order: a vehicle identification number, brakes, stop lamps, lights, directional signals, horn, exhaust system, steering and suspension systems, glazing, windshield cleaner, number plates, tires, fenders, bumpers, external sheet metal, reflectors, splash guards, chock blocks, air pollution emission control systems or devices, and safety belts for motor vehicles subject to section seven BB.

**SECTION 3.** Said chapter 90 is hereby further amended by inserting after section 7AA the following section:–

Section 7BB. No person shall operate a motor vehicle nor ride as a passenger in a motor vehicle on any way unless such person is wearing a safety belt which is properly adjusted and fastened. No person operating a motor vehicle shall permit any person under the age of sixteen to ride as a passenger in such motor vehicle unless such person is wearing a safety belt which is properly adjusted and fastened.

The provisions of this section shall not apply to: (1) any child less than five years of age who is subject to the provisions of section seven AA; (2) any person riding as a passenger in a motor vehicle in which all seating positions equipped with safety belts are occupied by other passengers who are using said restraints; (3) any person riding as a passenger in a bus or motor bus as defined in section one; (4) any person riding in a motor vehicle manufactured before July first, nineteen hundred and sixty-six; (5) any person operating or riding as a passenger in any motor vehicle in which safety belts were not installed as original equipment at the date of manufacture; (6) any person who is physically unable to use safety belts; provided, however, that such condition is duly certified by a physician who shall state the nature of the condition, as well as the reason such use is inappropriate; and provided, further, that no such physician shall be subject to liability in any civil action for the issuance or for the failure to issue such certification; (7) any rural mail carrier of the United States Postal Service operating a motor vehicle while in the performance of his duties; (8) any driver or passenger who frequently stops and leaves a motor vehicle or delivers property from said vehicle, if the speed of such vehicle between stops does not exceed fifteen miles per hour; (9) any police officer operating a motor vehicle while performing his duties as a police officer.

Any person who operates a motor vehicle without wearing a safety belt, and any person sixteen years of age or over who rides as a passenger in a motor vehicle without wearing a safety belt, who is not



**ACTS, 1985. – Chap. 416.**

subject to the exceptions provided in this section shall be subject to a fine of fifteen dollars. Any operator of a motor vehicle shall also be subject to an additional fine of fifteen dollars for each person under the age of sixteen who is a passenger in said motor vehicle and who is not subject to the exceptions provided in this section and is found to be in violation of this section. The provisions of this section shall be enforced by law enforcement agencies only when an operator of a motor vehicle has been stopped for a violation of the motor vehicle laws. For the purpose of enforcing this section, any passenger in a motor vehicle shall, upon the request of a law enforcement officer, give his true name, address and age.

Any person who receives a citation for violating this section may contest such citation pursuant to section three of chapter ninety C. Except for proceedings conducted pursuant to said section three, a violation of this section shall not be used as evidence in any civil action. A violation of this section shall not be considered as a conviction of a moving violation of the motor vehicle laws for the purposes of determining surcharges on motor vehicle insurance premiums pursuant to section one hundred and thirteen B of chapter one hundred and seventy-five.

**SECTION 4.** Section 113B of chapter 175 of the General Laws, as so appearing, is hereby amended by inserting after the twelfth paragraph the following paragraph:–

In fixing and establishing a premium charge for bodily injury coverage for a motor vehicle, the commissioner shall reflect the savings attributable to the increased use of safety belts as required by the provisions of section seven BB of chapter ninety.

**SECTION 5.** Any motor vehicle offered for sale or registered in the commonwealth which is manufactured on or after September first, nineteen hundred and eighty-nine shall be equipped with an occupant crash protection device, as defined in section one of chapter ninety of the General Laws.

Any motor vehicle manufacturer who sells or delivers a motor vehicle which fails to comply with this section shall be punished by a fine of not more than one hundred dollars for each sale or delivery of a noncomplying motor vehicle. Compliance with this section by the manufacturer shall be made by self-certification and the manufacturer shall forward to the registrar of motor vehicles a statement certifying that such vehicles are in compliance with the provisions of this section.

**SECTION 6.** The governor's highway safety bureau shall conduct a public information and education program in motor vehicle occupant protection under the supervision of the secretary of public safety. The public information and education program shall consist of public service announcements, demonstrations, regional conferences, pre-school and grammar school education programs and police training.

The secretary of public safety shall file a report containing his findings on the effectiveness of such education program with the clerk of



**ACTS, 1985. – Chaps. 417, 418.**

the house of representatives and said clerk shall forward the report to the joint legislative committee on public safety no later than March thirtieth, nineteen hundred and eighty-six; provided, however, that the report shall include a survey showing the percentage of drivers in the commonwealth wearing safety belts in February of nineteen hundred and eighty-six.

**SECTION 7.** The secretary of the commonwealth shall cause to be placed upon the official ballot to be submitted to the voters at the next biennial state election the following nonbinding question:– "Do you approve of an act passed by the General Court in the year nineteen hundred and eighty-five, entitled 'An Act requiring the use of safety belts in certain motor vehicles'?"

**SECTION 8.** The passage of this act shall not be interpreted to rescind the requirement of occupant crash protection as contained in 49 Code of Federal Regulations 571.208, as authorized by 15 USC 1392.

**SECTION 9.** This act shall take effect on January first, nineteen hundred and eighty-six.

Approved October 22, 1985.

EMERGENCY LETTER: October 23, 1985 @ 9:23 A.M.

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**Chapter 417. AN ACT RELATIVE TO THE SALE OF SHELLFISH LICENSES IN THE TOWN OF OAK BLUFFS.**

Be it enacted, etc., as follows:

Section 1 of chapter 377 of the acts of 1984 is hereby amended by striking out, in lines 6 and 7, the words "commercial shellfish" and inserting in place thereof the words:– all shellfish licenses and.

Approved October 22, 1985.

EMERGENCY LETTER: October 23, 1985 @ 9:23 A.M.

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**Chapter 418. AN ACT DESIGNATING DOUGLAS V. TREFRY AND ELIZABETH S. TREFRY AS RESIDENTS OF THE TOWN OF STOW FOR A CERTAIN PERIOD OF TIME.**

Be it enacted, etc., as follows:

**SECTION 1.** Notwithstanding any general or special law to the contrary, Douglas V. Trefry and Elizabeth S. Trefry, husband and wife, during their lifetime and for as long as either of them retains ownership and continues to reside on the parcel of land, hereinafter described, located in the towns of Stow and Boxborough, shall for all purposes be residents of the town of Stow with all rights and privileges of domicile in the town of Stow attached thereto.

Said parcel is described as follows:



**ACTS, 1985. – Chap. 418.**

A certain parcel of land in the Northern part of said Stow and the Southern part of Boxborough, Middlesex County, Massachusetts, containing two and 04/100 (2.04) acres, more or less, bounded and described as follows:

Beginning at the Southwesterly corner of the premises, two hundred two and 76/100 (202.76) feet Southerly from the town line bound, as shown on a plan hereinafter mentioned;

Thence running northeasterly by two courses, as shown on said plan, two hundred two and 76/100 (202.76) feet and fifty-seven and 4/10 (57.4) feet;

Thence turning and running Southeasterly by land of Arthur W. Trefry and Esther H. Trefry, as shown on said plan, three hundred sixty-one and 2/10 (361.2) feet;

Thence turning and running Southwesterly by other land of said Arthur W. Trefry and Esther H. Trefry, as shown on said plan, two hundred and forty-eight (248) feet;

Thence turning and running Northwesterly by other land of said Arthur W. Trefry and Esther H. Trefry, as shown on said plan, three hundred forty-three (343) feet to the point of beginning.

Containing two and 04.100 (2.04) acres of land, more or less, and being shown on a loan entitled "Land in Stow Owned by Arthur W. Trefry and Esther H. Trefry", Horace F. Tuttle, C.E., dated February 19, 1953 and recorded with Middlesex South District Deeds, Book 8056, Page 336.

Being the same premises described in a deed dated December 22, 1956 and recorded with Middlesex South District Deeds, Book 8879, Page 439.

**SECTION 2.** Notwithstanding the provisions of section eleven of chapter fifty-nine of the General Laws or any other general or special law to the contrary, the assessor of the town of Stow only shall assess the parcel described in section one, and the town of Stow only shall provide said parcel, and Douglas V. Trefry and Elizabeth S. Trefry and all municipal services provided to other parcels and residents of the town of Stow. The assessors of the town of Boxborough and the town of Boxborough shall have no obligation to assess or to provide services to said parcel or individuals as long as the terms of this special act continue in effect.

**SECTION 3.** Nothing in this act shall be construed to affect, alter or change the boundary line of said towns as established by the Middlesex county engineering department as shown on a plan entitled "Town Line Study" dated February, nineteen hundred and eighty-four, or as may be hereafter established pursuant to provisions of law.

**SECTION 4.** The provisions of section one and two of this act shall cease to be operative on the last day of the fiscal year in which Douglas V. Trefry and Elizabeth S. Trefry sell or transfer their entire ownership of the said parcel, or when neither occupies said parcel as their domicile, or on the death of both Douglas V. Trefry and Elizabeth S. Trefry.

Approved October 22, 1985.



ACTS, 1985. – Chap. 419.

**Chapter 419. AN ACT AUTHORIZING AND DIRECTING THE DIVISION OF CAPITAL PLANNING AND OPERATIONS TO LEASE A CERTAIN PARCEL OF LAND IN THE TOWN OF FRAMINGHAM TO THE GENERAL MOTORS CORPORATION AND TO CONVEY A CERTAIN PARCEL OF LAND IN THE TOWN OF FRAMINGHAM.**

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately authorize and direct the division of capital planning and operations to convey a certain parcel of land in the town of Framingham, 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.** The division of capital planning and operations is hereby authorized and directed to acquire all right, title, and interest by eminent domain, or to acquire by purchase or otherwise, the following parcel of land, by deed, if applicable, approved as to form by the attorney general, and the town of Framingham, by its board of selectmen, is hereby authorized and directed to convey said parcel of land to the commonwealth. Said land is bounded and described as follows:–

Beginning at a point on the easterly side line of Western Avenue at the Framingham–Sherborn town line; thence northerly along a curve to the right having a radius of 1751.76', a length of 121.48' along the easterly side line of Western Avenue to a point; thence

N–08–37'–00" E 1614.09' along the easterly side line of Western Avenue to a stone bound; thence

S–81–23'–00" E 1467.06' by land of the commonwealth to a point in the center of Course Brook; thence

S–42–38'–00" W 1358.99' by land of the commonwealth and along the center of Course Brook to a point; thence

S–07–04'–00" W 299.70' by land of the commonwealth and along the center of Course Brook to a point on the Framingham–Sherborn town line; thence

S–75–05'–16" W 775.14' by land of the commonwealth and along the Framingham–Sherborn town line to the point of beginning.

Said land contains 35.5467 acres, more or less, and is shown on a plan entitled "Plan of Land in Framingham, Mass. owned by the Commonwealth of Massachusetts, scale 1" = 80', dated February 20, 1980, survey, by MacCarthy and Sullivan Engineering, Joseph R. Sullivan, Registered Land Surveyor". Consideration for said conveyance shall be the conveyance of land from the commonwealth to the town of Framingham as set forth in sections two and three of this act.

**SECTION 2.** The division of capital planning and operations is hereby authorized and directed to convey to the town of Framingham, by deed approved as to form by the attorney general, a certain parcel of land situated on Western Avenue in said town containing six acres, more or



**ACTS, 1985. – Chap. 419.**

less for no consideration, said land is bounded on the west by Western Avenue, to the north by land set forth in section one, to a point along Course Brook, to the east by land owned by the commonwealth to be conveyed to the said town under the provisions of section three and to the south by the Framingham-Sherborn town line.

Said land shall be used as a site for a central public works facility and garage; provided, however, that any plans for said facility and garage, shall be submitted to the said division to be placed on file, and; provided further, that a copy of such plan shall be sent to the joint committee on state administration of the general court, also to be kept on file. In the event that said land is not used for the aforementioned purpose, or that such plans are not submitted to said division or not submitted to the joint committee on state administration for filing within five years of the effective date of this act, or that the land ceases to be used for the aforementioned purpose at anytime, it shall revert to the commonwealth without consideration.

**SECTION 3.** The division of capital planning and operations is hereby authorized and directed to convey to the town of Framingham by deed, approved as to form by the attorney general, a certain parcel containing twenty-nine acres, more or less, situated on Merchant Road in said town of Framingham.

Said land is bounded on the west by land conveyed to the town under the provisions of section two, to the north along Course Brook and land set forth in section one and by land owned by the commonwealth and formerly used by the Massachusetts Correctional Institution, Framingham, to the east by Merchant Road, and to the south east by the property line of the Hodder Cottage including the land consisting of three acres, more or less, owned by the commonwealth, and to the south by the Framingham-Sherborn town line.

Consideration for said conveyance shall be that the town of Framingham hereby agrees to abandon that portion of road located within said town, commonly known as Western Avenue between Loring Drive and Merchant Road which currently bisects lands now under the control of the Massachusetts Correctional Institution, Framingham to enable said institution to consolidate its property. The area to be abandoned by the said town contains fifty-two thousand two hundred and fifty-eight square feet, more or less. The said town of Framingham shall continue to maintain said road, including, but not limited to, snow plowing and resurfacing when necessary, repair the water system, sanitary sewer system and other repairs to the abandoned road as become necessary at no cost to said institution or the commonwealth.

Said parcel of land together with the parcel set forth in section two shall be used as a central public works facility and garage for said town; provided, however, that any plans for said facility and garage, and any alterations or additions thereto, shall be submitted to said division for its written approval; and, provided further, that a copy of such plans, alterations or additions thereto, together with the written approval of said division, shall be sent by both the town and said division to the clerk of the house of representatives who shall forward copies to the joint



**ACTS, 1985. – Chap. 419.**

committee on state administration of the general court to be kept on file. In the event that said land is not used for the aforementioned purpose, or that such plans are not approved by said division in writing, or submitted to said clerk for filing within five years of the effective date of this act, or that the land ceases to be used for the aforementioned purpose at anytime, it shall revert to the commonwealth without consideration.

**SECTION 4.** The division of capital planning and operations is hereby authorized and directed to execute and deliver in the name and on behalf of the commonwealth, one or more instruments to lease any or all portions of state-owned land, as described herein, to General Motors Corporation, or to Anchor Motor Freight, or to General Motors Corporation and Anchor Motor Freight for motor vehicle manufacturing purposes, or for the parking or storage of motor vehicles thereon. The original lease or leases of any such state-owned land to General Motors Corporation, or to Anchor Motor Freight, or to General Motors Corporation and Anchor Motor Freight shall be for not less than fair market value for comparable rentals. Said original lease or leases shall be for a period not to exceed twenty-five years. Said division may renew such lease or leases for such land, which shall be subject to approval by the general court for an additional period of ten years; provided, however, that all additional renewals or leases shall also require approval by the general court. In the event that General Motors Corporation, or Anchor Motor Freight, or General Motors Corporation and Anchor Motor Freight is not utilizing said land or portions of said land for motor vehicle manufacturing or for the parking or storage of motor vehicles thereon within two years from the effective date of this act, any such lease or leases of such land or portions thereof shall thereupon be null and void.

In the event that General Motors Corporation does not commence construction in the town of Framingham of a new motor vehicle assembly plant within three years from the date of passage of this act, any lease or leases of such land or portions thereof shall thereupon be null and void.

The land to be leased herein is bounded on the west by Western Avenue, to the north by land owned by the commonwealth and used for correctional purposes in the town of Framingham, to the east by Merchant Road, to the south by a line along Course Brook and along land conveyed to the town of Framingham by section two to Western Avenue, and containing thirty-seven acres, more or less.

Said division shall provide the clerk of the house of representatives who shall forward copies to the joint committee on state administration of the general court and the inspector general of the commonwealth, a copy of said lease or leases at least twenty business days prior to the execution thereof by said division. The inspector general shall review and comment within fifteen business days of the receipt of such lease or leases by the said inspector general. A copy of said review and comment, and any recommendations thereon by the inspector general, shall thereupon be forwarded to said clerk. Said lease or leases, when



ACTS, 1985. – Chap. 419.

executed by the deputy commissioner, shall be deemed conclusively authorized hereby; provided, however, that all provisions therein are consistent with the provisions of this act. The deputy commissioner from time to time is hereby authorized to execute and deliver, in the name and on behalf of the commonwealth, a notice of such lease or leases for recording and any and all other agreements and instruments related to the lease or leases authorized hereby which the division may determine appropriate from time to time. Any such notice of lease, lease instrument, or instruments, when executed by the deputy commissioner shall be deemed conclusively authorized hereby; provided, however, that all provisions therein are consistent with this act.

No sub-lease of such land or any portion thereof shall be executed without the prior approval of the general court.

No privately owned, occupied, or financed building of any kind may be erected upon said land without the written approval of the division, and a written notification to the clerk of the house of representatives who shall forward copies to the joint committee on state administration. Plans for any such building shall be submitted to said division for approval prior to any construction thereon. In like manner any alteration, addition, destruction or demolition thereof shall also require the prior written approval of said division, and a written notification to said clerk. Copies of any and all such plans, together with all such written approvals by said division, shall be sent by said division to said clerk to be kept on file.

The owner of any such building, other than the commonwealth should it take possession thereof, shall be assessed and taxed in accordance with the provisions of section two B of chapter fifty-nine of the General Laws, except that no part of the value of the land shall be included in any such assessment. No tax assessed to the owner under section two B of said chapter fifty-nine shall be retained out of any rent due the commonwealth or recovered under section twelve C of said chapter fifty-nine.

The annual rental payment to the commonwealth for the lease or leases authorized by this act shall be increased each year after the third year by the annual percentage increase of the Boston consumer price index as prepared by the United States Department of Labor; provided, however, that said rental payment shall not be reduced from year four or, below the preceding year's annual rent paid to or due to the commonwealth for any year in which said consumer price index should go below the index for the year preceding; and, provided further, that said rental shall be in accordance with the terms of said lease or leases and of the provisions of this act, and said rental payment shall not be subordinated to any leasehold mortgage of the lessee or lessees.

The lease or leases shall provide that the commonwealth may repossess the leased premises together with any buildings erected thereon if payment of the rent or any other sum is not timely paid, or if the lessee otherwise defaults and that notwithstanding such default, the lessee will continue to owe the rent and any other sums due the commonwealth under the provisions of said lease or leases. The lessee shall carry, in an amount approved in writing by the deputy commissioner



**ACTS, 1985. – Chap. 419.**

of the division, comprehensive general liability insurance protecting the lessee and the commonwealth against personal injuries and property damage occurring on said leased premises or within any structure or building erected thereupon, and such fire and extended risk insurance, as said deputy commissioner deems appropriate.

No lease or leases, other than that provided for by the first and second paragraphs, nor any sale, transfer, conveyance, or any other disposition of such land, and buildings, if any, may be made without the prior approval of the general court; provided, however, that any such lease or leases, other than that provided for by said first and second paragraphs, sale, transfer, conveyance, or any other disposition of said land, and buildings if any, shall be carried out in accordance with the provisions of sections forty A to forty L, inclusive, except for section forty F 1/2 of chapter seven of the General Laws and any other restrictions or requirements as the general court may deem necessary.

The provisions of the first, second, sixth, and ninth paragraphs of subsection (a) of section forty F 1/2 of said chapter seven, the first sentence of the seventh paragraph of said subsection (a), and subsection (b) of said section forty F 1/2, shall apply to all leases authorized by this section. For purposes of any lease authorized by this act, the declaration required by the ninth paragraph of said subsection (a) of said section forty F 1/2 shall apply only to those provisions of said section forty F 1/2 as set forth in this section.

**SECTION 5.** The division of capital planning and operations is hereby authorized and directed to enter into and deliver in the name of and on behalf of the commonwealth in one or more instruments for a temporary lease or leases for any or all land described in section one or any other land owned by the commonwealth at the Massachusetts Correctional Institution, Framingham in the town of Framingham which said division may deem necessary for use by General Motors Corporation, or Anchor Motor Freight, or General Motors Corporation and Anchor Motor Freight for motor vehicles manufactured at the General Motors Corporation assembly plant in the town of Framingham, equipment and materials necessary for the construction of the new paint facility, motor vehicles of employees of General Motors Corporation and Anchor Motor Freight and Corporations or other firms working on the construction of said new paint plant.

Consideration for said temporary lease or leases shall be for fair market value for comparable rentals.

Said temporary lease or leases shall not exceed six months; provided, however, that said division may renew said lease or leases for an additional three month period, and any additional renewals shall require the prior approval of the general court; provided, however, that the clerk of the house of representatives who shall forward copies to the joint committee on state administration shall be sent a copy of all such leases at least fourteen working days in advance of the execution of any such leases, or any renewal thereof.

**SECTION 6.** The division of capital planning and operations, is hereby



ACTS, 1985. – Chap. 419.

authorized, to lease to the town of Framingham for the sole purpose of establishing a municipal snow dumping facility, a ten acre parcel of surplus state-owned land, in the town of Framingham, for a period of twenty-five years, and upon such terms as may be mutually agreed upon by said division and said town in a form approved by the attorney general. Said lease may be renewed, at the option of the lessee, for an additional term of up to twenty-five years upon such terms as may be mutually agreed upon by the parties; provided, however, that at the end of said extended period said lease may be renewed upon such additional terms as may be agreed by the aforementioned parties, which shall be subject to general court approval. Said land shall be contained in or adjacent to land bounded and described as follows:–

Beginning at a point four hundred eighty (480.00) feet more or less, northerly and following the curve of Merchant Street extended northerly of a point marking the intersection of the northerly side of Prospect Street and the Framingham-Sherborn town;

thence northerly along the easterly line of said Merchant Street a distance of five hundred forty (540.00) feet more or less, to a point in said easterly line of Merchant Street;

thence in a generally easterly direction, a distance of approximately four hundred fifteen (415.00) feet more or less, to a point;

thence in a southeasterly direction, a distance of approximately four hundred fifteen (415.00) feet more or less, to a point;

thence in a generally southerly direction, a distance of approximately four hundred (400.00) feet more or less, to a point in the Framingham-Sherborn town line;

thence in a generally southwesterly direction along the Framingham-Sherborn town line a distance of approximately three hundred ten (310.00) feet more or less, to a point in said town line;

thence in a semi-circular line in a northwesterly direction so as to complete the parcel to the place of beginning.

Said parcel shall include no more or less than a total of ten acres enclosed; provided, however, that said division shall determine a more precise description of the land after conducting a survey within sixty days of the effective date of this act, and the lease from the commonwealth to the town of Framingham shall be amended to reflect such more precise description.

The initial lease entered into between the division and the town of Framingham pursuant to this section shall provide that the commonwealth shall offer to the town another parcel of land, of equivalent size, at a location mutually agreed upon by the parties before taking any action to re-acquire the leased parcel.

Plans for said snow dumping facility, and any alterations or additions thereto, shall be submitted to said division for its written approval; provided, however, that a copy of such plans and alterations and additions thereto, together with written approval of said division, shall be sent by both the town and said division to the clerk of the house of representatives who shall forward copies to the joint committee on state administration of the general court to be kept on file. In the event that said land is not used for the aforementioned purpose, or that such plans



**ACTS, 1985. – Chap. 420.**

are not approved by the division in writing, or submitted to said clerk for filing within five years of the effective date of this act, or that the land ceases to be used for the aforementioned purpose at anytime, it shall revert to the commonwealth for no further consideration.

**SECTION 7.** Nothing contained in this act shall reduce the amount of land available for use by the Massachusetts National Lancers suitable for grazing purposes under the provisions of current agreements between the commonwealth and said Massachusetts National Lancers.

**SECTION 8.** On or before April first, nineteen hundred and eighty-six, and on or before each April first of each year thereafter, the division of capital planning and operations shall file a report, including but not limited to, detailing the physical condition of the land referred to in sections four and six, the operation of the lease or leases authorized by said sections four and six, the amount of revenue produced by such lease or leases, the amount of taxes paid to the town of Framingham, if any, on any building or buildings owned or occupied by private entities as provided by said section four, and any other information as he may deem pertinent and necessary. A copy of said report shall be filed with the inspector general, the state auditor, the state comptroller, the commissioner of revenue, the clerk of the house of representatives who shall forward copies to the joint committee on state administration and the house and senate committees on ways and means and the governor.

**SECTION 9.** The division of capital planning and operations shall be the authorized agency of the commonwealth to carry out the provisions of this act.

Approved October 23, 1985.

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**Chapter 420. AN ACT ESTABLISHING THE CHELMSFORD CENTER INDUSTRIAL SEWER DISTRICT.**

Be it enacted, etc., as follows:

**SECTION 1.** Those inhabitants of the town of Chelmsford within the territory bounded and described as follows: Beginning: At a point on the border of the Town of Chelmsford and the Town of Billerica located at Route 3, and thence running: Northwesterly along Route 3 to 495; thence Westerly from 495 to River Meadow Brook; thence Southwesterly over various courses along River Meadow Brook, to Turnpike Road; thence Southeasterly along Turnpike Road to Mill Road; thence Easterly along Mill Road, approximately one thousand five hundred feet (1,500'); thence Southeasterly to the Billerica Town Line; thence Northeasterly along said Town line to the point of beginning.

Said area is more particularly described on a plan entitled "Proposed Chelmsford Industrial Sewer District, Scale 1" = 1,000', May, 1985," prepared by Weston and Sampson Eng., Inc. Said described area shall



**ACTS, 1985. – Chap. 420.**

constitute a sewer district and is hereby made a body corporate entitled the Chelmsford Center Industrial Sewer District hereinafter referred to as the district.

**SECTION 2.** The purpose of the district shall be to lay out, construct, maintain, improve and operate a system or systems of sanitary sewers within or without the district which services a part or whole of the territory within the district, contracting with the town of Chelmsford for such purposes, and for assessing and raising revenues as provided herein to pay for such services.

**SECTION 3.** The powers conferred by this act shall be exercised by a board of district sewer commissioners, to be hereinafter called the "board", consisting of seven members. One member shall be a member of the board of selectmen, one member shall be a member of the sewer commission, and the remaining five members shall be appointed by the board of selectmen of the town of Chelmsford, said members being operators of businesses or landowners located within the district. In the event any member should by a change of circumstances either by disposal of property, change of business interest, or removal from the board of selectmen or sewer commission as the case may be, fail to continue to meet the underlying criteria of his appointment, then said member shall notify the board of sewer commissioners and his term shall terminate thirty days after the date of the occurrence of said change in circumstances. The board of selectmen shall immediately upon notice appoint a new member to complete the unexpired term and said appointment to become effective on the thirty-first day after the occurrence of the change. Said board shall not be subject to the supervision of the sewer commission of the town or of any other department, commission, board, bureau or agency of the town except to the extent and in the manner provided in this act. Members shall serve three-year terms, except that two members of the initial board shall serve one-year terms, two members shall serve two-year terms, and three members shall serve three-year terms, the term of each initial board member to be designated by the selectmen on appointment subject to the requirements of this section. Any member of the board may be eligible for reappointment. Four members of the board shall constitute a quorum and the affirmative vote of four members shall be necessary for any action taken by vote of the board; provided, however, that an affirmative vote of five members shall be necessary to exercise any of the powers enumerated in clause (i) of section four. No vacancy in the membership of the board shall impair the right of a quorum to exercise the powers of the board. Any action by the board shall take effect immediately unless otherwise provided and need not be published or posted.

**SECTION 4.** The board, acting for and on behalf of the district, shall have all the rights and powers necessary or convenient to carry out and effectuate this act, including, but without limiting the generality of the foregoing, the following rights and powers:



ACTS, 1985. – Chap. 420.

(a) to adopt by-laws for the regulation of its affairs and the conduct of its business, to promulgate rules, regulations and procedures in connection with the performance of its functions and duties, and to fix, enforce and collect penalties for the violation thereof; provided, however, that any by-laws with respect to the removal of members of the board shall be consistent with the by-laws of the town of Chelmsford;

(b) to adopt an official seal and alter the same at pleasure;

(c) to maintain an office at such place or places as it may determine;

(d) to apply for, receive, accept, administer, expend and comply with the conditions, obligations and requirements respecting any grant, gift, loan, including without limitation any grant, gift or loan from agencies of local, state or federal governments, donation or appropriation of any property or money in aid of the purposes of the district and to accept contributions of money, property, labor or other things of value;

(e) to acquire by purchase, lease, lease-purchase, sale and lease-back, gift or devise, or to obtain options for the acquisition of, any property, real or personal, tangible or intangible, or any interest therein, in the exercise of its powers and the performance of its duties; provided, however, that the board may not acquire property by eminent domain, except as provided for in clause (g);

(f) to sell, lease, mortgage, exchange, transfer or otherwise dispose of, or to grant options for any such purposes with respect to, any property, real or personal, tangible or intangible, or any interest therein;

(g) to construct, improve, extend, enlarge, maintain and repair the sewer works system for the benefit of the district; to construct such sewers under or over any bridge, railroad, railway, boulevard or other public way, or within the location of any railroad, and to enter upon and dig up any private land, public way or railroad location, for the purpose of laying such drains and sewers and of maintaining and repairing the same; provided, however, that they shall not enter upon or construct any drain or sewer within the location of any railroad corporation except at such time and in such manner as they may agree upon with such corporation, or, in case of failure to agree, as may be approved by the department of public utilities; and to make and maintain, in any way therein where main drains and common sewers are constructed, such connecting drains, sub-drains and sewers within the limits of such way as may be necessary to connect any estate which abuts upon such way. With respect to any work under this clause, the district shall be deemed to be a public agency for purposes of sections forty-four A to forty-four H, inclusive, of chapter one hundred and forty-nine of the General Laws and a commission of the town of Chelmsford for purposes of sections thirty-eight A 1/2 to thirty-eight M, inclusive, of chapter seven of the General Laws and a public agency of the town for purposes of sections thirty-nine A to forty M, inclusive, of said chapter seven.

(h) to pledge or assign any money, fees, charges, or other revenues of the district and any proceeds derived by the district;

(i) to borrow money and incur indebtedness and issue bonds or notes as hereinafter provided;

(j) to enter into contracts and agreements with the town of Chelmsford in all matters necessary, convenient or desirable for carrying



**ACTS, 1985. – Chap. 420.**

out the purposes of this act including, without limiting the generality of the foregoing, construction, including sewers outside the district but benefitting the district, improvements, maintenance, collection of revenue, data processing, and other matters of management, administration and operation; to make other contracts of every name and nature; and to execute and deliver all instruments necessary or convenient for carrying out any of its purposes provided that all contracts made pursuant to clause (g) shall be approved by the board of selectmen of the town of Chelmsford;

(k) to exercise the powers and privileges of, and to be subject to limitations upon, towns and cities provided by the provisions of sections thirty-eight to forty-two I, inclusive, of chapter forty of the General Laws and sections one to twenty-four, inclusive, and twenty-seven to twenty-nine, inclusive, of chapter eighty-three of the General Laws, insofar as such provisions may be applicable and are consistent with the provisions of this act; provided, however, that any requirement in said sections or chapters for a vote by the board of selectmen or other governing body of a town or for a vote by the voters of a town shall be satisfied by a vote or resolution duly adopted by the board in accordance herewith; and, provided further, that the powers of the board to make rules and regulations and establish penalties regarding the use of sewers shall not be limited by section ten of said chapter eighty-three;

(l) to sue and be sued and to prosecute and defend actions relating to its properties and affairs; provided, however, that property of the district other than revenues pledged to the payment of notes or bonds shall not be subject to attachment nor levied upon by execution or otherwise;

(m) to do all things necessary, convenient or desirable for carrying out the purposes of this act or the powers expressly granted or necessarily implied in this act; and

(n) consistent with the constitution and laws of the commonwealth, the board shall have such other powers, including all powers pertaining to the sewer works system within its boundaries held by the town of Chelmsford not inconsistent herewith, as may be necessary for or incident to carrying out the foregoing powers and the accomplishment of the purposes of this act.

**SECTION 5.** The board is authorized and empowered to fix, revise, charge, collect and abate reasonable fees, rates, rents and assessments, and other charges for sewer and other services, improvements, maintenance, facilities, and commodities furnished or supplied to real property in the district. In providing for the payment of the cost of said system or systems or the improvements thereof, or for the use of said system or systems, the board may avail itself of the provisions of the General Laws relative to the assessment, apportionment, division, reassessment, abatement and collection of sewer charges, including betterments, or the establishment of liens therefor and interest thereon. In order to provide for the collection and enforcement of its fees, rates, rents, assessments and other charges, the board is hereby granted all the powers and privileges with respect thereto held by the town of



**ACTS, 1985. – Chap. 420.**

Chelmsford on the effective date of this act or as otherwise provided in this act, to be exercised concurrently with the town.

The fees, rates, rents, assessments and other charges of the board of general application shall be adopted and revised by the board at least annually in accordance with procedures to be established by the board for assuring that interested persons are afforded notice and an opportunity to present data, views and arguments. The board shall hold at least one public hearing on its schedule of fees, rates and charges or any revision thereof prior to adoption, notice of which shall be delivered to the board of selectmen and be published in a newspaper of substantial circulation in the town at least one month in advance of the hearing. No later than the date of such publication, the board shall make available to the public and deliver to the board of selectmen the proposed schedule of fees, rates and charges.

The fees, rates, rents, assessments, abatements and other charges established by the board shall not be subject to supervision or regulation by any department, division, commission, board, bureau, or agency of the commonwealth or any of its political subdivisions, including, without limitation, the town, nor shall the district be subject to the provisions of section twenty A of chapter fifty-nine of the General Laws. Notwithstanding the foregoing, except to the extent of betterments assessed by the board, the board shall have no power of taxation. The board's operating budget shall be limited to the sum of five thousand dollars for current administrative expenses approved by the board in the year nineteen hundred and eighty-five. Each year thereafter said sum may be increased two and one-half per cent per year.

The fees, rates, rents, assessments and other charges established by the board in accordance with this section shall be so fixed and adjusted in respect of the aggregate thereof so as to provide revenues at least sufficient (i) to pay the current expenses of the board, (ii) to pay the principal of, premium, if any, and interest on bonds or other evidences of indebtedness issued by the board under this act as the same become due and payable, (iii) to create and maintain such reasonable reserves as may be reasonably required by any trust agreement or resolution securing bonds, (iv) to provide funds for paying the cost of all necessary maintenance, repairs, replacements and renewals of the sewer works system and (v) to pay or provide for any amounts which the board may be obligated to pay or provide for by law or contract including any resolution or contract with or for the benefit of the holders of its bonds.

**SECTION 6.** The board is hereby authorized and empowered to provide by resolution for the issuance, at one time or from time to time of notes of the district in the aggregate principal amount of two million dollars outstanding at any one time, excluding notes refunded by other notes issued under this paragraph, for the purpose of providing funds for paying the cost of constructing or acquiring such improvements, extensions, enlargements, alterations, reconstruction or remodeling for the sewer works system as may be authorized by such resolution, including the funding of interest on any notes of the district issued pursuant to section seven hereof in anticipation of federal, state or local grants for such



ACTS, 1985. – Chap. 420.

work.

Except as otherwise provided herein, notes issued by the district in accordance with this section shall be issued in anticipation of bonds to be issued by the district pursuant to section seven of this act and shall be authorized, issued and sold in the same manner as, and shall otherwise be subject to section eight and other provisions of this act relating to such bonds. Such notes shall mature at such time or times as provided by resolution of the board and may be renewed from time to time; provided, however, that all such notes and renewals thereof shall mature on or prior to twenty years after their date of issuance.

The proceeds of the notes authorized by this section shall be used solely for paying or providing for the cost of extensions, improvements or enlargements of the sewer works system including repayment of interest on notes of the district as provided in the second paragraph and shall be disbursed in such manner and under such restrictions as may be provided in the resolution of the board.

**SECTION 7.** In addition to the notes issued under the provisions of section six, the board may provide by resolution for the issuance from time to time of bonds of the district for any of its corporate purposes. Bonds may be issued hereunder as general obligations of the district or as special obligations payable solely from particular funds. Without limiting the generality of the foregoing, such bonds may be issued to pay or refund notes issued by the board pursuant to section six, to pay the cost of maintenance, extension, enlargement, or improvement of the sewer works system, to provide such reserves for debt service, repairs and replacements or other costs as may be required by a trust agreement or resolution securing bonds of the district, or for any combination of the foregoing purposes. The board may also provide by resolution for the issuance from time to time of temporary notes in anticipation of the revenues to be collected or received by the board in any year, or in anticipation of the receipt of federal, commonwealth or local grants or other aid. The issuance of such notes shall be governed by the provisions of this act relating to the issuance of bonds other than such temporary notes as the same may be applicable; provided, however, that notes issued in anticipation of revenues shall mature no later than one year from their respective dates and notes issued in anticipation of federal, commonwealth or local grants or other aid and renewals thereof shall mature no later than the expected date of receipt of such grants or aid. Notes in anticipation of revenues issued to mature less than one year from their dates may be renewed by the board from time to time by the issue of other temporary notes hereunder; provided, however, that the period from the date of an original note to the maturity of any note issued to renew or pay the same or the interest thereon shall not exceed one year.

**SECTION 8.** The principal of, premium, if any, and interest on all bonds or notes issued under the provisions of this act, unless otherwise provided herein, shall be payable solely from the funds provided therefor from revenues as herein provided. Bonds or notes of each issue shall be



ACTS, 1985. – Chap. 420.

dated, shall bear interest at such rate or rates, including rates variable from time to time as determined by such index, bankers loan rate or other method determined by the board and shall mature at such time or times, as may be determined by the board, and may be made redeemable before maturity at the option of the board at such price or prices and under such terms and conditions as may be fixed by the board prior to the issue of bonds or notes. The board shall determine the form of bonds or notes, including interest coupons, if any, to be attached thereto, and the manner of execution of bonds or notes and shall fix the denomination or denominations of bonds or notes and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the commonwealth. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or notes or coupons shall cease to be such officer before the delivery thereof, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes as if he had remained in office until after such delivery. The board may also provide for authentication of bonds by a trustee or fiscal agent. Bonds or notes may be issued in bearer form, if not in conflict with federal law, or in registered form, or both, and, if notes, may be made payable to bearer or to order, as the board 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, for the reconversion into coupon bonds or bonds registered as to both principal and interest and for the interchange of bonds registered as to both principal and interest and for the interchange of registered and coupon bonds. The board may by resolution delegate to any member of the board or any combination of them the power to determine any of the matters set forth in this section including the power to award such bonds or notes to a purchaser or purchasers at public sale. The board may sell its bonds or notes in such manner, either at public or private sale, for such price, at such rate or rates of interest, or at such discount in lieu of interest, as it may determine will best effect the purposes of this act.

The board may issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The board may also provide for the replacement of any bonds which shall have become mutilated or shall have been destroyed or lost.

In the discretion of the board, any bonds issued hereunder may be secured by a resolution of the board or by a trust agreement between the board and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the commonwealth, and such trust agreement shall be in such form and executed in such manner as may be determined by the board. Such trust agreement or resolution may pledge or assign, in whole or in part, the revenues and other moneys held or to be received by the board, including the revenues from any improvements already existing when the pledge or assignment is made, and any contract or other rights to receive the same, whether then existing or thereafter coming into existence and whether then held or thereafter acquired by the board, and the proceeds thereof. Such trust agreement or resolution may contain such provisions



**ACTS, 1985. – Chap. 420.**

for protecting and enforcing the rights, security and remedies of the bondholders as may, in the discretion of the board, be reasonable and proper and not in violation of law, including, without limiting the generality of the foregoing, provisions defining defaults and providing for remedies in the event thereof which may include the acceleration of maturities and covenants setting forth the duties of, and limitations on, the board in relation to the acquisition, construction, improvement, enlargement, alteration, equipping, furnishing, maintenance, use, operation, repair, insurance and disposition of property of the district, the custody, safeguarding, investment and application of moneys, the issue of additional or refunding bonds, the fixing, revision and collection of fees, rates, rents, assessments or other charges, the use of any surplus bond proceeds, the establishment of reserves, and the making and amending of contracts.

In addition to other security provided herein or otherwise by law, bonds or notes issued by the district under any provision of this act, including section six hereof, may be secured, in whole or in part, by letters of credit issued to the district by any bank, trust company or other financial institution, within or without the commonwealth, and the board may pledge or assign any of its revenues as security for the reimbursement by the district to the issuers of such letters of credit of any payments made under the letters of credit.

It shall be lawful for any bank or trust company to act as depository or trustee of the proceeds of bonds, revenues or other moneys under any such trust agreement or resolution and to furnish such indemnification or pledge such securities and issue such letters of credit as may be required by the board. Any such trust agreement or resolution may set forth the rights and remedies of bondholders and of the trustee and may restrict the individual right of action by bondholders. In addition to the foregoing, any such trust agreement or resolution may contain such other provisions as the board may deem reasonable and proper for the security of bondholders. Any pledge of revenues or other property made by the board under this section shall be valid and binding and shall be deemed continuously perfected for the purposes of chapter one hundred and six of the General Laws from the time when the pledge is made; the revenues, moneys, rights and proceeds so pledged and then held or thereafter acquired or received by the board shall immediately be subject to the lien of such pledge without any physical delivery or segregation thereof or further act; and the lien of any such pledge shall be valid and binding against all parties having claims of any kind in tort, contract or otherwise against the board, irrespective of whether such parties have notice thereof. Neither the resolution, any trust agreement nor any other agreement by which a pledge is created need be filed or recorded except in the records of the board, and no filing need be made under the provisions of said chapter one hundred and six.

Any holder of a bond or note issued by the district under the provisions of this act or any of the coupons appertaining thereto and any trustee under a trust agreement or resolution securing the same, except to the extent the rights herein given may be restricted by such trust agreement or resolution, may bring suit upon the bonds, notes, or coupons and may,



**ACTS, 1985. – Chap. 420.**

either at law or in equity, by suit, action, mandamus, or other proceedings for legal or equitable relief, including proceedings for the appointment of a receiver to take possession and control of the business properties of the board, to operate and maintain the same, to make any necessary repairs, renewals and replacements in respect thereof and to fix, revise and collect fees and charges, protect and enforce any and all rights under the laws of the commonwealth or granted hereunder or under such trust agreement, resolution or other agreement, and may enforce and compel the performance of all duties required by this act or by such trust agreement or resolution to be performed by the board or by any officer thereof.

**SECTION 9.** The board may issue refunding bonds for the purpose of paying any of its bonds at maturity or upon acceleration or redemption. Refunding bonds may be issued at such time or times prior to the maturity or redemption of the refunded bonds as the board deems to be in the public interest. Refunding bonds may be issued in sufficient amounts to pay or provide the principal of the bonds being refunded, together with any redemption premium thereon, any interest accrued or to accrue to the date of payment of such bonds, the expenses of issue of refunding bonds, the expenses of redeeming bonds being refunded and such reserves for debt service or other capital or current expenses from the proceeds of such refunding bonds as may be required by a trust agreement or resolution securing bonds. The issue of refunding bonds, the maturities and other details thereof, the security therefor, the rights of the holders thereof, and the right, duties and obligations of the board in respect of the same shall be governed by the provisions of this act relating to the issue of bonds other than refunding bonds insofar as the same may be applicable.

**SECTION 10.** Bonds, notes, and other evidences of indebtedness issued or entered into under the provisions of this act shall not be deemed to be a debt or a pledge of the faith and credit of the commonwealth or the town of Chelmsford, but shall be payable solely from the revenues of the district. All bonds, notes and other evidences of indebtedness shall contain on the face thereof a statement to the effect that neither the commonwealth nor the town of Chelmsford shall be obligated to pay the same and that neither the faith and credit nor the taxing power of the commonwealth or of the town of Chelmsford is pledged to the payment of the principal of or interest on such bonds or notes. Each bond shall also recite whether it is a general obligation of the district or a special obligation thereof payable solely from particular funds pledged to its payment. Each bond or note shall bear on its face the words, Chelmsford Center Industrial Sewer district Loan, Act of 1985. The outstanding debt of the district shall not exceed in the aggregate, two million dollars. Each authorized issue shall constitute a separate loan and such loans shall be payable in not more than twenty years from their dates. Any indebtedness issued under this act with the exception of renewal notes issued pursuant to section six or refunding bonds issued pursuant to section nine shall be issued within two years of the effective date of this



**ACTS, 1985. – Chap. 420.**

act. Indebtedness incurred under this act shall be limited to the issuance of bonds or notes as herein provided, and any other provision of the General Laws permitting the district to incur additional debt shall not be applicable.

**SECTION 11.** All moneys received pursuant to the provisions of this act, whether as proceeds from the issue of bonds or as revenue or otherwise, shall be deemed to be trust funds to be held and applied solely as provided in this act.

**SECTION 12.** Bonds or notes 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, commercial departments of trust companies, savings banks, co-operative banks, banking associations, investment companies, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. Such bonds or notes 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 obligations of the commonwealth is now or may hereafter be authorized by law.

**SECTION 13.** Notwithstanding any of the provisions of this act or any recitals in any bonds issued under this act, all such bonds shall be deemed to be investment securities under the provisions of chapter one hundred and six of the General Laws.

**SECTION 14.** Bonds or notes may be issued under this act without obtaining the consent of the emergency finance board established under the provisions of chapter forty-nine of the acts of nineteen hundred and thirty-three or of any department, division, commission, board, bureau or agency of the commonwealth or the town, and without any other proceedings or the happening of any other conditions or things than those proceedings, conditions or things which are specifically required therefor by this act, and the validity of and security for any bonds or notes issued by the district shall not be affected by the existence or nonexistence of any such consent or other proceedings, conditions or things.

**SECTION 15.** The district and all its revenues, income and real and personal property shall be exempt from taxation and from betterments and special assessments and the district shall not be required to pay any tax, excise or assessment to or for the commonwealth or any of its political subdivisions. Bonds or notes issued by the district and their transfer and the income therefrom, including any profit made on the sale thereof, shall at all times be exempt from taxation within the commonwealth.

**SECTION 16.** The board shall at all times keep full and accurate



**ACTS, 1985. – Chap. 420.**

accounts of its receipts, expenditures, disbursements, assets and liabilities, which shall be open to inspection by any officer or duly appointed agent of the commonwealth or the town. The district shall operate on a fiscal year commencing July first unless otherwise provided by the board. Before the issuance of any bonds under the provisions of this act any member or officer of the board charged with responsibility for the issuance thereof, shall each execute a surety bond in the sum of one hundred thousand dollars payable to the district, or in lieu thereof the board shall obtain a blanket position bond covering any member or officer of the board charged with responsibility for the issuance of any bonds in the sum of one hundred thousand dollars, such surety bonds to be conditioned upon the faithful performance of the duties of their offices, to be executed by a surety company authorized to transact business in the commonwealth as surety and approved by the board.

**SECTION 17.** Upon termination or dissolution of the district, the title to all funds and other properties owned by it which remain after payment or the making of provision for payment of all bonds and other obligations of the board shall vest in the town. If upon any such termination or dissolution any bonds or notes of the board shall be outstanding, such bonds or notes, shall continue to be payable solely from the revenues and other property pledged therefor and shall not be or become a debt or obligation of the town except to the extent of such pledge.

No law affecting the powers, rights, duties, or obligations of the board shall be effective unless it shall apply to sewer districts generally or shall have been approved under the provisions of Article 2 of the Amendments to the Constitution of the Commonwealth.

**SECTION 18.** The provisions of this act shall be deemed to provide an exclusive, additional, alternative and complete method for the doing of the things authorized hereby and shall be deemed and construed to be supplemental and additional to, and not in derogation of, powers conferred upon the board by law; provided, however, that insofar as the provisions of this act are inconsistent with the provisions of any general or special law, administrative order or regulation, or the by-laws of the town of Chelmsford, the provisions of this act shall be controlling. Without limiting the generality of the foregoing, no provision of the by-laws of the town of Chelmsford requiring the ratification by the voters of certain bond issues shall apply to the issuance of bonds of the district pursuant to this act, nor shall the provisions of chapter forty-four of the General Laws be applicable to the manner of voting or the limitations as to amount and time of payment of debts incurred by the district.

**SECTION 19.** The district shall be dissolved by vote of the board one year from the date all debt issued by the district has been retired and all liabilities of the district have been satisfied fully. No further action of the town of Chelmsford or the commonwealth shall be required to dissolve the district.



**ACTS, 1985. – Chap. 421.**

**SECTION 20.** This act, being necessary for the welfare of the town and its inhabitants, shall be liberally construed to effect the purposes hereof.

**SECTION 21.** This act shall take effect upon its passage.

Approved October 23, 1985.

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**Chapter 421. AN ACT REGULATING THE USE OF CERTAIN PREMISES WHERE CONTROLLED SUBSTANCES ARE KEPT, MANUFACTURED OR SOLD.**

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately regulate the use of certain premises where controlled substances are kept, manufactured or sold, 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.** Chapter 139 of the General Laws is hereby amended by striking out section 16, as appearing in the 1984 Official Edition, and inserting in place thereof the following section:–

Section 16. Upon an information filed by the district attorney for the district, or upon the petition of the board or officer having control of the police of a town or of not less than ten legal voters of a town, stating that a building, place or tenement therein is resorted to for illegal gaming, or is used for the illegal keeping or sale of alcoholic beverages, as defined in section one of chapter one hundred and thirty-eight, or houses a premises which is licensed under section twelve of said chapter one hundred and thirty-eight and on or in such premises alcoholic beverages are habitually served to persons who are intoxicated or alcoholic beverages are served to persons whom the operators of said premises know or have reason to know will operate a motor vehicle under the influence of intoxicating liquor in violation of subdivision (1) of section twenty-four of chapter ninety or is used for the illegal keeping, sale or manufacture of controlled substances, as defined in section one of chapter ninety-four C, the supreme judicial or superior court may enjoin or abate the same as a common nuisance.

**SECTION 2.** Said chapter 139 is hereby further amended by striking out section 16A, as so appearing, and inserting in place thereof the following section:–

Section 16A. Upon a civil action brought in the name of the commonwealth by the attorney general, or district attorney for the district, or the chief of police, or the board or officer having control of the police of the state, or of a town or city, or by not less than ten legal voters of a town or city, in their own names, stating that a building,



ACTS, 1985. – Chap. 421.

place or tenement situated therein is being used for the illegal keeping, sale or manufacture of alcoholic beverages, as defined in section one of chapter one hundred and thirty-eight or houses a premises which is licensed under section twelve of said chapter one hundred and thirty-eight and on or in such premises alcoholic beverages are habitually served to persons who are intoxicated or alcoholic beverages are served to persons whom the operators of said premises know or have reason to know will operate a motor vehicle under the influence of intoxicating liquor in violation of subdivision (1) of section twenty-four of chapter ninety or is used for the illegal keeping, sale or manufacture of controlled substances, as defined in section one of chapter ninety-four C, the superior court may abate the same as a common nuisance and may enjoin the person conducting or maintaining the same, and the owner, lessee or agent of the building, place or tenement in or upon which said nuisance exists, and their grantees or assignees, from directly or indirectly maintaining or permitting such nuisance, and, subject to the provisions hereinafter contained, may order the effectual closing of such building, place or tenement, and the prohibition of its use for any purpose for a period of not less than one month nor more than one year thereafter; provided, however, that if said building, place or tenement contains other occupied dwelling units, the occupants of which were not involved in said nuisance, no such closing of other occupied dwelling units shall take place so as to adversely affect such occupants. Proceedings under this section shall be in the manner provided in sections seven to twelve, inclusive, except that the provisions of section nine regulating the closing of a building, place or tenement and the prohibition of its use for any purpose because of the maintenance of such nuisance shall not apply and in lieu thereof the court may include in its judgement an order for such closing and prohibition, if it appears that prior thereto and within the preceding three years there shall have been three convictions for the illegal sale, or keeping, or manufacture of alcoholic beverages as so defined, or two convictions in the preceding five years for the illegal sale or keeping or manufacture of a controlled substance as so defined in or upon the premises on which such building, place or tenement is situated, or three judgements for permanent injunction enjoining the maintenance of such nuisance. A judgement for a permanent injunction or abatement shall include an order that a copy thereof shall be posted in a conspicuous place on the building, place or tenement affected thereby, on or near one or more of its principal entrances and that the removal, defacement, erasure or mutilation of a copy so posted shall be contempt of court. In addition to such posting, a copy of the judgement shall be delivered in hand to the person in charge of such building, place or tenement if he may be found upon the premises or to anyone residing therein, and if the judgement includes an order for the effectual closing of said building, place or tenement and the prohibition of its use for any purpose for a period of not less than one month nor more than one year, a copy shall be filed forthwith for record in the registry of deeds for the county and registry district within which such building, place or tenement is situated. The provisions of section thirteen shall apply to all persons found in or upon premises used for the



**ACTS, 1985. – Chap. 421.**

illegal sale, or keeping, or manufacture of alcoholic beverages or controlled substances, as so defined.

**SECTION 3.** Said chapter 139 is hereby further amended by striking out section 19, as so appearing, and inserting in place thereof the following section:–

Section 19. If a tenant or occupant of a building or tenement, under a lawful title, uses such premises or any part thereof for the purposes of prostitution, assignation, lewdness, illegal gaming, or the illegal keeping or sale of alcoholic beverages, as defined in section one of chapter one hundred and thirty-eight, or the housing of a premises which is licensed under section twelve of said chapter one hundred and thirty-eight and on or in such premises alcoholic beverages are habitually served to persons who are intoxicated or alcoholic beverages are served to persons whom the operators of said premises know or have reason to know will operate a motor vehicle under the influence of intoxicating liquor in violation of subdivision (1) of section twenty-four of chapter ninety or the illegal keeping, sale or manufacture of controlled substances, as defined in section one of chapter ninety-four C, such use shall at the election of the lessor or owner annul and make void the lease or other title under which such tenant or occupant holds and, without any act of the lessor or owner, shall cause the right of possession to revert and vest in him, and he may, without process of law, make immediate entry upon the premises, or may avail himself of the remedy provided in chapter two hundred and thirty-nine.

**SECTION 4.** Said chapter 139 is hereby further amended by striking out section 20, as so appearing, and inserting in place thereof the following section:–

Section 20. Whoever knowingly lets premises owned by him, or under his control, for the purposes of prostitution, assignation, lewdness, illegal gaming, or the illegal keeping or sale of alcoholic beverages, as defined in section one of chapter one hundred and thirty-eight, or the housing of a premises which is licensed under section twelve of said chapter one hundred and thirty-eight and on or in such premises alcoholic beverages are habitually served to persons who are intoxicated or alcoholic beverages are served to persons whom the operators of said premises know or have reason to know will operate a motor vehicle under the influence of intoxicating liquor in violation of subdivision (1) of section twenty-four of chapter ninety or the illegal keeping, sale or manufacture of controlled substances, as defined in section one of chapter ninety-four C, or knowingly permits such premises, while under his control, to be used for such purposes, or after due notice of any such use omits to take all reasonable measures to eject therefrom the persons occupying the same as soon as it can lawfully be done, shall be punished by a fine of not less than one hundred nor more than one thousand dollars or by imprisonment for not less than three months nor more than one year, or both.

Approved October 23, 1985.



**ACTS, 1985. – Chaps. 422, 423.**

**Chapter 422. AN ACT AUTHORIZING THE CITY OF NEWBURYPORT TO DISPOSE OF A CERTAIN PARCEL OF LAND ACQUIRED FOR THE DEVELOPMENT OF WATER RESOURCES.**

**Whereas**, The deferred operation of this act would tend to defeat its purpose, which is to immediately authorize the city of Newburyport to dispose of a certain parcel of land, 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:**

The city of Newburyport is hereby authorized to convey to the town of West Newbury a certain parcel of land located in said town of West Newbury, said parcel having been acquired by the city of Newburyport for water resources purposes in the development of the Indian Hill Reservoir. Said land being bounded and described as follows:

Said parcel is designated as Relocated Moulton street as shown on a plan, entitled Land Taking within West Newbury for New Reservoir Project for City of Newburyport, October, 1977, Scale: 1"=100', Pembroke Land Survey Co., Newburyport, sheets 2 of 3 and 3 of 3, recorded with the Essex South District Registry of Deeds at Plan Book 149, Plan 58, containing 2630 square feet, more or less.

Approved October 23, 1985.

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**Chapter 423. AN ACT AUTHORIZING THE CITY OF LAWRENCE TO CONVEY CERTAIN PARK LAND IN SAID CITY.**

**Be it enacted, etc., as follows:**

**SECTION 1.** The city of Lawrence is hereby authorized to convey a certain parcel of park land in said city to the Psychological Center, Inc., to be used for public health purposes. Said parcel is bounded and described as follows:-

Beginning at a point on the northerly sideline of North Parish Road 700.00 feet east of the easterly sideline of Crawford Street; thence northerly at right angles to said sideline of North Parish Road 66.00 feet by land of the U.S. Naval Reserve Center; thence easterly at right angles 80.00 feet; thence southerly at right angles 66.00 feet; thence westerly at right angles 80.00 feet along North Parish Road to the point of beginning.

Said parcel contains five thousand two hundred and eighty square feet of land. Said parcel is shown on a plan of land located in the city of Lawrence and prepared for the Psychological Center, Inc. by Cyr Engineering Services, Inc., being a portion of the premises conveyed to the city of Lawrence by deed of the Essex Company dated February 21, 1933 and recorded with the Essex north district registry of deeds in Book 569, Page 432.



**ACTS, 1985. – Chaps. 424, 425.**

**SECTION 2.** This act shall take effect upon its passage.

Approved October 23, 1985.

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**Chapter 424. AN ACT AUTHORIZING THE TOWN OF SCITUATE TO SELL A CERTAIN PARCEL OF LAND.**

Be it enacted, etc., as follows:

**SECTION 1.** The town of Scituate, acting by and through its board of selectmen, is hereby authorized to sell and convey, subject to the approval of the department of environmental quality engineering, a certain parcel of land acquired by said town for the protection of water resources and water supply purposes.

Said parcel is shown as Parcel 5 on a plan entitled "Compiled Plan of Land in the Town of Scituate, Massachusetts, located at Driftway and Stockbridge Road", dated August 1, 1975, by Loring H. Jacobs Co., recorded with Plymouth county registry of deeds on August fifteenth, nineteen hundred and seventy-five, said Parcel 5 being more particularly bounded and described in an order of taking dated August twelfth, nineteen hundred and seventy-five, and recorded with the said registry of deeds on August fifteenth, nineteen hundred and seventy-five, at Book 4091, Page 726. Said Parcel 5 containing one hundred and six acres, more or less, according to said plan.

**SECTION 2.** This act shall take effect upon its passage.

Approved October 23, 1985.

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**Chapter 425. AN ACT PERMITTING RELEASE OF NAMES OF CERTAIN DELINQUENT CHILDREN.**

Be it enacted, etc., as follows:

Section 60A of chapter 119 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by adding the following paragraph:-

Notwithstanding the provisions of this section, the name of a child shall be made available to the public by the probation officer without such consent if the child is: alleged to have committed an offense while between his fourteenth and seventeenth birthdays; and has previously been adjudicated delinquent on at least two occasions for acts which would have been punishable by imprisonment in the state prison if such child had been age seventeen or older; and is charged with delinquency by reason of an act which would be punishable by imprisonment in the state prison if such child were age seventeen or older.

Approved October 23, 1985.



ACTS, 1985. – Chap. 426.

**Chapter 426. AN ACT RELATIVE TO THE RECONSTRUCTION OF  
STATE HIGHWAY ROUTE 122 AND STATE HIGHWAY  
ROUTE 56 IN THE TOWN OF PAXTON.**

Be it enacted, etc., as follows:

**SECTION 1.** The deputy commissioner of capital planning and operations, acting for and on behalf of the commonwealth, is hereby authorized to acquire by eminent domain, under the provisions of chapter seventy-nine of the General Laws or by purchase or otherwise, certain parcels of land owned by the city of Worcester, located in the town of Paxton and being used by said city for reservoir watershed purposes, and to transfer the care, custody and control of said parcels to the department of public works for highway use in conjunction with the reconstruction of state highway route 122 in the town of Paxton. Said parcels are bounded and described as follows:

Parcel No. 1-2

An irregular-shaped parcel of land, located on the southerly side of the proposed reconstruction of the intersection of state auto route 122 and non-state auto route 56 (known as Reservoir Drive), in the town of Paxton, about twenty-five (25) feet left of the main baseline of the 1985 alteration to the 1896 State Highway Layout, at or about Station 102+08 and about seventy-two (72) feet left at or about station 105+13, bounded as follows:

Northwesterly by state auto route 122 about two hundred eighty-six and eight tenths (286.8) feet;

Southwesterly by the 1933 Worcester County Layout line of non-state auto route 56, about seventy-nine and four tenths (79.4) feet;

Southeasterly by land owned now or formerly by the city of Worcester, about thirty-five and six tenths (35.6) feet;

Northeasterly and southeasterly by land owned now or formerly by the city of Worcester, about two hundred eighty and three tenths (280.3) feet;

Easterly by land owned now or formerly by James R. Jr. and Carolyn A. Stone, about five and one tenth (5.1) feet.

Containing in all, about two tenths (0.2) acres of land, more or less.

Parcel No. 1-3

An irregular-shaped parcel of land located on the southerly side of the proposed reconstruction of the intersection of state auto route 122 and non-state auto route 56, in the town of Paxton, about thirty-five (35) feet left of the main baseline of the 1985 alteration to the 1896 State Highway Layout, at or about station 106+52 and about twenty-five (25) feet left, at or about station 109+82, bounded as follows:

Northerly and northwesterly by the 1933 Worcester County Layout of non-state auto route 56 and the 1926 alteration of the 1896 State Highway Layout of state auto route 122, about three hundred thirty-eight (338) feet;

Southwesterly by land owned now or formerly by Peter J. and Carolyn J. Sliwinski, about three and three tenths (3.3) feet;

Southeasterly by land owned now or formerly by the city of Worcester, about three hundred twenty-four and three tenths (324.3) feet.



ACTS, 1985. – Chap. 426.

Containing in all, about thirteen hundredths (0.13) acres, more or less.  
Parcel No. 1-5

A triangular-shaped parcel of land located on the southerly side of the proposed reconstruction of the intersection of state auto route 122 and non-state auto route 56, in the town of Paxton, at or about thirty (30) feet left of the main baseline of the 1985 alteration to the 1896 State Highway Layout, at or about stations 110+32 and 110+78.70, bounded as follows:

Northwesterly by state auto route 122, about forty-six and six tenths (46.6) feet;

Southeasterly by land owned now or formerly by the city of Worcester, about forty-six and three tenths (46.3) feet;

Northeasterly by land owned now or formerly by Peter J. and Carolyn J. Sliwinski, about eight tenths (0.8) feet.

Containing in all, about fourteen and three tenths (14.3) square feet, more or less.

**SECTION 2.** The deputy commissioner of capital planning and operations, acting for and on behalf of the commonwealth, is hereby authorized to acquire by eminent domain, under the provisions of chapter seventy-nine of the General Laws or by purchase or otherwise, a permanent drainage easement on certain parcels of land owned by the city of Worcester, located in the town of Paxton and being used by said city for reservoir watershed purposes, and to transfer said permanent easement to the department of public works as permanent highway drainage easement, in conjunction with the reconstruction of state highway route 122 in the town of Paxton. Said easement is bounded and described as follows:

Parcel No. 1-D-1

A certain irregular-shaped parcel of land located on the southerly side and abutting Parcel No. 1-3 above, about sixty-seven (67) feet left of the main baseline of the 1985 alteration to the 1896 State Highway Layout, at or about station 106+25, and about thirty (30) feet left at or about station 107+75 of the proposed reconstruction of the intersection of state auto route 122 and non-state auto route 56, in the town of Paxton, approximately seventy (70) feet wide and one hundred fifty (150) feet long, containing about twenty-four one hundredths (0.24) acres of land, to be used as a site for permanent drainage.

**SECTION 3.** The deputy commissioner of capital planning and operations, acting for and on behalf of the commonwealth, is hereby authorized to acquire by eminent domain, under the provisions of chapter seventy-nine of the General Laws or by purchase or otherwise, on behalf of the town of Paxton, certain parcels of land owned by the city of Worcester, located in the town of Paxton and being used by said city for reservoir watershed purposes, and to transfer the care, custody and control of said parcels of land to the department of public works for highway purposes in conjunction with the reconstruction of state highway route 56 in the town of Paxton. Subsequent to the completion of the reconstruction of said route 56, the deputy commissioner of



ACTS, 1985. – Chap. 426.

capital planning and operations is authorized to convey by deed, approved as to form by the attorney general, said parcels of land to the town of Paxton for highway purposes. Said parcels are bounded and described as follows:

Parcel No. 1-3-T

An irregular-shaped parcel of land, located on the easterly side of non-state auto route 56, of the proposed reconstruction of the intersection of state auto route 122 and non-state auto route 56, in the town of Paxton, about twenty-two (22) feet right of the 1933 Worcester County Layout on the non-state auto route 56 baseline, at or about station 59+60 and about thirty-two (32) feet right, at or about station 62+71, bounded as follows:

Northerly by non-state auto route 56, about three hundred ten and five tenths (310.5) feet;

Southeasterly by land owned now or formerly by the city of Worcester, about thirty-five and six tenths (35.6) feet;

Southwesterly and southerly by land owned now or formerly by the city of Worcester, about two hundred seventy-six and two tenths (276.2) feet;

Westerly by land owned now or formerly by Lillian A. Morse, about six and three tenths (6.3) feet.

Containing in all, about one tenth (0.1) acres, more or less.

Parcel No. 1-4-T

An irregular-shaped parcel of land located on the westerly side of Asnebumskit Road at the proposed reconstruction of the intersection of state auto route 122 and non-state auto route 56, in the town of Paxton, about twelve (12) feet left of the Asnebumskit Road baseline at or about station 0+18 and about eighteen (18) feet left at station 3+00, bounded as follows:

Northerly by Asnebumskit Road about two hundred eighty-two (282) feet;

Southwesterly by land owned now or formerly by the city of Worcester, about seventeen (17) feet;

Southerly by land owned now or formerly by the city of Worcester, about two hundred sixty-three (263) feet;

Southeasterly by the 1926 alteration of the 1896 State Highway Layout of state auto route 122, about eleven (11) feet.

Containing in all, about six tenths (0.6) acres, more or less.

**SECTION 4.** The deputy commissioner of capital planning and operations, acting for and on behalf of the commonwealth, is hereby authorized to acquire by eminent domain, under the provisions of chapter seventy-nine of the General Laws or by purchase or otherwise, on behalf of the town of Paxton, permanent drainage easements on parcels of land owned by the city of Worcester, located in the town of Paxton and being used by said city for reservoir watershed purposes, and to transfer said easements to the department of public works as permanent highway drainage easements, in conjunction with the reconstruction of state highway route 56, in the town of Paxton. Subsequent to the completion of said reconstruction the deputy commissioner of capital planning and operations is authorized to convey by deed, approved as to form by the



ACTS, 1985. – Chap. 427.

attorney general, said permanent easements to the town of Paxton for highway drainage purposes. Said easements are bounded and described as follows:

Parcel No. 1-D-2-T

A certain parcel of land located on the westerly side of the main baseline of the 1933 Worcester County Layout of non-state auto route 56, about twenty-five (25) feet left, at or about stations 56+50 and 56+80, in the town of Paxton, approximately twenty (20) feet wide and thirty (30) feet long, containing about six hundred (600) square feet of land, to be used by the town of Paxton as a site for permanent drainage.

Parcel No. 1-D-3-T

A certain parcel of land located on the westerly side of the main baseline of the 1933 Worcester County Layout of non-state auto route 56, about forty (40) feet left, at or about station 62+25 and about forty-eight (48) feet left at station 62+57, in the town of Paxton, approximately twenty (20) feet wide and forty (40) feet long, containing about eight hundred (800) square feet of land, to be used as a site for permanent drainage.

Parcel No. 1-D-4-T

A certain parcel of land located on the northerly side of the main baseline about eighty-five (85) feet of the 1985 alteration to the 1896 State Highway Layout, at or about station 106+10, and about eighty (80) feet right, at or about station 106+80, of the proposed reconstruction of the intersection of state auto route 122 and non-state auto route 56, in the town of Paxton, approximately seventeen (17) feet wide and sixty-eight (68) feet long, containing about one thousand one (1,001) square feet of land, to be used by the town of Paxton as a site for permanent drainage.

**SECTION 5.** Subsequent to the acquisitions of land and easements by the deputy commissioner of capital planning and operations authorized by this act, the department of public works shall make payment to the city of Worcester as appropriate in accordance with the provisions of sections one of chapter six hundred and ninety-three of the acts of nineteen hundred and fifty-five.

Approved October 23, 1985.

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**Chapter 427. AN ACT PROHIBITING CERTAIN ESTABLISHMENTS FROM REQUIRING PERSONS UNDER THIRTEEN YEARS OF AGE TO PAY A MINIMUM CHARGE OR COVER CHARGE.**

Be it enacted, etc., as follows:

Chapter 140 of the General Laws is hereby amended by striking out section 183D, as appearing in the 1984 Official Edition, and inserting in place thereof the following section:—

Section 183D. No innholder, common victualler or person owning,



ACTS, 1985. – Chap. 428.

managing or controlling a cafe, restaurant, or other eating or drinking establishment shall require any person to pay a minimum charge or cover charge unless a sign is conspicuously posted at every entrance to any dining room or rooms where such charge is required, in letters no less than one inch in height, stating that a minimum charge or cover charge shall be charged and also stating the amount of charge; provided, however, that no such innholder, common victualler or person owning, managing or controlling a cafe, restaurant or other eating or drinking establishment shall require a person under thirteen years of age to pay a minimum charge or cover charge. Whoever violates this section shall be punished by a fine of not more than fifty dollars.

Approved October 23, 1985.

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**Chapter 428. AN ACT PROHIBITING THE SO-CALLED  
SUM-OF-THE-DIGITS METHOD IN THE  
COMPUTATION OF REBATE IN CERTAIN CONSUMER  
CREDIT TRANSACTIONS.**

Be it enacted, etc., as follows:

**SECTION 1.** Section 100 of chapter 140 of the General Laws is hereby amended by striking out the second paragraph, as most recently amended by section 1 of chapter 284 of the acts of 1981, and inserting in place thereof the following paragraph:—

The small loans regulatory board shall investigate from time to time the economic conditions and other factors relating to and affecting the business of making loans under sections ninety-six to one hundred and thirteen, inclusive, and shall ascertain all pertinent facts necessary to determine what maximum rate of charge should be permitted. Upon the basis of such ascertained facts, the board shall determine and establish by regulation or order a maximum rate of charge in connection with such loans which will induce efficiently managed commercial capital to be invested in such business in sufficient amounts to make available adequate credit facilities to individuals seeking such loans at reasonable rates, and which will afford those engaged in such business a fair and reasonable return upon the assets. Such maximum rate of charge established by the board may be the aggregate of two or more different maximum rates applicable to different portions of the unpaid principal balance, so that as the size of the loan or the unpaid principal balance increases the aggregate rate decreases. The board may reestablish the maximum monthly rate of charge from time to time on the basis of changed conditions and facts. When the board establishes a maximum rate of charge it shall also by order permit licensees to precompute the monthly rate of charge contracted for on scheduled unpaid principal balances of loans contracted to be repaid in substantially equal and consecutive monthly installments of principal and charges combined with such installments applied to the unpaid balance of principal and the precomputed charge combined, subject to such provisions as the board



**ACTS, 1985. – Chap. 428.**

shall by order prescribe for a refund or credit in the event of prepayment and for extension and default charges in the event of an extension or default. Such refund or credit shall be computed on a method which is at least as favorable to the borrower as the actuarial method, so-called. If the prepayment is made other than on an installment due date, it shall be deemed to have been made on the first installment due date if the payment is before that date, and in any other case it shall be deemed to have been made on the next preceding or next succeeding installment due date, whichever is nearer to the date of prepayment. Where the amount of the credit for anticipation of payment is less than one dollar, no refund need be made. The details of application and the rules for a fraction of a month or partial prepayments shall be subject to the order of the board.

**SECTION 2.** Section 12G of chapter 255 of the General Laws is hereby amended by striking out the second and third sentences, inserted by section 2 of said chapter 284, and inserting in place thereof the following sentence:– There shall be a refund, in the event of prepayment of the contract, of the charge for such insurance computed on a method which is at least as favorable to the borrower as the actuarial method, so-called.

**SECTION 3.** Said chapter 255 is hereby further amended by striking out section 13L, inserted by section 3 of said chapter 284, and inserting in place thereof the following section:–

Section 13L. Except as otherwise provided in section one hundred of chapter one hundred and forty, section sixteen of chapter two hundred and fifty-five B, section nineteen of chapter two hundred and fifty-five C, and subsection B of section thirteen of chapter two hundred and fifty-five D, if a loan contract, for personal, family or household purposes, is prepaid in full by cash, a new loan, refinancing or otherwise before the final installment date, the borrower shall receive a refund of the precomputed charges computed on a method which is at least as favorable to the borrower as the actuarial method, so-called. If prepayment is made other than on an installment due date, it shall be deemed to have been made on the first installment due date if the prepayment is before that date, and in any other case it shall be deemed to have been made on the next preceding or next succeeding installment due date, whichever is nearer to the date of prepayment. Where the amount of the credit for anticipation of payment is less than one dollar, no refund need be made.

**SECTION 4.** Chapter 255B of the General Laws is hereby amended by striking out section 16, as most recently amended by section 4 of said chapter 284, and inserting in place thereof the following section:–

Section 16. Notwithstanding the provisions of any retail installment contract to the contrary, any buyer may pay in full at any time before maturity the debt of any retail installment contract, and in so paying such debt shall receive a refund credit thereon for such anticipation. Such refund credit shall be computed on a method which is at least as



**ACTS, 1985. – Chap. 429.**

favorable to the buyer as the actuarial method, so-called. If the prepayment is made other than on an installment due date, it shall be deemed to have been made on the first installment due date if the payment is before that date, and in any other case it shall be deemed to have been made on the next preceding or next succeeding installment due date, whichever is nearer to the date of prepayment. Where the amount of the credit for anticipation of payment is less than one dollar, no refund need be made.

**SECTION 5.** Chapter 255C of the General Laws is hereby amended by striking out section 19, as amended by section 5 of said chapter 284, and inserting in place thereof the following section:–

Section 19. Notwithstanding the provisions of any premium finance agreement to the contrary, any insured may pay it in full at any time before maturity of the final installment of the balance thereof, and in so paying such balance shall receive a refund credit thereon for such anticipation. Such refund credit shall be computed on a method which is at least as favorable to the insured as the actuarial method, so-called. If the prepayment is made other than on an installment due date, it shall be deemed to have been made on the first installment due date if the payment is before that date, and in any other case it shall be deemed to have been made on the next preceding or next succeeding installment due date, whichever is nearer to the date of prepayment. Where the amount of the credit for anticipation of payment is less than one dollar, no refund need be made. The details of application and the rules for partial prepayments shall be subject to the regulations issued under the provisions of section one hundred and sixty-two B of chapter one hundred and seventy-five.

**SECTION 6.** Subsection B of section 13 of chapter 255D of the General Laws is hereby amended by striking out the first three sentences, as inserted by section 6 of said chapter 284, and inserting in place thereof the following sentence:– Except as provided in subsection C, a refund credit shall be computed on a method which is at least as favorable to the buyer as the actuarial method, so-called.

**SECTION 7.** The provisions of this act shall apply only to contracts or agreements entered into on or after the effective date of this act.

**SECTION 8.** This act shall take effect on March first, nineteen hundred and eighty-six.

Approved October 23, 1985.

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**Chapter 429. AN ACT AUTHORIZING THE TOWN OF MILLIS TO TRANSFER CERTAIN PARK LAND IN SAID TOWN FOR HIGHWAY PURPOSES.**

Be it enacted, etc., as follows:



ACTS, 1985. – Chap. 430.

The town of Millis is hereby authorized to transfer two certain parcels of park land in the town of Millis to be used by said town for highway purposes. Such parcels are bounded and described as follows:–

Parcel 1.

Beginning at a point on the northerly sideline of Island Road at its junction with the easterly sideline of Ridge Street; said point being S72°-55'-06"E and a distance of 5.62 feet from a drill hole in a wall; thence

Southeasterly and easterly by a 40.00 ft. radius curve a distance of 41.48 feet to a point; thence

N47°-39'-34"E a distance of 213.16 feet to a point; thence

by a 1600.0 ft. radius curve to the left a distance of 238.78 feet to a point on the northerly sideline of Island Road, as established, said point being S37°-48'-58"W a distance of 198.89 feet from a drill hole in a wall shown on the above mentioned plan, the last three (3) courses being by remaining land of the Town of Millis; thence

S37°-48'-58"W a distance of 104.45 feet to a drill hole in a wall; thence

S42°-59'-50"W a distance of 229.48 feet to a drill hole in a wall; thence

S48°-41'-30"W a distance of 111.03 feet to a drill hole in a wall; thence

S66°-06'-01"W a distance of 28.02 feet to a drill hole in a wall; thence

N72°-55'-06"W a distance of 31.96 feet to a point of beginning, the last five (5) courses being by the northerly sideline of Island Road as established on the aforementioned plan.

Said Parcel 1 contains 5042 S.F. of land, more or less.

Parcel 2.

Beginning at a point which is the junction of the northerly sideline of Island Road, as established, and the westerly sideline of Exchange Street as laid out by the Norfolk County Commissioners by Return dated July 23, 1929. Said point being S25°-55'-00"E a distance of 502.07 feet from a stone bound; thence

S44°-10'-09"W a distance of 1.26 feet to a fence post; thence

along the same course a distance of 37.45 feet to a fence post; thence

S59°-01'-17"W a distance of 222.53 feet to a fence post; thence

S59°-57'-11"W a distance of 124.02 feet to a point, the last three (3) courses being by the northerly sideline of Island Road as shown on the aforementioned plan; thence

N57°-48'-00"E a distance of 352.71 feet to a point; thence

by a 35.00 ft. radius curve to the left a distance of 51.14 feet to a point on the westerly sideline of Exchange Street as laid out, the last two (2) courses being by remaining land of the Town of Millis; thence

S25°-55'-00"E by the westerly sideline of Exchange Street as laid out, a distance of 31.64 feet to the point of beginning.

Said parcel 2 contains 2238 S.F. of land, more or less.

Approved October 23, 1985.



**ACTS, 1985. – Chap. 430.**

**BONDS AND NOTES TO BE ISSUED BY THE  
COMMONWEALTH.**

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately facilitate the issuance of bonds and notes to carry out the purposes of various acts passed during the regular annual legislative session of the year nineteen hundred and eighty-four, 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.** Notwithstanding any provision of law to the contrary, the bonds which the state treasurer is authorized to issue under section eleven A1/2 of chapter seven hundred and twenty-three of the acts of nineteen hundred and eighty-three providing funds for the acquisition of word and data processing equipment shall be issued for terms not to exceed five years; provided, however, that all such bonds shall be payable by June thirtieth, nineteen hundred and ninety-four, as recommended by the governor in a message to the general court dated March twenty-ninth, nineteen hundred and eighty-five in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 2.** Notwithstanding any provision of law to the contrary, the bonds which the state treasurer is authorized to issue under section eleven U, eleven V and eleven W of chapter seven hundred and twenty-three of the acts of nineteen hundred and eighty-three providing for a capital outlay program for the commonwealth shall be issued for terms not to exceed twenty years; provided, however, that all such bonds shall be payable by June thirtieth, two thousand and eight, as recommended by the governor in a message to the general court dated March twenty-ninth, nineteen hundred and eighty-five in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 3.** Notwithstanding any provision of law to the contrary, the bonds which the state treasurer is authorized to issue under section thirty-three of chapter two hundred and thirty-three of the acts of nineteen hundred and eighty-four providing funds to certain cities and towns for the purpose of improving water delivery systems and studying soil erosion shall be issued for terms not to exceed twenty years; provided, however, that all such bonds shall be payable by June thirtieth, two thousand and nine, as recommended by the governor in a message to the general court dated March twenty-ninth, nineteen hundred and eighty-five in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 4.** Notwithstanding any provision of law to the contrary, the bonds which the state treasurer is authorized to issue under paragraph (f)



**ACTS, 1985. – Chap. 430.**

of section five of chapter three hundred and seventy-two of the acts of nineteen hundred and eighty-four providing funds for the payment of notes issued by the Massachusetts Water Resources Authority and guaranteed by the commonwealth shall be issued for terms not to exceed twenty years, and the temporary notes which the state treasurer is authorized to issue under said paragraph (f) of said section five in anticipation of the receipt of proceeds of such bonds shall be issued and may be renewed one or more times for terms not exceeding three years and the final maturities of such notes, whether original or renewal, shall not be later than three years after the date that the original notes were issued, as recommended by the governor in a message to the general court dated March twenty-ninth, nineteen hundred and eighty-five in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 5.** Notwithstanding any provision of law to the contrary, the notes which the state treasurer is authorized to issue under paragraph (g) of section five of chapter three hundred and seventy-two of the acts of nineteen hundred and eighty-four providing funds for a loan to the Massachusetts Water Resources Authority shall be issued and may be renewed one or more times for terms not exceeding one and one-half years, as recommended by the governor in a message to the general court dated March twenty-ninth, nineteen hundred and eighty-five in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 6.** Notwithstanding any provision of law to the contrary, the bonds which the state treasurer is authorized to issue under section three of chapter four hundred and thirty-one of the acts of nineteen hundred and eighty-four providing funds for the restoration of public services destroyed by fire in the cities of Beverly and Peabody shall be issued for terms not to exceed ten years; provided, however, that all such bonds shall be payable by June thirtieth, nineteen hundred and ninety-nine, and the notes which the state treasurer is authorized to issue under section two of said act shall be issued and may be renewed one or more times for terms not to exceed one year and the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-four, as recommended by the governor in a message to the general court dated March twenty-ninth, nineteen hundred and eighty-five in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 7.** Notwithstanding any provision of law to the contrary, the bonds which the state treasurer is authorized to issue under section four of chapter four hundred and thirty-five of the acts of nineteen hundred and eighty-four providing funds for infrastructure repairs and the restoration of public services destroyed or damaged by civil disturbances in the city of Lawrence and for the improvement of housing conditions in said city shall be issued for terms not to exceed ten years; provided, however, that all such bonds shall be payable by June thirtieth, nineteen



**ACTS, 1985. -- Chap. 431.**

hundred and ninety-nine, and the notes which the state treasurer is authorized to issue under section three of said act shall be issued and may be renewed one or more times for terms not exceeding one year and the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-four, as recommended by the governor in a message to the general court dated March twenty-ninth, nineteen hundred and eighty-five in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

**SECTION 8.** Notwithstanding any provision of law to the contrary, the bonds which the state treasurer is authorized to issue under section three of chapter four hundred and sixty-six of the acts of nineteen hundred and eighty-four providing funds for the Massachusetts advanced materials characterization and applications center shall be issued for terms not to exceed twenty years; provided, however, that all such bonds shall be payable by June thirtieth, two thousand and nine, as recommended by the governor in a message to the general court dated March twenty-ninth, nineteen hundred and eighty-five in pursuance of Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth.

Approved October 25, 1985.

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**Chapter 431. AN ACT RELATIVE TO THE BOARD OF WATER COMMISSIONERS OF THE TOWN OF NORTON.**

Be it enacted, etc., as follows:

Chapter 466 of the acts of 1910 is hereby amended by striking out sections 15 and 16 and inserting in place thereof the following two sections:-

**Section 15.** Said town shall, after purchasing or taking the said franchise and corporate property, as provided in this act, at a legal meeting called for the purpose elect by ballot three persons to hold office, one until the expiration of three years, one until the expiration of two years and one until the expiration of one year from the next succeeding annual town meeting, to constitute a board of water and sewer commissioners; and at each annual town meeting thereafter one such commissioner shall be elected by ballot for the term of three years. All the authority granted to the said town by this act and not otherwise specifically provided for shall be vested in said water and sewer commissioners, who shall be subject however to such instructions, rules and regulations as the town may impose by its vote. A majority of said commissioners shall constitute a quorum for the transaction of business. Any vacancy occurring in the board for any cause may be filled for the remainder of the unexpired term by the town at any legal town meeting called for the purpose. Any such vacancy may be filled temporarily by a majority vote of the selectmen, and the person so appointed shall hold office until the town fills the vacancy in the manner



ACTS, 1985. – Chaps. 432, 433.

provided herein.

Section 16. Said commissioners shall fix just and equitable prices and rates for the use of water and sewers, and shall prescribe the time and manner of payment. The income of the water works and the operation of the sewers shall be applied to defraying all operating expenses, interest charges and payments on the principal as they accrue upon any bonds, notes or scrip issued under authority of this act. If there should be a net surplus remaining after providing for the aforesaid charges it shall be used for such new construction as the water commissioners may determine upon, and in case a surplus should remain after payment for such new construction, the water rates shall be reduced proportionately. No money shall be expended in new construction by said commissioners except from the net surplus aforesaid, unless the town appropriates and provides money therefor. Said commissioners shall annually, and as often as the town may require, render a report upon the condition of the works under their charge, and an account of their doings, including an account of receipts and expenditures.

Approved October 25, 1985.

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**Chapter 432. AN ACT PROVIDING THAT THE PERSON ELECTED CITY COUNCILLOR FROM WARD 2 IN THE CITY OF MALDEN SHALL ASSUME SAID OFFICE UPON CERTIFICATION OF THE VOTES.**

Be it enacted, etc., as follows:

**SECTION 1.** Notwithstanding any provision of law to the contrary, the person elected city councillor from Ward 2 in the city of Malden in the municipal election held on November fifth, nineteen hundred and eighty-five for a term of two years beginning the first Monday in January, nineteen hundred and eighty-six, shall also serve the remainder of the unexpired term of Robert S. McCarthy, as soon as the votes from said election have been certified by the city clerk of the city of Malden.

**SECTION 2.** Upon certification by the city clerk of the votes in said election, said city clerk shall administer the oath of office to the councillor-elect of said Ward 2.

**SECTION 3.** This act shall take effect upon its acceptance by the city of Malden.

Approved October 28, 1985.

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**Chapter 433. AN ACT AUTHORIZING THE TOWN OF WESTFORD TO TRANSFER CERTAIN PARK OR PLAYGROUND LAND FOR USE FOR ELDERLY AND FAMILY HOUSING.**



**ACTS, 1985. – Chaps. 434, 435.**

Be it enacted, etc., as follows:

**SECTION 1.** The town of Westford, acting by and through its board of selectmen, is hereby authorized to transfer to the Westford Housing Authority for use for elderly and family housing a certain parcel of park or playground land located in said town described in a deed recorded in the northern district registry of deeds in Middlesex county, Book 865, Page 586.

**SECTION 2.** This act shall take effect upon its passage.

Approved October 29, 1985.

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**Chapter 434. AN ACT AUTHORIZING THE TOWN OF SHIRLEY TO REIMBURSE CERTAIN TAX PAYMENTS.**

Be it enacted, etc., as follows:

**SECTION 1.** The town of Shirley is hereby authorized to reimburse Philip L. Lamoreaux and Adele Lamoreaux the sum of four hundred sixty-four dollars and twenty-three cents and to reimburse Wilfred J. Mariner the sum of one thousand one hundred forty-nine dollars and twelve cents, such sums being paid to said town as real estate taxes for fiscal year nineteen hundred and eighty-four and fiscal year nineteen hundred and eighty-three.

**SECTION 2.** This act shall take effect upon its passage.

Approved October 29, 1985.

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**Chapter 435. AN ACT AUTHORIZING THE TOWNS OF DRACUT AND TYNGSBOROUGH TO ENTER INTO AN AGREEMENT WITH THE TOWN OF PELHAM IN THE STATE OF NEW HAMPSHIRE FOR THE PURPOSE OF WATERSHED MANAGEMENT AND LAKE RESTORATION FOR LONG POND.**

Be it enacted, etc., as follows:

**SECTION 1.** The towns of Dracut and Tyngsborough are hereby authorized to enter into an agreement with the town of Pelham in the state of New Hampshire for the purposes of watershed management and in-lake restoration for Long Pond; provided, however, that said town of Pelham is duly authorized to do so by the state of New Hampshire; and provided, further, that said town of Pelham provides proof of its financial contribution for such watershed management and in-lake restoration of said pond. The towns of Dracut and Tyngsborough are hereby further authorized to expend monies in conjunction with said



**ACTS, 1985. – Chaps. 436, 437.**

town of Pelham to further the purposes of such agreement.

**SECTION 2.** This act shall take effect upon its passage.

Approved October 29, 1985.

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**Chapter 436. AN ACT RELATIVE TO THE GREATER NEW BEDFORD REGIONAL REFUSE MANAGEMENT DISTRICT.**

Be it enacted, etc., as follows:

The Greater New Bedford Regional Refuse Management District shall be exempt from the provisions of section twenty A of chapter fifty-nine of the General Laws and shall be subject to the provisions of section twenty B of said chapter fifty-nine in the same manner and to the same extent as regional water districts and regional sewer districts.

Approved October 29, 1985.

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**Chapter 437. AN ACT AUTHORIZING THE DEPUTY COMMISSIONER OF CAPITAL PLANNING AND OPERATIONS TO TRANSFER THE CARE, CUSTODY AND CONTROL OF CERTAIN PARCELS OF LAND ALONG STATE HIGHWAY ROUTE 110 IN THE TOWN OF STERLING FROM THE METROPOLITAN DISTRICT COMMISSION TO THE DEPARTMENT OF PUBLIC WORKS FOR HIGHWAY PURPOSES.**

Be it enacted, etc., as follows:

The deputy commissioner of capital planning and operations is hereby authorized to transfer the care, custody and control of four certain parcels of public land, hereafter described, along state highway route 110 in the town of Sterling, presently being a part of the Wachusett Reservoir watershed, from the care, custody and control of the metropolitan district commission to the department of public works. Said parcels are to be used for the reconstruction of Bridge No. S-25-13 along said state highway route 110 and are to be used by the department of public works for permanent drainage purposes. The said four parcels of land are more particularly described as follows.

Parcel No. 6-D-1. A certain rectangular shaped parcel of land in the town of Sterling on the westerly side and about twenty-five (25) feet left of the main baseline of the 1985 reconstruction of Bridge No. S-25-13, along state auto route 110 (Chace Hill Road), which bridge is over the Boston & Maine Railroad at or about Station 6 + 50 of said baseline, approximately twenty-five (25) feet wide and one hundred twenty (120) feet long, containing about three thousand (3,000) square feet of land, to be used by the said department as a site for permanent drainage.



**ACTS, 1985. – Chap. 438.**

Parcel No. 6-D-2. A certain rectangular shaped parcel of land in the town of Sterling on the westerly side and about twenty-five (25) feet left of the main baseline of the 1985 reconstruction of Bridge No. S-25-13, along state auto route 110 (Chace Hill Road), which bridge is over the Boston & Maine Railroad at or about Station 8 + 90 and about twenty-five (25) feet left at or about Station 9 + 10 of said baseline, approximately twenty (20) feet wide and forty (40) feet long, containing about eight hundred (800) square feet of land, to be used by the said department as a site for permanent drainage.

Parcel No. 6-D-3. A certain irregular shaped parcel of land in the town of Sterling on the easterly side and about twenty-five (25) feet right of the main baseline of the 1985 reconstruction of Bridge No. S-25-13, along state auto route 110 (Chace Hill Road), which bridge is over the Boston & Maine Railroad at or about Station 6 + 05 and about twenty-five (25) feet right at or about Station 6 + 35 of the said baseline, approximately thirty (30) feet wide and eighty-seven and one-half (87 1/2) feet long, containing about twenty-five (2,625) square feet of land, to be used by the said department as a site for permanent drainage.

Parcel No. 6-D-4. A certain rectangular shaped parcel of land in the town of Sterling on the easterly side and about twenty-five (25) feet right of the main baseline of the 1985 reconstruction of Bridge No. S-25-13, along state auto route 110 (Chace Hill Road), which bridge is over the Boston & Maine Railroad at or about Station 8 + 90 and about twenty-five (25) feet right at or about Station 9 + 10 of said baseline, approximately twenty (20) feet wide and thirty-five (35) feet long, containing about seven hundred (700) square feet of land, to be used by the said department as a site for permanent drainage.

The above described four parcels of land are shown on a plan entitled "Sterling Chace Hill Road Preliminary Right of Way Plan Fiscal Year 1984 Sheet 6 of 10", which plan shall be on file with the chief engineer of the department of public works.

Said transfer shall be on such terms and conditions as the division of capital planning and operations in consultation with the metropolitan district commission may prescribe.

Approved October 29, 1985.

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**Chapter 438. AN ACT FURTHER REGULATING THE OPERATION OF TRUST DEPARTMENTS IN CERTAIN BANKS.**

Be it enacted, etc., as follows:

Section 8 of chapter 167G of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by inserting after the word "amount", in line 10, the words:– ; provided, however, that such security shall not be required to the extent that the funds so deposited are insured by the Federal Deposit Insurance Corporation.

Approved October 29, 1985.

EMERGENCY LETTER: October 31, 1985 @ 3:59 P.M.



**ACTS, 1985. – Chaps. 439, 440, 441.**

**Chapter 439. AN ACT FURTHER REGULATING THE POWERS OF CUSTODIANS UNDER THE UNIFORM GIFTS TO MINORS ACT.**

Be it enacted, etc., as follows:

Subdivision (g) of section 4 of chapter 201A of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by adding the following sentence:– Nothing contained herein shall prevent a custodian or a custodian's agent from registering custodial property in the name of a partnership or corporate nominee as provided in subsection 6 of section three of chapter one hundred and sixty-seven G, depositing custodial property in a securities depository or in a clearing corporation as provided in subsection 7 of said section three of said chapter one hundred and sixty-seven G, depositing custodial property with any federal reserve bank, as provided by subsection 8 of said section three of said chapter one hundred and sixty-seven G, or investing custodial property in a common trust fund established under the provisions of chapter two hundred and three A.

Approved October 29, 1985.

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**Chapter 440. AN ACT RELATIVE TO INMATE SAVINGS ACCOUNTS.**

Be it enacted, etc., as follows:

The second paragraph of section 48A of chapter 127 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:– The remainder of the moneys so earned, after deducting amounts expended on behalf of the inmate as aforesaid, shall be accumulated to the credit of the inmate and shall be deposited in an interest-bearing account by the superintendent as trustee in a bank approved by the state treasurer and paid to the inmate, with the accrued interest, upon his release from such institution in such instalments and at such times as may be described in such rules and regulations.

Approved October 29, 1985.

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**Chapter 441. AN ACT FURTHER DEFINING THE DUTIES OF THE STATE AUDITOR.**

Be it enacted, etc., as follows:

The first sentence of section 12 of chapter 11 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by inserting after the word "accounts", in line 3, the words:– and activities directly related to the aforementioned accounts.

Approved October 29, 1985.



**ACTS, 1985. – Chaps. 442, 443, 444.**

**Chapter 442. AN ACT RELATIVE TO PARENTAL RESTITUTION IN JUVENILE PROCEEDINGS.**

Be it enacted, etc., as follows:

Chapter 231 of the General Laws is hereby amended by striking out section 85G, as appearing in the 1984 Official Edition, and inserting in place thereof the following section:–

Section 85G. Parents of an unemancipated child under the age of eighteen and over the age of seven years shall be liable in a civil action for any willful act committed by said child which results in injury or death to another person or damage to the property of another, damage to cemetery property or damage to any state, county or municipal property. This section shall not apply to a parent who, as a result of a decree of any court of competent jurisdiction, does not have custody of such a child at the time of the commission of the tort. Recovery under this section shall be limited to the amount of proved loss or damage but in no event shall it exceed five thousand dollars.

Approved October 29, 1985.

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**Chapter 443. AN ACT RELATIVE TO BRANCH BANKING IN THE COMMONWEALTH.**

Be it enacted, etc., as follows:

Section 3 of chapter 167C of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by inserting after the second paragraph the following paragraph:–

Any bank, national bank association, federal savings and loan association or federal savings bank located in the commonwealth, the majority of shares of the voting stock of which is owned by a bank holding company pursuant to chapter one hundred and sixty-seven A or 12 USC 1841 et seq, provided that the main office of such company is located in the commonwealth, may transact with a customer business which pertains to such customer's accounts maintained at any other bank located in the commonwealth the majority of the shares of the voting stock of which is owned by the same such bank holding company also pursuant to said chapter one hundred and sixty-seven A or said 12 USC 1841.

Approved October 29, 1985.

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**Chapter 444. AN ACT FURTHER REGULATING THE LICENSING AND KEEPING OF DOGS IN THE TOWN OF WEST SPRINGFIELD.**

Be it enacted, etc., as follows:



**ACTS, 1985. – Chaps. 445, 446.**

**SECTION 1.** Chapter 647 of the acts of 1982 is hereby amended by adding the following section:–

**Section 4.** Notwithstanding the provisions of section one hundred and thirty-six A of said chapter one hundred and forty or any other provision of law to the contrary, the license period for the licensing of dogs in the town of West Springfield shall be the time between January first and the following December thirty-first, both dates inclusive.

**SECTION 2.** This act shall take effect upon its passage.

Approved October 31 , 1985.

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**Chapter 445. AN ACT AUTHORIZING THE TOWN OF SCITUATE TO COLLECT CERTAIN FEES AND TO ESTABLISH A SPECIAL FUND THEREFOR.**

Be it enacted, etc., as follows:

**SECTION 1.** Notwithstanding the provisions of any general or special law to the contrary, the town of Scituate is hereby authorized to collect fees from the users of the Scituate town pier and related facilities and to establish in the town treasury a special fund in which shall be deposited said fees, which shall be kept separate from other monies, funds and properties of said town. The principal and interest of said special fund shall be appropriated for the purpose of operating, maintaining and managing said town pier and for the retirement of any debt incurred by said town under the provisions of chapter twenty-one F of the General Laws.

**SECTION 2.** The action taken by the town on Article 12 at the annual town meeting held on April first, nineteen hundred and eighty-four and at the adjourned session held on April third, nineteen hundred and eighty-four is hereby validated, ratified and confirmed to the same extent as if section one was in effect at the time of the posting of the warrant for said meeting.

**SECTION 3.** This act shall take effect upon its passage.

Approved October 31, 1985.

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**Chapter 446. AN ACT AUTHORIZING THE TOWN OF SCITUATE TO REIMBURSE SHIRLEY FOPIANO, A POLICE OFFICER IN SAID TOWN FOR CERTAIN LEGAL EXPENSES INCURRED BY HER.**

Be it enacted, etc., as follows:

**SECTION 1.** The town of Scituate is hereby authorized to appropriate



**ACTS, 1985. – Chaps. 447, 448.**

and the treasurer of said town is hereby authorized and directed to pay the sum of two thousand four hundred dollars to Shirley Fopiano, a police officer in said town, as reimbursement for certain legal expenses incurred by her.

**SECTION 2.** The action taken by the town on Article 9 at the annual town meeting held on April first, nineteen hundred and eighty-five and at the adjourned session held on April third, nineteen hundred and eighty-five is hereby validated, ratified and confirmed to the same extent as if section one was in effect at the time of the posting of the warrant for said meeting.

**SECTION 3.** This act shall take effect upon its passage.

Approved October 31, 1985.

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**Chapter 447. AN ACT AUTHORIZING MARYANNE MANFRA TO TAKE A CIVIL SERVICE EXAMINATION FOR POLICE OFFICER NOTWITHSTANDING THE MAXIMUM AGE REQUIREMENTS.**

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately authorize Maryanne Manfra to take a civil service examination for police officer, 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:

Notwithstanding the provisions of any general or special law or rule to the contrary regulating the maximum age of an applicant for appointment as police officer, Maryanne Manfra shall be eligible to take the next open competitive examination for appointment to the position of police officer and, provided she meets all other requirements, shall be eligible for certification and appointment.

Approved October 31, 1985.

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**Chapter 448. AN ACT EXTENDING THE TIME FOR THE REVISION OF THE PRECINCTS AND WARDS IN THE CITY OF REVERE AND THE FILING OF SAID PLAN WITH THE STATE SECRETARY.**

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately extend the time for the revision of the precincts and wards in the city of Revere and the filing of said plan with the state secretary, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.



ACTS, 1985. – Chap. 449.

Be it enacted, etc., as follows:

Notwithstanding the provision of sections one and six of chapter fifty-four of the General Laws, the city of Revere is hereby authorized to make a revision of the precincts and wards of said city not later than October fifteenth, nineteen hundred and eighty-five and shall give written notice to the state secretary of said action by October twentieth, nineteen hundred and eighty-five. All other dates by which action is required to be taken under said sections one and six shall be postponed for, in each case, a period of thirty days.

Approved October 31, 1985.

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**Chapter 449. AN ACT PROVIDING RELIEF TO THE TOWNS OF BROOKFIELD, WARE AND WARREN FOR LOSSES SUFFERED FROM THE TORNADO OF JUNE TWENTY-FOURTH, NINETEEN HUNDRED AND EIGHTY-FIVE.**

Be it enacted, etc., as follows:

**SECTION 1.** To provide for the purposes of disaster relief and to meet the expense of public services incurred as a result of the tornado which struck the towns of Brookfield, Ware and Warren on June twenty-fourth, nineteen hundred and eighty-five, the sum set forth in section two is hereby appropriated, subject to the provisions of law regulating the disbursements of public funds and the conditions pertaining to appropriations in chapter one hundred and forty of the acts of nineteen hundred and eighty-five.

**SECTION 2.**

**EXECUTIVE OFFICE OF ADMINISTRATION AND FINANCE.**

**Item**

**1599-3509** For the purpose of disaster relief and to meet the expense of public services incurred as a result of the tornado which struck the towns of Brookfield, Ware and Warren on June twenty-fourth, nineteen hundred and eighty-five, to be reimbursed to said towns by the commissioner of administration; provided, however, that reimbursement shall be made only upon acceptance by said commissioner of itemized bills from each town for such expense

**\$137,000**

**SECTION 3.** This act shall take effect upon its passage.

Approved October 31, 1985.



**ACTS, 1985. – Chap. 450, 451.**

**Chapter 450. AN ACT RELATIVE TO THE LICENSING AND KEEPING OF DOGS IN THE TOWN OF EAST LONGMEADOW.**

Be it enacted, etc., as follows:

**SECTION 1.** Notwithstanding the provision of section one hundred and thirty-seven of chapter one hundred and forty of the General Laws or any other provision of law to the contrary, the registering, numbering, describing and licensing of dogs, if kept in the town of East Longmeadow, shall be conducted in the office of the town clerk of said town.

**SECTION 2.** Notwithstanding the provisions of section one hundred and thirty-nine of said chapter one hundred and forty or any other provision of law to the contrary, the annual fees to be charged by the town of East Longmeadow for the issuance of licenses for dogs shall be established by the board of selectmen of said town.

**SECTION 3.** Notwithstanding the provisions of section one hundred and forty-seven of said chapter one hundred and forty or any other provision of law to the contrary, all money received for licenses or from the sale of dog licenses by the town of East Longmeadow or recovered as fines or penalties by said town under the provisions of said chapter one hundred and forty relating to dogs, shall be paid into the treasury of said town and shall not thereafter be paid over by the town treasurer to Hampden county.

**SECTION 4.** Notwithstanding the provisions of section one hundred and sixty-one of said chapter one hundred and forty or any other provision of law to the contrary, whoever suffers loss as described in said section one hundred and sixty-one shall be reimbursed for such loss by the town of East Longmeadow, rather than by the treasurer of Hampden county.

**SECTION 5.** Notwithstanding the provisions of section one hundred and seventy-one of said chapter one hundred and forty or any other provision of law to the contrary, the owner or keeper of a dog which has done damage to livestock or fowls shall be liable for such damage to the town of East Longmeadow rather than to Hampden county.

**SECTION 6.** This act shall take effect upon its passage.

Approved October 31, 1985.

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**Chapter 451. AN ACT RELATIVE TO CELEBRATION OF MARTIN LUTHER KING, JR.'S BIRTHDAY.**

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately provide for the celebration of Martin



**ACTS, 1985. – Chap. 452.**

Luther King, Jr.'s birthday, 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.** Section 7 of chapter 4 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out clause Eighteenth and inserting in place thereof the following clause:–

Eighteenth, "Legal holiday" shall include January first, July fourth, November eleventh, and Christmas Day, or the day following when any of said days occurs on Sunday, and the third Monday in January, the third Monday in February, the third Monday in April, the last Monday in May, the first Monday in September, the second Monday in October, and Thanksgiving Day. "Legal holiday" shall also include, with respect to Suffolk county only, March seventeenth and June seventeenth, or the day following when said days occur on Sunday; provided, however, that the words "legal holiday" as used in section forty-five of chapter one hundred and forty-nine shall not include March seventeenth, or the day following when said day occurs on Sunday.

**SECTION 2.** Section 13 of chapter 136 of the General Laws, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:–

The provisions of sections five to eleven, inclusive, shall, except as provided in section fourteen, apply to all legal holidays, except the third Monday in January, the third Monday in February, March seventeenth, the third Monday in April, May twentieth, June seventeenth, and November eleventh after one o'clock post meridian, or on the day following when either of said days occurs on Sunday.

Approved October 31, 1985.

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**Chapter 452. AN ACT REGULATING THE MAXIMUM STORAGE CHARGE FOR MOTOR VEHICLES.**

Be it enacted, etc., as follows:

Section 6C of chapter 159B of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by adding the following three paragraphs:–

The maximum storage charge for noncommercial passenger motor vehicles with a maximum capacity of nine persons, shall be twenty dollars per twenty-four hour period or any portion thereof, when said vehicles have been involuntarily towed or transported pursuant to order of police or other public authority, and when connected with snow removal operations, under section six B, or pursuant to the order of police or other public authority in connection with an accident on the public ways of the commonwealth, pursuant to section thirty-nine A of



**ACTS, 1985. – Chaps. 453, 454.**

chapter two hundred and fifty-five, or when said vehicles have been stolen or misappropriated and their removal from public ways have been ordered by police or other public authority, pursuant to section twenty-nine A of chapter two hundred and sixty-six, or in any other situation where motor vehicles have been involuntarily towed or transported by order of police or other public authority and maximum storage charges are not specifically regulated by law.

The maximum rate established herein, shall apply only to lighted, outside, motor vehicle storage facilities enclosed by a secure fence at least six feet in height. Other outdoor storage facilities shall be entitled to a maximum storage rate of only one-half that established above.

The motor vehicle storage facility shall have a lien for its proper transportation and storage charges due them for the towing and storage of motor vehicles, pursuant to this section. Nothing contained in this section shall in any way affect the liability of said motor vehicle storage facilities.

Approved October 31, 1985.

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**Chapter 453. AN ACT RELATIVE TO APPLICATION FOR CERTAIN TAX REFUNDS.**

Be it enacted, etc., as follows:

**SECTION 1.** Section 36 of chapter 62C of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by adding the following paragraph:–

An application for refund of an overpayment of any tax where no return is required to be filed shall be made by the taxpayer within two years from the time such tax was paid.

**SECTION 2.** This act shall apply to returns required to be filed on or after July first, nineteen hundred and eighty-five.

Approved October 31, 1985.

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**Chapter 454. AN ACT FURTHER REGULATING THE MANNER IN WHICH FIDUCIARIES MAY HOLD SECURITIES.**

Be it enacted, etc., as follows:

Chapter 203 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by inserting after section 14A the following section:–

Section 14B. (a) Unless expressly limited by the governing instrument, a fiduciary, as defined in paragraph (b), shall have the powers specified in paragraph (c) with respect to securities held by the fiduciary in a fiduciary capacity. This power shall be in addition to all other powers



ACTS, 1985. – Chap. 454.

which such fiduciary shall have pursuant to applicable law or the governing instrument.

(b) For purposes of this section, a fiduciary shall include an executor, administrator of an estate or administrator with the will annexed, trustee, guardian, conservator, or custodian pursuant to chapter two hundred and one A; provided, however, that said fiduciary may be permanent or temporary; and provided, further, that court appointment of said fiduciary is not required.

(c) A fiduciary, acting directly or through an agent or custodian, shall, with respect to securities represented by certificates or uncertificated securities as described in clause (4), have the following powers:–

(1) to register, hold or deposit securities in a manner such that, without certification as to ownership attached, certificates representing securities of the same class of the same issuer are held in bulk, including, to the extent feasible, the merging of certificates of large denomination;

(2) to register, hold or deposit securities in the name of a partnership or corporate nominee of the fiduciary or of the agent or custodian of the fiduciary, including, but not limited to, in the name of a nominee of a depository or clearing corporation described in clause (3);

(3) to register, hold or deposit securities in a securities depository, or in a clearing corporation, as defined in section 8–102 of chapter one hundred and six, in a manner such that ownership of, or other interests in, securities may be transferred by bookkeeping entry on the books of the depository or clearing corporation without physical delivery of certificates representing such securities;

(4) to register, hold or deposit securities in the form of uncertificated securities, as defined in section 8–102 of chapter one hundred and six; and

(5) to register, hold or deposit with any federal reserve bank any securities the principal and interest of which the United States or any department, agency or instrumentality thereof has agreed to pay, or has guaranteed payment, in a manner such that ownership of, or other interests in, securities may be transferred by bookkeeping entry of such federal reserve bank without actual issue or physical delivery of certificates representing such securities.

(d) A fiduciary registering, holding or depositing securities in any manner provided in paragraph (c) shall maintain at all times adequate records showing the ownership of such securities, and shall segregate the securities from such fiduciary's own assets.

(e) The fiduciary shall on demand by any court or interested party certify in writing as to the securities registered, held or deposited by the fiduciary as of any date. Any court or any interested party may rely on such written certification by the fiduciary as proof of the fiduciary's ownership of the securities as of the date indicated. The fiduciary, in preparing and making such certification, may rely on a written certification with respect to the securities provided by any agent or custodian holding, directly or indirectly, the securities for the account of the fiduciary and on a written certification of the issuer sent to the fiduciary or the agent or custodian of the fiduciary as the registered owner of uncertificated securities as proof of ownership of such



**ACTS, 1985. – Chaps. 455, 456.**

uncertificated securities. The fiduciary shall hold harmless any such interested party for loss resulting from reliance upon such certification issued by the fiduciary. For purposes of this paragraph, an interested party shall mean a co-fiduciary or beneficiary or the attorney, legal representative or guardian ad litem of any co-fiduciary or beneficiary.

Approved October 31, 1985.

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**Chapter 455. AN ACT FURTHER REGULATING THE DISPOSAL AND RESTRAINING OF VICIOUS DOGS.**

Be it enacted, etc., as follows:

Section 157 of chapter 140 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by inserting after the word "offense", in line 26, the words:– , or by imprisonment for not more than thirty days, for the first offense and not more than sixty days for a second or subsequent offense, or both.

Approved October 31, 1985.

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**Chapter 456. AN ACT GRANTING THE CONSENT OF THE COMMONWEALTH TO THE ACQUISITION BY THE UNITED STATES OF CERTAIN LAND FOR USE IN CONNECTION WITH A MILITARY RESERVATION KNOWN AS HANSCOM AIR FORCE BASE AND GRANTING AND CEDING JURISDICTION OVER SUCH LAND.**

Be it enacted, etc., as follows:

**SECTION 1.** The consent of the commonwealth is hereby granted pursuant to Article 1, Section eight, Clause Seventeen of the Constitution of the United States to the acquisition by the United States, for use as a military reservation and related purposes, of a certain parcel of land situated in the town of Lincoln, bounded and described as follows:

Beginning at a point in the southeasterly corner of said parcel said point being a National Park Service (NPS) disk set in a stone wall along a property line between land owned by the United States Government (Department of Air Force) and land of the United States Government (Department of the Interior), said point being at coordinates N528, 185.33 E659, 323.22 in the Massachusetts State Plane Coordinate System; proceeding thence from said disk N 86° 12' 45" W, 314.95 feet along land of the Department of the Interior on the South and land of the United States Air Force on the North, to a point; thence continuing along the boundary line between said lands the following nine (9) courses:

- (1) N 08° 05' 43" E, 24.59 feet;
- (2) S 89° 26' 07" W, 168.24 feet;



ACTS, 1985. – Chap. 456.

- (3) N 80° 52' 31" W, 268.24 feet;
  - (4) S 07° 40' 34" W, 39.00 feet, more or less;
  - (5) S 50° 09' 15" W, 49.00 feet, more or less;
  - (6) N 89° 22' 48" W, 284.78 feet;
  - (7) N 06° 25' 12" E, 74.02 feet;
  - (8) S 89° 30' 09" W, 275.85 feet;
  - (9) S 46° 38' 16" W, 197.97 feet to a monument in Department of Interior boundary;
- thence along Hanscom Drive (Access Road) N 27° 49' 13" W, 129.00 feet, more or less; and N 30° 30' 00" W, 657 feet, more or less, to lands of the United States Air Force; thence through lands of the United States Air Force the following nineteen (19) courses:
- (1) N 41° 10' 14" E, 310.00 feet, more or less;
  - (2) N 76° 00' 00" E, 425.00 feet, more or less;
  - (3) N 51° 10' 18" E, 145.00 feet, more or less;
  - (4) N 34° 28' 43" E, 435.00 feet, more or less;
  - (5) S 31° 11' 20" E, 463.00 feet more or less;
  - (6) S 38° 00' 00" E, 451.00 feet, more or less;
  - (7) S 28° 46' 00" W, 147.00 feet, more or less;
  - (8) S 54° 10' 40" E, 135.12 feet;
  - (9) S 49° 01' 40" E, 50.33 feet;
  - (10) S 54° 43' 40" E, 50.22 feet;
  - (11) S 65° 44' 20" E, 77.88 feet;
  - (12) N 19° 58' 20" E, 117.72 feet;
  - (13) S 82° 10' 50" E, 73.06 feet
  - (14) S 15° 19' 20" W, 97.09 feet;
  - (15) S 75° 51' 00" E, 160.08 feet;
  - (16) S 75° 54' 10" E, 109.94 feet;
  - (17) S 26° 37' 40" W, 221.38 feet;
  - (18) S 27° 28' 28" W, 29.02 feet;
  - (19) S 25° 57' 02" W, 93.60 feet to the point of beginning.
- Containing approximately 33.97 acres of land.

**SECTION 2.** Jurisdiction over the above described land is hereby granted and ceded to the United States, but upon the express condition that the commonwealth shall retain concurrent jurisdiction with the United States in and over said lands, to the extent that all civil processes and such criminal processes as may issue under the authority of the commonwealth against any person or persons charged with crimes committed without said land and all processes for collection of taxes levied under authority of the laws of the commonwealth, including the service of warrants, may be executed thereon in the same manner as though jurisdiction had not been ceded; provided that the exclusive jurisdiction in and over the above described land shall revert to and revest in the commonwealth whenever such land shall cease to be used for the purposes set forth in section one.

**SECTION 3.** Sections one and two of this act shall take effect upon the depositing in the office of the state secretary a suitable plan of the parcel of land described in section one, but not otherwise.



**ACTS, 1985. – Chaps. 457, 458.**

**Chapter 457. AN ACT AUTHORIZING THE METROPOLITAN DISTRICT COMMISSION TO CLOSE A PORTION OF MEMORIAL DRIVE IN THE CITY OF CAMBRIDGE ON CERTAIN SUNDAYS.**

Be it enacted, etc., as follows:

**SECTION 1.** The metropolitan district commission is hereby authorized and directed to prohibit the use of motor vehicles on Memorial Drive between Hingham street and Eliot Circle in the city of Cambridge from the hours of eleven o'clock ante meridiem to seven o'clock post meridiem on Sundays from the last Sunday in April through the second Sunday in November.

**SECTION 2.** The metropolitan district commission is hereby authorized and directed to prohibit or otherwise regulate the use of motor vehicles on Memorial Drive between Western avenue and Hingham street in the city of Cambridge on Sundays from the hours of eleven o'clock ante meridiem to seven o'clock post meridiem from the last Sunday in April through the second Sunday in November.

**SECTION 3.** The metropolitan district commission is hereby authorized, upon receipt of a request to that effect from the city council of the city of Cambridge, to suspend on any given Sunday the prohibitions as set forth in sections one and two of the use of motor vehicles on Memorial Drive in the city of Cambridge.

**SECTION 4.** Notwithstanding any of the foregoing provisions of this act, the metropolitan district commission may at its discretion suspend any authorized closings, if in the judgement of said commission such authorized closing poses a threat to public safety and should any emergency arise in which said commission in its judgement deems it necessary to alter the authorized closure.

Approved October 31, 1985.

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**Chapter 458. AN ACT AUTHORIZING THE DEPUTY COMMISSIONER OF CAPITAL PLANNING AND OPERATIONS TO ACQUIRE A CERTAIN PARCEL OF LAND IN THE CITY OF BROCKTON AND TO TRANSFER THE CARE, CUSTODY AND CONTROL OF SAID PARCEL TO THE DEPARTMENT OF PUBLIC WORKS FOR HIGHWAY PURPOSES.**

Be it enacted, etc., as follows:

The deputy commissioner of the division of capital planning and operations, acting for and on behalf of the commonwealth, is hereby authorized to acquire by eminent domain, by purchase or otherwise,



**ACTS, 1985. – Chaps. 459, 460.**

under the provisions of section one of chapter six hundred and ninety-three of the acts of nineteen hundred and fifty-five a certain parcel of land in the city of Brockton, being used by the Brockton Housing Authority for public housing purposes, and to transfer the care, custody and control of said parcel to the department of public works for highway purposes. Said parcel is bounded and described as follows:

Northeasterly by Plain Street, four hundred and forty-five and forty-three hundredths (445.43) feet;

Westerly by land of Richard A. Mann, Jr., nine (9) feet, more or less;

Southwesterly by land of the Brockton Housing Authority, four hundred forty (440) feet, more or less; and

Easterly by Salisbury Plain River, six (6) feet, more or less to the point of beginning.

Containing two thousand seven hundred (2,700) square feet of land, more or less.

Said parcel of land is shown on a plan of land identified as "Legislation Plan for Proposed Taking of Brockton Housing Authority Land", which plan shall be on file with the chief engineer of the department of public works.

Approved October 31, 1985.

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**Chapter 459. AN ACT PLACING THE OFFICE OF CHIEF OF THE  
FIRE DEPARTMENT OF THE CITY OF TAUNTON  
UNDER CIVIL SERVICE LAW.**

Be it enacted, etc., as follows:

Upon the occurrence of a vacancy in the office of chief of the fire department of the city of Taunton after the effective date of this act, such office shall become subject to chapter thirty-one of the General Laws.

Approved October 31, 1985.

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**Chapter 460. AN ACT RELATIVE TO THE OPERATION OF THE  
WOODS HOLE, MARTHA'S VINEYARD AND  
NANTUCKET STEAMSHIP AUTHORITY.**

Be it enacted, etc., as follows:

**SECTION 1.** Section 4 of chapter 701 of the acts of 1960 is hereby amended by striking out clause (b), as most recently amended by chapter 524 of the acts of 1978, and inserting in place thereof the following clause:—

(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



**ACTS, 1985. – Chap. 460.**

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 twenty-five million dollars.

**SECTION 2.** Clause (j) of section 4 of chapter 701 of the acts of 1960, as added by chapter 779 of the acts of 1969, is hereby amended by striking out the first two sentences and inserting in place thereof the following two sentences:– 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.

**SECTION 3.** Section 9 of said chapter 701 is hereby further amended by striking out the first paragraph, as most recently amended by chapter 717 of the acts of 1975, and inserting in place thereof the following paragraph:–

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.

Approved October 31, 1985.



**ACTS, 1985. – Chaps. 461, 462, 463.**

**Chapter 461. AN ACT RELATIVE TO THE BUMPER HEIGHT OF MOTOR VEHICLES.**

Be it enacted, etc., as follows:

Chapter 90 of the General Laws is hereby amended by striking out section 7P, as appearing in the 1984 Official Edition, and inserting in place thereof the following section:–

Section 7P. No person shall alter, modify or change the height of a motor vehicle with an original manufacturer's gross vehicle weight rating of up to and including ten thousand pounds, by elevating or lowering the chassis or body by more than two inches above or below the original manufacturer's specified height by use of so-called "shackle lift kits" for leaf springs or by use of lift kits for coil springs, tires, or any other means or device.

The registrar shall establish rules and regulations for such changes in the height of motor vehicles beyond said two inches. No motor vehicle that has been so altered, modified or changed beyond the provisions of this section or the rules and regulations established by the registrar shall be operated on any way.

Approved October 31, 1985.

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**Chapter 462. AN ACT AUTHORIZING THE TOWN OF WAREHAM TO APPROPRIATE AND PAY A CERTAIN SUM OF MONEY TO ANN COLEMAN AN EMPLOYEE OF THE WAREHAM PUBLIC SCHOOLS.**

Be it enacted, etc., as follows:

Notwithstanding the provisions of any general or special law to the contrary, the town of Wareham is hereby authorized to appropriate and after such appropriation, the treasurer of said town is hereby authorized to pay the sum of one thousand one hundred eighty-seven dollars and thirty-one cents to Ann Coleman, an employee of the Wareham public schools, for the purpose of paying salary due her for prior fiscal years.

Approved October 31, 1985.

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**Chapter 463. AN ACT RELATIVE TO THE EXAMINATION OF JURORS.**

Be it enacted, etc., as follows:

The first paragraph of section 28 of chapter 234 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by adding the following two sentences:– In a criminal case such examination shall include questions designed to learn whether such juror understands that a



**ACTS, 1985. – Chaps. 464, 465.**

defendant is presumed innocent until proven guilty, that the commonwealth has the burden of proving guilt beyond a reasonable doubt, and that the defendant need not present evidence in his behalf. If the court finds that such juror does not so understand, another shall be called in his stead.

Approved October 31, 1985.

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**Chapter 464. AN ACT FURTHER REGULATING THE PAYMENT OF THE PROCEEDS OF CERTAIN INSURANCE POLICIES.**

Be it enacted, etc., as follows:

**SECTION 1.** Section 97A of chapter 175 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:–

Said company shall pay to the city or town any amounts shown on the certificate of municipal liens as outstanding on the date of loss and upon which interest is accruing as of the said date of loss, arising from the provisions of chapters forty, fifty-nine, sixty, eighty, eighty-three and section fifty-eight B to fifty-eight F, inclusive, of chapter one hundred and sixty-four to the extent of the amount of loss payable under the policy and a copy of said transaction shall be sent to the insured and mortgagees named on the policy.

**SECTION 2.** Clause Fourteenth of section 99 of said chapter 175, as so appearing, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:–

Said company shall pay to the city or town any amounts shown on the certificate of municipal liens as outstanding on the date of loss and upon which interest is accruing as of the said date of loss, arising from the provisions of chapters forty, fifty-nine, sixty, eighty, eighty-three and section fifty-eight B to fifty-eight F, inclusive, of chapter one hundred and sixty-four to the extent of the amount of loss payable under the policy and a copy of said transaction shall be sent to the insured and mortgagees named on the policy.

Approved October 31, 1985.

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**Chapter 465. AN ACT ELIMINATING FROM THE DEFINITION OF "TRAILER" DOLLEYS USED FOR TOWING REGISTERED MOTOR VEHICLES.**

Be it enacted, etc., as follows:

Section 1 of chapter 90 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out the definition of



**ACTS, 1985. – Chap. 466.**

"Trailer" and inserting in place thereof the following definition:–

"Trailer", any vehicle or object on wheels and having no motive power of its own, but which is drawn by, or used in combination with, a motor vehicle. It shall not include a pole dolly or pole dickey, so called, nor a pair of wheels commonly used as an implement for other purposes than transportation, nor a portable, collapsible or separate two wheel tow dolly limited only to the purpose of transporting or towing a registered vehicle, nor farm machinery or implements when used in connection with the operation of a farm or estate, nor any vehicle when towed behind a farm tractor and used in connection with the operation of a farm or estate.

Approved October 31, 1985.

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**Chapter 466. AN ACT AUTHORIZING THE LEASE OF CERTAIN LAND IN THE TOWN OF BRAINTREE.**

Be it enacted, etc., as follows:

**SECTION 1.** The town of Braintree acting through its board of selectmen is hereby authorized to lease to SEMASS Partnership, a Massachusetts limited partnership, having a place of business in the town of Rochester, for a period of time not to exceed thirty years, for the purpose of operating a waste transfer station and purposes incidental thereto, a certain parcel of land presently being used for refuse disposal located off Ivory street and generally bounded and described as follows:

Beginning at a point of curvature on the easterly sideline of Ivory Street; thence running northerly along a curve to the right of radius 960.00 feet along said sideline of Ivory Street for a distance of 452.44 feet to a point; thence continuing N01–24–53W along said easterly sideline of Ivory Street for a distance of 240 feet to a point; thence turning to the right and running S–87–E for a distance of 120 feet to a point; thence turning to the left and running N–15–E for a distance of 300 feet to a point; thence turning to the right and running N–89–E for a distance of 50 feet to a point; thence turning to the right and running S–04–W for a distance of 410 feet to a point; thence running S–40–E for a distance of 480 feet to a point; thence running S–07–W for a distance of 255 feet to a point on the northerly boundary line of property owned by Weymouth Art Leather Company; thence turning to the right and running N–84–12–25W along said northerly property line for a distance of 398 feet to a point on the easterly sideline of Ivory Street; thence turning to the right and running N28–25–02W along said easterly sideline of Ivory Street for a distance of 17.94 feet, more or less, to the point of beginning, containing 5.6 acres, more or less.

**SECTION 2.** This act shall take effect upon its passage.

Approved November 5, 1985.



**ACTS, 1985. – Chaps. 467, 468, 469.**

**Chapter 467. AN ACT EXEMPTING CERTAIN POSITIONS IN VARIOUS DEPARTMENTS OF THE TOWN OF NORWOOD FROM THE PROVISIONS OF THE CIVIL SERVICE LAW.**

Be it enacted, etc., as follows:

**SECTION 1.** The positions of assistant superintendent, electrical engineer, office manager and all clerical positions in the electric light department, including the billing division, the program director and all custodial positions in the recreation department, the civilian mechanic in the fire department, the assistant town engineer and all other engineering positions in the engineering department, and the assistant superintendents in the public works department in the town of Norwood shall be exempt from the provisions of chapter thirty-one of the General Laws.

**SECTION 2.** The provisions of section one shall not impair the civil service status of any person holding a position referred to in said section one on the effective date of this act.

**SECTION 3.** This act shall take effect upon its passage.

Approved November 5, 1985.

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**Chapter 468. AN ACT PROVIDING FOR CIVIL PENALTIES AND ATTORNEY FEES IN CERTAIN ACTIONS BY THE ATTORNEY GENERAL RELATIVE TO DECEPTIVE TRADE PRACTICES.**

Be it enacted, etc., as follows:

The first paragraph of section 4 of chapter 93A of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by adding the following sentence:– If the court finds that a person has employed any method, act or practice which he knew or should have known to be in violation of said section two, the court may require such person to pay to the commonwealth a civil penalty of not more than five thousand dollars for each such violation and also may require the said person to pay the reasonable costs of investigation and litigation of such violation, including reasonable attorneys' fees.

Approved November 5, 1985.

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**Chapter 469. AN ACT FURTHER REGULATING THE TAXATION OF CERTAIN CHARITABLE CORPORATIONS.**

Whereas, The deferred operation of this act would tend to defeat its



**ACTS, 1985. - Chap. 470.**

purpose, which is to immediately regulate the taxation of certain charitable corporations, 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:

Notwithstanding the provisions of the first paragraph of section eight of chapter fifty-eight of the General Laws, the assessors or the board or officer in any city or town assessing such tax, assessment, rate or charge, as set forth in said section eight, may, upon application, abate any part or all of such unpaid tax, assessment, rate, charge, costs or interest, for the tax years from nineteen hundred and seventy-eight to nineteen hundred and eighty-six, inclusive, whether or not same is secured by a tax title held by the city or town, without the written authorization of the commissioner, for any charitable nonresidential mental health facility, organized under chapter one hundred and eighty of the General Laws which provides clinical, therapeutic, diagnostic and counseling services to persons with mental disorders and which, in the judgment of said tax assessors, board or officer, benefits the residents of said city or town; provided, however, that no such abatement shall be granted without the approval of the town meeting or city council.

Approved November 7, 1985.

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**Chapter 470. AN ACT AUTHORIZING THE CITY OF QUINCY TO BORROW MONEY, ON BEHALF OF THE QUINCY CITY HOSPITAL, FOR THE REPLACEMENT OF A MAJOR PORTION OF SAID HOSPITAL.**

Be it enacted, etc., as follows:

**SECTION 1.** For purposes of this act the following words shall, unless the context clearly requires otherwise, have the following meanings:-

(a) "Authorized officers", the mayor, the city auditor, and the chairman of the board of managers of the hospital, acting unanimously; provided, that each of said individuals may designate any other officer of the city to act on his behalf as an authorized officer for any or all purposes under this act; and provided, further, that any designation by the city auditor shall be subject to approval by the city council and that the chairman of the board of managers may designate only another member of the board. For purposes of this definition, "officer of the city" shall mean a person who is in charge of a department of the city or who is a member of an administrative board of the city. The mayor, city auditor, and chairman of the board of managers shall not all designate the same person to serve as the authorized officer, nor shall any two of them designate the same person so to serve.

(b) "Board", the board of managers of the hospital.

(c) "Bonds", any bonds, notes, or other evidences of indebtedness of



ACTS, 1985. - Chap. 470.

the city issued on behalf of the hospital under sections two or three.

- (d) "City", the city of Quincy.
- (e) "City auditor", the city auditor of the city of Quincy.
- (f) "City council", the city council of the city of Quincy.
- (g) "Director", the director of the hospital.
- (h) "Hospital", the Quincy city hospital.
- (i) "Mayor", the mayor of the city of Quincy.
- (j) "Revenues", all revenues and other receipts derived by the hospital, whether from the operation of the hospital or otherwise, including, without limiting the generality of the foregoing, payments to the hospital for patient care services, bond proceeds, proceeds of any grant or loan to the hospital or the city for the purposes of the hospital, donations to the hospital from private parties, investment earnings, and the proceeds of insurance, condemnation, sale or other disposition of properties.

**SECTION 2.** The city, on behalf of the hospital, is hereby authorized to borrow from time to time such sums as may be necessary, not exceeding, in the aggregate, seventy-five million dollars, and to issue bonds of the city therefor and borrow money in anticipation of such bonds, for the purposes of demolishing a portion of the current facilities of the hospital and constructing and originally equipping and furnishing a structure as a replacement therefor. No bonds shall be issued under this act, until the director, with the approval of the board, shall cause a financial feasibility study to be conducted concerning the ability of the hospital to pay the debt service on the bonds and based on such study the board, with the concurrence of the mayor and the city auditor, determines that the revenues of the hospital can be expected to meet all debt service payments on the bonds as they come due without the expectation of any payments or reimbursements from city funds.

**SECTION 3.** (a) The principal of, premium, if any, and interest on all bonds, unless otherwise provided herein, shall be payable solely from the particular funds provided therefor under this act. The bonds shall be issued in such amounts as the city council may authorize by a two-thirds vote, with the approval of the mayor. Bonds of each issue shall be dated, shall bear interest at such rate or rates, including rates variable from time to time, as determined by such index, banker's loan rate or other method as may be determined by the authorized officers, and shall mature at such time or times as may be determined by the authorized officers, except that no bond shall mature more than forty years from the date of its issue. Bonds may be made redeemable before maturity at the option of the city at such price or prices and under such terms and conditions as may be fixed by the authorized officers prior to the issue of bonds. The authorized officers shall determine the form and details and the manner of execution of bonds. The city may sell the bonds in such manner, at either public or private sale, for such price, at such rate or rates of interest, or at such discount in lieu of interest, as the authorized officers may determine will best effect the purposes of this act. For the purposes of determining the amount of bonds issued or



ACTS, 1985. – Chap. 470.

outstanding pursuant to this act, the amount of any bonds sold by the city at a discount shall be equal to the net proceeds thereof determined by subtracting the discount from the face amount of such bonds.

(b) The authorized officers may provide for a system of registration and exchange or transfer of registered bonds and in connection therewith the board, subject to approval of the authorized officers, may contract for and engage the services of any banks or other financial institutions within or without the state to perform authentication, registration, transfer, exchange, and paying agent functions, including without limitation the preparation, signing and issuance of checks in payment of such bonds, the preparation and maintenance of records, reports and accounts and the performance of such related duties as may be necessary or desirable in connection with such bonds.

(c) Any authorized officer may execute bonds or cause them to be executed by a facsimile signature in lieu of his manual signature, provided that at least one signature required or permitted to be placed thereon, which may be the signature of an authorized signer of a bank or other financial institution acting as trustee, authenticating agent, transfer agent or similar agent, shall be manually subscribed. The facsimile signature of an authorized officer on a bond or note shall have the same legal effect as his manual signature. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds shall cease to be an officer before the delivery thereof, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes as if he had remained in office until after such delivery.

(d) The city may secure any bonds issued hereunder by an insured or uninsured mortgage of the real and personal property of the hospital, with the approval of the mayor and the city council, and by a trust agreement between the city and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the commonwealth, and such mortgage and trust agreement shall be in such form and executed in such manner as may be determined by the authorized officers. Such mortgage and trust agreement may pledge or assign, in whole or in part, the revenues held or to be received by the hospital or by the city for hospital purposes, and any contract or other rights to receive the same, whether then existing or thereafter coming into existence and whether then held or thereafter acquired by the hospital, together with the proceeds thereof. Such mortgage and trust agreement may contain such provisions for protecting and enforcing the rights, security and remedies of the bondholders as may, in the discretion of the authorized officers, be reasonable and proper and not in violation of law, including, without limiting the generality of the foregoing, provisions defining defaults and providing for remedies in the event thereof, which may include the acceleration of maturities, and covenants setting forth the duties of, and limitations on, the hospital in relation to the custody, safeguarding, investment and application of moneys, the issue of additional or refunding bonds, the fixing, revision and collection of hospital fees and charges, the use of any surplus bond proceeds, the establishment of reserves, and the making and amending of contracts.

(e) The real property of the hospital which the city may mortgage



ACTS, 1985. – Chap. 470.

hereunder consists of those certain parcels of land including any buildings and improvements located thereon shown on Plan 1177A of the Quincy city assessor's maps as Plots 12, 16, 22, 23, 26 and 81, and those certain parcels of land including any buildings and improvements located thereon shown on Plan 1177E of the Quincy city assessor's map as Plots 13 and 50, and that certain parcel of land including any buildings and improvements located thereon shown on plan 1187 of the Quincy city assessor's map as plot 1 (pt. 1+2). The present use of such real property is as a community hospital which is a department of the city. Such real property may be mortgaged to secure any bonds issued under authority of this act.

(f) Any bonds issued under authority of this act may be issued by the city on behalf of the hospital in the form of lines of credit or other banking arrangements under such terms and conditions, not inconsistent with this act, and under such agreements with the purchasers or makers thereof as the authorized officers may determine to be in the interest of the hospital and the city. In addition to other security provided herein or otherwise by law, bonds issued by the city under this act may be secured, in whole or in part, without limitation, by bond insurance issued by commercial insurers or by any agency or department of the commonwealth or of the federal government, by letters or lines of credit or other credit facilities issued by any bank, trust company, or other financial institution, within or without the commonwealth, or by any agency or department of the commonwealth or of the federal government, or by insurance of a mortgage of the real and personal property of the hospital issued by commercial insurers or by any agency or department of the commonwealth or of the federal government, and the city and the hospital may pledge or assign any of the revenues of the hospital as security for the reimbursement to the issuers of such letters or lines of credit, insurance or credit facilities of any payments made thereunder.

(g) It shall be lawful for any bank or trust company to act as a depository or trustee of the proceeds of bonds, revenues or other moneys under a trust agreement and to furnish such indemnification or to pledge such securities and issue such letters or lines of credit or other credit facilities as may be required by the hospital. Any such trust agreement may set forth the rights and remedies of bondholders and of the trustee and may restrict the individual right of action by bondholders. Any pledge of revenues or other property made by the city or the hospital under this act shall be valid and binding and shall be deemed continuously perfected for the purposes of the uniform commercial code and other laws from the time when the pledge is made; the revenues, moneys, rights and proceeds so pledged and then held or thereafter acquired or received by the hospital or the city for hospital purposes shall immediately be subject to the lien of such pledge without any physical delivery or segregation thereof or further act; and the lien of such pledge shall be valid and binding against all parties having claims of any kind in tort, contract or otherwise against the city and the hospital, irrespective of whether such parties have notice thereof. Any trust agreement or any other agreement by which a pledge is created need not



**ACTS, 1985. – Chap. 470.**

be filed or recorded except in the records of the city and no filing need be made under chapter one hundred and six of the General Laws.

(h) Any owner of a bond issued by the city under the provisions of this act and any trustee under a trust agreement securing the same, except to the extent the rights herein given may be restricted by such trust agreement, may bring suit upon the bonds and may, either at law or in equity, by suit, action, mandamus, or other proceeding for legal or equitable relief, protect and enforce any and all rights under the laws of the commonwealth or granted hereunder or under such trust agreement and may enforce and compel the performance of all duties required by this act or by such trust agreement to be performed by the hospital or by any officer thereof.

(i) The city, on behalf of the hospital, may issue refunding bonds for the purpose of paying any of the bonds issued pursuant to this act at or prior to maturity or upon acceleration of redemption. Such refunding bonds may be issued in such amounts as the city council may determine by a two-thirds vote, with the approval of the mayor, may be issued at such times prior to the maturity or redemption of the refunded bonds as the board, with the approval of the mayor and the city council, deems to be in the interest of the hospital and the city, and each such bond shall bear a maturity date no later than forty years from the date of the issuance of the original bond or bonds for which such refunding bond is paying. The refunding bonds may be issued in sufficient amounts to pay or provide the principal of the bonds being refunded, together with any redemption premium thereon, any interest accrued or to accrue to the date of payment of such bonds, the expenses of issue of the refunding bonds, the expenses of redeeming the bonds being refunded, and such reserves for debt service or other capital or current expenses from the proceeds of such refunding bonds as may be required by a trust agreement securing the bonds. The issue of refunding bonds, the maturities and other details thereof, the security therefor, the rights of the holders thereof, and the rights, duties and obligations of the city in respect to the same shall be governed by the provisions of this act relating to the issue of the bonds other than refunding bonds insofar as the same may be applicable.

(j) Bonds may be issued under this act without obtaining the consent of any department, division, commission, board, bureau or agency of the commonwealth or any political subdivision thereof, and without any other proceedings or the happening of any condition or thing other than those proceedings, conditions or things which are specifically required therefor by this act, and the validity of and security for any bonds issued by the city pursuant to this act shall not be affected by the existence or nonexistence of any such consent or other proceedings, conditions or things.

(k) Notwithstanding any of the provisions of this act or any recitals in any bonds issued under this act, all such bonds shall be deemed to be investment securities under chapter one hundred and six of the General Laws.

**SECTION 4.** Any bonds issued pursuant to this act shall not be



## **ACTS, 1985. – Chap. 470.**

included in determining the limits of indebtedness of the city as established by law nor shall the principal and interest payments thereof be included in any computation under section twenty-one C of chapter fifty-nine of the General Laws.

**SECTION 5.** Any debt service fund, construction fund, debt service reserve fund, depreciation reserve fund or other fund established in connection with the issuance of bonds under this act shall be kept separate from the general fund of the city and from the general operating funds of the hospital. The moneys deposited in any such funds, together with income derived from any investments held as part of such funds, all of which income shall be considered revenues of the hospital, shall be expended without further authorization or appropriation as provided for in the trust agreement establishing such funds.

**SECTION 6.** In addition to other lawful items, the project costs to be financed by the issue of bonds under this act may include: interest for a period of up to six months after the date, as determined or estimated by the director, of commencing regular use of the new structure by the hospital; the cost of architectural, engineering, financial and legal services, plans, specifications, studies of cost and of revenues; administrative expenses related to the construction of the project; expenses as may be necessary or incident to determining the feasibility or practicability of constructing the project or to reviewing the impact of the project on the city and on the city's general financial condition; capital equipment purchased within one year of the date, as determined or estimated by the director, of commencing regular use of the new structure by the hospital; and such other expenses incurred by either the city or the hospital as may be necessary or incident to the construction of the project, the financing of such construction, including, without limitation, any reserve funds described in section five of this act, and the placing of the project in operation.

**SECTION 7.** Subject to any limitation imposed by law, the hospital shall be required to fix and collect rates and charges which together with other available hospital revenues shall provide moneys sufficient at all times to make payments of principal of, premium if any, and interest on bonds issued under this act, including the required payments to any debt service fund established under this act, as they come due, and to satisfy all other obligations to be paid from hospital revenues in a timely fashion. The hospital shall at all times keep full and accurate accounts of its receipts, expenditures, disbursements, assets and liabilities.

**SECTION 8.** All revenues received pursuant to the provisions of this act, whether as proceeds from the issue of bonds, investment earnings, or otherwise, shall be deemed to be trust funds to be held and applied solely as provided in this act.

**SECTION 9.** Bonds issued under this act, their transfer and income therefrom, including any profit made on the sale thereof, shall at all



**ACTS, 1985. – Chap. 470.**

times be exempt from taxation by the commonwealth or any political subdivision thereof.

**SECTION 10.** Bonds issued under this act are hereby made securities in which all public officers, agencies and authorities of the commonwealth and of its political subdivisions, all insurance companies, trust companies in their commercial departments, savings banks, cooperative banks, commercial banks, banking associations, investment companies, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including principal in their control or belonging to them. Such bonds are hereby made securities which may properly and legally be deposited with and received by any state or municipal officer or any agency, authority or political subdivision of the commonwealth for any purpose for which the deposit of bonds or obligations of the commonwealth or of any political subdivision is now or may hereafter be authorized by law.

**SECTION 11.** The hospital shall submit to the city council quarterly reports describing the progress made in completing the construction of the replacement project for which bonds are issued under this act, including costs incurred in said construction.

**SECTION 12.** Notwithstanding the provisions of section fifty-six A of chapter forty-four of the General Laws or of any other general or special law to the contrary, the hospital is hereby authorized to establish as its fiscal year for all purposes the twelve month period commencing October first and ending September thirtieth. The provision of this section shall be effective for the period commencing October first, nineteen hundred and eighty-five, and thereafter.

**SECTION 13.** Chapter 312 of the acts of 1981 is hereby amended by striking out section 3 and 4 and inserting in place thereof the following two sections:—

**Section 3.** The city treasurer, upon written request of the director of the Quincy city hospital may, advance funds from the general fund of the city in any fiscal year of the city in anticipation of the receipt of revenues of said Quincy city hospital. Such advances outstanding at any one time in any fiscal year of the city, shall not exceed, in the aggregate, twenty-five per cent of the annual expense of the current fiscal year of the hospital, as certified by said director, or such larger amount as may be approved by the mayor and the city council. All such sums so advanced shall be deposited into such account established under section one and the said director shall prior to the end of each fiscal year of the city repay such advances to the general fund together with an amount equal to the interest as determined by the city treasurer to be allocable to any debt incurred during said fiscal year by the city in anticipation of revenue in order to make such advances.

**Section 4.** The director of the Quincy city hospital shall file with the mayor, the city council and the treasurer of said city and the bureau of accounts a written report of the special account established in



**ACTS, 1985. – Chap. 471.**

section one within one hundred and twenty days after the books are closed for the fiscal year of the hospital. Such report shall include financial statements relating to the operations, maintenance, capital and real properties of said hospital. The city council may review and comment upon such report and the city council may file such comment with the bureau of accounts. The director shall annually, not later than sixty days prior to the expiration of each fiscal year of the hospital, submit to the mayor and city council a budget in such form as the board of managers may approve. The board of managers may review and comment on such budget and may file such review and comment with the mayor and the city council.

**SECTION 14.** Notwithstanding any provisions of law to the contrary, including provisions of ordinances of the city, except for zoning ordinances, the demolition, design, and construction activities identified in section two of this act shall be under the control of the mayor and the board.

**SECTION 15.** The provisions of this act shall be deemed to provide an additional and alternative method for the effectuation of the purposes of this act and shall be construed to be supplemental to, and not in derogation of, powers otherwise conferred by law on the city, provided however that insofar as the provisions of this act are inconsistent with the provisions of any general or special law, administrative order or regulation or any limitation imposed by the city charter, the provisions of this act shall be controlling. This act shall be interpreted liberally to effect the purposes set forth in this act.

**SECTION 16.** The provisions of this act are severable, and if any provision hereof shall be held invalid in any circumstances, such invalidity shall not affect any other provisions or circumstances. This act shall be construed in all respects so as to meet all constitutional requirements. In carrying out the purposes and provisions of this act, all steps shall be taken which are necessary to meet constitutional requirements.

**SECTION 17.** This act shall take effect upon its passage.

Approved November 12, 1985.

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**Chapter 471. AN ACT AUTHORIZING THE TOWN OF BARNSTABLE TO CONVEY CERTAIN CONSERVATION LAND IN SAID TOWN TO THE WEST BARNSTABLE FIRE DISTRICT IN EXCHANGE FOR CERTAIN OTHER LAND IN SAID TOWN TO BE USED FOR CONSERVATION PURPOSES.**

Be it enacted, etc., as follows:

**SECTION 1.** Notwithstanding the provisions of any general or special



ACTS, 1985. – Chap. 471.

law to the contrary, the town of Barnstable, acting through its board of selectmen, is hereby authorized to convey to the West Barnstable Fire District a parcel of conservation land containing approximately one and forty-seven hundredths acres located on state highway route 149 in the town of West Barnstable, and being bounded and described as follows:

BEGINNING, at a concrete bound (found) at an angle point in the sideline of Meetinghouse Road, a variable width public way, said point being S. 31 degrees – 36' – 04" W., a distance of 180.00 feet from another angle point in said Meetinghouse Road;

Thence, along the sideline of said Meetinghouse Road N. 31 degrees – 36' – 04" E., a distance of 129.79 feet to a town bound set;

Thence, S. 58 degrees – 23' – 56" E., a distance of 250.00 feet to a town bound set;

Thence, S. 33 degrees – 22' – 34" W., a distance of 265.94 feet to a town bound set;

Thence, N. 54 degrees – 42' – 59" W., a distance of 250.00 feet to a point on the sideline of said Meetinghouse Road, said point being S. 19 degrees – 12' – 46", a distance of 0.069 feet from a concrete bound found;

Thence, along the sideline of said Meetinghouse Road N. 35 degree – 17' – 01" E., a distance of 120.21 feet to a concrete bound and the point of beginning.

Containing 1.47 Acres.

**SECTION 2.** The West Barnstable Fire District in consideration of such conveyance, shall convey to the town of Barnstable for conservation purposes all their right, title and interest to a parcel of land containing approximately two and seven tenths acres located at the intersection of Route 149, the Service road, and Sandy street in the town of West Barnstable, as noted on Certificate of Title No. 78732 filed with the registry district of the land court in the county of Barnstable, as more particularly bounded and described as follows:

Southeasterly, by the northwesterly line of Sandy Street, five hundred fourteen and 79/100 (514.79) feet;

Southwesterly, by the northeasterly line forming the junction of said Sandy Street and Route 149, one hundred nineteen and 10/100 (119.10) feet;

Northwesterly, by the southeasterly line of said Route 149, two hundred fifty-four and 66/100 (254.66) feet;

Northwesterly, by the southeasterly line of Mid-Cape Highway, no access, one hundred fifty-four and 74/100 (154.74) feet;

Northerly, by the southerly line of Service Road, one hundred seventy-four (174) feet; and

Northeasterly, by land now or formerly of Egbert P.E. Benson, one hundred eighty-two and 94/100 (182.94) feet.

All of said boundaries are determined by the court to be located as shown on plan 38653-A (Sheet 5) dated June 28, 1974, drawn by Charles N. Savery, Inc., Surveyors, and filed in the land registration office at Boston, a copy of which is filed in the registry of deeds in the county of Barnstable in land registration Book 638, Page 19 with Certificate of



**ACTS, 1985. – Chap. 472.**

Title No. 78639 and said land is shown thereon as Lot 6.

**SECTION 3.** This act shall take effect upon its passage.

Approved November 12, 1985.

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**Chapter 472. AN ACT MAKING AN APPROPRIATION TO FUND MEMORANDA OF AGREEMENT BETWEEN THE COMMONWEALTH AND THE ALLIANCE, AFSCME, COUNCIL 93, AFL-CIO FOR CERTAIN CLASS REALLOCATIONS.**

Be it enacted, etc., as follows:

**SECTION 1.** To provide for the cost of salary adjustments and other employee economic benefits authorized by the memoranda of agreement between the commonwealth and the Alliance, AFSCME, Council 93, AFL-CIO, for certain class reallocations, the sum set forth in section two of this act is hereby made available, subject to the provisions of law regulating the disbursement of public funds and the conditions pertaining to appropriations in chapter one hundred and forty of the acts of nineteen hundred and eighty-five.

**SECTION 2.**

Item

1599-3502 For a reserve to meet the cost of certain salary adjustments and other employee economic benefits authorized by the memoranda of agreement between the commonwealth and The Alliance, AFSCME, Council 93, AFL-CIO for certain class reallocations; and to meet the cost of salary adjustments and other economic benefits necessary to provide equal salary adjustments or benefits to employees employed in "confidential" positions which would otherwise be covered by said memorandum of agreement; provided, however, that the personnel administrator, with the approval of the commissioner of administration, shall determine such salary adjustments and other economic benefits for "confidential" employees in accordance with the provisions of the memorandum of agreement then in effect which would otherwise cover said positions; provided, further, that the commissioner of administration is hereby authorized to transfer from the sum appropriated herein to other items of appropriation for the fiscal



**ACTS, 1985. – Chap. 473.**

year nineteen hundred and eighty-six, such amounts as are necessary to meet the costs of said adjustments and benefits for fiscal year nineteen hundred and eighty-six and prior fiscal years where the amounts otherwise available are insufficient for the purpose; provided further, that said commissioner of administration is authorized to allocate the cost of such salary adjustments and benefits to the several state or other funds to which such items of appropriation are charged; and provided, further, that copies of said memoranda of agreement, together with an analysis of all cost items contained in said agreement and all changes to be made in the schedules of permanent and temporary positions required by said agreement, shall be filed with the house and senate committees on ways and means prior to the transfer or allocation of any amounts necessary to meet the cost of said adjustments and benefits; and provided, further, that no transfers, payments, or allocations shall be made from this item without the prior approval of the house and senate committees on ways and means

**\$105,200**

**SECTION 3.** This act shall take effect upon its passage.

Approved November 12, 1985.

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**Chapter 473. AN ACT AUTHORIZING CERTAIN TERMS FOR BORROWING BY THE CITY OF GARDNER FOR WASTEWATER TREATMENT PURPOSES.**

Be it enacted, etc., as follows:

**SECTION 1.** Notwithstanding the provisions of any general or special law to the contrary, the maturities of bonds or notes issued by the city of Gardner for additions and improvements to its wastewater treatment facilities, and for related sewers and sewerage facilities financed at the same time, shall either be arranged so that for each issue the annual combined installments of principal and interest payable in each year be as nearly equal as practicable in the opinion of the city treasurer and the mayor, or shall be arranged in accordance with a schedule providing for a more rapid amortization of principal. Project costs to be financed by the issue of said bonds or notes, including notes issued in anticipation of federal or state aid, may include interest on temporary borrowing



**ACTS, 1985. – Chap. 474.**

incurred for a period of up to twelve months after the date of the original borrowing and may also include reimbursement to the city for sums appropriated and expended for engineering services for the design of such facilities. Any net earnings derived from investment of the proceeds of the bonds or notes described herein may be expended and shall be used only for the construction, equipping, operation or maintenance of the wastewater treatment and related facilities of said city. Except as otherwise provided in this act, indebtedness incurred by said city for the purposes herein described shall be subject to the applicable provisions of chapter forty-four of the General Laws.

**SECTION 2.** This act shall take effect upon its passage.

Approved November 12, 1985.

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**Chapter 474. AN ACT AUTHORIZING THE COUNTY COMMISSIONERS OF NORFOLK COUNTY TO BORROW MONEY FOR THE CONSTRUCTION, EQUIPPING AND FURNISHING OF A MAINTENANCE BUILDING AT NORFOLK COUNTY RECREATIONAL FACILITY.**

Be it enacted, etc., as follows:

**SECTION 1.** The county commissioners of Norfolk county are hereby authorized to raise and expend a sum not exceeding six hundred and fifty thousand dollars for the construction, equipping and furnishing of a maintenance building at the Norfolk county recreational facility in the city of Quincy, including plans and specifications and architects fees and expenses connected therewith; provided, however, that the cost of such plans and specifications, fees and expenses shall not exceed seventy thousand dollars. Any sums received from the federal government for the purposes of this act shall be included in, and considered a part of, the total amount authorized to be expended hereunder.

**SECTION 2.** For the purpose authorized by section one, the treasurer of said county, with the approval of the county commissioners and county advisory board, may borrow upon the credit of the county such sums as may be necessary, not exceeding in the aggregate, six hundred and fifty thousand dollars; and, may issue bonds or notes of the county therefor, which shall bear on their face the words, Norfolk County Wollaston Recreational Facility Loan Act of 1985. Each authorized issue shall constitute a separate loan, and such loans shall be payable in not more than twenty years, from their dates. Said bonds or notes shall be signed by the county treasurer and countersigned by a majority of the county commissioners. Said county may sell such securities at public or private sale, upon such terms and conditions as the county commissioners may deem proper, but not for less than their par value. Indebtedness incurred hereunder shall, except as herein provided, be subject to chapter thirty-five of the General Laws.



**ACTS, 1985. – Chaps. 475, 476.**

**SECTION 3.** This act shall take effect upon its passage.

Approved November 12, 1985.

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**Chapter 475. AN ACT FURTHER REGULATING THE REGISTRATION OF PHYSICIANS.**

Be it enacted, etc., as follows:

Section 2 of chapter 112 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by inserting after the fifth paragraph the following paragraph:—

The board shall require as a condition of granting or renewing a physician's certificate of registration, that the physician, who if he agrees to treat a beneficiary of health insurance under Title XVIII of the Social Security Act, shall also agree not to charge to or collect from such beneficiary any amount in excess of the reasonable charge for that service as determined by the United States Secretary of Health and Human Services.

Approved November 12, 1985.

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**Chapter 476. AN ACT AUTHORIZING THE DIVISION OF CAPITAL PLANNING AND OPERATIONS TO ACQUIRE A CERTAIN PARCEL OF PUBLIC LAND IN THE TOWN OF ACTON AND TO TRANSFER THE CARE, CUSTODY AND CONTROL OF SAID PARCEL TO THE DEPARTMENT OF PUBLIC WORKS FOR HIGHWAY PURPOSES.**

Be it enacted, etc., as follows:

The division of capital planning and operations is hereby authorized to acquire by eminent domain, purchase or otherwise, under the provisions of section one of chapter six hundred and ninety-three of the acts of nineteen hundred and fifty-five, on behalf of the commonwealth, a certain parcel of land belonging to the town of Acton, being used for conservation purposes, and to transfer the care, custody and control of said parcel to the department of public works for highway purposes.

Parcel A.

Said parcel of land being located on the northerly side of state highway route 2 and on the westerly side of Wetherbee street in the town of Acton and being bounded and described as follows:

Beginning at a point at the intersection of the northerly sideline of said route 2 and the westerly sideline of said Wetherbee Street;

Thence N 85°-28'-19"W, along the northerly sideline of said route 2, one hundred two and seven hundredths (102.07) feet to a tangent point of a curve, concave to the northwest, having a central angle of 62°-33'-10"



ACTS, 1985. – Chap. 477.

and a radius of sixty-five and zero hundredths (65.00) feet;

Thence northeasterly, along said curve, seventy and ninety-six hundredths (70.96) feet to a point of tangent;

Thence N 31°-58'-31"E fifty-five and eighty-two hundredths (55.82) feet to a tangent point of a curve concave to the northwest having a central of 20°-07'-12" and a radius of four hundred eighty and zero hundredths (480.00) feet;

Thence northeasterly, along said curve, one hundred sixty-eight and fifty-six hundredths (168.56) feet to a tangent point on the westerly side of said Wetherbee Street, the last three courses being along the remaining land of the town of Acton;

Thence S 11°-51'-19"W, along the westerly sideline of said Wetherbee Street, two hundred forty-six and sixty-two hundredths (246.62) feet to the point of beginning. Containing in all approximately 5,692 square feet of land, more or less.

Said land to be so acquired is presently being used by the town of Acton for conservation purposes and shall be used by the department of public works, commonwealth, for highway purposes. The above-described parcel of land is shown on a plan entitled "Highway Taking Plan of Land In Acton, Mass. Prepared for the town of Acton" scale 1" = 50', dated October 26, 1984, prepared by Vanasse/Hangen, Consulting Engineers, Boston, Massachusetts, which plan shall be kept on file with the chief engineer of the said department of public works.

Approved November 12, 1985.

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**Chapter 477. AN ACT FURTHER REGULATING THE ELECTION LAWS OF THE COMMONWEALTH.**

Be it enacted, etc., as follows:

**SECTION 1.** Section 55 of chapter 31 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out the fourth paragraph and inserting in place thereof the following paragraph:-

Written objections to the validity or sufficiency of any petition which has been filed with the city or town clerk under the provisions of the preceding paragraph or of the signatures on such petition may be filed with the city or town clerk not later than forty-eight hours after the last day prior to said election when such petition may be filed under section fifty-four, and such objections shall be considered by the appropriate board referred to in section seven of chapter fifty-five B. In the consideration of objections under this section such board shall have and exercise all the powers given to it by any provision of law relative to objections to nominations. The notice provided by said section seven shall be sent to the persons filing the petition and to each officer affected thereby. Said board shall make its decision within four days after the expiration of the time for filing such objections and forthwith give notice thereof to the city or town clerk.



**ACTS, 1985. – Chap. 477.**

**SECTION 2.** Chapter 43 of the General Laws is hereby amended by striking out section 39, as so appearing, and inserting in place thereof the following section:–

Section 39. If any initiative petition is signed by registered voters equal in number to at least fifteen per cent of the whole number of registered voters:

(1) the city council or the school committee shall, within twenty days after the date of the certificate of the registrars to that effect, pass said measure without alteration, subject to the referendum vote provided by this chapter, or

(2) the city clerk shall call a special election to be held on a Tuesday fixed by said clerk not less than thirty nor more than forty-five days after the date of the certificate hereinbefore mentioned, and shall submit the proposed measure without alteration to a vote of the registered voters of the city at that election; provided, however, that if any city election is otherwise to occur within ninety days after the date of said certificate, the city clerk may, at his discretion, omit calling the special election and submit the proposed measure to the voters at such approaching election.

**SECTION 3.** Section 40 of said chapter 43, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:– If an initiative petition is signed by registered voters equal in number to at least eight per cent but less than fifteen per cent of the total number of registered voters, and said measure be not passed without alteration within twenty days by the city council or the school committee, as provided in the preceding section, such proposed measure, without alteration, shall be submitted by the city clerk to a vote of the registered voters of the city at the next regular municipal election.

**SECTION 4.** Section 42 of said chapter 43, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:–

If, within twenty days after the final passage of any measure, except a revenue loan order, by the city council or by the school committee, a petition signed by registered voters of the city, equal in number to at least twelve per cent of the total number of registered voters, and addressed to the city council or to the school committee, as the case may be, protesting against such measure or any part thereof taking effect, is filed with the city clerk, the same shall thereupon and thereby be suspended from taking effect; and the city council or the school committee, as the case may be, shall immediately reconsider such measure or part thereof; and if such measure or part thereof is not entirely rescinded, the city clerk shall submit the same, by the method herein provided, to a vote of the registered voters of the city, either at the next regular city election, or at a special election which the city council may, in its discretion, call for the purpose, and such measure or part thereof shall forthwith become null and void unless a majority of the registered voters voting on the same at such election vote in favor thereof.



**ACTS, 1985. – Chap. 477.**

**SECTION 5.** Section 2 of chapter 51 of the General Laws, as so appearing, is hereby amended by striking out, in lines 1 and 2, the words "by decree of court or as a result of marriage".

**SECTION 6.** Section 37 of said chapter 51, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:– The registrars, as soon as they have prepared the lists required by section four, shall prepare an annual register containing the names of all qualified voters in their city or town for the current year, beginning with January first.

**SECTION 7.** Section 40 of said chapter 51, as so appearing, is hereby amended by striking out the second sentence.

**SECTION 8.** Section 42C of said chapter 51, as so appearing, is hereby amended by adding the following sentence:– The registrars shall hold the registration session before the end of the school year, and before the last day for registration under section twenty-six for the next primary, election, or town meeting if the registrars receive the petition not less than forty days before the primary, election, or town meeting.

**SECTION 9.** Said chapter 51 is hereby further amended by striking out section 50, as so appearing, and inserting in place thereof the following section:–

Section 50. Any legal resident of the commonwealth who was included in the definition of "Specially qualified voter" in section one hundred and three B of chapter fifty-four throughout the seven days immediately preceding the final time for registration under section twenty-six may appear before a registrar or assistant registrar of voters of the city or town of his legal residence, during regular business hours of any day following the final day for registration before a primary or election, as fixed by section twenty-six, and, in accordance with this chapter, register as a voter, provided he so appears prior to four o'clock post meridian on the day preceding a primary, preliminary election or election.

**SECTION 10.** Section 51 of said chapter 51, as so appearing, is hereby amended by striking out, in lines 3 and 4, the words "Federal Service Personnel" and inserting in place thereof the words:– Specially Qualified Voter".

**SECTION 11.** Section 61 of said chapter 51, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:–

They shall forthwith, after the final day for registration before a biennial state or regular city or town election, certify to the state secretary the number of registered voters in the city or town, and in each ward and precinct therein.

**SECTION 12.** Section 1 of chapter 52 of the General Laws, as so



**ACTS, 1985. – Chap. 477.**

appearing, is hereby amended by striking out the first and second sentences and inserting in place thereof the following two sentences:– Each political party shall, in the manner herein provided, elect a state committee from among its members who either have enrolled on or before the ninetieth day prior to the last day for filing nomination papers for state committees with the state secretary, or are newly registered voters in their city or town enrolled in that political party and have not been enrolled in another political party during the year preceding such last day for filing nomination papers. Each state committee shall consist of one man and one woman from each senatorial district, who shall be residents thereof, to be elected at the presidential primaries by plurality vote of the members of the party in the district, and such number of members as may be appointed by the state committee as hereinafter provided.

**SECTION 13.** Section 2 of said chapter 52, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:– Each political party shall, in every ward and town, elect at the presidential primaries a ward or town committee from among the members of the party who either have enrolled on or before the ninetieth day prior to the last day for filing nomination papers for such committees with the state secretary, or are newly registered voters in their city or town enrolled in that political party and have not been enrolled in another political party during the year preceding such last day for filing nomination papers.

**SECTION 14.** The fourth paragraph of section 7 of chapter 53 of the General Laws, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:– Every initiative, referendum or other ballot question petition paper, except an application for a public policy question under sections nineteen to twenty-two, inclusive, shall be submitted to the registrars of the city or town where the signers appear to be voters on or before five o'clock post meridian of the fourteenth day preceding the day on which it must be filed with the state secretary; and certification of such papers shall be completed no later than the second day before the final day for filing said papers with the state secretary.

**SECTION 15.** The seventh paragraph of said section 7 of said chapter 53, as so appearing, is hereby amended by striking out the third sentence and inserting in place thereof the following sentence:– The provisions of this section shall apply in all cases where any statute, special act, or home rule charter requires the certification of the signature of a voter by boards of registrars of voters.

**SECTION 16.** Section 7A of said chapter 53, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:– Except where otherwise provided by law, every nomination petition or other like paper of a candidate for a city office in a city wherein preliminary elections for the nomination of candidates for



**ACTS, 1985. – Chap. 477.**

such office are held shall be submitted, on or before five o'clock in the afternoon of the fourteenth day preceding the day on which it must be filed, to the registrars of the city.

**SECTION 17.** Section 8 of said chapter 53, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:– All certificates of nomination and nomination papers shall, in addition to the names of the candidates, specify as to each, (1) his residence, with street and number, if any, (2) the office for which he is nominated, and (3) except as otherwise provided in this section and except for city and town elections which are not preceded by primaries or political party caucuses, the political designation, if any, which he represents, expressed in not more than three words.

**SECTION 18.** Section 10 of said chapter 53, as so appearing, is hereby amended by striking out the fourth paragraph and inserting in place thereof the following paragraph:–

Any incumbent town meeting member may become a candidate for election by giving written notice thereof to the town clerk not later than twenty-one days prior to the last day and hour for filing nomination papers notwithstanding any contrary provision in any special law.

**SECTION 19.** Section 13 of said chapter 53, as so appearing, is hereby amended by striking out the last sentence and inserting in place thereof the following two sentences:– A person nominated at a city or town preliminary election may withdraw his name from nomination in the same manner, within six days succeeding five o'clock in the afternoon of the day of holding such preliminary election. Unless otherwise provided by the city or town charter, such nominee shall be replaced by the candidate with the next highest number of votes in said preliminary, if such candidate receives a number of votes at least equal to the number of signatures required by law to place his name on the preliminary election ballot.

**SECTION 20.** Section 22A of said chapter 53, as so appearing, is hereby amended by adding the following sentence:– Certificates showing that each of the ten original signers is a registered voter at the stated address, signed by a majority of the registrars of voters, shall accompany an original initiative or referendum petition.

**SECTION 21.** Section forty-eight A of said chapter fifty-three is hereby repealed.

**SECTION 22.** Section 61 of said chapter 53, as appearing in the 1984 Official Edition, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:– Every such nomination paper shall be submitted at or before five o'clock in the afternoon of the fourteenth day preceding the day on which it must be filed to the registrars of the city or town where the signers appear to be voters, and the registrars shall check each name to be certified by them



**ACTS, 1985. – Chap. 477.**

on the nomination paper and shall forthwith certify thereon the number of signatures so checked which are names of voters both in the city or town and in the district for which the nomination is made and only names so checked shall be deemed to be names of qualified voters for the purposes of nomination.

**SECTION 23.** The second paragraph of section 31 of chapter 54 of the General Laws, as so appearing, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:— He shall send to the election officers before the polls are opened on election day blank forms and other necessary supplies, including voters' authority certificates, not less than one for each registered voter, in a form approved by the state secretary.

**SECTION 24.** Section 33E of said chapter 54, as so appearing, is hereby amended by striking out, in lines 37 and 38, the words "and make a cross in the square at the right".

**SECTION 25.** Said chapter 54 is hereby further amended by striking out section 40, as so appearing, and inserting in place thereof the following section:

Section 40. All ballots for use in elections of state officers shall be prepared and furnished by the state secretary, and all ballots for use in elections of city or town officers, by the city or town clerk. Ballots for use in an electronic voting system shall be in a form approved by the state secretary under sections thirty-two and thirty-seven.

**SECTION 26.** The third paragraph of section 41 of said chapter 54, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:— To the name of each candidate for a state or city office, except for city elections which are not preceded by primaries, shall be added in the same space his party or political designation.

**SECTION 27.** Section 41A of said chapter 54, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:— The surnames of candidates for the offices of governor and lieutenant governor shall be placed upon the official ballot for use at state elections in groups, according to their political party or designation; except, in the case where two candidates have the same surname, then christian names and addresses as they appear on the voting list for each candidate, shall be placed on the ballot.

**SECTION 28.** Section 42 of said chapter 54, as so appearing, is hereby amended by striking out the first and second paragraphs and inserting in place thereof the following two paragraphs:—

Except as provided in section forty-one A, under the designation of the office, the names of the candidates for re-election to any office to be filled at a state election of which they are the elected incumbents shall be placed first on the ballot in alphabetical order according to their



**ACTS, 1985. – Chap. 477.**

surnames; next and in like order the names of candidates of political parties, as defined in chapter fifty, and the names of all other candidates shall follow in like order.

Under the designation of the office, the names of candidates for each municipal elective office shall, except as city charters otherwise provide, be arranged alphabetically according to their surnames, except that names of candidates for re-election to any such office of which they are the elected incumbents or the incumbents chosen by vote of the board of aldermen or city council in a city, or the incumbents chosen by joint convention of the board of aldermen or city council and school committee, shall be placed first on the ballot in alphabetical order according to their surnames, next and in like order the names of candidates of political parties as defined in chapter fifty, and the names of all other candidates shall follow in like order. A candidate for election to the same office in a precinct, ward or district which contains any portion of the territory which he was elected to represent at the last preceding municipal election for that office shall be considered an elected incumbent within the meaning of this section. The names of candidates for different terms of service in the same office shall be arranged in groups according to the length of their respective terms, and the names of candidates nominated by single wards but to be voted for at large, shall be arranged in groups by wards in like order. In the case of representatives in congress, the designation may be "congressman". Blank spaces shall be left at the end of the list of candidates for each different office equal to the number to be elected thereto, in which the voter may insert the name and address of any person not printed on the ballot for whom he desires to vote for such office; provided, however, that a mistake in stating the address of such person shall not invalidate a vote if the address stated is sufficient to indicate the person for whom the vote was intended. If the approval of any question is submitted to the voters, it shall be printed on the ballot after the names of the candidates.

**SECTION 29.** Section 43A of said chapter 54, as so appearing, is hereby amended by striking out, in line 5, the words "as a group" and inserting in place thereof the following words:– , as a group at a state election.

**SECTION 30.** Said chapter 54 is hereby further amended by striking out section 79, as so appearing, and inserting in place thereof the following section:–

Section 79. A voter who states to the presiding officer that from blindness or other physical disability or inability to read or to read in the English language he is unable to prepare his ballot or register his vote upon a voting machine shall be assisted in such marking or registering by any person whom he may designate.

**SECTION 31.** Section 86 of said chapter 54, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:– Any voter who during the hours that polling



**ACTS, 1985. – Chap. 477.**

places are open on the day of a special state election or the biennial state election or of any special or regular state primary or of a presidential primary is absent from the city or town where he is a voter by reason of his employment in another community or for any other reason or who will be unable by reason of physical disability to cast his vote in person at the polling place or who for reasons of religious belief will be unable to cast his vote in person on the day of an election and whose application for an official absent voting ballot has been filed with the city or town clerk as provided in section eighty-nine, and certified under section ninety-one, may vote in accordance with sections eighty-seven to one hundred and three, inclusive; provided, however, that a voter who will be unable by reason of temporary physical disability to cast his vote in person at the polling place shall file with the city or town clerk an application attesting to that fact.

**SECTION 32.** Section 89 of said chapter 54, as so appearing, is hereby amended by striking out the first and second sentences and inserting in place thereof the following two sentences:– The blank form of application set forth in clause (b) of section eighty-seven, and the other papers described in clause (e) of said section eighty-seven, shall, as soon as they can be prepared, be delivered to any person who by mail or otherwise applies therefor to any city or town clerk. The official absent voting ballot and all other papers described in said section eighty-seven shall be mailed, postage prepaid, or, in case of voters who so signify, delivered, when called for, by city and town clerks to all voters who seasonably file with them the application set forth in said clause (b), after the same is certified by the registrars and returned to the clerk, as provided in section ninety-one.

**SECTION 33.** The second paragraph of section 92 of said chapter 54, as so appearing, is hereby amended by striking out the second and third sentences and inserting in place thereof the following two sentences:– Thereafter the voter shall enclose and seal the same in the envelope provided for by subsection (c) of section eighty-seven. He shall then execute before said official the necessary affidavit on said envelope and shall enclose and seal the envelope with the ballot in the envelope provided for in subsection (d) of said section eighty-seven, endorse thereon his name, address and voting place and hand the same to said clerk.

**SECTION 34.** Section 95 of said chapter 54, as so appearing, is hereby amended by striking out, in lines 17 and 18, the words "clause (c) of section eighty-seven, or in clause (b) or clause (c)" and inserting in place thereof the words:– subsection (c) of section eighty-seven or subsection (b) of section one hundred and three O.

**SECTION 35.** The second paragraph of said section 95 of said chapter 54, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:– Envelopes purporting to contain official absent voter ballots which are received on



**ACTS, 1985. – Chap. 477.**

the day of the election, or in the case of ballots from outside the United States, after the day of a state election in accordance with section ninety-nine, shall be processed in the office of the registrars.

**SECTION 36.** Section 100 of said chapter 54, as so appearing, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:– No ballot mailed or delivered under the provisions of sections eighty-six to one hundred and three, inclusive, shall be counted if the officers charged with the duty of counting the same are cognizant of the fact that the voter has died prior to the opening of the polls on the day of the election.

**SECTION 37.** Section 102 of said chapter 54, as so appearing, is hereby amended by striking out, in line 3, the words ", subject to approval by the attorney general,"– and by striking out, in line 7, the words ", subject to like approval,".

**SECTION 38.** Section 103B of said chapter 54, as so appearing, is hereby amended by striking out the definition of "Federal service personnel".

**SECTION 38A.** Said section 103B of said chapter 54, as so appearing, is hereby amended by adding the following definition:–

"Specially qualified voter", those persons in the active service of the armed forces of the United States, and their spouses and dependents, who are absent from the city or town of their residence; persons in the merchant marine of the United States, and their spouses and dependents, who are absent from the city or town of their residence; citizens of the United States who are absent from the commonwealth; and persons confined in a correctional facility or jail; whose last domicile immediately prior to departure from the United States was, or whose present domicile is Massachusetts, and who are otherwise eligible to register as voters.

**SECTION 39.** Said chapter 54 is hereby further amended by striking out section 103C, as so appearing, and inserting in place thereof the following section:–

Section 103C. Any person who is included in the definition of "Specially qualified voter", as defined in section one hundred and three B, whether or not his name is included in the current annual register of voters of any city or town, or who may be determined to be qualified for voting therein in accordance with section one hundred and three J, may, if he meets the qualifications for an absent voter in section eighty-six, be furnished with an official absent voting ballot, prepared substantially in accordance with subsection (a) of section eighty-seven and section one hundred and three E, and may vote by means of such ballot at an election, provided, however, that an application therefor is filed with the clerk of the city or town of which he is such legal resident and the same is certified by the registrars of voters thereof, in the manner hereinafter provided.



**ACTS, 1985. – Chap. 477.**

**SECTION 40.** Section 103H of said chapter 54, as so appearing, is hereby amended by striking out the second, third, fourth, fifth, and sixth sentences and inserting in place thereof the following sentence:– He shall mark such ballot in the manner prescribed by section ninety-two, but a commissioned or warrant officer, noncommissioned officer not below the rank of sergeant or petty officer in the military or naval service of the United States, or a clerk of a court of record may perform the functions, if any, of the official authorized by law to administer oaths.

**SECTION 41.** Section 103J of said chapter 54, as so appearing, is hereby amended by striking out, in line 2, the words "federal service personnel" and inserting in place thereof the words:– "specially qualified voter".

**SECTION 42.** The fourth paragraph of said section 103J of said chapter 54, as so appearing, is hereby further amended by striking out the first sentence and inserting in place thereof the following sentence:– The registrars shall cause a suitable index to be made containing the name of each person deemed to be qualified for voting under this section, and his place of legal residence, with the street and number of his address, if any, at the time of the making of such application.

**SECTION 43.** Section 103P of said chapter 54, as so appearing, is hereby amended by striking out the first and second paragraphs and inserting in place thereof the following two paragraphs:–

Notwithstanding the provisions of any general or special law to the contrary, the provisions of sections one hundred and three B to one hundred and three Q, inclusive, shall be operative for any regular annual or biennial city or town election in every city or town. The mayor and aldermen in cities or selectmen in towns may fix the day of holding preliminary elections or primaries in their cities and towns. Where the filing of nomination papers and certification of names thereon in cities and towns that have preliminary elections is based upon the day of the election, they may fix the time for filing nomination papers and for certification of the names thereon. Where nominations for election at a city or town election are made by nomination papers, or by caucuses or conventions, they may fix the last day for filing certificates of nomination and nomination papers. In any city or town where petitions to place questions on the official ballot are filed, they may also fix the last day for filing such petitions. All such petitions shall be submitted to the registrars of voters for certification of the names thereon on or before the fourteenth day preceding the day so fixed for filing.

In any city or town election wherein the voting list of the current year is not available for the purpose of certifying names, the voting list of the preceding year, as amended or revised from time to time, may be used therefor.

**SECTION 44.** Section 103Q of said chapter 54, as so appearing, is



**ACTS, 1985. – Chap. 478.**

hereby amended by striking out, in lines 2 and 3, the words "federal service personnel" and inserting in place thereof the words:- specially qualified voters.

**SECTION 45.** Section 116 of said chapter 54, as so appearing, is hereby amended by striking out the second and third sentences and inserting in place thereof the following two sentences:- The governor shall issue certificates of election to such persons as appear to be chosen to the offices of senator in congress, representative in congress, clerk of the courts, register of probate, sheriff and district attorney, which shall be countersigned and transmitted by the state secretary. No certification shall be made or summons or certificate issued under this section until after five o'clock in the afternoon of the fifteenth day following a state election, or, in case a state-wide or district-wide recount is held in accordance with section one hundred and thirty-five, until the tabulation and determination under the preceding section have been revised in accordance with the results of such recount; provided, however, that such certification may be made or summons or certificate issued on or after the seventh day following a special state election, unless a candidate who received votes at that election files with the state secretary, not later than five o'clock in the afternoon of the sixth day following the election, a written statement of intention to seek a recount or otherwise to contest the election.

**SECTION 46.** Section 135 of said chapter 54, as so appearing, is hereby amended by striking out, in line 131, the word "in" and inserting in place thereof the words:- , and for presidential primaries except for ward and town committees, in.

**SECTION 47.** Section 26 of chapter 56 of the General Laws, as so appearing, is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:- This section shall apply to primaries, caucuses, elections and open town meetings.

**SECTION 48.** Section 150 of chapter 140 of the General Laws, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- Persons authorized or directed by section four of chapter fifty-one or by any special law to make lists of residents three years of age or older shall make a list of all dogs owned by the inhabitants at the time of making lists required under such section and return the same in duplicate to the city or town clerk, or, in Boston, to the police commissioner on or before April first.

Approved November 12, 1985.

EMERGENCY LETTER: December 6, 1985 @ 3:59 P.M.

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**Chapter 478. AN ACT FURTHER REGULATING THE AVAILABILITY OF LISTING OF PERSONS FOR MUNICIPAL STREET LISTS TO CITY AND TOWN COMMITTEE CHAIRMEN.**



**ACTS, 1985. – Chaps. 479, 480.**

Be it enacted, etc., as follows:

Section 7 of chapter 51 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by adding the following sentence:– In cities and towns where the information on such lists is compiled on computer tapes, a copy of the tape or a set of mailing labels shall be made available to the chairman of each city or town committee at a reasonable price to be determined by the state secretary.

Approved November 12, 1985.

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**Chapter 479. AN ACT ALLOWING A CREDIT UNION TO MAKE LOANS TO A MEMBER WHO HAS A SPECIAL NOTICE ACCOUNT.**

Be it enacted, etc., as follows:

Paragraph 5 of subdivision (A) of section 24 of chapter 171 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:– Such credit union may, upon application by a shareholder or depositor or by either of two joint shareholders or depositors in a special notice account, make a loan to him, secured by his share or deposit passbook, in an amount not exceeding said share or deposit balance, for a time not extending beyond the end of the dividend period in which the loan was made or one year from the day on which the loan was made, whichever is longer.

Approved November 12, 1985.

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**Chapter 480. AN ACT AUTHORIZING THE TOWN OF WILMINGTON TO TRANSFER THE CARE, CUSTODY AND CONTROL OF THE TOWN FOREST.**

Be it enacted, etc., as follows:

The town of Wilmington, acting through its board of selectmen, is hereby authorized to transfer the care, custody and control of the town forest, acquired by an Order of Taking recorded in northern district registry of deeds in the county of Middlesex in Book 2145, Page 453, as shown on a plan by Robert L. Higgins, town engineer, in plan book 120 as plan 84, to the conservation commission, and to authorize the construction and maintenance of a water storage tank and appurtenances thereon in a location to be determined by the town engineer.

Approved November 12, 1985.



ACTS, 1985. – Chaps. 481, 482, 483.

**Chapter 481. AN ACT RELATIVE TO THE PROVISIONS OF A CERTAIN LEASE.**

Be it enacted, etc., as follows:

Notwithstanding the provisions of any general or special law or administrative regulation or practice to the contrary, a lease between Berman & Sons, Inc. and the department of the state auditor entered into during the year nineteen hundred and eighty-five and providing for the rental of office space at one hundred Boylston Street, in the city of Boston, may provide for advance monthly rental payments and the state comptroller shall certify any such advance payments.

Approved November 12, 1985.

EMERGENCY LETTER: November 13, 1985 @ 9:28 A.M.

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**Chapter 482. AN ACT AUTHORIZING JOHN DEFAZIO TO TAKE A CIVIL SERVICE EXAMINATION FOR FIRE FIGHTER NOTWITHSTANDING THE MAXIMUM AGE REQUIREMENTS.**

Be it enacted, etc., as follows:

Notwithstanding the provisions of any general or special law or rule to the contrary regulating the maximum age of an applicant for appointment as a fire fighter, John DeFazio of the city of Beverly, shall be eligible to take the next open competitive examination for the position of fire fighter and, provided he meets all other requirements, shall be eligible for certification and appointment.

Approved November 12, 1985.

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**Chapter 483. AN ACT AUTHORIZING THE REPRODUCTION OF THE FUERTES BIRD PAINTINGS.**

Be it enacted, etc., as follows:

The division of fisheries and wildlife in the department of fisheries, wildlife and environmental law enforcement is hereby authorized to create and sell photographic reproductions of the original Fuertes paintings of the "Birds of Massachusetts" presently situated in the archives of the commonwealth. The profits from said sale shall be credited one-half to the Nongame Wildlife Fund, established pursuant to the provisions of section thirty-five D of chapter ten of the General Laws, and one-half to the Inland Fisheries and Game Fund, established pursuant to the provisions of section two of chapter one hundred and thirty-one of the General Laws. The provisions of this paragraph shall not impair any rights of the secretary of the commonwealth to create and sell such reproductions.



ACTS, 1985. – Chap. 484.

The archivist of the commonwealth may arrange for the restoration of said original Fuentes bird paintings with the assistance of the Massachusetts Audubon Society. In recognition of such assistance, the Massachusetts Audubon Society may publicly display said paintings for such reasonable periods of time and under such conditions as the archivist of the commonwealth shall determine.

The Massachusetts Audubon Society shall have the right to create and sell photographic reproductions of said Fuentes bird paintings upon the approval of the archivist of the commonwealth and the director of the division of fisheries and wildlife, which approval shall not be unreasonably withheld.

Approved November 12, 1985.

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**Chapter 484. AN ACT AUTHORIZING THE DIVISION OF CAPITAL PLANNING AND OPERATIONS TO CONVEY A CERTAIN PARCEL OF LAND IN THE CITY OF MELROSE, KNOWN AS THE LAWRENCE W. LLOYD MEMORIAL POOL, TO THE CITY OF MELROSE.**

Be it enacted, etc., as follows:

The division of capital planning and operations is hereby authorized in the name of and on behalf of the commonwealth, to convey to the city of Melrose, without monetary consideration, by deed approved as to form by the attorney general, a certain parcel of land, with structures thereon, known as the Lawrence W. Lloyd Memorial Pool, now under the control of the metropolitan district commission for use as a swimming pool. Said parcel is further bounded and described as follows:

WESTERLY by Tremont Street two hundred eighty and 00/100 (280.00) feet more or less;

NORTHERLY by an open ditch in land now or formerly of the City of Melrose one hundred ten (110) feet more or less;

NORTHEASTERLY AND NORTHERLY by the southerly and southwesterly shore of Ell Pond two hundred thirty-five (235) feet more or less;

EASTERLY by land now or formerly of Fitch Home, Inc. one hundred thirty-seven (137) feet more or less;

SOUTHERLY by land now or formerly of Fitch Home, Inc. sixty and 00/100 (60.00) feet;

EASTERLY by said land of Fitch Home, Inc. twenty-five and 00/100 (25.00) feet;

SOUTHERLY by land now or formerly of James R. and Patricia Harrison and land now or formerly of Michael A. and Mary A. Saija one hundred forty-six and 68/100 (146.68) feet to the point of beginning.

Containing fifty-four thousand four hundred (54,400) square feet more or less of land and shown as the lot "To Be Conveyed by City of Melrose to Commonwealth of Massachusetts. Area = 54,400 Sq. Ft." on a plan entitled "Commonwealth of Massachusetts, Metropolitan District



**ACTS, 1985. – Chaps. 485, 486.**

Commission, Park Engineering Division, Lynn Fells Parkway \*\*\* Dated: October 6, 1971, Benjamin W. Fink, Director of Park Engineering", being plan accession number 47210 V.T., to be recorded herewith.

The above described parcel being the same parcel conveyed, for no monetary consideration, by the city of Melrose, to the commonwealth, through its metropolitan district commission recorded in the southern district registry of deeds, in the county of Middlesex on March 7, 1972, in Book 12167, page 338.

Said conveyance shall be on such terms and conditions as mutually agreed upon between the city of Melrose and the division of capital planning and operations in consultation with the metropolitan district commission.

Approved November 12, 1985.

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**Chapter 485. AN ACT AUTHORIZING ROBERT O'NEIL TO TAKE A CIVIL SERVICE EXAMINATION FOR THE POSITION OF FIREFIGHTER NOTWITHSTANDING THE MAXIMUM AGE REQUIREMENTS.**

Be it enacted, etc., as follows:

Notwithstanding the provisions of any general or special law or rule to the contrary regulating the maximum age of an applicant for appointment as a firefighter, Robert O'Neil of the city of Cambridge shall be eligible to take the open competitive examination for the position of firefighter to be held on November twenty-third, nineteen hundred and eighty-five and, provided he meets all other requirements, shall be eligible for certification and appointment.

Approved November 12, 1985.

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**Chapter 486. AN ACT PROVIDING FOR THE APPOINTMENT OF A PURCHASING AGENT IN THE CITY OF SOMERVILLE.**

Be it enacted, etc., as follows:

**SECTION 1.** Section 21 of chapter 240 of the acts of 1899 is hereby amended by inserting after the word "solicitor", in line 8, the words:– ; purchasing agent.

**SECTION 2.** Section 43 of said chapter 240, as amended by section 3 of chapter 308 of the acts of 1932, is hereby further amended by striking out, in line 1, the words "heads of the department mentioned in this act" and inserting in place thereof the words:– purchasing agent.

**SECTION 3.** The first sentence of section 46A of said chapter 240, as appearing in section 1 of said chapter 308, is hereby amended by striking



**ACTS, 1985. – Chaps. 487, 488.**

out, in line 4, the word "one" and inserting in place thereof the word:- four.

**SECTION 4.** The first sentence of section 46B of said chapter 240, as so appearing, is hereby amended by striking out, in line 3, the word "one" and inserting in place thereof the word:- four.

Approved November 12, 1985.

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**Chapter 487. AN ACT AUTHORIZING THE TOWN OF WESTON TO MAKE CERTAIN COMPENSATION TO CERTAIN INJURED TOWN EMPLOYEES.**

Be it enacted, etc., as follows:

**SECTION 1.** Notwithstanding the provisions of section sixty-nine of chapter one hundred and fifty-two of the General Laws or any other general or special law to the contrary, the town of Weston may supplement worker's compensation payments to town employees, who receive injuries arising out of and in the course of their employment, up to the full amount of their regular salaries or wages during the period of time such employees are incapacitated.

**SECTION 2.** This act shall take effect upon its passage.

Approved November 13, 1985.

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**Chapter 488. AN ACT RELATIVE TO THE INVESTMENT OF BONDS AND NOTES BY CITIES AND TOWNS.**

**Whereas,** The deferred operation of this act would tend to defeat its purpose, which is to immediately permit cities and towns to invest the proceeds of certain bonds or notes, 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 21A of chapter 44 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:- The funds so held may be invested pursuant to section fifty-five and the income derived from such investment may be expended by the treasurer to pay the principal, redemption premium, if any, and interest on the bonds or notes refunded until they are paid or redeemed; provided, however, that notwithstanding any limitations on the maturity of investments under section fifty-five, any such investment may have a maturity not later than the date fixed for the payment or redemption of



**ACTS, 1985. – Chaps. 489, 490.**

the bonds or notes refunded.

Approved November 13, 1985.

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**Chapter 489. AN ACT FURTHER REGULATING THE TAXATION OF THE REAL AND PERSONAL PROPERTY OF CERTAIN CHARITABLE ORGANIZATIONS AND INSTITUTIONS.**

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately regulate the taxation of certain charitable corporations, 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:

Clause Third of section 5 of chapter 59 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by adding the following paragraph:–

In any city or town which accepts the provisions of this paragraph, the provisions of subsection (c) shall not apply to any charitable non-residential mental health facility, organized under chapter one hundred and eighty which provides clinical, therapeutic, diagnostic and counseling services to persons with mental disorders.

Approved November 13, 1985.

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**Chapter 490. AN ACT CLARIFYING CERTAIN PROCEDURES RELATIVE TO SUPPORT AND CUSTODY OF MINOR CHILDREN.**

Be it enacted, etc., as follows:

**SECTION 1.** Section 28 of chapter 208 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out the first sentence and inserting in place thereof the following two sentences:– Upon a judgment for divorce, the court may make such judgment as it considers expedient relative to the care, custody and maintenance of the minor children of the parties and may determine with which of the parents the children or any of them shall remain or may award their custody to some third person if it seems expedient or for the benefit of the children. Upon a complaint after a divorce, filed by either parent or by a next friend on behalf of the children after notice to both parents, the court may make a judgment modifying its earlier judgment as to the care, custody and maintenance of the minor children of the parties provided that the court finds that a material and substantial change in the circumstances of the parties has occurred and the judgment of modification is necessary in the best interests of the children.



**ACTS, 1985. – Chap. 491.**

**SECTION 2.** Said chapter 208 is hereby further amended by inserting after section 28 the following section:–

Section 28A. During the pendency of an action seeking a modification of a judgment for divorce, upon motion of either party or of a next friend on behalf of the minor children of the parties and notice to the other party or parties, the court may make temporary orders relative to the care, custody and maintenance of such children. Every order entered shall include specific findings of fact made by the court which clearly demonstrate the injury, harm or damage that might reasonably be expected to occur if relief pending a judgment of modification is not granted. An order entered, pursuant to this section, may only be entered without advance notice if the court finds that an emergency exists, the nature of which requires the court to act before the opposing party or parties can be heard in opposition. In all such cases, such order shall be for a period not to exceed five days and written notice of the issuance of any such order and the reasons therefor shall be given to the opposing party or parties together with notice of the date, time and place that a hearing on the continuation of such order will be held.

**SECTION 3.** Chapter 215 of the General Laws is hereby amended by inserting after section 6A the following section:–

Section 6B. Upon a complaint, after a judgment pursuant to this chapter relative to the care and custody of minor children, filed by either parent or by a next friend on behalf of the children, after notice to both parents, the court may make a judgment modifying its earlier judgment as to the care and custody of said minor children provided that the court finds that a material and substantial change in the circumstances of the parties has occurred and that a modification is necessary in the best interests of the children.

During the pendency of such an action, upon motion of either party or of a next friend on behalf of the minor children of the parties and notice to the other party or parties, the court may make temporary orders relative to the care and custody of such children. Every order entered shall include specific findings of fact made by the court which clearly demonstrate the injury, harm or damage that might reasonably be expected to occur if relief pending a judgment of modification is not granted. An order entered pursuant to this section may only be entered without advance notice if the court finds that an emergency exists, the nature of which requires the court to act before the opposing party or parties can be heard in opposition. In all such cases, such order shall be for a period not to exceed five days and written notice of the issuance of any such order and the reasons therefor shall be given to the opposing party or parties together with notice of the date, time and place that a hearing on the continuation of such order will be held.

Approved November 13, 1985.

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**Chapter 491. AN ACT RELATIVE TO TENURE RIGHTS FOR CERTAIN VOCATIONAL SCHOOL TEACHERS AND EMPLOYEES.**



**ACTS, 1985. – Chaps. 492, 493.**

Be it enacted, etc., as follows:

Section 22E of chapter 74 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by inserting after the first sentence the following sentence:– The provisions of this section shall apply to school librarians, school psychologists and school adjustment counselors entitled to tenure pursuant to the provisions of chapter seventy-one.

Approved November 13, 1985.

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**Chapter 492. AN ACT REQUIRING THE POSTING OF BONDS IN APPEALS ON SUBDIVISION PLANS.**

Be it enacted, etc., as follows:

**SECTION 1.** Section 17 of chapter 40A of the General Laws is hereby amended by inserting after the fifth paragraph the following paragraph:–

The court shall require nonmunicipal plaintiffs to post a surety or cash bond in a sum of not less than two thousand nor more than fifteen thousand dollars to secure the payment of such costs in appeals of decisions approving subdivision plans.

**SECTION 2.** Section 81BB of chapter 41 of the General Laws is hereby amended by inserting after the third paragraph the following paragraph:–

The court shall require nonmunicipal appellants to post a surety or cash bond in a sum of not less than two thousand nor more than fifteen thousand dollars to secure the payment of any costs incurred by the appellee as a result of the appeal of a decision approving a subdivision plan if it appears to the court that said appellant or appellants acted in bad faith or with malice in making the appeal to the court.

Approved November 13, 1985.

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**Chapter 493. AN ACT RELATIVE TO LEAVES OF ABSENCES FOR CERTAIN SCHOOL PERSONNEL ELECTED TO PUBLIC OFFICE.**

Be it enacted, etc., as follows:

Section 41A of chapter 71 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by adding the following paragraph:–

Any teacher, registered nurse, principal, supervisor, director, school librarian, superintendent or assistant superintendent, who is elected to a state office or elected by the people to the office of mayor shall, upon his written request made to the school committee, be granted a leave of



**ACTS, 1985. – Chaps. 494, 495.**

absence without pay from his position for all or such portion of the term for which he was elected as he may from time to time designate, and shall not as a result of such election, be suspended or discharged or suffer any loss of rights; provided, however, that any such leaves subsequent to the effective date of this act shall not exceed six years in the aggregate except upon the further written request of such teacher, registered nurse, principal, supervisor, director, school librarian, superintendent or assistant superintendent and upon the approval thereof by said school committee.

Approved November 13, 1985.

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**Chapter 494. AN ACT RELATIVE TO MORATORIUMS UPON  
SUBDIVISION PLANS.**

Be it enacted, etc., as follows:

The fifth paragraph of section 6 of chapter 40A of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by adding the following sentence:— Whether such period is eight years or seven years, it shall be extended by a period equal to the time which a city or town imposes or has imposed upon it by a state, a federal agency or a court, a moratorium on construction, the issuance of permits or utility connections.

Approved November 13, 1985.

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**Chapter 495. AN ACT RELATIVE TO RECALL ELECTIONS IN THE  
TOWN OF WESTPORT.**

Be it enacted, etc., as follows:

**SECTION 1.** Any holder of an elected office in the town of Westport convicted of a felony during his term of office may be recalled therefrom by the registered voters of the town as herein provided, except, the maximum number of members of a board that may be recalled is a majority.

**SECTION 2.** Any one hundred registered voters of the town may initiate a recall petition by filing with the town clerk an affidavit containing the name of the officer sought to be recalled and a statement that the grounds for recall is that said officer was convicted of a felony during his term of office. The town clerk shall thereupon deliver to said voters making the affidavit copies of petition blanks demanding such recall, copies of which printed forms he shall keep available. Such blanks shall be issued by the town clerk, with his signature and official seal attached thereto. They shall be dated, shall be addressed to the selectmen and shall contain the names of all the persons to whom they



**ACTS, 1985. – Chap. 495.**

are issued, the name of the person whose recall is sought, the grounds of recall as stated in the affidavit, and shall demand the election of a successor in the said office. A copy of the petition shall be entered in a record book to be kept in the office of the town clerk. Said recall petition shall be returned and filed with the town clerk within twenty days after the filing of the affidavit, and shall have been signed by at least twenty-five per cent of the registered voters of the town, who shall add to their signatures the street and number, if any, of their residences.

The town clerk shall within twenty-four hours of receipt submit the petition to the registrars of voters in the town, and the registrars shall within five working days certify thereon the number of signatures which are names of registered voters of the town.

**SECTION 3.** If the petition shall be found and certified by the town clerk to be sufficient he shall submit the same with his certificate to the selectmen within five working days, and the selectmen shall within five working days give written notice of the receipt of the certificate to the officer sought to be recalled and shall, if the officer does not resign within five days thereafter, order an election to be held on a date fixed by them not less than sixty and not more than ninety days after the date of the town clerk's certificate that a sufficient petition has been filed; provided, however, that if any other town election is to occur within ninety days after the date of the certificate the selectmen shall postpone the holding of the recall election to the date of such other election. No person shall be subject to recall if his term of office expires within ninety days of the certificate. If a vacancy occurs in said office after a recall election has been ordered, the election shall nevertheless proceed as provided in this section.

**SECTION 4.** Any officer sought to be removed may be a candidate to succeed himself, and unless he requests otherwise in writing, the town clerk shall place his name on the ballot without nomination. The nomination of other candidates, the publication of the warrant for the removal election, and the conduct of the same, shall all be in accordance with the provisions of law relating to elections, unless otherwise provided in this act.

**SECTION 5.** The incumbent shall continue to perform the duties of his office until the recall election. If then reelected, he shall continue in office for the remainder of his unexpired term subject to recall as before, except as provided in this section. If not reelected in the recall election, he shall be deemed removed upon the qualification of his successor, who shall hold office during the unexpired term. If the successor fails to qualify within five days after receiving notification of his election, the incumbent shall thereupon be deemed removed and the office vacant.

**SECTION 6.** Ballots used in a recall election shall submit the following propositions in the order indicated:



**ACTS, 1985. – Chaps. 496, 497.**

For the recall of (name of officer).

Against the recall of (name of officer).

Immediately at the right of each proposition there shall be a square in which the voter, by making a cross mark (X) may vote for either of the said propositions. Under the propositions shall appear the word "Candidates", the directions to the voters required by section forty-two of chapter fifty-four of the General Laws, and beneath this the names of candidates nominated in accordance with the provisions of law relating to elections. If two-thirds of the votes cast upon the question of recall is in the affirmative, the candidate receiving the highest number of votes shall be declared elected. If more than one-third of the votes on the question are in the negative, the ballots for candidates need not be counted.

**SECTION 7.** No recall petition shall be filed against an officer within ninety days after he takes office, nor, in the case of an officer subjected to a recall election and not recalled thereby, until at least ninety days after the election at which his recall was submitted to the voters of the town.

**SECTION 8.** No person who has been recalled from an office or who has resigned from office while recall proceedings were pending against him, shall be appointed to any town office within one year after such recall or such resignation.

Approved November 13, 1985.

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**Chapter 496. AN ACT DESIGNATING THE SONG "THE ROAD TO BOSTON" AS THE OFFICIAL CEREMONIAL MARCH OF THE COMMONWEALTH.**

Be it enacted, etc., as follows:

Chapter 2 of the General Laws is hereby amended by adding the following section:—

Section 27. The song "The Road to Boston", composer unknown, shall be the official ceremonial march of the commonwealth.

Approved November 13, 1985.

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**Chapter 497. AN ACT AUTHORIZING FRANK ALBANO TO TAKE A CIVIL SERVICE EXAMINATION FOR FIREFIGHTER NOTWITHSTANDING THE MAXIMUM AGE REQUIREMENTS.**

Be it enacted, etc., as follows:

Notwithstanding the provisions of any general or special law or rule to



**ACTS, 1985. – Chaps. 498, 499.**

the contrary regulating the maximum age of applicants for appointment as a firefighter, Frank Albano of the city of Newton shall be eligible to take the next open competitive examination for appointment to the position of firefighter and, provided he meets all other requirements, shall be eligible for certification and appointment.

Approved November 13, 1985.

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**Chapter 498. AN ACT FURTHER REGULATING CERTAIN WATER RECREATIONAL VEHICLES.**

Be it enacted, etc., as follows:

**SECTION 1.** Section 1 of chapter 90B of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by inserting after the definition of "Horsepower" the following definition:–

"Jet skis", – a ski propelled by machinery and designed to travel over water.

**SECTION 2.** Said section 1 of said chapter 90B is hereby further amended by inserting after the definition of "Ship's lifeboats" the following definition:–

"Surf jet", – a surfboard propelled by machinery and designed to travel over water.

**SECTION 3.** Said section 1 of said chapter 90B is hereby further amended by adding the following definition:–

"Wetbike", – a vessel designed to travel over water, supported by skis propelled by machinery.

**SECTION 4.** Section 11 of said chapter 90B, as so appearing, is hereby amended by striking out clause (j) and inserting in place thereof the following clause:–

(j) Establish speed limits for motorboats on any of the rivers, harbors, lakes or ponds located within the commonwealth or any political subdivision thereof; provided, however, that the maximum speed limit for jet skis, surf jets and wetbikes shall be twelve miles per hour.

Approved November 13, 1985.

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**Chapter 499. AN ACT VALIDATING CERTAIN ACTIONS TAKEN AT THE ANNUAL TOWN MEETING OF THE TOWN OF IPSWICH IN THE YEAR NINETEEN HUNDRED AND EIGHTY-FIVE.**

Be it enacted, etc., as follows:

Notwithstanding the provisions of section five of chapter forty A of



**ACTS, 1985. – Chaps. 500, 501.**

the General Laws or any other general or special law to the contrary, all actions taken by the town of Ipswich at its annual town meeting held on April first, nineteen hundred and eighty-five with respect to amendments of said town's zoning by-laws as appearing in Articles 16, 18, 19 and 20 of the warrant for said town meeting are hereby validated, ratified and confirmed.

Approved November 13, 1985.

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**Chapter 500. AN ACT AUTHORIZING THE LICENSING AUTHORITY OF THE CITY OF NORTHAMPTON TO ISSUE AN ADDITIONAL LICENSE FOR THE SALE OF ALL ALCOHOLIC BEVERAGES TO BE DRUNK ON THE PREMISES TO THE FACULTY CENTER AT SMITH COLLEGE.**

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately authorize the licensing authority of the city of Northampton to issue an additional license for the sale of all alcoholic beverages to be drunk on the premises to the faculty center at Smith College, 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:

Notwithstanding the provisions of section seventeen of chapter one hundred and thirty-eight of the General Laws, the licensing authority in the city of Northampton is hereby authorized to issue a license for the sale of all alcoholic beverages to be drunk on the premises under the provisions of section twelve of said chapter one hundred and thirty-eight to the Faculty Center at Smith College. Said license shall be subject to all the provisions of said chapter one hundred and thirty-eight, except for section seventeen; provided, however, that the licensing authority shall not approve the transfer of said license to any other person, organization, corporation or location; and provided, further, that the issuing of this license shall reduce by one any increase in licenses issued due to census reapportionment under section seventeen.

Approved November 19, 1985.

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**Chapter 501. AN ACT MAKING AN APPROPRIATION TO FUND A MEMORANDUM OF AGREEMENT BETWEEN THE BOARD OF REGENTS OF HIGHER EDUCATION AND AFSCME, SEIU AND MTC FOR CERTAIN CLASS REALLOCATIONS.**

Be it enacted, etc., as follows:



**ACTS, 1985. – Chap. 501.**

**SECTION 1.** To provide for the cost of salary adjustments and other employee economic benefits authorized by the memorandum of agreement between the Board of Regents of Higher Education and AFSCME, AFL-CIO, SEIU, AFL-CIO, and Maintenance Trades Council of New England, AFL-CIO for certain class reallocations, the sum set forth in section two of this act is hereby made available, subject to the provisions of law regulating the disbursement of public funds and the conditions pertaining to appropriations in chapter one hundred and forty of the acts of nineteen hundred and eighty-five.

**SECTION 2.**

**EXECUTIVE OFFICE OF ADMINISTRATION AND FINANCE.**

Collective Bargaining.

Item

1599-3503 For a reserve to meet the cost of certain salary adjustments and other employee economic benefits authorized by the memorandum of agreement between the board of regents and AFSCME, AFL-CIO, SEIU, AFL-CIO and Maintenance Trades Council of New England, AFL-CIO for certain class reallocations; and to meet the cost of salary adjustments and other economic benefits necessary to provide equal salary adjustments or benefits to employees employed in "confidential" positions which would otherwise be covered by said memorandum of agreement; provided, however, that the personnel administrator, with the approval of the commissioner of administration, shall determine such salary adjustments and other economic benefits for "confidential" employees in accordance with the provisions of the memorandum of agreement then in effect which would otherwise cover said positions; provided further, that the commissioner of administration is hereby authorized to transfer from the sum appropriated herein to other items of appropriation for the fiscal year nineteen and eighty-six, such amounts as are necessary to meet the costs of said adjustments and benefits for fiscal year nineteen hundred and eighty-six and prior years, where the amounts otherwise available are insufficient for the purpose; provided, further, that said commissioner of administration is authorized to allocate the cost of such salary adjustments and benefits to the several state or other funds to which such items of appropriation are charged;



**ACTS, 1985. – Chaps. 502, 503.**

provided, further, that copies of said memorandum of agreement, together with an analysis of all cost items contained in said agreement and all changes to be made in the schedules of permanent and temporary positions required by said agreement, shall be filed with the house and senate committees on ways and means prior to the transfer or allocation of any amounts necessary to meet the cost of said adjustments and benefits; and provided, further, that no transfers, payments, or allocations shall be made from this item without the prior approval of the house and senate committees on ways and means

\$17,054

**SECTION 3.** This act shall take effect upon its passage.

Approved November 19, 1985.

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**Chapter 502. AN ACT AUTHORIZING THE TOWN OF MARSHFIELD TO ISSUE AN ADDITIONAL LICENSE FOR THE SALE OF ALL ALCOHOLIC BEVERAGES NOT TO BE DRUNK ON THE PREMISES TO GREENBUSH REALTY CORP.**

Be it enacted, etc., as follows:

Notwithstanding the provisions of section seventeen of chapter one hundred and thirty-eight of the General Laws, the licensing authority of the town of Marshfield is hereby authorized to issue to Greenbush Realty Corp., a license for the sale of all alcoholic beverages, not to be drunk on the premises under the provisions of section fifteen of said chapter one hundred and thirty-eight. Said license shall be subject to all the provisions of said chapter one hundred and thirty-eight except said section seventeen; provided, however, that the licensing authority shall not approve the transfer of said license to any other person, organization, corporation or location; and provided, further, that the granting of this license shall reduce by one any increase in licenses granted due to census reapportionment under section seventeen.

Approved November 19, 1985.

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**Chapter 503. AN ACT AUTHORIZING GERALD D. COLTON TO TAKE A CIVIL SERVICE EXAMINATION FOR FIREFIGHTER IN THE TOWN OF TEWKSBURY NOTWITHSTANDING THE MAXIMUM AGE REQUIREMENTS.**



**ACTS, 1985. – Chaps. 504, 505.**

Be it enacted, etc., as follows:

**SECTION 1.** Notwithstanding the provisions of any general or special law to the contrary or any rule regulating the maximum age of applicants for appointment as a firefighter, Gerald D. Colton, shall be eligible to take the next open, competitive examination for the position of firefighter in the town of Tewksbury and, provided he meets all other requirements, shall be eligible for certification and appointment.

**SECTION 2.** This act shall take effect upon its passage.

Approved November 20, 1985.

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**Chapter 504. AN ACT FURTHER REGULATING LEAVES OF ABSENCE FOR TEACHERS SERVING AS PRESIDENT OF A STATEWIDE PROFESSIONAL EDUCATIONAL ORGANIZATION.**

Be it enacted, etc., as follows:

Section 41A of chapter 71 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out, in line 19, the word "two" and inserting in place thereof the word:– four.

Approved November 20, 1985.

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**Chapter 505. AN ACT RELATIVE TO THE SUBMISSION OF END OF YEAR REPORTS BY SCHOOL DISTRICTS.**

Be it enacted, etc., as follows:

**SECTION 1.** Section 3 of chapter 72 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:– The superintendent of schools shall annually on or before September fifteenth transmit the school returns to the commissioner, signed and sworn to by him, containing the following information together with any other information required by the commissioner in accordance with section one of chapter sixty-nine:–.

**SECTION 2.** Said chapter 72 is hereby further amended by striking out section 6, as so appearing, and inserting in place thereof the following section:–

Section 6. A town may request and receive an extension of time for submission of its report and returns from the commissioner for cause.

Any town which has not received an extension of time and whose report and returns are not received by the commissioner on or before September thirtieth shall be subject to such penalties as may be



**ACTS, 1985. – Chaps. 506, 507.**

established by the board of education under regulations adopted by it under chapter thirty A of the General Laws. Such penalties may include, but not be limited to, forfeiture by such town of part or all of the amount to be distributed to it by the state treasurer under chapter seventy.

Approved November 20, 1985.

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**Chapter 506. AN ACT FURTHER DEFINING CIRCULATION OF LIBRARY MATERIALS WITHIN REGIONAL SYSTEMS.**

Be it enacted, etc., as follows:

Chapter 78 of the General Laws is hereby amended by inserting after section 19E the following section:–

Section 19F. Any library system providing service under an approved plan as provided in clause (3) of section nineteen C or such public library or libraries designated by the board may through the board enter into an arrangement or arrangements with libraries not included by clauses (1) and (2) of said section nineteen C as the board may determine; under the terms of which such library system or such public library or libraries designated by the board may provide, and the amount arranged to be applied only to the related costs, for the delivery and retrieval of reference and research books, periodicals and other library materials, or other services within the approved plan.

Approved November 20, 1985.

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**Chapter 507. AN ACT RELATIVE TO THE ELIGIBILITY OF CERTAIN BIDDERS.**

Be it enacted, etc., as follows:

Section 39M of chapter 30 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out subsection (c) and inserting in place thereof the following subsection:–

(c) The term "lowest responsible and eligible bidder" shall mean the bidder (1) whose bid is the lowest of those bidders possessing the skill, ability and integrity necessary for the faithful performance of the work; (2) who shall certify that he is able to furnish labor that can work in harmony with all other elements of labor employed or to be employed in the work; (3) who, where the provisions of section eight B of chapter twenty-nine apply, shall have been determined to be qualified thereunder; and (4) who obtains within ten days of the notification of contract award the security by bond required under section twenty-nine of chapter one hundred and forty-nine; provided that for the purposes of this section the term "security by bond" shall mean the bond of a surety company qualified to do business under the laws of the commonwealth



**ACTS, 1985. – Chaps. 508, 509, 510.**

and satisfactory to the awarding authority.

Approved November 20, 1985.

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**Chapter 508. AN ACT AUTHORIZING CREDIT UNIONS TO INCREASE THE AGGREGATE BALANCE OF ITS SHARE DEPOSIT ACCOUNTS HELD ON MORTGAGES ON UNITS OF CONDOMINIUMS.**

Be it enacted, etc., as follows:

Paragraph 13 of subsection (b) of subdivision (B) of section 24 of chapter 171 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out, in line 375, the word "six" and inserting in place thereof the following word:– fifteen.

Approved November 20, 1985.

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**Chapter 509. AN ACT FURTHER REGULATING THE PAYMENT OF DIVIDENDS AND RATES IN CREDIT UNIONS.**

Be it enacted, etc., as follows:

Section 25 of chapter 171 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out the third, fourth and fifth paragraphs and inserting in place thereof the following paragraph:–

Dividends may be paid at various rates based on the type and amount of an account or on the terms and conditions applicable to said accounts.

Approved November 20, 1985.

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**Chapter 510. AN ACT AUTHORIZING THE SOUTH MIDDLESEX REGIONAL VOCATIONAL TECHNICAL SCHOOL DISTRICT TO PAY FIFTY PER CENT OF THE PREMIUM FOR GROUP HEALTH INSURANCE FOR CERTAIN RETIRED EMPLOYEES.**

Be it enacted, etc., as follows:

The South Middlesex Regional Vocational Technical School District, acting through its school committee, is hereby authorized to enter into agreements with the South Middlesex Regional Vocational Technical Administrators Association, the South Middlesex Regional Vocational Technical Secretarial Association and the American Federation of State, County and Municipal Employees, AFL-CIO, State Council 93, Local 1709, and the permanent, full time employees of the said school district



**ACTS, 1985. – Chaps. 511, 512.**

not included within employee bargaining groups, that the South Middlesex Regional Vocational Technical School District to pay fifty per cent of the premium actually paid for group health insurance by those employees above referred to who have retired directly from the South Middlesex Regional Vocational Technical School District, and are receiving a pension or annuity allowance from the teachers retirement system or from some other retirement system or are receiving a social security retirement allowance, and have attained the age of fifty-five years and have served for a minimum of ten years as a full time, permanent employee in the South Middlesex Regional Vocational Technical School District.

Approved November 20, 1985.

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**Chapter 511. AN ACT REGULATING THE ISSUANCE AND REDEMPTION OF GIFT CERTIFICATES.**

Be it enacted, etc., as follows:

Chapter 266 of the General Laws is hereby amended by inserting after section 75B the following section:—

Section 75C. Whoever sells or offers to sell a gift certificate which imposes a time limit of less than two years within which such certificate may be redeemed, or who sells or offers to sell a gift certificate having a time limit of greater than two years within which to redeem such certificate, but which does not have the expiration date of each such certificate clearly marked on its face, shall be punished by a fine of not more than three hundred dollars. The provisions of this section shall not apply when the purchaser of the gift certificate is not obligated to pay for such gift certificate until the time of use. Whoever, after having sold a gift certificate refuses to redeem such certificate before it has reached any lawful expiration date it may have, shall be punished by a fine of not more than three hundred dollars.

Approved November 20, 1985.

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**Chapter 512. AN ACT FURTHER REGULATING PROFESSIONAL SOCIETIES OF LAND SURVEYORS.**

Be it enacted, etc., as follows:

Section 85N of chapter 231 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by inserting after the word "engineering", in line 11, the words:— , land surveyor, as set forth in section eighty-one D of chapter one hundred and twelve.

Approved November 20, 1985.



ACTS, 1985. – Chaps. 513, 514, 515.

**Chapter 513. AN ACT PROVIDING FOR THE APPOINTMENT OF THE TOWN CLERK OF THE TOWN OF CHATHAM BY THE BOARD OF SELECTMEN OF SAID TOWN.**

Be it enacted, etc., as follows:

The town clerk of the town of Chatham shall be appointed by the board of selectmen of said town for a term not to exceed three years, and the person so appointed shall have all the powers and duties by law vested in the office of town clerk and such other powers as may from time to time be established. Said town may establish by by-law such qualifications and terms of employment for such office as it deems necessary and appropriate. Upon the qualification and appointment of the town clerk pursuant to the authority contained in this act, the elected incumbent of the office of town clerk of said town shall cease to exercise the powers and duties of said office. Any vacancy in such office shall be filled in like manner for the unexpired portion of the term.

Approved November 20, 1985.

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**Chapter 514. AN ACT VALIDATING THE RESULTS OF A CERTAIN ELECTION HELD IN THE TOWN OF LEYDEN.**

Be it enacted, etc., as follows:

Notwithstanding the provisions of section fifty-one of chapter fifty-four of the General Laws or any other general or special law to the contrary, the special election for selectman to fill a vacancy in an unexpired term in the town of Leyden held on August twenty-sixth, nineteen hundred and eighty-five, is hereby validated.

Approved November 20, 1985.

EMERGENCY LETTER: November 26, 1985 @ 4:17 P.M.

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**Chapter 515. AN ACT RELATIVE TO THE CLARIFICATION OF THE FEES OF REGISTERS OF DEEDS.**

Be it enacted, etc., as follows:

Section 38 of chapter 262 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:—

The fees of registers of deeds, except as otherwise provided, to be paid when the instrument is left for recording, filing or deposit shall be as follows: For entering and recording any paper, certifying the same on the original, and indexing it and for all other duties pertaining thereto, ten dollars for the first four pages. The fee for recording a deed or conveyance shall be twenty-five dollars for the first four pages. The fee for recording a mortgage shall be twenty dollars for the first four pages.



**ACTS, 1985. – Chap. 516.**

If the deed, conveyance, mortgage or other paper contains more than four pages, the rate shall be one dollar for each page after the first four pages.

Approved November 20, 1985.

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**Chapter 516. AN ACT PROVIDING FOR AN INVESTIGATION BY THE TREASURER OF THE COMMONWEALTH RELATIVE TO CERTAIN CORPORATE ACTIVITY.**

Be it enacted, etc., as follows:

Notwithstanding any general or special law or regulation to the contrary, the state treasurer, acting as the treasurer/custodian of the state employees' retirement system and the teachers' retirement system, and as the chairman of the pension reserves investment management board, is hereby authorized and directed to investigate by means of a survey the extent to which corporations organized under the laws of the United States or the several states and operating in Northern Ireland, in which the assets of said retirement systems or of the pension reserves investment trust fund are invested, adhere to principals of nondiscrimination in employment and freedom of workplace opportunity. In conducting said survey, the treasurer may utilize any information presently available relative to similar pension plans. In making said determination, said treasurer shall consider, without limitation, the following standards for corporate activity:

(1) equal access to employment, promotion, and job-preservation without regard to religious affiliation or other minority status;

(2) the promotion of religious tolerance within the workplace, and the eradication of any manifestations of religious and other illegal discrimination;

(3) adherence to other legal and regulatory guidelines for nondiscrimination and equality of opportunity, existing in Northern Ireland;

(4) adherence to the McBride Principles for Northern Ireland, so-called.

Said treasurer shall set forth the results of said investigation by filing a report with the clerks of the house of representatives and of the senate not later than the first business day in January of each year. Said report shall include, but not be limited to, the names and addresses of all United States corporations operating in Northern Ireland in which the assets of said retirement systems or trust fund are invested, and the findings of said treasurer relative to these corporations' adherence to the standards for corporate activity as set forth. Said treasurer shall also report his recommendations, if any, consistent with prudent fiduciary practice, based upon the findings of said investigation. Said report shall be available for public inspection in the offices of the clerks of the house of representatives and of the senate, and in the office of the state treasurer.

The treasurer, subject to the approval of the investment committee,



**ACTS, 1985. – Chaps. 517, 518.**

established under paragraph (a) of subdivision (1) of section twenty-three of chapter thirty-two of the General Laws, and said pension reserves investment management board, established under paragraph (a) of subdivision (2A) of said section twenty-three, shall, where necessary, appropriate, and consistent with prudent standards for fiduciary practice, initiate and support shareholder petitions or initiatives requiring corporate action in compliance with the standards for nondiscrimination set forth in this act.

Approved November 21, 1985.

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**Chapter 517. AN ACT PROVIDING THAT JOHN REARDON OF THE CITY OF BOSTON MAY TAKE THE NEXT OPEN COMPETITIVE ENTRANCE EXAMINATION FOR FIREFIGHTER.**

Be it enacted, etc., as follows:

**SECTION 1.** Notwithstanding the provisions of any general or special law or rule to the contrary regulating the maximum age of applicants for appointment as a firefighter, John Reardon of the city of Boston, shall be eligible to take the next open competitive entrance examination for firefighter in the city of Boston and, provided he meets all other requirements, shall be eligible for certification and appointment as a firefighter in the city of Boston.

**SECTION 2.** This act shall take effect upon its passage.

Approved November 22, 1985.

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**Chapter 518. AN ACT AUTHORIZING NEAL R. HERRICK TO TAKE A CIVIL SERVICE EXAMINATION FOR FIREFIGHTER IN THE TOWN OF MANSFIELD NOTWITHSTANDING THE MAXIMUM AGE REQUIREMENTS.**

Be it enacted, etc., as follows:

**SECTION 1.** Notwithstanding the provisions of any general or special law or rule to the contrary regulating the maximum age of applicants for appointment as a firefighter, Neal R. Herrick shall be eligible to take the next competitive examination for firefighter in the town of Mansfield and, provided he meets all other requirements, shall be eligible for certification and appointment.

**SECTION 2.** This act shall take effect as of November twentieth, nineteen hundred and eighty-five.

Approved November 22, 1985.



**ACTS, 1985. – Chaps. 519, 520.**

**Chapter 519. AN ACT AUTHORIZING THE DEPARTMENT OF ENVIRONMENTAL MANAGEMENT TO GRANT AN ADDITIONAL TWENTY FOOT EASEMENT TO TENNESSEE GAS PIPELINE COMPANY, A DIVISION OF TENNECO, INC.**

Whereas, The deferred operation of this act would tend to defeat its purpose which is to immediately authorize the department of environmental management to grant an additional twenty foot easement for the expansion of gas transmission lines across land of the commonwealth to increase the supply of natural gas, 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:

The division of capital planning and operations, acting in consultation with the department of environmental management for and on behalf of the commonwealth, is hereby authorized to grant by deed approved as to form by the attorney general to the Tennessee Gas Pipeline Company, a division of Tenneco, Inc., a permanent easement of a twenty foot wide strip adjacent to, and in addition to, the existing easement of the Tennessee Gas Pipeline Company across certain land under the control of the department.

Said lands, presently being used for conservation purposes, are situated in the county of Hampden, and are described in a plan of land entitled "Tennessee Gas Pipeline Company, a Proposed Right-of-Way Crossing, Brimfield State Forest Property, Hampden County, Massachusetts, TB-L12-T200-2-49" on file with the department of environmental management, which shall be recorded with the registry of deeds in Hampden county.

Said easement shall be used for the installation and maintenance of additional gas transmission lines which shall be installed underground, together with appliances and appurtenances necessary thereto.

Tennessee Gas Pipeline Company, in payment for said additional easement shall transfer to the commonwealth in fee simple, a parcel of land determined by said division and said department to be equivalent to or in excess of the value of the easement granted, or, if said division in consultation with said department so decides, shall pay a fair market value price to be determined by one or more independent appraisals approved by the deputy commissioner of the division of capital planning and operations and the costs thereof to be assumed by said Tennessee Gas Pipeline Company.

Approved November 23, 1985.

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**Chapter 520. AN ACT PROVIDING THAT MENTALLY RETARDED PERSONS SHALL BE COVERED BY CERTAIN INSURANCE POLICIES.**



**ACTS, 1985. – Chaps. 521, 522, 523.**

Be it enacted, etc., as follows:

Section 193T of chapter 175 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by inserting after the word "blindness", in line 6, the words:– , mental retardation.

Approved November 23, 1985.

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**Chapter 521. AN ACT RELATIVE TO EXTRA WORK OR MATERIALS, ORDERS AND CLAIMS IN CERTAIN PUBLIC CONTRACTS.**

Be it enacted, etc., as follows:

The first sentence of section 20A of chapter 29 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out, in line 9, the words "five thousand", and inserting in place thereof the following words:– fifteen thousand.

Approved November 23, 1985.

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**Chapter 522. AN ACT ALLOWING DEPOSITORY CANDIDATES TO PURCHASE GOODS AND SERVICES FROM A POLITICAL COMMITTEE OF THEIR PARTY.**

Be it enacted, etc., as follows:

The definition of Contributions in section 1 of chapter 55 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by inserting after the word "hospitality", in line 48, the words:– ; provided, however, that a transfer of funds or payments by a depository candidate or his committee to the political committee of a party, for goods or services provided to a candidate or his committee by such political party shall not be considered to be a contribution.

Approved November 23, 1985.

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**Chapter 523. AN ACT INCREASING THE AMOUNT A SCHOOL COMMITTEE MAY EXPEND FOR CERTAIN COLLECTIVE BARGAINING LEGAL SERVICES.**

Be it enacted, etc., as follows:

**SECTION 1.** Section 16 of chapter 71 of the General Laws is hereby amended by striking out clause (j), as appearing in the 1984 Official Edition, and inserting in place thereof the following clause:–

(j) To engage legal counsel.



**ACTS, 1985. – Chap. 524.**

**SECTION 2.** Section 37E of said chapter 71, as so appearing, is hereby amended by striking out the word "ten", in line 5, and inserting in place thereof the word:– twenty-five.

**SECTION 3.** Said chapter 71 is hereby further amended by striking out section 37F, as so appearing, and inserting in place thereof the following section:–

Section 37F. The school committee of a city or town may employ legal counsel for the general purposes of the committee and may expend money therefor from the funds appropriated by said city or town for school purposes. Said legal counsel shall not be subject to the provisions of section nine A of chapter thirty or the provisions of chapter thirty-one.

Approved November 23, 1985.

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**Chapter 524. AN ACT RELATIVE TO THE DISCLOSURE OF INFORMATION BY SOCIAL WORKERS.**

**Be it enacted, etc., as follows:**

Chapter 112 of the General Laws is hereby amended by striking out section 135, as appearing in the 1984 Official Edition, and inserting in place thereof the following section:–

Section 135. No social worker in any licensed category, including those in private practice, and no social worker employed in a state, county or municipal governmental agency, shall disclose any information he may have acquired from a person consulting him in his professional capacity or whom he has served in his professional capacity except:

(a) with the written consent of such person or, in the case of death or disability of such person, of his representative, other person authorized to sue, or the beneficiary of an insurance policy on his life, health, or physical condition;

(b) that a licensed certified social worker, including one engaged in independent clinical practice, licensed social worker, licensed social work associate, or a social worker employed in a state, county, or municipal agency, shall not be required to treat as confidential a communication that reveals the contemplation or commission of a crime or harmful act;

(c) when the person waives the privilege by bringing charges against the licensed certified social worker, including one engaged in independent clinical practice, the licensed social worker, the licensed social work associate or by a social worker employed in a state, county, or municipal agency;

(d) to initiate a proceeding under subsection C of section twenty-three of chapter one hundred and nineteen or section twenty-four of said chapter one hundred and nineteen, or section three of chapter two hundred and ten and give testimony in connection therewith;



**ACTS, 1985. – Chap. 525.**

(e) in any other child custody case in which, upon a hearing in chambers, the judge, in the exercise of his discretion, determines that the social worker has evidence bearing significantly on the person's ability to provide suitable custody, and that it is more important to the welfare of the child that the information be disclosed than that the relationship between the person and social worker be protected;

(f) where the social worker has acquired the information while conducting an investigation pursuant to section fifty-one B of chapter one hundred and nineteen.

Approved November 23, 1985.

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**Chapter 525. AN ACT TO PROVIDE FOR PROBATE COURT ADJUDICATIONS OF COMPETENCY AND SUBSTITUTED ADJUDICATIONS OF COMPETENCY AND SUBSTITUTED JUDGMENT IN CERTAIN CASES INVOLVING TREATMENT WITH ANTIPSYCHOTIC MEDICATIONS.**

Be it enacted, etc., as follows:

**SECTION 1.** Chapter 201 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out section 6 and inserting in place thereof the following section:-

Section 6. (a) A parent of a mentally ill person, two or more relatives or friends of a mentally ill person, a nonprofit corporation organized under the laws of the commonwealth whose corporate charter authorizes the corporation to act as a guardian of a mentally ill person or any agency within the executive offices of human services or educational affairs may file a petition in the probate court asking to have a guardian appointed for such mentally ill person and if, after notice as provided in section seven and a hearing, the court finds that he is incapable of taking care of himself by reason of mental illness, it shall appoint a guardian of his person and estate. A copy of such appointment shall be sent by mail by the register to the department of mental health. The court may require additional medical or psychological testimony as to the mental condition of the person alleged to be mentally ill and may require him to submit to examination. It may also appoint one or more physicians, or licensed psychologists, expert in mental illness, to examine such person and report their conclusions to the court. Reasonable expenses incurred in such examination shall be paid out of the estate of such person, by the petitioner, or by the commonwealth, as the court may determine.

(b) No guardian so appointed shall have the authority to cause to admit or commit such person to a mental health or retardation facility unless the court specifically finds the same to be in the best interests of such person and specifically so authorizes such admission or commitment by its order or decree. The court shall not authorize such admission or commitment except after a hearing for the purposes of which counsel shall be provided for any indigent, allegedly mentally ill person.



**ACTS, 1985. – Chap. 525.**

(c) No guardian so appointed shall have the authority to consent to treatment with antipsychotic medication, provided however, that the court shall authorize such treatment when it (1) specifically finds using the substituted judgment standard that the person, if competent, would consent to such treatment and (2) specifically approves and authorizes an antipsychotic medication treatment plan by its order or decree, after considering the testimony or affidavit of a licensed physician regarding such plan. The court shall not authorize such treatment plan except after a hearing for the purpose of which counsel shall be provided for any indigent mentally ill person. Said hearing shall be held as soon as is practicable; provided, however, that if the petitioner requests a temporary order on the grounds that the welfare of the ward requires an immediate authorization of treatment with antipsychotic medications, the court shall act on such request in accordance with the procedures set forth in section fourteen.

(d) The court may delegate to a guardian the authority to monitor the treatment process to ensure that an antipsychotic medication treatment plan is followed, provided a guardian is readily available for such purpose. Approval of a treatment plan shall not be withheld, however, because a guardian is not available to serve as monitor. In such circumstances, the court shall appoint a suitable person to monitor the treatment process to ensure that the antipsychotic medication treatment plan is followed. Reasonable expense incurred in such monitoring may be paid out of the estate of such person, by the petitioner, or, subject to appropriation, by the commonwealth, as the court may determine.

(e) At a hearing relative to authority to cause to admit or commit or authority to administer antipsychotic medication, the court shall require the attendance of the allegedly mentally ill person unless the court finds that there exists extraordinary circumstances requiring his absence, in which event the attendance of his counsel shall suffice; provided that the court may base its findings exclusively upon affidavits and other documentary evidence if it (1) determines, after careful inquiry and upon representations of counsel, that there are no contested issues of fact and (2) includes in its findings the reasons that oral testimony was not required. The court may also appoint one or more persons experienced in the evaluation, care and treatment of mentally ill persons to examine such person and report their conclusions to the court.

(f) Any privilege established by section one hundred and thirty-five of chapter one hundred and twelve or by section twenty B of chapter two hundred and thirty-three, relating to confidential communications, shall not prohibit the filing of reports or affidavits, or the giving of testimony, pursuant to this chapter, for the purpose of obtaining treatment of a mentally ill person; provided, however, that such person has been informed prior to making such communications that they may be used for such purpose and has waived the privilege.

**SECTION 2.** Chapter 201 of the General Laws, as so appearing, is hereby amended by striking out section 6A and inserting in place thereof the following section:—

Section 6A. A parent of a mentally retarded person, two or more



ACTS, 1985. – Chap. 525.

relatives or friends of a mentally retarded person, a nonprofit corporation organized under the laws of the commonwealth whose corporate charter authorizes the corporation to act as guardian of a mentally retarded person, or any agency within the executive offices of human services or educational affairs may file a petition in the probate court asking to have a guardian appointed for such mentally retarded person. If, after notice as provided in section seven and a hearing, the court finds that the person is mentally retarded to the degree that he is incapable of making informed decisions with respect to the conduct of his personal and financial affairs, that failure to appoint a guardian would create an unreasonable risk to his health, welfare and property, and that appointment of a conservator pursuant to section sixteen B would not eliminate such risk, it may appoint a guardian of his person and estate. The court shall not so find unless the petition is accompanied by a report from a clinical team consisting of a physician, a licensed psychologist and a social worker, each of whom is experienced in the evaluation of mentally retarded persons, that it has examined the said person and has determined that he is mentally retarded to the degree that he is incapable of making informed decisions with respect to the conduct of his personal and financial affairs. The court shall not, pursuant to this section, appoint as guardian any person or organization which, in its opinion, has any interest, responsibilities or powers which would render such person or organization unable to perform the duties of guardian in the best interest of the mentally retarded person. A copy of such appointment shall be sent by mail by the register to the department of mental health. The court may require additional testimony as to the existence and degree of mental retardation, and may require the person subject to the petition to submit to examination.

(b) No guardian so appointed shall have the authority to cause to admit or commit such mentally retarded person to a mental health or retardation facility unless the court specifically finds the same to be in the best interests of such person and specifically authorizes such admission or commitment by its order or decree. The court shall not authorize such admission or commitment except after a hearing for the purposes of which counsel shall be provided for any indigent mentally retarded person.

(c) No guardian so appointed shall have the authority to consent to treatment with antipsychotic medication, provided that the court shall authorize such treatment when it (1) specifically finds using the substituted judgment standard that the person, if competent, would consent to such treatment and (2) specifically approves and authorizes an antipsychotic medication treatment plan by its order or decree. The court shall not authorize such treatment plan except after a hearing for the purpose of which counsel shall be provided for any indigent mentally retarded person. Said hearing shall be held as soon as is practicable; provided, however, that if the petitioner requests a temporary order on the grounds that the welfare of the ward requires an immediate authorization of treatment with antipsychotic medications, the court shall act on such request in accordance with the procedures set forth in section fourteen.



ACTS, 1985. – Chap. 525.

(d) The court may delegate to a guardian the authority to monitor the treatment process to ensure that an antipsychotic medication treatment plan is followed, provided a guardian is readily available for such purpose. Approval of a treatment plan shall not be withheld, however, because a guardian is not available to serve as monitor. In such circumstances, the court shall appoint a suitable person to monitor the treatment process to ensure that the antipsychotic medication treatment plan is followed. Reasonable expense incurred in such monitoring may be paid out of the estate of such person, by the petitioner, or, subject to appropriation, by the commonwealth, as may be determined by the court.

(e) At a hearing relative to authority to cause to admit or commit or authority to administer antipsychotic medication, the court shall require the attendance of such allegedly mentally retarded person unless the court finds that there exists extraordinary circumstances requiring his absence, in which event the attendance of his counsel shall suffice; provided that the court may base its findings exclusively upon affidavits and other documentary evidence if it (1) determines, after careful inquiry and upon representations of counsel, that there are no contested issues of fact and (2) includes in its findings the reason that oral testimony was not required. The court may also appoint one or more persons experienced in the evaluation, care and treatment of mentally retarded persons to examine such person and report their conclusions to the court.

(f) Reasonable expenses incurred in any examination conducted pursuant to this section shall be paid by the petitioner, the estate of such persons, or by the commonwealth as the court may determine.

(g) The guardian of a mentally retarded person shall act to protect the welfare of such person and may utilize the services of agencies and individuals to provide necessary and desirable social and protective services of different types appropriate to such person including, but not limited to, counseling services, advocacy services, legal services, and other aid as he deems to be in the interest of such person.

(h) Any privilege established by section one hundred and thirty-five of chapter one hundred and twelve or by section twenty B of chapter two hundred and thirty-three, relating to confidential communications, shall not prohibit the filing of reports or affidavits, or the giving of testimony, pursuant to this chapter, for the purpose of obtaining treatment of a mentally retarded person; provided, however, that such person has been informed prior to making such communication that they may be used for such purpose and has waived the privilege.

**SECTION 3.** Chapter 201 of the General Laws, as so appearing, is hereby amended by striking out section 14 and inserting in place thereof the following section:–

Section 14. (a) Upon the petition of any agency within the executive offices of human services or educational affairs or other person in interest, the court may, if it finds that the welfare of a minor, a mentally ill or mentally retarded person or spendthrift requires the immediate appointment of a temporary guardian of his person and estate, appoint a temporary guardian of such minor, mentally ill or



**ACTS, 1985. – Chap. 525.**

mentally retarded person or spendthrift, with or without notice, and may in like manner remove or discharge him or terminate the trust; or in the absence of a person to serve as temporary guardian, the court by order or decree may authorize and monitor, as appropriate, medical treatment; provided, however, that if the court makes the findings required in paragraph (c) it shall authorize treatment with antipsychotic medication and shall, in the absence of a person to serve as temporary guardian, appoint a suitable person to monitor the treatment process to ensure that the treatment plan approved by the court is followed. A temporary guardian may proceed and continue in the execution of his duties, notwithstanding an appeal from the decree appointing him, until it is otherwise ordered by the supreme judicial court, or until the appointment of a permanent guardian, or until the trust is otherwise legally terminated. Reasonable expense incurred in such monitoring may be paid out of the estate of such person, by the petitioner, or, subject to appropriation, by the commonwealth, as the court may determine.

(b) No temporary guardian so appointed shall have the authority to cause to admit or commit such minor, mentally ill or mentally retarded person or spendthrift to a mental health or retardation facility unless the court specifically finds the same to be in the best interests of such person and specifically authorizes such admission or commitment by its order or decree.

(c) No temporary guardian so appointed shall have the authority to consent to treatment with antipsychotic medication, provided that the court shall authorize such treatment when it (i) specifically finds using the substituted judgment standard that the person, if competent, would consent to such treatment and (ii) specifically approves and authorizes an antipsychotic medication treatment plan by its order or decree.

(d) The court shall not authorize such admission or commitment or treatment with antipsychotic medication except after a hearing for the purpose of which counsel shall be provided for any indigent person subject to such admission or commitment or such treatment and the court shall require the attendance of such person at such hearing unless the court finds that there exists extraordinary circumstances requiring his absence, in which event the attendance of his counsel shall suffice; provided that the court may base its findings exclusively on affidavits and other documentary evidence if it (1) determines after careful inquiry and upon representation of counsel, that there are not contested issues of fact, and (2) includes in its findings the reasons that oral testimony was not required; provided, however, that in cases of extreme emergency the court may authorize an admission or commitment by an ex parte proceeding, if it finds that the remedies under the emergency provisions of section twelve of chapter one hundred and twenty-three are not applicable or would not be available to deal with the present emergency.

(e) No separate petition shall be necessary for the appointment of a temporary guardian, and, except as otherwise specified herein, the procedures relative to filing, notice, hearings, and related matters normally incident to equitable proceedings and relief prior to final decree, shall apply to these proceedings, provided that a hearing on a request to authorize the administration of antipsychotic medication shall



**ACTS, 1985. – Chap. 526.**

be held as soon as is practicable, and the principles of equity normally applicable to the issuance, denial and expiration of temporary or preliminary relief and orders shall also so apply.

(f) Whenever a temporary guardian is so appointed, the decree or order shall indicate the nature of the emergency requiring such appointment and the particular harm sought to be avoided, and shall state that the temporary guardian so appointed is only authorized to take such actions with regard to the ward as are reasonably necessary to avoid the occurrence of that harm.

(g) Any privilege established by section one hundred and thirty-five of chapter one hundred and twelve or by section twenty B of chapter two hundred and thirty-three, relating to confidential communications, shall not prohibit the filing of reports or affidavits, or the giving of testimony, pursuant to this section, for the purpose of obtaining treatment of a mentally ill or mentally retarded person; provided, however, that such person has been informed prior to making such communications that they may be used for such purpose and has waived the privilege.

**SECTION 4.** The court shall, as soon as is practicable, promulgate rules establishing the maximum number of days within which a hearing shall be held on any petition seeking the appointment of a guardian, under section six or six A, or a temporary guardian, under section fourteen, authorized to consent to the administration of antipsychotic medication; provided, however, that pending the promulgation of such rules, the chief justice of the probate court department shall issue directives establishing such maximum time periods as he deems appropriate.

Approved November 23, 1985.

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**Chapter 526. AN ACT RELATIVE TO THE ASSESSMENT AND  
COLLECTION OF THE EXCISE UPON CERTAIN  
VESSELS.**

Be it enacted, etc., as follows:

Paragraph (f) of section 2 of chapter 60B of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by inserting after the word "situated", in line 4, the words:– ; provided, however, that if more than one municipality owns property in a harbor, the municipality which maintains such harbor in which the vessel is habitually moored, docked or situated shall assess and collect said excise; and provided, further, that where more than one municipality maintains portions of the harbor, the municipality which maintains that portion of the harbor in which the vessel is habitually moored, docked or situated shall assess and collect said excise.

Approved November 23, 1985.



ACTS, 1985. – Chap. 527.

**Chapter 527. AN ACT FURTHER REGULATING ENTRANCE REQUIREMENTS FOR CERTAIN CIVIL SERVICE EXAMINATIONS.**

Be it enacted, etc., as follows:

**SECTION 1.** Section 1 of chapter 31, as appearing in the 1984 Official Edition, is hereby further amended by striking out the definition of "Certification" and inserting in place thereof the following definition:–

"Certification", the designation to an appointing authority by the administrator of sufficient names from an eligible list or register for consideration of the applicants' qualifications for appointment pursuant to the personnel administration rules.

**SECTION 2.** Section 1 of said chapter 31 of the General Laws, as so appearing, is hereby amended by striking out the definition of "Entrance requirements" and inserting in place thereof the following definition:–

"Entrance requirements", the experience and educational prerequisites which an applicant must satisfy in addition to passing a civil service examination to be qualified for appointment to a civil service position.

**SECTION 3.** Section 6 of said chapter 31, as so appearing, is hereby amended by striking out the third paragraph and inserting in place thereof the following paragraph:–

An appointing authority desiring to make an original appointment in the official service shall submit a requisition to the administrator. Upon receipt of such requisition, the administrator shall certify from the eligible list sufficient names of persons for consideration of their qualifications for appointment by the appointing authority pursuant to section twenty-five and the personnel administration rules. If no suitable eligible list exists, or if the list contains the names of fewer than three persons who are qualified for appointment and willing to accept employment, the appointing authority may make a provisional appointment pursuant to sections twelve, thirteen and fourteen.

**SECTION 4.** Said chapter 31, as so appearing, is hereby amended by striking out section 13 and inserting in place thereof the following section:–

**Section 13.** An appointing authority, in requesting authorization to make a provisional appointment, shall file with the administrator or, if the appointing authority is a department, board, commission, institution or other agency within a executive office, with the secretary in charge of such office, a notice containing: (1) the information which the appointing authority believes is necessary to prepare and conduct an examination for the position for which such authorization is being requested, including a statement of the duties of the position, and the knowledge, skills and abilities necessary to perform such duties; (2) a proposal specifying the type of examination which should be held by the administrator; (3) a substantiation that the person proposed for the provisional appointment meets the proposed requirements for



**ACTS, 1985. – Chap. 527.**

appointment to the position and possesses the knowledge, skills and abilities necessary to perform such duties.

**SECTION 5.** The first paragraph of section 22 of said chapter 31, as so appearing, is hereby amended by striking out, in line 6, the words "of the examination" and inserting in place thereof the following words:— designated by the administrator.

**SECTION 6.** Clause (3) of the second paragraph of said section 22 of said chapter 31, as so appearing, is hereby amended by striking out, in line 7, the words "the examination" and by inserting in place thereof the following words:— appointment to the position.

**SECTION 7.** The third paragraph of said section 22 of said chapter 31, as so appearing, is hereby amended by striking out, in lines 21 and 24, the words "the examination" and inserting in place thereof the following words:— appointment to the position.

**SECTION 8.** The first paragraph of section 23 of said chapter 31, as so appearing, is hereby amended by striking out, in line 8, the words "the examination" and inserting in place thereof the following words:— appointment to the position.

**SECTION 9.** The second paragraph of said section 23 of said chapter 31, as so appearing, is hereby amended by striking out, in line 8, the words "of the examination" and inserting in place thereof the following words:— designated by the administrator.

**SECTION 10.** The first paragraph of section 24 of said chapter 31, as so appearing, is hereby amended by striking out, in line 5, the words "the examination" and inserting in place thereof the following words:— appointment to the position.

**SECTION 11.** The second paragraph of said section 24 of said chapter 31, as so appearing, is hereby amended by striking out, in lines 22 and 23, the words "of the examination" and inserting in place thereof the following words:— designated by the administrator.

**SECTION 12.** Section 25 of said chapter 31, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:— The administrator shall establish, maintain and revise eligible lists of persons who have passed each examination for appointment to a position in the official service.

**SECTION 13.** Said section 25 of said chapter 31, as so appearing, is hereby further amended by striking out the third paragraph and inserting in place thereof the following paragraph:—

Persons on an eligible list shall be eligible for certification from such list for such period as the administrator shall determine, but in any event not to exceed two years, unless one of the following exceptions applies:



**ACTS, 1985. – Chap. 527.**

(1) such eligibility is extended by law because such persons are in the military or naval service; (2) the administrator is temporarily enjoined by a court order from certifying names from an eligible list, in which case eligibility of persons on such list shall be extended for a period equal to the duration of such order; or (3) no new list is established, in which case eligibility of all persons on such list shall be extended until a new list is established for the same position for which the original list was established; provided, however, that the administrator may revoke the eligibility of the entire list or of any persons on such list subsequent to said two-year period if he shall determine that the effective maintenance of the merit system so requires such revocation and, provided further, that a written notice and explanation for said revocation is sent to the clerks of the senate and house of representatives.

**SECTION 14.** Said section 25 of said chapter 31, as so appearing, is hereby further amended by striking out the fourth paragraph.

**SECTION 15.** Said section 25 of said chapter 31, as so appearing, is hereby amended by striking out the fifth paragraph and inserting in place thereof the following paragraph:–

Following the certification of names to an appointing authority, such appointing authority shall submit a written report to the administrator indicating (a) with respect to each person whose name was certified, whether such person appeared to sign the certification, (b) whether each person who so appeared declined or expressed willingness to accept employment, and (c) each person selected for appointment. Such report shall include such verification as the administrator may require that each person willing to accept employment meets or fails to meet the entrance requirements for appointment designated by the administrator. Failure to submit such report on or prior to the date of expiration of the eligibility of a person on such list shall nullify an appointment of such person.

**SECTION 16.** Said chapter 31, as so appearing, is hereby amended by striking out section 27 and inserting in place thereof the following section:–

**Section 27.** Except as provided otherwise by section fifteen, if the administrator certifies from an eligible list the names of three persons who are qualified for and willing to accept appointment, the appointing authority, pursuant to the civil service law and rules, may appoint only from among such persons. If such eligible list contains the names of fewer than three such persons, the appointing authority may appoint from among those persons or may request authorization to make a provisional appointment pursuant to sections twelve, thirteen and fourteen.

If an appointing authority makes an original or promotional appointment from a certification of any qualified person other than the qualified person whose name appears highest, and the person whose name is highest is willing to accept such appointment, the appointing authority



**ACTS, 1985. – Chaps. 528, 529.**

shall immediately file with the administrator a written statement of his reasons for appointing the person whose name was not highest. Such an appointment of a person whose name was not highest shall be effective only when such statement of reasons has been received by the administrator. The administrator shall make such statement available for public inspection at the office of the department.

Approved November 23, 1985.

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**Chapter 528. AN ACT AUTHORIZING THE DIVISION OF CAPITAL PLANNING AND OPERATIONS TO PERMIT THE GENERAL ELECTRIC COMPANY TO TRANSFER CERTAIN EASEMENTS IN LAND OF THE COMMONWEALTH.**

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately authorize the division of capital planning and operations to permit the General Electric Company to transfer certain easements, 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:

The division of capital planning and operations, acting for and on behalf of the commonwealth, is hereby authorized to amend the agreements represented by the documents recorded with the Berkshire county middle district registry of deeds in Book 882 at Page 5 and Book 901 at Page 159 in order to permit the transfer, without consideration, by the General Electric Company, a New York corporation, to Electric Power Research Institute, a nonprofit District of Columbia corporation, of its easements land, now under the control of the division of fisheries and wildlife, under said agreements.

In consideration of such amendment the General Electric Company shall convey to the commonwealth a parcel of land abutting the Housatonic river in the town of Lenox, containing five acres, more or less, which shall be placed under the control of said division of fisheries and wildlife.

Approved November 26, 1985.

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**Chapter 529. AN ACT PROVIDING FOR THE TESTING OF NEWBORN INFANTS FOR CERTAIN TREATABLE INFECTIOUS DISEASES.**

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately provide for the testing of newborn infants for certain treatable infectious diseases, therefore it is hereby



**ACTS, 1985. – Chaps. 530, 531.**

declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

**SECTION 1.** Section 110A of chapter 111 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by inserting after the word "disorders", in line 3, the words:– or treatable infectious diseases.

**SECTION 2.** The first paragraph of said section 110A of said chapter 111, as so appearing, is hereby amended by inserting after the word "disorders", in line 10, the words:– or treatable infectious diseases.

**SECTION 3.** Section two of this act shall take effect on June first, nineteen hundred and eighty-six.

Approved November 26, 1985.

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**Chapter 530. AN ACT VALIDATING THE PROCEEDINGS AT THE SPECIAL TOWN MEETING OF THE TOWN OF SHARON HELD ON OCTOBER TWENTY-FIRST, NINETEEN HUNDRED AND EIGHTY-FIVE.**

Be it enacted, etc., as follows:

**SECTION 1.** All acts and proceedings of the town of Sharon at the special town meeting held on October twenty-first, nineteen hundred and eighty-five, and all actions subsequently taken pursuant thereto, are hereby ratified, validated and confirmed to the same extent as if there were no defects or errors in the posting of the warrant.

**SECTION 2.** This act shall take effect upon its passage.

Approved November 26, 1985.

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**Chapter 531. AN ACT AUTHORIZING THE CITY OF QUINCY TO APPROPRIATE A CERTAIN OVERLAY DEFICIT OVER A PERIOD OF YEARS.**

Be it enacted, etc., as follows:

**SECTION 1.** Notwithstanding any provisions of law to the contrary, the city of Quincy is hereby authorized to carry not in excess of two million four hundred thirty-six thousand seven hundred and twenty-seven dollars of its overlay deficit, as it existed as of June thirtieth, nineteen hundred and eighty-five, for the six fiscal years nineteen hundred and seventy-eight through and including nineteen hundred and eighty-three,



**ACTS, 1985. – Chap. 532.**

and to appropriate said overlay deficit in such amount or amounts and in such fiscal year or years as the city shall by majority vote of the city council upon the recommendation of the mayor determine, not later than the first full fiscal year following the final payment, at maturity, upon redemption or otherwise, of the City of Quincy Tax Abatement Funding Loan, Act of 1983, issued under the provisions of chapter six hundred and eighty-six of the acts of nineteen hundred and eighty-three.

**SECTION 2.** This act shall take effect upon its passage.

Approved November 26, 1985.

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**Chapter 532. AN ACT PROVIDING FOR THE UNIFORM DETERMINATION OF APPEALS OF UTILITY COMPANIES IN CASES BEFORE THE APPELLATE TAX BOARD CONCERNING THE CORRECT CLASSIFICATION OF CERTAIN TAXABLE PROPERTY.**

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately provide for an equitable and uniform procedure for the determination of the proper classification and taxation of the taxable property of utility companies, 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:**

Chapter 58A of the General Laws is hereby amended by inserting after section 12C, as appearing in the 1984 Official Edition, the following section:—

Section 12D. Notwithstanding the provisions of any general or special law to the contrary, in any appeal under the provisions of sections sixty-four or sixty-five of chapter fifty-nine from the refusal of the assessor to abate a tax or reclassify any real or personal property by an electric company or gas company, both as defined in section one of chapter one hundred and sixty-four, upon motion of any party after an appeal has been filed but before a decision is rendered concerning real or personal property of an electric or gas company for any fiscal year certified or following certification for classification by the commissioner under the provisions of section fifty-six of chapter forty or any determination of the commissioner made pursuant to section one A of chapter fifty-eight, the board shall properly classify all the taxable property at issue as either real or personal and determine the fair cash value of such property, and the tax that should have been paid, notwithstanding the assessor's original classification of such property or the amount or form of the tax bill received and paid; provided, however, that upon a determination that any property should be reclassified, the taxpayer shall be allowed to file an appeal late concerning the valuation of such property, if an appeal has not been previously filed, within thirty



**ACTS, 1985. – Chaps. 533, 534.**

days of such determination and order of the board.

In any determination made under this section, the board shall make subsidiary findings of the proper classification of all taxable property at issue, as either real or personal, the fair cash value and the total taxes that should have been paid for each parcel or item of such property, reduced by abatements, if any, for each fiscal year. Upon such determination, the board shall further find the taxes that were paid or owed for such property at issue as it was originally assessed and taxed, and shall then allocate and credit such taxes as part or all of the taxes that should have been paid for such property as properly classified by it, and such allocation shall be binding on the taxpayer and the assessor and shall be deemed to be the original tax assessed and owed, subject only to any appeal taken pursuant to section thirteen; provided, however, that if the total amount of taxes that should have been paid under the board's de novo determination under this section is equal to or greater than the amounts actually paid or owed, as determined under this section, the appellant shall not be entitled to an abatement, notwithstanding the local assessor's original classification of the taxable property or the form of the original tax bill received and paid. Upon a determination under this section, the existing official records of the city or town shall be amended and corrected, and assessments and tax bills shall be deemed to have been issued in conformance with the board's determination.

Approved November 26, 1985.

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**Chapter 533. AN ACT FURTHER REGULATING REMOVAL OF CERTAIN CASES TO THE SUPERIOR COURT DEPARTMENT AND TRANSFER OF CERTAIN CASES FROM THE SUPERIOR COURT DEPARTMENT.**

Be it enacted, etc., as follows:

**SECTION 1.** Section 102C of chapter 231 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out, in line 4, the words "seven thousand five hundred" and inserting in place thereof the words:– fifteen thousand.

**SECTION 2.** Section 104 of said chapter 231, as so appearing, is hereby amended by striking out, in lines 6 and 7, lines 30 and 31 and in line 36, the words "seven thousand five hundred" and inserting in place thereof, in each instance, the words:– fifteen thousand.

Approved November 26, 1985.

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**Chapter 534. AN ACT RELATIVE TO THE COLLECTION OF CERTAIN EXCISE TAXES ON REGISTERED MOTOR VEHICLES.**



**ACTS, 1985. – Chaps. 535, 536.**

Be it enacted, etc., as follows:

Section 2 of chapter 60A of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out the twelfth sentence and inserting in place thereof the following sentence:– Owners who neglect to pay the excise assessed under this chapter shall pay interest at the rate of twelve per cent per annum from the time when such excise was payable until paid.

Approved November 26, 1985.

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**Chapter 535. AN ACT AUTHORIZING THE CITY OF REVERE TO CONTINUE THE EMPLOYMENT OF SERGEANT JOHN W. BROWN AFTER THE AGE OF SEVENTY.**

Be it enacted, etc., as follows:

**SECTION 1.** Notwithstanding the provisions of any general or special law to the contrary, John W. Brown, a sergeant in the Revere police department, is hereby authorized to continue in such position until and including January fourteenth, nineteen hundred and ninety-one; provided, however, that he is mentally and physically capable of performing the duties of his office or position. Said John W. Brown shall, annually, at his own expense, be examined by an impartial physician designated by the Revere retirement board to determine such capability. No further deductions shall be made from the regular compensation of said employee under the provisions of chapter thirty-two of the General Laws for service subsequent to January fourteenth, nineteen hundred and eighty-six, and upon retirement said employee shall receive a superannuation retirement allowance equal to that which he would have been entitled had he retired on said date.

**SECTION 2.** The provisions of this act shall take effect upon an affirmative vote of the city council of said city, subject to the provisions of its charter.

Approved November 26, 1985.

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**Chapter 536. AN ACT PROHIBITING THE PRACTICE OF HAZING.**

Be it enacted, etc., as follows:

Chapter 269 of the General Laws is hereby amended by adding the following three sections:–

Section 17. Whoever is a principle organizer or participant in the crime of hazing as defined herein shall be punished by a fine of not more than one thousand dollars or by imprisonment in a house of correction for not more than one hundred days, or by both such fine and imprisonment.



**ACTS, 1985. – Chap. 537.**

The term "hazing" as used in this section and in sections eighteen and nineteen, shall mean any conduct or method of initiation into any student organization, whether on public or private property, which wilfully or recklessly endangers the physical or mental health of any student or other person. Such conduct shall include whipping, beating, branding, forced calisthenics, exposure to the weather, forced consumption of any food, liquor, beverage, drug or other substance, or any other brutal treatment or forced physical activity which is likely to adversely affect the physical health or safety of any such student or other person, or which subjects such student or other person to extreme mental stress, including extended deprivation of sleep or rest or extended isolation.

Section 18. Whoever knows that another person is the victim of hazing as defined in section seventeen and is at the scene of such crime shall, to the extent that such person can do so without danger or peril to himself or others, report such crime to an appropriate law enforcement official as soon as reasonably practicable. Whoever fails to report such crime shall be punished by a fine of not more than five hundred dollars.

Section 19. Each secondary school and each public and private school or college shall issue to every group or organization under its authority or operating on or in conjunction with its campus or school, and to every member, plebe, pledgee or applicant for membership in such group or organization, a copy of this section and sections seventeen and eighteen. An officer of each such group or organization, and each individual receiving a copy of said sections seventeen and eighteen shall sign an acknowledgement stating that such group, organization or individual has received a copy of said sections seventeen and eighteen.

Each secondary school and each public or private school or college shall file, at least annually, a report with the regents of higher education and in the case of secondary schools, the board of education, certifying that such institution has complied with the provisions of this section and also certifying that said school has adopted a disciplinary policy with regards to the organizers and participants of hazing. The board of regents and in the case of secondary schools, the board of education shall promulgate regulations governing the content and frequency of such reports, and shall forthwith report to the attorney general any such institution which fails to make such report.

Approved November 26, 1985.

EMERGENCY LETTER: November 26, 1985 @ 4:17 P.M.

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**Chapter 537. AN ACT AUTHORIZING CERTAIN ELECTRONIC VOTING EQUIPMENT.**

Be it enacted, etc., as follows:

**SECTION 1.** Section 33A of chapter 54 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by inserting after the third sentence the following sentence:– Voting machines which contain electronic components need not be equipped with a protective counter, and, instead of candidate and question counters, may be



**ACTS, 1985. – Chap. 538.**

equipped with internal components which register votes electronically.

**SECTION 2.** Section 33E of said chapter 54, as so appearing, is hereby amended by striking out the last paragraph and inserting in place thereof the following paragraph:–

If the system used requires the employment of a punch card or data processing card, each voter shall be supplied with an envelope for such card or an equivalent means for preserving the secrecy of the ballot, approved by the state secretary under the provisions of section thirty-two. If a voter wishes to vote for a candidate whose name is not printed upon the official ballot for an office, he may write in the name and address of the candidate of his choice or may affix a sticker or paster containing such name and address inside said envelope or in another approved place. After voting, the voter shall remove his card from the marking unit, shall enclose it at once in any envelope required, and shall insert the card, in any required envelope, in the ballot box. So far as practical, the same proceedings shall be had in each polling place as are required by sections seventy-six to eighty-five A, inclusive.

**SECTION 3.** The second paragraph of section 35B of said chapter 54, as so appearing, is hereby amended by inserting after the second sentence the following sentence:– Such results and votes may be read by means of a printer mechanism, if the voting machine is so equipped, and such results may be accumulated through the use of memory cartridges which are read directly or indirectly to a central computer.

**SECTION 4.** Section 105A of said chapter 54, as so appearing, is hereby amended by inserting after the first paragraph the following paragraph:–

Notwithstanding other provisions of this section to the contrary, if the approved electronic voting system is equipped to count votes electronically while the polls are open, the election officers shall read the vote totals from the counting device after the polls close, by means of a printer mechanism or otherwise and any person who in any manner ascertains or discloses the count of such votes before the polls close shall be punished as provided in section sixty-eight.

Approved November 26, 1985.

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**Chapter 538. AN ACT AUTHORIZING THE DEPARTMENT OF VETERANS' SERVICES TO PAY A CERTAIN SUM OF MONEY TO THE TOWN OF WESTPORT FOR CERTAIN BENEFITS PAID BY SAID TOWN.**

Be it enacted, etc., as follows:

There shall be allowed and paid out of the state treasury to the town of Westport, subject to appropriation and subject to the approval of the commissioner of veterans' services, a sum, not exceeding fifty-two



**ACTS, 1985. – Chaps. 539, 540.**

thousand three hundred thirty dollars and sixty-nine cents, as reimbursement, under the provisions of section six of chapter one hundred and fifteen of the General Laws, for veterans' benefits paid by said town in the years nineteen hundred and eighty through nineteen hundred and eighty-two. Said reimbursement not having been made because of a failure of said town to make a proper and seasonable report thereof to said commissioner. As a condition of payment, said commissioner shall require the town to present evidence that said sum was paid in compliance with section five of said chapter one hundred and fifteen.

Approved November 26, 1985.

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**Chapter 539. AN ACT FURTHER REGULATING THE DISPLAY OF COLORED LIGHTS ON CERTAIN MOTOR VEHICLES.**

Be it enacted, etc., as follows:

**SECTION 1.** The second paragraph of section 7E of chapter 90 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:— A vehicle owned or operated by a forest warden, deputy forest warden, a chief or deputy chief of a municipal fire department, a chaplain of a municipal fire department, a member of a fire department of a town or a call member of a fire department or a member or a call member of an emergency medical service may have mounted thereon flashing, rotating or oscillating red lights.

**SECTION 2.** The third paragraph of said section 7E of said chapter 90, as so appearing, is hereby amended by adding the following sentence:— In the event that the operator is not the registered owner of the vehicle, no permit shall be issued until said owner forwards to the registrar a written statement certifying that he has knowledge that such red light will be mounted and displayed on said vehicle.

Approved November 26, 1985.

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**Chapter 540. AN ACT AUTHORIZING THE DEPARTMENT OF PUBLIC WORKS TO ACQUIRE CERTAIN LAND IN THE CITIES OF LEOMINSTER AND FITCHBURG FOR HIGHWAY PURPOSES.**

Be it enacted, etc., as follows:

The deputy commissioner of capital planning and operations, acting for and in behalf of the commonwealth, is hereby authorized to acquire by eminent domain, by purchase or otherwise, under the provisions of section one of chapter six hundred and ninety-three of the acts of



**ACTS, 1985. – Chap. 540.**

nineteen hundred and fifty-five certain parcels of land belonging to the city of Leominster, located in the city of Leominster and in the city of Fitchburg, being used by the city of Leominster for reservoir purposes, and to transfer the care, custody and control of the said parcels of land to the department of public works for highway purposes.

Seven parcels of land located in the city of Fitchburg along the proposed modification of state highway route 2, ramps and minor roadways and bounded and described as follows:

Parcel 5-4

A certain rectangular shaped parcel of land the northerly side about one hundred (100) feet right of the existing route 2 baseline at about station 125+85 and about one hundred (100) feet right at or about station 128+90 of said baseline, approximately forty-one (41) feet wide and three hundred and twenty (320) feet long, containing about 0.28 acre of land to be used as a site for slope work.

Parcel 5-5

A certain rectangular shaped parcel of land the northerly side about one hundred and five (105) feet right of the existing route 2 baseline at about station 110+80 and about one hundred and five (105) feet at or about station 124+27 of said baseline, approximately thirty (30) feet wide and one thousand three hundred and ninety-nine (1,399) feet long, containing about 0.96 acre of land, to be used as a site for slope work.

Parcel 5-6

A certain rectangular shaped parcel of land the southerly side about one hundred (100) feet left of the existing route 2 baseline at about station 106+05 and about one hundred (100) feet left at or about station 114+68 of said baseline, approximately thirty-five (35) feet wide and eight hundred and eighty-eight (888) feet long, containing about 0.71 acre of land, to be used as a site for slope work.

Parcel 5-8

A certain irregular shaped parcel of land the northerly side about one hundred and ten (110) feet right of the existing route 2 baseline at about station 84+20 and about one hundred (100) feet right at or about station 98+60 of said baseline, approximately ninety (90) feet wide and one thousand, four hundred and forty (1,440) feet long, containing about 2.64 acre of land, to be used as a site for proposed ramps M and L.

Parcel 5-12

A certain rectangular shaped parcel of land the northerly side about three hundred (300) feet right of the existing route 2 baseline at about station 89+13 and about three hundred and ninety (390) feet right at or about station 97+65 of said baseline, approximately two hundred and sixty (260) feet wide and eight hundred and fifty-five (855) feet long, containing about 5.42 acre of land, to be used as a site for proposed ramps M and L and relocated 5th Massachusetts Pike.

Parcel 5-R-1

A certain rectangular shaped parcel of land on the northerly side of the existing route 2 baseline left of station 126+00 about 120 feet, to station 129+00 about 120 feet left, approximately 53 feet wide and about 315 feet long, containing about 0.15 acres of land to be used as an access road to an existing electrical sub-station.



ACTS, 1985. – Chap. 540.

Parcel 5-D-3

A certain irregular shaped parcel of land north of the existing route 2 baseline approximately 150 feet left of said baseline. Said parcel varies in width from 8 feet to 16 feet and is approximately 23 feet long, containing about 280 square feet of land to be used as a site for permanent drainage.

Five parcels of land in the city of Leominster along the proposed modification of state highway route 2, ramps and minor roadways and bounded and described as follows:

Parcel 8-3

A certain irregular shaped parcel of land the southerly side about one hundred (100) feet left of the existing route 2 baseline at about station 84+05 and about one hundred (100) feet left at or about station 104+00 of said baseline, approximately three hundred and thirty-five (335) feet wide and one thousand, nine hundred and eighty-four (1,984) feet long, containing about 15.23 acres of land, to be used as a site for proposed ramps J and K.

Parcel 8-5

A certain triangular shaped parcel of land the southerly side about one hundred (100) feet left of the existing route 2 baseline at about station 83+00 and about one hundred (100) feet left at or about station 83+55 of said baseline, approximately three hundred and fifty-four (354) feet wide and fifty-five (55) feet long, containing about 0.39 acre of land, to be used as a site for slope work.

Parcel 8-6

A certain rectangular shaped parcel of land the southerly side about one hundred and fifty (150) feet left of the existing route 2 baseline at about station 60+00 and about one hundred and fifty (150) feet left at or about station 66+60 of said baseline, approximately forty (40) feet wide and seven hundred (700) feet long, containing about 0.65 acre of land, to be used as a site for slope work.

Parcel 8-D-2

A certain irregular shaped parcel of land, about two hundred twenty-five (225) feet south of the existing route 2 baseline at station 50+00 and about one hundred feet south of the existing route 2 baseline at about station 53+00, approximately forty to fifty feet wide and about two hundred sixty feet long containing about 0.25 acres of land to be used as a site for permanent drainage.

Parcel 8-3-C

A certain triangular shaped parcel of land the easterly side about fifteen (15) feet right of the proposed relocated palmer centerline at station 10+40 and about thirty-five (35) feet right at or about 14+40 of said centerline, approximately thirteen (13) feet wide and four hundred and ten (410) feet long, containing about 3,718 S.F. of land to be used as a site for slope work.

Said parcels of land are shown on sheets 35, 36, and 55 of plan of land entitled "Fitchburg, Leominster, Westminster Route 2 Modification, Right of Way Plan Location Map, January 23, 1985", which plan shall be on file with the chief engineer of the department of public works. All parcels are to be diverted from their present reservoir use to highway uses.



**ACTS, 1985. – Chaps. 541, 542.**

Approved November 26, 1985.

EMERGENCY LETTER: December 9, 1985 @ 4:54 P.M.

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**Chapter 541. AN ACT AUTHORIZING THE ERECTION OF A PLAQUE TO COMMEMORATE THE MEN FROM MASSACHUSETTS WHO WERE AWARDED THE CONGRESSIONAL MEDAL OF HONOR FOR HEROIC SERVICE IN THE VIETNAM CAMPAIGN.**

Be it enacted, etc., as follows:

The deputy commissioner of capital planning and operations shall, upon approval of the art commission, and the committees on rules of the senate and house of representatives acting concurrently, erect in the lobby of the house of representatives a suitable plaque to commemorate the heroic service in the Vietnam Campaign of the men from Massachusetts who were awarded the congressional medal of honor. Such plaque shall be similar to the plaque erected in the state house honoring the men from Massachusetts who were awarded the congressional medal of honor for heroic service in World War II and the Korean Campaign. For the purposes of carrying out the provisions of this act there may be expended such sums as may be appropriated therefor.

Approved November 26, 1985.

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**Chapter 542. AN ACT RELATIVE TO THE FINANCING OF CERTAIN SCHOOL PROJECTS BY THE CITY OF LAWRENCE.**

Be it enacted, etc., as follows:

**SECTION 1.** The proceeds of grants made pursuant to chapter six hundred and forty-five of the acts of nineteen hundred and forty-eight for the Robert E. Frost and North Lawrence elementary school construction or re-construction projects in the city of Lawrence, to the extent disbursed to said city and not otherwise expended by said city, shall be paid by the treasurer of said city, and to the extent remaining to be disbursed to said city on or after the effective date of this act, by the state treasurer, to the trustee appointed in accordance with section four and shall be held in trust and applied by said trustee in accordance with the provisions of the trust agreement entered into pursuant to said section four, which may require such application, without limitation, to pay principal and interest on the bonds issued by the city for said projects, principal and interest on any notes issued in anticipation of said bonds, and premiums, fees or charges for trust or credit enhancement facilities or services issued or rendered to said city in accordance with agreements entered into pursuant to sections four or five, all of which



**ACTS, 1985. – Chap. 542.**

shall be eligible costs of the projects for all purposes of the grants and of chapter six hundred and forty-five of the acts of nineteen hundred and forty-eight. The annual payments provided for by the terms of said grants shall be paid to the trustee on the first day in May of each year commencing in nineteen hundred and eighty-six; provided, however, that if such first day of May is a Saturday, Sunday or legal holiday, said grants shall be paid on the next day which is not a Saturday, Sunday or legal holiday.

**SECTION 2.** At least fifteen days prior to each due date for a payment of principal or interest on bonds or notes issued by said city of Lawrence for the projects, or for a payment with respect to trust or credit enhancement facilities or services pursuant to sections four or five, the treasurer of said city shall deposit with the trustee the amount necessary to make such payment, after taking into account all other monies held by the trustee that are available for that purpose.

**SECTION 3.** Pending their use in accordance with applicable contract or other requirements, the proceeds of the bonds or notes issued by said city of Lawrence for each project shall be segregated from all other funds and accounts of said city and shall be held in trust by said trustee.

**SECTION 4.** Any funds to be held in trust under the provisions of this act shall be deposited for the account of the city of Lawrence with a corporate trustee, which may be any trust company or bank having the powers of a trust company within the commonwealth. The treasurer of said city, with the approval of the mayor, shall appoint the trustee, and shall execute a trust agreement in such form as they may determine to be necessary or appropriate. Any such funds held in trust may be invested in accordance with section fifty-four of chapter forty-four of the General Laws, but unless otherwise provided in the trust agreement any investment earnings shall be paid into the general fund of said city of Lawrence immediately upon receipt.

**SECTION 5.** In addition to other security provided herein or otherwise by law, bonds or notes issued by said city of Lawrence for said projects may be secured in whole or in part by insurance, or by letters or lines of credit or other credit facilities issued to said city by any bank, trust company or other financial institution. In connection therewith the treasurer of said city with the approval of the mayor, may enter into agreements with insurers, banks, or other financial institutions within or without the commonwealth and any such agreement may include covenants and provisions for protecting and enforcing the rights, security and remedies of the insurers or lenders as, in the discretion of said treasurer, may be reasonable and proper.

**SECTION 6.** This act shall take effect upon its passage.

Approved December 4, 1985.



ACTS, 1985. – Chaps. 543, 544.

**Chapter 543. AN ACT AUTHORIZING THE TREASURER OF NORFOLK COUNTY TO PAY CERTAIN UNPAID BILLS.**

Be it enacted, etc., as follows:

**SECTION 1.** The county treasurer of Norfolk county, with the approval of the Norfolk county hospital trustees, is hereby authorized to pay from the hospital revenues during the current fiscal year such of the unpaid bills incurred by said hospital and totaling thirty-two thousand nine hundred twelve dollars and seventy-two cents as set forth in a list on file in the office of the bureau of accounts in the department of revenue for goods supplied and services rendered to said hospital during the years nineteen hundred and eighty-one through nineteen hundred and eighty-three, which bills are legally unenforceable against said hospital by reason of their being incurred in excess of available appropriations.

**SECTION 2.** No bill shall be approved by the Norfolk county hospital trustees, or paid by the county treasurer thereof, under the authority of this act, unless and until a certificate has been signed and filed with said county treasurer stating, under the penalties of perjury, that the goods or services for such bill had been submitted, were ordered by an official or an employee of said hospital, and that such goods were delivered and actually received by said hospital or that such services were actually rendered to said hospital or both.

No payments shall be made hereunder until and unless approved by a vote of the Norfolk county advisory board with a quorum present and voting.

**SECTION 3.** This act shall take effect upon its passage.

Approved December 4, 1985.

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**Chapter 544. AN ACT MAKING AN APPROPRIATION TO FUND A MEMORANDUM OF AGREEMENT BETWEEN THE COMMONWEALTH AND THE NATIONAL ASSOCIATION OF GOVERNMENT EMPLOYEES, LOCAL R1-283 (UNIT 1) FOR CERTAIN CLASS REALLOCATIONS.**

Be it enacted, etc., as follows:

**SECTION 1.** To provide for the cost of salary adjustments and other employee economic benefits authorized by the memorandum of agreement between the commonwealth and the National Association of Government Employees, Local R1-283 (Unit 1) for certain class reallocations, the sum set forth in section two of this act is hereby made available, subject to the provisions of law regulating the disbursement of public funds and the conditions pertaining to appropriations in chapter one hundred and forty of the acts of nineteen hundred and eighty-five.



ACTS, 1985. – Chap. 544.

SECTION 2.

EXECUTIVE OFFICE OF ADMINISTRATION AND FINANCE.

Collective Bargaining.

Item

1599–3510 For a reserve to meet the cost of certain salary adjustments and other employee economic benefits authorized by the memorandum of agreement between the commonwealth and the National Association of Government Employees, Local R1–283 (Unit 1) for certain class reallocations and to meet the cost of salary adjustments and other economic benefits necessary to provide equal salary adjustments or benefits to employees employed in "confidential" positions which would otherwise be covered by said memorandum of agreement; provided, however, that the personnel administrator, with the approval of the commissioner of administration, shall determine such salary adjustments and other economic benefits for "confidential" employees in accordance with the provisions of the memorandum of agreement then in effect which would otherwise cover said positions; provided, further, that the commissioner of administration is hereby authorized to transfer from the sum appropriated herein to other items of appropriation for the fiscal year nineteen hundred and eighty-six such amounts as are necessary to meet the costs of said adjustments and benefits for fiscal year nineteen hundred and eighty-six and prior years where the amounts otherwise available are insufficient for the purpose; provided further, that said commissioner of administration is authorized to allocate the cost of such salary adjustments and benefits to the several state or other funds to which such items of appropriation are charged; provided, further, that copies of said memorandum of agreement, together with an analysis of all cost items contained in said agreement and all changes to be made in the schedules of permanent and temporary positions required by said agreement, shall be filed with the house and senate committees on ways and means prior to the transfer or allocation of any amounts necessary to meet the cost of said adjustments and benefits; and



**ACTS, 1985. – Chaps. 545, 546.**

provided, further, that no transfers, payments, or allocations shall be made from this item without the prior approval of the house and senate committees on ways and means

\$450,000

**SECTION 3.** This act shall take effect upon its passage.

Approved December 4, 1985.

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**Chapter 545. AN ACT AUTHORIZING THE CERTIFICATION AND APPOINTMENT OF DENIS BOURQUE OF THE TOWN OF LYNNFIELD AS A POLICE OFFICER NOTWITHSTANDING HIS SEPARATION FROM SUCH POSITION FOR OVER FIVE YEARS.**

Be it enacted, etc., as follows:

**SECTION 1.** Notwithstanding the provisions of any general or special law or rule to the contrary, the board of selectmen of the town of Lynnfield may reinstate Denis Bourque to the position of police officer of said town upon the occurrence of the next vacancy in the rank of patrolman in the police department of said town provided he passes a physical examination administered by the personnel administration of the department of personnel administration.

Nothing in the act shall require the board of selectmen to reinstate Denis Bourque to said position.

**SECTION 2.** This act shall take effect upon its passage and shall become inoperative on December thirty-first, nineteen hundred and eighty-six.

Approved December 4, 1985.

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**Chapter 546. AN ACT RELATIVE TO GROUP HEALTH INSURANCE COVERAGE FOR MUNICIPAL EMPLOYEES IN THE TOWN OF MOUNT WASHINGTON.**

Be it enacted, etc., as follows:

**SECTION 1.** Notwithstanding the provision of any general or special law to the contrary, the vote on Article 6 of the annual town meeting of the town of Mount Washington on February twentieth, nineteen hundred and seventy-three to raise and appropriate the sum to pay three-fourths of the town employees contributory group insurance is hereby rescinded.

**SECTION 2.** Notwithstanding the provision of any general or special law to the contrary, the vote on Article 8 of the annual town meeting of the town of Mount Washington on May seventh, nineteen hundred and



**ACTS, 1985. -- Chaps. 547, 548, 549.**

eighty-five to provide payments by the town of fifty per cent of the cost of premiums for group health insurance for its employees as set forth in chapter thirty-two B of the General Laws is hereby ratified and affirmed.

Approved December 4, 1985.

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**Chapter 547. AN ACT FURTHER REGULATING THE DEPARTMENT OF PUBLIC WORKS IN THE TOWN OF LENOX.**

Be it enacted, etc., as follows:

Section 2 of chapter 428 of the acts of 1974 is hereby amended by striking out, in line 5, the word "in" and inserting in place thereof the words:-- , including the duties of the sewer commissioners, in.

Approved December 4, 1985.

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**Chapter 548. AN ACT AUTHORIZING THE GOVERNOR TO DESIGNATE AN ADDITIONAL JUSTICE OF THE PEACE TO SOLEMNIZE MARRIAGES IN THE TOWN OF RANDOLPH.**

Be it enacted, etc., as follows:

Notwithstanding the provisions of section thirty-nine of chapter two hundred and seven of the General Laws regulating the number of justices of the peace that may be designated, the governor is hereby authorized to designate an additional justice of the peace in the town of Randolph to solemnize marriages under the provisions of said section thirty-nine.

Approved December 4, 1985.

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**Chapter 549. AN ACT RELATIVE TO THE ISSUANCE OF BONDS OR NOTES.**

Be it enacted, etc., as follows:

Section 49 of chapter 29 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by inserting after the second paragraph the following paragraph:--

Bonds or notes of the commonwealth which are subject to the requirement imposed by Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth that the governor recommend the term thereof to the general court shall not be issued, and monies to finance projects authorized to be financed by such bonds or notes shall not be advanced in anticipation of the issuance thereof, until legislation has been enacted upon such term recommendation.

Approved December 4, 1985.



ACTS, 1985. – Chaps. 550, 551.

**Chapter 550. AN ACT PROVIDING FOR AUDITS OF CONTRIBUTORY RETIREMENT SYSTEMS BY PUBLIC ACCOUNTANTS.**

Be it enacted, etc., as follows:

**SECTION 1.** Paragraph (a) of subdivision (1) of section 21 of chapter 32 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by adding the following four sentences:– Whenever the board of any system causes an examination of its financial condition to be made by a certified public accountant or a public accountant selected by said board, the board shall immediately, upon the employment of such person, file his name and address with the commissioner, and such person shall, within ten days after making the report of such examination to the board of such system, file a certified copy thereof with the commissioner. Any certified public accountant selected by said board shall conduct such examination in accordance with such procedures as the commissioner shall establish. The commissioner may, in his discretion, accept the examination so made, or cause an examination to be made pursuant to this paragraph. An examination conducted by a certified public accountant or a public accountant selected by said board, which is accepted by the commissioner, shall be deemed to be the examination required by this paragraph.

**SECTION 2.** Subdivision (2) of said section 21 of said chapter 32, as so appearing, is hereby amended by inserting after the word "commonwealth", in line 64, the words:– except for any expenses incurred in connection with a certified public accountant or a public accountant selected by the board of any system pursuant to the provisions of paragraph (a) of subdivision (1), which expenses shall be paid primarily by the applicable system.

Approved December 4, 1985.

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**Chapter 551. AN ACT REQUIRING SCHOOLS TO BE NOTIFIED OF THE ABSENCES OF PUPILS.**

Be it enacted, etc., as follows:

Chapter 76 of the General Laws is hereby amended by inserting after section 1 the following section:–

Section 1A. Upon the acceptance of this section by the local legislative body of a city or town, or by a majority vote of two-thirds of the member communities of a regional school district, the school committee of a city, town or regional school district shall establish a pupil absence notification program in all schools under its control. Said program may be developed with the assistance of the department of education. The parents or guardians of each pupil shall, annually, at the commencement of each school year, be sent a notice instructing them to



**ACTS, 1985. – Chaps. 552, 553, 554.**

call a designated telephone number at a designated time to inform the school of the absence of a pupil and the reason therefor. Said notice shall also require such parent or guardian to furnish the school with a home, work or other emergency telephone number where they can be contacted during the school day. If a pupil is absent and the school has not been notified by the designated time, the school shall call the telephone number or numbers furnished to inquire about said absence.

Approved December 4, 1985.

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**Chapter 552. AN ACT EXPANDING INVESTMENTS OF STATE LOTTERY FUNDS.**

Be it enacted, etc., as follows:

Section 38 of chapter 29 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by inserting after the second paragraph the following paragraph:—

The state treasurer may also purchase with a portion of the said State Lottery Fund, bonds, notes, shares in combined investment funds or other interest bearing obligations in accordance with the standards set forth in subdivision (3) of section twenty-three of chapter thirty-two.

Approved December 4, 1985.

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**Chapter 553. AN ACT AUTHORIZING STEPHEN M. MELLOR TO TAKE A CIVIL SERVICE EXAMINATION FOR POLICE OFFICER NOTWITHSTANDING THE MAXIMUM AGE REQUIREMENTS.**

Be it enacted, etc., as follows:

Notwithstanding the provisions of any general or special law or rule to the contrary regulating the maximum age of applicants for an appointment as a police officer, Stephen M. Mellor of the city of Boston shall be eligible to take the next open competitive examination for appointment to the position of police officer and, provided he meets all other requirements, shall be eligible for certification and appointment.

Approved December 4, 1985.

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**Chapter 554. AN ACT CONTINUING THE DUTIES AND RESPONSIBILITIES OF A TENANT OF THE TERM OF TENANCY IN MOBILE HOME PARKS INTO HIS ESTATE AFTER DEATH.**

Be it enacted, etc., as follows:



**ACTS, 1985. – Chaps. 555, 556.**

Section 32J of chapter 140 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by adding the following paragraph:-

For the purposes of this section, upon the death of a mobile home park tenant such tenancy shall continue in his estate of such tenant for a period of one year from the date of death or one year from the appointment of an executor or administrator, whichever first occurs.

Approved December 4, 1985.

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**Chapter 555. AN ACT PROVIDING THAT EMPLOYEES OF THE DEPARTMENT OF SOCIAL SERVICES WHO SUFFER ASSAULT AND BATTERY IN THE PERFORMANCE OF THEIR DUTIES SHALL BE PROTECTED.**

Be it enacted, etc., as follows:

Chapter 265 of the General Laws is hereby amended by striking out section 13D, as appearing in chapter 153 of the acts of 1985, and inserting in place thereof the following section:-

Section 13D. Whoever commits an assault and battery upon a police officer, firefighter, correction officer, sheriff, deputy sheriff, court officer, parole officer, parole supervisor, constable, an employee of the department of social services, an employee of the registry of motor vehicles having police powers, a public school teacher, a public school administrator or any person in a public school system having duties similar to a teacher or administrator when such person is engaged in the performance of his duty at the time of such assault and battery, or a bus, trackless trolley, rail, or rapid transit motorman, operator, gateman, guard, or collector when such person is engaged in the performance of his duties at the time of such assault and battery, shall be punished by imprisonment for not less than ninety days nor more than two and one-half years in a house of correction or by a fine of not less than five hundred nor more than five thousand dollars.

Approved December 4, 1985.

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**Chapter 556. AN ACT AUTHORIZING GEORGE FISK TO TAKE A CIVIL SERVICE EXAMINATION FOR POLICE OFFICER NOTWITHSTANDING THE MAXIMUM AGE REQUIREMENT.**

Be it enacted, etc., as follows:

Notwithstanding the provisions of any general or special law or rule to the contrary regulating the maximum age of applicants for appointment as a police officer, George Fisk shall be eligible to take the next open competitive examination for police officer in the town of North



**ACTS, 1985. – Chap. 557.**

Attleborough and, provided he meets all other requirements, shall be eligible for certification and appointment.

Approved December 4, 1985.

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**Chapter 557. AN ACT RELATIVE TO IDENTIFICATION AND TREATMENT OF CERTAIN PREMATURELY BORN INFANTS.**

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately identify and treat certain prematurely born infants, 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.** Chapter 111 of the General Laws is hereby amended by striking out section 67A, as appearing in the 1984 Official Edition, and inserting in place thereof the following section:-

Section 67A. Within ten days after the birth of any infant weighing twenty-five hundred grams or less or any infant with a high risk problem as defined by the department, each hospital or in the case of a birth outside of a hospital, the person responsible for delivery shall file a written notice of such birth on a form with the department. Said department shall promulgate rules which shall define the high risk problems and shall provide such reporting forms, and shall set forth the procedure to be followed when making such reports. An annual report shall be prepared on the status of premature and high risk infants. Such notices and reports shall be for the use of the department and its programs and shall not constitute a public record.

**SECTION 2.** Section sixty-seven B of said chapter one hundred and eleven is hereby repealed.

**SECTION 3.** Said chapter 111 is hereby further amended by striking out section 67C, as appearing in the 1984 Official Edition, and inserting in place thereof the following section:-

Section 67C. The department of public health shall provide programs for the prevention, care, and follow-up of premature and other designated high risk infants and establish criteria for services to be provided. The expenses for the transportation of said infants to hospitals equipped to care for them and the expenses of initial hospitalization shall be paid by the department where such costs are not reimbursed by a third party payer. Said payments shall be made in accordance with rates established by the rate setting commission. Said payments shall be made only at the request of the parents or guardians of said infants to the department. The department shall apply financial eligibility guidelines to said programs and expenses.



**ACTS, 1985. – Chaps. 558, 559.**

**SECTION 4.** Section sixty-seven D of said chapter one hundred and eleven is hereby repealed.

**SECTION 5.** This act shall take effect on January first, nineteen hundred and eighty-six.

Approved December 5, 1985.

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**Chapter 558. AN ACT AUTHORIZING THE CHIEF OF POLICE OF THE TOWN OF LEXINGTON TO HEAR COMPLAINTS RELATING TO DOGS.**

Be it enacted, etc., as follows:

**SECTION 1.** Notwithstanding the provisions of section one hundred and fifty-seven of chapter one hundred and forty of the General Laws or any other general or special law to the contrary, the chief of police of the town of Lexington or his designee shall carry out the functions assigned to the board of selectmen under said section one hundred and fifty-seven of said chapter one hundred and forty.

**SECTION 2.** This act shall take effect upon its passage.

Approved December 5, 1985.

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**Chapter 559. AN ACT AUTHORIZING JOHN C. DRINKWATER TO TAKE A CIVIL SERVICE EXAMINATION FOR THE POSITION OF FIREFIGHTER NOTWITHSTANDING THE MAXIMUM AGE REQUIREMENTS.**

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately allow for the taking of a civil service examination for the position of firefighter, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public welfare and convenience.

Be it enacted, etc., as follows:

**SECTION 1.** Notwithstanding the provisions of any general or special law or rule to the contrary regulating the maximum age of applicants for appointment as a firefighter, John C. Drinkwater, of the town of Norwood, shall be eligible to take the open competitive examination for the position of firefighter to be held on November twenty-third, nineteen hundred and eighty-five and, provided he meets all other requirements, shall be eligible for certification and appointment.

**SECTION 2.** Notwithstanding the provisions of section one of this act, John C. Drinkwater shall not be eligible for appointment to the position of firefighter in a city or town unless such city or town has accepted the



**ACTS, 1985. – Chaps. 560, 561, 562.**

provisions of this act authorizing said appointment.

Approved December 5, 1985.

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**Chapter 560. AN ACT RELATIVE TO APPLICATION FOR PUBLIC EMPLOYMENT.**

Be it enacted, etc., as follows:

Section 20 of chapter 31 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by adding the following paragraph:–

Notwithstanding the foregoing provisions, an application for examination or registration shall contain the following question:

"Have you been convicted of a criminal offense other than drunkenness, simple assault, speeding, traffic violation, affray, or disturbance of the peace?.

Yes.	
No.	

If yes, please indicate the date, court, offense charged and the penalty imposed." Each applicant shall answer such question, subject to the provisions of sections one hundred A, one hundred B and one hundred C of chapter two hundred and seventy-six.

Approved December 5, 1985.

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**Chapter 561. AN ACT RELATIVE TO THE CONSTRUCTION OF A BRANCH LIBRARY IN THE CITY OF BROCKTON.**

Be it enacted, etc., as follows:

Chapter three hundred and twenty-one of the acts of nineteen hundred and seventy-eight is hereby repealed.

Approved December 5, 1985.

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**Chapter 562. AN ACT FURTHER REGULATING ABSENTEE VOTING.**

Be it enacted, etc., as follows:

**SECTION 1.** Chapter 54 of the General Laws is hereby amended by striking out section 86, as most recently amended by section 31 of chapter 477 of the acts of 1985, and inserting in place thereof the following section:–

Section 86. Any voter who during the hours that polling places are open on the day of a special state election or the biennial state election or of any special or regular state primary or of a presidential primary is absent from the city or town where he is a voter by reason of his employment in another community or for any other reason or who will be unable by



**ACTS, 1985. – Chap. 562.**

reason of temporary or permanent physical disability to cast his vote in person at the polling place or who for reasons of religious belief will be unable to cast his vote in person on the day of an election and whose application for an official absent voting ballot has been filed with the city or town clerk as provided in section eighty-nine, and certified under section ninety-one, may vote in accordance with sections eighty-seven to one hundred and three, inclusive. A voter who will be unable by reason of permanent physical disability to cast his vote in person at the polling place may file once with the city or town clerk a certificate executed by a registered physician who is personally acquainted with the voter and aware of his permanent physical disability, stating that it is reasonably certain because of permanent physical disability that the voter will be unable to cast his vote in person at the polling place on the day of the election. The city or town clerk shall maintain a list of such permanently disabled voters and such voters shall not be required to file any such certification thereafter with their applications for an absent voting ballot.

**SECTION 2.** Section 87 of said chapter 54, as appearing in the 1984 Official Edition, is hereby amended by striking out subsection (c) and inserting in place thereof the following subsection:–

(c) Envelopes of sufficient size to contain the ballots specified in subsection (a) bearing on their reverse the affidavits of the voter and of the witness to his oath that they have complied with the requirements of section ninety-two.

**SECTION 3.** Said chapter 54, as so appearing, is hereby further amended by striking out section 89 and inserting in place thereof the following section:–

Section 89. The blank forms of application set forth in subsection (b) of section eighty-seven, and the other papers described in the second paragraph of said section eighty-seven, shall, as soon as they can be prepared, be delivered to any person who by mail or otherwise applies therefor to the state secretary or to any city or town clerk. The official absentee voting ballot and all other papers described in said section eighty-seven shall be delivered:–

(a) To a voter who is a patient or resident at a designated health care facility, the official absent voting ballot and all accompanying papers described in section eighty-seven shall be delivered in person as provided in subsection (c) of section ninety-two. "Designated health care facility" shall mean a health care facility as defined by section twenty-five B of chapter one hundred and eleven, within the city or town, which has been designated for the purpose of supervised absent voting in a writing filed with the city or town clerk, not later than twenty-eight days before any primary or election, by the city or town clerk or by any two registrars or election commissioners.

(b) To any other absent voter, the ballot and accompanying papers shall be mailed postage prepaid as provided in subsection (a) of said section ninety-two, or if the voter so requests, be delivered when called for at the office of the clerk as provided in subsection (b) of said section



**ACTS, 1985. – Chap. 562.**

ninety-two. No ballot shall be mailed to a designated health care facility within the city or town where the voter is registered.

(c) To a voter who states under penalty of perjury that he has been admitted, after noon of the fifth day before the relevant election, to any health care facility, as defined by section twenty-five B of chapter one hundred and eleven, the ballot and accompanying papers shall be delivered as provided in subsection (d) of said section ninety-two.

No such application shall be deemed to be seasonably filed unless it is received in the office of the city or town clerk or the registrars of voters before noon on the day preceding the election for which such absent voting ballot is requested, but if the day preceding the election is a Sunday or legal holiday, then before five o'clock post meridian on the last previous day on which the office is open. Any voter who has received the blank form of said application under this or the following section may file said application with the city or town clerk. The provisions of section eighty-one shall be applicable to absent voting ballots; provided, that no request for a substitute ballot from a voter who has received his ballot by mail shall be valid unless it is accompanied by the spoiled ballot and unless it is received in the office of the city or town clerk or the registrars of voters before noon on the day preceding the election for which such substitute absent voting ballot is requested.

No ballot shall be mailed or delivered as provided in this section until the voter has first filed his application and it has been certified by the registrars and returned to the clerk as provided in section ninety-one.

**SECTION 4.** Said chapter 54 is hereby further amended by striking out section 92, as so appearing, and inserting in place thereof the following section:—

Section 92. (a) A voter who has received by mail an official absent voting ballot as provided in subsection (b) of section eighty-nine may vote by mailing it to the city or town clerk. A voter within the United States, whose name does not appear on the list of permanently disabled voters under section eighty-six, shall mark said ballot in the presence of some person eighteen years of age or older and of no other person. Before marking the ballot he shall exhibit it to said witness, who shall satisfy himself that it is unmarked, but he shall not allow said witness to see how he marks it. Except as provided in section ninety-eight, said witness shall hold no communication with the voter, nor he with said witness, as to how he is to vote. Thereafter the voter shall enclose and seal the same in the envelope provided for by subsection (c) of section eighty-seven. He shall then execute before said witness the necessary affidavit on said envelope as provided for in said subsection (c), and the witness shall sign his name and residential address on said envelope. The voter shall then enclose and seal said envelope in the envelope provided for in subsection (d) of said section eighty-seven, and mail the same within the time prescribed in section ninety-three, postage prepaid. A voter outside the United States, or a voter whose name appears on the list of permanently disabled voters under section eighty-six, shall mark the ballot in the presence of no person, except as provided in section



**ACTS, 1985. – Chap. 562.**

ninety-eight, enclose and seal it in the envelope provided for in said subsection (c), execute the affidavit on such envelope, enclose and seal such envelope in the envelope provided for in said subsection (d) and mail the envelope within the time prescribed in section ninety-three, postage prepaid.

(b) A voter whose ballot is delivered in person at the office of the clerk as provided in subsection (b) of section eighty-nine shall not remove it from that office, but shall mark or, in the case of a punch card electronic voting system ballot, shall punch said ballot as prescribed in subsection (a) in the presence of said clerk or some other witness. Thereafter the voter shall enclose and seal the same in the envelope provided for by subsection (c) of section eighty-seven. He shall then execute before said witness the necessary affidavit on said envelope as set forth in said subsection (c) and shall enclose and seal the envelope with the ballot in the envelope provided for in subsection (d) of said section eighty-seven, endorse thereon his name, address and voting place and hand the same to said clerk.

(c) Delivery of the official absent voting ballot in person, as provided in subsection (a) of said section eighty-nine, shall be by a registrar, or by two assistant registrars or absent registration officers who shall not be enrolled in the same political party, at the designated address. The voter shall mark or, in the case of an electronic voting system ballot, shall punch the ballot as prescribed in said subsection (a) in the presence of the official or officials who delivered it and, except as provided in section ninety-eight, of no other person. The voter shall next enclose and seal the ballot in the envelope provided for in subsection (c) of section eighty-seven. He shall then execute before the official or officials the necessary affidavit on that envelope. The official or officials shall certify on that envelope that the affidavit was executed in his or their presence. The voter shall then enclose and seal that envelope in the outer envelope provided for in subsection (d) of said section eighty-seven, endorse on it his name, address, and voting place, and hand it to an official, who shall return it in his custody to the office of the city or town clerk.

(d) Delivery of the official absent voting ballot to a voter in a health care facility, as provided in subsection (c) of section eighty-nine, shall be in the same manner as provided in subsection (c) of this section, but if allowed in the sole discretion of the city or town clerk, a person who is kindred of the voter, as defined in section one hundred and three B, may instead perform the functions of the election official.

(e) Any ballot cast under the provisions of sections eighty-six to one hundred and three A, inclusive, shall be defective if the witness, excepting a city or town clerk, in whose presence it was marked and before whom the affidavit required was executed is a candidate for any office.

**SECTION 5.** Said chapter 54 is hereby further amended by striking out section 93, as so appearing, and inserting in place thereof the following section:—

Section 93. All ballots cast as provided in subsection (a) of section



**ACTS, 1985. – Chap. 563.**

ninety-two shall be mailed, and as provided in subsection (b) in said section ninety-two shall be delivered, on or before the day of election; a postmark, if legible, shall be evidence of the time and place of mailing. All ballots cast as provided in subsection (c) of said section ninety-two shall be delivered before the day of election.

**SECTION 6.** Section 94 of said chapter 54, as so appearing, is hereby amended by striking out, in line 14, the words "an official" and inserting in place thereof the words:– a witness.

**SECTION 7.** Said chapter 54 is hereby further amended by striking out section 98, as so appearing, and inserting in place thereof the following section:–

Section 98. An absent voter who because of blindness or other physical disability or inability to read or read in the English language is unable to prepare his ballot may at his discretion be assisted in marking it by any person whom he may designate.

**SECTION 8.** The third paragraph of section 103E of said chapter 54, as so appearing, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:– There shall be included in the certificate to be executed by the witness in whose presence such person makes his affidavit a statement setting forth that such person has signed his name in the witness's presence, or that he was prevented by physical disability or inability to write from so signing, and that said signature was added by said witness.

**SECTION 9.** Section 103H of said chapter 54 is hereby amended by striking out the second sentence, as appearing in section 40 of chapter 477 of the acts of 1985, and inserting in place thereof the following sentence:– He shall mark such ballot in the manner prescribed by subsection (a) of section ninety-two.

**SECTION 10.** Section 103 O of said chapter 54, as so appearing, is hereby amended by striking out paragraph (b) and inserting in place thereof the following paragraph:–

(b) Blank forms to be printed on the envelopes for enclosing the official absent ballots, for the affidavits of the voter and of the witness to his oath that they have complied with the requirements of law.

Approved December 5, 1985.

EMERGENCY LETTER: December 9, 1985 @ 4:54 P.M.

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**Chapter 563. AN ACT FURTHER REGULATING THE POSSESSION AND USE OF CERTAIN NUCLEAR MATERIALS.**

Be it enacted, etc., as follows:

Section 92 of chapter 6 of the General Laws, as appearing in the 1984



**ACTS, 1985. – Chaps. 564, 565.**

Official Edition, is hereby amended by adding the following paragraph:–

Special nuclear materials, as defined in Section 2014 of Title 42 of the United States Code, produced in industrial, commercial or medical facilities may not be transferred, reprocessed, used or otherwise made available by any person for nuclear explosive purposes.

Approved December 5, 1985.

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**Chapter 564. AN ACT AUTHORIZING ROBERT ST. JOHN TO TAKE A CIVIL SERVICE EXAMINATION FOR POLICE OFFICER NOTWITHSTANDING THE MAXIMUM AGE REQUIREMENTS.**

Be it enacted, etc., as follows:

Notwithstanding the provisions of any general or special law or rule to the contrary regulating the maximum age of applicants for appointment as a police officer, Robert St. John shall be eligible to take the next open competitive examination for police officer in the town of North Attleborough and, provided he meets all other requirements, shall be eligible for certification and appointment.

Approved December 5, 1985.

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**Chapter 565. AN ACT AUTHORIZING ESTIMATED TAX PAYMENTS FOR THE CITY OF LAWRENCE FOR THE FIRST HALF OF FISCAL YEAR NINETEEN HUNDRED AND EIGHTY-SIX.**

Be it enacted, etc., as follows:

**SECTION 1.** Notwithstanding the provisions of any general or special law to the contrary, the city of Lawrence is hereby authorized to issue a first half notice of the estimated tax in lieu of the actual assessment and issuance of the tax bill for the fiscal year nineteen hundred and eighty-six and require the payment of such estimated tax, which shall in no event exceed fifty per cent of the tax payable during the preceding fiscal year. Payment of the balance of the tax bill after the establishment of the tax rate for fiscal year nineteen hundred and eighty-six, after credit is given for the estimated tax payment previously made, shall represent the second payment upon such bill; such payment shall be payable without interest on or before May first, nineteen hundred and eighty-six or thirty days after the mailing of the actual tax bill, whichever is later, and any interest upon such payment shall be calculated from April first, nineteen hundred and eighty-six or the date of mailing of the bill, whichever is later.

All provisions of law regarding the procedures for issuing, mailing and collecting tax assessments upon real and personal property and



**ACTS, 1985. – Chaps. 566, 567.**

betterment assessments shall be applicable to the notice of estimated tax provided hereunder, including the payments of interest under section fifty-seven of chapter fifty-nine of the General Laws. To the extent that any rights or remedies under law accrue from the date that the tax bill is issued, only the tax bill issued upon the establishment of the tax rate for the fiscal year nineteen hundred and eighty-six shall govern such rights or remedies. The provisions of section twenty-one C of said chapter fifty-nine shall apply to the tax rate for fiscal year nineteen hundred and eighty-six established by said city of Lawrence.

**SECTION 2.** This act shall take effect upon its passage.

Approved December 6, 1985.

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**Chapter 566. AN ACT AUTHORIZING THE TEMPORARY LICENSE TO CARRY FIREARMS DURING CERTAIN TELEVISION, MOVIE, OR STAGE PRODUCTIONS.**

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to authorize the temporary possession and handling of firearms during certain television, movie, or stage productions, 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:

Chapter 140 of the General Laws is hereby amended by inserting after section 131F the following section:—

Section 131F 1/2. *Notwithstanding the provisions of subsection (a) of section ten of chapter two hundred and sixty-nine of the General Laws or any other law to the contrary, the carrying or possession of a firearm and blank ammunition therefor, during the course of any television, movie, stage or other similar theatrical production, by a person within such production, shall be authorized; provided, however, that such carrying or possession of such firearm shall be under the immediate supervision of a person licensed to carry firearms.*

Approved December 6, 1985.

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**Chapter 567. AN ACT AUTHORIZING THE TOWN OF GRANBY TO BORROW MONEY TO REIMBURSE THE SURPLUS REVENUE ACCOUNT OF SAID TOWN.**

Be it enacted, etc., as follows:

The treasurer of the town of Granby with the approval of the board of selectmen is hereby authorized to issue bonds or notes of the town in an amount not to exceed one hundred thousand dollars to be credited to



**ACTS, 1985. – Chaps. 568, 569.**

the surplus revenue account of said town as reimbursement for funds expended to retire a note in the principal amount of one hundred thousand dollars, issued in anticipation of reimbursement by the commonwealth and the United States, authorized by a vote passed on March twenty-third, nineteen hundred and eighty-two under Article 19 of the warrant for the annual town meeting. Bonds or notes issued under this act shall otherwise be subject to the provisions of chapter forty-four of the General Laws applicable to other debt incurred under said vote.

Approved December 6, 1985.

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**Chapter 568. AN ACT RELATIVE TO THE CONVEYANCE OF A CERTAIN PARCEL OF LAND TO THE TOWN OF FRAMINGHAM.**

Be it enacted, etc., as follows:

**SECTION 1.** Section 3 of chapter 419 of the acts of 1985 is hereby amended by striking out the fourth paragraph and inserting in place thereof the following paragraph:—

Said parcel of land together with the parcel set forth in section two shall be used as a central public works facility and garage for said town; provided, however, that any plans for said facility and garage, any alterations or additions thereto, shall be submitted to said division to be placed on file; and provided further, that a copy of such plans, alterations or additions thereto shall be sent by the town and said division to the clerk of the house of representatives who shall forward copies to the joint committee on state administration of the general court to be kept on file. In the event that said land is not used for the aforementioned purpose, or that such plans are not submitted to said division or not submitted to the said clerk of the house of representatives for filing within five years of the effective date of this act, or that the land ceases to be used for the aforementioned purpose at anytime, it shall revert to the commonwealth without consideration.

**SECTION 2.** This act shall take effect upon its passage.

Approved December 9, 1985.

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**Chapter 569. AN ACT AUTHORIZING THE CITY OF HAVERHILL TO REFUND CERTAIN HOSPITAL BONDS AND TO ESTABLISH A HOSPITAL ENTERPRISE FUND.**

Be it enacted, etc., as follows:

**SECTION 1.** The city of Haverhill may issue refunding bonds for the purpose of paying or refunding all or any designated part of its bonds then outstanding issued under chapter four hundred fifty-one of the acts



ACTS, 1985. – Chap. 569.

of nineteen hundred and seventy-eight. Except as provided in this act the issuance of refunding bonds, the maturities and other details thereof, the security therefor, and the rights, duties and obligations of the city in respect to the same shall be governed by the applicable provisions of said chapter four hundred and fifty-one relating to the issuance of bonds other than refunding bonds, including the provisions of section one A of said chapter four hundred and fifty-one relating to establishment of a hospital debt service fund. The refunding bonds may be issued in amounts sufficient to pay or provide for the payment of the principal of the bonds being refunded, together with any redemption premium thereon, any interest accrued or to accrue to the date of payment of such bonds, the expenses of issue of the refunding bonds, and the expense of redeeming the bonds being refunded. Such refunding bonds may be issued at one time or from time to time and may be refunded by the issuance of additional refunding bonds under this act; provided, however, that no refunding bonds shall be payable over a period longer than thirty years from the date of the original bonds issued under said chapter four hundred and fifty-one. If such refunding bonds are issued prior to the maturity or redemption date of the bonds being refunded, an amount of the proceeds of the refunding bonds and other moneys then available or to become available to the city, which moneys may include income to be derived from the investment of such proceeds, sufficient to pay or provide for the payment of the principal, redemption premium, if any, and interest on the bonds so refunded to the date fixed for their payment or redemption shall be held in a separate fund and in trust solely for the payment of such principal, redemption premium and interest. The funds so held may be invested pursuant to section fifty-five of chapter forty-four of the General Laws and the income derived from such investment may be expended to pay the principal, redemption premium, if any, and interest on the bonds being refunded until they are paid or redeemed; provided that notwithstanding any limitation on the maturity of investments under said section fifty-five, any such investment may have a maturity not later than the date fixed for the payment or redemption of the bonds being refunded. Upon payment of the refunded bonds or establishment of a refunding trust fund in accordance with this section, any hospital debt service fund established under section one A of said chapter four hundred and fifty-one for the bonds being refunded and any trust agreement or credit agreement executed in connection with the issuance of the bonds being refunded may be terminated or modified so as to apply to and provide security for the refunding bonds; provided, however, that any moneys in such a hospital debt service fund on the date of issuance of the refunding bonds that the city treasurer determines to be unnecessary to pay debt service on the refunded bonds shall be credited to the city's unreserved general fund balance.

**SECTION 2.** In connection with any bond insurance to secure bonds issued under the provisions of this act, the city may enter into an agreement with the insurer containing such provisions for protecting and enforcing the rights and remedies of the insurer as may, in the discretion of the mayor city council and the treasurer, be reasonable and proper,



## ACTS, 1985. – Chap. 569.

including, without limiting the generality of the foregoing, provisions defining defaults and providing for remedies in the event thereof, and covenants setting forth the duties of and limitations on the hospital and the city in relation to the custody, investment and application of moneys, the fixing, revision and collection of hospital fees and charges, the establishment of reserves, and the making and amending of contracts. Any such agreement may, under certain circumstances relating to the financial condition of the hospital, require the city to retain independent financial or management consultants or a hospital management company, and make any contract with such a consultant or management company subject to approval by the insurer, which approval shall not be unreasonably withheld.

**SECTION 3.** The loan order approved by the mayor on November twenty-second, nineteen hundred and eighty-five, authorizing a borrowing of up to thirty-seven million dollars for the purposes set forth in section one, is hereby validated, ratified and confirmed, and the treasurer with the approval of the mayor is authorized to incur such indebtedness without further action by the city council.

**SECTION 4.** The city of Haverhill is hereby authorized to establish an enterprise fund to be known as the "Hale Municipal Hospital Enterprise Fund" to account for the activities of the hospital. In connection with the establishment of this enterprise fund, the city may establish a separate bank account, to be known as the "Hale Hospital Operations Account", for the city hospital. Into such account shall be deposited all receipts, revenues and funds from any source derived from any activity of the city hospital. The account authorized by this section shall be maintained by the city treasurer in a bank or trust company in the commonwealth and expenditures from such account shall be made by the director of the city hospital, subject to appropriation in accordance with chapter forty-four of the General Laws, and used solely for the operation and maintenance of and the provision of capital equipment and plant for said hospital. The city treasurer shall be authorized to invest the monies in such account in accordance with sections fifty-five and fifty-five A of chapter forty-four of the General Laws and the interest accruing thereon shall inure to the benefit of the city hospital. The city may also establish a separate "Hale Hospital Fund Balance" account in the accounting records of the city. The fund balance shall be credited as of July first, nineteen hundred and eighty-five with the opening fund balance of the Hale Municipal Hospital Enterprise Fund. The opening fund balance shall be equal to the net assets of the hospital transferred to said enterprise fund as of July first, nineteen hundred and eighty-five and shall include all of the assets and liabilities related to the operation of the hospital, including but not limited to, cash, accounts receivable, inventories, prepaid expense, warrants and accounts payable and other liabilities, trust funds and property, plant and equipment.

The accounting for said enterprise fund shall be in accordance with generally accepted accounting principles and accordingly the activities of the hospital shall be accounted for on a full accrual basis and shall be



**ACTS, 1985. – Chap. 570.**

audited annually by a certified public accountant. Such audit reports shall be submitted to the board of trustees of said hospital, the mayor and the members of the city council of said city. For the purpose of providing health care, said city may from time to time appropriate monies to said enterprise fund from other available funds and donations from private sources may be received into such fund. At the close of each fiscal year any deficit in the Hale Hospital Fund Balance Account shall be reported by the auditor to the assessors, who shall include the amount so reported in the aggregate appropriations to be assessed in the next subsequent annual tax levy, unless the city has provided funds to eliminate such deficit. Any deficit so incurred shall be subject to all applicable provisions of chapter fifty-nine of the General Laws. Any surplus in the Hale Hospital Fund Balance account at the close of a fiscal year shall be retained in said account and, subject to appropriation in accordance with chapter forty-four of the General Laws, shall be used solely for the operation and maintenance of and the provision of capital equipment and plant for said hospital.

**SECTION 5.** The city treasurer, upon the written request of the director of the city hospital, may advance funds from the general fund of the city in any fiscal year in anticipation of the receipt of revenues of the city hospital for that same fiscal year. Such advances outstanding at any one time in any fiscal year shall not exceed, in the aggregate, twenty-five per cent of the annual expense of the current fiscal year as certified by the director, or such larger amount as may be approved by the mayor and the city council. All such sums so advanced shall be deposited into the operations account established under section four and the director shall prior to the end of each fiscal year repay such advances to the general fund together with an amount equal to the interest as determined by the city treasurer to be allocable to any debt incurred during that fiscal year by the city in anticipation of revenue in order to make such advances.

**SECTION 6.** The director of the city hospital shall file with the mayor, the city council, the treasurer of said city and the bureau of accounts a written report of the enterprise fund established under the provisions of section four within one hundred and twenty days after the books are closed for the fiscal year. Such report shall include financial statements relating to the operations, maintenance, capital and real and personal properties of said hospital.

**SECTION 7.** Sections one, two, three and seven of this act shall take effect upon its passage. Sections four, five and six shall take effect as of July first, nineteen hundred and eighty-five.

Approved December 9, 1985.

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**Chapter 570. AN ACT AUTHORIZING THE SALE OF CERTAIN PUBLIC HOUSING PROJECTS.**



ACTS, 1985. – Chap. 571.

Be it enacted, etc., as follows:

Section 34 of chapter 121B of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out the third paragraph and inserting in place thereof the following two paragraphs:–

If the department shall determine that an acute shortage of housing for veterans constituting a public exigency, emergency or distress no longer exists and that a shortage of low-rent housing no longer exists in a particular city or town, any project, or a part of any project with the land appurtenant thereto, constructed under this section may, with the approval of the department, be sold for the fair market value thereof as determined by the department, but for not less than the total of the outstanding obligations of the housing authority with respect to such project if the whole is sold, or not less than that percentage of the total outstanding obligations of the authority with respect to such project which the cost of the part sold bears to the total cost of the entire project if a part is sold.

There is hereby established the Housing Authority Bonds Sinking Fund and the state treasurer is hereby designated custodian thereof. He shall administer such fund in accordance with the provisions of chapter twenty-nine. So long as any bonds issued by a housing authority to finance the cost of a project under this section or section thirty-five and guaranteed by the commonwealth are outstanding, the proceeds of any sale of such project shall be paid by the housing authority into such fund and shall be expended from time to time by the state treasurer to pay interest and principal of any bonds issued by such housing authority to finance such project.

Approved December 9, 1985.

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**Chapter 571. AN ACT AUTHORIZING CITIES TO ISSUE BONDS AND NOTES SECURED BY INSURANCE OR BY LETTERS OR LINES OF CREDIT OR OTHER CREDIT FACILITIES.**

Be it enacted, etc., as follows:

**SECTION 1.** Chapter 44 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by inserting after section 22 the following section:–

Section 22A. Bonds or notes issued by a city may be secured in whole or in part by insurance or by letters or lines of credit or other credit facilities upon a two-thirds vote of the city council with the approval of the mayor. Any such insurance, letter or line of credit or credit facility may provide for reimbursement to be made over such period of time, not to exceed two years beyond the maturity date of the bonds or notes so secured, as the treasurer, with the approval of the mayor, shall deem proper and may provide for reimbursement to be made, and any such notes or bonds may be issued, at such rate or rates of interest as the treasurer, with the approval of the mayor, shall deem proper, including



**ACTS, 1985. – Chap. 572.**

rates variable from time to time as determined by such index, banker's loan rate or other method as may be specified in such agreement or such bond or note. Notwithstanding any contrary provision of law, bonds or notes secured as described in this section may, in the discretion of the treasurer, with the approval of the mayor, be subject to prepayment at the option of the holder thereof at such times and prices and under such circumstances as the treasurer and the mayor shall specify. For the purpose of securing bonds and notes a city, acting by its treasurer, upon a two-thirds vote of all the city council, with the approval of the mayor, may enter into a trust agreement between the city and a corporate trustee which shall be a bank or trust company doing business in the commonwealth. Any such trust agreement, and any remarketing or other agreements necessary or incidental to the issuance of such bonds or notes, shall be in such form as may be deemed proper by the treasurer of such city, with the approval of its mayor, and shall be executed by its treasurer and countersigned by its mayor. It shall be lawful for any bank or trust company doing business in the commonwealth to act as a depository or trustee under any such trust agreement and to furnish such indemnification and pledge such securities as may be required by any such city. Any trustee under a trust agreement established pursuant to this section may bring suit upon the bonds or notes and may, either at law or equity, by suit, action, mandamus or other proceedings for legal or equitable relief, enforce all rights under the laws of the commonwealth or granted hereunder or under such trust agreement, and may enforce and compel the performance of all duties required under such trust agreement to be performed by the city or by any officer thereof. In a city with a plan D or plan E form of government, the powers granted in this section to the mayor shall be exercised by the city manager. The provisions of this section shall not apply to towns. All expenses incurred in carrying out the provisions of this section may be treated by the city as a cost of issuance.

**SECTION 2.** The first paragraph of section 23 of chapter 59 of the General Laws, as so appearing, is hereby amended by inserting after the first sentence the following sentence:– Any estimate of interest charges attributable to variable interest rates on obligations issued pursuant to section twenty-two A of chapter forty-four shall be subject to the approval of the commissioner.

Approved December 9, 1985.

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**Chapter 572. AN ACT RELATIVE TO WORKERS' COMPENSATION.**

Be it enacted, etc., as follows:

**SECTION 1.** Section 17B of chapter 6A of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:– The following agencies are hereby declared to be within



**ACTS, 1985. – Chap. 572.**

the executive office of labor: the department of labor and industries, the department of industrial accidents; the minimum wage commission; and health, welfare and retirement trust funds board.

**SECTION 2.** Section 17C of said chapter 6A, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:–

The department of industrial accidents and all other state agencies within said department are hereby declared to be within the executive office of labor, but shall not be subject to its jurisdiction thereof.

**SECTION 3.** Sections fourteen to twenty-four, inclusive, of chapter twenty-three of the General Laws are hereby repealed.

**SECTION 4.** The General Laws are hereby amended by inserting after chapter 23D the following chapter:–

**CHAPTER 23E.  
DEPARTMENT OF INDUSTRIAL ACCIDENTS.**

Section 1. There shall be a department of industrial accidents under the supervision and control of a commissioner of industrial accidents, hereinafter in this chapter and in chapter one hundred and fifty-two, called the commissioner. The governor shall appoint the commissioner to serve for a term coterminous with that of the governor. Upon the expiration of the term of office of the commissioner, he may be reappointed by the governor. The position of commissioner shall be classified in accordance with section forty-five of chapter thirty and the salary shall be determined in accordance with section forty-six C of said chapter thirty. The commissioner shall devote his full time to the duties of his office and shall not engage in other employment or business activities during regular business hours.

Section 2. The commissioner shall be the executive and administrative head of the department. He shall have charge of the administration of the department and enforcement of all laws, rules and regulations which it is the duty of the department to administer and enforce. He shall have authority pursuant to the provisions of chapter thirty A to issue any regulation for the enforcement and administration of the provisions of this chapter and chapter one hundred and fifty-two. The commissioner shall prepare an annual operating budget and other funding requirements and requests pursuant to said chapter one hundred and fifty-two to be submitted to the secretary of labor.

Section 3. There shall be within the department a division of administration, under the supervision and control of a director of administration and a division of dispute resolution, under the supervision and direction of a director of dispute resolution, both of whom shall be appointed by the commissioner.

There shall also be within the division of administration a first deputy director of administration who shall perform the duties of the director of administration in the absence of the director of administration and who



**ACTS, 1985. – Chap. 572.**

shall have responsibility for the budget required by chapter twenty-nine. There shall also be within the division of dispute resolution a deputy director of dispute resolution who shall perform the duties of the director of dispute resolution in the absence of said director and who shall also be responsible for scheduling within said division.

Section 4. There shall be within the division of dispute resolution an industrial accident board, in this chapter and in chapter one hundred and fifty-two called the board, which shall consist of sixteen members, who shall be administrative judges appointed by the governor with the advice and consent of the council, not more than nine of whom shall be from the same political party, for six year terms. Upon the expiration of the term of office of a member, such member or his successor shall be appointed or reappointed, as the case may be, for a term of six years by the governor with the advice and consent of the council, except that any member appointed to fill a vacancy occurring prior to the expiration of the term of his predecessor shall be appointed for the unexpired portion of such term. Nominees shall be submitted to the governor from a nominating panel under procedures to be established by the governor. Prior to the expiration of the term of office of a member, the conduct of said member shall be reviewed by such nominating panel, which shall recommend whether said member shall be retained in office. Such review shall include a report from the commissioner.

Notwithstanding any provision of chapter thirty to the contrary, the commissioner shall be placed in Job Group M-X, as set forth in section forty-six C of chapter thirty, and the members of the board shall be placed in Job Group M-IX, as set forth in said section forty-six C at not less than Step 7, of the management salary schedule, the first deputy director of administration and the deputy director of dispute resolution shall be placed in Job Group M-VII, as set out in said section forty-six C, at not less than Step 7.

Members of the board shall devote their full time during ordinary business hours to the respective duties assigned them and shall not engage in outside employment or business activities during such hours.

Section 5. There shall be within the division of dispute resolution an industrial accident reviewing board, in this chapter and in chapter one hundred and fifty-two called the reviewing board which shall consist of four members, not more than two of whom shall be of one political party. Members of the reviewing board shall be administrative law judges appointed by the governor with the advice and consent of the council, for six year terms. Upon the expiration of the term of office of a member, such member or his successor shall be appointed or reappointed, as the case may be, for a term of six years by the governor with the advice and consent of the council, except that any member appointed to fill a vacancy occurring prior to the expiration of the term of his predecessor shall be appointed for the unexpired portion of such term. Nominees shall be submitted to the governor from a nominating panel under procedures to be established by the governor. Prior to the expiration of the term of office of a member, the conduct of said member shall be reviewed by such nominating panel, which shall recommend whether said member shall be retained in office. Such



**ACTS, 1985. – Chap. 572.**

review shall include a report from the commissioner.

Notwithstanding any provision of chapter thirty to the contrary, the members of the reviewing board shall be placed in Job Group M-X, as set forth in section forty-six C of said chapter thirty. Reviewing board members shall devote their full time during ordinary business hours to the duties of their office and shall not engage in any other employment or business activities during such hours.

Section 6. The industrial accident board and the industrial accident reviewing board shall be under the supervision and administrative control of the director of dispute resolution. The director shall direct and supervise the activities of all members of the board and the reviewing board. The commissioner shall assign such necessary support staff to the division as he deems necessary. The director shall cause a statistical list to be maintained of all matters heard or conferred on by each board member along with a list of conference orders and decisions filed by each member and all lump sum settlements approved by the reviewing board and at the end of each month shall cause said list to be published forthwith and made available for inspection by the public. Every decision and order of any member of the board and every decision by the reviewing board shall be open to the public. Decisions of the reviewing board shall be indexed and published. Members of the industrial accident board and the industrial accident reviewing board shall be subject to the provisions of chapters two hundred and sixty-eight A and two hundred and sixty-eight B.

Section 7. If the workload of the board so requires, the governor with the advice and consent of the council, may, upon request of the commissioner, recall any former member of the board to sit as a member in any conference or hearing conducted under the provisions of chapter one hundred and fifty-two. Such former member when recalled, shall be assigned to such proceedings as the commissioner shall determine, and when so recalled and assigned he shall have all the powers and duties of a member of the board. The period for which a former member may be recalled shall not exceed one hundred and eighty days, but the governor may upon the advice and consent of the council, upon request of the commissioner once again recall the member for one additional period of time not to exceed ninety days. No former member of the board shall represent any person before the board during the period for which he has been recalled as a member or decide cases in which he had an interest or involvement during his absence from the board. A former member so recalled shall be paid by the commonwealth in addition to any pension or retirement allowance received by him, the amount by which the regular salary of a member of the board exceeds such pension of retirement allowance which he is entitled to receive for the period.

Section 8. The commissioner shall have authority to initiate proceedings for the removal of a board or reviewing board member when the commissioner is of the opinion that the member has been guilty of misconduct, material neglect of duty, or incompetence in the conduct of office. Upon recommendation of the commissioner, the governor shall commence an investigation of the member's record and practices. Upon completion of the investigation, the governor may, with the advice and



**ACTS, 1985. – Chap. 572.**

consent of the council remove such member for misconduct, material neglect of duty, or incompetence in the conduct of his office. The substance of the decisions of a member in individual cases and in all cases in which the member sits shall not constitute cause for removal.

The member shall be provided with a written statement of the grounds for removal and a summary of the investigation by the governor. Removal procedures shall afford confidentiality, subject to considerations of due process and the provisions of section ten of chapter sixty-six. Any member so removed shall have the right to appeal his removal to the superior court department of the trial court.

Section 9. There shall be within the division of administration an office of claims administration. In addition to any duties assigned to it by the director of administration, the office shall receive and maintain reports of injury and other reports required under chapter one hundred and fifty-two, and shall provide claims conciliation services.

Section 10. There shall be within the division of administration an office of education and vocational rehabilitation. Said office shall perform such functions of the department relating to the provisions of chapter one hundred and fifty-two and as the director of administration may from time to time determine, and shall provide such vocational rehabilitation services as required by said chapter one hundred and fifty-two. Said office shall also maintain a toll-free number to respond to any inquiries regarding workers' compensation.

The office shall prepare and make available to employers and employees informational materials which explain the provisions of the worker's compensation law in the commonwealth, and shall update such materials upon the passage of any legislation which substantially alters said laws.

Section 11. (1) There shall be within the division of administration an office of insurance. The office shall perform the duties of the division with respect to the enforcement of the provisions of chapter one hundred and fifty-two relating to insurers and self-insurers, and as the director of administration may from time to time require. The office shall also perform the duties of the division with respect to the operation of the special fund, as required by section sixty-five of said chapter one hundred and fifty-two.

(2) The office of insurance shall examine on a continuous basis the case files in possession of the department in order to identify questionable claims handling techniques, questionable patterns of claims, or a pattern of repeated unreasonable controverted claims by employers or insurers and shall certify its finding to the commissioner of insurance. Only such questionable techniques, patterns, or repeated unreasonably controverted claims as constitute a general business practice of a carrier or employer in the judgment of the office of insurance shall be certified in its findings by the office to the commissioner of insurance. Upon receipt of any such certification, the commissioner of insurance and the office of insurance shall take appropriate action as necessary to terminate such general business practices. Upon receipt by the office of insurance of a written request for an investigation of an insurer or employer concerning such



**ACTS, 1985. – Chap. 572.**

questionable techniques, patterns, or repeated unreasonable controverted claims, the said office of insurance shall investigate such insurer or employer and shall certify its findings to the said commissioner of insurance and send a copy of such certified findings to the party who requested such investigation.

(3) The office of insurance shall publish annually a report which indicates the promptness of first payment of compensation records of each insurer or self-insuring employer. Such annual report may also include information concerning other aspects of claims procedures. A copy of the report shall be submitted to the commissioner of insurance, who shall take appropriate action to insure, where warranted, the prompt payment of compensation.

(4) The office of insurance shall promulgate rules providing guidelines to insurers and self-insuring employers concerning the behavior that may be construed as questionable claims handling techniques, questionable patterns of claims, repeated unreasonably controverted claims, or poor payment practices.

Section 12. There shall be within the division of administration an office of administration and data processing. The office shall be responsible for providing the administrative services to the division and shall perform such additional duties as the director of administration may from time to time require. Said office shall receive requests for data from the general court and advisory council and shall annually report its statistical findings to the advisory council and to the clerks of the house and senate of the general court.

Section 12A. There shall be within the division of administration an office of safety. The office shall assist in the dissemination of information on health and safety in the workplace to employees and employers in the commonwealth, shall establish and supervise programs for the education and training of employees and employers in the recognition, avoidance and prevention of unsafe or unhealthful working conditions in employment, and shall perform such duties as the director of administration requires. The office shall consult with and advise employees and employers as to the effective means of preventing occupational injuries and illnesses.

Section 13. The office of claims administration, the office of education and vocational rehabilitation, the office of insurance, the office of administration and data processing, and the office of safety shall be under the supervision and control of the director of administration, who shall be the executive administrative head of said office. The director shall direct and supervise the activities of all employees of the division of administration.

Section 14. The commissioner shall establish four permanent regional offices, and shall appoint a least one management level employee as supervisor of each such office, and such other officers, clerks, and assistants as are necessary for the discharge of duties in connection with such offices.

Section 15. There is hereby established an advisory council on workers' compensation in this chapter and in chapter one hundred and fifty-two called the advisory council to be appointed by the governor.



ACTS, 1985. -- Chap. 572.

The voting membership of said council shall be composed of five members representing employers in the commonwealth, at least one of whom shall represent manufacturing classifications, at least one of whom shall represent small business, at least one of whom shall represent contracting classifications, and at least one of whom shall represent self-insurers, and five members representing employees, all of whom shall be members of a duly recognized and independent employee organization, council, or union, and at least one of whom shall be a disabled worker. At least one employer representative shall be from a list of nominees provided by Associated Industries of Massachusetts. At least one employee representative shall be from a list of nominees provided by the Massachusetts AFL-CIO. The governor shall also appoint one member representing the workers' compensation claimants' bar, one member representing the commonwealth's medical providers, and one member representing vocational rehabilitation providers, none of whom shall be voting members. The executive secretary of labor and the executive secretary of economic affairs shall be ex officio, nonvoting members. Any person appointed to fill a vacancy occurring prior to the expiration of the term of his predecessor shall be appointed for the unexpired portion of such term. The chairman and the vice-chairman of such advisory council, one of whom shall be an employee representative and one of whom shall be an employer representative, shall be appointed from among voting members by the governor for two year terms. Such appointees shall not succeed themselves as chairman or vice-chairman. No member of said advisory council shall be subject to chapter thirty-one. Members shall receive their traveling and other necessary expenses incurred in the performance of their duties. Such expenses shall be paid from the special fund established in section sixty-five of chapter one hundred and fifty-two. Meetings of said advisory council shall be called by the chairman or upon petition by a majority of voting members. Such meetings shall be subject to the provisions of section eleven A 1/2 of chapter thirty A. Said advisory council shall take no action pursuant to its authority under this chapter or said chapter one hundred and fifty-two unless a quorum of its voting members are present.

The presence of seven voting members of the advisory council, at least two of whom shall be representatives of employees, shall constitute a quorum. No action shall be taken by the advisory council without the affirmative vote of at least seven members.

Section 16. The advisory council shall appoint such personnel as are necessary for the proper discharge of its duties, subject to the approval of the secretary of labor. The staff of the advisory council shall be funded from monies collected for the special revenue fund in accordance with the provisions of section sixty-five of said chapter one hundred and fifty-two. The advisory council may expend for personnel and office expenses funds appropriated to the department for that purpose.

Section 17. The advisory council shall monitor, recommend, give testimony, and report on all aspects of the workers' compensation system, except the adjudication of particular claims or complaints. Its power include the issuance of reports, recommendations for legislation, policies and programs, the conducting of research, the collecting of data



ACTS, 1985. – Chap. 572.

from public and private sources, and powers granted under the provisions of by chapter one hundred and fifty-two.

The advisory council shall report at least annually in writing by the last day of the fiscal year of the commonwealth to the executive secretary of labor on the state of the workers' compensation system, and shall cause a copy of such report to be filed with the clerks of the house and senate of the general court who shall send copies of such report to the joint committee on commerce and labor and the house and senate committees on ways and means. The report shall include an evaluation of the operations of the department along with recommendations for improving the workers' compensation system. Said advisory council shall also review the annual operating budget of the department, as prepared by the commissioner and as submitted to the executive secretary of labor. Upon the affirmative vote of at least seven voting members, the advisory council may submit its own recommendation for the total operating budget to the secretary of labor.

The advisory council shall make an investigation and study of the costs and benefits associated with the institution of competitive rating among workers' compensation insurance carriers. Such study shall consider the effect of open competition on premiums within the various classes of employers and within different geographical regions of the commonwealth and include recommendations concerning the advisability of adopting the practice of competitive rating within test classes or regions for a specific period of time. The council shall also make an investigation and study of the use of credits against insurance premiums and against assessments levied pursuant to section sixty-five of chapter one hundred and fifty-two that encourage rehabilitation and the rehiring of injured workers, and that provide safe workplaces. The council shall also make a study of the practicability of instituting a system by which parties to a dispute under said chapter one hundred and fifty-two may schedule proceedings before the industrial accident board by the use of a "mark up", so-called, or similar system. The advisory council shall also make a study of occupational diseases and their relationship to the workers' compensation system.

The advisory council shall also make a continuous investigation and study of worker compensation issues involving public employees, including, but not limited to, the circumstances of public employees not subject to the workers compensation law, and problems resulting from the claims processing time periods for public employees.

The advisory council may expend, for the legal, actuarial, research, clerical, and other expenses involved in the completion of such investigations and studies, such sums as may be appropriated therefor.

The costs of such investigations studies shall be paid from the special fund created under said section sixty-five of said chapter one hundred and fifty-two. Said council shall file the results of its investigations and studies, and its recommendations, if any, together with any drafts of legislation necessary to carry its recommendations into effect with the governor and with the clerks of the house and senate of the general court within eighteen months of its first meeting.



**ACTS, 1985. – Chap. 572.**

**SECTION 5.** Paragraph (2) of section 1 of chapter 30A of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out, in line 24, the words "industrial accidents of the department of labor and industries" and inserting in place thereof the words:- dispute resolution of the department of industrial accidents.

**SECTION 6.** Section fifty-one B of chapter one hundred and forty-nine of the General Laws is hereby repealed.

**SECTION 6A.** Subsection (d) of section 25 of chapter 151A of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- Any period with respect to which he is receiving or has received or is about to receive compensation for total disability under the workers' compensation law of any state or under any similar law of the United States, but not including payments for certain specified injuries under section thirty-six of chapter one hundred and fifty-two; or payments for similar specified injuries under workers' compensation laws of any state or under any similar law of the United States.

**SECTION 7.** Section 1 of chapter 152 of the General Laws, as so appearing, is hereby amended by striking out paragraph (1A) and inserting in place thereof the following paragraph:-

(1A) "Commissioner", the commissioner of the department of industrial accidents established under chapter twenty-three E.

**SECTION 8.** Said section 1 of said chapter 152, as so appearing, is hereby amended by striking out paragraph (2) and inserting in place thereof the following paragraph:-

(2) "Department", the department of industrial accidents.

**SECTION 9.** Paragraph (4) of said section 1 of said chapter 152, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

"Employee", every person in the service of another under any contract of hire, express or implied, oral or written, excepting (a) masters of and seamen on vessels engaged in interstate or foreign commerce, (b) persons employed to participate in organized professional athletics, while so employed, if their contracts of hire provide for the payment of wages during the period of any disability resulting from such employment, (c) a salesperson affiliated with a real estate broker pursuant to an agreement which specifically provides for compensation only in the form of commissions earned from the sale or rental of real property, (d) a salesperson who is a direct seller of consumer products on a buy-sell or deposit-commission basis other than in a retail establishment, all of whose remuneration is directly related to sales rather than amount of time worked and whose services are performed pursuant to a written contract providing that the direct seller will not be treated as an employee for Federal tax purposes, (e) a person who operates a taxicab



**ACTS, 1985. – Chap. 572.**

vehicle which is leased by such person from a taxicab company pursuant to an independent contract which specifically provides for a rental fee or other payment to the owner of such taxicab vehicle which is in no way related to the taxicab fares collected by such person; and provided, further, that such person is not treated as an employee for Federal tax purposes, (f) persons employed by an employer engaged in interstate or foreign commerce but only so far as the laws of the United States provide for compensation or liability for their injury or death, and (g) a person whose employment is not in the usual course of the trade, business, profession or occupation of his employer, but not excepting a person conclusively presumed to be an employee under section twenty-six.

**SECTION 10.** Paragraph (5) of said section 1 of said chapter 152, as so appearing, is hereby amended by adding the following paragraph:–

A corporation and its subsidiary corporations shall be considered as one entity for the purposes of a self-insurance license; provided, however, that such corporation has signed as guarantor to insure payment of claims by its subsidiary corporations.

**SECTION 11.** Paragraph (7A) of said section 1 of said chapter 152, as so appearing, is hereby amended by adding the following sentence:–  
"Personal injury" shall not include any injury resulting from an employee's purely voluntary participation in any recreational activity, including but not limited to athletic events, parties, and picnics, even though the employer pays some or all of the cost thereof. Personal injuries shall include mental or emotional disabilities only where a contributing cause of such disability is an event or series of events occurring within the employment.

**SECTION 12.** Said section 1 of said chapter 152, as so appearing, is hereby further amended by striking out paragraph (8) and inserting in place thereof the following paragraph:–

(8) "Reviewing board", any three member panel of the reviewing board established under section five of chapter twenty-three E.

**SECTION 13.** Said section 1 of said chapter 152, as so appearing, is hereby further amended by adding the following three paragraphs:–

(9) "Average weekly wage in the commonwealth", for dates subsequent to October fourth, nineteen hundred and seventy, the average weekly wage as determined according to the provisions of subsection (a) of section twenty-nine of chapter one hundred and fifty-one A and promulgated by the director of the division of employment security, on or before October first of each year. For dates prior to October fourth, nineteen hundred and seventy, the state average weekly wage for all employees covered under the employment security law as calculated by said director of the division of employment security during the year of such date.

(10) "Maximum weekly compensation rate", one hundred per cent of the average weekly wage in the commonwealth.



**ACTS, 1985. – Chap. 572.**

(11) "Minimum weekly compensation rate", twenty per cent of the average weekly wage in the commonwealth.

**SECTION 13A.** Said section 1 of said chapter 152, as so appearing, is hereby further amended by adding the following paragraph:–

(12) "Vocational rehabilitation", nonmedical services reasonably necessary at a reasonable cost to restore a disabled employee to suitable employment as near as possible to pre-injury earnings. Such services may include vocational evaluation, counseling, education, workplace modification, and retraining, including on-the-job training or training for alternative employment with the same employer, and job placement assistance. It shall also mean reasonably necessary related expenses.

The department shall promulgate rules concerning the qualifications and performance of any person, agency or institution providing vocational rehabilitation services pursuant to this chapter. The commissioner may penalize, disqualify, or suspend a vocational rehabilitation service provider from receiving payment for services rendered under this chapter, or from providing future services under this chapter, if the commissioner or his designee determines that the provider has violated any part of this chapter or rule adopted under this chapter. The commissioner shall have the sole authority to make determinations pursuant to this paragraph; provided, however, that aggrieved parties shall have a right to appeal to the superior court.

**SECTION 14.** Section 2 of said chapter 152, as so appearing, is hereby amended by striking out, in line 1, the word "division" and inserting in place thereof the word:– department.

**SECTION 15.** Section four of said chapter one hundred and fifty-two is hereby repealed.

**SECTION 16.** Said chapter 152 is hereby further amended by striking out section 5, as appearing in the 1984 Official Edition, and inserting in place thereof the following section:–

Section 5. The commissioner shall promulgate rules and regulations consistent with this chapter for carrying out the functions of the department.

**SECTION 17.** Said chapter 152 is hereby further amended by striking out section 6, as so appearing, and inserting in place thereof the following three sections:–

Section 6. Within five days, not including Sundays and legal holidays, of receipt of notice or knowledge of any injury resulting in loss of five or more days of work for any employee, the employer shall furnish notice of the injury to the division of administration, the employee, and the insurer. The notice shall be submitted on a form prescribed by the division and shall contain the name and nature of the business of the employer, the name, age, sex and occupation of the injured employee, the date of such lost-time injury, the nature, circumstances and cause of the injury, and such additional information as the division shall



**ACTS, 1985. – Chap. 572.**

prescribe. The form also shall include a summary of the employee's rights and obligations under this chapter. The department shall provide by rule for a quarterly reporting system for those cases involving injuries in which the employee does not lose more than four days of work.

Additional reports may be required from employers, insurers and medical services providers with respect to such injury and of the condition of such employee, including copies of medical, hospital, and rehabilitation reports and records, and the payments made or to be made for compensation shall be filed with the division of administration at such times and in such manner as the division may prescribe.

The division of administration shall prepare statistical summaries of reports filed under this section.

The provisions of this section shall apply also to the head of each employing board, commission and department of the commonwealth and of the several counties, cities, towns and districts subject to the provisions of section sixty-nine and copies of the report hereby required shall be furnished to the appropriate retirement board, if any and to the agent set forth in section seventy-five or the insurer, if any.

Any person who violates the provisions of this section shall be punished by a fine of one hundred dollars for each such violation.

Section 6A. Upon receipt of notice of injury from the employer, or any other indication of a compensable injury, the division of administration shall immediately mail, post paid, to the injured worker an informational brochure as prescribed by the division which sets forth in clear and understandable language a summary statement of the rights, benefits, and obligations of injured workers under this chapter. The division shall monitor the furnishing of benefits by the employer or insurer to ascertain that correct benefits are being provided in cases accepted as compensable injuries. In the event of controversy or dispute, the division shall attempt to resolve the dispute promptly and informally, and, upon failing to do so, shall promptly forward a claim form to the employee.

Section 6B. Any proceeds resulting from the imposition of any fine levied under this chapter shall be paid into the Special Revenue Fund, established pursuant to section sixty-five.

**SECTION 18.** Said chapter 152 is hereby further amended by striking out section 7, as appearing in the 1984 Official Edition, and inserting in place thereof the following section:–

Section 7. (1) Within fourteen days of receipt of the employer's notice of injury, the insurer shall either commence payment of weekly incapacity benefits under section thirty-four or thirty-five to the employee or shall notify the division of administration, the employer, and the employee by certified mail of its refusal to commence the payments and of its intent to contest a claim should the employee file a claim with the department. The notice shall specify the grounds and factual basis for the refusal to commence payment of such benefits and intention to contest, and shall state that in order to secure benefits the employees shall file a claim with the department within any time limits provided under this chapter. Any grounds and basis for noncompens–



**ACTS, 1985. – Chap. 572.**

ability specified by the insurer shall be the sole basis of the insurer's defense on the issue of compensability in any subsequent proceeding, unless based upon newly discovered evidence.

(2) If an insurer fails to commence such payment or make such notification within said fourteen days, it shall pay to the employee an amount equal to the compensation due under section thirty-four or thirty-five as calculated from the date that the insurer first received the employer's report of injury as required under section six until the date that compensation is actually paid, plus a penalty of twenty per cent of such compensation. Such penalty may be waived if the division of administration finds that the failure to comply with said fourteen day requirement was due to events not within the control of the insurer or its agents. No amount paid as a penalty under this section shall be included in any formula utilized to establish premium rates for workers' compensation insurance.

**SECTION 19.** Said chapter 152 is hereby further amended by striking out section 7C, as so appearing, and inserting in place thereof the following section:–

Section 7C. Any party appearing before the division of dispute resolution may be heard in person, or may be represented by an attorney or by any other person designated by such party; provided, however, that nothing in this section shall be deemed to supersede the provisions of section twenty-five D. No person who is not an attorney shall be compensated for representing a claimant in such a proceeding; provided, however, that nothing in this section shall bar payment by a labor organization, employee association, or insurer of any payment of regular wages or salary to a full time employee for time spent in representing a claimant.

**SECTION 20.** Section seven E of said chapter one hundred and fifty-two is hereby repealed.

**SECTION 21.** Said chapter 152 is hereby further amended by striking out section 8, as appearing in the 1984 Official Edition, and inserting in place thereof the following section:–

Section 8. (1) An insurer who begins payments of benefits in a timely fashion may make such payments for a period of sixty calendar days from the commencement of disability without affecting its right to contest any issue arising under this chapter. An insurer may terminate or modify payments at any time within such sixty day period without penalty if such change is based on the actual income of the employee or if it gives the employee and the division of administration at least seven days written notice of its intent to stop payments and contest any claim filed. The notice shall specify the grounds and factual basis for stopping payment of benefits and intention to contest and shall state that in order to secure benefits the employee shall file a claim with the department within any time limits provided by this chapter.

Any grounds and basis for noncompensability specified by the insurer shall be the sole basis of the insurer's defense on the issue of



ACTS, 1985. – Chap. 572.

compensability, unless based on newly discovered evidence. The insurer remains at all times obligated to pay all benefits due the employee under this chapter within fourteen days of knowledge from any source that such benefits are due.

(2) An insurer may terminate payments for temporary total disability pursuant to section thirty-four after such sixty day period only if such action is based upon:

(a) return to actual employment; provided, however, that the department may by regulation provide for a reasonable time period after such return to employment during which payments may be resumed for such employee if upon such return his disability renders him incapable of performing such work; and provided, further, that, if due, compensation shall be paid under section thirty-five; or

(b) a medical report from the treating physician indicating that the employee is capable of return to the job held at the time of injury, and a written report from the employer that such job is open and has been made available to the employee; or

(c) an order of the board or reviewing board.

(3) An insurer may terminate or modify payments for partial disability pursuant to section thirty-five after such sixty day period only if such action is based upon:

(a) actual earnings of the employee during each week; or

(b) an order of the board or reviewing board.

(4) An insurer who begins payments under section seven and pays under this section for sixty days or more, without terminating payments or contesting liability, may, no sooner than ninety days following filing a complaint for termination or reduction of benefits under section thirty-four, thirty-four A or thirty-five, if no order or decision has issued within such ninety day period, request the division of dispute resolution to appoint an impartial physician to examine the employee. The director of the division of dispute resolution shall, within seven days of such request, appoint a physician from the appropriate roster to conduct an examination of the employee and make a report within fourteen days. If such report contains evidence of increased capability to work the insurer may reduce or terminate benefits in accordance with such report, pursuant to the provisions of section thirty-five D. In such instances, if the requirements of this subsection have been complied with, when an order is issued on the insurer's complaint, if such order requires that additional compensation be paid, double back benefits shall be paid the employee, but no penalty shall be assessed upon the insurer.

(5) Except as specifically provided above, if the insurer terminates, reduces, or fails to make any payments required under this chapter, and additional compensation is later ordered, the employee shall be paid by the insurer a penalty payment equal to twenty per cent of the additional compensation due on the date of such finding. No amount paid as a penalty under this section shall be included in any formula utilized to establish premium rates for workers' compensation insurance. No termination or modification of benefits not based on actual earnings or an order of the board shall be allowed without seven days written notice to the employee and the department.



**ACTS, 1985. – Chap. 572.**

**SECTION 22.** Section eight A of said chapter one hundred and fifty-two is hereby repealed.

**SECTION 23.** Section nine of said chapter one hundred and fifty-two is hereby repealed.

**SECTION 24.** Said chapter 152 is hereby further amended by striking out section 10, as appearing in the 1984 Official Edition, and inserting in place thereof the following two sections:–

Section 10. No written claim for benefits shall be required or permitted to be filed until such time as the employee believes that there are benefits presently due from and unpaid by the insurer. Any claim for benefits shall be filed with the division of administration on a form prescribed by the division, and shall specifically state the benefits claimed to be due and unpaid. On receipt of a claim for compensation or a complaint from the insurer requesting a modification or discontinuance of benefits, the division of administration shall notify the parties that it is in receipt of such claim or complaint, and may request the parties to appear and submit relevant information. The division shall attempt to resolve the subject of the claim or complaint by informal means and the parties shall cooperate with the division. Unless the party filing the claim or complaint fails to appear on request or provide requested information in its possession, the division of administration shall forward the claim or the complaint and the case file to the division of dispute resolution within ten days of initial receipt of such claim or complaint. In each instance in which a claim for compensation is referred to the division of dispute resolution, the insurer shall pay a fee of thirty per cent of the average weekly wage in the commonwealth. Such fee shall be paid into the Special Revenue Fund established pursuant to section sixty-five.

Section 10A. Upon referral from the division of administration of a claim for compensation or a complaint requesting a modification or discontinuance of benefits, the case shall be immediately assigned by the director of dispute resolution to a board member. The board member shall require the parties to appear before him within twenty-eight days of receipt of the case by the division of dispute resolution for a conference, at which time the issues in dispute shall be identified and all evidence to be presented shall be specified. If, on the evidence available at the conference, or if there is no conference within twenty-eight days, based on evidence available at the time, the member determines that weekly compensation or medical benefits are due, he shall forthwith file a written temporary order for such compensation or benefits. If on the evidence available at the conference, or if there is no conference with twenty-eight days, based on evidence available at the time, the member determines that weekly compensation or medical benefits should be modified or terminated, he shall forthwith file a written temporary order modifying or discontinuing weekly compensation or medical benefits. In any event, a hearing shall be held within forty-nine days of receipt of the case by the division of dispute resolution. Failure of a party to appear shall not prevent the issuance of an order. Any temporary orders



**ACTS, 1985. – Chap. 572.**

shall become permanent upon receipt of notice by the member from both parties of an indication that they are satisfied with the provisions of such temporary order and in such instances any subsequent scheduled proceedings shall be cancelled.

**SECTION 25.** Said chapter 152 is hereby further amended by striking out section 11, as so appearing, and inserting in place thereof the four following sections:–

Section 11. At the hearing the member shall make such inquiries and investigations as he deems necessary, and may require and receive any documentary or oral matter not previously obtained as shall enable him to issue a decision with respect to the issues before him. Such decision shall issue within twenty-eight days of the conclusion of the hearing. Failure of a party to appear at a hearing shall not delay the issuance of an order.

The member conducting the hearing may grant a continuance only for reasons beyond the control of a party or his attorney. Any continuance shall be set forth in writing by the member and shall be compiled quarterly by the department and shall be submitted to the advisory council.

Section 11A. (1) With the assistance of the the medical consultant to the commission, the director of dispute resolution shall establish and periodically review and update separate rosters of duly qualified impartial physicians who are specialists in various medical fields, one of which shall be the field of mental and emotional disabilities.

(2) When any claim or complaint is dealing with incapacity benefits for an alleged mental or emotional disability is forwarded to the division of dispute resolution, the member may appoint an impartial physician from the appropriate roster to examine the employee and make a report. The report of the impartial physician in such a case shall, where feasible, contain a determination by such physician of whether or not a mental or emotional disability exists, of whether or not any such disability is total or partial and permanent or temporary, and of whether or not any such disability is of a kind whose contributing cause is likely to have been a work-related event or series of events. The determination by an impartial physician of the existence or nonexistence of a temporary or permanent, partial or total disability shall be prima facie evidence of the existence or nonexistence, as the case may be, of such a condition, in any subsequent proceeding. Each party shall have the right to engage a physician to appear, or be deposed, for the purpose of rebutting the report of the impartial physician. If a decision of a member or reviewing board is in favor of the employee, the reasonable fee of each such physician appearing on behalf of the employee shall be paid by the insurer.

(3) In any other proceeding in which medical evidence is required for the resolution of a dispute arising under this chapter, a member may appoint a physician from the appropriate roster to examine the claimant and to make a report. Failure of an employee to report to a physician appointed under this section, after due notice and without cause, shall constitute sufficient cause for a denial, discontinuance or modification



ACTS, 1985. – Chap. 572.

of benefits, as the case may be.

(4) The fee for the service of any physician appointed by a member under this chapter shall be a reasonable amount approved by the commissioner, and shall be paid by the insurer directly to the physician promptly upon receipt of the approved bill.

Section 11B. Procedures within the division of dispute resolution shall be as simple and summary as reasonable. The commissioner shall promulgate rules providing for the use of depositions and interrogatories. In any proceeding under this chapter, the division shall give notice of the date, time, and place of the proceeding to all parties in interest. Any member of the board may subpoena witnesses, administer oaths, and examine such parts of the books and records of the parties to a proceeding as relate to questions before such member. The fee for attending as witness before the department or a member of the board shall be that provided for witnesses before the superior court department of the trial court. The superior court shall have jurisdiction to enforce the provisions of this section relating to the attendance and testimony of witnesses and the examination of books and records.

A member may upon the filing of a written request of any party appearing before him, together with interrogatories and cross-interrogatories, if any, request officers in other jurisdictions, having power and duties similar to those of a member of the board, to take depositions or testimony of persons or witnesses residing in such jurisdictions. On the return of any such deposition to the division it shall be forwarded to the appropriate member. A reasonable fee for services in connection with the taking of such depositions and the expenses thereof shall be assessed upon the requesting party.

The expenses for services in connection with the taking of depositions shall be paid by the party requesting that such witness be deposed or whose witness is ordered to be deposed; provided, however, that if the decision of the member or reviewing board is in favor of the employee, the cost of such proceeding shall be added to the amount awarded to the employee and be paid by the insurer under the provisions of this chapter.

The evidence at the hearing shall be taken both stenographically and with the aid of an electronic recording device operated by an employee of the department sworn to record the entire proceeding. Any party may copy the audio recording at the department at reasonable hours or require the department to provide a copy of such recording at no charge to such party after the conclusion of the proceeding. The original recording shall remain in the control of the department. Verbatim transcripts shall be made manually from the stenographic notes only if a certified copy of the proceedings is required by the reviewing board or a court of the commonwealth. Decisions of members of the board shall set forth the issues in controversy, the decision on each and a brief statement of the grounds for each such decision. Decisions shall issue no more than twenty-eight days following the close of testimony, unless further extension is authorized in writing by the director of dispute resolution.

Section 11C. Any party aggrieved by a decision of a member after a hearing held pursuant to section eleven may, within thirty days of the



**ACTS, 1985. -- Chap. 572.**

date of such decision, appeal to the reviewing board. Appeals to the reviewing board must be accompanied by a fee of thirty per cent of the average weekly wage in the commonwealth, which shall be paid into the special fund pursuant to section sixty-five. Such fee may be waived by the reviewing board for indigent claimants. The reviewing board shall reverse the decision of a member only if it determines on the basis of such member's written opinion and on an examination of a written transcript of the hearing, that the member's decision is beyond the scope of his authority, arbitrary or capricious, contrary to law, or unwarranted by the facts. The reviewing board may weigh evidence, but may not review determinations by the member who conducted the hearing regarding the credibility of witnesses who have given testimony. No oral arguments shall be allowed except when explicitly requested by the reviewing board, but briefs shall be considered if seasonably submitted by a party. Decisions of the reviewing board shall be in writing, shall decide all issues presented, and shall be issued by the reviewing board no more than thirty days from the filing of the appeal and fee, unless an extension is authorized in writing by the director of dispute resolution.

**SECTION 26.** Said chapter 152 is hereby further amended by striking out section 12, as so appearing, and inserting in place thereof the following section:-

Section 12. (1) Whenever any party in interest presents a certified copy of an order or decision of a board member or of the reviewing board and any papers in connection therewith to the superior court department of the trial court for the county in which the injury occurred or for the county of Suffolk, the court shall enforce the order or decision, notwithstanding whether the matters at issue have been appealed and a decision on the merits of the appeal is pending. In the event that the order or decision is reversed on appeal, the enforcement order shall be deemed vacated and unenforceable from the date of such reversal. If the request for an enforcement order is presented to the superior court for the county of Suffolk, the court may, on motion of any party in interest, order the case removed to the superior court for the county in which the injury occurred.

(2) Any appeal from a decision by a reviewing board shall be taken pursuant to section fourteen of chapter thirty A, except that such appeal shall be filed with the appeals court of the commonwealth.

(3) In rendering an order or judgement under this section or following a rescript of the supreme judicial court after an appeal from such an order or judgement the court shall award costs to the prevailing party, to be assessed as in actions at law. This paragraph shall not authorize the awarding of costs to or against the industrial accident board or reviewing board.

(4) In the event of a judgement of the appeals court, the court may, on motion of either party, by a brief statement of facts agreeable to the parties, report questions of law raised by the decree to the supreme judicial court for determination.

(5) Immediately after the entry of a judgement under this section, whether final or interlocutory, the clerk of the court shall prepare and



**ACTS, 1985. – Chap. 572.**

forward to the department and to the parties an attested copy of such judgement. Upon the entry of an interlocutory judgement under this section recommitting a case to the board, counsel for the parties shall immediately notify said board by appropriate motion for action in accordance with the requirements of such judgement.

**SECTION 27.** Said chapter 152 is hereby further amended by striking out section 12A, as so appearing, and inserting in place thereof the following section:–

Section 12A. If on appeal to the appeals court or the supreme judicial court pursuant to section twelve the claimant prevails, the court shall allow the claimant, in addition to the award in the judgement, an amount equal to the reasonable cost of his attorney's fees, briefs and other necessary expenses that result from the appeal. When any party in interest obtains an enforcement order from the superior court department of the trial court pursuant to said section twelve, the court shall also allow the party the reasonable cost of attorney's fees, briefs and other expenses provided for by this section.

**SECTION 28.** Said chapter 152 is hereby further amended by striking out section 13, as so appearing, and inserting in place thereof the following section:–

Section 13. (1) The rate of payment by insurers for health care services adjudged compensable under this chapter shall be established by the rate setting commission under the provisions of chapter six A.

No insurer shall be liable for hospitalization expenses, adjudged compensable under this chapter at a rate in excess of the rate set by the rate setting commission, or for other health services in excess of the rate established for that service by the rate setting commission. Nor shall any employee be liable for services adjudged compensable under this chapter which have been paid for at the rates established by the rate setting commission.

Except with respect to rates to be paid for health care services, as defined in said chapter six A, which shall be reviewable under said chapter six A, the commissioner shall by rule establish procedures for determining whether or not the charge for a health service is excessive. In order to accomplish this purpose, the commissioner shall consult with insurers, associations and organizations representing the medical and other providers of treatment services, and other appropriate groups. The charges for such health services shall be reasonable.

(2) The department shall review the clinical health care providers who render services to injured employees. This review shall be achieved by establishing a quality control system within the department. The commissioner may hire a medical consultant or consultants, full or part-time, to assist in the administration of this section. Any medical consultant shall be a physician licensed under the laws of the commonwealth.

Such medical consultant shall perform all duties assigned by the commissioner relating to the supervision of the total range of care of injured employees and shall also advise the department on matters on which the commissioner requests the consultant's advice.



**ACTS, 1985. – Chap. 572.**

The commissioner shall monitor the medical and surgical treatment provided to injured employees and the services of other health care providers, and shall also monitor hospital utilization as it relates to the treatment of injured employees. The monitoring shall include determinations concerning the appropriateness of the service, whether the treatment is necessary and effective, the proper costs of services, and the quality of treatment. The commissioner with the advice of the health care service board may penalize, disqualify, or suspend a provider from receiving payment for services rendered under this chapter if the commissioner or his designee determines that the provider has violated any part of this chapter or rule adopted under this chapter.

The commissioner shall have the sole authority to make determinations under this section; provided, however, that aggrieved parties shall have a right to appeal to the superior court.

(3) There is hereby created a health care services board composed of the commissioner or his designee as an ex officio member and chairman, two persons representing chiropractic and osteopathy, one person representing hospital administrators, one person representing physical therapists, and six physicians representing different medical specialties which the commissioner determines are the most frequently utilized by injured employees. The board shall also have one person representing employees, one person representing employers, and one person representing the public. Members shall be appointed by the commissioner for two-year terms. The board shall advise the commissioner on matters arising under this section.

**SECTION 28A.** Said chapter 152 is hereby further amended by inserting after section 13 the following section:–

Section 13A. (1) Whenever an insurer contests a claim for benefits, including unpaid medical bills, and then accepts liability for the claim, or files a complaint and then withdraws such complaint after said claim or complaint has been referred to the division of dispute resolution but prior to a conference pursuant to section ten A, the member to whom the case has been assigned shall approve a reasonable attorney's fee to be paid by the insurer sufficient to compensate the employee for the reasonable costs of counsel. Unless there is a finding of an unusual complexity of the dispute or of any untypical effort expended by the attorney, such fee shall be of an amount equal to one hundred and fifty per cent of the average weekly wage in the commonwealth, plus necessary expenses.

(2) Whenever an insurer (i) contests a claim for benefits, including unpaid medical bills or a request for a modification, and then accepts such claim after a conference has been held, but prior to the fifth day before the date set for a hearing; or (ii) is ordered to pay benefits by a temporary order, or (iii) brings any proceeding as to a modification or discontinuance of benefits which is withdrawn subsequent to a conference or in which the employee prevails pursuant to a temporary order, the member to whom the case has been assigned shall approve a reasonable attorney's fee to be paid by the insurer sufficient to compensate the employee for the reasonable costs of counsel. Unless



**ACTS, 1985. – Chap. 572.**

there is a finding of an unusual complexity of the dispute or of any untypical effort expended by the attorney, such fee shall be of an amount equal to three times the average weekly wage in the commonwealth, plus necessary expenses.

(3) Whenever an insurer brings a complaint or contests a claim and (i) accepts the employee's claim or withdraws its own complaint within five days of the date set for a hearing pursuant to section eleven; or (ii) the employee prevails at such hearing, the member or reviewing board shall approve a reasonable attorney's fee to be paid by the insurer sufficient to compensate the employee for the reasonable costs of counsel. Unless there is a finding of an unusual complexity of the dispute or of any untypical effort expended by the attorney, such fee shall be an amount equal to seven times the average weekly wage in the commonwealth, plus necessary expenses.

(4) Whenever an insurer appeals a decision of the board and the employee prevails in the decision of the reviewing board, said reviewing board shall approve a reasonable attorney's fee to be paid by the insurer sufficient to compensate the employee for the reasonable costs of counsel. Unless there is a finding of an unusual complexity of the dispute or of any untypical effort expended by the attorney, such fee shall be an amount equal to three times the average weekly wage in the commonwealth, plus necessary expenses.

(5) Whenever an employee appeals a decision of a member and such employee prevails in the decision of the reviewing board, a reasonable attorney's fee shall be paid by the employee to his attorney subject to the agreement between the employee and his counsel; provided, however, that in the event of a dispute as to the amount of the fee, a request for a determination may be filed with the reviewing board who shall determine such fee.

(6) Whenever an insurer and an employee agree to a settlement under section forty-eight, the attorney's fee shall be paid from the settlement in accordance with the following provisions:

(a) When the insurer and the employee reach such settlement prior to insurer acceptance of liability and prior to any determination by the board or reviewing board of insurer liability, such fee shall be no more than fifteen per cent of the amount of such settlement.

(b) When the insurer and the employee reach such settlement subsequent to such insurer's acceptance of liability or to any determination of the board or reviewing board that such insurer is liable for compensation, such fee shall be no more than twenty per cent of such settlement.

(7) No attorney's fee shall be paid under this chapter for services rendered any employee relative to any injury unless a claim, complaint, settlement request or other proceeding relative to such injury has at some time been referred to the division of dispute resolution.

**SECTION 29.** Said chapter 152 is hereby further amended by striking out section 14, as so appearing, and inserting in place thereof the following section:—

Section 14. (1) If any member of the board, the reviewing board, or



**ACTS, 1985. – Chap. 572.**

any court before which proceedings under this chapter are brought determines that such proceedings have been brought, prosecuted, or defended without reasonable ground, the whole cost of the proceedings shall be assessed upon the party who has so brought, prosecuted or defended them.

(2) If it is determined that any party has brought, prosecuted, or defended proceedings with the intent to defraud, the party shall be assessed, in addition to the whole costs of such proceedings and attorney's fees, a penalty, payable to the aggrieved insurer or employee, in an amount not less than the average weekly wage in the commonwealth multiplied by three. Any employee who has received payments for compensation pursuant to a claim found to be fraudulent under this subsection shall reimburse the amount of such payments with interest to the insurer. Any action provided in this subsection shall be brought by an employee, employer or insurer in the superior court department of the trial court for the county in which the injury occurred or in the county of Suffolk, provided, however, that if presented to the superior court for the county of Suffolk, the court may, on motion of any party in interest, order the case removed to the superior court for the county in which the injury occurred.

**SECTION 30.** Section 15 of said chapter 152, as so appearing, is hereby amended by striking out the eighth and ninth sentences and inserting in place thereof the following two sentences:– Except in the case of a settlement by agreement by the parties to, and during a trial of, such an action at law, no settlement by agreement shall be made with such other person without the approval of either the board, the reviewing board, or the court in which the action has been commenced after an opportunity has been afforded both the insurer and the employee to be heard on the merits of the settlement and on the amount, if any, to which the insurer is entitled out of such settlement by way of reimbursement, which amount shall be determined at the time of such approval. In the case of a settlement by agreement by the parties to and during a trial of such an action at law, only the justice presiding at the trial shall have and exercise, relative to the approval of such settlement by agreement and to the protection of the rights and interests of the employee, the powers granted in the preceding sentence.

**SECTION 31.** Said chapter 152 is hereby further amended by striking out section 16, as so appearing, and inserting in place thereof the following section:–

Section 16. When in any case before the department it appears that compensation has been paid or when in any such case there appears of record a finding that the employee is entitled to compensation, no subsequent finding by a member or the reviewing board discontinuing compensation on the ground that the employee's incapacity has ceased shall be considered final as a matter of fact or *res adjudicata* as a matter of law, and such employee or his dependents, in the event of his death, may have further hearings as to whether his incapacity or death is or was the result of the injury for which he received compensation;



**ACTS, 1985. – Chap. 572.**

provided, however, that if the board shall determine that the petition for such rehearing is without merit or frivolous, the employee or his dependents shall not thereafter be entitled to file any subsequent petition thereof except for cause shown and in the discretion of the member to whom such subsequent petition may be referred; and, provided further, that, in the event of the death of the employee, such a petition for a rehearing shall be filed within three months from the time of his decease and within one year from the date of the finding terminating his compensation.

**SECTION 32.** Said chapter 152 is hereby further amended by striking out section 17, as so appearing, and inserting in place thereof the following section:–

Section 17. All orders or decisions issued in accordance with this chapter shall be enforceable under section twelve unless and until reversed by a decision of a member of the board or a reviewing board, or a judgement or decision of a court of the commonwealth; and payment of compensation, when ordered, shall commence immediately, with the first payment to be received by the employee within fourteen days of the issuance of any such order or decision, and shall cover all periods for which compensation is due under this chapter. No penalties shall be assessed during the pendency of any appeal.

**SECTION 33.** Said chapter 152 is hereby further amended by striking out section 19, as so appearing, and inserting in place thereof the following section:–

Section 19. Subject to the approval of the department, questions arising under this chapter may be settled by agreement by the parties interested therein, except as otherwise provided in this chapter. The agreements shall for all purposes be enforceable in the same manner as an order under section twelve. A party to such agreement may file a complaint to vacate or modify the agreement on grounds of law or equity.

**SECTION 34.** Said chapter 152 is hereby further amended by striking out section 23, as so appearing, and inserting in place thereof the following section:–

Section 23. If an employee files any claim or accepts payment of compensation on account of personal injury under this chapter, or submits to a proceeding before the department under sections ten to twelve, inclusive, such action shall constitute a release to the insurer of all claims or demands at common law, if any, arising from the injury. If an employee accepts payment of compensation under this chapter on account of personal injury or makes an agreement under section forty-eight, such action shall constitute a release to the insured of all claims or demands at common law, if any, arising from the injury.

**SECTION 35.** Said chapter 152 is hereby further amended by striking out section 24, as so appearing, and inserting in place thereof the following section:–

Section 24. An employee shall be held to have waived his right of



**ACTS, 1985. – Chap. 572.**

action at common law or under the law of any other jurisdiction in respect to an injury that is compensable under this chapter, to recover damages for personal injuries, if he shall not have given his employer, at the time of his contract of hire, written notice that he claimed such right, or, if the contract of hire was made before the employer became an insured person self-insurer, if the employee shall not have given the said notice within thirty days of the time said employer became an insured person or self-insurer. An employee who has given notice to his employer that he claimed his right of action as aforesaid may waive such claim by a written notice, which shall take effect five days after it is delivered to the employer or his agent. The notices required by this section shall be given in such manner as the department may approve. If an employee has not given notice to his employer that he preserves his right of action at common law as provided by this section, the employee's spouse, children, parents and any other member of the employee's family or next of kin who is wholly or partly dependent upon the earnings of such employee at the time of injury or death, shall also be held to have waived any right of action at common law against such employer for damage due to loss of consortium, parental guidance, companionship or the like, when such loss is a result of any injury to the employee that is compensable under this chapter.

**SECTION 36.** Said chapter 152 is hereby further amended by inserting after section 25D the following seventeen sections:–

**Section 25E.** Sections twenty-five E to twenty-five U, inclusive, shall apply to workers' compensation self-insurance groups. A workers' compensation self-insurance group that is issued a certificate of approval by the commissioner shall not be deemed to be insurers or insurance companies and shall not be subject to the provisions of the insurance laws and regulations of the commonwealth except as otherwise provided herein. Workers' compensation self-insurance groups shall be subject to all provisions of this chapter and all regulations promulgated hereunder governing the conduct of insurers with respect to the payment of workers' compensation benefits, and shall be subject to all fees, fines, penalties and assessments levied upon insurers for failure to comply with the claim procedure of this chapter.

As used in this section and sections twenty-five F to twenty-five U, inclusive, the following words, unless the context requires otherwise, shall have the following meanings:–

"Administrator", an individual, partnership, corporation or unincorporated association engaged by a workers' compensation self-insurance group's board of trustees to carry out the policies established by the group's board of trustees and to provide daily management of the group.

"Insolvent" or "Insolvency", the inability of a workers' compensation self-insurance group to pay its outstanding lawful obligations as they mature in the regular course of business, as may be shown either by an excess of its required reserves and other liabilities over its assets or by its not having sufficient assets to reinsure all of its outstanding liabilities after paying all accrued claims owed by it.



**ACTS, 1985. – Chap. 572.**

"Net premium", premium derived from standard premium adjusted by any advance premium discounts.

"Standard premium", the premium derived from the manual rates adjusted by experience modification factors but before advance premium discounts.

"Workers' compensation", when used as a modifier of benefits, liabilities or obligations, shall mean both workers' compensation and employer's liability.

"Public employer workers' compensation self-insurance group", or "public employer group", a not-for-profit association consisting of five or more employers, all of whom are public entities, who enter into agreements to pool their liabilities for workers' compensation benefits and employer's liability in this state.

"Workers' compensation self-insurance group" or "group", a public employers group or a not-for-profit unincorporated association consisting of five or more employers who are engaged in the same or similar type of business, who are members of the same bona fide industry, trade or professional association which has been in existence for not less than two years, and who enter into agreements to pool their liabilities for workers' compensation benefits and employer's liability in this state.

"Commissioner of insurance", the commissioner of the department of insurance.

Section 25F. No person, association, or entity shall act as a workers' compensation self-insurance group unless it has been issued a certificate of approval by the commissioner of insurance.

Section 25G. (1) A proposed workers' compensation self-insurance group shall file with the commissioner of insurance its application for a certificate of approval accompanied by a nonrefundable filing fee in the amount of one hundred dollars. The application shall include the group's name, the location of its principal office, the date of organization, the name and address of each member, and such other information as said commissioner may reasonably require, together with the following:

(a) a copy of the by-laws of the proposed group, and a copy of the articles of association, if any;

(b) an individual application of each member of the group applying for coverage by the group on the inception date of the group;

(c) a current certified financial statement of each member, including at a minimum, a balance sheet, a profit and loss statement, a statement of change in fund position, and a statement showing the combined net worth of all members applying for coverage on the inception date of the fund. The combined net worth shall be of an amount that establishes the financial strength and liquidity of the businesses;

(d) a pro forma financial statement on a form acceptable to the commissioner showing the financial ability of the group to pay the workers' compensation obligations of its members;

(e) a composite listing of the estimated standard premium and annual net premium to be developed for each member individually and in total as a group. Payroll data for each of the three preceding years shall be furnished by risk classification;



ACTS, 1985. – Chap. 572.

(f) a documented agreement by each member to pay to the group not less than twenty-five per cent of that member's estimated annual net premium not later than the initial day of coverage afforded by the group;

(g) a confirmation of any required reinsurance by a recognized carrier in an amount estimated acceptable to the commissioner of insurance;

(h) the designation of the initial board of trustees and administrator;

(i) an indemnity agreement jointly and severally binding the group and each member thereof to comply with the provisions of the chapter, which shall conform to an indemnity agreement prescribed by the commissioner of insurance;

(j) a breakdown of all projected administrative expenses for the group year in dollar amount and as a percentage of the estimated annual normal premium;

(k) proof provided by the trustees, satisfactory to the commissioner of insurance, that the annual gross premiums of the group shall be not less than one hundred thousand dollars, except that the annual gross premium for public employers groups will not be less than one million dollars;

(2) To obtain and to maintain its certificate of approval, a workers' compensation self-insurance group shall comply with the following requirements as well as any other requirements established by law or regulation:

(a) A combined net worth of all members of a group of private employers of at least one million dollars;

(b) Security in a form and amount prescribed by the commissioner which shall be provided by either a surety bond, or security deposit, or any combination thereof. If a surety bond is used to meet the security requirement, it shall be issued by a corporate surety company authorized to transact business in the commonwealth. If a security deposit is used to meet the security requirement, securities shall be limited to bonds or other evidences of indebtedness issued, assumed, or guaranteed by the United States of America, or by an agency or instrumentality thereof; certificates of deposit in a federally insured savings and loan association or credit union; or any bond or security issued by a state of the United States of America and backed by its full faith and credit.

The bond, or security deposit, shall be for the benefit of the commonwealth solely to pay claims and associated expenses and payable on the failure of the group to pay workers' compensation benefits which it is legally obligated to pay. The commissioner may establish requirements for the amount of security based on differences among groups in their size, types of employment, years in existence, and other relevant factors; provided, however, that the commissioner of insurance may not require an amount lower than one hundred thousand dollars for any group during its first year of operation;

(c) Specific and aggregate excess insurance in a form, in an amount, and by an insurer acceptable to the commissioner of insurance. The commissioner of insurance may establish minimum requirements for the amount of specific and aggregate excess insurance based on differences among groups in their size, types of employments, types of local government services provided by members of public employers groups, years in existence, and other relevant factors and may permit a group to



ACTS, 1985. – Chap. 572.

meet this requirement by placing in a designated depository securities of the type referred to in paragraph (b) of this subsection.

(d) A fidelity bond for the administrator, if any, in a form and amount prescribed by the commissioner of insurance;

(e) A group shall notify the commissioner of insurance of any change in the information required to be filed under subsection (1) or in the manner of its compliance with subsection (2) no later than thirty days after such change.

(3) The commissioner of insurance shall evaluate the information provided by the application required to be filed under subsection (1) of this section to assure that no gaps in funding exist and that funds necessary to pay workers' compensation benefits shall be available on a timely basis.

(4) The commissioner of insurance shall act on a completed application for a certificate of approval within ninety days.

(5) The commissioner of insurance shall issue to the group a certificate of approval on finding that the proposed group has met all requirements, or shall issue an order refusing such certificate setting forth reasons for such refusal on finding that the proposed group does not meet all requirements.

(6) Each workers' compensation self-insurance group shall be deemed to have appointed the commissioner of insurance as its attorney to receive service of legal process issued against it in the commonwealth. The appointment shall be irrevocable, shall bind any successor in interest and shall remain in effect as long as there is in the commonwealth any obligation or liability of the group for workers' compensation benefits.

(7) The provisions of paragraphs (c) and (i) of subsection (1) and paragraphs (a) and (b) of subsection (2) shall not apply to public employer groups.

Section 25H. (1) The certificate of approval issued by the commissioner of insurance to a workers' compensation self-insurance group authorizes the group to provide workers' compensation benefits. The certificate of approval remains in effect until terminated at the request of the group or revoked by the commissioner of insurance pursuant to the provisions of section twenty-five U.

(2) The commissioner of insurance shall not grant the request of any group to terminate its certificate of approval unless the group has insured or reinsured all incurred workers' compensation obligations with an authorized insurer under an agreement filed with and approved in writing by said commissioner. Such obligations shall include both known claims and expenses associated therewith. Subject to the approval of the commissioner of insurance, a group may merge with another group engaged in the same or similar type of business only if the resulting group assumes in full all obligations of the merging groups. A public employer group may only merge with another public employer group. The commissioner of insurance may hold a hearing on the merger and shall do so if any party, including a member of either group, so requests.

Section 25I. The commissioner of insurance shall examine the affairs, transactions, accounts, records and assets of each group as often as the commissioner deems advisable, but not less often than once every three



ACTS, 1985. – Chap. 572.

years. The expense of such examinations shall be assessed against the group in the same amount and manner that insurers are assessed for examinations.

Section 25J. (1) Each group shall be operated by a board of trustees which shall consist of not less than three persons whom the members of a group elect for stated terms of office. At least two of the trustees shall be employees, officers or directors of members of the group, except for public employer groups for whom the three trustees shall be elected officials or employees of public entities within this state. The administrator of a self-insurance group, if any, shall not serve on the board of trustees of the group, unless the group is a public employer group, in which case the administrator may serve as a trustee. All trustees shall be residents of the commonwealth or officer of corporations authorized to do business in the commonwealth.

(2) The board of trustees of each group shall ensure that all claims are paid promptly and shall take all necessary precautions to safeguard the assets of the group, including the following:

(a) Maintain responsibility for all monies collected or disbursed from the group and segregate all monies in a claims fund account and an administrative fund account. Net premium shall be placed in a designated depository in an amount equal to the aggregate retained workers' compensation liability of the group, and such deposits shall be called the claims fund account. The remaining net premium after any payments for reinsurance or excess insurance shall be placed in a designated depository for the payment of taxes, general regulatory fees and assessments and administrative costs and such deposits shall be called the administrative fund account.

(b) Maintain minutes of its meetings and make such minutes available to the commissioner of insurance; and

(c) Designate an administrator to carry out the policies established by the board of trustees and to provide day to day management of the group and delineate in the written minutes of its meetings the areas of authority it delegates to the administrator.

(3) Funds not needed for current obligations may be invested by the board of trustees in accordance with the provisions of section sixty-three of chapter one hundred and seventy-five.

(4) The board of trustees shall not:

(a) Extend credit to individual members for payment of a premium, except pursuant to payment plans approved by the commissioner of insurance.

(b) Borrow any monies from the group or in the name of the group except in the ordinary course of business, without first advising the commissioner of insurance of the nature and purpose of the loan and obtaining prior approval from the commissioner of insurance.

Section 25K. (1) An employer joining a workers' compensation self-insurance group after the group has been issued a certificate of approval shall submit an application for membership to the board of trustees or its administrator and, unless the employer is a public employer, enter into the indemnity agreement required by paragraph (i) of subsection (1) of section twenty-five G. Membership shall take effect



ACTS, 1985. – Chap. 572.

no earlier than each member's date of approval. The application for membership and its approval shall be maintained as permanent records of the board of trustees.

(2) Individual members of the group shall be subject to cancellation by the group pursuant to the by-laws of the group. In addition, individual members may elect to terminate their participation in the group. The group shall notify the commissioner of insurance and the department of industrial accidents of the termination or cancellation of a member within ten days and shall maintain coverage of each cancelled or terminated member for thirty days after such notice, with the cancelled or terminated member responsible for the premium for such period, unless the group is notified sooner by the workers' compensation agency that the cancelled or terminated member has procured workers' compensation insurance, has become a self-insurer, or has become a member of another group.

(3) The group shall pay all workers' compensation benefits for which each member incurs liability during its period of membership. A member of a group, unless the group is a public employer group, who elects to terminate its membership or is cancelled by the group shall remain jointly and severally liable for the workers' compensation obligations of the group and its members which were incurred during the cancelled or terminate member's period of membership.

(4) A group member is not relieved of its workers' compensation liabilities incurred during its period of membership except through payment by the group or the member of required workers' compensation benefits.

(5) The insolvency or bankruptcy of a member shall not relieve the group or, unless the group is a public employer group, any other member of the group of liability for the payment of workers' compensation benefits incurred during the insolvent or bankrupt member's period of membership.

Section 25L. Except for the trustees, officers, directors or salaried employees of a group or its administrator, any person soliciting membership in a workers' compensation self-insurance group must be a licensed agent as provided by section sixty-three of chapter one hundred and seventy-five.

Section 25M. No person shall make a material misrepresentation or omission of a material fact in connection with the solicitation of a membership of a group.

Section 25N. Each group shall submit to the commissioner of insurance thirty days prior to the end of its policy year a performance report estimating total outstanding liability, including incurred but not reported claims, for that policy year.

Each group shall submit to the commissioner of insurance a statement of financial condition audited by an independent certified public accountant on or before the last day of the sixth month following the end of the group's fiscal year. Said financial statement shall be on a form prescribed by said commissioner and shall include, but not be limited to, actuarially appropriate reserves for known claims and expenses associated therewith, claims incurred but not reported and expenses



**ACTS, 1985. – Chap. 572.**

associated therewith, reinsurance in force, unearned premiums, and bad debts, which reserves shall be known as liabilities.

The commissioner of insurance may prescribe the format and frequency of other reports which may include, but shall not be limited to, payroll audit reports, summary loss reports and quarterly financial statements.

Section 25 O. (1) Every workers' compensation self-insurance group shall adhere to the uniform classification system, uniform experience rating plan, and manual rules filed with the commissioner of insurance by an advisory organization designated by said commissioner.

(2) Premium contributions to the group shall be determined by applying the manual rates and rules to the appropriate classification of each member which shall be adjusted by each member's experience credit or debit. Subject to approval by the commissioner of insurance, premium contributions may also be reduced by an advance premium discount reflecting the group's expense levels and loss experience.

(3) Notwithstanding the provisions of subsection (2), a group may apply to the commissioner of insurance for authority to make its own rates. Such rates shall be based on at least two years of the group's experience. Public employer safety groups in operation for at least two consecutive years prior to their application as a public employer self insurance group may apply to the commissioner of insurance to make its own rates effective the first year of operation as a self insured group.

(4) Each group shall be audited at least annually by an auditor approved by the commissioner of insurance to verify proper classifications, experience rating, payroll and rates. A report of the audit shall be filed with said commissioner of insurance in a form acceptable to him. A group or any member thereof may request a hearing on any objections to the classifications. If the commissioner of insurance determines that, as a result of an improper classification, a member's premium contribution is insufficient, he shall order the group to assess that member an amount equal to the deficiency. If said commissioner determines that as a result of an improper classification a member's premium is excessive, he shall order the group to refund to the member the excess collected. The audit shall be at the expense of the group.

Section 25P. Any monies for a fund year in excess of the amount necessary to fund all obligations for such fund year may be declared to be refundable by the board of trustees not less than six months after the end of the fund year.

Each member shall be given a written description of the refund plan at the time of application for membership. A refund for any fund year shall be paid only to those employers who remain participants in the group for the entire fund year. Payment of a refund based on a previous fund year shall not be contingent on continued membership in the group after that fund year.

Section 25Q. (1) Each group shall establish with the approval of the commissioner of insurance a premium payment plan which shall include an initial payment by each member of at least twenty-five per cent of that member's annual premium before the start of the group's fund year



**ACTS, 1985. – Chap. 572.**

and payment of the balance of each member's annual premium within the first eight months of that fund year in monthly or quarterly installments.

(2) Each group shall establish and maintain actuarially appropriate loss reserves which shall include reserves for known claims and expenses associated therewith and claims incurred but not reported and expenses associated therewith.

(3) Each group shall establish and maintain bad debt reserves based on the historical experience of the group or other groups.

(4) Subsections (1) and (3) shall not apply to public employer groups; provided, however, that public employer groups shall establish a premium payment plan acceptable to the commissioner.

Section 25R. If the assets of a group are at any time insufficient to enable the group to discharge its legal liabilities and other obligations and to maintain the reserves required of it under this chapter, it shall forthwith make up the deficiency or levy an assessment on its members for the amount needed to make up the deficiency.

In the event of a deficiency in any fund year, such deficiency shall be made up immediately, either from surplus from a fund year other than the current fund year, administrative funds, assessment of the membership, if ordered by the group or, such alternate method as the commissioner of insurance may approve of direct. Said commissioner shall be notified prior to any transfer of surplus funds from one fund year to another.

If the group fails to assess its members or to otherwise make up such deficit within thirty days the commissioner of insurance shall order it to do so.

If the group fails to make the required assessment of its members within thirty days after the commissioner of insurance orders it to do so, or if the deficiency is not fully made up within sixty days after the date on which such assessment is made, then after such longer period of time as may be specified by said commissioner, the group shall be deemed to be insolvent.

The commissioner of insurance shall proceed against an insolvent group in the same manner as said commissioner would proceed against an insolvent domestic insurer in the commonwealth pursuant to section six of chapter one hundred and seventy-five. Said commissioner shall have the same powers and limitations in such proceedings as are provided under said section six, except as otherwise provided in this chapter.

In the event of the liquidation of a group, the commissioner of insurance shall levy an assessment on its members for such an amount as he determines to be necessary to discharge all liabilities of the group, including the reasonable cost of liquidation.

Section 25S. After notice and opportunity for a hearing, the commissioner of insurance may impose a monetary penalty on any person or group found to be in violation of any of the provisions of section twenty-five E to twenty-five V, inclusive, or of any rules or regulations promulgated thereunder. The monetary penalty shall not exceed one thousand dollars for each act or violation, not to exceed an aggregate monetary penalty of ten thousand dollars. The amount of any such monetary penalty shall be paid to said commissioner for the use of the



**ACTS, 1985. – Chap. 572.**

department of insurance.

Section 25T. After notice and opportunity for a hearing, the commissioner of insurance may issue an order requiring a person or group to cease and desist from engaging in an act or practice found to be in violation of any provision of sections twenty-five E to twenty-five U, inclusive, or of any rules or regulations promulgated thereunder.

Upon a finding, after notice and opportunity for a hearing, that any person or group has violated any cease and desist order, the commissioner of insurance may: impose a monetary penalty of not more than ten thousand dollars for each act or violation of such order not to exceed an aggregate monetary penalty of one hundred thousand dollars and may revoke the group's certificate of approval.

Section 25U. After notice and opportunity for a hearing, the commissioner of insurance may revoke a group's certificate of approval if it is found to be insolvent, regulatory or assessment, or special fund or trust fund contribution imposed on it, or fails to comply with any of the applicable provisions of sections twenty-five E to twenty-five U, inclusive, with any rules lawfully promulgated, or with any lawful order of said commissioner within the time prescribed. In addition, said commissioner of insurance may revoke a group's certificate of approval if, after notice and opportunity for hearing, the commissioner finds that any certificate of approval that was issued to the group was obtained by fraud; that there was a material misrepresentation in the application for the certificate of approval; or that the group or its administrator has misappropriated, converted, illegally withheld, or refused to pay over on proper demand any monies that belong to a member, an employee of a member, or a person otherwise entitled thereto and that have been entrusted to the group or its administrator in its fiduciary capacities.

This section shall apply to public employer groups; provided, however, that the failure of a public employer group to pay a premium tax shall not be grounds for revocation of the public employer group's certificate of approval.

**SECTION 37.** Section 28 of said chapter 152, as appearing in the 1984 Official Edition, is hereby amended by adding the following paragraph:–

As used in this section the term "minor" shall not include mentally retarded persons eighteen years of age or older if:

(1) the employment takes place in a sheltered workshop which holds either a license from the department of mental health or accreditation from the commission on accreditation of rehabilitation facilities; and

(2) a professional vocational specialist evaluates the employee at the employment site, for the specific job performed and such evaluation determines in writing that the employee is appropriate for and capable of such employment; and

(3) the employee has agreed in writing to the written rehabilitation plan or to an accurate verbal description of such written plan.

The division of administration shall keep statistical records on injuries that occur at sheltered workshops. If there appears to be a pattern of such injuries at a particular sheltered workshop, the office of claims administration shall notify the division of accreditation in the



**ACTS, 1985. – Chap. 572.**

department of mental health and such division shall take whatever action it deems appropriate.

**SECTION 38.** Said chapter 152 is hereby further amended by striking out section 29, as so appearing, and inserting in place thereof the following section:–

Section 29. No compensation pursuant to section thirty-four or thirty-five shall be paid for any injury which does not incapacitate the employee from earning full wages for a period of five or more days. If incapacity extends for a period of five days or more, compensation shall be paid from the date of injury; provided, however, that, except as otherwise provided in this chapter no compensation shall be paid for any period for which any wages were earned. No mental or emotional disability arising principally out of a bona fide, personnel action including a transfer, promotion, demotion, or termination except such action which is the intentional infliction of emotional harm shall be deemed to be a personal injury within the meaning of this chapter.

**SECTION 39.** Said chapter 152 is hereby further amended by striking out section 30A, as so appearing, and inserting in place thereof the following section:–

Section 30A. Any medical report pertaining to a compensable injury shall be furnished by the physician or other medical provider to the employee, the insurer, and the department within fourteen days of completion of the examination of the employee. Each failure to comply with such reporting requirement shall be punishable by a civil fine to be determined by the director of administration, not to exceed one thousand dollars.

**SECTION 40.** Said chapter 152 is hereby further amended by inserting after section 30D, as so appearing, the following five sections:–

Section 30E. It shall be the policy of the department to encourage and assist in the development of voluntary agreements between injured employees and insurers to provide and utilize vocational rehabilitation services when necessary to return such employees to suitable gainful employment. The department shall promulgate rules and regulations to implement such policy.

Section 30F. The commissioner shall promulgate rules and regulations for the identification and reporting to the office of education and rehabilitation of cases in which vocational rehabilitation services may be required.

The purpose of said rules and regulations shall be to facilitate the earliest possible identification of such cases.

Section 30G. The office of education and vocational rehabilitation shall contact and meet with each injured employee who it believes may require vocational rehabilitation services in order to return to suitable employment. Any such employee who refuses to meet with the office of education and vocational rehabilitation shall not be entitled to weekly compensation benefits during the period of such refusal.

The commissioner shall provide by rule a procedure for promptly



**ACTS, 1985. – Chap. 572.**

following up on such meeting by assisting an employee who needs rehabilitation services to obtain such services from the insurer, and shall monitor the progress of rehabilitation agreements and programs.

Section 30H. If the insurer and employee fail to agree to a vocational rehabilitation program, the employee may apply to the office of education and vocational rehabilitation for vocational rehabilitation services. The office shall determine if vocational rehabilitation is necessary and feasible to return the employee to suitable employment. Such determination by the office shall be final and not subject to review by the board or reviewing board, but may be appealed to the commissioner. If the office determines that vocational rehabilitation is necessary and feasible, it shall promptly develop, after such consultation as it judges reasonable with the employee and the insurer, an appropriate program of no greater than fifty-two weeks for the employee. It shall inform the insurer and the employee of its determination and of the program developed. The insurer shall have ten days in which to review such determination and program. If the insurer refuses to provide the vocational rehabilitation program developed by the office, the office shall provide it to the employee with trust fund money pursuant to section sixty-five. The commissioner shall provide by rule for efficient procedures and quality controls in the office's management of such programs, which may be carried out under contract by private rehabilitation service providers. If, upon the completion of the program, the office determines that the program was successful and returned the employee to suitable employment, it shall assess the insurer no less than twice the cost incurred by the office and such assessment shall be paid into said trust fund. The insurer may contest any aspect of the assessment by filing a complaint with the division of dispute resolution. The injured employee shall not be a party to such proceedings.

Section 30I. The department shall assist and cooperate with the division of employment security, the United States Department of Labor, and any other appropriate state or federal agency, in attempting to make available to disabled employees eligible to receive compensation benefits, new jobs and job training programs, including, but not limited to, those conducted under the job training partnership act of nineteen hundred and eighty-two and successor programs. The division of employment security shall assist in such efforts.

**SECTION 41.** Section 31 of said chapter 152, as so appearing, is hereby amended by striking out the seventh, eighth and ninth paragraphs.

**SECTION 42.** Said chapter 152 is hereby further amended by striking out section 34, as so appearing, and inserting in place thereof the following section:—

Section 34. While the incapacity for work resulting from the injury is total, during each week of incapacity the insurer shall pay the injured employee a weekly compensation equal to two-thirds of his average weekly wage before the injury, but not more than the maximum weekly compensation rate nor less than the minimum weekly compensation rate, unless the average weekly wage of the employee is less than the



**ACTS, 1985. – Chap. 572.**

minimum weekly compensation rate, in which case said weekly compensation shall be equal to his average weekly wage.

The total number of weeks of compensation due the employee under this section shall not exceed two hundred and sixty.

**SECTION 43.** Said chapter 152 is hereby further amended by striking out section 34A, as so appearing, and inserting in place thereof the following section:–

Section 34A. While the incapacity for work resulting from the injury is both permanent and total during each week of incapacity, the insurer shall pay the injured employee compensation equal to two-thirds of his average weekly wage before the injury, but not more than the maximum weekly compensation rate nor less than the minimum weekly compensation rate.

**SECTION 43A.** Said chapter 152 is hereby further amended by inserting after section 34A the following section:–

Section 34B. October first of each year shall be the review date for the purposes of this section.

Any person receiving or entitled to receive the benefits under the provisions of section thirty-one or section thirty-four A whose benefits are based on a date of personal injury at least twenty-four months prior to the review date shall be paid, without application, a supplement to weekly compensation to the extent such supplement shall not reduce any benefits such person is receiving pursuant to federal social security law. The supplemental benefits shall be paid in accordance with the following provisions:–

(a) The director of administration shall determine the percentage increase between (i) the average weekly wage in the commonwealth on the date the permanently and totally disabled employee was injured or on the date the deceased worker was injured, and (ii) the average weekly wage in the commonwealth on the review date. For purposes of this section, the increase in the average weekly wage in the commonwealth shall not exceed ten per cent in any year.

(b) The death benefit under section thirty-one or the permanent and total disability benefit under section thirty-four A that was being paid prior to any adjustments under this section shall be the base benefit. The base benefit shall be increased on each review date by the percentage increase in the average weekly wage in the commonwealth as calculated in the paragraph (a); the resulting amount shall be termed the adjusted benefit and is the amount of benefit to be paid on and after the review date. The difference between the base benefit and the adjusted benefit shall be termed the supplemental benefit.

(3) The supplemental benefits under this section shall be paid by the insurer concurrent with the base benefit. Insurers shall be entitled to quarterly reimbursements for supplemental benefits, pursuant to section sixty-five, for cases involving injuries that occurred on or before October first, nineteen hundred and eighty-six, and for those cases occurring thereafter, to the extent such supplemental benefits are due to the increase of greater than five per cent in the average weekly wage in



**ACTS, 1985. – Chap. 572.**

the commonwealth in any single year.

**SECTION 44.** Said chapter 152 is hereby further amended by striking out section 35, as so appearing, and inserting in place thereof the following section:–

Section 35. While the incapacity for work resulting from the injury is partial, during each week of incapacity the insurer shall pay the injured employee a weekly compensation equal to two-thirds of the difference between his average weekly wage before the injury and the weekly wage he is capable of earning after the injury, but not more than the maximum weekly compensation rate.

The total number of weeks of compensation due the employee under this section shall not exceed six hundred.

**SECTION 45.** Said chapter 152 is hereby further amended by inserting after section 35B the following four sections:–

Section 35C. When there is a difference of five years or more between the date of injury and the initial date on which the injured worker or his survivor first became eligible for benefits under section thirty-one, thirty-four, thirty-four A, or section thirty-five, the applicable benefits shall be those in effect on the first date of eligibility for benefits.

For purposes of adjustments to compensation under sections thirty-four B and thirty-five F for employees subject to this section, the first date of eligibility for benefits rather than the date of injury shall be used for purposes of computing such supplemental benefits.

Section 35D. For purposes of sections thirty-four, thirty-four A and thirty-five, the weekly wage the employee is capable of earning, if any, after the injury, shall be the greatest of the following:–

(1) The actual earnings of the employee during each week.

(2) The earnings that the employee is capable of earning in the job the employee held at the time of injury, provided, however, that such job has been made available to the employee and he is capable of performing it. The employee's receipt of a written offer of his former job from the employer, together with a written report from the treating physician that the employee is capable of performing such job shall be prima facie evidence of an earnings capability under this clause.

(3) The earnings the employee is capable of earning in a particular suitable job; provided, however, that such job has been made available to the employee and he is capable of performing it. The employee's receipt of a written report that a specific suitable job is available to him together with a written report from the treating physician that the employee is capable of performing such job shall be prima facie evidence of an earnings capability under this clause.

(4) The earnings that the employee is capable of earning.

(5) Implementation of this section is subject to the procedures contained in section eight. For purposes of this chapter, a suitable job or employment shall be any job that the employee is physically and mentally capable of performing, including light work, considering the nature and severity of the employee's injury, so long as such job bears a



**ACTS, 1985. – Chap. 572.**

reasonable relationship to the employee's work experience, education, or training, either before or after the employee's injury.

Section 35E. Any person receiving old age benefits pursuant to federal social security law or receiving pension benefits paid in part or entirely by an employer shall not be entitled to benefits under section thirty-five, unless such employee can establish that but for the injury, such employee would have remained active in the labor market. Claims for compensation, or complaint for modification, or discontinuance of benefits based on this section shall not be filed more often than once every twelve months.

Section 35F. (1) October first of each year shall be the review date for the purposes of this section.

(2) Any person receiving or entitled to receive benefits under section thirty-five whose benefits are based on a date of personal injury at least thirty-six months prior to the review date shall be paid, without application, a supplement to weekly compensation to the extent such supplement shall not reduce any benefits such person is receiving pursuant to federal social security law. The supplemental benefits shall be paid in accordance with the following provisions:

(a) The director of administration shall determine the percentage increase between (i) the average weekly wage in the commonwealth on the date the partially disabled employee was injured and (ii) the average weekly wage in the commonwealth on the review date. For purpose of this section, the increase in the average weekly wage in the commonwealth shall not exceed five per cent in any year.

(b) During the twelve months after the review date, any weekly benefit the employee is entitled to receive under section thirty-five shall be the base benefit. During the twelve months after the review date, the base benefit for any week shall be increased by the percentage increase in the average weekly wage in the commonwealth as calculated in the preceding paragraph; the resulting amount shall be termed the adjusted benefit and is the amount of benefit to be paid for the week. The difference between the base benefit and the adjusted benefit shall be termed the supplemental benefit.

(3) The supplemental benefits under this section shall be paid by the insurer concurrent with the base benefit.

**SECTION 46.** Said chapter 152 is hereby further amended by striking out section 36, as so appearing, and inserting in place thereof the following section:–

Section 36. (1) In addition to all other compensation the employee shall be paid the sums hereafter designated for the following specific permanent injuries:

(a) For the loss by enucleation or otherwise or the total loss of use of one eye, or for injury to one eye which produces an inability which is not correctible to use both eyes together for single binocular vision, or the reduction to twenty-seventieths of normal vision in one eye, with glasses, a sum equal to the average weekly wage in the commonwealth at the date of the injury multiplied by thirty-nine.

(b) For the loss by enucleation or otherwise, or the total loss of use of



ACTS, 1985. – Chap. 572.

both eyes, or the reduction to twenty-seventieths of normal vision in both eyes, with glasses, a sum equal to the average weekly wage in the commonwealth at the date of the injury multiplied by ninety-six.

(c) For any correctible permanent but partial reduction in either the acuity or field of vision of one or both eyes, such sum in proportion to the amount applicable in the event of total loss, total loss of use, or the reduction to twenty-seventieths of normal vision of one or both eyes as the correctible partial reduction bears to such total loss, total loss of use or reduction to twenty-seventieths of normal vision; provided that, for any permanent but partial reduction in either acuity or field of vision of either eye which requires the use of corrective device, such as glasses or contact lens, to produce normal vision, a sum equal to the average weekly wage in the commonwealth at the date of the injury multiplied by seven.

(d) For the loss of hearing of one ear, a sum equal to the average weekly wage in the commonwealth at the date of the injury multiplied by twenty-nine; for the loss of hearing of both ears, a sum equal to the average weekly wage in the commonwealth at the date of the injury multiplied by seventy-seven.

(e) For the amputation or permanent, total loss of use of the major arm, a sum equal to the average weekly wage in the commonwealth at the date of the injury multiplied by forty-three; for the amputation or permanent total loss of use of the minor arm, a sum equal to the average weekly wage in the commonwealth at the date of the injury multiplied by thirty-nine; for the amputation or permanent total loss of use of both arms, a sum equal to the average weekly wage in the commonwealth at the date of the injury multiplied by ninety-six.

(f) For the amputation or permanent, total loss of use of the major hand at the wrist, a sum equal to the average weekly wage in the commonwealth at the date of the injury multiplied by thirty-four; for the amputation or permanent, total loss of use of the minor hand at the wrist, a sum equal to the average weekly wage in the commonwealth at the date of injury multiplied by twenty-nine; for the amputation or permanent, total loss of use of both hands at the wrist, a sum equal to the average weekly wage in the commonwealth at the date of injury multiplied by seventy-seven.

(g) For the amputation or permanent, total loss of use of either leg, a sum equal to the average weekly wage in the commonwealth at the date of the injury multiplied by thirty-nine; for the amputation or permanent, total loss of use of both legs, a sum equal to the average weekly wage in the commonwealth on the date of injury multiplied by ninety-six.

(h) For the amputation or permanent, total loss of use of either foot at any point above the ankle joint, a sum equal to the average weekly wage in the commonwealth at the date of injury multiplied by twenty-nine; for the amputation or permanent, total loss of use of both feet at any point above the ankle joints, a sum equal to the average weekly wage in the commonwealth at the date of injury multiplied by sixty-eight.

(i) For any permanent but partial loss of use of a member, whether leg, foot, arm, or hand, such sum in proportion to the amount applicable



**ACTS, 1985. – Chap. 572.**

in the event of amputation or permanent, total loss of use of said member as the said partial loss bears to the total loss of use of said member.

(j) For each loss of bodily function or sense, other than those specified in preceding paragraphs of this section, the amount which, according to the determination of the member or reviewing board, is a proper and equitable compensation, not to exceed the average weekly wage in the commonwealth at the date of injury multiplied by thirty-two; provided, however, that the total amount payable under this paragraph shall not exceed the average weekly wage in the commonwealth at the date of injury multiplied by eighty.

(k) For bodily disfigurement, an amount which, according to the determination of the member or reviewing board, is a proper and equitable compensation, not to exceed the average weekly wage in the commonwealth at the date of injury multiplied by thirty-two; which sum shall be payable in addition to all other sums due under this section.

(2) Where applicable, losses under this section shall be determined in accordance with standards set forth in the American Medical Association Guides to the Evaluation of Permanent Impairments. Nothing in this section shall adversely affect the employee's rights to any compensation which is or may become due under the provisions of any other section.

**SECTION 47.** The second paragraph of section 36A of said chapter 152, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:– Where any specified loss, losses or disfigurement under section thirty-six is a result of an injury involving brain damage, payment in total under that section for the sum of such loss, losses or disfigurement resulting from said brain damage shall not exceed an amount equal to the average weekly wage in the commonwealth at the date of injury multiplied by one hundred and five.

**SECTION 47A.** Said chapter 152 is hereby further amended by inserting after section 36A the following section:–

**Section 36B.** (1) No benefits shall be payable under section thirty-four or section thirty-four A for any week in which the employee has received or is receiving unemployment compensation benefits.

(2) Any employee claiming or receiving benefits under section thirty-five who may be entitled to unemployment compensation benefits shall upon written request from the insurer apply for such benefits. Failure to do so within sixty days after written request shall constitute grounds for suspension of benefits under said section thirty-five. Any unemployment compensation benefits received shall be credited against partial disability benefits payable for the same time period, or, if for a period of time for which partial disability benefits have already been paid, shall be credited against any future partial disability benefits which are or may become payable.

**SECTION 48.** The first paragraph of section 37 of said chapter 152, as appearing in the 1984 Official Edition, is hereby amended by striking out



**ACTS, 1985. – Chap. 572.**

the second sentence and inserting in place thereof the following sentence:– The insurer or self insurer shall, however, be reimbursed by the state treasurer from the trust fund created by section sixty-five in an amount equal to seventy-five per cent of all compensation paid subsequent to that paid for the first one hundred and four weeks of disability.

**SECTION 49.** Said section 37 of said chapter 152, as so appearing, is hereby further amended by striking out the last paragraph and inserting in place thereof the following paragraph:–

The attorney general shall in all instances have the authority to defend claims against the fund. No liability for any case arising under this section shall be redeemed by a lump sum payment as provided in section forty-eight, unless the attorney general or his designee has been given an opportunity to appear and be heard on behalf of the fund, but reimbursement from the trust fund may be made without the necessity of further approval of the lump sum by the state treasurer. No reimbursement shall be made covering the first one hundred and four weekly payments or for medical benefits during that period, whether paid under an agreement, decision, or lump sum settlement.

**SECTION 50.** Said chapter 152 is hereby further amended by striking out section 41, as so appearing, and inserting in place thereof the following section:–

Section 41. No proceedings for compensation payable under this chapter shall be maintained unless a notice thereof shall have been given to the insurer or insured as soon as practicable after the happening thereof, and unless any claim for compensation due with respect to such injury is filed within four years from the date the employee first became aware of the causal relationship between his disability and his employment. In the event of death, no claim shall be made later than four years after the death. Where an action against a third person, as provided by section fifteen, is discontinued, no claim for compensation shall be made later than sixty days after such discontinuance.

The payment of compensation for any injury pursuant to this chapter or the filing of a claim for compensation as provided in this chapter shall toll the statute of limitations for any benefits due pursuant to this chapter for such injury.

**SECTION 51.** Section forty-one A of said chapter one hundred and fifty-two is hereby repealed.

**SECTION 52.** Said chapter 152 is hereby further amended by striking out section 48, as appearing in the 1984 Official Edition, and inserting in place thereof the following section:–

Section 48. (1) Under the conditions and limitations specified in this chapter, the insurer and employee may by agreement redeem any liability for compensation, in whole or in part, by the payment by the insurer of a lump sum of an amount to be approved by the reviewing board.



ACTS, 1985. – Chap. 572.

(2) Where insurer liability for compensation of any kind under this chapter has been established for an injury by acceptance or by a standing decision of the board, the reviewing board, or a court of the commonwealth, prior to such lump sum agreement, the settlement shall not redeem liability for the payment of medical benefits or vocational rehabilitation benefits with respect to such injury.

No lump sum agreement made prior to the establishment of liability for compensation shall prohibit an employee from subsequently filing a claim for medical benefits only, in any instance in which such employee has suffered a substantial deterioration of his medical condition which (i) could not reasonably have been foreseen at the time said agreement was entered into, (ii) is the result of an injury for which the insurer would have been liable under this chapter, absent the lump sum settlement. Claims under this paragraph shall be considered only if brought within one year of the date the employee first became aware of the causal relationship between the substantial deterioration and the employment. Claims shall be consistent with the procedures set forth in sections ten, ten A, and eleven. No liability for such claims shall be redeemed by any additional lump sum settlement.

(3) Prior to approval of any lump sum settlement, the office of education and vocational rehabilitation shall review the following factors with the employee and his attorney:

(a) the employee's rights under this chapter and the effect a lump sum settlement would have upon such rights;

(b) in the case of a lump sum settlement that includes the redemption of future medical benefits, the likelihood that the employee may require such services and the present cost of insurance or other means of defraying such potential expenses;

(c) the total income and financial prospectus of the employee including all means of support;

(d) the purpose for which the settlement is requested;

(e) the employee's post-injury earnings and prospects, including the projected income and financial security of any proposed project of employment, self employment, business venture, or investment and the prudence of consulting with a financial or other expert to review the likelihood of success of such projects; and,

(f) any other information, including the age of the employee and of his dependents, which would bear upon whether the settlement is in the best interest of the claimant.

The office of education and vocational rehabilitation shall initiate such review within fourteen days of its receipt of a request by an employee for a settlement review. Said office shall send a report on the review to the reviewing board within five days of the completion of the review. A settlement review shall be considered to have taken place and a report on such review to have been received by the reviewing board if the office of education and vocational rehabilitation does not initiate a review within fourteen days of receipt of request or send a report to the reviewing board within five days of completion of the review; but in any case, no more than twenty-eight days shall transpire from the date of a receipt of said request to the date of the report to the reviewing board;



**ACTS, 1985. – Chap. 572.**

provided, however, that no settlement shall be approved for any employee who fails to attend a scheduled review without good cause. Nothing in this subsection shall be deemed to create any additional liability on the part of the commonwealth.

(4) No lump sum shall be approved by the reviewing board unless the members of the reviewing board, after receiving a report on the settlement from the office of education and vocational rehabilitation, deem such settlement to be in the employee's best interest in light of the factors reviewed by the office of education and vocational rehabilitation pursuant to subsection (3).

(5) No lump sum agreement shall be approved which contains as part of a settlement a general or specific release that would serve as a bar to (i) employment with any employer, (ii) the receipt by the employee of any pay or benefits due him by an employer, (iii) the bringing of any future workers' compensation claim or (iv) the bringing of any claims of wrongful discharge or breach of contract. All such general or specific releases shall be null and void. Any employer, insurer, or attorney attempting to obtain such release from an employee shall be punished by a fine of ten times the average weekly wage in the commonwealth. The office of education and vocational rehabilitation shall inform each employee seeking a lump sum settlement of the unlawfulness of such general or specific releases.

(6) Whenever a lump sum agreement or payment has been approved by the reviewing board in accordance with the terms of this section, such agreement shall affect only the insurer and employee who are parties to such lump sum agreement and shall not affect any other action or proceeding arising out of a separate and distinct injury resulting in an incapacity whether the injury precedes or arises subsequent to the date of settlement.

**SECTION 53.** Section 49 of said chapter 152, as so appearing, is hereby amended by striking out the last two sentences.

**SECTION 54.** Said chapter 152 is hereby further amended by inserting after section 53 the following section:–

Section 53A. (1) Any insurance company authorized to transact business in this commonwealth under subclause (b) or (e) of clause Sixth of section forty-seven of chapter one hundred and seventy-five may, except as provided in clause (c) of section fifty-four of said chapter one hundred and seventy-five, insure the payment of the compensation provided for by this chapter, and when any such company insures such payment, it shall file with the commissioner of insurance, or, if it is a member of or subscriber to a rating organization under section fifty-two C, authorize such rating organization to file with the commissioner on its behalf, its classification of risks and premiums relating thereto and subsequent proposed classifications of premiums.

(2) Such classifications of risks and premiums shall be filed at least every two years on January first or such other date as the commissioner of the department of insurance initially designates. Within sixty days after the first filing subsequent to January first, nineteen hundred and eighty-five, the commissioner of the department of insurance



ACTS, 1985. – Chap. 572.

shall conduct a hearing to determine whether the classifications and rates are not excessive, inadequate, or unfairly discriminatory for the risks to which they respectively apply and that they fall within a range of reasonableness.

(3) When a filing is not accompanied by the information upon which the insurer supports such filing, and the commissioner of the department of insurance does not have sufficient information to determine whether such filing meets the requirements of this section, he may require such insurer to furnish the information upon which it supports such filing. Any filing may be supported by the experience or judgment of the insurer or rating organization making the filing, the experience of other insurers or rating organizations, and any other factors which the insurer or rating organization deems relevant.

(4) Where a claim against an insured that has affected such insured's experience rating has been found noncompensable, or where an insurer recovers previously paid workers' compensation benefits from a negligent third party, the insurer shall submit a revised statistical unit report to the appropriate rating bureau within sixty days of such finding or recovery. Failure to make such submission shall be an unfair or deceptive act under chapter one hundred and seventy-six D.

(5) The commissioner of insurance shall, by the use of experience rating credits, the institution of a payroll cap on premium computation, or other method, provide for equitable distribution of premiums among employers paying higher than average wages and those paying lower than average wages.

(6) (a) The advisory council, established pursuant to section fifteen of chapter twenty-three E may request without limitation any loss data, from any insurance company or rating organization. Any insurance company or rating organization which is the recipient of such a request may, if it believes that the request is unduly burdensome or unreasonable, file a motion to be heard by the commissioner of insurance concerning whether all or part of the request requires response. The commissioner of insurance may, if he finds the request is unduly burdensome or unreasonable, deny the request in whole or in part.

(b) At any hearing conducted pursuant to this section, the advisory council may present a written statement and oral testimony relating to any issues which may arise during the course of the hearing. Said advisory council may not cross-examine witnesses produced by other parties, or appeal any decision of the commissioner.

(7) No proposed classifications or premiums shall take effect until approved by the commissioner of insurance as not excessive, inadequate, or unfairly discriminatory for the risks to which they respectively apply, and as within a range of reasonableness. If the commissioner does not approve or disapprove proposed classifications or premiums within six months after a filing made pursuant to subsection (2), such classifications and premiums shall be deemed approved and shall be immediately effective. If said commissioner disapproves proposed premiums and classifications, stating his reasons for disapproval, any insurance company or rating organization may file new proposed classifications and premiums.



**ACTS, 1985. – Chap. 572.**

(8) If, after the conclusion of a hearing on classification and premiums pursuant to subsection (2), the commissioner of insurance determines that any already effective premium is excessive, he shall order a specific decrease in that premium to be effective six months from the date of the insurance company or rating organization filing under consideration. He shall order a specific decrease irrespective of whether any insurance company or rating organization has filed for a decrease in any premium rate.

(9) Any insurance company may make written application to the commissioner of insurance for permission to use, in place of premium rates approved pursuant to subsections (7) and (8), a percentage decrease from said premium rates which shall be uniform within any classification of risk in the commonwealth. The commissioner shall issue an order permitting the decrease for such insurance company unless he finds that the resulting premium would be inadequate or unfairly discriminatory.

(10) Upon petition of an insurance company, rating organization, or other aggrieved party, any order or decision of the commissioner of insurance under this chapter shall be subject to review by the supreme judicial court.

**SECTION 55.** Said chapter 152 is hereby further amended by striking out section 65, as appearing in the 1984 Official Edition, and inserting in place thereof the following section:–

Section 65. (1) There is hereby established a special revenue fund in the state treasury, known as the Workers' Compensation Special Fund, the proceeds of which may be expended by the department, subject to appropriation, for the operating expenses of the department.

(2) There is hereby established a trust fund in the state treasury, known as the Workers' Compensation Trust Fund, the proceeds of which shall be used to pay for the following compensation: (a) adjustments to compensation pursuant to section thirty-four B; (b) adjustments to compensation pursuant to section thirty-five C; (c) reimbursements for second injury compensation in accordance with section thirty-seven; (d) rehabilitation compensation as specified in section thirty H; (e) approved claims against uninsured employers; (f) approved claims resulting from an injury caused by the activities of a fellow worker pursuant to section twenty-six; and (g) compensation payable to a disabled war veteran pursuant to the provisions of section thirty-seven A. Revenues for the special fund and the trust fund established herein shall be raised by an assessment on all employers subject to this chapter.

(3) Each insurer authorized to write workers' compensation in the commonwealth, each self-insurer, each self-insurance group, and the commonwealth shall report to the department annually on or before May first, the assessment base amount for employers subject to this chapter. The Massachusetts workers' compensation rating bureau shall report aggregate base amount data for employers insured by its members. The assessment base amount for all employers shall be the losses paid under this chapter for the preceding twelve month period beginning January first and ending on the last day of December.

If an insurer, self-insurer, or self-insurance group fails to report such



ACTS, 1985. – Chap. 572.

base amounts to the department on or before May first, the department may assess a one thousand dollar fine for each month or part thereof that its report is late and may estimate a base amount, until the actual base amount is determined, by taking into consideration the actual base amount last reported for the assessment payor; provided, however, that no estimated base amount shall be greater than one hundred and twenty per cent of the actual base amount reported.

(4) The department shall determine the special fund and trust fund assessment rates pursuant to the following procedures:

(a) The total amount of funds appropriated each year to pay the operating expenses of the department pursuant to subsection (1) shall be known as the special fund budget.

(b) On or before July first of each year the department shall estimate the total amount of funds required to make payments during the following twelve months for the compensation payable pursuant to subsection (2) of this section. The total amount of this estimate, subject to the approval of the secretary of labor, shall be known as the trust fund budget. The trust fund budget shall be reviewed by the advisory council. Upon the affirmative vote of at least seven voting members, the advisory council may submit its own estimate of the trust fund budget to the secretary of labor. The department's estimate shall separately state that portion of projected disbursements pursuant to subsection (2) that is attributable to expected claims against (i) private employers and (ii) the commonwealth and its political subdivisions subject to this chapter. The separately stated estimate for private employers shall be known as the private employer trust fund budget. The separately stated estimate for the commonwealth and its political subdivisions shall be known as the public employer trust fund budget.

(c) If the balance of the special fund at the end of the fiscal year exceeds thirty-five per cent of the previous year's disbursements from that fund, the budget for that fund, for the purpose of calculating the fund assessment rate, shall be reduced by that part of the balance in excess of thirty-five per cent of the previous year's disbursements. If the balance of either the private employer portion or the public employer portion of the trust fund at the end of the fiscal year, exceeds thirty-five per cent of the previous year's disbursements from that portion of the fund, as reported pursuant to subsection (9), the budget for that portion of the fund, for the purpose of calculating the fund assessment rate shall be reduced by that part of the balance for that portion of the fund in excess of thirty-five per cent of the previous year's disbursements, reported pursuant to subsection (9). Additional assessments may be levied by the commissioner, subject to the approval of the secretary of labor, if he finds such assessments necessary in order to make disbursements for any expenses or compensation payments in the fiscal year which exceed the revenue generated by the assessments for the fiscal year levied pursuant to subsection (5). Any additional assessment proposed by the commissioner shall be reviewed by the advisory council. Upon the affirmative vote of at least seven voting members, the advisory council may submit its estimate of the necessary additional assessment to the secretary of labor.



ACTS, 1985. – Chap. 572.

(d) For each assessment payor, except for the commonwealth and any of its political subdivisions subject to this chapter, the assessment rate shall be determined by dividing the sum of the special fund and the private employer trust fund budgets, by the sum of the base amounts reported by such assessment payors pursuant to subsection (3). For the commonwealth and any of its political subdivisions subject to this chapter, the assessment rate shall be determined by dividing the amount of the public employer trust fund budget by the sum of the base amounts reported by such assessment payors pursuant to said subsection (3).

(5) Each self-insurance group shall pay to the treasurer of the commonwealth a sum assessed by the department equal to the product of the assessment rates determined pursuant to subsection (4) and the base amount determined pursuant to subsection (3). For each insured employer the assessment shall be equal to the product of its standard workers' compensation premium and the assessment rate determined pursuant to subsection (4), multiplied by the expected loss ratio used in determining manual rates in effect on July first as approved by the commissioner of insurance. Insurers shall bill and collect assessments on insured employers. Such assessments shall be separately stated amounts on all premium notices, and shall not be reported as premiums for any tax or regulatory purposes under chapter sixty-three, chapter one hundred and seventy-five, or any other law of the commonwealth. Assessment rates for insured employers shall apply to standard premiums for policy years beginning on or after July first following the determination of such rates. The assessment for each self-insurer shall be equal to the product of the assessment rate and the self-insurer's imputed premium multiplied by the total base amount for all self-insurers, divided by the total imputed premium for all self-insurers as determined by the department. Insurers shall transmit assessments collected during each quarter, and self-insurers and self-insurance groups shall pay assessments due each quarter to the treasurer of the commonwealth no later than one month after the end of the quarter.

Failure to pay the assessed sum will result in a fine of ten per cent of any unpaid amounts every thirty days. The commissioner may establish a commonwealth lien on any employer to collect assessments and fines for which such employer is liable under this section. Similar fines and liens may be imposed on insurers for failure to transmit assessments collected under this section.

(6) The revenue received from assessments levied under this section shall be kept in the special fund or the trust fund separate and apart from all other monies received by the commonwealth. The proceeds from any fine or fee imposed pursuant to this chapter shall be kept in the special fund. The treasurer of the commonwealth shall be the custodian of the special fund and trust fund, and revenues received shall be deposited in each fund proportional to that fund's share of the total budget. The monies in the special fund and trust fund shall be invested by the treasurer in accordance with law; provided, however, that the treasurer shall make no investments that prevent the treasurer from making timely payment of disbursements pursuant to subsections (1) and (2). Interest income and dividends from such investments shall be



**ACTS, 1985. – Chap. 572.**

credited to the fund from which the interest or dividends accrue.

(7) The treasurer shall make payments from accounts of the trust fund on the submission of a warrant listing all payments to be made and the accounts to be debited, which has been approved in writing by the secretary of labor or his designee.

(8) If an insurer, self-insurer, or member of a self-insurance group is liable for a claim, all or part of which may be paid from the trust fund pursuant to clauses (a) to (d), inclusive of subsection (2), it shall first pay the claimant and then apply to the trust fund for reimbursement. If the trust fund pays compensation to a claimant pursuant to clause (e) of subsection (2), it may seek recovery from the uninsured employer for an amount equal to the amount the fund has paid to the claimant plus any necessary and reasonable attorney fees.

(9) The treasurer shall, on or before October first of each year, submit to the advisory council, the governor, the clerk of the senate, and the clerk of the house of representatives, an annual report for the previous fiscal year. The report shall include a statement of the revenues and disbursements of the special fund and trust fund for the fiscal year, the balance existing at the beginning and the end of the fiscal year for each fund, and any other information the treasurer deems appropriate. The report shall include a statement of revenues, disbursements, and the balance existing at the beginning and end of the fiscal year for private employers and a separate statement of these amounts for the commonwealth and its political subdivisions subject to this chapter.

(10) The books and records of the special fund and trust fund shall be subject to an annual audit by the auditor of the commonwealth.

(11) The intent of the separate financial reports and assessment calculations for public employers under this section is to prevent said employers from bearing inappropriate costs. Nothing in this section shall be construed to prohibit the rights of any political subdivision of the commonwealth to rescind acceptance of this chapter pursuant to section sixty-nine; provided, however, that any such rescinding political subdivision shall be deemed to be an uninsured person and shall be subject to the provisions of section sixty-six.

**SECTION 56.** Section 69 of said chapter 152, as so appearing, is hereby amended by inserting after the word "notwithstanding", in line 35, the words:- except as otherwise provided in a collective bargaining agreement.

**SECTION 57.** Section 69B of said chapter 152, as so appearing, is hereby amended by striking out, in line 9, the words "The commissioner" and inserting in place thereof the words:- Said commissioner of public employee retirement.

**SECTION 58.** Said chapter 152 is hereby further amended by inserting after section 75 the following two sections:-

Section 75A. Any person who has lost a job as a result of an injury compensable under this chapter shall be given preference in hiring



**ACTS, 1985. – Chap. 572.**

by the employer for whom he worked at the time of compensable injury over any persons not at the time of application for reemployment employed by such employer; provided, however, that a suitable job is available. Actions may be filed under this section with the superior court department of the trial court for the county in which the alleged violation occurred. An employer found to have violated this section shall be exclusively liable to pay to the employee lost wages, shall grant the employee a suitable job, and shall reimburse such reasonable attorney fees incurred in the protection of rights granted by this section as shall be determined by the court.

In the event that any right set forth in this section is inconsistent with an applicable collective bargaining agreement or chapter thirty-one, the collective bargaining agreement or said chapter thirty-one shall prevail.

Section 75B. (1) Any employee who has sustained a work-related injury and is capable of performing the essential functions of a particular job, or who would be capable of performing the essential functions of such job with reasonable accommodations, shall be deemed to be a qualified handicapped person under the provisions of chapter one hundred and fifty-one B.

(2) No employer or duly authorized agent of an employer shall discharge, refuse to hire or in any other manner discriminate against an employee because the employee has exercised a right afforded by this chapter, or who has testified or in any manner cooperated with an inquiry or proceeding pursuant to this chapter, unless the employee knowingly participated in a fraudulent proceeding. Any person claiming to be aggrieved by a violation of this section may initiate proceedings in the superior court department of the trial court for the county in which the alleged violation occurred. An employer found to have violated this paragraph shall be exclusively liable to pay to the employee lost wages, shall grant the employee suitable employment, and shall reimburse such reasonable attorney fees incurred in the protection of rights granted as shall be determined by the member. The court may grant whatever equitable relief it deems necessary to protect rights granted by this section.

(3) In the event that any right set forth in this section is inconsistent with an applicable collective bargaining agreement, such agreement shall prevail. An employee may not otherwise waive rights granted by this section.

**SECTION 59.** Of the initial voting appointees to the advisory council, as set forth in section fifteen of chapter twenty-three E of the General Laws, one employer and one employee representative shall be appointed for a one year term, one employer, and one employee representative shall be appointed for a two year term, one employer and one employee representative shall be appointed for a three year term, one employer and one employee representative shall be appointed for a four year term, and one employer and one employee representative shall be appointed for a five year term. Of the initial nonvoting appointees to the advisory council, the representative of the insurance industry shall be appointed for a one year term, the representative of the workers' compensation



**ACTS, 1985. – Chap. 572.**

claimant's bar shall be appointed for a two year term, the representative of the commonwealth's medical community for a three year term, and the representative of rehabilitation providers for a four year term. Upon the expiration of the term of an initial council member his successor shall be appointed by the governor for a term of five years.

**SECTION 60.** The advisory council, established pursuant to section fifteen of chapter twenty-three E of the General Laws, may contract for a comprehensive evaluation of the workers' compensation system to be initiated on January first, nineteen hundred and eighty-nine, and completed not later than December thirty-first, nineteen hundred and eighty-nine. Such evaluation shall be conducted by a party or parties with expertise in the analysis of policy and financial issues relating to workers' compensation. The study shall be paid from funds appropriated for that purpose from the special fund established in section sixty-five of chapter one hundred and fifty-two of the General Laws.

**SECTION 61.** All members of the industrial accident board appointed to and currently serving terms in accordance with the provisions of section fifteen of chapter twenty-three of the General Laws, shall continue to serve as such members until the expiration of the terms to which they were appointed. All employees of the division on the effective date of this act, including those holding civil service or statutory tenure, shall be transferred to the department without impairment of rights or salaries. The chairman of the industrial accident board serving on the effective date of this act shall be the commissioner of the department of industrial accidents during the remainder of the term of the governor holding office on the effective date of this act. Failing reappointment as commissioner at any time during the remainder of his original term of appointment to the board, he shall serve as a member of the industrial accident board for the remainder of his original term in which event there shall be seventeen members of said board. The secretary of the industrial accident board serving on the effective date of this act shall serve as the deputy director of dispute resolution. The executive assistant, division of industrial accidents serving on the effective date of this act shall serve as the first deputy director of administration. The currently serving administrative head of the office of self-insurance shall serve as the first administrative head of the office of insurance.

All monies heretofore appropriated for the division of industrial accidents and remaining unexpended on the effective date of this section are hereby transferred to and shall be available for expenditure by the department of industrial accidents for the purpose of the exercise of the powers and the performance of the duties for which such monies were appropriated.

All duly existing contracts, leases and obligations of the division of industrial accidents which are in force immediately prior to the effective date of this section, shall be performed by the department of industrial accidents.

All claims, complaints, hearings and other proceedings duly brought



**ACTS, 1985. – Chap. 572.**

before, and all legal and other proceedings duly begun by the division of industrial accidents or any official or agency thereof, and which are pending immediately prior to the effective date of this section, shall continue unabated and remain in force notwithstanding the passage of this act, and shall thereafter be completed before or by the department of industrial accidents.

All orders, rules and regulations duly made, by the division of industrial accidents or by any official or agent thereof, and which are in force immediately prior to the effective date of this section, shall continue in force and the provisions thereof shall thereafter be enforced, until superseded, revised, rescinded or cancelled in accordance with law, by the department of industrial accidents.

All books, papers, records, documents, equipment, and other property which immediately prior to the effective date of this section are in the custody of or maintained by the division of industrial accidents, are hereby transferred to the department of industrial accidents.

**SECTION 62.** To provide for supplementing the general appropriation act and for a certain new activity and project, the sum set forth in section sixty-three of this act, for the several purposes and subject to the provisions of law regulating the disbursement of public funds and the conditions pertaining to appropriations in chapter one hundred and forty of the acts of nineteen hundred and eighty-five, are hereby appropriated from the General Fund, for the fiscal year ending June thirtieth, nineteen hundred and eighty-six, the sum so appropriated to be in addition to any amount available for the purpose.

**SECTION 63.**

**EXECUTIVE OFFICE OF LABOR.**

9440-0200 For a reserve to fund the costs incurred by the division of industrial accidents and its successor agency, the department of industrial accidents, in the implementation of this act; provided, however, that the secretary of labor is authorized to expend directly from this reserve or to transfer from this item to other items of appropriation such amounts as are necessary to meet the costs of implementing this act; provided, further, that the amount expended from this item shall be added to the special fund budget for the fiscal year beginning July first, nineteen hundred and eighty-six for the purpose of calculating the assessment rate pursuant to subsection (4) of section sixty-five of chapter one hundred and fifty-two of the General Laws, inserted by section fifty-five of this act; and provided, further, that the amount expended from this item shall be fully



**ACTS, 1985. – Chap. 572.**

reimbursed pursuant to said section sixty-five on or before July first, nineteen hundred and eighty-seven; and provided, further, that no such expenditures or transfers from this item shall be made without the prior approval of the house and senate committees on ways and means

\$2,752,385

**SECTION 64.** Notwithstanding any other provision of this act or any general or special law to the contrary, the rate setting commission shall conduct a review of all rates for health care services that are provided under chapter one hundred and fifty-two of the General Laws and for which rates are set pursuant to chapter six A of the General Laws. Based upon such review, the commission shall, no later than July first, nineteen hundred and eighty-eight, revise rates that are determined to be inadequate with respect to such services. Pending such revisions, the rates for such health care services shall be set at: (1) the rate allowed in the medicare program in the commonwealth pursuant to Federal Title XVIII reimbursements for such services which are reimbursable under said program or one hundred and fifty per cent of the rate allowed on July first, nineteen hundred and eighty-five for such services, whichever is less; provided, however, that no rate for such services which is greater than that allowed under said medicare program shall be reduced under this provision; or (2) one hundred and fifty per cent of the rate allowed on July first, nineteen hundred and eighty-five for such services which are not reimbursable under said program.

**SECTION 65.** For the purposes of section two A of chapter one hundred and fifty-two of the General Laws, section twenty-eight A, thirty-five, thirty-eight, forty-eight, forty-nine, fifty and fifty-two of this act shall be deemed to be substantive in character.

**SECTION 66.** For purposes of section two A of chapter one hundred and fifty-two of the General Laws, section thirty-five C of said chapter one hundred and fifty-two, as appearing in section forty-five of this act, shall be deemed to be procedural in character.

**SECTION 67.** Sections thirty-five, thirty-eight, fifty-five, sixty-two and sixty-three of this act shall take effect upon its passage.

**SECTION 68.** Sections six, six A, nine, eleven, thirteen, twenty-nine, thirty-one, forty-two, forty-three, forty-four, forty-six, forty-seven, forty-seven A, fifty, fifty-three, fifty-four, fifty-six, fifty-eight and sixty-four of this act shall take effect on January first, nineteen hundred and eighty-six.

**SECTION 69.** Sections one, two, three, four, five, seven, eight, ten, twelve, fourteen, fifteen, sixteen, twenty-eight, thirty, thirty-six, thirty-seven, fifty-seven, fifty-nine, sixty and sixty-one of this act shall



**ACTS, 1985. – Chap. 573.**

take effect on April first, nineteen hundred and eighty-six.

**SECTION 70.** Sections thirteen A, seventeen to twenty-seven, inclusive, twenty-eight A, thirty-two, thirty-three, thirty-four, thirty-nine, forty, forty-one, forty-three A, forty-five, forty-eight, forty-nine, fifty-one and fifty-two of this act shall take effect on November first, nineteen hundred and eighty-six.

Approved December 10, 1985.

EMERGENCY LETTER: January 24, 1986 @ 1:37 P.M.

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**Chapter 573. AN ACT RELATIVE TO CERTAIN CAPITAL OUTLAY APPROPRIATIONS.**

Be it enacted, etc., as follows:

**SECTION 1.** Item 8072-68 of section 2 of chapter 976 of the acts of 1971 is hereby amended by inserting after the word "equipment", in line 2, the words:- including the cost of educational and administrative computer equipment.

**SECTION 2.** Item 2120-8781 of section 2 of chapter 920 of the acts of 1977 is hereby amended by striking out the wording and inserting in place thereof the following:-

For certain renovation and improvement to the waterfront area of Quinsigamond state park, said funding to be in addition to the funding authorized in item 2611-8751 of section four of chapter five hundred and nineteen of the acts of nineteen hundred and seventy-four.

**SECTION 3.** Item 7507-8791 of section 3 of chapter 513 of the acts of 1978 is hereby amended by striking out the wording and inserting in place thereof the following:-

For certain renovations, including the cost of furnishings and equipment; to be in addition to the amount appropriated in item 7507-8771 of section two of chapter four hundred and eighty-one of the acts of nineteen hundred and seventy-six.

**SECTION 4.** Section 35 of chapter 732 of the acts of 1981 is hereby amended by striking out the first sentence, as most recently amended by section 5 of chapter 233 of the acts of 1984, and inserting in place thereof the following sentence:- The Massachusetts aeronautics commission is hereby authorized and directed to expend a sum not to exceed one million one hundred thousand dollars for the purposes of airport systems improvement and development in the commonwealth for payments, reimbursements or both to cities, towns and counties for planning design and construction of airports pursuant to sections thirty-nine F and fifty-one K of chapter ninety of the General Laws for providing navigational aids pursuant to section forty of chapter ninety of the General Laws; provided, however, that five hundred thousand dollars of said amount shall be authorized to be expended by the Westover



**ACTS, 1985. – Chap. 573.**

metropolitan development corporation pursuant to clause (d) of section five of chapter six hundred and seventy-two of the acts of nineteen hundred and seventy-four for the development, design and construction of a facility appropriate for air passenger service and to assist said corporation to qualify for federal grants including such grants for airport improvement; provided, further, that two hundred thousand dollars of said amount shall be authorized to be paid to the city of New Bedford for fifty per cent of the cost of expansion and renovation of the terminal building at the New Bedford Municipal Airport, such funds to be provided for that purpose notwithstanding the requirements of section thirty-nine F of chapter ninety of the General Laws.

**SECTION 5.** Chapter 313 of the acts of 1982 is hereby amended by striking out section 12 and inserting in place thereof the following section:–

**Section 12.** The department of environmental management is hereby authorized to acquire by gift, or to expend a sum not exceeding five million dollars for the acquisition and development of that property known as the Moseley Estate in the city of Newburyport, and other properties fronting on the Merrimack river.

The department of environmental management shall hold and develop said areas for purposes of conservation and, under the provisions of chapter one hundred and thirty-two A of the General Laws, said department shall insofar as practicable maintain said lands in their natural state. No actions except those essential to the quiet enjoyment of the land and facilities by the people shall be permitted thereon.

**SECTION 6.** Section 1 of chapter 637 of the acts of 1983 is hereby amended by striking out, in line 6, the word "twenty-seven" and inserting in place thereof the word:– thirty.

**SECTION 7.** Section 4 of said chapter 637 is hereby amended by striking out, in line 9, the word "fifteen" and inserting in place thereof the word:– eighteen.

**SECTION 8.** Item 0332–8838 of section 2B of chapter 723 of the acts of 1983 is hereby amended by striking out the wording and inserting in place thereof the following:–

For a study, and the preparation of plans and an environmental impact report, if necessary, and construction of a courthouse which may include the proposed consolidation of the Amesbury and Newburyport district courts including the acquisition of land and any buildings thereon.

**SECTION 9.** Item 7507–8841 of section 2A of said chapter 723 is hereby amended by striking out the wording and inserting in place thereof the following:–

For certain renovations, including the cost of furnishing and equipment.

**SECTION 10.** Item 7508–8841 of section 2B of said chapter 723 is hereby amended by striking out the wording and inserting in place



**ACTS, 1985. – Chap. 573.**

thereof the following:–

For a study, and the preparation of plans, if necessary, and construction of a parking lot and grounds improvements at Massasoit Community College in Brockton and Canton.

**SECTION 11.** Item 2120–8841 of section 4 of said chapter 723 is hereby amended by striking out the wording and inserting in place thereof the following:–

For a study, and the preparation of plans, if necessary, and for the rehabilitation and restoration of the Olmsted parks in the commonwealth including the Olmsted park system in the city of Boston and the town of Brookline including Franklin park, Olmsted Park and Jamaica Pond, the Riverway and the Back Bay Fens; the Kennedy Park in the city of Fall River; the Lynn Woods and High Rock Reservation in the city of Lynn; Forest Park in the city of Springfield; D.W. Field Park in the city of Brockton; Buttonwood Park in the city of New Bedford; and Elm Park in the city of Worcester; provided that the department of environmental management is authorized to make grants to the above municipalities for studies, planning, engineering services, and construction in the restoration of said Olmsted parks.

**SECTION 12.** Section 11Q of said chapter 723 is hereby further amended by striking out the third sentence and inserting in place thereof the following sentence:– All interest and payments on account of principal of such obligations shall be payable from the General Fund.

**SECTION 13.** The second paragraph of section 3 of chapter 431 of the acts of 1984 is hereby amended by striking out, in line 9, the word "ninety-four" and inserting in place thereof the word:– ninety-nine.

**SECTION 14.** The first paragraph of section 4 of chapter 435 of the acts of 1984 is hereby amended by striking out, in line 2, the words "section two" and inserting in place thereof the words:– sections one and two.

**SECTION 15.** The second paragraph of said section 4 of said chapter 435 is hereby amended by striking out, in line 8, the word "ninety-four" and inserting in place thereof the word:– ninety-nine.

**SECTION 16.** The metropolitan district commission is hereby authorized to expend during fiscal year nineteen hundred and eighty-six an amount not to exceed three million dollars for the purpose of repairing and replacing pipes underneath the Lynnway in the city of Lynn. No monies herein authorized for expenditure shall be expended until the Lynn water and sewer commission, established pursuant to chapter three hundred and eighty-one of the acts of nineteen hundred and eighty-two, shall have entered into an agreement with the commissioner of the metropolitan district commission, acting on behalf of the commonwealth, to reimburse the commonwealth for amounts expended to repair and replace said pipes. Such agreement shall provide



**ACTS, 1985. – Chap. 574.**

for the initial reimbursements to occur on or before June thirtieth, nineteen hundred and eighty-seven, and that all expenditures shall be reimbursed no later than ten years from the date of the agreement; provided, however, that the payment of interest shall not be required on the amount so reimbursed. Monies herein authorized for expenditure shall be expended in conjunction with monies appropriated pursuant to chapter six hundred and thirty-seven of the acts of nineteen hundred and eighty-three, as amended by section six of this act.

**SECTION 17.** This act shall take effect upon its passage.

Approved December 10, 1985

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**Chapter 574. AN ACT RELATIVE TO THE ESTABLISHMENT OF HOSPITAL RATES OF PAYMENT AND CHARGES.**

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately provide for the establishment of hospital rates and charges, 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.** Chapter 6A of the General Laws is hereby amended by striking out section 31, as appearing in the 1984 Official Edition, and inserting in place thereof the following section:–

Section 31. As used in sections thirty-two to seventy-five A, inclusive, the following words shall, unless the context clearly requires otherwise, have the following meanings:–

"Acute hospital", any hospital licensed under section fifty-one of chapter one hundred and eleven, and the teaching hospital of the University of Massachusetts Medical School, which contains a majority of medical-surgical, pediatric, obstetric, and maternity beds as defined by the department of public health.

"Approved gross inpatient service revenues", for any fiscal year shall be the total approved gross patient service revenues as defined in this chapter less actual gross outpatient service revenues for that year.

"Bad debt", an account receivable based on services furnished to any patient which (i) is regarded as uncollectible, following reasonable collection efforts, (ii) is charged as a credit loss, (iii) is not the obligation of any governmental unit or of the federal government or any agency thereof, and (iv) is not free care.

"Basis of payment", the total reimbursable costs included in the basis upon which Blue Cross payments are calculated pursuant to any hospital agreement.

"Board", the rate setting commission hospital policy review board established under section thirty-four A.

"Case mix", the description and categorization of a hospital's patient



**ACTS, 1985. – Chap. 574.**

population according to relevant criteria approved by the commission such as: primary and secondary diagnoses, primary and secondary procedures, illness severity, patient age, and source of payment.

"Case mix adjusted discharges", the sum of the cost weights of each discharge as stipulated in the current hospital agreement.

"Charge", the amount to be billed or charged by a hospital for each specific service within a revenue center.

"Commission", the rate setting commission established under section thirty-two.

"Community health centers", health centers operating in conformance with the requirements of section 330 of United States Public Law 95-626, as most recently amended by Public Law 97-35, and shall include all community health centers which file cost reports as requested by the commission.

"Disproportionate share hospital", any acute hospital that exhibits a payor mix where a minimum of sixty-eight per cent of the acute hospital's gross patient service revenue was attributable to Title XVIII and Title XIX of the federal Social Security Act and local and state government subsidy and free care and bad debt.

"Eligible person", a person who qualifies for financial assistance from a governmental unit in meeting all or part of the cost of general health supplies, care, social, rehabilitative or educational services and accommodations.

"Free care", a revenue deduction associated with the provision of services to patients who have reasonably been deemed financially unable to pay, in whole or in part, for their care.

"General health supplies, care, social, rehabilitative or educational services and accommodations", all supplies, care and services of medical, optometric, dental, surgical, podiatric, psychiatric, therapeutic, diagnostic, rehabilitative, education, supportive or geriatric nature, including in-patient and out-patient hospital care and services, and accommodations in hospitals, sanatoria, infirmaries, convalescent and nursing homes, rest homes, facilities established, licensed, or approved pursuant to the provisions of chapter one hundred and eleven B, and similar institutions including those providing treatment, training, instruction and care of children and adults.

"Governmental unit", the commonwealth, any department, agency, board or commission of the commonwealth, and any political subdivision of the commonwealth.

"Gross patient service revenue", the total dollar amount of a hospital's charges for services rendered in a fiscal year.

"Hospital", any hospital licensed under section fifty-one of chapter one hundred and eleven, the teaching hospital of the University of Massachusetts Medical School, and any psychiatric facility licensed under section twenty-nine of chapter nineteen.

"Hospital agreement 29", the agreement between Blue Cross of Massachusetts, Inc. and the participating hospitals approved by the commission pursuant to section five of chapter one hundred and seventy-six A and first taking effect on October first, nineteen hundred and eighty-one.



ACTS, 1985. -- Chap. 574.

"Hospital agreement", an agreement between a nonprofit hospital service corporation and the hospital signatory thereto approved by the commission under section five of chapter one hundred and seventy-six A.

"Medicaid costs", reimbursable costs included in the basis of payment as calculated pursuant to the hospital agreement then in effect, exclusive of any costs attributable to: free care and bad debt expense or, in any hospital fiscal year beginning on or after October first, nineteen hundred and eighty-five, the uniform allowance for the statewide uncompensated care pool as calculated pursuant to section fifty-one, price level depreciation in excess of historical cost depreciation, and costs or revaluation of assets associated with a transfer of ownership occurring on or after July eighteenth, nineteen hundred and eighty-four, which exceed those permitted by section 2314 of Public Law 98-369.

"Non-acute hospital", any hospital which is not an acute hospital.

"Non-medicare gross inpatient service revenues", gross inpatient service revenues less gross inpatient service revenues associated with Title XVIII patients.

"Patient", any natural person receiving health care services from a hospital.

"Patient care cost", reimbursable costs as defined in hospital agreement 29, exclusive of: free care and bad debt expense, and price level depreciation in excess of historical costs depreciation.

"Private sector share of projected patient care costs", for any hospital in a fiscal year shall be the sum of the projected patient care costs of a hospital service corporation and the projected patient care costs for purchasers and third-party payors who reimburse acute hospitals on the basis of charges.

"Provider of health care services", any person, corporation, partnership, governmental unit, state institution and other entity which furnishes general health supplies, care, social, rehabilitative or educational services and accommodations to an eligible person.

"Projected net patient service revenues from purchasers and third party payors who pay on the basis of charges", the product of the projected basis of payment as specified in the hospital agreement increased by the differential calculated pursuant to section fifty-eight, multiplied by the proportion of services, computed as a proportion of gross patient service revenue, rendered to such purchasers and payors in the acute hospital in the most recently completed fiscal year.

"Projected payments of a hospital service corporation", the projected basis of payment as specified in the hospital agreement multiplied by the proportion of services, computed as a proportion of gross patient service revenue, rendered to a hospital service corporation's members in the acute hospital in the most recently completed fiscal year.

"Projected payments of medicaid", the product of the projected medicaid basis of payment computed in accordance with this chapter multiplied by the proportion of services, computed as a proportion of gross patient service revenue, rendered to patients covered under the reimbursement system of Title XIX of the federal Social Security Act in the acute hospital in the most recently completed fiscal year.

"Projected payments of medicare", the product of the projected



**ACTS, 1985. – Chap. 574.**

medicare basis of payment under the provisions of a waiver granted by the Health Care Financing Administration, Department of Health and Human Services, multiplied by the proportion of services, computed as a proportion of gross patient service revenue, rendered to patients covered under the reimbursement system of Title XVIII of the federal Social Security Act in the acute hospital in the most recently completed fiscal year.

"Projected patient care costs for purchasers and third party payors who pay on the basis of charges", the product of patient care costs as projected in the basis of payment specified in the hospital agreement, multiplied by the proportion of services rendered to such purchasers and payors in the acute hospital in the most recently completed fiscal year.

"Projected patient care costs for a hospital service corporation", the patient care costs of the acute hospital as projected in its basis of payment, multiplied by the proportion of services rendered to the hospital service corporation's members by the hospital in the most recently completed fiscal year.

"Projected patient care costs of all patient services which are written off as free care or bad debt", the patient care costs of the acute hospital as projected in its basis of payment, multiplied by the proportion of services written off as free care or bad debt in the most recently completed fiscal year.

"Purchaser", a natural person responsible for payment for health care services rendered by a hospital.

"Revenue center", a functioning unit of a hospital which provides distinctive services to a patient for a charge.

"State institution", any hospital, sanatorium, infirmary, clinic and other such facility owned, operated or administered by the commonwealth, which furnishes general health supplies, care, social, rehabilitative or educational services and accommodations.

"Third-party payor", any entity, including, but not limited to, Title XVIII and Title XIX programs, insurance companies, health maintenance organizations and nonprofit hospital service corporations but not including a purchaser, responsible for payment, either to the purchaser or the hospital, for health care services rendered by a hospital.

**SECTION 2.** Section 37 of said chapter 6A, as so appearing, is hereby amended by adding the following paragraph:–

If charges are approved pursuant to this section or section thirty-nine for fiscal years beginning October first, nineteen hundred and eighty-seven or July first, nineteen hundred and eighty-eight for an acute hospital which had deficit revenue, as defined in section sixty-three, in the fiscal year beginning October first, nineteen hundred and eighty-six or July first, nineteen hundred and eighty-seven, then the commission shall add to such hospital's projected reasonable financial requirements an amount equal to the sum for the fiscal year beginning on October first, nineteen hundred and eighty-six or July first, nineteen hundred and eighty-seven of: (i) the product of the amount of deficit revenue, multiplied by the proportion of services rendered to purchasers and third party payors who pay on the basis of charges; plus (ii) the



ACTS, 1985. – Chap. 574.

product of the amount of deficit revenue, multiplied by the proportion of services rendered to the members of a hospital service corporation, multiplied by one divided by one plus the differential determined pursuant to section fifty-eight, minus (iii) the amount of any settlement for the fiscal year beginning October first, nineteen hundred and eighty-six or July first, nineteen hundred and eighty-seven paid to the hospital by a hospital service corporation pursuant to the hospital agreement.

**SECTION 3.** Said chapter 6A is hereby further amended by striking out section 51, as so appearing, and inserting in place thereof the following section:–

Section 51. A. For each acute hospital, the basis of payment under the successor hospital agreement to hospital agreement 29 shall include the following limitation for the fiscal year beginning on October first, nineteen hundred and eighty-four or July first, nineteen hundred and eighty-five:

The sum of: (a) the projected payments of a hospital service corporation computed pursuant to the successor hospital agreement, plus

(b) the projected net patient service revenues from purchasers and third party payors who pay on the basis of charges established pursuant to sections fifty-six and fifty-seven shall be the lesser of:

(i) the sum of: (1) the projected patient care costs for a hospital service corporation and to purchasers and third-party payors who reimburse acute hospitals on the basis of charges, and (2) the projected patient care costs of all patient services which are written off as free care or bad debt, and (3) a working capital allowance to be specified by the commission consistent with any discount provided a third party payor for prompt payment; or

(ii) one hundred per cent plus the greater of: (1) one hundred and fourteen per cent or (2) the per cent of free care and bad debt services of the hospital, multiplied by the projected patient care costs for a hospital service corporation and to purchasers and third party payors who reimburse acute hospitals on the basis of charges.

B. For each acute hospital, the basis of payment under the successor hospital agreement to hospital agreement 29 shall include the following limitation for the fiscal years beginning on or after October first, nineteen hundred and eighty-five:

The sum of (a) the projected payments of a hospital service corporation computed pursuant to the successor hospital agreement, plus

(b) the projected net patient service revenues from purchasers and third party payors who pay on the basis of charges established pursuant to sections fifty-six and fifty-seven shall be equal to the sum of:

(1) the projected patient care costs for a hospital service corporation and to purchasers and third party payors who reimburse hospitals on the basis of charges, and

(2) a working capital allowance to be specified by the commission consistent with any discount provided by a third party payor for prompt payment, and

(3) the uniform allowance for statewide uncompensated care as



**ACTS, 1985. – Chap. 574.**

calculated pursuant to subsection C, multiplied by the sum of subclauses (1) and (2).

C. The uniform allowance for statewide uncompensated care for each acute hospital with fiscal years beginning October first, nineteen hundred and eighty-five or July first, nineteen hundred and eighty-six shall be calculated by the commission as follows:

(1) for each acute hospital with a fiscal year beginning October first, nineteen hundred and eighty-five or July first, nineteen hundred and eighty-six, calculate the lesser of: (i) the projected patient care costs of all patients' services which are written off as free care or bad debt net of free care payments made pursuant to section sixty-eight and net of any extra uncompensated care distribution, if any, made pursuant to section sixty-eight A, and net of any net Title XIX differential, if any, as calculated pursuant to said section sixty-eight A, or (ii) the sum of (a) one hundred and fourteen per cent multiplied by the projected patient care cost for a hospital service corporation and for purchasers and third party payors who reimburse acute care hospitals on the basis of charges, and (b) the payments the Title XVIII program made for free care to the acute hospital for the fiscal year beginning October first, nineteen hundred and eighty-four or July first, nineteen hundred and eighty-five trended to the current fiscal year by the most recently available update to the composite inflation index in the current hospital agreement;

(2) sum, across all acute hospitals, the amounts calculated in (1). Add to this sum one-half of the aggregate net Title XIX differential, if any, as calculated pursuant to said section sixty-eight A. Add to this sum the amount of one hundred thousand dollars;

(3) for each acute hospital with a fiscal year beginning October first, nineteen hundred and eighty-five or July first, nineteen hundred and eighty-six, calculate the sum of (a) the private sector share of projected patient care costs and (b) a working capital allowance to be specified by the commission consistent with any discount provided a third party payor for prompt payment. Sum these amounts across all acute hospitals;

(4) divide the sum calculated in clause (2) by the sum calculated in clause (3). The result shall be the uniform allowance for statewide uncompensated care for each acute hospital with a fiscal year beginning October first, nineteen hundred and eighty-five or July first, nineteen hundred and eighty-six.

The uniform allowance for statewide uncompensated care for each acute hospital with a fiscal year beginning October first, nineteen hundred and eighty-six or July first, nineteen hundred and eighty-seven shall be calculated as specified in (1) to (4), except that wherever fiscal years beginning October first, nineteen hundred and eighty-five or July first, nineteen hundred and eighty-six are referenced, October first, nineteen hundred and eighty-six or July first, nineteen hundred and eighty-seven shall be substituted respectively.

**SECTION 3A.** Section 51A of said chapter 6A, as so appearing, is hereby amended by striking out clause (d).

**SECTION 4.** Said chapter 6A is hereby further amended by striking



**ACTS, 1985. – Chap. 574.**

out section 52, as so appearing, and inserting in place thereof the following section:–

Section 52. For each acute hospital with a fiscal year beginning July first, nineteen hundred and eighty-three and for each fiscal year thereafter the basis of payment shall be determined in the same manner as set forth in section fifty and the reduced basis of payment shall be determined in the same manner and shall be subject to the same productivity factors as are set forth in section fifty-one A; except that wherever fiscal years beginning in nineteen hundred and eighty-two, nineteen hundred and eighty-three, nineteen hundred and eighty-four, nineteen hundred and eighty-five, and nineteen hundred and eighty-six are referenced in section fifty or fifty-one A, fiscal years beginning in nineteen hundred and eighty-three, nineteen hundred and eighty-four, nineteen hundred and eighty-five, nineteen hundred and eighty-six, and nineteen hundred and eighty-seven, respectively, shall be substituted.

**SECTION 5.** Said chapter 6A is hereby further amended by striking out section 53, as so appearing, and inserting in place thereof the following two sections:–

Section 53. Every acute hospital shall establish its charges to the general public in accordance with the provisions of this chapter for determining approved gross patient service revenues in each fiscal year. Charges shall be established and revised periodically in accordance with the compliance standards set forth in section sixty-three and in the following manner:

(a) For hospitals with fiscal years beginning on October first, nineteen hundred and eighty-two, October first, nineteen hundred and eighty-three, and October first, nineteen hundred and eighty-four, approved gross patient service revenues for each fiscal year shall be earned without excess or shortfall.

(b) For hospitals with fiscal years beginning on October first, nineteen hundred and eighty-five, and October first, nineteen hundred and eighty-six, approved non-medicare gross inpatient service revenues for each fiscal year shall be earned without excess or shortfall.

The commission shall require that charges for health care services rendered in each acute hospital shall be uniform for all patients receiving comparable services.

Section 53A. For each acute hospital with a fiscal year beginning July first, nineteen hundred and eighty-three and for each fiscal year thereafter, charges shall be established and revised in the same manner as set forth in section fifty-three; except that wherever fiscal years beginning October first, nineteen hundred and eighty-two, October first, nineteen hundred and eighty-three, October first, nineteen hundred and eighty-four, October first, nineteen hundred and eighty-five, and October first, nineteen hundred and eighty-six are referenced in section fifty-three, fiscal years beginning July first nineteen hundred and eighty-three, July first, nineteen hundred and eighty-four, July first, nineteen hundred and eighty-five, July first, nineteen hundred and eighty-six, and July first, nineteen hundred and eighty-seven, respectively, shall be substituted.



ACTS, 1985. – Chap. 574.

**SECTION 6.** Said chapter 6A is hereby further amended by striking out section 56, as so appearing, and inserting in place thereof the following section:–

Section 56. For each acute hospital with a fiscal year beginning October first, nineteen hundred and eighty-four and for each fiscal year thereafter, approved gross patient service revenues shall be equal to the basis of payment established under section fifty-one A, increased by the uniform statewide differential determined under section fifty-eight.

For each acute hospital with fiscal years beginning October first, nineteen hundred and eighty-five and October first, nineteen hundred and eighty-six, the amount of approved non-medicare gross inpatient service revenue shall be determined by first calculating the ratio of the per cent of actual gross inpatient service revenue attributable to non-medicare patients to the per cent of case mix adjusted discharges attributable to non-medicare patients. Said calculation shall utilize gross inpatient service revenues and case mix adjusted discharges for the final six months of the fiscal year beginning on October first, nineteen hundred and eighty-three and the first six months of the fiscal year beginning on October first, nineteen hundred and eighty-four. This ratio will then be multiplied by approved gross inpatient service revenues calculated for the rate year and the resultant product shall be multiplied by the per cent of case mix adjusted discharges attributable to non-medicare patients in the rate year.

**SECTION 7.** Said chapter 6A is hereby further amended by striking out section 57, as so appearing, and inserting in place thereof the following section:–

Section 57. (a) For each acute hospital with a fiscal year beginning July first, nineteen hundred and eighty-three, approved gross patient service revenues shall be determined from the gross patient service revenues for the fiscal year ending June thirtieth, nineteen hundred and eighty-three approved by the commission under the provisions of chapter four hundred and nine of the acts of nineteen hundred and seventy-six, multiplied by the sum of one plus the prospectively calculated percentage change in the basis of payment calculated under hospital agreement 29 less one and four-tenths per cent.

(b) For each acute hospital with fiscal years beginning July first, nineteen hundred and eighty-four and for each fiscal year thereafter, approved gross patient service revenues shall be determined in the same manner and shall be subject to the same calculations as set forth in sections fifty-five and fifty-six; except that wherever fiscal years nineteen hundred and eighty-three and eighty-four are referenced in either of said sections fifty-five and fifty-six, fiscal years nineteen hundred and eighty-four and nineteen hundred and eighty-five, respectively, shall be substituted.

(c) In no event shall approved gross patient service revenues, as otherwise determined in accordance with the provisions of this section for any acute hospital, for the fiscal year beginning on either July first, nineteen hundred and eighty-three, or July first, nineteen hundred and eighty-four, be less than such hospital's basis of payment for such fiscal



**ACTS, 1985. – Chap. 574.**

year as computed under hospital agreement 29 and the provisions of section fifty-two hereof.

(d) For each acute hospital with fiscal years beginning July first, nineteen hundred and eighty-six, and July first, nineteen hundred and eighty-seven, the calculation of approved non-medicare gross inpatient service revenue shall be determined in the same manner as set forth in section fifty-six; except that wherever fiscal years beginning October first, nineteen hundred and eighty-three, October first, nineteen hundred and eighty-four, October first, nineteen hundred and eighty-five, and October first, nineteen hundred and eighty-six are referenced in section fifty-six, July first, nineteen hundred and eighty-four, July first, nineteen hundred and eighty-five, July first, nineteen hundred and eighty-six, and July first, nineteen hundred and eighty-seven, respectively, shall be substituted.

**SECTION 8.** Said chapter 6A is hereby further amended by inserting after section 59 the following section:–

Section 59A. Any health maintenance organization organized under chapter one hundred and seventy-six G may (i) negotiate directly with any hospital or hospitals with respect to such health maintenance organization's rate of payment for hospital services and (ii) enter into an agreement with such hospital or hospitals reflecting such rate of payment without the approval of the commission established under section thirty-two. The specification in this section of contracting rights of health maintenance organizations shall not be construed as affirming or denying such rights with respect to any other third party payor.

**SECTION 9.** Said chapter 6A is hereby further amended by striking out section 63, as appearing in the 1984 Official Edition, and inserting in place thereof the following two sections:–

Section 63. Every acute hospital shall file with the commission within ninety days after the beginning of each fiscal year and at least once during the fiscal year, as deemed appropriate by the commission, a summary of revenues, costs and such statistical information as the commission may require in order to document the following:

(a) For hospitals with fiscal years beginning on October first, nineteen hundred and eighty-two, October first, nineteen hundred and eighty-three and October first, nineteen hundred and eighty-four the relationship of actual gross patient service revenues to approved gross patient service revenues for such fiscal year and for any prior fiscal year so that the commission may determine the extent to which excess revenue, the amount by which actual gross patient service revenues exceed approved gross patient service revenues, or deficit revenue, the amount by which approved gross patient service revenues exceed actual gross patient service revenues, was generated for such fiscal year or the prior fiscal year.

(b) For hospitals with fiscal years beginning on October first, nineteen hundred and eighty-five and October first, nineteen hundred and eighty-six, the relationship of actual non-medicare gross inpatient



ACTS, 1985. – Chap. 574.

service revenues to approved non-medicare gross inpatient service revenues so that the commission may determine the extent to which excess revenue, the amount by which actual non-medicare gross inpatient service revenues exceed approved non-medicare gross inpatient services revenues, or deficit revenue, the amount by which approved non-medicare gross inpatient service revenues exceed actual non-medicare gross inpatient service revenues, was generated for such fiscal years.

For each fiscal year beginning on October first, nineteen hundred and eighty-three, October first, nineteen hundred and eighty-four, and October first, nineteen hundred and eighty-five, approved gross patient service revenues shall be adjusted by the commission downward or upward, as the case may be, by the percentage amount by which actual gross patient service revenues in any prior fiscal year beginning on or after October first, nineteen hundred and eighty-two, exceeded, or was less than, approved gross patient service revenues for such prior fiscal year.

For the fiscal year beginning on October first, nineteen hundred and eighty-six, approved non-medicare gross inpatient service revenues will be adjusted by the commission downward or upward, as the case may be, by the percentage amount by which actual non-medicare gross inpatient service revenues, in the fiscal year beginning on October first, nineteen hundred and eighty-five, exceeded, or were less than, approved non-medicare gross inpatient service revenues for such fiscal year.

The commission shall revise approved gross patient service revenues for fiscal years beginning on October first, nineteen hundred and eighty-three, October first, nineteen hundred and eighty-four, and October first, nineteen hundred and eighty-five, and approved non-medicare gross inpatient service revenues for the fiscal year beginning on October first, nineteen hundred and eighty-five and October first, nineteen hundred and eighty-six, and approved charges within thirty days after it has approved an exception to the basis of payment under a hospital agreement.

The commission shall make such adjustments as necessary during the fiscal year, pursuant to regulations promulgated under the authority of this chapter to ensure that, for fiscal years beginning October first, nineteen hundred and eighty-two, October first, nineteen hundred and eighty-three, October first, nineteen hundred and eighty-four, approved gross patient service revenue shall be earned without excess or shortfall and for fiscal years beginning October first, nineteen hundred and eighty-five, and October first, nineteen hundred and eighty-six, approved non-medicare gross inpatient service revenues shall be realized without excess or shortfall.

If a subsequently enacted statute establishes a system of hospital revenue controls for fiscal year nineteen hundred and eighty-eight and later, said system should reflect excess or deficit revenue for the fiscal year beginning October first, nineteen hundred and eighty-six. If no subsequently enacted statute establishes a system of hospital revenue controls for fiscal years nineteen hundred and eighty-eight and later which reflects excess or deficit revenue for the fiscal year beginning



**ACTS, 1985. – Chap. 574.**

October first, nineteen hundred and eighty-six, then each acute hospital which has excess revenue for the fiscal year beginning October first, nineteen hundred and eighty-six shall pay to the statewide uncompensated care pool in addition to its net liability to the pool as specified in paragraph (1) of section seventy-five, an amount equal to: (i) the product of the amount of excess revenue, multiplied by the proportion of non-medicare inpatient services rendered to purchasers and third party payors who pay on the basis of charges, plus (ii) the product of the amount of excess revenue, multiplied by the proportion of non-medicare inpatient services rendered to the members of a hospital service corporation, multiplied by one divided by one plus the differential determined pursuant to section fifty-eight, minus (iii) the amount of any settlement for the fiscal year beginning October first, nineteen hundred and eighty-six paid by the hospital to a hospital service corporation pursuant to the hospital agreement.

Section 63A. For each acute hospital with a fiscal year beginning July first, nineteen hundred and eighty-three and for each fiscal year thereafter, excess or deficit revenue shall be determined in the manner set forth in section sixty-three; except that wherever fiscal years beginning October first, nineteen hundred and eighty-two, October first, nineteen hundred and eighty-three, October first, nineteen hundred and eighty-four, October first, nineteen hundred and eighty-five, October first, nineteen hundred and eighty-six are referenced in section sixty-three, fiscal years beginning July first, nineteen hundred and eighty-three, July first, nineteen hundred and eighty-four, July first, nineteen hundred and eighty-five, July first, nineteen hundred and eighty-six, and July first, nineteen hundred and eighty-seven, respectively, shall be substituted.

**SECTION 10.** Subsection B of section 68 of said chapter 6A, as so appearing, is hereby amended by striking out paragraph (d) and inserting in place thereof the following paragraph:–

(d) medicaid payments shall be computed in the following manner:

(1) For acute hospitals with fiscal years beginning October first, nineteen hundred and eighty-two, October first, nineteen hundred and eighty-three and October first, nineteen hundred and eighty-four, the medicaid basis of payment derived under paragraph (c) shall be apportioned to medicaid and all other payors pursuant to the apportionment methods specified in the hospital agreement using the charge data applicable to Title XIX beneficiaries. For the fiscal year beginning October first, nineteen hundred and eighty-four, the resulting medicaid payments shall be adjusted by subtracting the amount determined pursuant to paragraph (e). For the fiscal year beginning October first, nineteen hundred and eighty-five, the medicaid basis of payment derived under paragraph (c) shall be apportioned to medicaid in the following manner: (i) approved gross inpatient service revenue shall be multiplied by the ratio of actual non-medicare gross inpatient service revenue divided by approved non-medicare gross inpatient service revenue; (ii) the resultant product shall be apportioned to all inpatient settlement areas specified in the current hospital agreement, based upon



ACTS, 1985. – Chap. 574.

the percentage of actual gross inpatient service revenues attributable to the respective inpatient settlement areas. Actual outpatient charges shall continue to be apportioned to the outpatient settlement area specified in the current hospital agreement; (iii) medicaid's per cent liability within each settlement area will then be obtained by dividing medicaid actual charges by the charges apportioned in accordance with clause (ii); (iv) said percentages will then be multiplied by the medicaid basis of payment apportioned to the respective settlement area. The resulting sum of the individual products will then be further adjusted by subtracting the amount determined pursuant to paragraph (e). For the fiscal year beginning October first, nineteen hundred and eighty-six, the medicaid basis of payment derived under paragraph (c) shall be apportioned to medicaid in the following manner: (i) approved gross inpatient service revenue shall be multiplied by the ratio of actual non-medicare gross inpatient service revenue divided by approved non-medicare gross inpatient service revenue unadjusted for any excess or deficit non-medicare gross inpatient service revenue earned in the preceding year; (ii) the resultant product shall be apportioned to all inpatient settlement areas specified in the current hospital agreement based upon the percentage of actual gross inpatient service revenues attributable to the respective inpatient settlement areas. Actual outpatient charges shall continue to be apportioned to the outpatient settlement area specified in the current hospital agreement; (iii) medicaid's per cent liability within each settlement area will then be obtained by dividing medicaid actual charges within each settlement area by the charges apportioned in accordance with clause (ii); (iv) said percentages will then be multiplied by the medicaid basis of payment apportioned to the respective settlement area. The resulting sum of the individual products will then be further adjusted by subtracting the amount determined pursuant to paragraph (e).

(2) For acute care hospitals with fiscal years beginning July first, nineteen hundred and eighty-two, July first, nineteen hundred and eighty-three, July first, nineteen hundred and eighty-four and July first, nineteen hundred and eighty-five, the medicaid basis of payment derived under paragraph (c) shall be apportioned to medicaid and all other payors pursuant to the apportionment methods specified in the hospital agreement using the charge data applicable to Title XIX beneficiaries. For fiscal years beginning July first, nineteen hundred and eighty-four and July first, nineteen hundred and eighty-five, the resulting medicaid payments shall be further adjusted by subtracting the amount determined pursuant to paragraph (e). For fiscal year beginning July first, nineteen hundred and eighty-six, the medicaid basis of payment derived under paragraph (c) shall be apportioned to medicaid in the following manner: (i) approved gross inpatient service revenue shall be multiplied by the ratio of actual non-medicare gross inpatient service revenue divided by approved non-medicare gross inpatient service revenue; (ii) the resultant product shall be apportioned to all inpatient settlement areas specified in the current hospital agreement based upon the percentages of actual gross inpatient service revenues attributable to the respective inpatient settlement areas. Actual outpatient charges shall be apportioned to the



**ACTS, 1985. – Chap. 574.**

outpatient settlement area specified in the current hospital agreement; (iii) medicaid's per cent liability within each settlement area will then be obtained by dividing medicaid actual charges within each settlement area by the charges apportioned in accordance with clause (ii); (iv) said percentages will then be multiplied by the medicaid basis of payment apportioned to the respective settlement area. The resulting sum of the individual products will then be further adjusted by subtracting the amount determined pursuant to paragraph (e). For the fiscal year beginning July first, nineteen hundred and eighty-seven, the medicaid basis of payment derived under paragraph (c) shall be apportioned to medicaid in the following manner: (i) approved gross inpatient service revenue shall be multiplied by the ratio of actual non-medicare gross inpatient service revenue divided by approved non-medicare gross inpatient service revenue unadjusted for any excess or deficit non-medicare gross inpatient service revenue earned in the preceding year; (ii) the resultant product shall be apportioned to all inpatient settlement areas specified in the current hospital agreement, based upon the percentage of actual gross inpatient service revenues attributable to the respective inpatient settlement area. Actual outpatient charges shall continue to be apportioned to the outpatient settlement area specified in the current hospital agreement; (iii) medicaid's per cent liability within each settlement area will then be obtained by dividing medicaid actual charges within each settlement area by the charges apportioned in clause (ii); (iv) said percentages will then be multiplied by the medicaid basis of payment apportioned to the respective settlement area. The resulting sum of the individual products will then be further adjusted by subtracting the amount determined pursuant to paragraph (e).

**SECTION 11.** Said chapter 6A is hereby further amended by striking out section 68A, as so appearing, and inserting in place thereof the following section:-

Section 68A. If the Title XIX payment methodology set forth in section sixty-eight is not approvable by the Health Care Finance Administration hereinafter referred to as HCFA, the commission is hereby authorized and directed to modify the Title XIX payment methodology set forth in section sixty-eight as may be required to secure HCFA approval. In making said modification, the commission shall seek a methodology which provides Title XIX payments to acute hospitals which are in aggregate comparable to those provided for by the methodology of said section sixty-eight.

If, in order to gain HCFA approval, modifications are required affecting only disproportionate share hospitals which for any disproportionate share hospital result in reimbursement which is not approximately equal to reimbursement provided by the methodology of said section sixty-eight for the fiscal year beginning on or after October first, nineteen hundred and eighty-five, then for each such disproportionate share hospital, the commission shall calculate the difference between (a) the expected Title XIX payments to that hospital under the methodology set forth in said section sixty-eight and (b) the Title XIX payments to that hospital as modified to obtain HCFA



**ACTS, 1985. – Chap. 574.**

approval. This difference shall be called the Title XIX differential. The sum of the Title XIX differentials across all disproportionate share hospitals shall be called the aggregate Title XIX differential. The commission is authorized and directed to modify the Title XIX payment methodology so that Title XIX payments to acute hospitals other than disproportionate share hospitals are increased to the extent approvable by HCFA by an amount, equal in the aggregate, to the aggregate Title XIX differential. In the event that the commission modifies the payment methodology pursuant to this paragraph, the increased payments to such hospitals shall be called Title XIX increments, and shall be paid into the statewide uncompensated care pool in accordance with the provisions of section seventy-five. The sum of the Title XIX increments across all acute hospitals shall be called the aggregate Title XIX increment. The aggregate Title XIX increment shall be distributed to disproportionate share hospitals in accordance with the provisions of said section seventy-five. The amount distributed to each disproportionate share hospital shall be equal to its respective Title XIX differential multiplied by the aggregate Title XIX increment divided by the aggregate Title XIX differential. The amount so distributed shall be called the extra uncompensated care distribution.

In the event that there is an aggregate Title XIX differential; and in the event that the aggregate Title XIX increment is not approximately equal to the aggregate Title XIX differential, then for each disproportionate share hospital, the commission shall subtract the extra uncompensated care distribution from the Title XIX differential. This difference shall be called the net Title XIX differential. The sum of this difference across all disproportionate share hospitals shall be called the aggregate net Title XIX differential. The commission is hereby authorized and directed to provide that each disproportionate share hospital be paid one-half of its net Title XIX differential by the Medical Assistance Program.

**SECTION 12.** Said chapter 6A is hereby further amended by adding the following two sections:–

**Section 75.** In order to more equitably distribute the burden of financing uncompensated acute hospital services across all acute hospitals, there shall be a statewide uncompensated care pool. Each acute hospital's approved gross patient service revenue shall include a uniform allowance for statewide uncompensated care, as specified pursuant to section fifty-one. It is the intention that all nongovernmental payors shall contribute to the cost of uncompensated care as funded through said pool, either through the payment of charges or the payment of negotiated rates.

Said pool shall be administered as follows:

(1) For each acute hospital with a fiscal year beginning on or after October first, nineteen hundred and eighty-five, multiply the corresponding fiscal year's uniform allowance for statewide uncompensated care by the sum of the private sector share of projected patient care costs and the working capital allowance specified by the commission pursuant to section fifty-one. Add to this product the Title



ACTS, 1985. – Chap. 574.

XIX increment, if any, as calculated pursuant to section sixty-eight A for the current year. Define this sum as the hospital's gross liability to the said pool. Subtract from this amount the lesser of (i) the projected patient care costs of all patients' services which are written off as free care or bad debt, net of free care payments made pursuant to section sixty-eight and net of any extra uncompensated care distribution, if any, made pursuant to said section sixty-eight A, and net of any net Title XIX differential, if any as calculated pursuant to said section sixty-eight A, or (ii) the sum of (a) one hundred and fourteen per cent multiplied by the projected patient care costs for a hospital service corporation and for purchasers and third party payors who reimburse acute hospitals on the basis of charges, and (b) the payments made by the Title XVIII program for free care to the acute hospital for the fiscal year, beginning October first, nineteen hundred and eighty-four, for hospitals with fiscal years that begin on October first or July first, nineteen hundred and eighty-five, for hospitals with fiscal years that begin on July first, trended to the current fiscal year by the most recently available update to the composite inflation index in the current hospital agreement. Subtract from this result the extra distribution for uncompensated care calculated pursuant to section sixty-eight A, if any; and subtract from this result one-half of the net Title XIX differential, if any, as defined in said section sixty-eight A. The result, if positive, is the net hospital liability to said pool; the result, if negative, is the net liability of said pool to the hospital.

(2) Prior to the beginning of each hospital fiscal year, the commission shall, using the most appropriate and accurate data available, estimate the uniform allowance for statewide uncompensated care. These estimates shall be updated, on a timely basis, as significant new information becomes available. The commission shall use these same data and estimates to calculate each acute hospital's net estimated liability to the pool, and the commission shall notify the hospital and said pool's administrative agent of the estimated net liability to said pool, or adjustment thereof, no later than thirty days in advance of the first periodic payment and fifteen days in advance of any subsequent adjustment to said periodic payment. The commission shall, no later than June first, nineteen hundred and eighty-seven, re-estimate the uniform allowance for statewide uncompensated care and hospital specific interim payments to be effective for the fiscal year ending September thirtieth, nineteen hundred and eighty-seven or June thirtieth, nineteen hundred and eighty-eight, so as to assure that there will be no year-end deficit in said pool. The commission shall, where it deems necessary, conduct audits of the fiscal year nineteen hundred and eighty-six bad debt and free care data in arriving at this re-estimate.

(3) The commission shall establish an interim payment system to assure periodic payments of estimated liabilities to and from the pool. Acute hospitals that have an estimated annual net liability to the pool shall be required to pay monthly one-twelfth of their estimated net annual liability to said pool and acute hospitals to which said pool owes an estimated net liability shall receive monthly payments from said pool equal to one-twelfth of this estimated annual net liability, beginning



**ACTS, 1985. – Chap. 574.**

with the third month of the first fiscal year in which the hospital participates in said pool, except that in the last month of the first fiscal year in which the hospital participates in said pool the net liability paid to or from said pool shall equal one-fourth of the hospital's estimated annual net liability to or from said pool for said fiscal year.

(4) The commission shall contract with a nonprofit hospital service corporation to act as its administrative agent for payments to and from said pool. Said agent shall maintain any cash balance in the pool in a separate interest-bearing account and any interest on this account shall accrue and be applied to the final settlement of said pool. Said agent shall disburse payments determined by the commission, subject to paragraph (5). Said agent shall provide the commission with the detail of monthly receipts to and payments from said pool at the end of each monthly period, including the name of any acute hospital which did not make its scheduled periodic payment to said pool. Upon proper notification by said agent and verification by the commission, the commission shall instruct said agent to offset payments on hospital claims from the agent in the amount of the payment owed to the pool, plus a surcharge of five per cent on that amount, and to transfer the withheld funds into said pool.

(5) At no time shall said agent make periodic pay-outs from said pool in excess of monies that have been paid into the pool for the same period. Each acute hospital having an estimated net liability to said pool shall make payment to said agent on the first day of each month, beginning December, nineteen hundred and eighty-five, for hospitals with fiscal years beginning October first, and beginning September, nineteen hundred and eighty-six, for hospital with fiscal years beginning July first, for its periodic net liability. On the fifteenth day of the same months, the agent shall make payment to each hospital that is to receive a periodic payment for an amount which shall equal said pool's periodic net liability to the hospital multiplied by the lesser of (i) one, or (ii) the ratio of said pool's total receipts to the pool's total expected receipts for that period; except that any late payments to said pool made in one period for prior periods shall be added on a pro rata basis to the next periodic payment to hospitals.

(6) Acting upon the instructions of the commission and as its administrative agent, the nonprofit hospital service corporation shall be immune from all liability, legal actions, damages or other penalty for administration of said pool, except for its own fraudulent or negligent acts. If said agent offsets claims payments as ordered by the commission, it shall be deemed not to be in breach of contract, and hospitals to which payment is offset under order of the commission must serve all subscribers and members of the nonprofit hospital service corporation in accordance with HA-30 or other hospital agreements then in effect. For the cost of administering said pool, the administrative agent shall collect from said pool its reasonable costs up to one hundred thousand dollars per hospital fiscal year that it serves as agent. Such payment is to be financed by an increment to the uniform statewide allowance for uncompensated care, as specified in section fifty-one.

(7) There shall be rendered, at the conclusion of each calendar year,



**ACTS, 1985. – Chap. 574.**

starting with nineteen hundred and eighty-five, an audit opinion of said agent's administration of said pool. This audit opinion shall be made by the outside auditors employed by said agent to audit its other financial operations, and the audit results shall be reported to the commission for review.

Section 76. There is hereby established a program, subject to appropriation, to assist community health centers deliver services to uninsured individuals. For fiscal year nineteen hundred and eighty-six, the commission shall develop a distribution formula based upon community health center cost reports for fiscal year nineteen hundred and eighty-five arrived at in consultation with the Massachusetts league of community health centers and other interested parties. The amount of assistance for services provided to uninsured individuals for fiscal year nineteen hundred and eighty-seven, subject to appropriation, shall be the amount provided in uncompensated care by the community health centers for nineteen hundred and eighty-six according to a distribution formula to be developed by the commission, after consultation with the Massachusetts league of community health centers and other interested parties.

The commission shall establish criteria which include provision that community health centers make reasonable efforts to collect payment for community health center services prior to attributing those services to uncompensated care. In developing such criteria, the commission shall identify those populations which shall not require collection action; provided, however, that the commission, in carrying out its duties set forth in this section, shall not consider the following resources of such community health center: unrestricted grants, gifts, and donations, and restricted grants, gifts and donations which are not restricted to subsidy for uncompensated care.

**SECTION 13.** Chapter 111 of the General Laws is hereby amended by inserting after section 51C the following section:–

Section 51D. No acute hospital shall impose any discriminatory restrictions or conditions relating to admission, availability of services, treatment, transfer or discharge with respect to any patient because that patient is a medicare beneficiary. Prohibited practices include, but are not limited to, any such discrimination based on the diagnostically related group classification of such a beneficiary or any other criteria, including cost of treatment, severity of illness, and average length of stay, which are not equally applied to all patients with comparable medical needs seeking or receiving the services of the hospital. For medicare patients, admission and discharge shall be consistent with Public Laws 97–248, 98–21 and 09–369 and any other applicable federal statutes and regulations.

The department shall establish an advocacy office for the receipt of complaints of alleged violations of the provisions of this section. Said advocacy office shall investigate such alleged violations and if the advocacy office finds cause for crediting the allegations of a complaint, it will seek to resolve such complaint through negotiation. Hospitals shall cooperate with the said advocacy office in the investigation and



ACTS, 1985. – Chap. 574.

resolution of an alleged violation. Such cooperation shall include, but not be limited to, the provisions of nonconfidential information reasonably related to the alleged violation, and the provision of patient records with the consent of the patient.

If the advocacy office cannot promptly negotiate a resolution to a complaint, the department may forward the complaint and any information obtained to the attorney general. The attorney general may bring a civil action for injunctive or other equitable relief to enforce the provisions of this section.

If the advocacy office cannot negotiate a resolution to the complaint and has cause to believe there exists a practice or pattern of violations of this section at any hospital, the department may also forward the complaints to the regional office of the health care financing administration for appropriate action.

Any information supplied by a hospital to the department which is provided to the attorney general shall not, unless otherwise ordered by a court for good cause shown, be disclosed to any person other than the patient, the authorized agent of the patient or representative of the attorney general, unless with the consent of the hospital providing the same.

The department shall have the authority to promulgate such regulation as may be necessary to implement the provisions of this section.

The attorney general may bring a civil action for injunctive or other equitable relief to enforce the provisions of this section.

In any action brought by the attorney general under this section, the court may also award a civil penalty of not more than five thousand dollars for each violation unless the peer review organization of said health care financing administration has formally commenced sanction proceedings against an institution as provided in 42 CFR 474.30.

Hospitals shall provide written notice of the rights established by this section to every medicare eligible person seeking services in the facility. In addition, notice of such rights shall be conspicuously posted in the facility.

Nothing in this section shall be construed to prevent a hospital from implementing a decision relating to patient care which is in the best interest of a patient and in conformity with good medical and hospital practice.

Nothing in this section shall be construed as limiting any other rights or remedies provided by law to medicare patients. Nothing in this section shall be construed to limit the applicability of section sixty B of chapter two hundred and thirty-one. Nothing in this section shall give rise to or limit an otherwise available cause of action in negligence or medical malpractice.

The department shall conduct an evaluation as to whether the introduction of the medicare prospective payment system has affected the delivery of quality care to medicare beneficiaries including the appropriateness of admissions and discharges to acute care hospitals. Said department shall submit an interim report of its findings to the clerk of the house of representatives to the general court no later than March first, nineteen hundred and eighty-seven, and a final report not



**ACTS, 1985. – Chap. 574.**

later than March first, nineteen hundred and eighty-eight, including any applicable recommendations for legislation arrived after consultation with the Massachusetts Hospital Association, the Massachusetts Medical Society, and others. Acute hospitals are hereby required to submit to the department relevant data reasonably necessary to conduct this evaluation. The department shall not seek information directly from hospitals when such information is available from other sources. The department shall protect the confidentiality of patient information provided by the hospitals. No data, findings, conclusions or reports developed by the department during or as a result of such evaluation from hospital/practitioner data shall be released without thirty days prior notice to such hospital. Comments by the hospital shall accompany the release of the data, findings, conclusions or reports.

**SECTION 14.** Section 10 of chapter 372 of the acts of 1982 is hereby amended by striking out the third sentence and inserting in place thereof the following sentence:– Sections one, one A, one B, two, five, five A, six, and eight of this act shall not apply to services provided after September thirtieth, nineteen hundred and eighty-seven, for hospitals with fiscal years beginning on October first or to services provided after June thirtieth, nineteen hundred and eighty-eight, for hospitals with fiscal years beginning July first.

**SECTION 15.** Section eight of chapter three hundred and forty-seven of the acts of nineteen hundred and eighty-four is hereby repealed.

**SECTION 16.** Said chapter 347 is hereby further amended by striking out section 11 and inserting in place thereof the following section:–

Section 11. No other section of this act shall become operative prior to October first, nineteen hundred and eighty-five unless any federal approval of the provisions of sections three, four, and five of this act required by the terms of the waiver of Title XIX principles of reimbursement dated September thirtieth, nineteen hundred and eighty-two is obtained and in effect; provided, however, that lack of federal approval of the provisions contained in the second sentence of subparagraph (3) of paragraph (c) of subsection B of section sixty-eight of chapter six A and the last sentence of paragraph (e) of subsection C of said section sixty-eight shall not prevent any other provisions of this act from becoming operative.

**SECTION 17.** Said chapter 347 is hereby further amended by adding the following section:–

Section 12. The provisions of this act shall not apply to any services provided after September thirtieth, nineteen hundred and eighty-seven for hospitals with fiscal years beginning on October first, or to services provided after June thirtieth, nineteen hundred and eighty-eight for hospitals with fiscal years beginning July first.

**SECTION 18.** Within thirty days after the effective date of this act, the parties to the existing hospital agreement shall develop an



**ACTS, 1985. – Chap. 574.**

amendment to said agreement which has the purpose of bringing the agreement into conformance with this act. The Massachusetts Hospital Association may act as a negotiating agent pursuant to section five of chapter one hundred and seventy-six A of the General Laws. The executed hospital agreement amendment shall be submitted to the commission for approval pursuant to said section five.

Within thirty days of the approval of the rate setting commission, a nonprofit hospital service corporation shall offer the approved hospital agreement amendment developed pursuant to this section to the individual acute hospital for execution.

The hospital agreement in effect at the time of the passage of this act shall terminate as to those acute hospitals choosing not to execute the amendment developed pursuant to this section. The provisions of section sixty of chapter six A of the General Laws shall apply to such acute hospitals.

**SECTION 19.** There is hereby established a special commission on health care financing and delivery reform. Said commission shall consist of the secretary of the executive office of human services or his designee, the secretary of the executive office of consumer affairs and business regulation or his designee, the secretary of the executive office of elder affairs or his designee, and eight persons to be appointed by the governor, one of whom shall be a consumer of health care, one of whom shall be a representative from each of the following organizations, to be selected from a list of recommendations provided by that organization: the state council of the AFL-CIO, Blue Cross of Massachusetts, Inc., the Life Insurance Association of Massachusetts, the Massachusetts Association of Health Maintenance Organizations, the Massachusetts Business Roundtable, the Massachusetts Hospital Association and the Massachusetts Medical Society.

Said commission shall investigate health care financing options, for hospital, ambulatory, and post-hospital care, including the impact of increased competitiveness on the health care delivery system of the commonwealth and on access to affordable, high quality health care for every citizen of the commonwealth. In recognition of the increasingly competitive environment, said commission is charged with addressing: necessary changes in the method of provider payments; market entry requirements at both the provider and insurer level; the provision of insurance and the development of a competitive insurance market; funding, delivery, and utilization of health services for the uninsured and underinsured and recipients of benefits under chapter one hundred and seventeen funding a continuum of health care services, including preventive care, ambulatory care, acute hospital care, aftercare, and chronic care; funding graduate medical education; and the economic impact of potential dislocation in the health care industry.

Said commission shall also examine, but not be restricted to, the following issues: the extent to which hospital prices will be deregulated; the extent to which funding for services to the underinsured and uninsured should be removed from the charges of medical providers; the extent to which the uninsured are employees who lack health



**ACTS, 1985. – Chap. 574.**

care coverage as a fringe benefit; the treatment of monopoly providers; the contracting rights of all purchasers of health care services; the role of insurance rate regulation; and the role of the Determination of Need program. Said commission shall also examine incentives to insurers to underwrite individuals that are clinically high risk, utilization review principles, the need for information in a competitive market, developing physician payment methodologies which are consistent with a competitive market, and insuring that a viable market is maintained for Medicare supplement subscribers and nongroup populations.

Said commission shall also be charged with recommending any special consideration that must be given to existing payor and provider responsibilities that may not be appropriately accommodated in a transition from a prospective rate-regulated financing system to a more competitive system. Said commission shall propose specific legislative solutions for any transition issues which are identified. This shall include a recommendation of a method for settling the liability of the pool to the hospitals on the basis of the actual costs of bad debt and free care incurred in the fiscal years covered by the statewide uncompensated care pool, established by section seventy-five of chapter six A of the General Laws. It is intended that all monies remaining in said pool after all payments to and from the pool have been made shall be transferred to the mechanism for funding uncompensated care that said commission might recommend. It is further intended that said funding mechanism should include provisions to make a final settlement of said pool which ensures that each acute hospital recovers no more and no less than its actual bad debt and free care costs for the fiscal years covered by said pool.

It is also intended that all companies authorized to sell accident and health insurance under chapter one hundred and seventy-five, of the General Laws, nonprofit hospital service corporations, corporations doing business in Massachusetts, other employers including governmental employers, and health care providers including health maintenance organizations, shall cooperate fully with any efforts by the study commission to investigate sources of broad-based financing for uncompensated care that do not rely upon the hospital charge structure. Said commission may establish a data bank into which the data gathered to carry out the requirements of this section may be deposited. Said commission is hereby authorized to contract for the services necessary for the establishment of such data bank.

There shall be an advisory group to said commission known as the health service access and quality advisory group. Said group shall include a representative selected by each organization represented on said commission, and shall also include thirteen others to be appointed by the secretary of human services, one of whom shall be a representative of the uninsured, one of whom shall be a representative of a public hospital, one of whom shall be a Medicaid recipient, one of whom shall be a Medicare recipient, one whom shall be a representative of the Massachusetts Nurses Association, one of whom shall be a representative of the Massachusetts league of community health centers, one of whom shall be a representative of a health systems agency, one of whom shall



**ACTS, 1985. – Chap. 574.**

be a representative of small business, one of whom shall be a health policy analyst with background in the problems of the uninsured and the underinsured, one of whom shall be a representative of a major teaching hospital, one of whom shall be a representative of the Massachusetts Federation of Nursing Homes, and one of whom shall be a representative of the Massachusetts Association of Community Health Agencies.

Said group shall investigate the needs of the uninsured and the underinsured in the commonwealth for health care services and issues of quality health care in a changing health care environment.

Said group shall make recommendations to said commission concerning adequate means to provide health care coverage for all citizens of the commonwealth and the financial and regulatory requirements necessary to ensure the effective delivery and efficient utilization of health services. Said group shall meet with said commission three times prior to said commission's reporting deadline and at any other time as it deems necessary by agreement between the chairpersons of said group and said commission.

Said group shall submit its findings and recommendations no later than April first, nineteen hundred and eighty-six to said commission and to the clerk of the house of representatives who shall refer a copy of said findings and recommendations to the joint committee on health care and the house and senate committees on ways and means.

Said commission shall be subject to the open meeting law as provided for under the provisions of section two A of chapter four of the General Laws. Said commission shall issue a final report to the clerk of the house of representatives on or before June first, nineteen hundred and eighty-six.

**SECTION 20.** The commissioner of the division of insurance is hereby authorized and directed to render an opinion on the status of so-called "preferred provider organizations." Said commissioner shall present his results by December thirty-first, nineteen hundred and eighty-five, to the speaker of the house of representatives, the president of the senate, and the membership of the special commission on health care financing and delivery reform, established by section nineteen of this act.

**SECTION 21.** After the effective date of this act no waiver of the Medicare principles of reimbursement for acute hospital inpatient services for Title XVIII services pursuant to the Social Security Act shall be implemented in the commonwealth.

**SECTION 22.** The provisions of chapter three hundred and eighty-nine of the acts of nineteen hundred and eighty-three, and chapter one hundred and eighty-three of the acts of nineteen hundred and eighty-four, shall not apply to any services provided after September thirtieth, nineteen hundred and eighty-seven for hospitals with fiscal years beginning on October first, or to services provided after June thirtieth, nineteen hundred and eighty-eight for hospitals with fiscal years beginning July first.



**ACTS, 1985. – Chap. 575.**

**SECTION 23.** Notwithstanding the provisions to the contrary of chapter six hundred and thirty-six of the acts of nineteen hundred and eighty-three, the provisions of sections thirty-seven to forty-seven, inclusive, of chapter six A of the General Laws shall apply to acute hospitals as well as to non-acute hospitals.

**SECTION 24.** This act shall take effect as of October first, nineteen hundred and eighty-five; provided, however, that sections two and twenty-three shall take effect as of October first, nineteen hundred and eighty-seven; and provided, further, that, with the exceptions of sections one, two, thirteen, fourteen, fifteen, seventeen, twenty-two and twenty-three, the provisions of this act shall not apply to services provided after September thirtieth, nineteen hundred and eighty-seven for community health centers and for hospitals with fiscal years beginning October first, or to services provided after June thirtieth, nineteen hundred and eighty-eight for hospitals with fiscal years beginning July first.

Approved December 10, 1985.

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**Chapter 575. AN ACT AUTHORIZING THE DIVISION OF CAPITAL PLANNING AND OPERATIONS TO ISSUE A PERMIT FOR A CERTAIN PARCEL OF LAND LOCATED IN THE TOWN OF HARDWICK FOR THE PURPOSES OF ENTRANCE AND EGRESS TO OTHER LANDS.**

Be it enacted, etc., as follows:

**SECTION 1.** The division of capital planning and operations is hereby authorized, subject to the provisions of sections forty F 1/2 and forty H to forty J, inclusive, of chapter seven of the General Laws, to issue a permit for a certain parcel of land, presently under the control of the metropolitan district commission, for the purposes of entrance and egress to certain other land. Said permit shall be issued for such consideration and upon such terms as may be acceptable to said division in consultation with the metropolitan district commission. Said permit shall be granted for the use of two acres more or less, bounded and described as follows:

**BEGINNING:** AT A WORCESTER COUNTY HIGHWAY BOUND AT STA. 46 + 38.80 IN THE EASTERLY LINE OF PETERSHAM ROAD;

**THENCE:** NO. 63° 18' E., 431.11 FEET TO AN M.D.C. BOUND IN A CORNER OF STONE WALLS;

**THENCE:** S. 59° 33' 09" E., 437.63 FEET TO AN M.D.C. BOUND IN A CORNER OF STONE WALLS AT LAND NOW OF W. R. ROBINSON LUMBER CO., INC.;

**THENCE:** N. 32° 39' 40" E. ALONG A STONE WALL AND LAND OF W. R. ROBINSON LUMBER CO., INC. 50.03 FEET TO A POINT;

**THENCE:** NO. 59° 33' 09" W., 467.0 FEET TO A POINT;

**THENCE:** S. 63° 18" W., 458 FEET MORE OR LESS TO A POINT IN



ACTS, 1985. – Chap. 576.

THE EASTERLY LINE OF PETERSHAM ROAD;

THENCE: SOUTHERLY FOLLOWING THE EASTERLY LINE OF PETERSHAM ROAD 50 FEET TO THE POINT OF BEGINNING.

TERMS AND CONDITIONS FOR ISSUING SAID PERMIT SHALL BE NEGOTIATED BETWEEN THE DIVISION OF CAPITAL PLANNING AND OPERATIONS AND THE METROPOLITAN DISTRICT COMMISSION.

**SECTION 2.** No permit issued by or on behalf of the commonwealth pertaining to the property described in section one or any interest therein shall be valid unless such permit for said property be used for entrance and egress to a certain property for the purpose of lumbering.

Approved December 10, 1985.

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**Chapter 576. AN ACT AUTHORIZING THE DIVISION OF CAPITAL PLANNING AND OPERATIONS TO EXCHANGE CERTAIN LAND IN THE TOWNS OF HUBBARDSTON AND PRINCETON WITH THEODORE H. CURTIS.**

Be it enacted, etc., as follows:

The division of capital planning and operations, acting for and on behalf of the commonwealth, in consultation with the metropolitan district commission, subject to the provisions of sections forty E to forty J, inclusive, of chapter seven of the General Laws, is hereby authorized to convey to Theodore H. Curtis, by deed approved as to form by the attorney general, all the right, title and interest of the commonwealth in and to certain parcels of land in the towns of Hubbardston and Princeton. Said parcels of land are bounded and described as follows:

Parcel #1.

Starting at a steel rod at a corner of walls on the easterly side of Old Colony Road, in the town of Hubbardston at land of grantee.

Thence by the northerly sideline of said Old Colony Road eleven hundred and fifty feet (1150') more or less to a steel rod set at a corner of walls at land of Richard C. Kelton.

Thence north fifty-two degrees and nine minutes east (N52°-09'E) one hundred eighty and no tenths feet (180.0') by a stone wall of land of said Kelton to a drill hole set in a boulder at a corner of walls at land now or formerly of James McNerny et ux.

Thence south thirty-eight degrees and thirty-seven minutes east (S38°-37') sixteen hundred and eighteen feet (1618'+) more or less by land of said McNerny to a stone bound at a wall corner.

Thence north fifty-one degrees and fifty minutes east (N51°-50'E) five hundred and thirteen and no tenths feet (513.0'), still by a stone wall and land of said McNerny to a wall corner at land of Gordon and Jacqueline Smith.

Thence south forty-five degrees and fifty minutes east (S45°-50'E) six hundred and forty feet (640') more or less following a stone wall and by land of said Smith to the beginning of a curve to the right in the wall.



ACTS, 1985. -- Chap. 576.

Thence following said curve to the right still by land of said Smith ninety-five feet (95') more or less to a point in the northerly sideline of Old Colony Road. Then westerly by the northerly sideline of Old Colony Road eleven hundred feet (1100') more or less to a point at land of grantee.

Thence north fifty-one degrees and forty-eight minutes east (51°-48') two hundred and fifty feet (250') more or less by land of grantee to a stone bound.

Thence north westerly three hundred feet (300') more or less by a stone wall and land of grantee to a wall corner. Thence northerly thirty-six feet (36') more or less following a stone wall and land of grantee to a wall corner. Thence westerly three hundred and sixty feet (360') more or less by a stone wall and land of grantee to the point of beginning. Containing twenty and ninety-five hundredths acres (20.95ac) thirteen and three one hundredths acres (13.03ac) more or less of which are in Hubbardston and seven and ninety-two hundredths acres (7.92ac) of which are in Princeton.

Parcel #2.

A certain parcel of land located on the southerly side of Old Colony Road, in Hubbardston, and bounded and described as follows: Starting at a steel rod located on the southerly end of a stone wall, which steel rod is located approximately 400 feet westerly along said southerly sideline of Old Colony Road from the intersection of said southerly sideline of Old Colony Road and the Hubbardston-Princeton Town Line.

Thence the line runs south four degrees and thirty-eight minutes east (S4°-38'E) fifteen and thirty-two hundredths feet, by a stone wall to a steel rod at a corner of walls.

Thence the line runs south seventy-four degrees and fourteen minutes west (S74°-14'W) following a stone wall to a steel rod at or near the end of the end of the wall.

Thence the line continues along the same course one hundred and seventy-five and seventy-eight hundredths feet (175.78') to a point.

Thence the line runs south two degrees and fourteen minutes west (S2°-14'W), two hundred and fifty and no hundredths feet (250.00') to a point.

Thence the line runs thirty-two degrees and fourteen minutes east (32°-14'E) two hundred and ten feet (210') more or less to a point in the southerly side of Old Colony Road.

Thence westerly by said southerly side of Old Colony Road two hundred feet (200') more or less at the beginning.

Containing two and no tenths (2.0) acres of land all in the Town of Hubbardston.

Theodore H. Curtis, in payment for said land shall transfer to the commonwealth in fee simple, a parcel of land determined by said division and said commission to be equivalent to or in excess of the value of the land granted, or, if said division in consultation with said commission so decides, shall pay a fair market value price to be determined by one or more independent appraisals approved by the deputy commissioner of said division and the costs thereof shall be assumed by said Theodore H. Curtis.

Approved December 10, 1985.



**ACTS, 1985. – Chaps. 577, 578.**

**Chapter 577. AN ACT FURTHER CLARIFYING THE DUTIES OF SCHOOL COMMITTEES.**

Be it enacted, etc., as follows:

Section 38 of chapter 71 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out the second and third paragraphs and inserting in place thereof the following two paragraphs:–

The vote on the election, contract or promotion of a teacher, assistant principal, principal, department chairman, director, supervisor, assistant supervisor, assistant superintendent or deputy superintendent shall be by yeas and nays. No election, contract or promotion of a teacher, assistant principal, principal, department chairman, director, supervisor, assistant supervisor, assistant superintendent or deputy superintendent shall be made by a school committee unless such person shall have been nominated for such election, contract or promotion by the superintendent of schools. If there is a negative vote of the school committee on any name submitted by him, the superintendent shall submit a new recommendation, which recommendation may be the same as that previously submitted; provided, however, that after a third negative vote the new recommendation shall not be the same as that previously submitted; and provided, further, that after the fifth negative vote the new recommendation may be the same as that originally submitted.

No school committee shall require that an individual reside within the city, town or regional school district as a condition of promotion, assignment, transfer or continued employment as a school teacher, assistant principal, principal, director, supervisor, deputy superintendent or professional employee unless such requirement was imposed on the initial day of such individual's appointment; provided, however, that the provisions of this paragraph shall not apply to any individual appointed, reappointed or promoted to the position of superintendent, associate superintendent or assistant superintendent.

Approved December 10, 1985.

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**Chapter 578. AN ACT RELATIVE TO THE VOLUNTARY TRANSFER OF CERTAIN PRISONERS TO CERTAIN FOREIGN COUNTRIES.**

Be it enacted, etc., as follows:

Chapter 127 of the General Laws is hereby amended by inserting after section 97A the following section:–

Section 97B. If a treaty in effect between the United States and a foreign country provides for the transfer or exchange of a prisoner to the country of which said prisoner is a citizen or national, the commissioner may, with the written consent of such prisoner, subject to the approval of the governor, and in accordance with the terms of such treaty,



**ACTS, 1985. – Chaps. 579, 580.**

consent to the transfer or exchange of any such prisoner and take any other action necessary to initiate the participation of the commonwealth in such treaty.

Approved December 10, 1985.

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**Chapter 579. AN ACT RELATIVE TO THE OPERATION OF THE WOODS HOLE, MARTHA'S VINEYARD AND NANTUCKET STEAMSHIP AUTHORITY.**

Be it enacted, etc., as follows:

**SECTION 1.** The provisions of chapter four hundred and sixty of the acts of nineteen hundred and eighty-five are hereby ratified and confirmed.

**SECTION 2.** This act shall take effect as of November fourth, nineteen hundred and eighty-five.

Approved December 11, 1985.

EMERGENCY LETTER: December 12, 1985 @ 10:08 A.M.

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**Chapter 580. AN ACT FURTHER REGULATING THE CONDUCT OF HORSE RACING.**

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith for the continuation of the racing industry in the commonwealth, 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.** Chapter 494 of the acts of 1978 is hereby amended by striking out sections 11 and 12 and inserting in place thereof the following two sections:—

Section 11. During the calendar years nineteen hundred and eighty-five through nineteen hundred and ninety, each running horse track licensee under section three of chapter one hundred and twenty-eight A of the General Laws, other than a licensee holding a racing meeting in connection with a state or county fair, shall daily pay: (a) the total sum of the so-called breaks, as defined in section five of said chapter one hundred and twenty-eight A, and a sum equal to one-quarter of one per cent of the total amount wagered by patrons wagering on the speed or ability of running horses into the trust fund known as the Running Horse Capital Improvements Trust Fund under the direction and supervision of the state racing commissioners, as they are individuals, as trustees of said trust; and (b) a sum equal to one-quarter of one per cent of the total amount wagered by patrons so wagering into



**ACTS, 1985. – Chap. 580.**

a trust fund to be known as the Running Horse Promotional Trust Fund under the direction and supervision of the state racing commissioners, as they are individuals, as trustees of said trust. Said trustees shall deposit all monies in said trust funds in one or more banks, at interest, within the commonwealth.

Said trustees may expend without appropriation all or any part of the Running Horse Capital Improvements Trust Fund to a running horse track licensee for use as all or part of a capital expenditure for alterations, additions, replacements, changes, improvements or major repairs to or upon the property owned or leased by such licensee and used by it for the conduct of racing; and said trustees may expend without appropriation all or any part of the Running Horse Promotional Trust Fund to such licensee for use in promotional marketing, to reduce the costs of admission, programs, parking and concessions, and to offer other entertainment and give-aways; provided, however, that no licensee shall receive an amount in excess of the amount attributable to said licensee in such trust funds.

Said trustees may prescribe terms and conditions for such grants, provided, however, that, prior to approving any expenditures from said trust funds, the trustees shall require the licensee to submit to them detailed business plans describing the specific promotions and capital improvements contemplated by the licensee and shall formally vote to permit such expenditures; and, provided further, that under no circumstances shall the trustees permit the expenditure of trust funds for purposes not directly related to the improvement of running horse racing or for the raising of handles and attendance. Such licensee shall comply with all applicable provisions of chapter one hundred and forty-nine of the General Laws unless such compliance is waived by the commission in writing for cause.

No such expenditure for such capital improvements or for such promotions shall be approved by the trustees if such improvements or promotions are to be accomplished pursuant to a contract with a person, corporation, partnership, trust or any combination of the same or any other entity owned wholly or in part by a person, corporation, partnership, trust or any combination of the same or any other entity which owns or operates or holds any interest in any racetrack in the commonwealth.

The trustees shall hire the services of such architectural and engineering consultants as they deem appropriate to advise them generally and to evaluate proposed capital improvement projects submitted to them for their approval.

Nothing herein contained shall preclude a running horse track from making capital improvements or undertaking promotional operations not funded in whole or in part from such funds; provided, however, that all sums approved by said trustees hereunder shall be expended in their entirety for capital improvements or for promotions; and provided, further, that any revision by said licensee in the making of capital improvements or in promotional plans as hereinbefore provided, shall require separate written approval by the trustees therefor. All financial statements required under section six of chapter one hundred and



ACTS, 1985. – Chap. 580.

twenty-eight A of the General Laws shall be accompanied by a statement signed under the pains and penalties of perjury by the chief financial officer of the licensee, setting forth the capital improvements made and the promotions completed with funds obtained under this section and further certifying that such expenditures are treated as capital expenditures and promotional expenditures in the accompanying financial statement.

The trustees shall require from a running horse racetrack such vouchers, cancelled checks or other documents as said trustees they deem necessary to verify that the expenditures from said funds were carried out in accordance with the provisions of this section.

Funds paid by licensees and deposited by the commission in the Running Horse Capital Improvements Trust Fund and in the Running Horse Promotional Trust Fund shall remain in said funds until expended under this section; provided, however, that any amount in said accounts as of December thirty-first, nineteen hundred and ninety which has not been so expended or as to which no binding commitment has been made by said trustees shall thereupon be deposited in the General Fund.

Section 12. During the calendar years nineteen hundred and eighty-five through nineteen hundred and ninety, each harness horse track licensee under section three of chapter one hundred and twenty-eight A of the General Laws, other than a licensee holding a racing meeting in connection with a state or county fair shall daily pay: (a) the total sum of the so-called breaks, as defined in section five of said chapter one hundred and twenty-eight A, and a sum equal to one per cent of the total amount wagered by patrons wagering on the speed or ability of a combination of more than one harness horse in a single pool, exotic wagering, so-called, into the trust fund known as the Harness Horse Capital Improvements Trust Fund and under the direction and supervision of the state racing commissioners, as they are individuals, as trustees of said trust; and (b) a sum equal to one per cent of the total amount wagered by patrons so wagering on said exotic races into a trust fund to be known as the Harness Horse Promotional Trust Fund under the direction and supervision of the state racing commissioners, as they are individuals, as trustees of said trust. Said trustees shall deposit all monies in said trust funds in one or more banks, at interest, within the commonwealth.

Said trustees may expend without appropriation all or any part of the Harness Horse Capital Improvements Trust Fund to a harness horse track licensee for use as all or part of a capital expenditure for alterations, additions, replacements, changes, improvements or major repairs to or upon the property owned or leased by such licensee and used by it for the conduct of racing; and said trustees may expend without appropriation all or any part of the Harness Horse Promotional Trust Fund to such licensee for use in promotional marketing, to reduce the costs of admission, programs, parking and concessions, and to offer other entertainment and give-aways; provided, however, that no licensee shall receive an amount in excess of the amount attributable to said licensee in such trust funds.

Said trustees may prescribe terms and conditions for such grants;



**ACTS, 1985. – Chap. 580.**

provided however, that prior to approving any expenditures from said trust funds, the trustees shall require the licensee to submit to them detailed business plans describing the specific promotions and capital improvements contemplated by the licensee and shall formally vote to permit such expenditures; and, provided further, that under no circumstances shall the trustees permit the expenditure of trust funds for purposes not directly related to the improvement of harness horse racing or for the raising of handles and attendance. Such licensee shall comply with all applicable provisions of chapter one hundred and forty-nine of the General Laws unless such compliance is waived by the commission in writing for cause.

No such expenditure for capital improvements or for promotions shall be approved by the trustees if such improvements or promotions are to be accomplished pursuant to a contract with a person, corporation, partnership, trust or any combination of the same or any other entity owned wholly or in part by a person, corporation, partnership, trust or any combination of the same or any other entity which owns or operates or holds any interest in any racetrack in the commonwealth.

The trustees shall hire the services of such architectural and engineering consultants as they deem appropriate to advise them generally and to evaluate capital improvement projects submitted to them for their approval.

Nothing herein contained shall preclude a harness horse track from making capital improvements or undertaking promotional operations not funded in whole or in part from such funds; provided, however, that all sums approved by said trustees hereunder shall be expended in their entirety for capital improvements or for promotions; and provided, further, that any revision by said licensee in the making of capital improvements or in promotional plans as hereinbefore provided, shall require separate written approval by the trustees therefor. All financial statements required under section six of chapter one hundred and twenty-eight A of the General Laws shall be accompanied by a statement signed under the pains and penalties of perjury by the chief financial officer of the licensee, setting forth the capital improvements made and the promotions completed with funds obtained under this section and further certifying that such expenditures are treated as capital expenditures and promotional expenditures in the accompanying financial statement.

The trustees shall require from a harness racetrack such vouchers, cancelled checks or other documents as said trustees deem necessary to verify that the expenditures from said funds were carried out in accordance with the provisions of this section.

Funds paid by licensees and deposited by the commission in the Harness Horse Capital Improvements Trust Fund and in the Harness Horse Promotional Trust Fund shall remain in said funds until expended under this section; provided, however, that any amount in said accounts as of December thirty-first, nineteen hundred and ninety which has not been so expended or as to which no binding commitment has been made by said trustees shall thereupon be deposited in the General Fund.



**ACTS, 1985. – Chap. 580.**

**SECTION 2.** Section 13 of said chapter 494, as amended by section 4 of chapter 558 of the acts of 1981, is hereby further amended by striking out the introductory paragraph and inserting in place thereof the following paragraph:–

Notwithstanding the provisions of clause (5) of the first paragraph of section two and of clauses (a) to (q), inclusive, of the third paragraph of section three of chapter one hundred and twenty-eight A of the General Laws, during the calendar year nineteen hundred and seventy-eight through nineteen hundred and eighty-six, for clauses (c) and (f), and during the calendar year nineteen hundred and eighty-five through nineteen hundred and ninety, for clauses (a), (b), (d), (e), (g) and (h), the licenses to conduct racing meetings shall only be issued under the following conditions:–.

**SECTION 3.** Said section 13 of said chapter 494 is hereby further amended by striking out clause (b) and inserting in place thereof the following clause:–

(b) no license shall be issued for more than an aggregate of four hundred and forty racing days in any one year at all harness horse racing meetings combined, including harness horse racing meetings at state or county fairs; provided, however, that one hundred and thirty such days may be awarded only for racing in Hampden county during the period between the first day of January and the fourteenth day of April and between the twenty-second day of October and the twenty-first day of December; provided, further, that ten of the remaining three hundred and ten days may be awarded only in connection with a state or county fair; and provided, further, that the harness racing days awarded in Norfolk county, not to exceed three hundred days, shall be awarded over a period of not fewer than forty-five weeks in any calendar year.

**SECTION 4.** Said section 13 of said chapter 494 is hereby further amended by striking out clause (d) and inserting in place thereof the following clause:–

(d) licenses shall permit racing meetings only between the hours of ten o'clock ante meridian and twelve o'clock midnight; provided, however, that in Suffolk county no dog racing meet shall be conducted prior to seven o'clock post meridian and no running horse racing meet shall be conducted after seven o'clock post meridian except as otherwise provided herein. The state racing commission shall grant authorized dates at such times that are consistent with the best interests of racing and the public; provided, however, that dates for racing meetings held in connection with a state or county fair may only be awarded during the period between the fifteenth day of June and the fifteenth day of October. Said commission may, in its discretion, on written application from a racing licensee made at least seven days prior to the date or dates of any proposed change of time stated in said racing license and without necessity for further public hearing, change the hours of conducting such race meeting between any of the aforesaid hours, notwithstanding the hours set forth on the license; provided, however, that if by reason of national emergency, night illumination is forbidden



**ACTS, 1985. – Chap. 580.**

by public authority, then said commission may, in its discretion, issue a license to permit racing at such hours as said commission may determine between the hours of ten o'clock ante meridian and twelve o'clock midnight. For the purpose of imposing the fee provided for in section four of chapter one hundred and twenty-eight A of the General Laws, computing the sums payable to the racing commission pursuant to section fourteen of this chapter, and counting the number of days authorized by clause (a), (b) or (c) of this section, any racing held after seven o'clock post meridian on the same day on which racing is held at the same racetrack prior to seven o'clock post meridian shall be considered a separate day of racing.

**SECTION 5.** Said section 13 of said chapter 494 is hereby further amended by striking out clause (h) and inserting in place the following clause:–

(h) in granting authorized dates hereunder the state racing commission shall take into consideration, in addition to any other appropriate and pertinent factors, the following: the maximization of state revenues, the suitability of racing facilities for operation at the time of the year for which dates are assigned; the circumstance that large groups of spectators require safe and convenient facilities; the interest of members of the public in racing competition honestly managed and of good quality; the necessity of having and maintaining proper physical facilities for racing meetings and the necessity of according fair treatment to the economic interests and investments of those who in good faith have provided and maintain such facilities.

**SECTION 6.** Said chapter 494 is hereby further amended by striking out section 15 and inserting in place thereof the following section:–

Section 15. During calendar years nineteen hundred and eighty-six through nineteen hundred and ninety, the state racing commission shall include in its annual report filed with the general court pursuant to section forty-eight of chapter six of the General Laws, the following information with respect to the previous calendar year: statements of monies deposited in the Running Horse Capital Improvements Trust Fund, the Running Horse Promotional Trust Fund, both established pursuant to section eleven of this act, the Harness Horse Capital Improvements Trust Fund and the Harness Horse Promotional Trust Fund, both established pursuant to section twelve of this act, together with a detailed account of monies disbursed from said funds, and the specific capital improvements and promotions for which the disbursements were intended, and a report on which such improvements and promotions have been accomplished; a statement of racing dates awarded to licensees, including those awarded in connection with a state or county fair; and a statement of the total amounts wagered at each racetrack, together with the monies paid to the commonwealth and the commission, purses paid to horse and dog owners and monies retained by each licensee, together with a statement of the net profit of each licensee taken from the financial statements filed under section six of chapter one hundred and twenty-eight A of the General Laws. Copies of



**ACTS, 1985. – Chap. 580.**

said report shall be transmitted to the governor, the president of the senate, the speaker of the house and the chairmen of the house and senate committees on ways and means, the joint committee on government regulations and the joint committee on taxation.

**SECTION 7.** Paragraph (g) of section 2 of chapter 128 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out, in line 47, the word "five" and inserting in place thereof the word:– twenty.

**SECTION 8.** Said paragraph (g) of said section 2 of said chapter 128, as so appearing, is hereby further amended by adding the following paragraph:–

The department is further authorized to expend up to eight per cent of the amount appropriated each fiscal year to said program for advertising, marketing and promotion of thoroughbred breeding in Massachusetts.

**SECTION 9.** The third paragraph of section 5 of said chapter 128A, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:– No other place or method of betting, poolmaking, wagering or gambling shall be used or permitted by the licensee, nor shall this chapter be deemed to authorize or legalize the pari-mutuel or certificate system of wagering on any races except horse and dog races at the track where such pari-mutuel or certificate system of wagering is conducted; provided, however, that the licensees of running horse racing tracks, harness horse racing tracks, or dog racing tracks, other than running horse racing, harness horse racing, or dog racing conducted in connection with a state or county fair, may, to the full extent permitted under federal law, enter into a contract with a duly licensed racing association in another state to accept wagers on races of national or general interest which are legally held or conducted in that other state and shown by means of live television, such acceptance of wagers and televising of races to be conducted only at the licensee's track; provided, further, that no licensee shall accept wagers on, or televise more than one such race at the licensee's track in any one racing performance; and provided, further, that nothing in this section shall require such races to be of the same kind as are conducted by the Massachusetts licensee seeking said contract and that said contract shall be filed with the commission for its information and said contract shall be considered a public document and shall be open to inspection during normal business hours.

**SECTION 10.** Notwithstanding the provisions of section fourteen of chapter four hundred and ninety-four of the acts of nineteen hundred and seventy-eight during the calendar years nineteen hundred and eighty-five through nineteen hundred and ninety, inclusive, each licensee conducting a running horse or a harness horse racing meeting shall return to the winning patrons wagering on the speed or ability of any one harness horse or of any one or more running horses in a race or races all



ACTS, 1985. – Chap. 580.

sums so deposited as an award or dividend, according to the acknowledged and recognized rules and method under which such pari-mutuel or certificate system has been operated, less the so-called breaks, as defined in section five of chapter one hundred and twenty-eight A of the General Laws, and less an amount not to exceed nineteen per cent of the total amount so deposited by patrons wagering on the speed or ability of any one harness horse or of any one or more running horses, and less the so-called breaks; and each licensee conducting a harness horse racing meeting shall return to the winning patrons wagering on the speed or ability of a combination of more than one harness horse in a single pool, exotic wagering, so-called, all sums so deposited as an award or dividend, according to the acknowledged and recognized rules and method under which such pari-mutuel or certificate system has been operated, less the so-called breaks and less an amount not to exceed twenty-three per cent of the total amount so deposited, and less the so-called breaks.

Each person licensed to conduct a running horse racing meeting, other than a licensee holding a racing meeting in connection with a state or county fair, shall pay to the state racing commission on the day following each day of such horse racing meeting, a sum equal to three per cent of the total amount deposited on the preceding day by the patrons so wagering at such meeting, said percentage to be paid from the nineteen per cent withheld, as provided in this section, from the total amount wagered. A sum equal to one-half of one per cent of the total amount deposited by the patrons wagering on the speed or ability of running horses at pari-mutuel running horse tracks, less the so-called breaks, and taken from the three per cent paid daily to the commission under this paragraph, shall, subject to appropriation, be allocated to the Massachusetts Thoroughbred Breeding Program established under the provisions of section two of chapter one hundred and twenty-eight of the General Laws; provided, however, that a sum equal to twenty per cent of this allocation shall, subject to appropriation, be expended for equine research, scholarships and loans at the Tufts University School of Veterinary Medicine.

Each licensee conducting a running horse racing meeting, other than a licensee holding a racing meeting in connection with a state or county fair, shall allocate a sum equal to eight and one-half per cent of the total amount deposited daily by the patrons wagering at such meeting. Said percentage shall be used for the payment of purses to the horseowners in accordance with the rules and established customs of conducting running horse racing meetings provided, however, that not less than seven and one-half per cent of the sum so allocated shall be used for the payment of purses on stakes races; and said eight and one-half per cent shall be paid from the nineteen per cent withheld as provided in this section from the total amount wagered. On and after the effective date of this act, the payment of all purses shall be computed in accordance with the provisions of this section; provided, however, that nothing in this section shall affect contractual provisions, except provisions relating to the payment of purses on stakes races, in existence before the effective date of this act for payment of monies from purses



ACTS, 1985. – Chap. 580.

to the association representing a majority of horseowners at the racetrack.

Each such licensee may retain as its commission on the total of all sums so deposited, a sum not exceeding the balance of the nineteen per cent withheld as provided in this section from the total amount wagered after deducting therefrom the amount hereinbefore required to be paid to said commission, after deducting therefrom the amount required to be paid for purses at running horse racing meetings, and after deducting therefrom the amounts required to be paid into the Running Horse Capital Improvements Trust Fund and into the Running Horse Promotional Trust Fund.

Notwithstanding any of the foregoing provisions of this section, once a licensee conducting a running horse racing meeting has reached the level of the total amount wagered during the previous year, such licensee shall retain daily as its commission a sum not exceeding the balance of the nineteen per cent withheld as provided in this section from the total amount wagered in the current year after deducting therefrom three per cent to be paid to the commission and after deducting therefrom seven per cent to be paid as purses, and less the so-called breaks to be paid into the Running Horse Capital Improvements Trust Fund. For purposes of this paragraph, the total amount wagered at a running horse racing meeting during the previous year shall be the product of the average amount wagered at such licensee's track during the previous year multiplied by the number of available racing days for the current year.

Each person licensed to conduct a harness horse racing meeting, including a licensee holding a harness racing meeting in connection with a state or county fair, shall pay to the commission on the day following each day of such horse racing meeting, a sum equal to three per cent of the total amount deposited on the preceding day by the patrons so wagering at such meeting, said percentage to be paid from the nineteen per cent withheld as provided in this section from the total amount wagered, or from the twenty-three per cent withheld as provided in this section from the total amount wagered on exotic races, excluding races conducted in connection with a state or county fair. A sum equal to one per cent of the total amount deposited by the patrons wagering on the speed or ability of harness horses at pari-mutuel harness horse racing meetings in the commonwealth, less the so-called breaks, and taken from the three per cent paid daily to the commission under this paragraph, shall, subject to appropriation, be allocated to the Massachusetts standardbred agricultural fair and breeding fund committee established under the provisions of section ten of chapter twenty of the General Laws.

Each licensee conducting a harness racing meeting, including a licensee holding a racing meeting in connection with a state or county fair, shall allocate a sum equal to eight per cent of the total amount deposited daily by the patrons wagering at such meeting, and a sum equal to ten per cent of the total amount deposited daily by patrons wagering on the speed or ability of a combination of more than one harness horse in a single pool, exotic wagering, so-called, said percentages to be used for the payment of purses to the horseowners in accordance with the



**ACTS, 1985. – Chap. 580.**

rules and established customs of conducting harness racing meetings. Said eight per cent is to be paid from the nineteen per cent withheld, as provided in this section from the total amount wagered. Said ten per cent is to be paid from the twenty-three per cent withheld, as provided in this section, from the total amount wagered on exotic races. On and after the effective date of this act the payment of all purses is to be computed in accordance with the provisions of this section; provided, however, that nothing in this section shall affect contractual provisions for payment of monies from purses, except purses on exotic races, so-called, to the association representing a majority of horseowners at the racetrack.

Each such licensee may retain as its commission on the total of all sums so deposited, a sum not exceeding the balance of the nineteen or twenty-three per cent withheld as provided in this section from the total amount wagered after deducting therefrom the amount hereinbefore required to be paid to the racing commission, after deducting therefrom the applicable amount required to be paid for purses at harness racing meetings, and after deducting therefrom, as applicable, the amounts required to be paid into the Harness Horse Capital Improvements Trust Fund and into the Harness Horse Promotional Trust Fund.

Notwithstanding any of the foregoing provisions of this section, once a licensee conducting a harness horse racing meeting has reached the level of the total amount wagered during the previous year, such licensee shall retain daily as its commission a sum not exceeding the balance of the nineteen or twenty-three per cent withheld as provided in this section from the total amount wagered in the current year after deducting therefrom the amount hereinbefore required to be paid to the racing commission and after deducting therefrom the applicable amounts required to be paid as purses, and less the so-called breaks to be paid into the Harness Horse Capital Improvements Trust Fund. For purposes of this paragraph, the total amount wagered at a harness horse racing meeting during the previous year shall be the product of the average amount wagered at such licensee's track during the previous year multiplied by the number of available racing days for the current year.

**SECTION 11.** Notwithstanding the provisions of clauses (a) to (q), inclusive, of the third paragraph of section three of chapter one hundred and twenty-eight A of the General Laws, any person licensed to conduct a harness horse racing meet, not including harness horse meetings held in connection with a state or county fair, may, within seven days of the effective date of this act, make application for additional racing dates for the remainder of nineteen hundred and eighty-five to the state racing commission. The commission shall award no more than the additional dates authorized by this act for calendar year nineteen hundred and eighty-five to said licensee and issue a license therefor upon application so filed for such racing meet to be held or conducted in calendar year nineteen hundred and eighty-five. Said commission's procedures for hearings upon all such applications shall be the same as the procedures on supplementary applications for racing meetings filed under said chapter one hundred and twenty-eight A; provided, however,



**ACTS, 1985. – Chap. 581.**

that nothing in this paragraph shall authorize the commission to change the hours or dates of any racing meet granted to any licensee prior to the effective date of this act.

For racing dates authorized for the calendar year nineteen hundred and eighty-six, a harness track licensee who held or conducted racing meetings during calendar year nineteen hundred and eighty-five may submit, resubmit, or amend its application for a license to hold or conduct racing meetings for calendar year nineteen hundred and eighty-six within fifteen days after the effective date of this act, notwithstanding the provisions of said chapter one hundred and twenty-eight A. The commission may award such racing meetings and issue a license therefor upon application so filed for all harness racing meetings to be held in calendar year nineteen hundred and eighty-six; provided, however, that said commission's procedures shall be the same as for original applications for racing meetings filed under the provisions of said chapter one hundred and twenty-eight A.

**SECTION 12.** There is hereby established a special commission, to consist of four members of the senate, seven members of the house of representatives and ten persons to be appointed by the governor, for the purpose of making an investigation and study of current issues and problems in the greyhound racing industry within the commonwealth.

Said commission shall, in the course of its investigation and study, consider the general impact of the greyhound racing industry on the Massachusetts economy, the new competitive conditions resulting from the reopening of Rockingham Park in the state of New Hampshire, trends in the total amounts wagered at greyhound racetracks operating within the commonwealth and the greyhound pari-mutuel tax structure.

Said commission shall report to the house of representatives the results of its investigation and study, and its recommendations, if any, together with drafts of legislation necessary to carry its recommendations into effect, by filing the same with the clerk of the house of representatives on or before April thirtieth, nineteen hundred and eighty-six.

Approved December 16, 1985.

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**Chapter 581. AN ACT RELATIVE TO CERTAIN MILEAGE FEES.**

Be it enacted, etc., as follows:

Section 53B of chapter 262 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:— Any such officer who attends court held at a place other than his residence in a criminal case pending in any court of the commonwealth shall be reimbursed in accordance with the mileage rate then in effect for state employees as set by the commissioner of administration for travel out and home for each day's attendance, except that travel allowance shall



**ACTS, 1985. – Chap. 582.**

not be allowed when such travel is made in state-owned vehicles.

Approved December 16, 1985.

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**Chapter 582. AN ACT INCREASING THE AVAILABILITY OF  
GENERIC DRUGS.**

Be it enacted, etc., as follows:

**SECTION 1.** Section 12D of chapter 112 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out the second to sixth paragraphs, inclusive, and inserting in place thereof the following five paragraphs:—

Every prescription written in the commonwealth by a practitioner shall be on prescription forms approved by the department containing a signature line for the practitioner's signature. Only by placing his signature on the signature line shall the practitioner validate the prescription.

The prescription form shall contain a space below the signature line in which the practitioner may instruct the pharmacist to dispense a brand name drug product by writing in the practitioner's own handwriting the words "no substitution". Below this space, at the bottom of the prescription form, shall be printed the words: "Interchange is mandated unless the practitioner writes the words no substitution in this space". Where the practitioner has written "no substitution" the pharmacist shall dispense the exact drug product as written by the practitioner. No other form or procedure, including initialing, checking or initialing a box, or pre-printing or stamping a prescription form shall be deemed by the pharmacist to be the equivalent of the practitioner's hand written statement "no substitution".

Except in cases where the practitioner has indicated "no substitution", the pharmacist shall dispense a less expensive, reasonably available, interchangeable drug product as allowed by the most current formulary or supplement thereof. The pharmacist shall also indicate on the label in the following manner the fact of the interchange:

"Interchange (name of exact drug product dispensed)"

In cases where the practitioner has instructed that the pharmacist dispense a brand name drug product, the pharmacist shall dispense the exact drug product as written by such practitioner.

In the event of noncompliance by a pharmacist or a practitioner, the drug purchaser or patient may inform the secretary of the executive office of consumer affairs of such noncompliance. Said secretary shall refer the matter to the board of registration in pharmacy and, where appropriate, to the board of registration in medicine, for appropriate action.

**SECTION 2.** This act shall take effect as of July first, nineteen hundred and eighty-six.

Approved December 16, 1985.



ACTS, 1985. – Chaps. 583, 584, 585, 586.

**Chapter 583. AN ACT RELATIVE TO THE TAXATION OF CERTAIN INTEREST IN FEDERAL SAVINGS BANKS.**

Be it enacted, etc., as follows:

Section 2 of chapter 62 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by inserting after the word "association", in line 72, the following words:– , federal savings bank.

Approved December 16, 1985.

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**Chapter 584. AN ACT RELATIVE TO THE BOARD OF LICENSING COMMISSIONERS IN THE CITY OF CHICOPEE.**

Be it enacted, etc., as follows:

Chapter 391 of the acts of 1984 is hereby amended by striking out section 1 and inserting in place thereof the following section:–

Section 1. Notwithstanding the provisions of section four of chapter one hundred and thirty-eight of the General Laws, the board of licensing commissioners of the city of Chicopee shall consist of five persons, at least one of whom shall reside in either Ward 1, 6 or 9, at least one of whom shall reside in either Ward 3, 7, or 8, and at least one of whom shall reside in either Ward 2, 4, or 5, who shall not be engaged, directly or indirectly, in the manufacture or sale of alcoholic beverages, and who have been residents of the city of Chicopee for at least two years immediately preceding their appointment. No more than three members of the board shall be of the same political party. If any member of said board engages, directly or indirectly, in such manufacture or sale, his office shall immediately become vacant.

Approved December 16, 1985.

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**Chapter 585. AN ACT RELATIVE TO FINANCE CHARGES UNDER OPEN-END CREDIT PLANS AND REVOLVING CREDIT AGREEMENTS.**

Be it enacted, etc., as follows:

Section five of chapter four hundred and eighty-nine of the acts of nineteen hundred and eighty-four is hereby repealed.

Approved December 16, 1985.

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**Chapter 586. AN ACT DESIGNATING THE CENTRAL BRIDGE IN THE CITY OF LOWELL AS THE JOHN E. COX MEMORIAL BRIDGE.**



ACTS, 1985. – Chap. 587.

Be it enacted, etc., as follows:

The bridge in the city of Lowell on Bridge street over the Merrimack river shall be designated and known as the John E. Cox Memorial bridge, in memory of John E. Cox who served as a city councillor in the city of Lowell. Suitable markers bearing said designation shall be attached thereto by the department of public works in compliance with standards of said department and as authorized by the federal highway administration.

Approved December 16, 1985.

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**Chapter 587. AN ACT FURTHER REGULATING THE USE OF LIE DETECTORS, SO-CALLED.**

Be it enacted, etc., as follows:

SECTION 1. Chapter 149 of the General Laws is hereby amended by striking out section 19B, as appearing in the 1984 Official Edition, and inserting in place thereof the following section:-

Section 19B. (1) As used in this section the term "lie detector test" shall mean any test utilizing a polygraph or any other device, mechanism, instrument or written examination, which is operated, or the results of which are used or interpreted by an examiner for the purpose of purporting to assist in or enable the detection of deception, the verification of truthfulness, or the rendering of a diagnostic opinion regarding the honesty of an individual.

(2) It shall be unlawful for any employer or his agent, with respect to any of his employees, or any person applying to him for employment, including any person applying for employment as a police officer, to subject such person to, or request such person to take a lie detector test within or without the commonwealth, or to discharge, not hire, demote or otherwise discriminate against such person for the assertion of rights arising hereunder. This section shall not apply to lie detector tests administered by law enforcement agencies as may be otherwise permitted in criminal investigations.

(a) The fact that such lie detector test was to be, or was, administered outside the commonwealth for employment within the commonwealth shall not be a valid defense to an action brought under the provisions of subsection (3) or (4).

(b) All applications for employment within the commonwealth shall contain the following notice which shall be in clearly legible print:

"It is unlawful in Massachusetts to require or administer a lie detector test as a condition of employment or continued employment. An employer who violates this law shall be subject to criminal penalties and civil liability."

(3) Any person who violates any provision of this section shall be punished by a fine of not more than one thousand dollars nor less than three hundred dollars. Second and subsequent violations of any provision



**ACTS, 1985. – Chap. 588.**

of this section shall be punishable by a fine of not more than fifteen hundred dollars or by imprisonment for not more than ninety days, or both such fine and imprisonment.

In the case of a corporation, the responsible individual shall be the president, chief operating officer or any managerial or supervisory person who allows or condones such violation.

No waiver of the provisions of this section by an employee or prospective employee shall be a defense to either criminal prosecution or civil liability.

(4) Any person aggrieved by a violation of subsection (2) may institute within three years of such violation and prosecute in his own name and on his own behalf, or for himself and for other similarly situated, a civil action for injunctive relief and any damages thereby incurred, including treble damages for any loss of wages or other benefits. The total awarded damages shall equal or exceed a minimum of five hundred dollars for each such violation. A person so aggrieved and who prevails in such action shall be entitled to an award of the costs of the litigation and reasonable attorney fees.

**SECTION 2.** Paragraph (b) of subsection two of section nineteen B of chapter one hundred and forty-nine of the General Laws, as appearing in section one of this act, shall take effect on September thirtieth, nineteen hundred and eighty-six.

Approved December 16, 1985.

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**Chapter 588. AN ACT AUTHORIZING HAMPDEN COUNTY TO BORROW FUNDS AND PROVIDE A GUARANTY FOR FUNDS TO FUND THE JAIL INDUSTRY PROGRAM FOR HAMPDEN COUNTY.**

Be it enacted, etc., as follows:

**SECTION 1.** The county commissioners of Hampden county, with the approval of the Hampden county advisory board, are hereby authorized to borrow, guaranty, bond, accept donation of funds and provide for funds from a commercial lender in accordance with procedures and terms as approved by the commissioner of corrections. The county commissioners of Hampden county, with the approval of the Hampden county advisory board, are further authorized to enter into rental agreements, sales contracts and any and all other documents necessary to establish, maintain and operate the Hampden county jail industry program.

**SECTION 2.** All money received by the treasurer of Hampden county from or on account of the jail industry program shall be deposited in a fund established by and under the direction and control of the sheriff of Hampden county. All bills for expenses of the jail industry program shall be approved by the county commissioners of Hampden county and the



**ACTS, 1985. – Chap. 589.**

Hampden county advisory board and paid by the treasurer of Hampden county. Said funds shall be administered by the Hampden county treasurer in accordance with the rules and regulations promulgated by the department of corrections and bureau of accounts, and shall be separate and distinct from any other accounts under the control of the Hampden county treasurer.

**SECTION 3.** Notwithstanding any provisions of law to the contrary, the Hampden county commissioners, with the approval of the Hampden county advisory board, are authorized, for purposes of operating a jail industry program, to borrow on notes or bonds on the credit of the county, including notes to private commercial lenders, and to grant security interests in assets used in connection with or received as a result of the jail industry program. Such notes and bonds are to be signed by the county treasurer and co-signed by a majority of the county commissioners who are also authorized to execute loan agreements, security agreements, rental agreements, sales contracts and any other instruments or documents which, in the discretion of a majority of the county commissioners, are necessary to carry out the purposes of this section.

**SECTION 4.** This act shall take effect upon its passage.

Approved December 17, 1985.

EMERGENCY LETTER: December 17, 1985 @ 4:06 P.M.

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**Chapter 589. AN ACT EXEMPTING FROM CIVIL LIABILITY  
OCCUPANTS OF A DWELLING FOR THE JUSTIFIABLE  
KILLING OR INJURING OF PERSONS UNLAWFULLY  
IN SAID DWELLING.**

Be it enacted, etc., as follows:

Chapter 231 of the General Laws is hereby amended by inserting after section 85S, inserted by section 18 of chapter 223 of the acts of 1985, the following section:—

Section 85T. No person who is a lawful occupant of a dwelling shall be liable in an action for damages for death or injuries to an unlawful occupant of said dwelling resulting from the acts of said lawful occupant; provided, however, that said lawful occupant was in the dwelling at the time of the occurrence and that he acted in the reasonable belief that the person unlawfully in said lawful dwelling was about to inflict great bodily injury or death upon said occupant or upon another person lawfully in said dwelling, and that said lawful occupant used reasonable means to defend himself or such other person lawfully in said dwelling. There shall not be a duty on said occupant to retreat from such person unlawfully in said dwelling.

Approved December 17, 1985.



**ACTS, 1985. – Chap. 590.**

**Chapter 590. AN ACT LIMITING ACID RAIN AND ACID DEPOSITION.**

**Be it enacted, etc., as follows:**

**SECTION 1.** For the purpose of preventing, mitigating, or alleviating damage to the resources of the commonwealth or to the property or health of its citizens resulting from the deposition of precipitation, particles, or particulates containing sulfur or sulfur compounds, the department of environmental quality engineering, hereinafter referred to as the Department, shall by regulation adopt and implement a limitation on the total statewide actual annual sulfur dioxide emissions in accordance with the provisions of this act.

**SECTION 2.** Prior to March first, nineteen hundred and eighty-six and after notice and a public hearing, said department shall make a determination of the total statewide actual annual sulfur dioxide emissions, from all sources in Massachusetts, for the years nineteen hundred and seventy-nine to nineteen hundred and eighty-two, inclusive. Said department shall make this determination using such reasonably accurate and mathematically and scientifically appropriate methods as said department may find necessary.

**SECTION 3.** The department shall annually prepare an emissions report and shall make said report available to the public by July first or, in the year during which this act takes effect, as soon as practicable thereafter. Such report shall set forth the department's determination of the total statewide actual annual sulfur dioxide emissions of each of four calendar years, which shall be selected in accordance with the requirements of this section. The years selected shall be those in the 4-year period commencing January first of the year five years prior to the year in which the report is being prepared and ending December thirty-first of the year two years prior to the year in which said report is being prepared. The department's determination of emissions in these four years shall be arrived at using a reasonably accurate and mathematically and scientifically appropriate method not inconsistent with the method used to make the determination required by section two. The report shall also set forth the average of the levels of sulfur dioxide emissions for the four-year period described in this section.

**SECTION 4.** Prior to August first, nineteen hundred and eighty-six and in accordance with the provisions of chapter thirty A of the General Laws, said department shall adopt regulations prohibiting any four-year average set forth pursuant to section three from exceeding the average of total statewide actual annual sulfur dioxide emissions in the years nineteen hundred and seventy-nine to nineteen hundred and eighty-two, inclusive, as determined pursuant to section two. The regulations shall set forth a trigger level of sulfur dioxide emissions ten thousand tons lower than the average of total statewide actual annual sulfur dioxide emissions in the years nineteen hundred and seventy-nine to nineteen hundred and eighty-two, inclusive. The regulations shall require that if



**ACTS, 1985. – Chap. 590.**

said trigger level is exceeded by the amount of annual emissions in the most recent year for which data have been reported pursuant to section three, then said department shall, after notice and a public hearing, prepare a reasonable forecast of what total statewide actual annual sulfur dioxide emissions will be five years from that time. Such forecast shall set forth an analysis of the reasons why the trigger was exceeded and whether the factors producing such excesses are of a temporary or long-term nature. Said department shall make a determination of whether the forecast demonstrates a reasonable likelihood that the four year average of emissions will exceed, within five years, the average of emissions for the years nineteen hundred and seventy-nine to nineteen hundred and eighty-two, inclusive. If said department determines that the forecast does demonstrate such a likelihood, said department shall adopt such further regulations as may be necessary to maintain or reduce the four year average of sulfur dioxide emissions, as calculated pursuant to section three, below the average of sulfur dioxide emissions for the years nineteen hundred and seventy-nine to nineteen hundred and eighty-two, inclusive.

**SECTION 5.** In the event that any four-year average of emissions, as set forth in section 3, exceeds the limitation set forth pursuant to section four, said department shall implement measures to achieve promptly, and to maintain, compliance with the limitation.

**SECTION 6.** On or before December thirty-first, nineteen hundred and eighty-seven, said department shall determine whether any federal statute or program exists that requires national sulfur dioxide emissions to be reduced, by nineteen hundred and ninety-five, to a level that is ten million tons per year lower than the national sulfur dioxide emissions in nineteen hundred and eighty or a national plan that will protect the public health, welfare, and environment of Massachusetts. If said department determines that no such federal statute or program exists, the department shall draft regulations to reduce the average emission rate of all facilities in the state that burn fossil fuel and that have the capacity to burn fuel at a rate greater than or equal to one hundred million British thermal units of fuel input per hour. Such regulations shall require that the average emission rate of all such facilities in the commonwealth shall, by nineteen hundred and ninety-five, be less than or equal to one and two tenths pounds of sulfur dioxide released per million British thermal units of fuel input. Such regulations shall be promulgated prior to December thirty-first, nineteen hundred and eighty-eight. Said department shall commence and continue implementation and enforcement of such regulations beginning on January first, nineteen hundred and eighty-nine, unless a federal statute or program shall have been adopted by such time, which requires national sulfur dioxide emissions to be reduced, by nineteen hundred and ninety-five to a level that is ten million tons per year lower than the national sulfur dioxide emissions in nineteen hundred and eighty or a national plan that will protect the public health, welfare, and environment of Massachusetts.



ACTS, 1985. – Chap. 590.

**SECTION 7.** Said department may negotiate with representatives of other states and Canadian provinces with the aim of developing a regional program to reduce acidic deposition. If, prior to December thirty-first, nineteen hundred and eighty-seven, the commonwealth shall have become a participant in regional program to reduce acidic deposition, the provisions of section six of this act shall be unenforceable. To be deemed a participant in a regional program, said department shall have reasonably determined that:

(i) the commonwealths' responsibilities in such program have been enacted or adopted as legally enforceable regulations, legislation, state implementation plan provisions, treaty provisions, or compact provisions; and (ii) every other state or province participating in the program has enacted, adopted, or agreed to its responsibilities in a manner making those responsibilities legally enforceable; and (iii) the clear and convincing weight of the available evidence shows that, by the year nineteen hundred and ninety-five, the implementation of the commonwealths' responsibilities under the regional program shall result in a cumulative reduction in acidic deposition in the commonwealth equal to or greater than the cumulative reduction in acidic deposition in the commonwealth that would be accomplished, by nineteen hundred and ninety-five, by implementation of the regulations set forth in section six; and (iv) if the regional program requires sources in the commonwealth to reduce their sulfur dioxide emissions, such reductions are required to commence by January first, nineteen hundred and eighty-nine and are required to continue in each subsequent year until all necessary reductions have been accomplished.

Prior to February fifteenth, nineteen hundred and ninety-one, said department shall determine whether the results of such regional program reasonably justify a conclusion that, by nineteen hundred and ninety-five, the implementation of the commonwealths' responsibilities under the regional program shall result in a cumulative reduction in acidic deposition in Massachusetts equal to or greater than the cumulative reduction in acidic deposition in the commonwealth that would be accomplished, by nineteen hundred and ninety-five, by implementation of regulations specified in section 6. Unless said department reasonably determines that such a conclusion is justified, said department shall, promptly after February fifteenth, nineteen hundred and ninety-one, adopt and implement regulations calculated to reduce the average emission rate of all facilities in the state that burn fossil fuel and that have the capacity to burn fuel at a rate greater than or equal to one hundred million British thermal units of fuel input per hour. The regulations shall require that the average emission rate of all such facilities in the state shall, by nineteen hundred and ninety-five, be less than or equal to one and two tenths pounds of sulfur dioxide released per million British thermal units of fuel input.

**SECTION 8.** As part of any regulations adopted pursuant to section four, six, or seven, said department shall promulgate regulations: (a) permitting the owner or operator of more than one sulfur dioxide emitting facility in Massachusetts to average the rate of sulfur dioxide



**ACTS, 1985. - Chap. 591.**

emissions and/or the total annual sulfur dioxide emissions from such facilities in order to meet applicable emission requirements; (b) providing for the trading, selling or retaining for future use of actual emission reductions of sulfur dioxide beyond the requirements of any applicable law or regulation; and (c), which allow emission reduction techniques to reduce the demand for fossil fuel generated energy such as but not limited to conservation or hydro generation to receive full credit in the calculation of the statewide average emission rate. Said department may establish such reasonable conditions or restrictions as it deems necessary to meet the purpose of this act. Nothing in this section shall be deemed to reduce or revoke any responsibility of any person regulated hereunder to comply with all other applicable laws and regulations.

**SECTION 9.** It is the intent of the general court that all actual reductions in sulfur dioxide emissions made by the commonwealth facilities pursuant to sections six and seven shall be credited toward the commonwealth's share of sulfur dioxide emission reductions required by any national acid deposition control legislation enacted by the United States Congress or program implemented by the United States Environmental Protection Agency after the effective date of this act.

**SECTION 10.** Said department shall submit all regulations promulgated under the provisions of this act to the clerk of the house of representatives who shall forward such rules and regulations to the house and senate committees on ways and means and the committee on natural resources and agriculture for their review and comment ninety days prior to the effective date of said regulations. Said committees shall submit written comments and suggested changes, if any, to said department at least sixty days prior to said effective date. Said department shall consider the comments and suggested changes and submit revised regulations, or a detailed explanation of why the suggested changes will not be adopted, to the house and senate committees on ways and means at least thirty days prior to the effective date of the regulations.

Approved December 17, 1985.

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**Chapter 591. AN ACT AUTHORIZING THE DEPUTY COMMISSIONER OF CAPITAL PLANNING AND OPERATIONS TO ACQUIRE CERTAIN PARCELS OF PUBLIC LAND IN THE TOWN OF BILLERICA AND TO TRANSFER SAID PARCELS TO THE DEPARTMENT OF PUBLIC WORKS FOR HIGHWAY PURPOSES.**

Be it enacted, etc., as follows:

The deputy commissioner of capital planning and operations, acting for and on behalf of the commonwealth, is hereby authorized to acquire by eminent domain, under the provisions of chapter seventy-nine of the



ACTS, 1985. – Chap. 592.

General Laws, or by purchase or otherwise certain parcels of public land, hereinafter described, in the town of Billerica, being used by said town for public recreational and playground purposes, and to transfer said parcels of land to the department of public works for highway purposes.

Parcels A & B. A certain parcel of land situated on High Street, in the town of Billerica, being bounded and described as follows:

Beginning at a point on the southwest corner of said parcel, said point being on the existing county location line; thence leaving said existing county location line north 81°-26'-03" east 45.85 feet; thence north 30°-00'-00" east 33.36 feet and 206.46 feet, totalling 239.82 feet; thence south 86°-00'-21" west 3.54 feet to a point on the aforesaid existing county location line; thence along said existing county location line south 29°-07'-07" west 101.19 feet and south 10°-51'-28" west 115.19 feet and 42.56 feet, totalling 167.75 feet to said point of beginning, said parcel containing in all about 9,600 square feet of land, more or less.

Parcel C. A certain parcel of land situated on High Street, in the town of Billerica, being bounded and described as follows:

Beginning at a point on the northwest corner of said parcel, said point being on the northerly property line of the town of Billerica; thence leaving said property line in a southerly direction a distance of about 24 feet; thence southeasterly for a distance of about 65 feet; thence northerly for a distance of about 20 feet; thence northwesterly for a distance of about 53 feet; thence northerly for a distance of about 10 feet to a point on the aforesaid northerly property line of the town of Billerica; thence following said property line in a westerly direction for a distance of about 20 feet to said point of beginning, said parcel containing about 1,520 square feet of land.

Said parcels A, B, and C are shown on a plan entitled "Plan of Land in Billerica, Massachusetts for Legislative Purposes Scale: 1" = 40", date: March 15, 1985", which plan shall be kept on file in the office of the chief engineer of the department of public works.

Approved December 17, 1985.

EMERGENCY LETTER: January 7, 1986 @ 3:49 P.M.

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**Chapter 592. AN ACT RELATIVE TO THE ESTABLISHMENT OF A MASSACHUSETTS WATER MANAGEMENT ACT.**

Be it enacted, etc., as follows:

**SECTION 1.** The General Laws are hereby amended by inserting after chapter 21F the following new chapter:—

**CHAPTER 21G.**

**MASSACHUSETTS WATER MANAGEMENT ACT.**

Section 1. This chapter shall be known and may be cited as the "Massachusetts Water Management Act".

Section 2. As used in this chapter, the following words shall, unless the context clearly indicates otherwise, have the following meanings:—

"Annual statement of withdrawal", an annual statement of the volume of water a person is withdrawing pursuant to a registration statement or



ACTS, 1985. – Chap. 592.

permit, filed with the department in accordance with section five or eleven and the regulations adopted thereunder.

"Commission", the water resources commission of the executive office of environmental affairs.

"Department", the department of environmental quality engineering.

"Existing withdrawal", except as provided in section five, the average volume of water withdrawn from a particular water source during the five years prior to January, nineteen hundred and eighty-six; provided, however, that if, during such period of five years, withdrawals from the water source have been interrupted due to contamination of the water source, the periods of such interruptions shall be excluded pro rata from the computation of existing withdrawal; and, provided further, that no person shall be deemed to have an existing withdrawal unless such person files a registration statement and an annual statement of withdrawal with the department, in accordance with the provisions of section five and section six and the regulations adopted thereunder.

"New withdrawal", any withdrawal of water which is not an existing withdrawal.

"Nonconsumptive use", any use of water which results in its being discharged back into the same river basin, as defined by the water resources commission, in substantially unimpaired quality and which conforms to the definition adopted by regulation pursuant to section four.

"Permit", a permit issued by the department under section seven and authorizing the withdrawal of water in excess of the threshold volume.

"Person", any agency or political subdivision of the federal government or the commonwealth, any state, public or private corporation or authority, individual, trust, firm, joint stock company, partnership, association, or other entity, and any officer, employee or agent of said person, and any group of said persons.

"Public water system", a system for the provision to the public of piped water for human consumption, if such system has at least fifteen service connections or regularly serves an average of at least twenty-five individuals daily at least sixty days of the year. Such term shall include any collection, treatment, storage, and distribution facilities under control of the operator of such a system and used primarily in connection with such system, and any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system.

"Registration statement", a statement of an existing withdrawal, filed with the department in accordance with section five and the regulations adopted thereunder.

"Safe yield", the maximum dependable withdrawals that can be made continuously from a water source including ground or surface water during a period of years in which the probable driest period or period of greatest water deficiency is likely to occur; provided, however, that such dependability is relative and is a function of storage and drought probability.

"Threshold volume", the volume of water specified in section four or the regulations adopted thereunder.

"Water", all water beneath or on the surface of the ground whether



ACTS, 1985. – Chap. 592.

wholly or partly within the commonwealth.

"Water resources management plan", a local plan to meet water needs within a city or town, submitted by the chief elected official or designee to the commission pursuant to the regulations of the commission.

"Water resources management official", the local official, designated by the chief elected official within a city or town, responsible for submitting and administering the water resources management plan in that city or town.

"Water source", any natural or artificial aquifer or body of surface water, including its watershed where ground and surface water sources are interconnected in a single hydrological system.

"Withdrawal" or "withdrawal of water", the removal or taking of water from a water source; provided, however, that all removals or takings of water from a particular water source which are made or controlled by a single person shall be deemed to be a single withdrawal of water.

Section 3. The department and commission shall cooperate in the planning, establishment and management of programs to assess the uses of water in the commonwealth and to plan for future water needs.

The commission shall adopt principles, policies and guidelines necessary for the effective planning and management of water use and conservation in the commonwealth and for the administration of this chapter as necessary and proper to ensure an adequate volume and quality of water for all citizens of the commonwealth, both present and future. Such principles, policies and guidelines shall be designed to protect the natural environment of the water in the commonwealth; to assure comprehensive and systematic planning and management of water withdrawals and use in the commonwealth, recognizing that water is both finite and renewable; and to allow continued and sustainable economic growth throughout the commonwealth and increase the social and economic well being and safety of the commonwealth's citizens and of its work force.

There is hereby established within the department a water resources management advisory committee to provide advice and consultation to the department concerning matters covered by this chapter. The committee shall review the development of standards, rules and regulations for water resources management and shall supply recommendations concerning methods by which existing water management practices and the laws regulating them may be supplemented and improved and their administration financed.

The committee shall consist of at least eleven members appointed by the governor, one of whom shall be representative of the Associated Industries of Massachusetts, one of whom shall be a representative of the Massachusetts Municipal Association, one of whom shall be a representative of a watershed association, one of whom shall be a representative of the water works industry, one of whom shall be a representative of an agricultural association, one of whom shall be a representative of a consumer organization, one of whom shall be a representative of an environmental organization, one of whom shall be a representative of a water well driller association, one of whom shall be a representative from a regional planning agency, and two of whom shall



## ACTS, 1985. – Chap. 592.

be representatives of the public knowledgeable in environmental and water management affairs. The members of the committee shall have no financial interest in any recommendation or studies of the committee.

Said members shall serve without compensation and shall be eligible for reappointment. In making initial appointments to said committee, the governor shall appoint two members for terms of one year, three members for terms of two years, three members for terms of three years, and three members for terms of four years. Upon the expiration of the term of any such member, his successor shall be appointed for a term of four years. Persons appointed to fill vacancies shall serve for the unexpired term of said vacancy.

Pursuant to chapter thirty A, the department, after consultation with the advisory committee and with the approval of the commission, shall adopt such regulations as it deems necessary to carry out the purposes of this chapter, establishing a mechanism for managing ground and surface water in the commonwealth as a single hydrological system and ensuring, where necessary, a balance among competing water withdrawals and uses. Within one year of the effective date of this chapter, the department shall adopt, and thereafter from time to time may amend, regulations establishing procedures and forms for filing notifications and registration statements; reasonable registration fees; a mechanism to control water in the commonwealth during water supply and water quality emergencies, and a program for the enforcement of the provisions of this chapter and the regulations adopted thereunder. Within two years of the effective date of this chapter, the department shall adopt, and thereafter from time to time may amend, regulations establishing criteria, standards and procedures for issuing permits, requirements for the content and form of permit applications, reasonable permit application fees, and requirements for monitoring, inspection and reporting of water withdrawals and usage by permitted water users'. The decision to approve or deny a permit shall take place after compliance, where applicable, with section sixty-one to sixty-two H, inclusive of chapter thirty, and sections eight B to eight D, inclusive of chapter twenty-one. All regulations adopted by the department pursuant to this chapter shall conform to, and implement, the principles, policies and guidelines established by the commission under this section.

Section 4. The withdrawal volume threshold to be applied pursuant to sections five and seven shall be one hundred thousand gallons per day. The department may, by regulation, raise or lower the threshold volume established in this section upon a finding that such different threshold is necessary and adequate to protect the public health, safety and welfare. The department shall not require any approval, other than that provided for in section thirty-nine C of chapter forty, for withdrawals less than such threshold volume.

The department may, by regulation, establish, for any particular water source, a lower threshold volume than that generally applicable in the commonwealth upon findings that such water source is in need of special protection because of the nature or volume of demands made upon it, and that the reduced threshold is therefore necessary and adequate to protect the public health, safety and welfare.



## ACTS, 1985. – Chap. 592.

The department shall, no later than January first, nineteen hundred and ninety-one, and no less than every five years thereafter, initiate rulemaking procedures in accordance with chapter thirty A, to review and reassess the necessity and adequacy of the volume threshold in effect.

For the purposes of determining whether a withdrawal is in excess of the threshold volume, any withdrawal of water for a nonconsumptive use, as defined by regulation adopted by the department, shall not be counted in the volume of water withdrawn; provided, however, that any person withdrawing or proposing to withdraw water for a nonconsumptive use shall file, in accordance with regulations adopted by the department, a notification stating the amount being or to be withdrawn and demonstrating that the use is or will be nonconsumptive.

Section 5. Each person making an existing withdrawal in excess of the threshold volume shall file a registration statement in accordance with the regulations adopted by the department, on or before January first, nineteen hundred and eighty-eight; provided, however, that, if the department lowers the threshold volume pursuant to section four, it shall, by regulation, provide a procedure and deadline for persons making existing withdrawals, in excess of the new threshold volume, from water sources to which the new threshold volume is applicable, to file registration statements. Each registrant shall file an annual statement of withdrawal in accordance with regulations adopted by the department. No person shall continue an existing withdrawal in excess of the threshold volume after the applicable deadline for filing registration statements unless such person has complied with the requirements of this section and the regulations adopted hereunder. The department may assist any person making withdrawals in the collection of data and the filing of said registration statement.

The department shall, by regulation, specify a schedule of expiration dates applicable to each water source from which there are existing withdrawals for which registration statements can be filed. All initial registration statements filed for existing withdrawals from the water source shall authorize such withdrawals until the next applicable expiration date thus specified; provided, however, that no registration statement shall authorize the continuation of existing withdrawals for a term greater than ten years.

The department shall, by regulation, establish a procedure for recognizing, as an existing withdrawal, a volume of water in excess of the average volume of water withdrawn from a particular water source during the period from January first, nineteen hundred and eighty-one to January first, nineteen hundred and eighty-six if such volume of water is within the normal variation of withdrawals made by the registrant; provided that the department shall not use such procedures to recognize, as existing withdrawals, such volumes of water which together exceed the safe yield of the water source from which the withdrawals are being made. Nothing in this section shall be deemed to prohibit any person making an existing withdrawal from obtaining a permit pursuant to section eleven.

Upon the expiration of any initial or renewal registration statement



**ACTS, 1985. – Chap. 592.**

under this section, the registrant shall be entitled, upon the filing of a renewal registration statement, to continue existing withdrawals specified in the registration statement for a period of ten years.

Section 6. The regulations issued by the department shall specify the form and required contents of a registration statement and the terms under which an existing withdrawal may be continued by a person other than the original registrant. At a minimum, such regulations shall specify that the registration statement must contain the following:

- (1) The use for which the water is being withdrawn;
- (2) An identification of the water source from which the withdrawal is being made, in sufficient detail to describe the water source adequately;
- (3) The location of the withdrawal;
- (4) The existing withdrawal; provided, however, that persons whose volume of withdrawals varies seasonally according to a substantially established pattern shall describe that variation;
- (5) Conservation measures instituted, or to be instituted, by the registrant; and
- (6) The point or points at which the water is to be discharged after use.

Section 7. The department shall, by regulation, specify, for each water source from which withdrawals are to be permitted, a date upon which its regulations establishing criteria, standards and procedures for issuing permits shall become effective. No person may, after the effective date thus specified, make a new withdrawal of more than the threshold volume of water from any water source, or construct any building or structure which may require that person to make such a new withdrawal of water unless such person obtains a permit in accordance with regulations adopted by the department.

In adopting regulations establishing criteria and standards for obtaining permits, the department shall assure, at a minimum, that the following factors are considered:-

- (1) The impact of the proposed withdrawal on other water sources which are hydrologically interconnected with the water source from which the withdrawal is to be made;
- (2) The anticipated times of year when withdrawals will be made;
- (3) The water available within the safe yield of the water source from which the withdrawal is to be made;
- (4) Reasonable protection of water uses, land values, investments and enterprises that are dependent on previously allowable withdrawals;
- (5) The use to be made of the water proposed to be withdrawn and other existing, presently permitted or projected uses of the water source from which the withdrawal is to be made;
- (6) Any water resources management plan for any city or town in which the affected water source is located;
- (7) Any state water resources management plan adopted by the commission;
- (8) Reasonable conservation practices and measures, consistent with efficient utilization of the water;
- (9) Reasonable protection of public drinking water supplies, water quality, wastewater treatment capacity, waste assimilation capacity,



## ACTS, 1985. – Chap. 592.

groundwater recharge areas, navigation, hydropower resources, water-based recreation, wetland habitat, fish and wildlife, agriculture, and flood plains; and

(10) Reasonable economic development and the creation of jobs in the commonwealth.

Section 8. The regulations adopted by the department shall specify the form and required contents of a permit application. At a minimum, such regulations shall specify that the application must contain:–

- (1) The need for the proposed withdrawal;
- (2) The reasons for the withdrawal and the use of the water to be withdrawn;
- (3) A description of the water source from which the withdrawal is proposed;
- (4) The location of the withdrawal;
- (5) The volume, frequency and rate of water the applicant proposes to withdraw;
- (6) The length of time for which the permit is sought;
- (7) The effect of the proposed withdrawal on public drinking water supplies, water quality, wastewater treatment, waste assimilation, groundwater recharge areas, navigation, hydropower resources, water-based recreation, wetland habitats, fish and wildlife, agriculture, and flood plains;
- (8) The alternatives, if any, to the proposed withdrawal including a study of cost factors, feasibility and environmental effects of such alternatives; and
- (9) Conservation measures instituted, or to be instituted, by the applicant.

The regulations adopted by the department shall allow the applicant to submit, in support of the permit application, a negotiated agreement with any other owner of property conveying by deed an easement restricting that property owner's right to withdraw from the water source from which the applicant proposes to make withdrawals. The department shall consider such easement in making its findings relative to the sufficiency of the water available within the safe yield of the water source from which the withdrawal is to be made.

The regulations issued by the department may specify the conditions under which the department will approve the transfer of a permit.

Section 9. All applications for permits shall be submitted to the department in conformance with the rules and on the forms adopted under sections seven and eight for the processing of permit applications. A copy of the application shall be filed in the office of the water resources management official of the city or town in which the withdrawal is proposed. Thereafter, an applicant shall cause a notice of the proposed withdrawal to be published in a newspaper of general circulation in the city or town in which the withdrawal is proposed, and in other cities and towns where the same water source is located. Such a notice shall state the location of the water source from which the withdrawal is to be made, and the volume of water to be withdrawn, and shall state further that a copy of the application is available for inspection at the office of the water resources management official of



**ACTS, 1985. – Chap. 592.**

the city or town in which the withdrawal is proposed, and that any party wishing to comment on the grant of the withdrawal permit may file a written statement with the water resources management official within thirty days of the date of publication of the notice. The applicant shall send copies of the notice, return receipt requested, to the owners of record of all properties abutting the property on which the withdrawal is proposed and all properties abutting such properties. The applicant shall file with the department an affidavit that copies of the notice were sent in accordance with this section.

Upon receipt of such an affidavit, the department shall send copies of the notice to all persons making withdrawals, pursuant to a registration statement or permit, from the water source from which the proposed withdrawal is to be made.

The applicant may file with the department, in support of the application, certificates from the water resources management official that:– (1) the proposed withdrawal is not inconsistent with the local water resources management plan; and (2) no statement of opposition has been received within thirty days of the date of publication of the notice of the proposed withdrawal. The department shall rule on any completed withdrawal application, for which the requirements of sections sixty-one to sixty-two H, inclusive, of chapter thirty and the regulations adopted thereunder have been met within thirty days of the time such certificates are filed. If such certificates are not filed by the applicant, or if the secretary of environmental affairs issues a certificate, pursuant to section sixty-two A of said chapter thirty stating that an environmental impact report is required for the permit application, the department shall rule on any completed withdrawal application within ninety days of the completion of compliance with the requirements of sections sixty-one to sixty-two H, inclusive, of chapter thirty and the regulations adopted thereunder.

In order for an application to be considered completed the department may require additional information to be submitted before ruling on the permit application. No application shall be deemed completed unless it contains all information required by regulation or requested by the department.

The deadlines established in this section for ruling on withdrawal applications may be extended for a reasonable period of time, not to exceed nine months, by the department in individual cases upon a finding that additional time is necessary to give proper consideration to an application.

Failure by the department to rule on a completed application within the time specified in this section or within the time specified in any extension made pursuant to this section shall be deemed to be an approval of the application.

Section 10. The department shall, by regulation, establish a procedure to be followed in obtaining recommendations from local officials or bodies, regional planning agencies, or others including any comments received by the water resources management official pursuant to section nine, for use by the department in making findings under section eleven; provided, however, that failure of any local official or body or regional



ACTS, 1985. – Chap. 592.

planning agency to make timely recommendations in accordance with such procedures shall not bar the department from ruling on any application if it determines that it has an adequate basis for making the findings required by regulation.

Section 11. In accordance with rules adopted under section seven, the department may issue permits for any new withdrawal of water if it determines that the withdrawal will conform to the regulatory standards established. The department may attach to any permit whatever conditions it deems necessary to further the purposes of this chapter or to assure compliance with its regulations. If the department finds that the combined volume of existing, permitted and proposed withdrawals exceeds the safe yield of a water source or that existing, permitted or proposed water withdrawals are otherwise in conflict, it shall deny all applications for permits for withdrawals from that water source.

The department shall make written findings of fact in support of its decision and shall state with specificity the reasons for issuance or denial of the permit and for any conditions of approval imposed and may, in the case of any denial of a permit, advise the applicant in negotiating an agreement pursuant to section eight, so as to allow the permit to be granted. Every permit issued pursuant to this chapter may include provisions:-

- (1) fixing the term of the permit;
- (2) fixing the maximum allowable withdrawal expressed in terms of an average annual daily withdrawal;
- (3) identifying and limiting the use or uses to which the water may be put;
- (4) requiring the applicant to meter the water being withdrawn and report the amount and quantity of the water being withdrawn;
- (5) governing the operation and maintenance of the specific facilities, equipment or premises;
- (6) allowing the department to enter the applicant's facilities or property to inspect and monitor the withdrawal;
- (7) permitting the department to modify, suspend or terminate the permit, after notice and hearing, for violations of its conditions, of this chapter, or of regulations adopted or orders issued by the department, and when deemed necessary for the promotion of the purposes of the chapter.

The department shall, by regulation, specify a schedule of expiration dates applicable to each water source from which withdrawals are to be permitted. All permits for withdrawals from that water source shall be valid until the next expiration date thus specified; provided that no permit issued under this section shall be valid for a term greater than twenty years. Each person to whom a permit has been issued pursuant to this section shall file an annual statement of withdrawal, in accordance with regulations adopted by the department.

No permit shall be issued under this section after January first, nineteen hundred and ninety-four unless the city or town in which the water is to be used has obtained approval from the commission of its water resources management plan.

Section 12. Any person aggrieved by a decision of the department



## ACTS, 1985. – Chap. 592.

with respect to a permit application or an addition to an existing withdrawal may request an adjudicatory hearing before the department under the provisions of chapter thirty A. Any such decision shall contain a notice of this right to request a hearing and shall specify a time limit of twenty-one days, within which aggrieved persons may request such a hearing. If no such request is timely made, the decision shall be deemed assented to. If a timely request is received, the department shall, within a reasonable time, act upon the request in accordance with the provisions of chapter thirty A. A person aggrieved by a final decision in an adjudicatory hearing held under the provisions of this section shall be entitled to judicial review thereof in the superior court, in accordance with chapter thirty A; provided, however, that in any action seeking judicial review pursuant to this section, the court in which such action is pending may appoint a master to investigate and report on any scientific or hydrological issue relevant to a question of law presented in the case.

Section 13. For the purpose of determining compliance with this chapter or any regulations adopted thereunder, the duly authorized agents and employees of the department may at all reasonable times enter and examine any property, facility, operation or activity involving the withdrawal of water. The owner, operator or other person in charge of the property, facility, operation or activity, upon presentation of proper identification and purpose for inspection by the agents or employees of the department, shall give such agents and employees free and unrestricted entry and access. Such agents and employees are authorized to make such inspection, conduct such tests, reviews, studies, monitoring or sampling or examine books, papers and records pertinent to any matter relevant to the administration or enforcement of this chapter as it deems necessary.

Notwithstanding the provisions of any law to the contrary, any information, record, or particular part thereof, obtained by the department pursuant to the provisions of this chapter, shall, upon request, be kept confidential and not be considered to be a public record when it is deemed by the department that such information, record or report relates to secret processes, methods of manufacture or production, or that such information, record or report, if made public, would divulge a trade secret.

Section 14. The department may issue such orders as are reasonably necessary to aid in the enforcement of the provisions of this chapter. The orders shall include, but shall not be limited to, orders modifying, suspending or revoking permits and orders requiring persons to cease any activity which is in violation of the provisions of this chapter or any regulation adopted hereunder. The department may, in its order, require compliance with such terms and conditions as are reasonably necessary to effect the purposes of this chapter. If the department finds, in accordance with the procedures established in section sixteen of chapter twenty-one A and the regulations adopted thereunder, that any person is not in compliance with any order issued pursuant to this section, it shall assess a civil administrative penalty on such person as provided in said section sixteen of said chapter twenty-one A and the regulations adopted thereunder. The penalty may be assessed whether or not the violation



ACTS, 1985. – Chap. 592.

was willful. In determining the amount of the civil penalty, the department shall consider the willfulness of the violation, damage or injury to the water resources and other water users, the cost of restoration of the water resources, the cost to the commonwealth of enforcing the provisions of this chapter against such person and other relevant factors.

In addition to collecting any civil penalties recoverable under this section, the department may request the attorney general to bring an action in the superior court to restrain, prevent or enjoin any conduct prohibited by this chapter or to compel action to comply immediately and fully with any order issued by the department. Except in cases of emergency where, in the opinion of the court, immediate abatement of the unlawful conduct is required to protect the public interest, the court may in its decree fix a reasonable time during which the person responsible for the unlawful conduct may abate and correct the violation. The expense of the proceeding shall be recoverable from the violator in such manner as may now or hereafter be provided by law.

It shall be unlawful for any person to:–

- (1) Violate or assist in the violation of any of the provisions of this chapter or of any rules and regulations adopted hereunder;
- (2) Fail to comply with any order by the department;
- (3) Make a water withdrawal contrary to the terms and conditions of the chapter, or of any regulation adopted or permit or order issued hereunder; or
- (4) Attempt to obtain a permit by misrepresentation or failure to disclose all relevant facts.

Any person who engages in unlawful conduct as defined in this section shall, upon conviction, for each separate offense, pay a fine of not less than one thousand dollars, nor more than ten thousand dollars or be imprisoned for a period of not more than one hundred and eighty days, or both. Each day of continued violation of any provision of this chapter or of any regulation adopted or permit or order issued hereunder shall constitute a separate offense.

Section 15. Any city or town or any water company, public agency or authority of the commonwealth or its political subdivisions which is the operator of a public water system may petition the department for a declaration of a state of water emergency pursuant to this section. The department may require such city, town or operator to submit for review and approval by the department, a plan designed to bring about an expeditious end to the state of water emergency. Such plan may include provisions for taking actions authorized in section sixteen and provisions for restraining the use of water on public or private premises by shutting off the water at the meter or at the curb cock or by other means, and the department may require any further provisions it deems appropriate and feasible, including, but not limited to:

- (1) an approved water resources management plan;
- (2) a leak detection program;
- (3) a program for auditing water use;
- (4) a program for overall system rehabilitation;
- (5) conservation programs for public and private buildings;



**ACTS, 1985. – Chap. 592.**

- (6) bans or restrictions on certain water uses;
- (7) a moratorium on the issuance of building permits;
- (8) a plan for establishing priority for distribution of water among competing uses; and
- (9) drought management or contingency plans.

Upon receiving a petition pursuant to this section, the department may declare a state of water emergency if it finds that there exists or impends a water supply shortage of a dimension which endangers the public health, safety or welfare. The department shall limit the applicability of any state of water emergency to the city or town submitting a petition pursuant to this section or the geographical area served by the public water system operator submitting a petition pursuant to this section. The department may amend the declaration or terminate the state of water emergency upon a finding that the public health, safety or welfare is no longer endangered by a water supply shortage in part or all of the area to which the emergency had been made applicable. The state of water emergency shall be in effect for no more than six months in the aggregate in any twelve month period unless the department determines that a longer state of emergency is required to protect the public health, safety or welfare.

Section 16. During a state of water emergency, declared under section fifteen, if the department has approved a plan designed to bring about an expeditious end to the emergency, a water company, public agency or authority of the commonwealth or its political subdivisions which is the operator of a public water system affected by the emergency may, for such periods of time as may be approved by the department, not to exceed six months cumulatively in any twelve month period, take by eminent domain under chapter seventy-nine the right to use any land for the time necessary to use such water, or purchase water from another public water system; provided, however, that during a state of water emergency affecting the water system of the Massachusetts Water Resources Authority, such power of eminent domain may be exercised by the division of watershed management of the metropolitan district commission. Any operator of a public water system may, for such periods of time as may be approved by the department, sell to any water company, public agency or authority of the commonwealth or its political subdivisions, which has been authorized to make purchases of water pursuant to this section, such volumes of water as may be available for sale from time to time.

No taking, purchase or sale shall be made pursuant to this section unless the department issues an order, pursuant to section seventeen, authorizing the taking, purchase or sale. Nothing in this section shall exempt the operator of a public water system from any provision of this chapter or of any regulations issued hereunder.

No taking, purchase or sale shall be made pursuant to this section unless, in the case of cities, the city council has voted to authorize the taking, purchase or sale, or, in the case of towns and water supply and fire and water districts, the taking, purchase or sale has been authorized by a vote of the voters at a town meeting or a district meeting, or, in the case of water companies, notice of such taking, purchase or sale,



**ACTS, 1985. – Chap. 592.**

including a copy of plans and specifications, has been given to the city council or to the board of selectmen of the city or town, as the case may be, in which the affected water source is located, by certified mail at least ten days prior thereto.

Pursuant to any taking, purchase or sale made pursuant to this section, temporary pipes and other works may be installed in any city or town, provided that the installation or repair of such pipes or other works or along any highway shall be accomplished with the least possible hindrance to public travel, and shall be subject to the direction and approval of the officers or departments in charge of the maintenance of said highway where applicable.

Section 17. During a state of water emergency declared under section fifteen, the department, to the extent not in conflict with applicable federal law or regulation but notwithstanding any general or special law, local law or contractual agreement to the contrary, shall be empowered to issue orders, applicable within or outside the area in which a water emergency exists to:-

(1) Establish priorities for the distribution of any water or quantity of water use;

(2) Permit any person engaged in the operation of a water supply system to reduce or increase by a specified amount or to cease the distribution of that water; to distribute a specified amount of water to certain users as specified by the department; or to share any water with other water supply systems;

(3) Direct any person to reduce, by a specified volume, the withdrawal or use of any water; or to cease the withdrawal or use of any water;

(4) Require the implementation of specific water conservation measures; and

(5) Mandate the denial, for the duration of the state of water emergency, of all applications for withdrawal permits within the areas of the commonwealth to which the state of water emergency applies.

The commission shall adopt guidelines for use by the department in issuing orders under this section.

The department shall consult with the appropriate executive agency overseeing the activities of any person affected by this section.

Section 18. The department shall, by regulation, establish reasonable registration and permit application fee schedules which shall be based upon, and not exceed, a reasonable portion of the estimated cost of processing, monitoring, administering and enforcing the registration statements and permits. The department shall collect registration and permit application fees in accordance with the fee schedule adopted pursuant to this section.

Section 19. Nothing in this chapter shall limit the authority of the department of public utilities to rule on the propriety of any rates charged by any public water system subject to its jurisdiction; provided, however, that in making such a ruling the department of public utilities may consider any fees required by registration adopted pursuant to section eighteen; and, provided further, that such ruling shall not impose any condition inconsistent with the provisions of any order issued by the department or the terms and conditions of a permit issued under this



**ACTS, 1985. – Chap. 593.**

chapter or the regulations adopted hereunder. Compliance with any requirement imposed by the department of public utilities shall not exempt any public water supply systems from requirements of this chapter or the regulations adopted hereunder.

**SECTION 2.** Section forty of chapter forty of the General Laws is hereby repealed.

**SECTION 3.** The department shall submit to the clerk of the house of representatives any regulations promulgated under the provisions of this act and shall forward such regulations to the joint committee on natural resources and agriculture and the special commission on water supply for its review within sixty days prior to the effective date of said regulations.

Approved December 18, 1985.

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**Chapter 593. AN ACT TO PROVIDE TAX RELIEF.**

Be it enacted, etc., as follows:

**SECTION 1.** Section 6 of chapter 14 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out, in lines 6 and 7, the word "consistent" and inserting in place thereof the word:– inconsistent.

**SECTION 2.** Section 1 of chapter 62 of the General Laws is hereby amended by striking out subsection (c), as so appearing, and inserting in place thereof the following subsection:–

(c) "Code", the Internal Revenue Code of the United States, as amended on January first, nineteen hundred and eighty-five and in effect for the taxable year.

**SECTION 3.** Paragraph (2) of subsection (a) of section 2 of said chapter 62, as so appearing, is hereby amended by adding the following subparagraph:–

(H) Social security benefits included in federal gross income under section eighty-six of the Code.

**SECTION 4.** Said section 2 of said chapter 62, as so appearing, is hereby amended by adding the following subsection:–

(g) Massachusetts adjusted gross income shall be the sum of Part A adjusted gross income and Part B adjusted gross income.

**SECTION 5.** Paragraph (a) of subsection B of section 3 of said chapter 62, as so appearing, is hereby amended by striking out subparagraph (9) and inserting in place thereof the following subparagraph:–

(9) In the case of an individual who pays rent for his principal place of residence and such residence is located in the commonwealth, an amount



ACTS, 1985. – Chap. 593.

equal to fifty per cent of such rent; provided, however, that such deduction shall not exceed two thousand five hundred dollars for a single person or for a husband and wife.

**SECTION 6.** Paragraph (b) of said section 3 of said chapter 62, as so appearing, is hereby amended by striking out subparagraphs (1) to (3), inclusive, and inserting in place thereof the following three subparagraphs:–

(1) In the case of a single person,

(A) (i) a personal exemption of three thousand eight hundred dollars, if the person's Massachusetts adjusted gross income is less than or equal to six thousand dollars,

(ii) a personal exemption of three thousand eight hundred dollars minus twenty dollars for each one hundred dollars by which the person's Massachusetts adjusted gross income exceeds six thousand dollars, if the person's Massachusetts adjusted gross income exceeds six thousand dollars but is less than or equal to nine thousand dollars,

(iii) a personal exemption of three thousand two hundred dollars minus seventeen dollars for each two hundred dollars by which the person's Massachusetts adjusted gross income exceeds nine thousand dollars, if the person's Massachusetts gross income exceeds nine thousand dollars,

(iv) notwithstanding the provisions of clause (iii), no single person shall receive a personal exemption of less than six hundred dollars,

(B) an additional exemption of two thousand two hundred dollars if the taxpayer was totally blind at the close of his taxable year, and

(C) an additional exemption of seven hundred dollars if the taxpayer had attained the age of sixty-five before the close of his taxable year.

(2) In the case of a husband and wife filing a joint return,

(A) (i) a personal exemption of eight thousand dollars, if the person's Massachusetts adjusted gross income is less than or equal to ten thousand dollars,

(ii) a personal exemption of eight thousand dollars minus twenty dollars for each one hundred dollars by which the person's Massachusetts adjusted gross income exceeds ten thousand dollars, if the person's Massachusetts adjusted gross income exceeds ten thousand dollars but is less than or equal to eighteen thousand dollars,

(iii) a personal exemption of six thousand four hundred dollars minus seventeen dollars for each two hundred dollars by which the person's Massachusetts adjusted gross income exceeds eighteen thousand dollars, if the person's Massachusetts gross income exceeds eighteen thousand dollars,

(iv) notwithstanding the provisions of clause (iii), no husband and wife filing a joint return shall receive a personal exemption of less than one thousand two hundred dollars,

(B) an additional exemption of two thousand two hundred dollars for each spouse who was totally blind at the close of his taxable year, and

(C) an additional exemption of seven hundred dollars for each spouse who had attained the age of sixty-five before the close of his taxable year.

(3) In the case of a married person filing a separate return,



**ACTS, 1985. – Chap. 593.**

(A) (i) a personal exemption of one thousand nine hundred dollars, if the person's Massachusetts adjusted gross income is less than or equal to six thousand dollars,

(ii) a personal exemption of one thousand nine hundred dollars minus ten dollars for each one hundred dollars by which the person's Massachusetts adjusted gross income exceeds six thousand dollars, if the person's Massachusetts adjusted gross income exceeds six thousand dollars but is less than or equal to nine thousand dollars,

(iii) a personal exemption of one thousand six hundred dollars minus seventeen dollars for each four hundred dollars by which the person's Massachusetts adjusted gross income exceeds nine thousand dollars, if the person's Massachusetts gross income exceeds nine thousand dollars,

(iv) notwithstanding the provisions of clause (iii), no married person filing a separate return shall receive a personal exemption of less than three hundred dollars,

(B) an additional exemption of two thousand two hundred dollars if the taxpayer was totally blind at the close of his taxable year, and

(C) an additional exemption of seven hundred dollars if the taxpayer had attained the age of sixty-five before the close of his taxable year.

**SECTION 7.** Section 5 of said chapter 62 is hereby amended by striking out paragraph (a), as most recently amended by section 22 of chapter 233 of the acts of 1983, and inserting in place thereof the following:—

(a) Notwithstanding the provisions of section four, Part A taxable income and Part B taxable income shall be exempt from all taxes imposed by this chapter if the Massachusetts adjusted gross income of the taxable year does not exceed six thousand dollars for a single individual or ten thousand dollars in the aggregate for a husband and wife. No tax shall be imposed under this chapter which shall reduce such Massachusetts adjusted gross income below six thousand dollars and ten thousand dollars respectively. No exemption shall be allowed under this section to any married individual unless a joint return is filed. In the case of a short taxable year, occurring for any reason other than residence during one portion of the normal taxable year and nonresidence during another portion, there shall be substituted for the amounts of six thousand dollars and ten thousand dollars those amounts which bear the same relation to such sums as the number of days in the taxable year bears to three hundred and sixty-five. With respect to a person who is a nonresident for all or part of the taxable year, total income shall be determined as if he were a resident of the commonwealth throughout the entire taxable year.

**SECTION 8.** Said chapter 62 is hereby further amended by striking out section 25, as appearing in the 1984 Official Edition, and inserting in place thereof the following section:—

Section 25. Every individual who while an inhabitant of the commonwealth, and every executor, administrator, trustee or other fiduciary who while such an inhabitant or while acting under an appointment derived from a court in the commonwealth has received any



**ACTS, 1985. – Chap. 593.**

income taxable under this chapter, and the estate of every deceased inhabitant of the commonwealth, shall be subject to the taxes imposed by this chapter.

**SECTION 9.** Paragraph (a) of section 63 of said chapter 62, as so appearing, is hereby amended by striking out clause (1) and inserting in place thereof the following clause:–

(1) is treated for federal income tax purposes under section four hundred and fifty-three of the Code, and.

**SECTION 9A.** Paragraph (c) of said section 63 of said chapter 62, as so appearing, is hereby amended by striking out, in line 28, the word "four hundred and fifty-three (a)" and inserting in place thereof the words:– four hundred and fifty-three.

**SECTION 10.** Section 4 of chapter 62B of the General Laws is hereby amended by striking out paragraph (a), as so appearing, and inserting in place thereof the following paragraph:–

(a) Every employee on or before the date of commencement of employment shall furnish his employer with a signed withholding exemption certificate setting forth the number of dependency exemptions which he claims, which shall in no event exceed the number to which he is entitled under chapter sixty-two plus one for his own personal exemption under said chapter. The term "dependency exemptions", as used in this chapter, shall include an exemption for a spouse meeting the requirements of chapter sixty-two. If any employee fails to furnish such signed certificate, the number of his exemptions shall be considered zero.

**SECTION 11.** Said chapter 62B is hereby amended by striking out sections 13 to 18, inclusive, as so appearing, and inserting in place thereof the following three sections:–

Section 13. Every taxpayer who in any taxable year can reasonably expect to receive income taxable under chapter sixty-two from sources other than wages upon which a tax is required to be withheld under section two and for whom the amount of estimated tax is more than two hundred dollars shall make payments of estimated tax pursuant to section fourteen. For the purposes of this section, the amount of estimated tax shall be the amount which the taxpayer estimates as the tax due under chapter sixty-two with respect to the taxable year less the amount which the taxpayer estimates as the credits to which he will be entitled under section nine for taxes withheld during the taxable year.

Section 14. (a) Except as otherwise provided in this section, in the case of any underpayment of estimated tax, there shall be added to the tax due under chapter sixty-two for the taxable year an amount determined at the rate of eighteen per cent per annum upon the amount of the underpayment for the period of underpayment.

(b) For purposes of subsection (a), the amount of the underpayment shall be the excess of the required installment, over the amount, if any, of the installment paid on or before the due date for the installment; and



ACTS, 1985. – Chap. 593.

the period of the underpayment shall run from the due date for the installment to the fifteenth day of the fourth month following the close of the taxable year, or, with respect to any portion of the underpayment, the date on which such portion is paid, whichever is the earlier. A payment of estimated tax shall be credited against unpaid required installments in the order in which such installments are required to be paid.

(c) For purposes of this section, there shall be four required installments for each taxable year. The first installment shall be paid on April fifteenth of the taxable year, the second on June fifteenth of the taxable year, the third on September fifteenth of the taxable year, and the fourth on January fifteenth of the succeeding taxable year. The amount of any required installment shall be twenty-five per cent of the required annual payment. The term "required annual payment" means the lesser of

(i) eighty per cent, or sixty-six and two-thirds per cent in the case of a farmer or fisherman as defined in subsection (h), of the tax shown on the return for the taxable year or, if no return is filed, eighty or sixty-six and two-thirds per cent, as the case may be, of the tax for such year, or

(ii) one hundred per cent of the tax shown on the return of the taxpayer for the preceding taxable year, provided the taxpayer filed a return for the preceding taxable year and such preceding year was a taxable year of twelve months.

In the case of any required installment, if the taxpayer establishes that the annualized income installment is less than the amount determined under this subsection, the amount of such required installment shall be the annualized income installment, and any reduction in a required installment resulting therefrom shall be recaptured by increasing the amount of the next required installment or installments. The annualized income installment shall be based upon an estimated tax computed by placing on an annualized basis the taxable income for months in the taxable year ending before the due date for the installment.

(d) No addition to tax shall be imposed under subsection (a) for any taxable year if –

(i) the tax shown on the return for such taxable year or, if no return is filed, the tax is less than two hundred dollars; or

(ii) the preceding taxable year was a taxable year of twelve months, the taxpayer did not have any liability for tax for the preceding taxable year, and the taxpayer was an inhabitant of the commonwealth throughout the preceding taxable year.

(e) No addition to tax shall be imposed under subsection (a) with respect to any underpayment –

(i) to the extent the commissioner determines that by reason of casualty, disaster, or other unusual circumstances the imposition of such addition to tax would be against equity and good conscience; or

(ii) if the commissioner determines that the taxpayer retired after having attained age sixty-two or became disabled in the taxable year for which estimated payments were required to be made or in the taxable



**ACTS, 1985. – Chap. 593.**

year preceding such taxable year, and such underpayment was due to reasonable cause and not to willful neglect.

(f) For the purpose of applying this section the estimated tax shall be computed without any reduction for the amount which the individual estimates as his credit under section nine, and the amount of the credit allowed under said section nine for the taxable year shall be deemed a payment of estimated tax, and an equal part of such amount shall be deemed paid on each installment date, as indicated in subsection (c), unless the taxpayer establishes the dates on which all amounts were actually withheld, in which case the amounts so withheld shall be deemed payments of estimated tax on the dates on which such amounts were actually withheld.

(g) For the purposes of this section, the term "tax" means the tax imposed by chapter sixty-two and by any act in addition thereto, reduced by the credits against tax allowed by section six of said chapter sixty-two.

(h) If, on or before March first of the following taxable year, a taxpayer who is a farmer or fisherman files a return for the taxable year and pays in full the amount computed on the return as payable then no addition to tax shall be imposed under subsection (a) with respect to any underpayment of estimated tax required to be made under this section. For the purposes of this subsection, an individual is a farmer or fisherman for any taxable year if his gross income from farming or fishing for the taxable year, or as shown on his return for the preceding taxable year, is at least two-thirds of his total gross income for the taxable year.

Section 15. All payments of estimated tax made by any taxpayer pursuant to section thirteen shall be deemed and credited as payments on account of the tax imposed on income for the taxable year under chapter sixty-two, and any taxes in addition thereto.

**SECTION 12.** Section 6 of chapter 62C of the General Laws, as so appearing, is hereby amended by striking out in line 3, the second time it appears, and in line 6, the word "two" and inserting in place thereof, in each instance, the word:– six.

**SECTION 13.** Section 11 of said chapter 62C, as so appearing, is hereby amended by striking out paragraph (b).

**SECTION 14.** Section 19 of said chapter 62C, as so appearing, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:–

An extension of six months for filing any return required by section eleven or twelve shall be allowed any corporation if, in such manner and at such time as the commissioner may prescribe, such corporation files a request, in such form as the commissioner may require, and pays, on or before the date prescribed for payment of the tax, the amount of tax reasonably estimated to be due under this chapter; but this extension may be terminated at any time by the commissioner by mailing to the corporation notice of such determination at least ten days prior to the



ACTS, 1985. – Chap. 593.

date for termination fixed in such notice.

**SECTION 15.** Section 26 of said chapter 62C, as so appearing, is hereby amended by striking out, in line 11, the word "thirty-three" and inserting in place thereof the word:– thirty-two.

**SECTION 16.** Said chapter 62 is hereby further amended by striking out section 30, as so appearing, and inserting in place thereof the following section:–

Section 30. If the federal taxable income of a person subject to taxation under chapter sixty-two is finally determined by the federal government to be different from the taxable income as originally reported, such final determination shall be reported, accompanied by payment of any additional tax due with interest as provided in section thirty-two, to the commissioner within one year of receipt of notice of such final determination. If the taxable income of a person subject to taxation under chapter sixty-three is finally determined by the federal government to be different from the taxable income as originally reported, such final determination, shall be reported, accompanied by payment of any additional tax due with interest as provided in section thirty-two, to the commissioner within three months of receipt of notice of such final determination. If the federal taxable estate of an estate subject to taxation under chapter sixty-five C is finally determined by the federal government to be different from the taxable estate as originally reported, such final determination shall be reported, accompanied by payment of any additional tax due with interest as provided in section thirty-two, to the commissioner within two months of receipt of notice of such final determination. The report shall include a statement of the reasons for the difference in such form as the commissioner may require. If from such report or upon investigation it shall appear that any tax under chapters sixty-two or sixty-five C or that the tax with respect to income under chapter sixty-three has not been fully assessed, the commissioner shall, notwithstanding the three-year limitation in section twenty-six, assess an additional tax, if any, with respect thereto, with interest as provided in section thirty-two. An assessment under this section shall be made in the manner provided in section twenty-six within one year of the receipt of such report or within two years of the receipt by the commissioner of information from the federal government that it has made a final determination of such person's federal taxable income or of the federal taxable estate different from that report where no report is filed with the commissioner and shall be limited to changes in such person's tax liability under chapter sixty-two, sixty-three or in such estate's tax liability under chapter sixty-five C arising out of or related to the items which resulted in the change in federal taxable income or in the federal taxable estate.

If, as a result of the change by the federal government in a person's federal taxable income or in a federal taxable estate, such person or estate believes that a lesser tax was due the commonwealth than was paid, such person or estate may apply in writing to the commissioner for



**ACTS, 1985. – Chap. 593.**

an abatement thereof under section thirty-seven within one year of the date of notice of such final determination by the federal government. The commissioner shall not be limited in his consideration of such application to the items which comprise the federal change but shall abate only such portion of the tax assessed or paid as exceeds the proper tax due under chapters sixty-two, sixty-three, or sixty-five C, as the case may be.

Any person or estate failing to comply with the provisions contained in the first paragraph hereof shall be assessed a penalty in the sum of one hundred dollars, or ten per cent of the additional tax found due, whichever sum is smaller said penalty to become part of the additional tax found due. For reasonable cause shown, the commissioner may, in his discretion, abate such penalty in whole or in part.

For purposes of this section, the term "person" shall include any individual, partnership, trust, corporate trust or any other fiduciary subject to taxation under chapters sixty-two or sixty-five C, or any corporation subject to taxation under chapter sixty-three.

**SECTION 17.** Said chapter 62C is hereby further amended by inserting after section 31 the following section:–

Section 31A. If a person fails to pay to the commissioner any required tax of a corporation or partnership and such person is personally and individually liable therefor to the commonwealth under section five of chapter sixty-two B, section seven B of chapter sixty-four G, section sixteen of chapter sixty-four H or section seventeen of chapter sixty-four I, the commissioner shall so notify such person in writing at any time during the period of time that such assessment against the corporation or partnership remains in existence and unpaid. Such person or his representative may confer with the commissioner or his duly authorized representative as to the assessment of the tax or the proposed determination that he is personally and individually liable therefor within thirty days after the date of such notification. After the expiration of thirty days from the date of such notification, such person shall be personally and individually liable for the tax of the corporation or partnership, which shall be deemed to be assessed against such person, and a lien under section fifty upon all property and rights of property, whether real or personal, belonging to such person shall arise in favor of the commonwealth.

If such person is aggrieved by the assessment of the tax or the determination that he is personally and individually liable therefor, he may apply, in writing to the commissioner, on a form approved by him, for an abatement thereof at any time within the dates provided in section thirty-seven or within sixty days from the date of the notice under this section, whichever is later. All provisions of sections thirty-seven to thirty-nine, inclusive, shall apply to such application for abatement.

**SECTION 18.** Subsection (d) of section 33 of said chapter 62C, as appearing in the 1984 Official Edition, is hereby amended by striking out the second sentence and inserting in place thereof the following



**ACTS, 1985. – Chap. 593.**

sentence:– For purposes of subsections (b) and (c), the amount of tax shown on the return shall, for the purpose of computing the addition for any month, be reduced by the amount of any part of the tax which is paid before the beginning of such month.

**SECTION 19.** Said chapter 62C is hereby further amended by inserting after section 37 the following section:–

Section 37A. Notwithstanding any other provision of law, prior to a court judgment or decision by the appellate tax board, the commissioner may accept a lesser amount than the tax liability owed by a taxpayer in final and full settlement thereof; provided, however, that the following conditions are met:

(a) The commissioner finds that there is serious doubt either as to the collectibility of the tax due or as to the taxpayer's liability;

(b) The commissioner finds that the taxpayer has not acted with intent to defraud;

(c) The settlement is approved by the commissioner and at least two deputy commissioners of the department of revenue; and

(d) There is a written agreement, signed by all parties, setting forth the commissioner's reasons for the settlement and all relevant information, including, but not limited to, the names of all parties, the amount and type of tax, interest, penalties and charges settled, and the amount actually paid in accordance with the terms of the settlement. Any amount assessed that is not collected pursuant to the provisions of this section shall be abated by the commissioner.

Upon request the commissioner shall make available for public inspection the written agreement containing a settlement pursuant to this section.

Notwithstanding any provision of law to the contrary, any tax liability settlement under this section which proposes to accept an amount which is twenty thousand or more dollars less than the full amount of the tax liability owed by the taxpayer or which proposes to accept an amount which is less than fifty per cent of the full amount of the tax liability owed by the taxpayer shall be submitted to the attorney general for review. Any such settlement proposal shall take effect twenty-one days after its receipt by the attorney general, unless the attorney general objects in writing to the settlement. In the event the attorney general objects to a settlement proposal, such settlement shall not take effect until the objection is resolved by the commissioner and the attorney general. Any settlement approved under the terms of this section will not be subject to the confidentiality provisions of section twenty-one of this chapter.

Neither the taxpayer nor the commissioner, upon signing the agreement, shall be permitted to reopen the case except by reason of (1) falsification or concealment of assets by the taxpayer, or (2) mutual mistake of a material fact sufficient to cause a contract to be reformed or set aside.

The authority granted hereunder to the commissioner and deputy commissioners may not be delegated to other officials of the department.

The commissioner shall, as part of his annual report under section six



**ACTS, 1985. – Chap. 593.**

of chapter fourteen, list all settlements entered into pursuant to this section during the fiscal year. Such report shall list the name of each taxpayer agreeing to a settlement and the amount of such settlement.

**SECTION 20.** Said chapter 62C is hereby further amended by striking out section 38, as appearing in the 1984 Official Edition, and inserting in place thereof the following section:–

Section 38. No tax assessed on any person liable to taxation shall be abated unless the person assessed shall have filed, at or before the time of bringing his application for abatement, a return as required by this chapter for the period to which his application relates; and if he filed a fraudulent return, or having filed an incorrect or insufficient return, has failed, after notice, to file a proper return, the commissioner shall not abate the tax below double the amount for which the person assessed was properly taxable under this chapter.

**SECTION 21.** Section 45A of said chapter 62C, as so appearing, is hereby amended by adding the following paragraph:–

If any person required by this section or section two of chapter sixty-two B or by regulation of the commissioner to deposit or to make payment of tax in advance of the filing of the return with respect to such payment and such person fails to make such deposit or payment on or before the date prescribed therefor, unless it is shown that such failure is due to reasonable cause and not to willful neglect, there shall be imposed upon such person a penalty of five per cent of the amount of the underpayment. For purposes of this paragraph, the term "underpayment" means the excess of the amount of the tax required to be so made over the amount, if any, thereof made on or before the date prescribed therefor.

**SECTION 22.** Section 49A of said chapter 62C, as so appearing, is hereby amended by striking out, in line 14, the word "forty-seven" and inserting in place thereof the word:– forty-seven A.

**SECTION 23.** Clause (b) of paragraph 5 of section 30 of chapter 63 of the General Laws, as so appearing, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:– A deduction shall be allowed for that portion of wages or salaries paid or incurred for the taxable year equal to the amount of the credit allowable for the taxable year under section fifty-one of the Federal Internal Revenue Code and otherwise disallowed under section two hundred and eighty C of said Code.

**SECTION 24.** Chapter sixty-three C of the General Laws is hereby repealed.

**SECTION 25.** Section 1 of chapter 64C of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by adding the following paragraph:–

Whenever used in this chapter or chapter sixty-two C, unless the



**ACTS, 1985. – Chap. 593.**

context otherwise requires, the word "cigarette" shall include within its meaning smokeless tobacco; and the words "smokeless tobacco" shall mean snuff, snuff flour and any other tobacco or tobacco product prepared in such manner as to be suitable for chewing, including, but not limited to cavendish, plug, twist and fine-cut tobaccos. The provisions of sections twenty-nine to thirty-nine, inclusive, however, shall not apply to smokeless tobacco.

**SECTION 26.** Section 6 of said chapter 64C, as so appearing, is hereby amended by inserting after the word "mills", in lines 3 and in line 10, in each instance, the words:– plus any amount by which the federal excise tax on cigarettes is less than eight mills.

**SECTION 27.** Said section 6 of said chapter 64C, as so appearing, is hereby further amended by adding the following paragraph:–

Notwithstanding the provisions of this section, the excise imposed by this chapter shall equal twenty-five per cent of the price paid by such licensee or unclassified acquirer to purchase smokeless tobacco so sold, imported, or acquired.

**SECTION 28.** Said chapter 64C is hereby further amended by striking out section 28, as so appearing, and inserting in place thereof the following section:–

Section 28. All sums received under this chapter as excises, penalties, forfeitures, interest, costs of suits and fines, less all amounts refunded or abated thereunder, shall be credited as follows:

(a) Forty per cent of the amount in excess of one hundred sixty-nine million, eight hundred thousand dollars received during a fiscal year shall be credited to the Local Aid Fund.

(b) Eighty and seventy-seven hundredths per cent of the balance remaining after crediting the amount required under paragraph (a) shall be credited to the General Fund.

(c) Nineteen and twenty-three hundredths per cent of the balance remaining after crediting the amount required under said paragraph (a) shall be credited to the Highway Fund.

**SECTION 29.** Section 3 of chapter 64H of the General Laws, as so appearing, is hereby amended by striking out, in line 21, the words ", with the approval of the commission,".

**SECTION 30.** Section 6 of said chapter 64H, as so appearing, is hereby amended by striking out, in line 341, the words "public and private nonprofit primary and secondary schools" and inserting in place thereof the words:– an educational institution which normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on.

**SECTION 31.** Section 27 of chapter 64I of the General Laws, as so appearing, is hereby amended by striking out the first sentence and



**ACTS, 1985. – Chap. 593.**

inserting in place thereof the following two sentences:– Where a trade in of a motor vehicle or trailer is received by a dealer in such vehicles holding a valid vendor's registration, upon the sale of another motor vehicle or trailer to a consumer or user, the tax shall be imposed only on the difference between the sales price of the motor vehicle or trailer purchased and the amount allowed on the motor vehicle or trailer traded in on such purchase. When any such motor vehicle or trailer traded in is subsequently sold to a consumer or user, the tax provided for this chapter shall apply.

**SECTION 32.** Section 27 of chapter 65 of the General Laws, as so appearing, is hereby amended by striking out, in lines 9 and 10, the words "section thirty-three of".

**SECTION 33.** Section 32 of said chapter 65, as so appearing, is hereby amended by striking out, in line 11, the word "thirty-three" and inserting in place thereof the word:– thirty-two.

**SECTION 34.** Section 2 of chapter 65A of the General Laws, as so appearing, is hereby amended by striking out, in line 6, the word "thirty-three" and inserting in place thereof the word:– thirty-two.

**SECTION 35.** Paragraph (d) of section 100 of chapter 156B of the General Laws, as so appearing, is hereby amended by adding the following sentence:– Notwithstanding the foregoing, the dissolution of the corporation shall not become effective unless and until the state secretary has received a certificate of the commissioner of revenue that all taxes due and payable under chapter sixty-two C by the corporation to the commonwealth have been paid or provided for.

**SECTION 36.** Section 101 of said chapter 156B, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:–

If a corporation has failed to comply with the provisions of law requiring the filing of reports with the state secretary or the filing of any tax returns or the payment of any taxes under chapter sixty-two C for two or more consecutive years, or if the state secretary is satisfied that a corporation has become inactive and that its dissolution would be in the public interest, the state secretary may dissolve the corporation, subject to the provisions of sections one hundred and two, one hundred and four, and one hundred and eight.

**SECTION 37.** The third paragraph of said section 101 of said chapter 156B, as so appearing, is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:– Notwithstanding the foregoing, a corporation shall not be dissolved if the reports that give rise to the state secretary's notice have been filed at least ten days before the effective date of dissolution, if the tax returns or tax payments that gave rise to the state secretary's notice have been filed, paid or provided for at least ten days before the effective date of



**ACTS, 1985. – Chap. 593.**

dissolution and the state secretary has received a certificate issued by the commissioner of revenue that the corporation is in good standing with respect to any and all returns due and taxes payable to said commissioner, or if the state secretary determines before the effective date of dissolution that the dissolution would not be in the public interest.

**SECTION 38.** Section eighty-eight of chapter six hundred and eighty-four of the acts of nineteen hundred and seventy-five is hereby repealed.

**SECTION 39.** Section forty-nine of chapter three hundred and sixty-seven of the acts of nineteen hundred and seventy-eight is hereby repealed.

**SECTION 40.** Section twenty-three of chapter two hundred and thirty-three of the acts of nineteen hundred and eighty-three is hereby repealed.

**SECTION 41.** Said chapter 233 is hereby further amended by striking out section 99 and inserting in place thereof the following section:–

Section 99. For the purposes of collecting certain taxes, the commissioner is authorized to enter into agreements with one or more private persons, companies, associations or corporations doing business in the commonwealth to provide collection services within and outside the commonwealth with respect to unpaid taxes. No such agreement shall be entered into unless proposals for the same have been invited by public notice published in at least one newspaper once a week for at least two consecutive weeks and the last publication to be at least one week prior to the time specified for the opening of said proposals. All such proposals shall be opened in public. The commissioner may reject any or all of such proposals. The commissioner shall not assign the account of any taxpayer to a private collection agency until such taxpayer has been sent a notice at least thirty days prior thereto, of the intention of the commissioner to so assign the collection of such unpaid taxes of such taxpayer. Any such agreement may provide, in the discretion of the commissioner, the manner in which the compensation for such services will be paid. Under standards established by the commissioner, such compensation shall be added to the amount of the tax and collected as a part thereof by the contractor; deducted and retained by the contractor from the amount of tax collected; or paid by the commonwealth from the amount of tax collected without further appropriation therefor.

The commissioner shall, as part of his annual report under section six of chapter fourteen, list all private persons, companies, associations or corporations with whom the commissioner has agreements for collection services during the fiscal year and the amount of taxes collected by and the compensation paid to each such person, company, association or corporation.

The provisions of this section shall become inoperative on January first, nineteen hundred and eighty-eight.



**ACTS, 1985. – Chap. 593.**

**SECTION 42.** Section one hundred of said chapter two hundred and thirty-three is hereby repealed.

**SECTION 43.** Section 101 of said chapter 233, as amended by section 169 of chapter 189 of the acts of 1984, is hereby further amended by striking out the fourteenth sentence.

**SECTION 44.** For taxable years commencing on or after January first, nineteen hundred and eighty-six and before January first, nineteen hundred and eighty-seven, there is hereby imposed, in addition to the taxes levied under the provisions of chapter sixty-two of the General Laws, a tax equal to three and three-fourths per cent of the taxes levied under the provisions of said chapter sixty-two. All provisions of law relative to the assessment, collection, payment, abatement, verification, and administration of taxes, including penalties, levied under said chapter shall, so far as pertinent, be applicable to the tax imposed by this section.

**SECTION 45.** The special commission making an investigation and study relative to all state, local, special district and county taxation within the commonwealth in order to develop a tax reform program for the commonwealth, established by section eighty-two A of chapter two hundred and eighty-nine of the acts of nineteen hundred and eighty-three, is hereby authorized and directed to investigate and study the feasibility of allowing the commissioner of revenue to utilize unitary accounting procedures for calculating the corporate excise tax. Said commission shall report to the general court the result of its investigation and study pursuant to this section, with its recommendations together with drafts of legislation, if any, necessary to carry its recommendations into effect, by filing the same with the clerk of the house of representatives on or before the last Wednesday in December, nineteen hundred and eighty-six.

**SECTION 46.** Every manufacturer, wholesaler, vending machine operator, unclassified acquirer or retailer, as defined in section one of chapter sixty-four C of the General Laws, who, at the commencement of business on February first, nineteen hundred and eighty-six, has on hand for sale any smokeless tobacco, as defined in section one of chapter sixty-four C of the General Laws, as amended by section twenty-five of this act, shall make and file with the commissioner of revenue within twenty days thereafter a return, subscribed under the penalties of perjury, showing a complete inventory of such smokeless tobacco and shall, at the time he is required to file such return, pay an excise at the rate of twenty-five per cent of the price paid by such manufacturer, wholesaler, vending machine operator, unclassified acquirer, or retailer to purchase such smokeless tobacco on all smokeless tobacco upon which an excise has not been paid. All provisions of chapters sixty-two C and sixty-four C of the General Laws relative to the assessment, collection, payment, abatement, verification and administration of taxes, including penalties, shall, so far as pertinent, be applicable to the excise imposed



**ACTS, 1985. – Chap. 594.**

by this section.

**SECTION 47.** Section fourteen of this act shall apply only to requests for extensions of time for corporate tax returns filed on or after its effective date.

**SECTION 48.** Section seventeen of this act shall apply to all state taxes due on or after its effective date.

**SECTION 49.** Section twenty-one of this act shall apply to payments of tax required to be made on or after its effective date.

**SECTION 50.** Sections two, three, nine and nine A of this act shall apply to tax years commencing on or after January first, nineteen hundred and eighty-six. Sections four, seven, twelve, thirty-eight, forty, and forty-three shall apply to tax years commencing on or after January first, nineteen hundred and eighty-six. Sections six and eleven shall apply to tax years commencing on or after January first, nineteen hundred and eighty-seven. Sections nineteen, forty-one, and forty-two shall take effect as of September fifteenth, nineteen hundred and eighty-five. Sections twenty-five, twenty-six, twenty-seven, twenty-eight, and forty-six shall take effect on February first, nineteen hundred and eighty-six. Sections thirty-five, thirty-six, and thirty-seven shall take effect on January first, nineteen hundred and eighty-six and shall apply to dissolutions of corporations taking effect on or after said date. Section forty-four shall apply to tax years commencing on or after January first, nineteen hundred and eighty-six and before January first, nineteen hundred and eighty-seven.

Approved December 18, 1985.

EMERGENCY LETTER: December 18, 1985 @ 4:22 P.M.

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**Chapter 594. AN ACT AUTHORIZING THE DIVISION OF CAPITAL PLANNING AND OPERATIONS TO CONVEY A CERTAIN PARCEL OF LAND SITUATED IN THE TOWN OF BARNSTABLE.**

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to authorize the conveyance of certain land in the town of Barnstable, 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.** The deputy commissioner of the division of capital planning and operations, acting for and on behalf of the commonwealth, is hereby authorized to convey for consideration of one dollar by a deed approved as to form by the attorney general, a certain parcel of land with structures appurtenant thereto in that part of the town of Barnstable known as Centerville, currently under the control of the



**ACTS, 1985. – Chap. 595.**

department of mental health, to the Barnstable Housing Authority, subject to the requirements of section two and to such terms and conditions as the deputy commissioner may prescribe in consultation with the executive offices of human services and communities and development. Said land and appurtenant structures being bounded and described as follows:– Southeasterly by Monument Avenue, ninety-eight and 11/100 (98.11) feet; Southwesterly by Lot A, one hundred and thirty-nine and 92/100 (139.92) feet; and Northwesterly one hundred thirty and 44/100 (130.44) feet; and Northeasterly one hundred two and 37/100 (102.37) feet, by Lot 41.

All of said boundaries are located as shown on subdivision plan 12422–G dated September 24, 1965, drawn by Nelson Bearse – Richard Law, Surveyors, and filed in the Land Registration Office at Boston, a copy of which is filed in the registry of deeds in the county of Barnstable in land registration Book 130, Page 42 with Certificate of Title No. 17702 and said land is shown thereon as Lot 42.

**SECTION 2.** No deed conveying by or on behalf of the commonwealth the property described in section one shall be valid unless the deed provides that said property shall be used for housing that is partially or fully funded by the commonwealth under chapters five hundred and seventy-four and seven hundred and twenty-three of the acts of nineteen hundred and eighty-three.

Approved December 19, 1985.

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**Chapter 595. AN ACT FURTHER REGULATING THE LICENSING PROCEDURES FOR CERTAIN HYDROPOWER FACILITIES.**

Be it enacted, etc., as follows:

**SECTION 1.** Chapter 164 of the General Laws is hereby amended by striking out section 69H 1/2, as appearing in the 1984 Official Edition, and inserting in place thereof the following section:–

Section 69H 1/2. For the purpose of this section, the following words shall, unless the context otherwise requires, have the following meanings:–

"Federal Energy Regulatory Commission", the federal hydropower licensing and permitting agency or its successor.

"Hydropower generating facility", any electric or mechanical power generating unit whose power source is water flow and which is not a facility as defined in section sixty-nine G.

"Permitting and licensing agencies", all agencies, authorities, and departments of the commonwealth, and local conservation commissions, whose approval, order, order of conditions, permit, license, certificate, or permission in any form is required prior to or for construction of a hydropower generating facility, except the secretary of environmental affairs acting under the provisions of sections sixty-two to sixty-two H,



ACTS, 1985. – Chap. 595.

inclusive, of chapter thirty and shall include, but not be limited to, the department of environmental quality engineering including the division of water pollution control, the department of environmental management, the department of fisheries, wildlife and recreational vehicles, the conservation commission with jurisdiction over the proposed site, the Massachusetts Historical Commission, the department of public utilities, and any other agency, authority, or department of the commonwealth, county, city or town government, as may be from time to time so designated by the energy facilities siting council.

Said council shall coordinate the permitting and licensing of hydropower generating facilities by simplifying requirements for permits and licenses.

Said council, after consultation with the permitting and licensing agencies, shall establish a preliminary notification form and other forms to be employed by such agencies for permitting and licensing review of proposed hydropower generating facilities. These forms shall include all information required by the permitting and licensing agencies to make decisions on hydropower projects while minimizing duplication of information required for such agencies and for federal licensing. In order to reduce duplication and burdensome filing requirements the council shall provide whenever practicable that such forms utilize the basic Federal Energy Regulatory Commission application and shall make provisions for developers to respond to state filing requirements by reference to their Federal Energy Regulatory Commission application. No other forms shall be required by these agencies for permitting and licensing review of hydropower generating facilities.

Said council shall provide that developers shall commence the state permitting process and file the preliminary notification form required under such process no later than sixty days after official notice that such hydropower developer has filed for a license or exemption with the Federal Energy Regulatory Commission. Said council may extend this filing time upon a showing of good cause, as said council shall determine.

Prior to the submission of any application to any of the permitting and licensing agencies, the developer of a proposed hydropower generating facility shall file a preliminary notification form with all the permitting and licensing agencies and said council. Such preliminary notification form shall be deemed the first agency application for the purposes of notification under section sixty-two A of chapter thirty. Within thirty days after publication of the notification forms prescribed by the secretary of environmental affairs under said section sixty-two A, said council and the secretary of environmental affairs shall convene a meeting of the permitting and licensing agencies, all agencies which may provide financial assistance, other interested persons, parties or entities, including federal regulatory agencies, and the developer. At such meeting, the permitting and licensing agencies shall consult with the developer and shall determine the information, data and studies required in addition to the forms specified for compliance with the provisions of the permitting and licensing agencies in resolving disputes between the developer and the permitting and licensing agencies concerning the form, content, level of detail and schedules of such requirements.



## ACTS, 1985. – Chap. 595.

At the option of a developer or licensing and permitting agency and upon request to the council, a second meeting of all interested parties including the developer, permitting and licensing agencies, federal regulatory agencies and other interested parties and persons shall be convened for the purposes of reviewing a revised application and forms and other changes made subsequent to the initial meeting. Such second meeting may be held at the project site, at a department of environmental quality engineering regional office, or at the Boston offices of said council or other state agency, whichever shall be deemed most reasonable by said council.

Prior to the submission of any notification form to any and all of the permitting and licensing agencies, the council shall require the project proponent to file a proposed notification form and shall determine whether such notification form is substantially complete in meeting with the various filing requirements of the permitting and licensing agencies asserting jurisdiction over the project. Said council shall make a determination, not later than ten days after receiving such proposed application, whether or not it is complete. Said council may reject an application which is patently deficient or it may accept it but recommend to the project proponent that supplementary information be included that would improve and expedite the permitting and licensing agencies' review process. Said council shall inform the project proponent in writing of its action within ten days of submission of the proposed application.

All licensing and permitting agencies asserting jurisdiction over the hydropower project shall notify said council when informational requirements have been satisfied. At such time said council shall establish a deadline for all agency action, such deadline to be no later than ninety days after receipt of the appropriate complete forms and any other additional requirements of this section. In the event that a developer has been required to file an environmental impact report pursuant to section sixty-two B of chapter thirty, said council shall set a deadline for agency action no later than ninety days after receipt of such forms or thirty days after issuance of the statement of adequacy of the final environmental impact report, as required by section sixty-two C of said chapter thirty, whichever is later. Prior to either such deadline as the case may be, each of the permitting and licensing agencies shall determine whether or not to issue, approve, or grant any application, permit, license, certificate, or other evidence or approval. Notwithstanding other provisions of this section, the department of environmental quality engineering shall act on a request for a final order of the department within the time limitations specified in section forty of chapter one hundred and thirty-one.

Any party aggrieved by the action, or failure to act, of the permitting and licensing agencies pursuant to this section may, after exhausting all other administrative remedies, appeal to said council within ten days of final agency action or failure to act.

Failure to exercise such right of appeal shall not be deemed a waiver of the right to judicial appeal of an action or failure to act of the permitting and licensing agencies. Said council shall hold a hearing and



**ACTS, 1985. – Chap. 596.**

may consider jointly all pending appeals and shall issue a written decision and order on such appeals considered within ninety days of the appeal. Such decision shall be based upon the energy needs, cost, and environmental impact, and shall for all purposes, including judicial appeal, be deemed equivalent to final licensing or permitting agency action on the approval, permit, license, certificate or permission which is the subject of the appeal. Any party, who is aggrieved by the decision of said council may seek judicial review in the manner provided by chapter thirty A.

**SECTION 2.** The energy facilities siting council shall conduct rulemaking proceedings pursuant to section two of chapter thirty A of the General Laws to determine whether there exists a class or classes of hydropower projects whose environmental impacts are insignificant and if such project exist, may provide for the exemption of such projects from the requirements of the prelicensing conference provision of section sixty-nine H 1/2 of chapter one hundred sixty-four of the General Laws, and may allow such projects to utilize such abbreviated informational forms of the council and council licensing procedures as the council may determine will ensure the expeditious licensing of such projects without impairment of the public interest. In determining whether there exists a class or classes of hydropower generating facilities appropriate for exemption or expedited review the council shall consider projects which by virtue of their small size or installed generating capacity or location on a conduit or other man-made watercourse would have minimal impacts on the natural environment.

Said council shall promulgate rules and regulations are necessary to carry out provisions and promote the purposes of this section.

**SECTION 3.** No provision of this act shall apply or be construed to apply to foreign or interstate commerce, except insofar as the same may be permitted under the provisions of the constitution and laws of the United States.

**SECTION 4.** This act shall take effect upon its passage and shall only affect projects filed with the energy facilities siting council on or after the effective date of this act.

Approved December 19, 1985.

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**Chapter 596. AN ACT LIMITING THE CASHING OF CHECKS BY PENSIONERS IN AN AMOUNT NOT TO EXCEED TWO THOUSAND FIVE HUNDRED DOLLARS.**

Be it enacted, etc., as follows:

Section 46 of chapter 167 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-



**ACTS, 1985. – Chaps. 597, 598.**

Every bank doing business in the commonwealth, which for the purposes of this section shall include any bank as defined in section one and any national bank, national banking association, federal savings bank, federal savings and loan association and federal credit union, shall honor and cash a check presented by a pensioner or retiree, whether or not such person has an account in such bank, if the following conditions are met: (a) the said pensioner or retiree is a resident of the commonwealth; (b) the said pensioner or retiree provides adequate information for identification purposes and is registered with such bank; (c) any such check has been issued to the pensioner or retiree presenting the same as a social security, supplemental security income, supplemental security income for aged, blind, and disabled or retirement benefit by the federal government or any agency thereof, or by the commonwealth or any agency or political subdivision thereof; and (d) any such check is for an amount not exceeding two thousand and five hundred dollars.

Approved December 19, 1985.

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**Chapter 597. AN ACT FURTHER PROTECTING LINEMEN IN THE PROCESS OF INSTALLING OR REPAIRING LIVE WIRES.**

Be it enacted, etc., as follows:

Section 129C of chapter 149 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out the last paragraph and inserting in place thereof the following paragraph:—

For the purpose of this section, a structure shall be deemed to include any type of aerial lift device, including a so-called bucket truck. This section shall not apply to work done by any person who is commonly called a troubleman, while making emergency repairs, locating electrical faults, clearing defective apparatus, or answering service calls.

Approved December 19, 1985.

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**Chapter 598. AN ACT FURTHER REGULATING THE PAYMENT OF CERTAIN TAXES IN CERTAIN DISTRICTS.**

Be it enacted, etc., as follows:

**SECTION 1.** Chapter 59 of the General Laws is hereby amended by inserting after section 57 the following section:—

Section 57A. In any city or town which accepts the provisions of this section notwithstanding the provisions of section fifty-seven, if a bill for real estate or personal property taxes, in an amount not in excess of twenty-five dollars, remains unpaid after November first of the fiscal year in which it is payable, or after the thirtieth day after the date on which the bill for such tax was mailed, if mailed after October first, interest at the rate of fourteen per cent per annum computed from



**ACTS, 1985. – Chap. 599.**

October first, or from the date the bill for such tax was mailed, if mailed after October first, shall be paid on such unpaid tax.

**SECTION 2.** Section one hundred and six of chapter sixty of the General Laws is hereby repealed.

**SECTION 3.** The provisions of section one of this act shall be effective for fiscal years commencing on or after the date of acceptance by a city or town.

Approved December 19, 1985.

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**Chapter 599. AN ACT RELATIVE TO CERTAIN APPLICATIONS FOR ABSENT VOTING BALLOTS.**

Be it enacted, etc., as follows:

**SECTION 1.** Section 86 of chapter 54 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:— Any voter who during the hours that polling places are open on the day of a special state election or the biennial state election or of any special or regular state primary or of a presidential primary is absent from the city or town where he is a voter by reason of being a specially qualified voter as defined in section one hundred and three B of chapter fifty-four, or his employment in another community, attendance at any institution of higher education or for any other reason or who will be unable to by reason of physical disability to cast his vote in person at the polling place or who for reasons of religious belief will be unable to cast his vote in person on the day of an election and whose application for an official absent voting ballot has been filed with the city or town clerk as provided in section eighty-nine or eighty-nine A, and certified under section ninety-one, may vote in accordance with sections eighty-seven to one hundred and three, inclusive.

**SECTION 2.** Said chapter 54 is hereby further amended by inserting after section 89 the following section:—

Section 89A. Application for an official absent voting ballot may be made in writing by a parent of a registered voter absent from the city or town, as set forth in section eighty-six by reason of being a specially qualified voter as defined in section one hundred and three B of chapter fifty-four, or by reason of his attendance at any institution of higher learning to the clerk of the city or town where said voter is registered. The applicant shall state his name, address and relationship to the person on whose behalf application is made as well as the name, current mailing address and legal domicile within the commonwealth of the person to receive the ballot. The applicant shall swear in writing to the truth of all statements made therein. Applications shall be processed in accordance with the provisions of section eighty-nine.



**ACTS, 1985. – Chaps. 600, 601.**

**SECTION 3.** Section 91 of said chapter 54, as appearing in the 1984 Official Edition, is hereby amended by inserting after the word "voter", in line 5, the words:– or the parent of a duly registered voter as set forth in sections eighty-six and eighty-nine A.

**SECTION 4.** Section 94 of said chapter 54, as so appearing, is hereby amended by inserting after the word "section", in line 11, the words:– eighty-nine A or.

Approved December 19, 1985.

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**Chapter 600. AN ACT AUTHORIZING WHOLESALE LIQUOR DEALERS TO DELIVER ALCOHOLIC BEVERAGES ON SUNDAY AND LEGAL HOLIDAYS TO CERTAIN LICENSEES.**

Be it enacted, etc., as follows:

Section 18 of chapter 138 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by adding the following paragraph:–

Notwithstanding any other provisions of this chapter, a licensee may deliver alcoholic beverages on a Sunday or a legal holiday to the holder of a special license under the provisions of section fourteen for use in accordance with the terms of said special license.

Approved December 19, 1985.

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**Chapter 601. AN ACT AUTHORIZING THE DIVISION OF CAPITAL PLANNING AND OPERATIONS TO LEASE A CERTAIN PARCEL OF LAND TO THE TOWN OF HOLDEN.**

Be it enacted, etc., as follows:

The deputy commissioner of the division of capital planning and operations, subject to the provisions of sections forty E to forty J, inclusive, of chapter seven of the General Laws, is hereby authorized to lease, in a form of a lease approved by the attorney general, to the town of Holden, for a term of twenty years, with an option to extend for like terms thereafter, certain land used for open spaces, now under the control of the metropolitan district commission located in said town of Holden and adjacent to the Dawson Recreation Area, for recreational purposes, in accordance with such terms and conditions as the deputy commissioner, in consultation with the metropolitan district commission, may prescribe. Said land is as shown on a plan entitled, "Plan of Land of Town of Holden in Holden, MA, 1" = 60', Sept. 1964, Robinson & Fox, Reg. Engineers and Land Surveyors, 311 Main Street, Worcester, MA", said parcel being bounded and described as follows:



**ACTS, 1985. – Chap. 602.**

Beginning at a point on the easterly sideline of Salisbury Street, as shown on said plan, thence North 72° 41' 07" East by land now or formerly of Commonwealth of Massachusetts, Metropolitan District Water Supply Commission, one hundred eighty-four and 32/100 (184.32) feet to a point; Thence South 12° 19' 55" East, ninety and 00/100 (90.00) feet to an M.D.C. Stone bound as shown on said plan; Thence South 84° 25' 43" East, eighty-two and 88/100 (82.88) feet to a point on the sideline of an M.D.C. Trunk Sewer easement; thence on the same course to a point on the opposite sideline of said Sewer easement; thence on the same course for a distance of three hundred ninety-three and 69/100 (393.69) feet to an M.D.C. Stone bound; Thence South 15° 11' 54" East, four hundred thirty-nine and 45/100 (439.45) feet to a Stone bound; Thence South 64° 37' 56" West, four hundred twenty-seven and 68/100 (427.68) feet to a Stone bound; Thence North 22° 24' 23" West, five hundred fifty-one and 58/100 (551.58) feet to a Stone bound; Thence South 67° 36' 30" West, one hundred eighty-seven and 72/100 (187.72) feet to a Stone bound; Thence Northerly on a curve with a radius of 2370 feet, 20.06 feet to a Worcester County Highway monument; Thence North 15° 37' 15" West, two hundred forty-three and 41/100 (243.41) feet to the point of beginning.

Approved December 19, 1985.

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**Chapter 602. AN ACT AUTHORIZING THE DIVISION OF CAPITAL PLANNING AND OPERATIONS TO GRANT THREE PERMANENT EASEMENTS IN THE TOWN OF NATICK.**

Be it enacted, etc., as follows:

The division of capital planning and operations, acting for and on behalf of the commonwealth, is hereby authorized, in accordance with the provisions of sections forty E to forty J, inclusive, of chapter seven of the General Laws, in consultation with the metropolitan district commission and the Massachusetts Water Resource Authority, to grant three permanent easements, by deed approved as to form by the attorney general, to Lodge Trust, Michael J. Quinn and Robert H. Quinn, Trustees, for access and utility purposes, resulting in three driveways on Everett street, in the town of Natick.

Said easements shall be granted for such considerations and upon terms and as may be acceptable to the metropolitan district commission and the Massachusetts Water Resource Authority and subject to the requirement that the grantees, their successors and assigns, obtain a permit from said Authority prior to any building, construction, excavation or crossing of or in the vicinity of the Sudbury Aqueduct, pursuant to the provisions of paragraph (m) of section eight of chapter three hundred and seventy-two of the acts of nineteen hundred and eighty-four. Said easements are shown individually as "proposed Driveway and Utility Easements" on a plan entitled "Sudbury Aqueduct" drawn by McCarthy and Sullivan Engineering, Inc. dated November 6,



**ACTS, 1985. – Chaps. 603, 604.**

1984 on file with the metropolitan district commission, and the Massachusetts Water Resource Authority.

The sale of said easements shall be for fair market value to be determined by an independent appraiser.

Approved December 19, 1985.

EMERGENCY LETTER: January 23, 1986 @ 12:22 P.M.

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**Chapter 603. AN ACT AUTHORIZING THE TOWN OF ACTON TO TRANSFER CERTAIN LAND FROM RECREATIONAL USE TO TOWN HALL PARKING AND SEPTIC SYSTEM USE.**

Be it enacted, etc., as follows:

The town of Acton is hereby authorized to transfer all or a portion of the land known as Goward field in said town from recreational use to town hall parking and septic system use by said town. Said land is more particularly bounded and described as follows:—

Beginning at a point on the Easterly side of Woodbury Lane at land now or formerly of William H. Kingsley, said line runs in two courses in an Easterly direction by land of said Kingsley and land now or formerly of George S. Braman to a stone bound one hundred and fifty-six (156) feet and two hundred fifty-one and 56/100 (251.56) feet respectively, totalling four hundred seven and 56/100 (407.56) feet; thence South 15° 45' East by land of said Braman to a stone bound one hundred and sixty-five (165) feet; thence South 1° 53' West by land now or formerly of Moses E. Taylor to a point at land of the Memorial Library one hundred and thirty-two (132) feet; thence South 72° 45' West by land of said Memorial Library one hundred sixty-one and 5/10 (161.5) feet to a stone bound at land of the Town of Acton, Town Common, so-called; thence by land of said Town of Acton North 45° 44' West to a stone bound forty-six and 60/100 (46.60) feet; thence Northerly by land now or formerly of John Downey and other land of the grantor to a stone bound one hundred ninety-nine and 5/10 (199.5) feet; thence Westerly by land of said grantor, said course being parallel to the line by land now or formerly of said Kingsley above mentioned to a stone bound on the Easterly side of said Woodbury Lane one hundred fifty-one and 5/10 (151.5) feet; thence by said Woodbury Lane to the point of beginning one hundred and five (105) feet.

Said land contains one and 69/100 (1.69) acres, more or less according to the plan of land entitled "Land in Acton to be conveyed to the Town of Acton by the Acton Ag'l. Holding Co. Plan by Horace F. Tuttle Surveyor. Oct. 15 1944", recorded at the Middlesex registry of deeds, southern district at Book 6830, Page 13.

Approved December 19, 1985.

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**Chapter 604. AN ACT AUTHORIZING THE CITY OF CHICOPEE TO**



ACTS, 1985. – Chap. 605.

LEASE A CERTAIN PARCEL OF PARK LAND TO THE  
COUNTY COMMISSIONERS OF HAMPDEN COUNTY.

Be it enacted, etc., as follows:

The city of Chicopee is hereby authorized to lease a certain parcel of park land in the city of Chicopee to the county commissioners of Hampden county for the purpose of constructing and maintaining a regional dog pound. Said land is bounded and described as follows:–

BEGINNING at a point, said point being located on the easterly street line of Rockrimmon Road at the P.C. of a curve opposite Sta.11+25±; thence proceeding in a northerly direction along the easterly street line of Rockrimmon Road along a curve to the right, having a radius of 1324.56' for a length of ninety nine and ten one hundredths feet (99.10') to a point; thence proceeding in an easterly direction with a bearing of S 83°-29'-14" E, for a distance of three hundred ninety six and sixteen one hundredths feet (396.16') to a point; thence proceeding in a southerly direction with a bearing of S 08°-29'-14" E, for a distance of two hundred fifty feet (250.00') to a point; thence proceeding in a westerly direction with a bearing of N 83°-29'-14" W, for a distance of four hundred feet (400.00') to a point, said point being located on the easterly street line of Rockrimmon Road. Thence proceeding along said street line in a northerly direction with a bearing of 08°-29'-14" W, for a distance of one hundred fifty feet (150.00') to the point of beginning.

Said parcel contains an area of 96,468.148 square feet and subject to a twenty foot (20.00') drainage easement running the length of the property.

Approved December 19, 1985.

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Chapter 605. AN ACT FURTHER REGULATING THE  
COMPENSATION OF VICTIMS OF VIOLENT CRIMES.

Be it enacted, etc., as follows:

SECTION 1. Chapter 258A of the General Laws is hereby amended by striking out section 1, as appearing in the 1984 Official Edition, and inserting in place thereof the following section:–

Section 1. The following words as used in this chapter shall have the following meanings, unless the context requires otherwise:

"Crime", an act committed by an adult or a juvenile in the commonwealth which, if committed by a mentally competent, criminally responsible adult, who had no legal exemption or defense, would constitute a crime; provided that such act involves the application of force or violence or the threat of force or violence by the offender upon the victim; and provided, further, that no act involving the operation of a motor vehicle which results in injury to another shall constitute a crime for the purpose of this chapter unless such injury was intentionally inflicted through the use of a motor vehicle.



ACTS, 1985. – Chap. 605.

"Dependent", mother, father, spouse, spouse's mother, spouse's father, child, grandchild, adopted child, illegitimate child, brother, sister, niece or nephew, who is wholly or partially dependent for support upon and living with the victim at the time of his injury or death due to a crime alleged in a claim pursuant to this chapter.

"Family", the spouse, parent, grandparent, stepmother, stepfather, child, grandchild, brother, sister, half brother, half sister, adopted children of parent, or spouse's parents of the offender or of the victim, as applicable.

"Medical care", the medical, psychological, surgical, dental, optometric, chiropractor, podiatric, and hospital care provided to a victim, including: medicines, medical, dental and surgical supplies; crutches; artificial members; appliances; and training in the use of artificial members and appliances.

"Offender", a person who commits a crime.

"Out-of-pocket loss", unreimbursed or unreimbursable expenses for services eligible for compensation pursuant to this chapter.

"Victim", a person who suffers personal injury or death as a direct result of a crime.

**SECTION 2.** Section 2 of said chapter 258A, as so appearing, is hereby amended by adding the following paragraph:—

If the claimant did not reside in the commonwealth at the time the crime occurred or is not a resident of the commonwealth at the time the claim is filed, his claim shall be brought in the district court within the territorial jurisdiction in which the crime occurred. A claimant who is not a resident of the commonwealth at the time the claim is filed shall be eligible for compensation pursuant to this chapter only upon a showing, by written documentation provided to the attorney general or his representative by the district attorney for the county in which the crime occurred or his representative, that the claimant has cooperated with law enforcement efforts or the prosecution of the case or, in the alternative, that such claimant can demonstrate to the court that he possesses or possessed a reasonable excuse for failing to cooperate.

**SECTION 3.** Said chapter 258A is hereby further amended by striking out section 3, as so appearing, and inserting in place thereof the following section:—

Section 3. Except as hereinafter provided, the following persons shall be eligible for compensation for the following losses and services pursuant to this chapter:

(a) A victim of a crime shall be eligible for compensation for loss of earnings and for medical care or other necessary services, including his own reasonable mental health counseling, required because of the crime upon which the claim is based. In the case of rape victims, such services shall include emergency funds for housing but shall not include funds for abortion or funds for counseling for abortion.

(b) In the case of the death of the victim as a direct result of the crime, a dependent of the victim shall be eligible for compensation for loss of the victim's support, for medical care and mental health



**ACTS, 1985. – Chap. 605.**

counseling provided to the victim, and for other necessary services required because of said crime.

(c) In the case of the death of the victim as a direct result of the crime, any legal guardian, dependent or other family member of a victim who incurs funeral expenses directly related to the victim's death, shall be eligible for compensation for said funeral expenses up to the amount of two thousand dollars.

(d) In the case of the death of a victim as a direct result of a crime, a member of the victim's family, whether or not a dependent of the victim, shall be eligible for compensation for his own reasonable mental health counseling, necessitated by the claimant's psychological or emotional problems resulting from the victim's death.

(e) In the case of the death of a minor victim as a direct result of a crime, any person who incurs a legally enforceable indebtedness reasonably incurred for medical care to the victim or for necessary services required because of said crime shall be eligible for compensation for said care and services.

An offender or an accomplice of an offender shall not be eligible to receive compensation with respect to a crime committed by the offender. Except in the case of rape, a member of the family of the offender or a person maintaining sexual relations with the offender shall not be eligible to receive compensation for injuries sustained in an alleged crime committed by the offender unless:

(1) such compensation would be in the interests of justice;

(2) such compensation would not unjustly benefit the offender; and

(3) the claimant verifies, through written documentation provided to the attorney general or his representative by the district attorney for the county in which the alleged crime occurred or his representative, that the claimant has cooperated with law enforcement or the prosecution of the crime in which the claimant was injured or, in the alternative, the claimant demonstrates to the court that he possesses or possessed a reasonable excuse for failing to cooperate.

**SECTION 4.** Said chapter 258A is hereby further amended by striking out section 4, as so appearing, and inserting in place thereof the following section:–

Section 4. A claim for compensation may be filed by a person eligible for compensation or, if he is a minor or is incompetent, by his parent or guardian.

A claim shall be filed not later than one year after the occurrence of the crime upon which it is based; provided, however, that for good cause, the court may either before or after the expiration of said filing period extend the time for filing such claim; and provided, further, that in no event shall a late entry be allowed after the expiration of three years following the date of the occurrence of the crime.

Each claim shall be filed in the office of the clerk of the district court in person or by mail. Said clerk shall immediately notify the attorney general of the claim. Such notification shall be in writing, with copies of such material as is included in the claim or in support thereof. The attorney general shall investigate such claim, prior to the opening of



**ACTS, 1985. – Chap. 605.**

formal court proceedings. Said clerk of court shall notify the claimant and the attorney general of the date and time of any hearing on such claim.

The attorney general shall present any information he may have in support of or in opposition to the claim. The claimant may present evidence and testimony on his own behalf or may retain counsel. The court may, as part of any order entered under this chapter, determine and allow reasonable attorney's fees, which shall not exceed fifteen per cent of the amount awarded as compensation under this chapter, which fee shall be said out of, but not in addition to, the amount of compensation to the attorney representing the claimant. No attorney for the claimant shall ask for, contract for or receive any larger sum than the amount so allowed.

The court may, as part of any order entered under this chapter for compensation, direct that the warrant for payment by the treasurer be made jointly to the claimant and to any provider of medical or funeral services rendered, and if the claimant is represented by an attorney, the court may direct that the attorney also be named as a joint payee in order to facilitate the payment of medical or funeral bills incurred by the claimant as a result of the crime.

The person filing a claim shall, prior to any hearing thereon, submit reports, if available, from all hospitals, physicians, surgeons, or mental health professionals who treated or examined the victim for the injury for which compensation is sought. If, in the opinion of the court, an examination of the injured victim and a report thereon, or a report on the cause of death of the victim, would be of material aid, the court may appoint a duly qualified impartial physician or mental health professional to make such examination and report.

**SECTION 5.** Said chapter 258A is hereby further amended by striking out section 5, as so appearing, and inserting in place thereof the following section:–

Section 5. No compensation shall be paid unless the claimant has incurred an out-of-pocket loss of at least one hundred dollars or has lost two continuous weeks of earnings or support. The foregoing provision shall not apply to a claimant who was over sixty-five years of age on the date of the alleged crime or was the victim of rape.

No compensation shall be paid unless the court finds that a crime was committed, that such crime directly resulted in personal physical injury to, or the death of, the victim, and that police records show that such crime was promptly reported to the proper authorities. In no case may compensation be paid if the police records show that such report was made more than forty-eight hours after the occurrence of such crime, except in the case of rape, unless the court finds said report to the police to have been delayed for good cause.

Any compensation paid under this chapter shall be in an amount not exceeding out-of-pocket loss, together with loss of earnings or support resulting from such injury.

Any compensation for loss of earnings or support shall be in an amount equal to the actual loss sustained, provided, however, that no



ACTS, 1985. – Chap. 605.

compensation for funeral expenses under this chapter shall exceed two thousand dollars and no award under this chapter shall exceed a total of twenty-five thousand dollars, including any award for funeral expenses. If two or more persons are entitled to compensation as a result of a death of a victim which is the direct result of a crime, the compensation shall be apportioned by the court among the claimants in proportion to their loss, and the total of all awards based on said crime shall not exceed twenty-five thousand dollars.

When determining the loss of a victim's earnings or support, the following shall be considered:

(1) If the victim was employed at the time of the injury, loss of actual earnings shall be based upon the victim's net salary at the time of the injury.

(2) If the sole employment of the victim at the time of the injury or death, and for the preceding five years was limited to performing duties and responsibilities of a homemaker, the award shall be sufficient to ensure that the duties and responsibilities are continued until the victim is able to resume the performance of the duties, or until the cost of services reaches the maximum under this section, whichever is less.

**SECTION 6.** Said chapter 258A is hereby further amended by inserting after section 7 the following two sections:–

**Section 7A.** Any person who: (a) submit a fraudulent application or claim for an award; (b) intentionally make or cause to be made any false statement or representation of a material fact; or (c) intentionally conceal or fail to disclose information affecting the amount of or the initial or continued right to any such award when reasonably requested to provide such information by the office of the attorney general shall be punished by a fine of not more than five hundred dollars or by imprisonment in a house of correction for not more than six months, or both. Said person shall further forfeit any benefit received and shall reimburse the commonwealth for payments received or paid to or on behalf of said person.

The commonwealth shall have a cause of action for relief against any person who violates the provisions of this section for the amount of damages which the commonwealth sustains by reason of such violation and, in addition, for punitive damages of not more than double the amount of damages which the commonwealth sustains, together with interest, and the costs of the action. The attorney general may bring any such action and shall enforce this section.

**Section 7B.** Each hospital, whether public or private, shall display prominently in its emergency room, posters giving notice of the availability of compensation to victims of crime, their families, or their dependents pursuant to this chapter. Each law enforcement agency of the commonwealth or any political municipality thereof shall inform victims of crime, their families, or their dependents of their rights pursuant to this chapter.

Approved December 20, 1985.



**ACTS, 1985. – Chaps. 606, 607.**

**Chapter 606. AN ACT MAKING CERTAIN CORRECTIVE CHANGES TO PROVIDE ASSISTANCE TO STUDENTS FOR ADVANCING EDUCATIONAL GOALS.**

Be it enacted, etc., as follows:

**SECTION 1.** Section 2A of chapter 200 of the acts of 1985 is hereby amended by inserting after the line reading 6034-0016 the following line:- 7070-0070.

**SECTION 2.** Said chapter 200 is hereby further amended by inserting after section 2D the following section:-

Section 2E. The principal officers of any organization which receives all or part of the funds reappropriated in item 7070-0070 of section two A shall be required to file a financial disclosure report pursuant to chapter two hundred and sixty-eight B of the General Laws.

**SECTION 3.** This act shall take effect upon its passage.

Approved December 23, 1985.

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**Chapter 607. AN ACT REGULATING CONTRACTS BETWEEN HEALTH SPAS AND THEIR CUSTOMERS.**

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately regulate contracts between health spas and their customers, 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.** Chapter 93 of the General Laws is hereby amended by adding after section 77, added by chapter 279 of the acts of 1985, the following eleven sections:-

**Section 78.** For purposes of sections seventy-nine to eighty-eight, inclusive, the following words and terms shall have the following meanings:-

"Buyer", any person who enters into a contract for health club services with a health club.

"Contract for health club services", a contract which has the primary purpose of providing a person with the right to use the facilities of a health club or with instruction, training, or assistance by a health club in the preservation, maintenance, encouragement or development of physical fitness, conditioning or well-being, including physical culture, bodybuilding, exercising, weight control, figure development or the teaching of martial arts including judo, karate and self-defense, or any similar course of physical fitness training or assistance.

"Health club", each facility or location or group or chain of facilities or locations, in which any person, firm, corporation, partnership,



ACTS, 1985. – Chap. 607.

unincorporated association, franchise or other business enterprise offers facilities for or instruction, training or assistance in the preservation, maintenance, encouragement or development of physical fitness, conditioning or well being. Such term shall include, but not be limited to, health spas, sports, tennis, racquet ball, platform tennis and health clubs, figure salons, health studios, gymnasiums, weight control centers or studios, martial arts and self-defense schools, or any other similar course of physical training.

"Seller", any person, firm, corporation, partnership, unincorporated association, franchise, franchisor, or other business enterprise which operates a health club or which offers or enters into contracts for health club services.

Section 79. Prior to the execution of any contract for health club services and for a period of five years after initially commencing operation of a health club, every seller which sells contracts for health club services shall, for each individual health club location or facility, maintain a bond issued by a surety company admitted to do business in the commonwealth. The principal sum of the bond shall be twenty-five thousand dollars for each health club location or facility, and evidence of such bond shall be filed with the secretary of state within thirty days of its procurement. The bond shall be in favor of the commonwealth for the benefit of any buyer or class of buyers who suffers any loss or damage because a health club facility ceases operation, fails to open or fails to honor a buyer's right to cancel a contract for health club services pursuant to section eighty-two, and who obtains a judgment for said loss or damage which is not satisfied within thirty days of its entry. Said bond shall provide for the surety to pay the amount of such unsatisfied judgment either directly to said buyer or class of buyers or, if the attorney general obtains said judgment on behalf of said buyer or buyers and so directs, then to the attorney general for distribution to said buyers.

The liability of the surety on the bond shall be limited to indemnifying the claimant only for his actual damages. The aggregate liability of the surety to all persons for all breaches of the conditions of the bonds provided for herein shall in no event exceed the amount of the bond.

A change in ownership of a health club or location shall not release, cancel or terminate liability under any bond filed for such health club or location under this section as to any buyer who purchases a health club contract while such bond is in effect, unless the transferee, purchaser, successor or assign of such health club or location obtains a bond under this section for the benefit of such buyer. The fact that any health club is in bankruptcy proceedings, or that its debts have been discharged in bankruptcy, shall not be a bar or defense to a surety's obligation under any such bond.

Section 80. No contract for health club services shall be for a term measured by the life of the buyer. No contract for health club services shall be for a term longer than twenty-four months, except that upon expiration of the contract, the seller may offer to the buyer the right to renew his contract for a similar, shorter or longer period not to exceed twenty-four months.



ACTS, 1985. – Chap. 607.

No contract for health club services shall require payments or financing by the buyer over a period in excess of twenty-five months from the date on which the contract is executed. The installment payments shall be in substantially equal amounts exclusive of the down payment and shall be required to be made at substantially equal intervals, not more frequently than one payment per month.

No contract for health club services may contain any provisions whereby the buyer agrees not to assert against the seller or any assignee or transferee of the health club services contract any claim or defense arising out of the health club services contract or the buyer's activities at the health club. No contract for services may require the buyer to execute a promissory note or series of promissory notes which, when negotiated, cuts off as to third parties a defense which the buyer may have against the seller. No contract may be assigned by one health club to another health club without written consent of the buyer.

Section 81. Every contract for health club services shall provide clearly and conspicuously in writing that such contract may be cancelled within three business days after the date of receipt by the buyer of a copy of the written contract or written receipt indicating the buyer's payment for health club services. The contract for health club services shall contain the following written notice in at least ten point bold type:

**"CONSUMER'S RIGHT TO CANCELLATION. YOU MAY CANCEL THIS CONTRACT WITHOUT ANY PENALTY OR FURTHER OBLIGATION BY CAUSING A WRITTEN NOTICE OF YOUR CANCELLATION TO BE DELIVERED IN PERSON OR POSTMARKED BY CERTIFIED OR REGISTERED UNITED STATES MAIL WITHIN THREE (3) BUSINESS DAYS OF THE DATE OF THIS CONTRACT OR THE DATE OF YOUR RECEIPT TO THE ADDRESS SPECIFIED IN THIS CONTRACT."**

Notice of the buyer's right to cancel and the method of cancellation under this section shall also be posted clearly and conspicuously on the premises of the health club.

The notice of the buyer's cancellation of his contract shall be in writing and delivered in person or by certified or registered United States mail at the address specified in the contract. Such notice shall be accompanied by the contract forms, membership cards and any other documents or evidence of membership previously delivered to the buyer. All monies paid pursuant to such contract shall be refunded within fifteen business days of receipt of such notice of cancellation. If the buyer has executed any credit or loan agreement to pay for all or part of the health club services, any such negotiable instrument shall be void upon cancellation under this section and shall also be returned to the buyer within said fifteen days.

Section 82. Every contract for health club services shall provide clearly and conspicuously in writing that after the expiration of the three day period for cancellation as provided in section eighty-one, in the event of the buyer's death, the buyer's estate may cancel the contract for health club services. The contract shall also provide that the buyer may cancel if he becomes significantly physically or medically disabled for a period in excess of three months, or if the health club services or facilities are not available to the buyer because the seller



**ACTS, 1985. – Chap. 607.**

fails to open a planned health club or location, permanently discontinues operation of the health club or location, or substantially changes the operation of the health club or location. The contract shall also provide that the buyer may also cancel if he moves his residence to a location more than twenty-five miles from a health club operated by the seller or a substantially similar health club which will accept the seller's obligation under the contract. Nothing contained herein shall restrict or prohibit the seller from offering or providing in such contract additional or broader reasons for cancellation.

The seller may require reasonable evidence of the reason for cancellation by the buyer pursuant to this section. The contract for health club services shall contain the following notice captioned in at least ten point bold type:

**"ADDITIONAL RIGHTS TO CANCELLATION**

You or your estate may also cancel this contract for any of the following reasons:

if upon a doctor's order, you cannot physically or medically receive the services because of significant physical or medical disability for a period in excess of three months;

in case of your death;

If the health club services to be provided under this contract are not available because the seller fails to open a planned health club or location, permanently discontinues operation of a health club or location, or substantially changes the operation of a health club or location.

If you move your residence more than twenty-five miles from any health club operated by the seller or a substantially similar health club which will accept the seller's obligation under the contract."

All monies paid by the buyer pursuant to a contract for health club services which has been cancelled for one of the reasons contained in this section shall be refunded to the buyer or his estate within fifteen days of the seller's receipt of such notice of cancellation; provided, however, that the seller may retain the portion of the total contract price representing the amount of time that the services or facilities were used by the buyer prior to cancellation; and provided, further, that the seller may demand the reasonable cost of goods and services which the buyer has consumed or wishes to retain after cancellation of the contract. In no instance shall the seller demand more than the full contract price from the buyer. If the buyer has executed any credit or loan agreement to pay for all or part of the price of the contract for health club services, any such negotiable instrument executed by the buyer shall also be returned and terminated within fifteen days. The buyer shall no longer be liable for any obligation under such credit or loan agreement.

Section 83. No assignee or creditor who takes a note or other obligation as consideration for a contract for health club services shall fail to honor the consumer's right of cancellation as provided in section eighty-one or eighty-two. No assignee of a contract shall fail to give notice of the assignment to the consumer. A notice of assignment shall be in writing addressed to the consumer at the address shown on the contract and shall identify the contract.



ACTS, 1985. – Chap. 607.

Section 84. It is hereby declared to be an unfair and deceptive trade practice in violation of chapter ninety-three A for a seller, or his agents, employees or other representatives to:

- (1) misrepresent directly or indirectly, including in its advertising, promotional materials, or in any other manner, the size, location, available facilities, or equipment of its health club or health clubs, or the location or locations at which its services, facilities or equipment will be offered;
- (2) misrepresent directly or indirectly, including in its advertising, promotional materials, or in any other manner, the nature of its courses, membership programs, training devices or methods, services, pricing structure, price discounts, sales or offers;
- (3) misrepresent, directly or indirectly, including in its advertising, promotional material, or in any other manner, the number, qualifications, title, status, training or experience of its personnel, agents, employees or other representatives, whether by means of endorsements or otherwise;
- (4) use or refer, directly or indirectly, including in its advertising, promotional material, or in any other manner, to fictional organizational divisions or personnel position titles, or make any representation which has the tendency or capacity to mislead or deceive consumers as to the size or importance of the health club, its franchisor, parent, subsidiary or affiliated business, its divisions, or its personnel, or in any other material respect;
- (5) fail to clearly and conspicuously post on its health club premises all of its courses and membership prices, discounts, sales or offers;
- (6) misrepresent, directly or indirectly, including in its advertising, promotional material, or in any other manner, the nature, extent or availability of any services, guidance, instruction, counseling, assistance, or other attention which the health club will provide to buyers;
- (7) misrepresent, directly or indirectly, including in its advertising, promotional material, or in any other manner, or fail to disclose the buyer's rights to cancel under sections eighty-one to eighty-three, inclusive; or
- (8) violate or fail to comply with any other provision of sections seventy-eight to eighty-eight, inclusive.

This section shall not be construed to prevent other acts or practices of a seller from being declared to be in violation of said chapter ninety-three A.

Section 85. Any contract for health club services which does not comply with the applicable provisions of this chapter shall be void and unenforceable as contrary to public policy. Any waiver by the buyer of the provisions of this chapter shall be deemed void and unenforceable by the seller as contrary to public policy.

Section 86. Any buyer who has suffered any injury as a result of a violation of sections seventy-eight to eighty-eight, inclusive, or the attorney general, may bring an action for recovery of damages or other relief, including injunctive relief, multiple damages and attorney's fees, as and to the extent provided for under chapter ninety-three A. Nothing in sections seventy-eight to eighty-eight, inclusive, shall be construed so



**ACTS, 1985. – Chap. 608.**

as to nullify or impair any right or rights which a buyer may have against a seller at common law, by statute, or otherwise. The provisions of said sections seventy-eight to eighty-eight, inclusive, are not exclusive and do not relieve the seller or his assignees or the contracts subject to said sections from compliance with all other applicable provisions of law.

Section 87. Any seller or his assignees who violates any provision of sections seventy-eight to eighty-eight, inclusive, or who shall counsel, aid or abet such violation shall be liable for a civil penalty of not more than twenty-five hundred dollars for each such violation. The attorney general may file a civil action in the superior or district court in the name of the commonwealth to recover such penalties.

Section 88. In addition to other remedies provided herein, the attorney general may bring an action on behalf of the commonwealth to enforce the bonding provisions of section seventy-nine.

**SECTION 2.** The provisions of section seventy-nine shall not apply to any health club or location which is being operated as of the effective date of this act and has been operated continuously at the same location since its operation commenced.

The provisions of section seventy-nine shall apply to any health club or location the ownership of which changes in any way on or after the effective date of this act.

**SECTION 3.** This act shall take effect on January first, nineteen hundred and eighty-six.

Approved December 23, 1985.

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**Chapter 608. AN ACT PROVIDING FOR THE ESTABLISHMENT AND ADMINISTRATION OF RENT REGULATIONS AND THE CONTROL OF EVICTIONS IN THE MOBILE HOME PARK ACCOMMODATIONS IN THE TOWN OF ORANGE.**

Be it enacted, etc., as follows:

**SECTION 1.** The general court finds and declares that a serious public emergency exists with respect to the housing of a substantial number of citizens in the town of Orange, which emergency has been created by excessive, abnormally high and unwarranted rental increases imposed by some owners of mobile home parks located therein; that unless mobile home park rents and evictions of tenants are regulated and controlled, such emergency will produce serious threats to the public safety, health and general welfare of the citizens of said town, particularly the elderly; that such emergency should be met by the commonwealth immediately and with due regard for the rights and responsibilities of the town of Orange.

**SECTION 2.** The town of Orange may, by the adoption of by-laws, regulate rents for the use or occupancy of mobile home park



**ACTS, 1985. – Chap. 608.**

accommodations in said town, establish a rent board for the purpose of regulating rents, minimum standards for the use or occupancy of mobile home park accommodations and the evictions of tenants therefrom and may, by its by-laws, require registration by owners of the mobile home park accommodations. Such rents, standards and evictions may be regulated by the rent board so as to remove hardships, or correct inequities for both the owner and the tenants of such mobile home park accommodations. Said rent board shall have all powers necessary or convenient to perform its functions, may make rules and regulations, require registration by owners of mobile home park accommodations, information, under penalty of perjury, relating to the mobile home park accommodations, sue and be sued, compel the attendance of persons and the production of papers and information, issue appropriate orders which shall be binding on both the owner and tenants of such mobile home park accommodations. Violations of any by-laws adopted pursuant to this act or any order of said rent board shall be punishable by a fine of not more than one thousand dollars for any one offense.

**SECTION 3.** In regulating such rents, the mobile home rent board established under section two, may make such individual or general adjustments, either upward or downward, as may be necessary to assure that rents for mobile home park accommodations in the town are established at levels which yield to owners a fair net operating income for such units. Fair net operating income shall be that income which will yield a return, after all reasonable operating expenses, on the fair market value of the property equal to the debt service rate generally available from institutional first mortgage lenders or such other rates of return as the board, on the basis of evidence presented before it, deems more appropriate to the circumstances of the case. The fair market value of the property shall be the assessed valuation of the property or such other valuation as the board, on the basis of evidence presented before it, deems more appropriate to the circumstances of the case.

The town in its by-law, or the mobile home rent board by regulation, may establish further standards and rules consistent with this act.

**SECTION 4.** The provisions of chapter thirty A of the General Laws shall be applicable to the rent board established under the provisions of section two, as if said rent board were an agency of the commonwealth, including those provisions giving agencies the powers to issue, vacate, modify and enforce subpoenas and those provisions relating to judicial review of an agency order.

**SECTION 5.** The eastern Franklin division of the district court department shall have original jurisdiction, concurrently with the superior court, of all petitions for review brought pursuant to section fourteen of chapter thirty of the General Laws.

The superior court department shall have jurisdiction to enforce the provisions of this act and any by-laws adopted thereunder and may restrain violations thereof.



**ACTS, 1985. – Chap. 609.**

**SECTION 6.** The town of Orange may by its by-laws regulate the evictions of tenants and the rent board, established under the provisions of section two, shall issue orders which may be a defense to an action of summary process for possession and such orders shall be reviewable pursuant to section two and three.

**SECTION 7.** This act shall take effect upon its passage.

Approved December 23, 1985.

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**Chapter 609. AN ACT PROVIDING THAT STUDENT GOVERNMENT ASSOCIATIONS AT STATE COLLEGES AND UNIVERSITIES SHALL BE THE OFFICIAL REPRESENTATIVE OF THE STUDENT BODY.**

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately provide that student government associations at state colleges and universities shall be official representatives of the student body, 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.** Chapter 15A of the General Laws is hereby amended by striking out section 2, as appearing in the 1984 Official Edition, and inserting in place thereof the following section:-

**Section 2.** The board of regents of higher education, hereinafter referred to as the board of regents, shall consist of sixteen members appointed by the governor, at least one of whom shall be a representative of organized labor, and one of whom shall be a member which the governor shall choose from among no more than three full-time undergraduate students who shall be nominated, and who are currently enrolled in a public institution set forth in section three. Nominated students shall have maintained a satisfactory academic progress as determined by the policy of the institution at which such student is enrolled. Nominations shall be submitted by student members of the board of trustees for each such institution who, for the purpose of this section, shall be referred to as the student advisory committee. Such nominations may include, but not be limited to, students elected as trustees in accordance with the provisions of section nine. There shall be an office of the board of regents, consisting of a chancellor and employees appointed by said board.

Members of the board of regents shall be appointed to serve five year terms, except that the undergraduate student members shall be appointed annually to serve a term of one year's duration commencing initially upon the appointment by the governor and expiring on April thirtieth and every year thereafter commencing on May first and expiring on April thirtieth, for as long as he remains a full-time



ACTS, 1985. – Chap. 609.

undergraduate; provided, however, that within three consecutive years said student appointee shall in the first year be a student attending a community college, and in the second year be a student attending a state college, and in the third year be a student attending a state university. This cycle shall repeat. For the purpose of this section the Massachusetts College of Art and the Massachusetts Maritime Academy shall be deemed to be a state college. Each of the student government associations at each of said public institutions may submit to the student advisory committee an individual nominated to be the undergraduate student member of the board of regents. All guidelines for procedures and deadlines for the selection process of the undergraduate board members shall be established by the said student advisory committee, except as herein provided. No member shall be appointed for more than two consecutive terms, except that any student member may serve for one term only. Upon expiration of the term of office of a member, a successor shall be appointed in like manner. A vacancy shall be filled by the governor for the remainder of the term. The chairperson of the board of regents shall forthwith notify the governor of any such vacancy.

The board of regents shall, unless otherwise enumerated, be the successor of the secretary of the executive office of educational affairs, the board of higher education, the board of trustees of state colleges and the board of trustees of regional community colleges, the board of trustees of the University of Lowell, the board of trustees of the University of Massachusetts, the board of trustees of Southeastern Massachusetts University, and shall have all the duties and exercise the powers previously vested in said secretary and board, unless otherwise enumerated.

The members of the board of regents shall serve without compensation but shall be reimbursed for all expenses reasonably incurred in the performance of their duties.

No member of said board of regents shall be principally employed by any public educational institution or by the commonwealth. A member of the board of regents shall cease to be a member if such member ceases to be qualified for appointment or if he is absent from five regularly scheduled meetings during any calendar year.

The board of regents shall meet each month except that the chairperson, with the board of regents approval, may omit meetings in the months of July and August, and the chairperson may call additional meetings at other times.

Eight members of the board of regents shall constitute a quorum, and the affirmative vote of eight members shall be necessary for any action to be taken by the board.

The chairperson shall be appointed by the governor from among the members.

**SECTION 2.** Section 5 of said chapter 15A of the General Laws, as so appearing, is hereby amended by striking out, in line 153, the second time it appears, the word "and", – and by inserting after the word "professor", in line 167, the following clause:– (aa) recognize the duly elected student government association at each public university, college



ACTS, 1985. – Chap. 610.

or community college as the official representative of the student body.

Approved December 23, 1985.

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**Chapter 610. AN ACT PROVIDING FOR THE ESTABLISHMENT AND ADMINISTRATION OF RENT REGULATIONS AND THE CONTROL OF EVICTIONS IN MOBILE HOME PARK ACCOMMODATIONS IN THE CITY OF SPRINGFIELD.**

Be it enacted, etc., as follows:

**SECTION 1.** The general court finds and declares that a serious public emergency exists in the city of Springfield with respect to the housing of substantial number of citizens of said city, which relates to unwarranted rental increases imposed by some owners of mobile parks located therein; that unless mobile home park rents and eviction of tenants are regulated and controlled, such emergency will produce serious threats to the public health, safety and general welfare of the citizens of Springfield, particularly the elderly; that such emergency should be met by the commonwealth immediately and with due regard for the rights and responsibilities of the city of Springfield.

**SECTION 2.** The city of Springfield, may, by adoption of ordinances, regulate rents for the use or occupancy of mobile home park accommodations in said city, establish a mobile home rent board for the purpose of regulating rents, minimum standards for use or occupancy of mobile home park accommodations and eviction of tenants therefrom and may, by its ordinances, require registration by owners of mobile home park accommodations, information, under penalty of perjury, relating to the mobile home park accommodations. Such rents, standards and evictions may be regulated by the rent board so as to remove hardships or correct inequities for both the owner and the tenants of such mobile home park accommodations. The rent board shall consist of five residents of the city appointed by the mayor and confirmed by the city council after review by its planning and economic development committee. The first five appointments to this board shall be staggered in length of service, the first appointee to serve one year, the second appointee to serve two years, the third appointee to serve three years, the fourth appointee to serve four years and the fifth appointee to serve five years. All subsequent appointments shall be for five year periods. Said rent board shall have all powers necessary or convenient to perform its functions may make rules and regulations, require registration by owners of mobile home park accommodations, require information, under penalty of perjury, relating to the mobile home park accommodations, sue and be sued, compel the attendance of persons and the production of papers and information, and issue appropriate orders which shall be binding on both the owner and tenants of such mobile home park accommodation. Violations of any ordinance adopted pursuant to this act or any order of the mobile home rent board shall be punishable by a fine



**ACTS, 1985. – Chap. 611.**

of not more than one thousand dollars for any one offense.

**SECTION 3.** In regulating such rents, the mobile home rent board established under section two may make such individual or general adjustments, either upward or downward, as may be necessary to assure that rents for mobile home park accommodations in the city are established at levels which yield to owners a fair net operating income for such units. Fair net operating income shall be that income which will yield a return, after all reasonable operating expenses, on the fair market value of the property equal to the debt service rate generally available from institutional first mortgage lenders or such other rates of return as the board on the basis of evidence presented before it, deems more appropriate to the circumstances of the case.

Said city in its ordinance or the rent board by regulation may establish further standards and rules consistent with this act.

**SECTION 4.** The provisions of chapter thirty A of the General Laws shall be applicable to the rent board, established under the provisions of section two, as if said rent board were an agency of the commonwealth, including those provisions giving agencies the power to issue, vacate, modify and enforce subpoenas, and those provisions relating to judicial review of an agency order.

**SECTION 5.** The Springfield division of the district court department, shall have original jurisdiction, concurrently with housing court department and the superior court department, of all petitions for review brought pursuant to section fourteen of chapter thirty A of the General Laws.

The superior court department and the housing court department shall have jurisdiction to enforce the provisions of this act, and any by-laws adopted thereunder, and may restrain violations thereof.

**SECTION 6.** The city of Springfield may by its ordinances, regulate the evictions of tenants, and the rent board, established under the provisions of section two, may issue orders which shall be a defense to an action of summary process for possession and such orders shall be reviewable pursuant to sections two and three.

**SECTION 7.** The personnel of the mobile home rent board established under section two shall not be subject to the provisions of section nine A of chapter thirty or chapter thirty-one of the General Laws.

**SECTION 8.** This act shall take effect upon its passage.

Approved December 23, 1985.

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**Chapter 611. AN ACT PROVIDING THAT CAPTAIN THOMAS NASTASIA MAY CONTINUE EMPLOYMENT WITH THE POLICE DEPARTMENT OF THE CITY OF LAWRENCE.**



**ACTS, 1985. – Chap. 612.**

Be it enacted, etc., as follows:

**SECTION 1.** Notwithstanding the provisions of any general or special law to the contrary, Thomas Nastasia, a captain in the police department of the city of Lawrence, is hereby authorized to continue in such office or position until he reaches age seventy; provided, however, that he is mentally and physically capable of performing the duties of his office or position; and provided, further, that he shall hold said office or position subject to the approval of the appointing authority, and may be removed therefrom in accordance with the provisions of chapter thirty-one of the General Laws. The appointing authority may, at its own expense, require said Thomas Nastasia to be examined by an impartial physician designated by the retirement board of the city of Lawrence to determine his capability for continued service. Deductions shall continue to be made from the regular compensation of said Thomas Nastasia under the provisions of chapter thirty-two of the General Laws for any service performed between age sixty-five and seventy, and upon retirement said Thomas Nastasia shall receive a superannuation allowance, or a veteran's pension allowance, as applicable, equal to that appropriate for his full years of creditable service, including any such actual service between age sixty-five and seventy. Should said Thomas Nastasia be determined to be not capable of continuing in service pursuant to an examination by an impartial physician as provided for in this act, he shall be retired for superannuation, and shall not be presumed by virtue of such determination to be disabled for the purposes of said chapter thirty-two.

**SECTION 2.** This act shall take effect upon its passage.

Approved December 23, 1985.

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**Chapter 612. AN ACT RELATIVE TO THE NOMINATION OF  
CANDIDATES FOR TOWN MEETING MEMBERS IN THE  
TOWN OF MILFORD.**

Be it enacted, etc., as follows:

**SECTION 1.** Chapter 271 of the acts of 1983 is hereby amended by striking out section 4, as most recently amended by section 1 of chapter 403 of the acts of 1985, and inserting in place thereof the following section:-

**Section 4.** Notwithstanding the provisions of the fourth paragraph of section ten of chapter fifty-three of the General Laws or any other general or special law to the contrary, nominations of all candidates for town meeting members, including incumbents, to be elected under the provisions of this act shall be made by nomination papers, which shall bear no political designation, shall be signed by not less than thirty voters of the precinct in which the candidate resides, and shall be filed with the town clerk at least twenty-eight days before any such election. No nomination papers shall be valid in respect to any candidate whose



**ACTS, 1985. – Chap. 613.**

written acceptance is not thereon or attached thereto when filed.

**SECTION 2.** This act shall take effect upon its passage.

Approved December 23, 1985.

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**Chapter 613. AN ACT RELATIVE TO THE RIGHT TO FARM.**

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to facilitate the right to farm certain lands, 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.** The General Laws are hereby amended by inserting after chapter 40K the following chapter:–

**CHAPTER 40L.**

**AGRICULTURAL INCENTIVE AREAS.**

Section 1. Definitions.– as used in this chapter the following words shall, unless the context clearly indicates otherwise, have the following meaning:–

"Agricultural land", land suitable for agricultural or horticultural use, including land rated by the United States Department of Agriculture Soil Conservation Service as Class I through Class IV, uniques, or of statewide or local area importance.

"Agricultural lands preservation committee", committee established under the provisions of section eleven B of chapter one hundred and thirty-two A.

"Commissioner", commissioner of the department of food and agriculture.

"Committee", municipal agricultural incentive areas committee established pursuant to section two.

"Department", the department of food and agriculture.

"Land in agricultural or horticultural use", land which meets the requirements for such land for classification under chapter sixty-one A, whether or not such land is so classified.

Section 2. The board of selectmen in a town or the mayor of a city with approval of the city council may establish an agricultural incentive area committee for the purpose of investigating, delineating, and establishing an agricultural incentive area in the municipality, hereinafter called area.

Said committee shall consist of seven members appointed by the board of selectmen or by the mayor with the approval of the city council. Said members shall include one member of the board of selectmen or city council, one member of the planning board, one member of the conservation commission, three residents of the municipality whose principal occupation is agriculture or horticulture and one person from the public at large.



## ACTS, 1985. – Chap. 613.

Each member shall serve for a term of three years, except that in the initial appointments two members shall serve for a term of one year, three members shall serve for a term of two years and two members shall serve for a term of three years.

Any member of said committee so appointed may, after a public hearing if requested, be removed for cause and a new member appointed by the appointing authority.

All members of the committee shall serve without compensation.

The committee shall elect annually a chairman and vice-chairman from its own members and a secretary who need not be a member of the committee. The committee shall hold an annual meeting in March and from time to time at the call of the chairman or upon the request of any two members. Four members of the committee shall constitute a quorum. The committee may, by a vote of a majority of its members then in office, adopt rules and regulations for the conduct of its business. Rules and regulations adopted may be amended or repealed by a two-thirds vote of its members.

Section 3. The committee shall locate and map all land in agricultural or horticultural use within the town or city showing such soil classification information as is available from the United States Department of Agriculture Soil Conservation Service. Such map or maps shall indicate property boundaries, the owner of the land, and the present zoning classification of said land. Conservation districts as established pursuant to the provisions of chapter twenty-one, regional planning districts as established pursuant to the provisions of chapter forty B, and the department of food and agriculture shall make available to the committee such maps, data, and other available information as is pertinent to the work of the committee.

The committee shall make available in one or more public places, the aforementioned maps, and provide printed information to all affected landowners. Said committee shall hold one or more public informational meetings in order to explain the purposes and requirements of such agricultural incentive areas. Notice of said meetings shall be given by registered mail to all affected or abutting landowners and by publication.

Section 4. Upon completion of the requirements of section three, the committee shall formulate its recommendations for the formation of an agricultural incentive area within the town or city. Such areas shall be composed principally of agricultural land, land in agricultural or horticultural use, and certain lands contiguous thereto. The committee shall submit said recommendations to local conservation commissions, planning boards, selectmen, or mayor or city manager, and city council, the area conservation district and the regional planning district for their review, and comment within thirty days from receipt thereof. Within the next sixty days following the above mentioned review period, the committee may make such revisions as are in their opinion indicated by said comments and shall hold a public hearing within the municipality. Following the public hearing, the committee may adopt as a plan the proposal or any revisions thereto it deems appropriate; provided, however, that no land may be included in an agricultural incentive area plan pursuant to this section unless the owner of the land has approve in



ACTS, 1985. – Chap. 613.

writing the inclusion of his land in the area. The committee shall act to adopt or reject the proposed agricultural incentive area no later than thirty days from the time of the public hearing. The adoption of an agricultural incentive area plan shall be by a two-thirds vote of the committee. The committee shall submit the area plan to the commissioner of food and agriculture for certification by the agricultural lands preservation committee.

The agricultural lands preservation committee shall have sixty days after receipt of the area plan within which to certify to the committee whether the proposed plan is eligible, whether the area to be included consists primarily of suitable agricultural land, and whether the plan of the proposed area appears feasible. If the agricultural lands preservation committee disapproves the area plan, it shall state its reasons for such disapproval in writing together with such suggestions as it deems appropriate. If the agricultural lands preservation committee fails to certify the area plan, the agricultural incentive area committee may resubmit such plan only after the committee has held another public hearing at which hearing any modifications proposed by the agricultural lands preservation committee shall be considered.

Upon certification of an area plan by the agricultural lands preservation committee, the agricultural incentive area committee shall submit the plan to the selectmen or mayor. Approval of the area plan shall require a two-thirds vote of the city council in a city or town meeting in a town. If approved, the area shall be in effect sixty days from the date of approval.

If the area plan is approved by the city or town, the committee shall file a description of the area and a map thereof with the chairman of the planning board, the clerk of the municipality, and the commissioner. The selectmen, mayor or city manager shall file such plan in the public restriction tract index established pursuant to the provisions of section thirty-three of chapter one hundred and eighty-four, of the appropriate registry of deeds.

Section 5. Land within an agricultural incentive area shall not be sold for or converted to residential, industrial or commercial use or removed from the area unless the city or town in which such land is located and the department of food and agriculture on behalf of the state has been notified of the intent to sell or convert to such other use or remove said land from the area; provided, however, that the discontinuance of the use of such land for agricultural or horticultural purposes shall not be deemed a conversion to another use. Specific use of land for a residence for the owner or a parent, grandparent, child, grandchild, or brother or sister of the owner, or the surviving husband or wife of any deceased such relative, or for living quarters for any person actively employed full time in the agricultural or horticultural use of such land, shall not be deemed a conversion to another use for the purposes of this section, and a certificate of the board of assessors, recorded at the appropriate registry of deeds or land registration office, shall conclusively establish that a particular use is such use. Such notice of intent shall be sent by the landowner by registered mail, return receipt requested, to the mayor and city council of a city, or to the board of selectmen of a town, to its



ACTS, 1985. – Chap. 613.

planning board and conservation commission, and to the commissioner of the department of food and agriculture. For a period of sixty days subsequent to the mailing of such notice, the city or town, or the commonwealth shall have, in the case of intended sale, a first refusal option to meet a bona fide offer to purchase said land or, in the case of intended conversion to residential, commercial or industrial use not involving sale and not specifically exempted herein, an option to purchase said land at full and fair market value to be determined by impartial appraisal in accordance with recognized professional standards. No sale or conversion to another use of such land shall occur until either said option period shall have expired or the landowner shall have been notified in writing by the mayor or board of selectmen of the city or town in question, and by the commissioner that said option will not be exercised. Such option shall be exercised by written notice signed by the mayor or board of selectmen or by the commissioner mailed within the option period to the landowner by registered mail at such address as may be specified in his notice of intent and recorded with the appropriate registry of deeds or land registration office. Such option may only be exercised by the municipality or the department upon a showing that there are sufficient funds available to exercise said option.

The notice of intent, notice of exercise of the option and notice of nonexercise of the option, shall contain the name of the record owner of the land and a description of the premises so to be sold or converted adequate for identification thereof.

The option to purchase may be exercised by the commissioner, or municipality acting jointly or individually in one or more of the following ways; provided, however, that a determination has been made in writing that such purchase will likely result in the land remaining actively devoted to agricultural, horticultural, or agricultural and horticultural use as defined in sections one to five, inclusive, of chapter sixty-one A:

(a) purchase of all or part of the property in fee; provided, however, that there is a purchaser for the remaining property.

(b) purchase of an agricultural preservation restriction on all or part of the property pursuant to the provisions of section eleven A to eleven D, inclusive, of chapter one hundred and thirty-two A; provided however, that there is a purchaser for the remaining property and the residual agricultural interest in the property under the above restriction.

(c) purchase of all or part of the property by a private land trust or other charitable corporation which has received authorization from the commissioner to exercise such option on behalf of the department of food and agriculture for the purpose of acquiring an agricultural preservation restriction on the agricultural land provided, however that such trust or charitable corporation has been established at least twelve months prior to such notice of intent.

If the municipality or the commissioner does not exercise said option to purchase, said land shall be removed from the area.

The provisions of this section shall not be applicable with respect to a mortgage foreclosure sale, except that the holder of a mortgage shall, at least thirty days before a foreclosure sale, send written notice, by registered mail, of the time and place of such sale, to the parties and in



**ACTS, 1985. – Chap. 613.**

the manner provided for in this section for notice of intent to sell or convert.

Notwithstanding the aforesaid provisions, a landowner may notify the committee by registered mail, return receipt requested, of his intent to withdraw from an agricultural incentive area. Said withdrawal shall be effective two years from the date of said notification.

Section 6. Land in an agricultural incentive area, determined by the local assessor to be actively devoted to agricultural, horticultural, or agricultural and horticultural use as defined in sections one to five, inclusive, of chapter sixty-one A, shall be assessed for general property tax purposes at values no greater than those determined by the methods and provisions of section ten of said chapter sixty-one A.

Section 7. Land in an agricultural incentive area, determined by the local assessor to be actively devoted to agricultural, horticultural, or agricultural and horticultural use as defined in sections one to five, inclusive, of chapter sixty-one A and which is subject to special assessments or betterment assessments shall be so assessed as provided under section eighteen of said chapter sixty-one A.

Section 8. Land in an agricultural incentive area shall receive priority for a determination of eligibility for the purchase of agricultural preservation restrictions by the commonwealth pursuant to the program established by section eleven A to eleven D, inclusive, of chapter one hundred and thirty-two A.

Section 9. The commissioner of the department of food and agriculture is hereby empowered to promulgate such rules and regulations and to prescribe such forms as he shall deem necessary to effectuate the purposes of this chapter.

Section 10. The provisions of this chapter shall apply in a city after acceptance by a majority vote of the city council with the approval of the mayor, in the case of a city with a Plan A, Plan B or Plan F charter; by a majority vote of the city council, in the case of a city with a Plan C, Plan D or Plan E charter; by a majority vote of the annual town meeting or a special town meeting called for the purpose, in the case of a municipality with a town meeting form of government; or by a majority vote of the town council, in the case of a municipality with a town council form of government.

**SECTION 2.** Section 125A of chapter 111 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:—

If, in the opinion of the board of health, a farm or the operation thereof constitutes a nuisance, any action taken by said board to abate or cause to be abated said nuisance under sections one hundred and twenty-two, one hundred and twenty-three and one hundred and twenty-five shall, notwithstanding any provisions thereof to the contrary, be subject to the provisions of this section; provided, however, that the odor from the normal maintenance of livestock or the spreading of manure upon agricultural and horticultural or farming lands, or noise from livestock or farm equipment used in normal, generally acceptable



ACTS, 1985. – Chap. 614.

farming procedures or from plowing or cultivation operations upon agricultural and horticultural or farming lands shall not be deemed to constitute a nuisance.

**SECTION 2A.** Section 143 of chapter 111 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by adding the following paragraph:–

Notwithstanding any provision in section one hundred and twenty-five A of this chapter, this section shall apply to the operations of piggeries.

**SECTION 3.** The first paragraph of section 143 of said chapter 111, as so appearing, is hereby amended by striking out, in lines 6 to 8, inclusive, the words ", however, to the provisions of any ordinance or by-law adopted therein under sections twenty-five to thirty A, inclusive, of chapter forty, or corresponding provisions of earlier laws," and inserting in place thereof the words:– to the provisions of chapter forty A.

Approved December 23, 1985.

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**Chapter 614. AN ACT PROVIDING FINANCIAL ASSISTANCE TO CITIES, TOWNS, AND REGIONAL SCHOOL DISTRICTS FOR THE REMOVAL, CONTAINMENT OR ENCAPSULATION OF ASBESTOS IN PUBLIC SCHOOLS.**

Be it enacted, etc., as follows:

**SECTION 1.** The board of education is hereby authorized to expend a sum not to exceed twenty-five million dollars for a program to provide grants to reimburse cities, towns, counties and regional school districts for the removal, containment, or encapsulation of asbestos found in public school buildings; provided, that said city, town, county or regional school district has submitted for approval an application and cost estimate to the state board of education; and provided, further, that said removal, containment, or encapsulation has been conducted in accordance with procedures set forth by the special legislative commission on asbestos, established by chapter fifty-eight of the resolves of nineteen hundred and seventy-five and by the division of occupational hygiene; and provided, further, that said reimbursements are in accordance with the estimates approved by the said board and are for work contracted prior to June thirtieth, nineteen hundred and eighty-nine.

**SECTION 2.** The state treasurer may borrow from time to time on the credit of the commonwealth such sums of money as may be necessary for the purpose of meeting the payments authorized by section one of this act and may issue and renew from time to time notes of the commonwealth therefor, bearing interest payable at such time and at such rates as shall be fixed by the state treasurer. Such notes shall be issued and may be renewed one or more times for such terms, not



## **ACTS, 1985. – Chap. 614.**

exceeding one year, as the governor may recommend to the general court in accordance with Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth, but the final maturities of such notes, whether the original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety.

Notes and interest thereon issued under the authority of this section, notwithstanding any other provisions of this act, shall be general obligations of the commonwealth.

**SECTION 3.** To meet the expenditures necessary in carrying out the provisions of section one, the state treasurer shall, upon request of the governor, issue and sell bonds of the commonwealth to an amount to be specified by the governor from time to time, but not exceeding in the aggregate twenty-five million dollars.

All bonds issued by the commonwealth, as aforesaid, shall be designated on their face, "Asbestos Removal and Containment In Public Schools Loan, Act of 1985," and shall be issued for such maximum term of years, not exceeding twenty years, as the governor may recommend to the general court pursuant to Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth, provided, however, that all such bonds shall be payable not later than June thirtieth, two thousand and ten. All interest and payments on account of principal of such obligations shall be payable from the General Fund. Bonds and the interest thereon issued under the authority of this section shall, notwithstanding any other provisions of this act, be general obligations of the commonwealth.

**SECTION 4.** The board of education is hereby authorized to expend a sum not to exceed five million dollars for a program for removing, containing or encapsulating asbestos found in any private elementary or secondary school. Said program shall make direct payment to the contractors removing, containing or encapsulating asbestos, provided that the governing body of said school has submitted an application and cost estimate to said board of education. Said application shall be on such form as approved by the commissioner of education and shall contain instructions and procedures established in cooperation with the division of occupational hygiene. Said board of education shall, jointly with the said division of occupational hygiene, promulgate such rules and regulations as necessary to administer the program, and provided, further, that no payments under this section shall be made directly to any private school.

**SECTION 5.** The state treasurer may borrow from time to time on the credit of the commonwealth such sums of money as may be necessary for the purpose of meeting the payments authorized by section four and may issue and renew from time to time notes of the commonwealth therefor, bearing interest payable at such time and at such rates as shall be fixed by the state treasurer. Such notes shall be issued and may be renewed one or more times for such terms, not exceeding one year, as the governor may recommend to the general court in accordance with



**ACTS, 1985. – Chap. 614.**

Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth, but the final maturities of such notes, whether the original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety.

Notes and interest thereon issued under the authority of this section, notwithstanding any other provisions of this act, shall be general obligations of the commonwealth.

**SECTION 6.** To meet the expenditures necessary in carrying out the provisions of section four, the state treasurer shall, upon request of the governor, issue and sell bonds of the commonwealth to an amount to be specified by the governor from time to time, but not exceeding the aggregate five million dollars.

All bonds issued by the commonwealth, as aforesaid, shall be designated on their face, "Asbestos Removal and Containment In Private Schools Loan, Act of 1985," and shall be issued for such maximum term of years, not exceeding twenty years, as the governor may recommend to the general court pursuant to Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth, provided, however, that all such bonds shall be payable not later than June thirtieth, two thousand and ten. All interest and payments on account of principal of such obligations shall be payable from the general fund. Bonds and the interest thereon issued under the authority of this section shall, notwithstanding any other provisions of this act, be general obligations of the commonwealth.

**SECTION 7.** As a condition of the receipt of any funds under this act, the recipient shall:

(a) Permit the commonwealth to sue on behalf of such recipient any person potentially liable for damages, including the costs of any activities undertaken by the recipient relative to the removal, containment, encapsulation or other method of control of asbestos found in school buildings within the recipient's control; and

(b) Agree to repay to the commonwealth an amount not to exceed the amount of any funds received by the recipient under this act from the proceeds of any judgment or settlement relative to a suit brought by or on behalf of the recipient for damages, including costs incurred as a result of asbestos control activities described in paragraph (a).

**SECTION 8.** The proceeds from any judgment or settlement relative to a suit brought by the commonwealth in accordance with section seven shall be retained by the commonwealth to the extent such proceeds exceed costs incurred by a school or school district, on whose behalf the suit was brought, in the control of asbestos within its schools, for which the school or school district has received no state or federal funds.

The proceeds from any judgment or settlement relative to a suit brought by or on behalf of a school or school district, other than a suit brought by or on behalf of the commonwealth, shall be used to repay the commonwealth for funds received by the school or school district under this act, provided that said proceeds exceed costs incurred by the school



**ACTS, 1985. – Chap. 615.**

or school district in the control of asbestos within its schools for which the school or school district has received no state or federal funds, plus any litigation costs incurred by the school or school district as a result of such suit.

**SECTION 9.** Funds available under this act may be used for state or local matching funds, if such is required in conjunction with any federal program.

**SECTION 10.** The provisions of this act are intended to be severable, and if any provision of this act, or its application to any set of facts or circumstances, shall be held to be unconstitutional by any court of competent jurisdiction, the decision of such court shall not impair all the remaining provisions of this act and the application of said provisions to all other sets of circumstances.

Approved December 23, 1985.

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**Chapter 615. AN ACT REGULATING CERTAIN HEALTH CARE PLAN RESTRICTIONS.**

Be it enacted, etc., as follows:

**SECTION 1.** Chapter 175 of the General Laws is hereby amended by inserting after section 110J the following section:–

Section 110K. Each employer or other organization which employs or has twenty-five or more employees or members during the full preceding calendar year and which contributes to a health insurance contract providing comprehensive dental benefits, which restricts the covered persons in selecting the providers of dental services to a single provider or limited number of providers but not including a comprehensive dental benefits plan established by a non-profit medical services corporation under chapter one hundred and seventy-six B and available from any participating dentist, shall also offer its employees and their eligible dependents and members and members' eligible dependents at the time such a dental benefits plan is offered or renewed, the option of selecting alternative coverage which permits covered persons to obtain dental services from any licensed dentist.

No employer or other organization shall be required to pay for or contribute towards the provisions of alternative coverage an amount greater than the premium or cost which it pays or contributes to the health insurance contract which limits the number of providers of dental services.

Notwithstanding the provisions of this section, if any of the employees of an employer required by paragraph one to offer employees the option of selecting such alternative dental coverage as described in said paragraph are represented by a certified collective bargaining representative, the offer of the option of selecting such alternative coverage as required by said paragraph one shall first be made to such



**ACTS, 1985. – Chap. 615.**

collective bargaining representative. Said representative shall have the right not to accept such offer, thereby exempting the employer from the provisions of this section. If such offer is accepted by such representative, the offer of the option of selecting such alternative coverage shall then be made to each employee. Notwithstanding the provisions of this section, a union management trust created pursuant to collective bargaining shall, whenever a restricted dental benefits plan as described in paragraph one is proposed, consider offering such alternative dental coverage as described in said paragraph one, provided, however, said trust may offer the dental plan or plans of its choice.

The commissioner shall promulgate such rules and regulations as are necessary to effectuate the purpose of this section, including procedures for notice to covered persons, employers and other organizations of the provisions of this section.

**SECTION 2.** Chapter 176G of the General Laws is hereby amended by inserting after section 11 the following section:–

Section 11A. Each employer or other organization which employs or has twenty-five or more employees or members during the full preceding calendar year and which contracts with and contributes to a health maintenance organization for the purpose of providing comprehensive dental benefits to its employees or members, shall, if the health maintenance organization restricts the covered persons in selecting the providers of dental services to a single provider or limited number of providers of dental services, offer its employees and their eligible dependents and members and members' eligible dependents at the time such a contract is offered or renewed, the option of selecting alternative coverage which permits covered persons to obtain dental services from any licensed dentist.

No employer or other organization shall be required to pay for or contribute toward the provision of alternative coverage an amount greater than the premium or cost which it pays or contributes to the health maintenance organization contract which limits the number of providers of dental services.

Notwithstanding the provisions of this section, if any of the employees of an employer required by paragraph one to offer employees the option of selecting such alternative dental coverage as described in said paragraph are represented by a certified collective bargaining representative, the offer of the option of selecting such alternative coverage as required by said paragraph one shall first be made to such collective bargaining representative. Said representative shall have the right not to accept such offer, thereby exempting the employer from the provisions of this section. If such offer is accepted by such representative, the offer of the option of selecting such alternative coverage shall then be made to each employee. Notwithstanding the provisions of this section, a union management trust created pursuant to collective bargaining shall, whenever a restricted dental benefits contract as described in paragraph one is proposed, consider offering such alternative dental coverage as described in said paragraph one, provided, however, said trust may offer the dental plan or plans of its



**ACTS, 1985. – Chaps. 616, 617.**

choice.

The commissioner shall promulgate such rules and regulations as are necessary to effectuate the purpose of this section, including procedures for notice to covered persons, employers and other organizations of the provisions of this section.

Approved December 23, 1985.

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**Chapter 616. AN ACT RELATIVE TO THE COMPENSATION OF LOCAL ASSESSMENT COMMITTEE MEMBERS.**

Be it enacted, etc., as follows:

**SECTION 1.** The first paragraph of section 5 of chapter 21D of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by adding the following sentence:– Each member of the committee shall receive, subject to appropriation, fifty dollars for each day or part thereof for his services and shall also receive all reasonable expenses incurred in the performance of his official duties.

**SECTION 2.** The local assessment committee of any town, established under the authority of section five of chapter twenty-one D of the General Laws, shall be paid, subject to appropriation, the amounts incurred by its members, in accordance with section one, prior to the effective date of this act.

Approved December 23, 1985.

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**Chapter 617. AN ACT AUTHORIZING QUALIFIED PSYCHOLOGISTS TO PERFORM CERTAIN COMPETENCY EVALUATIONS.**

Be it enacted, etc., as follows:

**SECTION 1.** Section 15 of chapter 123 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out paragraph (a) and inserting in place thereof the following paragraph:–

(a) Whenever a court of jurisdiction doubts whether a defendant in a criminal case is competent to stand trial or is criminally responsible by reason of mental illness or mental defect, it may, at any stage of the proceedings after the return of an indictment or the issuance of a criminal complaint against the defendant, order an examination of such defendant to be conducted by one or more qualified physicians or one or more qualified psychologists. Whenever practicable, examinations shall be conducted at the court house or place of detention where the person is being held. When an examination is ordered, the court shall instruct the examining physician or physicians or the examining psychologist or psychologists in the law for determining mental competence to stand trial and criminal responsibility.



**ACTS, 1985. – Chap. 617.**

**SECTION 2.** Paragraph (b) of said section 15 of said chapter 123, as so appearing, is hereby amended by striking out the second and third sentences and inserting in place thereof the following two sentences:— Copies of the complaints or indictments and the physician's or psychologist's report under paragraph (a) shall be delivered to the facility or said hospital with the person. If, before the expiration of such twenty-day period, an examining qualified physician or an examining qualified psychologist believes that observation for more than twenty days is necessary, he shall so notify the court and shall request in writing an extension of the twenty-day period, specifying the reason or reasons for which such further observation is necessary.

**SECTION 3.** Said section 15 of said chapter 123, as so appearing, is hereby further amended by striking out paragraph (c) and inserting in place thereof the following paragraph:—

(c) At the conclusion of the examination or the observation period, the examining qualified physician or physicians or the examining qualified psychologist or psychologists shall forthwith give to the court written signed reports of their findings including the clinical findings bearing on the issue of competence to stand trial or criminal responsibility. Such reports shall also contain an opinion, supported by clinical findings, as to whether the defendant is in need of treatment and care offered by the department.

**SECTION 4.** Said section 15 of said chapter 123, as so appearing, is hereby further amended by striking out paragraph (f) and inserting in place thereof the following paragraph:—

(f) In like manner to the proceedings under paragraphs (a), (b), (c), and (e), a court may order a psychiatric or psychological examination or a period of observation for an alleged delinquent in a facility to aid the court in its disposition. Such period of observation shall not exceed forty days.

**SECTION 5.** Section 18 of said chapter 123, as so appearing, is hereby amended by striking out paragraph (a) and inserting in place thereof the following paragraph:—

(a) If the person in charge of any place of detention within the commonwealth has reason to believe that a person confined therein is in need of hospitalization by reason of mental illness at a facility of the department or at the Bridgewater state hospital, he shall cause such prisoner to be examined at such place of detention by a physician or physicians, or psychologist or psychologists, designated by the department as qualified to perform such examination. Said physician or physicians, or psychologist or psychologists, shall report the results of the examination to the district court which has jurisdiction over the place of detention or, if the prisoner is awaiting trial, to the court which has jurisdiction of the criminal case. Such report shall include an opinion, with reasons therefor, as to whether such hospitalization is actually required. The court which receives such report may order the prisoner to be taken to a facility or, if a male, to the Bridgewater state



ACTS, 1985. – Chap. 618.

hospital to be received for examination and observation for a period not to exceed thirty days. After completion of such examination and observation, a written report shall be sent to such court and to the person in charge of the place of detention. Such report shall be signed by the physician or physicians or psychologist or psychologists conducting such examination and shall contain an evaluation, supported by clinical findings, of whether the prisoner is in need of further treatment and care at a facility, or, if a male, the Bridgewater state hospital by reason of mental illness. The person in charge of the place of detention shall have the same right as a superintendent of a facility to file a petition with the court which received the results of the examination for the commitment of the person to a facility or to Bridgewater state hospital; provided, however, that notwithstanding the court's failure, after an initial hearing or after any subsequent hearing, to make the finding required for commitment to the Bridgewater state hospital, the prisoner shall be confined at said hospital if the findings required for commitment to a facility are made and if the commissioner of correction certifies to the court that confinement of the prisoner at said hospital is necessary to insure his continued retention in custody. An initial court order of commitment issued subject to the provisions of this section shall be valid for a six-month period, and all subsequent commitments during the term of the sentence shall take place under the provisions of sections seven and eight and shall be valid for one year.

**SECTION 6.** Chapter 123 of the General Laws is hereby amended by striking out section 19, as so appearing, and inserting in place thereof the following section:–

Section 19. In order to determine the mental condition of any party or witness before any court of the commonwealth, the presiding judge may, in his discretion, request the department to assign a qualified physician or psychologist, who, if assigned shall make such examinations as the judge may deem necessary.

Approved December 23, 1985.

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**Chapter 618. AN ACT ESTABLISHING CERTAIN LICENSING AND PERMIT REQUIREMENTS FOR THE CONDUCT OF AUCTIONS.**

Be it enacted, etc., as follows:

**SECTION 1.** The General Laws are hereby amended by striking out chapter 100 and inserting in place thereof the following chapter:–

**CHAPTER 100.  
AUCTIONEERS.**

Section 1. In this chapter, the following words and terms, unless the context otherwise requires, shall have the following meanings:–

"Auction" or "Public auction", any sale, coming within its ordinary meaning, by public outcry, including in addition thereto, any sale by



## ACTS, 1985. – Chap. 618.

public outcry where property is offered first at a stated price and thereafter successively or gradually at lower prices until an acceptor or purchaser is found.

"Auctioneer", any person who, for a fee, commission, profit or any other valuable consideration, or with the intention or expectation of receiving the same, by means of, or process of, an auction or sale at auction, offers, negotiates or attempts to negotiate, a listing contract, sale, purchase or exchange of goods, chattels, merchandise, real or personal property, or of any other commodity which may lawfully be kept or offered for sale by or at public auction.

"Auctioneering", the business or act of selling real, personal or mixed property by successive, competitive bids.

"Director", the director of the division of standards in the executive office of consumer affairs, established by section eleven of chapter six A.

"Goods", any chattels, livestock, merchandise, real or personal property, or commodities of any form or type which may be lawfully kept or offered for sale.

"Local auction permit agent", the person or persons so designed in a city by the mayor or in a town by the board of selectmen, or upon a failure to so designate or in the absence, incapacity or unavailability of any person or persons so designated, the chief of police.

"Person", individuals, associations, partnerships and corporations, and the officers, directors and employees of a corporation.

Section 2. No person shall act as an auctioneer in the commonwealth unless licensed therefor by the director. Any adult resident of the commonwealth, and any adult resident of any other state which extends equivalent license eligibility to residents of the commonwealth, shall be eligible for such a license.

Section 3. Any person desiring to be licensed as an auctioneer shall make written application under oath to the director on a form provided by him. Said application shall set forth the name and address of the applicant and of any other person having a financial interest, direct or indirect, in the business to be conducted by the applicant, and such other information as the director shall require. Said application shall be accompanied by a license fee in the amount of one hundred dollars, or such other amount as the secretary of administration and finance pursuant to the provisions of section three B of chapter seven shall establish, together with two letters of recommendation for licensure signed by a licensed auctioneer or by an elected public official or a member of the Massachusetts bar. Said application shall be further accompanied by a bond upon the applicant in the sum of ten thousand dollars, payable to the director or his successors with sureties approved by the director, and conditioned on applicant's compliance with the provisions of this chapter. Said bond shall guarantee the payment of all fines and penalties incurred by applicant as a licensee for his violations of the said provisions, and also guarantee the payment or satisfaction of any final judgments on claims by creditors against licensee arising in connection with business done under a license granted under this chapter, all such payments under said bond to be limited to the amount of said bond. Such a creditor's claim, however, must have been duly filed by



ACTS, 1985. – Chap. 618.

giving written notice to the director prior to the expiration of sixty days from the return, surrender of said license or date of the filing of an affidavit of loss of the license held by the licensee against whom the claim is made.

The acceptance by an applicant of a license issued by the director to him as a licensee shall be deemed equivalent to an appointment by the licensee of the director, or his successors in office, to be the licensee's true and lawful attorney upon whom may be served all lawful process in any action or proceeding against him or his executor or administrator, arising out of the transaction of business by him under said license. Any process against the licensee so served shall, if said licensee is notified as hereinafter provided, be of the same legal force and validity as if served on him personally, and the mailing by the director of a copy of such process to said licensee at his last address, as appearing on the director's records, shall be sufficient notice to him of such service. Service of such process shall be made by delivering or mailing duplicate copies thereof together with a fee of two dollars to the office of the director, and the director shall forthwith send one of said copies by mail, postage prepaid, addressed to the defendant licensee named in such process at his last address as appearing on the director's records.

An affidavit of the director, or of any person authorized by him to send such copy, that such copy has been so mailed shall be prima facie evidence thereof. One of the duplicates of such process, certified by the director as having been delivered to the office of the director, shall be sufficient evidence of service upon him as attorney for the licensee named as defendant in the process.

Section 4. No license application conforming to the requirements of section three shall be denied except after a public hearing held by the director in accordance with and subject to the conditions of chapter thirty A. No such application shall be denied except upon a finding by the director after said hearing of one or more of the following grounds for denial: (a) that the applicant has been convicted of a felony; (b) that the applicant has followed a continuous and flagrant course of misrepresentations or the making of false promises, through agents, advertising or otherwise, in the conduct of auctioneering or otherwise; or (c) that the applicant has failed to meet or has violated any of the requirements for licensees set forth in this chapter. Upon denial of an application, the director shall surrender to the applicant the bond filed with his application within the time set forth.

Section 5. Each license issued by the director shall bear a number, shall be valid for one year from the date of its issuance, may be renewed upon application to the director on a form provided by him, shall not be transferable, and may be exercised only by the licensee; provided, however, that the licensee may employ agents to conduct auctioneering under licensee's immediate direction and control.

Section 6. Prior to its expiration date, a license may be suspended or revoked by the director in accordance with the procedure and on the grounds set forth in section four, or may be terminated by voluntary surrender by the licensee.

Upon the expiration, termination or surrender of a license, the



**ACTS, 1985. – Chap. 618.**

licensee shall deliver the license to the director who shall cancel the license, endorse the date of expiration, termination or surrender and shall, after a sixty-day period from the date of delivery or after all claims made against the licensee have been satisfied or settled, surrender the licensee's bond and so notify the surety on the bond.

If a license is lost, misplaced or destroyed, the licensee shall file an affidavit to that effect and the director shall issue a replacement license, clearly identified as such on the license and in the records of the director.

Section 7. The director shall keep on file, in convenient form and open to public inspection, all license applications and copies of licenses issued and shall annually publish a list of names and addresses of all auctioneers licensed by him, and the names of all persons whose licenses have been revoked, suspended or surrendered during the period and the specific time for which such suspension, revocation or surrender became effective.

Section 8. Each licensee shall keep a complete and accurate account of all goods and chattels sold by him, including the names and addresses of the persons from whom they were received. Each licensee shall be responsible for the reporting and collection of sales and use taxes for all sales made by him.

Section 9. No licensee or other person shall: (a) sell or offer for sale at auction goods known by him to be owned by a minor; (b) advertise an auction or goods for sale at an auction in the commonwealth without including the number of the license issued by the director as a part of the advertisement; (c) advertise for sale or sell goods at auction falsely representing that said goods are, in whole or in part, bankrupt or insolvent stock or damaged goods saved from fire, or otherwise falsely represent or mislead any person as to their origin, history or condition; (d) sell, offer for sale or give away in connection with an auction, any goods as prize packages, gifts, premiums or bonus or otherwise as an inducement to purchase any other goods; (e) sell, offer for sale or dispose of goods at auction by chance or lot, or without first exhibiting to prospective bidders all such goods, including those in packages, bundles or containers, except as to auctions of unclaimed articles; (f) employ or knowingly allow, directly or indirectly, any person to act at any auction as a "capper" or "by bidder" or in any like capacity, for the purpose of bidding up the price of any goods in competition with bona fide bidders or for the purpose of encouraging or enticing bona fide bidders to purchase, or for the purpose of stimulating competitive bidding or sales; or personally act in such capacity; or (g) make or knowingly accept any false bid to buy, or pretend to sell or buy goods.

Section 10. No person shall conduct an auction without a special or annual permit issued by the city or town in which the auction is to be conducted. Application for such a permit shall be filed with the local auction permit agent and shall contain the name of the applicant; the name, address and license number of the auctioneer; the hours between which the auction is to be conducted; the location of the auction; and a general description of the goods to be auctioned. As to a special permit, the estimated value of the goods and the date or dates, not to



**ACTS, 1985. – Chap. 618.**

exceed ten, on which the auction shall be held shall also be included.

Within three days of the filing of an application for a special permit, the local auction permit agent shall either approve the permit subject to stated reasonable terms and conditions relating to public safety as he may establish, or deny the application on stated grounds, which must be reasonable grounds relating to public safety. Failure of an agent to act within the three day period shall constitute approval of the application. Upon approval, express or implied, the applicant shall tender to the city or town treasurer the permit fee established by said agent, which fee shall be reasonable.

No person shall be eligible for an annual permit unless he maintains a regular place of business for the conduct of auctioneering in the city or town. Said permit shall be issued or denied on the same terms applicable to a special permit, except that an application which is not acted upon within fourteen days of the date of filing with the local auction permit agent shall be deemed approved. Each annual permit issued shall be valid for a term of one year commencing on the date of the express or implied approval of the application therefor. Any applicant for a special or annual permit who is aggrieved by the action of the local auction permit agent on his application shall be entitled to a public hearing by the appointing authority of the agent in accordance with the provisions of chapter thirty A.

Section 11. The provisions of this chapter shall not apply to any auction held or conducted by an order or judgment of any court of the commonwealth or of the United States or by any officer of a municipality, county or state of the United States; sales held by sheriffs, deputy sheriffs, constables, collectors of taxes, executors, administrators, lien holders, assignees for the benefit of creditors; sales by any other person specifically authorized by law to sell real, personal or mixed property; casual and isolated sales by an owner of his own goods; and any auction held or conducted by any resident member of a charitable, educational, religious or other nonprofit organization within the commonwealth; provided, however, that any person acting as agent for any of the foregoing shall be subject to all of the provisions of this chapter except section ten.

Section 12. Any person violating any of the provisions of this chapter may be fined not more than one thousand dollars or by imprisonment for not more than six months, or both.

**SECTION 2.** Notwithstanding any provision of chapter one hundred of the General Laws to the contrary, the director shall issue a license to any auctioneer applying within six months after the effective date of this act who shall pay the required license fee, file the required bond, and give satisfactory proof to the director that he was engaged in the business of auctioneering in the commonwealth at the time that this chapter took effect.

**SECTION 3.** The provisions of this act shall not affect rights and duties which have matured, penalties which have been incurred, and proceedings which were begun prior to its effective date.

Approved December 23, 1985.



**ACTS, 1985. – Chap. 619.**

**Chapter 619. AN ACT RELATIVE TO THE ENFORCEMENT OF COURT ORDERS UNDER THE MASSACHUSETTS CIVIL RIGHTS ACT.**

Be it enacted, etc., as follows:

Chapter 12 of the General Laws is hereby amended by inserting after section 11 I the following section:–

Section 11J. In actions brought pursuant to section eleven H or eleven I, whenever the court issues a temporary restraining order or a preliminary or permanent injunction, ordering a defendant to refrain from certain conduct or activities, the order issued shall contain the following statement: VIOLATION OF THIS ORDER IS A CRIMINAL OFFENSE.

After any such order has been served upon the defendant, any violation of such order shall be punishable by a fine of not more than five thousand dollars or by imprisonment for not more than two and one-half years in a house of correction, or both such fine and imprisonment; provided, however, that if bodily injury results from such violation, the violation shall be punishable by a fine of not more than ten thousand dollars or by imprisonment for not more than ten years, or both.

The clerk shall transmit two certified copies of each such order issued under section eleven H or eleven I to each appropriate law enforcement agency having jurisdiction over locations where such defendant is alleged to have committed the act giving rise to the action, and such law enforcement agency shall serve one copy of the order upon such defendant. Unless otherwise ordered by the court, service shall be by delivering a copy in hand to the defendant. Law enforcement agencies shall establish procedures adequate to ensure that all officers responsible for the enforcement of the order are informed of the existence and terms of such order. Whenever any law enforcement officer has probable cause to believe that such defendant has violated the provisions of this section, such officer shall have the authority to arrest said defendant.

Following the final disposition of a criminal contempt proceeding initiated by the attorney general for violation of an order issued in an action brought by the attorney general under section eleven H, the commonwealth shall move to dismiss any charges brought under this section against such defendant for such violation of the order.

Whenever the court vacates a temporary restraining order or a preliminary or permanent injunction issued under section eleven H or eleven I, the clerk shall promptly notify in writing each appropriate law enforcement agency which had been notified of the issuance of the order and shall direct each such agency to destroy all record of such vacated order, and such agency shall comply with such directive.

Approved December 23, 1985.



**ACTS, 1985. – Chaps. 620, 621, 622.**

**Chapter 620. AN ACT FURTHER REGULATING THE EXPENDITURE OF FUNDS FOR THE REPAIR OF MOTOR VEHICLES.**

Be it enacted, etc., as follows:

Section 36A of chapter 30 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out, in line 10, the word "three" and inserting the words five,— and by striking out, in line 12, the words "six hundred" and inserting in place thereof the words:— nine hundred and fifty.

Approved December 23, 1985.

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**Chapter 621. AN ACT AUTHORIZING THE USE OF MEASURING DEVICES OTHER THAN STANDARDIZED MEASURING TAPES BY LAND SURVEYORS.**

Be it enacted, etc., as follows:

Chapter 97 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out section 3 and inserting in place thereof the following section:—

Section 3. Every land surveyor shall use only tapes or other types of measuring devices which have been approved for use under regulations promulgated by the board of registration of professional engineers and land surveyors as authorized by sections eighty-one D to eighty-one T, inclusive, of chapter one hundred and twelve. All tapes and measuring devices shall be compared for accuracy of calibration to a baseline whose length has been determined in conformance with national standards for linear measurement in a manner and frequency authorized by said board of registration. Records of compliance shall be exhibited upon demand to the said board of registration. Whoever violates any provisions of this section shall be punished by a fine of not more than one hundred dollars and is also subject to further action by said board of registration as authorized by section eighty-one P of said chapter one hundred and twelve.

Approved December 23, 1985.

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**Chapter 622. AN ACT FURTHER REGULATING CERTAIN SEPARATE ACCOUNTS OF CERTAIN INSURANCE COMPANIES.**

Be it enacted, etc., as follows:

**SECTION 1.** Section 132F of chapter 175 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out the fifth paragraph.



**ACTS, 1985. – Chaps. 623, 624.**

**SECTION 2.** The third paragraph of section 132G of said chapter 175, as so appearing, is hereby amended by striking out the first sentence.

**SECTION 3.** The first paragraph of section 132H of said chapter 175, as so appearing, is hereby amended by striking out the fourth sentence and inserting in place thereof the following sentence:– The provisions of section sixty-six placing limitations on the percentage of the capital stock, certificates of participation or shares of any one corporation, association or trust which a life company shall invest in, acquire or hold, shall not be applicable to purchases for any such separate account.

Approved December 23, 1985.

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**Chapter 623. AN ACT RELATIVE TO THE HOMESTEAD EXEMPTION.**

Be it enacted, etc., as follows:

Section 1 of chapter 188 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out, in line 1, the word "sixty" and inserting in place thereof the words:– one hundred.

Approved December 23, 1985.

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**Chapter 624. AN ACT PROVIDING FOR OBJECTIONS TO NOMINATION PAPERS AND PETITIONS.**

Be it enacted, etc., as follows:

Chapter 55B of the General Laws is hereby amended by striking out section 7, as appearing in the 1984 Official Edition, and inserting in place thereof the following section:–

Section 7. Objections to certificates of nomination papers, or local ballot questions for city offices shall be filed with the city clerk within two working days of the last day fixed for filing nomination papers, except where city charters provide otherwise. Objections to certificates of nomination, nomination papers, or local ballot questions for town offices shall be filed with the town clerk within two working days of the last day fixed for filing nomination papers, except where town charters provide otherwise.

Objections filed with the city or town clerk shall forthwith be transmitted by him to the board authorized to hear such objections as provided under this section.

Objections to nomination for city offices, except in the city of Boston, or local ballot questions shall be considered by the board of registrars and the city solicitors.

Objections to nominations for town offices, or local ballot questions shall be considered by the board of registrars. Boards in cities and towns may, at hearings on such objections and questions, summon witnesses,



ACTS, 1985. – Chap. 625.

administer oaths and require the production of books, records and papers. Such witnesses shall be summoned in the same manner, be paid the same fees, and be subject to the same penalties for default, as witnesses in civil cases before the courts. A summons may be signed, and an oath may be administered by any member of such board.

When such objection has been filed, notice thereof shall be sent forthwith by registered or certified mail, return receipt requested, by the city or town clerk to the candidates affected thereby, addressed to their residences as given in the certificate of nomination or nomination papers, and to any party committee interested in the nomination to which such objection has been made; or in the case of local ballot questions to the first five names appearing on the petition or any other persons designated as sponsors of the petition. If more candidates bearing the same designation are nominated for an office, otherwise than by nomination papers, than are to be elected thereto, such boards shall determine the candidates, if any, entitled to such designation. Such boards shall render a decision on any matter referred to them, pertaining to certificates of nomination or nomination papers or local ballot questions for any regular or special city or town primaries or any regular or special city or town election, or to withdrawals of nomination therefore, not later than four days after the last day fixed for filing objections to such certificates papers or questions, or for filing such withdrawals, as the case may be, under this chapter. In the event that any such board fails to render within the aforesaid period its decision on any matter so referred, the city or town clerk shall, notwithstanding such failure, proceed forthwith to cause to be printed the ballots of such primaries of elections.

Approved December 23, 1985.

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**Chapter 625. AN ACT FURTHER REGULATING THE SALE AND USE OF UNVENTED LIQUID FIRED SPACE HEATERS.**

Be it enacted, etc., as follows:

**SECTION 1.** Section 5A of chapter 148 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:— No person shall use, allow to be used, sell or offer for sale any unvented liquid fired space heater.

**SECTION 2.** Section 25B of said chapter 148, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:— No person shall use, allow to be used, sell or offer for sale any unvented liquid fired space heater.

Approved December 23, 1985.



**ACTS, 1985. – Chaps. 626, 627.**

**Chapter 626. AN ACT REQUIRING BANKS TO NOTIFY INSURED DEBTORS OF AN AMENDMENT TO OR CANCELLATION OF A GROUP ACCIDENT AND HEALTH INSURANCE POLICY.**

Be it enacted, etc., as follows:

Paragraph 17 of section 2 of chapter 167F of the General Laws, as appearing in the 1984 Official Edition, is hereby further amended by adding the following paragraph:–

A bank which has purchased such group accident and health insurance shall send written notice to each such insured debtor thirty days prior to the effective date of any amendment to or cancellation of such insurance. Such notice shall be sent by mail to the last known address of the debtor and shall clearly state the effect such amendment or cancellation will have on the insured debtor. Such notice shall also be given by an advertisement in newspapers published daily or weekly and of general distribution in cities and towns in which the bank has an office, or if there be no such newspaper, then in a newspaper published in the county wherein the city or town is situated and of general distribution. Such notice shall be published at least seven days prior to the effective date of the amendment or cancellation and shall clearly state the effect on the insured debtors.

Approved December 23, 1985.

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**Chapter 627. AN ACT FURTHER REGULATING THE BOARD OF EXAMINERS OF PLUMBERS AND GAS FITTERS.**

Be it enacted, etc., as follows:

Chapter 142 of the General Laws is hereby amended by striking out section 13, as appearing in the 1984 Official Edition, and inserting in place thereof the following section:–

Section 13. In all cities and towns, the examiners shall make and from time to time in like manner alter, amend and repeal rules and regulations relative to the construction, alteration, repair and inspection of plumbing in such cities and towns, which rules and regulations shall be reasonable, uniform and based on generally accepted standards of plumbing practice; provided, however, that the application of such rules and regulations may be varied by the examiners in a particular city or town upon petition of the board of health or health department thereof. The examiners shall adopt a regulation requiring all cities and towns to use a uniform application for a permit to perform plumbing work.

The examiners shall make and from time to time in like manner alter, amend, and repeal rules and regulations relative to gas fitting in buildings throughout the commonwealth, and relative to liquefied petroleum gas fitting in buildings throughout the commonwealth, and relative to liquefied petroleum gas fitting containers and regulating



**ACTS, 1985. – Chap. 628.**

equipment in such buildings, which rules shall be reasonable, uniform, based on generally accepted standards of engineering practice, and designed to prevent fire, explosion, injury and death, and not inconsistent with rules and regulations relative to the distribution of natural gas which are promulgated pursuant to chapter one hundred and sixty-four or the provisions of chapter one hundred and forty-two or the rules and regulations made under the authority thereof. Any person aggrieved by a ruling interpreting the rules and regulations made under this paragraph, including any person aggrieved by any such rule made by the building commissioner of Boston, may appeal to the examiners in writing within ten days after such ruling; and, subject to the provisions of chapter thirty A relative to adjudicatory proceedings, said examiners shall hear and decide such appeal. Subject to said provisions of chapter thirty A, such decision shall be final and binding upon, and complied with by, all parties in interest.

Approved December 23, 1985.

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**Chapter 628. AN ACT REQUIRING THAT CERTAIN HEALTH INSURANCE PLANS PROVIDE FOR CARDIAC REHABILITATION EXPENSES.**

Be it enacted, etc., as follows:

**SECTION 1.** Chapter 175 of the General Laws is hereby amended by inserting after section 47C the following section:—

Section 47D. Any blanket or general policy of insurance, except a blanket or general policy of insurance which provides supplemental coverage to medicare or other governmental programs, described in subdivision (A), (C) or (D) of section one hundred and ten which provides hospital expense and surgical expense insurance and which is issued or subsequently renewed by agreement between the insurer and the policy holder, within or without the commonwealth, during the period this provision is effective, or any policy of accident or sickness insurance as described in section one hundred and eight which provides hospital expense and surgical expense insurance, except a policy which provides supplemental coverage to medicare or other governmental programs, and which is delivered or issued for delivery or subsequently renewed by agreement between the insurer and the policy holder in the commonwealth, during the period that this provision is effective, or any employees' health and welfare fund which provides hospital expense and surgical expense benefits and which is promulgated or renewed to any person or group of persons in the commonwealth, while this provision is effective, shall provide benefits for the expense of cardiac rehabilitation. Cardiac rehabilitation shall mean multidisciplinary, medically necessary treatment of persons with documented cardiovascular disease, which shall be provided in either a hospital or other setting and which shall meet standards promulgated by the commissioner of public health after reviewing proposals submitted by the



**ACTS, 1985. – Chap. 628.**

Massachusetts Society for Cardiac Rehabilitation, Inc. and after notice and public hearing on the proposed standards. Such standards shall include, but not be limited to, outpatient treatment which is to be initiated within twenty-six weeks after the diagnosis of such disease.

**SECTION 2.** Chapter 176A of the General Laws is hereby amended by inserting after section 8F the following section:–

Section 8G. Any contract, except contracts providing supplemental coverage to medicare or other governmental programs, between a subscriber and the corporation under an individual or group hospital service plan which shall be delivered or issued or renewed in the commonwealth shall provide, as a basic benefit to all individual subscribers and members within the commonwealth and to all group members having a principal place of employment within the commonwealth, for expense for cardiac rehabilitation. Cardiac rehabilitation shall mean multidisciplinary, medically necessary treatment of persons with documented cardiovascular disease, which shall be provided in either a hospital or other setting and which shall meet standards promulgated by the commissioner of public health after reviewing proposals submitted by the Massachusetts Society for Cardiac Rehabilitation, Inc. and after notice and public hearing on the proposed standards. Such standards shall include, but not be limited to, outpatient treatment which is to be initiated within twenty-six weeks after the diagnosis of such disease.

**SECTION 3.** Chapter 176B of the General Laws is hereby amended by inserting after section 4E the following section:–

Section 4F. Any subscription certificate under an individual or group medical service agreement, except certificates which provide supplemental coverage to medicare or other governmental programs, which shall be delivered or issued or renewed in the commonwealth shall provide, as a basic benefit to all individual subscribers and members within the commonwealth and to all group members having a principal place of employment within the commonwealth for expense for cardiac rehabilitation. Cardiac rehabilitation shall mean multidisciplinary, medically necessary treatment of persons with documented cardiovascular disease which shall be provided in either a hospital or other setting and which shall meet standards promulgated by the commissioner of public health after reviewing proposals submitted by the Massachusetts Society for Cardiac Rehabilitation, Inc. and after notice and public hearing on the proposed standards. Such standards shall include, but not be limited to, outpatient treatment which is to be initiated within twenty-six weeks after the diagnosis of such disease.

**SECTION 4.** Section 4 of chapter 176G of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by adding the following sentence:– Such health maintenance contract shall also provide coverage for cardiac rehabilitation as set forth in section forty-seven D of chapter one hundred and seventy-five.

Approved December 23, 1985.



**ACTS, 1985. – Chaps. 629, 630, 631.**

**Chapter 629. AN ACT RELATIVE TO THE USE OF CERTAIN FACILITIES AT THE NORFOLK COUNTY HOUSE OF CORRECTION AND JAIL.**

Be it enacted, etc., as follows:

Notwithstanding any provision of law to the contrary, neither the grounds of the Norfolk county house of correction and jail nor any abutting real property owned by Norfolk county shall be used for the construction of any temporary facilities to be utilized for the housing of prisoners.

Approved December 23, 1985.

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**Chapter 630. AN ACT RELATIVE TO FEES FOR ISSUING HUNTING AND FISHING LICENSES.**

Be it enacted, etc., as follows:

**SECTION 1.** Chapter 131 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out section 17 and inserting in place thereof the following section:—

Section 17. Any city or town clerk or any person duly authorized by the director to issue licenses at their place of business located outside the commonwealth, provided such persons are duly bonded, issuing any license under authority of any provision of this chapter may, except as otherwise provided by law, retain for his own use fifty cents from the fee for each such license; provided, however, that if no fee is required to be paid for the issuance of a license, the issuing officer shall make no charge for the issuance thereof nor retain any part of the fee therefor, as the case may be.

**SECTION 2.** Section sixty-two of chapter three hundred and fifty-one of the acts of nineteen hundred and eighty-one is hereby repealed.

**SECTION 3.** Section two shall take effect as of January fourth, nineteen hundred and eighty-two.

Approved December 23, 1985.

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**Chapter 631. AN ACT RELATIVE TO THE AUTHORITY OF EDUCATION COLLABORATIVES.**

Be it enacted, etc., as follows:

**SECTION 1.** Chapter 40 of the General Laws is hereby amended by striking out section 4E, as appearing in the 1984 Official Edition, and inserting in place thereof the following section:—



**ACTS, 1985. – Chap. 631.**

Section 4E. Pursuant to the provisions hereof, two or more school committees of cities, towns and regional school districts may enter into a written agreement to conduct education programs and services which shall complement and strengthen the school programs of member school committees and increase educational opportunities for children. The school committees shall collaborate to offer such programs and services, and the association of school committees which is formed pursuant hereof to deliver such programs and services shall be known as an education collaborative.

The education collaborative shall be managed by a board of directors which shall be comprised of one person appointed by each member school committee. Such person shall be either a school committee member or his designee or the superintendent of schools or his designee. Members of said board of directors shall be entitled to a vote according to the terms of the education collaborative agreement. The department of education shall appoint an individual to serve in an advisory capacity to the education collaborative board. Said individual shall not be entitled to vote on any matter which comes before the board of directors of the education collaborative.

The written agreement which shall form the basis of the education collaborative shall set forth the purposes of the program or service, the financial terms and conditions of membership of the education collaborative, the method of termination of the education collaborative and of the withdrawal of member school committees, the procedure for admitting new members and for amending the collaborative agreement, the powers and duties of the board of directors of the education collaborative to operate and manage the education collaborative and any other matter not incompatible with law which the member committees deem advisable. The agreement shall be subject to the approval of the member school committees and the commissioner of education.

Each board of directors of an education collaborative shall establish and manage a trust fund, to be known as an Education Collaborative Trust Fund, and each such fund shall be designated by an appropriate name. All monies contributed by the member municipalities, and all grants or gifts from the federal government, state government, charitable foundations, private corporations, or any other source, shall be paid to the board of directors of the education collaborative and deposited in the aforesaid Fund.

The board of directors of the education collaborative shall appoint a treasurer who may be a treasurer of a city, town or regional school district belonging to such collaborative. Such treasurer shall be authorized, subject to the direction of the board of directors of the education collaborative, to receive and disburse all monies of the trust fund without further appropriation. The treasurer shall give bond annually for the faithful performance of his duties as collaborative treasurer in a form approved by the department of revenue and in such sum, not less than the amount established by said department, as shall be fixed by the board of directors of the education collaborative. The board of directors of the education collaborative in its discretion may pay compensation to the treasurer for his services. No member of the board



**ACTS, 1985. – Chap. 631.**

of directors of the education collaborative shall be eligible to serve as treasurer of said collaborative.

The treasurer of the education collaborative board of directors shall have the authority to make appropriate investments of the monies of the Education Collaborative Trust Fund consistent with the provisions of section fifty-four of chapter forty-four.

The board of directors of the education collaborative shall have the authority to borrow money in anticipation of income for up to ninety days to meet ongoing payroll obligations.

The board of directors of the education collaborative shall have the authority to employ an executive officer who shall serve under the general direction of such board and who shall be responsible for the care and supervision of the education collaborative.

The board of directors of the education collaborative shall be deemed to be a public employer and have the authority to employ personnel, including teachers, to carry out the purposes and functions of the education collaborative. No person shall be eligible for employment by said board of directors as an instructor of children with severe special needs, teacher of children with special needs, teacher, guidance counselor or school psychologist unless such person has been granted a certificate by the board of education under the provisions of section thirty-eight G of chapter seventy-one or section six of chapter seventy-one A or an approval under the regulations promulgated by the board of education under chapter seventy-one B or chapter seventy-four with respect to the type of position for which he seeks employment; provided, however, that nothing herein shall be construed to prevent a board of directors of an education collaborative from prescribing additional qualifications. A board of directors of an education collaborative may, upon its request, be exempted by the board of education for any one school year from the requirements of this section to employ certified or approved personnel when compliance therewith would in the opinion of the board constitute a great hardship.

The board of directors of an education collaborative may contract for the purchase of supplies, materials and services and for the leasing of land, buildings and equipment as deemed necessary by such board of directors.

The education collaborative shall be deemed to be a public entity and shall have standing to sue and to be sued to the same extent as a city, town or regional school district.

A school committee of any city, town or regional school district may authorize the prepayment of monies for any educational program or service of the education collaborative, to the treasurer of an education collaborative, and the city, town or regional school district treasurer shall be required to approve and pay such monies in accordance with the authorization of the school committee.

**SECTION 2.** Chapter 71 of the General Laws is hereby amended by striking out section 71D, as so appearing, and inserting in place thereof the following section:–

Section 71D. A school committee of any city, town, or regional school



**ACTS, 1985. – Chap. 632.**

district may authorize the prepayment of tuition for a period not exceeding three months to any approved private school or approved program source which a student is attending under the provisions of chapter seventy-one B, and the city, town or regional school district treasurer shall be required to approve and pay such monies in accordance with the authorization of the school committee.

**SECTION 3.** Notwithstanding the provisions of any general or special law to the contrary, no education collaborative agreement between or among the school committees of two or more cities, towns or regional school districts requiring the approval of the department of education, shall be made except under the provisions of this section. Any education collaborative formed under the provisions of section four E of chapter forty of the General Laws shall revise its agreement to conform to the provisions of this section within two years of its passage. Such agreements or any subsequent amendments to collaborative agreements shall be subject to the approval of the commissioner of education.

Approved December 23, 1985.

EMERGENCY LETTER: December 24, 1985 @ 9:09 A.M.

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**Chapter 632. AN ACT RELATIVE TO THE ISSUANCE OF SPECIAL  
PARKING IDENTIFICATION PLATES TO  
HANDICAPPED PERSONS.**

Be it enacted, etc., as follows:

**SECTION 1.** Section 21 of chapter 40 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out clause (23) and inserting in place thereof the following clause:– (23) For requiring that designated parking spaces for vehicles either owned and operated by disabled veterans or by handicapped persons and bearing the distinctive number plates authorized by section two of chapter ninety, or for vehicles transporting handicapped persons and displaying the special parking identification plate authorized by said section two of said chapter ninety, or for vehicles bearing the official identification of a handicapped person issued by any other state, be provided in public and private off-street parking areas.

(a) Any ordinance or by-law made hereunder shall require any person or body that has lawful control of a public or private way or of improved or enclosed property used as off-street parking areas for businesses, shopping malls, theaters, auditoriums, sporting or recreational facilities, cultural centers, residential dwellings, or for any other place where the public has a right of access as invitees or licensees, to reserve parking spaces in said off-street parking areas for any vehicle owned and operated by a disabled veteran or handicapped person whose vehicle bears the distinguishing license plate authorized by said section two of said chapter ninety or for any vehicle transporting a handicapped person and displaying the special identification plate authorized by section two of chapter ninety or for any vehicle bearing the official identification of



**ACTS, 1985. – Chap. 632.**

a handicapped person issued by any other state, according to the following formula:–

If the number of parking spaces in any such area is more than fifteen but not more than twenty-five, one parking space; more than twenty-five but not more than forty, five per cent of such spaces but not less than two; more than forty but not more than one hundred, four per cent of such spaces but not less than three; more than one hundred but not more than two hundred, three per cent of such spaces but not less than four; more than two hundred but not more than five hundred, two per cent of such spaces but not less than six; more than five hundred but not more than one thousand, one and one-half per cent of such spaces but not less than ten; more than one thousand but not more than two thousand, one per cent of such spaces but not less than fifteen; more than two thousand but less than five thousand, three-fourths of one per cent of such spaces but not less than twenty; and more than five thousand, one-half of one per cent of such spaces but not less than thirty.

(b) Parking spaces designated as reserved under the provisions of paragraph (a) shall be identified by the use of above grade signs with white lettering against a blue background and shall bear the words "Handicapped Parking: Special Plate Required. Unauthorized Vehicles May be Removed at Owner's Expense"; shall be as near as possible to a building entrance or walkway; shall be adjacent to curb ramps or other unobstructed methods permitting sidewalk access to a handicapped person; and shall be twelve feet wide or two eight-foot wide areas with four feet of cross hatch between them.

**SECTION 2.** Section 22 of said chapter 40, as so appearing, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:–

No penalty shall be imposed upon any disabled veteran or handicapped person, whose vehicle bears the distinctive number plates, or displays the special parking identification plate authorized by section two of chapter ninety or bears the official identification of a handicapped person issued by any other state, for parking such vehicle on any way for a longer period of time than permitted by said ordinances, by-laws, rules or orders.

**SECTION 3.** The first paragraph of section 22A of said chapter 40, as so appearing, is hereby amended by striking out the fourth sentence and inserting in place thereof the following sentence:– No fee shall be exacted and no penalty shall be imposed for the parking of any vehicle owned and driven by a disabled veteran or by a handicapped person and bearing the distinctive number plates authorized by section two of chapter ninety, or for any vehicle transporting a handicapped person and displaying the special parking identification plate authorized by said section two of said chapter ninety or for any vehicle bearing the official identification of a handicapped person issued by any other state.

**SECTION 4.** The second paragraph of section 22A of said chapter 40, as so appearing, is hereby amended by striking out the first sentence and



**ACTS, 1985. – Chap. 632.**

inserting in place thereof the following two sentences:– Any city or town acting under this section may further regulate the parking of vehicles on ways within its said control by restricting certain areas thereon for the parking of any vehicle owned and driven by a disabled veteran or handicapped person whose vehicle bears the distinctive number plates authorized by section two of chapter ninety or for any vehicle transporting a handicapped person and displaying the special parking identification plate authorized by said section two of said chapter ninety, or for any vehicle bearing the official identification of a handicapped person issued by any other state, or by prohibiting the parking or standing of any vehicles in such a manner as to obstruct any curb ramp designed for use by handicapped persons. Parking spaces designated as reserved under the provisions of this paragraph shall be identified by the use of above grade blue signs with white lettering against a blue background and shall bear the words "Handicapped Parking: Special Plate Required Unauthorized Vehicles May Be Removed at Owner's Expense"; shall be as near as possible to a building entrance or walkway; shall be adjacent to curb ramps or other unobstructed methods permitting sidewalk access to a handicapped person; and shall be twelve feet wide or two eight-foot wide areas with four feet of cross hatch between them.

**SECTION 5.** Section 22D of said chapter 40, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:– In a city or town which accepts this section, as hereinafter provided, the city council or board of selectmen, or if, in any city or town, some other board or commission is empowered to establish traffic regulations, such other board or commission, may adopt, amend, alter or repeal rules and regulations, with such limitations, if any, as may be deemed proper, authorizing the chief officer of the police department or such sergeants or other officers of higher rank in the police department as he may from time to time designate, to remove, to some convenient place through the agency of a person or persons in the employ of the police department or by an independent contractor selected in accordance with law, by-law, or ordinance, on the basis of competitive bids, any vehicle parked or standing on any part of any way under the control of the municipality in such a manner as to obstruct any curb ramp designed for use by handicapped persons as means of egress to a street or public way, or to occupy or obstruct any parking space reserved for a vehicle used by a disabled veteran or handicapped person whose vehicle bears the distinguishing license plate, or displays the special parking identification plate authorized by section two of chapter ninety, or bears the official identification of a handicapped person issued by any other state, or to impede in any way the removal or plowing of snow or ice or in violation of any rule or regulation which prohibits the parking or standing of all vehicles on such ways or portions thereof at such time and recites that whoever violates it shall be liable to charges for the removal and storage of the vehicles as well as subject to punishment by fine.



**ACTS, 1985. – Chap. 633.**

**SECTION 6.** The sixth paragraph of section 2 of chapter 90 of the General Laws, as so appearing, is hereby amended by striking out the third sentence.

**SECTION 7.** Said section 2 of said chapter 90, as so appearing, is hereby further amended by inserting after the sixth paragraph the following paragraph:–

The registrar may furnish plates displaying the "International Symbol of Access" for a pleasure passenger vehicle owned or leased by and used by a blind person or a person who has suffered the loss or permanent loss of use of one or both feet, or of one or both hands, and the medical advisory board as established by section eight C, may determine such other standards of disability and handicap and of qualification for the issuance of said plates as said board deems proper. The registrar may also furnish a special parking identification plate bearing the "International Symbol of Access" to any person who meets the eligibility requirements for handicapped plates prescribed herein. Said parking identification plate shall be of such size and design as the registrar shall require and shall be numbered and contain the name and a photograph of the person to whom such plate is issued, and shall verify that such person is handicapped and eligible to receive such plate. When used by the bearer, said plate shall be displayed so as to be visible through the left portion of the windshield of a private passenger motor vehicle, and shall be for the exclusive use of the bearer while being transported in said vehicle. Use of the card by any person other than the bearer shall be cause for revocation. Anyone who wrongfully displays a special parking identification plate in a motor vehicle shall be subject to a fine of one hundred dollars. At no time shall the registrar issue to any person both plates displaying the "International Symbol of Access" and a special parking identification plate prescribed herein.

Approved December 23, 1985.

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**Chapter 633. AN ACT AUTHORIZING THE DIVISION OF CAPITAL PLANNING AND OPERATIONS TO SELL AND CONVEY A CERTAIN PARCEL OF LAND AND EASEMENT IN THE TOWN OF RUTLAND TO JAMES M. LEGER AND JANET LEGER.**

Be it enacted, etc., as follows:

The deputy commissioner of capital planning and operations is hereby authorized, subject to the provisions of sections forty E to forty J, inclusive, of chapter seven of the General Laws, to sell and convey by deed approved as to form by the attorney general, a certain parcel of land, under the care and control of the department of public health, and the appurtenant easements located in the town of Rutland, to James M. Leger and Janet Leger, to be used for residential purposes, subject to such terms and conditions as the deputy commissioner may prescribe, in



**ACTS, 1985. – Chaps. 634, 635.**

consultation with the department of public health, said land being bounded and described as follows:

Beginning at a stone monument in the brook at the Southeast corner of the property herein conveyed, said stone bearing S.78°55'W. and being distant one hundred and fifty-one (151) feet from the Northwest corner of the Rutland Rural Cemetery; thence N.87°0W. along other pasture and tillage land of the grantors six hundred and thirty-one and five tenths (631.5) feet to a farm road; thence N.30°47'W. along said road seventy-five and seven tenths (75.7) feet; thence N.21°0E. along said road three hundred and ninety-seven (397) feet to a point four hundred and fifty-three and three tenths (453.3) feet from the first described line; thence S.87°0E. on a line parallel to and four hundred and fifty-three and three tenths feet distant from the first described line four hundred and eighty (480) feet to a small brook; thence Southerly following the centre of said small brook about five hundred and thirty-three (533) feet to the place of beginning. And also, herewith is granted the right to pass from the public road to said land on the existing farm road leading past the house of the grantees and also herewith is granted the further right to lay and maintain a line of pipe as at present located and constructed from the said land to land of W. H. Bartlett, passing North of the cemetery and to the South end of the part of the land above described.

Approved December 23, 1985.

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**Chapter 634. AN ACT REGULATING THE OPERATION OF COMMERCIAL COIN OPERATED LAUNDRIES.**

Be it enacted, etc., as follows:

Chapter 93 of the General Laws is hereby amended by inserting after section 18A the following section:—

Section 18B. Every person conducting a commercial coin operated laundry, where there is no full time attendant shall display, in a conspicuous manner, a sign no less than twelve inches square indicating for each different size or style dryer therein, the amount of time a consumer receives per coin and the average drying time by fabric type and load size.

Failure to display such sign shall be punished by a fine of not less than one hundred dollars.

Any person conducting a commercial coin operated laundry who is required to display a sign under the provisions of this section shall be punished by a fine of not more than twenty-five dollars for each operation of a dryer that does not provide, within three minutes, the time indicated in said sign.

Approved December 23, 1985.

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**Chapter 635. AN ACT AUTHORIZING THE DEPARTMENT OF**



**ACTS, 1985. – Chaps. 636, 637.**

**VETERANS SERVICES TO PAY A CERTAIN SUM OF  
MONEY TO THE TOWN OF ADAMS FOR CERTAIN  
VETERANS BENEFITS PAID BY SAID TOWN.**

Be it enacted, etc., as follows:

There shall be allowed and paid out of the state treasury to the town of Adams, subject to appropriation and subject to the approval of the commissioner of veterans' services, a sum, not exceeding eight thousand six hundred thirty-nine dollars and fifty-three cents as said town would have been entitled to receive in reimbursement for veterans' benefits paid by it in the years nineteen hundred and eighty-three and nineteen hundred and eighty-four, under the provisions of section six of chapter one hundred and fifteen of the General Laws. Said reimbursement not being made because of a failure of said town to make a proper and reasonable report thereof to said commissioner. As a condition of payment of such sum said commissioner shall require said town to present evidence that such sum was paid in compliance with section five of said chapter one hundred and fifteen.

Approved December 23, 1985.

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**Chapter 636. AN ACT PROVIDING FOR ONE ADDITIONAL JUSTICE  
IN BOTH THE SPRINGFIELD AND WORCESTER  
DIVISIONS OF THE JUVENILE COURT DEPARTMENT  
OF THE TRIAL COURT.**

Be it enacted, etc., as follows:

The first paragraph of section 58 of chapter 218 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:— The Worcester and Springfield division of the juvenile court department shall each consist of two justices, the Bristol county division shall consist of three justices, and the Boston division shall consist of five justices, all of whom shall be members of the bar.

Approved December 23, 1985.

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**Chapter 637. AN ACT PROMOTING SOLAR ENERGY AND  
PROTECTING ACCESS TO SUNLIGHT FOR SOLAR  
ENERGY SYSTEMS.**

Be it enacted, etc., as follows:

**SECTION 1.** Section 1A of chapter 40A of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by inserting after the definition of "Permit granting authority" the following two



**ACTS, 1985. – Chap. 637.**

definitions:–

"Solar access", the access of a solar energy system to direct sunlight.

"Solar energy system", a device or structural design feature, a substantial purpose of which is to provide daylight for interior lighting or provide for the collection, storage and distribution of solar energy for space heating or cooling, electricity generating, or water heating.

**SECTION 2.** Section 3 of said chapter 40A, as so appearing, is hereby amended by adding the following paragraph:–

No zoning ordinance or by-law shall prohibit or unreasonably regulate the installation of solar energy systems or the building of structures that facilitate the collection of solar energy, except where necessary to protect the public health, safety or welfare.

**SECTION 3.** The second paragraph in section 9 of said chapter 40A, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:– Zoning ordinances or by-laws may also provide for special permits authorizing increases in the permissible density of population or intensity of a particular use in a proposed development; provided that the petitioner or applicant shall, as a condition for the grant of said permit, provide certain open space, housing for persons of low or moderate income, traffic or pedestrian improvements, installation of solar energy systems, protection for solar access, or other amenities.

**SECTION 4.** The fifth paragraph of said section 9 of said chapter 40A, as so appearing, is hereby amended by inserting after the third sentence the following sentence:– Such open land may be situated to promote and protect maximum solar access within the development.

**SECTION 5.** The sixth paragraph of said section 9 of said chapter 40A, as so appearing, is hereby amended by adding the following sentence:– Such open space, if any, may be situated to promote and protect maximum solar access within the development.

**SECTION 6.** Said chapter 40A is hereby further amended by inserting after section 9A, as so appearing, the following section:–

Section 9B. Zoning ordinances or by-laws adopted or amended pursuant to section five of this chapter may encourage the use of solar energy systems and protect solar access by regulation of the orientation of streets, lots and buildings, maximum building height limits, minimum building set back requirements, limitations on the type, height and placement of vegetation and other provisions. Zoning ordinances or by-laws may also establish buffer zones and additional districts that protect solar access which overlap existing zoning districts. Zoning ordinances or by-laws may further regulate the planting and trimming of vegetation on public property to protect the solar access of private and public solar energy systems and buildings. Solar energy systems may be exempted from set back, building height, and roof and lot coverage restrictions.



**ACTS, 1985. – Chap. 637.**

Zoning ordinances or by-laws may also provide for special permits to protect access to direct sunlight for solar energy systems. Such ordinances or by-laws may provide that such solar access permits would create an easement to sunlight over neighboring property. Such ordinances or by-laws may also specify what constitutes an impermissible interference with the right to direct sunlight granted by a solar access permit and how to regulate growing vegetation that may interfere with such right. Such ordinances or by-laws may further provide standards for the issuance of solar access permits balancing the need of solar energy systems for direct sunlight with the right of neighboring property owners to the reasonable use of their property within other zoning restrictions. Such ordinances or by-laws may also provide a process for issuance of solar access permits including, but not limited to, notification of affected neighboring property owners, opportunity for a hearing, appeal process and recordation of such permits on burdened and benefited property deeds. Such ordinances or by-laws may further provide for establishment of a solar map identifying all local properties burdened or benefited by solar access permits. Such ordinances or by-laws may also require the examination of such solar maps by the appropriate official prior to the issuance of a building permit.

**SECTION 7.** The first paragraph of section 7 of chapter 40C of the General Laws, as so appearing, is hereby amended by inserting after the second sentence the following sentence:– When ruling on applications for certificates of appropriateness for solar energy systems, as defined in section one A of chapter forty A, the commission shall also consider the policy of the commonwealth to encourage the use of solar energy systems and to protect solar access.

**SECTION 8.** Section 81M of chapter 41 of the General Laws, as so appearing, is hereby amended by inserting after the second sentence the following sentence:– Such powers may also be exercised with due regard for the policy of the commonwealth to encourage the use of solar energy and protect the access to direct sunlight of solar energy systems.

**SECTION 9.** Section 81Q of said chapter 41, as so appearing, is hereby amended by inserting after the seventh sentence the following two sentences:– The rules and regulations may encourage the use of solar energy systems and protect to the extent feasible the access to direct sunlight of solar energy systems. Such rules and regulations may include standards for the orientation of new streets, lots and buildings; building set back requirements from property lines; limitations on the type, height and placement, of vegetation; and restrictive covenants protecting solar access not inconsistent with existing local ordinances or by-laws.

**SECTION 10.** Chapter 184 of the General Laws is hereby amended by inserting after section 23B, as so appearing, the following section:–

Section 23C. Any provision in an instrument relative to the ownership



**ACTS, 1985. – Chap. 638.**

or use of real property which purports to forbid or unreasonably restrict the installation or use of a solar energy system as defined in section one A of chapter forty A or the building of structures that facilitate the collection of solar energy shall be void.

**SECTION 11.** Chapter 187 of the General Laws is hereby amended by inserting after section 1, as so appearing, the following section:–

Section 1A. An easement of direct sunlight may be acquired over the land of another by express grant or covenant, or by a solar access permit as set forth in section nine B of chapter forty A.

Any instrument creating a solar easement may include, but the contents are not limited to, all of the following:–

(1) A description of the dimensions of the easement expressed in measurable terms, such as verticle or horizontal angles measured in degrees, or the hours of the day on specified dates during which direct sunlight to a specified surface of a solar collector, device, or structural design feature may not be obstructed, or a combination of these descriptions.

(2) The restrictions placed upon vegetation, structures, and other objects which would impair or obstruct the passage of sunlight through the easement.

(3) The amount, if any, of permissible obstruction of the passage of sunlight through the easement, expressed in measurable terms, such as a specific percentage of sunlight that may be obstructed.

(4) The provisions for trimming vegetation that would impermissibly obstruct the passage of sunlight through the easement including any compensation for trimming expenses.

(5) Any provisions for compensation of the owner of property benefiting from the easement in the event of impermissible obstruction of the easement.

(6) The terms or conditions, if any, under which the easement may be revised or terminated.

Any instrument creating a solar easement shall be recorded in the registry of deeds in the county or district or, in the case of registered land, in the registry district of the land court in which the land affected is situated.

**SECTION 12.** The executive office of energy resources and the executive office of communities and development shall provide technical assistance, including model solar ordinances, by-laws and easement provisions upon request to municipalities and citizens of the commonwealth to aid in the implementation of section one A of chapter one hundred and eighty-seven of the General Laws, inserted by section eleven.

Approved December 23, 1985.

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**Chapter 638. AN ACT AUTHORIZING THE DIVISION OF CAPITAL PLANNING AND OPERATIONS TO CONVEY CERTAIN**



ACTS, 1985. – Chap. 638.

PARK LAND AND A CERTAIN EASEMENT IN THE  
CITY OF LOWELL TO SAID CITY.

Be it enacted, etc., as follows:

**SECTION 1.** The division of capital planning and operations, acting in the name of and on behalf of the commonwealth, is hereby authorized to convey to the city of Lowell by deed, approved as to form by the attorney general certain park land in said city under the control of the department of environmental management, for highway purposes, upon such terms and conditions and for such consideration as may be acceptable to said division and said department, said land being more particularly bounded and described as follows:

Beginning at a point, said point being a concrete bound located on the southerly boundary of the 1977 transfer of land to the Department of Environmental Management;

Thence along a curve with radius 1,398.00 feet a distance of 596.81 feet to a point;

Thence along a curve with radius 3,348.00 feet a distance of 252.86 feet to a point;

Thence N58°-16'-49.7"W a distance of 10.00 feet to a point;

Thence along a curve with radius 3,338.00 feet a distance of 252.10 feet to a point;

Thence along a curve with radius 1,388.00 feet a distance of 592.54 feet to a point;

Thence along a curve with radius 1,915.00 feet a distance of 215.15 feet to a point;

Thence S22°-39'-28"E a distance of 10.00 feet to a point;

Thence along a curve with radius 1,925.00 feet a distance of 216.28 feet to the point of beginning.

Containing 10,629 square feet more or less.

**SECTION 2.** The division of capital planning and operations, acting in the name of and on behalf of the commonwealth, is further authorized to grant to the city of Lowell a temporary construction easement by deed, approved as to form by the attorney general in and over certain park land in said city under the control of the department of environmental management, said land being more particularly bounded and described as follows:

Beginning at a point, said point being a concrete bound located on the southerly boundary of the 1977 transfer of land to the Department of Environmental Management;

Thence along a curve with radius 1,398.00 feet a distance of 596.81 feet to a point;

Thence along a curve with radius 3,348.00 feet a distance of 157 feet more or less to a point;

Thence southeasterly 10 feet to a point;

Thence southwesterly a distance of 165 feet more or less to a point;

Thence southwesterly a distance of 65 feet more or less to a point;

Thence southwesterly a distance of 180 feet more or less to a point;



ACTS, 1985. – Chap. 639.

Thence southwesterly a distance of 185 feet more or less to a point;  
Thence southwesterly a distance of 106 feet more or less to a point;  
Thence southwesterly a distance of 54 feet more or less to a point;  
Thence southwesterly a distance of 177 feet more or less to a point;  
Thence southwesterly a distance of 54 feet more or less to a point;  
Thence southwesterly a distance of 54 feet more or less to a point;  
Thence southwesterly a distance of 605 feet more or less to a point;  
Thence S12°-30'-11"E a distance of 10.00 feet to a point;  
Thence S77°-29'-49"W a distance of 20.00 feet to a point;  
Thence N12°-30'-11"W a distance of 10.00 feet to a point;  
Thence S77°-29'-49"W a distance of 786.56 feet to a point;  
Thence along a curve with radius 6,856.88 feet a distance of 38.76 feet to a point;  
Thence S12°-10'-45"E a distance of 10.00 feet to a point;  
Thence along a curve with radius 6,866.88 a distance of 25.24 feet to a point;  
Thence N11°-58'-69"W a distance of 10.00 feet to a point;  
Thence along a curve with radius 6,856.88 feet a distance of 216.61 feet to a point;  
Thence along a curve with radius 11,579.19 feet a distance of 303.18 feet to a point;  
Thence along a curve with radius 5,849.65 feet a distance of 59.04 feet to a point;  
Thence S8°-04'-49"E a distance of 10.00 feet to a point;  
Thence along a curve with radius 5,859.65 feet a distance of 20.23 feet to a point;  
Thence S7°-52'-57"E a distance of 20.00 feet to a point;  
Thence along a curve with radius 5,839.65 feet a distance of 79.10 feet to a point;  
Thence along a curve with radius of 11,569.19 feet a distance of 302.88 feet to a point;  
Thence along a curve of radius 6,846.88 feet a distance of 280.16 feet to a point;  
thence N77°-29'-49"E a distance of 1,485.50 feet to a point;  
Thence S22°-39'-28"E a distance of 10.00 feet to a point;  
Thence along a curve with radius 1,925.08 feet a distance of 216.28 feet to the point of beginning.  
Containing 31,000 square feet more or less.

Approved December 23, 1985.

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Chapter 639. AN ACT AUTHORIZING THE DIVISION OF CAPITAL PLANNING AND OPERATIONS TO ACQUIRE TWO CERTAIN PARCELS OF LAND IN THE TOWN OF SOUTHAMPTON AND TO TRANSFER THE CARE, CUSTODY AND CONTROL OF SAID PARCELS TO THE DEPARTMENT OF PUBLIC WORKS FOR HIGHWAY PURPOSES.



**ACTS, 1985. – Chap. 640.**

**Be it enacted, etc., as follows:**

The deputy commissioner of the division of capital planning and operations is hereby authorized to acquire by eminent domain, by purchase or otherwise, under the provisions of section one of chapter six hundred and ninety-three of the acts of nineteen hundred and fifty-five, on behalf of the commonwealth, two certain parcels of land in the town of Southampton, being used by said town for town wells purposes, and to transfer the care, custody and control of said parcels of land to the department of public works for purposes for the construction of state highway route 10.

Said parcels of land are shown on a plan of land identified as "Southampton Route 10 – College Highway 1984 Sheet 16 of 17 Total Sheets Prel. Right of Way Plan", which plan shall be on file with the chief engineer of the department of public works.

Approved December 23, 1985.

EMERGENCY LETTER: December 27, 1985 @ 1:27 P.M.

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**Chapter 640. AN ACT RELATIVE TO THE GRANTING OR RENEWING OF CERTAIN LICENSES AND PERMITS IN CITIES AND TOWNS.**

**Be it enacted, etc., as follows:**

Chapter 40 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by adding the following section:–

Section 57. Any city and town which accepts the provisions of this section, may by by-law or ordinance deny any application for, or revoke or suspend any local license or permit including renewals and transfers issued by any board, officer, department for any person, corporation or business enterprise who has neglected or refused to pay any local taxes, fees, assessments, betterments or any other municipal charges. Such by-law or ordinances shall provide that:

(a) The tax collector or other municipal official responsible for records of all municipal taxes, assessments, betterments and other municipal charges, hereinafter referred to as the tax collector, shall annually furnish to each department, board, commission or division, hereinafter referred to as the licensing authority, that issues licenses or permits including renewals and transfers, a list of any person, corporation, or business enterprise, hereinafter referred to as the party, that has neglected or refused to pay any local taxes, fees, assessments, betterments or other municipal charges for not less than a twelve month period, and that such party has not filed in good faith a pending application for an abatement of such tax or a pending petition before the appellate tax board.

(b) The licensing authority may deny, revoke or suspend any license or permit, including renewals and transfers of any party whose name appears on said list furnished to the licensing authority from the tax collector; provided, however, that written notice is given to the party



**ACTS, 1985. – Chap. 641.**

and the tax collector, as required by applicable provisions of law, and the party is given a hearing, to be held not earlier than fourteen days after said notice. Said list shall be prima facie evidence for denial, revocation or suspension of said license or permit to any party. The tax collector shall have the right to intervene in any hearing conducted with respect to such license denial, revocation or suspension. Any findings made by the licensing authority with respect to such license denial, revocation or suspension shall be made only for the purposes of such proceeding and shall not be relevant to or introduced in any other proceeding at law, except for any appeal from such license denial, revocation or suspension. Any license or permit denied, suspended or revoked under this section shall not be reissued or renewed until the license authority receives a certificate issued by the tax collector that the party is in good standing with respect to any and all local taxes, fees, assessments, betterments or other municipal charges, payable to the municipality as the date of issuance of said certificate.

(c) Any party shall be given an opportunity to enter into a payment agreement, thereby allowing the licensing authority to issue a certificate indicating said limitations to the license or permit and the validity of said license shall be conditioned upon the satisfactory compliance with said agreement. Failure to comply with said agreement shall be grounds for the suspension or revocation of said license or permit; provided, however, that the holder be given notice and a hearing as required by applicable provisions of law.

(d) The board of selectmen may waive such denial, suspension or revocation if it finds there is no direct or indirect business interest by the property owner, its officers or stockholders, if any, or members of his immediate family, as defined in section one of chapter two hundred and sixty-eight in the business or activity conducted in or on said property.

This section shall not apply to the following licenses and permits: open burning; section thirteen of chapter forty-eight; bicycle permits; section eleven A of chapter eighty-five; sales of articles for charitable purposes, section thirty-three of chapter one hundred and one; children work permits, section sixty-nine of chapter one hundred and forty-nine; clubs, associations dispensing food or beverage licenses, section twenty-one E of chapter one hundred and forty; dog licenses, section one hundred and thirty-seven of chapter one hundred and forty; fishing, hunting, trapping license, section twelve of chapter one hundred and thirty-one; marriage licenses, section twenty-eight of chapter two hundred and seven and theatrical events, public exhibition permits, section one hundred and eighty-one of chapter one hundred and forty.

A city or town may exclude any local license or permit from this section by by-law or ordinance.

Approved December 23, 1985.

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**Chapter 641. AN ACT ESTABLISHING AN HISTORIC BUSINESS DISTRICT COMMISSION IN THE TOWN OF CHATHAM**



**ACTS, 1985. – Chap. 641.**

**AND ESTABLISHING CERTAIN AREAS AS AN  
HISTORIC BUSINESS DISTRICT.**

Be it enacted, etc., as follows:

**SECTION 1. PURPOSE**

The purpose of this act is to promote the cultural, economic and general welfare of the inhabitants of the town of Chatham through the appropriate development of commercial and business districts by (1) protecting and preserving the distinctive characteristics of building and places significant in the history and development of Chatham; (2) maintaining and improving the settings of these buildings and places; and (3) encouraging designs which are compatible with buildings existing in the area, so as to continue to maintain the rural, fishing and residential character and other qualities which distinguish the town as a desirable community for permanent and summer residence.

**SECTION 2. ESTABLISHMENT OF AN HISTORIC BUSINESS  
DISTRICT COMMISSION**

There is hereby established in the town of Chatham an historic business district commission consisting of five unpaid members who shall be appointed by the board of selectmen. Said board, in making such appointments, shall use reasonable efforts to include one architect, one realtor and one historian. The original appointment of the members of the historic business district commission shall be one for one year, one for two years, one for three years, one for four years and one for five years from the date of the annual town elections following such appointment, and thereafter there shall be appointed immediately following the annual town elections in each year one member to such commission to serve for the term of five years. Said board shall also appoint two alternate commissioners annually, each to serve for a one year term. Vacancies occurring in the commission, other than by expiration of term of office, shall be filled by appointment by said board, but such appointment shall be only for the unexpired portion of the term of the member replaced.

**SECTION 3. DISTRICTS**

There is hereby established in the town of Chatham an historic business district, which shall include all the land within the following commercially zoned districts in effect on September ninth, nineteen hundred and eighty-five: General Business- (GB-1), General Business -2 (GB-2), General Business -3 (GB-3), Limited Business - 1 (LB-1) and Residential Business (RB).

**SECTION 4. CONSTRUCTION OF BUILDINGS OR STRUCTURES**

No building or structure shall hereafter be erected, reconstructed, altered or restored within the historic business district nor shall any building permit be issued by the building inspector unless and until an application for a certificate of appropriateness has been approved or a certificate of nonapplicability issued. Evidence of such required



## **ACTS, 1985. – Chap. 641.**

approval shall be a certificate of appropriateness or certificate on nonapplicability issued by the historic business district commission.

### **SECTION 5. RAZING OR MOVING OF BUILDING OR STRUCTURES**

No building or structure within the historic business district shall be razed or moved without first obtaining a permit approved by the historic business district commission. Said commission shall be empowered to refuse such a permit for the removal or razing of any building or structure of such architectural or historic interest, which in the opinion of said commission would be detrimental to the public interest. Any building or structure which, in the opinion of the building inspector, is unsafe or dangerous may be razed if so ordered by the building inspector without a permit being issued by the historic business district commission.

### **SECTION 6. SIGNS**

The erection or display of any sign exceeding two feet in length and six inches in height or the erection or display of more than one such sign, irrespective of size, on any lot, building or structure located within the historic business district must be approved by the historic business commission. Evidence of such approval shall be a certificate of appropriateness or a certificate of nonapplicability issued by said commission. Preexisting signs may remain for a period of twenty-four months following the effective date of this act. Upon expiration of said twenty-four month period, any preexisting sign not approved as set forth in this section shall be removed.

### **SECTION 7. ORGANIZATION**

The historic business district commission shall elect a chairman and secretary. The commission shall meet within twenty-one days after notification by the secretary of the receipt of an application for a certificate of appropriateness, permit for removal or certificate of nonapplicability and at such other times as the commission may determine necessary. The commission shall hold public meetings and keep permanent records of its resolutions, transactions and determinations. The commission may make such rules and regulations consistent with this act as may appear desirable and necessary. The commission shall have the power and authority to perform all the duties as herein enumerated and provided. The commission may incur expenses necessary to the carrying on of its work within the amount of its annual appropriation. The commission is also empowered to charge reasonable application fees to defray its expenses. The commission is empowered to receive and use gifts, bequests and donations for the purposes set forth herein and defray its expenses.

### **SECTION 8. RULES AND REGULATIONS**

The commission shall adopt rules and regulations after a public hearing on the same. Notice of such public hearing shall be advertised in a local newspaper for two consecutive weeks prior to said public hearing. The rules and regulations shall become effective when filed with the town clerk.



## **ACTS, 1985. – Chap. 641.**

### **SECTION 9. FUNCTION AND DUTY**

It shall be the function and duty of the historic business district commission to pass judgment upon the appropriateness of exterior architectural features of buildings and structures hereafter to be erected, reconstructed, altered or restored in the historic business district, wherever such exterior features are subject to public view from a way, public or private. All plans, elevations and other information deemed necessary by the commission to determine the appropriateness of the exterior features shall be made available to the Commission by the applicant. It shall also be the duty of the Commission to pass judgment upon the razing or moving of any building within said district as set forth in section five and the erection or display of any sign set forth in section six.

### **SECTION 10. CONSIDERATIONS**

The historic business district commission, in passing judgment upon the appropriateness of exterior architectural features, shall keep in mind the purposes set forth in section one and shall consider, among other things, the general design, scale, color, location on the lot, arrangement, texture, material of the building or structure, setting, topography, and landscaping, and the comparison of such features to similar features of buildings and structures in the surrounding area, and the position of such buildings or structures in relation to the streets or ways and to other buildings or structures.

### **SECTION 11. EXEMPT FEATURES**

The historic business district commission shall not consider interior arrangement or building features, not subject to public view.

### **SECTION 12. DISAPPROVAL**

In the case of disapproval, the commission shall state its reasons therefor in writing. The commission may make recommendations to the applicant with respect to appropriateness of design scale, location on lot, arrangement, texture and material, of the building or structure involved, and other features referred to in section ten.

### **SECTION 13. APPROVAL**

Upon approval of the plans by a majority of the commission, the commission shall cause a certificate of appropriateness or permit for removal, dated and signed by the chairman, to be issued to the applicant.

### **SECTION 14. CONSTRUCTIVE APPROVAL**

If the commission fails to take a final vote on any application within sixty days after receipt of an application for a certificate of appropriateness or a permit for removal, the application shall be deemed to be approved except where the applicant has assented to an extension of time.

### **SECTION 15. VIOLATIONS**

Any person who violates any of the provisions of this act shall be



**ACTS, 1985. – Chap. 642.**

guilty of a misdemeanor and upon conviction thereof shall be fined two hundred dollars, which shall be forfeited to the use of the town. Each day that a violation continues to exist shall constitute a separate offense.

**SECTION 16. APPEALS TO BOARD OF SELECTMEN**

Appeals may be taken to the board of selectmen within fourteen calendar days of the date appearing on the commission's written decision on appropriateness, by any person aggrieved by the ruling of the historic business district commission. The board of selectmen shall hear and act upon such appeals promptly and the decision of the board shall be as determined by a majority vote of the members of the board.

**SECTION 17. APPEALS TO SUPERIOR COURT**

Any person or the historic business district commission, aggrieved by the decision of the board of selectmen, may appeal to the superior court sitting in equity for Barnstable county; provided, that such appeal is filed in said court within twenty days after such decision has been mailing to all parties concerned. The court shall hear all pertinent evidence and determine the facts, and upon the facts so determined annul such decision of found to exceed the authority of such Board, or make such other decree as justice and equity may require. The foregoing remedy shall be exclusive, but the parties shall have all rights of appeal and exception as in other equity cases.

**SECTION 18. APPEAL AGAINST COMMISSION**

Costs shall not be allowed against the historic business district commission or the board of selectmen unless it shall appear to the court that the Commission or the board, in making the appealed decision, acted in bad faith or with malice.

**SECTION 19. APPEAL AGAINST APPELLANT**

Costs shall not be allowed against the party appealing the decision of the historic business district commission or the board of selectmen unless it shall appear to the court that said appellant or appellants acted in bad faith or with malice in making the appeal to the court.

**SECTION 20. SUPERIOR COURT JURISDICTION**

The superior court shall have jurisdiction in equity to enforce the provisions of this act and the rulings issued thereunder and may restrain by injunction violations thereof.

Approved December 23, 1985.

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**Chapter 642. AN ACT PROVIDING FOR THE ESTABLISHMENT AND ADMINISTRATION OF RENT REGULATION AND THE CONTROL OF EVICTIONS IN MOBILE HOME PARK ACCOMMODATIONS IN THE TOWN OF WARREN.**

Be it enacted, etc., as follows:



**ACTS, 1985. – Chap. 642.**

**SECTION 1.** The general court finds and declares that a serious public emergency exists in the town of Warren with respect to the housing of a substantial number of the citizens of said town, which emergency has been created by excessive, abnormally high and unwarranted rental increases imposed by some owners of mobile home parks located therein: that unless mobile home park rents and eviction of tenants are regulated and controlled, such emergency and the further inflationary pressures resulting therefrom will produce serious threats to the public health, safety and general welfare of the citizens of Warren, particularly the elderly; that such emergency should be met by the commonwealth immediately and with due regard for the rights and responsibilities of the town of Warren.

**SECTION 2.** The town of Warren may, by the adoption of by-laws, regulate rents for the use or occupancy of mobile home park accommodations in said town, establish a rent board for the purpose of regulating rents, minimum standards for use or occupancy of mobile home park accommodations and evictions of tenants therefrom and may, by its by-laws, require registration by owners of mobile home park accommodations, information, under penalty of perjury, relating to the mobile home park accommodations. Such rents, standards and evictions may be regulated by the rent board so as to remove hardships or correct inequities for both the owner and tenants of such mobile home park accommodations. Said board shall have all powers necessary or convenient to perform its functions. Said board may make rules and regulations, require registration by owners of mobile home park accommodations, information, under penalty of perjury, relating to the mobile home park accommodations, sue and be sued, compel the attendance of persons and the production of papers and information, and issue appropriate orders which shall be binding on both the owner and tenants of such mobile home park accommodations. Violations of any by-laws adopted pursuant to this act or any order of said rent board shall be punishable by a fine of not more than one thousand dollars for any one offense.

**SECTION 3.** In regulating such rents, the rent board established under section two may make such individual or general adjustments, either upward or downward, as may be necessary to assure that rents for mobile home park accommodations in the town are established at levels which yield to owners a fair net operating income for such units. Fair net operating income shall be that income which yields a return, after all reasonable operating expenses, on the fair market value of the property equal to the debt service rate generally available from institutional first mortgage lenders or such other rate of return as said board, on the basis of evidence presented before it, deems more appropriate to the circumstances of the case. The fair market value of the property shall be the assessed valuation of the property or such other valuation as said board, on the basis of evidence presented before it, deems more appropriate to the circumstances of the case.

Said town in its by-laws, or the rent board by regulation, may establish



**ACTS, 1985. – Chap. 643.**

further standards and rules consistent with this act.

**SECTION 4.** The provisions of chapter thirty A of the General Laws shall be applicable to the rent board, established under section two, as if said board were an agency of the commonwealth, including those provisions giving agencies the power to issue, vacate, modify and enforce subpoenas, and those provisions relating to judicial review of an agency order.

**SECTION 5.** The Spencer division of the district court department shall have original jurisdiction, concurrently with the superior court, of all petitions for review brought pursuant to section fourteen of chapter thirty A of the General Laws.

The superior court department shall have jurisdiction to enforce the provisions of this act, and any by-laws adopted thereunder, and may restrain violations thereof.

**SECTION 6.** The town of Warren may by by-laws regulate the evictions of tenants, and the rent board, established under section two, may issue orders which shall be a defense to an action of summary process for possession and orders shall be reviewable pursuant to sections two and three.

**SECTION 7.** The personnel of the rent board established under section two shall not be subject to the provisions of section nine A of chapter thirty or chapter thirty-one of the General Laws.

**SECTION 8.** This act shall take effect upon its acceptance by the town of Warren.

Approved December 23, 1985.

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**Chapter 643. AN ACT AUTHORIZING THE ESTABLISHMENT OF A WATER SYSTEM IMPROVEMENT FUND IN THE TOWN OF SAUGUS.**

Be it enacted, etc., as follows:

**SECTION 1.** Notwithstanding the provisions of any general or special law to the contrary, the town of Saugus is hereby authorized to establish and create a separate fund to be known as the Water System Improvement Fund. There shall be credited to such fund an amount from collected water receipts equal to fifteen cents of the water rate, and such further amounts from water receipts or any other source as the town meeting may, from time to time, designate by majority vote. All income earned on amounts deposited in said fund shall be added to and become a part of the fund.

Amounts deposited or credited to said fund shall be appropriated by a majority vote of the town meeting for no other purpose other than for



**ACTS, 1985. – Chap. 644.**

capital improvements to the water system of the town. In no event shall such amounts be used for salaries or expenses relating to the operation or ordinary maintenance of said system.

The treasurer of the town of Saugus shall be the custodian of said fund and may deposit or invest amounts deposited or credited thereto in such manner as may be authorized under section fifty-five of chapter forty-four of the General Laws.

**SECTION 2.** All votes and acts of the town of Saugus heretofore reserving and appropriating amounts deposited or credited for water improvements are hereby ratified, validated and confirmed.

Approved December 23, 1985.

EMERGENCY LETTER: December 24, 1985 @ 9:10 A.M.

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**Chapter 644. AN ACT FURTHER REGULATING THE INSTALLATION OF CABLE TELEVISION SYSTEM FACILITIES.**

**Be it enacted, etc., as follows:**

**SECTION 1.** Section 19 of chapter 166A of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:-- The hearing provided for in sections eleven, fourteen, fifteen, sixteen and twenty-two, shall be subject to the provisions of chapter thirty A.

**SECTION 2.** Section 22 of said chapter 166A, as so appearing, is hereby amended by striking out the fifth paragraph and inserting in place thereof the following six paragraphs:--

No person owning, leasing, controlling or managing a multiple dwelling unit or units served by a CATV system shall discriminate in rental or other charges between tenants who subscribe to such CATV services, and those who do not; provided, however, that the owner of such real estate may require reasonable compensation in exchange for permitting the installation of CATV system equipment within and upon such real estate, to be paid by an operator, said compensation to be determined in accordance with the provisions of this section.

No person owning, leasing, controlling or managing a multiple dwelling unit or units shall prohibit or otherwise prevent an operator from entering such buildings for the purposes of constructing, installing or servicing CATV system facilities if one or more tenants or occupants of a multiple dwelling unit or units have requested such CATV services. A cable television operator shall not make an installation in an individual dwelling unit unless permission has been given by the tenant occupying said unit.

If the owner of such multiple dwelling unit intends to require the payment of a sum in excess of one dollar in exchange for permitting the installation of CATV system facilities, such owner shall serve written notice thereof upon the operator within twenty days of the date when



ACTS, 1985. – Chap. 644.

such owner is notified that the operator intends to construct or install CATV system facilities in his multiple dwelling unit. Unless timely notice, as herein provided, is given by the owner to the operator, it shall be presumed conclusively that the owner does not claim or intend to require the payment of a sum in excess of a one time payment of one dollar in exchange and as compensation for permitting the installation of CATV system facilities.

Any owner who has given timely notice to the operator may assert a claim for reasonable compensation in excess of one dollar for permitting the installation of CATV system facilities. Within thirty days after notice has been given by said owner of his intent to demand additional compensation, the owner shall advise the operator in writing of the amount claimed as reasonable compensation. If within sixty days after the receipt of the owner's claim the operator has not agreed to pay the amount claimed or some other amount acceptable to the owner, the owner may bring an action before the commission pursuant to such rules and regulations as the commission may promulgate to enforce such claim for compensation. Any such action shall be brought within six months of the notice informing the operator of the amount claimed. In any action brought to enforce such right, it shall be presumed that reasonable compensation therefor shall be one dollar, but such presumption may be rebutted and, overcome by evidence that the owner has a specific alternative use for the space occupied by CATV system facilities or equipment, the loss of which shall result in a monetary loss to the owner, or that installation of CATV system facilities or equipment upon such multiple dwelling unit will otherwise substantially interfere with the use and occupancy of such unit to an extent which causes a decrease in the resale or rental value of such real estate. In determining the damages to any such real estate injured when no part of it is being taken, consideration is to be given only to such injury as is special and peculiar to such real estate and there shall be deducted therefrom the amount of any benefit to such real estate by reason of the installation of CATV system facilities.

Neither the giving of a notice as described above, nor the assertion of a specific claim, nor the initiation of legal action to enforce such claim, shall delay or impair the right of an operator to construct, install or repair CATV system facilities and maintain said CATV services. The superior court shall have original jurisdiction to enforce the provisions of this section.

A cable television operator shall indemnify the landlord for any damage caused by the installation, operation or removal of cable television facilities. An owner of property may require that the installation of cable television facilities conform to such reasonable conditions as are necessary to protect the safety, functioning and appearance of the premises, and the convenience and well being of other tenants.

Approved December 23, 1985.



**ACTS, 1985. – Chaps. 645, 646.**

**Chapter 645. AN ACT AUTHORIZING THE TOWN OF ANDOVER TO EXCHANGE CERTAIN LAND WITH EARL EFINGER AND MARGARET EFINGER.**

Be it enacted, etc., as follows:

**SECTION 1.** The town of Andover is hereby authorized to convey a certain parcel of land in said town, presently under the care, custody and control of the conservation commission and being used for conservation purposes to Earl Efinger and Margaret Efinger. Said parcels is bounded and described as follows:-

Beginning at a point on the easterly line of Iceland Road 281 feet more or less from the intersection of Lowell Street (Rte 133).

thence N 08 28 50 W along Iceland Road 39.00 feet to a point;

thence N 81 28 40 E 117.00 feet to a point;

thence S 08 28 50 E 39.00 feet to a point;

thence S 81 28 40 W 117.00 feet to the point of beginning;

containing 4,563 square feet.

**SECTION 2.** In consideration for the conveyance provided for in section one, Earl Efinger and Margaret Efinger shall convey to the town of Andover a certain parcel of land in said town bounded and described as follows:-

Beginning at a point 86.89 feet more or less easterly from a point on the easterly line of Iceland Road 281 feet more or less from the intersection of Lowell Street (Rte 133).

thence N 81 28 40 E 147.19 feet to a point;

thence S 08 31 20 E 31.00 feet to a point;

thence S 81 28 40 W 147.19 to a point;

thence N 08 31 20 W 31.00 to the point of beginning.

containing 4,563 square feet.

Approved December 23, 1985.

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**Chapter 646. AN ACT FURTHER REGULATING THE PENALTIES FOR VIOLATION OF CERTAIN HAZARDOUS WASTE LAWS.**

Be it enacted, etc., as follows:

**SECTION 1.** Section 10 of chapter 21C of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out the third sentence and inserting in place thereof the following sentence:- Any person who violates any provision of this chapter, or any regulation, order, license or approval issued or adopted thereunder: (a) shall be punished by a fine of not more than twenty-five thousand dollars, or by imprisonment for not more than two years in a house of correction, or both, for each such violation; or (b) shall be subject to a civil penalty not to exceed twenty-five thousand dollars for each such



**ACTS, 1985. – Chap. 647.**

violation; or (c) a person who knowingly violates any provision of section five, shall be punished by a fine of not more than one hundred thousand dollars, or by imprisonment in the state prison for not more than twenty years or in a jail or house of correction for not more than two and one-half years, or both, for each such violation.

**SECTION 2.** Section 11 of chapter 21E of the General Laws, as so appearing, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:–

In addition to liability for costs incurred by the commonwealth for the investigation, assessment, containment and removal of a release or a threat of a release of oil or hazardous material, any person who violates any provision of this chapter, or any order or regulation issued or adopted thereunder: (a) shall be subject to a civil penalty not to exceed twenty-five thousand dollars for each such violation; or (b) shall be punished by a fine of not more than twenty-five thousand dollars, or by imprisonment for not more than two years in a house of correction, or both, for each such violation; or (c) a person violating any provision of section seven shall be punished by a fine of not more than one hundred thousand dollars, or by imprisonment in the state prison for not more than twenty years or in a jail or house of correction for not more than two and one-half years, or both, for each such violation. Each day such violation occurs or continues shall be considered a separate violation.

Approved December 23, 1985.

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**Chapter 647. AN ACT RELATIVE TO THE MEMBERSHIP OF THE  
BOARD OF TRUSTEES OF THE SPRINGFIELD  
MUNICIPAL HOSPITAL.**

Be it enacted, etc., as follows:

**SECTION 1.** Chapter 455 of the acts of 1948 is hereby amended by striking out section 2, as amended by chapter 280 of the acts of 1959, and inserting in place thereof the following section:–

**Section 2.** Notwithstanding the provisions of any general or special law, the construction and operation of said hospital shall be vested in a board of eleven trustees. The commissioner of public health in said city by virtue of his office shall be a voting member of the board of trustees. The remaining ten trustees shall be appointed by the mayor, subject to confirmation by the city council, and shall consist of: three persons who are practicing physicians or surgeons in said city, but not more than two trustees shall be members of the staff of any one general hospital in said city; two persons who are hospital administrators in said city, but not more than one trustee shall be an administrator of any one general hospital in said city; five persons who are laypersons and who are residents of said city. Upon the expiration of the term of any trustee, his successor shall be appointed for a term of six years. Any vacancy in the board of trustees shall be filled for the unexpired term in the same



**ACTS, 1985. – Chap. 648.**

manner as the original appointment was made. The mayor shall appoint annually one of the board members to serve as chairman and the members of the board shall receive no compensation.

**SECTION 2.** Any person serving as a member of the board of trustees of the Springfield municipal hospital on the effective date of this act shall continue to serve until the expiration of the term for which he was appointed. Upon the expiration of the term of any member of said board of trustees, his successor shall be appointed in the manner and for the term provided in section two of said chapter four hundred and fifty-five.

**SECTION 3.** This act shall take effect upon its acceptance by the city of Springfield.

Approved December 23, 1985.

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**Chapter 648. AN ACT FURTHER REGULATING GROUP INSURANCE BENEFITS FOR STATE EMPLOYEES AND RETIRED STATE EMPLOYEES.**

Be it enacted, etc., as follows:

**SECTION 1.** Section 5 of chapter 32A of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out in lines 1, 2, 23, and 24, the word "two", and inserting in place thereof, in each instance, the word:– five.

**SECTION 2.** Section 6 of said chapter 32A, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:– The amount of group life insurance on each employee shall be five thousand dollars, and the amount of group accidental death and dismemberment insurance on each employee shall be five thousand dollars, except that those employees desiring to elect optional coverage in excess of five thousand dollars group life insurance and five thousand dollars group accidental death and dismemberment insurance may do so as provided in section ten A.

**SECTION 3.** The first paragraph of section 10 of said chapter 32A, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:– The commission shall require that, upon retirement of an employee, the policy or policies of insurance as set forth in section six, except the optional group life insurance referred to therein, shall provide that the five thousand dollars of group life insurance, the five thousand dollars of group accidental death and dismemberment insurance and the group general or blanket insurance providing hospital, surgical, medical, dental and other health insurance, as provided under sections five and ten C, as may be applicable, shall be continued, provided said retiree makes application to the commission on a form prescribed by the rules and regulations of the commission.

Approved December 23, 1985.

EMERGENCY LETTER: January 17, 1986 @ 9:21 A.M.



ACTS, 1985. – Chaps. 649, 650, 651.

**Chapter 649. AN ACT RELATIVE TO THE ISSUANCE OF CERTAIN  
LICENSES FOR THE SALE OF ALCOHOLIC  
BEVERAGES IN THE TOWN OF BOURNE.**

Be it enacted, etc., as follows:

Notwithstanding any provision of any general or special law to the contrary, the licensing authority of the town of Bourne shall not grant any new licenses for the sale of wine and malt beverages not to be drunk on the premises as authorized under the provisions of section fifteen of chapter one hundred and thirty-eight of the General Laws or any new seasonal licenses for the sale of all alcoholic beverages not to be drunk on the premises as authorized by sections fifteen, seventeen B and seventeen C of chapter one hundred and thirty-eight of the General Laws.

Approved December 23, 1985.

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**Chapter 650. AN ACT EXTENDING THE MEDICAL MALPRACTICE  
INSURANCE JOINT UNDERWRITING ASSOCIATION.**

Be it enacted, etc., as follows:

Section 13 of chapter 362 of the acts of 1975 is hereby amended by striking out the word "eighty-five", inserted by chapter 467 of the acts of 1983, and inserting in place thereof the word:– eighty-seven.

Approved December 23, 1985.

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**Chapter 651. AN ACT AUTHORIZING A CITY OR TOWN TO  
PROHIBIT THE DISTRIBUTION OF CERTAIN OBSCENE  
MATERIAL ON CABLE TELEVISION.**

Be it enacted, etc., as follows:

**SECTION 1.** Section 16 of chapter 166A of the General Laws is hereby amended by adding the following paragraph:–

Except as set forth in section three, nothing in this chapter shall prohibit a city or town from prohibiting the distribution on basic service of material, which is obscene as defined in section thirty-one of chapter two hundred and seventy-two, by the licensee to subscribers of said city or town.

**SECTION 2.** The provisions of this act shall apply only to licensing agreements entered into or renewed on or after March thirty-first, nineteen hundred and eighty-six.

Approved December 23, 1985.



**ACTS, 1985. – Chaps. 652, 653, 654.**

**Chapter 652. AN ACT AUTHORIZING THE CITY OF FITCHBURG TO DELEGATE RATE SETTING AUTHORITY FOR AN OFF-STREET PARKING FACILITY WITHIN SAID CITY.**

Be it enacted, etc., as follows:

**SECTION 1.** Notwithstanding the provisions of subsection (d) of section one of chapter four hundred and eighty-seven of the acts of nineteen hundred and eighty or any other general or special law to the contrary, the city of Fitchburg is hereby authorized to delegate to PRIDE, INC., a nonprofit organization established pursuant to chapter one hundred and eighty of the General Laws, its authority and duty to review and approve annually the rate schedule for an off-street parking facility to be erected and operated at the intersection of Boulder drive and Putnam street in said city.

**SECTION 2.** The authority granted by this act shall be exercised by the city council of the city of Fitchburg by a majority vote thereof. Said city council may by such vote authorize and direct the mayor of said city, or such other official of said city as said council may by its vote designate, to execute and deliver such documents as may be necessary or appropriate to delegate said authority and duty to review and approve annually said rate schedule.

Approved December 23, 1985.

EMERGENCY LETTER: January 22, 1986 @ 10:24 A.M.

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**Chapter 653. AN ACT AUTHORIZING CITIES AND TOWNS TO DECREASE THE NUMBER OF ELECTRONIC VOTING MACHINES AT ELECTIONS.**

Be it enacted, etc., as follows:

Section 25 of chapter 54 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:–

Where electronic voting systems are used, if the system requires the use of a special marking unit, such units shall be supplied to a number of not less than one for every one hundred and twenty-five voters.

Approved December 23, 1985.

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**Chapter 654. AN ACT AUTHORIZING THE USE OF CERTAIN EYE DROPS BY OPTOMETRISTS.**

Be it enacted, etc., as follows:

**SECTION 1.** Chapter 13 of the General Laws is hereby amended by striking out section 16, as appearing in the 1984 Official Edition, and



**ACTS, 1985. – Chap. 654.**

inserting in place thereof the following section:–

Section 16. There shall be a board of registration in optometry, in the following sections called the board, consisting of five members, citizens of the commonwealth to be appointed by the governor, four of whom shall have been engaged in the practice of optometry as defined in section sixty-six of chapter one hundred and twelve for the five years next preceding their appointment, and one of whom shall be a representative of the public, subject to the provisions of section nine B. One member shall annually, in September, be appointed by the governor for a term of five years. No member of the board shall be a stockholder of any school of optometry, a member of the faculty or on the board of trustees thereof, or financially interested in a manufacturing or wholesale optical business. No registered optometrist shall be appointed or reappointed to the board unless he is certified for use of diagnostic pharmaceutical agents under the provisions of section sixty-six A of said chapter one hundred and twelve.

**SECTION 2.** Paragraph (d) of section 7 of chapter 94C of the General Laws, as so appearing, is hereby amended by adding the following subparagraph:–

(10) a duly licensed optometrist who utilizes diagnostic pharmaceutical agents, as defined in section sixty-six A of chapter one hundred and twelve, and who qualifies to utilize such agents for the purpose of conducting an examination of the eye as provided in sections sixty-six A and sixty-eight A of chapter one hundred and twelve; provided, however, that a wholesale distributor or pharmacist may dispense such diagnostic pharmaceutical agents to a licensed optometrist for subsequent administration to optometry patients only if such optometrist provides the wholesale distributor or pharmacist with the number of the optometrist's certification of qualification to administer such diagnostic pharmaceutical agents.

**SECTION 3.** Chapter 112 of the General Laws is hereby amended by striking out section 66, as so appearing, and inserting in place thereof the following two sections:–

Section 66. The practice of optometry, as referred to in section sixty-seven to seventy-three, inclusive, shall mean the employment of any method or means, other than the use of drugs except as authorized under the provisions of sixty-six A, for the diagnosis of any optical defect, deficiency or deformity of the human eye or visual or muscular anomaly of the visual system or the adaptation or prescribing of lenses, prisms or ocular exercises for the correction, relief or aid of the visual functions.

Section 66A. Any registered optometrist qualified by examination for practice under the provisions of section sixty-eight subsequent to January first, nineteen hundred and eighty-four or duly certified in accordance with the provisions of section sixty-eight A may for the purpose of conducting an examination of the eye, and not for therapeutic purposes, utilize the topical application to the eye of diagnostic pharmaceutical agents; provided, however, that such diagnostic



**ACTS, 1985. – Chap. 654.**

pharmaceutical agents shall not be administered to children under the age of four years or used in the examination of pseudophakes with intraocular lens implants.

For purposes of this section and sections sixty-eight and sixty-eight A, the term "diagnostic pharmaceutical agents" shall mean any topical anesthetic, mydriatic, or cyclopegic drug, except atropine and phenylephrine hydrochloride in ten per cent concentration, suitable for ocular examination procedures.

If during the course of examining a patient, the optometrist determines the existence of: (a) ocular pressure greater than twenty-four MM, or (b) any unexplained loss of visual field, or (c) a failure on the part of the individual being examined to achieve 20/40 or better corrected vision in each eye, or (d) signs of disease, the patient shall be referred to a licensed physician, unless such condition has been previously evaluated by a physician or unless the optometrist reports in writing that such referral is not warranted and documents the reasons therefor on the records of such patient.

**SECTION 4.** Said chapter 112 is hereby further amended by inserting after section 68, as so appearing, the following section:–

Section 68A. The board of registration in optometry shall annually administer an examination designed to measure the qualifications necessary in order to safely utilize the optical application of the diagnostic pharmaceutical agents provided for in section sixty-six A. Said examination shall be held in conjunction with the examination provided for in section sixty-eight and shall include any portion of the annual examination prepared by the National Board of Examiners in Optometry which covers the subject matter of pharmacology.

Such examination shall be open upon application to any optometrist registered under the provisions of this chapter and to any person who meets the qualifications for examination under section sixty-eight; provided, however, that each applicant shall furnish to the board satisfactory evidence of the completion of a qualifying course of study relating to the topical application to the eye of diagnostic pharmaceutical agents. Such a qualifying course of study shall be at a duly accredited medical school or college of optometry. The board shall, from time to time, adopt rules and regulations prescribing the content of said course of study; provided, however, that said course of study shall require a combined total of at least ninety-five hours of study and shall include the following areas of study or their equivalent:

(A) General pharmacology: four hours in biochemistry; eight hours in general physiology; eight hours in pharmacology; and ten hours in indications and ocular effects of commonly prescribed drugs.

(B) Ocular pharmacology: eight hours in ocular pharmacology and eight hours in the study of particular topically applied agents, including but not limited to, anesthetics, dyes, mydriatics, cyclopegics, and contact lens solutions.

(C) Interpretation and patient management: six hours each in the study of anterior and posterior segment; two hours in glaucoma; and one hour in ocular emergency.



**ACTS, 1985. – Chaps. 655, 656.**

(D) Cardiopulmonary resuscitation: four hours.

(E) Supervised clinical practice: thirty hours.

The board shall transmit to all successful applicants a certificate of qualification for the practice of optometry in accordance with the provisions of section sixty-six A.

**SECTION 5.** There is hereby established a special commission consisting of the commissioner of public health or his designee, the chairman of the board of registration in optometry or his designee, the chairman of the board of registration in medicine or his designee, one member of the Massachusetts School Nurses' Association, and one person from the general public, to study the use of diagnostic pharmaceutical agents by certified optometrists on children under the age of four years and in patients with pseudophakes. Said commission shall report the results of its study and its recommendations, if any, together with drafts of legislation necessary to carry its recommendations into effect, by filing the same with the clerk of the house of representatives on or before the last Wednesday in December, nineteen hundred and eighty-six.

Approved December 23, 1985.

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**Chapter 655. AN ACT RELATIVE TO THE TERM OF OFFICE FOR THE MAYOR OF THE CITY OF BROCKTON.**

Be it enacted, etc., as follows:

Chapter 445 of the acts of 1984 is hereby amended by striking out the section 2 and inserting in place thereof the following section:-

**Section 2.** This act shall be submitted to the voters of the city of Brockton at the city election to be held in the year nineteen hundred and eighty-five in the form of the following question, which shall be placed upon the official ballot to be used for the election of city officers at said election:- "Shall An Act passed by the general court in the year nineteen hundred and eighty-four, entitled 'An Act establishing a four year term for the office of the mayor in the city of Brockton', be accepted?" If a majority of the votes cast in answer to said question is in the affirmative then this act shall take full effect for all elections held after January first, nineteen hundred and eighty-six.

Approved December 23, 1985.

EMERGENCY LETTER: December 27, 1985 @ 1:27 P.M.

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**Chapter 656. AN ACT AUTHORIZING REAL ESTATE TAX EXEMPTIONS TO CERTAIN VETERANS WHO RESIDE IN THE CITY OF NEWTON.**

Be it enacted, etc., as follows:

**SECTION 1.** Real estate of any persons who is a resident of the



**ACTS, 1985. – Chap. 657.**

commonwealth and who resides in the city of Newton and who is a veteran, as defined in clause forty-three of section seven of chapter four of the General Laws, and whose last discharge or release from the armed forces of the United States was under other than dishonorable conditions, and who was domiciled in the commonwealth for at least six months prior to entering such service, or who has resided in the commonwealth for five consecutive years next prior to the date of filing for exemption under this act, who according to the records of the Veterans Administration or of any branch of the armed forces by reason of such wartime service in the armed forces of the United States has suffered in the line of duty the loss or loss of use of both legs so as to preclude locomotion without the aid of a wheel chair, regardless of whether the Veterans Administration has certified such veteran to be a paraplegic, shall be exempt from taxation under chapter fifty-nine of the General Laws, provided, that such real estate is occupied as his domicile by such person, and provided, further, that if said property be greater than a single family house then only that value of so much of said house as is occupied by said person as his domicile shall be exempted from taxation under said chapter fifty-nine.

The date of determination as to ownership or other qualifying factors required under this act shall be July first of each year. Any person who receives an exemption under this act shall not receive another exemption under any other provision of section five of said chapter fifty-nine, except clauses Eighteenth or Forty-fifth.

After the assessors have allowed an exemption under this act, no further evidence of the existence of the facts required by this act shall be required in any subsequent year.

Notwithstanding the provisions of section twenty-seven C of chapter twenty-nine of the General Laws, the state treasurer shall not reimburse the city of Newton for any loss of taxes resulting from an exemption allowed under this act.

**SECTION 2.** This act shall take effect upon its passage.

Approved December 24, 1985.

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**Chapter 657. AN ACT FURTHER REGULATING THE PAYMENT OF CERTAIN COMMONWEALTH CHECKS.**

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately regulate the payment of certain commonwealth checks, 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:

Chapter 29 of the General Laws is hereby amended by striking out section 32, as appearing in the 1984 Official Edition, and inserting in



**ACTS, 1985. – Chaps. 658, 659.**

place thereof the following section:–

Section 32. Any check issued by the state treasurer or by any agent or agency of the commonwealth, other than checks issued in payment of obligations of the state board of retirement and the teachers' retirement board, which is not presented for payment within one year from its date shall be payable only at the office of the state treasurer. On the thirtieth day of June in each year the comptroller shall transfer to the abandoned property fund all funds which are identified by the state treasurer as funds of the commonwealth which have remained in the unclaimed check fund for at least one year. On such date, the comptroller also shall refund to the unemployment compensation fund and to each applicable account of monies separately accounted for by the comptroller as other than commonwealth monies, such amounts which in the opinion of the state treasurer represent all monies of such unemployment compensation fund or such account which have remained in the unclaimed check fund for at least one year. All checks issued in payment of obligations of the state board of retirement and the teachers' retirement board shall be payable only in accordance with the provisions of subdivision (3) of section eleven of chapter thirty-two.

Approved December 24, 1985.

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**Chapter 658. AN ACT RELATIVE TO THE ARTICLES OF ORGANIZATION OF PUBLIC UTILITIES.**

Be it enacted, etc., as follows:

Paragraph (a) of section 6 of chapter 164 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out clause (5) and inserting in place thereof the following clause:–

(5) the par value of the shares, which may be one hundred dollars, fifty dollars, twenty-five dollars, twenty dollars, ten dollars, five dollars, one dollar or such other amount as the department shall authorize.

Approved December 24, 1985.

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**Chapter 659. AN ACT RELATIVE TO THE PENALTY FOR THE DESTRUCTION OF A SHIP OR VESSEL.**

Be it enacted, etc., as follows:

**SECTION 1.** Section 108 of chapter 266 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by inserting after the word "years", in line 5, the words:– or imprisonment in a jail for not more than two and one-half years.

**SECTION 2.** Said section 108 of said chapter 266, as so appearing, is



**ACTS, 1985. – Chap. 660.**

hereby further amended by adding the following six paragraphs:–

A person found guilty of violating this section shall, in addition to any other punishment, be ordered to make restitution to the insurer or owner for any financial loss sustained as a result of the commission of the crime except as hereinafter provided. Restitution shall be imposed in addition to incarceration or fine. In the case of an indigent defendant, the court may determine that the interests of the victim and of justice would not be served by ordering such restitution. In such case, the court shall make specific written findings of the evidence presented which militated against the imposition of restitution.

The court shall, after conviction, conduct an evidentiary hearing to ascertain the extent of the damages or financial loss suffered as a result of the defendant's crime and may then determine the amount and method of restitution. In so determining, the court shall consider the financial resources of the defendant and the burden restitution will impose on the defendant. The defendant's present and future ability to make such restitution shall be considered.

A defendant ordered to make restitution may petition the court for remission from any payment of restitution or from any unpaid portion thereof. If the court finds that the payment of restitution due will impose an undue financial hardship on the defendant or his family, the court may grant remission from any payment of restitution or modify the time and method of payment.

If a defendant who is required to make restitution defaults in any payment of restitution or installment thereof, the court may hold him in contempt unless said defendant has made a good faith effort to make restitution. If the defendant has made such good faith effort, the court may, upon motion of the defendant, modify the order requiring restitution by:

- (a) providing for additional time to make any payment in restitution;
- (b) reducing the amount of any payment in restitution or installment thereof;
- (c) granting a remission from any payment of restitution or part thereof.

Restitution shall not be authorized to a party whom the court determines to be aggrieved, without such party's consent.

Approved December 24, 1985.

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**Chapter 660. AN ACT RELATIVE TO THE PAR VALUE OF SHARES IN CREDIT UNIONS.**

Be it enacted, etc., as follows:

**SECTION 1.** Section 10 of chapter 171 of the General Laws is hereby amended by striking out the second sentence, as amended by chapter 56 of the acts of 1985, and inserting in place thereof the following sentence:– Shares shall be of a par value of not less than five dollars but not more than twenty-five dollars each and shall be subscribed and paid



**ACTS, 1985. – Chaps. 661, 662.**

for in such manner as the by-laws of the credit union shall prescribe.

**SECTION 2.** The second paragraph of section 25 of said chapter 171, as appearing in the 1984 Official Edition, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:– Dividends due to a member shall, at his election, be paid to him in cash or be credited to his account in either shares or deposits; provided however, that dividends may not be declared or paid on less than one full share.

Approved December 24, 1985.

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**Chapter 661. AN ACT RELATIVE TO THE PUBLICATION OF CERTAIN NOTICES FOR THE ISSUANCE OF ALCOHOLIC LIQUOR LICENSES.**

Be it enacted, etc., as follows:

Section 15A of chapter 138 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by inserting after the word "newspaper", in lines 17 and 18, the words:– , published within the commonwealth,.

Approved December 24, 1985.

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**Chapter 662. AN ACT PROVIDING POLICE POWERS FOR THE BUREAU OF SPECIAL INVESTIGATIONS.**

Be it enacted, etc., as follows:

**SECTION 1.** Section 10L of chapter 147 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out, in line 5, the words "and ten K" and inserting in place thereof the words:– ten K, and ten M.

**SECTION 2.** Said chapter 147 is hereby further amended by inserting after section 10L the following section:–

Section 10M. The commissioner may at the request of the director of the bureau of special investigations with the approval of the fraudulent claims commission, appoint as special police officers employees of said bureau who have undergone training as required by said commissioner. Such special police officers shall serve for one year, subject to removal by the commissioner, and they shall have and exercise throughout the commonwealth the same powers as state police officers to serve warrants and other criminal processes for any criminal offense resulting from either a fraudulent claim for payment or services under any assistance program administered by the department of public welfare or any program administered by the department of social services or a receipt of payment or services by a person not entitled thereto or for any violation of chapter two hundred and seventy-three relative to the



ACTS, 1985. – Chap. 663.

support of spouses and children for whom the department of public welfare is entitled to receive payment, or in whose behalf said department is giving aid; except, that said officers shall not have the authority to arrest without a warrant. They shall report to the commissioner as to their official acts at such times and in such manner as he may require. They shall serve without pay except their regular compensation as employees of said bureau and they shall receive no fees for services on return of any criminal process. This section shall not be construed as authorizing any person appointed as a special police officer as provided herein to carry a firearm in the performance of his duties.

Approved December 24, 1985.

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**Chapter 663. AN ACT FURTHER REGULATING THE CONTROL OF CERTAIN JUNKYARDS AND AUTOMOBILE GRAVEYARDS.**

Be it enacted, etc., as follows:

**SECTION 1.** Chapter 140 of the General Laws is hereby amended by striking out section 54A, as appearing in the 1984 Official Edition, and inserting in place thereof the following section:—

Section 54A. No license shall be granted under section fifty-four for an automobile graveyard, as defined in section one of chapter one hundred and forty B, unless such graveyard:

- (a) is to be operated and maintained entirely within a building; or
- (b) is to be operated and maintained exclusively for the purpose of salvaging the value as scrap of the material collected, as opposed to reselling parts to be used for the purpose for which they were originally manufactured, and is to be located in a built-up industrial area, or contiguous to a railroad siding, or on or contiguous to docking facilities; or
- (c) is:
  - (1) more than one thousand feet from the nearest edge of any interstate or primary system, as defined in section one of chapter one hundred and forty B, and
  - (2) more than six hundred feet from any other state highway, and
  - (3) more than three hundred feet from any park, bathing beach, playground, school, church or cemetery and is not within ordinary view therefrom; or unless it is
  - (4) screened from view either by natural objects or well-constructed and properly maintained fences at least six feet high acceptable to said city or town and in accordance with the regulations as promulgated by the department of public works and as specified on said license.

No license shall be granted under the provisions of clause (4) of subsection (c) unless a copy of the application for such license has been forwarded by the applicant to the department of public works within three working days of the filing of said application.



ACTS, 1985. – Chap. 664.

SECTION 2. Said chapter 140 is hereby further amended by striking out section 59A, as so appearing, and inserting in place thereof the following section:–

Section 59A. No license shall be granted under section fifty-nine to a person within Class 3 as defined in section fifty-eight, for a motor vehicle junkyard, unless such junkyard

(a) is to be operated and maintained entirely with a building; or  
(b) is to be operated and maintained exclusively for the purpose of salvaging the value as scrap of the material collected, as opposed to reselling parts to be used for the purpose for which they were originally manufactured, and is to be located in a built-up industrial or commercial area, or contiguous to a railroad siding, or on or contiguous to docking facilities; or

(c) is:  
(1) more than one thousand feet from the nearest edge of any highway on the interstate or primary system, and

(2) more than six hundred feet from any other state highway, and  
(3) more than three hundred feet from any park, bathing beach, playground, school, church or cemetery and is not within ordinary view therefrom; or unless it is

(4) screened from view by natural objects or well-constructed and properly maintained fences at least six feet high acceptable to said city or town and in accordance with regulations as promulgated by the department of public works and as specified on said license.

No license shall be granted under the provisions of clause (4) of subsection (c) unless a copy of the application for such license has been forwarded by the applicant to the department of public works within three working days of the filing of said application.

Approved December 24, 1985.

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**Chapter 664. AN ACT RELATIVE TO ACCESS TO SERVICE STATIONS FOR HANDICAPPED PERSONS.**

Be it enacted, etc., as follows:

Chapter 94 of the General Laws is hereby amended by inserting after section 295BB the following section:–

Section 295CC. Every licensed retail motor fuel dealer who offers for sale from both full-service and self-service motor fuel pumps or other dispensing devices from which motor fuel is sold at the same location, shall dispense motor fuel from the self-service pump or device for any owner-operator of a motor vehicle bearing handicapped person or disabled veteran number plates as described in section two of chapter ninety.

Approved December 24, 1985.



ACTS, 1985. – Chaps. 665, 666.

**Chapter 665. AN ACT AUTHORIZING THE DIVISION OF CAPITAL PLANNING AND OPERATIONS TO GRANT TO THE CITY OF LOWELL CERTAIN EASEMENTS OVER CERTAIN PARK LAND IN SAID CITY.**

Be it enacted, etc., as follows:

The division of capital planning and operations, acting for and on behalf of the commonwealth, is hereby authorized to grant to the city of Lowell a temporary general construction easement, for a period of time not longer than one year, and a permanent easement in and over certain park land located in said city, under the control of the department of environmental management, said easement being described in a plan of land entitled "Easement Plan of School Street Ejector Station for the City of Lowell" on file with the department of environmental management. The temporary easement is for the purpose of allowing the installation of an underground sewage ejector station and the permanent easement is for the purpose of allowing the city to have access to said station for maintenance purposes.

Approved December 24, 1985.

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**Chapter 666. AN ACT AUTHORIZING THE DIVISION OF CAPITAL PLANNING AND OPERATIONS TO ACQUIRE CERTAIN PUBLIC LAND IN THE TOWN OF MONTAGUE FOR HIGHWAY PURPOSES.**

Be it enacted, etc., as follows:

The deputy commissioner of the division of capital planning and operations, acting for and on behalf of the commonwealth, is hereby authorized to acquire by eminent domain, by purchase or otherwise, under the provisions of section one of chapter six hundred and ninety-three of the acts of nineteen hundred and fifty-five, two certain parcels of land in the town of Montague, being used by said town as part of the Gill-Montague Regional School District and as part of the Turners Falls Fire District, respectively, and to divert said lands from their present use to highway use by the department of public works, for the reconstruction of Montague road, in the town of Montague.

Said lands to be so acquired and diverted are shown on maps entitled "Plan of Lands in the Town of Montague belonging to the Gill-Montague Regional School District and to the Turners Falls Fire District to be Used for Highway Purposes June 1985", which said department is directed to file with the chief engineer of the department, and which lands are to be identified on department layout plans as follows:—

Parcel No. 1.

A parcel of land shown as Parcel No. 10 on the aforementioned plan and consisting of 4,631 square feet, more or less.

Parcel No. 2.



**ACTS, 1985. – Chaps. 667, 668, 669.**

A parcel of land shown as Parcel No. 11 on the aforementioned plan and consisting of 1,648 square feet, more or less.

Approved December 24, 1985.

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**Chapter 667. AN ACT RELATIVE TO THE CLASSIFICATION OF THE POSITIONS OF CHATHAM HARBORMASTER AND CHATHAM SHELLFISH CONSTABLE IN THE BARNSTABLE COUNTY RETIREMENT SYSTEM.**

Be it enacted, etc., as follows:

**SECTION 1.** Notwithstanding the provisions of section three of chapter thirty-two of the General Laws, the harbormaster and shellfish constables of the town of Chatham shall be classified in Group 2 for the purposes of said chapter thirty-two.

**SECTION 2.** This act shall take effect upon its acceptance by a majority vote of the board of selectmen of the town of Chatham.

Approved December 24, 1985.

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**Chapter 668. AN ACT AUTHORIZING THE DIVISION OF CAPITAL PLANNING AND OPERATIONS TO TRANSFER CONTROL OF WILLARD STREET IN THE CITY OF QUINCY TO THE METROPOLITAN DISTRICT COMMISSION.**

Be it enacted, etc., as follows:

The Department of Public Works is hereby authorized to enter into an agreement to transfer care, custody, and control of that portion of Willard Street, located in the city of Quincy, which is currently under the care, custody, and control of the Department of Public Works to the Metropolitan District Commission.

Approved December 24, 1985.

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**Chapter 669. AN ACT AUTHORIZING THE COUNTY COMMISSIONERS OF BARNSTABLE COUNTY TO DEVELOP A NURSING HOME ON THE GROUNDS OF THE BARNSTABLE COUNTY HOSPITAL.**

Be it enacted, etc., as follows:

**SECTION 1.** The county commissioners of Barnstable county are hereby authorized to expend a sum not to exceed five million dollars for



**ACTS, 1985. – Chaps. 670.**

the development of a nursing home on the grounds of the Barnstable county hospital.

**SECTION 2.** For the purposes aforesaid, the treasurer of Barnstable county, with the approval of the county commissioners and county advisory board approval thereof, may borrow upon the credit of the county such sums as may be necessary, not exceeding, in the aggregate, five million dollars and may issue bonds or notes of the county therefor, which shall bear on their face the words, Barnstable County Nursing Home, Act of 1985. Each authorized issue shall constitute a separate loan and such loans shall be payable in not more than twenty years from their dates. The bonds or notes shall be signed by the county treasurer and countersigned by a majority of the county commissioners. The county may sell the said securities at public or private sale, upon such terms and conditions as the county commissioners deem proper, but not for less than their par value. Indebtedness incurred hereunder shall, except as herein provided, be subject to chapter thirty-five of the General Laws.

**SECTION 3.** The county treasurer, with the approval of the county commissioners and county advisory board, may issue temporary notes of the county, payable in not more than one year from their date, in anticipation of the issue of serial bonds or notes under this act, but the time within which such serial bonds or notes shall become due and payable shall not, by reason of such temporary notes, be extended beyond the time fixed by this act. Any notes issued in anticipation of the serial bonds or notes shall be paid from the proceeds thereof.

Approved December 24, 1985.

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**Chapter 670. AN ACT RELATIVE TO THE POWERS OF THE MASSACHUSETTS CREDIT UNION SHARE INSURANCE CORPORATION.**

Be it enacted, etc., as follows:

Section 6 of chapter 294 of the acts of 1961, as most recently amended by chapter 749 of the acts of 1981, is hereby further amended by adding the following paragraph:–

Nothing in this chapter shall be construed as transferring or imputing to the corporation any liability, civil or criminal, arising from any prior act or acts of the credit union whose property and business has been transferred to the possession and control of the corporation pursuant to this chapter, or from any prior act or acts by an employee, officer, or director of such credit union.

Approved December 24, 1985.



**ACTS, 1985. – Chaps. 671.**

**Chapter 671. AN ACT RELATIVE TO MEDICAL MALPRACTICE.**

Whereas, The deferred operation of this act would tend to defeat its purpose, which is, in part, to guarantee the continued affordability of medical malpractice insurance, 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.** Notwithstanding any provision of the general or special laws to the contrary, premium charges for medical malpractice insurance for physicians and surgeons insured by the medical malpractice joint underwriting association established pursuant to section six of chapter three hundred and sixty-two of the acts of nineteen hundred and seventy-five and by any insurance company with respect to policies issued on or after July first, nineteen hundred and eighty-four, shall be equal to the premium charges contained in the decision of the Commissioner of Insurance dated May eighteenth, nineteen hundred and eighty-four.

Premium charges with respect to policies of medical malpractice insurance for physicians and surgeons issued by the Joint Underwriting Association or any insurance company on or after July first, nineteen hundred and eighty-four shall be subject, effective May first, nineteen hundred and eighty-six, to the provisions of section five A of chapter one hundred and seventy-five A of the General Laws.

**SECTION 2.** Notwithstanding any provisions of the general or special laws to the contrary, the medical malpractice joint underwriting association established pursuant to section six of chapter three hundred and sixty-two of the acts of nineteen hundred and seventy-five shall be subject to an audit by the State Auditor. The State Auditor shall be reimbursed by the Massachusetts Medical Society for the actual cost of performing said audit.

An audit performed pursuant to this section shall include, but not be limited to, the following matters: an analysis of the ratio of premium dollars to incurred but not reported losses, management procedures, risk management procedures, the composition of the board of directors, reserve limits and adequacy, reserve methodologies, claims nature and breakdown in accordance with settlements and judgements, general accounting procedures, and overall fiscal soundness.

The State Auditor shall report its findings and recommendations to the Joint Legislative Committee on Insurance on or before April thirtieth, nineteen hundred and eighty-six.

**SECTION 3.** Section two of this act shall expire on June thirtieth, nineteen hundred and eighty-six.

Approved December 24, 1985.



ACTS, 1985. – Chap. 672.

**Chapter 672. AN ACT INCREASING AMOUNTS OF LOANS BY BANKS TO CERTAIN OFFICERS AND BOARD MEMBERS OF SAID CORPORATIONS.**

Be it enacted, etc., as follows:

Chapter 168 of the General Laws is hereby amended by striking out section 19, as appearing in the 1984 Official Edition, and inserting in place thereof the following section:–

Section 19. No such corporation shall, except as hereinafter provided, make any loan or extend credit in any other manner to any or its operating officers or to any of its trustees, including a member of its board of investment, and no such operating officer or such trustee shall, except as hereinafter provided, borrow from or otherwise become indebted to such corporation or be surety for loans by it to others or, directly or indirectly, whether acting individually or as trustee holding property in trust for another person, be an obligor for money borrowed of the corporation; provided, however, that with the prior approval of a majority of the entire board of investment, excluding any member thereof involved in the loan or extension of credit, such corporation may make a loan or extend credit to such operating officer in an amount not exceeding twenty thousand dollars on a loan or extension of credit, secured or unsecured and in an amount not exceeding sixty thousand dollars on a loan or extension of credit intended or secured for educational purposes, and in an amount not exceeding one hundred and fifty thousand dollars on a loan secured by a mortgage on real estate improved with a single family dwelling which is, or is to be, occupied by such operating officer, or to such trustee, who is not an operating officer of such corporation, subject to the limitations contained in chapter one hundred and sixty-seven E. Such corporation shall not give a preferential rate of interest or other preferential terms on any such loan or extension of credit to any such operating officer or to any such trustee. Any loans or extensions of credit made hereunder shall be subject to the provisions of section twenty.

No operating officer, whether acting individually or as trustee holding property in trust for another person, shall become the owner of real estate upon which a mortgage is held by the corporation; provided, however, that this prohibition shall not apply to any operating officer who becomes the owner of real estate upon which a mortgage is held by the corporation securing a loan in an amount not exceeding one hundred and fifty thousand dollars on real estate improved with a single family dwelling which is occupied or which is to be occupied by such operating officer. The provisions of this section shall not apply to loans made to any operating officer on deposit books, or to loans as are guaranteed or insured in whole or in part as authorized by chapter forty-six of the acts of nineteen hundred and forty-five or by any regulations thereunder.

Approved December 27, 1985.



**ACTS, 1985. – Chaps. 673, 674.**

**Chapter 673. AN ACT PROVIDING FOR THE APPOINTMENT OF THE CLERK AND TREASURER OF THE LUNENBURG WATER DISTRICT.**

Be it enacted, etc., as follows:

**SECTION 1.** Section 9 of chapter 17 of the acts of 1939 is hereby amended by striking out the fourth sentence and inserting in place thereof the following two sentences:– At the first regular or special duly noticed meeting of the commissioners, following the annual district meeting, which meeting may be held on the same day as the annual district meeting, the commissioners shall appoint a clerk and a treasurer for the district, each to serve for a term of one year or until a successor is duly appointed and sworn. The same person may serve as clerk and treasurer.

**SECTION 2.** Chapter thirty-five of the acts of nineteen hundred and fifty-four is hereby repealed.

**SECTION 3.** Chapter one hundred and fifteen of the acts of nineteen hundred and fifty-five is hereby repealed.

**SECTION 4.** This act shall take effect upon its acceptance by a majority vote of the district at an annual meeting or at a special meeting called for the purpose.

Approved December 27, 1985.

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**Chapter 674. AN ACT ESTABLISHING SAFETY STANDARDS FOR THE RAIL TRANSPORT OF HAZARDOUS MATERIALS.**

Be it enacted, etc., as follows:

**SECTION 1.** Chapter 25 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by inserting after section 5B the following section:–

Section 5C. The department shall promulgate, in accordance with chapter thirty A, rules and regulations for the transportation by rail of hazardous materials in the commonwealth. Said regulations shall be consistent with any federal regulations in effect.

**SECTION 2.** The department of public utilities shall prepare rules and regulations as required by section five C of chapter twenty-five of the General Laws within sixty days of the effective date of this act.

Approved December 27, 1985.



ACTS, 1985. – Chaps. 675, 676.

**Chapter 675. AN ACT RELATIVE TO AWARDS OF CERTAIN PUBLIC CONSTRUCTION CONTRACTS INVOLVING PUBLIC WORKS.**

Be it enacted, etc., as follows:

Section 44A of chapter 149 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out subsection (2) and inserting in place thereof the following subsection:–

(2) Every contract for the construction, reconstruction, installation, demolition, maintenance or repair of any building by a public agency estimated to cost more than twenty-five thousand dollars except for a pumping station to be constructed as an integral part of a sewer construction or water construction project bid under the provisions of section thirty-nine M of chapter thirty shall be awarded to the lowest responsible and eligible general bidder on the basis of competitive bids in accordance with the procedure set forth in the provisions of section forty-four A to forty-four H, inclusive. When the general court has approved the use of an alternative mode of procurement of construction for a project pursuant to section seven E of chapter twenty-nine, the awarding authority responsible for procuring construction services for such project shall follow the policies and procedures of this section and of section forty-four B to forty-four H, inclusive, to the extent compatible with the mode of construction procurement selected. The term "pumping station" as used in this section shall mean a building or other structure which houses solely pumps and appurtenant electrical and plumbing fixtures.

Approved December 27, 1985.

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**Chapter 676. AN ACT AUTHORIZING THE DEPARTMENT OF ENVIRONMENTAL MANAGEMENT TO ACQUIRE LAND AND DEVELOP A REGIONAL ECONOMIC AND RECREATIONAL FACILITY AREA IN BERKSHIRE COUNTY.**

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to create a regional economic facility area in the form of a joint public and private development of Greylock Glen, 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 following words shall, unless the context clearly otherwise requires, have the following meanings:–

"Abutting reservation land", that area of land in Berkshire county shown on a plan of land on file at the department's office, entitled "Land to be used in Connection with the Operation of the Greylock Glen Recreational Facilities", bounded and described as follows:



ACTS, 1985. – Chap. 676.

Beginning at a point marking the southwesterly corner of the herein described premises,

thence, running N 08° 30' 00" E a distance of 1028.28 feet to a point;

thence, running N 10° 12' 05" E a distance of 1547.01 feet to a point;

thence, running S 84° 57' 07" E a distance of 150.17 feet to a granite bound;

thence, running S 84° 57' 07" E a distance of 321.07' to a point;

thence, running S 06° 13' 23" E a distance of 102.59 feet to a point;

thence, running N 83° 46' 38" E a distance of 655.38 feet to a point;

thence, running S 04° 01' 38" W a distance of 609.18 feet to a point;

thence, running N 86° 31' 38" E a distance of 675.18 feet to a point;

thence, running S 04° 56' 25" W a distance of 1124.40 feet to a point;

thence, running S 05° 10' 14" W a distance of 682.36 feet to a point;

thence, running S 82° 39' 42" W along a stone wall to a point;

thence, running S 84° 32' 20" W a distance of 1444.49 feet to a point;

thence, running S 86° 19' 45" W a distance of 468.79 feet to the point of beginning. Containing approximately ninety-nine acres of the Mount Greylock state reservation.

"Board", board of environmental management.

"Commissioner", the commissioner of environmental management.

"Department", the department of environmental management.

"Division", the division of capital planning and operations.

"Land", that area of land in Berkshire county known as Greylock Glen, as shown on a plan of land on file at the department's office, entitled "Land to be Acquired in Connection with the Development of Greylock Glen", bounded and described as follows:

FIRST PARCEL:

Beginning at a stone on the east line of land of the Commonwealth of Massachusetts, Mt. Greylock State Reservation, at the Northwest corner of land of Adams Fire District as described by deed in Book 354, Page 49, Parcel 1;

Thence, running Northerly along said Commonwealth to the Southwest corner of land of Margery L. Gould;

Thence, running Easterly along said Gould to the Southeast corner of said Gould,

Thence, running Northerly along said Gould and crossing Gould Road 1836.8 feet, more or less, to the Southwest corner of land of Berkshire Electric Company;

Thence, running Easterly along Berkshire Electric Company 50 feet, more or less, to a point;

Thence, running Northerly along Berkshire Electric Company 75 feet, more or less, to a point;

Thence, running Westerly along Berkshire Electric Company 50 feet, more or less, to a point in the East line of land of said Margery L. Gould;

Thence, running Northerly along said Gould 925.4 feet, more or less, to the Northeast corner of said Gould;

Thence, running Westerly along said Gould 3495 feet, more or less, to the Northwest corner of said Gould, said point being on the East line of land of said Commonwealth;

Thence, running Northerly along said Commonwealth to a stone bound at the Southwest corner of other land of the Commonwealth of



ACTS, 1985. – Chap. 676.

Massachusetts as described by deed in Book 239, Page 116, Parcel I;

Thence, running Easterly along said Commonwealth to a point in the centerline of a brook, said point being at the Northwest corner of other land of said Commonwealth as described by deed in Book 239, Page 116, Parcel III;

Thence, running Southeasterly and Easterly along the centerline of said brook and land of said Commonwealth to a point in the centerline of said brook at the Southeast corner of said Commonwealth as described in said Book 239, Page 116, Parcel III;

Thence, running Northerly along said Commonwealth to a point;

Thence, running Easterly along said Commonwealth to a stone bound at the Southeast corner of land as described in Book 239, Page 116, Parcel II;

Thence, continuing Easterly along land of said Commonwealth as described in Book 414, Page 286 and 287, being the Fourth Parcel hereinafter described, to a point at Northwest corner of land of James E. Peterson;

Thence, running Southerly along said Peterson and along land of one Ruth Wiesner 3270.2 feet, more or less, to an iron pin at the Southwest corner of said Ruth Wiesner;

Thence, running Westerly along the North line of land of Edmond E. and Henry J. Jaeschke 520.1 feet, more or less to a point at the Northwest corner of said Jaeschke;

Thence, running Southerly along said Jaeschke 506 feet, more or less, to a point;

Thence, running Southwesterly along said Jaeschke 311.8 feet, more or less, to a point;

Thence, running Southerly along said Jaeschke 803.2 feet, more or less, to a point at the Northeast corner of land of Peter Meltzer, Sr. and Albert Cavkchi;

Thence, running Westerly along said Meltzer and Cavkchi 210 feet, more or less, to a point;

Thence, running Southerly along said Meltzer and Cavkchi 210 feet, more or less, to a point;

Thence, running Easterly along said Meltzer and Cavkchi 210 feet, more or less to a stone bound in the west line of land of Mary L. Arnold;

Thence, running Southerly along land of said Mary L. Arnold 322.95 feet, more or less, to a point;

Thence, running Westerly along said Mary L. Arnold and along the North line of West Mountain Road to a point;

Thence, running Southerly and crossing said West Mountain Road to a point at the Northwest corner of one Wojieck;

Thence, running Southerly along said Wojieck, land of one Zipperling and land of one Meiklejohn 956.6 feet, more or less, to a point in the centerline of a brook at land of one Sturtevant;

Thence, running Southwesterly along the centerline of said brook and along land of said Sturtevant and land of one Kirutiak 2550 feet, more or less, to a point at the Northwest corner of said Kirutiak;

Thence, running Southerly to the Southwest corner of said Kirutiak;

Thence, running Easterly along said Kirutiak to a stone bound in the



ACTS, 1985. – Chap. 676.

Southerly line of said Kirutiak;

Thence, running Easterly along said Kirutiak to a stone bound in the Southerly line of said Kirutiak;

Thence, running Southerly along land of Adams Fire District 1048.56 feet, more or less, to a stone bound;

Thence, running Westerly along said Adams Fire District 1267.52 feet, more or less, to a point;

Thence, running Southerly along said Adams Fire District 627.65 feet, more or less, to a stone bound;

Thence, running Westerly along said Adams Fire District and crossing West Mountain Road 2103.74 feet, more or less, to a stone bound;

Thence, running Southerly along said Adams Fire District 1096.56 feet, more or less, to a stone bound;

Thence, running Westerly along said Adams Fire District 298.41 feet, more or less, to the point and place of beginning.

The above described property is subject to the following easements, rights of way and public ways:

1. Public ways: West Mountain Road; Gould Road; Thiel Road; and any public ways as may exist and however they may be described and bounded.

2. Easements:

New England Power Company for electric transmission lines and appurtenances.

New England Telephone and Telegraph Company for communications lines and appurtenances.

Northeastern Gas Transmission Company for gas pipelines and appurtenances.

Adams Gas Light Company, Commonwealth of Massachusetts, Margery L. Gould.

3. Various rights-of-way for crossing and recrossing the above described premises for access to adjoining lands;

For spring rights benefitting adjacent properties.

The above described property has the benefit of various rights-of-way for ingress and egress to the property over land of others.

The above described premises is subject to any other easements and rights-of-way as may exist.

Meaning and intending to describe that land of Community Savings Bank as referred to by deeds in Book 697, Page 848, Book 697, Page 877, and Book 697, Page 908. Excepting that land referred to in Book 697, Page 848, Parcel 4, being the third parcel hereinafter described. Also excepted from the above described premises is that land of Thomas & Paulette Morin as referred to in Book 617, Page 142.

SECOND PARCEL:

Beginning at a point which marks the intersection of the Southerly sideline of Fisk Road, so-called, and the easterly sideline of West Road, so-called;

Thence, running Easterly along the Southerly sideline of Fisk Road, so-called, to a point at the Northeasterly corner of the parcel herein described, the same being at the Northwesterly corner of Lot Number 2 as shown on a plan recorded in Plan Book 240B, Page 192 of the Northern Berkshire Registry of Deeds;



**ACTS, 1985. – Chap. 676.**

Thence, running Southerly along said Lot 2 and Lots 2A, 4 and 6, 348.26 feet, more or less, to a point located at the Southwesterly corner of Lot 6;

Thence, continuing in a Southerly direction along Lots 8 and 10 as shown on a plan recorded in Plan Book 240C, Page 187 of the Northern Berkshire Registry of Deeds, 150 feet, more or less, to a point at the Southwesterly corner of Lot 10;

Thence, running Easterly along the Southerly side of said Lot 10, 120 feet, more or less, to a point on the westerly sideline of Bieniek Avenue, so-called;

Thence, running Southerly along the Westerly sideline of Bieniek Avenue 75 feet, more or less, to a point;

Thence, running Westerly along Lot 14 as shown on a plan recorded in Plan Book 240D, Page 19 of the Northern Berkshire Registry of Deeds, 120 feet, more or less to a point;

Thence, running Southerly along Lots 14, 16 and 18, 240 feet, more or less, to a point;

Thence, running in a Southerly direction along Lots 20, 22 and 24 as shown on a plan recorded in Plan Book 240G, Page 102 of the Northern Berkshire Registry of Deeds, 230 feet, more or less to a point at the Southwest corner of said Lot 24;

Thence, running in an Easterly direction along the Southerly side of said Lot 24 and along the Southerly terminus of Bienick Avenue, 170 feet, more or less, to a point;

Thence, running Northerly along the Easterly sideline of Bieniek Avenue 17.88 feet, more or less to a point;

Thence, running Easterly along the Southerly side of Lot 23 as shown on a plan recorded in Plan Book 240G, Page 102 of the Northern Berkshire Registry of Deeds, 122.75 feet, more or less, to a point at land of Walter and Blanche Cunningham;

Thence, running Southerly along land of said Cunningham to a stone monument at land of Richard S. McConnell;

Thence, running Westerly along said McConnell 719 feet, more or less, to a point;

Thence, running Southerly along said McConnell 142.6 feet, more or less, to a point at land of Charles J. Horn and others;

Thence, running Westerly along land of said Horn and others to the Easterly sideline of West Road, so-called;

Thence, running Northerly along the Easterly sideline of West Road to a point and place of beginning.

Excepting from the above described premises the following parcels recorded in the Northern Berkshire Registry of Deeds;

Book 465, Page 276

Book 479, Page 287

Book 604, Page 131

Book 628, Page 194

Plan Book 240D, Page 53

Subject to a right-of-way recorded in Book 604, Page 131 of the Northern Berkshire Registry of Deeds.

Subject to water and spring rights as may exist.



**ACTS, 1985. – Chap. 676.**

The above described premises has a right-of-way over land now or formerly of one Sanderson as described in Book 604, Page 131 and shown on a plan recorded in Plan Book 240D, Page 53 of the Northern Berkshire Registry of Deeds.

Also see Book 697, Page 854 of the Northern Berkshire Registry of Deeds for further reference to exceptions and rights-of-way over the above described parcel.

The above described parcel is subject to any other easements and rights-of-way that may exist.

**THIRD PARCEL:**

Beginning at a stone bound at the Southwest corner of the premises herein described, said stone bound being at the Southeast corner of land of the Commonwealth of Massachusetts as described by deed in Book 263, Page 291, known as the "Follett Lot";

Thence, running Northerly along said Commonwealth – "Follett Lot" to a point;

Thence, running Easterly along land of Arthur H. Thiel, as described by deed in Book 637, Page 3, Parcel 2, to a point;

Thence, running Southerly along said Thiel to a point in the North line of other land of said Thiel as described by deed in Book 637, Page 3, Parcel 1;

Thence, running Westerly along said Thiel and along land of the Commonwealth of Massachusetts to the point and place of beginning;

Meaning and intending to describe that land of Community Savings Bank as referred to by deed in Book 697, Page 848, Parcel 4.

The above described premises is subject to easements and rights-of-way as may exist.

**FOURTH PARCEL:**

Beginning at a stone bound at the Southwest corner of the premises herein described, said stone bound being at the Southeast corner of land of the Commonwealth of Massachusetts as described by deed in Book 239, Page 116, Parcel II;

Thence, running Northerly along said Commonwealth 2484.4 feet, more or less, to a stone bound on the South line of other land of said Commonwealth as described by deed in Book 263, Page 291 and known as the "Follett Lot";

Thence, running Easterly along said Commonwealth– "Follett Lot" 1424.1 feet, more or less, to a stone bound at the Southeast corner of said "Follett Lot";

Thence, continuing Easterly along land of Community Savings Bank as described in Book 697, Page 848, Parcel 4 to a point at the Northwest corner of land of Arthur H. Thiel, Jr. as described by deed in Book 637, Page 3, Parcel 1;

Thence, running Southerly along said Thiel 99 feet, more or less, to an iron pin;

Thence, running Easterly along said Thiel 655.38 feet, more or less, to an iron pin;

Thence, running Southerly along said Thiel 609.18 feet, more or less, to a point;

Thence, running Easterly along said Thiel 675.18 feet, more or less, to a point at the Northwest corner of land of Doris I. Hathaway;



**ACTS, 1985. – Chap. 676.**

Thence, running Southerly along said Hathaway 1808.4 feet, more or less, to a point at the Southwest corner of said Hathaway, said point being on the North line of land of James E. Peterson;

Thence, running Westerly along said Peterson and along land of Community Savings Bank as described in Book 697, Page 848, Parcel 3 to the point and place of beginning.

Meaning and intending to describe that land of the Commonwealth of Massachusetts as referred to by deed in Book 414, Pages 286 and 287.

The above described premises are subject to easements and rights-of-way as may exist.

"Lands", the land and the abutting reservation land.

"Master Planner", the person selected by the department who shall formulate the plan.

"Permanently alienate", to sell the fee simple, to lease for a term of more than ninety-nine years or otherwise to dispose of real estate without a reversionary right retained in the commonwealth.

"Plan", a master plan, as defined in section thirty-nine A of chapter seven of the General Laws, which plan shall outline the uses of the Land as well as the facilities and improvements thereon.

"Purposes", those general recreational purposes to be established pursuant to the plan as well as the residential and commercial use developed in connection therewith.

**SECTION 2.** The first sentence of the second paragraph of section one of chapter four hundred and forty-four of the acts of nineteen hundred and sixty-six is hereby repealed.

**SECTION 3.** The Mount Greylock state reservation benefits the commonwealth with unique scenic, natural and historic qualities. Said reservation shall be managed so as to preserve and protect those qualities. In particular, no downhill ski facilities, including without limitation any aerial tramway, ski lift or associated equipment, shall be constructed within the Mount Greylock state reservation.

**SECTION 3A.** In addition to and not in derogation of the protection provided in sections three A and three B, the unanimous consent of all members of the board shall be required for any of the following actions:

(1) any new disposition of any interest in, or any part of any interest in, the Mount Greylock state reservation, but not including renewals or extensions of existing leasehold interests;

(2) the construction of an aerial tramway, chair lift or associated downhill ski facilities within the Mt. Greylock State Reservation;

(3) major capital improvements within the Mt. Greylock State Reservation, as defined in regulations to be promulgated by the board of environmental management;

provided however, that the foregoing provisions of clauses (1) and (3) shall not apply to the lands.

**SECTION 4.** Chapter 21 of the General Laws is hereby amended by striking out sections 2 and 2A, as appearing in the 1984 Official Edition and inserting in place thereof the following two sections:-



**ACTS, 1985. – Chap. 676.**

Section 2. The department shall be under the control of a board, which board shall consist of seven members appointed by the governor for terms of seven years. Upon the expiration of the terms of the current members of the board, all additional appointments by the governor, except those made to fill a vacancy in an unexpired term, shall be for terms of seven years.

The two new members of the board of environmental management provided for in this section shall be appointed to serve terms of six and seven years, respectively, but thereafter the appointments of the successors of such new members, except an appointment made to fill a vacancy in an unexpired term, shall be for seven years.

Section 2A. The members of the board of environmental management shall be selected with due regard to geographical distribution; provided, however, that except as hereinafter provided no more than one such member shall be appointed from the same county and one member of said board shall be a resident of Berkshire county.

The commissioner shall request each of the boards of trustees or directors of the Massachusetts Audubon Society, the Massachusetts Chapter of the Sierra Club, the Massachusetts Chapter of the Appalachian Mountain Club, and the Trustees of Reservations, to nominate three candidates for the seventh member of the board. From the nominations received from the several boards of such organizations, the commissioner shall select three candidates whom he shall recommend to the governor. The governor shall appoint the seventh member of the board from among the candidates recommended by the commissioner, which member shall be appointed without regard to the county membership restrictions outlined above.

**SECTION 4A.** Section 2B of said chapter 21, as amended by chapter 272 of the acts of 1985, is hereby further amended by adding the following two paragraphs:–

Prior to such removal, however, the chairperson of the board of environmental management shall certify the unexcused absence of said board member from three consecutive meetings by filing a certificate to that effect with the commissioner of the department of environmental management and the secretary of the commonwealth. Upon the filing of such certificates, such a member's position shall be deemed vacant and the governor shall appoint a successor thereto. In case of the resignation, removal or death of a board member, said member's successor shall be appointed to fill the remainder of the unexpired term subject to the same terms and conditions as said member, so-called.

The provisions concerning the absence of a board member from three consecutive meetings shall not apply to the absence of any current board members from meetings prior to the passage of such provisions.

**SECTION 4B.** Said chapter 21 is hereby further amended by inserting after section 2E the following section:–

Section 2F. The commissioner shall submit management plans to the board for such board's adoption with respect to the Mount Greylock state reservation and all other state reservations, parks, and forests under the



**ACTS, 1985. – Chap. 676.**

management of the department. The management plans shall include guidelines for the operation and land stewardship of the aforementioned state reservations, parks, and forests. Within thirty days of the adoption of such management plan or plans, as amended from time to time, the commissioner shall file a copy of such plan or plans as adopted by the board with the state secretary.

**SECTION 5.** Except as expressly specified in this act, the provisions of sections thirty-eight A one-half to forty M, inclusive, of chapter seven of the General Laws shall not apply to the acquisition, control and disposition of real property pursuant to this act, and any buildings, structures, facilities and improvements to be constructed or altered on the lands shall not be capital facility projects as defined by section thirty-nine A of said chapter seven.

The commonwealth, through the division and in consultation with the commissioner, is hereby authorized to acquire the Land located in the town of Adams by purchase, eminent domain, pursuant to chapter seventy-nine of the General Laws, or otherwise, for general recreational purposes and for the development of those residential and commercial facilities and improvements thereon which the commissioner deems appropriate for the successful realization of said recreational purposes; provided, however, that, in exercising its authority to acquire the land hereunder, the division shall comply with the provisions of sections forty H and forty I of said chapter seven, and, provided, further, that the land shall be considered to possess unique qualities for purposes of section forty H of said chapter seven. Prior to acquiring the land, the commissioner shall obtain two appraisals of the land in accordance with section twelve of said chapter seventy-nine and shall file such appraisals with the department before acquiring the land.

In connection with the development, operation and implementation of the plan, there is hereby authorized a change in the use of the abutting reservation land from its current use as conservation and recreation land to those recreational, residential and commercial uses necessary or appropriate to implement the plan and the purposes of this act; provided, however, that the Mount Greylock state reservation shall remain open to the public and no user fee shall be paid to any private party involved in the operations of the land for the use of the Mount Greylock state reservation, except for the use of said abutting reservation land and for certain ski-touring trails to be operated on the Mount Greylock state reservation. In no event may the division permanently alienate the abutting reservation land.

The division, in consultation with the department, is further authorized to dispose of the lands, in whole or in part, pursuant to a sale or sales, long term lease or leases or otherwise, to one or more individuals, partnerships, corporations or joint ventures, as the department shall deem appropriate upon a finding by the commissioner that (a) the disposition will promote the realization of the purposes of this act; (b) the disposition implements the plan; (c) under the disposition documents, and as more fully set forth below, the department or the division will retain sufficient design review approval and such other



**ACTS, 1985. – Chap. 676.**

means of design and use control authorized hereunder as will protect the unique scenic, natural and historic qualities of the adjacent Mount Greylock state reservation; provided, however, that the abutting reservation land may not be permanently alienated, and any disposition of the lands shall be on such terms and conditions determined by the commissioner to be in the best interests of the commonwealth; and provided, further, that any such disposition shall comply with the terms of section eight.

The execution of a quitclaim deed, lease, memorandum of lease or other instrument on behalf of the commonwealth by the division conveying an interest in the lands, or any part of any interest therein, shall be conclusive for all third parties and grantees of any such interests relying thereon in good faith as to the power and authority of the division to execute such instruments, except as to any instrument purporting to permanently alienate the abutting reservation land.

**SECTION 6.** The department shall produce a report on the proposed development of the lands, and shall file such report with the clerk of each branch of the General Court at least thirty days prior to the acquisition of any of the land. Such report shall contain a finding by the commissioner, which may be based upon reports from consultants or expressions of interest from prospective developers with appropriate financial resources, that the facilities and improvements anticipated to be financed by private investment may be reasonably expected to attract such investment.

Said report on the proposed development of the lands shall include a master plan, and information concerning (1) anticipated publicly paid capital and operating costs over the first five years of operation; (2) sources and application of revenues; (3) market study results indicating the probability of success of the project; (4) minimum private investment needed for success; (5) feasibility of obtaining the minimum required private investment; (6) public benefits to be realized from development of the project; (7) a copy of the plan of the abutting reservation land as defined in section two; and (8) a copy of the plan of the land as defined in section two.

The master planner shall formulate, and the commissioner shall approve, a plan for the development of the lands, which plan shall implement the purposes by outlining the proposed uses of the lands as well as the facilities and improvements thereon with sufficient specificity so as to serve as a basis for the solicitation of proposals by private parties for the development of the lands. The master planner may request the assistance of the director of programming under section forty-one B of chapter seven of the General Laws in the development of the plan and its constituent facilities and improvements.

The commissioner shall provide at least thirty days' notice of a hearing on reuse restrictions with respect to the lands, said hearing to be conducted pursuant to paragraphs six and seven of section forty F one-half of said chapter seven; provided, however, that there need be only one such hearing on reuse restrictions after the adoption of the plan.

The plan shall not permit any ski-lift equipment, including, without



**ACTS, 1985. – Chap. 676.**

limitation, chair lifts and aerial tramways, to extend into the Mount Greylock state reservation.

**SECTION 7.** The department shall select a master planner for the project pursuant to the procedures outlined in sections thirty-eight A one-half to thirty-eight O, inclusive, of chapter seven of the General Laws, which master planner shall formulate the plan described in section six. The department shall control and supervise all aspects of the project which are not building projects as defined in section thirty-nine A of said chapter seven. Any public building projects on the lands shall be subject to section thirty-eight A one-half to thirty-eight O, inclusive, of said chapter seven.

**SECTION 8.** The division, in consultation with the commissioner, shall dispose of such portion or portions of the lands as he deems necessary or appropriate to implement the plan and the purposes hereof in accordance with the provisions of sections forty H, forty J and forty K of chapter seven of the General Laws. The division, in consultation with the commissioner, shall select such means of disposition, by sale, lease or otherwise, as he deems appropriate to implement the plan. The commissioner may negotiate with and select from among those persons submitting proposals so as to best implement the plan and the purposes of this act. No less than two weeks before first publishing notice under section forty H of said chapter seven of a request for proposals or bids for any disposition of the lands and any improvements thereon, the commissioner shall provide a draft of the request for proposals or bids to the deputy commissioner of capital planning and operations for his comments and recommendations.

All instruments of acquisition and disposition shall be transmitted to the division of capital planning and operations pursuant to section forty K of said chapter seven.

Compliance with section forty-nine A of chapter sixty-two C of the General Laws shall be required of all persons and entities acquiring any interest in the lands.

The design and construction of any public building project shall be subject to the control and supervision of the division; but the use, maintenance or alteration of the lands or any facility, structure or improvement on the lands by developers, lessees or other transferees shall be subject to the supervision and design review approval of the commissioner, and the commissioner is hereby authorized to enter into contracts for the use, maintenance and alteration of the lands or any facilities improvements thereon. Any development or construction contract, and all leases, sales or other disposition documents executed in connection with the implementation of the plan shall comply with the provisions hereof and, without limiting the generality of the foregoing, the division and the commissioner are hereby authorized to place restrictive covenants in instruments disposing of the lands, or providing for the use, maintenance or alteration of the lands or any facilities or improvements thereon, to ensure compliance with the plan and the terms of this act, and the division may retain such rights of reversion as it



**ACTS, 1985. – Chap. 676.**

deems advisable in such instruments to protect against uses and structures in violation of the plan and the terms of this act; provided, however, that the department shall require a reasonable return from the developer or developers; and provided further, that the department shall deposit all revenues collected pursuant to the provisions of this section in the state recreation areas fund.

**SECTION 9.** To satisfy the expenditures necessary to carry forward the provisions of this act, the state treasurer shall, upon the request of the governor, issue and sell bonds of the commonwealth in an amount to be specified by the governor from time to time, but not exceeding, in the aggregate, the sum of eight million five hundred thousand dollars. All bonds issued by the commonwealth, as aforesaid, shall be designated on their face Greylock Glen Development Loan Act of 1985, and shall be issued for such maximum term of years, not exceeding twenty years, as the governor may recommend to the General Court pursuant to section three of Article LXII of the Amendments to the Constitution of the Commonwealth; provided, however, that all such bonds shall be payable not later than June thirtieth, two thousand and ten. Bonds and the interest thereon issued under authority of this section, notwithstanding any other provision of this act, shall be general obligations of the commonwealth.

The state treasurer may borrow from time to time on the credit of the commonwealth such sums of money as may be necessary for the purposes of meeting payments authorized by this act, and may issue and renew from time to time notes of the commonwealth therefor, bearing interest payable at such time and at such rate as shall be fixed by the state treasurer. Such notes shall be issued and may be renewed one or more times for such term, not exceeding one year, as the governor may recommend to the General Court in accordance with section three of Article LXII of the Amendments to the Constitution of the Commonwealth, but the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-six. Notes and the interest thereon issued under the authority of this act notwithstanding any other provisions of this act shall be general obligations of the commonwealth.

The department is authorized to use the proceeds of the bonds and notes to be issued pursuant to this act and those funds previously appropriated to it for its general purposes for the acquisition and development of the lands and for associated costs including, without limitation, pilot operations programs, general planning, furnishings, equipment, and grants to the town of Adams, which grants shall not exceed forty-five thousand dollars, for land use planning studies in connection with the proposed development.

The department is further authorized to receive and accept any federal aid grants or private gifts or bequests to aid it in the development of the project.

Proceeds of the bonds and notes issued under the authority of this act and amounts appropriated to the use of the department may also be used for the acquisition, by purchase, eminent domain, pursuant to chapter



**ACTS, 1985. – Chap. 677.**

seventy-nine of the General Laws, or otherwise, of the development rights in (a) the Gould Farm and (b) the Jaeschke Apple Orchard.

**SECTION 10.** Prior to the implementation of the plan and prior to the commencement of any construction or the execution of any disposition agreement conveying any of the department's interests in the Lands to third parties, the department shall prepare an environmental impact report subject to the approval of the secretary of environmental affairs, and the implementation of the plan shall comply with the terms and conditions of sections sixty-one to sixty-two H, inclusive, of chapter thirty of the General Laws and the regulations promulgated thereunder.

Approved December 27, 1985.

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**Chapter 677. AN ACT AUTHORIZING THE DIVISION OF CAPITAL PLANNING AND OPERATIONS TO CONVEY AN INTEREST IN CERTAIN LAND UNDER CONTROL OF THE DEPARTMENT OF ENVIRONMENTAL MANAGEMENT IN THE TOWN OF EASTHAM TO THE TOWN OF EASTHAM.**

Be it enacted, etc., as follows:

**SECTION 1.** The division of capital planning and operations is hereby authorized to convey, on behalf of the commonwealth, in consultation with the department of environmental management, a right-of-way over a parcel of land in the town of Eastham to said town for the purpose of allowing access to a parcel of land owned by said town. Said conveyance shall be in accordance with the terms and conditions set out in section two and subject to the approval of the commissioner of the department of environmental management, and approved as to form by the attorney general. The property of the commonwealth is described as follows:

That certain parcel of land in the town of Eastham off the northerly sideline of Nauset road, containing twelve thousand six hundred and thirteen square feet, more or less, being a portion of the abandoned penn central railroad right-of-way acquired by the commonwealth for the purpose of conservation and recreation, bounded as follows:

Commencing at a concrete bound at a point in common with the property lines of land owned by the Commonwealth of Massachusetts (formerly by the Penn Central Corporation), the Town of Eastham and M.F. Roach Company, being the point of beginning;

Thence S 02°-31'-30"E, a distance of 290.25 feet to a point on the northerly sideline of Nauset Road;

Thence N 55°-36'-30"W, a distance of 50.07 feet along the northerly sideline of said Nauset Road;

Thence N 02°-31'-30"W, a distance of 300.17 feet parallel to and 1.25 feet easterly from the baseline of the old railroad right-of-way, to a corner;

Thence N 87°-28'-30"E, a distance of 40 feet to land owned by the



**ACTS, 1985. – Chap. 678.**

Town of Eastham;

Thence S 02°-31'-30"E, a distance of 40 feet along said land of said Town, to a concrete bound and the point of beginning.

Being shown on a plan of land entitled "Plan of Easement For: Town of Eastham Eastham, Mass.," scale: 1"=40', dated December 14, 1984, prepared by James H. Bowman, Civil Engineer and Land Surveyor, of Orleans, Mass., recorded in the registry of deeds in Barnstable county, in Plan Book 391, Page 56.

**SECTION 2.** In consideration for the conveyance provided for in section one, the town of Eastham shall pay fair market value to the commonwealth, which value may be based on an appraisal or appraisals done by independent, commissioned appraisers from a list approved by the department of environmental management and paid for by said town, but shall in no event be less than the proportionate amount of the monetary damages awarded The Penn Central Corporation, a corporation duly organized under the laws of the commonwealth of Pennsylvania, by said department pursuant to an order of taking dated September 28, 1984, and recorded with the registry of deeds in Barnstable county in Book 4281, Page 93. Payment may be money or land or other mutually agreeable consideration.

The department shall not restrict the uses to which the proposed easement or way may be put to less than those normally associated with town public ways unless necessary to ensure the safety of the public using the recreational trail developed on remaining land of the commonwealth.

Said town shall not use or allow uses of the easement hereby authorized which disrupt use of said trail or significantly detract from the public's enjoyment thereof. To ensure the public safety and convenience, the town shall erect and maintain a fence along the westerly sideline of the easement area described above, and shall maintain a minimum of ten feet of buffer along said sideline. The buffer shall be of trees and shrubs and other greenery to act as a screen from the potential traffic and noise attendant to the use of the way by the Town.

The easement shall not be assignable without the express approval of the department, nor may it be used to provide access to any other property than that owned by the town of Eastham.

The terms and conditions of the rights hereby authorized shall be set out in an instrument to be recorded in the Barnstable County Registry of Deeds.

**SECTION 3.** This act shall take effect upon its passage.

Approved December 30, 1985.

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**Chapter 678. AN ACT RELATIVE TO THE MEMBERSHIP OF THE CIVIC AND CONVENTION CENTER COMMISSION IN THE CITY OF SPRINGFIELD.**



**ACTS, 1985. – Chap. 679.**

Be it enacted, etc., as follows:

**SECTION 1.** Notwithstanding the provisions of chapter four hundred and eighty-six of the acts of nineteen hundred and eighty, any civic and convention center commission established pursuant to the provisions of section five of said chapter four hundred and eighty-six in the city of Springfield shall consist of seven members.

**SECTION 2.** This act shall take effect upon its passage.

Approved December 30, 1985.

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**Chapter 679. AN ACT AUTHORIZING A PENSION TO DONALD J. LAPORTE.**

Be it enacted, etc., as follows:

**SECTION 1.** For the purpose of promoting the public good, the State-Boston retirement board shall forthwith retire on an annual pension to be paid in equal monthly installments, to Donald J. LaPorte, a firefighter in the fire department of said city, who is permanently incapacitated for further service as a firefighter as a result of injuries sustained by him in the performance of his duty on October second, nineteen hundred and eighty-two at an arson fire in the South Boston section of the city of Boston. Such pension shall be equal to the annual rate of regular compensation which would have been paid to him had he continued in service in the grade held by him at the time of his retirement. Upon the death of Donald J. LaPorte leaving Patricia A. LaPorte his wife surviving him, the city of Boston shall pay her, so long as she remains unmarried, an annuity in the amount of three-quarters of the amount of the pension payable to said Donald J. LaPorte at the time of his death.

**SECTION 2.** Upon the retirement of Donald J. LaPorte under the provisions of section one of this act, the State-Boston retirement board shall forthwith pay to the said Donald J. LaPorte all amounts standing to his credit, in the annuity savings fund of the State-Boston retirement board.

**SECTION 3.** The provisions of section one hundred of chapter forty-one of the General Laws shall continue to apply to Donald J. LaPorte relative to his indemnification by the city of Boston for any hospital, medical and related expenses which may be incurred by him after the date of his retirement as a result of the aforementioned incapacity.

**SECTION 4.** This act shall take effect upon its passage.

Approved December 30, 1985.



**ACTS, 1985. – Chaps. 680, 681.**

**Chapter 680. AN ACT FURTHER REGULATING FEES FOR THE SERVICE OF PROCESS.**

Be it enacted, etc., as follows:

**SECTION 1.** Section 92 of chapter 41 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:— A constable who has filed such a bond, in a sum of not less than five thousand dollars, may, within his town, also serve any such writ or other process in which the damages are laid at a sum not exceeding two thousand five hundred dollars, and any process in replevin in which the subject matter does not exceed in value two thousand five hundred dollars.

**SECTION 2.** Subdivision A of section 8 of chapter 262 of the General Laws, as so appearing, is hereby amended by striking out clauses (1) and (2) and inserting in place thereof the following two clauses:—

(1) For service of an original summons or scire facias, either by reading it or by leaving a copy thereof, ten dollars for each defendant upon whom service is made, except as herein otherwise provided.

(2) For service of an original summons and complaint for divorce or for any other service required to be served in hand, fifteen dollars for each defendant upon whom service is made.

**SECTION 3.** Section 10 of said chapter 262, as so appearing, is hereby amended by striking out, in lines 3 and 4, the words "one way".

Approved December 30, 1985.

EMERGENCY LETTER: January 7, 1986 @ 3:49 P.M.

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**Chapter 681. AN ACT DIRECTING THE DIVISION OF CAPITAL PLANNING AND OPERATIONS TO CONVEY TWO CERTAIN PARCELS OF LAND IN THE TOWN OF ROCKLAND TO THE ABINGTON-ROCKLAND JOINT WATER WORKS.**

Be it enacted, etc., as follows:

**SECTION 1.** The division of capital planning and operations is hereby authorized and directed, in the name of and on behalf of the commonwealth, to convey, by deed approved as to form by the attorney general, two parcels of land located in the town of Rockland, presently under the control of the department of environmental management being used for water resources purposes to the Abington-Rockland joint water works, said land being bounded and described as follows: Parcel A: Beginning at the Southeasterly corner of the parcel herein described at a point on the Rockland Hanover Town Line;

Thence running, S 80°-07'-50"W, along said Rockland Hanover Town Line 1120.00' to a point;



ACTS, 1985. - Chap. 681.

Thence running, N 09°-52'10"W, 140.00' to a point;  
Thence running, S 80°-07'50"W, 5.81' to a point;  
Thence running, N 13°-13'-31"W, 698.81' to a point;  
Thence running, 39.27' along a curve to the left with a radius of 25.00' to a point;  
Thence running, S 76°-46'-29"W, 462.66' to a point;  
Thence running, 91.64' along a curve to the right with a radius of 65.00' to a point;  
Thence running, N 22°-26'-43"W, 471.50' to a point;  
Thence running, N 76°-46'-29"E, 892.37' to a point;  
Thence running, 39.27' along a curve to the left with a radius of 25.00' to a point;  
Thence running, N 13°-13'-31"W, 30.00' to a point;  
Thence running, N 76°-46'-29"E, 240.00' to a point;  
Thence running, N 13°-13'-31"W, 2.87' to a point;  
Thence running N 76°-46'-29"E, 280.00' to a point;  
The last thirteen (13) courses being by land now or formerly of J & K Realty Trust;  
Thence running, S 13°-13'-31"E, by land now or formerly of said J & K Realty Trust, James G. and Elaine H. Boyle, Francis J. McKiernan, Alice E. Mernin, Trustee, John R. and Margaret M. Johndrow, Stephen L. Barren & Linda H. Laughlin, and Roger C. and Mary E. Pinkham 580.32' to a point;  
Thence running, 42.96' along a curve to the left with a radius of 580.00' to a point partly by land now or formerly of said Pinkham and partly by land now or formerly of Melville L. and Josephine E. Thayer;  
Thence running, S 17°-28'-10"E, partly by land now or formerly of said Thayer and by Townsend St. and by land now or formerly of Mark A. and Debra A. Dickson 211.96' to a point;  
Thence running, N 72°-31'-50"E, by land now or formerly of said Dickson, 100.00' to a point;  
Thence running, S 17°-28'-10"E, by land now or formerly of Bernadette M. Armstrong and Louis P. and Dorothy Perotti, 283.50' to a point;  
Thence running, N 73°-16'-50"E, by land now or formerly of said Armstrong and Perotti, 199.10' to a point;  
Thence running, S 16°-43'-10"E, by land now or formerly of Henry J. and Dolores A. Smith and Cushing St., 140.00' to a point;  
Thence running, N 73°-16'-50"E, by said Cushing St., 3.02' to a point;  
Thence running, S 09°-52'-10"E, by land now or formerly of Joseph P. and Debra A. Neary, 132.02' to a point;  
Thence running, S 80°-07'-50"W, by Howland St., 26.70' to a point;  
Thence running, S 09°-52'-10"E, to the point of beginning by said Howland St. and by land now or formerly of Paul J. and Yvonne M. Coughlan, 140.00'.

The above-described parcel contains 38 acres, more or less, and is shown as Parcel A on a plan entitled "Land in Rockland Off Pond Street, Rockland, Mass. November 17, 1982 Scale 1"= 200' Robert C. Bailey Registered Land Surveyor Pembroke Mass."

Parcel B:

Beginning at the Southeasterly corner of the parcel herein described at



ACTS, 1985. – Chap. 681.

a point on the Rockland Hanover Town Line;

Thence running, S 80°-07'-50"W, along said Rockland Hanover Town Line 883.10' to a point;

Thence running, N 13°-46'-35"W, 224.47' to a point;

Thence running N 67°-54'-47"E, 442.49' to a point;

Thence running, N 5°-40'-37"E, 295.67' to a point;

Thence running, S 67°-52'-10"W, 190.00' to a point;

Thence running, N 22°-07'-50"W, 140.00' to a point;

Thence running, S 67°-52'-10"W, 25.68' to a point;

Thence running, N 22°-07'-50"W, 179.13' to a point;

Thence running, S 67°-59'-26"W, 54.07' to a point;

Thence running, N 22°-00'-34"W, 137.80' to a point;

Thence running, N 22°-26'-43"W, 353.00' to a point;

Thence running, N 21°-30'-44"W, 100.00' to a point;

Thence running, S 68°-29'-16"W, 4.34' to a point;

Thence running, N 21°-30'-44"W, 161.14' to a point;

Thence running, N 22°-26'-43"W, 144.50' to a point;

Thence running, N 27°-40'-50"W, 422.38' to a point;

Thence running, S 68°-56'-56"W, 341.50' to a point;

Thence running, N 23°-42'-06"W, 533.02' to a point;

Thence running, S 67°-58'-52"W, 790.00' to a point;

Thence running, N 15°-59'-00"W, 363.09' to a point;

The last nineteen (19) courses being by land now or formerly of the Towns of Rockland and Abington;

Thence running, N 67°-18'-35"E, by land now or formerly of Striar Realty Trust and the Town of Rockland, 1328.00' to a point;

Thence running, S 24°-28'-28"E, by land now or formerly of owners unknown, 376.98' to a point;

Thence running, N 67°-58'-52"E, by land now or formerly of said owners unknown, 100.69' to a point;

Thence running, S 21°-19'-21"E, 544.15' to a point;

Thence running, N 68°-56'-56"E, 352.54' to a point;

The last two courses being by land now or formerly of Roy Nelson;

Thence running, S 36°-38'-00"E, 44.23' to a point;

Thence running, N 79°-23'-25"E, partly by land now or formerly of Robert R. and Anne M. Mera and partly by land now or formerly of Edward T. and Dorothy F. McDonald 225.29' to a point;

Thence running, N 82°-16'-25"E, by land now or formerly of said McDonald, 112.24' to a point;

Thence running, N 81°-28'-45"E, by land now or formerly of Andrew N. and Phyllis Ann J. Forrest, 140.71' to a point;

Thence running, N 01°-43'-18"W, partly by land now or formerly of Glen M. and Jane E. Hicks and partly by land now or formerly of J. Michael and Janice A. Cronin, 178.32' to a point;

Thence running, N 67°-04'-37"E, by land now or formerly of said Cronin and by land now or formerly of Richard E. Jr. and Linda R. Post, Robert A. Matthews Jr. and Susan M. Hunter, Leroy W. and Mary E. Chandler, Robert C. Jr. and Joanne F. Mahn, and Bernard J. and Nancy T. Dzierzeski, 659.31' to a point;

Thence running, S 22°-55'-23"E, by land now or formerly of David L.



**ACTS, 1985. – Chap. 681.**

and Anastasia M. Griffith and partly by Old County Way, 115.00' to a point;

Thence running, S 67°-04'-37"W, 48.36' to a point by said Old County Way;

Thence running, S 13°-13'-31"E, in part by said Old County Way and by land now or formerly of John W. and Eileen Lind, Rita P. MacDonald, Carl J. Cleary, Sr., Sarah Corman, Brendon R. Watson, Richard E. and Joanne Regan, Charles H. and Barbara A. Gilcoine, Charles and Violetta Chiodi, and James J. and Rose N. Ford, 937.93' to a point;

Thence running, S 76°-46'-29"W, by land now or formerly of James G. and Elaine H. Boyle, 100.00' to a point;

Thence running, N 13°-13'-31"W, 4.00' to a point;

Thence running, S 76°-46'-29"W, 280.00' to a point;

Thence running, S 13°-13'-31"E, 2.87' to a point;

Thence running, S 76°-46'-29"W, 240.00' to a point;

Thence running, S 13°-13'-31"E, 30.00' to a point;

Thence running, 39.27' along a curve to the right with a radius of 25.00' to a point;

Thence running, S 76°-46'-29"W, 892.37' to a point;

Thence running, S 22°-26'-43"E, 471.50' to a point;

Thence running, 91.64' along a curve to the left with a radius of 65.00' to a point;

Thence running, N 76°-46'-29"E, 462.66' to a point;

Thence running, 39.27' along a curve to the right with a radius of 25.00' to a point;

Thence running, S 13°-13'-31"E, 698.81' to a point;

Thence running, N 80°-07'-50"E, 5.81' to a point;

Thence running, S 09°-52'-10"E, 140.00' to the point of beginning.

The last fourteen (14) courses being by land now or formerly of Walen Bros. Inc.;

The above described parcels were acquired by the commonwealth under the authority of and in accordance with the provisions of section nine A of chapter twenty-one of the General Laws on October twenty-nine, nineteen hundred and eighty-four and is recorded in Book 5842, Pages 225 through 230, in the registry of deeds in the county of Plymouth.

**SECTION 2.** No deed conveying by or on behalf of the commonwealth the property described in section one shall be executed unless such deed provides that said property shall be used only for the purposes authorized by section nine A of chapter twenty-one of the General Laws.

**SECTION 3.** The commonwealth is hereby authorized to pay and the Abington-Rockland joint water works is hereby authorized to accept reimbursement of all costs authorized by section nine A of chapter twenty-one of the General Laws incurred in connection with the acquisition costs of lands, waters and easements.

**SECTION 4.** The Abington-Rockland joint water works is hereby authorized to construct and maintain on its lands acquired under this act



**ACTS, 1985. – Chap. 682.**

such facilities, including, but not limited to, dams, dikes, spillways and appurtenances authorized under section nine A of chapter twenty-one of the General Laws.

Approved December 30, 1985.

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**Chapter 682. AN ACT AUTHORIZING THE VIDEOTAPING OF CERTAIN TESTIMONY.**

Be it enacted, etc., as follows:

Chapter 278 of the General Laws is hereby amended by inserting after section 16C the following section:–

Section 16D. (a) For the purposes of this section, the following words shall have the following meanings:–

"Child witness", a person who is under the age of fifteen years and who is alleged to have been a victim of, or a witness to an alleged violation of section thirteen B, thirteen F, thirteen H, twenty-two, twenty-two A, twenty-three, twenty-four or twenty-four B of chapter two hundred and sixty-five, or section two, three, four, four A, four B, five, six, seven, eight, twelve, thirteen, sixteen, seventeen, twenty-four, twenty-eight, twenty-nine, twenty-nine A, twenty-nine B, thirty-three, thirty-four or thirty-five A of chapter two hundred and seventy-two.

"Simultaneous electronic means", Any device capable of projecting a live visual and aural transmission such as closed-circuit television.

(b) (1) At any time after the issuance of a complaint or indictment alleging an offense punished by any of the statutes listed herein, the court on its own motion or on motion of the proponent of a child witness, and after a hearing, may order the use of a suitable alternative procedure for taking the testimony of the child witness, in proceedings pursuant to said complaint or indictment, provided that the court finds by a preponderance of the evidence at the time of the order that the child witness is likely to suffer psychological or emotional trauma as a result of testifying in open court, as a result of testifying in the presence of the defendant, or as a result of both of testifying in open court and of testifying in the presence of the defendant. If the court orders the use of a suitable alternative for taking the testimony of a child witness pursuant to this section, the court shall make and enter specific findings upon the record describing with particularity the reasons for such order.

(2) An order issued under paragraph (1) shall provide that the testimony of the child witness be recorded on videotape or film to be shown in court at a later time or that the testimony be transmitted to the courtroom by simultaneous electronic means.

(3) Testimony taken by an alternative procedure pursuant to an order issued under paragraph (1) shall be taken in the presence of the judge, the prosecutor, defense counsel and such other persons as the court may allow. The defendant shall also have the right to be present unless the court's order under paragraph (1) is based wholly or in part upon a finding that the child witness is likely to suffer trauma as a result of testifying



**ACTS, 1985. – Chap. 682.**

in the presence of the defendant. If the order is based on such a finding, the testimony of the child witness shall not be taken in the presence of the defendant except as provided in paragraph (4).

(4) Testimony taken by an alternative procedure pursuant to an order issued under paragraph (1) shall be taken in a suitable setting outside the courtroom, except that an order based only on a finding that the child witness is likely to suffer trauma as a result of testifying in the presence of the defendant may provide that the testimony be taken in a suitable setting inside the courtroom in a manner so that the child witness is not able to see or hear the defendant.

(5) When testimony is taken by an alternative procedure pursuant to an order issued under paragraph (1), counsel shall be given the opportunity to examine or cross-examine the child witness to the same extent as would be permitted at trial, and the defendant shall be able to see and hear the child witness and to have constant private communication with defense counsel.

(6) The film, videotape or transmission of testimony taken by an alternative procedure pursuant to an order issued under paragraph (1) shall be admissible as substantive evidence to the same extent as and in lieu of live testimony by the child witness in any proceeding for which the order is issued or in any related criminal proceeding against the same defendant when consistent with the interests of justice, provided that such an order is entered or re-entered based on current findings at the time when or within a reasonable time before the film, videotape or transmission is offered into evidence. Subsequent testimony of a child witness in any such proceeding shall also be taken by a suitable alternative procedure pursuant to this section.

(7) Whenever pursuant to an order issued under paragraph (1), testimony is recorded on videotape or film or is transmitted to the courtroom by simultaneous electronic means, the court shall ensure that:

(a) The recording or transmitting equipment is capable of making an accurate recording or transmission and is operated by a competent operator;

(b) The recording or transmission is in color and the witness is visible at all times;

(c) Every voice on the recording or transmission is audible and identified;

(d) The courtroom is equipped with monitors which permit the jury and others present in the courtroom to see and hear the recording or transmission;

(e) In the case of recorded testimony, the recording is accurate and has not been altered;

(f) In the case of recorded testimony, each party is afforded the opportunity to view the recording before it is shown in the courtroom.

(8) Nothing in this section shall be deemed to prohibit the court from using other appropriate means, consistent with this section and other laws and with the defendant's rights, to protect a child witness from trauma during a court proceeding.

Approved December 30, 1985.

EMERGENCY LETTER: January 10, 1986 @ 3:25 P.M.



ACTS, 1985. - Chap. 683.

**Chapter 683. AN ACT PROVIDING FOR REIMBURSEMENT BY INSURANCE COMPANIES AND OTHERS FOR SERVICES PERFORMED BY CERTIFIED NURSE MIDWIVES.**

Be it enacted, etc., as follows:

**SECTION 1.** Chapter 175 of the General Laws is hereby amended by inserting after section 47C the following section:-

Section 47D. Any blanket or general policy of insurance described in sub-division (A), (C), or (D) of section one hundred and ten which is issued or subsequently renewed by agreement between the insurer and the policyholder, within or without the commonwealth, during the period this provision is effective, or any policy of accident and sickness insurance as described in section one hundred and eight which provides hospital expense and surgical expense insurance and which is delivered or issued for delivery or subsequently renewed by agreement between the insurer and the policyholder in the commonwealth during the period that this provision is effective shall provide benefits for services of a certified nurse midwife; provided, however, that expenses for such services are reimbursed when such services are performed by any other duly licensed practitioner; and provided, further, that such services are within the lawful scope of practice for a certified nurse midwife.

**SECTION 2.** Section 1 of chapter 176B of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by inserting before the definition of "Commissioner" the following definition:-

"Certified nurse midwife", a nurse midwife authorized to practice midwifery in the commonwealth by the board of registration in nursing pursuant to section eighty B of chapter one hundred and twelve.

**SECTION 3.** Said section 1 of said chapter 176B, as so appearing, is hereby further amended by inserting after the definition of "Nonprofit medical service plan" the following definition:-

"Participating nurse midwife", a certified nurse midwife who agrees in writing with a medical service corporation to perform midwifery service for subscribers and covered dependents and to abide by the by-laws, rules and regulations of such corporation.

**SECTION 4.** Section 4 of said chapter 176B, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

Any medical service corporation may enter into contracts with its subscribers and with participating physicians, chiropractors, nurse midwives, optometrists, dentists, podiatrists, and other providers of health services licensed under the laws of the commonwealth for such medical, chiropractic, visual, surgical, midwifery and other health services as may lawfully be rendered by them to subscribers and to their dependents and may pay for such services. The form of agreement with such participating physicians, chiropractors, nurse midwives,



**ACTS, 1985. – Chap. 683.**

optometrists, dentists, podiatrists, and other providers of health services and the methods of compensating such physicians, chiropractors, nurse midwives, optometrist, dentists, podiatrists and other providers of health services for their services to subscribers or covered dependents shall at all times be subject to the written approval of the commissioner, but no participating physicians, chiropractors or nurse midwives shall be denied their right to enter into a contract with any medical service corporation by reason of any unfair or arbitrary discrimination.

**SECTION 5.** Said chapter 176B is hereby further amended by inserting after section 4E the following section:–

Section 4F. Any subscription certificate under an individual or group medical service agreement which shall be delivered or issued or renewed in this commonwealth shall provide as benefits to all individual subscribers and members within the commonwealth and to all group members having a principal place of employment within the commonwealth, for expense for services of a certified nurse midwife; provided, however, that such services are reimbursed when rendered by any other duly licensed practitioner; and provided, further, that such services are within the lawful scope of practice for a certified nurse midwife.

**SECTION 6.** The first paragraph of section 7 of said chapter 176B, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:– Every registered physician, chiropractor and nurse midwife shall have the right, on complying with such rules and regulations as the corporation may make, to enter into a written agreement with a medical service corporation, doing business in the city or town where the said physician, chiropractor or nurse midwife resides or has a usual place of business, to perform medical, chiropractic, or midwifery services.

**SECTION 7.** Said first paragraph of said section 7 of said chapter 176B, as so appearing, is hereby further amended by striking out the third, fourth, fifth, sixth and seventh sentences and inserting in place thereof the following five sentences:– This chapter shall not change the relations between physician, chiropractor, or nurse midwife and patient. No restriction shall be placed by any such corporation upon its participating physicians, chiropractors, or nurse midwives as to methods of diagnosis or treatment. No officer, agent, or employee of a medical service corporation shall influence or attempt to influence a subscriber or a covered dependent in the choice of a participating physician, chiropractor, or nurse midwife. A subscriber or a covered dependent, subject to the by-laws, rules and regulations of a medical service corporation and the terms and provisions of the subscription certificate, shall be entitled to the benefits of this chapter upon receiving medical, chiropractic, or midwifery service from any participating physician, chiropractor, or nurse midwife or, in the discretion of the corporation, upon receiving medical, chiropractic or midwifery service from any non-participating physician, chiropractor, or nurse midwife in an



**ACTS, 1985. – Chap. 684.**

emergency or when outside the commonwealth. A corporation may terminate its agreement with any participating physician, chiropractor, nurse midwife or any other participating provider of health services licensed under the laws of the commonwealth at any time (a) for failure to comply with the reasonable rules and regulations of such corporation, including without limitation, such rules and regulations governing the keeping of accounts, records and statistics, the making of reports and proof of services rendered, or (b) for presenting any fraudulent, unreasonable, or improper claim for payment, or compensation.

**SECTION 8.** Said section 7 of said chapter 176B, as so appearing, is hereby further amended by adding the following paragraph:-

Nothing in section four or in this section shall be construed to prohibit any medical service corporation from entering into written agreements with its subscribers and with participating nurse midwives to furnish midwifery services to subscribers and covered dependents or from including midwifery services in its non-profit medical service plan, nor shall any medical service corporation discriminate in any way against participating nurse midwives in the furnishing of midwifery service to its subscribers and covered dependents.

**SECTION 9.** Section 13 of said chapter 176B, as so appearing, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

If the right of any person or group of persons to become a participating physician, chiropractor, or nurse midwife, as defined in section one, is denied because of arbitrary or unfair discrimination, any such person or group of persons so aggrieved may apply to the supreme judicial court for an injunction restraining such corporation from further proceeding with its business.

Approved December 30, 1985.

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**Chapter 684. AN ACT ENCOURAGING GREATER VOLUNTEER ACTIVITY BY ACCEPTING WORK PERFORMED ON A VOLUNTEER BASIS AS LEGITIMATE WORK EXPERIENCE ON APPLICATIONS FOR EMPLOYMENT.**

Be it enacted, etc., as follows:

**SECTION 1.** Chapter 149 of the General Laws is hereby amended by inserting after section 52A the following section:-

Section 52B. Every application for employment which requires the applicant to set forth his experience history shall contain a statement that the applicant may include in such history any verified work performed on a volunteer basis.

**SECTION 2.** This act shall take effect on June first, nineteen hundred and eighty-six.

Approved December 30, 1985.



**ACTS, 1985. – Chaps. 685, 686.**

**Chapter 685. AN ACT RELATIVE TO THEFT OF CERTAIN  
TELECOMMUNICATIONS SERVICE AND EQUIPMENT.**

Be it enacted, etc., as follows:

**SECTION 1.** Section 42A of chapter 166, as appearing in the 1984 Official Edition, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:– Whoever, with intent to defraud, obtains, or attempts to obtain, or aids or abets another in obtaining, any telecommunications service by any false representation, false statement, or stratagem, by unauthorized charging to the account of another, by installing or tampering with any facilities or equipment or by any other means, shall be punished by a fine of not more than three thousand dollars or by imprisonment for not more than three years, or both.

**SECTION 2.** Section 42B of said chapter 166, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:– Whoever makes any instrument, apparatus, equipment or device which is designed, adapted or which is used to fraudulently obtain telecommunication service in the manner prohibited by section forty-two A or which is used to conceal, or to assist another to conceal, or from any lawful authority, the existence or place of origin or of destination of any telecommunication; or whoever possesses any such instrument, apparatus, equipment or device with the intent to use or employ the same in violation of this section or section forty-two A, or whoever sells, gives transport, or otherwise transfers to another, or offers to advertisers for sale, any such instrument apparatus, equipment, or device, or any plans or instructions for making or assembling the same, with the intent to use or employ such apparatus, equipment, or device, or to allow the same to be used or employed, for a purpose described in this section or whoever, knowing or having reason to believe that the same is intended to be used, or that said plans or instructions are intended to be used for making or assembling such apparatus, equipment or device, or whoever publishes plans or instructions for making or assembling or using any such apparatus, equipment or device, intending that such be used or employed in violation of this section or section forty-two A, shall be punished by a fine of not more than fifteen thousand dollars or by imprisonment for not more than four years, or by both.

Approved December 30, 1985.

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**Chapter 686. AN ACT AUTHORIZING THE BANNING OF  
CONTINUOUSLY BURNING PILOT LIGHTS.**

Be it enacted, etc., as follows:

**SECTION 1.** Chapter 148 of the General Laws, as appearing in the



**ACTS, 1985. – Chap. 687.**

1984 Official Edition, is hereby amended by inserting after section 25D the following section:–

Section 25E. As used in this section, the following words shall, unless the context clearly requires otherwise, have the following meanings:–

"Gas appliance", any furnace, air conditioner, heater, refrigerator, stove, range, dishwasher, clothes dryer, clothes washer, or other such device, which uses a gaseous fuel other than propane for the operation thereof, and which is manufactured after June first, nineteen hundred and eighty-eight and is automatically ignited by a means other than an intermittent ignition device, but not including a water heater which heats water for domestic use, a kitchen heating range or a space heater.

"Automatic gas appliance", any furnace, air conditioner, heater, refrigerator, stove, range, dishwasher, clothes dryer, clothes washer, or other such device, which uses a gaseous fuel other than propane for the operation thereof, and which is manufactured after the effective date of this section, and is automatically ignited by an intermittent ignition device, but not including a water heater which heats water for domestic use, a kitchen heating range or a space heater.

"Residence", any building or structure in this state used principally for dwelling purposes, including, but not limited to single and multiple family dwellings or residences of any nature, including apartments, apartment buildings, apartment projects, condominiums and mobile homes, but not including hotels or motels.

"Intermittent ignition device", a device which ignites an automatic gas appliance to begin normal operation thereof, and which is activated only at the time such automatic gas appliance is to be so ignited.

It shall be unlawful to:–

(a) Sell or offer for sale by advertisement or otherwise or display for sale of gas appliances for use in, or in connection with, a residence.

(b) Install or cause to be installed a gas appliance in a residence.

(c) Import into the commonwealth a gas appliance for use in, or in connection with, a residence.

(d) Deliver in the commonwealth after sale or pursuant to a contract for a sale of a gas appliance for use in, or in connection with, a residence.

(e) Sell or display for sale an automatic gas appliance, for use in, or in connection with a residence, unless such automatic gas appliance is labeled in a manner visible to the purchaser or prospective purchaser with the words "intermittent ignition".

Any violation of the provisions of this section shall be punished by a fine not to exceed five hundred dollars for each such violation; provided, however, that each day of a continuing violation shall constitute a separate and distinct offense.

**SECTION 2.** This act shall take effect on June first, nineteen hundred and eighty-eight.

Approved December 30, 1985.

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**Chapter 687. AN ACT PROVIDING FOR THE REGULATION OF**



ACTS, 1985. – Chap. 687.

ELEVATORS BY THE COMMONWEALTH.

Be it enacted, etc., as follows:

**SECTION 1.** Chapter 143 of the General Laws is hereby amended by striking out sections 62 to 66, inclusive, as appearing in the 1984 Official Edition, and inserting in place thereof the following six sections:–

Section 62. The commissioner shall cause a system of elevator inspection to be instituted and maintained in the commonwealth. The commissioner shall assign an adequate number of competent inspectors for all elevators in the commonwealth. The commissioner shall have supervision of the installation, alteration, maintenance, inspection and approval of all elevators and shall enforce the regulations of the board of elevator regulations. No elevator shall be installed or altered until a copy of the plans and specifications of such elevator or of the proposed alterations shall have been filed by the owner of the premises where such elevator is to be installed or altered, or by the manufacturer of such elevator, and a certificate of approval or a specification of requirements shall have been issued by the commissioner. The word "elevator" shall include moving stairways.

Section 62A. The owner or person in control of a building in which an elevator is operated shall pay fees to be determined annually by the secretary of administration under the provisions of section three B of chapter seven for inspection and safety tests by an inspector assigned by the commissioner; provided, however, that said fees shall be set at a rate sufficient to meet the cost of the department of public safety for providing said inspections and safety tests; and, provided further, that each city and town may annually set a reasonable fee, and may collect such fee, for elevator registration of each elevator within such city or town. The owner or person in control of a building in which an elevator is operated shall be subject to the following inspections and safety tests:

(1) For the inspection of a new installation, repair, or replacement of power passenger and freight elevators, hydraulic and electric passenger and freight elevators, hand power operated service elevators and temporary workmen's elevators.

(2) For each safety test and inspection of elevators and devices as described in paragraph (1).

(3) For the inspection of a new installation of a private residence elevator or an inclined lift.

Section 63. On completion of the work of installation or alteration, the manufacturer of the elevator or the person making the alterations shall make a practical test of the safety devices of the elevator in the presence of an inspector assigned by the commissioner. If the test is satisfactory to said inspector, he shall issue a certificate approving the elevator and safety devices thereof.

Section 64. All elevators shall be thoroughly inspected and a practical test made of the safety devices required therefor at intervals of not more than one year and at such other times as may be deemed necessary by the inspector; provided, however, that the chief executive officer of any city or town may cause the commissioner to order an inspection of



**ACTS, 1985. – Chap. 687.**

any elevator in such officers jurisdiction, within fourteen calendar days by notifying said commissioner, in writing, of the facts and circumstances which lead such officer to believe that the inspection is necessary; provided, further, that if such inspection is not made within such fourteen day period, such officer may cause an inspection to be made by a state certified elevator inspector selected from a list approved by the secretary of public safety, and the commonwealth shall reimburse any such city or town for the reasonable costs incurred as a result thereof. The inspection and practical test shall be made by a licensed elevator construction man, maintenance or repairman in the presence of an inspector assigned by the commissioner. The owner or person in control of a building in which the elevator is located shall arrange for such inspection and practical test within six months from the time of notice from an inspector assigned by the commissioner. Within ten days after the inspection, said inspector shall file a complete written report of all changes and defects in apparatus or equipment to the commissioner and the chief executive officer of the city or town in which such inspection occurred, upon forms to be furnished by him.

Section 65. If in the judgment of an inspector assigned by the commissioner that an elevator is safe, and if the elevator has been constructed in the manner required by law or by the regulations of the board of elevator regulations or the state building code, the inspector shall issue a certificate to that effect to the owner of the elevator or to the person in charge thereof, who shall post the certificate in a conspicuous place in or near the cab or car of such elevator. If such elevator is judged unsafe, the inspector shall immediately post conspicuously upon the entrance or door of the cab or car of such elevator, or upon the elevator, a notice of its dangerous condition, and shall prohibit the use of the elevator until it has been made safe to his satisfaction; provided, however, that said inspector shall also immediately notify the chief executive of the city or town wherein such unsafe condition exists. No person shall remove such notice or operate such elevator until the inspector has issued his certificate as aforesaid.

Section 66. Any owner, operator or person in charge of an elevator or any person employed to inspect, repair or install an elevator shall immediately, if an accident occurs during such installation or repair, or if he thinks such elevator is unsafe, make a written report thereof to an inspector assigned by the commissioner, who shall forthwith inspect such elevator. If an accident occurs to an elevator, the operator, person in charge or owner having knowledge thereof shall immediately report such accident to an inspector assigned by the commissioner, who shall forthwith inspect such elevator. Upon completion of his inspection, said inspector shall upon request provide a copy of any accident report received by him in accordance with this section to each person who reported, or was involved in the accident so reported, and said inspector shall obtain a receipt for each report so provided.

**SECTION 2.** Said chapter 143 is hereby further amended by striking out section 68, as so appearing, and inserting in place thereof the following section:–



**ACTS, 1985. – Chap. 687.**

Section 68. The board of elevator regulations shall promulgate amendments to the regulations relating to the construction, installation, alteration and operation of all elevators, and relative to the location, design and construction of shafts or enclosures for elevators, safety devices, gates and other safeguards, protection against the elevator or hoisting machinery, and means to prevent the spread of fire, and also amendments to the regulations designed to make uniform the work of inspectors assigned to the division of inspection by the commissioner of public safety.

**SECTION 3.** Paragraph (a) of section 70 of said chapter 143, as so appearing, is hereby amended by striking out, in line 2, the words:– "or local inspector".

**SECTION 4.** Paragraph (d) of said section 70 of said chapter 143, as so appearing, is hereby amended by striking out, in line 77, the words:– "or inspector of buildings".

**SECTION 5.** Section 71B of said chapter 143, as so appearing, is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:– No person shall work as an elevator inspector or supervising elevator inspector in the employ of the department of public safety unless he holds a license granted by the board, for the construction, maintenance, or repair of elevators as provided by this section.

**SECTION 6.** The commissioner of the department of public safety shall provide a detailed written report on the estimated cost for the implementation of this act to the commissioner of administration and the house and senate committees on ways and means no later than April first, nineteen hundred and eighty-six. Said report shall include, but not be limited to, the department's estimate of the total increase in the number of annual inspections the division of inspection will be required to conduct under the provisions of this act, the total number of inspections the division was required to conduct prior to the effective date of this act, the current staffing level of the division, the estimated staffing requirements of the division for the implementation of this act, including salary expenses, travel costs, equipment costs and a detailed list of all other necessary expenses associated with the implementation of this act.

**SECTION 7.** The secretary of administration and the commissioner of public safety shall establish a schedule of fees to be charged for the testing and inspection of elevators which shall be set at a level sufficient to meet the cost to the commonwealth for providing such service and shall file such schedule with the house and senate committees on ways and means no later than April first, nineteen hundred and eighty-six. Said schedule of fees shall be effective January first, nineteen hundred and eighty-seven.



**ACTS, 1985. -- Chaps. 688, 689.**

**SECTION 8.** Sections one to five, inclusive, shall take effect on January first, nineteen hundred and eighty-seven.

Approved December 30, 1985.

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**Chapter 688. AN ACT DIRECTING THE COMMONWEALTH TO REIMBURSE THE TOWN OF ERVING FOR CERTAIN MONIES EXPENDED FOR VETERANS' SERVICES.**

Be it enacted, etc., as follows:

There shall be allowed and paid out of the state treasury to the town of Erving, subject to appropriation and subject to the approval of the commissioner of veterans' services, a sum not exceeding five thousand one hundred thirty dollars and two cents, as said town would have been entitled to receive in reimbursement for veterans' benefits paid by it in the years May through December, nineteen hundred and eighty-one, January through December, nineteen hundred and eighty-two, and January through March, nineteen hundred and eighty-three, under the provisions of section six of chapter one hundred and fifteen of the General Laws, had said town made a proper and reasonable report thereof to said commissioner, as required by said section six of said chapter one hundred and fifteen. As a condition of payment of such sum said commissioner shall require said town to present evidence that such sum was paid in accordance with section five of said chapter one hundred and fifteen.

Approved December 30, 1985.

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**Chapter 689. AN ACT PROVIDING FOR THE AWARD OF ATTORNEYS' FEES IN CERTAIN CIVIL CASES.**

Be it enacted, etc., as follows:

**SECTION 1.** Section 5C of chapter 93B of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by adding the following paragraph:-

A manufacturer or other person entitled to indemnification under this section may bring an action in superior court by way of original complaint, counter-claim or third-party action. If the court finds for the manufacturer, or for such other person recovery shall be in the amount of actual damages, plus reasonable attorneys' fees and costs; provided, however, that the franchisee or dealer against whom any such claim is asserted under this section may tender with his answer in any such action a written offer of settlement for actual damages, not including any attorneys' fees or costs incurred by the manufacturer or such other person in asserting its claim against a dealer or franchisee under this section. If such tender of settlement is rejected by the



**ACTS, 1985. – Chaps. 690, 691.**

manufacturer or such other person, and if the court finds that the relief tendered was reasonable in relation to the injury actually suffered by said manufacturer or such other person, the court award shall not exceed the amount tendered.

**SECTION 2.** Section 12A of said chapter 93B, as so appearing, is hereby further amended by adding the following paragraph:–

If the court finds for the franchisee or motor vehicle dealer in any action commenced hereunder, that there has been a violation of sections three to eleven, inclusive, or of any rule or regulation issued under paragraph (c) of section three, such franchisee or motor vehicle dealer shall, in addition to any other relief provided for by this section and irrespective of the amount, if any, in controversy, be awarded reasonable attorneys' fees and costs; provided, however, that the person against whom any such claim is asserted under this section may tender with his answer in any such action a written offer of settlement for actual damages, not including any attorneys' fees or costs incurred by the dealer or franchisee in asserting its claim under this section. If such tender of settlement is rejected by the franchisee or motor vehicle dealer, and if the court finds that the relief tendered was reasonable in relation to the injury actually suffered by said franchisee or motor vehicle dealer, the court award shall not exceed the amount tendered.

Approved December 30, 1985.

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**Chapter 690. AN ACT FURTHER DEFINING A PERIOD OF SILENCE  
IN ALL PUBLIC SCHOOLS.**

Be it enacted, etc., as follows:

Chapter 71 of the General Laws is hereby amended by striking out section 1A, as appearing in the 1984 Official Edition, and inserting in place thereof the following section:–

Section 1A. At the commencement of the first class of each day in all grades in all public schools the teacher in charge of the room in which each such class is held shall announce that a period of silence not to exceed one minute in duration shall be observed for personal thoughts, and during any such period, silence shall be maintained and no activities engaged in.

Approved December 30, 1985.

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**Chapter 691. AN ACT RELATIVE TO THE TIME FOR THE ISSUANCE  
OF A JUDGMENT OF A DIVORCE NISI.**

Be it enacted, etc., as follows:

**SECTION 1.** Section 1A of chapter 208 of the General Laws, as



**ACTS, 1985. – Chap. 692.**

appearing in the 1984 Official Edition, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:– An action for divorce on the ground of an irretrievable breakdown of the marriage may be commenced with the filing of: (a) a petition signed by both joint petitioners or their attorneys; (b) a sworn affidavit that is either jointly or separately executed by the petitioners that an irretrievable breakdown of the marriage exists; and (c) a notarized separation agreement executed by the parties except as hereinafter set forth and no summons or answer shall be required.

**SECTION 2.** Said section 1A of said chapter 208 is hereby further amended by striking out the second and third paragraphs and inserting in place thereof the following two paragraphs:–

If the finding is in the affirmative, the court shall approve the agreement and enter a judgment of divorce nisi. The agreement either shall be incorporated and merged into said judgment or by agreement of the parties, it shall be incorporated and not merged, but shall survive and remain as an independent contract. In the event that the court does not approve the agreement as executed, or modified by agreement of the parties, said agreement shall become null and void and of no further effect between the parties; and the action shall be treated as dismissed, but without prejudice. Following approval of an agreement by the court but prior to the entry of judgment nisi, said agreement may be modified in accordance with the foregoing provisions at any time by agreement of the parties and with the approval of the court, or by the court upon the petition of one of the parties after a showing of a substantial change of circumstances; and the agreement, as modified, shall continue as the order of the court.

Thirty days from the time that the court has given its initial approval to a dissolution agreement of the parties which makes proper provisions for custody, support and maintenance, alimony, and for the disposition of marital property, where applicable, notwithstanding subsequent modification of said agreement, a judgment of divorce nisi shall be entered without further action by the parties.

**SECTION 3.** Said section 1A of said chapter 208 is hereby further amended by striking out, in line 43, the word "complaint" and inserting in place thereof the word:– petition.

Approved December 30, 1985.

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**Chapter 692. AN ACT AUTHORIZING THE DIVISION OF CAPITAL PLANNING AND OPERATIONS TO LEASE A CERTAIN PARCEL OF LAND IN THE TOWN OF HOLDEN TO SAID TOWN.**

Be it enacted, etc., as follows:

The deputy commissioner of the division of capital planning and



ACTS, 1985. – Chap. 693.

operations, subject to the provisions of sections forty E to forty J, inclusive, of chapter seven of the General Laws, is hereby authorized to lease to the town of Holden, for a term of five years, with an option to extend for like terms thereafter, certain land now under the control of the metropolitan district commission located in said town, for recreational purposes, in accordance with such terms and conditions as said deputy commissioner, in consultation with the metropolitan district commission, may prescribe. Said land is a portion of land acquired by the metropolitan district commission for reservoir purposes and is recorded in the Worcester district registry of deeds, with the county of Worcester, Book 2484, Page 404. Said land is further bounded and described as follows:

Beginning at Worcester County Highway bound as shown on a plan hereinafter mentioned, thence North 64° 27' 00" East four hundred and sixty-two and 00/100 (462.00) feet along the southerly side of Manning Street to a point;

Thence South 25° 33' 00" East three hundred and seventy-three and 00/100 (373.00) feet to a point:

Thence South 86° 07' 00" West three hundred and one and 16/100 (301.16) feet to a point:

Thence South 03° 53' 00" East one hundred and twenty and 00/100 (120.00) feet to a point:

Thence North 86° 07' 00" East three hundred and twenty-three and 01/100 (323.01) feet to a point:

Thence South 25° 33' 00" East Six hundred and seventy-seven and 41/100 (677.41) feet to a point:

Thence South 64° 27' 00" West Three hundred and eighty-three and 00/100 (383.00) feet to a point:

Thence North 86° 19' 44" West Three hundred and forty-two and 69/100 (342.69) feet to a point:

Thence North 25° 33' 00" West Two hundred and forty-four and 00/100 (244.00) feet to a point:

Thence North 07° 43' 00" West Seven hundred and ninety-seven and 99/100 (797.00) feet to the point of beginning.

Containing Fifteen and 00/100 (15.00) acres according to a plan entitled Land in Holden, Mass. Owned by Commonwealth of Massachusetts, Metropolitan District Commission, Water Division, William A. Brutsch, Director of Water Division.

Approved December 30, 1985.

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**Chapter 693. AN ACT AUTHORIZING THE DIVISION OF CAPITAL PLANNING AND OPERATIONS TO LEASE A CERTAIN PARCEL OF LAND IN THE TOWN OF WEST BOYLSTON UNDER THE CONTROL OF THE METROPOLITAN DISTRICT COMMISSION TO R. E. CHAPMAN COMPANY.**

Be it enacted, etc., as follows:

The deputy commissioner of the division of capital planning and



**ACTS, 1985. – Chap. 694.**

operations, subject to the provisions of sections forty E to forty J, inclusive, of chapter seven of the General Laws, is hereby authorized to lease to the R. E. Chapman Company, by lease approved as to form by the attorney general, for a term of five years, with an option to extend for like terms thereafter, certain land under the control of the metropolitan district commission acquired for water purposes located in the town of West Boylston for private parking and storage purposes, in accordance with such terms and conditions as the deputy commissioner, in consultation with the metropolitan district commission, may prescribe.

Said land containing one and four hundredths acres of land, is shown as "Area = 1 Acre +" on a plan on file in the office of the metropolitan district commission entitled "Land in West Boylston to be leased to R. E. Chapman Company, dated February 3, 1967 by Charles O. Clark, Engineer".

Approved December 30, 1985.

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**Chapter 694. AN ACT AUTHORIZING THE DIVISION OF CAPITAL PLANNING AND OPERATIONS TO ACQUIRE A CERTAIN PARCEL OF LAND IN THE CITY OF MEDFORD AND TO TRANSFER THE CARE, CUSTODY AND CONTROL OF SAID PARCEL TO THE DEPARTMENT OF PUBLIC WORKS FOR HIGHWAY PURPOSES.**

Be it enacted, etc., as follows:

The deputy commissioner of capital planning and operations, acting for and on behalf of the commonwealth, is hereby authorized to acquire by eminent domain, by purchase or otherwise, under the provisions of section one of chapter six hundred and ninety-three of the acts of nineteen hundred and fifty-five, a certain parcel of land belonging to the Medford Housing Authority and being used by said authority for public housing purposes, and to transfer the care, custody and control of the hereinafter described parcel of land to the department of public works for highway purposes.

Parcel No. 10-1. A triangular shaped parcel of land, in the city of Medford, containing about one thousand seven hundred fifty (1,750) square feet of land, bounded on the west one hundred eleven (111) feet by other land under the control of the Medford Housing Authority; northerly about thirty-eight (38) feet by Riverside Avenue in the city of Medford; easterly about ninety-four (94) feet by interstate route 93, a state highway.

Said parcel of land is shown on a plan of land identified as "Sheet 16 of the Right of Way Plan for the City of Medford, I-93 Interchange with Route 16, the Mystic Valley Parkway", as prepared by C.E. Maguire, Inc., dated April 16, 1985, which plan shall be on file with the chief engineer of the department of public works.

Approved December 30, 1985.



ACTS, 1985. – Chap. 696.

**Chapter 695. AN ACT AUTHORIZING THE DIVISION OF CAPITAL PLANNING AND OPERATIONS TO ACQUIRE A PERMANENT HIGHWAY DRAINAGE EASEMENT OVER A CERTAIN PARCEL OF LAND IN THE TOWN OF SANDWICH BEING USED AS A WATER DISTRICT AND TO TRANSFER THE CARE, CUSTODY AND CONTROL OF SAID EASEMENT TO THE DEPARTMENT OF PUBLIC WORKS FOR HIGHWAY PURPOSES.**

Be it enacted, etc., as follows:

The deputy commissioner of the division of capital planning and operations, acting for and on behalf of the commonwealth, is hereby authorized to acquire by agreement or otherwise, under the provisions of section one of chapter six hundred and ninety-three of the acts of nineteen hundred and fifty-five, a permanent highway drainage easement over a certain parcel of land in the town of Sandwich, being used for water district purposes. The division of capital planning and operations shall transfer the care, custody and control of said permanent easement to the department of public works.

Said parcel is located on the northerly side of state highway route 6A, at or about Station 53 + 10 to Station 54 + 60 of the 1930 State Highway Layout for the said state highway route 6A, said parcel being rectangular in shape bounded on the south one hundred fifty feet by said route 6A, on the west fifty feet; on the north one hundred fifty feet and on the east fifty feet; containing approximately seven thousand five hundred square feet of land, more or less.

Said parcel of land is shown on a plan of land identified as "Subdivision Plan of Land in Sandwich Whitney & Bassett, Engineers, January 1949 Subdivision of part of Lot D1 Shown on Plan 12064B File with Certificated of Title No. 3316 Registry District of Barnstable County," which plan shall be on file with the chief engineer of the department of public works.

Approved December 30, 1985.

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**Chapter 696. AN ACT FURTHER REGULATING CERTAIN PARKING OFFENSES IN CITIES AND TOWNS.**

Be it enacted, etc., as follows:

**SECTION 1.** Chapter 90 of the General Laws is hereby amended by striking out section 20E, as appearing in the 1984 Official Edition, and inserting in place thereof the following section:–

Section 20E. Notwithstanding the provisions of sections twenty A, twenty A 1/2, or any other general or special law to the contrary concerning parking laws, if the registered owner of a motor vehicle involved in a parking violation is a person or entity engaged in the taxicab business or the business of leasing or renting motor vehicles, and such motor vehicle is under lease or rent or being operated for hire at



**ACTS, 1985. – Chap. 696.**

the time of such violation, the provisions of this section shall be applicable, and the registered owner shall not be liable for any unpaid fines; provided, however, that such owner has complied with the procedures hereinafter set forth:

(a) The parking clerk shall give to the registered owner notice in writing of each violation in which a motor vehicle owned by such owner is involved, including the registration number of the vehicle, the state of issuance of such registration of the vehicle involved and the date, time and place of the violation.

(b) Within forty-five days, the registered owner shall furnish to such parking clerk in writing the name and address of the lessee or rentee of such motor vehicle at the time of such violation; and if the lessee or rentee is also the operator, the lessee's or rentee's driver's license number, state of issuance of such driver's license and the lessee's or rentee's date of birth.

(c) The parking clerk shall thereupon issue a notice of violation to such lessee or rentee in the form prescribed by section twenty A or twenty A 1/2

(d) If such lessee or rentee does not appear in person or by writing as otherwise provided in section twenty A, twenty A 1/2, or any general or special law concerning parking violations, or make payment within twenty-one days from the date on which such notice is issued, the parking clerk shall notify the registrar as provided by the provisions of section twenty A, twenty A 1/2, or any other general or special law concerning parking violations, and the clerk of the division of the district court department or Boston municipal court department of the trial court having jurisdiction. Upon notification by the parking clerk, the registrar shall suspend and shall not renew the license to operate a motor vehicle of such lessee or rentee or suspend the right to operate of a lessee or rentee not licensed in this commonwealth; and the clerk of the district court of the trial court having jurisdiction shall forthwith issue a criminal complaint against the lessee or rentee and thereafter proceed against such lessee or rentee following the procedures established for criminal cases. The registrar shall remove any suspension and nonrenewal of license or right to operate made under the provisions of this section upon the payment in full to the parking clerk of the fine and penalty for such violation by the lessee or rentee.

(e) The provisions of section twenty A, section twenty A 1/2, or any other general or special law concerning parking violations, shall be applicable to lessees and rentees of motor vehicles as provided herein.

(f) Any registered owner and parking clerk may, by agreement upon such terms and conditions as they may deem appropriate, provide for the transmission of the information referred to in subsections (a) and (b), on magnetic tape or in other computer readable format, in order to expedite completion of the foregoing provisions.

(g) The written notice referred to in subsection (a) shall be sent to the registered owner no later than two years after the date that such violation occurred; provided, however, that if such notice is sent within such two year period the parking clerk may proceed against the lessee or rentee, as provided herein, at any time after the sending of such notice.



**ACTS, 1985. – Chap. 696.**

(h) Upon a showing of cause, any fine may be reduced, dismissed, or otherwise disposed of by the parking clerk or any other designated governmental authority handling such parking violations, fines or penalties.

(i) Notwithstanding any general law or special law to the contrary, a surcharge of thirty cents per lease or rental transaction shall be collected and paid pursuant to this section to the city or town within whose borders the rental or lease transaction was initiated as specified in the rental or lease agreement. A rental shall consist of a bailment of thirty-one consecutive days or less and a lease or leasing shall consist of a bailment of more than thirty-one consecutive days. Amounts received by a city or town under this section shall not be considered in the determination of the amount of any distribution of state assistance to such city or town.

Such surcharge amount shall be thirty cents per rental or lease transaction as specified in the rental or lease agreement.

The money collected by a lessor or rentor pursuant to this section shall be paid monthly on or before the twentieth of the following month to the city or town where the rental or lease transaction was initiated and such surcharges may be added to the cost of the lease or rental.

For the purpose of determining compliance with payment of the surcharge, the city or town shall have the authority to examine the books, records and pertinent documents of any person or entity engaged in the taxicab business, or the business of leasing or renting motor vehicles; provided however, that said examination shall be conducted by the auditor or treasurer of the city or town or his designee. Whenever the amount of surcharge paid has been less than that required by subsection (i), the city or town may file a claim for surcharges underpaid or undercollected plus the statutory rate of interest on such charges. No payment for such underpayment or undercollection of surcharges shall be allowed unless the claim for such underpayment or undercollection is filed with the taxicab business or the business leasing or renting motor vehicles within two years of the date upon which the payment was due.

Whenever the amount of surcharge has been paid in error to the city or town or overcollected by the city or town, the rentor or lessor may file a claim for refund on surcharges overpaid or overcollected plus the statutory rate of interest on such surcharges. No refund shall be allowed unless the claim for refund is filed with the city or town within two years of the date upon which the payment was made.

**SECTION 2.** Notwithstanding any general or special law to the contrary or section three, any parking violation, fine or penalty subject to section twenty E of chapter ninety of the General Laws prior to the effective date of this act may be reduced, dismissed or otherwise disposed of by the parking clerk or any other designated governmental authority handling such parking violations, fines or penalties.

**SECTION 3.** The provisions of this act shall apply only to contracts or agreements or parking violations entered into or issued on or after the effective date of this act and parking violations issued prior to the



**ACTS, 1985. – Chaps. 697, 698, 699.**

effective date of this act shall be subject to the provisions of law in effect at such time and shall be paid in accordance therewith.

Approved December 30, 1985.

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**Chapter 697. AN ACT ABOLISHING THE OFFICE OF  
TREASURER-COLLECTOR OF TAXES IN THE TOWN  
OF NORTHBRIDGE.**

Be it enacted, etc., as follows:

**SECTION 1.** Chapter two hundred and thirty-three of the acts of nineteen hundred and eighty-one is hereby repealed.

**SECTION 2.** This act shall take effect on May twenty-seventh, nineteen hundred and eighty-six.

Approved December 30, 1985.

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**Chapter 698. AN ACT PROHIBITING INVESTMENT OF PUBLIC  
PENSION FUNDS OF THE TOWN OF WATERTOWN IN  
FINANCIAL INSTITUTIONS DOING BUSINESS IN OR  
WITH THE REPUBLIC OF SOUTH AFRICA.**

Be it enacted, etc., as follows:

After December thirty-first, nineteen hundred and eighty-six, no public pension funds of the city known as the town of Watertown shall be invested or remain invested, or be deposited or remain deposited in any bank or financial institution which directly or through its subsidiaries has outstanding loans or existing lines of credit to the Republic of South Africa or its instrumentalities; or in any corporation doing business in the Republic of South Africa or its instrumentalities; or in any company or its subsidiaries for the purpose of investment in the Republic of South Africa or its instrumentalities; and no such pension funds shall be invested or remain invested in the stocks, securities, or other obligations of any company doing business in or with the Republic of South Africa or its instrumentalities, or whose subsidiary or affiliate does business in or with the Republic of South Africa or its instrumentalities; provided, however, that in the event the Republic of South Africa and its instrumentalities abolishes apartheid, the city known as the town of Watertown may reinvest their public pension funds in said country so long as such use is consistent with sound investment policy.

Approved December 30, 1985.

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**Chapter 699. AN ACT AUTHORIZING THE TOWN OF MANSFIELD**



**ACTS, 1985. – Chaps. 700, 701.**

**TO PAY A CERTAIN SUM OF MONEY TO VIVIAN SWEET.**

Be it enacted, etc., as follows:

Notwithstanding any provision of law to the contrary the town of Mansfield is hereby authorized to pay from available funds or to appropriate money for the payment of, and after such appropriation, the treasurer of said town is hereby authorized to pay to Vivian Sweet, a teacher in the school department of said town a sum not to exceed seven thousand one hundred dollars for services rendered in prior fiscal years.

Approved December 30, 1985.

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**Chapter 700. AN ACT RELATIVE TO THE ISSUANCE OF REVENUE BONDS BY INDUSTRIAL DEVELOPMENT FINANCING AUTHORITIES.**

Be it enacted, etc., as follows:

Paragraph (l) of section 1 of chapter 40D of the General Laws, as amended by section 2 of chapter 370 of the acts of 1985, is hereby further amended by striking out the first sentence and inserting in place thereof the following sentence:– "Industrial enterprise", an enterprise engaged in applying skill and labor to the giving of new shapes, new qualities or new combinations to matter as material products or to the assembly, processing, preservation, storage, handling or transportation of manufactured or natural products, or to stationary facilities and equipment necessary or useful in connection with railroad operations, including railroad rights of way and all associated tracks and facilities or to the making of works of art by self-employed artists or to the construction, renovation and equipment of a medical diagnostic imaging facility which has been granted a certificate of need in accordance with the provisions of section twenty-five C of chapter one hundred and eleven or to the construction and renovation of a nursing or convalescent home licensed under the provisions of section seventy-one of chapter one hundred and eleven, including renovations for energy conservation purposes.

Approved December 30, 1985.

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**Chapter 701. AN ACT AUTHORIZING THE CITY OF BOSTON TO GRANT A PENSION TO MANUEL J. GREGORIO.**

Be it enacted, etc., as follows:

**SECTION 1.** Notwithstanding the provisions of any law to the contrary, and in order to promote the public good, the State-Boston retirement board is hereby authorized and directed to retire Manuel J.



**ACTS, 1985. – Chap. 702.**

Gregorio, a firefighter of the city of Boston, who as the result of injuries sustained while in the performance of his duties at an arson fire at the United States Marine Barracks, located at "E" Street in the South Boston section of the city of Boston on October second, nineteen hundred and eighty-two is totally and permanently incapacitated for further service as a firefighter. The annual amount of pension payable to Manuel J. Gregorio under this act shall be fixed in an amount equal to the regular rate of compensation which would have been paid had he continued in service as a firefighter in said city at the grade held by him at the time of his retirement.

Such retirement shall become effective as of the date following the last day on which he is entitled to receive regular compensation.

Upon the retirement of Manuel J. Gregorio, the retirement board of said city shall forthwith pay to him all amounts standing to his credit in the annuity savings fund of the retirement system of said city.

**SECTION 2.** The provisions of section one hundred of chapter forty-one of the General Laws shall continue to apply to Manuel J. Gregorio relative to his indemnification by the city of Boston for any hospital, medical and related expenses which may be incurred by him after the date of his retirement as a result of the aforementioned incapacity.

**SECTION 3.** Upon the death of Manuel J. Gregorio, if his wife, Mary E. Gregorio survives him and as long as she remains unmarried, the city shall pay to Mary E. Gregorio an annual annuity equal to the sum of three-fourths of the amount of the pension payable to him at the time of his death and three hundred and twelve dollars for each child of Manuel J. Gregorio for such time as such child is either under eighteen years of age or totally physically or mentally incapacitated from working. If Mary E. Gregorio remarries, the city shall pay to her, in lieu of the aforesaid annuity, an annual annuity of five hundred and twenty dollars for each child of Manuel J. Gregorio for such time as such child is residing with her and is either under eighteen years of age on January first of the year in question or totally or mentally incapacitated from working.

Approved December 30, 1985.

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**Chapter 702. AN ACT FURTHER REGULATING THE SALE AND REPAIR OF CERTAIN MOTOR VEHICLES.**

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to afford a right of recourse to consumers who purchase motor vehicles, 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:



ACTS, 1985. – Chap. 702.

SECTION 1. Section 7N 1/2 of chapter 90 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out subsection (3) and inserting in place thereof the following subsection:–

(3) If the manufacturer, its agent or authorized dealer does not conform the motor vehicle to any such applicable express or implied warranty by curing any nonconformity after a reasonable number of attempts, the manufacturer shall accept return of the vehicle from the consumer and refund the full contract price of the vehicle including all credits and allowances for any trade-in vehicle, less any cash award that was made by the manufacturer in an attempt to resolve the dispute and was accepted by the consumer, and a reasonable allowance for use, or shall offer to replace the vehicle; provided, however, that the consumer shall have an unqualified right to reject a manufacturer's offer of replacement and demand a refund. In instances in which a vehicle is replaced by a manufacturer under the provisions of this section, said manufacturer shall reimburse the consumer for any fees for the transfer of registration or any sales tax incurred by the consumer as a result of such replacement. In instances in which a vehicle which was financed by the manufacturer or its subsidiary or agent is replaced under the provisions of this section, said manufacturer, subsidiary or agent shall not require the consumer to enter into any refinancing agreement which would create any financial obligations upon such consumer beyond those implied by the original financing agreement. In instances in which a refund is tendered under the provisions of this section, the manufacturer shall also reimburse the consumer for incidental costs including sales tax, registration fee, finance charges and any cost of options added by an authorized dealer. Whenever a vehicle is replaced a refund is given under the provisions of this section, in instances in which towing services and rental vehicles were not made available at no cost to the consumer, the manufacturer shall also reimburse the consumer for towing and reasonable rental costs that were a direct result of vehicle nonconformity. Refunds shall be made to the consumer and lienholder, if any, as their interests may appear. A reasonable allowance for use for all motor vehicles other than motorcycles shall be obtained by multiplying the total contract price of the vehicle by a fraction having as its denominator one hundred thousand and having as its numerator the number of miles that the vehicle travelled prior to the manufacturer's acceptance of its return. A reasonable allowance for use for motorcycles shall be obtained by multiplying the total contract price of the motorcycle by a fraction having as its denominator twenty-five thousand and having as its numerator the number of miles that the vehicle travelled prior to the manufacturer's acceptance of its return.

It shall be an affirmative defense to any claim under this section: (i) that an alleged nonconformity does not substantially impair the use, market value or safety of the vehicle; (ii) that a nonconformity is the result of owner negligence, damage caused by accident, vandalism, or attempt to repair the vehicle by a person other than the manufacturer, its agent or authorized dealer; or (iii) that a nonconformity is the result of any attempt substantially to modify the vehicle which was not authorized by the manufacturer.



## **ACTS, 1985. – Chap. 702.**

A consumer shall have the option of retaining the use of any vehicle returned under the provisions of this section until such time as said consumer has been tendered a full refund or a replacement that is acceptable to the consumer. The use of any vehicle retained by a consumer after its return to a manufacturer under the provisions of this section, shall, in instances in which a refund is tendered, be reflected in the above mentioned reasonable allowance for use.

**SECTION 2.** Subsection (5) of said section 7N 1/2 of said chapter 90, as so appearing, is hereby amended by striking out the fourth paragraph and inserting in place thereof the following paragraph:–

No consumer shall be required by any manufacturer, its agent or its authorized dealer to give notice directly to a manufacturer of the existence of any nonconformity before resorting to state-certified, new car arbitration.

**SECTION 3.** Said section 7N 1/2 of said chapter 90, as so appearing, is hereby further amended by striking out subsection (6) and inserting in place thereof the following four subsections:–

(6) All manufacturers shall submit to state-certified, new car arbitration, if such arbitration is requested by the consumer within eighteen months from the date of original delivery to such consumer of a new motor vehicle. State-certified, new car arbitration shall be performed by a professional arbitrator or arbitration firm appointed by the secretary of consumer affairs and business regulation and operating in accordance with the regulations promulgated pursuant to this section, and shall result in a written finding of whether the motor vehicle in dispute meets the standards set forth by this section for vehicles that are required to be replaced or refunded. Said finding shall be issued within forty-five days of receipt by said secretary of a request by a consumer for state-certified arbitration under this section. Said secretary shall promulgate rules and regulations governing the proceedings of state-certified, new car arbitration which shall promote their fairness and efficiency. Such rules and regulations shall include, but not be limited to, a requirement of the personal objectivity of each arbitrator in the results of the dispute he will hear, and the protection of the right of each party to present its case and to be in attendance during any presentation made by the other party. All findings of fact issuing from a state-certified, new car arbitration shall be taken as prima facie evidence of whether the standards set forth in this section for vehicles required to be refunded or replaced have been met in any subsequent action brought by either party ensuing from the matter considered in said arbitration.

If a motor vehicle is found by state-certified, new car arbitration to have met the standards set forth by this section for vehicles required to be replaced or refunded, and if the manufacturer of said motor vehicle is found to have failed to provide said refund or replacement as required, such manufacturer shall, within twenty-one days from the issuance of such finding, deliver such refund or replacement, including the incidental and other costs set forth in subsection (3), or appeal the finding in



ACTS, 1985. – Chap. 702.

superior court. No appeal by a manufacturer shall be heard unless the petition for such appeal is filed with the clerk of the superior court within twenty-one days of issuance of the finding of the state-certified arbitration and is accompanied by a bond in a principal sum equal to the money award made by the state-certified arbitrator plus two thousand five hundred dollars for anticipated attorneys' fees, secured by cash or its equivalent, payable to the consumer.

The liability of the surety of any bond filed pursuant to this section shall be limited to the indemnification of the consumer in the action. Such bond shall not limit or impair any right of recovery otherwise available pursuant to law, nor shall the amount of the bond be relevant in determining the amount of recovery to which the consumer shall be entitled. In the event that any state-certified arbitration, resulting in an award of a refund or replacement, is upheld by the court, recovery by the consumer shall include continuing damages in the amount of twenty-five dollars per day for each day, subsequent to the day the motor vehicle was returned to the manufacturer pursuant to subsection three, that said vehicle was out of use as a direct result of any nonconformity not issuing from owner negligence, accident, vandalism, or any attempt to repair or substantially modify the vehicle by a person other than the manufacturer, its agent or authorized dealer; provided, however, that the manufacturer did not make a comparable vehicle available to the consumer free of charge. In addition to any other recovery, any prevailing consumer shall be awarded reasonable attorneys' fees and costs. If the court finds that the manufacturer did not have any reasonable basis for its appeal or that the appeal was frivolous, the court shall double the amount of the total award made to the consumer. Any consumer dissatisfied with any finding of state-certified, new car arbitration shall have the right to file a claim pursuant to chapter ninety-three A.

(6A) A clear and conspicuous listing of the rights of the consumer under this section shall be affixed by a sticker to a window of each new motor vehicle offered for sale in the commonwealth. An enumeration of these rights shall also be provided along with ownership manual materials. The form and manner of these notices shall be prescribed by the secretary of consumer affairs and business regulations.

(7) Failure to comply with any of the provisions of this section shall constitute an unfair or deceptive act under the provisions of chapter ninety-three A. The failure of a manufacturer either to abide by the decision of a state-certified arbitration or to file a timely appeal shall entitle any prevailing consumer to an award of no less than two times the actual damages, unless said manufacturer can prove that such failure was beyond his control. For the purposes of said chapter ninety-three A, the timely delivery by a manufacturer of a refund or acceptable replacement, pursuant to a finding by state-certified arbitration, shall constitute the granting of relief upon demand.

The secretary of consumer affairs and business regulation shall inform the office of the attorney general of any method, act or practice of which she is aware that is deemed by her to be a violation of any provision of this section.



**ACTS, 1985. – Chap. 703.**

(8) Whoever, within twenty-one days of any finding in favor of the consumer of the state-certified, new car arbitration, fails to appeal such finding and does not deliver a refund or replacement vehicle or notify the consumer of the estimated delivery date of the replacement vehicle, shall be punished by a fine of five thousand dollars per day until the delivery of such refund or replacement. The estimated delivery date shall not exceed sixty days from the date the manufacturer notifies the consumer that a delivery will be made. Said fine shall not exceed fifty thousand dollars for each such violation. The amount of said fine shall begin to accumulate on the twenty-second day following the arbitration decision. If eighty-one days has elapsed from the issuance of a finding in favor of the consumer of the state-certified, new car arbitration and no appeal has been taken and no award delivered and no fine paid, the attorney general shall initiate proceedings against said manufacturer for failure to pay said fine. The proceedings initiated pursuant to the provisions of this section shall be commenced in superior court department of the trial court.

In addition to the remedies hereinbefore provided, the attorney general may bring an action on behalf of the commonwealth to restrain further violation of this section, to enforce any provision, and for such other relief as may be appropriate.

Approved December 31, 1986.

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**Chapter 703. AN ACT PROVIDING FOR THE ESTABLISHMENT AND ADMINISTRATION OF RENT REGULATIONS AND THE CONTROL OF EVICTIONS IN THE MOBILE HOME PARK ACCOMMODATIONS IN THE TOWN OF MIDDLEBOROUGH.**

Be it enacted, etc., as follows:

**SECTION 1.** The general court finds and declares that a serious public emergency exists with respect to the housing of a substantial number of citizens in the town of Middleborough, which emergency has been created by high and unwarranted rental increases imposed by some park owners of mobile home parks located therein; that unless mobile home park rents and evictions are regulated and controlled, such emergency will produce serious threats to the public safety, health and general welfare of the citizens of said town, particularly the elderly; that such emergency should be met by the commonwealth immediately and with due regard for the rights and responsibilities of the town of Middleborough.

**SECTION 2.** The town of Middleborough shall regulate rents for the use or occupancy of mobile home park accommodations in said town, establish a rent board for the purpose of regulating rents, minimum standards for the use or occupancy of mobile home park accommodations and the evictions of tenants therefrom and shall, by its by-laws, require



## **ACTS, 1985. – Chap. 703.**

registration by owners of mobile home park accommodations. Such rents, standards and evictions shall be regulated by the rent board so as to remove hardships, or correct inequities for both the owner and the tenants of such mobile home park accommodations. Said rent board shall have all powers necessary or convenient to perform its functions, may make rules and regulations, require registration by owners of mobile home park accommodations, under penalty of perjury, of information relating to the mobile home park accommodations, sue and be sued, compel the attendance of persons and the production of papers and information, issue appropriate orders which shall be binding on both the owner and tenants of such mobile home park accommodations. Violations of any by-laws adopted pursuant to this act or any order of said rent board shall be punishable by a fine of not more than one thousand dollars for any one offense.

**SECTION 3.** In regulating such rents, for such mobile home park accommodations, the rent board established under section two shall make such individual or general adjustments, either upward or downward, as may be necessary to assure that rents for the mobile home park accommodations in said town are established at levels which yield to owners a fair net operating income for such units. The following factors, among other relevant factors, which the board by regulation may define, shall be considered in determining whether a controlled unit yields a fair net operating income:

- (1) Increases or decreases in property taxes.
- (2) Unavoidable increases or decreases in operating and maintenance expenses.
- (3) Capital improvements to the park as distinguished from ordinary repair, replacement and maintenance.
- (4) Increases or decreases in living space, services or equipment.
- (5) Failure to perform ordinary repair, replacement and maintenance.

The rent board may refuse to grant a rent increase under this section, if it determines that the affected park does not comply with state sanitary codes of the commonwealth and any municipal codes or by-laws, and if it determines that such lack of compliance is due to the failure of the park operator to provide normal and adequate repair and maintenance.

**SECTION 4.** The provisions of chapter thirty A of the General Laws shall be applicable to the rent board, established under section two, as if said rent board were an agency of the commonwealth, including those provisions giving agencies the powers to issue, vacate, modify and enforce subpoenas and those provisions relating to judicial review of an agency.

**SECTION 5.** The district court department shall have original jurisdiction, concurrently with the superior court department, of all petitions for review brought pursuant to section fourteen of chapter thirty A of the General Laws. The superior court department shall have jurisdiction to enforce the provisions of this act and any by-laws adopted



**ACTS, 1985. – Chap. 704.**

thereunder and may restrain violations thereof.

**SECTION 6.** The town of Middleborough may by its by-laws regulate the evictions of tenants and the rent board, established under section two, shall issue orders which shall be a defense to an action of summary process for possession and such orders shall be reviewable pursuant to sections two and three.

**SECTION 7.** This act shall take effect upon its passage.

Approved December 31, 1985.

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**Chapter 704. AN ACT RELATIVE TO THE PUBLIC SCHOOLS OF THE COMMONWEALTH.**

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to make more attractive and enhance the status of the teaching profession, 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.** Section 13 of chapter 188 of the acts of 1985 is hereby amended by adding the following paragraph:–

Each city, town, regional school district, educational collaborative or independent vocational school which accepts the provisions of this section in accordance with the second paragraph after the first payment date of February fifteenth, nineteen hundred and eighty-six, but before June thirtieth, nineteen hundred and eighty-six, shall be eligible to receive the full amount of said payment which said city, town, regional school district, educational collaborative or independent vocational school would have otherwise received. Said grant payment shall be sent by the department of education upon receipt of certification of formal votes of acceptance.

**SECTION 2.** Said chapter 188 is hereby further amended by striking out section 17 and inserting in place thereof the following section:–

Section 17. Any city, town, regional school district, educational collaborative or independent vocational school district which employs teachers at salaries below eighteen thousand dollars and which accepts the minimum salary provisions of section forty of chapter seventy-one of the General Laws for school years commencing after July first, nineteen hundred and eighty-five shall receive a minimum teachers salary grant from the commonwealth in fiscal years nineteen hundred and eighty-six and nineteen hundred and eighty-seven equal to the cost incurred by such city, town or regional school district during said fiscal years as a result of increasing to eighteen thousand dollars the salary of each teacher whose salary was below that level prior to October thirtieth, nineteen hundred and eighty-six.



**ACTS, 1985. – Chap. 705.**

Any city, town, regional school district, educational collaborative or independent vocational school which employs teachers at salaries below eighteen thousand dollars and which accepts the minimum salary provisions of section forty of chapter seventy-one of the General Laws for school years commencing after July first, nineteen hundred and eighty-six, shall receive a minimum teachers' salary grant from the commonwealth in fiscal year nineteen hundred and eighty-seven equal to the cost incurred by such city, town or regional school district during said fiscal year, as a result of increasing to eighteen thousand dollars the salary of each teacher whose salary was below that level prior to October thirtieth, nineteen hundred and eighty-six. As a condition of receiving funds under this section, the city, town, regional school district, educational collaborative or independent vocational school shall certify to the department that all teachers with respect to whom funds are sought under this section have been hired at a salary not less than that offered to teachers hired in comparable positions as of July 1, 1985.

**SECTION 2A.** Section 11 of chapter 188 of the acts of 1985 is hereby amended by striking out the last paragraph and inserting in place thereof the following paragraph:—

The chapter seventy minimum guarantee of any regional school district or independent vocational school shall be the chapter seventy guarantee received in either of the fiscal years nineteen hundred and eighty-three or nineteen hundred and eighty-four, whichever is greater.

**SECTION 3.** Upon the effective date of this act, any such teacher who is employed in a city, town, regional school district, educational collaborative, or independent vocational school district which has accepted or does accept the minimum salary provisions of section forty of chapter seventy-one of the General Laws before June thirtieth, nineteen hundred and eighty-six at a salary below the minimum salary level of eighteen thousand dollars shall be compensated retroactive to July first, nineteen hundred and eighty-five, or said teacher shall be compensated retroactive to the date he is first employed, whichever is later.

**SECTION 4.** Nothing in this act shall be deemed to discourage local acceptance of the provisions of section thirteen of chapter one hundred and eighty-eight of the acts of nineteen hundred and eighty-five prior to February fifteenth, nineteen hundred and eighty-six.

Approved December 31, 1985.

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**Chapter 705. AN ACT REGULATING THE PRACTICE OF PUBLIC ACCOUNTANCY.**

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately regulate the practice of public accountancy in the commonwealth, therefore it is hereby declared to be



**ACTS, 1985. – Chap. 705.**

an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

**SECTION 1.** Chapter 13 of the General Laws is hereby amended by striking out section 33, as appearing in the 1984 Official Edition, and inserting in place thereof the following section:–

Section 33. (a) There shall be a board of public accountancy, in this section and in sections thirty-four and thirty-five called the board, consisting of five members, to be appointed by the governor. Each member shall be a citizen of the commonwealth. Four of the members shall hold a valid biennial permit issued under section eighty-seven B of chapter one hundred and twelve and shall have been actively engaged on his own account or as a member of a partnership in the practice of public accountancy for at least seven years, or as an officer, director, or shareholder of a professional corporation organized pursuant to chapter one hundred fifty-six A. Three of the members shall be certified public accountants holding certificates issued under section eighty-seven A of chapter one hundred and twelve, or under prior laws of the commonwealth, and the fourth member shall be a public accountant registered under the laws of the commonwealth. The fifth member shall be a representative of the public, subject to the provisions of section nine B.

Upon the expiration of the term of a member his successor, qualified as aforesaid, shall be appointed by the governor for a term of five years.

The governor shall remove from the board any accountant member whose certificate of registration or license has become void, or has been revoked or suspended.

(b) There shall be a public accountants administrative committee, hereinafter and in sections thirty-four and thirty-five called the "committee", consisting of the public accountant member of the board, who shall be a member ex officio, the representative of the public member of the board, and three members to be appointed by the board. Each appointive member of the committee shall be a citizen of the commonwealth, a public accountant registered under the laws of the commonwealth, and the holder of a valid biennial permit issued under section eighty-seven B of chapter one hundred and twelve, and shall have been actively engaged on his own account or as a member of a partnership in the practice of public accountancy for at least five years, or as an officer, director, or shareholder of a professional corporation organized pursuant to chapter one hundred and fifty-six A.

Each appointive member of the committee shall serve for a term of three years. Vacancies occurring during a term shall be filled by appointment for the unexpired term. Upon the expiration of his term of office a member shall continue to serve until his successor shall have been appointed and shall have qualified. The board shall remove from the committee any member whose registration or biennial license has become void, or has been revoked or suspended, and may, after hearing, remove any member of the committee for just cause. Before entering



**ACTS, 1985. – Chap. 705.**

office, each member shall be sworn to the faithful performance of his duties.

The committee shall have the following powers and duties and shall be vested with the powers of the board with respect to such powers and duties, subject, however, to the provisions of clause (4):–

(1) to investigate complaints and to initiate and conduct investigations or hearings, with or without the filing of any complaint, and to obtain information and evidence, relating to any matter involving the conduct of public accountants, and any violation or alleged violation of any of the provisions of sections eighty-seven A to eighty-seven E, inclusive, of chapter one hundred and twelve;

(2) to pass upon the qualifications of any applicant for registration as a public accountant or as a partnership of public accountants, or as a professional corporation of public accountants organized pursuant to chapter one hundred and fifty-six A, and to register qualified applicants;

(3) to advise the board in any and all matters affecting public accountants; serve as a liaison between the board and the public accountants, keep informed on contemplated actions of the board primarily affecting public accountants, and to have access to the files of the board for the purpose of carrying out its advisory duties;

(4) to make recommendations and forward a report to the board on any matter on which the committee is authorized to act, which recommendations and report the board may accept or reject in whole or in part. The foregoing clause (4) shall not apply to clause (2).

Whenever any statute or rule or regulation of any agency of the commonwealth or any political subdivision thereof, requires that any reports, financial statements, audits, and other documents for any department, division, board, commission or agency of the commonwealth or any political subdivision thereof be prepared by certified public accountants, such requirements shall be construed to mean public accountants or certified public accountants.

**SECTION 2.** Subsection (a) of section 34 of said chapter 13, as so appearing, is hereby amended by inserting after the third paragraph the following paragraph:–

Meetings of the board shall be open to the public except insofar as they are concerned with investigations under the provisions of section eighty-seven A 1/2 to eighty-seven E, inclusive, of chapter one hundred and twelve and except as may be necessary to protect information which is required to be kept confidential by board rules or by the laws of the commonwealth. The board shall have a seal which shall be judicially noticed. The board shall retain or arrange for the retention of all applications and all documents under oath which are filed with the board, and records of its proceedings, and shall maintain a registry of the names and addresses of all licensees. A duplicate list shall also be open to inspection in the office of the secretary of state. In any proceedings in court, civil or criminal, arising out of or founded upon any provisions of said sections eighty-seven A 1/2 to eighty-seven E, copies of any of said records certified as true copies under the seal of the board shall be admissible in evidence as tending to prove the contents of said records.



ACTS, 1985. – Chap. 705.

**SECTION 3.** Said chapter 13 is hereby further amended by striking out section 35, as so appearing, and inserting in place thereof the following section:–

Section 35. Each member of the board shall receive fifty dollars for each day or part of a day actually spent in the performance of his duties, but in any one year not more than three thousand dollars shall be paid to any member. Each member shall be reimbursed for his actual and necessary expenses incurred in the discharge of his official duties. Each appointive member of the committee shall receive thirty dollars for each day or part of a day actually spent in the performance of his duties, but in any one year not more than two thousand dollars shall be paid to any member. Each member shall be reimbursed for his actual and necessary expenses incurred in the discharge of his official duties. The public accountant member of the board shall receive compensation as a board member whether he performs duties as a board member or as a committee member, but shall not receive more than three thousand dollars in any one year for such duties.

The board shall employ an executive secretary, who shall be a certified public accountant, and shall determine his salary. The executive secretary shall not be subject to the provisions of sections forty-five to fifty, inclusive, of chapter thirty, or to the provisions of chapter thirty-one. The board may appoint such committees or persons to advise it or assist it in such administration as it may see fit. It may seek counsel to advise and assist it as may be provided by the attorney general.

**SECTION 4.** Chapter 112 of the General Laws is hereby amended by striking out sections 87A to 87E, inclusive, and inserting in place thereof the following nine sections:–

Section 87A. As used in sections eighty-seven A 1/2 to eighty-seven E, inclusive, the following words shall, unless the context requires otherwise, have the following meanings:–

"Board", the board of public accountancy established under the provisions of section thirty-three of chapter thirteen.

"Certificate", a certificate issued to a certified public accountant under the provisions of section eighty-seven A 1/2 or a certificate issued to a public accountant issued under the provisions of section eighty-seven C or a corresponding certificate as a certified public accountant issued after examination under the laws of any other state.

"Committee", the public accountants administrative committee.

"Firm", a corporation or a partnership.

"Licensee", the holder of a certificate issued under the provisions of section eighty-seven B or eighty-seven B 1/2.

"Practice of public accountancy", the performance or the offering to perform by a person or firm holding itself out to the public as a licensee, for a client or potential client, of one or more kinds of services involving the use of accounting or auditing skills, including the issuance of reports on financial statements, or of one or more kinds of management advisory or consulting services, or the preparation of tax returns or the furnishing of advice on tax matters.

"Quality review", a study, appraisal, or review of one or more aspects



ACTS, 1985. – Chap. 705.

of the professional work of a person or firm in the practice of public accountancy, by a person or persons who hold licenses and who are not affiliated with the person or firm being reviewed.

"Report", when used with reference to financial statements, an opinion, report or other form of language which states or implies assurance as to the reliability of any financial statements and which also includes or is accompanied by any statement or implication that the person or firm issuing it has special knowledge or competence in accounting or auditing. Such a statement or implication of special knowledge or competency may arise from use by the issuer of the report of names or titles indicating that he or it is an accountant or auditor, or from the language of the report itself. The term "report" includes any form of language which disclaims an opinion when such form of language is conventionally understood to imply a positive assurance as to the reliability of the financial statements referred to or special competence on the part of the person or firm issuing such language; and it includes any other form of language that is conventionally understood to imply such assurance and such special knowledge or competence.

Section 87A 1/2. The board shall have the power to sue and be sued in its official name as an agency of the commonwealth; to issue subpoenas to compel the attendance of witnesses and the production of documents; to administer oaths; to take testimony and to receive evidence concerning all matters within its jurisdiction. In case of disobedience of a subpoena, the board may invoke the aid of any court of the commonwealth in requiring the attendance and testimony of witnesses and the production of documentary evidence. The board, its members and its agents, shall be immune from personal liability for actions taken in good faith in the discharge of the board's responsibilities, and the commonwealth shall hold the board, its members and its agents, harmless from all costs, damages and attorneys' fees arising from claims and suits against them with respect to matters to which such immunity applies.

The board may adopt such rules as it deems necessary which shall include, but not be limited to:

- (1) rules governing the board's meetings and the conduct of its business;
- (2) rules of procedure governing the conduct of investigations and hearings by the board;
- (3) rules specifying the educational and experience qualifications for the issuance of certificates under section eighty-seven A 1/2, and the continuing professional education required for renewal of licenses under the provisions of paragraph (e) of section eighty-seven B;
- (4) rules of professional conduct directed to controlling the quality and probity of the practice of public accounting by license holders, and dealing among other things with independence, integrity and objectivity; competence and technical standards; responsibilities to the public; and responsibilities to clients;
- (5) rules regarding quality reviews that may be required to be performed under provisions of this chapter.

At least sixty days prior to the proposed effective date of any rule or amendment thereto or any other provisions of sections eighty-seven A 1/2 to eighty-seven E, inclusive, the board shall publish notice of such



ACTS, 1985. – Chap. 705.

proposed action and of a public hearing to be held, no more than thirty days prior to such effective date, in accordance with chapter thirty A.

The board shall grant the certificate of certified public accountant to any person who meets the requirements of good character, education, experience and examination, and who pays the fees established by the commissioner of administration and finance.

Good character for purposes of this section means lack of a history of dishonest or felonious acts. The board may refuse to grant a certificate on the grounds of failure to satisfy this requirement only if there is a substantial connection between the lack of good character of the applicant and the professional responsibilities of a licensee, and if the finding of the board of lack of good character is supported by clear and convincing evidence. When an applicant is found to be unqualified for a certificate because of lack of good character, the board shall furnish the applicant a statement containing the findings of the board, a complete record of the evidence upon which the determination was based, and a notice of the applicant's right of appeal.

The educational requirement for a certificate, which must be met no later than one hundred and twenty days after an applicant sits for the examination, shall be at least a bachelor's degree or its equivalent from a college or university approved by the board with an accounting concentration or its equivalent as approved by the board. No person shall be required to have an accounting concentration as a prerequisite to the granting of a certificate until July first, nineteen hundred and ninety-two.

The experience requirement for a certificate shall be:

(1) Three years of public practice, or its equivalent, as approved by the board, with a bachelor's degree.

(2) Two years of public practice, or its equivalent, as approved by the board, with a bachelor's degree supplemented by a master's degree; provided, however, that the applicant's education has included twenty-four semester hours, or the equivalent thereof, in the study of accounting.

(3) At the board's discretion:

(i) one year of requisite experience for every three full years of service in field audit work with the United States Government in Grade 7 or for field audit work of any agency of the commonwealth or a subdivision thereof equivalent to United States Government Grade 7; provided, however, that, in the opinion of the board, it is substantially equivalent to that of public accounting practice, or

(ii) one year of requisite experience for every two full years of service in field audit work with the United States Government in Grade 9 or higher or for field audit work of any agency of the commonwealth or subdivision thereof equivalent to United States Government Grade 9 or higher and; provided further, that, in the opinion of the board, it is substantially equivalent to that of public accounting practice.

(a) The examination required to be passed as a condition for the granting of a certificate shall be in writing, shall be held twice a year, and shall test the applicant's knowledge of the subjects of accounting theory, accounting practice, auditing, business law, and such other related subjects as the board may specify by rule. An applicant who is a



ACTS, 1985. – Chap. 705.

member of the Massachusetts bar shall not be required to take the written examination in business law. But in order to be excused from this examination an applicant must present a certificate from the clerk of the supreme judicial court attesting to the fact that the applicant is a member of the bar in good standing. The time for holding such examination shall be fixed by the board and may be changed from time to time. The board shall prescribe by rule the methods of applying for and conducting the examination, including methods for grading papers and determining a passing grade entitling an applicant to a certificate; provided, however, that the board shall, to the extent possible, see to it that the grading of the examination and the passing grades are uniform with those applicable in all other states. The board may make such use of all or any part of the uniform certified public accountant examination and the advisory grading service of the American Institute of Certified Public Accountants and may contract with third parties to perform such administrative services with respect to the examination, as it deems appropriate to assist it in performing its duties hereunder.

(b) An applicant shall be required to pass all parts of the examination provided for in paragraph (a) in order to qualify for a certificate. If at a given sitting of the examination an applicant passes two or more but not all parts, with the accounting practice part of the examination being treated for this purpose as two parts, then the applicant shall be given credit for those parts that he has passed and need not sit for reexamination in those parts; provided that:—

- (1) the applicant wrote all parts of the examination at that sitting;
- (2) the applicant attained a minimum grade of fifty on each of the parts not passed at that sitting;
- (3) the applicant passes the remaining parts of the examination within six consecutive examinations given after the one at which the first parts were passed;
- (4) at each subsequent examination at which the applicant seeks to pass any additional parts, the applicant writes all parts not yet passed; and

(5) in order to receive credit for passing additional parts in any such subsequent sitting, the applicant attains such grades on parts written but not passed on such sitting as specified by the board by rule.

(c) An applicant shall be given credit for any and all parts of any examination passed in another state if such credit would have been given, under then applicable requirements, if the applicant had taken the examination in the commonwealth.

(d) The board may in particular cases waive or defer any of the requirements of paragraphs (b) and (c) regarding the circumstances in which the various parts of the examination must be passed upon a showing that, by reasons of circumstances beyond the applicant's control, he was unable to meet such requirements.

The board may charge, or provide for a third party administering the examination to charge, each applicant a fee for each part of the examination or reexamination taken by the applicant.

Section 87B. The board shall grant or renew licenses to practice public accountancy to persons who make application and demonstrate their qualifications therefor in accordance with the following



ACTS, 1985. – Chap. 705.

paragraphs:–

(a) Licenses shall be initially issued, and renewed, for periods of two years. Each such license shall expire on the last day of June of the next year following the year of issuance of renewal. Applications for such licenses shall be made in such form, and in the case of applications for renewal between such dates, as the board shall by rule specify; and the board shall grant or deny any such application no later than ninety days after the application is filed in proper form. In any case where the applicant seeks the opportunity to show that issuance of a renewal of a license was mistakenly denied, or where the board is not able to determine whether it should be granted or denied, the board may issue to the applicant a provisional license, which shall expire ninety days after its issuance or when the board determines whether or not to issue or renew the license for which application was made, whichever shall first occur.

(b) An applicant for initial issuance of a license under this section shall show that he holds a valid certificate.

(c) If an applicant has received a license which has not been renewed for at least two renewal periods the applicant will be required to complete at least one hundred and sixty hours of qualified continuing professional education within twenty-four months prior to issue, of which at least eighty hours must be in the attest function. On the subsequent renewal of the biennial license, said applicant will be given no credit for the prior said one hundred and sixty hours.

(d) The board shall issue a license to a holder of a certificate issued by another state upon a showing that:–

(1) The applicant passed the examination required for issuance of his certificate with grades that would have been passing grades at the time in the commonwealth;

(2) The applicant

(A) meets all current requirements in the commonwealth for issuance of a certificate at the time application is made; or

(B) at the time of the issuance of the applicant's certificate in the other state, met all such requirements then applicable in the commonwealth; or

(C) had five years of experience in the practice of public accountancy or equivalent, meeting requirements prescribed by the board by rule, after passing the examination upon which his certificate was based and within the ten years immediately preceding his application; and

(3) The applicant meets the requirements of paragraphs (1) and (2) of (d),

(e) An applicant for renewal of a license under this section shall show that he has fulfilled requirements of continuing professional education since the license was last renewed, or, if never renewed, first issued, of such general kinds and in such subjects and number of hours as shall have been specified by the board by rule. The board may provide by rule that fulfillment of continuing professional education requirements of other states will be accepted in lieu of the foregoing requirements. The board may also provide by rule for pro-rated continuing professional education requirements to be met by applicants whose initial licenses were issued substantially less than two years prior to the renewal date; and it may



**ACTS, 1985. – Chap. 705.**

prescribe by rule special lesser requirements to be met by applicants for license renewal whose prior license lapsed substantially prior to their applications for renewal, and as to whom it would in consequence be inequitable to require a full compliance with all requirements of continuing professional education that would otherwise have been applicable to the period of lapse.

(f) The board shall, after payment of a fee, issue an initial license or renewal.

(g) Applicants for initial issuance or renewal of license under this section shall in their applications list all states and foreign countries in which they have applied for or hold certificates, licenses or foreign licenses; and each holder of or applicant for a license under this section shall notify the board in writing, within thirty days after its occurrence, of any issuance, denial, revocation or suspension of a certificate, license, or foreign license, by another state or country.

Section 87B 1/2. The board shall grant or renew licenses to practice public accountancy to firms that make application and demonstrate their qualifications therefor in accordance with the following paragraphs:–

(a) Licenses shall be issued initially, and renewed, for periods of two years but in any event expiring on the last day of June of the next year following issuance or renewal. Applications for licenses shall be made in such form, and in the case of applications for renewal between such dates, as the board may by rule specify; and the board shall grant or deny any such application no later than ninety days after the application is filed in proper form. In any case where the applicant seeks the opportunity to show that issuance or renewal of a license was mistakenly denied, or where the board is not able to determine whether it should be granted or denied, the board may issue to the applicant a provisional license, which shall expire ninety days after its issuance or when the board determines whether or not to issue or renew the license for which application was made, whichever shall first occur.

(b) An applicant for initial issuance or renewal of a license to practice under this section shall be required to show that each partner, officer or shareholder who regularly works in the commonwealth holds a valid individual license to practice issued under section eighty-seven B and that each other partner, officer or shareholder holds a certificate and is licensed to practice public accountancy in some other state.

(c) An applicant for initial issuance or renewal of a license to practice under this section shall be required to register each office of the firm within the commonwealth with the board, and to show that each such office is under the charge of a person holding a valid license to practice issued under section eighty-seven B.

(d) The board shall issue an initial license or renewal upon payment of a fee.

(e) Applicants for initial issuance or renewal of licenses under this section shall in their application list all states in which they have applied for or hold licenses to practice public accountancy; and each holder of or applicant for a license under this section shall notify the board in writing, within thirty days after its occurrence, of any change in the identities of partners, officers, or shareholders who work within the commonwealth, any change in the number or location of offices within



**ACTS, 1985. – Chap. 705.**

the commonwealth, any change in the identity of the persons in charge of such office, and any issuance, denial, revocation or suspension of a license by any other state.

(f) A partnership engaged in the commonwealth in the practice of public accounting may register with the board as a partnership of certified public accountants; provided, however, that

(1) each partner thereof personally and regularly engaged within the commonwealth in the practice of public accounting as a member thereof is a certified public accountant registered under section eighty-seven A 1/2 and holds a valid biennial license issued under section eighty-seven B or is a professional corporation registered under paragraph (g);

(2) each active partner thereof who is a resident of the United States is a certified public accountant in good standing of one state or is a professional corporation registered under paragraph (g);

(3) each resident manager in charge of an office of the firm located within the commonwealth is a certified public accountant registered under section eighty-seven A 1/2 and holds a valid biennial license issued under section eighty-seven B or is a professional corporation registered under paragraph (g).

Application for such registration shall be made upon the affidavit of a member of such partnership who is a certified public accountant registered under section eighty-seven A 1/2 and who holds a valid biennial license issued under section eighty-seven B. The board shall in each case determine whether the applicant is eligible for registration. A partnership which is so registered and which holds a valid biennial license issued under section eighty-seven B 1/2 may use the words "certified public accountants" or the abbreviation "CPA" in connection with its partnership name. Such a partnership may also use the words "public accountants" or the abbreviation "PA" in connection with its partnership name. Notification shall be given the board, within ninety days, after the admission to or withdrawal of a partner from any partnership registered, and after the commencement or termination of any partner's personal and regular practice of public accounting in the commonwealth as a member thereof. The board shall collect a fee for the registration of such a partnership.

(g) A professional corporation engaged within the commonwealth in the practice of public accounting may register with the board as a professional corporation of certified public accountants; provided, however, that such professional corporation is organized pursuant to the provisions of chapter one hundred fifty-six A. Application for such registration shall be made upon the affidavit of an officer, director or shareholder of such professional corporation who is a certified public accountant registered under section eighty-seven A 1/2 and who holds a valid biennial license issued under section eighty-seven B. The board shall in each case determine whether the applicant is eligible for registration.

A professional corporation which is so registered and which holds a valid biennial license issued under section eighty-seven B 1/2 may use the words "certified public accountants" or the abbreviation "CPA" in connection with the professional corporate name. Notification shall be given the board within ninety days after the admission to or withdrawal



ACTS, 1985. – Chap. 705.

of an officer, director or shareholder from any professional corporation so registered, and after the commencement or termination of any officer's, director's or shareholder's personal and regular practice of public accounting in this state as a member thereof. The board shall collect a fee for the registration of such a professional corporation.

(h) The board shall revoke the registration of a partnership or a professional corporation registered as certified public accountants under this section, or corresponding provisions of prior law or as public accountants under the laws of the commonwealth if at any time it does not have all the qualifications prescribed by the provisions of law under which it qualified for registration, and the board may revoke, suspend or refuse to renew any biennial license issued to such partnership or professional corporation so registered for any of the causes enumerated in section eighty-seven D and for the following additional causes:—

(1) the revocation or suspension of the certificate, registration or biennial license of any partner or any officer, director, shareholder or employee thereof;

(2) the cancellation, revocation, suspension or refusal to renew the authority or the partnership or the professional corporation or any partner or officer, director, shareholder or employee thereof to practice public accounting in any other state, for any cause other than failure to pay a registration fee in such another state.

Section 87C. (a) Persons and firms who hold registrations as public accountants and licenses to practice public accountancy issued under prior law of the commonwealth shall be entitled to have their licenses to practice renewed under sections eighty-seven B and eighty-seven B 1/2; provided, however, that they fulfill all requirements for renewal under those provisions. So long as such licensees hold valid licenses to practice under sections eighty-seven B and eighty-seven B 1/2, they shall be entitled to engage in the practice of public accountancy to the same extent as other holders of such licenses, and in addition they shall be entitled to use the designations "public accountants" and "PA", but no other designation in connection with the practice of public accountancy.

(b) Any person who is a citizen of the United States, is domiciled in the commonwealth, has attained the age of twenty-one years, is of good moral character, and who meets the requirements of any of the following clauses shall upon application to the public accountants administrative committee be registered by said committee as a public accountant and may, if he also holds a valid biennial license issued under section eighty-seven B so style himself and may use the abbreviation PA:

(1) a person who holds himself out to the public as a public accountant and who was engaged in the commonwealth on the seventeenth day of November, nineteen hundred and sixty-three, in the practice of public accounting as his principal occupation on his own account or as a member of a partnership and who makes application to said committee on or before the thirtieth day of October, nineteen hundred and sixty-four, for registration as a public accountant;

(2) a person who, on the seventeenth day of November, nineteen hundred and sixty-three, was serving in the armed forces of the United States or of the United Nations, and who, immediately prior to entering such service held himself out to the public as a public accountant and



ACTS, 1985. – Chap. 705.

was engaged within the commonwealth in the practice of public accounting as his principal occupation on his own account or as a member of a partnership and who made application to said committee for registration as a public accountant within twelve months from the time of his discharge from such service;

(3) a person who, on the seventeenth day of November, nineteen hundred and sixty-three, was employed as a staff accountant by a certified public accountant or by a public accountant and was regularly assigned to accounting engagements, or who at said date was serving in the armed forces of the United States or of the United Nations and was employed as aforesaid immediately prior to such service, and who filed with said committee, not later than the thirtieth day of October, nineteen hundred and sixty-four, a declaration of intent to register as a public accountant, or, if in said armed forces files such declaration within twelve months from the time of his discharge therefrom, when such person who has filed such declaration applies for registration, he shall state in his application for registration his intention to engage within six months from the filing thereof in the practice of public accounting as his principal occupation on his own account or as a member of a partnership; registration under this clause shall be revoked unless the person so registered shall within twelve months of such registration furnish evidence satisfactory to said committee that he is actually engaged in this commonwealth in the practice of public accounting as his principal occupation on his own account or as a member of a partnership.

(4) a person who, on the seventeenth day of November, nineteen hundred and sixty-three, was engaged in field audit work with the United States government in civil service Grade 7 or higher, or who, at said date, was serving in the armed forces of the United States or of the United Nations and was engaged as aforesaid immediately prior to such service, and who has had at the time he applies for registration at least two years experience in such field audit work, and who satisfies said committee that his qualifications are substantially equivalent to those of persons who may register under clause (1), (2) or (3); provided, however, that such person filed with the committee not later than the thirtieth day of October, nineteen hundred and sixty-four a declaration of intent to register as a public accountant, or if serving in the above armed forces filed such declaration of intent within twelve months from the time of his discharge therefrom; when such person who has filed such declaration applies for registration under this clause, he shall state in his application for registration his intention to engage within six months from the filing thereof in the practice of public accounting as his principal occupation on his own account or as a member of a partnership; registration under this clause shall be revoked unless the person so registered shall within twelve months of such registration furnish evidence satisfactory to said committee that he is actually engaged in this commonwealth in the practice of public accounting as his principal occupation on his own account or as a member of a partnership.

(5) a person who, on the seventeenth day of November, nineteen hundred and sixty-three, was engaged in field audit work with this commonwealth or a political subdivision of the commonwealth, or who



ACTS, 1985. – Chap. 705.

at said date was serving in the armed forces of the United States or of the United Nations and was engaged as aforesaid immediately prior to such service, and who has had at the time he applies for registration at least two years experience in such field audit work, and who satisfies said committee that such field audit work was substantially equivalent to the field audit work required of persons who may register under clause (4), and that his qualifications are substantially equivalent to those of persons who may register under clause (1), (2) or (3); provided, however, that such person filed with said committee not later than the thirtieth day of October, nineteen hundred and sixty-four, a declaration of intent to register as a public accountant, or if serving in the above armed forces files such declaration of intent within twelve months from the time of his discharge therefrom; when such person who has filed such declaration applies for registration under this clause, he shall state in his application for registration his intention to engage within six months from the filing thereof in the practice of public accounting as his principal occupation on his own account or as a member of a partnership; registration under this clause shall be revoked unless the person so registered shall within twelve months of such registration furnish evidence satisfactory to the committee that he is actually engaged in this commonwealth in the practice of public accounting as his principal occupation on his own account or as a member of a partnership.

(6) a person who, on or before the thirtieth day of June, nineteen hundred and sixty-six, was a public accountant registered or licensed under the laws of a state of the United States which grants to public accountants registered under this section a comparable reciprocal right of registration of licensing, and at the time of his application for registration under this clause is still so registered or licensed; in the event an application for registration under this clause meets all the requirements for such registration other than the requirement of domicile in the commonwealth, said committee may, in its discretion, allow him to register temporarily, effective only until it shall notify him that his application has either been granted or rejected; in no event shall such temporary registration be in effect for more than eighteen months after the date of its allowance; no fee shall be charged for such temporary registration.

(7) a person who, at the time of his application for registration under this clause is registered or licensed under the laws of a state which grants to public accountants registered under this section a comparable reciprocal right of registration; provided, however, that the state under whose laws such application is licensed or registered had, on the seventeenth day of November, nineteen hundred and sixty-three, no provision for the licensing or registration of public accountants; and provided any registration under this clause shall be discretionary with said committee and subject to the prior approval of the board of public accountancy; in the event an applicant for registration under this clause meets all the requirements for such registration other than the requirement of domicile in the commonwealth, said committee may in its discretion, and subject to the prior approval of said board, allow him to register temporarily, effective only until said committee shall notify him that his application has either been granted or rejected; in no event



**ACTS, 1985. – Chap. 705.**

shall such temporary registration be in effect for more than eighteen months after the date of its allowance; no fee shall be charged for such temporary registration.

(8) a person who on the seventeenth day of November, nineteen hundred and sixty-three, is engaged in the commonwealth in the practice of public accounting on a part-time basis and has been doing public accounting as part-time work for a period of five years next prior to said effective date, and who makes application to the committee on or before the thirtieth day of October, nineteen hundred and sixty-four for registration as a public accountant.

(c) A partnership engaged within the commonwealth in the practice of public accounting may register with the public accountants administrative committee as a partnership of public accountants; provided, however, that each partner personally and regularly engaged within the commonwealth in the practice of public accounting as a member thereof is a certified public accountant holding a license to practice under sections eighty-seven B and eighty-seven B 1/2, or is a public accountant registered under section eighty-seven B as a public accountant and holds a valid biennial license issued under section eighty-seven B 1/2 or a professional corporation registered under the provisions of paragraph (g) of section eighty-seven B 1/2; and provided, further, that each resident manager in charge of an office of a firm within the commonwealth is so qualified. Application for such registration shall be made upon the affidavit of a partner who meets the requirements of this paragraph.

The public accountants administrative committee shall in each case determine whether the partnership is eligible for registration. A partnership which is so registered and which holds a valid biennial license issued under section eighty-seven B 1/2 may use the words "public accountants" or the abbreviation "PA" in connection with its partnership name. Notification shall be given said committee, within ninety days, after the admission to or withdrawal of a partner from any partnership so registered, and after the commencement or termination of any partner's personal and regular practice of public accounting within the commonwealth as a member thereof.

(d) A professional corporation engaged within the commonwealth in the practice of public accounting may register with the public accountants administrative committee as a professional corporation of public accountants; provided, however, that each officer, director or shareholder personally and regularly engaged within the commonwealth in the practice of public accounting as a member thereof, is a certified public accountant registered under section eighty-seven A 1/2 or a registered public accountant under section eighty-seven C and holds a valid biennial license issued under said section eighty-seven B 1/2. Application for such registration shall be made upon the affidavit of an officer, director or shareholder who meets the requirements of this paragraph. The committee shall collect a fee for the registration of such a partnership.

The public accountants administrative committee shall in each case determine whether the professional corporation is eligible for registration. A professional corporation which is so registered and which



**ACTS, 1985. – Chap. 705.**

holds a valid biennial license issued under section eighty-seven B 1/2 may use the words "public accountants" or the abbreviation "PA" in connection with its professional corporate name. Notification shall be given said committee within ninety days, after the admission to or withdrawal of an officer, director or shareholder from any professional corporation so registered, and after the commencement or termination of any officer's, director's or shareholder's personal and regular practice of public accounting in this state as a member thereof. The committee shall collect a fee for the registration of such a professional corporation.

Section 87C 1/2. (a) After notice and hearing, the board may revoke any certificate or license issued under sections eighty-seven A 1/2, eighty-seven B and eighty-seven B 1/2 suspend any such certificate or license or refuse to renew any such license for a period of not more than five years, reprimand, censure or limit the scope of practice of any license on probation, all with or without terms, conditions and limitations, for any one or more of the following reasons:–

- (1) Fraud or deceit in obtaining a certificate or license;
- (2) Cancellation, revocation, suspension or refusal to renew authority to engage in the practice of public accountancy in any other state or foreign country for any cause;
- (3) Failure, on the part of a holder of a license under section eighty-seven B or eighty-seven B 1/2, to maintain compliance with the requirements for issuance or renewals or such license or to report changes to the board;
- (4) Revocation or suspension of the right to practice before any state or federal agency;
- (5) Dishonesty, fraud or gross negligence in the practice of public accountancy or in the filing or failure to file his own income tax returns;
- (6) Violation of any of the provisions of sections eighty-seven A to eighty-seven E, inclusive, or any rules promulgated by the board;
- (7) Conviction of a felony, or of any crime an element of which is dishonesty or fraud, under the laws of the United States, or the commonwealth, or of any other state, if the acts would have constituted such a crime under the laws of the commonwealth;
- (8) Performance of any fraudulent act while holding a certificate or license issued under prior law dealing with registration and the conduct of public accountancy;
- (9) Any conduct reflecting adversely upon the licensee's fitness to engage in the practice of public accountancy.

(b) In lieu of or in addition to any remedy specifically provided in paragraph (a) the board may require of a licensee:

- (1) A quality review conducted in such fashion as the board may specify; and
  - (2) Satisfactory completion of such continuing professional education programs as the board may specify.
- (c) In any proceeding in which a remedy provided by paragraph (a) or (b) is imposed, the board may also require the respondent licensee to pay the cost of the proceeding.

The board may, upon receipt of a complaint or other information alleging violations of section eighty-seven A 1/2 to eighty-seven E, inclusive, or of the rules of the board, conduct investigations to



ACTS, 1985. – Chap. 705.

determine whether there is probable cause to institute proceedings against any person or firm for such violation; but an investigation under this section shall not be a prerequisite to such proceedings in the event that a determination of probable cause can be made without investigation. In aid of such investigations, the board or the chairman thereof may issue subpoenas to compel witnesses to testify and to produce evidence.

The board may designate a member, or any other person of appropriate competence, to serve as investigating officer to conduct an investigation. Upon completion of an investigation, the investigating officer shall file a report with the board. The board shall find probable cause or lack of probable cause upon the basis of the report, or shall return the report to the investigating officer for further investigation. Unless there has been a determination of probable cause, the report of the investigating officer, the complaint, if any, the testimony and documents submitted in support of the complaint or gathered in the investigation, and the fact of pendency of the investigation shall be treated as confidential information and shall not be disclosed to any person except law enforcement authorities and, to the extent deemed necessary in order to conduct the investigation, the subject of the investigation, persons whose complaints are being investigated, and witnesses questioned in the course of the investigation.

Upon a finding of probable cause, if the subject of the investigation is a licensee, the board shall direct that a complaint be issued and, if the subject of the investigation is not a licensee, the board shall take appropriate action pursuant to the provisions of section eighty-seven D 1/2. Upon a finding of no probable cause, the board shall close the matter and shall thereafter release information related thereto only with the consent of the person or firm under investigation.

In the case where probable cause with respect to a violation by a licensee has been determined by the board, whether following an investigation, or upon receipt of a written complaint furnishing grounds for a determination of such probable cause, or upon receipt of notice of a decision by the board of accountancy of another state furnishing such grounds, the board shall issue a complaint setting forth appropriate charges and set a date for hearing before the board on such charges. The board shall, not less than thirty days prior to the date of the hearing, serve a copy of the complaint and notice of the time and place of the hearing upon the licensee, together with a copy of the board's rules governing proceedings under this section, either by personal delivery or by mailing a copy thereof by registered mail to the licensee at his last known address.

A licensee against whom a complaint has been issued under this section shall have the right, reasonably in advance of the hearing, to examine and copy the report of investigation, if any, and any documentary or testimonial evidence and summaries of anticipated evidence in the board's possession relating to the subject matter of the complaint. The board's rules governing proceedings under this section shall specify the manner in which such right may be exercised.

In a hearing under this section the respondent licensee may appear in person, or, in the case of a firm, through a partner, officer, director, or



**ACTS, 1985. – Chap. 705.**

shareholder, by counsel, examine witnesses and evidence presented in support of the complaint, and present evidence and witnesses on his own behalf. The licensee shall be entitled, on application to the board, to the issuance of subpoenas to compel the attendance of witnesses and the production of documentary evidence.

The evidence supporting the complaint shall be presented by the investigating officer, by a board member designated for that purpose, or by counsel. A board member who presents the evidence, or who has conducted the investigation of the matter shall not participate in the board's decision of the matter.

In a hearing under this section the board shall be advised by counsel, who shall not be the same counsel who presents or assists in presenting the evidence supporting the complaint.

In a hearing under this section the board shall not be bound by technical rules of evidence.

In a hearing under this section a stenographic or electronic record shall be made, and filed with the board. A transcript need not be prepared unless review is sought or the board determines that there is other good cause for its preparation.

In a hearing under this section a recorded vote of a majority of all members of the board then in office, excluding members disqualified, shall be required to sustain any charge and to impose any penalty with respect thereto.

If, after service of a complaint and notice of hearing the respondent licensee fails to appear at the hearing, the board may proceed to hear evidence against the licensee and may enter such order as it deems warranted by the evidence, which order shall be final unless the licensee petitions for review; provided, however, that within thirty days from the date of any such order, upon a showing of good cause for the licensee's failure to appear and defend, the board may set aside the order and schedule a new hearing on the complaint, to be conducted in accordance with applicable subsections of this section.

Any person or firm adversely affected by any order of the board entered after a hearing may obtain review thereof by filing a written petition for review with the supreme judicial court within thirty days after the entry of said order. The procedures for review, and the scope of the review shall be as specified in chapter thirty A.

In any case where the board renders a decision imposing discipline against a licensee under this section, the board shall examine its records to determine whether the licensee holds a certificate or a license to practice public accountancy in any other state; and if so, the board shall notify the board of accountancy of such other state of its decision by mail within forty-five days of rendering the decision. The board may also furnish information relating to proceedings resulting in disciplinary action to other public authorities and to private professional organizations having a disciplinary interest in the licensee.

In any case where the board has suspended or revoked a certificate or a license or refused to renew a license, the board may, upon application in writing by the person or firm affected and for good cause shown, modify the suspension or reissue the certificate or license.

The board shall by rule specify the manner in which such applications



**ACTS, 1985. – Chap. 705.**

shall be made, the times within which they shall be made, and the circumstances in which hearings will be held thereon.

Before reissuing or terminating the suspension of a certificate or license, and as a condition thereto, the board may require the applicant to show successful completion of specified continuing professional education; and the board may make the reinstatement of a certificate or permit conditional, and subject to satisfactory completion of a quality review conducted in such fashion as the board may specify.

Section 87D. (a) No person or firm not holding a valid license issued under section eighty-seven B or eighty-seven B 1/2 shall issue a report on financial statements of any other person, firm, organization or governmental unit. This prohibition does not apply to an officer, partner or employee of any firm or organization affixing his signature to any statement or report in reference to the financial affairs of such firm or organization or subsidiary or franchise of said organization with any wording designating the position, title or office that he holds therein; nor does it apply to any act of a public official or employee in the performance of his duties as such; nor does it apply to the performance by persons other than licensees of other services involving the use of accounting skills, including the preparation of tax returns, and the preparation of financial statements without the issuance of reports thereon.

(b) The prohibition contained in paragraph (a) is applicable to issuance, by a person or firm not holding a valid license, of a report using any form of language conventionally used by licensees with respect to a review of financial statements.

(c) The prohibition contained in paragraph (a) is applicable to issuance by a person or firm not holding a valid license, of a report using any form of language conventionally used by licensees with respect to a compilation of financial statements.

(d) No person not holding a valid certificate and a valid license shall use or assume the title or designation "certified public accountant", or the abbreviation "CPA", or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that such person is a certified public accountant.

(e) No firm shall assume or use the title or designation "certified public accountants", or the abbreviation "CPA", or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that such firm is composed of certified public accountants, unless (1) the firm holds a valid license issued under section eighty-seven B 1/2 and (2) all partners, officers and shareholders of the firm hold certificates and valid licenses.

(f) No person shall assume or use the title designation "public accountant", or the abbreviation, sign, card, or device tending to indicate that such person is a public accountant unless he holds a valid license issued under section eighty-seven B.

(g) No firm not holding a valid license issued under section eighty-seven B 1/2 shall assume or use the title or designation "public accountant", or the abbreviation "PA", or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that such firm is composed of public accountants.



ACTS, 1985. – Chap. 705.

(h) No person or firm not holding a valid license issued under section eighty-seven or eighty-seven B 1/2 shall assume or use the title or designation "certified accountant", "chartered accountant", "enrolled accountant", "licensed accountant", "registered accountant", "accredited accountant", or any other title or designation likely to be confused with the titles "certified public accountant" or "public accountant", or use any of the abbreviations "CA", "EA", "LA", "RA", "AA", or similar abbreviation likely to be confused with the abbreviations "CPA" or "PA"; provided, however, that a holder of a certificate who does not also hold a license may use the titles pertaining to such certificate in any manner not prohibited by rules promulgated by the board.

(i) No person or firm not holding a valid license issued under section eighty-seven B or eighty-seven B 1/2 shall assume or use any title or designation that includes the words "accountant", "auditor", or "accounting", in connection with any other language, including the language of a report, which implies that such person or firm holds such a license or has special competence as an accountant or auditor; provided, however, that this subsection does not prohibit any officer, partner or employee of any firm or organization from affixing his signature to any statement or report in reference to the financial affairs of such firm or organization or subsidiary or franchisee of said organization with any wording designating the position, title or office that he holds therein; nor prohibit any act of a public official or employee in the performance of his duties as such.

(j) No person holding a certificate shall engage in the practice of public accountancy unless he also holds a valid license issued under section eighty-seven B.

(k) No person or firm holding a license under section eighty-seven B or eighty-seven B 1/2, shall engage in the practice of public accountancy using a professional or firm name or designation which is misleading as to the legal form of the firm, or as to the persons who are partners, officers or shareholders of the firm, or as to any other matter; provided, however, that names of one or more former partners or shareholders may be included in the name of a firm or its successor.

(l) None of the foregoing provisions of this section shall have any application to a person or firm holding a certificate, designation, decree or license granted in a foreign country entitling the holder thereof to engage in practice of public accountancy or its equivalent in such country, whose activities within the commonwealth are limited to the provision of professional services to persons or firms who are residents of or government of or business entities of the country in which he holds such entitlement, who issues no reports with respect to the financial statements of any other persons, firms or governmental units within the commonwealth, and who does not use in the commonwealth any title or designation other than the one under which he practices in such country, followed by a translation of such title or designation into the English language, if it is in a different language, and by the name of such country.

Any person or firm who knowingly violates any of the provisions of this section shall be guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine or not more than one thousand dollars or



## ACTS, 1985. – Chap. 705.

imprisonment for not more than one year, or both.

Section 87D 1/2. Whenever, as a result of an investigation or otherwise, the board believes that any person or firm has engaged, or is about to engage, in any acts or practices which constitute or will constitute a violation of section eighty-seven D, the board may make application to the appropriate court for an order enjoining such acts or practices, and upon a showing by the board that such person or firm has engaged, or is about to engage, in any such acts or practices, an injunction, restraining order or other order as may be appropriate shall be granted by such court.

Whenever, by reason of an investigation, the board has reason to believe that any person or firm has knowingly engaged in acts or practices which constitute a violation of section eighty-seven D, the board may bring its information to the attention of the attorney general, or other appropriate law enforcement officer, who may, in his discretion, cause appropriate criminal proceedings to be brought thereon.

In any action brought pursuant to the provisions of this chapter, evidence of the commission of a single act prohibited by said provisions shall be sufficient to justify a penalty, injunction, restraining order or conviction, respectively, without evidence of a general course of conduct.

Section 87E. All statements, records, schedules, working papers, and memoranda made by a licensee or a partner, shareholder, officer, director, or employee of a licensee, incident to, or in the course of, rendering services to a client in the practice of public accountancy, except the reports submitted by the licensee to the client and except for records which are part of the client's records, shall be and remain the property of the licensee in the absence of an express agreement between the licensee and the client to the contrary. No such statement, record, schedule, working paper, or memorandum shall be sold, transferred, or bequeathed, without the consent of the client or his personal representative or assignee, to anyone other than one or more surviving partners or stockholders or new partners or stockholders of the licensee, or any combined or merged firm or successor in interest to the licensee.

A licensee shall furnish to his client or former client, upon request and reasonable notice:

(1) a copy of the licensee's working papers, to the extent that such working papers include records that would ordinarily constitute part of the client's records and are not otherwise available to the client; and

(2) any accounting or other records belonging to, or obtained from or on behalf of, the client which the licensee removed from the client's premises or received for the client's account. The licensee may make and retain copies of such documents of the client when they form the basis for work done by him.

Except by permission of the client engaging a licensee or the heirs, successors or personal representatives of such client, a licensee or any partner, officer, shareholder or employee of a licensee shall not voluntarily disclose information communicated to him by the client relating to and in connection with services rendered to the client by the licensee in the practice of public accountancy. Such information shall be deemed confidential; provided, however, that nothing herein shall be construed as prohibiting the disclosure of information required to be



**ACTS, 1985. – Chap. 706.**

disclosed by the standards of the public accounting profession in reporting on the examination of financial statements, or as prohibiting disclosures in court proceedings, in investigations or proceedings conducted pursuant to the provisions of this chapter, in ethical investigations conducted by private professional organizations, or in the course of quality reviews.

**SECTION 5.** This act shall take effect on December thirty-first, nineteen hundred and eighty-five.

Approved December 31, 1985.

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**Chapter 706. AN ACT AUTHORIZING THE TOWN OF AMHERST TO ESTABLISH A HOUSING REVIEW BOARD.**

Be it enacted, etc., as follows:

**SECTION 1.** The general court finds and declares that a serious public emergency exists in the town of Amherst with respect to availability and quality of the housing of a substantial number of town residents. This emergency has been caused by the rapid inflation in the costs of new housing construction; by prolonged high interest rates which have retarded new housing construction; by the substantial increase in the town's student population since the year nineteen hundred and sixty; and by increases in residential mortgage rates, which have made home ownership more difficult or impossible, especially for low- and moderate-income families and elderly persons on fixed incomes. The general court further finds that because of the continuing critical shortage of rental housing accommodations, abnormally high rents have resulted and, unless residential rents become subject to review and control on a case-by-case basis, such emergency and the further inflationary pressures resulting therefrom will produce serious threats to the public health, safety, and general welfare of the residents of Amherst; and that such emergency should be met by the commonwealth immediately with due regard for the rights and responsibilities of the town of Amherst.

**SECTION 2.** The town of Amherst is hereby authorized to establish, by by-law, a housing review board, hereinafter referred to as the board, to accept petitions by tenants on a form approved by the board, and to determine when rent levels appear, in the judgment of the board, to be excessive and unreasonable.

**SECTION 3.** The board shall consist of five members who shall be residents of the town of Amherst. The board members shall be appointed by the town manager and approved by the board of selectmen to serve without compensation. Members shall be appointed to two-year terms and two shall be appointed to one-year terms. Vacancies, other than by reason of expiration of terms, shall be filled by the town manager, with the approval of the board of selectmen.

Three members of the board shall constitute a quorum.



## ACTS, 1985. – Chap. 706.

The board shall promulgate rules and regulations for the conduct of its business as are allowed and are consistent with the provisions of this act. The board shall have jurisdiction to accomplish the purpose of this act over all rental units in the town of Amherst except: (1) rental units in hotels, motels, inns, and tourist homes which are rented primarily to transient guests for periods of less than fourteen days, and rental units in rooming or boarding houses in which the tenant petitioner has resided for a period of three months or less; (2) rental units which a governmental unit, agency, or authority either owns, operates, finances, or subsidizes; (3) rental units in any hospital, convent, monastery, asylum, public institution, or college or school dormitory operated exclusively for charitable or educational purposes; (4) rental units in nursing homes and rest homes for the aged; and (5) rental units in owner-occupied one, two, or three-family homes.

The board shall secure such information and conduct such studies, either directly or through other municipal agencies, and may summons such persons, papers, or documents as it finds necessary for the performance of its duties.

**SECTION 4.** The board may regulate or modify rent levels which it finds after a hearing to be unreasonable or excessive.

The board shall deny rent increases when it determines that the affected premises do not comply with chapter two of the State Sanitary Code, the State Building Code, or any other applicable municipal code, by-law, or state law, regulating the conditions of residential housing accommodations. However, the board may allow a rental increase in any case if it determines that the tenant is more than thirty days in arrears in tendering rent, unless such arrearage is due to a withholding of rent pursuant to the provisions of section one hundred and twenty-seven L of chapter one hundred and eleven or section eight A of chapter two hundred and thirty-nine of the General Laws.

The board shall deny a rent increase in any case where it finds that the landlord has not served the tenant with a written notice to quit including an offer to establish a new tenancy pursuant to section twelve of chapter one hundred and eighty-six of the General Laws.

**SECTION 5.** Within thirty days of receipt of a petition of a tenant or tenants presenting a rental dispute, the board shall conduct a hearing to settle said dispute in a fair and equitable manner and to adjust the rent of the rental unit involved, if said unit is not exempt under section three, in a fair and reasonable manner, and to determine whether a decision in a particular case applies to other, comparable rental units within the same building or apartment complex, and the board shall allow the landlord in each case a fair and reasonable net operating income, in accordance with such standards as shall be established by the board.

Every decision of the board shall be rendered within fourteen days of the close of a hearing. The decision shall be in writing and parties to the proceedings shall be notified of the decision in person or by mail.

Any orders issued by the board shall remain in effect for a period of one year unless modified by the board.



**ACTS, 1985. – Chap. 706.**

**SECTION 6.** Any aggrieved party may file a civil action against the board in the Northampton division of the district court department of the trial court, or in any housing court having jurisdiction, within thirty days of receipt of a decision by the board. The court shall review and decide such action pursuant to the standards set forth in paragraph (7) of section fourteen of chapter thirty A of the General Laws. The Northampton division of the district court department of the trial court, or such housing court, shall have jurisdiction to enjoin any violation of this act.

**SECTION 7.** Any person who demands, accepts, receives, or retains any payment of rent in excess of the amount authorized by the board shall be liable to the person from whom such payment is demanded, accepted, received, or retained, or to the municipality, for reasonable attorney's fees and costs as determined by the court, plus liquidated damages in the amount of four hundred dollars.

The board shall be authorized to seek enforcement of its orders in the Northampton division of the district court department of the trial court.

**SECTION 8.** The board shall provide in writing a comprehensive annual report of its activities to town meeting in May of each year.

**SECTION 9.** Any owner of residential property within the town of Amherst which is not exempt under the provisions of section three may not bring eviction proceedings against a tenant for a period of one year after the tenant has filed a complaint with the board, unless (1) the tenant has failed to pay the rent to which the landlord is entitled; (2) the tenant has violated an obligation or covenant of his tenancy other than the obligation to surrender possession upon proper notice and has failed to cure such violation after having received notice thereof from the landlord; (3) the tenant is committing or permitting to exist a nuisance in or is causing substantial interference with the comfort, safety, or enjoyment of the landlord or other occupants of the same or any adjacent accommodation; (4) the tenant is convicted of using or permitting the rental unit to be used for any illegal purpose; (5) the tenant, following the termination of a written lease or rental agreement after this act has taken effect, has refused, after written request or demand by the landlord, to execute a written extension or renewal thereof for a further term of like duration and on such terms that are not inconsistent with or violative of any provisions of law; (6) the tenant has refused the landlord reasonable access to the unit for the purpose of making necessary repairs or improvements required by the laws of the United States, the commonwealth, or the town of Amherst, or for the purpose of inspection as permitted or required by the lease or by law, or for the purpose of showing the rental unit to any prospective purchaser or mortgagor; (7) the person holding at the end of a lease term is a subtenant not approved by the landlord; (8) the landlord seeks to recover possession in good faith for use and occupancy of himself, or his children, parents, brother, sister, father-in-law, mother-in-law, daughter-in-law, or son-in-law; (9) the landlord seeks to recover possession to demolish or otherwise remove the unit from housing use; or (10) the landlord seeks to



**ACTS, 1985. – Chaps. 707, 708.**

recover possession for any other just cause, provided that his purpose is not in conflict with the provisions and purpose of this act.

**SECTION 10.** This act shall take effect upon its passage.

Approved December 31, 1985.

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**Chapter 707. AN ACT VALIDATING CERTAIN ACTION TAKEN BY THE TOWN OF CHATHAM AT ITS ANNUAL TOWN ELECTION IN THE YEAR NINETEEN HUNDRED AND EIGHTY-FOUR.**

Be it enacted, etc., as follows:

**SECTION 1.** The vote taken by the town of Chatham on question number three placed on the official ballot for the annual town election held on May seventeenth, nineteen hundred and eighty-four, which question approved by a majority of the voters voting thereon, is hereby ratified, validated and confirmed, notwithstanding any defect or omission in the warrant calling said election.

**SECTION 2.** This act shall take effect upon its passage.

Approved December 31, 1985.

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**Chapter 708. AN ACT EXTENDING THE TIME AVAILABLE FOR RESIDENTIAL TAX CREDIT FOR RENEWABLE ENERGY SYSTEMS.**

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately extend the time available to claim a certain tax credit, 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.** Section 35 of chapter 796 of the acts of 1979 is hereby amended by striking out the first sentence, as amended by section 1 of chapter 518 of the acts of 1983, and inserting in place thereof the following sentence:– Section nine shall take effect as of January first, nineteen hundred and seventy-nine and shall become inoperative on December thirty-first, nineteen hundred and eighty-seven.

**SECTION 2.** Section 6 of chapter 64H of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out paragraph (hh).

**SECTION 3.** Section two of this act shall take effect on December



**ACTS, 1985. – Chaps. 709, 710, 711.**

thirty-first, nineteen hundred and eighty-five.

Approved December 31, 1985.

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**Chapter 709. AN ACT PROVIDING FOR A COST OF LIVING  
ADJUSTMENT FOR VETERANS' BENEFITS PAID IN  
FISCAL YEAR NINETEEN HUNDRED AND EIGHTY-SIX.**

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately provide for a cost of living adjustment for veterans' benefits paid in fiscal year nineteen hundred and eighty-six, 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.** Veterans' benefits paid pursuant to section five of chapter one hundred fifteen of the General Laws shall be increased by nine per cent effective July first, nineteen hundred and eighty-five and the Commonwealth shall reimburse cities and towns for all expenses incurred as a result of said benefit increase. The Commonwealth shall continue to reimburse cities and towns for seventy-five per cent of all other costs incurred thereby in the same manner as other veterans' benefit are reimbursed by the Commonwealth.

**SECTION 2.** This act shall take effect on July first, nineteen hundred and eighty-five.

Approved December 31, 1985.

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**Chapter 710. AN ACT PROVIDING FOR FUNDING REPAIRS TO A  
CERTAIN METROPOLITAN DISTRICT COMMISSION  
SKATING RINK.**

Be it enacted, etc., as follows:

**SECTION 1.** Section 2A of chapter 200 of the acts of 1985 is hereby amended by inserting after line reading 2444-9014 the following line: 2444-9016.

**SECTION 2.** This act shall take effect upon its passage.

Approved December 31, 1985.

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**Chapter 711. AN ACT FURTHER REGULATING THE ESTATE TAX.**

Whereas, The deferred operation of this act would tend to defeat its



**ACTS, 1985. – Chap. 711.**

purpose, which is to immediately regulate the estate tax, therefore it is hereby declared to be an emergency law, necessary for the preservation of the public convenience.

**Be it enacted, etc., as follows:**

**SECTION 1.** Paragraph (a) of section 17 of chapter 62C of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:– In all cases where the Massachusetts gross estate of a resident decedent or the Massachusetts gross estate of a non-resident decedent, computed as if the decedent had been a resident, exceeds two hundred thousand dollars the executor, as defined in chapter sixty-five C, shall make a return within nine months after the date of the decedent's death with respect to the tax imposed by said chapter sixty-five C.

**SECTION 2.** Chapter 65 of the General Laws is hereby amended by striking out section 13, as appearing in the 1984 Official Edition, and inserting in place thereof the following section:–

Section 13. Except as otherwise provided in this section and section fourteen, the tax imposed by this chapter shall be assessed upon the value of the property at the time of the death of the decedent. In case of a devise, descent, bequest or grant to take effect in possession or enjoyment after the expiration of one or more life estates or of a term of years, the tax shall be assessed on the value of the property or interest therein coming to the beneficiary at the time when he becomes entitled to the same in possession or enjoyment. The value of an annuity or a life interest in any such property, or any interest therein less than an absolute interest, shall be determined by the tables used by the United States Commissioner of Internal Revenue for the valuation of property interests under the federal estate tax law for persons dying on the valuation date in question and not the tables in effect on the date of death of the decedent who created the interest; but when an annuity or a life interest is terminated by the death of the annuitant or life tenant, and the tax upon such interest is not due and has not been paid in advance, the value of said interest for the purposes of taxation under this chapter shall be the amount of the annuity or income actually paid or payable to the annuitant or life tenant during the period for which he was entitled to the annuity or was in possession of the life estate.

**SECTION 3.** Chapter 65A of the General Laws is hereby amended by striking out section 5, as so appearing, and inserting in place thereof the following section:–

Section 5. Whenever it appears upon any accounting, or in any appropriate action or proceeding, that an executor, administrator, trustee or other person acting in a fiduciary capacity, has paid or may be required to pay an estate tax levied or assessed under the provisions of chapter sixty-five C or under the provisions of this chapter, or under the provision of any estate tax law of the United States heretofore or



**ACTS, 1985. – Chap. 711.**

hereafter enacted, upon the transfer of the estate of any person who at the time of his death was an inhabitant of this commonwealth, the net amount of said tax shall be apportioned among and borne by recipients and beneficiaries of the property and interests included in the gross estate in the following manner:–

(1) If any portion of the estate passed under the will of the decedent, such proportion of the net amount of the tax so levied or assessed, other than any tax payable from property described in paragraph (3) shall, except as otherwise provided or directed by the will, be charged to and paid from the general funds of the estate as the net amount of the property passing under the will and included in the measure of such tax, exclusive of property over which the decedent had any power of appointment as defined from time to time by the estate tax laws of the United States, bears to the amount of the net estate as hereafter defined in this section.

(2) If any portion of the property with respect to which such tax is levied or assessed, other than property described in paragraph three of this section, is held under the terms of any trust created inter vivos or is subject to such a power of appointment, such proportion of the net amount of the tax so levied or assessed, other than any tax payable from property described in paragraph (3), shall, except as otherwise provided or directed by the trust instrument with respect to the fund established thereby, or by the decedent's will, be charged to and paid from the corpus of the trust property or the property subject to such power of appointment, as the case may be, as the net amount of the property of such trust or property subject to such power of appointment and included in the measure of such tax bears to the amount of the net estate as hereafter defined in this section. The amount so charged shall not be apportioned between temporary and remainder estates.

(3) If any portion of the property with respect to which such tax is levied or assessed is property in which the decedent had a qualifying income interest for life within the meaning of section three A of chapter sixty-five C or section two thousand and forty-four of the Internal Revenue Code or any statutes of similar import in effect on January first, nineteen hundred and eighty-five, such portion of the net amount of the tax so levied or assessed, including, in the case of the Massachusetts estate tax, any tax imposed under the provision of subsection (b) of section two of said chapter sixty-five C, shall, except as otherwise provided or directed by the decedent's will, be charged to and paid from the corpus of such property as equals the amount by which the total net amount of such tax levied or assessed exceeds the total net amount of such tax which would have been levied or assessed if the value of such property which is included in the measure of such tax had not been so included. The amount so charged shall not be apportioned between temporary and remainder estates.

(4) The balance of the net amount of the tax so levied or assessed, or if paragraphs (1), (2) and (3) are inapplicable the whole of the net amount of such tax shall, except as otherwise provided or directed by the decedent's will, be equitably apportioned among and charged to and paid by the recipients and beneficiaries of property or interests included in



**ACTS, 1985. – Chap. 711.**

the measure of such tax and passing or arising otherwise than under the will of the decedent or by virtue of any such trust or by the exercise or nonexercise of any such power of appointment or by reason of the termination of any such qualifying income interest for the decedent's life in the proportion that the net amount of such property or interest bears to the amount of the net estate as hereafter defined in this section; provided, however, that where any provision is made whereby any person is given an interest in income or an estate for years or for life or other temporary interest in any property or fund the amount so charged to such recipients or beneficiaries shall not be apportioned between temporary and remainder estates but shall be charged to and paid out of the corpus of such property or fund; and provided, further, that any apportionment made under this section shall accord with applicable estate tax laws of the United States where such laws specify with respect to an apportionment or a right of recovery.

(5) For the purposes of the apportionment of the tax levied or assessed under the provisions of chapter sixty-five C or this chapter, or under the provisions of any estate tax law of the United States, the term "net estate" as used in this section shall mean the gross estate as defined for purposes of the particular tax less (i) any property described in paragraph (3) which is included in the gross estate for purposes of the particular tax and (ii) any deductions, other than specific exemptions, allowed for purposes of the particular tax other than deductions attributable to such property described in said paragraph (3).

(6) If the court shall determine that it is inequitable, because of special circumstances, to apportion interest and penalties in connection with estate taxes as provided herein, it may direct apportionment thereof in such manner as it shall find equitable.

**SECTION 4.** Said chapter 65A is hereby further amended by striking out section 5A, as so appearing, and inserting in place thereof the following section:–

Section 5A. In all cases in which any property required to be included in the gross estate as defined by the applicable estate tax laws of the United States or the commonwealth does not come into the possession of the executor or administrator as such, he shall, in cases where property of a trust created inter vivos, property subject to a power of appointment, or property in which the decedent had a qualifying income interest for life is included in the gross estate for purposes of either such tax, be entitled to recover from the fiduciary in possession of the corpus of such trust or of such property, and in all other cases from the recipients or beneficiaries of property or interests with respect to which the federal or the commonwealth estate tax is levied or assessed the proportionate amount of the federal or the commonwealth tax, as the case may be, payable by such fiduciary or persons with which they are chargeable under the provisions of section five; provided, however, that no such tax or any part thereof shall be recovered from any company issuing (1) any policy of insurance, annuity or endowment contract on the life of or insuring the decedent, including accident and health policies, or (2) any such policy or contract insuring the decedent and one or more



**ACTS, 1985. – Chap. 711.**

other persons jointly, or (3) any such policy or contract on the life of or insuring one or more persons other than the decedent in which the decedent owned any interest at the time of his death; or from any bank, trust company or other banking institution with respect to any account standing in the joint names of the decedent and any other person of which it is the depository. Any person who shall have paid more than the proportionate amount of the tax apportionable to him under section five on any property or interest passing to him, or in his possession, shall be entitled to a just and equitable contribution from those who shall not have paid the full amount of the tax apportionable to them respectively.

**SECTION 5.** Section 1 of chapter 65C of the General Laws, as so appearing, is hereby amended by striking out paragraph (d) and inserting in place thereof the following paragraph:–

(d) "Federal gross estate", the gross estate as defined under the Code except that, (1) notwithstanding section two thousand and thirty-five of the Code, the value of the gross estate shall include the value of all property to the extent of any interest therein of which the decedent has at any time made a transfer, relinquished a power, or exercised or released a general power of appointment, except in case of a bona fide sale for an adequate and full consideration in money or money's worth, by trust or otherwise, during the three year period ending with the date of the decedent's death; provided, however, that the value of such property or interest therein so transferred or subject to the power so relinquished, exercised or released exceeds ten thousand dollars for any person during a calendar year; and (2) notwithstanding section two thousand and forty of the Code, one-half of the value of any interest in any property shall be included in the gross estate if such interest is held by the decedent and the decedent's spouse as tenants by the entirety, or joint tenants with right of survivorship, but only if the decedent and the spouse of the decedent are the only joint tenants.

**SECTION 6.** Said section 1 of said chapter 65C, as so appearing, is hereby further amended by striking out paragraph (f) and inserting in place thereof the following paragraph:–

(f) "Massachusetts gross estate", the federal gross estate, whether or not a federal estate tax return is required to be filed, plus the value of any property (i) in which the decedent had at death a qualifying income interest for life described in subsection (j)c) of section three A, or to the extent of any such interest therein of which the decedent has at any time made a transfer, by trust or otherwise, under any circumstances which would require the property to be included in the gross estate under the provisions of this chapter and (ii) for which a deduction was allowed for Massachusetts estate tax purposes with respect to the transfer of such property to the decedent; and less the value of real and tangible personal property having an actual situs outside the commonwealth. The Massachusetts gross estate shall not include the value of any property in which the decedent had a qualifying income interest for life which is not otherwise includible in the Massachusetts gross estate under the first sentence of this paragraph, notwithstanding the right of the executor of



**ACTS, 1985. – Chap. 711.**

the decedent's estate to recover federal or Massachusetts estate taxes from such property.

**SECTION 7.** Subsection (a) of section 2 of said chapter 65C, as so appearing, is hereby amended by inserting after the word "table", in line 1, the following words:– less the credit, if any, provided in subsection (a) of section three,.

**SECTION 7A.** Said subsection (a) of said section 2 of said chapter 65C, as so appearing, is hereby further amended by striking out, in line 6, the words "sixty thousand dollars" and inserting in place thereof the following words:– two hundred thousand dollars.

**SECTION 8.** Said section 2 of said chapter 65C, as so appearing, is hereby further amended by striking out subsection (b) and inserting in place thereof the following subsection:–

(b) If the maximum credit for state death taxes allowable to the estate of a deceased resident or nonresident against the federal estate tax, computed according to the rate schedule found in section two thousand and eleven of the Code based upon an amount equal to the Massachusetts taxable estate, computed, with respect to a nonresident, as if the decedent had been a resident and apportioned in accordance with subsection (b) of section four, exceeds the tax imposed under subsection (a), the amount of such excess shall be added to the tax imposed under said subsection (a). In the case of a decedent who was a nonresident of the United States, however, the Massachusetts taxable estate shall be computed as if such decedent had been a resident without apportionment in accordance with subsection (b) of section four. For purposes of this subsection, the Massachusetts taxable estate shall include the value of any property subject to a power of appointment to the extent that such value has been excluded from the computation in said subsection (a) because a tax had been paid thereon pursuant to section fourteen of chapter sixty-five and shall also include the value of qualified terminable interest property, as defined in subsection (b) (7) (B) of section two thousand and fifty-six of the Internal Revenue Code in effect on January first, nineteen hundred and eighty-five, to the extent that such property has been included in the gross estate of the decedent as finally determined for federal estate tax purposes but has not been included in the gross estate of the decedent for Massachusetts estate tax purposes, in each case less the deductions described in subsection (b) of section three attributable thereto and the value of real and tangible personal property includible therein and having an actual situs outside the commonwealth.

**SECTION 9.** Section 3 of said chapter 65C, as so appearing, is hereby amended by striking out subsection (a) and inserting in place thereof the following subsection:–

(a) If the Massachusetts net estate is two hundred thousand dollars or less there shall be an exemption equal to the Massachusetts net estate. If the Massachusetts net estate exceeds two hundred thousand dollars no



**ACTS, 1985. – Chap. 711.**

exemption shall apply and a credit equal to the Massachusetts estate tax liability or one thousand five hundred dollars, whichever is less, shall be allowed.

**SECTION 10.** Subsection (b) of said section 3 of said chapter 65C, as so appearing, is hereby amended by adding the following sentence:– No deduction for interest shall be allowed hereunder unless the same has been paid or has, solely through the passage of time, accrued within three years from the due date of the return, without regard to any extension granted.

**SECTION 11.** Said section 3 of said chapter 65C, as so appearing, is hereby further amended by striking out subsection (c) and inserting in place thereof the following two subsections:–

(c) Notwithstanding the provisions of subsection (b) or any general or special law to the contrary, if a deduction from any federal estate tax would not be allowed because of a failure to meet the requirements set forth pursuant to section two thousand and fifty-five of the Code in effect on January first, nineteen hundred and eighty-five, and if the relevant governing instrument is the subject of a qualified reformation as hereinafter defined as a result of which a deduction under said section two thousand and fifty-five would be allowable from any federal estate tax, then a similar deduction shall be allowed from any tax imposed pursuant to this chapter to the extent that it can be attributed to property included in the Massachusetts gross estate. For purposes of this subsection, the term "qualified reformation" shall mean a change of a governing instrument which is a qualified reformation as defined in section two thousand and fifty-five (e) of the Internal Revenue Code in effect on January first, nineteen hundred and eighty-five.

(d) If the right to claim any deduction otherwise allowable is waived for federal estate tax purposes, such right shall be considered waived for Massachusetts estate tax purposes.

**SECTION 12.** Said chapter 65C is hereby further amended by inserting after section 3 the following section:–

**Section 3A.** (a) In the case of qualified terminable interest property, (i) for purposes of subsection (a) of section two thousand and fifty-six of the Code, such property shall be treated as passing to the surviving spouse, and (ii) for purposes of subsection (b)(1)(A) of section two thousand and fifty-six of the Code, no part of such property shall be treated as passing to any person other than the surviving spouse, to the extent that a deduction with respect to such qualified terminable interest property which, when added to the value of all other property which has passed or passes to the surviving spouse, will not cause the total deductions for property which has passed or passes to the surviving spouse to exceed fifty per cent of the Massachusetts adjusted gross estate.

(b) For purposes of this section, the term "qualified terminable interest property" shall mean property (i) which is included in the Massachusetts gross estate, (ii) which passes from the decedent, (iii) in



**ACTS, 1985. – Chap. 711.**

which the surviving spouse has a qualifying income interest for life, and (iv) to which an election under this section applies.

(c) The surviving spouse has a qualifying income interest for life if (i) the surviving spouse is entitled to all the income from the property, payable annually or at more frequent intervals, and (ii) no person has a power to appoint any part of the property to any person other than the surviving spouse. Clause (ii) of this subsection shall not apply to a power exercisable only at or after the death of the surviving spouse.

(d) The term "property" includes an interest in property.

(e) A specific portion of property shall be treated as separate property.

(f) An election under this section with respect to any property shall be made by the executor on the Massachusetts estate tax return filed within the time prescribed for filing such return, or any extension of such time granted by the commissioner, to have the property treated as qualified terminable interest property for Massachusetts estate tax purposes. Such election, once made, shall be irrevocable and shall be separate from and independent of any election made by the executor for federal estate tax purposes.

(g) If the surviving spouse of the decedent is the only noncharitable beneficiary of a qualified charitable remainder trust, subsection (b) (1) of section two thousand and fifty-six of the Code shall not apply to any interest in such trust which passes or has passed from the decedent to such surviving spouse. For purposes of the preceding sentence, the term "noncharitable beneficiary" shall mean any beneficiary of the qualified charitable remainder trust other than an organization described in subsection (c) of section one hundred and seventy of the Code and the term "qualified charitable remainder trust" shall mean a charitable remainder annuity trust or charitable remainder unitrust as described in section six hundred and sixty-four of the Code.

(h) Nothing in this section or any other provision of this chapter shall allow the value of any interest in property to be deducted under this chapter more than once with respect to the same decedent.

**SECTION 13.** Section 4 of said chapter 65C is hereby amended by striking out subsection (b), as appearing in the 1984 Official Edition, and inserting in place thereof the following subsection:–

(b) The tax imposed under subsection (a) shall be an amount which bears the same ratio to the tax that would be due if the decedent had been a resident as (i) the value of all real and tangible personal property, diminished by any mortgage or lien thereon, having an actual situs in Massachusetts, the transfer of which is subject to tax under said subsection (a) bears to (ii) the value of the decedent's Massachusetts gross estate, diminished by any mortgage or lien or property included therein, determined as if he had been a resident.

**SECTION 14.** Said chapter 65C is hereby further amended by striking out section 5, as so appearing, and inserting in place thereof the following section:–

Section 5. (a) Property in the Massachusetts gross estate shall be



**ACTS, 1985. – Chap. 711.**

valued as of the date of death of the decedent; provided, however, that if an alternate valuation has been properly elected for purposes of the federal estate tax in accordance with section two thousand and thirty-two of the Code in effect on January first, nineteen hundred and eighty-five the property in the Massachusetts gross estate shall be valued as of the dates used for federal estate tax valuation purposes; and provided, further, that if no federal estate tax is payable under federal estate tax laws applicable to the decedent's estate, whether or not a federal estate tax return is required to be filed, the executor may elect to value the property in the Massachusetts gross estate on the alternate valuation dates and in the manner provided under the provisions of section two thousand and thirty-two of said Code on the Massachusetts estate tax return.

(b) The value of an annuity, a life estate or an interest in property less than an absolute interest shall be determined in accordance with the actuarial tables in effect as of the decedent's death under section two thousand and thirty-one of the Code in effect on January first, nineteen hundred and eighty-five at such time and regulations issued thereunder.

(c) If the gross estate of a decedent includes real property devoted to use as a farm for farming purposes, the estate may elect to value such property in accordance with section two thousand and thirty-two A of the Code, in effect on January first, nineteen hundred and eighty-five. If a federal return is required to be filed the election under this subsection shall be consistent with the election made for federal estate tax purposes. All the substantive and procedural provisions of said section two thousand and thirty-two A shall, insofar as pertinent and consistent, apply to the election made under this subsection. The commissioner shall promulgate regulations to carry out the provisions of this subsection.

**SECTION 15.** Section 14 of said chapter 65C, as so appearing, is hereby amended by striking out subsection (b) and inserting in place thereof the following subsection:—

(b) If the tax imposed by this chapter is not paid when due, then the spouse, transferee, trustee, surviving tenant, person in possession of the real or personal property by reason of the exercise, nonexercise, or release of a power of appointment, or beneficiary, who receives, or has on the date of the decedent's death, real or personal property included in the Massachusetts gross estate to the extent of the value, at the time of the decedent's death, of such property shall be personally liable for such tax. Any part of such real property, which, prior to the decedent's death, was conveyed by a deed of the decedent not disclosing an intention that it take effect in possession or enjoyment at or after his death and such deed was recorded or registered prior to the decedent's death, and any part of such personal property transferred by, or transferred by a transferee of, such spouse, transferee, trustee, surviving tenant, person in possession of property by reason of the exercise, nonexercise, or release of a power of appointment, or beneficiary, to a bona fide purchaser, mortgagee or pledgee, for an adequate and full consideration in money or money's worth shall be divested of the lien



**ACTS, 1985. – Chap. 711.**

provided in subsection (a), and a lien shall then attach to all the property of such spouse, transferee, trustee, surviving tenant, person in possession, beneficiary, or transferee of any such person, except any part transferred to a bona fide purchaser, mortgagee or pledgee for an adequate and full consideration in money or money's worth.

**SECTION 16.** Said section 14 of said chapter 65C, as so appearing, is hereby further amended by adding the following paragraph:–

(f) In the case of any interest in qualified real property, devoted to use as a farm for farming purposes and valued pursuant to the provisions of subsection (c) of section 5, an amount equal to the adjusted tax difference attributable to such interest within the meaning of section two thousand and thirty-two A of the Code in effect on January first, nineteen hundred and eighty-five shall be a lien in favor of the commonwealth on the property in which such interest exists. Such lien shall arise at the time an election is filed under subsection (c) and shall continue with respect to any interest in the qualified real property (1) until the liability of tax under subsection (c) of section two thousand and thirty-two A of said Code, with respect to such interest has been satisfied or (2) until it is established to the satisfaction of the commissioner that no further tax liability may arise under section two thousand and thirty-two A of said Code, with respect to such interest. For purposes of this section, the term "qualified real property" includes qualified replacement property (within the meaning of section two thousand and thirty-two A (h) (3) (B) of said Code, and qualified exchange property (within the meaning of section two thousand and thirty-two A (i) (3) of said Code.

**SECTION 17.** Section 32 of chapter 202 of the General Laws, as so appearing, is hereby amended by inserting after the word "appointed", in line 15, the following words:– that the executor or administrator has filed in the probate court a certificate of the commissioner of revenue showing either that the amount of tax under chapter sixty-five C has been paid, that payment thereof has been secured as provided in section ten of said chapter sixty-five C, or that no tax is due.

**SECTION 18.** Notwithstanding any general or special law to the contrary, and in addition to any rights granted under section thirty-seven of chapter sixty-two C of the General Laws, any taxpayer claiming the deduction authorized by subsection (c) of section three of chapter sixty-five C or the deduction authorized by section one of chapter five hundred and thirty-one of the acts of nineteen hundred and eighty-two from any tax assessed pursuant to said chapter sixty-five C may apply within one year from the effective date of this section for abatement of so much of said tax as would become excessive in amount upon allowance of the aforesaid deduction; provided, however, that this section shall apply only to wills executed before December thirty-first, nineteen hundred and seventy-eight, or trusts created before such date, which have been amended or conformed in accordance with the requirements of said chapter five hundred and thirty-one on or before either December



**ACTS, 1985. – Chaps. 712, 713.**

thirty-first, nineteen hundred and eighty-one, or, if later, on or before the thirtieth day after any judicial proceedings which are required to amend or conform such instrument and which are commenced on or before said December thirty-first, nineteen hundred and eighty-one, become final. Any such application shall be considered as timely for the purposes of chapter sixty-two C, notwithstanding the expiration of the time ordinarily allowed for making abatement applications pursuant to section thirty-seven of said chapter sixty-two C.

**SECTION 19.** Sections one, five, six, seven, nine, twelve, fourteen, and sixteen of this act shall apply to estates of decedents dying on or after January first, nineteen hundred and eighty-six; provided, however, that subsection (b) of section five of chapter sixty-five C of the General Laws, as inserted by section fourteen of this act, shall apply to the estate of a decedent without regard to the date of death of such decedent. Section two of this act shall apply with respect to property or interests therein which become possessory on or after the effective date of this act without regard to the date of death of the decedent who created the interest.

Approved December 31, 1985.

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**Chapter 712. AN ACT RELATIVE TO THE PAYMENT OF  
ACCIDENTAL DEATH BENEFITS TO THE WIDOW OF  
JAMES J. COOK.**

**Be it enacted, etc., as follows:**

Notwithstanding the provisions of any general or special law to the contrary, and for the purpose of promoting the public good, Beverly L. Cook, widow of James J. Cook, a former employee of the engineering department in the town of Greenfield, shall, in addition to the survivor allowance payable to her under the provisions of Option C of subdivision (2) of section twelve of chapter thirty-two of the General Laws, be paid the lump sum in the amount of sixteen thousand five hundred dollars for the purpose of redeeming liability of said town for said James J. Cook's accidental death claim.

Approved December 31, 1985.

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**Chapter 713. AN ACT MODIFYING TRUCK WEIGHT GRANDFATHER  
PROVISIONS.**

**Be it enacted, etc., as follows:**

**SECTION 1.** Chapter 755 of the acts of 1981 is hereby amended by striking out, in section two, the word "purchased", in lines 3 and 4, and inserting in place thereof the word:- manufactured.



**ACTS, 1985. – Chaps. 714, 715.**

**SECTION 2.** Chapter 755 of the acts of 1981 is hereby further amended, in section three by striking out the word "eighty-six", in line 2, and inserting in place thereof the word:– "eighty-eight".

Approved December 31, 1985.

EMERGENCY LETTER: January 7, 1986 @ 10:01 A.M.

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**Chapter 714. AN ACT REQUIRING CERTAIN DISCLOSURES TO MATERNITY PATIENTS BY ADMITTING HOSPITALS.**

Be it enacted, etc., as follows:

**SECTION 1.** The sixth paragraph of section 70E of chapter 111 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out clauses (g) and (h) and inserting in place thereof the following three clauses:–

(g) upon request to receive an itemized bill including third party reimbursements paid toward said bill, regardless of the sources of payment;

(h) in the case of a patient suffering from any form of breast cancer, to complete information on all alternative treatments which are medically viable; and

(i) in the case of a maternity patient, at the time of pre-admission, to complete information from an admitting hospital on its annual rate of primary caesarian sections; annual rate of repeat caesarian sections; the annual percentage of women who have had a caesarian section who have had a subsequent successful vaginal birth; the annual percentage of deliveries in birthing rooms and labor-delivery-recovery-rooms; the annual percentage which were externally monitored only; the annual percentage which were internally monitored only; the annual percentage utilizing inductions, epidurals and general anesthesia; and the annual percentage of women breast-feeding upon discharge from said hospital.

**SECTION 2.** Data required by the provisions of section one of this act which is reported in the most recent Annual Hospital Statistical Report to the department of public health shall be made available to patients ninety days after the enactment of this legislation. Data required by this act which is not currently reported shall be made available to patients as of January thirtieth, nineteen hundred and eighty-seven.

Approved December 31, 1985.

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**Chapter 715. AN ACT TO ENSURE MEDICAL CARE FOR PREGNANT WOMEN AND TEENAGERS.**

Be it enacted, etc., as follows:

**SECTION 1.** Chapter 175 of the General Laws is hereby amended by inserting after section 47C, as appearing in the 1984 Official Edition, the



**ACTS, 1985. – Chap. 715.**

following section:-

Section 47D. Any blanket or general policy of insurance, except a blanket or general policy of insurance which provides supplemental coverage to medicare or other governmental programs, described in subdivision (A), (C) or (D) of section one hundred and ten which provides hospital expense and surgical expense insurance and which is issued or subsequently renewed by agreement between the insurer and the policyholder, within or without the commonwealth, during the period this provision is effective, or any policy of accident or sickness insurance as described in section one hundred and eight which provides hospital expense and surgical expense insurance, except a policy which provides supplemental coverage to medicare or other governmental programs, and which is delivered or issued for delivery or subsequently renewed by agreement between the insurer and the policyholder in the commonwealth, during the period that this provision is effective, or any employees' health and welfare fund which provides hospital expense and surgical expense benefits and which is promulgated or renewed to any person or group of persons in the commonwealth, while this provision is effective, shall provide benefits for expense of residents of the commonwealth covered under any such policy or plan, for the expense of prenatal care, childbirth and post partum care to the same extent as provided for medical conditions not related to pregnancy.

**SECTION 2.** Chapter 176A of the General Laws is hereby amended by inserting after section 8F, as so appearing, the following section:-

Section 8G. Any contract, except contracts providing supplemental coverage to medicare or other governmental programs, between a subscriber and the corporation under an individual or group hospital service plan which shall be delivered or issued or renewed in the commonwealth shall provide, as a basic benefit to all individual subscribers and members within the commonwealth and to all group members having a principal place of employment within the commonwealth, for expense for prenatal care, childbirth and post partum care to the same extent that benefits are provided for medical conditions not related to pregnancy.

**SECTION 3.** Chapter 176B of the General Laws is hereby amended by inserting after section 4E, as so appearing, the following section:-

Section 4F. Any subscription certificate under an individual or group medical service agreement, except certificates which provide supplemental coverage to medicare or other governmental programs, which shall be delivered or issued or renewed in the commonwealth shall provide, as a basic benefit to all individual subscribers and members within the Commonwealth and to all group members having a principal place of employment within the commonwealth for expense for prenatal care, childbirth and post partum care to the same extent that benefits are provided for medical conditions not related to pregnancy.

**SECTION 4.** Section 4 of chapter 176G of the General Laws, as so appearing, is hereby amended by adding the following sentence:- Such



**ACTS, 1985. – Chap. 716.**

health maintenance contract shall also provide coverage for prenatal care, childbirth and post partum care as set forth in section forty-seven D of chapter one hundred and seventy-five.

Approved December 31, 1985.

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**Chapter 716. AN ACT ESTABLISHING A COMMISSION FOR THE DEAF AND HARD OF HEARING.**

Be it enacted, etc., as follows:

**SECTION 1.** Sections eighty-four A to eighty-four I, inclusive, of chapter six of the General Laws are hereby repealed.

**SECTION 2.** Chapter 6 of the General Laws is hereby amended by adding the following nine sections:—

Section 191. As used in sections one hundred and ninety-one to one hundred and ninety-nine, inclusive, the following words shall, unless the context clearly requires otherwise, have the following meanings:—

"Commission", the commission for the deaf and hard of hearing.

"Commissioner", the commissioner of the commission for the deaf and hard of hearing.

"Deaf", a condition of or person with severe or complete absence of auditory sensitivity where the primary effective receptive communication mode is visual or tactile or both.

"Deaf community", a cultural minority with distinct modes of visual and tactile communication, languages and social mores.

"Hard of hearing", a condition of or person with some absence of auditory sensitivity with residual hearing which may be sufficient to process linguistic information through audition with or without amplification under favorable listening conditions, or a condition of or person with other auditory handicapping conditions.

Section 192. There shall be a commission for the deaf and hard of hearing to be known as the Massachusetts commission for the deaf and hard of hearing consisting of a commissioner and an advisory board in this section and sections one hundred and ninety-three to one hundred and ninety-nine, inclusive.

The commission may apply for and accept on behalf of the commonwealth any federal, local or private grants, bequests, gifts or contributions to aid in the financing of any of the programs or policies of the commission. Such funds shall be received by the state treasurer on behalf of the commonwealth and deposited in a separate account and shall be expended, in accordance with state law relative to appropriation, under the direction of the commissioner.

The commission may make agreements with other departments and agencies of the commonwealth and may contract with other individuals, organizations, corporations, associations or other legal entities including private agencies, or any other departments or agencies of the federal government, the commonwealth or any political subdivisions thereof, to



## **ACTS, 1985. – Chap. 716.**

carry out any of its functions and procedures.

The commissioner, pursuant to the provisions of chapter thirty A shall make, and from time to time revise, such regulations as may be necessary to carry out the functions of said commission including, but not limited to, eligibility requirements for receipt of various services.

Section 193. The secretary of human services shall appoint, with the approval of the governor, the commissioner. Said commissioner shall be classified in accordance with section forty-five of chapter thirty and the salary shall be determined in accordance with section forty-six C of said chapter thirty and he shall devote his full time during business hours to the duties of his office. Every effort shall be made to locate and appoint a deaf or hard of hearing commissioner. Said commissioner shall be experienced in the administration and delivery of services to deaf and hard of hearing persons, and shall be fluent in sign language.

Said commissioner shall be the executive and administrative head of the commission. Said commissioner shall establish divisions and regional offices subject to appropriation. Said commissioner may appoint and remove such directors, assistants, supervisors, consultants and other agents as, from time to time, may be necessary to enable him to perform his duties. Every effort shall be made to locate and appoint deaf and hard of hearing personnel.

The provisions of chapter thirty-one shall not apply to the office of commissioner or of any deputy commissioner, assistant to the commissioner, assistant commissioner, director or regional director or other employees as the commissioner may appoint.

Section 194. The commission shall serve as the principal agency of the commonwealth, on behalf of deaf and hard of hearing persons, shall advocate, provide and coordinate promulgation of public policies, regulations and programs, shall improve accessibility and quality of existing services and shall promote development of new services when necessary. In the performance of this function, the commission shall increase public awareness of deaf and hard of hearing individuals and shall provide services to the deaf and hard of hearing population including but not limited to interpreting services, telecommunication liaison services, information and referral, case management and social services, independent living services and access to telecommunication and assistive listening devices. The commission shall determine the extent and availability of services to deaf and hard of hearing individuals within the commonwealth, determine the need for further services, make recommendations to the governor and shall file a copy thereof with the state secretary.

Section 195. The governor shall appoint an advisory council of no fewer than twelve and no more than twenty members. Persons shall be eligible for appointment if their position, knowledge or experience enables them to represent the concerns, needs and recommendations of deaf and hard of hearing persons, and if they have been nominated by the commissioner. The majority of council members shall be deaf. At least one council member shall be hard of hearing. Each member shall serve for a term of four years.

The commissioner shall nominate persons whose service will assure



**ACTS, 1985. – Chap. 716.**

representation of the interests of parents, interpreters, the deaf community and deaf and hard of hearing persons from all geographic areas of the commonwealth. The commissioner's nominations shall be names from a list provided by consumer groups and individuals representing such parents, interpreters and deaf and hard of hearing persons.

Advisory council members shall elect a chairperson, shall meet at least eight times per year, and shall serve without compensation. They shall be reimbursed for expenses necessarily incurred in the performance of their duties.

Section 196. The commission shall maintain and coordinate a statewide interpreter referral service for use by any public and private agencies and individuals for any situations including emergencies.

Departments and agencies of the commonwealth and other public and private agencies and individuals shall reimburse the commission where so required by the commission's regulations for the compensation and travel expenses of any interpreter appointed by the commission pursuant to this section, but said departments, agencies and individuals shall not reimburse the commission for indirect costs or fringe benefits paid to such interpreter. The commission is authorized to treat reimbursements of prior year expenditures for the services of interpreters as reimbursements of current year expenditures for such services. Monies collected under the provisions of this section shall be retained by the commission in a revolving fund or funds, and shall be expended subject to the approval of the secretary of the executive office of human services and the state comptroller to purchase interpreter services; provided, however, that the commission shall provide quarterly reports to the house and senate committees on ways and means detailing the amounts of revenues received or expended under this section. Said fund or funds shall be subject to annual audit by the state auditor.

The commission is authorized to work with the board of regents, the department of education and private institutions to insure ongoing interpreter educational programs designed to increase the number of competent interpreters.

Section 197. Subject to the appropriation of funds therefor, the commission shall purchase, pursuant to sections fifty-one and fifty-two of chapter thirty, telecommunication devices for the deaf and shall rent, lease or sell such equipment to persons certified by the commission pursuant to its regulations as deaf or severely hard of hearing, at terms or prices which are fair and reasonable; provided, however, that no such device shall be sold by the commission at a price less than one-half of the wholesale market price of such device prevailing at the time of sale. The commission shall promulgate regulations to implement the provisions of this section. Such regulations shall include a schedule of fees to be charged for such rentals or sales and shall be based upon a consideration of the circumstances, need and annual income of the deaf or severely hard of hearing person seeking such equipment. Monies collected under the provisions of this section shall be retained by the commission in a revolving fund or revolving funds, and shall be expended subject to the approval of the secretary of the executive office of human services and



**ACTS, 1985. – Chap. 716.**

the state comptroller to purchase telecommunication devices for the deaf; provided that the commission shall provide quarterly reports to the house and senate committees on ways and means detailing the amounts of revenues received or expended under this section. Said fund or funds shall be subject to annual audit by the state auditor.

Section 198. In order to facilitate appropriate delivery of state services to deaf and hard of hearing individuals the commission shall advise other agencies of the needs of deaf and hard of hearing persons and shall, subject to appropriation, provide such resources as other agencies reasonably request.

Section 199. All records pertaining to clients and applicants of the commission and all personal and medical information or records given or made available to the commission, including but not limited to, names and addresses of clients and applicants, shall be confidential and for the exclusive use of the commission in the discharge of its duties. Notwithstanding any other general or special law to the contrary, the commission may publish information in statistical form without disclosing the identity of the clients or applicants involved.

**SECTION 3.** Section 16 of chapter 6A of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by inserting after the word "commission", in line 32, the words:– ; and the Massachusetts commission for deaf and hard of hearing people and its advisory board.

**SECTION 4.** Section 92A of chapter 221 of the General Laws, as so appearing, is hereby amended by striking out, in line 69, the words "office of deafness" and inserting in place thereof the words:– commission for the deaf and hard of hearing, established pursuant to the provisions of section one hundred and ninety-two of chapter six.

**SECTION 5.** Said section 92A of said chapter 221, as so appearing, is hereby further amended by striking out the seventh paragraph and inserting in place thereof the following paragraph:–

A client has a privilege to prevent a certified sign language interpreter from disclosing a confidential communication between one or more persons where the communication was facilitated by said interpreter. For purposes of this paragraph a client is a person rendered interpreting services by an interpreter; a communication is confidential if a client has a reasonable expectation or intent that it not be disclosed to persons other than those to whom such disclosure is made.

**SECTION 6.** Within its initial two years of operation, the commission shall undertake a study of state agencies providing services to the deaf or hearing impaired for the purposes of identifying which services offered by such agency may appropriately be transferred to the commission.

**SECTION 7.** This act shall take effect on July first, nineteen hundred and eighty-six.

Approved December 31, 1985.



**ACTS, 1985. - Chaps. 717, 718.**

**Chapter 717. AN ACT AUTHORIZING THE DIVISION OF CAPITAL PLANNING AND OPERATIONS TO CONVEY A PARCEL OF LAND IN THE CITY OF LOWELL TO XENEPHON SPERONIS.**

Be it enacted, etc., as follows:

The division of capital planning and operations, acting in the name and on behalf of the commonwealth, is hereby authorized to convey a certain parcel of land in the city of Lowell under the control of the department of public works to Xenophon Speronis of said city. Said land being bounded and described as follows:

The land in said Lowell, Middlesex County, Massachusetts, with the buildings thereon situated on the Northerly side of Pawtucket Boulevard and being shown on a Plan of Land entitled, "Plan of the Land in the City of Lowell, Middlesex County, Taken for Highway Purposes by the Department of Public Works, February 13, 1974" and being recorded in northern district registry of deeds in Middlesex county, Book of Plans M, Plan 117, and being bounded and described as follows:

Southerly by the Northerly line of Pawtucket Boulevard, Ninety-four and 05/100 (94.05) feet

Westerly by land now or formerly of Speronis, One Hundred fifty (150.) feet

Southerly by land now or formerly of Speronis, Eighty and 95/100 (80.95) feet

Westerly by land now or formerly of Speronis and others, Three hundred seventy-five (375.) feet

Northerly by other land now or formerly of the Commonwealth of Massachusetts One Hundred Seventy-five (175.) feet

Easterly by land now or formerly of the Commonwealth of Massachusetts and land now or formerly of Johnson, Five Hundred twenty-five (525.) feet.

Said land contains 79,675+ square feet, more or less.

Consideration to be paid for said conveyance shall be the average of two independent appraisals. The appraisers shall be selected by the division of capital planning and operations in consultation with the department of public works. All expenses of preparing said appraisals shall be paid by the grantee.

Approved December 31, 1985.

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**Chapter 718. AN ACT DESIGNATING A BRIDGE OVER THE WILLIAM T. MORRISSEY BOULEVARD IN THE CITY OF BOSTON AS THE PRIVATE FIRST CLASS ROBERT A. GRIFFIN MEMORIAL BRIDGE.**

Be it enacted, etc., as follows:

The bridge numbered B16-262 of the Southeast Expressway over the



**ACTS, 1985. - Chap. 719.**

William T. Morrissey Boulevard in the city of Boston shall be designated and known as the Private First Class Robert A. Griffin Memorial Bridge, in memory of Private First Class Robert A. Griffin who was killed in action while serving in the United States Marine Corps during the Vietnam war. A suitable marker bearing such designation shall be attached thereto by the department of public works in compliance with standards of said department and as authorized by the federal highway administration.

Approved December 31, 1985.

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**Chapter 719. AN ACT DESIGNATING THE BOARD OF  
REGISTRATION OF HAIRDRESSERS AS THE BOARD  
OF REGISTRATION OF COSMETOLOGISTS.**

Be it enacted, etc., as follows:

**SECTION 1.** Chapter 13 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out the caption preceding section 42 and inserting in place thereof the following caption:-

**BOARD OF REGISTRATION OF COSMETOLOGISTS.**

**SECTION 2.** Said chapter 13 is hereby further amended by striking out section 42, as so appearing, and inserting in place thereof the following section:-

Section 42. There shall be a board of registration of cosmetology to be appointed by the governor, with the advice and consent of the council, consisting of three members, citizens of the commonwealth, each of whom at the time of his original appointment shall be a registered hairdresser operating his own establishment in the commonwealth and shall have had at least five years practical experience as a registered hairdresser. The governor shall designate the chairman of the board and may at any time change such designation. The chairman shall be the executive head of the board. No member shall, while in office, actually do the work of cosmetology for compensation. No two members of the board, while in office, shall be in any way interested in any cosmetology establishments in the same town, nor shall any member, while in office, be a teacher at, or have any financial interest in, any school giving courses of instruction in cosmetology. As the term of office of a member expires, his successor shall be appointed by the governor, with like advice and consent to serve for three years. The governor may also, with like advice and consent, fill any vacancy in the board for the unexpired term. Definitions contained in section eighty-seven T of chapter one hundred and twelve shall, so far as appropriate, apply to this and the two following sections.

**SECTION 3.** Section 87F of chapter 112 of the General Laws, as so appearing, is hereby amended by inserting after the word "person", in line 25, the following words: , or any person who is registered to



**ACTS, 1985. – Chap. 720.**

practice hairdressing, aesthetics or manicuring pursuant to the requirements of the board; provided, however, that cosmetologist shall not mean any person who engages in the practice of make-up artistry only.

**SECTION 4.** Said chapter 112, as so appearing, is hereby further amended by striking out the caption preceding section 87T and inserting in place thereof the following caption:–

**REGISTRATION OF COSMETOLOGISTS.**

**SECTION 5.** Said section 87T of said chapter 112, as so appearing, is hereby further amended by striking out the definition of "Board" and inserting in place thereof the following definition:–

"Board", the board of registration of cosmetology established by section forty-two of chapter thirteen.

**SECTION 6.** Said section 87T of said chapter 112 is hereby further amended by inserting after the definition of "Board", the following definition:–

"Cosmetologist", any person, who, with hands or mechanical or electrical apparatus or appliances, or by the use of cosmetic preparations, antiseptics, tonics, lotions or creams, engages for compensation in any one or any combination of the following practices, to wit:– Massaging, cleansing, stimulating, manipulating, exercising, beautifying the scalp, face, neck, arms, bust or upper part of the body, manicuring the nails, or removing of superfluous hair, by the use of electricity or otherwise, about the body of any person, or any person who is registered to practice hairdressing, aesthetics or manicuring pursuant to the requirements of the board; provided, however, that cosmetologist shall not mean any person who engages in the practice of make-up artistry only.

Approved December 31, 1985.

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**Chapter 720. AN ACT ESTABLISHING TUITION CHARGES FOR CERTAIN NONRESIDENT ALIENS AT INSTITUTIONS OF HIGHER LEARNING.**

Be it enacted, etc., as follows:

**SECTION 1.** Chapter 15A of the General Laws is hereby amended by inserting after section 5 the following section:–

Section 5A. The board of regents of higher education is hereby authorized to fix and establish, as the charges for tuition at all institutions of public higher education to aliens in this country, under the provisions of an F-1, United States nonimmigrant visa, issued by the Department of Immigration, who are nonresidents of the commonwealth, the amount of money equal to the average amount necessary to maintain a student at such an institution; provided, however, that prior to the



**ACTS, 1985. – Chaps. 721, 722.**

establishment of any system of tuition charges which requires the payment of tuition by such alien students who are nonresidents of the commonwealth at a higher level than that required to be paid by other students who are nonresidents of the commonwealth, the board shall seek and obtain a written opinion of the attorney general that such system of charges does not contravene the guarantees of equal protection under the laws contained in the Constitutions of the United States and the commonwealth.

**SECTION 2.** The provisions of this act shall not apply to any nonresident alien who became a student at an institution of public higher education in the commonwealth prior to the effective date, nor any alien student whose family resides in the commonwealth nor to any student who is a full time graduate student. The provisions of this act shall not apply when reciprocal agreements exist between commonwealth supported schools and foreign schools of higher education.

Approved December 31, 1985.

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**Chapter 721. AN ACT RELATIVE TO EQUAL EMPLOYMENT OPPORTUNITIES IN THE DEPARTMENT OF CORRECTION.**

Be it enacted, etc., as follows:

**SECTION 1.** Section fifteen of chapter nine hundred and twenty of the acts of nineteen hundred and seventy-seven is hereby repealed.

**SECTION 2.** Notwithstanding any provisions of chapter thirty-one of the General Laws, or any other general or special law to the contrary, first preference for all permanent or temporary positions at the Southeastern Correctional Center and the Massachusetts Correctional Institution at Bridgewater shall be given to those persons determined by the commissioner of corrections to be residents of Bridgewater, provided that such persons are otherwise qualified for such positions. For those positions under the provisions of chapter thirty-one, Bridgewater residents who achieve a passing grade on examinations and are otherwise qualified under department regulations shall have their names placed at the top of the list in order of their grade.

Approved December 31, 1985.

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**Chapter 722. AN ACT AUTHORIZING THE DISPOSING OF OR SELLING CERTAIN POWER PLANTS AND SUBSTATIONS OF THE MASSACHUSETTS BAY TRANSPORTATION AUTHORITY.**

Be it enacted, etc., as follows:



**ACTS, 1985. – Chap. 723.**

**SECTION 1.** Chapter six hundred and twenty-eight of the acts of nineteen hundred and sixty-six is hereby repealed.

**SECTION 2.** Notwithstanding the provisions of any general or special law to the contrary, the Massachusetts Bay Transportation Authority is hereby prohibited from disposing of its substation in Oak square in that section of the city of Boston known as Brighton, and all land appurtenant thereto, by sale, lease or in any other way and said authority is hereby directed to continue to maintain said substation.

Approved December 31, 1985.

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**Chapter 723. AN ACT AUTHORIZING THE DIVISION OF CAPITAL PLANNING AND OPERATIONS TO CONVEY A CERTAIN PARCEL OF LAND IN THE CITY OF MELROSE TO RALPH ALLEN AND HENRIETTA ALLEN.**

Be it enacted, etc., as follows:

The division of capital planning and operations is hereby authorized, in the name of and on behalf of the commonwealth, subject to the provisions of sections forty E to forty J, inclusive, of chapter seven of the General Laws to convey all right title and interest of land located in the town of Melrose currently under the control of the metropolitan district commission and used for public works purposes to Ralph Allen and Henrietta Allen, to be used for residential purposes, said land being bounded and described as follows:

Beginning at a point at the junction of the northeasterly side of Batchelder Street with the southeasterly side line of Bellevue Avenue, public ways of said Melrose, said point of beginning being distant seventy-one and 23/100 (71.23) feet, measuring north  $66^{\circ} 56' 30''$  east in a straight line from a stone bound located at the junction of a northwesterly side line of said Bellevue Avenue with the general northerly boundary line of a taking by said Commonwealth, for Lynn Fells Parkway, recorded in southern district registry of deeds in the county of Middlesex, Book 3578, Page 143;

Thence from said point of beginning, running south  $46^{\circ} 29'$  east by the northeasterly side line of Batchelder Street fifty-seven and 53/100 (57.53) feet to a point;

Thence south  $85^{\circ} 27' 44''$  east one hundred thirty-eight and 39/100 (138.39) feet to a point at land;

Thence north  $43^{\circ} 39' 43''$  east eighteen and 34/100 (18.34) feet to a point;

Thence south  $46^{\circ} 43' 52''$  east twenty-two and 74/100 (22.74) feet to a point;

Thence south  $85^{\circ} 27' 44''$  east sixty-seven and 85/100 (67.85) feet to a point;

Thence easterly on a line curving to the left with a radius of four hundred twenty-one and 18/100 (421.18 feet, seventy-eight and 6/10



**ACTS, 1985. – Chaps. 724, 725, 726.**

(78.6) feet to a point.

Approved December 31, 1985.

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**Chapter 724. AN ACT DESIGNATING A CERTAIN BRIDGE IN THE CITY OF SOMERVILLE AS THE MARY C. RODERICK BRIDGE.**

Be it enacted, etc., as follows:

The bridge on Beacon street in the city of Somerville spanning the tracks of the Massachusetts Bay Transit Authority shall be designated and known as the Mary C. Roderick Bridge. A suitable marker bearing said designation shall be attached thereto by the department of public works in compliance with the standards of said department.

Approved December 31, 1985.

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**Chapter 725. AN ACT AUTHORIZING THE BOARD OF REGISTRATION OF SOCIAL WORKERS TO ISSUE A LICENSE TO BESSIE LITWACK.**

Be it enacted, etc., as follows:

Notwithstanding the provisions of any general or special law to the contrary, the board of registration of social workers is hereby authorized to make a determination and may issue a license to practice independent clinical social work to Bessie Litwack, of Boston, without examination.

Approved December 31, 1985.

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**Chapter 726. AN ACT FURTHER REGULATING COLLECTIVE BARGAINING IMPASSES INVOLVING MEMBERS OF THE BARGAINING UNIT OF THE UNIFORMED BRANCH OF THE STATE POLICE, OR THE UNIT REPRESENTING METROPOLITAN DISTRICT COMMISSION POLICE OFFICERS SUBORDINATE TO THE RANK OF CAPTAIN.**

Be it enacted, etc., as follows:

**SECTION 1.** Chapter 1078 of the acts of 1973 is hereby amended by striking out section 4B, inserted by section 2 of chapter 594 of the acts of 1979, and inserting in place thereof the following two sections:-

**Section 4B.** If an employee organization duly recognized as representing the bargaining unit of the uniformed branch of the state police is engaged in an impasse which has continued for thirty days after



**ACTS, 1985. – Chap. 726.**

the publication of the fact-finder's report pursuant to section nine of chapter one hundred and fifty E of the General Laws, or, if the parties have mutually waived the fact-finding provisions contained in said section nine of said chapter one hundred and fifty E, said employee organization shall petition the board to make an investigation. If, after an investigation, the board determines that:

(1) the requirements of section nine of said chapter one hundred and fifty E have been complied with in good faith by the employee organization;

(2) thirty days have passed since the date of publication of the fact-finding report pursuant to said section nine;

(3) the proceedings for the prevention of any prohibited practices have been exhausted, provided that any such complaints have been filed with the commission prior to the date of the fact-finder's report; and

(4) an impasse exists, the board shall notify the employer and the employee organization that the issues in dispute shall be resolved by a three-member arbitration panel, or when the parties mutually agree, the board shall select a single arbitrator in lieu of the arbitration panel.

Said panel shall be comprised of three arbitrators, one selected by the employer, one selected by the employee organization, and a third impartial arbitrator, who shall act as chairman of the panel, who shall be selected by the two previously selected arbitrators. In the event that either party fails to select an arbitrator or for any reason there is a delay in the naming of an arbitrator, or if the arbitrators fail to select a third arbitrator within the time prescribed by the board, the board shall appoint the arbitrator or arbitrators necessary to complete the panel, which shall act with the same force and effect as if the panel had been selected without intervention of the board.

In the event that the parties mutually elect to use a single arbitrator, selected by the board, the parties shall immediately request the board to appoint said arbitrator, who shall act with the same force and effect as if a three-member panel had been selected by the parties.

The single arbitrator or the arbitration panel acting through its chairman, shall conduct a hearing within ten days after the date of appointment of its chairman. The chairman shall give at least seven days notice of the time and place of such hearing in writing to each of the other arbitrators and to the representatives of such employer and employee organizations.

The single arbitrator or chairman shall preside over the hearing and shall take testimony. Upon application and for good cause shown, a person, labor organization, or governmental unit having substantial interest therein may be granted leave to intervene by the arbitration panel. The proceedings shall be informal. Any oral or documentary evidence and other data deemed relevant by the arbitration panel or single arbitrator may be received into evidence. The arbitrators shall have the power to administer oaths and to require by subpoena the attendance and testimony of witnesses, the production of books, records, and other evidence relative to or pertinent to the issues presented to them for determination. If any person refuses to obey a subpoena, refuses to be sworn or to testify, or if any witness, party, or attorney is



ACTS, 1985. – Chap. 726.

guilty of any contempt while in attendance at any hearing, the arbitration panel or single arbitrator may, or the district attorney if requested, shall invoke the aid of the superior court within the jurisdiction in which the hearing is being held, whereupon the court shall issue an appropriate order.

A record of the proceedings shall be kept, and the chairman or single arbitrator shall arrange for the necessary recording service. Transcripts may be ordered at the expense of the party ordering them, but the transcripts shall not be necessary for an award by the panel or single arbitrator. The hearing may be continued at the discretion of the panel or single arbitrator and shall be concluded within forty days from the time of commencement. At the conclusion of the hearing, each party shall submit a written statement containing its last and best offer for each of the issues in dispute to the panel or single arbitrator, who shall take said statements under advisement. Within ten days after the conclusion of the hearing, a majority of the panel, or the single arbitrator, shall select as the last and best arbitration award either the employer's written statement of its last and best offer, the employee organization's written statement of its last and best offer, or the recommendations of the fact-finder, if a fact-finding report and recommendations have been issued, and immediately shall give written notice of the selection to the parties. The selection shall be final and binding upon the parties, subject to appropriation. Within thirty calendar days of the last and best offer selection and award, the impartial chairperson of the arbitration panel, or the single arbitrator, shall issue a written opinion inclusive of an analysis of all statutory factors applicable to the proceedings.

At any time before the rendering of an award, the chairman of the arbitration panel or single arbitrator, if he is of the opinion that it would be useful or beneficial to do so, may remand the dispute to the parties for further collective bargaining for a period not to exceed three weeks and notify the board of the remand. If the dispute is remanded for further collective bargaining the time provisions of this act shall be extended for a time period equal to that of the remand.

In the event that the representatives of the parties mutually resolve each of the issues in dispute and agree to be bound accordingly, said representatives may, at any time prior to the final decisions by the panel or single arbitrator, request that the arbitration proceedings be terminated. The panel, acting through its chairman or single arbitrator, shall terminate the proceedings.

The factors, among others, to be given weight by the arbitration panel or single arbitrator in arriving at the decision shall include, when applicable:

- (1) The financial ability of the commonwealth to meet the costs. Such factors which shall be taken into consideration shall include, but not be limited to, the commonwealth's long and short term bonded indebtedness.
- (2) The interests and welfare of the public.
- (3) The hazards of employment, physical, educational and mental qualifications, job training and skills involved.
- (4) A comparison of wages, hours and conditions of employment of the



**ACTS, 1985. – Chap. 726.**

employees involved in the arbitration proceedings with the wages, hours and conditions of employment of other employees performing similar services and with other employees generally in public or private employment in comparable districts, communities, or other state or federal jurisdictions.

(5) The decisions and recommendations of the fact-finder, if any.

(6) The average consumer prices for goods and services, commonly known as the cost of living.

(7) The overall compensation presently received by the employees, including direct wages and fringe benefits.

(8) Changes in any of the foregoing circumstances during the pendency of the arbitration proceedings.

(9) Such other factors not confined to the foregoing, which are normally or traditionally taken into consideration in the determination of wages, hours and conditions of employment through voluntary collective bargaining, mediation, fact-finding, arbitration or otherwise between parties, in the public service or in private employment.

(10) The stipulation of the parties.

Any determination or decision of the arbitration panel or single arbitrator if supported by material and substantive evidence on the whole record shall be subject to appropriation, binding upon the parties and may be enforced at the instance of either party, the single arbitrator or the arbitration panel in the superior court in equity, provided however, that the scope of arbitration in police matters shall be limited to wages, hours, and conditions of employment and shall not include the following matters of inherent managerial policy: the right to appoint, promote, assign, and transfer employees. Assignments shall not be within the scope; provided, however, that the subject matters of initial station assignment upon appointment or promotion shall be within the scope of arbitration. The subject matter of transfer shall not be within the scope of arbitration; provided, however, that the subject matters of relationship of seniority to transfers and disciplinary and punitive transfers shall be within the scope of arbitration.

The commencement of a new fiscal year prior to the final awards by the arbitration panel shall not be deemed to render a dispute moot, or to otherwise impair the jurisdiction or authority of the arbitration panel or its award. Any award of the arbitration panel may be retroactive to the expiration date of the last contract.

If an employer, or an employee organization willfully disobeys a lawful order of enforcement pursuant to this section, or willfully encourages or offers resistance to such order, whether by strike or otherwise, the punishment for each day that such contempt continues may be a fine for each day to be determined at the discretion of said court.

Each of the parties shall provide compensation for the arbitrator which he has selected pursuant to this section. The remaining costs of arbitration proceedings under this section shall be divided equally between the parties. Compensation for the arbitrators shall be in accordance with a schedule of payment established by the American Arbitration Association.

Section 4C. If an employee organization duly recognized as



**ACTS, 1985. – Chap. 726.**

representing the bargaining unit of the metropolitan district commission police officers subordinate to the rank of captain is engaged in an impasse which has continued for thirty days after the publication of the fact-finder's report pursuant to section nine of chapter one hundred and fifty E of the General Laws; or, if the parties have mutually waived the fact-finding provisions contained in said section nine of said chapter one hundred and fifty E, said employee organization shall petition the board to make an investigation. If, after an investigation, the board determines that:

(1) the requirements of section nine of said chapter one hundred and fifty E have been complied with in good faith by the employee organization;

(2) thirty days have passed since the date of publication of the fact-finding report pursuant to said section nine;

(3) the proceedings for the prevention of any prohibited practices have been exhausted, provided that any such complaints have been filed with the commission prior to the date of the fact-finder's report; and

(4) an impasse exists, the board shall notify the employer and the employee organization that the issues in dispute shall be resolved by a three-member arbitration panel, or when the parties mutually agree, the board shall select a single arbitrator in lieu of the arbitration panel.

Said panel shall be comprised of three arbitrators, one selected by the employer, one selected by the employee organization, and a third impartial arbitrator, who shall act as chairman of the panel, who shall be selected by the two previously selected arbitrators. In the event that either party fails to select an arbitrator or for any reason there is a delay in the naming of an arbitrator, or if the arbitrators fail to select a third arbitrator within the time prescribed by the board, the board shall appoint the arbitrator or arbitrators necessary to complete the panel, which shall act with the same force and effect as if the panel had been selected without intervention of the board.

In the event that the parties mutually elect to use a single arbitrator, selected by the board, the parties shall immediately request the board to appoint said arbitrator, who shall act with the same force and effect as if a three-member panel had been selected by the parties.

The single arbitrator or the arbitration panel acting through its chairman, shall conduct a hearing within ten days after the date of appointment of its chairman. The chairman or single arbitrator shall give at least seven days notice of the time and place of such hearing in writing to each of the other arbitrators and to the representatives of such employer and employee organizations.

The single arbitrator or chairman shall preside over the hearing and shall take testimony. Upon application and for good cause shown, a person, labor organization, or governmental unit having substantial interest therein may be granted leave to intervene by the arbitration panel. The proceedings shall be informal. Any oral or documentary evidence and other data deemed relevant by the arbitration panel or single arbitrator may be received into evidence. The arbitrators shall have the power to administer oaths and to require by subpoena the attendance and testimony of witnesses, the production of books, records,



ACTS, 1985. – Chap. 726.

and other evidence relative to or pertinent to the issues presented to them for determination. If any person refuses to obey a subpoena, refuses to be sworn or to testify, or if any witness, party, or attorney is guilty of any contempt while in attendance at any hearing, the arbitration panel or single arbitrator may, or the district attorney if requested, shall invoke the aid of the superior court within the jurisdiction in which the hearing is being held, whereupon the court shall issue an appropriate order.

A record of the proceedings shall be kept, and the chairman or single arbitrator shall arrange for the necessary recording service. Transcripts may be ordered at the expense of the party ordering them, but the transcripts shall not be necessary for an award by the panel or single arbitrator. The hearing may be continued at the discretion of the panel or single arbitrator and shall be concluded within forty days from the time of commencement. At the conclusion of the hearing, each party shall submit a written statement containing its last and best offer for each of the issues in dispute to the panel or single arbitrator, who shall take said statements under advisement. Within ten days after the conclusion of the hearing, a majority of the panel, or the single arbitrator, shall select as the last and best arbitration award either the employer's written statement of its last and best offer, the employee organization's written statement of its last and best offer, or the recommendations of the fact-finder, if a fact-finding report and recommendations have been issued, and immediately shall give written notice of the selection to the parties. The selection shall be final and binding upon the parties, subject to appropriation. Within thirty calendar days of the last and best offer selection and award, the impartial chairperson of the arbitration panel, or the single arbitrator, shall issue a written opinion inclusive of an analysis of all statutory factors applicable to the proceedings.

At any time before the rendering of an award, the chairman of the arbitration panel or single arbitrator, if he is of the opinion that it would be useful or beneficial to do so, may remand the dispute to the parties for further collective bargaining for a period not to exceed three weeks and notify the board of the remand. If the dispute is remanded for further collective bargaining the time provisions of this act shall be extended for a time period equal to that of the remand.

In the event that the representatives of the parties mutually resolve each of the issues in dispute and agree to be bound accordingly, said representatives may, at any time prior to the final decisions by the panel or single arbitrator, request that the arbitration proceedings be terminated. The panel, acting through its chairman or single arbitrator, shall terminate the proceedings.

The factors, among others, to be given weight by the arbitration panel or the single arbitrator in arriving at the decision shall include, when applicable:

(1) The financial ability of the district and the commonwealth to meet the costs. Such factors which shall be taken into consideration shall include, but not be limited to, (a) the district's state reimbursements and assessments; (b) the commonwealth's and district's long and short term



ACTS, 1985. – Chap. 726.

bonded indebtedness; (c) the district's estimated share in the metropolitan district commission deficit; (d) the district's estimated share in the deficit of the Massachusetts Bay Transportation Authority's.

(2) The interests and welfare of the public.

(3) The hazards of employment, physical, educational and mental qualifications, job training and skills involved.

(4) A comparison of wages, hours and conditions of employment of the employees involved in the arbitration proceedings with the wages, hours and conditions of employment of other employees performing similar services and with other employees generally in public or private employment in comparable districts, communities, or other state or federal jurisdictions.

(5) The decisions and recommendations of the fact-finder, if any.

(6) The average consumer prices for goods and services, commonly known as the cost of living.

(7) The overall compensation presently received by the employees, including direct wages and fringe benefits.

(8) Changes in any of the foregoing circumstances during the pendency of the arbitration proceedings.

(9) Such other factors not confined to the foregoing, which are normally or traditionally taken into consideration in the determination of wages, hours and conditions of employment through voluntary collective bargaining, mediation, fact-finding, arbitration or otherwise between parties, in the public service or in private employment.

(10) The stipulation of the parties.

Any determination or decision of the arbitration panel or single arbitrator if supported by material and substantive evidence on the whole record shall be subject to appropriation, binding upon the parties and may be enforced at the instance of either party, the single arbitrator or the arbitration panel in the superior court in equity, provided however, that the scope of arbitration in police matters shall be limited to wages, hours, and conditions of employment and shall not include the following matters of inherent managerial policy: the right to appoint, promote, assign, and transfer employees. Assignments shall not be within the scope; provided, however, that the subject matters of initial station assignment upon appointment or promotion shall be within the scope of arbitration. The subject matter of transfer shall not be within the scope of arbitration, provided however, that the subject matters of relationship of seniority to transfers and disciplinary and punitive transfers shall be within the scope of arbitration.

The commencement of a new fiscal year prior to the final awards by the arbitration panel shall not be deemed to render a dispute moot, or to otherwise impair the jurisdiction or authority of the arbitration panel or its award. Any award of the arbitration panel may be retroactive to the expiration date of the last contract.

If an employer, or an employee organization willfully disobeys a lawful order of enforcement pursuant to this section, or willfully encourages or offers resistance to such order, whether by strike or otherwise, the punishment for each day that such contempt continues may be a fine for each day to be determined at the discretion of said court.



**ACTS, 1985. – Chap. 727.**

Each of the parties shall provide compensation for the arbitrator which he has selected pursuant to this section. The remaining costs of arbitration proceedings under this section shall be divided equally between the parties. Compensation for the arbitrators shall be in accordance with a schedule of payment established by the American Arbitration Association.

**SECTION 2.** Said chapter 1078 is hereby further amended by striking out section 8A, as amended by chapter 346 of the acts of 1982, and inserting in place thereof the following two sections:–

**Section 8A.** The provisions of section four B of this act shall cease to be operative on June thirtieth, nineteen hundred and eighty-eight and any arbitration proceeding pending on June thirtieth, nineteen hundred and eighty-eight shall be completed under the provisions of said section four B.

**Section 8B.** The provisions of section four C of this act shall cease to be operative on June thirtieth, nineteen hundred and eighty-eight and any arbitration proceeding pending on June thirtieth, nineteen hundred and eighty-eight shall be completed under the provisions of said section four C.

**SECTION 3.** The terms of any collective bargaining agreement in effect prior to the effective date of this act shall remain in full force and effect until the expiration date of said agreement. Any collective bargaining negotiations pending on the effective date of this act shall be completed under the provisions in effect immediately prior to the effective date of this act.

Approved December 31, 1985.

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**Chapter 727. AN ACT FURTHER REGULATING REAL ESTATE TAX EXEMPTIONS OF ORGANIZATIONS OF VETERANS OF WAR.**

**Be it enacted, etc., as follows:**

Section 5 of chapter 59 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by inserting after clause Fifth the following clause:–

Fifth A, The real and personal estate belonging to or held in trust for the benefit of incorporated organizations of veterans of any war in which the United States has been engaged, to the extent of four hundred thousand dollars, if actually used and occupied by such association, and if the net income from said property is used for charitable purposes; but it shall not be exempt for any year in which such association or the trustees holding for the benefit of such association wilfully omit to bring into the assessors the list and statement required by section twenty-nine. This clause shall take effect upon its acceptance by any city or town. In those cities and towns which accept the provisions of



**ACTS, 1985. – Chap. 728.**

this clause, the provisions of clause Fifth shall not be applicable; provided, however, that the state treasurer shall annually reimburse the city or town an amount equal to the reimbursement, if any, granted to such city or town under said clause Fifth for the most recent fiscal year in which it received such reimbursement.

Approved December 31, 1985.

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**Chapter 728. AN ACT ESTABLISHING A FUND FOR UREA  
FORMALDEHYDE FOAM INSULATION FOR  
HOMEOWNERS.**

Be it enacted, etc., as follows:

**SECTION 1.** The department of public health, hereinafter called the department, is hereby authorized to establish and maintain a homeowners' urea formaldehyde foam insulation program, hereinafter called the UFFI program. Said program shall: establish a testing procedure for the detection of the levels of formaldehyde gas in the ambient air in residential dwellings insulated with urea formaldehyde foam insulation, hereinafter called UFFI, in order to achieve uniformity of testing; establish a listing of approved testing and UFFI removal services in the commonwealth; reimburse owners of residential dwellings insulated with UFFI for the cost of testing the levels of formaldehyde gas in the ambient air, such reimbursement to be paid from the UFFI Trust Fund established pursuant to section four; and provide payments from said fund for the reasonable cost of removal of UFFI from any such residential dwelling, or for other remedial relief to be defined by regulation by the commissioner of public health, hereinafter called the commissioner, when either the level of formaldehyde gas is greater than 0.10 parts per million or an occupant of the dwelling has suffered adverse health effects from the presence of UFFI in said dwelling.

**SECTION 2.** Any owner of a residential dwelling located in the commonwealth insulated with UFFI prior to December thirty-first, nineteen hundred and eighty, may apply for and receive payment out of the UFFI Trust Fund, for testing the ambient air level for formaldehyde gas in said dwelling, upon providing suitable evidence of the installation of UFFI in said dwelling. Said testing shall be by a testing service approved by the department and by means of testing procedures established by the department. The department shall be provided with a copy of the test results.

**SECTION 3.** Any owner of a residential dwelling located in the commonwealth insulated with UFFI may apply for and receive payment from said trust fund, for the reasonable cost of removal of UFFI from said dwelling, or for other remedial relief to be defined by the commissioner by regulation, when either: (1) the level of formaldehyde gas is greater than 0.10 parts per million, according to a testing service



ACTS, 1985. – Chap. 728.

approved by the department, using testing procedures established by the department, or (2) an occupant of the dwelling has suffered adverse health effects from the presence of UFFI in said dwelling. The commissioner shall define by regulation the meaning of reasonable cost of removal.

For the purposes of this act, adverse health effects shall be deemed to have been demonstrated if: (1) an occupant, after exposure to UFFI in said dwelling, has experienced health effects of a type which can occur in people exposed to formaldehyde or UFFI, and presents evidence of medical evaluation or treatment relative to such health effects; or (2) an occupant presents evidence of medical evaluation or treatment for health effects which his physician reasonably believes are related to exposure to formaldehyde or UFFI in said dwelling, and, in either case, there is no objection from the three member panel established by this section.

Applications for payment for removal of UFFI based upon an air level of formaldehyde gas greater than 0.10 parts per million shall be accompanied by a statement from a testing service approved by the department, stating the test results and describing the testing procedure used.

Applications for payment for removal of UFFI based upon an occupant's having suffered adverse health effects shall be accompanied by such documentation as the commissioner shall specify by regulation. Such applications shall be reviewed by a three-member panel consisting of a physician who is trained in immunology, a toxicologist, and an industrial hygienist. Members of the panel shall be appointed by the commissioner for three year terms, except that initially one member shall be appointed for a one year term and one member shall be appointed for a two year term. Persons appointed to fill vacancies shall serve for the unexpired term of said vacancy. Each member of the panel shall receive not less than one hundred dollars for each day or part thereof for his services and shall also receive all reasonable expenses actually and necessarily incurred in the performance of his official duties. If the decision of the panel is adverse to an applicant, the applicant shall have an opportunity to present oral testimony in support of his application before the panel. If, after hearing such testimony, the decision of the panel remains adverse to the applicant, the applicant may seek judicial review, in accordance with the provisions of chapter thirty A of the General Laws.

Any owner of a residential dwelling which was formerly insulated with UFFI and from which the UFFI was removed by or at the direction of said owner prior to the effective date of this act, may qualify to receive payment for the reasonable cost of removal of UFFI if he has not previously received payment for such removal from any source and either: (1) the level of formaldehyde gas was tested prior to said removal and found to be greater than 0.10 parts per million by a laboratory using a reasonable test method; or (2) an occupant of said dwelling suffered adverse health effects within the meaning of this section, prior to said removal; or (3) the owner removed the UFFI for valid economic reasons, including the sale of said dwelling, and provides



**ACTS, 1985. – Chap. 728.**

a demonstration of reasons therefor, including documentation of inability to secure a mortgage or a buyer, or of otherwise having been compelled to sell said dwelling at a price substantially lower than fair market value.

**SECTION 4.** There shall be established on the books of the commonwealth a separate trust fund to be known as the UFFI Trust Fund. Said fund shall consist of moneys donated or contributed to the UFFI program by persons, corporations, companies or entities previously engaged in the business of manufacturing, distributing, or installing, or which acted as wholesalers or retailers of UFFI or its component ingredients for use in the commonwealth, hereinafter called the industry, and all other monies credited or transferred thereto from any other fund or source pursuant to law. For the purpose of this section, component ingredients of UFFI shall mean urea formaldehyde resin and foaming agent. The amount of said donations or contributions shall be based upon criteria established by the commissioner, with the advice of the UFFI advisory council created by section eight, taking into account such factors as the proportionate share of the commonwealth UFFI market occupied by the various industry members and any other factors which the commissioner with the advice of the UFFI advisory council believes may lead to a reasonable and equitable distribution of contributed shares. In the course of determining the amount of such donations or contributions for each industry member, the commissioner shall determine which, if any, affiliates, subsidiaries or parent companies of such industry member shall be subject to the protection against private rights of action and any other benefits conferred upon industry members making contributions pursuant to this act. Donations and contributions to the trust fund by industry members and participation in the trust fund by owners of residential dwellings shall be voluntary; provided, however, that the decision of the commissioner as to the amount of donations or contributions by particular industry members to the UFFI Trust Fund and the amount of payments to be made from the trust fund to such owners shall be final and not subject to judicial review, either directly or by certiorari or otherwise.

The revenue received from donations or contributions made under this section shall be kept in the trust fund separate and apart from all other monies received by the commonwealth. The treasurer of the commonwealth shall be the custodian of the trust fund. The monies in the trust fund shall be invested by the treasurer in accordance with law; provided, however, that the treasurer shall make no investments that prevent the treasurer from making timely payment of disbursements. Interest income and dividends from such investments shall be credited to the fund.

The treasurer shall make payments from the trust fund on the submission of a warrant listing all payments to be made, which has been approved in writing by the commissioner of public health or his designee.

The books and records of the trust fund shall be subject to an annual audit by the auditor of the commonwealth.

The UFFI Trust Fund shall be expended for providing payments or reimbursements to owners of residential dwellings in the commonwealth



**ACTS, 1985. – Chap. 728.**

insulated with UFFI, pursuant to the UFFI program established by this act. Up to ten per cent of the UFFI Trust Fund, not to exceed one hundred thousand dollars annually, may be expended by the commissioner for the ongoing administrative costs of the UFFI Trust Fund.

Any industry member who fails to contribute a reasonable amount to the UFFI Trust Fund, as determined by the commissioner with the advice of the UFFI advisory council pursuant to the provisions of this section, shall not be entitled to any of the rights or benefits conferred under the provisions of this act. The commissioner or his designee may notify all persons, manufacturers, distributors, installers and entities otherwise doing business in the commonwealth related to the production of UFFI of the existence of the UFFI program, enter into contribution agreements with said persons or businesses, and perform all other duties necessary to authorize payments from said fund.

**SECTION 5.** Any owner of a residential dwelling in the commonwealth which was insulated with UFFI and who meets the criteria established in section three may elect to participate in the UFFI trust fund; provided, however, that no more than one payment from the trust fund may be made with respect to any one dwelling. Private rights of action which presently exist shall not be impaired; provided, however, that any person who obtains payment for relief from the UFFI trust fund shall, as a condition of such payment, waive all his private rights of action, including actions for damage to health, if the cause or consequence of such damage to health was reasonably discoverable at the time payment for removal of UFFI was received, against any industry member who has contributed to the UFFI Trust Fund an amount as determined by the commissioner pursuant to section four. If the cause or consequence of such damage to health was not reasonably discoverable at the time payment for relief was received, such private rights of action for such damage, including rights of action for latent effects or disease, are hereby preserved.

Any industry member who contributes to the UFFI Trust Fund, an amount determined by the commissioner pursuant to section four, shall waive all pending or prospective claims challenging the UFFI Trust Fund or the regulations of the department governing the ban and repurchase of UFFI. Any such industry member shall have no obligation or liability under regulations of the department governing repurchase of UFFI.

Any person who obtains payment for removal of UFFI from the UFFI Trust Fund shall assign to the department all claims under the repurchase regulations against industry members who have not contributed a reasonable amount to the UFFI Trust Fund, as determined by the commissioner pursuant to section four.

**SECTION 6.** The department shall establish procedures for removal of UFFI in conformity with current scientific knowledge, shall approve those firms and individuals qualified to remove UFFI, and shall publish and issue a list of such approved firms and individuals.

In order to qualify for receipt of payment for the removal of UFFI from the UFFI Trust Fund, an owner of a residential dwelling containing



**ACTS, 1985. – Chap. 728.**

UFFI shall engage the services only of an approved firm or individual to perform such removal, unless such owner is approved and performs such removal himself, or unless the removal of UFFI took place prior to the effective date of this act.

**SECTION 7.** The department shall establish a hotline program, so-called, for the purpose of informing the public about the UFFI program and other provisions of this act.

**SECTION 8.** There is hereby established a UFFI advisory council, consisting of the commissioner of public health or his designee, and four members to be appointed by the governor, one of whom shall be a UFFI homeowner and one of whom shall be a representative of the UFFI industry. Said appointed members shall serve for three year terms and shall advise the department of public health on the implementation and administration of this act. Said council shall file an annual report detailing revenues and expenditures, with the clerks of the senate and the house of representatives on or before the last Wednesday of December.

**SECTION 9.** No real estate agent, broker or salesman licensed under the provisions of chapter one hundred and twelve of the General Laws, and no bank or other lending institution which offers a mortgage on a residential dwelling containing UFFI, shall be liable for any damage to health resulting from exposure to UFFI; provided, however, that the seller of the dwelling has stated to such real estate agent, broker, salesman, bank or lending institution that he has made, prior to closing, the disclosure to the purchaser specified by section twelve I of chapter two hundred and fifty-five of the General Laws.

No seller of a residential dwelling containing UFFI shall be liable for any damage to health resulting from exposure to UFFI, provided, however, that he has made the disclosure to the purchaser specified by section twelve I of said chapter two hundred and fifty-five prior to the sale of such dwelling.

A landlord of a residential dwelling containing UFFI shall, prior to entering into any lease or rental agreement, or, in the case of existing tenants, upon discovery that UFFI is present in dwelling, disclose to such tenant or prospective tenant the presence of UFFI and the formaldehyde level of the premises. No landlord of a residential dwelling containing UFFI who makes such disclosure shall be liable to any person for any damage to health resulting from exposure to UFFI in such dwelling.

Any seller or landlord of a residential dwelling containing UFFI shall have the obligation to determine the presence of UFFI, and any such seller shall make the disclosure required by section twelve I of said chapter two hundred and fifty-five.

**SECTION 10.** Chapter 112 of the General Laws is hereby amended by inserting after section 87AAA the following section:–

Section 87AAA 1/2. No real estate agent, broker or salesman licensed under the provisions of this chapter, shall refuse to offer for sale or



## **ACTS, 1985. – Chap. 728.**

otherwise discriminate in any manner, including by written or oral statement, in the sale, lease, or purchase of a residence, house or dwelling, against homeowners of dwellings with urea formaldehyde foam insulation where the indoor ambient formaldehyde level is 0.10 parts per million or below.

**SECTION 11.** Chapter 167 of the General Laws is hereby amended by adding the following section:–

Section 47. No bank, lending institution or mortgagee doing business in the commonwealth, which for the purpose of this section shall include any bank as defined in section one and shall include any national bank, national banking association, federal savings bank, federal savings and loan association, and federal credit union, shall discriminate in any manner in the financing of a home or dwelling, against homeowners or dwellings where the indoor ambient formaldehyde level is 0.10 ppm or below. Said banks, lending institutions, or mortgagees shall be relieved from all liability resulting from urea formaldehyde foam insulation (UFFI), if the seller, buyer, or mortgagor has disclosed the presence of UFFI and the formaldehyde level in the ambient air of the home or dwelling to the bank, lending institution, or mortgagee. A statement from the seller, buyer, or mortgagor that there is no UFFI in the home shall relieve such lending institution or mortgagee from all liability resulting from UFFI. Nothing contained in this section shall restrict the right of any bank, lending institution or mortgagee to process or deny a mortgage application in accordance with accepted underwriting practices or criteria.

**SECTION 12.** Chapter 225 of the General Laws is hereby amended by inserting after section 12H the following section:–

Section 12I. Any person offering for sale a residential dwelling insulated with urea formaldehyde foam insulation, hereinafter called UFFI, shall determine whether UFFI is in the dwelling and, if it is, shall have the dwelling tested for formaldehyde gas and shall make the following disclosure to any prospective purchaser: (1) where such UFFI is located within the building, and, if known, when it was installed; (2) a copy of the test results; and (3) a copy of information developed by the department of public health concerning formaldehyde levels in dwellings insulated with UFFI and dwellings not insulated with UFFI.

The commissioner of public health shall provide by regulation for the form of notice which meets the requirements of this section.

**SECTION 13.** Upon receipt by the state treasurer and receiver general of the sum of seven hundred and fifty thousand dollars for this program from industry members, the UFFI Trust Fund shall become operative and payments may be made therefrom.

The commissioner shall submit to the advisory council and the clerk of the house of representatives a semiannual report detailing the amount of funds received from industry members, and the costs of implementing the provisions of this act based on the number of approved requests for funding.



**ACTS, 1985. – Chaps. 729, 730.**

In the event that the monies in the UFFI Trust Fund are insufficient to provide for the needs of qualified applicants to the UFFI program, applicants whose applications are pending and prospective applicants at the time such fund is exhausted shall have no right to any payment or testing from the UFFI program, the department of public health, or the commonwealth, but shall retain all private rights of action.

Upon certification by the commissioner of public health to the treasurer that moneys remaining in the trust fund after the purposes of this act have been completed are not needed for implementation and operation of this act, said moneys shall be returned to industry donors or contributors in proportion to their donations or contributions; provided, however, that the department and the commonwealth shall not be liable to industry members or UFFI homeowners for such certification.

**SECTION 14.** The commissioner of public health may promulgate such rules and regulations as may be necessary to carry out the provisions of this act.

**SECTION 15.** This act shall take effect July first, nineteen hundred and eighty-six.

Approved December 31, 1985.

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**Chapter 729. AN ACT RELATIVE TO ELECTION PRECINCTS AND WARDS IN THE CITY OF SALEM.**

Be it enacted, etc., as follows:

Notwithstanding the provisions of section four of chapter fifty-four of the General Laws the redivision of the city of Salem into wards and precincts, established by the city council on June thirteenth, nineteen hundred and eighty-five, approved by the mayor on June eighteenth, nineteen hundred and eighty-five, and approved by the local election districts review commission on July eighth, nineteen hundred and eighty-five, shall be used commencing with the state primary and election in nineteen hundred and eighty-six, and every primary and election, municipal, state or national, held thereafter.

Approved December 31, 1985.

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**Chapter 730. AN ACT AUTHORIZING THE DIVISION OF CAPITAL PLANNING AND OPERATIONS TO SELL AND CONVEY STATE OWNED LAND IN THE CITY OF CAMBRIDGE TO THE CAMBRIDGE HOUSING AUTHORITY.**

Be it enacted, etc., as follows:

The division of capital planning and operations is hereby authorized,



**ACTS, 1985. – Chaps. 731, 732.**

subject to the provisions of sections forty E to forty J, inclusive, of chapter seven of the General Laws, to sell and convey to the Cambridge Housing Authority, by deed approved as to form by the attorney general, a certain parcel of land located in the city of Cambridge, described in deed of Central Trust Co. to Commonwealth of Massachusetts recorded in the southern district registry of deeds, in the county of Middlesex in Book 6873, Pages 352 and 353, subject to such terms and conditions as the said division may prescribe, notwithstanding the restrictions of clause (ii) of subparagraph (b) of section thirty-one of chapter one hundred and twenty-one B of the General Laws.

The said land shall be used for the purpose of developing low or moderate income housing and provided that if the land is not used for said purposes within five years from the effective date of this act, said land shall revert to the commonwealth.

Approved December 31, 1985.

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**Chapter 731. AN ACT REQUIRING CERTAIN BUSINESSES IN THE CITY OF PEABODY TO FILE A LISTING OF ALL CHEMICAL AND FLAMMABLE SUBSTANCES USED IN SAID BUSINESSES.**

Be it enacted, etc., as follows:

The city of Peabody is hereby authorized, by ordinance, to require all commercial and industrial businesses located in said city to file a complete listing of all chemical and flammable substances used in the operation of such businesses with the chief of the fire department and the city clerk; provided however, that any information filed shall be covered by section twenty-one of chapter one hundred and eleven F of the General Laws.

Approved December 31, 1985.

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**Chapter 732. AN ACT REGULATING THE RENTING OR LEASING OF SURPLUS SPACE IN A REGIONAL SCHOOL BUILDING.**

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately provide for the leasing of surplus space in a regional school building, 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 16 of chapter 71 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by adding the following clause:—

(r) To rent or lease with the approval of the commissioner of



**ACTS, 1985. – Chap. 733.**

education surplus space in a school building of the district to house public or private profit-making businesses or nonprofit organizations; provided, however, that if said school building is in actual use such joint occupancy shall not interfere with education programs being conducted therein; and provided, further, that if said school building is not in actual use, such lease must be approved by the city or town in which the said building is located. Such leases may be made for periods not exceeding ten years. The monies received from such rental or lease shall be kept separate and apart from other funds in the district treasury by the district treasurer, and the principal and interest thereon may be expended without further appropriation by the regional school district committee for the upkeep of the facility in which such surplus space is located; provided, however, that any balance remaining in such account at the close of a fiscal year shall be paid into the excess and deficiency fund, so called, of the regional school district as unencumbered funds and expended as provided in section sixteen B 1/2.

Approved January 3, 1986.

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**Chapter 733. AN ACT EXEMPTING CONCESSIONS AT CERTAIN SKATING RINKS FROM PROVISIONS OF THE BIDDING LAW.**

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to give preference to nonprofit community organizations in the awarding of contracts for the operation of certain concessions at certain skating rinks, 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:

Notwithstanding the provisions of sections two B and two D of chapter one hundred and thirty-two A or sections thirty-three and forty-eight of chapter ninety-two of the General Laws or any other general or special law or rule or regulation to the contrary, the department of environmental management and the metropolitan district commission shall establish and promulgate rules and regulations which shall set reasonable minimum fees which shall be paid for the operation of concessions at skating rinks under their respective control. Said rules and regulations shall provide that any nonprofit youth hockey group or organization which submits a bid equal to or higher than such minimum fee shall be awarded the contract for the operation of that concession; provided, however, that if more than one such group or organization submits a bid equal to or higher than said minimum fee, the contract for the operation of the concession shall be awarded to the group or organization submitting the highest bid; and provided, further, that the Massachusetts commission for the blind does not intend to establish a vending facility at said site.

Approved January 3, 1986.



ACTS, 1985. – Chaps. 734, 735.

**Chapter 734. AN ACT RELATIVE TO THE QUABBIN WATERSHED  
ADVISORY COMMITTEE OF THE METROPOLITAN  
WATER RESOURCES AUTHORITY.**

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to protect the privileges of the Swift River Valley Historical Society, 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 114 of chapter 92 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out the third sentence and inserting in place thereof the following sentence:– The commissioner of the metropolitan district commission shall appoint to said advisory committee one person from three names nominated by each of the following organizations: the Massachusetts Council of Sportsmen, the Trout Unlimited, the Quabbin Fisherman's Association, the Worcester County League of Sportsmen, the North Worcester County Quabbin Anglers, the Massachusetts Audubon Society, the Swift River Valley Historical Society, the Massachusetts Wildlife Federation, the New England Sierra Club, and the Friends of Quabbin, Inc.

Approved January 3, 1986.

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**Chapter 735. AN ACT PROVIDING THAT CERTAIN BANKS RECEIVE  
PUBLIC DEPOSITS AND ALLOWING DEPOSITS IN  
EXCESS OF DEPOSIT INSURANCE WHEN  
COLLATERAL IS PLEDGED.**

Be it enacted, etc., as follows:

**SECTION 1.** Chapter 29 of the General Laws is hereby amended by striking out section 34A, as appearing in the 1984 Official Edition, and inserting in place thereof the following section:–

Section 34A. The state treasurer may deposit any portion of the public monies in his possession and funds over which the commonwealth has exclusive control in savings banks as defined in chapter one hundred and sixty-eight, in co-operative banks as defined in chapter one hundred and seventy, subject, however, to the limitations set forth in chapter one hundred and sixty-seven D, or in federal savings banks, and in federal savings and loan associations lawfully doing business in the commonwealth for one year or more. The amount deposited hereunder shall not exceed the amount covered by deposit insurance unless collateral, deemed satisfactory by the state treasurer, is pledged.

**SECTION 2.** Said chapter 29 is hereby further amended by striking out section 34A, as amended by section 1 of this act, and inserting in place thereof the following section:–



**ACTS, 1985. – Chap. 736.**

Section 34A. The state treasurer may deposit any portion of the public monies in his possession and funds over which the commonwealth has exclusive control in savings banks as defined in chapter one hundred and sixty-eight or in co-operative banks as defined in chapter one hundred and seventy for one year or more, subject, however, to the limitations set forth in chapter one hundred and sixty-seven D and in federal savings and loan associations lawfully doing business in the commonwealth for one year or more which shares and accounts are insured by the Federal Savings and Loan Insurance Corporation, but the amount so invested in any one association shall not exceed the amount covered by such insurance.

**SECTION 3.** Section two of this act shall take effect on December thirty-first, nineteen hundred and eighty-eight.

Approved January 3, 1986.

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**Chapter 736. AN ACT ESTABLISHING THE DUKES COUNTY LAND BANK.**

Be it enacted, etc., as follows:

**SECTION 1.** For purposes of this act, the words and phrases set forth in this section shall have the following meanings:-

"Fund", shall refer to the Martha's Vineyard Land Bank Fund established under the provisions of section eight.

"Institutional lender", any bank as defined in section one of chapter one hundred and sixty-seven of the General Laws, any insurance company as defined in section one of chapter one hundred and seventy-five of the General Laws, and any mortgage company or investment company that made more than twenty mortgage loans in the calendar year preceding the year of the relevant mortgage for the purposes of subsection (m) of section twelve, and any national bank, federal savings and loan, federal savings bank, bank holding company, or state or federally chartered credit union.

"Land bank", the Martha's Vineyard Land Bank, established by section two.

"Land bank commission", the Martha's Vineyard land bank commission, established by section three.

"Purchaser", the transferee, grantee or recipient of any real property interests.

"Purchase price", all consideration paid or transferred by or on behalf of a purchaser to a seller or his nominee, or for his benefit, for the transfer of any real property interest, and shall include, but not be limited to, all cash or its equivalent so paid or transferred, all cash or other property paid or transferred by or on behalf of the purchaser to discharge or reduce any obligation of the seller; the principal amount of all notes or their equivalent, or other deferred payments, given or promised to be given by or on behalf of the purchaser to the seller or his



**ACTS, 1985. – Chap. 736.**

nominee; the outstanding balance of all obligations of the seller which are assumed by the purchaser or to which the real property interest transferred remains subject after the transfer, determined at the time of transfer but excluding real estate taxes and other municipal liens or assessments which are not overdue at the time of transfer; and the fair market value at the time of transfer of any other consideration or thing of value paid or transferred by or on behalf of the purchaser, including, but not limited to, any property, goods or services paid, transferred or rendered in exchange for such real property interest.

"Real property interest", any present or future legal or equitable interest in or to real property, and any beneficial interest therein, including the interest of any beneficiary in a trust which holds any legal or equitable interest in real property, but shall not include any interest which is limited to any or all of the following: the dominant estate in any easement or right of way; the right to enforce any restriction; any estate at will or at sufferance, and any estate for years having a term of less than thirty years; the reversionary right, condition, or right of entry for condition broken; the interest of a mortgagee or other secured party in any mortgage or security agreement; and the interest of a stockholder in a corporation, or a partner in a partnership.

"Seller", the transferor, grantor or immediate former owner of any real property interests.

"Time of transfer", of any real property interest shall mean, the time at which such transfer is legally effective as between the parties thereto, and, in any event, with respect to a transfer evidenced by an instrument recorded with the appropriate registry of deeds or filed with the assistant recorder of the appropriate registry district, not later than the time of such recording or filing.

"Town advisory board", a town board created in each of the towns of Chilmark, Edgartown, Gay Head, Oak Bluffs, Tisbury, and West Tisbury to assist the land bank commission in administering this act, such advisory board to consist of one representative duly appointed, either from its membership or otherwise, by each of the following town boards should they exist: conservation commission, planning board, board of assessors, board of health, park and recreation commission, board of selectmen and water commission.

**SECTION 2.** There is hereby established a Martha's Vineyard land bank, to be administered by a land bank commission established by section three, for the purpose of acquiring and holding and managing land and interests in land of the types set forth in section five.

This act shall not affect the eligibility of any member town to receive funds under the land conservation program created under section eleven of chapter one hundred and thirty-two A of the General Laws, or under any similar state program.

**SECTION 3.** The land bank shall be administered by a land bank commission, a public body corporate, consisting of seven persons, of whom there shall be one person who is a legal resident of each of the towns of Chilmark, Edgartown, Gay Head, Oak Bluffs, Tisbury, and West



## ACTS, 1985. – Chap. 736.

Tisbury, each person to be elected for a three year term, in the same manner as other elected town officials, provided that the initial terms, drawn by lot by the initial six appointed members, shall be staggered so that two members are elected each year, following the initial election of members; and provided, further, that the county commissioners shall, respectively, appoint the initial six members, including one person who is a legal resident of each of the six towns that comprise the land bank to serve from the effective date of this act until the first elections of the regular members at each town's first regular or special town election following the effective date of this act. The secretary of environmental affairs or his designee shall be a voting member of the land bank commission. Members shall serve without compensation. The initial appointed members shall adopt temporary rules and regulations to the extent necessary to conduct business until the regular members are elected. The land bank commission shall elect a chairman and a secretary/treasurer from among its regular members; shall adopt, after holding a public hearing and after requesting recommendations from the town advisory board of each of the six member towns that comprise the commission, rules and regulations for conducting its internal affairs and procedural guidelines for carrying out its responsibilities under this act. The land bank commission shall also adopt a management plan for managing each of its land holdings in a manner consistent with section five. In preparing a management plan for any parcel of land, the land bank commission shall use, as guidelines, the open space and master plans, if any, of the town or towns in which such parcel is located and shall request the recommendations of the town advisory board of any such town or towns; and the adoption or change of any such management plan shall be subject to the approval of the town advisory board of any such town or towns. Decisions of the land bank commission shall be by a majority vote, of those present and voting, and no business shall be transacted without four town representative members present; provided that decisions to acquire interests in land and to request state approval of any proposed disposition of an interest in any parcel of land or of any change in its use shall require the affirmative approval of at least four town representative members of the land bank commission. The land bank commission shall keep accurate records of its meetings and actions and shall file an annual report which shall be printed in the annual report of each member town.

**SECTION 4.** The land bank commission shall, subject to the provisions of this act, have the power and authority to: (a) acquire, by purchase or gift, fee simple interests, and any lesser interests, in any parcel of land situated within any of the towns that comprise the land bank commission, of the types set forth in section five, including any improvements thereon; provided, however, that the land bank commission shall, in considering any such acquisition, use as guidelines the open space and master plans, if any, of the town or towns in which such parcel is located, and provided further that any such acquisition shall require the approval of the town advisory board of any such town or towns; (b) accept gifts of funds to further the purposes of the land bank;



**ACTS, 1985. – Chap. 736.**

(c) take any such interests in land by eminent domain pursuant to chapter seventy-nine of the General Laws, but only by a vote of the land bank commission in which at least four town representative members vote in favor of such taking and further, only after having been authorized to do so in each instance by a two-thirds majority vote of each town that comprises the land bank commission at its annual or special town meeting, and further, only after first making a reasonable effort to negotiate the acquisition thereto by purchase; (d) dispose of all or any part of its interests in any parcel of land, or change the use of such parcel, but only with the approval of the town advisory board of the town or towns in which such parcel is located and with the approval of the secretary of environmental affairs and subject to the provisions of Article XCVII of the Articles of Amendment to the Constitution of the Commonwealth, to the extent applicable; (e) incur debt, pledging the full faith and credit of each of the towns that comprise the land bank commission but only after having been authorized to do so in each instance by a two-thirds majority town meeting vote of each town; or of the county of Dukes County, but only after having been authorized to do so in each instance by a two-thirds majority town meeting vote of each town in the county of Dukes County; and incur debt, without such town meeting authorization, by pledging the full faith and credit of the land bank commission; (f) prepare an annual budget, which shall be subject to approval by the town advisory boards of the majority of the member towns of the land bank commission; (g) hire such staff and obtain such professional services as are necessary in order to perform its duties; (h) administer and manage its interests in any parcel of land in a manner consistent with section five and with the land management plan adopted for such parcel under section three; and (i) expend funds to supplement municipal, state, or federal funds for the purchase of interests in land of the types set forth in section five.

**SECTION 5.** Interests in land to be acquired shall be situated in a member town and may consist of any of the following: (a) land to protect existing and future well fields, aquifers and recharge areas; (b) agricultural lands; (c) forest land; (d) fresh and salt water marshes and other wetlands; (e) ocean and pond frontage, beaches, dunes, and adjoining backlands, to protect their natural and scenic resources; (f) land to protect scenic vistas; (g) land for nature or wildlife preserve; (h) easements for trails and for publicly owned lands; and (i) land for passive recreational use.

**SECTION 6.** The land bank commission shall retain any real property interest acquired pursuant to this act predominantly in its natural, scenic or open condition, and shall not restrict access to any property interest on the basis of residency or domicile. With respect to any such real property interest, the land bank commission shall not permit any of the following without the approval of the town advisory board of the town or towns in which such real property is located and without the approval of the secretary of environmental affairs: (a) construction or placing of buildings, roads, signs, billboards, or other advertising utilities or other



**ACTS, 1985. – Chap. 736.**

structures on or above the surface, (b) dumping or placing of soil or other substance or material as landfill, or dumping or placing of trash, waste or unsightly or offensive materials, (c) removal or destruction of trees, shrubs, or other vegetation, (d) excavation, dredging, or removal of loam, peat, gravel, soil, rock, or other mineral substance in such manner as to affect the surface, (e) surface use except for purposes permitting the land or water area to remain predominantly in its natural condition, (f) activities detrimental to drainage, flood control, water conservation, erosion control, or soil conservation, or (g) other acts or uses detrimental to such retention of land or water areas. In determining whether or not to approve a request from the land bank commission to use or improve any real property interest acquired by the land bank commission in a manner otherwise prohibited by this section, the secretary of environmental affairs shall consider whether such request is in the interest of conservation and any national, state, regional or local program in furtherance thereof, and also any public, state, regional or local comprehensive land use or development plan affecting the land, and any known proposal by a governmental body for use of the land.

**SECTION 7.** The land bank commission shall file annually with the secretary of environmental affairs a report of its activities during the year preceding such filing. The report shall list all real property interests currently held by the land bank commission, including a description of the use thereof, and shall include all acquisitions, improvements and dispositions of real property interests by the land bank commission during such year. The report shall also include a current plan for its future operations which shall be, as far as possible, consistent with the open space and master plans of each of the towns and with any regional planning in the area. The secretary of environmental affairs may require any other information which said secretary deems important.

**SECTION 8.** The land bank commission shall meet its financial obligations by drawing upon a fund, to be set up as a revolving or sinking account within the treasury of the county of Dukes County. Deposits into the fund shall include (a) funds appropriated, borrowed, or transferred to be deposited into the fund by vote of the county commissioners of the county of Dukes County or of town meetings of the towns that comprise the land bank commission; (b) voluntary contributions of money and other liquid assets to the fund; (c) revenues from fees imposed upon the transfer of real property interests as set forth in section ten occurring after the effective date of this act as set forth in section fifteen, together with payments of interest and penalties under section thirteen; and (d) proceeds from disposal of real property or interests. All expenses lawfully incurred by the land bank commission in carrying out the provisions of this act shall be evidenced by proper vouchers and shall be paid by the county treasurer of said county only upon submission of warrants duly approved by the land bank commission. The county treasurer of said county shall prudently invest available assets of the fund, and all income thereon shall accrue to the fund.



ACTS, 1985. – Chap. 736.

**SECTION 8A.** An account shall be established by the land bank commission for each member town of the land bank. The county treasurer shall administer all transactions for the individual town accounts. Of the revenues collected under this act, fifty per cent shall remain in the fund, to be directly administered by the land bank commission in accordance with the provisions of this act. The remaining fifty per cent of the revenues collected shall be transferred to the individual town accounts in proportion to the amount of collected land bank revenues derived from transfer of any real property interest in any real property within each respective town. The town advisory board of each member town shall control the disbursement of funds of its respective land bank account; such revenue to be used for purchases allowable under this act within its town borders and for land bank purchases outside its town borders.

**SECTION 9.** The land bank commission shall keep a full and accurate account of its actions including a record as to when, from or to whom, and on what account money has been paid or received relative to this act, and as to when, from and to whom and for what consideration real property interests have been acquired, improved, or disposed of. Said records or accounts shall be subject to examination by the director of accounts or his agent pursuant to section forty-five of chapter thirty-five of the General Laws.

Said county treasurer shall keep a full and accurate account stating when, from or to whom, and on what account money has been paid or received relative to the activities of the land bank commission and the land bank. Said account shall be subject to examination by the director of accounts or his agent pursuant to section forty-four of chapter thirty-five of the General Laws.

**SECTION 10.** There is hereby imposed a fee equal to two per cent of the purchase price upon the transfer of any real property interest in any real property situated in a member town or towns provided that the fee percentage may be reduced by a two-thirds vote in favor of such reduction at the annual town meetings of a majority of the member towns in a single calendar year. Said fee shall be the liability of the purchaser of such real property interest, and any agreement between the purchaser and the seller or any other person with reference to the allocation of the responsibility for bearing said fee shall not affect such liability of the purchaser. Such fee shall be paid to the land bank commission or its designee, and shall be accompanied by a copy of the deed or other instrument evidencing such transfer, if any, and an affidavit signed under oath or under the pains and penalties of perjury by the purchaser or his legal representative, attesting to the true and complete purchase price and the basis, if any, upon which the transfer is claimed to be exempt in whole or in part from the fee imposed hereby. The land bank commission, or its designee, shall promptly thereafter execute and issue a certificate indicating that the appropriate fee has been paid or that the transfer is exempt from the fee, stating the basis for the exemption. The register of deeds for the county of Dukes



**ACTS, 1985. – Chap. 736.**

County, and the assistant recorder for the registry district of the county of Dukes County, shall not record or register, or receive or accept for recording or registration, any deed, except a mortgage deed, relative to a real property interest in land situated in any town that is a member of the land bank commission to which has not been affixed such a certificate, executed by the land bank commission or its designee. Failure to comply with this requirement shall not affect the validity of any instrument. The land bank commission shall deposit all fees received hereunder with the county treasurer of the county of Dukes County as a part of the fund established by section eight. The fee imposed hereunder shall be due simultaneously with the time of transfer upon which it is imposed.

**SECTION 11.** At any time within seven days following the issuance of the certificate of payment of the fee imposed by section ten, the purchaser or his legal representative may return said certificate to the land bank commission or its designee for cancellation, together with an affidavit signed under oath or under the pains and penalties of perjury that the transfer, with respect to which such certificate was issued, has not been consummated, and thereupon the fee paid with respect to such transfer shall be forthwith returned to the purchaser or his legal representative.

**SECTION 12.** The following transfers of real property interests shall be exempt from the fee established by section ten. Except as otherwise provided, the purchaser shall have the burden of proof that any transfer is exempt hereunder:

(a) transfers to the government of the United States, the commonwealth, and any of their instrumentalities, agencies, or subdivisions;

(b) transfers which, without additional consideration, confirm, correct, modify or supplement a transfer previously made;

(c) transfers made as gifts without consideration; in any proceedings to determine the amount of any fee due hereunder, it shall be presumed that any transfer for consideration of less than fair market value of the real property interests transferred was made as a gift without consideration to the extent of the difference between the fair market value of the real property interests transferred and the amount of consideration claimed by the purchaser to have been paid or transferred, if the purchaser shall have been at the time of transfer the spouse, the lineal descendant, or the lineal ancestor of the seller, by blood or adoption, and otherwise it shall be presumed that consideration was paid in an amount equal to the fair market value of the real property interests transferred, at the time of transfer;

(d) transfer to the trustees of a trust in exchange for a beneficial interest received by the seller in such trust; distributions by the trustees of a trust to the beneficiaries of such trust;

(e) transfers by operation of law without actual consideration, including but not limited to transfers occurring by virtue of the death or bankruptcy of the owner of a real property interest;



ACTS, 1985. – Chap. 736.

(f) transfers made in partition of land and improvements thereto, under the provisions of chapter two hundred and forty-one of the General Laws;

(g) transfers to any charitable organization as defined in clause third of section five of chapter fifty-nine of the General Laws, or any religious organization, provided that the real property interests so transferred shall be held by the charitable or religious organization solely for its public, charitable or religious purposes;

(h) transfers to a mortgagee in foreclosure of the mortgage held by such mortgagee, and transfers of the property subject to a mortgage to the mortgagee in consideration of the forbearance of the mortgagee from foreclosing said mortgage;

(i) transfers made to a corporation or partnership at the time of its formation, pursuant to which transfer no gain or loss is recognized under the provisions of section three hundred and fifty-one of the Internal Revenue Code of 1954;

(j) transfers made to a stockholder of a corporation in liquidation of the corporation, and transfers made to a partner of a partnership in dissolution of the partnership;

(k) transfers consisting of the division of marital assets under the provisions of section thirty-four of chapter two hundred and eight of the General Laws or other provisions of law;

(l) transfers of property consisting in part of real property interests situated within a town that is a member of the land bank commission and in part of other property interests, to the extent that the property transferred consists of property other than real property situated within a town that is a member of the land bank commission provided that the purchaser shall furnish the land bank commission with such information as it shall require or request in support of the claim of exemption and manner of allocation of the consideration for such transfers; and

(m) the first one hundred thousand dollars of the purchase price of a transfer made to a purchaser who, or whose spouse at the time of transfer, has at no time prior to said transfer owned or possessed any real property interest as defined in section one either within or without a town that is a member of the land bank commission provided that the purchaser intends to make the real property interest which is the subject of the transfer the purchaser's actual domicile within two years of the time of transfer, with the intention to remain permanently or for an indefinite time and without any certain purpose to return to a former place of abode; provided, further, that in the event of a subsequent transfer within five years of the transfer exempted from the fee under this subsection, other than the transfer of a mortgage to an institutional lender, the fee exempted shall become due, together with accumulated interest and penalties, and in addition to any fee otherwise due as a result of the subsequent transfer. The purchaser shall certify as to the foregoing, and the land bank commission shall attach to the deed a certificate which shall recite the fact that there is running with the land a lien equal to the amount of the fee exempted plus accumulated interest and penalties until such time as all conditions of this subsection have been met.



ACTS, 1985. – Chap. 736.

**SECTION 13.** A purchaser who fails to pay all or any portion of the fee established by section ten on or before the time when the same is due shall be liable for the following additional payments in addition to said fee:

(a) Interest. The purchaser shall pay interest on the unpaid amount of the fee to be calculated from the time of transfer at a rate equal to fourteen per cent per annum.

(b) Penalties. Any person who, without fraud or willful intent to defeat or evade a fee imposed by this act, fails to pay all or a portion of the fee within thirty days after the time of transfer, shall pay a penalty equal to five per cent of the outstanding fee as determined by the land bank commission for each month or portion thereof thereafter that the fee is not paid in full; provided, however, that in no event shall the amount of any penalty imposed hereunder exceed twenty-five per cent of the unpaid fee due at the time of transfer. Whenever the land bank commission determines that all or a portion of a fee due under this chapter was unpaid due to fraud with intent to defeat or evade the fee imposed by this chapter, a penalty equal to the amount of said fee as determined by the land bank commission shall be paid by the purchaser in addition to said fee.

**SECTION 14.** (a) The land bank commission shall notify a purchaser by registered or certified mail of any failure to discharge in full the amount of the fee due under this act and any penalty or interest assessed. The land bank commission shall grant a hearing on the matter of the imposition of said fee, or of any penalty or interest assessed, if a petition requesting such hearing is received by the land bank commission within thirty days after the mailing of said notice. The land bank commission shall notify the purchaser in writing by registered or certified mail of its determination concerning the deficiency, penalty or interest within fifteen days after said hearing. Any party aggrieved by a determination of the land bank commission concerning a deficiency, penalty or interest may, after payment of said deficiency, appeal to the district or superior court within three months after the mailing of notification of the land bank commission. Upon the failure to timely petition for a hearing, or appeal to said courts, within the time limits hereby established, the purchaser shall be bound by the terms of the notification, assessment or determination, as the case may be, and shall be barred from contesting the fee, and any interest and penalty, as determined by the land bank commission. All decisions of said courts shall be appealable. Every notice to be given under this section by the land bank commission shall be effective if mailed by certified or registered mail to the purchaser at the address stated in a recorded or registered instrument by virtue of which the purchaser holds any interest in land, the transfer of which gives rise to the fee which is the subject of such notice; and if no such address is stated or if such transfer is not evidenced by an instrument recorded or registered in the public records in the county of Dukes County, such notice shall be effective when so mailed to the purchaser in care of any person appearing of record to have a fee interest in such land, at the address of such person as set



**ACTS, 1985. – Chap. 736.**

forth in an instrument recorded or registered in the county of Dukes County.

(b) All fees, penalties and interest required to be paid pursuant to this act shall constitute a personal debt of the purchaser and may be recovered in an action of contract or in any other appropriate action, suit or proceeding brought by the land bank commission; said action, suit or proceeding shall be subject to the provisions of chapter two hundred and sixty of the General Laws.

(c) If any purchaser liable to pay the fee established by this act neglects or refuses to pay the same, the amount, including any interest and penalty thereon, shall be a lien in favor of the land bank commission upon all property and rights to property, whether real or personal, belonging to such purchaser. Said lien shall arise at the time of transfer and shall continue until the liability for such amount is satisfied. Said lien shall in any event terminate not later than six years following the time of transfer. Said lien shall not be valid as against any mortgagee, pledgee, purchaser or judgment creditor unless notice thereof has been filed by the land bank commission (i) with respect to real property or fixtures, in the registry of deeds for the county of Dukes County, or (ii) with respect to personal property, in the office in which a security or financing statement or notice with respect to the property would be filed in order to perfect a nonpossessory security interest belonging to the person named in the relevant notice, subject to the same limitations as set forth in section fifty of chapter sixty-two of the General Laws.

In any case where there has been a refusal or neglect to pay any fee, interest or penalties imposed by this act, whether or not levy has been made, the land bank commission, in addition to other modes of relief, may direct a civil action to be filed in a district or superior court of the commonwealth to enforce the lien of the land bank commission under this section with respect to such liability or to subject any property of whatever nature, of the delinquent, or in which he has any right, title or interest, to the payment of such liability.

The land bank commission may issue a waiver or release of any lien imposed by this section with the approval of the town advisory board of the town or towns in which the property subject to the lien is located. Such waiver or release shall be conclusive evidence that the lien upon the property covered by the waiver or release is extinguished.

**SECTION 15.** Any town that is a member of the land bank may withdraw therefrom by the affirmative vote of a majority of the voters at any regular or special town election; provided, however, that any real property interest held by the land bank and situated in a town that withdraws from the land bank shall remain within the land bank until such time as the land bank is dissolved. Any town that withdraws from the land bank shall remain liable for all debts and obligations incurred by the land bank for any real property interests situated within said town during the period of such town's membership to the same extent as if the town had remained a member; provided that, such town shall not be liable for debts and obligations incurred by the land bank subsequent to the town's withdrawal. A town that has so withdrawn may petition the



**ACTS, 1985. – Chap. 737.**

legislature to renew its membership.

If membership in the land bank is reduced to fewer than three of the original members, the land bank shall be dissolved. Upon dissolution of the land bank, title to all funds and other properties held by the land bank shall vest in the towns of the county of Dukes County as herein provided after provision is made for payment of all bonds, notes and other obligations of the land bank. Interests in land held by the land bank at the time of dissolution shall be transferred to the town or towns in which the land is situated, and placed under the control and management of the local conservation commission who shall maintain, protect, limit the future use of, improve, or otherwise conserve and properly utilize open spaces of land. Such land shall remain subject to the provisions of Article XCVII of the Articles of Amendments to the Constitution of the Commonwealth. Funds held by the land bank shall be transferred to the towns of the county of Dukes County to be used to further the purposes of this act. Funds shall be transferred to each town in proportion to the fees generated by lands situated within such town over the life of the land bank under this act.

The land bank commission shall submit no amendment of this act to the general court unless and until such amendment has been approved by two-thirds of the member towns by the affirmative vote of a majority of the voters of the towns at any regular or special election.

**SECTION 16.** Acceptance of this act, by each of the towns of Chilmark, Edgartown, Gay Head, Oak Bluffs, Tisbury, and West Tisbury shall be by the affirmative vote of a majority of the voters at any regular or special town election at which the question of acceptance has been placed on the ballot. This act shall become effective on the date on which acceptance by all of said towns has been effected.

Approved January 3, 1986.

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**Chapter 737. AN ACT RELATIVE TO THE APPOINTMENT AND REMOVAL OF STATE DEPARTMENT HEADS.**

Be it enacted, etc., as follows:

**SECTION 1.** Chapter 6 of the General Laws is hereby amended by striking out section 17, as appearing in the 1984 Official Edition, and inserting in place thereof the following section:-

Section 17. The armory commission, the art commission, the executive office for administration and finance, the board of regents of higher education, the commissioners of uniform state laws, the public bequest commission, the state ballot law commission, and the superintendent, the board of the Soldiers' Home in Holyoke, who shall have the title of superintendent and is appointed by the board of trustees of the Soldiers' Home in Holyoke, the Schooner Ernestina commission, the alcoholic beverages control commission, the trustees of the state library, the state racing commission, the Greylock reservation



**ACTS, 1985. – Chap. 737.**

commission, the Port of Boston commission, the Massachusetts commission against discrimination, the office of handicapped affairs, the state airport management board, weather amendment board, the boxers' fund board, finance advisory board, medical, dental and nursing scholarship board, retirement law commission, the Massachusetts aeronautics commission, the obscene literature control commission, the mobile homes commission, the consumers' council, the Massachusetts police training council, the Massachusetts rehabilitation commission, the service corps commission, the World War II memorial commission, the health and welfare commission, the advisory council on home and family, state council on juvenile behavior, governor's mansion commission, the American and Canadian French cultural exchange commission, Massachusetts education communications commission, the committee on criminal justice, the commission of employment of the handicapped, and the nutrition board, shall serve under the governor, and shall be subject to such supervision as the governor deems necessary and proper.

**SECTION 2.** Said chapter 6 is hereby further amended by striking out section 22, as so appearing, and inserting in place thereof the following section:–

Section 22. There shall be an officer to be known as the commissioner of veterans' services, who shall be appointed by the secretary of human services, with the approval of the governor, and who shall serve at the pleasure of the secretary and may be removed by the secretary at any time subject to the approval of the governor. This position shall be classified in accordance with section forty-five of chapter thirty and the salary shall be determined in accordance with section forty-six C of said chapter thirty. The commissioner shall devote his whole time to the duties of his office. He shall be state agent for the settlement of pension, bounty, back pay, compensation and other claims of citizens of the commonwealth against the government of the United States, or of any state thereof, on account of military or naval service, and he shall assist and advise war veterans, and their dependents, heirs or legal representatives, with respect to the filing, prosecution and settlement of such claims.

There shall be under the control of the commissioner a supervisor of benefits who for the purpose of insuring fair and compassionate treatment of the problems of mothers of deceased veterans, shall have supervision of all applications by mothers of deceased veterans for aid under chapter one hundred and fifteen. Such supervisor shall be the mother of a deceased veteran. She shall be appointed and may be removed by the commissioner with the approval of the secretary of human services and her salary shall be determined by the commissioners with the secretary's approval. All her decisions shall be subject to the approval of the commissioner.

**SECTION 3.** Section 24 of said chapter 6, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:– The commissioner of veterans' services, with the approval of the secretary of human services, shall appoint and may



**ACTS, 1985. – Chap. 737.**

remove a deputy and a second deputy commissioner of veterans' services who shall devote their whole time to the duties of their offices.

**SECTION 4.** Section 40 of said chapter 6, as so appearing, is hereby amended by striking out the second and third sentences and inserting in place thereof the following two sentences:– Upon the expiration of the term of office of a member, his successor shall be appointed by the secretary of human services, with the approval of the governor, to serve for seven years. The secretary shall designate one of the members as chairman.

**SECTION 5.** Said section 40 of said chapter 6, as so appearing, is hereby further amended by adding the following paragraph:–

The secretary of human services shall appoint, with the approval of the governor, the superintendent of the soldiers' home, who shall have the title of commandant, and who shall serve at the pleasure of the secretary and may be removed by the secretary at any time, subject to the approval of the governor.

**SECTION 6.** Paragraph (a) of section 75 of said chapter 6, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:– The commission shall be under the direction, supervision and control of the commissioner of rehabilitation, in sections seventy-five to eighty-four, inclusive, called the commissioner, who shall be appointed by the secretary of human services, with the approval of the governor, and who shall serve at the pleasure of the secretary and may be removed by the secretary at any time, subject to the approval of the governor.

**SECTION 7.** Section 76 of said chapter 6, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:– There shall be an advisory council to consist of fourteen members to be appointed by the secretary of human services, with the approval of the governor.

**SECTION 8.** Said section 76 of said chapter 6, as so appearing, is hereby further amended by striking out the last sentence and inserting in place thereof the following sentence:– Upon notification by the chairman that a vacancy exists, the secretary of human services shall appoint, with the approval of the governor, another member to fill the unexpired term.

**SECTION 9.** Section 84H of said chapter 6, as so appearing, is hereby amended by striking out the second and third sentences and inserting in place thereof the following sentence:– In addition, twelve members shall be appointed by the secretary of human services, with the approval of the governor, nine of whom shall be deaf persons selected from a list submitted by one or more organizations serving the deaf, two of whom shall be two parents selected from a list submitted by one or more organizations of parents of deaf persons, and one of whom shall be a



**ACTS, 1985. – Chap. 737.**

licensed physician specializing in otolaryngology.

**SECTION 10.** Section 32 of chapter 6A of the General Laws, as so appearing, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:– The commission shall consist of three members appointed by the secretary of human services, with the approval of the governor.

**SECTION 11.** Said section 32 of said chapter 6A, as so appearing, is hereby amended by striking out the seventh sentence and inserting in place thereof the following sentence:– The secretary of human services may, with the approval of the governor, remove any member for cause, and, with like approval, shall fill any vacancy for the unexpired term.

**SECTION 12.** The second paragraph of section 129 of said chapter 6, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:– The commissioner for the blind shall be appointed by the secretary of human services, with the approval of the governor for a term of five years and until his successor is duly appointed and qualified.

**SECTION 13.** The third paragraph of said section 129 of said chapter 6, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:– The advisory board shall consist of five persons, qualified by training, experience, or demonstrated interest in the amelioration of the condition of the blind to be appointed by the secretary of human services, with the approval of the governor, for a term of five years.

**SECTION 14.** Said third paragraph of said section 129 of said chapter 6, as so appearing, is hereby further amended by striking out the last sentence and inserting in place thereof the following sentence:– The chairman of the board shall forthwith notify the secretary of human services that such vacancy exists.

**SECTION 15.** Section 2 of chapter 17 of the General Laws, as so appearing, is hereby amended by striking out the third sentence and inserting in place thereof the following sentence:– The secretary of human services, with the approval of the governor, shall appoint the commissioner who shall serve at the pleasure of the secretary and may be removed by the secretary at any time, subject to the approval of the governor.

**SECTION 16.** Section 3 of chapter 18 of the General Laws, as so appearing, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:– The secretary of human services shall appoint, with the approval of the governor, the commissioner who shall serve at the pleasure of the secretary and may be removed by the secretary at any time, subject to the approval of the governor.



ACTS, 1985. – Chap. 737.

**SECTION 17.** Section 6 of said chapter 18, as so appearing, is hereby amended by striking out the first and second paragraphs and inserting in place thereof the following two paragraphs:–

There shall be in the department a state advisory board consisting of the commissioner, who shall serve ex officio, and twenty-five members to be appointed by the secretary of human services, with the approval of the governor, not more than eight of whom shall be providers of assistance, and not more than eight of whom shall be recipients of assistance. The members of such board shall serve for terms of three years. The commissioner shall not be entitled to vote on any matter before the board.

The board shall meet at least ten times a year upon call of the chairman, who shall be designated by the secretary of human services, with the approval of the governor, and the board shall meet at any time upon call of the secretary or the commissioner. If any appointed member is absent for four regularly scheduled meetings, exclusive of July and August, in any calendar year, his office as a member of the board shall be deemed vacant. The chairman shall forthwith notify the secretary of human services that such vacancy exists.

**SECTION 18.** Section 1 of chapter 18A of the General Laws, as so appearing, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:– The secretary of human services shall appoint, with the approval of the governor, the commissioner who shall serve at the pleasure of the secretary and may be removed by the secretary at any time, subject to the approval of the governor.

**SECTION 19.** Section 3 of said chapter 18A, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:– The commissioner shall appoint, with the approval of the secretary of human services, a deputy commissioner who shall not be subject to the provisions of chapter thirty-one and to whom the provisions of section nine A of chapter thirty shall not apply, but who shall possess the same qualifications required of the commissioner, except that he shall have had not less than five years of experience in work related to juvenile delinquency, of which at least two shall have been as an administrator.

**SECTION 20.** The first paragraph of section 9 of said chapter 18A, as so appearing, is hereby amended by striking out the first five sentences and inserting in place thereof the following five sentences:– There shall be in the department an advisory committee consisting of the commissioner of youth services, the commissioner of welfare, the director of the office for children, the commissioner of mental health, the commissioner of education, the chairman of the parole board, the commissioner of correction, the commissioner of probation, the commissioner of rehabilitation, the chairman of the Massachusetts commission against discrimination, the executive secretary of the Massachusetts Society for the Prevention of Cruelty to Children, and the



**ACTS, 1985. – Chap. 737.**

executive secretary of the Massachusetts Committee on Children and Youth, all of whom shall serve ex officio, and nine other persons to be appointed by the secretary of human services, with the approval of the governor. Such persons shall have demonstrated professional involvement and expertise in the area of delinquency prevention, rehabilitation, and treatment. Upon the expiration of the term of office of any appointed member, his successor shall be appointed for a term of three years. Any vacancy shall be filled by the secretary of human services for the remainder of the unexpired term. The secretary of human services shall appoint from the members of said committee a chairman and a vice chairman.

**SECTION 21.** Section 6 of chapter 18B of the General Laws, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:– The department shall be under the direction, supervision and control of the commissioner of social services, in this chapter called the commissioner, who shall be appointed by the secretary of human services, with the approval of the governor, and who shall serve at the pleasure of the secretary, and may be removed by the secretary at any time, subject to the approval of the governor.

**SECTION 22.** Section 2 of chapter 19 of the General Laws, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:–

The secretary of human services shall appoint, with the approval of the governor, a commissioner of mental health who shall serve at the pleasure of the secretary and may be removed by the secretary at any time, subject to the approval of the governor.

**SECTION 23.** The first paragraph of section 3 of said chapter 19, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:– The commissioner shall appoint, with the approval of the secretary of human services, a person qualified to serve as deputy commissioner of mental health.

**SECTION 24.** Section 11 of said chapter 19, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:– There shall be an advisory council for the planning, construction, operation or utilization of community mental health centers, consisting of the commissioners of mental health, public health, social services and public welfare, ex officio, and twelve persons to be appointed by the secretary of human services, with the approval of the governor, who shall include representatives of nongovernmental organizations or groups, of agencies of the commonwealth concerned with planning, construction, operation or utilization of community mental health centers or other mental health facilities, including representatives of consumers of the services provided by such centers and facilities who are familiar with the need for such services.



**ACTS, 1985. – Chap. 737.**

**SECTION 25.** Section 12 of said chapter 19, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:– There shall be an advisory council for the planning, construction, operation or utilization of facilities for the mentally retarded, consisting of the commissioners of mental health, public health, social services and public welfare, serving ex officiis, and twelve other persons to be appointed by the secretary of human services, with the approval of the governor, who shall include representatives of agencies of the commonwealth concerned with planning, construction, operation or utilization of facilities for the mentally retarded and of nongovernmental organizations or groups concerned with education, employment, rehabilitation, welfare, and health, and including representatives of consumers of the services provided by such facilities.

**SECTION 26.** Section 16 of said chapter 19, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:– There shall be a mental health advisory council consisting of thirty persons to be appointed by the secretary of human services, with the approval of the governor, fifteen of whom shall be members of community mental health and retardation area boards, and of the remaining fifteen at least seven shall be appointed to represent one of the following professions and groups: state level medical, psychological, nursing, educational, social work, occupational therapy, or bar associations, associations for mental health and for mental retardation, industrial and labor groups and the clergy.

**SECTION 27.** Section 1 of chapter 27 of the General Laws, as so appearing, is hereby amended by striking out the fourth sentence and inserting in place thereof the following sentence:– The secretary of human services shall appoint, with the approval of the governor, the commissioner who shall serve at the pleasure of the secretary and may be removed by the secretary at any time, subject to the approval of the governor.

**SECTION 28.** Section 2 of said chapter 27, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:– The commissioner shall, with the approval of the secretary of human services, appoint and may, with like approval, remove a deputy commissioner for institutional services, a deputy commissioner for personnel and training, and a deputy commissioner for community services. The position of deputy commissioner shall be classified in accordance with section forty-five of chapter thirty and the salary shall be determined in accordance with section forty-six C of said chapter thirty and he shall devote his full time during business hours to the duties of his office.

**SECTION 29.** The first paragraph of section 3 of said chapter 27, as so appearing, is hereby amended by striking out the first five sentences and inserting in place thereof the following five sentences:– There shall be in the department an advisory committee on correction consisting of the



**ACTS, 1985. – Chap. 738.**

commissioner of correction, the chairman of the parole board and the commissioner of probation, ex officio, and nine members, one of whom shall be a representative of labor, to be appointed by the secretary of human services, with the approval of the governor. Upon the expiration of the term of an appointed member his successor shall be appointed in like manner for a term of three years. The committee shall meet at least twice a year upon call of the chairman, who shall be designated by the secretary of human services with the approval of the governor, and shall meet at any time upon call of the secretary of human services. The committee shall visit at least annually each correctional institution of the commonwealth. Its function shall be to give advice and to make recommendations to the governor and the secretary on any matter affecting the department of the correction program, and it shall have no other powers or duties.

**SECTION 30.** Section 3 of chapter 28A of the General Laws, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:– There shall be an office for children under the exclusive supervision and control of a director who shall be appointed by the secretary of human services, with the approval of the governor, and who shall serve at the pleasure of the secretary and may be removed by the secretary at any time, subject to the approval of the governor.

**SECTION 31.** The first paragraph of section 8 of said chapter 28A, as so appearing, is hereby amended by striking out the first three sentences and inserting in place thereof the following three sentences:– There shall be a statewide advisory council to the office to consist of the secretaries of the executive offices of human services, manpower affairs, communities and development and educational affairs, or their designees, twelve members appointed by the secretary of human services with the approval of the governor, and sixteen members elected by the local councils for children established under section seven. All appointed or elected members shall serve for terms of three years. The chairman shall be appointed by the secretary of human services, with the approval of the governor, from the appointed or elected members and shall serve as chairman at the pleasure of the secretary, provided, that no member may serve as chairman for more than six years.

Approved January 3, 1986.

EMERGENCY LETTER: January 3, 1986 @ 2:32 P.M.

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**Chapter 738. AN ACT MAKING CERTAIN CHANGES IN THE PROBATE LAWS OF THE COMMONWEALTH.**

Be it enacted, etc., as follows:

**SECTION 1.** Section 1A of chapter 191 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out clause 6 and inserting in place thereof the following clause:–



ACTS, 1985. – Chap. 738.

6. A direction in a will or instrument of trust to pay taxes caused by, resulting from, or imposed by reason of the death of the testator or donor, as the case may be, out of the decedent's probate estate or trust estate or other property, shall not include, unless the will or instrument of trust or a provision of such tax laws specifically provides otherwise, taxes levied or assessed under the tax laws of the United States or of the commonwealth or of any foreign state or commonwealth (i) on generation-skipping transfers or (ii) on any qualified terminable interest property in which the decedent had a qualifying income interest for life.

SECTION 2. Section 2 of chapter 192 of the General Laws, as so appearing, is hereby amended by striking out clause (iii) and inserting in place thereof the following two clauses:– (iii) without testimony if it is executed, attested and made self-proved by affidavits of the testator and the witnesses, each affidavit being made before an officer authorized to administer oaths under the laws of the state where executed, and under official seal. The same signature shall be sufficient for the execution, or attestation and the affidavit. The form and content shall be substantially as follows:

I, the undersigned testator, do hereby declare that I sign (or direct another to sign for me) and execute this instrument as may last will, that I sign it willingly (or willingly direct another to sign for me) in the presence of each of said witnesses, and that I execute it as my free and voluntary act for the purposes herein expressed.

\_\_\_\_\_  
(Testator)

We, the undersigned witnesses, each do hereby declare in the presence of the aforesaid testator that the testator signed (or directed another to sign for him and said person signed for him) and executed this instrument as his last will in the presence of each of us, that he signed it willingly (or willingly directed another to sign it for him), that each of us hereby signs this will as witness in the presence of the testator, and that to the best of our knowledge the testator is eighteen (18) years of age or over, of sound mind, and under no constraint or undue influence.

\_\_\_\_\_  
(Witness)

\_\_\_\_\_  
(Witness)

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

Subscribed, sworn to and acknowledged before me by the said testator and witnesses this \_\_\_\_\_ day of \_\_\_\_\_ A.D.

(Signed) \_\_\_\_\_

(Sealed) \_\_\_\_\_

Official Capacity



ACTS, 1985. – Chap. 739.

; or (iv) without testimony if the probate of such instrument is assented to in writing by the widow or husband of the deceased, if any, and by all the heirs at law and next of kin.

**SECTION 3.** The second paragraph of section 24 of chapter 206 of the General Laws, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:— Except as otherwise provided herein, if there are other persons interested to whom such notice has not been given by delivery or registered mail, or if the interests of persons unborn, unascertained or legally incompetent to act in their own behalf are not represented except by the accountant, the court shall appoint as guardian ad litem a competent and disinterested person to represent such interests and persons, and such guardian ad litem shall without further notice or action by the court also represent with respect to such account all interested persons who may be born after the date of his appointment.

**SECTION 4.** Said section 24 of said chapter 206, as so appearing, is hereby further amended by inserting after the second paragraph the following paragraph:—

The requirement of the appointment of a guardian ad litem to represent the interests of any person where a legally competent person entitled to notice herein has a power to appoint the entire property administered by the accountant to (1) himself, his creditors, his estate or creditors of his estate or (2) to any other class of appointees which is broader than the class of those persons who would take in default of the exercise of such power, or who has, at all times during the accounting period, a right to withdraw all of such property may be waived by the court in its discretion.

Approved January 3, 1986.

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**Chapter 739. AN ACT FURTHER REGULATING THE UPPER BLACKSTONE WATER POLLUTION ABATEMENT DISTRICT RELATIVE TO INDUSTRIAL PRETREATMENT REQUIREMENTS AND CONSTRUCTION OF OPERATOR TRAINING FACILITY.**

Be it enacted, etc., as follows:

Chapter 752 of the acts of 1968 is hereby amended by striking out section 7 and inserting in place thereof the following section:—

Section 7. The Board shall prevent the discharge into the sewers of substances which may damage or impair the sewage collection and sewage treatment system or interfere with its maintenance or operation. The Board shall have the right to enter any premises from which any sewer or drain is connected with any part of the sewerage system under its control or with any tributary sewerage or with the systems of any member city, town or sewer district, to determine the



**ACTS, 1985. – Chap. 740.**

condition of said sewer, drain, sewage pumping station, trunk or treatment works, determine the amount and character of sewage, drainage or other wastes flowing therefrom, determine whether such sewage, drainage or other wastes does, or is likely to, damage or impair the sewerage system or the system of any member city, town or sewer district or interfere with its maintenance and operation, and inspect records required to be kept by regulation of the Board or other governmental entity. The Board shall, for the proper and reasonable operation of its works, make regulations as to the quantity and character of any sewage, drainage or other wastes discharged into any sewer under its control or any sewer tributary thereto, but such regulations shall not be less than those established by the division of water pollution control. Such regulations may impose federal, state and other industrial pretreatment requirements directly upon industrial and other users of the sewage collection systems tributary to the district's sewerage system and may require such industrial and other users to obtain discharge permits directly from the district. The district may charge permit application fees to recover the costs of processing permit applications and may directly bill industrial users to recover the district's annual cost of implementing an industrial pretreatment program. The district may enforce its regulations directly against industrial and other users of sewer systems tributary to district sewage works by court action seeking injunctive relief and penalties or by other action deemed appropriate by the district. Violation of district regulations is subject to a civil penalty up to ten thousand dollars, with each day of a continuing violation being a separate violation.

Approved January 3, 1986.

EMERGENCY LETTER: January 22, 1986 @ 10:24 A.M.

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**Chapter 740. AN ACT AUTHORIZING CITIES, TOWNS AND DISTRICTS TO ENTER INTO CERTAIN AGREEMENTS WITH BANKING INSTITUTIONS.**

Be it enacted, etc., as follows:

**SECTION 1.** Chapter 44 of the General Laws is hereby amended by inserting after section 53E the following section:–

Section 53F. Notwithstanding any general or special law to the contrary, a treasurer or collector of a city, town or district is authorized to enter into written agreements for a period not to exceed one year, with banking institutions having their principal offices in the commonwealth, pursuant to which such treasurer or collector agrees to maintain on deposit in said institutions specified amounts of the funds of the municipality in return for said institutions providing banking services. The type of services that so qualify shall be prescribed by the commissioner of revenue.

Such agreements shall be in a form approved by said commissioner and shall contain such terms and conditions as he may deem appropriate to ensure fiscal stability and full disclosure. Each such agreement shall



**ACTS, 1985. – Chap. 740.**

include the total amount that may be required to be on deposit at all times; and, if said amount may vary from time to time, every such agreement shall specify a minimum total amount that may be required to be on deposit at any time. If the city, town or district fails to maintain the agreed amount on deposit, the city, town or district shall not be authorized to appropriate funds for such purpose.

No such agreement shall be effective unless and until it has been approved in a town having a town council, by the town council; in a city by the city council and the mayor if required by law; in a regional school district, by the regional school committee; and in any other district, by the district meeting. With respect to any other town, no such agreement shall be effective unless and until the town meeting has authorized its treasurer or collector to enter into such agreements under the provisions of this section during the fiscal year in which such agreement takes effect and such agreement has been approved by the selectmen of such town.

Said commissioner shall promulgate, and from time to time revise, reasonable rules, regulations, standards and guidelines necessary to promote prudent fiscal management and to ensure that such agreements are not utilized to circumvent the appropriation process or other provisions of law.

As used in this section, "district" shall include a regional school district.

A treasurer or collector who has entered into an agreement pursuant to this section shall file with the commission, in such form and at such time as the commissioner shall prescribe, such information as the commissioner shall require in order to determine whether funds maintained on deposit with a banking institution have exceeded the amount required by said agreement. The commissioner shall report annually on agreements maintained pursuant to this section. Such report shall identify, for each city, town or district maintaining such agreement, each banking institution with which such agreement was maintained in the year covered by the report, and the average daily amount, if any, maintained on deposit with such banking institution in excess of the amount necessary to fulfill the terms of agreement. A copy of such report shall be provided to the collector or treasurer, the mayor and city council, the selectmen, the regional school committee, the prudential committee, if any, otherwise the commissioners, of each city, town, or district named therein, and a copy of the same shall be furnished to the inspector general.

**SECTION 2.** Said chapter 44 is hereby further amended by inserting after section 55A the following section:–

Section 55B. All moneys held in the name of a city, town, district or regional school district or any other account under the jurisdiction of a city, town, district, or regional school district or officer thereof, which are not required to be kept liquid for purposes of distribution, shall be invested in such a manner as to require the payment of interest on the money at the highest possible rate reasonably available, taking account of safety liquidity and yield. All officers of a city, town district or



**ACTS, 1985. – Chap. 741.**

regional school district who control the investment of such funds shall invest them prudently, consistent with the provisions of sections fifty-four and fifty-five and, if the funds are the result of gift or grant or bequest, the terms of such gift or grant or bequest, so as to accrue the highest amount of interest reasonably available on such funds taking account of safety, liquidity and yield. The provisions of section sixty-two shall not apply to this section.

Approved January 3, 1986.

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**Chapter 741. AN ACT FURTHER REGULATING THE RETIREMENT SYSTEMS OF THE COMMONWEALTH.**

Be it enacted, etc., as follows:

**SECTION 1.** Paragraph (c) of subdivision (4) of section 28 of chapter 32 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by adding the following three sentences:–

Notwithstanding any provisions of this paragraph to the contrary, educational collaboratives, as authorized by the provisions of section four E of chapter forty, shall annually reimburse the state board of retirement for the employer's normal cost as determined by the actuary, of benefits earned during each year by such collaborative employees who are members of the state employees' retirement systems. The actuary shall determine such cost as a percentage of the payroll of the collaborative for such employees based upon the most recent actuarial valuation of the state retirement system. Said reimbursed amount shall be deposited in the pension reserve fund of the state employees' retirement system.

**SECTION 2.** Section 5D of chapter 40 of the General Laws, as so appearing, is hereby further amended by striking out the fifth paragraph and inserting in place thereof the following paragraph:–

The commissioner of revenue shall establish rules, regulations and procedures requiring counties, cities, towns, and districts to recover employee pension costs from federal grant monies. Each spending agency of said counties, cities, towns and districts shall, at such time and in the manner as said commissioner shall prescribe, authorize and direct the treasurer to initiate such procedures as said commissioner shall establish to transfer to the pension reserve fund for the system of which such federally funded employee is a member, an amount equal to the employer's normal cost, of retirement benefits, as determined by the actuary pursuant to chapter thirty-two, which are incurred as a result of said federal grant. Expenditures for the payment of salaries to be made from any federal grant shall not be made until the full amount of such pension costs are recovered in accordance with such procedures as said commissioner shall establish. The commissioner of administration shall develop a schedule phasing in the full assessment of such normal costs, provided that full normal costs shall be assessed against all federal grant



**ACTS, 1985. – Chaps. 742, 743.**

payrolls not later than October first, nineteen hundred and eighty-eight. If any federal granting authority refuses to allow the pension cost recovery provided for in this paragraph, the amount of any such recovery so refused, upon final adjudication of said refusal, shall be transferred from the pension reserve fund back to the spending agency.

Approved January 3, 1986.

EMERGENCY LETTER: January 21, 1986 @ 4:45 P.M.

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**Chapter 742. AN ACT PROVIDING FOR THE CERTIFICATION OF BACKFLOW PREVENTION DEVICE TESTERS.**

Be it enacted, etc., as follows:

Section 160A of chapter 111 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by adding the following paragraph:—

The department of environmental quality engineering may establish a program for the certification of persons desiring to engage in inspection and testing of backflow prevention devices installed in accordance with regulations adopted pursuant to section one hundred and sixty. Said department shall adopt regulations for the certification program prescribing the minimum qualifications which such persons must meet in order to be certified. A certificate issued pursuant to this paragraph shall be valid for not longer than three years, after which it shall be renewed by said department upon receipt of an application from the person desiring to be so certified and a determination by said department that the applicant meets the qualifications established by the regulations adopted pursuant to this section. An application to renew a certificate shall be filed not later than one month prior to expiration of such certificate. After notice and opportunity for hearing, said department may suspend or revoke for cause any such certification. Said department may prescribe reasonable application fees for the issuance of such a certificate. Any person who engages in inspecting or testing backflow prevention devices in violation of this paragraph, shall, in addition to any other remedy provided by law, be punished by fine not to exceed five thousand dollars, or by imprisonment for not more than six months, or both.

Approved January 3, 1986.

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**Chapter 743. AN ACT FURTHER REGULATING THE ISSUANCE OF CERTAIN LICENSES.**

Be it enacted, etc., as follows:

**SECTION 1.** Chapter 143 of the General Laws is hereby amended by striking out section 71G, as appearing in the 1984 Official Edition, and inserting in place thereof the following section:—



**ACTS, 1985. – Chap. 743.**

Section 71G. No person shall work as an elevator operator unless he has received a license therefor from the commissioner of public safety. Licenses shall be valid throughout the commonwealth but shall not be assignable or transferable. A license shall continue in force until the date of birth of the licensee occurring more than twelve months but not more than twenty-four months after the date of such license unless suspended or revoked for incompetence or untrustworthiness of the licensee. If any such license or the renewal thereof expires in an even year, any subsequent renewal shall expire on the next anniversary of the licensee's date of birth occurring in an even year. If any such license or renewal thereof expires in an odd year any subsequent renewal shall expire on the next anniversary of the licensee's date of birth occurring in an odd year. A license issued to a person born on February twenty-ninth shall for the purposes of this section expire on March first. Licenses not renewed at the expiration date shall become void, and shall after one year be reinstated only by reexamination of the licensee. A notice of the date of expiration of a license shall, at least thirty days prior to such date, be sent to the licensee. The fee for said license and for each renewal thereof shall be determined annually by the commissioner of administration under the provisions of section three B of chapter seven.

**SECTION 2.** Section 75 of said chapter 143, as so appearing, is hereby amended by striking out the fourth and fifth sentences and inserting in place thereof the following eight sentences:– Licenses shall be valid throughout the commonwealth but shall not be assignable or transferable. A license shall continue in force until the date of birth of the licensee occurring more than twelve months but not more than twenty-four months after the date of such license unless suspended or revoked for incompetence or untrustworthiness of the licensee. If any such license or the renewal thereof expires in an even year, any subsequent renewal shall expire on the next anniversary of the licensee's date of birth occurring in an even year. If any such license or renewal thereof expires in an odd year any subsequent renewal shall expire on the next anniversary of the licensee's date of birth occurring in an odd year. A license issued to a person born on February twenty-ninth shall for the purpose of this section expire on March first. Licenses not renewed at the expiration date shall become void, and shall after one year be reinstated only by reexamination of the licensee. A notice of the date of the expiration of a license shall, at least thirty days prior to such date, be sent to the licensee. The fee for said license and each renewal thereof shall be determined annually by the commissioner of administration under the provisions of section three B of chapter seven.

**SECTION 3.** The second paragraph of section 85 of chapter 146 of the General Laws, as so appearing, is hereby amended by striking out the last sentence and inserting in place thereof the following seven sentences:– Licenses shall be valid throughout the commonwealth but shall not be assignable or transferable. A license shall continue in force until the date of birth of the licensee occurring more than twelve months but not more than twenty-four months after the date of such license unless



**ACTS, 1985. – Chaps. 744, 745.**

suspended or revoked for incompetence or untrustworthiness of the licensee. If any such license or the renewal thereof expires in an even year, any subsequent renewal shall expire on the next anniversary of the licensee's date of birth occurring in an even year. If any such license or renewal thereof expires in an odd year, any subsequent renewal shall expire on the next anniversary of the licensee's date of birth occurring in an odd year. A license issued to a person born on February twenty-ninth shall for the purpose of this section expire on March first. Licenses not renewed at the expiration date shall become void, and shall after one year be reinstated only by reexamination of the licensee. A notice of the date of expiration of a license shall, at least thirty days prior to such date, be set to the licensee.

**SECTION 4.** The first paragraph of section 10D of chapter 148 of the General Laws, as so appearing, is hereby amended by striking out the last sentence and inserting in place thereof the following two sentences:– Licenses not renewed at the expiration date shall become void, and shall after one year be reinstated only by reexamination of the licensee. A notice of the date of expiration of a license shall, at least thirty days prior to such date, be sent to the licensee.

**SECTION 5.** Section 20B of said chapter 148, as so appearing, is hereby amended by inserting after the ninth sentence the following two sentences:– Licenses not renewed at the expiration date shall become void, and shall after one year be reinstated only by reexamination of the licensee. A notice of the date of expiration of a license shall, at least thirty days prior to such date, be sent to the licensee.

Approved January 3, 1986.

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**Chapter 744. AN ACT FURTHER REGULATING THE TRANSFER OF CERTAIN JUVENILES IN CERTAIN CASES TO THE ADULT DIVISION OF THE TRIAL COURT.**

Be it enacted, etc., as follows:

Section 61 of chapter 119 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by inserting after the word "determine", in lines 27 and 28, the following words:– ; provided, however, that when the child is alleged in a complaint to have violated the provisions of section one of chapter two hundred and sixty-five, the court shall make written findings upon which the determination was made to treat such child as a delinquent.

Approved January 3, 1986.

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**Chapter 745. AN ACT RELATIVE TO INVESTMENT PRACTICES OF LIFE INSURANCE COMPANIES.**



**ACTS, 1985. – Chap. 745.**

Be it enacted, etc., as follows:

**SECTION 1.** Section 63 of chapter 175 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by inserting after the word "mortgagee," in line 162, the words:– or a mortgagee under paragraph 7B.

**SECTION 2.** Said section 63 of said chapter 175, as so appearing, is hereby further amended by striking out, in line 176, the word "limitations" and inserting in place thereof the word:– provisions.

**SECTION 3.** Said section 63 of said chapter 175, as so appearing, is hereby further amended by inserting after paragraph 7A the following paragraph:–

7B. In loans of the same classes as those described in paragraphs 7 and 7A and subject to the provisions therein expressed except that the security for any such loan may be a junior lien upon the real property or leasehold estate securing such loan if the sum of the amounts unpaid on loans secured by prior mortgage liens and the amount of such loan does not exceed (i) seventy-five per cent of the fair market value of such real property or leasehold estate at the time of making such loan if clause (ii) of this paragraph 7B is not applicable or, (ii) ninety per cent of the fair market value thereof if such loan is secured by a junior lien upon residential real property designed for occupancy by not more than four families and if the terms of such loan otherwise meet the requirements of the second sentence of said paragraph 7. Real property and leasehold estates shall not be deemed to be encumbered within the meaning of said paragraph 7 by reason of the existence of prior mortgage liens permitted by this paragraph; provided, however, that, other than such prior mortgage liens, there is no condition or right of reentry or forfeiture under which such junior lien can be cut off, subordinated or otherwise disturbed.

**SECTION 4.** Paragraph 14A of said section 63 of said chapter 175, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:– In the bonds, notes or other evidences of indebtedness issued, assumed or guaranteed by companies incorporated under the laws of the United States, or any state thereof, or of the Dominion of Canada or any province thereof, or of associations or trusts as defined in section one of chapter one hundred and eighty-two, whose net earnings during either of the last two fiscal years next preceding the date of investment and whose average net earnings during the five fiscal years next preceding the date of investment, have been not less than (1) one and one-half times the average fixed charges for said period if such company, association or trust is not engaged in wholesale, retail, installment, commercial or consumer financing, factoring or the small loan business, or is not a bank chartered or incorporated under the laws of the United States or any state thereof; or (2) one and fifteen one-hundredths times the average fixed charges for said period if such company, association or trust is so



**ACTS, 1985. – Chap. 745.**

engaged or is a bank chartered or incorporated under the laws of the United States or any state thereof.

**SECTION 5.** Clause (2) of paragraph 14C of said section 63 of said chapter 175, as so appearing, is hereby amended by striking out subclause (b) and inserting in place thereof the following subclause:– (b) the net earnings of any lessee under clause (2), or of any such company, association or trust assuming or guaranteeing said lease, during either of the last two fiscal years next preceding the date of investment and the average net earnings of such lessee, or company, association or trust assuming or guaranteeing said lease, during the five fiscal years next preceding the date of investment, have been not less than (1) one and one-half times the average fixed charges for said period if such company, association or trust is not engaged in wholesale, retail, installment, commercial or consumer financing, factoring or the small loan business, or is not a bank chartered or incorporated under the laws of the United States or any state thereof: or (2) one and fifteen one-hundredths times the average fixed charges for said period if such company, association or trust is so engaged or is a bank chartered or incorporated under the laws of the United States or any state thereof.

**SECTION 6.** The second paragraph of section 64 of said chapter 175, as most recently amended by chapter 336 of the acts of 1985, is hereby further amended by striking out the second sentence and inserting in place thereof the following sentence:– The board of directors, or committee thereof, referred to above, may authorize by vote duly recorded in the books of the company, one or more officers of the company or of any other person in the investment advisory business to acquire or dispose of investments for such company between meetings of said board or committee, under such restrictions and conditions as said board, or committee thereof, shall deem advisable, and a copy of such authorization shall be filed with the commissioner; provided, however, that for the purpose of this sentence any such person in the investment advisory business, except a company which controls, is controlled by, or is under common control with such domestic company, shall be registered as an investment adviser under the Investment Advisers Act of 1940 enacted by Congress on August twenty-second, nineteen hundred and forty as amended from time to time, or any similar statute enacted in substitution therefor, and have at least one hundred million dollars of assets under management.

**SECTION 7.** Section 65 of said chapter 175, as appearing in the 1984 Official Edition, is hereby amended by striking out, in line 19, the word "five", and inserting in place thereof the word:– ten.

**SECTION 8.** Said section 65 of said chapter 175, as so appearing, is hereby further amended by striking out, in line 4 and in line 25, the words "paragraph 7 or paragraph 7A" and inserting in place thereof, in each instance the words:– paragraph 7, 7A or 7B.



**ACTS, 1985. – Chap. 745.**

**SECTION 9.** The first paragraph of section 66 of said chapter 175, as so appearing, is hereby amended by striking out the second and third sentences and inserting in place thereof the following two sentences:– No domestic life company shall invest in, acquire or hold directly or indirectly more than twenty-five per cent of the capital stock of any corporation, other than a life company or except as otherwise provided in either section sixty-six C or section sixty-six D; nor, except as otherwise provided in section sixty-six C, shall more than two per cent of its assets be invested in the capital stock of any one corporation, other than a life company, without the approval of the commissioner, and such approval shall be granted only if after making such investment such life company's surplus shall be reasonable in relation to its outstanding liabilities and adequate to its financial needs. The disposition of the property of a domestic life company shall be at all times the responsibility of its board of directors.

**SECTION 10.** The second paragraph of said section 66 of said chapter 175, as so appearing, is hereby amended by striking out the first sentence and by inserting in place thereof the following sentence:– Nothing in this section or in section sixty-three shall prevent such a life company from investing or loaning any funds, not required to be invested as provided in section sixty-three, in any manner that the directors may determine; provided, however, that no loan of such funds shall be made to an individual unless it is secured by collateral security; and provided further, that such funds shall not be invested in the purchase of stock or evidence of indebtedness prohibited by the preceding paragraph except as hereinafter provided.

**SECTION 11.** Said section 66 of said chapter 175, as so appearing, is hereby further amended by striking out the third paragraph and inserting in place thereof the following paragraph:–

Nothing in this section or in section sixty-three shall prevent such a life company from investing or loaning any funds, not required to be invested as provided in section sixty-three, in the transferable certificates of participation or shares, bonds, notes or other evidences or indebtedness whether or not secured by collateral, of an association or trust as defined in section one of chapter one hundred and eighty-two. Any such association or trust shall be treated as if it were a corporation for purposes of this section and of section sixty-six D.

**SECTION 12.** The second paragraph of section 132F of said chapter 175, as so appearing, is hereby amended by inserting after the word "contracts", in line 11, the words:– or any other policies or contracts.

**SECTION 12A.** Said second paragraph of said section 132F of said chapter 175, as so appearing, is hereby further amended by striking out in lines 13, 14, 15 and 16, the words:– "which meets the requirements for the tax treatment specified in sections 402(a), 402(c), 402(d), 403(a), or 403(b) of the Internal Revenue Code of 1954, as such sections may at any time be in force".



**ACTS, 1985. – Chap. 745.**

**SECTION 13.** The third paragraph of said section 132F of said chapter 175, as so appearing, is hereby amended by adding the following sentence:– If and to the extent so provided under the applicable contracts, that portion of the assets of a separate account equal to the reserves and other contract liabilities with respect to such account shall not be chargeable with liabilities arising out of any other business the life company may conduct.

**SECTION 14.** Section 132H of said chapter 175, as so appearing, is hereby amended by striking out the second sentence.

**SECTION 15.** The first paragraph of section 141 of said chapter 175, as so appearing, is hereby amended by adding the following sentence:– This safety fund shall be in addition to any safety fund accumulated from a mutual domestic life company's surplus funds attributable to its nonparticipating business, which funds may be appointed equitably, in the discretion of the company, as part of any annual dividend on participating business.

**SECTION 16.** Said chapter 175 is hereby further amended by striking out section 149, as so appearing, and inserting in place thereof the following section:–

Section 149. A domestic life company is authorized to issue both participating and nonparticipating policies of life, endowment and accident and sickness insurance, and annuity and pure endowment contracts, but no such company shall issue any such participating policies or contracts which do not by their terms give to the holders thereof full right to participate in the accumulations of said company attributable to such business as provided in section one hundred and forty.

Every domestic mutual and stock life company issuing both participating and nonparticipating policies or contracts shall file with the commissioner each year together with its annual statement for the year a separate calculation of its annual analysis of operations by line of business.

A domestic life company issuing policies or contracts on the nonparticipating plan may provide therein that, in addition to the rate of interest guaranteed by the company to be paid on deferred payments of the proceeds, excess interest may be paid thereon at such rate as the company may annually declare; and the inclusion in any nonparticipating policy or contract of such provision shall not be construed to make the policy or contract participating.

The provisions of sections ninety-four, one hundred and ten, one hundred and thirty-two D and one hundred and thirty-seven relative to membership and voting rights shall not apply to nonparticipating policies and contracts issued by a domestic mutual life company under this section, unless the domestic mutual life company elects to provide membership and voting rights in the policy or contract.

The provisions of this section shall not apply to policies of reinsurance.

**SECTION 17.** Chapter 175 of the General Laws is hereby amended by



**ACTS, 1985. – Chap. 745.**

inserting after section 146A, as appearing in the 1984 Official Edition, the following section 147:–

Section 147. 1. This section may be referred to and cited as the "Massachusetts Life and Health Insurance Guaranty Association Law".

2. The following words as used in this section, unless the context otherwise requires, shall have the following meanings:

"Account", any of the three accounts created under subsection 6.

"Association", the Massachusetts Life and Health Insurance Guaranty Association created under subsection 6.

"Contractual obligation", any obligation under a policy or contract or portion thereof for which coverage is provided under subsection 4.

"Covered policy or contract", any policy, contract or group certificate within the scope of this section as provided in subsection 4.

"Impaired insurer", a member insurer which, is not an insolvent insurer, and (a) is deemed by the commissioner to be potentially unable to meet its obligations, or (b) is placed under an order of rehabilitation or conservation by a court of competent jurisdiction.

"Insolvent Insurer", a member insurer which is placed under an order of liquidation by a court of competent jurisdiction with a finding of insolvency.

"Member Insurer", any insurer licensed or which holds a certificate of authority to transact in the commonwealth any kind of insurance for which coverage is provided under subsection 4 and any insurer whose license or certificate of authority to transact in the Commonwealth such insurance may have been suspended, revoked, not renewed, or voluntarily withdrawn after the effective date of this section, other than a (a) fraternal benefit society, (b) mutual protective association, (c) mutual assessment company or other entity that operates on an assessment basis, (d) medical service corporation, (e) hospital service corporation, (f) health maintenance organization, (g) dental service corporation, (h) optometric service corporation, (i) mandatory state pooling plan, (j) insurance exchange, (k) savings and insurance bank as defined in section one of chapter one hundred and seventy-eight or other depository underwriting insurance subject to analagous terms and conditions, or (j) any other entity similar to any of the above.

"NAIC", the National Association of Insurance Commissioners or its successor organization.

"Person", any individual, corporation, partnership, association or voluntary organization.

"Premiums", amounts received on covered policies or contracts, less premiums, considerations and deposits returned thereon, and less dividends and experience credits thereon. Premiums does not include any amount received for any policies or contracts or for the portions of any policies or contracts for which coverage is not provided under subdivision paragraph (B) of subsection 4, except for subclause (d) of clause (2) of said paragraph (B) and clause (3) of paragraph (B).

"Published monthly average", the monthly average of the composite yield on seasoned corporate bonds as:– (a) published by Moody's Investors Service, Inc., or any successor thereto, or (b) established by regulation promulgated by the commissioner setting forth a substantially



**ACTS, 1985. – Chap. 745.**

similar average in the event that such monthly average is no longer so published.

"Resident", any person who resides in the commonwealth at the time a member insurer is determined to be an impaired or insolvent insurer and to whom a contractual obligation is owed. A person may be a resident of only one state, which in the case of a person, other than a natural person, shall be its principal place of business.

"Supplemental contract", any agreement entered into for the distribution of policy or contract proceeds.

3. The purpose of this section is to protect, subject to certain limitations, the persons specified in paragraph (A) of subsection 4, against failure in the performance of contractual obligations, under life and health insurance policies and annuity contracts specified in paragraph (B) of said subsection 4, because of the impairment or insolvency of the member insurer that issued the policies or contracts. To provide such protection, an association of insurers, the members of which are subject to assessment, is hereby created to pay benefits and to continue coverages, as limited herein.

4. (A) This section shall provide coverage for the policies and contracts specified in paragraph (B) of this subsection:

(1) To persons who, regardless of where they reside except for non-resident certificate holders under group policies or contracts, are the beneficiaries, assignees or payees of the persons covered under subclause (2), and

(2) To persons who are owners of such policies or contracts, or are insureds or annuitants under such policies or contracts, and who (a) are residents, or (b) are not residents, but only under all of the following conditions: (i) the insurers which issued such policies or contracts are domiciled in the commonwealth, (ii) such insurers never held a license or certificate of authority in the states in which such persons reside, (iii) such states have a life and health insurance guaranty association, and (iv) such persons are not eligible for coverage by such guaranty association.

(B) (1) This section shall provide coverage to the persons specified in paragraph (A) of this subsection for direct, non-group life, health, annuity, and supplemental policies or contracts, and for certificates under direct group life and health insurance policies or annuity or supplemental contracts issued by member insurers, except as otherwise limited in this section.

(2) This section shall not provide coverage under:–

(a) any portion of a policy or contract not guaranteed by the insurer, or under which the risk is borne by the policy or contract holder;

(b) any policy or contract of reinsurance, other than reinsurance for which assumption certificates have been issued;

(c) any annuity contract or group annuity certificate that is not issued to and owned by an individual, except to the extent of any annuity benefits guaranteed to an individual by the insurer under any such contract or certificate;

(d) any portion of a policy or contract to the extent that the rate of interest on which it is based, (i) averaged over the period of four years prior to the date on which the Association becomes obligated with



**ACTS, 1985. – Chap. 745.**

respect to such policy or contract, exceeds the rate of interest determined by subtracting two percentage points from the published monthly average as averaged for the same four year period, and (ii) on and after the date on which the Association becomes obligated with respect to such policy or contract, exceeds the rate of interest determined by subtracting three percentage points from the published monthly average as most recently available on the date on which the Association becomes obligated with respect to such policy or contract;

(e) any plan or program of an employer, association or similar entity to provide life, health, or annuity benefits to its employees or members to the extent that such plan or program is self-funded or uninsured, including but not limited to benefits payable by an employer, association or similar entity under (i) a Multiple Employer Welfare Arrangement as defined in Section 514 of the Employee Retirement Income Security Act of 1974, as amended; (ii) a minimum premium group insurance plan; (iii) a stop-loss group insurance plan; or (iv) an administrative services only contract;

(f) any portion of a policy or contract to the extent that it provides dividends or experience rating credits, or provides that any fees or allowances be paid to any person, including the policy or contract holder, in connection with the service to or administration of such policy or contract; and

(g) any policy or contract issued in the Commonwealth by a member insurer at a time when it was not licensed or did not have a certificate of authority to issue such policy or contract in the commonwealth.

(3) The benefits for which the Association may become liable shall in no event exceed the lesser of:

(a) the contractual obligations for which the insurer is liable or would have been liable if it were not an impaired or insolvent insurer, or

(b) with respect to any one life: (i) three hundred thousand dollars in life insurance death benefits, but not more than one hundred thousand dollars in net cash surrender and net cash withdrawal values under life insurance policies; (ii) one hundred thousand dollars in health insurance benefits, including any net cash surrender and net cash withdrawal values; (iii) one hundred thousand dollars in the present value of annuity benefits, including net cash surrender and net cash withdrawal values; but in no event shall the Association's liability exceed three hundred thousand dollars in the aggregate for all life insurance, health insurance and annuity benefits, including net cash surrender and net cash withdrawal values.

(C) The protection provided by this section shall not apply where any guaranty protection is provided, independent of this section, to residents of the commonwealth by laws of the domiciliary state or jurisdiction of an impaired or insolvent insurer.

5. This section shall be liberally construed to effect the purpose under subsection 3 which shall constitute an aid and guide to interpretation.

6. (A) There is created a nonprofit, legal entity to be known as the Massachusetts Life and Health Insurance Guaranty Association. All member insurers shall be and remain members of the Association as a condition of their authority to transact insurance in the commonwealth.



**ACTS, 1985. – Chap. 745.**

The Association shall perform its functions under the plan of operation established and approved under subsection 10 and shall exercise its powers through a board of directors established under subsection 7. For purposes of administration and assessment, the Association shall maintain three accounts:

- (1) the health insurance account;
- (2) the life insurance account; and
- (3) the annuity account.

(B) The Association shall be under the immediate supervision of the commissioner.

7. (A) The board of directors of the Association shall consist of not less than five nor more than nine member insurers serving terms as established in the plan of operation. The members of the board of directors shall be selected by member insurers subject to the approval of the commissioner. Vacancies on the board of directors shall be filled for the remaining period of the term by a majority vote of the remaining board members, subject to the approval of the commissioner. To select the initial board of directors, and initially organize the Association, the commissioner shall give notice to all member insurers of the time and place of the organizational meeting. In determining voting rights at the organizational meeting each member shall be entitled to one vote in person or by proxy. If the board of directors is not selected within sixty days after notice of the organizational meeting, the commissioner may appoint the initial members.

(B) In approving selections or in appointing members to the board of directors, the commissioner shall consider, among other things, whether member insurers are fairly represented.

(C) Members of the board of directors may be reimbursed from the assets of the Association for expenses incurred by them as members of the board of directors but shall not otherwise be compensated by the Association for their services.

8. (A) If a member insurer is an impaired domestic insurer, the Association may, in its discretion, and subject to any conditions imposed by the Association that (i) do not defeat the reasonable expectations of the policyholder or contractholder as to the benefits afforded under a policy or contract, (ii) that are approved by the commissioner, and (iii) that are, except in cases of court ordered conservation or rehabilitation, also approved by the impaired insurer:–

(1) guarantee, assume or reinsure, or cause to be guaranteed, assumed, or reinsured, any or all of the policies or contracts of the impaired insurer;

(2) provide such monies, pledges, notes, guarantees, or other means as are proper to effectuate subsection (1) and assure payment of the contractual obligations of the impaired insurer pending action pursuant thereto; or

(3) loan money to the impaired insurer.

(B)(1) If a member insurer is an impaired insurer, whether domestic, foreign or alien, and the insurer is not paying claims in a timely fashion, then subject to the preconditions specified in clause (2) of this paragraph the Association shall, in its discretion, either (a) take any of the actions



ACTS, 1985. – Chap. 745.

specified in paragraph (A), subject to the conditions therein, or (b) provide substitute benefits, with respect to covered policies or contracts, in lieu of the contractual obligations of the impaired insurer, solely for: health claims and death benefits, pursuant to paragraph (D); periodic annuity benefit payments; supplemental benefits; and cash withdrawals for policy or contract owners who petition therefor under claims of emergency or hardship in accordance with standards proposed by the Association and approved by the commissioner.

(2) The Association shall be subject to the requirements of clause (1) only if: (a) (i) in the case of an impaired domestic insurer, an order instituting a rehabilitation proceeding has been entered pursuant to section one hundred and eighty B of chapter one hundred and seventy-five; or (ii) in the case of an impaired foreign or alien insurer a petition for rehabilitation or liquidation of the impaired insurer has been filed in a court of competent jurisdiction in its state of domicile by the commissioner of that state;

(b) the laws of the impaired insurer's state of domicile provide that until all payments of or on account of the impaired insurer's contractual obligations by all guaranty associations, along with all expenses thereof and interest on all such payments and expenses, shall have been repaid to the guaranty associations or a plan of repayment by the impaired insurer shall have been approved by the guaranty associations (i) the delinquency proceedings shall not be dismissed; (ii) neither the impaired insurer nor its assets shall be returned to the control of its shareholders or private management; and (iii) it shall not be permitted to solicit or accept new business or have any suspended or revoked license restored.

(c) in the event the impaired insurer is a foreign or alien insurer, (i) it has been prohibited from soliciting or accepting new business in the commonwealth, and (ii) its certificate of authority has been suspended or revoked.

(C) If a member insurer is an insolvent insurer, the Association shall, in its discretion, either:

(1) (a) guaranty, assume or reinsure, or cause to be guaranteed, assumed or reinsured, the covered policies or contracts of the insolvent insurer; or

(b) assure payment of the contractual obligations of the insolvent insurer; and

(c) provide such monies, pledges, guarantees, or other means as are reasonably necessary to discharge such duties; or

(2) With respect only to life and health insurance policies provide benefits and coverages in accordance with paragraph (D).

(D) (1) When proceeding under subclause (b) of clause (1) of paragraph (B) or clause (2) of paragraph (C), the Association shall, with respect to only life and health insurance policies:

(a) assure payment of benefits for premiums identical to the premiums and benefits, except for terms of conversion and renewability, that would have been payable under the group policies of the insurer for claims incurred not later than the earlier of the next renewal date under such policies or contracts or forty-five days, but in no event for a claim incurred less than thirty days after the date on which the Association



ACTS, 1985. – Chap. 745.

becomes obligated with respect to such policies. Notwithstanding the foregoing, the Association may, if it finds the premium rate under a group policy to be inadequate, increase such premium rate in an amount approved by the commissioner.

(b) (i) with respect to individual policies, assure payment of benefits for premiums identical to the premiums and benefits, except for terms of conversion and renewability, that would have been payable under such policies of the insurer, for claims incurred not later than the earlier of the next renewal date, if any, under such policies, or one year from the date on which the Association becomes obligated with respect to such policies, but in any event for claims incurred not later than the thirtieth day after the Association becomes obligated with respect to such policies; and (ii) make diligent efforts to provide all known insureds, or owners, if other than the insureds, and group policyholders with respect to group policies, thirty days notice of the termination of the benefits provided; and (iii) with respect to individual policies, make available to each known insured, or owner if other than the insured, and with respect to an individual formerly insured under a group policy who is not eligible for replacement group coverage, make available substitute coverage on an individual basis in accordance with the provisions of clause (2) of paragraph (D), if such insured or owner had a right under law or under the terminated policy to convert coverage to individual coverage or to continue an individual policy in force until a specified age or for a specified time, during which the insurer had no right unilaterally to make changes in any provision of the policy or had a right only to make changes in premium by class.

(2) In providing the substitute coverage required under paragraph (D), the Association may offer either to reissue the terminated coverage or to issue an alternative policy. Alternative or reissued policies shall be offered without requiring evidence of insurability, and shall not provide for any waiting period or exclusion that would not have applied under the terminated policy. Any alternative or reissued policy may be reinsured by the Association.

(3) (a) Alternative policies adopted by the Association shall be subject to the approval of the commissioner. The Association may adopt alternative policies of various types for future issuance without regard to any particular impairment or insolvency.

(b) Alternative policies shall contain at least the minimum statutory provisions required in the commonwealth and provide benefits that shall not be unreasonable in relation to the premium charged. The Association shall set the premium in accordance with the table of rates which it shall adopt. The premium shall reflect the amount of insurance to be provided and the age and class of risk of each insured, but shall not reflect any changes in the health of the insured after the original policy was last underwritten.

(c) Any alternative policy issued by the Association shall provide coverage of a type similar to that of the policy issued by the impaired or insolvent insurer, as determined by the Association.

(4) If the Association elects to reissue the insured's terminated coverage at a premium rate different from that charged under the



**ACTS, 1985. – Chap. 745.**

terminated policy, the premium shall be set by the Association in accordance with the amount of insurance provided and the age and class of risk of the insured, and shall be subject to approval by a court of competent jurisdiction.

(5) The Association's obligations with respect to coverage under any policy of the impaired or insolvent insurer or under any reissued or alternative policy shall cease on the date such coverage or policy is replaced by another similar policy by the policyholder, the insured, or the Association.

(E) Nonpayment of premiums within thirty-one days after the date required under the terms of any guaranteed, assumed, alternative or reissued policy or contract or substitute coverage shall terminate the Association's obligations under such policy or coverage under this section with respect to such policy or coverage, except with respect to any claims incurred or any net cash surrender value which may be due in accordance with the provisions of this section.

(F) Premiums due after entry of an order of liquidation of an insolvent insurer shall belong to, and be payable at the direction of the Association, and the Association shall be liable for unearned premiums due to policy or contract owners arising after the entry of such order.

(G) In carrying out its duties under paragraphs (B) and (C) of this subsection, the Association may, subject to approval by the court:

(1) impose permanent policy or contract liens in connection with any guarantee, assumption or reinsurance agreement, if the Association finds that the amounts which can be assessed under this section are less than the amounts needed to assure full and prompt performance of the Association's duties under this section, or that the economic or financial conditions as they affect member insurers are sufficiently adverse to render the imposition of such permanent policy or contract liens, to be in the public interest;

(2) impose temporary moratoriums or liens on payments of cash values and policy loans, or any other right to withdraw funds held in conjunction with policies or contracts, in addition to any contractual provisions for deferral of cash or policy loan value.

(H) If the Association fails to act within a reasonable period of time as provided in paragraphs (B), (C), and (D), the commissioner shall have the powers and duties of the Association under this section with respect to impaired or insolvent insurers.

(I) The Association may render assistance and advice to the commissioner, upon his request, concerning any insurer which is insolvent, impaired or potentially impaired, or concerning the rehabilitation, payment of claims, continuance of coverage, or the performance of other contractual obligations of any impaired or insolvent insurer.

(J) The Association, shall have standing to appear before any court in the commonwealth with jurisdiction over an impaired or insolvent insurer concerning which the Association is or may become obligated under this section. Such rights shall extend to all matters germane to the powers and duties of the Association, including, but not limited to, proposals for reinsuring, modifying or guaranteeing the covered policies or contracts



ACTS, 1985. – Chap. 745.

of the impaired or insolvent insurer and the determination of the covered policies or contracts and contractual obligations. The Association shall also have the right to appear or intervene before a court in the commonwealth or in another state with jurisdiction over an impaired or insolvent insurer for which the Association is or may become obligated or with jurisdiction over a third party against whom the Association may have rights through subrogation of the insurer's policyholders.

(K) (1) Any person receiving benefits under this section shall be deemed to have assigned the rights under, and any causes of action relating to, the covered policy or contract to the Association to the extent of the benefits received because of this section, whether the benefits are payments of or on account of contractual obligations, continuation of coverage or provision of substitute or alternative coverages. The Association may require an assignment to it of such rights and causes of action by any payee, policy or contract owner, beneficiary, insured or annuitant, as a condition precedent to the receipt of any rights or benefits conferred by this section upon such person. The Association also shall be subrogated to these rights and causes of action against the assets of any impaired or insolvent insurer, or any other person.

(2) The subrogation rights of the Association under this subsection shall have the same priority against the assets of the impaired or insolvent insurer as that possessed by the person entitled to receive benefits under this Act.

(3) In addition to clauses (1) and (2) above, the Association shall have all common law rights of subrogation and any other equitable or legal remedy which would have been available to the impaired or insolvent insurer or holder of a policy or contract with respect to such policy or contracts.

(L) The Association may: (i) enter into such contracts as are necessary or proper to carry out the provisions and purposes of this section; (ii) sue or be sued, including taking any legal actions necessary or proper for recovery of any unpaid assessments under subsection 9; (iii) borrow money to effect the purposes of this section, such notes or other evidence of indebtedness of the Association not in default being legal investments for domestic insurers which may be carried as admitted assets; (iv) employ or retain such persons as are necessary to handle the financial transactions of the Association, and to perform such other functions as become necessary or proper under this section; (v) take such legal action as may be necessary to avoid payment of improper claims; (vi) exercise, for the purposes of this section and to the extent approved by the commissioner, the powers of a domestic life or health insurer, but in no case may the Association issue insurance policies or annuity contracts other than those issued to perform its obligations under this section; (vii) join an organization of one or more other state Associations of similar purposes, to further the purposes and administer the powers and duties of this Association; (viii) enter into agreements with other state Associations of similar purposes to determine the residence of persons for purposes of this section.

9. (A) For the purpose of providing the funds necessary to carry out



**ACTS, 1985. – Chap. 745.**

the powers and duties of the Association, the board of directors shall assess the member insurers, separately for each account, at such time and for such amounts as the board of directors finds necessary. Assessments shall be due not less than thirty days after prior written notice to the member insurers and shall accrue interest at ten per cent per annum on and after the due date.

(B) There shall be two classes of assessments, as follows:

(1) Class A assessments shall be made for the purpose of meeting administrative costs and other expenses and examinations conducted under the authority of paragraph (E) of subsection 12, which assessments may be made whether or not related to a particular impaired or insolvent insurer.

(2) Class B assessments shall be made to the extent necessary to carry out the powers and duties of the Association under paragraphs (A), (B) or (C) of subsection 8.

(C) (1) The amount of any Class A assessment shall be determined by the board of directors and may be made on a pro rata or non-pro rata basis. If made on a pro rata basis, the board of directors may provide that it be credited against future Class B assessments. If it is made on a non-pro rata basis, such assessment shall not exceed one hundred and fifty dollars per member insurer in any one calendar year. The amount of any Class B assessments shall be allocated for assessment purposes among the accounts pursuant to an allocation formula which may be based on the premiums or reserves of the impaired or insolvent insurer or on any other standard deemed by the board of directors in its sole discretion as being fair and reasonable under the circumstances.

(2) Class B assessments against member insurers for each account shall be in the proportion that the premiums received on business in the commonwealth by each assessed member insurer on policies or contracts covered by each account for the most recent three calendar years for which information is available preceding the year in which the insurer became impaired or insolvent, as the case may be, bears to such premiums received on business in the commonwealth for such calendar years by all assessed member insurers.

(3) Assessments for funds to meet the requirements of the Association with respect to an impaired or insolvent insurer shall not be made until necessary to implement the purposes of this section. Classification of assessments and computation of assessments under this subsection shall be made with a reasonable degree of accuracy, recognizing that exact determinations may not always be possible.

(D) The Association may abate or defer, in whole or in part, the assessment of a member insurer if, in the opinion of the board of directors, payment of the assessment would endanger the ability of the member insurer to fulfill its contractual obligations. In the event an assessment against a member insurer is abated, or deferred in whole or in part, the amount by which such assessment is abated or deferred may be assessed against the other member insurers in a manner consistent with the basis for assessments set forth in this subsection.

(E) The total of all assessments upon a member insurer for each account shall not in any one calendar year exceed two per cent of such



ACTS, 1985. – Chap. 745.

insurer's average premiums received in the Commonwealth on the policies covered by the account during the three calendar years preceding the year in which the insurer became an impaired or insolvent insurer. If the maximum assessment, together with the other assets of the association in any account, does not provide in any one year in any account an amount sufficient to carry out the responsibilities of the association, the necessary additional funds shall be assessed as soon thereafter as permitted by this Act.

(F) The board of directors may, by an equitable method as established in the plan of operation, refund to member insurers, in proportion to the contribution of each insurer to that account, the amount by which the assets of the account exceed the amount the board of directors finds is necessary to carry out during the coming year the obligations of the Association with regard to that account, including assets accruing from assignment, subrogation, net realized gains and income from investments. A reasonable amount may be retained in any account to provide funds for the continuing expenses of the Association and for future losses.

(G) It shall be proper for any member insurer, in determining its premium rates and policyowner dividends as to any kind of insurance within the scope of this section, to consider the amount reasonably necessary to meet its assessment obligations under this section.

(H) The Association shall issue to an insurer paying an assessment under this section, other than a Class A assessment, a certificate of contribution, in a form approved by the commissioner, for the amount of the assessment so paid. All outstanding certificates shall be of equal dignity and priority without reference to amounts or dates of issue. A certificate of contribution may be shown by the insurer in its financial statements as an asset in such form and for such amount, if any, and for such period of time as the commissioner may approve.

10. (A) (1) The Association shall submit to the commissioner a plan of operation and any amendments thereto necessary or suitable to assure the fair, reasonable, and equitable administration of the Association. The plan of operation and any amendments thereto shall become effective upon the commissioner's written approval or unless the commissioner has not disapproved it within thirty days.

(2) If the Association fails to submit a suitable plan of operation within one hundred twenty days following the effective date of this section, or if at any time thereafter the Association fails to submit suitable amendments to the plan, the commissioner shall, after notice and hearing, adopt and promulgate such reasonable rules as are necessary or advisable to effectuate the provisions of this section. Such rules shall continue in force until modified by the commissioner or superseded by a plan submitted by the Association and approved by the commissioner.

(B) All member insurers shall comply with the plan of operation.

(C) The plan of operation shall, in addition to requirements enumerated elsewhere in this section:

(1) establish procedures for handling the assets of the Association;

(2) establish the amount and method of reimbursing members of the board of directors under subsection 7;



ACTS, 1985. – Chap. 745.

(3) establish regular places and times for meetings, including telephone conference calls, of the board of directors;

(4) establish procedures for records to be kept of all financial transactions of the Association, its agents, and the board of directors.

(5) establish the procedures whereby selections for the board of directors will be made and submitted to the commissioner;

(6) establish any additional procedures for assessments under subsection 9; and

(7) contain additional provisions necessary or proper for the execution of the powers and duties of the Association.

(D) The plan of operation may provide that any or all powers and duties of the Association, except those under clause 3 of paragraph (K) of subsection 8 and of subsection 9, are delegated to a corporation, association, or other organization which performs or will perform functions similar to those of this Association, or its equivalent, in two or more states. Such corporation, association, or organization shall be reimbursed for any payments made on behalf of the Association and shall be paid for its performance of any function of the Association. A delegation under this paragraph shall take effect only with the approval of both the board of directors and the commissioner, and may be made only to a corporation, association, or organization which extends protection not substantially less favorable and effective than that provided by this section.

11. In addition to the duties and powers enumerated elsewhere in this section:

(A) The commissioner shall:

(1) upon request of the board of directors, provide the Association with a statement of the premiums in this and any other appropriate state for each member insurer;

(2) when an impairment is declared and the amount of the impairment is determined, serve a demand upon the impaired insurer to make good the impairment within a reasonable time; notice to the impaired insurer constituting notice to its shareholders, if any, and failure of the impaired insurer to promptly comply with such demand not excusing the Association from the performance of its powers and duties under this Act;

(3) in any liquidation or rehabilitation proceeding involving a domestic insurer, be appointed as the receiver;

(4) in any liquidation proceeding involving a foreign or alien member insurer in such insurer's domiciliary jurisdiction or state of entry, be appointed as conservator.

(B) The commissioner may suspend or revoke, after notice and hearing, the certificate of authority to transact insurance in the commonwealth of any member insurer which fails to pay an assessment when due or fails to comply with the plan of operation. As an alternative, the commissioner may levy a forfeiture on any member insurer which fails to pay an assessment when due. Such forfeiture shall not exceed five per cent of the unpaid assessment per month, but no forfeiture shall be less than one hundred dollars per month.

(C) Any action of the board of directors or the Association may be



**ACTS, 1985. – Chap. 745.**

appealed to the commissioner by any member insurer if such appeal is taken within sixty days of the action being appealed. If a member company is appealing an assessment, the amount assessed shall be paid to the Association and available to meet Association obligations during the pendency of an appeal. If the appeal on the assessment is upheld, the amount paid in error or excess shall be returned to the member company. Any final action or order of the commissioner shall be subject to judicial review in a court of competent jurisdiction.

(D) The receiver, liquidator, rehabilitator, or conservator of any impaired or insolvent insurer may notify all interested persons of the effect of this section.

12. To aid in the detection and prevention of insurer insolvencies or impairments:

(A) It shall be the duty of the commissioner:

(1) To notify the commissioners of all the other states, territories of the United States and the District of Columbia when he takes any of the following actions against a member insurer:

(a) revocation of license;

(b) suspension of license;

(c) makes any formal order that such company restrict its premium writing, obtain additional contributions to surplus, withdraw from the state, reinsure all or any part of its business, or increase capital, surplus, or any other account for the security of policyholders or creditors. Such notice shall be mailed to all insurance commissioners within thirty days following the action taken or the date on which such action occurs.

(2) To report to the board of directors when he has taken any of the actions set forth in paragraph (A), subsection (1) or has received a report from any other insurance commissioner indicating that any such action has been taken in another state. Such report to the board of directors shall contain all significant details of the action taken or the report received from another commissioner.

(3) To report to the board of directors when he has reasonable cause to believe from any examination, whether completed or in process, of any member company that such company may be an impaired or insolvent insurer.

(4) To furnish to the board of directors the NAIC Insurance Regulatory Information System tests and listings of companies not included in the tests developed by the NAIC, for the use of the board of directors in carrying out its duties and responsibilities under this subsection. Such report and the information contained therein shall be kept confidential by the board of directors until such time as made public by the commissioner or other lawful authority.

(B) The commissioner may seek the advice and recommendation of the board of directors concerning any matter affecting his duties and responsibilities regarding the financial condition of member insurers and companies seeking admission to transact insurance business in the commonwealth.

(C) The board of directors may, upon majority vote, make reports and recommendations to the commissioner upon any matter germane to the solvency, rehabilitation, conservation, or liquidation of any member



ACTS, 1985. – Chap. 745.

insurer or germane to the solvency of any company seeking to do an insurance business in the Commonwealth. Such reports and recommendations shall not be considered public documents.

(D) It shall be the duty of board of directors, upon majority vote, to notify the commissioner of any information the board of directors possesses which indicates any member insurer may be an impaired or insolvent insurer.

(E) The board of directors may, upon majority vote, request that the commissioner order an examination of any member insurer which the board in good faith believes may be an impaired or insolvent insurer. Within thirty days of the receipt of such request, the commissioner shall begin such examination. The examination may be conducted as an NAIC examination or may be conducted by such persons as the commissioner designates. The cost of such examination shall be paid by the Association and the examination report shall be treated as are other examination reports. In no event shall such examination report be released to the board of directors of the Association prior to its release to the public, but this shall not preclude the commissioner from complying with paragraph (A). The commissioner shall notify the board of directors when the examination is completed. The request for an examination shall be kept on file by the commissioner but it shall not be open to public inspection prior to the release of the examination report to the public.

(F) The board of directors may, upon majority vote, make recommendations to the commissioner for the detection and prevention of insurer insolvencies.

(G) The board of directors may, at the conclusion of any insurer insolvency in which the Association was obligated to pay covered claims, prepare a report to the commissioner containing such information as it may have in its possession bearing on the history and causes of such insolvency. The board shall cooperate with the boards of directors of guaranty associations in other states in preparing a report on the history and causes of insolvency of a particular insurer, and may adopt by reference any report prepared by such other associations.

13. (A) Assessments described in paragraph (H) of subdivision 9, paragraph (H) may be applied as an offset to the premium, excise, franchise, or income tax liability of member insurers to the commonwealth, to the extent of ten per cent of the amount of such assessments for each of the five calendar years following the year in which such assessments are paid. If the sum of the offsets, so determined, for all member insurers for a calendar year exceeds three million dollars, the excess shall be carried forward and shall be allowed as an offset in calendar years in which, and to the extent that the sum of member insurer's offsets are less than three million dollars. In the event that the total of the offsets reported by all member insurers on their premium, excise, franchise or income tax returns exceeds three million dollars for a calendar year, the commissioner of revenue shall assess each member insurer with an additional tax equal to the amount offset for the calendar year which is in excess of such member insurer's pro rata share of three million dollars. Each member insurer's pro rata share



ACTS, 1985. – Chap. 745.

of three million dollars shall be determined by dividing three million dollars by the total of all member insurer offsets reported in such calendar year and multiplying the result by the offset taken by each such member insurer.

(B) Any sums which are acquired by refund, pursuant to paragraph (F) of subsection 9, from the Association by member insurers, and which have theretofore been offset against premium, excise, income or franchise taxes as provided in paragraph (A) above, shall be paid by such insurers to the commonwealth in such manner as the department of revenue may require. The Association shall notify the commissioner that such refunds have been made.

14. (A) Nothing in this section shall be construed to reduce the liability for unpaid assessments of the insureds of an impaired or insolvent insurer operating under a plan with assessment liability.

(B) Records shall be kept of all negotiations and meetings in which the Association or its representatives are involved to discuss the activities of the Association in carrying out its powers and duties under subsection 8. Records of such negotiations or meetings shall be made public only upon the termination of a liquidation, rehabilitation, or conservation proceeding involving the impaired or insolvent insurer, upon the termination of the impairment of insolvency of the insurer, or upon the order of a court of competent jurisdiction. Nothing in this subsection shall limit the duty of the Association to render a report of its activities under subdivision 15.

(C) For the purpose of carrying out its obligations under this section, the Association shall be deemed to be a creditor of the impaired or insolvent insurer to the extent of assets attributable to covered policies reduced by any amounts to which the Association is entitled as subrogee pursuant to paragraph (K) of subdivision 8. Assets of the impaired or insolvent insurer attributable to covered policies shall be used to continue all covered policies and pay all contractual obligations of the impaired or insolvent insurer as required by this section. Assets attributable to covered policies, as used in this subsection, are that proportion of the assets which the reserves that should have been established for such policies bear to the reserves that should have been established for all policies of insurance written by the impaired or insolvent insurer.

(D) (1) Prior to the termination of any liquidation, rehabilitation or conservation proceeding, the court may take into consideration the contributions of the respective parties, including the Association, the shareholders and policyowners of the insolvent insurer, and any other party with a bona fide interest, in making an equitable distribution of the ownership rights of such insolvent insurer. In such determination, consideration shall be given to the welfare of the policyholders of the continuing or successor insurer.

(2) No distribution to stockholders, if any, of an impaired or insolvent insurer shall be made until and unless the total amount of valid claims of the Association with interest thereon for funds expended in carrying out its powers and duties under subdivision 8 with respect to such insurer have been fully recovered by the Association.



ACTS, 1985. – Chap. 745.

(E) (1) If an order for rehabilitation or liquidation of an insurer domiciled in the commonwealth has been entered, the receiver appointed under such order shall have a right to recover on behalf of the insurer, from any affiliate that controlled it, the amount of distributions, other than stock dividends paid by the insurer on its capital stock, made at any time during the five years preceding the petition for liquidation or rehabilitation subject to the limitations of clauses (2) and (4) of this paragraph.

(2) No such distribution shall be recoverable if the insurer shows that when paid the distribution was lawful and reasonable, and that the insurer did not know and could not reasonably have known that the distribution might adversely and materially affect the ability of the insurer to fulfill its contractual obligations.

(3) Any person who was an affiliate that controlled the insurer at the time the distributions were paid shall be liable up to the amount of distributions he received. Any person who was an affiliate that controlled the insurer at the time the distributions were declared, shall be liable up to the amount of distributions he would have received if they had been paid immediately. If two or more persons are liable with respect to the same distributions, they shall be jointly and severally liable.

(4) The maximum amount recoverable under this subsection shall be the amount needed in excess of all other available assets of the insolvent insurer to pay the contractual obligations of the insurer.

(5) If any person liable under paragraph (3) of this paragraph is insolvent, all its affiliates that controlled it at the time the distribution was paid, shall be jointly and severally liable for any resulting deficiency in the amount recovered from the insolvent affiliate.

15. The Association shall be subject to examination and regulation by the commissioner. The board of directors annually shall submit to the commissioner, not later than five months after the end of the Association's prior fiscal year, a financial report for the preceding fiscal year in a form approved by the commissioner and a report of its activities during the preceding fiscal year.

16. The Association shall be exempt from payment of all fees and all taxes levied by the commonwealth or any of its subdivisions, except taxes levied on real property.

17. There shall be no liability on the part of and no cause of action of any nature shall arise against any member insurer or its agents or employees, the Association or its agents or employees, the board of directors or any member thereof, or the commissioner or his representatives, for any action or omission by them pursuant to the purposes and provisions of this section or in the performance of their powers and duties under this section. Such immunity shall extend to the participation in any organization of one or more other state associations of similar purposes as provided in subclause (vii) of paragraph L subsection 8, and to any such organization and its agents and employees.

18. All proceedings in which the insolvent insurer is a party in any court in the commonwealth shall be stayed sixty days from the date an order of rehabilitation or liquidation is final to permit proper legal



**ACTS, 1985. – Chap. 745.**

action by the Association on any matters germane to its powers or duties. As to judgment under any decision, order, verdict, or finding based on default the Association may apply to have such judgment set aside by the same court that made such judgment and shall be permitted to defend against such suit on the merits.

19. No person, including an insurer, agent or affiliate of an insurer shall make, publish, disseminate, circulate, or place before the public, or cause directly, to be made, published, disseminated, circulated or placed before the public, in any newspaper, magazine or other publication, or in the form of a notice, circular, pamphlet, letter or poster, or over any radio station or television station, or in any other way, any advertisement, announcement or statement, written or oral, which uses the existence of the Massachusetts Life and Health Insurance Guaranty Association for the purposes of sales, solicitation, or inducement to purchase any form of insurance covered by this section, provided, however, that this section shall not apply to the Massachusetts Life and Health Insurance Guaranty Association or any other entity which does not sell or solicit insurance.

20. This section shall not apply to any insurer which is insolvent or unable to fulfill its contractual obligations on the effective date of this section.

**SECTION 18.** The second paragraph of section 180B of said chapter 175 as so appearing is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:– The court, if satisfied after due notice and a full hearing that the purposes of the proceedings have been substantially accomplished, shall grant such application, provided that no such application instituted on behalf of an impaired insurer, as defined in section one hundred and forty-seven of chapter one hundred and seventy-five, shall be granted except upon compliance with the terms and conditions of subclause (b) of clause (2) of paragraph (B) of subsection 8 of said section 147.

**SECTION 19.** The third paragraph of section 180C of said chapter 175 is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:– Within one hundred and twenty days of a final determination of insolvency of a company by the supreme judicial court, the receiver shall make application to the supreme judicial court for approval of a proposal to disburse assets out of such company's marshalled assets from time to time as such assets become available, to the Massachusetts Insurers Insolvency Fund, the Massachusetts Life and Health Insurance Guaranty Association, and to any similar organization in another state, such fund, association or organization hereinafter collectively referred to as Funds.

**SECTION 20.** The third paragraph of section 180F of said chapter 175, as so appearing, is hereby amended by striking out clause (4), and inserting in place thereof the following clause:–

(4) Claims by policyholders, beneficiaries, and insurers arising from and within the coverage of and not in excess of the applicable limits of



**ACTS, 1985. – Chaps. 746, 747, 748.**

insurance policies and insurance contracts issued by the company, and claims presented by the Massachusetts Insurer's Insolvency Fund, the Massachusetts Life and Health Insurance Guaranty Association, or any similar organization in another state.

Approved January 3, 1986.

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**Chapter 746. AN ACT VALIDATING A CERTAIN PROCEEDING AT THE SPECIAL TOWN MEETING OF THE TOWN OF BARNSTABLE.**

Be it enacted, etc., as follows:

All actions taken by the town of Barnstable relative to Article 14 at its special town meeting held on December fourth and tenth, nineteen hundred and eighty-five, and all actions subsequently taken pursuant thereto, are hereby validated, confirmed and ratified, notwithstanding that said article, in some published and recorded versions of the warrant for said meeting, did not disclose that the vote thereunder would authorize the purchase of the land shown as parcel eighteen on Barnstable Assessors' Map five.

Approved January 3, 1986.

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**Chapter 747. AN ACT PROVIDING FOR RETIREMENT BENEFITS TO JANET McGRAIL AND JOSEPH McGRAIL BY THE CITY OF BOSTON.**

Be it enacted, etc., as follows:

Notwithstanding the provisions of any general or special law to the contrary, the State-Boston retirement board of the city of Boston is hereby authorized and directed to pay Janet McGrail and Joseph McGrail, widow and son of Kevin B. McGrail, a deceased firefighter from the city of Boston, such benefits as provided for widows and children of deceased members of a retirement system under the provision of section twelve B of chapter thirty-two of the General Laws.

Approved January 3, 1986.

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**Chapter 748. AN ACT PROVIDING FOR INCREASED HOUSING UNITS IN THE COMMONWEALTH.**

Be it enacted, etc., as follows:

**SECTION 1.** To provide for a program of studies, preparation of plans, construction, reconstruction, renovation, alteration and improvement,



**ACTS, 1985. – Chap. 748.**

including, but not limited to, development of additional state-assisted housing units, as well as modernization of existing state-assisted and certain federally-assisted housing units, and for the purchase of certain property, including, but not limited to, site acquisition and development, and for various programs increasing the housing stock available within the commonwealth, the sums set forth in sections two to seven, inclusive, for the several purposes and subject to the conditions specified under the provisions of this act in sections two to twenty-three, inclusive, are hereby made available, subject to the provisions of law regulating the disbursement of public funds and the approval thereof.

**SECTION 2.**

Item

3722–8861 For state financial assistance in the form of a grant by the commonwealth acting by and through the department of community affairs; provided, however, that said department may enter into a contract or contracts with a housing authority for the development costs of housing for families of low income pursuant to the provisions of section thirty-four of chapter one hundred and twenty-one B of the General Laws  
\$101,000,000

**SECTION 3.**

Item

3722–8862 For state financial assistance in the form of a grant by the commonwealth acting by and through the department of community affairs; provided, however, that said department may enter into a contract or contracts with a housing authority for the development costs of housing for elderly persons of low income, pursuant to the provisions of section forty-one of chapter one hundred and twenty-one B of the General Laws  
\$66,600,000

**SECTION 4.**

Item

3722–8863 For state financial assistance in the form of a grant by the commonwealth acting by and through the department of community affairs; provided, however, that said department may enter into a contract or contracts with a housing authority for the development costs of housing for handicapped persons of low income or families of low



**ACTS, 1985. – Chap. 748.**

income of which one or more persons is handicapped pursuant to the provisions of section forty-one A of chapter one hundred and twenty-one B of the General Laws; and provided further, that from the sum appropriated herein at least five million dollars shall be expended for accessible rehabilitation and construction of barrier free units

\$30,300,000

**SECTION 5.**

Item

3722-8864 For state financial assistance in the form of a grant by the commonwealth acting by and through the department of community affairs; provided, however, that said department may enter into a contract or contracts with a housing authority for projects undertaken pursuant to clause (j) of section twenty-six of chapter one hundred and twenty-one B of the General Laws; provided, further, that in awarding a contract or contracts funded from the sum appropriated herein said department shall give first priority to projects which renovate, remodel, reconstruct, repair, or otherwise improve housing units which are unoccupied; and, provided further, that from the sum appropriated herein at least five hundred thousand dollars shall be expended for the construction, rehabilitation, or renovation of existing space for the purposes of day care facilities, not including services associated with day care

\$91,500,000

**SECTION 6.**

Item

3722-8865 For state financial assistance in the form of a grant by the commonwealth acting by and through the department of community affairs; provided, however, that said department may enter into a contract or contracts with a housing authority for a demonstration program to undertake projects for the renovation, remodeling, reconstruction, repair, landscaping, and improvement of any federally-assisted low-rent housing project or part thereof, owned by a housing authority; provided, however, that in award-



**ACTS, 1985. – Chap. 748.**

ing a contract or contracts funded from the sum appropriated herein said department shall give first priority to projects which renovate, remodel, reconstruct, repair, or otherwise improve housing units which are unoccupied; provided, further, that before entering into such a contract or contracts the department shall first have found that: (1) such low-rent housing is seriously distressed and will continue to remain distressed unless the funds provided herein are available to the project or part thereof; (2) any funds provided herein will be in addition to, and not in lieu of, any federal funds available for said housing; (3) significant effort has been made to obtain federal funding for the project and that funds provided herein shall be used to leverage additional federal funding for the project; and (4) any such project shall be undertaken in accordance with plans approved by the department; and, provided further, that upon receipt by a housing authority of any funds provided herein, the housing authority shall develop a management plan, acceptable to the department, which includes, but need not be limited to, a maintenance program which will identify steps to be taken on a regular basis to maintain building systems

**\$35,000,000**

**SECTION 7.**

Item

3722-8866 For state financial assistance in the form of community development action grants by the commonwealth acting by and through the department of community affairs pursuant to section fifty-seven A of chapter one hundred and twenty-one B of the General Laws

**\$20,000,000**

**SECTION 8.** To meet the expenditures necessary in carrying out the provisions of section two, the state treasurer shall, upon the request of the governor, issue and sell bonds of the commonwealth to an amount to be specified by the governor from time to time, but not exceeding, in the aggregate, the sum of one hundred and one million dollars. All bonds issued by the commonwealth, as aforesaid, shall be designated on their face, Family Public Housing Production Loan, Act of 1985, and shall be issued for such maximum term of years, not exceeding twenty years, as the governor may recommend to the general court pursuant to Section 3 of Article LXII of the Amendments to the Constitution of the



## **ACTS, 1985. – Chap. 748.**

Commonwealth; provided, however, that all such bonds shall be payable not later than June thirtieth, two thousand and ten.

Bonds and interest thereon under the authority of this section shall, notwithstanding any other provisions of this act, be general obligations of the commonwealth.

**SECTION 9.** To meet the expenditures necessary in carrying out the provisions of section three, the state treasurer shall, upon the request of the governor, issue and sell bonds of the commonwealth to an amount to be specified by the governor from time to time, but not exceeding, in the aggregate, the sum of sixty-six million six hundred thousand dollars. All bonds issued by the commonwealth, as aforesaid, shall be designated on their face, Elderly Public Housing Production Loan, Act of 1985, and shall be issued for such maximum term of years, not exceeding twenty years, as the governor may recommend to the general court pursuant to Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth; provided, however, that all such bonds shall be payable not later than June thirtieth, two thousand and ten.

Bonds and interest thereon under the authority of this section shall, notwithstanding any other provisions of this act, be general obligations of the commonwealth.

**SECTION 10.** To meet the expenditures necessary in carrying out the provisions of section four, the state treasurer shall, upon the request of the governor, issue and sell bonds of the commonwealth to an amount to be specified by the governor from time to time, but not exceeding, in the aggregate, the sum of thirty million three hundred thousand dollars. All bonds issued by the commonwealth, as aforesaid, shall be designated on their face, Handicapped Public Housing Production Loan, Act of 1985, and shall be issued for such maximum term of years, not exceeding twenty years, as the governor may recommend to the general court pursuant to Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth; provided, however, that all such bonds shall be payable not later than June thirtieth, two thousand and ten.

Bonds and interest thereon under the authority of this section shall, notwithstanding any other provisions of this act, be general obligations of the commonwealth.

**SECTION 11.** To meet the expenditures necessary in carrying out the provisions of section five, the state treasurer shall, upon the request of the governor, issue and sell bonds of the commonwealth to an amount to be specified by the governor from time to time, but not exceeding, in the aggregate, the sum of ninety-one million five hundred thousand dollars. All bonds issued by the commonwealth, as aforesaid, shall be designated on their face, Public Housing Modernization and Renovation Loan, Act of 1985, and shall be issued for such maximum term of years, not exceeding twenty years, as the governor may recommend to the general court pursuant to Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth; provided, however, that all such bonds shall be payable not later than June thirtieth, two thousand and ten.



**ACTS, 1985. – Chap. 748.**

Bonds and interest thereon under the authority of this section shall, notwithstanding any other provisions of this act, be general obligations of the commonwealth.

**SECTION 12.** To meet the expenditures necessary in carrying out the provisions of section six, the state treasurer shall, upon the request of the governor, issue and sell bonds of the commonwealth to an amount to be specified by the governor from time to time, but not exceeding, in the aggregate, the sum of thirty-five million dollars. All bonds issued by the commonwealth, as aforesaid, shall be designated on their face, Federally Assisted Public Housing Modernization and Renovation Loan, Act of 1985, and shall be issued for such maximum term of years, not exceeding twenty years, as the governor may recommend to the general court pursuant to Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth; provided, however, that all such bonds shall be payable not later than June thirtieth, two thousand and ten.

Bonds and interest thereon under the authority of this section shall, notwithstanding any other provisions of this act, be general obligations of the commonwealth.

**SECTION 13.** To meet the expenditures necessary in carrying out the provisions of section seven of this act, the state treasurer shall, upon the request of the governor, issue and sell bonds of the commonwealth to an amount to be specified by the governor from time to time, but not exceeding, in the aggregate, the sum of twenty million dollars. All bonds issued by the commonwealth, as aforesaid, shall be designated on their face, Community Development Action Grants Loan, Act of 1985, and shall be issued for such maximum term of years, not exceeding twenty years, as the governor may recommend to the general court pursuant to Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth; provided, however, that all such bonds shall be payable not later than June thirtieth, two thousand and ten. All interest and payments on account of principal of such obligations shall be payable from the Local Aid Fund.

Bonds and interest thereon under the authority of this section shall, notwithstanding any other provisions of this act, be general obligations of the commonwealth.

**SECTION 14.** The state treasurer may borrow from time to time on the credit of the commonwealth such sums of money as may be necessary for the purpose of meeting payments authorized by sections two to seven, inclusive, and may issue and renew from time to time notes of the commonwealth therefor, bearing interest payable at such time and at such rates as shall be fixed by the state treasurer. Such notes shall be issued and may be renewed one or more times for such terms, not exceeding one year, as the governor may recommend to the general court in accordance with Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth, but the final maturities of such notes, whether original or renewal, shall not be later



**ACTS, 1985. – Chap. 748.**

than June thirtieth, nineteen hundred and ninety-eight.

Notes and interest thereon issued under the authority of this section, notwithstanding any other provisions of this act, shall be general obligations of the commonwealth.

**SECTION 15.** The department of community affairs shall submit a report to the house and senate committees on ways and means and to the joint committee on housing and urban development on or before January first, nineteen hundred and eighty-seven, which describes in detail and evaluates the demonstration program established pursuant to section six of this act. Said report shall include: (1) the extent to which state funds leveraged additional federal funds for the rehabilitation of federally-assisted low-rent housing; (2) the extent to which the program has proven to be cost effective; (3) the housing authorities which applied for such funds, including the number of units which each housing authority proposed to be rehabilitated and the total amount of funds which each housing authority requested; (4) an estimate of the number of federally-assisted low-rent housing units in need of rehabilitation which is not being funded under section six and of the cost of rehabilitating such units; and (5) the recommendation of the department on the continuation of the program, together with a recommended method of allocating future funds available for similar purposes.

**SECTION 16.** Notwithstanding the provisions of any general or special law to the contrary, housing authorities shall make maximum effort consistent with regulations promulgated by the department of community affairs and consistent with emergency case plans adopted pursuant thereto to make housing units developed with funding provided in sections two, five, and six available for homeless families of low income and receiving AFDC benefits, in areas where the department determines that such a need exists.

**SECTION 17.** Notwithstanding any general or special law to the contrary, the department is hereby authorized to set aside two hundred and fifty rental assistance certificates, pursuant to section forty-four of chapter one hundred and twenty-one B of the General Laws, to housing authorities for use by residents in lodging houses and single room occupancy units.

**SECTION 18.** Section 1 of chapter 121B of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by inserting after the definition of "Urban Renewal project" the following definition:–

"Urban Revitalization and Development Project", any urban renewal project undertaken after January first, nineteen hundred and eighty-six for such residential, commercial, or industrial redevelopment projects as the department deems appropriate.

**SECTION 19.** Section 39 of said chapter 121B, as so appearing, is hereby amended by inserting, after the word "buildings," in line 6, the following words:– or through the purchase of condominium units..



**ACTS, 1985. – Chap. 748.**

**SECTION 20.** Said chapter 121B, as so appearing, is hereby further amended by striking out section 53 and inserting in place thereof the following section:–

Section 53. Any city or town, acting by and through its urban renewal agency, may apply to the department for an urban renewal assistance grant to meet in part the cost of an approved urban renewal project. Any city or town, acting by and through its urban renewal agency, may apply to the department for an urban revitalization and development grant to meet in part the cost of an approved urban revitalization and development project. Such application shall be in the form prescribed by the department, and shall be accompanied by such additional information, drawings, plans, reports, estimates and exhibits as the department may require. The department may make such rules and regulations as are necessary to effectuate the purposes of this section and sections fifty-four to fifty-seven, inclusive.

**SECTION 21.** Said chapter 121B is hereby further amended by striking out section 54, as so appearing, and inserting in place thereof the following section:–

Section 54. Upon receipt of an application under the provisions of section fifty-three the department shall examine such application and any facts, estimates or other information relative thereto, and shall determine whether the proposed project complies with the provisions of the general laws and with rules and regulations prescribed in accordance therewith governing the approval and administration of urban renewal assistance grants or urban revitalization and development grants. Upon the determination of satisfactory compliance, the department shall determine the estimated approved cost of such project, and compute the amount of the urban renewal assistance grant or urban revitalization and development grant to which the city or town would be entitled under section fifty-five.

Within a reasonable time after receipt of such application, the department shall notify such city or town of its approval or rejection thereof, and, in the event of its rejection, of the reasons therefor. If the department rejects such application, the city or town may elect to proceed with such project without the benefit of said urban renewal assistance grant or urban revitalization and development grant. Notice of approval hereunder shall be accompanied by a statement of the estimated approved cost as determined by the department and an estimate of the amount of urban renewal assistance grant or urban revitalization and development grant to which such city or town may be entitled under the provisions of section fifty-five.

The final approved cost shall be determined by the department within a reasonable time after the completion of the urban renewal project by the urban renewal agency.

If the determination of the final approved cost is delayed because the project is not completed, the payments preceding determination of the final approved cost may be based upon the estimated approved cost, and adjustments shall be made in the payment or payments which are made subsequent to the determination of the final approved cost.



ACTS, 1985. – Chap. 749.

**SECTION 22.** Section 57 of said chapter 121B, as so appearing, is hereby amended by inserting after the words "urban renewal assistance grants", in line 23, the following words:– or urban revitalization and development grants.

**SECTION 22A.** Said section 57 of said chapter 121B, as so appearing, is hereby further amended by adding the following clause:–

(d) The total amount of urban revitalization and development grants to be paid under the provisions of this section shall not exceed one million dollars in any one fiscal year or a total of twenty million dollars in the aggregate, including amounts authorized by the department to be advanced for the estimated expenses as provided in the first paragraph.

**SECTION 23.** All of the amounts appropriated under the provisions of this act shall be in addition to any amounts appropriated for such purposes prior to the passage of this act.

**SECTION 24.** Subsection (r) of section 3 of Chapter 23B of the General Laws is hereby amended by adding the following:– No regulation promulgated by the Executive Office of Communities and Development which concerns tenant selection in state aided housing shall supercede the tenant selection requirements outlined in sections 32 & 34 chapter 121B as they relate to local preference, emergency cases, or veterans preference.

Approved January 4, 1986.

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**Chapter 749. AN ACT AUTHORIZING THE CONTINUING OF EMPLOYMENT OF SIDNEY A. CHERNICK, A COURT OFFICER IN HAMPDEN COUNTY, AND PHILIP GIBSON, A COURT OFFICER IN MIDDLESEX COUNTY.**

Be it enacted, etc., as follows:

**SECTION 1.** Notwithstanding the provision of section seventy-two of chapter two hundred and twenty-one of the General Laws or any other general or special law to the contrary, Sidney A. Chernick, a court officer of the Hampden county superior court is hereby authorized to continue in such position until the date of his seventy-second birthday, provided that he is mentally and physically capable of performing the duties of his office or position. Said Sidney A. Chernick shall annually, at his own expense, be examined by an impartial physician designated by the state retirement board to determine such capability. No further deductions shall be made from the regular compensation of said employee under the provisions of chapter thirty-two of the General Laws for service subsequent to the date of his seventieth birthday and upon retirement said employee shall receive a superannuation retirement allowance equal to that which he would have been entitled had he retired on said date.



**ACTS, 1985. – Chaps. 750, 751.**

**SECTION 2.** Notwithstanding the provision of said section seventy-two of said chapter two hundred and twenty-one or any other general or special law to the contrary, Philip Gibson, a court officer of the Middlesex county superior court is hereby authorized to continue in such position beyond the date of his seventieth birthday, provided that he is mentally and physically capable of performing the duties of his office or position. Said Philip Gibson shall annually, at his own expense, be examined by an impartial physician designated by the state retirement board to determine such capability. No further deductions shall be made from the regular compensation of said employee under the provisions of chapter thirty-two of the General Laws for service subsequent to the date of his seventieth birthday and upon retirement said employee shall receive a superannuation retirement allowance equal to that which he would have been entitled had he retired on said date.

**SECTION 3.** This act shall take effect upon its passage.

Approved January 6, 1986.

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**Chapter 750. AN ACT ESTABLISHING THE POSITION OF ASSISTANT CLERK IN THE SECOND DISTRICT COURT OF SOUTHERN WORCESTER.**

Be it enacted, etc., as follows:

**SECTION 1.** The first paragraph of section 10 of chapter 218 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by inserting after the line "first district court of southern Worcester" the following line:– second district court of southern Worcester.

**SECTION 2.** The position of assistant clerk in the second district court of southern Worcester shall be posted in all offices of the division of employment security in the commonwealth.

Approved January 6, 1986.

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**Chapter 751. AN ACT PROVIDING THAT CERTAIN PUBLIC EMPLOYEES MAY CONTINUE TO WORK BEYOND THE MANDATORY RETIREMENT AGE.**

Be it enacted, etc., as follows:

**SECTION 1.** Subdivision (2) of section 3 of chapter 32 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out paragraph (e) and inserting in place thereof the following paragraph:–

(e) No member and no person who was ineligible for membership



**ACTS, 1985. – Chap. 751.**

because of entering or re-entering the service after attaining age sixty, except as otherwise provided for in subdivision (1) of section five or in section ninety F or in section ninety G or in section ninety-one, or in section twenty-six of chapter six hundred and seventy of the acts of nineteen hundred and forty-one, or in chapter sixteen of the acts of nineteen hundred and forty-two, shall remain in service after attaining the maximum age for his group or for the group in which he would have been classified had he become a member or after the date any retirement allowance becomes effective for him, whichever event first occurs.

**SECTION 2.** Said chapter 32 is hereby further amended by striking out section 90F, as so appearing, and inserting in place thereof the following section:–

Section 90F. Any member in service classified in Group 1, or any other person who would be classified in Group 1 except for the fact that he is not a member, shall continue in service, at his option, notwithstanding the fact that he has attained age seventy; provided, however, that he is mentally and physically capable of performing the duties of his office or position. Such member or other person shall annually, at his own expense, be examined by an impartial physician designated by the retirement authority to determine such capability. No deductions shall be made from the regular compensation of such member or other person under the provisions of this chapter for service after he has attained age seventy and upon retirement such member or other person shall receive a superannuation retirement allowance equal to that which he would have been entitled had he retired at age seventy.

**SECTION 3.** Said chapter 32 is hereby further amended by striking out section 90G, as so appearing, and inserting in place thereof the following section:–

Section 90G. Any member in service classified in Group 1, or any other person who would be classified in Group 1 except for the fact that he is not a member, who is a veteran, shall continue in service, at his option, notwithstanding the fact that he has attained age seventy; provided, however, that he is mentally and physically capable of performing the duties of his office or position. Such member or other person shall annually, at his own expense, be examined by an impartial physician designated by the retirement authority to determine such capability. No deductions shall be made from the regular compensation of such member or other person under the provisions of this chapter for service after he has attained age seventy and upon retirement such member or other person shall, to the extent eligible, receive a veteran's pension allowance equal to that to which he would have been entitled had he retired at age seventy. Nothing in this section shall be construed to deny any veteran or his surviving spouse any benefit under any section of chapter thirty-two to which he would have been entitled had he retired at age seventy.

**SECTION 4.** The provisions of this act shall not be deemed to allow



ACTS, 1985. – Chap. 752.

any person to become a member of the contributory retirement system who is not otherwise authorized to do so. The provisions of this act shall not be deemed to increase or decrease the retirement rights of any member of the contributory retirement system.

Approved January 6, 1986.

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**Chapter 752. AN ACT RELATIVE TO THE TREATMENT AND RELEASE OF SEXUALLY DANGEROUS PERSONS.**

Be it enacted, etc., as follows:

**SECTION 1.** Chapter 123A of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out sections 1 to 11, inclusive, and inserting in place thereof the following twelve sections:—

Section 1. The following words and phrases when used in this chapter shall, except as otherwise provided, have the following meanings:

"Qualified examiner" a physician who is licensed pursuant to section two of chapter one hundred and twelve who is either certified in psychiatry by the American Board of Psychiatry and Neurology or eligible to be so certified, or a psychologist who is licensed pursuant to sections one hundred and eighteen to one hundred and twenty-nine of chapter one hundred and twelve; provided that the examiner has had two years of experience with diagnosis or treatment of sexually aggressive offenders and is designated by, and satisfies the qualifications required by, the department of mental health. A "qualified examiner" need not be an employee of the department or of any facility of the department.

"Sexual offense", includes any of the following crimes: indecent assault and battery on a child under fourteen under the provisions of section thirteen B of chapter two hundred and sixty-five; indecent assault and battery on a mentally retarded persons under the provisions of section thirteen F of chapter two hundred and sixty-five; indecent assault and battery on a person who has obtained the age of fourteen under the provisions of section thirteen H of chapter two hundred and sixty-five; rape under the provisions of section twenty-two of chapter two hundred and sixty-five; rape of a child under sixteen with force under the provisions of section twenty-two A of chapter two hundred and sixty-five; rape and abuse of a child under sixteen under the provisions of section twenty-three of chapter two hundred and sixty-five; assault with intent to commit rape under the provisions of section twenty-four of chapter two hundred and sixty-five; unnatural and lascivious acts with a child under the age of sixteen under the provisions of section thirty-five A of chapter two hundred and seventy-two; and any attempt to commit any of the above listed crimes under the provisions of section six of chapter two hundred and seventy-four.

"Sexually dangerous person" any person whose misconduct in sexual matters indicates a general lack of power to control his sexual impulses, as evidenced by repetitive or compulsive sexual misconduct by either violence against any victim, or aggression against any victim under the



**ACTS, 1985. - Chap. 752.**

age of sixteen years, and who, as a result, is likely to attack or otherwise inflict injury on such victims because of his uncontrolled or uncontrollable desires.

Section 2. The commissioner of mental health shall establish and maintain subject to the jurisdiction of the department of mental health a treatment center, hereinafter referred to in this chapter as the "center", or branch thereof at a correctional institution approved by the commissioner of correction for the care, custody, treatment and rehabilitation of persons described as being sexually dangerous. The commissioner of correction shall appoint custodial personnel who shall be subject to the control of the commissioner of mental health with respect to the care, treatment and rehabilitation of persons in their custody, but who shall at all times be under the administrative, operational and disciplinary control of the commissioner of correction. The commissioner of mental health shall appoint to such center, in addition to the personnel appointed by the commissioner of correction, adequate personnel for the care, treatment and rehabilitation of such persons committed to the center or branch thereof.

Section 3. Notwithstanding any other provisions of law, when a person is brought before a district court charged with a sexual offense, as defined in section one, the court shall, if it appears that said person is guilty of the crime and appears to be a sexually dangerous person, commit or bind over said person for trial in the superior court. In such cases the clerk of the district court shall forthwith transmit to the clerk of the superior court a copy of the complaint and of the record, the original recognizances, a list of the witnesses, a statement of the expenses and the appearance of the attorney for the defendant, if any is entered, and the report of the department of mental health as to the mental condition of the defendant, if such report has been filed under the provisions of section fifteen of chapter one hundred and twenty-three. No other papers need be transmitted.

Section 4. Upon the determination of guilt of a person in the superior court of a sexual offense, as defined in section one, the court may, on its own motion or upon motion of the commonwealth, prior to imposing sentence, cause the person to be examined by a qualified examiner at the court or jail in which the person is held, or at any other place if the person is not in custody. The examiner shall conduct a screening examination for sexual dangerousness, and shall report within ten days to the court in writing on a form provided by the commonwealth. Such report shall include the examiner's recommendation as to whether or not the person examined should be committed to the center for further observation and diagnosis.

With or without a screening examination, the court may, on its own motion or upon the motion of the commonwealth, commit the person to the center for a period not exceeding sixty days for the purpose of examination and diagnosis under the supervision of two qualified examiners who shall, within said period, file with the court a written report of the examination and diagnosis, and their recommendations for the disposition of such person.

The court shall supply to the qualified examiners copies of the juvenile



## ACTS, 1985. – Chap. 752.

and adult court records, and the probation officer shall supply them with the juvenile and adult probation record of the person committed for examination. The probation record shall contain a history, where available, of such person's previous adult and juvenile offenses and previous psychiatric and psychological examinations and such other information as may be helpful to the examiners in making their diagnosis. The district attorney shall provide the examiners with a narrative summary of the facts, where available, of each sexual offense of which the person has been convicted as an adult or a juvenile.

Section 5. If, after a person's sixty day period of observation, the report filed with the court by the two qualified examiners clearly indicates that the person is a sexually dangerous person, the court shall give notice to such person that a hearing will be held to determine whether or not he is a sexually dangerous person. If said report does not clearly indicate that the person is a sexually dangerous person, the court shall proceed to impose sentence as provided by law for the original offense.

Upon the motion of a person for whom a hearing is to be held or upon its own motion, the court shall, if necessary to protect the rights of such person, appoint counsel for him. Such person shall be entitled to have process issued from the court to compel the attendance of witnesses in his behalf. Upon such hearing it shall be competent to introduce evidence of the person's juvenile and adult court and probation records, psychiatric and psychological records, and any other evidence that tends to indicate that he is a sexually dangerous person. Any qualified examiner's report filed under this chapter shall be admissible in evidence in such hearing.

If the court finds upon such hearing that the person is not a sexually dangerous person, it shall proceed to impose sentence as provided by law for the original offense. If the court finds upon such hearing that the person is a sexually dangerous person, it shall sentence such person as provided by law for the original offense and may also commit such person to the center, or branch thereof, for an indeterminate period of a minimum of one day and a maximum of such person's natural life. A person who is both committed and sentenced under this section shall serve such sentence concurrently with the commitment. The court shall forward its order to the commissioner of correction who shall thereupon transfer the person to the center, or a branch thereof, for the purpose of treatment and rehabilitation, where he shall be held until discharged therefrom under the provisions of section nine. Persons committed shall be subject to all laws, rules and regulations which govern inmates of the institution to which they have been committed insofar as may be compatible with the treatment provided for by this chapter, and they shall be entitled to such rights and privileges of such inmates as may be compatible with such treatment.

Section 6. If a prisoner under sentence in any jail, house of correction or prison, or in the custody of the department of youth services, engages in sexually assaultive behavior while under such sentence or in such custody and appears to the sheriff, keeper, master, superintendent or director of the facility in which he is under sentence or in custody to be



ACTS, 1985. – Chap. 752.

a sexually dangerous person and in need of the care and treatment provided at the center, such officer may notify the commissioner of mental health, who shall thereupon cause such prisoner to be examined by a qualified examiner at the institution wherein he is confined. Such officer shall also provide a written report of such notification of the commissioner of mental health, including a statement of such sexually assaultive behavior, to the commissioner of correction, the commissioner of youth services, the sheriff, or, for prisoners confined in institutions in Suffolk county, the penal institutions commissioner of Boston, as appropriate. Such qualified examiner shall report the results of his examination in writing to the appropriate commissioner or sheriff, and if such report indicates that such person may be a sexually dangerous person, the appropriate commissioner or sheriff, after having notified said person of the nature of the proceedings and the possibility of his commitment to the center, may thereupon transmit the report to the clerk of the courts for the county wherein such prisoner was sentenced, and if such prisoner was sentenced in Suffolk county, to the clerk of the superior court for the transaction of criminal business, together with a motion to commit such person to the center or a suitable branch thereof for examination and diagnosis for a period not exceeding sixty days. At least fourteen days prior to acting upon said motion, the court shall notify said person that it is considering his commitment to the center or a suitable branch thereof for a period not exceeding sixty days, and shall inform said person of his right to be represented by counsel during the pendency of said motion or any subsequent commitment petition. If the court grants the motion, it shall commit such person under the provisions of section four insofar as may be applicable.

If there be no sitting of the superior court in the appropriate county at the time the motion and report are transmitted to the clerk, the clerk shall then transmit a copy of the motion and report to the administrative justice for the superior court department, who may act upon the motion.

If the report of the qualified examiners to the court as required under section five indicates that such prisoner is not a sexually dangerous person, the court shall order such prisoner to be reconveyed to the institution wherein he was serving his sentence, there to be held until the termination of his sentence or until otherwise discharged.

If such report clearly indicates that such prisoner is a sexually dangerous person, the clerk shall thereupon notify the court and the district attorney, and the district attorney shall file a petition for commitment of the prisoner to the center, or a branch thereof, for treatment and rehabilitation, and he shall give notice to the prisoner or to his parents, spouse, issue, next of kin, guardian, or next friend, if it appears to the district attorney that such prisoner is incapable of conducting his contest to the report. The court may require such further notice as it deems necessary to protect the interest of the prisoner, may continue the hearing pending such notice and may appoint a guardian ad litem, if necessary. The hearing shall be conducted in the manner described in section five.

Pending the completion of such hearing, the court may order that the prisoner be retained in the custody of the superintendent of the



**ACTS, 1985. – Chap. 752.**

institution in which the center, or branch thereof, is located or may commit him to the custody of a sheriff or keeper of a jail or place of detention, until such time as the matter is heard on the merits.

If the court finds that the prisoner is not a sexually dangerous person, it shall order him to be reconveyed to the institution wherein he was serving his sentence, there to be held until the termination of his sentence or until otherwise discharged. If the court finds that such prisoner is a sexually dangerous person, it shall commit him to the center, or a branch thereof, for an indeterminate period of a minimum of one day and a maximum of such person's natural life, or it may commit such person to a mental institution or place him upon out-patient treatment, or make such other disposition upon the recommendation of the department of mental health consistent with the purpose of treatment and rehabilitation. A person who is committed under this section shall serve his sentence concurrently with the commitment. The court shall forward its order to the appropriate commissioner or sheriff who shall thereupon transfer the person to the center, or a branch thereof, for the purpose of treatment and rehabilitation, where he shall be held until discharged therefrom under the provisions of section nine. Persons committed shall be subject to all laws, rules and regulations which govern inmates of the institution to which they have been committed insofar as may be compatible with the treatment provided for by this chapter, and they shall be entitled to such rights and privileges of such inmates as may be compatible with such treatment.

Section 6A. Except as provided in section eight, any person committed as a sexually dangerous person to the center or a branch thereof under the provisions of this chapter shall be held in secure custody.

Section 7. Any person believing himself to be suffering from a physical or mental condition which may result in sexual trends dangerous to the welfare of the public may make application to the department of mental health upon forms prescribed by said department for admission to the center, or a suitable branch thereof. All information pertaining to this application shall be confidential, and may not be used in any criminal proceeding or proceeding under this chapter against such person. Subject to such rules and regulations and conditions relative to payment therefor, as the commissioner of mental health shall prescribe, persons may be admitted to the center or a suitable branch thereof, for examination, diagnosis and treatment.

Section 8. The department of mental health shall establish a program at the center, which program shall provide, in a manner consistent with security considerations, for the restrictive integration of the patient into a non-custodial environment. Said program shall be administered pursuant to the rules and regulations promulgated by the department of mental health. A person shall be eligible for such a program if (a) he has completed at least two years custody within the center, and (b) restrictive integration is appropriate and will significantly advance his treatment, and (c) he will not present a danger to the community under the controls provided by the program.

As part of its program of restrictive integration the department of



ACTS, 1985. – Chap. 752.

mental health shall establish a board known as the "restrictive integration review board," which board shall consist of six members appointed by the commissioner of mental health for a two year term, consistent with the rules and regulations of the department. Membership shall include the head of the Massachusetts Treatment Center custodial staff, two members of the center clinical staff and three persons who are not employees of the center, but who may be consultants. The non-employee members shall include one psychiatrist licensed by the commonwealth, one psychologist licensed by the commonwealth, and either a psychiatrist or a psychologist licensed by the commonwealth. The board shall evaluate patients at the restrictive integration program and establish conditions to ensure the safety of the community. All records concerning the progress, diagnosis and examinations of the person made by the qualified examiners pursuant to section nine shall be available to the restrictive integration review board to assist in its determination of eligibility for restrictive integration.

The restrictive integration review board shall make periodic examinations at least once every year of any person committed to the center in order to determine the progress of treatment and the advisability of the person's participation in the restrictive integration program, and shall give a report of its findings to the administrator of the center. Such annual report shall include a statement regarding the person's current sexual dangerousness, and the findings of the restrictive integration review board. The restrictive integration review board shall update the annual report for the purposes of a hearing under section nine. The administrator of the center shall give a copy of the annual report to the district attorney for the district from which the person was committed, and to the department of the attorney general.

Any person participating in a restrictive integration program under this section shall be under constant evaluation by center personnel to determine if he presents a danger to the community and if the program continues to advance his treatment. Any person who does not return to the center, according to the conditions of the program, will be considered an escapee, in violation of section sixteen of chapter two hundred and sixty-eight, and a warrant will issue for his arrest.

Section 9. Any person committed to the center shall be entitled to file a petition for examination and discharge once in every twelve months. Such petition may be filed by either the committed person, his parents, spouse, issue, next of kin or any friend. The department of mental health may file a petition at any time it feels a person is no longer a sexually dangerous person. A copy of any petition filed under this subsection shall be sent within fourteen days after the filing thereof to the department of the attorney general and to the district attorney for the district where the original proceedings were commenced. Said petition shall be filed in the district of the superior court department in which said person was committed. The petitioner shall have a right to a speedy hearing on a date set by the administrative justice of the superior court department. The hearing may be held in any court or any place designated for such purpose by the administrative justice of the superior court department. The hearing shall be conducted in the same manner as



**ACTS, 1985. -- Chap. 752.**

is provided by the second paragraph of section five of this chapter. The court shall issue whatever process is necessary to assure the presence in court of the committed person. The commissioner of mental health shall appoint two qualified examiners who shall conduct examinations of the person on whose behalf such petition is filed and file with the court written reports of their examinations and diagnoses, and their recommendations for the disposition of such person. The qualified examiners shall have access to all records of the person being examined. The reports of the qualified examiners shall be available to the parole board to assist in future determinations on criminal sentences. In addition to the evidence admissible pursuant to section five, the updated annual report of the restrictive integration review board pursuant to section eight shall be admissible in a hearing under this section. The administrator of the center or his designee may testify at the hearing regarding the annual report and his recommendations for the disposition of the petition. Unless the court finds that such person remains a sexually dangerous person, it shall order such person to be discharged from the treatment center. Discharge from the center shall not operate to terminate the sentence given concurrently with the commitment, or any other unexpired sentence. Upon such discharge, notice must be given to the center, the district attorney in the district from which the commitment first originated, and the department of the attorney general.

Section 10. Any attorney retained by or on behalf of any person committed to the center shall be admitted to visit such person at reasonable times if in the opinion of the commissioner of mental health such visit would not be injurious to such person, or if a justice of the superior court orders in writing that such visit shall be allowed. Such attorney upon request shall be entitled to receive from the clerk of the court copy of the reports of qualified examiners filed under sections four, five, six and nine.

Section 11. The commissioner of mental health may make available on a voluntary and confidential basis the facilities of the department of mental health to persons who are victims of sexual attack.

**SECTION 2.** If any of the provisions of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provisions or applications, and to this end the provisions of this act are declared severable.

**SECTION 3.** The executive office of human services is hereby authorized and directed to conduct an investigation and study of the need for and the feasibility of utilization of the treatment center for sexually dangerous persons, or the clinical staff thereof, in the evaluation of the potential for sexually violent conduct on the part of persons committed to correctional institutions in the commonwealth and under consideration for parole or early release. Said executive office shall report the results of its study together with a descriptive of the actions being undertaken by said executive office to implement such use of the treatment center, or the staff thereof, by filing a copy of the



**ACTS, 1985. – Chap. 753.**

same with the clerks of the senate and the house of representatives no later than six months after the effective date of this act.

**SECTION 4.** The first and third paragraphs of section five and the provisions of section six of chapter one hundred and twenty-three A of the General Laws shall apply only to persons sentenced for offenses committed on or after the effective date of this act. Said provisions as they appeared prior to the effective date of this act shall apply to persons sentenced for offenses committed prior to said effective date.

All other provisions of said chapter one hundred and twenty-three A shall apply to all persons awaiting trial, under examination, under commitment for examination or diagnosis, under sentence, or under commitment as a sexually dangerous person as of the effective date of this act and to all persons sentenced on or after the effective date of this act. Nothing contained in this act shall be construed as affecting the validity of any procedure instituted under the former provisions of said chapter one hundred and twenty-three A.

Approved January 6, 1986.

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**Chapter 753. AN ACT PROVIDING FOR FINANCING OF HEALTH CARE AND RESIDENTIAL FACILITIES FOR THE ELDERLY.**

**Be it enacted, etc., as follows:**

**SECTION 1.** Section 1 of chapter 40D of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by inserting after the word "purposes", in line 61, the words:– or to the operating of a continuing care facility.

**SECTION 2.** Said section 1 of said chapter 40D, as so appearing, is hereby further amended by inserting after the word "than", in line 75, the words:– residential housing operated in connection with a continuing care facility and.

**SECTION 3.** Said section 1 of said chapter 40D, as so appearing, is hereby further amended by adding the following paragraph:–

(u) "Continuing care facility", a facility at which there is furnished to individuals, other than an individual related by consanguinity or affinity to the person furnishing such care, board and lodging together with nursing services, medical services or other health related services, regardless of whether or not the lodging and services are provided at the same location, pursuant to an agreement effective for the life of the individuals or for a period in excess of one year.

Approved January 6, 1986.



**ACTS, 1985. – Chaps. 754, 755.**

**Chapter 754. AN ACT RELATIVE TO THE REQUIREMENT OF A BOND OR A SECURITY BY INDIGENT TENANTS IN EVICTION CASES.**

Be it enacted, etc., as follows:

Section 5 of chapter 239 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out the fifth paragraph and inserting in place thereof the following paragraph:–

A party may make a motion to waive the appeal bond provided for in this section if he is indigent as provided in section twenty-seven A of chapter two hundred and sixty-one. Such motion shall, together with a notice of appeal and any supporting affidavits, be filed within the time limits set forth in this section. The court shall waive the requirement of such bond or security if it is satisfied that the person requesting the waiver has any defense which is not frivolous and that he is indigent as provided in section twenty-seven A of chapter two hundred and sixty-one. The court shall require any person for whom the bond or security provided for in the third paragraph has been waived to pay in installments as the same becomes due, pending appeal, all or any portion of any rent which shall become due after the date of such waiver. No court shall require any such person to make any other payments or deposits. The court shall forthwith make a decision on the motion. If such motion is made, no execution shall issue until the expiration of six days from the court's decision on the motion or until the expiration of the time specified in this section for the taking of appeals, whichever is later.

Approved January 6, 1986.

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**Chapter 755. AN ACT RELATIVE TO ELDERLY HOME CARE PROVIDERS.**

Be it enacted, etc., as follows:

The third paragraph of section 4 of chapter 19A of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out clause (c) and inserting in place thereof the following clause:–

(c) to encourage and assist communities to plan, develop and implement home care programs which shall be operated either by agencies organized by the commonwealth or any political subdivision thereof or by nonprofit corporations organized under chapter one hundred and eighty and which shall be designated by the department. Any hospital or nursing home licensed by the department of public health pursuant to the provisions of chapter one hundred and eleven shall not be eligible to operate home care programs under this chapter. A majority of the governing body of the aforesaid home care providers shall be persons sixty years of age or older who reside in the cities or towns served by said provider. Home care programs shall include, but not be



**ACTS, 1985. – Chap. 756.**

limited to case management, homemaker and chore services, transportation, protective services, and information and referral; provided, however, that the department may include additional services where feasible; and, provided further, that any council on aging may be a member of its designated area agency on aging without being required to join or make payment to a home care provider.

Approved January 6, 1986.

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**Chapter 756. AN ACT ESTABLISHING THE LAKE BUEL RESTORATION/PRESERVATION DISTRICT IN THE TOWNS OF MONTEREY AND NEW MARLBOROUGH.**

Be it enacted, etc., as follows:

**SECTION 1.** There is hereby authorized the establishment of a district within the towns of Monterey and New Marlborough, to be known as the Lake Buel Restoration/Preservation District which, upon its establishment in the manner hereinafter set forth shall constitute a body politic and corporate. Said District shall be generally bounded and described as follows:

A. **GENERAL BOUNDARIES.** The district within said towns of Monterey and New Marlborough shall be generally bounded on the north and east by Pixley road extending from the Great Barrington–Monterey town line to its intersection with the Hartsville–Mill River road, so called, at the village of Hartsville; on the south and southwest by Mill River–Great Barrington road also known as the Lake Buel road from its intersection with the Great Barrington–New Marlborough town line and continuing on the county and town roads leading therefrom to the village of Hartsville at the intersection of said Pixley road; on the west by that portion of the Great Barrington–New Marlborough and Great Barrington–Monterey town lines which lie between said Pixley road on the north and the said Mill River–Great Barrington road on the south.

B. **ACTUAL BOUNDARIES.** With the exception of the town line westerly boundary set forth above, the remaining boundaries so referred to are intended as guidelines only. The actual District boundaries shall be deemed to include those separately assessed parcels within said towns as shown from time to time on the maps maintained by the board of assessors for each town and which parcels either:

- (1) Abut directly on the shoreline of Lake Buel or;
- (2) Have a recorded private right of access to land which abuts the shoreline of Lake Buel in such manner that the owner or proprietor of such land is afforded by such recorded right access to Lake Buel for bathing, boating or other lake recreational activities at a location where members of the general public may lawfully be excluded from such use.

The actual boundaries of the District, as so comprised, shall likely include certain parcels situated outside of the general boundaries set forth at subsection A and may also exclude several parcels lying within said general boundaries. In no event, however, shall the boundaries as



**ACTS, 1985. – Chap. 756.**

finally determined and as from time to time revised be deemed to include any parcel or portion of parcel of land lying within the town of Great Barrington.

**SECTION 2.** Membership in the District shall consist of the proprietors from time to time of one or more separately assessed parcels of land lying within the District. For the purposes of this act, a proprietor shall be deemed to include not only natural persons, but also other entities empowered to own real estate in the commonwealth including corporations, partnerships, realty trusts and federal, state and local governmental units. Any mortgagee of record in possession of any one or more separately assessed parcels shall be deemed a proprietor under the act. Persons or entities who shall jointly own one or more separately assessed parcels within the District shall collectively constitute a proprietor for all purposes hereunder.

**SECTION 3.** The District, upon establishment in the manner hereafter set forth, shall have the following powers:

A. To initiate and coordinate research and surveys for the purpose of gathering data on the lake, related shore lands, watershed and the drainage basin and other matters directly pertaining to the reclamation, preservation and maintenance of the lake for general recreational use.

B. To plan lake rehabilitation, enhancement, maintenance and preservation projects, and also public recreational projects.

C. To implement such projects and to conduct, coordinate and supervise the implementation thereof at all times subject to the obtaining of necessary approvals from and, where required, under the supervision of appropriate local, state and federal governmental agencies including the towns of Monterey and New Marlborough, the department of environmental management, environmental quality engineering, and the department of fisheries, wildlife and recreational vehicles and appropriate funding and/or regulatory agencies of the Federal Government.

D. To make and enter into all manner of contracts and agreements necessary or incidental to the exercise of any power permitted to the district by this act.

E. To adopt an annual budget and to raise and appropriate funds in amount necessary to carry out the purposes for which the district is formed.

F. To acquire, dispose of and encumber real and personal property for the purposes of the district, including the power to acquire real estate or a limited interest in real estate by eminent domain under and subject to the provision of chapter seventy-nine of the General Laws; provided, however, that the power of the District to so acquire real estate shall be subject in each instance to approval by a two-thirds vote of the voters of the town in which the land is located.

G. To manage, control and supervise equipment and facilities necessary or appropriate in the accomplishment of the purposes of this act, including, but not limited to, weed harvesting equipment, dredging apparatus, lake draw down facilities for either temporary or permanent



**ACTS, 1985. – Chap. 756.**

water level control and also recreational swimming and boating facilities for public use, provided, however, that an area of shorefront beach suitable for the development of recreational swimming facilities shall be reserved for such development and shall remain open and accessible for use by all residents of the commonwealth.

H. To construct, acquire by lease or purchase, improve, maintain and operate such equipment and facilities and such other equipment, materials, supplies facilities and services as shall be required to accomplish the purposes of this act, to the same extent and subject to the same limitations as shall apply to towns in the commonwealth from time to time under the General Laws.

I. To apply for, accept and expend financial assistance from the federal government, the commonwealth, Berkshire county and the towns of Monterey and New Marlborough either directly or jointly with and through said towns, or either of them.

J. To apply for, receive and expend funds from charitable foundations or other private entities and individuals in the form of grants, gifts, loans and advances for or in aid of the purposes of the District.

K. To employ such persons, including consultant experts as may be deemed necessary in its judgment, and to fix their compensation.

L. To adopt by-laws for the regulation of its affairs and the conduct of its business, which by-laws shall be consistent with the powers conferred by this act and with other applicable provisions of the General Laws.

M. To perform all duties and exercise all responsibilities called upon to be exercised or performed by the town of Monterey pursuant to a grant awarded by the division of water pollution control in the department of environmental quality engineering pursuant to the authority granted by chapter six hundred and twenty-eight of the acts of nineteen hundred and eighty-one, chapter two hundred and eighty-six of the acts of nineteen hundred and eighty-two, and chapter seven hundred and twenty-two of the acts of nineteen hundred and sixty-nine. Said exercise and acceptance shall be subject to approval by the commissioner of environmental quality engineering or his designee so as to permit the District to act as direct grantee or sub-grantee under the town of Monterey.

N. To reimburse the towns of Monterey and New Marlborough and the Lake Buel Association, Inc., with respect to monies advanced or expended in satisfaction of the local share required under the terms of the grant next above referred to, and also for legal and legal related expenses for the formation of the District, and consultant fees for actions required under said grant, which expenditures are required to be made or incurred prior to the enactment of this act and the formation of the district pursuant hereto but excluding such expenses as were made or incurred prior to May first, nineteen hundred and eighty-three.

O. To borrow at the first or any subsequent meeting of the district for the purpose of meeting preliminary or current expenses such sums as may be necessary and to issue therefore general obligation temporary notes for a period of not more than two years, provided that such notes shall be issued only in anticipation of assessments and other revenues of



ACTS, 1985. – Chap. 756.

the district of the fiscal year in which such notes are issued or in anticipation of money to be received from the sale of longer term bonds or notes for such purposes as are otherwise hereafter permitted in this act.

P. To sue and be sued in its own name and to plead and be impleaded; provided, however, that neither the District nor any officer or employee thereof shall be liable in tort except pursuant to the provisions of chapter two hundred and fifty-eight of the General Laws; and provided further, that the district may indemnify its officers and employees to the extent provided in said chapter two hundred and fifty-eight.

Q. To invest any funds not required for the immediate use of the District in such manner and to the extent permitted under the General Laws for the investment of such funds by the town treasurer of a town.

R. To procure insurance against any loss or liability which may be sustained or incurred in the carrying out the purposes of this act in such amount as the district shall deem necessary and appropriate and with one or more insurers who shall be licensed to furnish such insurance in the commonwealth.

S. To perform generally all acts which are necessary or convenient to implement the powers which are expressly or by necessary implication conferred upon the district by this act and which are not otherwise prohibited under any provision of the General Laws.

**SECTION 4.** The boards of selectmen of the towns of Monterey and New Marlborough shall, within sixty days of the effective date of this act, call a meeting of the proprietors of the lands to be included in the District as set forth under section two. For the purposes of establishing an initial list of proprietors, the board of selectmen of each town shall consult with their respective boards of assessors who shall furnish to the board of selectmen with a listing of all record property owners, as of January first in the year in which this act became effective who are owners of one or more separately assessed shore front parcels, or who within the reasonable knowledge or belief of the assessors are owners of one or more separately assessed parcels which do not have frontage on Lake Buel but which possess deeded easement rights to the use of said lake frontage property as set forth in section two. The board of selectmen upon receiving such lists shall prepare and mail by certified mail a notice to each such proprietor signed by the selectmen and setting forth a time and place of a meeting to occur within said sixty day period but not less than fourteen days from the date of mailing of said notice. The notice shall be in the form of a warrant specifying the matters upon which action is to be taken at the meeting and shall further clearly state that the purpose of the meeting is to consider the organization of the District. The board of selectmen shall not later than fourteen days prior to the date of such meeting cause a copy of the notice to be posted in one or more public access locations within each town. The meeting shall be held at a public access building in the village of Hartsville in the town of New Marlborough unless some other location within the town of New Marlborough or the town of Monterey shall be jointly agreed upon by the respective boards of selectmen.



ACTS, 1985. – Chap. 756.

At the first meeting of the district, one selectman each from the towns of Monterey and New Marlborough shall initially jointly preside and shall call the meeting to order. Said selectmen shall thereupon determine whether or not the proprietors constituting a majority in interest in either aggregate assessed evaluation of land and improvements or land area, are present or represented by proxies duly executed and placed in the hands of other proprietors prior to said meeting. Lacking such a majority, the meeting shall have no power to act, but the selectmen of both towns may, in the manner above provided, call additional meetings for the same purpose within a further sixty day period.

Provided that a quorum has been determined to be present in the manner above specified, the meeting shall then proceed to the following order of business:

A. Election of a temporary clerk, who shall be sworn by one of the selectmen present, and a moderator who shall thereupon preside.

B. The taking of a vote to determine whether or not the district authorized by this act shall be established and organized, which vote shall require an affirmative vote of two-thirds of the proprietors present and voting in person or by proxy. If such vote shall be in the negative, the meeting shall thereupon adjourn. If such vote shall be in the affirmative and upon the required majority, the meeting shall next proceed to consider the order of business set forth in sub-paragraphs C through F, inclusive.

C. The adoption of district by-laws and a form of District seal.

D. The election by ballot of a district clerk and a district treasurer, who may be the same person, and who shall be legal residents of the commonwealth, to hold office until one year from the next succeeding annual meeting and at each annual meeting after the first a clerk and treasurer shall be elected by ballot for one year. There shall also be elected by ballot three members of the prudential committee, constituted in its entirety as hereafter set forth, said three members to hold office, one for three years, one for two years, and one for one year, from the next succeeding annual meeting. At each annual meeting after the first, a member of the committee shall be elected by ballot for three years. The aforesaid officers of the district shall hold office until their successors are elected and qualified. Persons eligible for nomination and election to the prudential committee shall be at least eighteen years of age and shall include persons entitled to vote as proprietors or as representatives of proprietors at district meetings, and also other persons who are legal residents of the commonwealth.

E. The adoption of an initial budget for the remainder of the fiscal year and the appropriation of monies to be raised by assessment upon the proprietors in support thereof.

F. The consideration of such other business as shall be consistent with the power and authority conferred by this act.

The district clerk shall retain all proxy votes cast at the initial meeting, together with the minutes of the meeting and as part of the permanent record of the district. The clerk shall further prepare a certificate of the vote taken to organize the district and shall affix the



**ACTS, 1985. – Chap. 756.**

form of seal thereto as adopted by the initial district meeting and shall obtain the endorsement of the selectmen initially presiding at the meeting thereon. Such certificate shall be forwarded to the attorney general within thirty days following the adjournment of the meeting and upon filing said certificate, the provisions of this act shall take full effect.

**SECTION 5.** At the initial district meeting, at all subsequent annual and special district meetings, voting by proprietors shall be governed by the requirements of this section. Persons or entities owning one or more separately assessed parcels of land within the district shall be entitled to cast one vote on any matter or issue to be voted upon at any such meeting and notwithstanding the total number of parcels owned by such person, persons or entities. Joint owners and entity proprietors shall designate in writing to the clerk prior to the commencement of the meeting, the person authorized to vote on behalf of the proprietor at such meeting and such person shall be presumed as qualified and authorized to represent the proprietor if such person shall be a listed record owner of such parcel or parcels or if such person shall, as evidenced by any public record maintained under the laws of the commonwealth be listed as a partner, trustee, agent, officer, or employee of a proprietor. A person owning one or more parcels together with his spouse shall not be required to furnish a written designation from his spouse and either shall be presumed to be qualified to vote.

The authority of a person to cast a proxy vote on behalf of a proprietor shall likewise be determined by the clerk. Further, all proxies must be tendered in writing prior to the commencement of any District meeting and shall clearly set forth the name and address of the proprietor entering the proxy, the name and address of the person who is to exercise the proxy, the signature of the proprietor granting same and the date of execution. The district, may, if it so elects, adopt in its by-laws an approved form of proxy to satisfy the requirements of this section. The duration of a proxy shall be established by district by-law.

**SECTION 6.** Annual meetings of the District shall be held on the last Saturday in May in each year or at such other time as the district shall establish from time to time in its by-laws. Annual and other special meetings of the district shall be called by warrant under the hands of the prudential committee, notice of which shall be given fourteen days at least before such meeting. The warrant shall be mailed first class, postage pre-paid to each proprietor of record in the district and copy of the same shall be directed to a constable of the towns of Monterey and New Marlborough or to some other person who shall cause a copy of said notice to be posted in one or more public places within each town or by advertising in a newspaper published at least weekly within Berkshire county and having a general circulation within both towns. The warrant for all district meetings shall state the time and place of the meeting and the subjects to be acted upon thereat. The prudential committee shall insert in the warrant of the annual meeting all subjects, the insertion of which shall be required of them in writing by ten or more



**ACTS, 1985. – Chap. 756.**

proprietors of the district and in the warrant for every special district meeting all subjects the insertion of which shall be requested of them in writing by twenty or more proprietors. The prudential committee shall call a special district meeting at its behest or upon request in writing of not less than twenty proprietors or proprietors constituting at least twenty per cent in interest, either in assessed evaluation of land improvements or in total land area within the district. Special meetings so requested shall be held not later than thirty days after the receipt of such request. No action taken at the annual or any special District meeting shall be valid unless the subject matter thereof shall have been set forth in the warrant for such meeting. Two or more District meetings for distinct purposes may be called for by the same warrant. At every District meeting a moderator shall be chosen by ballot and shall have the powers of the moderator of a town meeting.

District meetings shall be governed by chapter thirty-nine of the General Laws except as otherwise expressly provided in this act.

The board of assessors of the towns of Monterey and New Marlborough shall, at least thirty days prior to the annual district meeting, prepare and forward to the prudential committee a true and complete alphabetical listing with addresses of the proprietors reflected in their records as of January first of that year and from the records maintained by the assessors pursuant to chapter fifty-nine and other related provisions of the General Laws. A copy of such list shall be maintained in a manner accessible to the proprietors and the general public at all reasonable times by the prudential committee and the district clerk and shall further be available for inspection at the annual meeting and any special meeting of the District. The boards of assessors shall likewise maintain a list of proprietors within their town by separate list or special designation on their list of all assessed parcels.

Quorum requirements for annual meetings and special meetings of the district shall be as specified for the initial district meeting set forth above or otherwise as the district shall determine from time to time in its by-laws; provided, however, that the quorum requirements at such meeting will not be reduced below a number of proprietors constituting one-third in interest, either in aggregate assessed evaluation of land and improvements or land area, whether voting in person or by proxy as aforesaid.

Any matter to be voted upon at an annual or special meeting of the District shall require only a majority of those proprietors present in person or by proxy and voting on the question, except for the following actions which shall require a two-thirds vote:

- A. A vote to petition for dissolution of the District.
- B. A vote to purchase or otherwise acquire real property.
- C. A vote to finance any undertaking which is authorized by this act to be financed in whole or in part by the issuance by the District of long term notes or bonds.

**SECTION 7.** In addition to the three members elected by the district as provided in this act, the prudential committee shall comprise the following additional persons:



**ACTS, 1985. – Chap. 756.**

A. One member each from the board of selectmen of the towns of Monterey and New Marlborough or such other resident voter of each town as shall be appointed by its board of selectmen to serve on the prudential committee. Such selectman or other person shall serve at the pleasure of the board of selectmen appointing same and each shall be a full voting member of the committee.

B. One representative each as designated from time to time in writing by the commissioner of environmental quality engineering and the commissioner of fisheries, wildlife and recreational vehicles.

The above town and state appointed members shall serve for an indefinite term at the pleasure of their appointing authorities from time to time in office and the state appointed members shall be non-voting members of the prudential committee but shall nonetheless be permitted to participate fully in all discussions and deliberations of the committee. In the event that either town or the commissioner of either department shall fail from time to time to so designate its member of if such member shall resign and no replacement shall have been designated in like manner, the prudential committee shall nonetheless be legally constituted with full power to carry out its duties and responsibilities as set forth herein with the three members elected by the district.

The prudential committee shall have and shall exercise, the following powers and duties:

A. The expenditure for the purposes permitted to the district, of the money raised and borrowed by the district.

B. The annual preparation of a budget for the management and operation of the district and the submission of such budget to the annual District meeting for its approval. Such budget shall include the committee's estimate of those monies required to be raised and appropriated by means of assessment upon the district proprietors, by borrowing, or otherwise to be received.

C. To apply in the name of the district for grants, loans, and other assistance from both governmental and non-governmental entities.

D. Subject to prior appropriation therefore, to enter into agreements and contracts involving the purchase or lease of services, equipment and supplies consistent with the powers granted by this act.

E. Subject to prior appropriation therefore, to hire, supervise, suspend and discharge such employees as the committee shall deem necessary or appropriate for the conduct of the work to be performed by the district including, but not limited to, a District superintendent who shall have charge on a day to day basis of all district employees and who shall be responsible on behalf of the prudential committee for the conduct and supervision of any and all work to be performed by or on behalf of the district pursuant to this act. Compensation and benefits for the district superintendent and all other employees shall, subject to prior appropriation therefore, be as determined from time to time by vote of the prudential committee.

**SECTION 8.** That the prudential committee shall meet as necessary, but in no event less frequently than every three months. A quorum of the prudential committee shall be required at all meetings for the



**ACTS, 1985. – Chap. 756.**

conduct of any business thereat and shall consist of its voting members. The initial meeting of the prudential committee shall be not later than thirty days following the establishment of the district. Thereafter the committee shall schedule one meeting to occur in each year immediately following the adjournment of the annual district meeting. At such initial meeting and at all subsequent meetings following the annual district meeting, the committee shall elect from its members a chairman who shall preside at all committee meetings and who shall serve until his successor shall be elected at the meeting following the annual district meeting. The committee shall also elect a vice-chairman who shall be empowered to preside over committee meetings in the absence of the chairman and who shall serve for like term. The district, may, subject to a prior appropriation therefor, provide appropriate compensation for District officers including members of the prudential committee and including the expense of travel, meals and lodging for such officers and committee members residing outside the district.

**SECTION 9.** Without the limiting its powers as set forth above in this act, the prudential committee shall have charge of expenditures on account of the District, duly budgeted and appropriated pursuant to the powers granted to the District, and shall exercise the authority conferred upon it by the district by-law, except as otherwise expressly provided in this act.

**SECTION 10.** The district treasurer shall receive and take charge of all money belonging to the district, and pay over and account for the same according to the order of the district or of its prudential committee. No other persons shall pay any district bill; provided, however, that this provision shall not prohibit the treasurer from paying such bill by the use of a bank treasurer's or cashier's check. He shall further have the authority given to an auditor by section fifty-one of chapter forty-one of the General Laws, and shall annually render a true account of his receipts and disbursements and report of his official acts to the District. The treasurer shall give bond annually for the performance of his duties in a form approved by the commissioner of revenue and in such sum, not less than the amount established by said commissioner, as shall be fixed by the prudential committee, and, if he fails to give such bond within ten days after his election or appointment, or if within ten days after the expiration of said bond or any renewal of said bond, he fails to file a renewal thereof, the prudential committee shall declare the office vacant and the vacancies shall be filled by the committee in the manner set forth in section twelve.

**SECTION 11.** The district clerk shall, in addition to the other duties specified herein, take all minutes at District meetings and at meetings of the prudential committee and maintain a record of such minutes in a manner provided for the maintenance of records of minutes of town meetings and of meetings by the boards of selectmen in the commonwealth. The clerk shall further be the official responsible for certifying copies of any and all votes taken at a District meeting or a



**ACTS, 1985. – Chap. 756.**

meeting of the prudential committee.

**SECTION 12.** Any vacancy occurring in the office of clerk, treasurer or member of the prudential committee elected by the district may be filled by the district for the remainder of the unexpired term at any special meeting called for that purpose, or in the case of a vacancy in the office of clerk or treasurer or disability effecting either of said officers, the prudential committee may appoint a person to fill said vacancy until an election can be held or the disability is removed. Such temporary appointee shall be sworn and shall perform the duties of the office to which he is appointed during his tenure thereof. A temporary treasurer appointed to fill a vacancy, as above provided, shall give bond in the same manner as the treasurer.

**SECTION 13.** At its initial meeting, and at the annual meeting each and every year thereafter, the district shall adopt by two-thirds vote as set forth in this act, a method to be employed during the fiscal year to which the meeting relates for financing the share of its annual budget which is anticipated to be required to be funded by the district. The district may vote to adopt any of the following methods of financing, or combination thereof:

A. The district may raise by assessments upon the proprietors and by voluntary contributions the total sum required to meet such estimated expense.

B. The district may pay the whole of such expense from time to time as the work, material, labor and services shall be performed and for this purpose may incur debt by a temporary loan in anticipation of the collection of assessments from the district members during the fiscal year in which said debt is incurred or during the next succeeding fiscal year and except as further modified on the initial fiscal year under subsection O of section three.

C. At such district meeting or at a special meeting called for that purpose, the district may incur debt to the amount necessary to pay that portion of such expense which relates solely to proposed long term district improvements and major equipment purchases and may issue therefor notes or bonds, and may, if the district further so approves, issue notes or bonds on the condition that the first payment on account of the principal shall be deferred for a period of not more than five years from the date of issue of such notes or bonds and that the whole amount of such debt shall be payable within a period of not more than twenty-five years after such notes or bonds are issued. No such issue shall be for a term longer than the reasonably estimated useful life of the improvements, facilities and equipment to be so funded.

Indebtedness incurred by the district under the provision of this sub-section shall be subject to chapter forty-four and to other provisions of the General Laws applicable to notes and bonds of districts except as otherwise provided in this act. If the district issues notes or bonds and thereafter it shall receive an appropriation from another governmental entity to cover such part, if any, of the expenses of such improvements, the district, in its discretion, unless otherwise mandated by the terms



## ACTS, 1985. – Chap. 756.

and conditions of the grant from such governmental unit, shall make all or any part of such appropriation available to redeem notes or bonds of the District and shall hold the balance, if any, to the credit of the district to be used for the payment of the expense of such improvements, facilities and for equipment. Bonds or notes issued under this section shall be the general obligations of the district.

That portion, if any, of the budgeted expense for the initial fiscal year and for each subsequent fiscal year which shall be required by the district for the payment of principal and interest on bonds and notes issued or to be issued by the district and which shall be due during the ensuing fiscal year together with those amounts necessary to be raised by the district to maintain and operate the district during said fiscal year for capital outlay items, the costs of which is not otherwise funded, and all other budgeted expenses for which the district is authorized to raise money, the costs of which items the district shall have voted to raise by assessment upon land and improvements of the proprietors within the district shall be the subject of a separate vote at the initial district meeting. If the District so votes, the schedule of assessed valuations of land and improvements established by the boards of assessors in each town for the same fiscal year under the provisions of chapter fifty-nine of the General Laws shall be relied upon as the basis for determination of the pro-rata share of the district budget voted to be raised and appropriated and paid by the proprietors upon their lands and improvements lying within the district.

Following the adjournment of the initial district meeting and each annual District meeting thereafter, the clerk of the district shall certify to the assessors of the towns of Monterey and New Marlborough all sums of money voted to be raised by District assessment and the method and means of assessment voted upon at such meeting, which votes shall have been adopted by a two-thirds majority as provided in this act, together with the amount to be paid by each proprietor according to the determination made by such votes. The assessors of both towns shall without further vote, assess such amounts upon the lands of the proprietors within the district and commit to the collector of taxes of the town wherein the land is situated, who thereupon shall have and exercise the same powers and duties in relation to the collection of such assessments as he has and exercises relative to the collection of town taxes. The collector shall remit weekly to the district treasurer all sums collected by him on account of such assessments. An assessment made hereunder shall be a lien upon the land assessed therefor, in the same manner as a lien for real estate taxes assessed by the town under the provisions of section thirty-seven of chapter sixty, and other related provisions of the General Laws.

**SECTION 14.** The fiscal year of the District shall be the same fiscal year as established by the General Laws for cities and towns in the commonwealth.

**SECTION 15.** Unless otherwise specified in this act, or otherwise required by General Law, all actions permitted to be taken at annual or



**ACTS, 1985. – Chap. 756.**

special districts meetings shall require a majority vote of those proprietors present in person or by proxy at said meeting and entitled to vote thereat, who shall constitute a quorum in accordance with this act or otherwise by by-law of the District. All actions permitted to be taken by the prudential committee shall require a majority vote of the committee members present at said meeting who shall constitute a quorum in accordance with this act.

**SECTION 16.** The district shall include in its initial and in all subsequent annual appropriations, compensation for the board of assessors and the tax collector of the towns of Monterey and New Marlborough, pursuant to the provisions of section one hundred and eight B of chapter forty-one of the General Laws, with respect to their duties and expenses hereunder.

**SECTION 17.** Notwithstanding their membership on the prudential committee, neither the town of New Marlborough nor the town of Monterey nor any agency or department of the commonwealth shall be obligated for any debts of the district, nor shall they by virtue of this act be required to pay for any liability, obligation or expense made, suffered or incurred by the district. In like manner, the proprietors of the district shall not be individually liable or obligated with respect to debts or other obligations made, suffered or incurred by the district except with respect to the payment of assessments upon their land as provided for in this act.

**SECTION 18.** No provision of this act shall be deemed to modify or amend any power, authority or jurisdiction now or hereafter vested in any agency, department or unit of state, local or federal government as it relates to the use, operation or enjoyment of Lake Buel as a great pond available for use by the general public not only for recreational use but for other purposes now or hereafter permitted or required by federal, state and local law, regulation and local by-law.

**SECTION 19.** The district shall establish in its initial budget and in all subsequent fiscal year budgets an overlay account and a reserve fund as provided for towns under the provisions of section twenty-five of chapter fifty-nine and section five C of chapter forty of the General Laws except for the initial fiscal year, or portion thereof, of the operation of the district, the district may add to the amount to be raised by district assessment a sum voted by the district for not more than twenty per cent thereof for the purposes of and subject to the limitations as set forth in said section twenty-five of chapter fifty-nine. The District is further authorized to establish and maintain a stabilization fund under the provisions of section five B of chapter forty of the General Laws. The district shall further be subject to an audit of its accounts in the manner provided in section forty of chapter forty-four of the General Laws.

**SECTION 20.** Immediately upon the formation of the district, the



ACTS, 1985. – Chap. 756.

district clerk, shall, in addition to the other duties to be performed by such District officer, cause a review to be made at that time and from time to time thereafter of the records required to be maintained by the boards of assessors for the towns of Monterey and New Marlborough including copies of deeds furnished to said boards by the southern district registry of deeds in the county of Berkshire, and shall otherwise take such actions as shall be reasonably necessary to verify the list of proprietors to be included within the district. The clerk shall further cause to be prepared one or more maps based in whole or in part upon the maps required to be maintained by the assessors of said towns on which shall be maintained by the assessors of said towns on which shall be shown the location of all proprietors' lands initially included as well as those which upon such review should, in the opinion of the district clerk be included within the district. Thereafter, at any special meeting called for that purpose and not later than the next annual meeting, the district clerk shall furnish the prudential committee with a list of proprietors proposed for inclusion in the district and such maps depicting the approximate location and boundaries of such parcels as well as the existing parcels within the district. The committee shall furnish written notice in the manner provided for furnishing notice to a proprietor of a district meeting to the record owners of such parcels proposed for inclusion in the district. At the district meeting called for such purpose, the district shall, by its vote, determine whether or not its parcel or parcels shall be included within the district and shall furnish the record owners thereof with full opportunity to be heard prior to such vote as though such persons were proprietors of record, entitled to vote thereon.

Any original proprietor of the district and any record owner of real estate hereafter included within the district as a proprietor in the manner set forth in this section, shall have the right to petition the district through its prudential committee for exclusion from the district based upon an alleged lack of sufficient direct benefit to said proprietor's land with respect to the purposes for which the district has been established. Such petition shall be in writing and shall set forth in summary form the reasons relied upon in support thereof. Said committee shall, upon receipt of such petition, conduct such investigation thereof as it shall deem appropriate, and shall, at its next regular meeting, or sooner at a special meeting, and upon at least seven days written notice to the petitioner, consider the petition and vote thereon. A vote by the prudential committee to exclude the land of the petitioner from the District shall be final. In the event that the prudential committee shall vote to disapprove the petition or shall fail to act thereon prior to the next annual meeting of the district, the petition shall be included in the warrant for said meeting and the district shall vote on same at that time. If the district shall vote to disallow the petition, the petitioner may appeal to the superior court within the county in which the District is located for a remedy. Upon such appeal, said court shall, if the reasons set forth by the petitioner shall be satisfactory to the court, grant such exclusion. Such exclusion, if the petition shall have been filed in writing therefor prior the December thirty-first of the then current fiscal year, result in an abatement of



**ACTS, 1985. – Chap. 757.**

district assessment from the commencement of such fiscal year; otherwise, such abatement shall not be effective until the commencement of the next fiscal year.

**SECTION 21.** Once established pursuant to this act, the district shall not dissolve without specific authorization by the general court, which shall not be given until provision has been made for the payment of the obligations of said district. Such dissolution may be initiated by the general court, by two-thirds vote at a regular or special district meeting or by joint petition by the towns of Monterey and New Marlborough under the provisions of Section 8 of Article LXXXVIII of the Amendments to the Constitution of the Commonwealth.

**SECTION 22.** This act shall take effect upon its passage; provided, however, that if the initial meeting of the district shall not occur and the certified vote evidencing the establishment of the district shall not be filed with the attorney general within one year after its passage, this act shall cease to be operative.

Approved January 7, 1986.

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**Chapter 757. AN ACT RELATIVE TO THE COMMONWEALTH'S SHARE OF ASSISTANCE PURSUANT TO A PRESIDENTIAL DISASTER DECLARATION RELATED TO HURRICANE GLORIA.**

Be it enacted, etc., as follows:

**SECTION 1.** To provide for disaster relief and meet the expenses of public services incurred as a result of the hurricane which struck the commonwealth on September twenty-seven, nineteen hundred and eighty-five, the sum set forth in section two is hereby appropriated, subject to the provisions of law regulating the disbursements of public funds and the conditions pertaining to appropriations in chapter one hundred and forty of the acts of nineteen hundred and eighty-five.

**SECTION 2.**  
**EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE.**

Item

1599-3520 For the purpose of meeting the commonwealth's share of disaster relief relating to the damage caused by hurricane Gloria which struck the commonwealth on September twenty-seven, nineteen hundred and eighty-five; provided, however, that the commonwealth's share of assistance to eligible counties, cities and towns, shall be limited to amounts set forth in an agreement entitled Federal Disaster Assistance



**ACTS, 1985. – Chap. 758.**

Agreement, dated October twenty-ninth,  
nineteen hundred and eighty-five, as  
amended, between the commonwealth and  
the Federal Emergency Management Agency

	\$3,125,000
Local Aid Fund	100.0%

**SECTION 3.** This act shall take effect upon its passage.

Approved January 7, 1986.

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**Chapter 758. AN ACT ESTABLISHING THE NORTHERN BERKSHIRE  
INDUSTRIAL PARK AND DEVELOPMENT  
CORPORATION.**

Be it enacted, etc., as follows:

**SECTION 1.** In this act, unless a different meaning clearly appears from the context, the following words and phrases shall have the following meanings:–

"Corporation", the Northern Berkshire Industrial Park and Development Corporation, established by section two of this act.

"Cost of a project", all costs, whether incurred prior to or after the issue of bonds or notes hereunder, of acquisition, site development, construction, improvement, enlargement, reconstruction, alteration, machinery, equipment, furnishings, demolition or removal of existing buildings or structures, including the cost of acquiring any lands to which such buildings or structures may be moved, financing charges, interest prior to and during the carrying out of any project, interest for up to two years after the completion or estimated completion date of any project, planning, engineering and legal services, administrative expenses, the funding of notes issued for capital purposes, such reserve for debt service or other capital or current expenses as may be required by a trust agreement or resolution securing notes or bonds, and all other expenses incidental to the determination of the feasibility of any project or to carrying out the project or to placing the project in operation.

"Department", the executive office of communities and development.

"Economic development area", any blighted, or any decadent area, as defined in section one of chapter one hundred and twenty-one B, or any open or largely undeveloped area which is located in the region and is zoned for general or restricted manufacturing uses or industrial uses whether restricted or not, and within which there are not more than forty-five dwelling units.

"Economic development plan", a detailed plan for one or more economic development projects within economic development areas which plan shall be consistent with local objectives respecting appropriate land uses, and shall be sufficiently complete to indicate the boundaries of the area, such land acquisition, such demolition, removal, and rehabilitation of structures, and such development, redevelopment



**ACTS, 1985. – Chap. 758.**

and general public improvements as may be proposed to be carried out within such areas, zoning and planning changes, if any, and proposed land uses, maximum densities and building requirements.

"Economic development project", (1) a project to be undertaken in accordance with an economic development plan for acquisition by purchase or otherwise by the corporation of land and the improvements thereon, if any, within economic development areas covered by an economic development plan and for clearance and development of the land so acquired; or (2) a project for the rehabilitation or conservation of an economic development area, or for the demolition, removal, or rehabilitation of improvements on land within economic development areas whenever necessary to eliminate unhealthful, unsanitary or unsafe conditions, lessen density, mitigate or eliminate traffic congestion, reduce traffic hazards, or eliminate obsolete or other uses detrimental to the public welfare; or (3) a project involving any combination of the foregoing types of project. An economic development project may include improvements necessary for carrying out the objectives of the economic development project, together with such site improvements as are necessary for the preparation of any site for uses in accordance with the economic development plan, and making any land or improvements acquired in the area of the project available for redevelopment or rehabilitation by private enterprise, including sale, initial leasing or retention by the corporation for industrial or manufacturing uses in accordance with the economic development plan. An economic development project may also include the construction by the corporation of any of the buildings, structures or other facilities for industrial or manufacturing uses contemplated by the economic development plan and the repair, removal, or rehabilitation by the corporation of any of the buildings, structures or other facilities located in the area covered by the economic development plan which under such plan, are to be repaired, moved or rehabilitated.

"Region", the city of North Adams and towns of Adams, Cheshire, Florida, Clarksburg, Hancock, New Ashford, Savoy and Williamstown.

"Secretary", the secretary of the executive office of communities and development.

**SECTION 2.** There is hereby established the Northern Berkshire Industrial Park and Development Corporation, a public body and corporate, hereinafter referred to as the corporation.

There shall be nine members of the board of directors of the corporation. Each of the nine members shall be sworn to the faithful performance of his official duties as a director of the corporation. A majority of the nine directors shall constitute a quorum for the transaction of any business, but any action shall require the vote of a majority of the entire board. The corporation shall be subject to the provisions of section eleven A of chapter thirty A of the General Laws.

The board of directors shall annually choose from its members a chairman and vice-chairman. The members of the board of directors shall be qualified as follows: one member shall be the person holding the position of economic development coordinator for the city of North



ACTS, 1985. – Chap. 758.

Adams; one member shall be the person holding the position of economic development coordinator, or the equivalent position, or, if such a position does not exist, or shall exist and be abolished, then the town administrator or his designee, for the town of Adams; one member shall be the person holding the position of economic development coordinator, or the equivalent position, or, if such a position does not exist, or shall exist and be abolished, then the town manager, or his designee, for the town of Williamstown; and of the remaining six members, one member shall reside in the city of North Adams; one member shall reside in the town of Adams; one member shall reside in the town of Williamstown, and of the remaining three members, at least one member shall reside in one of the remaining communities of Hancock, New Ashford, Cheshire, Clarksburg, Savoy, or Florida. Of these six remaining members, one shall be experienced in industrial development, one shall be experienced in finance, one shall be experienced in real estate matters, and one shall be a representative of labor. Said six remaining members of the board of directors shall be appointed by the governor. Their terms of office shall be for three years, except that the initial term of two members shall be for one year, the initial term of two members shall be for two years, and the initial term of two members shall be for three years in order to create staggered terms for the six gubernatorial appointments. Each of the gubernatorial appointments shall be made from the most highly qualified people available without regard to political affiliation.

Upon the expiration of the term of office of any member, or of any subsequent member, his successor shall be appointed in like manner for a term of three years. In the event of a vacancy in the office of a member, his successor shall be appointed in like manner to serve for the unexpired term. Unless reappointed, no member of the corporation shall hold office after the expiration of his term; and the appointment of a successor to any person whose term has expired shall be for the remainder of the term which would have begun at such expiration if the successor had then been appointed.

Any member may be removed by the appointing authority for malfeasance, misfeasance, or wilful neglect of duty, but only after reasonable notice and a public hearing, unless the same are in writing expressly waived, and after approval by the department. For purposes of chapter two hundred and sixty-eight A of the General Laws, the members of the corporation shall be deemed to be special municipal employees.

Before the issuance of any bonds under the provisions of this act, each member of the corporation shall execute a surety bond with a surety company authorized to transact business in this commonwealth as surety, in the penal sum of fifty thousand dollars conditioned upon the faithful performance of the duties of his office, each such surety bond to be approved by the legal counsel of the municipality and filed in the office of the state secretary. The members of the corporation shall receive no compensation for the performance of their duties hereunder, but each member shall be reimbursed for expenses actually incurred in the performance of his duties. Every such reimbursement shall be open to public inspection from and after the requisition therefor.



**ACTS, 1985. – Chap. 758.**

**SECTION 3.** The directors of the corporation shall adopt a corporate seal for the corporation, and designate the custodian thereof; may from time to time appoint and at pleasure remove a clerk, a treasurer or such other officers of the corporation as they may deem necessary, and may determine their duties and their compensation, which shall be paid by the corporation; shall cause at all times accurate accounts to be kept of all receipts and expenditures of the funds of the corporation and shall make a report annually in December to each of the municipalities in the region and to the secretary, containing an abstract of such accounts and detailed information of all receipts and expenditures, including prices paid for land purchased or taken and any buildings constructed thereon, contracts for construction of facilities and for the leasing thereof, and such other detailed information as may be deemed helpful. The office of treasurer and clerk may be held by the same person. The corporation shall cause an audit of its books and accounts to be made at least once in each fiscal year by certified public accountants and the cost thereof shall be treated as an item of current expense. Except as otherwise provided in this act, the corporation shall have full power to exercise care of its property and the management of its business and affairs, and to sell and convey any real estate or other property not needed for its business or affairs, by deed or other instrument sealed with the corporate seal, signed and acknowledged by a majority of the board of directors or in like manner to authorize such sale and conveyance by any of its officers or agents. The treasurer shall give bond for the faithful performance of his duties, with a surety company authorized to do business in this commonwealth as surety, in such sum as the said board may determine, the premium therefor to be paid by the corporation. Neither chapter thirty-one of the General Laws nor any rule made thereunder shall apply to any person employed or engaged by the corporation.

**SECTION 4.** The corporation is hereby authorized:

(a) To sue and be sued in its own name and to plead and to be so impleaded.

(b) To adopt by-laws for the regulation of its affairs and the conduct of its business, and to alter the same at its pleasure.

(c) 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, and such other engineers, construction and accounting experts and attorneys and such other employees, agents, and consultants as may be necessary in its judgment and to fix their compensation.

(d) To receive and accept from any federal agency the commonwealth or any of the municipalities in the region grants, loans or advances for or in aid of an economic development project or projects and to receive and accept contributions from any source of either money, property, labor or other things of value, to be held, used and applied for the purposes for which such grants, loans, advances and contributions may be made.

(e) To borrow money, and, from time to time, to make, accept,



ACTS, 1985. – Chap. 758.

endorse, execute, and issue bonds, debentures, promissory notes, bills of exchange, and other obligations of the corporation, for moneys borrowed or in payment for property acquired or for any of the other purposes of the corporation, and to secure the payment of such obligations by mortgage, pledge, deed, indenture, agreement, or other instrument of trust, or by other lien upon, assignment of, or agreement in regard to all or any part of the property, rights, or privileges of the corporation.

(f) To issue revenue bonds of the corporation, payable solely from revenues, for the purpose of paying all or any part of the cost of a project or projects.

(g) To invest any funds not required for immediate use or disbursement in certificates of deposit or in obligations of the government of the United States or in obligations the payment of the principal of, and interest on, which is guaranteed by the government of the United States.

(h) To provide such advisory services and technical assistance as may be necessary or desirable to carry out the purposes of this act.

(i) To prepare or cause to be prepared plans, designs, drawings, specifications and estimates of cost for the construction, reconstruction, development, redevelopment, rehabilitation, remodeling, alteration or repair of economic development projects and from time to time modify such plans, designs, drawings, specifications and estimates.

(j) To designate areas within the municipalities in the region as economic development areas.

(k) To acquire and hold by bequest, devise, grant, gift, purchase, exchange, lease, judicial order or decree, or otherwise, for any of its objects and purposes, any property, either real or personal, or any interest therein; and without limiting the generality of the foregoing, to acquire by purchase or otherwise, on such terms and conditions and in such manner as it may deem proper, or by the exercise of the power of eminent domain subject to the prior approval of the city or town within which the land is located by an affirmative two-thirds vote of the city council, following a public hearing, with the approval of the mayor or, as the case may be, by an affirmative two-thirds vote at an annual town meeting or a special town meeting called for the purpose with the advice of the secretary, the provisions of chapter seventy-nine or chapter eighty A in so far as such provisions may be applicable, such private lands, or any interests therein, as it may deem necessary for carrying out the provisions of this act or for providing for the relocation of persons and businesses displaced as a result of carrying out an economic development plan. The provisions of section forty of said chapter seventy-nine shall apply to any taking by the corporation, except that the security therein required shall be deposited with the treasurer of the municipality where the land is located and shall be in an amount at least twenty-five per cent higher than the aggregate average assessed valuations in the three previous calendar years of all real estate to be taken by eminent domain.

(l) To make relocation payments to persons and businesses displaced as a result of carrying out an economic development plan, including such payments on a pro tanto basis.



**ACTS, 1985. – Chap. 758.**

(m) To procure insurance against any loss in connection with its property and other assets and operations in such amounts and from such insurers as it deems desirable.

(n) To clear and improve property acquired by it, and to engage in or contract for the construction, reconstruction, development, redevelopment, rehabilitation, remodeling, alteration or repair thereof.

(o) To arrange or contract with the municipalities in the region for the planning, replanning, opening, grading or closing of street, roads, alleys or other places or for the furnishing of facilities or for the acquisition by the municipality of property or property rights or for the furnishing of property of services in connections with a project or projects.

(p) To manage any project whether owned or leased by the corporation and to enter into agreements with the commonwealth or any of the municipalities in the region, or any agency or instrumentality thereof or with any person, firm, partnership or corporation either public or private for the purpose of causing any project to be managed.

(q) To invest any funds held in reserves or sinking funds, or any funds not required for immediate disbursement, in such investments as may be lawful for fiduciaries in the commonwealth pursuant to the provisions of sections thirty-eight and thirty-eight A of chapter twenty-nine of the General Laws.

(r) To exercise any other powers of a corporation organized under the provisions of chapter one hundred and fifty-six B of the General Laws and

(s) To do all acts and things necessary or convenient to carry out the powers expressly granted in this act.

The corporation is hereby directed to pay the reasonable relocation costs of persons and businesses displaced as a result of carrying out an economic development plan as authorized by clause (k).

**SECTION 5.** No economic development project shall be undertaken until there has been compliance with the following procedures:

A preliminary economic development plan shall be filed with each of the municipalities in the area and with the secretary requesting comments and recommendations to be submitted to the corporation within forty-five days; Within thirty days after such period has elapsed, or after each municipality and the secretary have submitted their comments and recommendations, whichever occurs first, a public informational meeting shall be held in the region;

Within thirty days after the holding of such meeting, the corporation, may by an affirmative majority vote, approve and file a final economic development plan with the secretary. Said plan shall contain, in addition to the requirements of section one, a certificate by the corporation that it shall comply with environmental zoning and land use laws and regulations prior to implementation of the projects in the plan, and, with such other requirements as may be prescribed by the by-laws of the corporation.

Upon the filing of the final plan with the secretary, the corporation shall have the powers and duties imposed by this act to undertake and carry out the economic development projects covered by such plan.



**ACTS, 1985. – Chap. 758.**

**SECTION 6.** Except as provided herein rents and charges for service of facilities furnished or supplied by the corporation shall not be subject to supervision or regulation by any department, division, commission, board, bureau or agency of the commonwealth or any political subdivision thereof, and, if derived from a project in connection with which revenue bonds have been issued, shall, with all other revenues derived from the project, except such part thereof as may be necessary to pay such cost of maintenance, repair and operation and to provide such reserves therefor as may be provided for in the resolution authorizing the issuance of the bonds or in the trust agreement, but including such part thereof as may be necessary to provide such reserves for the payment of the principal of and the interest on said revenue bonds as may be provided for in such resolution or trust agreement, and including also the proceeds of any and all sales by the corporation of property within the project area, be set aside at such regular intervals as may be provided for in such resolution or trust agreement, in a sinking fund which is hereby pledged to and charged with the payment of (1) the interest upon such bonds as such interest shall fall due, (2) the principal of the bonds as the same shall fall due, (3) the necessary charges of paying agents for paying principal and interest, and (4) the redemption price or the purchase price of bonds retired by call or purchase as therein provided.

**SECTION 7.** The corporation shall be liable in contract or in tort in the same manner as a private corporation. The directors, employees, officers and agents of the corporation shall not be liable as such on its contracts or for torts not committed or directly authorized by them. The property or funds of the corporation shall not be subject to attachment or to levy and sale on execution, but if the corporation refuses to pay a judgment entered against it in any court of competent jurisdiction, the superior court, sitting within and for the county in which the corporation is situated, may, by writ of mandamus, direct the treasurer of such agency to pay such judgment. The real estate of the corporation shall not be subject to liens under chapter two hundred and fifty-four of the General Laws but the provisions of sections twenty-eight and twenty-nine of chapter one hundred and forty-nine of the General Laws shall be applicable to any construction work by the corporation.

**SECTION 8.** The real estate and tangible personal property of the corporation shall be deemed to be public property used for essential public and governmental purposes and shall be exempt from taxation and from betterments and special assessments; provided, that in lieu of such taxes, betterments and special assessments, the municipality may determine a sum to be paid to it annually in any year or period of years, such sum to be in any year not in excess of the amount that would be levied at the then current tax rate upon the average of the assessed value of such real estate, including buildings and other structures, for the three years preceding the year of acquisition thereof, the valuation for each year being reduced by all abatements thereon.



**ACTS, 1985. – Chap. 758.**

The municipality may, however, agree with the corporation upon the payments to be made or the corporation may make and the municipality may accept such payments the amount of which shall not in either case be subject to the foregoing limitation.

Nothing in this act shall be construed to prevent the taxation, to the same extent and in the same manner as other real estate is taxed, of real estate acquired by the corporation for an economic development project and sold by it, or the taxation to the same extent and in the same manner as real estate of the commonwealth is taxed of real estate so acquired by the corporation and leased by it provided, however, that real estate so acquired by the corporation and sold or leased to an urban redevelopment corporation or other entity operating under chapter one hundred and twenty-one A of the General Laws or to an insurance company or savings bank or group of savings banks operating under said chapter, shall be taxed as provided in said chapter and not otherwise.

The corporation and the debentures, revenue bonds and revenue 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 by the commonwealth or any subdivision thereof.

**SECTION 9.** To provide funds for general purposes of the corporation including working capital, the corporation may from time to time issue debentures: provided, however that such debentures outstanding at any one time shall not exceed ten million dollars unless specifically approved by the department and the secretary. Such debentures shall not constitute a debt of the commonwealth or of the municipalities in the area or a pledge of the faith and credit of the commonwealth or of the municipalities in the area and shall be subordinated to all other obligations of the corporation and shall be payable at such time or times and in such installments, if any, as the corporation shall determine, but solely out of the net assets of the corporation; and the holders thereof shall be entitled to interest thereon but only out of the net earnings of the corporation, and in no event at a rate higher than the rate specified therein.

Such debentures may be secured by a trust agreement by and between the corporation and a corporate trustee, which shall be located within the commonwealth and shall be a trust company or bank having the powers of a trust company. Such trust agreement shall contain such provisions for protecting and enforcing the rights and remedies of the debenture holders as may be reasonable and proper and not in violation of law. It shall be lawful for any bank or trust company incorporated under the laws of the commonwealth which may act as depository under such trust agreement to furnish such indemnifying bonds or to pledge such securities as may be required by the corporation. Such trust agreement shall set forth the rights and remedies of the debentureholders and of the trustee and may restrict the individual right of action by debentureholders. In addition to the foregoing such trust agreement may contain such other provisions as the corporation may deem reasonable and proper for the security of the debentureholders.



ACTS, 1985. – Chap. 758.

All expenses incurred in carrying out the provisions of such trust agreement may be treated as an item of current expense.

**SECTION 10.** The corporation is hereby authorized to provide by resolution, one time or from time to time, for the issuance of revenue bonds of the corporation for the purposes of paying all or any part of the cost of a project or projects. The principal of and interest on 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, and shall mature at such time or times not exceeding forty years from their date or dates, as may be determined by the corporation, and may be redeemable before maturity, at the option of the corporation, at such price or prices and under such terms and conditions as may be fixed by the corporation prior to the issuance of the bonds. The corporation 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. The bonds may be issued in coupon or registered form or both, as the corporation 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. The corporation 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 corporation.

The proceeds of such bonds shall be used solely for the payment of the cost of the project or projects, and shall be disbursed in such manner and under such restrictions, if any, as the corporations may provide. Prior to the preparation of definitive bonds, the corporation may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds have been executed and are available for delivery. The corporation may also provide for the replacement of any bonds which shall become mutilated or shall be destroyed or lost. Revenue bonds may be issued under the provisions of this act subject only to those proceedings, conditions or things which are specifically required by this act.

The corporation is hereby authorized to provide by resolution for issuance of revenue refunding bonds of the corporation for the purpose of refunding any revenue bonds then outstanding and issued under the provisions of this act, including the 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 corporation, for the additional purpose of constructing or reconstructing any extensions or improvements of the project. The issue of such bonds, the maturities, and other details thereof, the rights of the holders thereof, and the duties of the corporation in respect of the same may be applicable.



## ACTS, 1985. – Chap. 758.

Revenue and revenue refunding bonds issued under the provisions of this section shall not constitute a debt of the commonwealth or of the municipalities in the area, or a pledge of the faith and credit of the commonwealth or of the municipalities in the area, but such bonds shall be payable solely from the funds herein provided therefor from revenues. All such revenue and revenue refunding bonds shall contain on the face thereof a statement to the effect that neither the corporation nor the commonwealth nor the municipality shall be obliged to pay the same or the interest thereon and that neither the faith and credit nor taxing power of the commonwealth or of the municipality is pledged to the payment of the principal of or the interest on such bonds.

All revenue and revenue refunding bonds issued under the provisions of this chapter shall have and are hereby declared to have all the qualities and incidents of negotiable instruments as defined in section 3-104 of chapter one hundred and six of the General Laws.

**SECTION 11.** In the discretion of the corporation such revenue bonds or revenue refunding bonds may be secured by a trust agreement by and between the corporation 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 any project or part thereof.

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 without limiting the generality of the foregoing provisions defining defaults and providing for remedies in the event thereof, which may include the acceleration of maturities, and covenants setting forth the duties of, and limitations on, the corporation in relation to the acquisition, construction, improvement, enlargement, alteration, equipping, furnishing, maintenance, operation, repair, insurance and disposition of property, the custody, safeguarding, investment, and application of moneys, the use of any surplus bond or note proceeds and the establishment of reserves. Such resolution or trust agreement may also contain covenants by the corporation in relation to, among other things, (a) the establishment, revision and collection of such rents and charges for services of facilities furnished or supplied by the corporation as shall provide revenues sufficient with other revenues of the project, if any, to pay (i) the cost of maintaining, repairing and operating the project and of making renewals and replacements in connection therewith, (ii) the principal of and the interest on said revenue bonds as the same shall become due and payable, (iii) payments in lieu of taxes, betterment and special assessments, and (iv) reserves for all such purposes, (b) the purpose or purposes for which the proceeds of the sale of the bonds will be applied and the use and disposition thereof, (c) the use and disposition of the gross revenues of the corporation from the project, any additions thereto and extensions and improvements thereof, including the creation and maintenance of funds for working capital and for renewals and replacements to the



## **ACTS, 1985. – Chap. 758.**

project, (d) the amount, if any, of additional revenue bonds payable from the revenues of the project and the limitations, terms and conditions on which such additional revenue bonds may be issued, and (e) the operation, maintenance, management, accounting and auditing of the project and of the income and revenues of the corporation. 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 corporation. 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 agreements or trust indentures securing bonds and debentures of corporations. In addition to the foregoing, such trust agreement may contain such other provisions as the corporation 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 project. The pledge by any such trust agreement or resolution shall be valid and binding from the time when the pledge is made; the revenues or other moneys so pledged and then held on thereafter received by the corporation shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act; and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the corporation, irrespective of whether such parties have notice thereof. Neither the resolution nor any trust agreement by which pledge is created need be filed or recorded except in the records of the corporation, and no filing need be made under chapter one hundred and six of the General Laws.

**SECTION 12.** Revenue bonds and revenue 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 section two of chapter one hundred and sixty-seven F of the General Laws. Such 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 is now or may hereafter be authorized by law.



**ACTS, 1985. – Chap. 759.**

**SECTION 13.** Any holder of bonds or debentures issued under the provisions of this chapter or of any coupon appertaining thereto, and the trustee, except to the extent the rights herein given may be restricted by the 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 the trust agreement, and may enforce and compel the performance of all duties required by this act or by the trust agreement, to be performed by the corporation or by any officer thereof.

**SECTION 14.** The provisions of this chapter 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 15.** This act shall take effect upon its passage.

Approved January 7, 1986.

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**Chapter 759. AN ACT RELATIVE TO ACUPUNCTURE.**

Be it enacted, etc., as follows:

**SECTION 1.** Chapter 112 of the General Laws is hereby amended by adding the following fifteen sections:–

Section 148. As used in sections 149 to 162, inclusive of this chapter, section one of chapter one hundred and fifty-six A, section forty-seven D of chapter one hundred and seventy-five, section sixty B of chapter two hundred and thirty-one, the following words shall, unless the context requires otherwise, have the following meanings:–

"Acupuncture", the practice of medicine based on Traditional Oriental Medical Theories; primarily the insertion of metal needles through the skin at certain points on the body, with or without the application of electric current, and with or without the application of heat to the needles, skin, or both, in an attempt to relieve pain or improve body function. Electroacupuncture, whether utilizing electrodes on the surface of the skin or current applied to inserted needles will be considered the practice of acupuncture.

"Board", the board of registration in medicine, established under the provisions of section one hundred and ten of chapter thirteen.

"Committee", the committee on acupuncture of the board of registration in medicine, established under the provisions of section one hundred and forty-nine.

"Acupuncturist", a person licensed under the provisions of sections one hundred and forty-nine to one hundred and sixty-two, inclusive, to practice acupuncture.

"Acupuncture intern", an acupuncture student engaged in practical training including needle insertion on human subjects in an acupuncture internship program approved by the committee on acupuncture.



**ACTS, 1985. – Chap. 759.**

Section 149. The board of registration in medicine shall form a committee on acupuncture. Committee members will be appointed by the board with the following qualifications: one member shall be a licensed physician member of the board, one member shall be a licensed physician who has been actively involved with the practice of Acupuncture for at least two years, one member shall be from the general public and shall not be engaged in or have a financial interest in the delivery of health services, and four members shall be acupuncture practitioners, chosen from a list of recommended individuals submitted by the Massachusetts Acupuncture Society, the New England School of Acupuncture, the Acupuncture Practitioners Association, the Oriental Traditional Medical Association, and any other professional Acupuncture organization or institution engaged in teaching acupuncture under the provisions of chapter seventy-five D.

The board shall appoint four of the initial members to terms of three years, and three of the initial members to terms of two years. Thereafter, all appointees shall serve for terms of three years. Vacancies shall be filled by the board with persons who possess the qualification required of the original appointees. Those members appointed to the initial committee as acupuncturists need not be licensed as acupuncturists. Such members so appointed after the initial committee is appointed shall be licensed under the provisions of sections one hundred and forty-nine to one hundred and sixty-two, inclusive, prior to such appointment.

Section 150. The committee may adopt reasonable rules to carry into effect sections one hundred and forty-nine to one hundred and sixty-two, inclusive, and may amend and revoke such rules at its discretion. The committee shall keep a record of its proceedings under said sections one hundred and forty-nine to one hundred and sixty-two, inclusive, and a register of all persons registered and licensed by it. The register shall contain the name of every living registrant, his last known place of business and last known place of residence, and the date and number of his registration and certificate as a licensed acupuncturist. The committee shall during the month of May in every year in which the renewal of registration is required, compile a list of the name and address of every licensed acupuncturist in the commonwealth.

The committee shall meet not less than four times per calendar year. At the first meeting of each year, the committee shall elect a chairperson, vice-chairperson, and secretary.

Committee members will receive the same compensation as members of the board of registration in medicine as set forth in section ten of chapter thirteen.

All monies received by the committee shall be paid monthly to the General Fund. All expenses and compensation of the committee shall be paid by the commonwealth, but said expenses and compensation shall not be in excess of the amounts received by the commonwealth for any license application, license renewal, or examination fee collected by the committee under the authority of this chapter.

Section 151. A person who desires to be licensed and registered as an acupuncturist shall apply to the committee in writing on an application



**ACTS, 1985. – Chap. 759.**

form prescribed and furnished by the committee. He shall include in his application statements under oath satisfactory to the committee, showing that he possess the qualifications preliminary to examination required by section one hundred and fifty-two. He shall pay to the committee at the time of his filing such application a fee which shall be determined annually by the commissioner of administration under the provisions of section three B of chapter seven.

Section 152. To be eligible for registration and licensure by the committee as an acupuncturist an applicant shall:

- (a) Be at least eighteen years of age,
- (b) be of good moral character,
- (c) demonstrate sufficient knowledge of the English language so that he may understand and be understood by patients and physicians, or have a translator available to communicate with patients and physicians,

(d) fulfill one of the following criteria:

(1) the applicant has successfully completed the equivalent of two academic years at an accredited university or college, including courses in anatomy, physiology, and biology, or has taken courses at a facility which is approved by the department of education to offer such courses, and has successfully completed a committee approved course of training in acupuncture of not less than two academic years, and one year of a committee approved acupuncture internship which may run concurrently with the two year academic course in acupuncture; and passes to the satisfaction of the Committee an examination conducted by it to determine his fitness to engage in the practice of acupuncture, or

(2) the applicant may possess a current, valid acupuncture license or certificate from another state or foreign nation that is equivalent in its requirements to clauses (a), (b), and (d), or has equivalent training and experience as determined by the committee, and passes the examination administered by the committee as in clause (d).

(3) the applicant has legally practiced acupuncture as his primary activity since January first, nineteen hundred and eighty-three and has legally practiced acupuncture in the commonwealth for the twelve months immediately preceding the date of his application; and the applicant files his application within sixty days from the time the committee first accepts applications for the license to practice Acupuncture; or

(4) the applicant is a legally practicing Acupuncturist in the commonwealth on January first, nineteen hundred and eighty-six and the applicant files his application within sixty days from the time the committee first accepts applications for the license to practice acupuncture; and passes the examination administered by the committee as in clause (d). If any person so practicing acupuncture fails to pass the first announced examination, he may continue to practice acupuncture under the supervision of a licensed medical practitioner, as defined by the board of registration in medicine until the applicant takes the second announced examination. If any person so practicing acupuncture fails to pass the first and second announced examination, they must cease the practice of acupuncture upon due notice to the applicant of such failure.

Section 153. The committee may enter into agreements with medical



ACTS, 1985. – Chap. 759.

or acupuncture examination boards of other states and territories of the United States, the District of Columbia, and Puerto Rico, having qualifications and standards at least as high as those of the commonwealth, providing for reciprocal licensing in this state, without further examination, of persons who hold a valid license granted by written examination in the other state or territory, and who apply and remit fees as indicated in section one hundred and fifty-one.

Section 154. The committee shall examine applicants for licensure as Acupuncturists at such times and places as it may determine, and shall conduct at least two examinations in each calendar year. The examination shall test the applicants competency in and knowledge of the theory and practice of acupuncture, medical ethics, medical terminology, and sufficient knowledge of anatomy and physiology so that safe practice could be expected. The type of examination shall be determined by the committee. Any applicant who fails to pass such examination may take a second examination upon the payment of an additional application fee which shall be determined annually by the commissioner of administration and finance under the provisions of section three B of chapter seven, and must be so re-examined at the next scheduled examination. Upon failure of an applicant to pass a second examination, the committee may require him to complete additional courses of study as designated by the committee, in which case he shall be required, before taking another examination, to present to the committee satisfactory evidence of having completed the required additional courses, and shall pay the re-examination fee as noted above.

Section 155. The committee shall register and license as an acupuncturist each applicant who proves to the satisfaction of the committee his fitness for licensure under the provisions of sections one hundred and forty-nine to one hundred and sixty-two, inclusive. It shall issue to each person registered a Certificate of Registration, which shall be prima facie evidence of the right of such person to represent himself as a licensed acupuncturist and authorized to use the initials L.Ac.

Section 156. Every licensed acupuncturist shall, during January of every year, apply to the committee for a renewal of his license and pay a fee which shall be determined annually by the commissioner of administration under the provisions of section three B of chapter seven. Any license not so renewed prior to April 1st in any such year shall automatically lapse on said date. The committee may in its discretion revive and extend a lapsed license on the payment of all unpaid renewal fees.

Section 157. A student of Acupuncture who has creditably completed not less than one year of study in a committee approved acupuncture school, may practice acupuncture, but only in a committee approved internship program. Said internship program will require the supervision of interns by an instructor; which instructor shall be a registered and licensed acupuncturist in the commonwealth and a duly appointed field faculty member of a committee approved school of acupuncture. Said intern shall be identified as an acupuncture intern when in a clinical setting.

Section 158. The committee, after due notice and hearing, may refuse



**ACTS, 1985. – Chap. 759.**

to issue a license to an acupuncturist, or may suspend or revoke said license if such acupuncturist has:

(a) practiced acupuncture other than upon the referral or receipt of written diagnosis of a physician or dentist duly licensed in the commonwealth;

(b) used drugs or intoxicants to an extent which adversely affects his professional competence;

(c) been convicted of a felony or of a crime involving moral turpitude;

(d) obtained or attempted to obtain licensure as an Acupuncturist by fraud or deception;

(e) been grossly negligent in his practice as an Acupuncturist;

(f) been adjudged insane by a court of competent jurisdiction and has not thereafter been legally declared sane;

(g) acted in a manner which is professionally unethical according to ethical standards of the professions of acupuncture.

Section 159. The committee shall investigate every alleged violation of sections one hundred and forty-nine to one hundred and sixty-two, inclusive, coming to its notice. If as a result of such an investigation the committee has reasonable cause to believe that a violation has occurred, it shall forthwith report such violation to a appropriate law enforcement agency.

Any person who violates any provisions of sections one hundred and forty-nine to one hundred and sixty-two, inclusive, or who makes a willfully false oath or affirmation in any case in which an oath or affirmation is required under said sections one hundred and forty-nine to one hundred and sixty-two, inclusive, or who obtains or attempts to obtain licensure by any fraudulent representation shall be punished by a fine of not less than one hundred nor more than one thousand dollars, or by imprisonment for not more than three months, or both.

The committee may maintain in any court of competent jurisdiction a suit for an injunction against any person or persons practicing acupuncture or any branch thereof without a license. Such an injunction may be issued without proof of actual damage sustained by any person, this provision being understood to be a preventive as well as a punitive measure. An injunction shall not relieve such person from criminal prosecution for practicing without a license. The committee may seek and obtain adequate legal counsel.

Section 160. A person who does not possess a valid license and existing and current certificate of registration as an Acupuncturist pursuant to the provisions of sections one hundred and forty-nine to one hundred and sixty-two, inclusive, shall not in any manner represent himself as an acupuncturist nor use in connection with his name the words or letters "Acupuncturist", "Licensed Acupuncturist", "Doctor of Acupuncture", "Acupuncture Therapist", "L.Ac.", "R.Ac.", or any other letter, words, abbreviations, or insignia indicating or implying that he is an acupuncturist. Whoever, not being lawfully authorized to practice acupuncture within the commonwealth and Registered under section one hundred and fifty-five, holds himself out as a practitioner of Acupuncture or practices or attempts to practice acupuncture, or whoever practices Acupuncture under a false or assumed name or under



**ACTS, 1985. – Chap. 759.**

a name other than that by which he is registered, or whoever impersonates another practitioner, or whoever practices or attempts to practice any fraud in connection with the filing of an application, or whoever files an application under a false or assumed name or under a name other than his own, or whoever impersonates or attempts to impersonate another applicant for registration during an examination, shall be punished by a fine of not less than one hundred nor more than one thousand dollars or by imprisonment for not less than one month nor more than one year, or both. A person rendering acupuncture services in violation of this section shall recover no compensation therefore.

Section 161. A licensed and registered acupuncturist may commence acupuncture treatments on a patient only after the acupuncturist has on file a written letter of referral or a written diagnosis from a physician, doctor of osteopathy, or dentist, duly registered in the commonwealth.

Section 162. Nothing contained in sections one hundred and forty-nine to one hundred and sixty-two, inclusive, shall prohibit any person employed as an acupuncturist by an agency of the federal government from practicing acupuncture while discharging his official duties as such employee. Nothing contained herein shall prevent physical therapists from practicing transcutaneous nerve stimulation, the stimulation of muscle contractions for the purpose of diagnosis or rehabilitation, or other techniques in the context of standard Western Medical Procedure and neither defined as nor held out to be acupuncture. Nothing contained herein shall prevent licensed physicians, according to the laws set forth by the board of registry in medicine from practicing Acupuncture.

**SECTION 2.** Section 1 of chapter 156A of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out paragraph (b) and inserting in place thereof the following paragraph:—

(b) "Professional service", the personal service performed by registered physicians and surgeons, chiropractors, podiatrists, engineers, electrologists, physical therapists, psychologists, certified public accountants, public accountants, dentists, veterinarians, optometrists and acupuncturists, all of whom are registered under chapter one hundred and twelve, and by attorneys-at-law admitted to practice in the courts of the commonwealth under the provisions of chapter two hundred and twenty-one.

**SECTION 3.** Section 60B of chapter 231 of the General Laws, as so appearing, is hereby amended by striking out the seventh paragraph and inserting in place thereof the following paragraph:—

For the purposes of this section, a provider of health care shall mean a person, corporation, facility or institution licensed by the commonwealth to provide health care or professional services as a Physician, hospital, clinical or nursing home, dentist, registered or licensed nurse, optometrist, podiatrist, chiropractor, physical therapist, Psychologist, or acupuncturist, or an officer, employee or agent thereof acting in the course and scope of his employment.

Approved January 7, 1986.



**ACTS, 1985. – Chaps. 760, 761.**

**Chapter 760. AN ACT INCREASING THE MINIMUM WAGE FOR CERTAIN EMPLOYEES.**

Be it enacted, etc., as follows:

**SECTION 1.** Section 1 of chapter 151 of the General Laws is hereby amended by striking out the second sentence, as appearing in the 1984 Official Edition, and inserting in place thereof the following sentence:— A wage of less than three dollars and fifty-five cents per hour, in any occupation, as defined in this chapter, shall conclusively be presumed to be oppressive and unreasonable, wherever the term "minimum wage" is used in this chapter, unless the commissioner has expressly approved or shall expressly approve the establishment and payment of a lesser wage under the provisions of sections seven and nine.

**SECTION 2.** Said section 1 of said chapter 151 is hereby further amended by striking out the second sentence, as amended by section one of this act, and inserting in place thereof the following sentence:— A wage of less than three dollars and sixty-five cents per hour, in any occupation, as defined in this chapter, shall conclusively be presumed to be oppressive and unreasonable, wherever the term "minimum wage" is used in this chapter, unless the commissioner has expressly approved or shall expressly approve the establishment and payment of a lesser wage under the provisions of sections seven and nine.

**SECTION 3.** Said section 1 of said chapter 151 is hereby further amended by striking out the second sentence, as most recently amended by section two of this act, and inserting in place thereof the following sentence:— A wage of less than three dollars and seventy-five cents per hour, in any occupation, as defined in this chapter, shall conclusively be presumed to be oppressive and unreasonable, wherever the term "minimum wage" is used in this chapter, unless the commissioner has expressly approved or shall expressly approve the establishment and payment of a lesser wage under the provisions of sections seven and nine.

**SECTION 4.** Section one of this act shall take effect on July first, nineteen hundred and eighty-six, section two shall take effect on July first, nineteen hundred and eighty-seven and section three shall take effect on July first, nineteen hundred and eighty-eight.

Approved January 7, 1986.

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**Chapter 761. AN ACT ENCOURAGING PHILANTHROPIC GIVING FOR HEALTH CARE AND HOSPITAL SERVICES ASSISTANCE.**

Be it enacted, etc., as follows:

**SECTION 1.** Chapter 6A of the General Laws is hereby amended by



**ACTS, 1985. – Chap. 762.**

adding after section 76, added by section 12 of chapter 574 of the acts of 1985, the following section:–

Section 77. Except as otherwise provided under sections forty-seven and seventy, the commission in carrying out its duties, in relation to the establishment of rates of payment and reimbursement for providers of health care services, as defined in section thirty-one, shall not consider in any computation involving such actions, the following as resources of such providers of health care services: unrestricted grants, gifts, contributions, bequests, fund principal or endowment balances, or any income therefrom, unless the provider voluntarily requests the commission to consider any or all such resources in establishing rates of payment or reimbursement of services under this section. Restricted grants, gifts, contributions, bequests, fund principal or endowment balances, or any income therefrom used to defray allowable operating costs associated with providing general health supplies, care, social, rehabilitative or educational services, and accommodations for eligible persons shall be offset by the commission against allowable operating costs unless such monies are specifically designated for the provision of free care to persons not eligible for public assistance.

**SECTION 2.** This act shall take effect on July first, nineteen hundred and eighty-six.

Approved January 7, 1986.

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**Chapter 762. AN ACT AUTHORIZING THE APPLICATION FOR ALL LICENSES TO CONSTRUCT A CERTAIN BRIDGE IN THE TOWN OF DANVERS.**

**Be it enacted, etc., as follows:**

Notwithstanding the provisions of the second sentence of section fourteen of chapter ninety-one of the General Laws, Joseph DeLorenzo is hereby authorized to make application for and the department of environmental quality engineering may issue all licenses and approvals necessary to construct a permanent bridge to replace a temporary bridge in the town of Danvers between a parcel of land containing eleven acres, shown as Lot 26 on Map 53 of the assessor's map of said town of Danvers and a parcel of land containing fourteen and sixty-two one hundredths acres shown as Lot 70 on said Map 53 at a point approximately one thousand feet northerly of the junction of the Porter river and Millett creek in said town of Danvers; provided, however, that no objection to such application is made by the selectmen of said town.

Any authorization to construct a permanent bridge under this act shall be subject to the provisions of section forty of chapter one hundred and thirty-one, sections sixty-one to sixty-two H, inclusive, of chapter thirty and chapter ninety-one of the General Laws, excepting the second sentence of section fourteen of said chapter ninety-one, and any other applicable General Law. Such authorization shall also be subject to the



**ACTS, 1985. – Chap. 763.**

covenant of intention in a memorandum to the members of the board of selectmen of said town of Danvers from the applicant Joseph DeLorenzo or Danversport Marina, Inc., dated April seventeenth, nineteen hundred and eighty-four as approved by said board of selectmen on July seventh, nineteen hundred and eighty-four. Any temporary bridge authorized under the provisions of this act shall be removed within three months of the completion of a permanent bridge.

Approved January 7, 1986.

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**Chapter 763. AN ACT TO PROVIDE ANNUAL FUNDING FOR REGIONAL PLANNING AGENCIES.**

Be it enacted, etc., as follows:

The executive office of communities and development is hereby authorized to establish a program of grants to regional planning agencies in the commonwealth, including, but not limited to, regional planning agencies operating under the provisions of chapter forty B of the General Laws; the Cape Cod planning and economic development commission, operating under the provisions of chapter four hundred and fifty-three of the acts of nineteen hundred and sixty-five; the commissioners of the county of Franklin, operating under the provisions of chapter four hundred and twenty-five of the acts of nineteen hundred and sixty-three; the Nantucket Planning and Economic Development Commission, operating under the provisions of chapter five hundred and sixty-one of the acts of nineteen hundred and seventy-three; and the Old Colony Planning Council, operating under the provisions of chapter three hundred and thirty-two of the acts of nineteen hundred and sixty-seven. Grants shall be provided under said program, subject to appropriation, to all such regional planning agencies in the commonwealth, except the Martha's Vineyard Commission, in the following proportions: a base grant of twenty thousand dollars shall be allocated to each regional planning agency qualifying under this section, and, of the funds remaining under said program after such allocation, fifty per cent of such funds shall be distributed among such regional planning agencies in proportion to the population of the area served by each such agency, compared to the total population served by all such agencies, and the remaining fifty per cent of such funds shall be distributed among such agencies in proportion to the number of cities and towns which are members of each such agency, compared to the total number of cities and towns which are members of all such agencies; provided, however, that no grant shall exceed the amount paid by or on account of member cities and towns to a regional planning agency during the prior fiscal year. For purposes of the preceding sentence, the population of an area served by a regional planning agency shall be the population determined for such area in the most recent federal or state census. Appropriations to fund the program authorized herein shall be charged to the Local Aid Fund.



## ACTS, 1985. – Chap. 764.

Funds received by such regional planning agencies under said program shall be used only in accordance with a plan of activities approved by the secretary of the executive office of communities and development, which may include (a) regional planning and economic development; (b) technical assistance to member cities and towns; (c) data management and provision to cities and towns and agencies of the commonwealth; (d) assessment of need for the repair and replacement of public service systems and facilities, including water supply, sewerage, waste management, treatment, and disposal, bridges, tunnels, and underpasses, including estimates of costs and priorities; and (e) intergovernmental review, including local participation as appropriate, of applications for federally supported projects, federal and state plans and major projects, environmental assessments and reviews, industrial revenue bond applications, capital expenditures of the commonwealth, and other programs subject to regional review by law, regulation, or custom. The Berkshire county, Central Massachusetts, Franklin county, and Pioneer Valley regional planning agencies shall file with said executive office and with the house and senate committees on ways and means a report including (A) an inventory of state facilities and state owned land in each community, and (B) a detailed analysis of the impact which the state facility or state owned land has upon (i) the economic condition of the member community (ii) the reduced potential for economic development available to the private sector in each member community (iii) the infrastructure needs and public service delivery needs of each member community (iv) the lost tax revenue accruing to each member community and (v) the economy of the region served by the planning agency. Said report shall be filed by December thirty-first, nineteen hundred and eighty-six. Each regional planning agency receiving such funds shall annually file with said executive office and with the house and senate committees on ways and means a report detailing the use of such funds, and the expenditure of such funds shall be subject to an annual audit by the state auditor. Prior to the receipt of any grant under this section, a regional planning agency shall certify to the executive office of communities and development that the voting membership of its governing body consists at least half of elected officials of the member local governments, or their designees, or that the elected officials of three-quarters of such member communities, or their designees, have endorsed the plan of activities of such agency.

Approved January 7, 1986.

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### Chapter 764. AN ACT RELATIVE TO SAVINGS BANK MERGERS AND CONVERSIONS.

Be it enacted, etc., as follows:

**SECTION 1.** Chapter 168 of the General Laws is hereby amended by inserting after section 34D the following section:–

Section 34E. (a) (1) Notwithstanding any general or special law to the



ACTS, 1985. – Chap. 764.

contrary, a savings bank may convert to a stockholder owned form of corporation pursuant to this section, either as part of a transaction in which an existing holding company acquires upon issuance all of the capital stock of the converting savings bank, or by merging into an existing stock form bank which is a wholly-owned subsidiary of an existing holding company.

(2) In both of such transactions, eligible account holders, and supplemental eligible account holders if applicable, of the converting savings bank shall receive, without payment, nontransferable rights to purchase the capital stock of the holding company, in accordance with this section and such regulations as the commissioner may prescribe, in lieu of all the capital stock of the converting savings bank. All the shares of capital stock of the holding company not purchased in the subscription offering shall be sold in a public offering through an underwriter or directly by the holding company in a direct community offering, subject to the converting savings bank demonstrating to the commissioner the feasibility of the method of sale and to such conditions as are provided in the plan of conversion. Such conditions shall include, but not be limited to, such conditions as are applicable, under regulations applicable to a savings bank converting to stock form under section thirty-four C, to a similar sale in a public offering or direct community offering of the shares of capital stock of such converting savings bank not sold in the subscription offering.

In connection with a conversion under this subsection, no consideration or benefit of any kind whatsoever shall accrue or be transferred or paid to any eligible account holder or supplementary eligible account holder by or on behalf of any other party to the conversion transaction or by or on behalf of any other entity, except for the subscription rights provided for in this subsection and such rights with respect to liquidation accounts as may be provided in regulations applicable to a savings bank converting to stock form under said section thirty-four C.

(b) (1) Notwithstanding any general or special law to the contrary, a savings bank may convert to a stockholder owned form of corporation pursuant to this section by merging with an existing stock bank, either as part of the transaction in which the capital stock of the converting savings bank is issued, or as part of the transaction in which the capital stock of an existing stock form bank is issued.

(2) In both transactions, eligible account holders, and supplemental account holders if applicable, shall receive, without payment, nontransferable rights to purchase the capital stock of the converting savings bank or the capital stock of the existing stock form bank, as the case may be, in accordance with this section and such regulations as the commissioner may prescribe. All the shares of capital stock of the issuing bank not purchased in the subscription offering shall be sold in a public offering through an underwriter or directly by the issuing bank in a direct community offering, subject to the converting savings bank demonstrating to the commissioner the feasibility of the method of sale and to such conditions as are provided in the plan of conversion. Such conditions shall include, but not be limited to, such conditions as are applicable, under regulations applicable to a savings bank converting to



ACTS, 1985. – Chap. 764.

stock form under said section thirty-four C, to a similar sale in a public offering or direct community offering of the shares of capital stock of such converting savings bank not sold in the subscription offering.

In connection with a conversion under this subsection, no consideration or benefit of any kind whatsoever shall accrue or be transferred or paid to any eligible account holder or supplementary eligible account holder by or on behalf of any other party to the conversion transaction or by or on behalf of any other entity, except for the subscription rights provided for in this subsection and such rights with respect to liquidation accounts as may be provided in regulations applicable to a savings bank converting to stock form under said section thirty-four C.

(c) No conversion shall be permitted under this section unless the following requirements have been fulfilled:

(1) The board of trustees of the converting savings bank has authorized the conversion and approved the plan of conversion by an affirmative vote of at least two-thirds of all trustees of the converting savings bank;

(2) The commissioner has made such findings as are required for his approval of a plan of conversion in regulations applicable to a savings bank converting to stock form under said section thirty-four C or in regulations issued pursuant to this section;

(3) The corporators of the converting savings bank have approved the plan of conversion and proposed amendments to the agreement of association and articles of organization by a vote of at least two-thirds of all corporators present and voting at a special meeting called for the purpose of such vote or at the annual meeting; and

(4) The total price at which the capital stock shall be sold shall be based upon an appraisal in accordance with the requirements applicable to price and sale of securities contained in regulations applicable to a savings bank converting to stock form under said section thirty-four C. In addition to meeting the requirements contained in such regulations, the appraisal report shall include a conclusion that the capital proposed to be raised is at least equal to the amount which could be raised by the converting savings bank if it sold its own capital stock independently in a subscription and a direct community and underwritten public offering. Such appraisal report shall further contain data that are sufficient to support such conclusion.

(d) In any conversion pursuant to this section, the stock holders of the existing stock bank or holding company thereof which is issuing capital stock as part of such conversion may receive, without payment, nontransferable rights from such stock bank or holding company thereof, as applicable, to purchase shares of its capital stock, to the extent such shares are not purchased by the eligible account holders and supplemental eligible account holders of the converting savings bank in their capacities as such; provided, however, that no stock holder of the existing stock bank or holding company thereof which is issuing capital stock as part of the conversion may purchase any amount of such capital stock which, when added to the amount of the issuing institution's stock of the same class previously owned by such stockholder, will exceed five per cent of the total number of shares of such capital stock which will be



**ACTS, 1985. – Chap. 764.**

outstanding after completion of such conversion.

(e) The terms used herein shall have the same meanings as those applicable to a savings bank converting to stock form under said section thirty-four C and for purposes of this section a holding company shall mean a company or bank holding company as defined in chapter one hundred and sixty-seven A and a stock bank shall mean a trust company, commercial bank or a savings bank, co-operative bank which has converted under applicable provisions of law, chartered by the commonwealth or a state referred to in clause (b) of the first paragraph of section three of chapter one hundred and sixty-seven C or a national banking association, federal savings and loan association or a federal mutual savings bank which has converted to a stock corporation which has its main office located in, and is authorized to do business in the commonwealth or a state referred to in said clause (b). In any conversion under this section involving any such institution, as listed above, chartered by or which has its main office located in and is authorized to do business in a state referred to in said clause (b), the applicable provisions of chapters one hundred and sixty-seven to one hundred and sixty-eight, inclusive, shall apply. Unless clearly inapplicable or waived by the commissioner, all of the regulations applicable to a savings bank converting to stock form under section thirty-four C shall apply to a savings bank converting under this section and the commissioner shall prescribe from time to time such other regulations as he deems appropriate. Any regulation, or any amendment or repeal of any such regulation issued under this section shall be subject to the applicable provisions of section thirty-four C.

**SECTION 2.** Chapter 170 of the General Laws is hereby amended by inserting after section 26D the following section:–

Section 26E. (a) (1) Notwithstanding any general or special law to the contrary, a co-operative bank may convert to a stock holder owned form of corporation pursuant to this section, either, as part of a transaction in which an existing holding company acquires upon issuance all of the capital stock of the converting co-operative bank; or by merging into an existing stock form bank which is a wholly-owned subsidiary of an existing holding company.

(2) In both transactions, eligible account holders, and supplemental eligible account holders if applicable, of the converting co-operative bank shall receive, without payment, nontransferable rights to purchase the capital stock of the holding company, in accordance with this section and such regulations as the commissioner may prescribe, in lieu of all the capital stock of the converting co-operative bank. All the shares of capital stock of the holding company not purchased in the subscription offering shall be sold in a public offering through an underwriter or directly by the holding company in a direct community offering, subject to the converting co-operative bank demonstrating to the commissioner the feasibility of the method of sale and to such conditions as are provided in the plan of conversion. Such conditions shall include, but not be limited to, such conditions as are applicable, under regulations applicable to a co-operative bank converting to stock form under section



ACTS, 1985. – Chap. 764.

twenty-six C, to a similar sale in a public offering or direct community offering of the shares of capital stock of such converting co-operative bank not sold in the subscription offering.

In connection with a conversion under this subsection, no consideration or benefit of any kind whatsoever shall accrue or be transferred or paid to any eligible account holder or supplementary eligible account holder by or on behalf of any other party to the conversion transaction or by or on behalf of any other entity, except for the subscription rights provided for in this subsection and such rights with respect to liquidation accounts as may be provided in regulations applicable to a co-operative bank converting to stock form under said section twenty-six C.

(b) (1) Notwithstanding any general or special law to the contrary, a co-operative bank may convert to a stock holder owned form of corporation pursuant to this section by merging with an existing stock bank, either, as part of the transaction in which the capital stock of the converting co-operative bank is issued; or as part of the transaction in which the capital stock of an existing stock form bank is issued.

(2) In both of such transactions, eligible account holders, and supplemental account holders if applicable, shall receive, without payment, nontransferable rights to purchase the capital stock of the converting co-operative bank or the capital stock of the existing stock form bank, as the case may be, in accordance with this section and such regulations as the commissioner may prescribe. All the shares of capital stock of the issuing bank not purchased in the subscription offering shall be sold in a public offering through an underwriter or directly by the issuing bank in a direct community offering, subject to the converting co-operative bank demonstrating to the commissioner the feasibility of the method of sale and to such conditions as are provided in the plan of conversion. Such conditions shall include, but not be limited to, such conditions as are applicable, under regulations applicable to a co-operative bank converting to stock form under said section twenty-six C, to a similar sale in a public offering or direct community offering of the shares of capital stock of such converting co-operative bank not sold in the subscription offering.

In connection with a conversion under this subsection, no consideration or benefit of any kind whatsoever shall accrue or be transferred or paid to any eligible account holder or supplementary eligible account holder by or on behalf of any other party to the conversion transaction or by or on behalf of any other entity, except for the subscription rights provided for in this subsection and such rights with respect to liquidation accounts as may be provided in regulations applicable to a co-operative bank converting to stock form under said section twenty-six C.

(c) No conversion shall be permitted under this section unless the following requirements have been fulfilled:

(1) The board of directors of the converting co-operative bank has authorized the conversion and approved the plan of conversion by an affirmative vote of at least two-thirds of all directors of the converting co-operative bank;

(2) The commissioner has made such findings as are required for his approval of a plan of conversion in regulations applicable to a



ACTS, 1985. – Chap. 764.

co-operative bank converting to stock form under said section twenty-six C or in regulations issued pursuant to this section;

(3) The shareholders of the converting co-operative bank have approved the plan of conversion and proposed amendments to the agreement of association and articles of organization by a vote of at least two-thirds of all shareholders present and voting at a special meeting called for the purpose of such vote or at the annual meeting; and

(4) The total price at which the capital stock shall be sold shall be based upon an appraisal in accordance with the requirements applicable to price and sale of securities contained in regulations applicable to a co-operative bank converting to stock form under said section twenty-six C. In addition to meeting the requirements contained in such regulations, the appraisal report shall include a conclusion that the capital proposed to be raised is at least equal to the amount which could be raised by the converting co-operative bank if it sold its own capital stock independently in a subscription and a direct community and underwritten public offering. Such appraisal report shall further contain data that are sufficient to support such conclusion.

(d) In any conversion pursuant to this section, the stockholders of the existing stock bank or holding company thereof which is issuing capital stock as part of such conversion may receive, without payment, nontransferable rights from such stock bank or holding company thereof, as applicable, to purchase shares of its capital stock, to the extent such shares are not purchased by the eligible account holders and supplemental eligible account holders of the converting cooperative bank in their capacities as such; provided, however, that no stockholder of the existing stock bank or holding company thereof which is issuing capital stock as part of the conversion may purchase any amount of such capital stock which, when added to the amount of the issuing institution's stock of the same class previously owned by such stockholder, will exceed five per cent of the total number of shares of such capital stock which will be outstanding after completion of such conversion.

(e) The terms used herein shall have the same meanings as those applicable to a co-operative bank converting to stock form under said section twenty-six C and for purposes of this section a holding company shall mean a company or bank holding company as defined in chapter one hundred and sixty-seven A and a stock bank shall mean a trust company, commercial bank or a savings bank, co-operative bank which has converted under applicable provisions of law, chartered by the commonwealth or a state referred to in clause (b) of the first paragraph or section three of chapter one hundred and sixty-seven C or a national banking association, federal savings and loan association or a federal mutual savings bank which has converted to a stock corporation which has its main office located in, and is authorized to do business in the commonwealth or a state referred to in said clause (b). In any conversion under this section involving any such institution, as listed above, chartered by or which has its main office located in and is authorized to do business in a state referred to in said clause (b), the applicable provisions of chapters one hundred and sixty-seven to one hundred and seventy, inclusive, shall apply. Unless clearly inapplicable



**ACTS, 1985. -- Chap. 765.**

or waived by the commissioner, all of the regulations applicable to a co-operative bank converting to stock form under said section twenty-six C shall apply to a co-operative bank converting under this section and the commissioner shall prescribe from time to time such other regulations as he deems appropriate. Any regulation, or any amendment or repeal of any such regulation issued under this section shall be subject to the applicable provisions of said section twenty-six C.

Approved January 7, 1986.

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**Chapter 765. AN ACT RELATIVE TO INSECT PEST CONTROL AND ESTABLISHING A PROGRAM TO ENCOURAGE COMMUNITIES IN THE CARE, CONTROL AND MANAGEMENT OF PUBLIC SHADE TREES.**

Be it enacted, etc., as follows:

**SECTION 1.** Section 4B of chapter 21 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out, in line 2, the word "insect" and inserting in place thereof the words:- shade tree management and.

**SECTION 2.** Said chapter 21 is hereby further amended by striking out section 4C, as so appearing, and inserting in place thereof the following section:-

Section 4C. The bureau of shade tree management and pest control shall perform such duties as the director, with the approval of the commissioner, may require. In addition to such other duties as may be invested in it by law or by assignment from the director, the bureau shall be responsible for shade tree management, arboriculture service and insect suppression activities on state property, and provide technical, consulting and financial assistance to cities and towns for maintenance, care and management of their public shade tree and for the suppression of public nuisances as defined in section eleven of chapter one hundred and thirty-two. It may, subject to the approval of the director, other provisions of general or special law to the contrary notwithstanding, require to be carried out under its direction all tree spraying or other treatment which may be performed by other departments, agencies or political subdivision of the commonwealth. The bureau may promulgate rules and regulations to carry out its duties and powers.

**SECTION 3.** Chapter 132 of the General Laws is hereby amended by striking out section 1A, as so appearing, and inserting in place thereof the following section:-

Section 1A. The chief superintendent of the bureau of shade tree management and pest control shall act for the commonwealth in suppressing the pests declared in section eleven to be public nuisances, and in accordance with the provision of section thirteen of chapter twenty-one, shall perform such other duties imposed upon him by the



**ACTS, 1985. – Chap. 765.**

commissioner. He shall keep a record of all expenditures made by or authorized by him, and shall prepare an annual report for the commissioner. He shall provide technical advice and consulting services to cities and towns in the development and implementation of public shade tree management plans and programs. He shall have the authority, with the approval of the commissioner and secretary of administration and finance to receive, administer and expend without further appropriation, in accordance with the provision of section sixteen, any federal funds, state funds appropriated by the general court, and private funds that may be made available for the purpose of assisting cities and towns in the maintenance, care and management of their public shade trees.

**SECTION 4.** Section 8 of said chapter 132, as so appearing, is hereby amended by striking out, in line 3, the word "insect" and inserting in place thereof the words:– shade tree management and.

**SECTION 5.** Section 11 of said chapter 132, as so appearing, is hereby amended by striking out, in line 26, the word "insect" and inserting in place thereof the words:– shade tree management and.

**SECTION 6.** Said chapter 132 is hereby further amended by striking out section 16, as so appearing, and inserting in place thereof the following section:–

Section 16. Any city or town, which has a public shade tree inventory, not more than five years old, a public shade tree management plan approved by the state forester, and is in compliance with all requirements of law as well as any rules and regulations of the chief superintendent pertaining thereto, may apply to the bureau of shade tree management and pest control, hereinafter the bureau, for partial reimbursement of total expenditures made during the calendar year for the care, control and management of their public shade trees. Compensable activities include, but are not limited to, the planting, pruning, and removal of public shade trees. Any expenditures made for suppressing public nuisances as they affect public shade trees are excluded from the above.

Application for financial assistance as provided by the bureau must be received annually by the chief superintendent. Reimbursements shall not exceed fifty per cent of the expenditures made by the city or town and shall be based on a program of evaluation as may be adopted by said chief superintendent, with the approval of the Commissioner.

Any city or town which has expended during the calendar year for the suppression of said public nuisances, an amount equal to its financial liability as provided in section fourteen, and has complied with the requirements of law and the rules and regulations of said chief superintendent pertaining thereto, may apply for assistance of the bureau in taking further measures for the control of said public nuisances. The value of such assistance shall not exceed fifty per cent of the expenditures made by the said city or town in excess of its financial liability as provided for in section fourteen.



**ACTS, 1985. – Chap. 765.**

**SECTION 7.** Section eleven A of said chapter one hundred and thirty-two is hereby repealed.

**SECTION 8.** Section 12A of said chapter 132, as appearing in the 1984 Official Edition, is hereby amended by striking out, in line 8, the word "insect" and inserting in place thereof the words:– shade tree management and.

**SECTION 9.** Said chapter 132 is hereby further amended by striking out section 13, as so appearing, and inserting in place thereof the following section:–

Section 13. The city manager and the town manager in cities and towns having such a manager, otherwise the mayor in cities and the selectmen in towns, shall appoint for a term of three years a local superintendent of shade tree management and pest control, hereinafter called the local superintendent, for the suppression of the public nuisances named in section eleven. Said local superintendent shall be qualified by training and experience to enable him to carry out efficiently the powers and duties of his position, and shall be licensed or certified to apply pesticides in accordance with the rules and regulations of the pesticide board in the department of food and agriculture. The commissioner shall be notified in writing forthwith of the said appointment, and the name and address of said local superintendent. Said local superintendent shall, pursuant to the advice and general direction of the chief superintendent, destroy said public nuisances within his city or town, including wood infected by said Dutch elm disease or infested with the beetles which spread said disease, or likely to become so infested, except on property under the control of the commonwealth. The local superintendent may appoint such assistants as appropriations are made for by a city or town, and may designate the tree warden to assist him.

**SECTION 10.** Section seventeen of said chapter one hundred and thirty-two is hereby repealed.

**SECTION 11.** Chapter 723 of the acts of 1983 is hereby amended by striking out section 9V and inserting in place thereof the following section:–

Section 9V. A portion of the funds provided in sections nine to nine T, inclusive, of this act may be used for the costs of the commonwealth associated with the acquisition or development of property or the administration of the grant programs set forth in said sections. Such associated costs may include the cost of legal services, inspections, audits, appraisals, design, engineering, and planning. No amounts authorized in sections nine to nine T, inclusive, of this act shall be used for the payment of any salaries of permanent or temporary employees of the commonwealth.

Approved January 7, 1986.



**ACTS, 1985. – Chaps. 766, 767.**

**Chapter 766. AN ACT RELATIVE TO THE EFFECTIVE DATES OF REALLOCATIONS APPROVED BY THE PERSONNEL ADMINISTRATOR OR THE CIVIL SERVICE COMMISSION.**

Be it enacted, etc., as follows:

**SECTION 1.** Section 49 of chapter 30 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by inserting after the first paragraph the following paragraph:–

If the personnel administrator or the civil service commission finds that the office or position of the person appealing shall warrant a different position allocation or that the class in which said position is classified shall be reallocated to a higher job group and so recommends to the budget director and the house and senate committees on ways and means in accordance with the provisions of this section, and if such permanent allocation or reallocation shall have been included in a schedule of permanent offices and positions approved by the house and senate committees on ways and means, such permanent allocation or reallocation shall be effective as of the date of appeal to the personnel administrator.

**SECTION 2.** Section 57 of chapter 30 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:– The decision of the civil service commission shall be final and binding on all agents and agencies of the commonwealth; provided, however, that any such decision may have retroactive effect pursuant to the applicable provisions of section forty-nine and also pursuant to rules made under the provisions of section fifty-three; and, provided further, that no such decision shall require any payment to be made as of any date before the beginning of the fiscal year in which such decision shall be rendered, except to the extent such payment is permitted pursuant to the provisions of said section forty-nine and subject to appropriation for the purposes thereof.

Approved January 7, 1986.

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**Chapter 767. AN ACT RELATIVE TO CERTAIN DAMS.**

Be it enacted, etc., as follows:

**SECTION 1.** Chapter 253 of the General Laws is hereby amended by inserting after section 50 the following section:–

Section 50A. The department of environmental management shall, subject to the appropriation of funds for such purpose, erect signs in the vicinity of all roll dams owned or under the control of the commonwealth or any of its political subdivisions to warn boaters of the location of said dams. For the purposes of this section a roll dam shall mean any broad



**ACTS, 1985. - Chap. 768.**

crested weir, sharp crested weir or design head weir, the purpose of which is to change the flow of rivers from a critical to a noncritical flow.

Failure to comply with the provisions of this section shall not be used as evidence in any action commenced under the provisions of chapter two hundred and fifty-eight.

**SECTION 2.** The secretary of the commonwealth is hereby authorized and directed to cause all publications issued by the commonwealth, which in any way pertain to boating on inland waters of the commonwealth, to contain a statement warning boaters of the dangers of roll dams as defined in section fifty A of chapter two hundred and fifty-three of the General Laws.

**SECTION 3.** No person shall rent or cause to be rented any canoe or other non-powered vessel to any person upon any of the navigable inland waters of the commonwealth unless such person has first warned such boaters of the dangers of roll dams as defined in section fifty A of chapter two hundred and fifty-three of the General Laws.

**SECTION 4.** To provide for repairs to pipe conduits at the Snipatuit road and the sluiceway and fish ladder at Snipatuit pond in the town of Rochester, the sum of seventy thousand dollars is hereby appropriated from the General Fund. The department of environmental management is hereby authorized to expend such sum for such purposes subject to the provisions of law regulating the disbursement of public funds and the conditions pertaining to appropriations in chapter one hundred and forty of the acts of nineteen hundred and eighty-five.

Approved January 7, 1986.

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**Chapter 768. AN ACT RELATIVE TO THE REGISTRY OF MOTOR VEHICLES.**

Be it enacted, etc., as follows:

Section 29 of chapter 90 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out the third, fourth and fifth sentences and inserting in place thereof the following three sentences:- He may also appoint, and for cause remove, a director of field operations, a deputy registrar, chief deputy registrar, an assistant to the registrar, hearings officers, a director of law enforcement, a chief inspector, a chief supervisor of special services, supervising inspectors with power to hold hearings, supervisors of special services, and assistant supervisors of special services, and may delegate to such deputy registrar, chief deputy registrar, director of field operations, deputy, assistant, hearings officers, director of law enforcement, chief inspector, chief supervisor of special services, supervising inspectors, supervisors and assistant supervisors the performance of any duty imposed upon the registrar relative to the administration or enforcement



**ACTS, 1985. – Chaps. 769, 770.**

of laws relating to motor vehicles. He may establish a section for the inspection of motor vehicles used for the transportation of property with reference to all police requirements, including equipment and weight of loads. Said director of law enforcement, chief inspector, chief supervisor of special services, deputy registrar, chief deputy registrar, supervising inspectors with power to hold hearings, supervisors of special services and assistant supervisors of special services, investigators, examiners and safety instructors shall have and exercise throughout the commonwealth all the powers of police officers and constables under any provision of law, except the power of serving and executing civil process, and may carry within the commonwealth such weapons as the registrar may determine; provided, however, that no such director of law enforcement, chief inspector, chief supervisor of special services, deputy registrar, chief deputy registrar, supervising inspectors with power to hold hearings, supervisors of special services and assistant supervisors of special services, investigators, examiners and safety instructors shall carry any weapon nor exercise any powers of police officers or constables other than with respect to the enforcement of the laws relating to motor vehicles until such person has either satisfactorily completed a course of study lasting at least six weeks at a police training school approved by the Massachusetts police training council, as provided in section one hundred and eighteen of chapter six or an equivalent course of study as determined by the registrar.

Approved January 7, 1986.

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**Chapter 769. AN ACT AUTHORIZING THE CITY OF SOMERVILLE TO ENTER INTO CERTAIN LONG-TERM LEASES.**

Be it enacted, etc., as follows:

Notwithstanding the provisions of section three of chapter forty of the General Laws or any other general or special law to the contrary, the city of Somerville is hereby authorized to lease land and buildings or portions thereof of the former Western Junior high school for periods not to exceed twenty years.

Approved January 7, 1986.

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**Chapter 770. AN ACT AUTHORIZING USE OF THE DIVISION OF FISHERIES AND WILDLIFE NONGAME WILDLIFE FUND TO ACQUIRE OTHER THAN FEE INTERESTS IN CERTAIN PROPERTY.**

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately authorize the division of fisheries and wildlife to acquire certain fee interests, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the



**ACTS, 1985. – Chap. 771.**

public convenience.

Be it enacted, etc., as follows:

**SECTION 1.** The second paragraph of section 35D of chapter 10 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:– All revenues credited under this section shall remain in said Nongame Wildlife Fund, subject to appropriation: to acquire by purchase, lease, easement or license land or interests therein critical to nongame wildlife and endangered species for the multiple purposes of protecting and enhancing nongame wildlife and encouraging compatible wildlife uses; to manage, inventory, preserve, protect, perpetuate, and enhance nongame wildlife in the commonwealth; and to supplement funds provided to the natural heritage program for the inventory of nongame wildlife and endangered species.

**SECTION 2.** Section 6 of chapter 131 of the General Laws, as so appearing, is hereby amended by striking out clauses (1) and (2) and inserting in place thereof the following two clauses:–

(1) for the purpose of providing public fishing grounds, acquire by gift, lease, easement, purchase, exchange or license or accept by transfer, fishing rights and privileges or lands or interests therein necessary for such purpose, together with rights of ingress and egress;

(2) for the purpose of fish and wildlife management and propagation, acquire by gift, lease, easement, purchase, exchange or license or accept by transfer, properties or interests therein at such places in the commonwealth as he may select.

Approved January 8, 1986.

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**Chapter 771. AN ACT RELATIVE TO FACILITATING INTRA AND INTERSTATE TRANSPORTATION FOR CERTAIN MOTOR VEHICLES AND SEMI-TRAILERS.**

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately provide for orderly intra and interstate transportation for certain motor vehicles and semitrailers, 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 30A of chapter 85 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by inserting after the second paragraph the following paragraph:–

Application for a special permit under this section may be approved, and a permit may be issued, to allow the operation of a vehicle for a weight in excess of the weight for which such vehicle is registered if



ACTS, 1985. – Chap. 771.

such vehicle is owned or leased by a carrier not domiciled in this commonwealth. In connection with the issuance of a permit to a vehicle owned or leased by a carrier that is not domiciled in this commonwealth, the commissioner of public works may collect a reasonable fee therefor based upon the difference between the weight for which the permit is issued and the weight for which the vehicle is registered, but in no event shall such fee exceed the registration fee that would be collected from a carrier domiciled in this commonwealth to register a vehicle for such weight differential. The receipts from such fee shall be deposited into the highway fund.

**SECTION 2.** Section 19A of chapter 90 of the General Laws, as so appearing, is hereby amended by striking out the third paragraph and inserting in place thereof the following paragraph:–

No motor vehicle, trailer, semitrailer, semitrailer unit or tandem unit shall be operated, nor shall the owner or bailee thereof require or authorize such operation, when the gross weight of such motor vehicle, trailer, semitrailer, semitrailer unit, or tandem unit exceeds the weight provided by this chapter or that specified in any permit issued by the commissioner of public works under sections thirty and thirty A of chapter eighty-five, whichever is greater, but in no event in excess of the gross weight for which such vehicle is registered, except in the case of a vehicle owned or leased by a carrier that is not domiciled in this commonwealth and which has a permit under section thirty A of chapter eighty-five to operate in excess of its registered gross weight; nor shall any person load or cause to be loaded such vehicles in excess of such weights. If the gross weight of any such motor vehicle, trailer, semitrailer, semitrailer unit or tandem unit does not exceed one hundred and five per cent of the maximum gross weight provided by such permit, such motor vehicle, trailer, semitrailer, semitrailer unit or tandem unit shall not be deemed to be operating in violation of the provisions of sections thirty and thirty A of chapter eighty-five; but if the gross vehicle weight of such motor vehicle, trailer, semitrailer, semitrailer unit or tandem unit does exceed the said one hundred and five per cent of the maximum gross weight provided by said permit, any penalty provided by this chapter shall be determined on the difference between the actual gross weight of such motor vehicle, trailer, semitrailer, semitrailer unit or tandem unit and the weight authorized by this section or the weight authorized by the said permit for such motor vehicle, trailer, semitrailer, semitrailer unit or tandem unit, whichever weight is greater, at the time of such violation.

Upon the finding by an officer authorized to enforce the provisions of this chapter that a motor vehicle, trailer, semitrailer or semitrailer unit exceeds the said one hundred and five per cent of the maximum gross weight provided in said permit, or otherwise violates the conditions of any permit issued under sections thirty and thirty A of chapter eighty-five or section nineteen of this chapter, said officer may exercise reasonable discretion to prevent the continued transport of a load that is the principle cause of the violation. Neither the finding of such violation, nor the exercise of such reasonable discretion, however, shall be



ACTS, 1985. – Chap. 772.

construed as nullifying or revoking any such permit, or as having any effect, beyond the actual citation of the violation, on the assessment of any penalties provided under section twenty.

Approved January 8, 1986.

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**Chapter 772. AN ACT TO PERMIT THE CONSTRUCTION OF A TOWN WELL IN HOPKINTON.**

Be it enacted, etc., as follows:

**SECTION 1.** The division of capital planning and operations, in consultation with the department of environmental management, acting for and on behalf of the commonwealth, is hereby authorized to convey to the town of Hopkinton an easement for water supply and distribution purposes, in certain land located in said town, under the control of the department of environmental management. Said land being bounded and described as follows:

A certain parcel of land in the town of Hopkinton, county of Middlesex, Massachusetts, being a portion of land of the COMMONWEALTH OF MASSACHUSETTS, DEPARTMENT OF ENVIRONMENTAL MANAGEMENT, located on the southerly side of Whitehall Reservoir and being further bounded and described as follows:

Beginning at a point, 204.67 feet easterly from a stone bound at the intersection of land of COMMONWEALTH OF MASSACHUSETTS, DEPARTMENT OF ENVIRONMENTAL MANAGEMENT, and land now or formerly of WHITEHALL REALTY TRUST, and land, now or formerly, of ALDEN K. & PHYLLIS M. LYFORD, along the property division line of land of COMMONWEALTH OF MASSACHUSETTS, DEPARTMENT OF ENVIRONMENTAL MANAGEMENT and land now or formerly of WHITEHALL REALTY TRUST:

Thence turning and running N28°-51'-15" W, 134.6± feet through land of COMMONWEALTH OF MASSACHUSETTS, DEPARTMENT OF ENVIRONMENTAL MANAGEMENT to a point on the Edge of Water of Whitehall Reservoir as shown on the plan referred to herein;

Thence turning and running easterly along said Edge of Water through land of COMMONWEALTH OF MASSACHUSETTS, DEPARTMENT OF ENVIRONMENTAL MANAGEMENT, as shown on the plan referred to herein, 2560± feet to a point, said point being located from previous point by turning and running N 63° -57'-13" E, 1249.40 feet to this point;

Thence turning and running S 10°-37'-45" E, 476.0± feet through land of COMMONWEALTH OF MASSACHUSETTS, DEPARTMENT OF ENVIRONMENTAL MANAGEMENT to a point;

Thence turning and running S 57°-59'-00" W, 333.05 feet through land of COMMONWEALTH OF MASSACHUSETTS, DEPARTMENT OF ENVIRONMENTAL MANAGEMENT, to a point along the property division line of land of COMMONWEALTH OF MASSACHUSETTS, DEPARTMENT OF ENVIRONMENTAL MANAGEMENT and land now or formerly of WHITEHALL REALTY TRUST:



**ACTS, 1985. – Chap. 772.**

Thence turning and running along the property division lines of land of COMMONWEALTH OF MASSACHUSETTS, DEPARTMENT OF ENVIRONMENTAL MANAGEMENT, and land now or formerly of WHITEHALL REALTY TRUST in four courses:

S 82°-57'-25" W, 122.64 feet to a point;

N 60°-56'-40" W, 282.44 feet to a stone bound;

S 60°-38'-15" W, 230.62 feet to a stone bound; and S 83°-56'-39" W, 295.01 feet to the point of beginning.

The above described parcel, containing about 9.96 acres is shown as Parcel No. 1 on a plan to be filed with the Middlesex South District Registry of Deeds and which is entitled "Plan of Land – Hopkinton, Mass., Property of Whitehall Realty Trust and Property of Commonwealth of Massachusetts", dated January 30, 1985, and drawn by Connorstone, Inc., Engineers and Surveyors, Ashland, Massachusetts.

The easement shall be approved as to form by the attorney general and shall contain the following provisions as the commissioner of environmental management shall determine including such terms and conditions as are necessary to comply with all laws in relation to the protection, preservation and development of state parks and all laws regarding public drinking water supply:

1. The town of Hopkinton shall have the exclusive right and easement to draw water from the two well sites as shown on the above referenced plan and to construct all appropriate wells, pumping stations, pipes, access roadways and any and all other appurtenances as may be necessary to accomplish the development of a public water supply.

2. The department of environmental management shall have the right to utilize those portions of the premises subject hereof being in excess of the area of contribution as determined by the department of environmental quality engineering from the well sites as well as the areas at the shoreline of the Whitehall Reservoir, for passive recreational and environmental use including walking, hiking and similar uses by the public, such uses to expressly exclude motorized vehicles, boat ramps or public sanitary facilities. Should such uses within the area of contribution as determined by the department of environmental quality engineering cause adverse affects upon the use of the premises by the Town of Hopkinton, the town shall have the right to terminate such use.

The department of environmental management shall have no right of access or authority to permit the public to have access within the area of contribution as determined by the department of environmental quality engineering and as above described except as otherwise set forth herein.

3. The town of Hopkinton shall limit access on the roadways to be built upon said premises to authorized representatives of the departments of the town of Hopkinton by installation of a gate at the entrance of all access roadways to said premises.

4. The town of Hopkinton shall be responsible for plowing the boat landing parking area off Route No. 135 on the northerly side of the Whitehall reservoir as appropriate during the entire term of this grant of easement.



**ACTS, 1985. – Chap. 773.**

5. The department of environmental management shall continue to maintain the easement area in excess of the area of contribution as determined by the department of environmental quality engineering from the well sites aforesaid and to be responsible for the mowing of grass and trash and litter removal. The use of pesticides, herbicides, etc., shall be strictly prohibited from use within the area of contribution as determined by the department of environmental quality engineering.

6. The town of Hopkinton shall not construct a fence around the said easement area but may construct fences within, the area of contribution as determined by the department of environmental quality engineering of each well site as it deems necessary or appropriate.

7. Said easement shall be granted upon the express condition that the land shall be used for public water supply purposes only if said land ceases to be used as such, said right and easement shall terminate and revert to the department of environmental management. The cessation of use of the land for water supply purposes of the easement to said department shall be accomplished through compliance with section fifteen B of chapter forty, and Article ninety-seven of the Amendments to the Massachusetts Constitution.

**SECTION 2.** The consideration for the easement described in section one shall be the obligation of the town of Hopkinton to plow the parking area on the northerly side of the Whitehall reservoir during the entire term of this grant of easement.

**SECTION 3.** Notwithstanding the easement provided for in section one, the commissioner of the department of environmental management shall maintain the obligation for the supervision of the land subject to the terms set forth above.

**SECTION 4.** This act shall take effect upon its passage.

Approved January 8, 1986.

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**Chapter 773. AN ACT ESTABLISHING A SPECIAL ACCOUNT FOR THE SPRINGFIELD MUNICIPAL HOSPITAL.**

Be it enacted, etc., as follows:

**SECTION 1.** Notwithstanding the provisions of section fifty-three of chapter forty-four of the General Laws or any other provision of law to the contrary, the city of Springfield is hereby authorized to establish a special account to be known as the "Springfield Municipal Hospital Operations Account". Into such account shall be deposited all receipts, revenues and funds from any source derived from any activity of the Springfield municipal hospital so established under the provisions of chapter four hundred and fifty-five of the acts of nineteen hundred and forty-eight.



**ACTS, 1985. – Chap. 773.**

**SECTION 2.** The account authorized by section one shall be maintained by the city treasurer in a banking institution in the city and expenditures from such account shall be made by the director of the Springfield municipal hospital without appropriation, and not subject to line-item restrictions, and used solely for the operation and maintenance and for the provision of capital, equipment and plant for said hospital. Such account shall be maintained in accordance with generally accepted principles of accounting, and shall be audited annually by a certified public accountant. Such audits shall be submitted to the board of trustees of said hospital, the mayor and the members of the city council of said city. The city treasurer shall be authorized to invest the monies in such special account as authorized by sections fifty-five and fifty-five A of chapter forty-four of the General Laws and the interest accruing thereon shall inure to the benefit of Springfield municipal hospital. For the purpose of providing health care for the citizens of the city of Springfield, said city may from time to time appropriate monies into said account and donations from private sources may be received into such special account.

**SECTION 3.** The city treasurer, upon the written request of the director of the Springfield municipal hospital, and approval by the board of trustees, the mayor, and by two-thirds vote of the city council, shall advance funds from the general fund of the city in any fiscal year in anticipation of the receipt of revenues of said Springfield Municipal Hospital for that same fiscal year. All such sums so advanced shall be deposited into such account established under section one and the said hospital shall prior to the end of each fiscal year repay such advances to the general fund together with an amount equal to the interest as determined by the city treasurer to be allocable to any debt incurred during that fiscal year by the city in anticipation of revenue in order to make such advances. Any deficiency resulting from advances hereunder may be raised by taxation, subject to all applicable provisions of chapter fifty-nine of the General Laws.

**SECTION 4.** The director of the Springfield municipal hospital shall file with the mayor, the city council and the treasurer of said city and the bureau of accounts a written report of the special account established in section one within one hundred and twenty days after the books are closed for the fiscal year. Such report shall include financial statements relating to the operations, maintenance, capital and real properties of said hospital. The city council may review and comment upon such report and the city council may file such comment with the bureau of accounts. The director shall annually, not later than ninety days prior to the expiration of each fiscal year, submit to the mayor a proposed line-item budget as approved by the board of trustees of said hospital. The mayor shall transmit to the city council, within thirty days thereafter, his recommendation concerning approval thereof in whole or in part. The city council may by majority vote make appropriations for the purposes recommended and may reduce or reject any amount recommended in the annual budget, but except on recommendation of



**ACTS, 1985. – Chap. 774.**

the mayor, shall not increase any amount in or the total of the annual budget, nor add thereto any amount for a purpose not included therein. The city council shall act upon the budget within thirty days of its receipt and, once approved, the vote of the city council shall establish the total budget but may not limit the authority of the director to determine expenditures within the total budget. The provisions of sections thirty-two to thirty-three B, inclusive, of chapter forty-four of the General Laws shall not apply to such budget.

**SECTION 5.** This act shall take effect upon its passage.

Approved January 8, 1986.

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**Chapter 774. AN ACT RELATIVE TO PROFESSIONAL CORPORATIONS.**

Be it enacted, etc., as follows:

**SECTION 1.** The General Laws are hereby amended by striking out chapter 156A and inserting in place thereof the following chapter:–

**CHAPTER 156A.**

**PROFESSIONAL CORPORATIONS.**

Section 1. This chapter shall be known and may be cited as the Professional Corporation Law.

Section 2. In this chapter, unless the context otherwise requires, the following words shall have the following meanings:

(a) "Professional corporation", a domestic corporation organized under this chapter for the purpose of rendering one or more professional services. As used in sections five, six, eight, ten and nineteen, the term "professional corporation" shall also include foreign professional corporations.

(b) "Professional service", (i) the service performed by registered physicians and surgeons, chiropractors, podiatrists, engineers, electrologists, physical therapists, psychologists, certified public accountants, public accountants, dentists, veterinarians, and optometrists, so long as the foregoing are registered or licensed under the provisions of chapter one hundred and twelve; and by attorneys-at-law admitted to practice in the courts of the commonwealth under chapter two hundred and twenty-one; (ii) any other type of service which may be rendered only pursuant to a license issued under law of the commonwealth, if the applicable regulating boards permit the licensed person to incorporate his profession under this chapter, or if such licensed person elects to incorporate his profession under this chapter and such incorporation is not prohibited by law or by regulations of the applicable regulating board.

(c) "Regulating board", a board or governing authority which is charged with licensing and regulating the profession of any person performing a professional service.

(d) "Foreign professional corporation", a corporation organized for the



**ACTS, 1985. – Chap. 774.**

purpose of rendering professional service under a law other than the law of the commonwealth.

(e) "Qualified person", with respect to any professional corporation means a natural person, general partnership, or professional corporation which is eligible under this chapter to own shares issued by such professional corporation.

(f) "Disqualified person", with respect to any professional corporation means any natural person, corporation, partnership, or other entity which for any reason is or becomes ineligible under this chapter to own shares issued by such professional corporation.

Section 3. (a) Except as hereinafter provided, a professional corporation may be organized under this chapter only for the purpose of rendering professional services and services ancillary thereto within a single profession.

(b) A professional corporation may be organized for the purpose of rendering professional services within two or more professions except to the extent expressly prohibited by the licensing laws of the commonwealth applicable to such professions or the regulations of any of the applicable regulating boards.

(c) The provisions of this chapter shall not be construed as prohibiting the organization of a corporation to render professional services, or as limiting the rendering of professional services or the practice of any profession under any other provisions of law except to the extent expressly prohibited or limited by such provisions of law or the regulations of the applicable regulating boards.

Section 4. (a) All of the provisions of chapter one hundred and fifty-six B shall be applicable to professional corporations and such corporations shall enjoy the powers and privileges, and be subject to the duties, restrictions and liabilities of corporations organized under said chapter, except where inconsistent with the provisions of this chapter.

(b) A professional corporation may own real and personal property necessary or appropriate for rendering the professional service it was organized to render, and may invest its funds in real estate, mortgages, stocks, bonds, or any other type of investment.

Section 5. A professional corporation may render professional services in the commonwealth only through its officers, employees and agents who are duly licensed to render such professional services in the commonwealth; provided, however, that nothing in this chapter shall be construed (a) to require any person who is employed by a professional corporation to be licensed to perform services for which no license is otherwise required, (b) to prohibit the rendering of professional services by a licensed natural person acting in his individual capacity, notwithstanding that such person may be a shareholder, director, officer, employee or agent of a professional corporation, or (c) to prohibit unlicensed persons employed by a professional corporation from rendering professional services under the supervision of licensed officers, employees or agents of such professional corporation, to the extent permitted by law or the regulations of the applicable regulating board.

Section 6. (a) Except as otherwise provided by law or regulation, the personal liability of a shareholder of a professional corporation organized



**ACTS, 1985. – Chap. 774.**

under this chapter shall be no greater in any respect than that of a shareholder of a corporation organized under chapter one hundred and fifty-six B.

(b) This chapter shall not alter any law applicable to the relationship between a person rendering professional services and a person receiving such services, including liability arising out of such professional services.

(c) Any privilege applicable to communications between a person rendering professional services and the person receiving such services shall extend to communications between a professional corporation or its employees rendering professional services and the person receiving such services.

Section 7. One or more individuals, each of whom is licensed to perform a professional service, may organize a professional corporation by complying with the provisions of section twelve of chapter one hundred and fifty-six B. The articles of organization of a professional corporation shall contain the following:

(a) corporate purposes indicating the professional services to be rendered;

(b) the names and residence addresses of all of the original shareholders, directors and officers;

(c) a certificate by the appropriate regulating board or boards that each of the incorporators, the president and any vice presidents, a majority of the directors and each shareholder is duly licensed to render a professional service permitted by the articles of organization of the corporation.

Section 8. The corporate name of every professional corporation shall end with the word "Professional Corporation", "Corporation" or "Incorporated" or the abbreviation "P.C.", "Corp." or "Inc." or any other word or words which in the judgment of the state secretary indicates that the professional corporation is incorporated; provided, however, that a regulating board may by rule adopt further requirements as to the names of professional corporations organized to render a professional service subject to the jurisdiction of such regulating board.

Section 9. A majority of directors of a professional corporation and all of its officers except the treasurer, clerk, secretary and any assistant treasurer, assistant clerk or assistant secretary shall be licensed in the commonwealth to render a professional service permitted by the articles of organization of the corporation.

Section 10. (a) A professional corporation may issue shares, fractional shares, and rights or options to purchase shares only to:

(1) natural persons who are licensed in the commonwealth or in any other state or territory of the United States or the District of Columbia to render a professional service permitted by the articles of organization of the corporation;

(2) general partnerships in which all the partners are natural persons described in subparagraph (1); and

(3) professional corporations authorized by law to render a professional service permitted by the articles of organization of the corporation.

(b) A regulating board may by rule further restrict the authority of professional corporations to issue or transfer shares, but no such rule



**ACTS, 1985. – Chap. 774.**

shall have the effect of causing a shareholder of a professional corporation at the time such rule becomes effective to become a disqualified person.

(c) A shareholder of a professional corporation may transfer shares and rights or options to purchase shares of the corporation only to qualified persons, as defined herein; provided, however, that, subject to sections twelve and thirteen, nothing herein shall prohibit the pledge of shares of a professional corporation to a disqualified person or the transfer of such shares by operation of law or court decree to a disqualified person.

(d) Nothing herein shall prevent a professional corporation from adopting other restrictions on the transfer of its shares or requiring that transferees be approved by its shareholders or directors under provisions of its articles of organization, by-laws or an agreement binding upon all of its shareholders.

(e) Every certificate issued representing shares of a professional corporation shall state thereon in bold print that the shares represented thereby are subject to restrictions on transfer imposed by this chapter and any further restrictions on transfer imposed by the appropriate regulating board or boards from time to time pursuant to this chapter.

(f) All transfers of shares in violation of this section shall be void.

Section 11. No proxy for shares of a professional corporation shall be valid unless it shall be given to a qualified person, or unless it is limited to voting for one or more of the actions described in subsection (a) of section thirteen under the circumstances described therein. A voting trust with respect to shares of a professional corporation shall not be valid unless all the trustees and beneficiaries thereof are qualified persons, except that such voting trust may be validly continued for a period of not more than six months after the death of a trustee or beneficiary or for a period of not more than six months after a trustee or beneficiary has become a disqualified person.

Section 12. (a) It shall be provided in the articles of organization or by-laws of a professional corporation, or in an agreement binding upon all of its shareholders, that the corporation shall redeem all of the shares of a shareholder upon the occurrence of any one or more of the following events, unless the provisions of section thirteen apply or said shares are transferred to a qualified person within twelve months after occurrence of the event:

- (1) If such shareholder dies;
- (2) If such shareholder is determined to be disqualified to render professional service for a period of six months or more;
- (3) If such shareholder is determined, in the manner set forth in the applicable instrument, to be incompetent or permanently disabled so as to be unable to render any professional services on behalf of the corporation;
- (4) If such shareholder voluntarily withdraws from the active practice of professional services on behalf of the corporation;
- (5) If any of the shares of such shareholder are transferred voluntarily or by operation of law to a disqualified person; or
- (6) If any other event specified in the articles of organization or



ACTS, 1985. – Chap. 774.

by-laws or said shareholder agreement shall occur.

(b) The redemption of shares shall take place within twelve months after the occurrence of any of the events described in subsection (a), unless a shorter time is specified in the articles of organization, by-laws or said shareholder agreement. The consideration for such redemption shall be an amount equal to the fair value of such shares on the date of said event, unless otherwise provided in the articles of organization, by-laws or said shareholder agreement. In lieu of such redemption, all the shares of such shareholder may be transferred to a qualified person within such twelve month period.

(c) If a redemption or transfer of any shares of a professional corporation is not completed within the prescribed time period, such shares may be cancelled by the corporation and the holder shall have no further interest or rights of a shareholder of the corporation other than the right to receive an amount equal to the fair value of his shares under subsection (b), unless otherwise provided in the articles of organization, by-laws or said shareholder agreement.

(d) Nothing herein shall affect the obligations of a professional corporation to a shareholder whose interest in the corporation is terminated hereunder with respect to compensation, benefits or other matters accrued prior to his termination or disqualification.

(e) During the pendency of a redemption or transfer hereunder of the shares of a shareholder who is deceased, disabled or incompetent, said shares may be voted by the personal representatives of such shareholder.

Section 13. (a) If any of the events described in subsection (a) of section twelve shall occur with respect to the sole shareholder of a professional corporation or if the corporation is disqualified from rendering, or will cease rendering, any further professional services pursuant to this chapter, in lieu of or in addition to the redemption or transfer of the shares of such shareholder under said section twelve, within twelve months thereafter

(1) the corporation shall be liquidated and dissolved;

(2) the corporation shall be merged into or consolidated with a corporation qualified to render the same professional service or services; or

(3) the corporation shall be merged into, consolidated with or changed by articles of amendment into a corporation organized pursuant to chapter one hundred and fifty-six B in accordance with section fourteen.

In the event that such action has not been taken within such twelve month period, the corporation shall cease rendering any professional service until all its shares are owned by one or more qualified persons and the corporation is otherwise in compliance with the terms of this chapter.

(b) During the pendency of action under subsection (a) of this section, so long as a professional corporation has ceased to render professional services under this chapter, persons may be elected or appointed as its officers or directors who are not qualified to render professional services on its behalf, and its shares may be voted by the personal representative of a deceased or incapacitated shareholder.

Section 14. A professional corporation which has ceased to render any



**ACTS, 1985. – Chap. 774.**

professional services under this chapter or which is permitted to render professional services as a business corporation organized under chapter one hundred and fifty-six B may change its status by merging into or consolidating with such a business corporation or by filing articles of amendment to change its name, where necessary, and purposes to those of such a business corporation.

Section 15. If action required by sections twelve or thirteen is not taken within the prescribed time period, or if it shall be established that a professional corporation has failed to comply with any other provisions of this chapter, the state secretary may dissolve the corporation in accordance with section one hundred and one of chapter one hundred and fifty-six B. The state secretary may also dissolve a professional corporation upon receipt of a certificate from any regulating board with jurisdiction stating that such corporation has failed to comply with the requirements of such board so as to give due cause for its dissolution, which certificate shall recite pertinent facts to support the requested dissolution. A copy of such certificate shall be given to such corporation at least sixty days in advance of said dissolution.

Section 16. (a) Except as provided in section fourteen, a professional corporation may merge or consolidate with another corporation, domestic or foreign, only if every shareholder of each corporation is a qualified person with respect to the surviving or resulting corporation.

(b) Upon the merger or consolidation of a professional corporation, if the surviving or resulting corporation is to render professional services in the commonwealth, it shall comply with the provisions of this chapter.

Section 17. (a) A foreign professional corporation shall register under the provisions of this section if (1) it maintains an office in the commonwealth; or (2) any of its shareholders, officers, or directors conducts such activity on behalf of the corporation in the commonwealth as to require licensing under the provisions of chapter one hundred and twelve or chapter two hundred and twenty-one.

(b) Any foreign professional corporation, including corporations subject to subsection (a), may register under the provisions of this section in order to render one or more professional services in the commonwealth; provided, however, that (1) the name of the corporation meets the requirements of this chapter and of section five of chapter one hundred and eighty-one; (2) the corporation is organized only for one or more purposes for which a professional corporation organized under this chapter may be organized; and (3) all the shareholders, a majority of the directors and all of its officers except the treasurer, clerk, secretary and any assistant treasurer, assistant clerk and assistant secretary are qualified persons and all the shareholders, directors, officers and employees who will render a professional service in the commonwealth are duly licensed in the commonwealth to do so.

(c) A foreign professional corporation shall register to practice in the commonwealth by filing with the state secretary the certificate and evidence of legal existence in the jurisdiction of incorporation required by section four of chapter one hundred and eighty-one. Such certificate shall in addition contain the following information and exhibits: (1) a description of the professional services to be rendered in the



ACTS, 1985. – Chap. 774.

commonwealth through the professional corporation; (2) the names and residence addresses of all the shareholders, directors, and officers of the professional corporation and designations of which of them will render professional services in the commonwealth; (3) a statement that a majority of the directors and all of the officers, except the treasurer, clerk, secretary, and any assistant treasurer, assistant clerk and assistant secretary are natural persons who are licensed in a state or territory of the United States or the District of Columbia to render a professional service authorized by the corporation's articles of organization, or the equivalent, and that all of the shareholders are such persons, general partnerships comprised solely of such persons, or professional corporations authorized to render such professional services; and (4) a certificate by the appropriate regulating board or boards that the persons required by clause (3) of subsection (b) to be licensed in the commonwealth are so licensed.

(d) Every foreign professional corporation shall, except as otherwise provided in this chapter, be subject to the provisions of sections six and eight to sixteen, inclusive, of chapter one hundred and eighty-one.

(e) The certificate of registration of a foreign professional corporation may be revoked by the state secretary if such corporation fails to comply with any provision of this chapter applicable to it or upon receipt by the state secretary of a certificate from any regulating board with jurisdiction stating that such corporation has failed to comply with the requirements of such authority so as to give due cause for revocation of its registration, which certificate shall recite pertinent facts to support the proposed revocation. No certificate of registration of a foreign professional corporation shall be revoked by the state secretary unless he shall have given the corporation not less than sixty days' notice thereof and the corporation shall have failed prior to the effective date of the revocation to correct such noncompliance.

Section 18. The annual report of a professional corporation or a foreign professional corporation shall, in addition to the information required by section one hundred and nine of chapter one hundred and fifty-six B or section four of chapter one hundred and eighty-one, as the case may be, list the names and residence addresses of all shareholders and shall contain a certification that all such shareholders or all of the partners of a shareholder which is a general partnership are duly licensed to render one or more professional services for which the corporation was organized or are professional corporations authorized to render such professional services. A duplicate original copy of each annual report shall be filed at the same time with the regulating board. No filing fee shall be charged by the regulating board for such filing.

Section 19. Each regulating board in the commonwealth is hereby authorized to promulgate rules for professional corporations consistent with this chapter which are deemed necessary in the public interest or required by the public health or welfare or by generally recognized standards of professional conduct. Nothing in this chapter shall restrict or limit in any manner the authority or duty of regulating board with respect to natural persons rendering a professional service within the jurisdiction of the licensing authority, or any law, rule or regulation pertaining to standards of professional conduct.



**ACTS, 1985. – Chap. 775.**

**SECTION 2.** Section 3 of chapter 156B of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out the introductory clause and by inserting in place thereof the following introductory clause:–

Except so far as such application may be inconsistent with (i) provisions still in force of any special acts of incorporation, enacted before March eleventh, eighteen hundred and thirty-one, and not subject to amendment, alteration or repeal by the general court, or (ii) provisions of chapter one hundred and fifty-six A applicable to professional corporations incorporated thereunder, this chapter shall apply to:.

**SECTION 3.** Section 4 of chapter 180 of the General Laws, as so appearing, is hereby amended by adding the following paragraph:–

If a corporation is formed under this chapter for the purpose of rendering one or more professional services as defined in chapter one hundred and fifty-six A, the relationship between the corporation or an employee thereof rendering professional service and the person receiving such service shall be the same as if such corporation or employee rendered such service to said person as an individual practitioner, including any liability arising out of the rendering of such service.

**SECTION 4.** Chapter 182 of the General Laws is hereby amended by inserting after section 5 the following section:–

**Section 5A.** If a trust is formed under this chapter for the purpose of rendering one or more professional services as defined in chapter one hundred and fifty-six A, the relationship between the trust or a trustee or employee thereof rendering professional service and the person receiving such service shall be the same as if such trust or trustee or employee rendered such service to said person as an individual practitioner, including any liability arising out of the rendering of such service.

**SECTION 5.** Any corporation organized under chapter one hundred and fifty-six A may file with the state secretary within ninety days after the effective date of this act an election to be governed by this act signed by all of the stockholders of the corporation.

**SECTION 6.** This act shall take effect on July first, nineteen hundred and eighty-six.

Approved January 8, 1986.

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**Chapter 775. AN ACT AUTHORIZING THE DIVISION OF CAPITAL PLANNING AND OPERATIONS TO CONVEY TO THE TOWN OF WEST TISBURY CERTAIN LAND LOCATED IN MARTHA'S VINEYARD STATE FOREST FOR THE PURPOSE OF ACCESS TO TOWN CONSERVATION LAND.**



**ACTS, 1985. – Chap. 775.**

Be it enacted, etc., as follows:

**SECTION 1.** The division of capital planning and operations, in consultation with the department of environmental management, is hereby authorized to convey to the town of West Tisbury, by deed approved as to form by the attorney general, a certain parcel of land in the Martha's Vineyard State Forest, under the care and control of the department of environmental management, for the purpose of access to town conservation land, as shown on a plan drawn by Peter W. Soule dated April 19, 1983, a copy of which is on file with the department of environmental management, particularly bounded and described as follows:

Beginning at a stone bound, being the point of common tangency among the towns of West Tisbury, Tisbury, Oak Bluffs, and Edgartown, commonly known as the Four-Town Bound, and running North  $89^{\circ} 41' 50''$  East a distance of 3237.15 feet along the borderline between the towns of Oak Bluffs and Edgartown to a stone bound in the sideline of Airport Road,

Thence running South  $08^{\circ} 57' 47''$  West a distance of 30.39 feet along the sideline of Airport Road to a point,

Thence running South  $89^{\circ} 41' 50''$  West a distance of 3228.03 feet through land formerly of the Department of Environmental Management to a point in the borderline between the towns of West Tisbury and Edgartown,

Thence running North  $08^{\circ} 24' 13''$  West a distance of 30.30 feet along the borderline between the towns of West Tisbury and Edgartown to the stone bound, commonly known as the Four-Town Bound, which marks the point of beginning.

This parcel of land contains 2.23 Acres more or less.

**SECTION 2.** In consideration of the above conveyance, the town of West Tisbury shall convey to the commonwealth a parcel of land in the town of Tisbury, particularly bounded and described as follows:

Beginning at a stone bound, being the point of common tangency among the towns of West Tisbury, Tisbury, Oak Bluffs, and Edgartown, commonly known as the Four-Town Bound, and running North  $08^{\circ} 28' 33''$  West along the borderline between the towns of Tisbury and Oak Bluffs to a point in the sideline of Little Pond Road,

Thence turning Westerly and running along the Southerly sideline of Little Pond Road to a point in the borderline between the towns of Tisbury and West Tisbury,

Thence running South  $33^{\circ} 09' 52''$  East to a stone bound, being the point of common tangency among the towns of West Tisbury, Tisbury, Oak Bluffs, and Edgartown, commonly known as the Four-Town Bound.

All of said boundaries except the line of Little Pond Road are determined by the Land Court to be located as shown on a plan drawn by William A. Colby, Surveyor, dated April 13, 1928, as modified and approved by the court, filed in the Land Registration Office, a copy of a portion is filed with Certificate #361.

This parcel of land contains 15 acres, more or less.



**ACTS, 1985. – Chap. 776.**

**SECTION 3.** This conveyance authorized by sections one and two shall be subject to the terms and conditions of a memorandum of understanding that will be executed by the division of capital planning and operations in consultation with the department of environmental management and the town of West Tisbury which shall provide that the land conveyed to the town pursuant to section one shall revert to the commonwealth in the event the land known as the "Greenlands", to which access is provided by said land conveyed pursuant to section one, is no longer restricted to passive recreational and wellfield use, and shall be filed with the department of environmental management on or before the effective date of this act.

Approved January 8, 1986.

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**Chapter 776. AN ACT FURTHER REGULATING THE REPORTING OF CERTAIN INSTITUTIONAL ABUSE AND NEGLECT CASES.**

Be it enacted, etc., as follows:

**SECTION 1.** Section 10 of chapter 28A of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by adding the following paragraph:—

(f) The office shall promptly investigate and evaluate any notice transmitted to the office by the department of social services under clause (9) of section fifty-one B of chapter one hundred and nineteen. Such investigation and evaluation shall determine whether the facility being operated by a person subject to licensure under this section is being operated in compliance with this chapter and with the rules and regulations established under paragraph (c). If, during the course of any such investigation or licensing study conducted by the office, any agent or employee of the office receives or discovers information concerning the occurrence of child abuse or neglect, such agent or that employee shall make a report to the department of social services, pursuant to the provisions of section fifty-one A of chapter one hundred and nineteen.

**SECTION 2.** Section 51B of chapter 119 of the General Laws, as so appearing, is hereby amended by adding the following two clauses:—

(9) notify in writing the office for children by transmitting to said office a copy of the report received under section fifty-one A and a copy of the report prepared under section fifty-one B if and when such report alleges that abuse or neglect occurred at a facility operated by a person subject to licensure or approval by said office under section ten of chapter twenty-eight A, and when the department has substantiated said report. Said department and said office may coordinate their activities conducted under this section and paragraph (f) of said section ten. No provision of chapter sixty-six A, section one hundred and thirty-five of chapter one hundred and twelve, sections fifty-one E and fifty-one F of this chapter, or any other provision of law, shall prohibit the department



**ACTS, 1985. – Chap. 777.**

from transmitting a copy of the reports prepared under the provisions of sections fifty-one A and fifty-one B to said office, or from conducting coordinated activities and sharing information with said office as herein provided, or from having its employees testify at administrative hearings held by said office in connection with matters about which said department has provided notice to said office under this section. Said department and said office shall make all reasonable efforts to minimize the number of interviews of any child-victim which may be necessary. If as a result of any report made under the provisions of said section fifty-one A or an investigation made under the provisions of said section fifty-one B, said department is made aware of information or circumstances indicating a licensing violation in any facility operated by a person subject to licensure or approval by said office, said department shall forthwith notify said office of such information. No provision of chapter sixty-six A, sections fifty-one E and fifty-one F of this chapter, or any other provision of law shall prohibit said office from providing information to said department in connection with matters about which said department has provided notice to said office under this section.

(10) notify in writing the department of mental health, the department of public health, and the department of youth services by transmitting to any of said departments a copy of the report received under section fifty-one A and a copy of the report prepared under section fifty-one B if and when that report alleges that abuse or neglect occurred at a facility owned, operated or funded, in whole or in part, by any of said departments, and when the department of social services has substantiated said report. Said department of social services and any of said departments may coordinate their respective activities conducted under this section, and shall make all reasonable efforts to minimize the number of interviews of any child-victim which may be necessary. No provision of chapter sixty-six A, section one hundred and thirty-five of chapter one hundred and twelve, sections fifty-one E and fifty-one F of this chapter, or any other provision of law, shall prohibit said department of social services from transmitting a copy of said reports made under the provisions of said sections fifty-one A and fifty-one B to any of said departments or from conducting coordinated activities and sharing information with any of said departments as herein provided, or from having its employees testify at administrative hearings held by any of said departments in connection with matters about which said department of social services has provided notice to any of said departments under this section.

Approved January 8, 1986.

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**Chapter 777. AN ACT REGULATING THE PENALTIES TO BE ASSESSED FOR VIOLATION OF REGULATIONS GOVERNING THE STORAGE, TRANSPORTATION AND DISTRIBUTION OF GAS.**

Be it enacted, etc., as follows:



**ACTS, 1985. – Chap. 778.**

**SECTION 1.** Section 40 of chapter 82 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out the last paragraph and inserting in place thereof the following paragraph:–

Any person, contractor or company found by the department of public utilities, after a hearing, to have violated any provision of this section shall forfeit to the commonwealth the sum of two hundred dollars for the first offense and not less than five hundred nor more than one thousand dollars for any subsequent offense.

**SECTION 2.** Section 105A of chapter 164 of the General Laws, as so appearing, is hereby amended by adding the following two paragraphs:–

Any person, firm or corporation who violates any provision of any code adopted by the department pertaining to the safety of pipeline facilities and the transportation of gas, or of any regulation or rule thereunder, at a time when the department has submitted and has in effect the annual certification to the United States Secretary of Transportation provided for in section five A of the Natural Gas Pipeline Safety Act amendments of 1974 (see section 1674 of Title 49 of the United States Code), shall be subject to a civil penalty not to exceed one thousand dollars for each violation for each day that the violation persists; provided, however, that the maximum civil penalty shall not exceed two hundred thousand dollars for any related series of violations.

Any such civil penalty shall be determined by the department. In determining the amount of the penalty, the appropriateness of the penalty to the size of the business of the person, firm, or corporation charged, the gravity of the violation, and the good faith of the person, firm or corporation charged in attempting to achieve compliance, after notification of a violation, shall be considered. The amount of the penalty, when finally determined, may be deducted from any sums which the commonwealth may owe to the person, firm or corporation charged or may be recovered in a civil action commenced in the superior court.

Approved January 8, 1986.

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**Chapter 778. AN ACT PROVIDING FOR THE ISSUANCE OF  
DISTINCTIVE LICENSE PLATES TO MEMBERS OF THE  
LEGION OF VALOR.**

Be it enacted, etc., as follows:

**SECTION 1.** The sixth paragraph of section 2 of chapter 90 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by inserting after the fourth sentence the following sentence:–  
The registrar may issue, to a member of the Legion of Valor of the United States of America, Inc., upon presentation of satisfactory evidence of such membership, as determined by the registrar, distinctive registration plates for one pleasure passenger vehicle owned and principally used by said member.



**ACTS, 1985. – Chap. 779.**

**SECTION 2.** Section 33 of said chapter 90, as so appearing, is hereby amended by inserting after the penultimate paragraph the following paragraph:–

No fee shall be exacted for the registration of a pleasure passenger vehicle owned and principally used by a member of the Legion of Valor of America, Inc. who is entitled to display thereon the distinctive number plates authorized by section two.

Approved January 8, 1986.

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**Chapter 779. AN ACT AUTHORIZING THE COMMONWEALTH TO GRANT CERTAIN EASEMENTS FOR SEWER PURPOSES TO THE TOWN OF TEWKSBURY.**

Be it enacted, etc., as follows:

**SECTION 1.** The division of capital planning and operations, acting in the name and on behalf of the commonwealth, is hereby authorized to grant, by deed approved as to form by the attorney general, the following easements in land located in the town of Tewksbury under the control of the department of public health for sewer purposes to the town of Tewksbury.

An easement 20 feet in width running from land of Hupper Realty Trust Northwesterly to an existing 20 foot sewer easement being shown on a plan entitled "Easement Plan of Land in Tewksbury, Massachusetts, prepared for the Town of Tewksbury, July 2, 1984, William G. Troy & Associates" which plan is to be recorded herewith and being more specifically bounded and described as follows:

BEGINNING at a point on the boundary line between land of Kathleen R. Hupper et al, Trustees of Hupper Realty Trust and land of Commonwealth of Massachusetts as shown on said plan; thence

NORTH 25° 23' 39" West, 138.40 feet to a point; thence

NORTH 70° 21' 30" West, 342.81 feet to a point at "Existing 20' Sewer Easement" as shown on said plan; thence

SOUTHWESTERLY along said easement 20 feet to a point; thence

SOUTHEASTERLY 337.33 feet to a point; thence

SOUTHEASTERLY 122.28 feet to the aforesaid boundary line; thence

SOUTHEASTERLY 20 feet to the point of beginning.

Said division is hereby authorized to grant two temporary construction easements, each fifty feet wide running parallel to and along both sides of the sewer easement. Said easements are for the purpose of installation and maintenance of a permanent sewer line through the premises including the right to make repairs when necessary. The temporary construction easements shall expire at such time as the sewer line is completed; provided, however, that grantee or its assigns shall have the right to go on said temporary easements for the purpose of making repairs to said sewer line.

Consideration to be paid for said easements shall be the average of three independent appraisals. The appraisers shall be selected by the



**ACTS, 1985. – Chap. 780.**

division of capital planning and operations in consultation with the executive office of human services. The costs of preparing these appraisals and all other expenses relative to acquiring this easement shall be the responsibility of the developer.

**SECTION 2.** The division of capital planning and operations acting for and on behalf of the commonwealth is hereby authorized to grant by deed, approved as to form by the attorney general, to the town of Tewksbury the following easements in land located in said town, under the control of the department of public health to be used for the installation and maintenance of a permanent sewer line, including the right to make necessary repairs.

An easement being shown on a plan entitled "Plan of Easements in Tewksbury, Massachusetts for Sewer Main Construction and Maintenance as ordered by the Board of Selectmen/Public Works Scale 1"=40', April 2, 1985, William G. Troy & Associates" which plan is to be recorded herewith and being more specifically bounded and described as follows:

BEGINNING at a point which is 25 feet northerly of East Street at land of the town of Tewksbury, thence

NORTH 40° 36' 47" West at a distance of 33 feet by land of the town of Tewksbury to a point, thence

SOUTH 77° 00' 00" East at a distance of 245 feet more or less, to the northerly line of East Street, thence

WESTERLY, a distance of 95 feet, more or less by the northerly line of East Street to a point, thence

NORTH 77° 00' 00" West a distance of 128 feet, more or less to the point of beginning, together with a 15 foot wide temporary construction easements along the northeasterly and southwesterly sides of the aforementioned parcel.

Said temporary construction easements shall expire upon the completion of the sewer line, provided, however, the grantee and its assigns shall have the right to enter on said temporary easements for the purpose of repairing said sewer line.

Consideration to be paid for said easements shall be the average of three independent appraisals. The appraisers shall be selected by the division of capital planning and operations in consultation with the executive office of human services. The costs of preparing these appraisals and all other expenses relative to acquiring these easements shall be the responsibility of the developer.

Approved January 8, 1986.

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**Chapter 780. AN ACT AUTHORIZING THE DEPARTMENT OF ENVIRONMENTAL MANAGEMENT TO PROVIDE A GRANT OF FUNDS TO THE CITY OF NEW BEDFORD TO REHABILITATE BROOKLAWN PARK IN SAID CITY.**

Be it enacted, etc., as follows:



**ACTS, 1985. – Chap. 781.**

The division of planning and development of the department of environmental management is hereby authorized to provide, subject to appropriation, a grant of funds to the city of New Bedford for the rehabilitation of Brooklawn park in said city. Said grant of funds shall be expended pursuant to a park rehabilitation proposal submitted by the city and approved by the department of environmental management.

Approved January 8, 1986.

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**Chapter 781. AN ACT RELATIVE TO PENSIONS TO SURVIVING SPOUSES OF FIREFIGHTERS OR POLICE OFFICERS KILLED IN THE PERFORMANCE OF DUTY.**

Be it enacted, etc., as follows:

Chapter 32 of the General Laws is hereby amended by striking out section 100, as appearing in the 1984 Official Edition, and inserting in place thereof the following section:–

Section 100. Notwithstanding any provision of this chapter or any other general or special law to the contrary, if a firefighter while in the performance of his duties and as the result of an accident while responding to or returning from an alarm of fire or any emergency, or as the result of an accident involving a fire department vehicle, which the firefighter is operating or in which he is riding, or while at the scene of a fire or any emergency is killed or sustains injuries which result in his death, or if a police officer while in the performance of his duties and as the result of an assault on his person or as a result of an accident involving a police department vehicle which he is operating or in which he is riding in the performance of his duties as a police officer is killed or sustains injuries which result in his death, or if a corrections officer while in the performance of his duties and as the result of an assault on his person is killed or sustains injuries which result in his death, there shall be paid to the surviving spouse of such firefighter, police officer or corrections officer an annual amount of pension which shall be equal to the amount of salary which would have been paid to such firefighter, police officer or corrections officer had he continued in service in the position held by him at the time of his death; provided, however, that the amount of pension immediately payable shall be equal to the maximum salary set for the position whether or not such firefighter, police officer or corrections officer had reached the maximum at the time of his death. Any pension payable to a surviving spouse under this section shall be paid to the surviving spouse so long as such surviving spouse remains unmarried. In the event of the death or remarriage of any surviving spouse eligible to receive a pension under this section, and in case there is any child of such deceased firefighter, police officer or corrections officer, there shall be paid to the legal guardian for the benefit of each such child the sum of three hundred and twelve dollars per annum in addition to a payment equal to seventy-two per cent of the pension which said surviving spouse was receiving at the time of such surviving



**ACTS, 1985. – Chap. 781.**

spouse's death or remarriage, such payment to be made in proportionate shares to the legal guardian for the benefit of each such child until such time as all such children have attained age eighteen or have attained age twenty-one if full-time students, and such payment shall continue for the benefit of such children who are over age eighteen and physically or mentally incapacitated from earning. The words "full-time student" shall mean a child who is in full-time attendance in an accredited educational institution offering full-time courses of study equivalent to or higher than secondary school study. The words "accredited educational institution" shall mean any school, college or university that is licensed, approved or accredited, as the case may be, in the state in which it is located.

The benefits provided by this section shall be in the alternative to the benefits provided by any other section of this chapter; provided, however, that if any such deceased firefighter, police officer or corrections officer was a member of a contributory retirement system established under the provisions of section twenty, any accumulated total deductions credited to his account in the annuity savings fund of such system shall be paid in one sum in accordance with the provisions of subdivision (2) of section eleven, to his surviving beneficiary or beneficiaries entitled thereto.

The benefits payable under this section to the surviving spouse of such deceased firefighter, police officer or corrections officer shall be paid as follows:— if the decedent was a member of the state employees' retirement system, the Massachusetts Port Authority employees' retirement system or any county, city or town contributory retirement system, as the case may be, established under the provisions of sections one to twenty-eight, inclusive, or under corresponding provisions of earlier laws, and subject thereto, or any contributory retirement system established for the employees of any governmental unit under the provisions of any special law, from the same appropriation, and in the same manner, as accidental death benefits payable under the provisions of section nine; if the decedent was not a member of a contributory retirement system, from the same appropriation, and in the same manner, as annuities to dependents payable under the provisions of section eighty-nine or section eighty-nine A.

If any firefighter, police officer or corrections officer is killed or sustains injuries resulting in his death in the manner set forth in this section, and he was so killed or sustained such injuries while assisting another governmental unit, pursuant to the provisions of subdivision (4) of section seven, the benefits provided by this section shall be paid to the surviving spouse as provided in the preceding paragraph, but the governmental unit which requested such assistance shall annually, on or before January fifteenth, reimburse the governmental unit which had employed such deceased firefighter, police officer or corrections officer in the amount of any benefits paid to his surviving spouse during the preceding calendar year.

The presumptions created by sections ninety-four and ninety-four A shall not be applicable to the death of any firefighter, police officer or corrections officer for which a pension is provided under this section.



**ACTS, 1985. – Chaps. 782, 783.**

This section shall be administered by the state board of retirement as to employees of the commonwealth or the metropolitan district commission; by the appropriate retirement board, established under section twenty, having jurisdiction in the governmental unit in which any such firefighter or police officer was employed at the time of his death; or by the Massachusetts Bay Transportation Authority police retirement board; or if such firefighter, police officer, or corrections officer was employed by a town and was not a member of any contributory retirement system, by the board of selectmen of such town.

Approved January 8, 1986.

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**Chapter 782. AN ACT FURTHER REGULATING MUNICIPAL OR STATE POLICE BOXING TEAMS.**

Be it enacted, etc., as follows:

Section 39 of chapter 147 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out the fourth sentence and inserting in place thereof the following sentence:– The foregoing shall not apply to courses of instruction in boxing, boxing or sparring matches or exhibitions, sponsored and conducted by recognized boys' clubs, youth organizations, schools or colleges, municipal or state park or recreational departments, or by incorporated private nonprofit boxing teams, under the supervision of qualified instructors and directors; provided, however, that any of the contestants thirty-five years of age or older shall be restricted and limited to sparring matches or exhibitions of three–two minute rounds and for fund raising for charitable organizations.

Approved January 8, 1986.

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**Chapter 783. AN ACT RELATIVE TO THE TERMS OF CERTAIN NOTES TO BE ISSUED BY THE COMMONWEALTH.**

Be it enacted, etc., as follows:

Notwithstanding any provisions of law to the contrary, the notes which the state treasurer is authorized to issue under section twelve of chapter one hundred and sixty–one A of the General Laws, as amended by section one of chapter six hundred and fifty of the acts of nineteen hundred and sixty–five, authorizing temporary borrowings by the commonwealth to finance certain payments required to be made to the Massachusetts Bay Transportation Authority, shall be issued for terms not exceeding two and one–half years in each of the calendar years nineteen hundred and eighty–six, nineteen hundred and eighty–seven, nineteen hundred and eighty–eight, nineteen hundred and eighty–nine and nineteen hundred and ninety.

Approved January 8, 1986.

EMERGENCY LETTER: February 4, 1986 @ 3:25 P.M.



**ACTS, 1985. – Chaps. 784, 785.**

**Chapter 784. AN ACT RELATIVE TO THE USE OF CERTAIN LAND  
IN THE CITY OF CAMBRIDGE BY THE MASS-  
ACHUSETTS BAY TRANSPORTATION AUTHORITY.**

Be it enacted, etc., as follows:

**SECTION 1.** Section 6 of chapter 298 of the acts of 1976, as most recently amended by section 2 of chapter 691 of the acts of 1981, is hereby further amended by striking out the second paragraph.

**SECTION 2.** This act shall take effect as of August nineteenth, nineteen hundred and seventy-six.

Approved January 8, 1986.

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**Chapter 785. AN ACT PROVIDING FOR IMPROVEMENTS TO  
LOCKUP FACILITIES.**

Be it enacted, etc., as follows:

**SECTION 1.** There is hereby established a program within the office of the commissioner of administration and finance to fund the cost of improvements to lockup facilities of cities and towns of the commonwealth, metropolitan district commission lockup facilities and state police facilities as prescribed by section thirty-six B of chapter forty of the General Laws, for which the amount of ten million dollars is made available. The commissioner of administration and finance is authorized to distribute the amount made available to procure the materials, to fund the reasonable costs of making the improvements, and to pay such other related costs as he deems necessary.

**SECTION 2.** Cities and towns which have incurred costs in making improvements pursuant to contracts entered into between January first, nineteen hundred and eighty-five and June thirtieth, nineteen hundred and eighty-five may be reimbursed by said commissioner for their documented, reasonable costs upon certification to said commissioner by the city or town that the facility is in compliance with said section thirty-six B. Cities and towns which have not made such improvements shall submit to said commissioner detailed estimates of the costs thereof, based on specifications prepared by said commissioner. Said commissioner shall promptly review the estimated costs and if he approves them shall distribute the necessary funds to the city or town. If the funds provided are not sufficient to cover the costs of making improvements, the city or town shall immediately notify the commissioner of the amount necessary to complete the improvements. Said commissioner shall review such further request and, if he approves, shall distribute the funds to the city or town.

Cities and towns shall maintain all such funds in a separate



## ACTS, 1985. – Chap. 785.

interest-bearing account and shall expend the funds and any interest earned thereon only for the purposes of making the improvements prescribed by said section thirty-six B. Said commissioner is hereby authorized to inspect, examine or audit the books and records of any city or town receiving funds for such improvements.

After completion of such improvements, the city or town shall inspect the facility, certify to said commissioner that the facility is in compliance with said section thirty-six B, and submit to said commissioner a statement of the actual costs of making the improvements and of the balance remaining in the account. If the actual costs are less than the monies advanced for estimated costs and interest earned thereon, the city shall forthwith remit to the commonwealth the balance of funds maintained in the separate account.

If the city or town fails to remit any such balance, or if the city or town fails to certify the completion of the improvements to the secretary within one year of the advance of any funds under this act, said commissioner shall certify to the state treasurer the full amount distributed to said city or town by the commonwealth, and the state treasurer shall deduct said amount from any amount otherwise certified to the state treasurer for payment to the city or town as receipts, distributions, reimbursements and assistance under sections eighteen A, eighteen B, eighteen C and eighteen D of chapter fifty-eight of the General Laws and any other amount for local reimbursement grant or assistance programs entitled to be received by such city or town until such time as the full amount distributed is set off or the said city or town remits the balance or provides such necessary certification. At the time said city or town remits the balance or provides the necessary certification, the state treasurer shall pay to the city or town the amount so deducted.

**SECTION 3.** To meet the expenditures necessary in carrying out the provisions of section one and two inclusive, of this act, the state treasurer shall, upon request of the governor, issue and sell bonds of the commonwealth to an amount to be specified by the governor from time to time, not exceeding in the aggregate, the sum of ten million dollars. All bonds issued by the commonwealth, as aforesaid, shall be designated on their face, Lockup Facilities Improvements Act of 1985, and shall be issued for such maximum term of years not exceeding seven years, as the governor may recommend to the general court pursuant to Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth; provided, however, that all such bonds shall be payable not later than June thirtieth, nineteen hundred and ninety-five. All interest and payments on account of principal of such obligations shall be payable from the Local Aid Fund. Bonds and interest thereon issued under the authority of this section shall be general obligations of the commonwealth.

**SECTION 4.** The state treasurer may borrow from time to time on the credit of the commonwealth such sums of money as may be necessary for the purpose of meeting payments authorized by sections one and two,



**ACTS, 1985. – Chap. 786.**

inclusive, of this act and may issue and renew from time to time notes of the commonwealth therefor, bearing interest payable at such time and at such rates as shall be fixed by the state treasurer. Such notes shall be issued and may be renewed one or more times for such terms, not exceeding one year, as the governor may recommend to the general court in accordance with Section 3 of Article LXII of the Amendments of the Constitution of the commonwealth, but the final maturities of such notes whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-five.

Notes and interest thereon issued under the authority of this section, notwithstanding any other provisions of this act, shall be general obligations of the commonwealth, and shall be payable from the Local Aid Fund.

Approved January 8, 1986.

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**Chapter 786. AN ACT RELATIVE TO WATER POLLUTION CONTROL AND WATER SUPPLY CONSERVATION.**

Whereas, The deferred operation of this act would tend to defeat its purpose, which is relative to water pollution control and water supply conservation, 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.** The division of water pollution control in the department of environmental quality engineering is hereby authorized and directed to expend a sum, not to exceed three hundred and fifty-seven million dollars, for the purpose of carrying out the provisions of the Massachusetts Clean Waters Act, as set forth in section fifty-three of chapter twenty-one of the General Laws.

From funds made available for expenditure by the first paragraph of this section, the director of said division is authorized to expend a sum, not to exceed thirteen million dollars in any fiscal year, in each of fiscal years nineteen hundred and eighty-six through nineteen hundred and eighty-nine, inclusive, for the purpose of making the grants authorized by section thirty A of said chapter twenty-one; provided, however that any funds left unexpended in any fiscal year shall be carried over and shall be made available for expenditure in the subsequent fiscal year; provided, further, that for twenty-five per cent of the sums available for expenditure under this paragraph through fiscal year nineteen hundred and eighty-five and four million dollars in each fiscal year thereafter, said director shall give highest priority in the selection of projects for grants to those projects, including interceptor sewers, which he has identified, after consultation with such agencies of the commonwealth as he may deem appropriate, as providing the greatest economic benefit to the commonwealth; and provided, further, that any funds designated for projects with such economic benefit and left unexpended in any



ACTS, 1985. - Chap. 786.

fiscal year shall be carried over and shall be available for expenditure for other collection sewer system projects in the subsequent fiscal year.

From funds made available for expenditure by the first paragraph of this section, said director is authorized to obligate and expend a sum, not to exceed seventy-five million dollars per year in each of federal fiscal years nineteen hundred and eighty-six through nineteen hundred and eighty-eight, inclusive, for the purpose of matching federal grants to public entities, as defined in section twenty-six A of chapter twenty-one of the General Laws, for water pollution control purposes. Any funds up to the seventy-five million dollar annual ceiling left unobligated or unexpended in any federal fiscal year shall be carried over and shall be available for obligation and expenditure through federal fiscal year nineteen hundred and eighty-eight. Any funds obligated but not expended prior to the close of federal fiscal year nineteen hundred and eighty-eight shall be available for expenditure after the close of federal fiscal year nineteen hundred and eighty-eight. In the event that federal grant funds received during federal fiscal years nineteen hundred and eighty-six through nineteen hundred and eighty-eight, inclusive, which state funds are authorized to match remain unobligated at the close of federal fiscal year nineteen hundred and eighty-eight, said state funds shall remain available for obligation and expenditure consistent with then applicable federal laws and regulation.

From funds made available for expenditure by the first paragraph of this section, said director is authorized to make grants pursuant to clause (iv) of section thirty-three of chapter twenty-one of the General Laws in an amount not to exceed twenty million dollars per year in each of fiscal years nineteen hundred and eighty-six through nineteen hundred and eighty-nine, inclusive. Any funds up to the twenty million dollar annual ceiling left unobligated or unexpended in any fiscal year shall be carried over and shall be available for expenditure through fiscal year nineteen hundred and eighty-eight. Any funds obligated but not expended prior to the close of fiscal year nineteen hundred and eighty-eight shall be available after the close of fiscal year nineteen hundred and eighty-eight. Said director shall establish criteria and priorities for the disbursement of funds under this paragraph which may include criteria applied in administering the Federal Pollution Control Act FWPCA, as defined in section twenty-six A of chapter twenty-one of the General Laws, as appearing in the 1984 Official Edition.

**SECTION 2.** The department of environmental quality engineering is hereby authorized to expend a sum not to exceed twenty-five million dollars for a program of grants to cities, towns, districts, and water and sewer commissions of the commonwealth for the purposes of developing ongoing programs of investigating and identifying sources of loss of potable water and for rehabilitating water supply distribution systems, including cleaning and relining mains, laterals and associated distribution elements or replacement of the same; provided, however, that said sums shall be matched by an equal sum appropriated by said cities, towns, districts, and commissions; and provided, further, that five per cent of said funds shall be set aside specifically for a program of



## ACTS, 1985. – Chap. 786.

investigation of loss of potable water and the remaining ninety-five per cent shall be designated for system rehabilitation assistance. No single city, town, district, or commission shall be eligible for more than five per cent of the total amount designated for a program of investigation of the loss of potable water and five per cent of the total amount designated for system rehabilitation assistance.

Said department shall establish standards, guidelines, criteria and priorities for the administration and disbursement of said funds which shall include, but need not be limited to: the amount of water usage unaccounted for in a city, town, or district; the institution of an ongoing leak detection program; repair of leaks identified by leak detection programs; repair of distribution systems to provide adequate pressure for fire protection; and the repair of distribution systems to maintain public health standards. Said department shall consult with the water resources commission before establishing the criteria and priorities for the disbursement of such funds. Any city, town, district, or commission shall be eligible to apply for such funds. No city, town, district, or commission shall receive such assistance unless it has adopted or is in the process of adopting a comprehensive water resources management plan pursuant to regulations established by the water resources commission.

Said department shall establish procedures whereby the cities, towns, or districts that submitted applications pursuant to chapter eight hundred and five of the acts of nineteen hundred and seventy-nine or pursuant to chapter two hundred and eighty-six of the acts of nineteen hundred and eighty-two shall have the opportunity to submit additional information to supplement and clarify those applications that were not awarded leak detection or system rehabilitation grants pursuant to said chapter eight hundred and five or said chapter two hundred and eighty-six. Such additional information shall be considered in the determination of grants to be made pursuant to this section.

**SECTION 3.** The department of environmental quality engineering is hereby authorized to expend a sum not exceeding five million dollars for the purposes of devising solutions to the contamination of public sources of drinking water including but not limited to: conducting hydrogeological evaluations at sites of contamination to determine the appropriate treatment needs; the treatment of the water supply at the source of contamination, at the source of supply, or at any appropriate intermediate point; the augmentation of water supplies on a short term basis; and the management of alteration of the direction of contaminated groundwater flows.

Said department shall establish standards and guidelines for the administration and expenditure of such funds. Such standards and guidelines shall be subject to the approval of the water resources commission. No city, town, or district shall receive such assistance unless it has adopted or is in the process of adopting a comprehensive water resources management plan pursuant to regulations established by the water resources commission.



ACTS, 1985. – Chap. 786.

**SECTION 4.** The department of environmental quality engineering is hereby authorized to expend a sum not to exceed twenty-five million dollars for the purpose of carrying out the provisions of sections one hundred and fifty-nine, one hundred and sixty, and one hundred and sixty-two of chapter one hundred and eleven of the General Laws as relate to the construction, commenced after January first, nineteen hundred and seventy-eight, of drinking water filtration plants for the treatment of public water supplies; provided, however, that such construction grants shall not exceed fifty per cent of the total cost of such construction project; provided, further, that such construction grants shall be made available to cities, towns, districts, and water and sewer commissions for drinking water filtration plants for water supply systems which they own; and provided, further, that such construction grants shall be made available only for drinking water filtration plants that filter water not provided by the water resources authority.

Construction grants may be made under this section upon the approval by said department of a plan submitted in accordance with criteria used by said department in determining the priority of projects for assistance; provided, however, that a priority shall be granted for a project in a city, town, or water district where said department has mandated or ordered such city, town, or water district to improve the quality of its public water supply by boiling.

Upon receipt by any city, town, district, or commission of federal funds granted expressly for the purpose of constructing a drinking water filtration plant for the treatment of public water supply, such city, town, district, or commission receiving assistance under this section shall reimburse the commonwealth for such assistance the amount by which such federal funds exceed forty per cent of said construction costs.

**SECTION 5.** The department of environmental quality engineering is hereby authorized and directed to expend a sum not to exceed fifteen million dollars for a program of grants to cities, towns, districts, and water and sewer commissions of the commonwealth for the purposes of developing an ongoing program of meter installation, modernization, or rehabilitation, or centralized utility metering for public water supply systems; provided that said grants shall be matched by an equal amount appropriated by such city, town, district, or commission; provided, further, that up to one-half of the match provided by cities, towns, districts, or water and sewer commissions may be provided through in-kind services; and provided, further, that no city, town, district, or water and sewer commission shall be eligible for such assistance unless it has adopted a comprehensive water resources management plan pursuant to regulations established by the water resources commission. Said department shall establish standards, guidelines, criteria and priorities for the administration and disbursement of said funds which shall include, but need not be limited to, the age of the system, the need to install or replace meters, the percentage of the system currently metered, the age of the meters being replaced or rehabilitated, the per cent of the water budget which is covered by charges or fees, and the degree of cooperation among utilities.



## **ACTS, 1985. – Chap. 786.**

Of the funds made available by the first paragraph of this section, five million dollars shall specifically be set aside for the use by cities, towns, districts, and water and sewer commissions for the installation of water meters; five million dollars shall specifically be set aside for use by cities, towns, districts, and water and sewer commissions for an accelerated program of meter rehabilitation or replacement; and five million dollars shall be set aside for use by cities, towns, districts, and water and sewer commissions in the installation of multi-use meters, shared by more than one utility.

**SECTION 6.** It is hereby found and declared that the contamination of public and private drinking water supplies is a significant threat to public health, welfare, and safety. It is further found and declared that there is a scarcity of affordable housing in the commonwealth and that it is in the public interest to protect the habitability of any residence threatened by contamination of its public or private water supply. Therefore, it is found that it is in the public interest of the commonwealth to benefit the general welfare of its citizens, a public purpose for which public money may be expended, by authorizing the department of environmental quality engineering to assist in devising solutions to the contamination of public and private drinking water supplies. To accomplish that purpose, the department of environmental quality engineering shall also establish standards and guidelines for expending such funds as provided in section three for assistance to private drinking water supplies; provided, however, that said standards will provide only emergency interim and intermediate solutions to contamination of such water supplies which serve at least twenty-five residential units; and provided, further, that no such assistance shall be provided unless said department determines that a viable long-term solution to the contamination is being actively pursued.

**SECTION 7.** The state treasurer may borrow from time to time on the credit of the commonwealth such sums of money as may be necessary for the purpose of meeting payments authorized by sections one to five, inclusive, of this act and may issue and renew from time to time notes of the commonwealth therefor, bearing interest payable at such time and at such rates as shall be fixed by the state treasurer. Such notes shall be issued and may be renewed one or more times for such terms, not exceeding one year, as the governor may recommend to the general court in accordance with Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth, but the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-five.

Notes and interest thereon issued under the authority of this section, notwithstanding any other provisions of this act, shall be general obligations of the commonwealth, and shall be payable from the Local Aid Fund.

**SECTION 8.** To meet the expenditures necessary in carrying out the provisions of sections one to five, inclusive, of this act, the state



**ACTS, 1985. – Chap. 786.**

treasurer shall, upon the request of the governor, issue and sell bonds of the commonwealth to an amount to be specified by the governor from time to time, but not exceeding, in the aggregate, the sum of four hundred and twenty-seven million dollars. All bonds issued by the commonwealth, as aforesaid, shall be designated on their face, Water Pollution Control and Water Supply Conservation Loan, Act of 1985, and shall be issued for such maximum term of years, not exceeding twenty years, as the governor may recommend to the general court pursuant to Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth; provided, however, that all such bonds shall be payable not later than June thirtieth, two thousand and ten.

Bonds and interest thereon under the authority of this section shall, notwithstanding any other provisions of this act, be general obligations of the commonwealth, and shall be payable from the Local Aid Fund.

**SECTION 9.** Section 30A of chapter 21 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out, in line 13, the word "two" and inserting in place thereof the word:—three.

**SECTION 10.** The second paragraph of section 33 of said chapter 21, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:— Where (i) the federal government has awarded a seventy-five per cent grant for the eligible costs of the project, the division may award a fifteen per cent grant for such eligible project costs, or (ii) the federal government has awarded a fifty-five per cent grant for the eligible costs of the project the division may award a thirty-five per cent grant for such eligible project costs; provided, however, that in the event the grant awarded by the federal government is less than seventy-five per cent or fifty-five per cent of such eligible costs, as the case may be, the division may award a grant in such amount to assure that the public entity's share of the eligible costs of such project does not exceed ten per cent; or (iii) that in the event that a project eligible for such a federal grant has not been awarded a federal grant, the divisions may award a grant of up to thirty-five per cent of the eligible costs of such project; or (iv) that in the event that a combined sewer outfall project or a project eligible for such a federal grant has not been awarded a federal grant, the division may, in fiscal years nineteen hundred and eighty-six through nineteen hundred and eighty-nine, inclusive, award a grant of up to seventy per cent of the costs of such project.

**SECTION 11.** The third paragraph of said section 33 of said chapter 21, as so appearing, is hereby amended by adding the following sentence:— The division may award grants in an amount not exceeding ninety per cent of the approved eligible costs for the planning and design of such facilities; provided, however, that in the event the federal government includes an allowance for such costs in their construction grant, the division shall deduct from its construction grant such sums as it deems necessary.



**ACTS, 1985. – Chap. 787.**

**SECTION 12.** Item 2150–8843 in section 2 of chapter 723 of the acts of 1983 is hereby amended by inserting after the word "Dam", in line 2, the words:– and the construction of the necessary water storage tanks to complete rehabilitation of the water supply system.

**SECTION 13.** Funds provided in this act shall be in addition to funds authorized by chapter six hundred and eighty-seven of the acts of nineteen hundred and sixty-six, chapter seven hundred and forty-seven of the acts of nineteen hundred and seventy, chapter seven hundred and ninety-eight of the acts of nineteen hundred and seventy-nine, chapter two hundred and eighty-six of the acts of nineteen hundred and eighty-two, and by chapter four hundred and seventy-two of the acts of nineteen hundred and eighty-four.

**SECTION 14.** This act shall take effect upon its passage.

Approved January 9, 1986.

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**Chapter 787. AN ACT AUTHORIZING THE METROPOLITAN DISTRICT COMMISSION, PARKS DIVISION, OF THE COMMONWEALTH OF MASSACHUSETTS TO CONVEY TO THE TOWN OF WATERTOWN FOR SEWER PURPOSES CERTAIN EASEMENTS FOR THE CONSTRUCTION AND MAINTENANCE OF SEWERS AND SEWER SIPHONS IN SAID TOWN.**

Be it enacted, etc., as follows:

**SECTION 1.** The deputy commissioner of capital planning and operations, acting for and on behalf of the commonwealth, is hereby authorized in accordance with the provisions of section forty E to forty J, inclusive, of chapter seven of the General Laws, in consultation with the metropolitan district commission, to convey to the town of Watertown certain permanent easements for the purpose of constructing a 24" gravity sewer between Pleasant Street and the Charles river near Galen street, and a 12" and 16" sewer siphon across the Charles river near Arsenal street in the town of Watertown and the city of Boston, bounded and described as follows:

Reference is made to plans numbered one through four inclusive entitled "Plan of Easements for Watertown Sewer Improvements Project"; Scale : 1" = 40'; August 1985; prepared by LEA Group Engineers, 75 Kneeland Street, Boston, Massachusetts; and signed by Douglas L. Liston, R.L.S., LEA Group.

**Parcel One:** Commencing at a point on the Southerly limit of Pleasant Street at a point distant 143.40 feet Easterly of the Westerly limit of Metropolitan District Commission Lands and the Northeasterly corner of lands of William J. Swift #96 Pleasant Street--Said point being 43.63 feet Easterly of the Westerly end of a curve on said Southerly side line of Pleasant Street, having a radius of 1149.34 feet;

Thence running Easterly along said Southerly side line of Pleasant Street, along a curve to the right having a radius of 1149.34 feet, 25.62 feet to a point;



ACTS, 1985. – Chap. 787.

Thence S 25° – 26' – 24" W, 143.21 feet to a point;  
Thence S 51° – 14' – 21"W, 150.88 feet to a point;  
Thence N 89° – 16' – 43"W, 158.35 feet to a point;  
Thence N 68° – 24' – 24"W, 559.95 feet to a point;  
Thence N 40° – 37' – 22"W, 338.49 feet to a point;  
Thence N 48° – 58' – 45"W 179.00 feet to a point on lands of Francis W. Boudrot; the prior 6 courses running through lands of the Metropolitan District Commission, Parks Division;  
Thence S 74° – 47' – 02" E, along said Boudrot 45.94 feet to a point;  
Thence S 48° – 58' – 45"E, 139.10 feet to a point on Southerly boundary of A & C Masonry, Inc.;  
Thence S 40° – 37' – 22" E, along Southerly limit of lands of A&C Masonry, Inc., Joseph A. Gaeta, other lands of Metropolitan District Commission, Frank Kasprzyk, John S. Marini, Ralph C. Fratto, and Mary Colocouris, 335.00 feet to a point;  
Thence S 68° – 24' – 24"E, along Southerly limit of lands of Mary Colocouris, Daniel Zaccagnini, Daniel & Christine Zaccagnini, other lands of Daniel Zaccagnini, Claudio Coppola, Metropolitan District Commission, Nicholas P. Darviris, other lands of Nicholas P. Darviris, and William B. Fuqua, 551.32 feet to a point;  
Thence S 89° – 16' – 43"E, 147.49 feet to a point;  
Thence N 51° – 14' – 21"E, 139.12 feet to a point;  
Thence N 25° – 26' – 24" E, 122.61 feet to point of commencement on the Southerly limit of Pleasant Street;  
The prior 3 courses running through lands of the Metropolitan District Commission, Parks Division.

Said parcel one contains 29,646 square feet as shown on the aforesaid plan, and is located entirely within the lands of the parks division of the metropolitan district commission as delineated by Plan 820 of 1938 (Book 6242, Page 332) as recorded in the southern district registry of deeds in the county of Middlesex, and on metropolitan district commission, Plan #130, Sheet #3.

Parcel Two: Commencing at a point on the Southeasterly limit of lands of said Francis W. Boudrot, said point being N 74° – 47' – 02"W, 36.00 feet from common point between lands of Francis W. Boudrot, Vincent Colafella, and the Metropolitan District Commission, Parks Division;  
Thence N 74° – 47' – 02"W, along lands of Metropolitan District Commission, Parks Division, 45.94 feet to a point;  
Thence N 48° – 58' – 45"W, through lands of said Francis W. Boudrot, 26.30 feet to a point; Thence N 33° – 16' – 33"E, along line between said Francis W. Boudrot and Richard S. Cass (Bacon Industries), 20.18 feet to a point;  
Thence S 48° – 58' – 45"E, through lands of said Francis W. Boudrot, 70.38 feet to point of commencement;

Said parcel two contains 967 square feet as shown on the aforesaid plan and is located entirely within the lands of Francis W. Boudrot #182 Pleasant street, in the town of Watertown, said property being recorded in Book 7624, Page 36 in the southern district registry of deeds in the county of Middlesex.

Parcel Three: Commencing at a point on the Southeasterly side line of Pleasant Street, said point being distant N 56° – 44' – 35"W, 31.00



ACTS, 1985. – Chap. 787.

feet from the common point of intersection of the Northeasterly corner of lands of Richard S. Cass and the Northwesterly Corner of Francis W. Boudrot;

Thence running N 56° – 44' – 35"W, along Southeasterly side line of Pleasant Street, 20.93 feet to a point;

Thence S 16° – 05' – 15"W, 84.87 feet to a point;

Thence S 48° – 58' – 45"E, 27.10 feet to a point on the common line between Richard S. Cass and Francis W. Boudrot;

The prior 2 courses running through lands of Richard S. Cass.

Thence N 33° – 16' – 33"E, along lands of Francis W. Boudrot, 20.18 feet to a point;

Thence N 48° – 58' – 45"W, 11.62 feet to a point;

Thence N 16° – 05' – 15"E, 65.94 feet to place of beginning.

Said parcel three contains 1895 square feet as shown on the aforesaid plan and is located entirely within the lands of Richard S. Cass (Bacon Industries) #192-196 Pleasant street, in the town of Watertown, said property being shown in Book 12357, Page 698 in the southern district registry of deeds in the county of Middlesex.

Parcel Four: Commencing at the Southwesterly corner of said Parcel Four, said point being 43.0 feet more or less Westerly, along the Southerly boundary of Instrumentation Laboratory, Inc. from the Westerly side line of Galen Street at the Southeasterly corner of said lands—this point of commencement being more accurately located by the following courses from the point of curvature of the Northerly side line of Watertown Street (1939 County Layout): along a curve to the left on said Northerly side line having a radius of 75.00 feet, 23.59 feet, N 8° – 42' – 44"E, 53.58 feet, and N 13° – 27' – 24"E, 108.81 feet;

Thence S 78° – 54' – 56"E, along lands of Metropolitan District Commission, Parks Division, 40.03 feet to a point;

Thence N 8° – 42' – 44"E, 77.00 feet to a point;

Thence N 81° – 17' – 16"W, 40.00 feet to a point;

Thence S 8° – 42' – 44"W, 75.34 feet to point of commencement;

Said parcel four contains 3047 square feet, as shown on the aforesaid plan and is located entirely within the lands of Instrumentation Laboratory, Inc. as delineated on "Plan of Land in Watertown Massachusetts" by Everett M. Brooks, Co. dated September 11, 1968—Survey #35940A made for the land court, which never went to decree.

Parcel Five: Commencing at the Southwesterly corner of said Parcel Five on the Northerly side line of Watertown Street, (1939 County layout), said point being 23.59 feet Easterly from the point of curvature of a curve into Galen Street having a radius of 75.00 feet;

Thence N 8° – 42' – 44"E, 53.58 feet to a point;

Thence N 13° – 27' – 24"E, 108.81 feet to a point at lands of Instrumentation Laboratory, Inc.;

Thence S 78° – 54' – 56"E, along lands of Instrumentation Laboratory, Inc., 40.03 feet to a point;

Thence S 13° – 27' – 24"W, 108.81 feet to a point;

Thence S 8° – 42' – 44"W, 11.92 feet to a point on the Northwesterly side line of Watertown Street;

Thence running along the Northwesterly side line of Watertown Street



**ACTS, 1985. – Chap. 788.**

along a curve to the right having a radius of 75.00 feet, 58.01 feet to the point of commencement;

Said parcel five contains 5873 square feet and lies entirely within lands of the parks division of metropolitan district commission and crosses the Charles river just west of Galen street in the town of Watertown, as shown on the aforesaid plan.

Parcel Six: Commencing at a point on the Northerly side line of Soldiers Field Road Extension, being the Northerly limit of a "Plan for Taking, Charles River Reservation" Plan #43990 X-VT, said point being 1535.0 feet more or less from the Westerly side line of Arsenal Street;

Thence running S 20° – 58' – 35"E, 70.0 feet more less to the Northerly curb line of Soldiers Field Road extension;

Thence S 71° – 01' – 25"W, along said Northerly curb line of Soldiers Field Road Extension, 30.02 feet to a point;

Thence N 20° – 58' – 35"W, crossing the corporate boundary from Boston into Watertown and crossing the Charles River, 437.91 feet to a point on the Southerly curb line of Charles W. Greenough Boulevard (Formerly Charles River Road);

Thence N 50° – 41' – 25"E, along said Southerly curb line of Charles Greenough Boulevard 31.60 feet to a point;

Thence S 20° – 58' – 35"E, crossing the corporate boundary from Watertown into Boston, and crossing the Charles River, 378.90 feet to a point of beginning—this course running along the westerly side line of a temporary easement described elsewhere.

This permanent easement contains 13,302 square feet, and crosses the Charles river and is situated in both the city of Boston and the town of Watertown, the corporate boundary between which runs down the center of the Charles river, as shown on the aforesaid plan.

**SECTION 2.** This act shall take effect upon its passage.

Approved January 9, 1986.

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**Chapter 788. AN ACT FURTHER REGULATING THE DEVELOPMENT OF CONDOMINIUMS ON CERTAIN LEASED LAND.**

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately regulate the development of condominiums on certain leased land, 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.** The definition of "Common areas and facilities" in section 1 of chapter 183A of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out clause (4) and inserting in place thereof the following clause:—

(4) The land on which the building is located, or the lessee's interest in any lease of such land which is submitted to the provisions of this chapter.



**ACTS, 1985. – Chap. 788.**

**SECTION 2.** Said section 1 of said chapter 183A, as so appearing, is hereby further amended by striking out the definition of "Condominium" and inserting in place thereof the following definition:–

"Condominium", the land or the lessee's interest in any lease of such land which is submitted to the provisions of this chapter, the building or buildings, all other improvements and structures thereon, and all easements, rights and appurtenances belonging thereto, which have been submitted to the provisions of this chapter.

**SECTION 3.** Said chapter 183A is hereby further amended by striking out section 2, as so appearing, and inserting in place thereof the following section:–

Section 2. This chapter shall apply only when the owner of the land, or the lessee of the land located within an area for which a land assembly and redevelopment plan has been established, submits the same to the provisions hereof by duly executing and recording a master deed or assignment of lease, with an assent by the lessor, containing a statement to the effect that the owner or lessee proposes to create a condominium to be governed by the provisions of this chapter; provided, however, that any parcel or building which is subject to such lease and is located within a land assembly area or is subject to a redevelopment plan shall have been either an abandoned building or parcel or a building or parcel designated for residential development; and provided, further, that the term of such lease shall be not less than sixty years. The provisions of this chapter shall not be deemed to preclude or regulate the creation or maintenance of other interests in real property not expressly declared by the owner or lessee to be subject hereto.

**SECTION 4.** Said chapter 183A is hereby further amended by striking out section 3, as so appearing, and inserting in place thereof the following section:–

Section 3. Each unit together with its undivided interest in the common areas and facilities, whether or not such unit is built on owned or leased land shall constitute real estate, and may be the subject of demise, devise, gift, mortgage, ownership, possession, sale, trust, the laws of descent and distribution and all other rights incidental to the holding of real estate as if it were sole and entirely independent of the other units in the condominium of which it forms a part.

**SECTION 5.** Section 4 of said chapter 183A, as so appearing, is hereby amended by striking out clause (1) and inserting in place thereof the following clause:–

(1) No unit shall be devoted to a use prohibited in the master deed or any lease which is submitted to the provisions of this chapter.

**SECTION 6.** Said section 4 of said chapter 183A, as so appearing, is hereby further amended by striking out clause (3) and inserting in place thereof the following clause:–

(3) Each unit owner shall comply with the by-laws and with any administrative rules and regulations adopted pursuant thereto, as either of the same may be amended from time to time, and with the lawful



**ACTS, 1985. – Chap. 788.**

covenants, conditions and restrictions set forth in the master deed or in the deed to his unit and with each lease which is submitted to the provisions of this chapter.

**SECTION 7.** Section 8 of said chapter 183A, as so appearing, is hereby amended by adding the following clause:–

(j) The name of the lessor of each lease which is submitted to the provisions of this chapter and the recording data for each such lease or notice thereof.

**SECTION 8.** Said chapter 183A is hereby further amended by inserting after section 8 the following section:–

Section 8A. (a) The consent of every lessor of each lease which is submitted to the provisions of this chapter shall be recorded and shall provide:

(1) the recording data for the lease or the notice thereof, and in the latter case, a statement of where the complete lease may be inspected;

(2) the date on which the lease is scheduled to expire, including a provision in said lease requiring the lessor to give a twelve month written notice of said date of expiration to each unit owner;

(3) a legally sufficient description of the real estate subject to the lease;

(4) any right of the unit owners to redeem the reversion and the manner whereby those rights may be exercised, or a statement that they do not have those rights;

(5) any right of the unit owners to remove any improvements within a reasonable time after the expiration or termination of the lease, or a statement that they do not have those rights; and

(6) any rights of the unit owners to renew the lease and the conditions of any renewal, or a statement that they do not have those rights.

(b) After the consent of a lessor is recorded, neither the lessor nor any successor in interest of the lessor may terminate the leasehold interest of a unit owner, who makes timely payment or tender of said timely payment by certified mail of such unit owner's share of the rent and otherwise complies with all covenants and conditions which, if violated, would entitle the lessor to terminate the lease. A unit owner's leasehold interest is not affected by failure of any other person to pay rent or fulfill any other covenant or condition.

(c) Acquisition of the leasehold interest of any unit owner by the owner of the reversion or remainder does not merge the leasehold and fee simple interests unless the leasehold interests of all unit owners subject to that reversion or remainder are acquired.

(d) If the expiration or termination of a lease reduces the number of units in a condominium, the common element interests, votes in the association, and common expense liabilities shall be reallocated among the remaining unit owners in proportion to their respective percentage interests. Reallocations shall be confirmed by a duly recorded amendment of the master deed.

(e) The rent and all other amounts payable under the lease shall be declared common expenses.

(f) Prior to the expiration of said lease, the lessor shall obtain three



**ACTS, 1985. – Chap. 789.**

independent real estate appraisals of said parcel and shall offer the right to purchase said parcel for the average of the three appraisals to the organization of unit owners to purchase such parcel. In the event that the organization of unit owners chooses not to purchase such parcel, said organization may negotiate a renewal of said lease for a term of not less than sixty years.

**SECTION 9.** Paragraph (a) of section 9 of said chapter 183A, as so appearing, is hereby amended by adding the following sentence:– If the condominium relates to a lease which is submitted to the provisions of this chapter, the name of the condominium shall contain the word "Lease" or "Leasehold" and the deed or assignment or each unit shall indicate that the condominium relates to a lease.

**SECTION 10.** Section 13 of said chapter 183A, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:– All claims involving the common areas and facilities shall be brought against the organization of unit owners, and all attachments and executions related to such claims shall be made only against common funds or property held by the organization of unit owners and not against the common areas and facilities themselves other than the leasehold of any lease included therein.

Approved January 8, 1986.

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**Chapter 789. AN ACT PERMITTING THE FINANCING OF HOSPITAL FACILITIES OWNED BY CERTAIN NONPROFIT CORPORATIONS UNDER THE MASSACHUSETTS HEALTH AND EDUCATIONAL FACILITIES AUTHORITY ACT.**

Be it enacted, etc., as follows:

**SECTION 1.** Section 3 of chapter 614 of the acts of 1968 is hereby amended by striking out paragraph (b), as appearing in section 8 of chapter 777 of the acts of 1981, and inserting in place thereof the following paragraph:–

(b) "Project", in the case of a participating institution for higher education or participating institution for the handicapped, a structure or structures suitable for use as a dormitory or other multi-unit housing facility for students, faculty, officers or employees, a dining hall, student union, administration building, academic building, library, laboratory, research facility, classroom, athletic facility, health care facility, maintenance, storage or utility facility and other structures or facilities related to any of the foregoing or required or useful for the instruction of students or the conducting of research or the operation of an institution for higher education or participating institution for the handicapped, including parking and other facilities or structures essential or convenient for the orderly conduct of such institution for higher education or participating institution for the handicapped, and shall also include landscaping, site preparation, furniture, equipment and



**ACTS, 1985. – Chap. 789.**

machinery and other similar items necessary or convenient for the operation of a particular facility or structure in the manner for which its use is intended and shall further include any furnishings, equipment, machinery and other similar items necessary or convenient for the operation of an institution of higher education or participating institution for the handicapped, whether or not such items are related to a particular facility or structure financed under this act, but shall not include such items as books, fuel, supplies or other items the cost of which are customarily deemed to result in a current operating charge, and shall not include any facility used or to be used for sectarian instruction or as a place of religious worship nor any facility which is used or to be used primarily in connection with any part of the program of a school or department of divinity for any religious denomination; and, in the case of a participating hospital, a structure or structures suitable for use as a hospital, clinic, comprehensive gerontology facility, nursing home, or other health care facility, laboratory, laundry, nurses or interns residence or other multi-unit housing facility for staff, employees, patients or relatives of patients admitted for treatment in such hospital, or for the aged, doctors office building, administration building, research facility, maintenance, storage or utility facility and other structures or facilities related to any of the foregoing or required or useful for the operation of a hospital, including parking and other facilities or structures essential or convenient for the orderly conduct of such hospital, and shall also include landscaping, site preparation, furniture, equipment and machinery and other similar items necessary or convenient for the operation of a particular facility or structure in the manner for which its use is intended and shall further include any furnishings, equipment, machinery and other similar items necessary or convenient for the operation of a hospital, whether or not such items are related to a particular facility or structure financed under this act, but shall not include such items as fuel, supplies or other items the cost of which are customarily deemed to result in a current operating charge; and in the case of a particular cultural institution, a structure or structures suitable for its purposes, whether or not to be used to provide educational services, or research resources and shall also include supporting facilities, landscaping, site preparation, furniture, equipment, machinery and other related items and shall further include any furnishings, equipment, machinery and other similar items necessary or convenient for the operation of a cultural institution, whether or not such items are related to a particular facility or structure financed under this act, but shall not include books, works of art, or other items for display or exhibition, or items the cost of which are customarily deemed to result in a current operating charge; and "project" may include any combination of one or more of the foregoing undertaken jointly by one or more participating institutions with each other or with other parties.

**SECTION 2.** Section 3 of chapter 614 of the acts of 1968 is hereby amended by striking out paragraph (g), inserted by section 5 of chapter 454 of the acts of 1969, as amended by chapter 482 of the acts of 1980, and inserting in place thereof the following paragraph:—



**ACTS, 1985. – Chap. 790.**

(g) "Hospital", a nonprofit hospital within the commonwealth licensed by the department of public health; or a nonprofit health maintenance organization within the commonwealth licensed by the commissioner of insurance; or an affiliated nonprofit corporation which is organized and operated for the benefit of, to perform one or more of the functions of, or to carry out one or more of the purposes of one or more licensed nonprofit hospitals or health maintenance organizations, including operation of a nursing home, comprehensive gerontology facility or congregate care facility.

Approved January 9, 1986.

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**Chapter 790. AN ACT FURTHER REGULATING CHARITABLE SOLICITATION.**

Be it enacted, etc., as follows:

**SECTION 1.** Chapter 68 of the General Laws is hereby amended by striking out section 18 to section 33, inclusive, and inserting in place thereof the following eighteen sections:–

Section 18. When used in this section, and in sections nineteen to thirty-five, inclusive, the following terms shall have the following meanings:–

"Charitable", including but not limited to benevolent, educational, philanthropic, humane, patriotic, scientific, literary, religious, eleemosynary, health, safety or welfare-related, or in furtherance of governmental or civic objectives, and benefiting the general public or some indefinite class thereof;

"Charitable organization", any person whose purposes or actual operation are charitable in nature or one holding himself out to be a charitable organization in whole or in part, including any person who in any manner employs a charitable appeal as the basis of any solicitation or an appeal which could be reasonably interpreted to suggest that there is a charitable purpose to any such solicitation;

"Commercial co-venturer", any person who for profit or other commercial consideration, conducts, produces, promotes, underwrites, arranges or sponsors a performance, event, or sale to the public of a good or service which is advertised in conjunction with the name of any charitable organization or as benefiting to any extent any charitable purpose. Any such person who will benefit in good will only shall not be deemed a commercial co-venturer if the collection and distribution of the proceeds of the performance, event or sale are supervised and controlled by the benefiting charitable organization;

"Contributions", the promise or grant of any money, property, credit, financial assistance, sponsorship or anything of value including the payment or promise to pay in consideration of a performance, event or sale of a good or service by a charitable organization or a commercial co-venturer. Payments by members of a charitable organization for membership fees, dues, fines or assessments or for services rendered to individual members, if such fees, dues, fines or assessments confer a bona fide right, privilege, professional standing, honor or other direct



ACTS, 1985. – Chap. 790.

benefit, shall not be deemed contributions;

"Director", the director of the division of public charities in the department of the attorney general;

"Division", the division of public charities in the department of the attorney general;

"Parent organization", that part of a charitable organization which co-ordinates, supervises or exercises control over policy, fund-raising and expenditures; or assists or advises one or more chapters, branches or affiliates in this commonwealth;

"Person", any individual, organization, trust, foundation, group, association, partnership, corporation, society or any combination of them;

"Professional fund-raising counsel", any person who is retained for a financial or other consideration by a charitable organization to plan, conduct, manage, carry on, advise or act as a consultant whether directly or indirectly in connection with the solicitation of contributions in this commonwealth for or on behalf of any charitable organization but who actually solicits no contributions and has neither custody nor control of contributions as part of such services. A bona fide salaried officer or regular, nontemporary employee of a charitable organization maintaining a permanent establishment within the commonwealth shall not be deemed to be a professional fund-raising counsel;

"Professional solicitor", any person who is retained for a financial or other consideration by a charitable organization to solicit in this commonwealth contributions for charitable purposes directly or in the form of payment for goods or services, whether such solicitation is done individually or through other persons under the direction of the professional solicitor. A person who otherwise is a professional fund-raising counsel shall be deemed a professional solicitor if at any time he has custody or control of contributions. A bona fide salaried officer or regular, nontemporary employee of a charitable organization maintaining a permanent establishment within the commonwealth shall not be deemed to be a professional solicitor. No attorney, investment counselor or banker who advises an individual corporation or association to make a charitable contribution shall be deemed, as the result of such advice, to be a professional fund-raising counsel or a professional solicitor;

"Solicit" or "solicitation", any direct or indirect request for a contribution on the representation that such contribution will be used in whole or in part for a charitable purpose, including but not limited to:

(1) any oral request that is made in person, by telephone, radio or television or other advertising or communications media;

(2) any written or otherwise recorded or published request that is mailed, sent, delivered, circulated, distributed, posted in a public place, or advertised or communicated by press, telegraph, television or other media;

(3) any sale of, offer or attempt to sell, any advertisement, advertising space, sponsorship, book, card, chance, coupon, device, food, magazine, merchandise, newspaper, subscription, ticket or other service or tangible good, thing or item of value; or

(4) any announcement requesting the public to attend an appeal, assemblage, athletic or competitive event, carnival, circus, concert,



ACTS, 1985. – Chap. 790.

contest, dance, entertainment, exhibition, exposition, game, lecture, meal, party, show, social gathering or other performance or event of any kind.

Section 19. Every charitable organization, except one granted an exemption under the provisions of section twenty, which intends to solicit contributions from persons within the commonwealth or have contributions solicited on its behalf by other charitable organizations, commercial co-venturers, or professional solicitors shall, prior to any such solicitation, file an annual registration statement with the division upon prescribed forms, which shall be refiled in the next and each following year in which such charitable organization is engaged in solicitation activities; provided, that the provisions of this chapter have been complied with, the director of the division shall issue a certificate of registration to a charitable organization within ten days of receipt of the registration statement. No charitable organization required to be registered under this section shall solicit funds without a valid certificate of registration. The president, chairman or principal officer of such charitable organization shall file the statements required under sections eighteen to thirty-five, inclusive. Such statements shall be sworn to and shall contain the following information: (1) The name of the organization and the purpose for which it was organized; (2) the address of the organization and the address of any offices in this commonwealth or, if the organization does not maintain an office, the name and address of the person having custody of its financial records; (3) the place where and the date when the organization was legally established, the form of its organization and its tax exempt status for federal income tax purposes; (4) the names and the addresses of the officers, directors and trustees and the principal salaried executive staff officers; (5) a copy of the annual financial report for the organization's immediate preceding fiscal year as required under section eight F of chapter twelve; (6) whether the organization intends to solicit contributions from the public; (7) whether the organization is authorized by any other governmental authority to solicit contributions and whether it is or has ever been enjoined by any court from soliciting contributions; (8) the charitable purpose or purposes for which the contributions to be solicited shall be used; (9) the name or names under which it intends to solicit contributions; (10) the names of the individuals or officers of the organization who shall have final responsibility for the custody of the contributions; (11) the names of the individuals or officers of the organization responsible for the final distribution of the contributions. The registration forms and any other documents prescribed by the division shall be signed by any two authorized officers, including the chief fiscal officer, of the charitable organization and shall be verified under oath. Every charitable organization except one granted said exemption under section twenty shall pay a registration fee to be determined annually by the commissioner of administration under the provisions of section three B of chapter seven, subject to the approval of the general court. If no action is taken by the general court within sixty days of receipt of said fee, it shall be deemed approved. Every charitable organization having one or more chapters, branches or affiliates in this commonwealth and filing on behalf of such chapter,



**ACTS, 1985. – Chap. 790.**

branches or affiliates shall pay a single registration fee.

Section 20. The following shall not be required to file registration statements with the division or to have a certificate of registration under section nineteen: (1) any religious corporation, trust, foundation, association or organization incorporated or established for religious purposes, nor any agency or organization incorporated or established for charitable, purposes and engaged in effectuating one or more of such purposes, which is affiliated with, operated by, or supervised or controlled by a corporation sole or other religious corporation, trust, foundation, association, or organization incorporated or established for religious purposes, nor any other religious agency or organization which serves religion by the preservation of religious rights and freedom from persecution or prejudice or by fostering religion, including the moral and ethical aspects of a particular religious faith; (2) charitable organizations which do not actually raise or receive contributions from the public in excess of five thousand dollars during a calendar year or do not receive contributions from more than ten persons during a calendar year, if all of their functions, including fund-raising activities, are carried on by persons who are unpaid for their services and if no part of their assets or income inures to the benefit of, or is paid to any officer or member; provided, however, that if the contributions raised from the public, whether or not all is received by any charitable organization during any calendar year, is in excess of five thousand dollars, it shall within thirty days after the date it shall have received total contributions in excess of five thousand dollars, register with and report to the division as required by section nineteen.

Section 21. (a) No professional solicitor or commercial co-venturer or their agents, servants or employees, including agents, servants or employees assigned to work under the direction of a professional solicitor or commercial co-venturer, shall receive compensation which in the aggregate amounts to a total in excess of twenty-five per cent of the total moneys, pledges or other property raised or received by reason of any solicitation activities or campaigns, including reimbursement for all expenses incurred in the solicitation. (b) For purposes of this section, the total moneys, funds, pledges or other property raised or received shall be adjusted by first deducting therefrom the actual cost, not to exceed fair market value, to the charitable organization or professional solicitor or commercial co-venturer of performances, events or goods sold to the public.

Section 22. (a) Every contract or agreement between a professional fund-raising counsel or a commercial co-venturer or a professional solicitor and a charitable organization required to have a certificate of registration pursuant to section nineteen shall be in writing, signed by two officers of the charitable organization, and filed with the director of the division within ten days after such contract or agreement is entered into. No solicitation shall be conducted prior to the filing of such contract or agreement. (b) Every contract or agreement between a professional solicitor or a commercial co-venturer and a charitable organization shall include: (1) a statement of the charitable purposes to be described in the solicitation; and (2) a statement of the guaranteed minimum percentage of the gross receipts from fund-raising which will



**ACTS, 1985. – Chap. 790.**

be utilized exclusively for the charitable purposes described in the solicitation.

Section 23. (a) All solicitations by professional solicitors and all solicitations by commercial co-venturers shall contain, at the time of solicitation, the following disclosures: (1) the name, address and telephone number of the charitable organization and a description of how the contributions raised by the solicitation will be utilized for charitable purposes, or if there is no charitable organization, the name, address and telephone number of the professional solicitor or commercial co-venturer and a description of how the contributions raised by the solicitation will be utilized for charitable purposes; (2) the statement that the solicitation is being conducted by a "paid fund-raiser"; (3) the guaranteed minimum percentage of the gross receipts from fund-raising that will be utilized exclusively for the charitable purposes described in the solicitation; and such other disclosures as required by relevant rules and regulations promulgated under section twenty-nine. If the solicitation is for advertising, the disclosure shall also include the geographic distribution and the circulation of the publication in which the advertising will appear. (b) For purposes of this section, the guaranteed minimum percentage required to be disclosed by clause (3) of subsection (a) shall be the percentage stated in the contract or written agreement between the professional solicitor or commercial co-venturer and the charitable organization.

Section 24. (a) No person shall act as a professional fund-raising counsel, commercial co-venturer or professional solicitor for a charitable organization required to have a certificate of registration pursuant to the provisions of section nineteen, unless first having registered with the division. Applications for such registration shall be in writing under oath in the form prescribed by the division and shall contain such information as the division may require. The application for registration by a professional fund-raising counsel, commercial co-venturer or professional solicitor shall be accompanied by an annual fee to be determined annually by the commissioner of administration under the provisions of section three B of chapter seven. A partnership or corporation which is a professional fund-raising counsel, commercial co-venturer or professional solicitor may register for and pay a single fee on behalf of all its members, officers, agents and employees. (b) Commercial co-venturers and professional solicitors shall, at the time of making application, file with and have approved by the division a bond in which the applicant shall be the principal obligor in the sum of ten thousand dollars with one or more sureties satisfactory to the division whose liability in the aggregate shall at least equal said sum. Said bond shall run to the division for the use of the commonwealth and to any charitable organization which may have a cause of action against the obligor of said bond for any malfeasance or misfeasance in the conduct of solicitation activities. A partnership or corporation which is a commercial co-venturer or professional solicitor may file a consolidated bond on behalf of all its members, officers and employees. The aggregate liability of the surety for all breaches of the conditions of the bond shall, in no event, exceed the sum of said bond. (c) For each calendar year, commercial co-venturers and professional solicitors shall



ACTS, 1985. – Chap. 790.

file with the division on a form prescribed by the division a financial report stating, for each contract or agreement with a charitable organization, the name of the charitable organization, the gross receipts collected pursuant to that contract or agreement, the amounts paid to the charitable organization to be utilized exclusively for the charitable purposes described in the solicitation, the amounts paid to the commercial co-venturer and the professional solicitor; all additional expenses not otherwise stated; and such other information as the director may require. This report shall be co-signed by representatives of the charitable organizations for whom solicitation was conducted. (d) Each completed registration shall be valid for a period of one calendar year or a part thereof and may be renewed for additional one-year periods upon written application under oath in the form prescribed by the division and containing such information as it may require, the filing of all contracts or agreements as required by section twenty-two, the bond, where applicable, and the fee prescribed by this section.

Section 25. Registration statements, applications, reports, contracts or agreements of professional fund-raising counsel, commercial co-venturers and professional solicitors, and all other documents and information required to be filed under sections eighteen to thirty-five, inclusive, or by the division, shall be public records in the office of the division and shall be open to the general public for inspection at such times as the division may prescribe.

Section 26. Every professional fund-raising counsel, commercial co-venturer, professional solicitor, and charitable organization required to have a certificate of registration under section nineteen, shall, in accordance with the rules and regulations prescribed by the division, keep true fiscal records as to such activities within the commonwealth as may be covered by sections eighteen to thirty-five, inclusive, in such form as will enable them accurately to provide the information required by said sections. Upon demand such records shall be made available to the division for inspection. Such records shall be retained for a period of at least three years after the end of the period of registration to which they relate.

Section 27. The division may enter into reciprocal agreements with the appropriate authority of any other state or of the United States for the purpose of exchanging information with respect to charitable organizations, professional fund-raising counsel, commercial co-venturers and professional solicitors. Pursuant to such agreements the division may accept information filed by a charitable organization with the appropriate authority of another state or of the United States in lieu of the information required to be filed by the charitable organization in accordance with the provisions of sections eighteen to thirty-five, inclusive, if such information is substantially similar to the information required under said sections.

Section 28. (a) No charitable organization, professional fund-raising counsel, commercial co-venturer or professional solicitor subject to the provisions of sections eighteen to thirty-five, inclusive, shall use or exploit the fact of registration so as to lead the public to believe that such registration in any manner constitutes an endorsement or approval by the commonwealth. (b) No person shall, in connection with the



ACTS, 1985. – Chap. 790.

solicitation of contributions for or the sale of goods or services of a person other than a charitable organization, misrepresent to or mislead any one by any manner, means, practice or device whatsoever to believe that the person on whose behalf such solicitation or sale is being conducted is a charitable organization or that the proceeds of such solicitation or sale will be used for charitable purposes if such is not the fact. (c) No person shall in connection with the solicitation of contributions or the sale of goods or services for charitable purposes represent to or lead any one by any manner, means, practice or device whatsoever to believe that any other person sponsors or endorses such solicitation of contributions, sale of goods or services for charitable purposes or approves of such charitable purposes or a charitable organization connected therewith when such other person has not given consent to the use of his name for these purposes. Any member of a board of directors or trustees of a charitable organization or any other person who has agreed either to serve or to participate in any voluntary capacity in the campaign shall be deemed thereby to have given his consent to the use of his name in connection with the progress of such campaign. (d) No person shall make any representation that he is soliciting contributions for or on behalf of a charitable organization or shall use or display any emblem, device or printed matter belonging to or associated with a charitable organization for the purpose of soliciting or inducing the contribution of funds from the public without first being authorized to do so by the charitable organization. (e) No commercial co-venturer or professional solicitor shall solicit in the name of or on behalf of any charitable organization unless he has in his possession the written authorization of two officers of such organization, a copy of which shall be filed with the division, and exhibits such written authorization on request to any person solicited, to any police officer or to any agent of the division. Such authorization shall bear the signature of the solicitor and shall state on its face the period for which it is valid, which shall not exceed one year from the date issued.

Section 29. The director shall from time to time formulate such reasonable rules and regulations as may be necessary to carry out the provisions of sections eighteen to thirty-five, inclusive.

Section 30. (a) The attorney general, whenever he believes a person has violated the provisions of sections nineteen to thirty-five, inclusive, or has filed any application required under said sections which contains false or misleading information, may conduct an investigation to determine whether in fact such person is in violation of said provisions, or has filed any false or misleading information. In conducting such investigation the attorney general may: (1) take testimony under oath; (2) examine or cause to be examined any documentary material of whatever nature relevant to such alleged violations or false or misleading information; and (3) require attendance during such examination of documentary material of any person having knowledge of the documentary material and take testimony under oath or acknowledgement in respect of any such documentary material. Such testimony and examination shall take place in the county where such person resides or has a place of business or, if the parties consent or such person is a non-resident or has no place of business within the



ACTS, 1985. – Chap. 790.

commonwealth, in Suffolk county.

(b) Notice of the time, place and cause of such taking of testimony, examination or attendance shall be given by the attorney general at least ten days prior to the date of such taking of testimony or examination.

(c) Service of any such notice may be made by (1) delivering a duly executed copy thereof to the person to be served or to a partner or to any officer or agent authorized by appointment or by law to receive service of process on behalf of such person; (2) delivering a duly executed copy thereof to the principal place of business in the commonwealth of the person to be served; or (3) mailing by registered or certified mail a duly executed copy thereof addressed to the person to be served at the principal place of business in the commonwealth or, if said person has no place of business in the commonwealth, to his principal office or place of business.

(d) Each such notice shall: (1) state the time and place for the taking of testimony or the examination and the name and address of each person to be examined, if known, and, if the name is not known, a general description sufficient to identify him or the particular class or group to which he belongs; (2) state the statute and section thereof, if any, of the alleged violation which is under investigation and state the general subject matter of the investigation; (3) describe the class or classes of documentary material to be produced thereunder with reasonable specificity, so as fairly to indicate the material demanded; (4) prescribe a return date within which the documentary material is to be produced; and (5) identify the members of the attorney general's staff to whom such documentary material is to be made available for inspection and copying.

(e) No such notice shall contain any requirement which would be unreasonable or improper if contained in a subpoena duces tecum issued by a court of the commonwealth; or require the disclosure of any documentary material which would be privileged or which for any other reason would not be required by a subpoena duces tecum issued by a court of the commonwealth.

(f) Any documentary material or other information produced by any person pursuant to this section shall not, unless otherwise ordered by a court of the commonwealth for good cause shown, be disclosed to any person other than the authorized agent or representative of the attorney general, unless with the consent of the person producing the same.

(g) The superior court for the county of Suffolk or for any county in which any person served in accordance with the section resides or has his usual place of business may, at any time prior to the date specified in the notice, or within twenty-one days after the notice has been served, whichever period is shorter, upon motion for good cause shown, extend such reporting date or modify or set aside the notice provided for in this section.

This section shall not be applicable to any criminal proceeding, nor shall information obtained under the authority of this section be admissible in evidence in any criminal prosecution for substantially identical transactions.

Section 31. Any charitable organization or professional fund-raising



ACTS, 1985. – Chap. 790.

counsel, commercial co-venturer or professional solicitor having its principal place of business without the commonwealth or organized under and by virtue of the laws of a foreign state which solicits contributions from people in the commonwealth, subject to sections nineteen to thirty-five, inclusive, shall be subject to the provisions of said sections, and shall be deemed to have irrevocably appointed the state secretary as its agent upon whom may be served any summons, subpoena duces tecum or other process directed to such charitable organization or any partner, principal officer or director thereof, professional fund-raising counsel, commercial co-venturer or professional solicitor in any action or proceeding brought under the provisions of said sections. Service of such process upon the state secretary shall be made by personally delivering to and leaving with him a copy thereof at the office of said secretary in Boston and such service shall be sufficient service; provided notice of such service and a copy of such process shall be forthwith sent by said secretary to such charitable organization or professional fund-raising counsel, commercial co-venturer or professional solicitor by registered mail, with return receipt requested at its or his office as set forth in the registration form required to be filed in the division pursuant to sections nineteen and twenty-four, or in default of the filing of such form, at the last address known to said secretary.

Section 32. (a) If any registered charitable organization, professional fund-raising counsel, commercial co-venturer or professional solicitor fails to file any registration application or statement, annual report or other information required to be filed by the division under sections eighteen to thirty-five, inclusive, the division may notify the delinquent charitable organization, professional fund-raising counsel or professional solicitor by mailing a notice by registered mail to its last known address. If the required registration application or statement, annual report or other information is not filed within two weeks after the formal notification of receipt of such notice, the division may cancel or suspend the registration of such delinquent charitable organization, professional fund-raising counsel, commercial co-venturer or professional solicitor.

(b) If as the result of an investigation the division finds that any information contained in any application required under sections eighteen to thirty-five, inclusive, is false or misleading or that a registrant under said sections has violated said sections, it may, subject to the provisions of section thirteen of chapter thirty A of the General Laws, suspend or cancel the registration and revoke the certificate of registration.

(c) The registration of any charitable organization, professional fund-raising counsel, commercial co-venturer or professional solicitor which or who knowingly makes a false statement in any registration application or statement, annual report or other information required to be filed by the division or sections eighteen to thirty-five, inclusive, may, subject to the provisions of section thirteen of chapter thirty A of the General Laws, be revoked by the division.

(d) Any person who knowingly violates any provision of sections nineteen to thirty-five, inclusive, or who willfully and knowingly gives



ACTS, 1985. – Chap. 790.

false or incorrect information to the division in filing statements or reports required by said sections, whether such report or statement is verified or not, may be fined not more than one thousand dollars or by imprisonment for not more than one year, or both.

(e) Whenever the attorney general or any district attorney has reason to believe that any charitable organization, professional fund-raising counsel, commercial co-venturer or professional solicitor is operating in violation of the provisions of sections eighteen to thirty-five, inclusive, or has knowingly and willfully made any false statement in any registration application or statement, report or other information required to be filed under said sections, or whenever a charitable organization has failed to file a registration statement required under said sections, or whenever there is employed or is about to be employed in any solicitation or collection of contributions for a charitable organization any unfair or deceptive acts or practices, as defined by chapter ninety-three A, or any device, scheme or artifice to defraud or to obtain money or property by means of any false pretense, representation or promise, or whenever any of the principal officers of any charitable organization have refused or failed after notice to produce any records of such organization, in addition to all other actions authorized by law, the attorney general or district attorney may bring an action in the name of the commonwealth against such charitable organization and its officers, such professional fund-raising counsel, commercial co-venturer or professional solicitor or any other person who has violated said sections or who has participated or is about to participate in any solicitation or collection by employing any unfair or deceptive acts or practices, as defined by said chapter ninety-three A, or any device, scheme, artifice, false representation or promise, to defraud or obtain money or other property, to enjoin such charitable organization or professional fund-raising counsel, commercial co-venturer or professional solicitor or other person from continuing such violation, solicitation or collection or engaging therein or doing any acts in furtherance thereof and for such other relief as to the court seems appropriate.

Section 33. Every person soliciting, collecting or expending, for charitable purposes, contributions from the public, and every officer and employee of any such person concerned with the solicitation, collection or expenditure of such funds, shall be deemed to be a fiduciary and acting in a fiduciary capacity.

Section 34. Any organization organized under the laws of the commonwealth, if eligible for membership, may become a member of The Common Fund for Nonprofit Organizations, a New York nonprofit membership corporation authorized under section eight E of chapter twelve to operate in the commonwealth and organized to aid and strengthen such corporations, community chests, funds and foundations as are organized and operated exclusively for nonproprietary and nonprofit-making purposes and otherwise eligible for membership by providing means for the investment of their funds in shares or interests in one or more common funds. Any such organization may, either as fiduciary or otherwise, and in addition to any other lawful investment,



**ACTS, 1985. – Chap. 791.**

invest any part or all of the funds which it holds for investment in shares or interests in a common fund or funds established by The Common Fund for Nonprofit Organizations; provided, however, that in the case of funds held as fiduciary, such investment is not prohibited by the language of the will, deed or other instrument creating the fiduciary relationship.

Section 35. Any person who solicits contributions from the public by door-to-door visitation or in person for any charitable, civic or political cause or purpose, and who receives for such solicitation a wage, salary, percentage of the donations received, or other contractual remuneration or thing of value, but not to include reimbursements for expenses incurred in soliciting, shall inform each person so solicited that the solicitation is a paid solicitation. Such information shall be so provided in writing or in the form of a clearly displayed badge or sign bearing the words "Paid Solicitor". Any person who violates this section shall be punished by a fine of one hundred dollars for each such violation.

The provisions of this section shall not apply to the finance chairman, accountant, treasurer or auditor of any organization, trust committee, foundation, group, association, partnership, corporation, society, or any combination thereof; provided, however, that such financial officer is not directly soliciting; nor shall such provisions apply to any ordained clergyman, minister, priest, rabbi, officer or any duly authorized member of any religious order or any other tax exempt religious organization.

**SECTION 2.** If any provision of sections eighteen to thirty-five, inclusive, of chapter sixty-eight of the General Laws, amended by section one of this act, or the application of such provisions to any person, body or circumstances shall be held invalid, the remainder of said sections of said chapter, or the application of such provisions thereof to persons, bodies or circumstances other than those which shall have been held invalid shall not be affected hereby.

Approved January 9, 1986.

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**Chapter 791. AN ACT REGARDING DRUG TREATMENT FOR CERTAIN CHILDREN IN NEED.**

Be it enacted, etc., as follows:

Chapter 111E of the General Laws is hereby amended by inserting after section 13 the following section:—

Section 13A. The division shall, in accordance with the provisions of this section, accept for referral children determined to be in need of services pursuant to the provisions of section thirty-nine G of chapter one hundred and nineteen and referred to the division by the department of social services, hereinafter referred to as the department, or the juvenile court. Such referral shall be made to the director of the division.

Upon receipt by the director of a request for referral he may,



**ACTS, 1985. – Chap. 791.**

unless the child has been examined pursuant to section ten, designate a qualified physician to make an examination of the child to determine whether or not he is a drug dependent child who would benefit from treatment.

The physician designated shall report his findings in writing to the director stating the facts upon which the findings are based and the reasons therefore, and said report shall be kept confidential by the division and shall not be disclosed to any person, other than the department or the court, without the written approval of the child or his parent or legal guardian.

If the director finds that the child is a drug dependent person who would benefit from treatment and that adequate treatment is available at an appropriate drug treatment facility, he may recommend to the department or the court that the child be admitted to the facility on an inpatient or an outpatient basis.

The director may also recommend to the department or the juvenile court the period of time necessary to accomplish adequate and appropriate treatment, not to exceed one year; the nature of the treatment to be afforded and the facility to which the child could be admitted. If the department or court determines that admission to the facility, the nature of the treatment to be afforded and the period deemed necessary to accomplish treatment are appropriate and the child and his parent or legal guardian agree to the treatment, the child may, subject to the availability of funds appropriated for that purpose, be admitted to the facility for such treatment. Said determination shall be provided in writing.

If the director decides that referral to the division is inappropriate because the child is not a drug dependent person who would benefit by treatment or because adequate treatment is not available at an appropriate facility, he shall make known in writing to said department or said court the basis for this decision.

The referral to the division shall terminate at the conclusion of the period of treatment to which the department or the court consents, or upon a determination by the director that the child will no longer benefit by treatment, whichever first occurs. If the director determines before the conclusion of such period of treatment that the child will no longer benefit by treatment, he shall make known in writing to the department or the court the basis for his decision.

Children in need of services referred to the division pursuant to this section shall remain subject to the jurisdiction and control of the department or the court for all purposes, including, but not limited to, discharge and release; provided, however, that the treatment to be afforded the child in need of services referred to the division shall be within the jurisdiction and control of the division. In no event, however, shall a child in need of services be referred for a period longer than the period during which he is subject to the jurisdiction and control of the department or the court.

Approved January 9, 1986.



**ACTS, 1985. – Chaps. 792, 793.**

**Chapter 792. AN ACT RELATING TO REIMBURSEMENTS TO THE MEMBER TOWNS OF THE FRONTIER REGIONAL SCHOOL DISTRICT FOR CERTAIN TRANSPORTATION COSTS.**

Be it enacted, etc., as follows:

**SECTION 1.** The towns of Conway, Deerfield, Sunderland and Whately, as member towns of the Frontier Regional School District, shall be reimbursed by the commonwealth under section sixteen C of chapter seventy-one of the General Laws for costs incurred by them in transporting pupils in grades seven through twelve to schools in said Frontier Regional School District, notwithstanding that the agreement establishing said regional school district does not provide for furnishing transportation by said district.

**SECTION 2.** This act shall apply to reimbursements paid to the towns named in section one for the fiscal year commencing July first, nineteen hundred and eighty-four and for two fiscal years thereafter.

Approved January 9, 1986.

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**Chapter 793. AN ACT RELATIVE TO CERTAIN ADOPTION RECORDS.**

Be it enacted, etc., as follows:

Chapter 210 of the General Laws is hereby amended by inserting after section 5C the following section:—

Section 5D. (a) A placement agency, as defined in section nine of chapter twenty-eight A, holding records relating to an adopted person, the biological parents of an adopted person or the adoptive parents of an adopted person shall:

(1) release to such adopted person, if he has reached the age of eighteen years, upon his written request, information about his biological parents which will not identify or tend to lead to the identification of the biological parents or their present or former locations.

(2) release to a biological parent of an adopted person, upon the biological parent's written request, information about such adopted person which will not reveal or tend to reveal his identity after adoption or his present or former locations, and which will not tend to lead to his identity after adoption or present or former locations.

(3) release to an adoptive parent, if the adopted person is under the age of eighteen years, upon the adoptive parent's written request, information about the adopted person and his biological parents which will not identify or tend to lead to the identification of the biological parents or their present or former locations.

Such information shall include such nonidentifying information which the agency holds concerning the medical, ethnic, socio-economic, and



**ACTS, 1985. – Chap. 794.**

educational circumstances of the person. The agency, in its discretion, shall further release such nonidentifying information concerning the circumstances under which the adopted person became available for adoption as it deems to be in the best interest of the person so requesting.

(b) If a placement agency, as defined in section nine of chapter twenty-eight A, has received written permission from a biological parent of an adopted person to release the identity of the biological parent to the adopted person and the said agency has received written permission from the adopted person, or written permission from the adoptive parents if the adoptive person is under the age of twenty-one, to release the identity after adoption of the adopted person to the biological parent, then the agency shall release the identity of the adopted person to the biological parent and the identity of the biological parent to the adopted person; provided, however, that if the biological parent is surviving, that he or she has given written consent at least thirty days before the release of said identifying information. The term "biological parent", as used in this subsection, shall mean a biological mother, or a father named on the birth certificate of the adopted person filed in court with the adoption papers, or a man who has signed, as father, an adoption surrender filed in court with the adoption papers.

(c) Information released to a person pursuant to paragraphs (a) and (b) shall be provided in writing if such person so requests.

(d) Such placement agency shall:

(1) release to the biological parent of an adopted person, upon the biological parent's written request, any personal data, as defined in section one of chapter sixty-six A, which it holds relating to the biological parent.

(2) release to an adoptive parent, upon his written request, any personal data, as defined in section one of chapter sixty-six A, which it holds relating to the adoptive parent.

(3) in making any disclosure of information pursuant to this paragraph, the agency shall remove personal identifiers relating to a third person. No agency shall rely on any exception contained in clause Twenty-sixth of section seven of chapter four to withhold personal data otherwise accessible under this paragraph.

(e) All other adoption records held by such placement agency shall be confidential and shall not be released.

Approved January 9, 1986.

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**Chapter 794. AN ACT RELATIVE TO MINOR MOTOR VEHICLE OFFENSES.**

Be it enacted, etc., as follows:

**SECTION 1.** Chapter 90 of the General Laws is hereby amended by striking out section 21, as appearing in the 1984 Official Edition, and inserting in place thereof the following section:—



ACTS, 1985. – Chap. 794.

Section 21. Any officer authorized to make arrests may arrest without a warrant and keep in custody for not more than twenty-four hours, unless a Saturday, Sunday or a legal holiday intervenes, any person who, while operating a motor vehicle on any way, as defined in section one, violates the provisions of the first paragraph of section ten of chapter ninety and relating to a license to operate a motor vehicle also violates any statute, by-law, ordinance or regulation relating to the operation or control of motor vehicles as defined in section one of chapter ninety C, whether such violation is capable of being judicially heard and determined as a civil motor vehicle infraction or a criminal offense. Any arrest made pursuant to this paragraph shall be deemed an arrest for the criminal offense or offenses involved and not for any civil motor vehicle infraction arising out of the same incident.

Any officer authorized to make arrests, provided such officer is in uniform or conspicuously displaying his badge of office, may arrest without a warrant and keep in custody for not more than twenty-four hours, unless Saturday, Sunday or legal holiday intervenes, any person, regardless of whether or not such person has in his possession a license to operate motor vehicles issued by the registrar, if such person upon any way or in any place to which the public has the right of access, or upon any way or in any place to which members of the public have access as invitees, operates a motor vehicle after his license or right to operate motor vehicles in this state has been suspended or revoked by the registrar, or whoever upon any way or place to which the public has the right of access, or upon any way or in any place to which members of the public have access as invitees, or who the officer has probable cause to believe has operated or is operating a motor vehicle while under the influence of intoxicating liquor, marihuana or narcotic drugs, or depressant or stimulant substances, all as defined in section one of chapter ninety-four C, or under the influence of the vapors of glue, carbon tetrachloride, acetone, ethylene, dichloride, toluene, chloroform, xylene or any combination thereof, or whoever uses a motor vehicle without authority knowing that such use is unauthorized, or any person who, while operating or in charge of a motor vehicle, violates the provisions of section twenty-five of chapter ninety, or whoever operates a motor vehicle upon any way or in any place to which members of the public have a right of access as invitees or licensees and without stopping and making known his name, residence and the register number of his motor vehicle goes away after knowingly colliding with or otherwise causing injury to any person.

Any person who is arrested pursuant to this section shall, at or before the expiration of the time period prescribed, be brought before the appropriate district court and proceeded against according to the law in criminal or juvenile cases, as the case may be, provided, however, that any violation otherwise cognizable as a civil infraction shall retain its character as, and be treated as, a civil infraction notwithstanding that the violator is arrested pursuant to this section for a criminal offense in conjunction with said civil infraction.

An investigator or examiner appointed under section twenty-nine may arrest without a warrant, keep in custody for a like period, bring before



**ACTS, 1985. – Chap. 794.**

a magistrate and proceed against in like manner, any person operating a motor vehicle while under the influence of intoxicating liquor or marihuana, narcotic drugs, depressants or stimulant substances, all as defined in section one of chapter ninety-four C, irrespective of his possession of a license to operate motor vehicles issued by the registrar.

**SECTION 2.** The definition of "Automobile law violation" in section 1 of chapter 90C of the General Laws, as so appearing, is hereby amended by adding the following two sentences:– A recreation vehicle, as defined in section twenty of chapter ninety B, and a motorized bicycle shall be considered a motor vehicle for purposes of this chapter. A motor boat, as defined in section one of chapter ninety B, shall not be considered a motor vehicle for purposes of this chapter.

**SECTION 3.** Said chapter 90C is hereby further amended by striking out sections 2 to 4, inclusive, as so appearing, and inserting in place thereof the following three sections:–

Section 2. Each police chief shall issue citation books to each permanent full-time police officer of his department whose duties may or will include traffic duty or traffic law enforcement, or directing or controlling traffic, and to such other officers as he at his discretion may determine. Each police chief shall obtain a receipt on a form approved by the registrar from such officer to whom a citation book has been issued. Each police chief shall also maintain citation books at police headquarters for the recording of automobile law violations by police officers to whom citation books have not been issued.

Notwithstanding the provisions of any general or special law, other than a provision of this chapter, to the contrary, any police officer assigned to traffic enforcement duty shall, whether or not the offense occurs within his presence, record the occurrence of automobile law violations upon a citation, filling out the citation and each copy thereof as soon as possible and as completely as possible and indicating thereon for each such violation whether the citation shall constitute a written warning and, if not, whether the violation is a criminal offense for which an application for a complaint as provided by subsection B of section three shall be made, whether the violation is a civil motor vehicle infraction which may be disposed of in accordance with subsection (A) of said section three, or whether the violator has been arrested in accordance with section twenty-one of chapter ninety. Said police officer shall inform the violator of the violation and shall give a copy of the citation to the violator. Such citation shall be signed by said police officer and by the violator, and whenever a citation is given to the violator in person that fact shall be so certified by the police officer. The violator shall be requested to sign the citation in order to acknowledge that it has been received. If a written warning is indicated, no further action need be taken by the violator. No other form of notice, except as provided in this section, need be given to the violator.

A failure to give a copy of the citation to the violator at the time and place of the violation shall constitute a defense in any court proceeding for such violation, except where the violator could not have been stopped



ACTS, 1985. - Chap. 794.

or where additional time was reasonably necessary to determine the nature of the violation or the identity of the violator, or where the court finds that a circumstance, not inconsistent with the purpose of this section to create a uniform, simplified and non-criminal method for disposing of automobile law violations, justifies the failure. In such case the violation shall be recorded upon a citation as soon as possible after such violation and the citation shall be delivered to the violator or mailed to him at his residential or mail address or to the address appearing on his license or registration as appearing in registry of motor vehicles records.

At or before the completion of his tour of duty, a police officer to whom a citation book has been issued and who has recorded the occurrence of an automobile law violation upon a citation shall deliver to his police chief or to the person duly authorized by said chief all remaining copies of such citation, duly signed, except the police officer's copy which shall be retained by him. If the police officer has directed that a written warning be issued, the part of the citation designated as the registry of motor vehicles record shall be forwarded forthwith by the police chief or person authorized by him to the registrar and shall be kept by the registrar in his main office. If the registrar receives three such written warnings to the same offender within any twelve-month period, starting with the date of the first violation, the registrar shall, after due hearing pursuant to section twenty-two of chapter ninety, forthwith suspend the license or right to operate of such person for a period of seven days.

If the police officer has not directed that a written warning be issued and has not arrested the violator, said police chief or person duly authorized by him shall retain one copy of the citation for department use and shall at a time not later than the end of the fourth court day after the date of the violation cause to have delivered all remaining copies to the clerk-magistrate of the appropriate district court. The clerk-magistrate of each district court shall maintain a record of all such citations in the form prescribed by the chief justice of the district court department for said department and by the chief justice of the Boston municipal court department for said department, and shall, following payment or adjudication of such citation, forward forthwith one copy of such citation with the court abstract thereon to the registrar, which shall constitute compliance with the provisions of section twenty-seven of chapter ninety with regard to said citation.

If a citation is spoiled, mutilated or voided, it shall be endorsed with a full explanation thereof by the police officer voiding such citation, and shall be returned to the registrar forthwith and shall be duly accounted for upon the audit sheet for the citation book from which said citation was removed.

Section 3. (A) If a police officer records the occurrence of an automobile law violation as defined in section one for which the maximum penalty or fine, does not exceed one hundred dollars for the first offense and does not provide for a penalty of imprisonment, excepting operation of a motor vehicle in violation of the first paragraph of section ten of chapter ninety, or violation of section twenty-five of



ACTS, 1985. – Chap. 794.

chapter ninety, the police officer may direct that a written warning be issued or may cite the violator for a civil motor vehicle infraction in accordance with this subsection.

If the police officer cites the violator for a civil motor vehicle infraction, the citation shall notify the violator that he may, whether he is an adult or a juvenile, contest the violation at a non-criminal hearing before a clerk-magistrate of the district court of the judicial district in which the violation occurred, or that, in the alternative, he may waive said hearing and pay the assessment for the violation as established by schedules of assessments promulgated by the chief justice of the district court department for said department and by the chief justice of the Boston municipal court department for said department; provided, however, that these shall be the only alternatives available to the violator, and provided further that if a criminal violation cognizable under subsection (B) is recorded in conjunction with and arising from the same occurrence as the civil infraction, the provisions of the third paragraph of subsection B shall govern. The scheduled assessments shall not exceed the maximum assessments, heretofore considered penalties or fines, established by law for the particular violation. A copy of such schedule of assessments shall be so posted in the office of the clerk-magistrate of each district court so as to be plainly visible to the public. The total amount of the assessment payable by the violator in accordance with such schedule shall be indicated by the police officer on the citation.

If the violator elects to waive the hearing before the clerk-magistrate and pay the scheduled assessment, he must, not later than twenty days after the date of said violation, appear before the clerk-magistrate of the appropriate district court, either personally or through an agent duly authorized in writing, with the citation appropriately marked, or within said time mail to said clerk-magistrate, with the citation appropriately marked, the scheduled assessment provided therein. Such payment, when made by mail, shall be made only by postal note, money order, or check. The payment of such assessment shall operate as a final disposition of the case.

Section 4. Nothing in this chapter shall prevent a person other than a police officer from applying for a criminal complaint for an automobile law violation capable of being judicially heard and determined under subsection B of section three, and such person need not show that the alleged violator has been issued a citation in connection with such violation.

Nothing in this chapter shall be construed to prevent a police officer from arresting any person without a warrant pursuant to the provisions of section twenty-one of chapter ninety for such criminal offenses and in such circumstances as are specified in said section. If any such arrest is made, it shall be noted on the citation and all copies of the citation except the police officer's copy and the police department copy shall be forwarded to the clerk-magistrate of the appropriate district court and one copy of same shall serve as the application for complaint. The police chief may from time to time designate one person to sign all such complaints. If such arrest is made in good faith, the arresting officer



**ACTS, 1985. – Chap. 794.**

shall not be liable in civil proceedings arising from such arrest.

Any provision of this chapter to the contrary notwithstanding, any payment of a penalty, fine or assessment made pursuant to the provisions of this chapter, including the payment of an assessment for a civil motor vehicle infraction, shall operate as a conviction for purposes of registry of motor vehicles action pursuant to chapter ninety and for purposes of the safe driver insurance plan established pursuant to section one hundred and thirteen B of chapter one hundred and seventy-five.

Nothing in this chapter shall be construed to prevent access by probation officers to driving records of offenders maintained by the registrar or by the motor vehicle insurance merit rating board.

**SECTION 4.** Said chapter 90C is hereby further amended by striking out section 7, as so appearing, and inserting in place thereof the following section:–

Section 7. The clerk-magistrate of a district court or his designee shall accept waiver of trial, plea of guilty, and payment of fine from any person summoned to appear before such court on a complaint alleging violation of any law relating to the operation, parking or control of bicycles, or on a complaint alleging violation of the weight limits provided in section nineteen A of chapter ninety. Judgment shall be entered against any person filing such waiver of trial and plea of guilty. Such waivers and pleas shall be made in writing on forms which shall be established by the chief justice of the district court department for said department and the chief justice of the Boston municipal court department for said department. Such forms shall contain instructions to offenders as to procedure under this section and shall not contain information for the use of probation officers.

Fines under this section shall be in accordance with the schedule of fines which shall be established by the chief justice of the district court department for said department and the chief justice of the Boston municipal court department for said department. A copy of such schedule of fines shall be posted in the office of the clerk-magistrate of each district court and shall be plainly visible to the public. The fines listed on said schedule shall not exceed the maximum fines established by law for the particular type of violation.

No such waiver, plea and payment of fine shall be accepted under this section unless made before said clerk-magistrate, either personally or by an agent duly authorized in writing, or by mailing to such clerk-magistrate such payment. If by mail, payment should be made only by postal note, money order, or check made out to the clerk-magistrate of the court.

**SECTION 5.** Chapter 119 of the General Laws is hereby amended by striking out section 74, as so appearing, and inserting in place thereof the following section:–

Section 74. Except as hereinafter provided, no criminal proceeding shall be begun against any person who prior to his seventeenth birthday commits an offense against the law of the commonwealth or who violates any city ordinance or town by-law, unless proceedings against



**ACTS, 1985. – Chap. 794.**

him as a delinquent child have been begun and dismissed as required by section sixty-one or seventy-two A; provided, however, that a criminal complaint alleging violation of any city ordinance or town by-law regulating the operation of motor vehicles, which is not capable of being judicially heard and determined as a civil motor vehicle infraction pursuant to the provisions of chapter ninety C may issue against a child between sixteen and seventeen years of age without first proceeding against him as a delinquent child.

**SECTION 6.** Section 62C of chapter 221 of the General Laws, as so appearing, is hereby amended by striking out clause (e) and inserting in place thereof the following clause:–

(e) receive citations and hold hearings pursuant to subsection A of section three of chapter ninety C.

**SECTION 7.** Section 108 of chapter 231 of the General Laws, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:– There shall be an appellate division of each district court for the rehearing of matters of law arising in civil cases therein, in claims for compensation of victims of violent crimes, and in civil motor vehicle infractions.

**SECTION 8.** Section 1 of chapter 258B of the General Laws, as so appearing, is hereby amended by striking out the definition of "Court" and inserting in place thereof the following definition:–

"Court", a forum established under the General Laws for the adjudication of criminal complaints, indictments and civil motor vehicle infractions.

**SECTION 9.** Section 8 of said chapter 258B, as so appearing, is hereby amended by striking out the fourth and fifth sentences and inserting in place thereof the following three sentences:– The court, including the clerk-magistrate, shall impose an assessment of fifteen dollars against any person who fails to pay the scheduled civil assessment for a civil motor vehicle infraction or request a hearing within the twenty-day period provided for in subsection (A) of section three of chapter ninety C, except where the person is required by law to exercise the right to pay before a justice. When multiple criminal offenses arising from a single incident are charged or when multiple civil motor vehicle infractions arising from a single incident are charged or when one or more criminal offenses and one or more civil motor vehicle infractions arising from a single incident are charged, the total assessment shall not exceed twenty-five dollars; provided, however, that the total assessment against a person who has not attained seventeen years shall not exceed fifteen dollars. In the discretion of the court, including the clerk-magistrate in the case of a civil motor vehicle infraction that has not been heard by or brought before a justice, any assessment imposed pursuant to this section which would cause the person against whom the assessment is imposed severe financial hardship, may be reduced or waived.



**ACTS, 1985. – Chap. 794.**

**SECTION 10.** Chapter 279 of the General Laws is hereby amended by striking out section 42, as so appearing, and inserting in place thereof the following section:–

Section 42. If judgment is rendered against a corporation upon an indictment or complaint under the laws of the commonwealth, or if in the case of a civil motor vehicle infraction a corporation has defaulted or has failed or refused to pay an assessment, the court may issue a warrant of distress to compel payment of the amount prescribed by law, with interest. Such warrant may be served by any officer authorized to serve criminal process.

**SECTION 11.** Section 2 of chapter 280 of the General Laws, as so appearing, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:–

Fines imposed under the provisions of chapters eighty-nine and ninety, including fines, penalties and assessments imposed under the provisions of chapter ninety C for the violation of the provisions of chapters eighty-nine and ninety, fines assessed by a hearing officer of a city or town as defined in sections twenty A and twenty A 1/2 of chapter ninety and forfeitures imposed under the provisions of section one hundred and forty-one of chapter one hundred and forty, shall be paid over to the treasury of the city or town wherein the offense was committed; provided, however, that any increase in the amount of fines, penalties and assessments collected pursuant to violations of section seventeen of chapter ninety or of a special speed regulation lawfully made under the authority of section eighteen of said chapter ninety over the amount collected in fiscal year nineteen hundred and eighty-three which is attributable solely to an increase in the authorized levels of such fines, penalties and assessments over the levels existing in fiscal year nineteen hundred and eighty-three shall be paid over to the state treasurer and credited to the Highway Fund.

**SECTION 12.** Upon the effective date of this act, all automobile law violations, as defined in section one, for which the assessment, heretofore considered a penalty or fine, does not exceed one hundred dollars for the first offense and does not provide for a penalty of imprisonment, excepting operation of a motor vehicle in violation of the first paragraph of section ten of chapter ninety, or violation of section twenty-five of chapter ninety, shall be deemed civil motor vehicle infractions and not criminal offenses, and all statutes, ordinances, by-laws or regulations heretofore providing for such automobile law violations shall be so interpreted. Appearances and proceedings pursuant to this subsection shall not be deemed criminal, and payments, heretofore considered penalties or fines, made, whether after hearing or otherwise, shall be deemed civil assessments and not criminal penalties or fines. The violator shall not be required to report to a probation officer and no record of the case shall be entered in any probation records except as prescribed by the commissioner of probation.

If any person notified to appear hereunder indicates by return of the citation, appropriately marked, within twenty days after the date of the



ACTS, 1985. – Chap. 794.

violation, that he requests a hearing on the violation charged, the clerk-magistrate shall as soon as practicable, unless a hearing date was entered on the citation at the time of its issuance pursuant to procedures established or approved by the chief justice of the district court department for one or more divisions of said department or by the chief justice of the Boston municipal court department for said department, notify the officer concerned and the violator of the date on which they shall appear ready for hearing before the clerk-magistrate or the date on which they shall appear ready for a combined hearing and trial before a justice if the violator has been cited for a violation cognizable under subsection B in conjunction with and arising from the same occurrence as a violation capable of being judicially heard and determined under this subsection. A person who does not request a hearing on the violation charged within said twenty days shall not be entitled to a hearing thereafter.

Clerk-magistrates shall exercise their authority to conduct civil motor vehicle infraction hearings and all other authority hereunder subject to the limitations of section sixty-two C of chapter two hundred and twenty-one. Either party may appeal the decision of the clerk-magistrate to a justice, who shall hear the case de novo. There shall be no right of jury trial for civil motor vehicle infractions. The clerk-magistrate or justice shall, after hearing, and the justice shall, after hearing on an appeal de novo, find the violator responsible if he determines by a preponderance of the credible evidence that the alleged violator committed the violation charged; otherwise the clerk-magistrate or justice shall find the violator not responsible. If the violator is found responsible, the clerk-magistrate or justice shall impose an assessment which shall be within the range permitted by law; provided, however, that the chief justice of the district court department for said department and the chief justice of the Boston municipal court department for said department shall be authorized to issue guidelines for the imposition of assessments in civil motor vehicle infractions to the end that said assessments are made as uniformly as possible, which guidelines shall be binding on justices and clerk-magistrates; and provided, further, that, without limiting the generality of the foregoing, said guidelines may include provisions requiring that a prescribed assessment, or minimum assessment, within the range permitted by law, be made by all clerk-magistrates or all justices or both in the case of any specified civil motor vehicle infraction for which a violator is found responsible. The clerk-magistrate or justice may allow the violator a reasonable time to pay any assessment imposed.

Appeal on matters of law from the decision of a justice in the case of a civil motor vehicle infraction shall be to the appellate division, and shall be governed by rules promulgated by the chief justice of the district court department for said department and by the chief justice of the Boston municipal court department for said department, which rules shall provide for a simplified method of appeal. Appeals from the Boston division of the juvenile court department shall be to the appellate division of the juvenile court of the city of Boston, and appeals from any



**ACTS, 1985. – Chap. 794.**

other division of the juvenile court department shall be heard by the justices assigned to the appellate division district of the juvenile court department within the territorial jurisdiction of which said division is located.

Nothing contained herein shall be deemed to limit the availability of any remedies which may be available to the court in the case of a violator who has failed within twenty days of the date of the violation either to pay the scheduled assessment or notify the clerk-magistrate that he wishes to contest the violation, failed or refused to pay an assessment within the time allowed or failed without good cause to appear for a hearing. Issuance of a summons or warrant, including a warrant of distress as provided in section forty-two of chapter two hundred and seventy-nine, and issuance of notices as the court deems necessary, shall specifically be allowed. Proceedings for civil contempt, including incarceration therefor, also shall specifically be allowed, and shall be prosecuted by the district attorney or police prosecutor and heard by a justice pursuant to rules of court. Any summons or warrant issued pursuant to this section may be served by any officer authorized to serve criminal process.

(B) If a police officer records the occurrence of an automobile law violation as defined in section one for which the maximum penalty or fine for the first offense exceeds one hundred dollars or provides for a penalty of imprisonment, or operation of a motor vehicle in violation of the first paragraph of section ten of chapter ninety, or violation of section twenty-five of chapter ninety, the police officer may direct that a written warning be issued, may arrest the violator without a warrant in accordance with the provisions and limitations of section twenty-one of chapter ninety, for such offenses as specified in said section or may direct that an application for a complaint be filed.

If the police officer directs that an application for a complaint be filed, he shall so indicate on the citation. If he so indicates, the citation given to the violator shall have printed thereon a statement that the violator shall, if he so requests in writing to the appropriate district court within four days of the alleged violation, be granted a hearing on said violation before any process shall issue, as provided in section thirty-five A of chapter two hundred and eighteen, and such printed statement shall be deemed to satisfy the notice requirements of said section thirty-five A of chapter two hundred and eighteen. If an application for a complaint is so indicated and a complaint is issued, with or without the above-mentioned hearing, the procedure established for criminal cases shall then be followed. If the police officer directs that an application for a complaint be filed, the citation shall serve as the application and the police chief or person authorized by him shall deposit all parts of the citation, except the police officer's copy and the police department copy, with the clerk-magistrate of the appropriate district court at a time no later than the end of the second court day after the date of the violation. The police chief may, from time to time, designate one person to sign all such complaints.

If a criminal violation capable of being judicially heard and determined under this subsection is recorded by a police officer, the violator shall



ACTS, 1985. – Chap. 794.

not have the option to dispose of the violation as provided in subsection (A). If a criminal violation capable of being judicially heard and determined under this subsection is recorded by a police officer in conjunction with and arising from the same occurrence as a civil motor vehicle infraction cognizable under the provisions of subsection (A), the criminal violation and the civil motor vehicle infraction shall be recorded on the same citation whenever feasible; any hearing on the civil motor vehicle infraction shall be heard by a justice and shall be heard at the same time as the related criminal or delinquency proceeding, provided that in such a case the civil motor vehicle infraction shall retain its character as such and shall be decided and disposed of by the justice under the same general procedures and with the same provisions as to disposition and assessments that would be applicable in the absence of a related criminal or delinquency proceeding; and the violator shall retain the right to dispose of the civil motor vehicle infraction by payment of the same scheduled assessment that would be applicable in the absence of a related criminal or delinquency proceeding, but the right to pay said scheduled assessment shall be exercised only before a justice and in open court and at such time as the justice prescribes. If the violator exercises his right to trial by jury in the first instance with respect to the criminal violation, the civil motor vehicle infraction shall be heard by the justice presiding over such trial. The justice may conduct such hearing simultaneously with the criminal trial, or may sever the hearing of the civil motor vehicle infraction from the trial of the criminal violation if justice so requires. The several divisions of the juvenile court department shall have jurisdiction over civil motor vehicle infractions that are recorded in conjunction with and that arise from the same occurrence as a violation that is treated as a delinquency matter in said divisions.

(C) If a violator in the case of a civil motor vehicle infraction cognizable under subsection (A) fails within twenty days of the date of the violation either to pay the scheduled assessment or notify the clerk-magistrate that he wishes to contest the violation, or if a violator in the case of any automobile law violation, whether capable of being judicially heard and determined under subsection (A) or subsection (B), fails without good cause to appear for a hearing before the clerk-magistrate or a justice at the time required, said defendant having been summoned or notice of such hearing having been given either personally or by mail to the address shown on registry of motor vehicles records unless another address is indicated on the citation or on the request for hearing, or fails to pay a fine, penalty, assessment, or other lawful amount within the time allowed, the clerk-magistrate shall notify the registrar. Such notice to the registrar may be given more than once in the same case if necessary. Nothing herein shall be deemed to prevent, in addition to notice to the registrar, the sending of such additional written notices or court process to the violator as may be deemed necessary.

Upon receipt of said notice, the registrar shall give such person written notice by first class mail directed to his residential or mail address, as reported to the registrar pursuant to section twenty-six A of



ACTS, 1985. – Chap. 795.

chapter ninety, or to such person's last known address as furnished by such person to the citing officer or to the court, that his operator's license, learner's permit or right to operate will be suspended by operation of law and without further notice or hearing at the expiration of thirty days from the date of the mailing of such written notice, which expiration date shall be specifically indicated by the registrar in said notice, and that any license to operate a motor vehicle or any registration of a motor vehicle issued to said violator by the registrar will not be renewed upon or after the expiration date of said license or registration, unless and until the violator presents the registrar with a certificate of the justice or clerk-magistrate of the court that the violation has been disposed of in accordance with law or that the violator is attending to the matter to the satisfaction of the court. The court shall not unreasonably withhold such certificate.

If any person fails to present the certificate provided above in the time provided above, his operator's license, learner's permit or right to operate shall be deemed suspended by operation of law on the date indicated on the notice mailed to him by the registrar. The registrar shall place such suspension on record and shall not reinstate such license, learner's permit or right to operate, nor renew any operator's license or motor vehicle registration issued to said violator, until the certificate referred to above is presented; provided, however, that the registrar shall be authorized to revoke the notice to the violator provided for in the preceding paragraph if he is satisfied that said notice was issued through error of the registrar or the court; and provided, further, that the court shall be notified of any such revocation by the registrar.

The registrar is hereby authorized to enter into reciprocal and mutual agreements with other states with regard to the interstate enforcement of motor vehicle violations and all other matters relating to motorists and motor vehicles, upon approval by the secretary of public safety.

**SECTION 13.** Any citation issued pursuant to chapter ninety C of the General Laws prior to the effective date of this act shall be processed and heard in all respects in accordance with the provisions of said chapter existing prior to the effective date of this act, notwithstanding that all or part of said processing and hearing takes place on or after said effective date.

**SECTION 14.** This act shall take effect on July first, nineteen hundred and eighty-six.

Approved January 9, 1986.

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Chapter 795. **AN ACT AUTHORIZING AND DIRECTING THE METROPOLITAN DISTRICT COMMISSION TO ACQUIRE CERTAIN LAND ALONG THE CARSON BEACH WATERFRONT IN SOUTH BOSTON AND TO CONSTRUCT CERTAIN PARKS THEREON.**



ACTS, 1985. - Chap. 796.

Be it enacted, etc., as follows:

**SECTION 1.** The deputy commissioner of capital planning and operations is hereby authorized, subject to the provisions of section forty F 1/2 and forty H to forty J, inclusive, of chapter seven and chapter seventy-nine of the General Laws, to acquire, approved as to form by the attorney general, certain real properties or any interest therein located in the part of the city of Boston known as South Boston from an individual or entity, subject to the requirements of section two and to such additional terms and conditions as the deputy commissioner may prescribe, in consultation with the Metropolitan District Commission, said property being, . . .

A) "a two hundred foot wide strip of land bounded on the ocean side by the high water mark and running along Carson Beach, in that part of South Boston known as South Boston from the southerly end of said beach to the southerly boundary of the site of the John Fitzgerald Kennedy Library, more specifically described in plans on file in the department of public works and said commission".

B) "a strip of land two hundred feet wide running along Day boulevard between Shore drive and Castle Island in said South Boston, more specifically described in plans on file in the department of public works and said commission".

**SECTION 2.** No deed conveying by or on behalf of the Commonwealth the property described in section one or by any interest therein, and no lease of said property, shall be valid unless such deed or lease provides that said properties shall be used for an urban waterfront public park.

Approved January 9, 1986.

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**Chapter 796. AN ACT RELATIVE TO THE AUTHORITY OF CERTAIN GUARDIANS OR RELATIVES OF RETARDED PERSONS.**

Be it enacted, etc., as follows:

**SECTION 1.** Section 3 of chapter 123 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by adding the following paragraph:-

The provisions of this section shall not apply to transfers of mentally retarded persons who reside at a facility for the mentally retarded.

**SECTION 2.** Said chapter 123 is hereby further amended by inserting after section 3 the following section:-

Section 3A. The department shall notify and consult with the permanent guardian or, if there is no such guardian and the mentally retarded person does not knowingly object, the nearest relative of a mentally retarded person, prior to the transfer of said person from one residential facility for the mentally retarded to another. Such notice shall be given at least forty-five days prior to the proposed transfer.



ACTS, 1985. – Chap. 796.

If a permanent guardian has been appointed for a mentally retarded person who is receiving residential services through the department, said department shall request said guardian's consent prior to the transfer by the department of said mentally retarded person from one residential facility for the mentally retarded to another. Said consent shall be requested in writing by registered mail, at least forty-five days prior to the proposed transfer. The request for consent shall include (1) a statement of how the proposed residential transfer from the current facility to the proposed residential facility will result in improved services and quality of life for the retarded ward, (2) the location of the proposed facility and a statement that said guardian may examine the facility, and (3) a statement of the rights of said guardian established by this section. Any objection by the guardian to the proposed transfer shall be in writing and shall contain a statement of the reasons upon which the objection is based. Failure to object in writing within said forty-five days shall be deemed to be a consent to said transfer. If the guardian files an objection, the transfer shall not occur unless the department prevails at an adjudicatory proceeding pursuant to this section.

If the individual service plan developed for the mentally retarded person by the department pursuant to its regulations cannot be fully implemented as a result of the guardian's objection to a proposed transfer, the department shall, within twenty days of receipt of said objection, file a request for an adjudicatory proceeding with the division of administrative law appeals established by section four H of chapter seven, whereupon said division shall be authorized to conduct said proceeding to determine whether the transfer should proceed. The division shall conduct an adjudicatory hearing within ninety days in accordance with the provisions of chapter thirty A, and the burden of proof shall be on the department. During the pendency of said hearing the proposed residential transfer shall not occur. Said mentally retarded person shall have the right to be represented by counsel. The hearings officer shall determine which placement meets the best interest of the ward giving due consideration to the objections of the placement made by the relative and permanent guardian. The hearing officer shall issue a decision within thirty days of the hearing. After the hearing officer renders a written decision the parties shall have twenty days in which to appeal the decision to the superior court and the court shall hear such appeal as expeditiously as possible in open court or in chambers, and at such time and upon such notice, if notice is required as it in its discretion determines.

Notwithstanding the provisions of this section, in the case of an emergency, a transfer from one residential facility for the mentally retarded to another may be made immediately, provided, however, that no mentally retarded person shall be transferred to a facility for the mentally ill and notice of said transfer shall be given to said guardian or relative pursuant to this section within eight hours after said transfer. Failure by said guardian to object in writing within forty-five days of said notice shall be deemed to be a consent to said transfer. In all other respects, the standards and procedures governing a non-emergency transfer shall be the same as those governing an emergency transfer.



**ACTS, 1985. – Chaps. 797, 798.**

**SECTION 3.** Section 4 of said chapter 123, as so appearing, is hereby amended by striking out the last paragraph and inserting in place thereof the following paragraph:–

Following the review of a mentally retarded person, if the person is still in need of care as a resident, the superintendent shall notify the person and his nearest relative or legal guardian.

Approved January 9, 1986.

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**Chapter 797. AN ACT FURTHER REGULATING THE FORMULARY OF INTERCHANGEABLE DRUG PRODUCTS.**

Be it enacted, etc., as follows:

Section 12D of Chapter 112 of the General Laws is hereby amended by inserting after the last sentence of the second paragraph the following sentence:– Except that the provisions of this section shall not apply to prescriptions dispensed in a hospital licensed under Section 51 of Chapter 111 of the General Laws; provided, however, that all outpatient prescriptions dispensed in a hospital shall be on prescription forms as required by this section; and provided further that no retail pharmacy, however organized, shall be exempted from the provisions of this section.

Approved January 9, 1986.

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**Chapter 798. AN ACT INCORPORATING THE HOUSATONIC RAILROAD COMPANY.**

Be it enacted, etc., as follows:

**SECTION 1.** John R. Hanlon, Jr., his associates and successors, are hereby made a corporation by the name of Housatonic Railroad Company, Inc., with all the powers and privileges, and subject to all restrictions and liabilities set forth in all General Laws now or hereafter in force relating to railroad companies, except as otherwise provided herein.

**SECTION 2.** Said corporation is hereby authorized, subject to the approval of the department of public utilities, to operate its trains and other equipment upon an existing right of way to be leased or purchased by said corporation. Said corporation shall also operate its trains and other equipment on any other railroad track in the commonwealth over which it may acquire a lease or other right of way from any other railroad or from the commonwealth.

**SECTION 3.** The capital stock of the corporation shall consist of not less than five thousand shares divided into such classes, either with or without par value, as may be determined by its incorporators. The



**ACTS, 1985. – Chap. 799.**

corporation is authorized to increase, reduce or alter its capital stock from time to time as provided by chapter one hundred and sixty of the General Laws.

**SECTION 4.** The affairs of the corporation shall be managed by a board of directors in accordance with the provisions of chapter one hundred and sixty of the General Laws. The board of directors is expressly authorized to make, adopt, alter and repeal the by-laws of the corporation.

**SECTION 5.** The corporation may exercise, in addition to all other powers specifically granted under this act, all the powers and privileges granted by law to railroads and to corporations organized under the General Laws.

**SECTION 6.** The principal office of said corporation shall be located at such place as the board of directors may designate within the commonwealth.

**SECTION 7.** Notwithstanding the provisions of any general or special law to the contrary, the rights and powers conferred upon the corporation by this act shall be of no force or effect if the corporation fails to begin operating or performing railroad business under the provisions of section two within five years of the effective date of this act.

**SECTION 8.** If the corporation fails to start or ceases rail operations, the commonwealth shall have a first option to purchase any land acquired by the corporation from any railroad company authorized to do business in the commonwealth at a price not in excess of that paid by said corporation for such land, plus the reasonable cost of improvements.

**SECTION 9.** If the commonwealth acquires land, including the railroad right of way which is the subject of this charter, the corporation may lease from the commonwealth, and the commonwealth is hereby authorized to lease to the corporation, such rights of way and any additional land required for the conduct of rail service.

Approved January 9, 1986.

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**Chapter 799. AN ACT PROVIDING FOR THE ORDERLY  
ADMINISTRATION AND IMPROVEMENT OF JAILS,  
HOUSES OF CORRECTION, AND CORRECTIONAL  
INSTITUTIONS IN THE COMMONWEALTH.**

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to facilitate the takeover by the commonwealth from the counties of the maintenance and operation of jails and houses of correction in the several counties of the commonwealth, and to provide



**ACTS, 1985. – Chap. 799.**

for immediate relief to the counties and cities and towns by relieving them of the said costs, and to integrate and coordinate said facilities into a statewide modern correctional system, and to relieve the serious overcrowding problems in the correctional institutions of the commonwealth, which will lead to improved health, safety and sanitary conditions therein; 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.** Chapter 34 of the General Laws is hereby amended by striking out section 3, as appearing in the 1984 Official Edition, and inserting in place thereof the following section:–

Section 3. Each county shall provide suitable jails, houses of correction, fireproof offices and other public buildings, including both the structures and the land upon which such structures are sited, necessary for its use; provided, however, that the county of Dukes need not provide a house of correction; provided, further, that the city of Boston shall provide necessary public buildings, including both the structures and the land upon which such structures are sited, for Suffolk county; provided, further, that the obligation to provide suitable structures of jails and houses of correction shall become that of the commonwealth and shall cease to be that of such counties or city in the event that the commonwealth constructs such facilities for such county or city; provided, further, that in any such county or city which has been ordered by a court to construct a new correctional facility, state assumption of the responsibility to provide such structure shall occur when the state appropriates funds therefor and such county or city has complied with any conditions attached to such appropriation, if any; and, provided further, that notwithstanding the fact that the commonwealth may have assumed the responsibilities of providing a suitable structure for such facilities, the counties and the city shall retain the obligation to provide for the operation and maintenance of such facilities. No courtroom of the superior court shall contain a cage for defendants.

**SECTION 2.** Section 7 of chapter 126 of the General Laws, as so appearing, is hereby amended by adding the following sentence:– In the event that the commonwealth constructs a house or houses of correction in a county, then such county shall no longer be responsible for providing for the structure of such facility or facilities, but shall continue to be required to maintain and operate such facility; provided, however, that in any county which has been ordered by a court to construct a new house of correction, state assumption of the responsibility to provide such structure shall occur when the state appropriates funds therefor and such county has complied with any conditions attached to such appropriation, if any.

**SECTION 3.** Item 4343–8831 of section 2 of chapter 347 of the acts of 1982 is hereby amended by inserting after the word "Shirley", in line 7, the words:– ; provided, however, that the division of capital planning



**ACTS, 1985. – Chap. 799.**

and operations shall perform a study and design of a five hundred bed medium security facility; and provided that a grant of fifty thousand dollars shall be made available to the town of Shirley for a feasibility study of a solid waste disposal and cogeneration facility.

**SECTION 4.** To provide for a program of studies, preparation of plans, construction, reconstruction, alteration, improvement, lease and purchase of various state and county correctional facilities, the sums set forth in sections five, six, seven, eight and eleven of this act, for the several purposes and subject to the conditions specified under provisions of this act, are hereby made available, subject to the provisions of law regulating disbursement of public funds and the approval thereof.

**SECTION 5.** The division of capital planning and operations is hereby authorized to expend forty-three million dollars for studies, the preparation of plans, the acquisition of land, and the construction, including furnishings and equipment, of a new facility in Suffolk county to replace the Charles street jail; provided, that no funds appropriated herein shall be expended on the planning, design, and construction of a combined facility which replaces both the Suffolk county house of correction at Deer Island and said Charles street jail; provided, further, that no funds appropriated herein shall be expended for the planning, design or construction of any such replacement facility on the site of the existing Charles street jail; provided, further, that no funds appropriated herein shall be expended for the purposes of replacing said Charles street jail until such time as the city of Boston shall convey for one dollar to the division of capital planning and operations on behalf of the commonwealth, in a deed approved as to form by the attorney general, the title to the land and buildings at the site of the existing Charles street jail, including the Master's House so-called; provided, further, that the city of Boston is hereby authorized to convey such title to such land as provided herein; provided, however, that such action shall take place on or before February eighteen, nineteen hundred and eighty-six; provided, further, that said division is hereby authorized to acquire, by purchase and/or by land exchange, real property located in the vicinity of Nashua street in the city of Boston determined by said division to be necessary and appropriate as a site for the replacement facility for the Charles street jail, such acquired real property to be used, if necessary, in conjunction with real property currently owned by the commonwealth or by any subdivisions thereof; provided further, that, notwithstanding any general or special law to the contrary, said division is authorized to agree with present owners of real property so acquired for such replacement facility, to convey to said owners title to all or a portion of the Charles street jail site, as conveyed to the commonwealth by the city of Boston, provided that the fair market value of the real property for said replacement facility together with such other consideration, if any, to be paid to the commonwealth by such owners is comparable to the fair market value of that portion of the Charles street jail site to be conveyed; provided, however, that any such conveyance by the division to said owners shall be subject to the condition that control and



**ACTS, 1985. – Chap. 799.**

possession of said Charles street jail site shall remain with the city of Boston until such time as said replacement facility is constructed and until all occupants of the present facility have been removed; provided, further, that all liability with respect to the land and buildings at said Charles street jail site including that for acts which occur after the effective date of this act shall continue to rest upon the same parties as it did prior to the effective date of this act and shall shift only upon the transfer of control and possession as herein provided; and provided, further, that the deputy commissioner of said division shall within thirty days of the effective date of this act file with the clerks of the Senate and the House of Representatives a report detailing the real property determined by the division to be necessary and appropriate for the construction of a replacement facility for said Charles street jail, and provided, further, that said report shall also include an analysis of the fair market value of the real property so detailed.

**SECTION 6.** The division of capital planning and operations is hereby authorized to expend fifty-one million two hundred and forty thousand dollars for studies, the preparation of plans, and the renovation, upgrading, and expansion of existing state correctional facilities, including the costs of furnishings and equipment, located at Massachusetts Correctional Institution, Shirley; Massachusetts Correctional Institution, Concord; Lancaster pre-release center; Norfolk pre-release center; Bay State correctional center; Massachusetts Correctional Institution, Bridgewater; Massachusetts Correctional Institution, Warwick; Massachusetts Correctional Institution, Plymouth; Northeastern Correctional Center; Massachusetts Correctional Institution, Cedar Junction; North Central Correctional Institution; the South Middlesex pre-release center at Massachusetts Correctional Institution, Framingham; provided, however, that no more than nine million, six hundred thousand dollars shall be expended on maximum security facilities; provided, further, that no more than thirteen million, one hundred forty thousand dollars shall be expended on medium security facilities; provided, further, that two million five hundred thousand dollars is authorized to be expended for the study, preparation of plans, demolition, renovation, and alteration of certain buildings owned by the department of correction on Commonwealth avenue in the town of Concord, known as "White Row," and on Elm Place in said town, known as "Green Row," and for the construction of certain replacement facilities, including the cost of furnishings and equipment; and, provided further, that said existing or newly constructed buildings known as "White Row" and "Green Row" shall not be used for inmate housing.

**SECTION 7.** The division of capital planning and operations is hereby authorized to expend thirty million dollars for the study, design, and construction of projects in accordance with a deferred maintenance program for correctional facilities of the commonwealth; provided, however, that within four months of the effective date of this act and on a quarterly basis thereafter, the deputy commissioner of said division shall submit a schedule to the house and senate committees on ways and



**ACTS, 1985. – Chap. 799.**

means identifying the locations and estimated construction costs of deferred maintenance projects to be undertaken hereunder.

**SECTION 8.** The secretary of the executive office of human services, hereinafter in this act called the secretary, is hereby authorized to expend one hundred thirty-four million dollars for the purpose of a grant program to assist counties in undertaking feasibility studies, acquiring land, including buildings thereon, making preliminary plans, and designing, constructing, expanding, reconstructing, rehabilitating, renovating, or finishing a jail, house of correction or other correctional facility and a grant program of study, design, and construction of projects for deferred maintenance of such a jail, house of correction, or other correctional facility.

The secretary shall provide grant monies to the counties up to the limits established herein; provided, however, that no grant shall be made without the approval of the commissioner of administration and the house and senate committees on ways and means. The maximum amounts to be provided to counties under each program are as follows:

thirty-five million dollars for design and construction of the Bristol county house of correction;

five million dollars for feasibility studies and for designs of Norfolk and Essex county houses of correction;

thirty million dollars for construction of Norfolk county house of correction;

thirty million dollars for construction of Essex county house of correction;

twenty-four million dollars for land acquisition, a feasibility study, a design of and construction of a regional house or regional houses of correction combining medium and minimum levels of security to be used solely for female prisoners; and

ten million dollars for the study, design, and construction of projects for deferred maintenance.

**SECTION 9.** The secretary shall establish rules and regulations which shall govern the application for and distribution of grant funds for counties under the provisions of this act. Any such rules and regulations, or any amendment or repeal of any such rules or regulation shall, after compliance with all applicable provisions of chapter thirty A of the General Laws, be filed with the clerk of the house of representatives and the clerk of the senate. Any such regulation may require a commitment on the part of a county to accept persons who are housed in state correctional facilities and may require a county to develop housing units at all security levels.

Such regulations shall require that all construction and design of facilities undertaken by counties pursuant to this act shall be in accordance with the provisions of chapter five hundred and seventy-nine of the acts of nineteen hundred and eighty, and that, except for the deferred maintenance program, the county commissioners convey to the commonwealth sufficient land, by a deed approved by the commissioner of correction and the commissioner of administration, on which to



**ACTS, 1985. – Chap. 799.**

construct said facility, and upon completion thereof shall be operated and maintained by the county as county house of correction; provided, however, that two or more counties may jointly operate and maintain a regional house of correction.

**SECTION 10.** Any county, except Suffolk county or Nantucket county, may, by a vote of the county commissioners make application to said secretary for financial assistance in undertaking a project described in section eight. In Suffolk county said application shall be made by the mayor of Boston and in Nantucket county the board of selectmen. A joint application requires the approval of each county involved in such application in like manner. Such application shall include the proposed cost of the project, the proposed location of such project and any such other information specified by such rules or regulations. The amount of assistance for any project shall not exceed one hundred per cent of the total cost of any one project.

In determining the level of such funding the secretary shall consider among others, the following factors: (a) the existing space available in the county, (b) the condition of existing facilities, (c) the current inmate population, (d) the existence of separate facilities to house male and female inmates, and (e) recent legislation which may affect inmate population.

Said secretary shall make such determination within one hundred and eighty days of the date of such application. Upon the approval of said application, as provided for herein and in sections eight and nine, the secretary shall notify the applicant of the amount of such financial assistance for such projects.

**SECTION 11.** Said secretary is also hereby authorized to expend fifteen million dollars for the purpose of a grant program to assist cities and towns to finance infrastructure repairs, purchases, replacement, or construction which is necessitated by the increased demands placed on such cities and towns due to the expansion of existing state correctional facilities provided for in section six or due to construction of a regional house of correction provided for in section eight. Such infrastructure repairs, purchases, replacement or construction shall include, but not be limited to, sewers, water mains, streets and highways, public safety communication equipment, other public safety equipment and vehicles, solid waste recovery or disposal facilities, street lighting, and traffic lights.

Said secretary may provide grant monies to such city or town in an amount which shall be no greater than twenty-five per cent of the amount expended within such city or town pursuant to the provisions of section six or the applicable provisions of section eight; provided, however, that no grant shall be made without the approval of the commissioner of administration and the house and senate committees on ways and means.

**SECTION 12.** Said secretary shall establish rules and regulations which shall govern the application for and distribution of grant funds to



## ACTS, 1985. – Chap. 799.

cities and towns under the provisions of this act. Any such rules or regulations, or any amendment or repeal of any such rules or regulations shall, after compliance with all applicable provisions of chapter thirty A of the General Laws, be filed with the clerk of the house of representatives and the clerk of the senate. Any such regulation shall require a commitment on the part of the city or town to allow the expansion of existing state correctional facilities or construction of a regional house of correction in the city or town to proceed without delay.

In any city such application for such a grant shall be made by the mayor, except that in a city with a plan D or plan E form of government, such application shall be made by the city council, and in a town such application shall be made by the selectmen.

Such application shall include the proposed cost of the infrastructure project, the proposed location of such project and any such other information required by such rules or regulations. The amount of assistance for any such project shall not exceed one hundred per cent of the total cost of any such project.

Said secretary shall forward any such application to the department of correction and to any other appropriate state agency which has experience with or jurisdiction over the subject matter of the infrastructure project for their comments and recommendations.

In determining the appropriateness of such an infrastructure project and the level of funding for such project, said secretary shall consider, among others, the following factors: (a) the degree of impact on the infrastructure of the city or town expected to be caused by the construction or expansion of the correctional facility in such city or town, (b) the extent to which the proposed infrastructure project addresses such expected impact; and (c) the extent to which such infrastructure projects further related goals and objectives of the state.

Said secretary shall make a determination within one hundred and eighty days of the date of such application. Upon the approval of such application, as provided for herein and in section eleven, said secretary shall notify such applicant of the amount of such grant for such project.

**SECTION 12A.** To meet the expenditures necessary in carrying out the provisions of section five of this act, the state treasurer, upon request of the governor, shall issue and sell bonds of the commonwealth in an amount to be specified by the governor from time to time, but not exceeding, in the aggregate, the sum of forty-three million dollars. All bonds issued by the commonwealth, as aforesaid shall be designated on their face, Suffolk County Jail Facility Loan Act of 1985, and shall be issued for such maximum term of years, not exceeding twenty years, as the governor may recommend to the General Court pursuant to section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth; provided, however, that all such bonds shall be payable not later than June thirtieth, in the year two thousand and ten. All interest and payments on account of the principal of such obligations shall be payable from the Local Aid Fund. Bonds and the interest thereon issued under the authority of this section, notwithstanding any other provision of this act, shall be general obligations of the commonwealth.



**ACTS, 1985. – Chap. 799.**

**SECTION 13.** To meet the expenditures necessary in carrying out the provisions of section six of this act, the state treasurer, upon the request of the governor, shall issue and sell bonds of the commonwealth in an amount to be specified by the governor from time to time, but not exceeding, in the aggregate, the sum of fifty-one million two hundred and forty thousand dollars. All bonds issued by the commonwealth, as aforesaid, shall be designated on their face Correctional Loan Act of 1985, and shall be issued for such maximum term of years, not exceeding twenty years, as the governor may recommend to the General Court pursuant to section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth; provided, however, that all such bonds shall be payable not later than June thirtieth, two thousand and ten. All interest and payments on account of the principal of such obligations shall be payable from the General Fund. Bonds and the interest thereon issued under the authority of this section, notwithstanding any other provision of this act, shall be general obligations of the commonwealth.

**SECTION 14.** To meet the expenditures necessary in carrying out the provisions of section seven of this act, the state treasurer, upon request of the governor, shall issue and sell bonds of the commonwealth in an amount to be specified by the governor from time to time, but not exceeding, in the aggregate, the sum of thirty million dollars. All bonds issued by the commonwealth, as aforesaid shall be designated on their face Deferred Maintenance-Correctional Loan Act of 1985, and shall be issued for such maximum term of years, not exceeding ten years, as the governor may recommend to the General Court pursuant to section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth; provided, however, that all such bonds shall be payable not later than June thirtieth, in the year two thousand. All interest and payments on account of the principal of such obligations shall be payable from the General Fund. Bonds and the interest thereon issued under the authority of this section, notwithstanding any other provision of this act, shall be general obligations of the commonwealth.

**SECTION 15.** To meet the expenditures necessary in carrying out the provisions of section eight of this act, the state treasurer, upon the request of the governor, shall issue and sell bonds of the commonwealth in an amount to be specified by the governor from time to time, but not exceeding, in the aggregate, the sum of one hundred thirty-four million dollars. All bonds issued by the commonwealth, as aforesaid, shall be designated on their face County Correctional Facilities Loan Act of 1985 and shall be issued for such maximum term of years, not exceeding twenty years, as the governor may recommend to the General Court pursuant to section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth; provided, however, that all such bonds shall be payable not later than June thirtieth, two thousand and ten. All interest payments on account of the principal of such obligations shall be payable from the Local Aid Fund. Bonds and the interest thereon issued under the authority of this section,



**ACTS, 1985. – Chap. 799.**

notwithstanding any other provision of this act, shall be general obligations of the commonwealth.

**SECTION 16.** To meet the expenditures necessary in carrying out the provisions of section eleven of this act, the state treasurer, upon request of the governor, shall issue and sell bonds of the commonwealth in an amount to be specified by the governor from time to time, but not exceeding, in the aggregate, the sum of fifteen million dollars. All bonds issued by the commonwealth, as aforesaid shall be designated on their face, Local Infrastructure Projects Loan Act of 1985, and shall be issued for such maximum term of years, not exceeding ten years, as the governor may recommend to the General Court pursuant to section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth; provided, however, that all such bonds shall be payable not later than June thirtieth, in the year two thousand. All interest and payments on account of the principal of such obligations shall be payable from the Local Aid Fund. Bonds and the interest thereon issued under the authority of this section, notwithstanding any other provision of this act, shall be general obligations of the commonwealth.

**SECTION 17.** The state treasurer may borrow from time to time on the credit of the commonwealth such sums of money as may be necessary for the purposes of meeting payments as authorized by this act, and may issue and renew from time to time notes of the commonwealth thereof, bearing interest payable at such time and at such rate as shall be fixed by the state treasurer. Such notes shall be issued and may be renewed one or more times for such term, not exceeding one year, as the governor may recommend to the General Court in accordance with section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth, but the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-six. Notes and the interest thereon issued under the authority of this act, notwithstanding any other provisions of this act, shall be general obligations of the commonwealth.

**SECTION 18.** The amount appropriated by this act shall be in addition to previous appropriations made for the development of state and county correctional facilities, including amounts made available pursuant to chapter three hundred and forty-seven of the acts of nineteen hundred and eighty-two and chapter seven hundred and twenty-three of the acts of nineteen hundred and eighty-three.

**SECTION 19.** For the purpose of alleviating overcrowded conditions in the state correctional facilities in as little time as possible while maintaining economy of construction, the deputy commissioner of capital planning and operations, with respect to the projects authorized by sections five and six of this act, may after consultation with the director of the office of project management, the commissioner of correction, the secretary, and such other persons as said deputy commissioner deems appropriate, recommend to the general court, in



**ACTS, 1985. – Chap. 799.**

accordance with the provisions of this section, alternative methods for procurement of design and construction services, including but not limited to construction management, fast-tracked or phased construction, turnkey procurement, design and build procurement, lease-purchase of facilities, the utilization of modular buildings, and the utilization of inmate work crews.

For the purposes of alleviating the conditions at the Charles Street jail in as little time as possible, the deputy commissioner of capital planning and operations, with respect to the replacement of the Charles Street jail, may after consultation with the director of the office of project management, the commissioner of correction, the sheriff of Suffolk county, the secretary and such other persons as said deputy commissioner deems appropriate, recommend to the general court, in accordance with the provisions of this section, alternative methods for the acquisition of any real property owned by the Commonwealth or any agency or subdivision thereof deemed necessary and appropriate for said replacement, for the procurement of design and construction services, including but not limited to construction management, fast-tracked or phase construction, turnkey procurement, design and build procurement, lease-purchase of facilities, the utilization of modular buildings and the utilization of inmate work crews.

In making a recommendation to the general court, said deputy commissioner shall, as to each project for which an alternative method is recommended, set forth in full the procedures by which design and construction services for that project would be procured; provided, however, that a study shall be completed pursuant to section seven K of chapter twenty-nine of the General Laws prior to contracting for any services for the design or construction of such project; and provided, further, that such recommended procedures shall provide for an open competition for design and construction publicly advertised pursuant to paragraph one of section forty-four J of chapter one hundred and forty-nine of the General Laws. Said deputy commissioner shall file with his recommendation a report to the general court specifying his reasons for determining that such recommended alternative method is necessary and feasible and setting forth a comparison of costs, time schedules, and quality of construction between the recommended alternative and the procurement procedures that will apply if the alternative method is not approved.

Said deputy commissioner shall file his recommendation and report with the inspector general at least fifteen days before said deputy commissioner files said recommendation and report with the general court. The inspector general shall review the recommendation and report with respect to the prevention of fraud, waste and abuse and shall make such comments as said inspector general deems warranted. At the request of said inspector general, said deputy commissioner shall annex the comments of said inspector general to the report of said deputy commissioner to the general court.

Said deputy commissioner shall file his recommendation and report, together with the comments, if any, of the inspector general with the clerks of the senate and the house of representatives, the senate and



## **ACTS, 1985. – Chap. 799.**

house committees on ways and means, the joint committee on human services and elderly affairs, and the joint committee on state administration.

For the purposes of section forty-two B of chapter seven of the General Laws, the alternative method recommended in a report by said deputy commissioner for the procurement of design and construction services for a specified project filed with the general court on or before the effective date of this act is hereby approved.

**SECTION 20.** The deputy commissioner of capital planning and operations shall establish a special unit to be assigned exclusively to expedite the planning, design, and construction of capital facility projects funded by this act. A similar special unit shall also be established by the commissioner of correction. Said deputy commissioner or the commissioner of correction may, in accordance with a schedule annually approved by the commissioner of administration, temporarily hire additional employees or consultants and assign any employee of the division of capital planning and operations or the department of correction, respectively, to the special units required for the supervision of said projects; provided, however, that the salaries and administrative expenses for both of the special units shall be paid from funds made available by this act as a part of the cost of the development and construction of said projects; and, provided further, that thirty days prior to the hiring or transfer of said additional employees, said deputy commissioner or the commissioner of correction shall notify the house and senate committees on ways and means.

**SECTION 21.** The commissioner of correction is hereby authorized and directed to report quarterly on the status of overcrowding in the state and county correction facilities. Such report shall include, by facility, the average daily census for the period of the report and the actual census on the first and last days of the report period. Said report shall also contain such information for the previous twelve months and a comparison to the rated capacity of each such facility.

Said commissioner shall file such report with the supreme judicial court, the chief administrative justice of the trial court, the secretary, the commissioner of administration, the deputy commissioner of capital planning and operations, and the house and senate committees on ways and means and shall make sufficient copies available to the general public.

Until such time as said reports indicate that the census of no state or county correctional facility exceeds the rated capacity of each such facility, the deputy commissioner of capital planning and operations is hereby authorized and directed to take all lawful steps necessary to bring state and county correction capacity up to adequate levels in as short a time as possible, including the development of additional alternative methods of construction as authorized by section forty-two B of chapter seven of the General Laws.

**SECTION 22.** Said secretary, said commission of correction, and said



**ACTS, 1985. – Chap. 799.**

deputy commissioner of capital planning and operations are hereby authorized and directed to develop additional plans to eliminate overcrowding in state and county correctional facilities. Said plans shall be based on a recalculation of the projected excess census over rated capacity that will exist when the expansion of capacity authorized by this and prior acts is completed. The governor shall submit a special message to the general court making recommendations relative to said additional plans within one hundred twenty days of the effective date of this act.

**SECTION 23.** A special commission consisting of three members of the senate and six members of the house of representatives is hereby established to make an investigation and study of the feasibility of the department of corrections contracting for correctional services for correctional facilities, to include jails and houses of correction, from private entities. Said investigation shall include, but not be limited to a comprehensive analysis of all the financial, legal, security, and public safety aspects of such contracts. Said study shall also include an analysis of similar contracting in other states and any impact on the quality of life of the inmates including the opportunity for their rehabilitation.

Said study shall also include an analysis of the correctional needs of women including but not limited to prerelease placements, diversion programs, drug and alcohol programs, educational and training programs, housing needs of women released from prison; and programs to maintain ties between prisoners and their children.

Said commission (1) shall be provided with quarters in the state house; (2) may expend for expenses and for expert, legal, clerical and other assistance such sums as may be appropriated therefore; (3) may travel within and without the commonwealth; (4) may hold hearings; (5) shall report to the general court the results of its investigation and study and its recommendations, if any, together with drafts of legislation necessary to carry out its recommendations, by filing the same with the clerks of both branches; (6) may report from time to time but shall file its final report not later than the last Wednesday in December nineteen hundred and eighty-six.

**SECTION 24.** The department of correction is hereby authorized to enter into a land use agreement with the town of Concord regarding land owned by said department in said town.

**SECTION 25.** Notwithstanding the provisions of any general or special law to the contrary, the commissioner of correction is hereby authorized to enter into a contract with a private organization for the financing, operation, and maintenance of one state correctional facility constructed pursuant to this act. Said commissioner shall not so contract with a private organization in which an employee of the department of correction has a direct or indirect financial interest.

**SECTION 26.** This act shall take effect upon its passage.

Approved January 10, 1986.



ACTS, 1985. – Chap. 800.

**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.



**ACTS, 1985. – Chap. 800.**

**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



**ACTS, 1985. – Chap. 800.**

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



**ACTS, 1985. – Chap. 800.**

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



**ACTS, 1985. – Chap. 800.**

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



**ACTS, 1985. – Chap. 800.**

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



**ACTS, 1985. – Chap. 800.**

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 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 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 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.



**ACTS, 1985. – Chap. 801.**

**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.

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**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



ACTS, 1985. – Chap. 801.

signatures contained in said petition, no signature placed on such petition more than six months prior to the date on which said petition is filed with the state secretary shall be counted. The petition shall be filed with the state secretary not later than the last Tuesday in February in the year in which the question is to appear on the state election ballot. Such petition may consist of a number of separate sheets, but each sheet shall be in substantially the form hereinafter prescribed and shall be signed in accordance with the instructions contained therein. The state secretary shall furnish forms for such petition to any registered voter of the county requesting the same. The signatures contained on said petition shall be certified by the board of registrars of voters of the towns in the county prior to the filing of said petition with the state secretary. Such certification shall be performed in the manner prescribed for the certification of signatures on nominating petitions, under section seven of chapter fifty-three of the General Laws. Any petition or separate sheet of a petition submitted for certification shall be processed and returned to the person who submitted it within ten days after the submission. Objections to the sufficiency and validity of the signatures on any such petition as certified by the boards of registrars of voters shall be made in the same manner as provided by law for objections to nominations for county offices. Upon the filing with the state secretary of a petition, the state secretary shall furnish a receipt for the same to the person or persons filing the petition, and within thirty days after the filing of any such petition which contains the necessary number of certified signatures, the state secretary shall notify the board of selectmen of each town in the county that the question of the adoption or revision of a charter under this chapter is to be submitted to the voters of the county. Provided, however, no election of the charter commission may be held in the nineteen hundred and eighty-six state election on petition of the registered voters as provided in paragraphs (A) and (B) shall be inapplicable in nineteen hundred and eighty-six.

(C) When a resolution or petition for the creation of a charter study commission has been duly filed with the county commissioners no other resolution or petition and no other proceedings for the adoption of any other charter or form of government available to the county may be filed unless the voters shall decide the aforesaid question in the negative or until the charter study commission created by the voters shall have been discharged.

**SECTION 4. Election of Charter Study Commission.**

(A) At the same election as the public question is submitted, fifteen members of a charter study commission shall be elected by the county's registered voters, one member by the registered voters of each town. The voting instructions shall state that the voter may vote on the question and that, regardless of how and whether he voted on the charter question, he may vote for a member of the charter study commission who shall serve if the question is determined in the affirmative.

(B) The ballots to be used in said county at said election shall be prepared and furnished by the state secretary in accordance with the



## **ACTS, 1985. – Chap. 801.**

requirements of this chapter and of chapter fifty-four. The charter commission candidates shall appear on the ballot as the last candidates to be elected. The question in section three (A) shall be the first question on the ballot and shall be designated by the letter "A".

### **SECTION 5. Nominating Procedures.**

(A) Candidates for the charter commission shall be persons who are registered voters of Barnstable county, and of the town in which they seek election.

(B) The signatures of twenty registered voters of the town shall be required to nominate charter commission members. Nominating papers containing required number of signatures shall be filed with the state secretary not later than the tenth Tuesday prior to the election in which charter commission members are to be chosen. Nominations for charter commission members shall be governed by the provisions of chapter fifty-three which are applicable to nominations for state office, except that no party or political designations shall be used and that the eight-word statements provided for in section forty-five of chapter fifty-three shall not be used. The clerk of each city and town in the county shall furnish to each candidate for charter commission for that town upon request one copy of the list of registered voters of such city or town and one copy of the list of residents provided for in section six of chapter fifty-one.

### **SECTION 6. Election Procedures.**

(A) A charter commission shall consist of fifteen registered voters of the county, one member elected by and from the registered voters of each town, by official ballot, without party or political designation, at an election held in accordance with relevant provisions of general law and this act. In addition, each Barnstable county commissioner, or his designee, and the chairman of the Barnstable county advisory board on county expenditures, or his designee, shall be non-elected members of the charter commission.

(B) The names of the candidates from each town nominated in accordance with section five shall be placed on such ballot in alphabetical order, preceded by the instruction in section four A.

(C) The provisions of chapter fifty-four regarding votes on amendments to the constitution shall govern the canvassing and counting of votes on the question and the custody and disposition of ballots and related records.

### **SECTION 7. Organization Meeting of the Commission.**

The commission member who received the highest number of votes shall convene the first meeting of the charter commission as soon as possible and in no event later than fifteen days after certification of the results of the state election by the governor and governor's council. If said member does not act, the state secretary shall designate another member of the charter commission to convene the first meeting. At that meeting the charter commission shall promptly organize by the election from among its members of a chairman, a vice chairman, a



## **ACTS, 1985. – Chap. 801.**

treasurer and a clerk and shall file a notice of such organization with the secretary of the commonwealth. If no notice of organization is received by the state secretary within ten days after the organizational meeting, he shall immediately designate one of the charter commission members to call a meeting of the commission for the purpose. A charter commission shall continue to exist until thirty days after the election at which its charter adoption or revision proposal, if any, is required to be submitted to the voters under this chapter or until thirty days after submission to the state secretary of a final report recommending no new charter or revision.

If any member dies, resigns or ceases to be a registered voter of the town from which such member was elected, such vacancy shall be filled by the unsuccessful candidate who received the greatest number of votes in the election of said charter commission member. If the vacancy cannot be filled in this manner, the selectmen of the town shall fill the vacancy. The commission may continue to act notwithstanding the existence of any vacancy. Members shall serve without compensation but shall be reimbursed from the commission's account for expenses lawfully incurred by them in the performance of their duties.

### **SECTION 8. Function of Charter Commission.**

It shall be the function and duty of the charter commission to study the form of government of Barnstable county, to compare it with other forms available under the laws of this state, to determine whether or not in its judgment the government of the county could be strengthened, made more clearly responsive or accountable to the people or whether its operation could be more economical or efficient, under a changed form of government.

### **SECTION 9. Commission Finance and Operations.**

(A) On all votes taken in the charter commission, the fifteen elected members shall each cast votes weighted by the populations of their respective towns, determined from the most recent federal or state census. The four non-elected members, or their designee, shall each cast a vote which is the average of the weighted votes of the elected members. If the charter commission may adopt rules governing the conduct of its meetings and proceedings and may employ such legal, research, clerical or other employees, who shall not be subject to the provisions of chapter thirty-one, or consultants as its account may permit. In addition to funds made available by the county the charter commission account may receive funds from any other source, public or private, provided, however, that no contribution of more than five dollars shall be accepted from any source other than the county unless the name and address of the person or agency making the contribution, the amount of the contribution and the conditions or stipulations as to its receipt or use, if any, are disclosed in writing filed with the Barnstable county commissioners. The consent of a charter commission to any such condition or stipulation shall not be binding upon the county. Within thirty days after submission of its final report the charter commission shall file with the Barnstable county commissioners a complete account



## **ACTS, 1985. – Chap. 801.**

of all its receipts and expenditures for public inspection. Any balance remaining in its account shall be credited to the county's surplus revenue account.

(B) The county shall provide its charter commission with suitable office space, and each town within the county shall provide the county charter commission, with reasonable access to facilities for holding public hearings.

The county commissioners and the advisory board on county expenditures shall, upon request of the county charter commission contribute reasonable clerical and other assistance to such commission, to supplement the resources of the commission provided for in this act, and the town within the county, shall permit the charter commission to consult with and obtain advice and information from county or town officers and employees during ordinary working hours.

Within twenty days after the election of a charter commission the county treasurer shall credit to the account of the charter commission, with or without appropriation, the sum of thirty-five thousand dollars, provided, however, that in no event shall the county or its treasurer provide said commission with more than one per cent of the total county budget unless said appropriation has been approved by the advisory board on county expenditures.

If payment is to be made after the annual tax levy of the county, it shall be provided by transfer from available funds, or by exercise of emergency borrowing powers without, however, any reference of the question to the registered voters of the county. The county through its advisory board on county expenditures may appropriate additional funds for its charter commission provided the aggregate contribution to the charter commission does not exceed five times the initial contribution required under this section.

### **SECTION 10. Role of Other County Officials.**

(A) The members of the Barnstable county advisory board on county expenditures shall have the right to participate in the deliberations of the charter commission, but without the right to vote, except for chairperson as provided in section six, on commission recommendations or to endorse or dissent from any report of the commission by virtue of their official advisory role, although this shall in no way be deemed to inhibit their comments as individuals after release of the charter commission report, or as an elected member of a charter commission.

(B) The secretary of administration or his designee shall serve ex-officio as non voting advisor on the charter commissions established under this act. It shall be his duty to collect, evaluate and transmit to the commission such information, advice, plans, and policies as he may deem pertinent to the Barnstable county government and its relationship to the state and municipal government. He shall meet with the commission as frequently as the commission shall request in order to assist the commission in determining the best form to recommend for the county's government.

### **SECTION 11. Charter Commission Process.**



**ACTS, 1985. – Chap. 801.**

(A) The charter commission shall hold public hearings, sponsor public forums and otherwise provide for the widest possible dissemination of information and the stimulation of public discussion respecting the purposes and progress of its work.

(B) The charter commission shall report its findings and recommendations to the citizens of the county on or before the eighteenth calendar month next following the date of its election in the form of a final report which it shall file with the county clerk who shall distribute it to all elected county and municipal officials, and all members of the counties' legislative delegation, and the state secretary. In addition, there shall be printed and made available at cost to the public at large a number of copies equal to at least one per cent of the county's registered voters as of forty days before the most recent primary or general election.

The commission shall publish on two successive weeks the full text of the proposed charter, together with a summary of its finding and recommendations, a summary of the provisions of the plan, if any, which it recommends for approval, and an analysis of and commentary on such plans.

**SECTION 12. Charter Commission Report.**

(A) The charter study commission may report and recommend:

(i) that a referendum be held to submit to the voters of the county the question of adopting one of the optional forms of the government set forth in sections seventeen to nineteen, inclusive, of the act that the commission has designated; or

(ii) that the charter commission shall petition the general court for the enactment of a special charter, the text of which shall be appended to the charter commission's report; or

(iii) that the form of government of the county remain unchanged.

The commission may also draft and submit to the commissioners whatever recommendations it deems appropriate for the efficient administration of the county. Such recommendations may include a model administrative code. Such recommendations may be adopted by the commissioners in whole or in part whether or not a new charter is recommended by the commission or approved by the voters.

(B) If the charter commission shall vote to recommend adoption of one of the optional forms set forth in sections seventeen to nineteen, inclusive, of this act, it shall also consider and make findings with respect to each of the three subjects set forth below, and determine which plan would provide the best representation of the people of the county. The final report shall set forth said findings and determination in detail.

(i) Commissioners, number and term. The commission shall make recommendations as to changes if any in the number and terms of service of the county commissioners.

(ii) Concurrency of terms. The commission shall recommend either a continuation of the present system of noncurrent terms or the adoption of a new system of concurrent terms.

(iii) Constituencies. The commission can recommend that the



## ACTS, 1985. – Chap. 801.

commissioners be elected at large or that they be elected by districts.

### SECTION 13. The Charter Referendum.

(A) If the charter commission shall have recommended the adoption of one of the optional forms of government authorized by this chapter, the charter commission shall notify the state secretary by the first Wednesday in August to place the following referendum question on the election ballot:

"Shall the (designating caption of section \_\_\_\_ of the County Charter Reform Law) be adopted for Barnstable county, with the provision for a board of commissioners of \_\_\_\_ members elected for (concurrent or non-concurrent as the case may be) terms and elected (at large, or from districts)?"

This question shall be framed by the charter commission to conform with its recommendations.

The commission may specify that the question be submitted at a general election occurring not less than sixty days or more than two hundred and forty days next following such filing of the report. At such election, the referendum question shall appear on the ballot in the same manner as other public questions are printed on the ballot. The attorney general shall prepare the summary to accompany such question.

(B) If the charter commission shall have proposed a special charter, it shall be the duty of the commission to petition the legislature forthwith for a special law or laws, pursuant to the state constitution and in the manner provided by general enabling legislation thereunder, to carry out the recommendations of the charter commission.

Upon enactment of such enabling legislation, the special charter shall be submitted to the voters of Barnstable county for adoption in a manner provided in part A of this section, or as may otherwise be appropriate. No special charter shall become operative until approved by a majority of all votes cast for and against said adoption.

### SECTION 14. Subsequent Charter Revisions.

The charter may be revised or amended in the same manner as provided for in its original adoption by section three.

(a) A petition for the adoption or revision of a charter shall conform with the requirements of subsection (c) and shall have a sentence in substantially the following form at the top of each page.

Each of the undersigned requests that Barnstable county revise its present charter or adopt a new charter, and each of the undersigned certifies that he is a registered voter of said county whose residence addresses at the times set forth below were as shown below, and that he has not signed this petition more than once.

(b) A petition suggesting a charter amendment under this section shall conform with the requirements of subsection (c) and shall have a sentence in substantially the following form at the top of each page.

Each of the undersigned requests that the charter commission propose the charter amendments attached hereto to the voters of Barnstable county.

Each of the undersigned certifies that he is a registered voter of said



**ACTS, 1985. – Chap. 801.**

county whose residence addresses at the times set forth below were as shown below, and that he has not signed this petition more than once.

(c) All petitions shall require the following information to be furnished by each signer in accordance with the following instructions which shall be printed on each page:

Name*	Present Address (Street and Number)	Registered Address (Street and Number January 1, 19 **)
_____	_____	_____
_____	_____	_____
_____	_____	_____

**Instructions:**

\*Written signature to voter to be supplied; provided that a registered voter prevented from writing by physical disability may authorize another person to write his signature and address.

\*\*If a voter was registered later than this date, the registered address on such later date shall be used.

If a petition is expected to be filed on or after July fifteenth of any year, the registered address on the preceding January first shall be used. If a petition is expected to be filed before July fifteenth of any year, the registered address on the second preceding January first shall be used.

No petition shall contain or be accompanied by any indication of party or political designation.

(A) Duplicate certificates shall be prepared setting forth any charter amendments approved, and shall be signed by the state secretary. One such certificate shall be deposited in the office of the state secretary and another shall be recorded in the records of the county and deposited among its archives. All courts may take judicial notice of the charter and charter amendments of Barnstable county.

The executive body of the county shall, at intervals of not greater than ten years, cause the charter of said county as revised or amended to be reprinted for distribution to such registered voters of said county as may apply therefor at the office of the executive body of the county. Acts of the general court which are included in such charter may be referred to by appropriate subject headings and statutory citations instead of being set forth at length. Copies of said document may be sold at a price not to exceed the cost of paper, printing and binding thereof, plus mailing charges if any, as determined by the county executive body.

(B) A new charter or charter revision approved by a majority of the voters of the county voting thereon shall take effect on the day specified in such charter or revision, and any proposed amendment to be approved shall take effect upon the date specified therein. If two or more charter adoption, revision or amendment proposals are submitted to the voters in the alternative and are approved, only the alternative proposal receiving the highest number of affirmative votes shall take effect. If two or more charter adoption, revision or amendment proposals containing



## **ACTS, 1985. – Chap. 801.**

conflicting provisions are submitted to the voters, but not as alternatives, and are approved, all such proposals shall take effect, but the proposal receiving the highest number of affirmative votes shall be construed to prevent all conflicting provisions containing in other proposals from taking effect.

### **SECTION 15. Applicability of Other Laws.**

(A) Upon adoption by the registered voters of Barnstable county of any optional form of government set forth in this act, the county shall thereafter be governed by the plan adopted, by the provisions of this law applicable to all optional plans and by all general laws, subject to provisions of this act.

(B) For the purposes of this act, a "general law" shall be deemed to be such a law or part thereof, heretofore or hereafter enacted, that:

- (i) is not consistent with this act; and
- (ii) is by its terms applicable to or available to all counties; or,
- (iii) is applicable to all counties or to any category or class of counties and deals with one or more of the following subjects: the administration of the judicial system, education, elections, health, county public authorities, taxation, and finance, and welfare.

(C) Except as it relates to judicial or penal administration, nothing in this act shall be construed to prevent Barnstable county from abolishing or consolidating agencies the existence of which has heretofore been mandated by general law provided that if such abolition or consolidation shall alter the obligation of the county to continue services theretofore rendered by such abolished or consolidated agency, said alteration must be approved by the general court prior to taking effect.

(D) The intent of this act is to enable Barnstable county to cause any duty that has been mandated to it by the legislature to be performed in the most efficient and expeditious manner, and, absent a clear legislative declaration to the contrary, without regard to organizational structural, or personnel provisions contained in prior general law, and further, the intent of this act is to encourage a review of the functions which Barnstable provides.

### **SECTION 16. County Powers.**

Barnstable county after adoption of a charter pursuant to this act may, in accordance with the provisions of such charter, and subject to the provisions of general law and the Constitution of the Commonwealth:

(i) Organize and regulate its internal affairs; create, alter, abolish offices, positions and employments and define functions, powers and duties thereof; establish qualifications for persons holding offices, positions and employments; and provide for the manner of their appointment and removal and for their term, tenure and compensation.

(ii) Adopt, amend, enforce, and repeal ordinances and resolutions notwithstanding the effect of any referendum conducted prior to the county's adoption of its charter pursuant to this act.

(iii) Construct, acquire, operate and maintain public improvements, projects or other enterprises for any public purposes, subject to such referendum as may otherwise be imposed by law.



## ACTS, 1985. – Chap. 801.

(iv) Exercise powers of eminent domain, borrowing and taxation only as provided by general law;

(v) Exercise all powers of county government in such manner as its board of commissioners and advisory board on county expenditures may determine.

(vi) Sue and be sued, have a corporate seal; contract and be contracted with, buy, sell, lease, hold and dispose of real and personal property; appropriate and expend monies for county purposes;

(vii) Contract with or sign agreements with other governmental units for the provision of joint, coordinated, or cooperative service provision.

(B) Nothing in this act shall be construed to impair, diminish or infringe on the powers and duties of the towns of the commonwealth under the General Laws. It is the intent of this act to permit said towns to employ services and facilities of the county for more effective, efficient and adequate provision of services if and when said towns may deem it desirable to do so. Said towns are and shall remain the broad repository of local police power in terms of the right and power to legislate for the general health, safety, and welfare of their residents.

(C) The grant of powers under this act is intended to be as broad as consistent with the construction of the Constitution of the Commonwealth and the General Laws relating to local government. The grant of powers shall be construed as liberally as possible in regard to the county's right to reorganize its own form of government, to reorganize its structure and to alter and abolish its agencies, subject to the general mandate of performing services whether they be performed by the agency previously established or by a new agency or other department of county government. Based on the need to develop effective services to meet problems which cross town boundaries and which cannot be met effectively on an individual basis by the municipalities, or the state, this act shall be construed as intending to give the county power to establish innovative programs and to perform such regional services as the Constitution of the Commonwealth and the General Laws permit and to establish such other programs and services as may from time to time be permitted.

### SECTION 17. County Executive Plan.

(A) Form of Government.

(i) Form, designation.

The form of government provided in this section shall be known as the "county executive plan," and shall together with sections fifteen, sixteen and twenty of this act, govern Barnstable county if adopted pursuant to this act.

(ii) Elected officers; governing body defined; exercise of administrative or executive functions by county executive.

(a) Barnstable county shall be governed by an elected board of commissioners and an elected county executive and by such other officers and employees as may be duly appointed pursuant to this act, the General Laws, or ordinance.

(b) The term "governing body" of the county shall be construed to include both the commissioners and the county executive. For the



ACTS, 1985. – Chap. 801.

purpose of the construction of any applicable law, any and all administrative or executive functions heretofore assigned by general law to the commissioners shall be exercised by the county executive, and any and all legislative and investigative functions heretofore assigned by general law to the commissioner shall be exercised by the board.

(B) County Executive.

(i) Qualifications, election, term.

The county executive shall be a qualified voter of the county residing in the county. He shall be elected from the county at large for a term of four years commencing on January first next following his election.

(ii) Salary.

The salary of the county executive shall be fixed by ordinance of the commissioners; such salary shall be reasonable and commensurate with the duties of the office and with the fact that the position of county executive is and shall be a full-time position. The salary of the county executive may not be lowered during his tenure in office.

(iii) Vacancies.

The office of county executive shall be deemed vacant if the incumbent moves his residence from the county or he is by physical or mental illness or other casualty unable to continue to serve as county executive. Any vacancy in the office of county executive shall be filled in the manner prescribed by law for the election of county officers at the next general election occurring not less than sixty days after the occurrence of the vacancy. The commissioners may appoint one of their number to serve as acting county executive until a successor has been elected. During the temporary absence or temporary disability of the county executive the chief administrator shall serve as acting county executive.

(iv) Duties.

The executive power of the county shall be exercised by the county executive. He shall:

(a) Report annually to the board of commissioners, the advisory board on county expenditures and to the people on the state of the county, and the work of the previous year; he shall also recommend to the board of commissioners whatever action or programs he deems necessary for the improvement of the county and the welfare of its residents. He may from time to time at his discretion recommend any court of action or programs he deems necessary or desirable for the county to undertake;

(b) Prepare and submit to the board of commissioners and advisory board for consideration and adoption an annual operating budget and a capital budget and a capital program, establish the schedules and procedures to be followed by all county departments, offices and agencies in connection therewith, and supervise and administer all phases of the budgetary process;

(c) Enforce the county charter, the countys' laws and all general laws applicable thereto;

(d) Supervise the care and custody of all county property, institutions and agencies;

(e) Supervise the collection of revenues, and audit and control all disbursements and expenditures and shall prepare a complete account of



ACTS, 1985. – Chap. 801.

all expenditures. He shall also designate the repositories of county funds;

(f) Sign all contracts, bonds or other instruments requiring the consent of county;

(g) Review, analyze and forecast trends of county services and finances and programs of all boards, commissions, agencies and other county bodies, and report and recommend thereon to the board;

(h) Develop, install and maintain centralized budgeting, personnel and purchasing procedures as may be authorized by the administrative code;

(i) Negotiate contracts for the county subject to board and, where appropriate, advisory board approval; make recommendations concerning the nature and location of county improvement and execute improvements determined by the board;

(j) Assure that all terms and conditions, imposed in favor of the county or its inhabitants in any statute, franchise or other contract, are faithfully kept and performed;

(k) Serve as an ex-officio nonvoting member of all appointive bodies in county government;

(v) Powers.

The county executive:

(a) Shall supervise, direct and control all county administrative departments;

(b) With the advice and consent of the board of commissioners, shall appoint the county-counsel, the administrator, the heads of all departments and any divisions created within such departments, and the members of all county boards, commissions and authorities;

(c) May, at his discretion, remove or suspend any official in the unclassified service of the county over whose office the county executive has power of appointment;

(d) May, at his discretion, but subject to any pertinent provision of the General Laws or civil service regulations, delegate to department heads powers of appointment and removal of their departmental employees. If the county executive does not so delegate his power he may appoint and remove, subject to civil service regulations, all employees;

(e) May require reports and examine the accounts, records and operations of any agency of county government;

(f) May, at his discretion, order any agency under his jurisdiction to undertake any task for any other agency on a temporary basis if he deems it necessary for the proper and efficient administration of county government to do so;

(g) Shall approve each ordinance of the board of commissioners by signing it, or may veto any ordinance by returning it to the clerk of the board within ten days of passage with a written statement of his objections to the ordinance. If two-thirds of the full membership of the board, upon reconsideration of the measure, shall vote for it, the executive's veto shall be overridden and the ordinance shall become law without the executive's signature in accordance with the provisions of law.

(C) Board of Commissioners.

(i) Legislative power; exercise by ordinance; exceptions; exercise by resolution.



ACTS, 1985. – Chap. 801.

The legislative power of the county shall be vested in the board of commissioners. Such legislative power shall be exercised by ordinance, except for the exercise of the following powers which are required to be or are permitted to be, exercised by resolution:

- (a) The conduct of an inquiry; or investigation;
- (b) The expression of disapproval of the suspension or dismissal of officers or employees;
- (c) The exercise of the power of advice and consent to actions of the executive;
- (d) The override of a veto of the county executive;
- (e) The adoption of rules for the board;
- (f) The establishment of times and places for board meetings;
- (g) The establishment of the board as a committee of the whole and the delegation of any number of its members as an ad hoc committee;
- (h) The declaration of emergencies;
- (i) The identification of emergency situations;
- (j) The establishment of county personnel policies;
- (k) Designation of newspapers for required advertisements and notices;
- (l) The appointment and removal of such officers and employees as the board is permitted by law;
- (m) Approval of contracts presented by the county executive;
- (n) Actions specified as resolutions; and
- (o) The expression of such board policies or opinions as require no formal action by the governing body.

(ii) Chairman and vice-chairman; selection

At its organizational meeting each January the board shall select one of its members to serve as chairman and one as vice-chairman; for the year.

(iii) County executive at meetings

The county executive may be present and participate in the discussions at all board meetings.

(iv) Board powers.

The board of commissioners.

(a) Shall advise and consent to all appointment by the executive for which board confirmation is specified under this article;

(b) Shall pass in accordance with this act whatever ordinances and resolutions it deems necessary and proper for the good governance of the county;

(c) Shall appoint a clerk to the board who shall keep the records and minutes of the board, and who shall serve at the pleasure of the board or for such term, not to exceed three years, as may be provided by the commissioners provided, however, that an ordinance providing for the adoption of any such term shall not be enacted between October first of any year and January first of the succeeding year;

(d) May appoint counsel to the board, if such position is created by the administrative code, to serve at the pleasure of the board;

(e) May pass a resolution of disapproval or dismissal;

(f) May override a veto of the county executive by a two-thirds vote of its full membership;

(g) Shall approve the annual operating and capital budgets, prior to



**ACTS, 1985. – Chap. 801.**

presenting the budgets for advisory board appropriation.

(D) Chief Administrator.

(i) Appointment.

The county executive shall appoint a chief administrator who shall serve at his pleasure. The board shall advise and consent to his nomination but shall not prevent his suspension or dismissal by passage of a resolution of disapproval.

(ii) Qualifications.

The chief administrator shall by education, experience and ability be qualified to perform the duties established for him.

He need not be a resident of the county at the time of his appointment, but during his tenure he may live outside the county only with the permission of the county executive.

(iii) Duties.

The chief administrator shall be responsible only to the executive. He shall, under the direction and supervision of the executive, undertake to assist in the orderly and efficient administration of the county, performing whatever supervisory or administrative duties the executive deems necessary and proper.

Nothing in this section shall be deemed to prohibit the chief administrator's being appointed to head one or more departments on a temporary or permanent basis.

**SECTION 18. County Manager Plan.**

(A) Form of Government.

(i) Form; designation.

The form of government provided in this section shall be known as the "county manager plan," and shall, together with sections fifteen, sixteen and twenty of this act, govern Barnstable county if adopted pursuant to this act.

Barnstable county shall be governed by an elected board of commissioners and an appointed county manager and by such other officers and employees as may be duly appointed pursuant to this section, the General Laws or ordinance.

(B) County Manager.

(i) Qualifications, appointment, term.

The county manager shall be qualified by administrative and executive experience and ability to serve as the chief executive of the county. He shall be appointed by a majority vote of the commissioners and shall serve for an indefinite term. He may be removed by a majority vote of the board subject to due notice and a public hearing. Such notice shall be in writing and shall be accompanied by a written bill of particular charges and complaints and public hearing on these charges shall be no less than fifteen nor more than thirty days after personal service of notice and charges.

At the time of his appointment the manager need not be a resident of the county but after his appointment he may reside outside the county only with permission of the board.

(ii) Salary.

The salary of the county manager shall be fixed by the commissioners;



ACTS, 1985. – Chap. 801.

such salary shall be reasonable and commensurate with the fact that the position of county manager is and shall be a full-time position. The salary of the county manager may not be lowered during his tenure in office.

(iii) Vacancies.

The office of county manager shall be deemed vacant if: the incumbent moves his residence from the county without board permission; or he is by physical or mental illness or other casualty unable to continue to serve as county manager. The commissioners may appoint the deputy manager or any department head to serve as acting county manager until a successor has been appointed. During the temporary absence or temporary disability of the county manager the deputy manager or a department head designated by the manager if there be no deputy manager, shall serve as acting county manager.

(iv) Duties.

The executive power of county shall be exercised by the county manager. The county manager shall:

(a) Report annually to the commissioners, the advisory board on county expenditures and to the people, on the state of the county, the work of the previous year, and he shall also recommend to the board whatever action or programs he deems necessary for the improvement of the county and the welfare of its residents. He may from time to time at his discretion recommend any course of action or programs he deems necessary or desirable for the county to undertake;

(b) Prepare and submit to the board for its consideration and adoption an annual operating budget, and a capital budget, establish the schedules and procedures to be followed by all county departments, offices and agencies in connection therewith, and supervise and administer all phases of the budgetary process.

(c) Enforce the county charter, the county's laws and all General Laws applicable thereto;

(d) Supervise the care and custody of all county property, institutions and agencies;

(e) Through the county treasurer, have oversight on the collection of revenues, audit and control all disbursements and expenditures and shall prepare a complete account of all expenditures;

(f) Sign all contracts, bonds or other instruments requiring the consent of the county;

(g) Organize the work of county departments subject to the administrative code adopted by the board. He shall further review their administration and operation and make recommendations pertaining thereto to the board;

(h) Review, analyze and forecast trends of county services and finances and programs of all boards, commissions, agencies and other county bodies, and report and recommend thereon to the board.

(i) Develop, install and maintain centralized budgeting, personnel and purchasing procedures as may be authorized.

(j) Negotiate contracts for the county subject to board and where appropriate, advisory board approval and make recommendations concerning the nature and location of county improvements and execute



ACTS, 1985. – Chap. 801.

improvements determined by the board;

(k) Assure that all terms and conditions imposed in favor of the county or its inhabitants in any statute, franchise or other contract, are faithfully kept and performed;

(l) Serve as ex-officio nonvoting member of all appointive bodies in county government.

(v) Powers.

The county manager:

(a) Shall supervise, direct and control all county administrative departments;

(b) Shall appoint the deputy manager, if that position is created by the board, the heads of all county departments and divisions created within such departments, and all other administrative officers and county personnel the manner of whose appointment is not prescribed elsewhere in this section;

(c) May, at his discretion, remove or suspend any official in the unclassified service of the county over whose office the county manager has power of appointment;

(d) May at his discretion, but subject to any pertinent provisions of the General Laws and civil service regulations delegate any department head powers of appointment and removal of their departmental employees. If the county manager does not so delegate his power he may appoint and remove, subject to civil service regulations, all employees whose positions have been created.

(e) May require and examine the accounts, records and operations of any agency of county government;

(f) May, at his discretion, order any agency under his jurisdiction to undertake any task for any other agency on a temporary basis if he deems it necessary for the proper and efficient administration to do so.

(C) Board of Commissioners.

(i) Legislative power; exercise by ordinance; exceptions; exercise by resolution.

The legislative power of the county shall be vested in the board of commissioners. Such legislative power shall be exercised by ordinance, except for the exercise of the following powers which are required to be, or are permitted to be, exercised by resolution:

(a) The establishment of a municipal advisory council;

(b) The conduct of an inquiry of investigation;

(c) The expression of disapproval of the suspension or dismissal of officers or employees;

(d) The adoption of rules for the board;

(e) The establishment of times and places for board meetings;

(f) The establishment of the board as a committee of the whole and the delegation of any number of its members as an ad hoc committee.

(g) The declaration of emergencies;

(h) The identification of emergency situations;

(i) The establishment of county personnel policies;

(j) The election, appointment and removal of such officers and employees as the board is permitted by law;

(k) Designation of newspapers for required advertisements and notices;



**ACTS, 1985. – Chap. 801.**

- (l) Approval of contracts presented by the county manager;
- (m) Actions specified as resolutions; and
- (n) The expression of such board policies or opinions as require no formal board action.

(ii) Chairman and vice-chairman; election; duties.

At its organizational meeting each January the board shall select one of its members to serve as chairman and one to serve as vice-chairman of the year. The chairman shall preside over board meetings during his tenure, and in his absence the vice-chairman shall preside.

(iii) County manager; rights at meetings.

The county manager may be present at all board meetings and participate in all deliberations, without the right to vote.

(iv) Board powers.

(a) The board shall appoint a county manager under the provisions of this act and may create the office of deputy manager;

(b) Shall appoint a clerk to the board who shall serve at its pleasure and keep the records and minutes of the board, and who shall serve at the pleasure of the board or for such term, not to exceed three years, as may be provided by the commissioners; provided, however, that an ordinance providing for the adoption of any such term shall not be enacted between October first of any year and January first of the succeeding year;

(c) Shall appoint a county counsel, who shall head the county's legal department; and who shall serve at the pleasure of the board or for such term, not to exceed four years, as may be provided by the administrative code; provided, however, that an ordinance providing for the adoption of any such term shall not be enacted between October first of any year and January first of the succeeding year. An administrative code may also establish a term, not to exceed three years, for the position of assistant county counsel;

(d) Shall appoint members of all boards and commissions and other bodies whose manner of appointments is not otherwise specified in this section;

(e) May pass a resolution of disapproval of a suspension or dismissal;

(f) Shall approve the annual operating and capital budgets; prior to presenting them for advisory board appropriation; and

(g) Shall pass in accordance with this act whenever ordinances and resolutions it deems necessary and proper for the good governance of the county.

(D) Deputy Manager.

(i) Appointment.

Subject to creation of such position the county manager may appoint a deputy manager who shall serve at his pleasure; the board may not prevent his suspension or dismissal by passage of a resolution of disapproval.

(ii) Qualifications.

The deputy manager shall by education, experience and ability be qualified to perform the duties established for him.

He need not be a resident of the county at the time of his appointment, but during his tenure may live outside the county only with



## ACTS, 1985. – Chap. 801.

the permission of the manager.

### (iii) Duties.

The deputy manager shall be responsible only to the manager. He shall, under the direction and supervision of the manager, undertake to assist in the orderly and efficient administration of the county, performing whatever supervisory or administrative duties the manager deems necessary and proper.

Nothing in this section shall be deemed to prohibit the deputy manager's being appointed to head one or more departments on a temporary or permanent basis.

## SECTION 19. Board Chairperson Plan.

### (A) Form of Government.

#### (i) Form; designation.

The form of government provided in this article shall be known as the "board chairperson plan," and shall, together with sections fifteen, sixteen and twenty of this act, govern Barnstable county if adopted pursuant to this act.

#### (ii) Elected officers.

Barnstable county shall be governed by an elected board of commissioners and a commissioner board chairperson and by such other officers and employees as may be duly appointed pursuant to this article, general law or ordinance.

### (B) Board Chairperson.

#### (i) Qualifications, election, term.

The board chairperson shall be a duly elected member of the board of commissioners. He shall be elected by the board of commissioners at their organizational meeting for a term of one year, such term to begin immediately after his election on January first.

#### (ii) Salary.

The salary of the board chairperson shall be fixed by ordinance of the board of commissioners, such salary shall be reasonable and commensurate with the duties of the office.

#### (iii) Vacancies.

The office of board chairperson shall be deemed vacant if: the incumbent moves his residence from the county; or he is by, physical or mental illness or other casualty unable to continue to serve as board chairperson. Any vacancy in the office of board chairperson shall appoint one of their number to serve as board chairperson for the remainder of the unexpired term. During the temporary absence or temporary disability of the board chairperson the vicechairperson shall serve as acting chairperson.

#### (iv) Duties.

The executive power of the county shall be exercised by the board chairperson. He shall:

(a) Report annually to the board of commissioners, the advisory board on county expenditures, and to the people of the county on the work of the previous year and he shall also recommend to the board whatever action or programs he deems necessary for the improvement of the county and the welfare of its residents. He may from time to time at his



ACTS, 1985. – Chap. 801.

discretion recommend any course of action or programs he deems necessary or desirable for the county to undertake;

- (b) Preside over board meetings with the right to vote on all questions;
- (c) Serve as spokesman for the board on matters concerning policies, and programs;
- (d) Serve as representative of the board at ceremonial and civic occasions;
- (e) Through the county administrative officer; enforce the county charter, the county's laws and all General Laws applicable thereto;
- (f) Represent the board in all dealing with the county administrative officer except as otherwise specified herein;
- (g) Execute all contracts, bonds or other instruments requiring the consent of the county.

(v) Powers.

The board chairperson.

(a) Insure adequate supervision, direction and control of all county administrative departments, and care and maintenance of all county properties, institutions and agencies by the administrative officer;

(b) With the advice and consent of the board, appoint all members of boards, and commissions and authorities, and all other officials not serving in the administrative service of the county the manner of whose appointment is not prescribed elsewhere in this section.

(c) Serve as an ex-officio nonvoting member of all appointive bodies in county government;

(d) At his discretion, require from the administrative officer reports and examine the accounts, records and operations of any agency of county government;

(e) At his discretion, remove or suspend anyone occupying one of the offices specified in subsection b of this section.

(C) Board of Commissioners.

(i) Legislative power; exercise by ordinance; exceptions; exercise by resolution.

The legislative power of the county shall be vested in the board of commissioners. Such legislative power shall be exercised by ordinance, except for the exercise of the following powers which are required to be, or are permitted to be, exercised by resolution:

- (a) The establishment of a municipal advisory council;
- (b) The conduct of an inquiry or investigation;
- (c) The expression of disapproval of the suspension or dismissal of officers or employees;
- (d) The exercise of the power of advice and consent to actions of the chairperson and administrative officer;
- (e) The adoption of rules for the board;
- (f) The establishment of times and places for board meetings;
- (g) The establishment of the board as a committee of the whole and the delegation of any number of its members as an ad hoc committee;
- (h) The declaration of emergencies;
- (i) The identification of emergency situations;
- (j) The establishment of county personnel policies;
- (k) Designation of newspapers for required advertisements and notices;



**ACTS, 1985. – Chap. 801.**

(l) The appointment and removal of such officers and employees as the board is permitted by law;

(m) Approval of contracts presented by the county administrator;

(n) Actions specified as resolutions and,

(o) The expression of such board policies or opinions as require no formal board action.

Chairperson and vice-chairperson; election.

The board shall elect a chairperson as specified in this section. At its reorganizational meeting each January the board shall select one of its members to serve as vice-chairperson for the year.

(ii) Board Powers.

The board of commissioners:

(a) Shall pass in accordance with this act whatever ordinances or resolutions it deems necessary and proper for the good governance of the county;

(b) Shall appoint and remove the administrative officer by a majority vote and may create the office of, appoint and remove, a deputy administrative officer by a majority vote.

(c) Shall advise and consent to all appointments by the president and administrative officer for which board confirmation is specified under this section.

(d) Shall appoint a clerk to the board who shall serve at its pleasure and keep the records and minutes of the board and who shall serve at the pleasure of the board or for such term not to exceed three years as may be provided by the commissioners provided however that an ordinance providing for the adoption of any such term shall not be enacted between October first of any year and January of the succeeding year.

(e) Shall appoint the county counsel to the county's legal department to serve at the pleasure of the board or for such term not to exceed four years as may be provided by the commissioner, provided, however, that no ordinance providing for the adoption of any such term shall not be enacted between October first of any year and January first of the succeeding year. The commissioner may also establish a term not to exceed three years for the position of assistant county counsel.

(f) May pass a resolution of disapproval of a suspension or dismissal.

(g) Shall approve the annual operating and capital budget prior to presenting the budgets for advisory board appropriation.

(D) Chief Administrator.

(i) Appointment.

The county administrative officer shall serve at the pleasure of the board.

(ii) Qualification.

The chief administrative officer shall by education, experience and ability be qualified to perform the duties established for him. He need not be a resident of the county at the time of his appointment, but during his tenure he may live outside the county only with the permission of the board.

(iii) Duties.

The administrative officer shall be responsible to the board through the chairperson except as specified below. He shall be responsible for



**ACTS, 1985. – Chap. 801.**

the efficient administration of the county's government. He shall:

(a) Prepare and submit directly to the board for its consideration and adoption an annual operating budget and a capital budget, establish the schedules and procedures to be followed by all county departments, offices and agencies in connection therewith, and supervise and administer all phases of the budgetary process;

(b) Through the treasurer, supervise the collection of revenues, and audit and control disbursements and expenditures and prepare a complete account of all expenditures;

(c) Supervise the care and custody of all county property, institutions and agencies;

(d) Organize the work of county departments, subject to the administrative code adopted by the board. He shall further review their administration and make recommendations pertaining thereto to the board;

(e) Review, analyze and forecast trends of county services and finances and programs of all boards, commissions, agencies and other county bodies, and report and recommend to the board;

(f) Develop, install and maintain centralized budgeting, personnel and purchasing procedures;

(g) Negotiate contracts for the county with the approval of the county commissioners, and, where appropriate the advisory board on county expenditures, and make recommendations concerning the nature and location of county improvements and executive improvements determined by the board; and

(h) Assure that all terms and conditions imposed in favor of the county or its inhabitants in any statute, franchise or other contract are faithfully kept and performed.

**(iv) Powers.**

The administrative officer shall:

(a) Supervise, direct and control all county administrative departments;

(b) Appoint the heads of all county departments and if so provided in the administrative code of any designated divisions within such departments with the advice and consent of the board and appoint all other county personnel the manner of whose appointment is not prescribed elsewhere in this section;

(c) At his discretion, remove or suspend any official in the unclassified service of the county over whose office the administration officer has power of appointment;

(d) At his discretion, but subject to any pertinent provisions of the General Laws or civil service regulations, delegate to any department head powers of appointment and removal of his departmental employees. If the administrative officer does not so delegate his power he may appoint and remove, subject to civil service regulations, all employees whose positions have been created in accordance with actions of the commissioners and the manner of whose appointment is not specified elsewhere in this section;

(e) At his discretion, require reports and examine the accounts, records and operations of any agency of county government; and



**ACTS, 1985. – Chap. 801.**

(f) At his discretion, order any agency under his jurisdiction to undertake any task for any other agency on a temporary basis if he deems it necessary for proper and efficient administration to do so.

**SECTION 20. Provisions Applicable To All Plans.**

**Relations between the Legislative and Executive Branches.**

**(A) Separation of Powers.**

The commissioners shall deal with county employees only through the officials responsible for the overall executive management of the county's affairs as designated in sections of this act, through the county executive, the county manager, and the board chairperson respectively, as the case may be. All contact with county employees, all actions and communications concerning the administration of the county's government and provision of services shall be through the aforementioned officials, except as otherwise provided in this act. Nothing in this act shall be construed to prohibit the board's inquiry into any act or problem of the county's administration. Any commissioner may require a report on the aspect of the government of the county at any time by making a written request to the head of the executive branch of county government. The board may, by majority vote of the whole number of its members, require the head of the executive branch to appear before the board sitting as a committee of the whole, and to bring before the board such records and reports and such officials and employees of the county as the board shall deem necessary to insure clarification of the matter under study.

The board further may, by majority vote of the whole number of its members, delegate any number of its members as an ad hoc committee to consult with the head of the executive branch to study any matter and to report to the board thereon.

It is the intent of this act to confer on the board general legislative and such investigative powers as are germane to the exercise of its legislative powers, but to retain in the head of the executive branch full control over the county administration and over the administration of county services provided for in this act.

**(B) Appointments and dismissal; suspension procedure.**

(i) No member of the board of commissioners shall individually or collectively seek to influence the head of the executive branch to dismiss any person from, or to appoint, or to promote any person to any position in the executive branch of county government, except that the board may, by a resolution of disapproval adopted by a two-thirds vote of the whole number of the board, prevent the dismissal of certain employees under conditions as set forth in subsection ii of this section.

(ii) Suspensions will take effect immediately upon personal service of notice setting forth the order of suspension or dismissal. Dismissal or suspension for a definite term shall occur automatically in thirty calendar days from receipt of notice. But, if the officer or employee requests a hearing on his dismissal or suspension for a definite term, no action beyond temporary suspension may be taken until the individual to be suspended or dismissed is given a hearing not less than fifteen nor more than thirty days after personal service of written notice of



**ACTS, 1985. – Chap. 802.**

contemplated action. A copy of such notice shall be filed with the clerk to the board of commissioners immediately upon service of notice to the individual to be suspended or dismissed. In the event that within thirty-five days of receiving such notice, the board shall pass by a two-thirds vote of the whole number of the board, a resolution of disapproval, all proceedings and any suspension or dismissal of the individual shall be voided. In terms of recompense to the individual, a vote of disapproval shall be deemed to negative the suspension or dismissal order and for purposes of pay and civil service standing the action shall be deemed never to have transpired. If, however, the suspension or dismissal order shall allege that the individual against whom action is contemplated or pending has committed a criminal act in the conduct of his public trust, no resolution of the board shall stay proceedings and the matter shall be brought to a hearing in the manner prescribed above. If at that hearing probable cause for prosecution is found, all evidence shall immediately be forwarded to the county prosecutor for further action. If any suspension or dismissal order is resolved upon hearing in favor of the office or employee, he shall be restored to his original position without record of the action, or prejudice therefrom, and shall receive full compensation retroactive to the date of his suspension.

Approved January 10, 1986.

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**Chapter 802. AN ACT REGULATING GOVERNMENTAL UNITS POOLED INSURANCE.**

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to authorize governmental units to enter into agreements for insurance purposes, 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:

The General Laws are hereby amended by inserting after chapter 40L the following chapter:—

**CHAPTER 40M.  
GOVERNMENTAL UNITS POOLED INSURANCE.**

Section 1. Five or more public entities may participate in an organization in which the governmental units are members, and agree to effect such property and casualty insurance coverage as the governmental unit may otherwise purchase by itself.

A self-insurance group that is issued a certificate of approval by the commissioner shall not be deemed to be insurers or insurance companies and shall not be subject to the provisions of the insurance laws and regulations of this commonwealth except as otherwise provided herein.

The provision of this chapter shall not be construed to prohibit



## ACTS, 1985. – Chap. 802.

municipal electric departments from participating in a municipal electric department self-insurance trust fund establishing pursuant to chapter one hundred and sixty-four.

Section 2. "Administrator", an individual, partnership, corporation, or unincorporated association engaged by a public employer self-insurance group's board of trustees and to provide day to day management of the group.

"Commissioner", the commissioner of insurance.

"Insolvent" or "Insolvency", the inability of a public employer self-insurance group to pay its outstanding lawful obligations as they mature in the regular course of business, as may be shown either by an excess of its required reserves and other liabilities over its assets or by its not having sufficient assets to reinsure all of its outstanding liabilities after paying all accrued claims owed by it.

"Public employers self-insurance group" or "group", a not-for-profit association consisting of five or more employers, all of whom are public entities, who enter into agreements to pool their liabilities for property and casualty benefits. For purposes of this chapter, a municipal electric department self-insurance trust fund established pursuant to sections one hundred and twenty-nine to one hundred and thirty-two, inclusive, of chapter one hundred and sixty-four shall not be a "public employers self-insurance group" or "group".

Section 3. No person, association or other entity shall act as a public employer self-insurance group unless it has been issued a certificate of approval by the commissioner.

Section 4. (A) A proposed public employer self-insurance group shall file with the commissioner its application for a certificate of approval accompanied by a nonrefundable filing fee in the amount of one hundred dollars. The application shall include the group's name, location of its principal office, date of organization, name and address of each member, and such other information as the commissioner may reasonably require, together with the following:

- (1) A copy of the articles of association, if any;
- (2) A copy of the by-laws of the proposed group;
- (3) A copy of the agreement between the group and each member securing the payment of benefits, which shall include provision for payment of assessments as provided for in section fourteen;
- (4) Designation of the initial board of trustees and administrator;
- (5) The address in this state where the books and records of the group will be maintained at all times;
- (6) A pro forma financial statement on a form acceptable to the commissioner showing the financial ability of the group to pay the obligations of its members;
- (7) A documented agreement by each member to the group that at least thirty-three per cent of that member's estimated annual net premium is payable the initial day of coverage afforded by the group;
- (8) A confirmation of any required reinsurance by a recognized carrier in an amount acceptable to the commissioner of insurance;
- (B) To obtain and to maintain its certificate of approval a public employer self-insurance group shall comply with the following



ACTS, 1985. – Chap. 802.

requirements as well as any other requirements established by law or regulation:–

(1) Specific and aggregate excess insurance in a form, in an amount, and by an insurance company acceptable to the commissioner. Each group shall maintain aggregate excess insurance in a minimum amount equal to two million dollars. The commissioner may establish higher minimum requirements for the amount of specific and aggregate excess insurance based on differences among groups in their size, types of local government services provided by members of the group, years in existence and other relevant factors.

(2) An estimated annual standard premium of at least two hundred and fifty thousand dollars during a group's first year of operation.

(3) A fidelity bond for the administrator in a form and amount prescribed by the commissioner of insurance.

(C) A group shall notify the commissioner of any change in the information required to be filed under subsection (A) or in the manner of its compliance with subsection (B) no later than thirty days after such change.

(D) The commissioner shall act upon a completed application for a certificate of approval within ninety days.

(E) The commissioner shall issue to the group a certificate of approval upon finding that the proposed group has met all requirements or the commissioner shall issue an order refusing such certificate setting forth reasons for such refusal upon finding that the proposed group does not meet all requirements.

Upon refusal, the commissioner shall hold a hearing within thirty days after said refusal, upon notice requesting such hearing by applicant within ten days of said refusal.

(F) Each public employer self-insurance group shall be deemed to have appointed the commissioner as its attorney to receive service of legal process issued against it in this state. The appointment shall be irrevocable, shall bind any successor in interest, and shall remain in effect as long as there is in this commonwealth any obligation or liability of the group for benefits.

section 5. (A) The certificate of approval issued by the commissioner to a public employer self-insurance group authorizes the group to provide insurance coverage. The certificate of approval remains in effect until terminated at the request of the group or revoked by the commissioner pursuant to provisions of section sixteen.

(B) The commissioner shall not grant the request of any group to terminate its certificate of approval unless the group has insured or reinsured all incurred obligations with an authorized insurer under an agreement filed with and approved in writing by the commissioner. Such obligation shall include both known claims and expenses associated therewith and claims incurred but not reported and expenses associated therewith.

Subject to the approval of the commissioner, a group may merge with another public employer self-insurance group only if the resulting group assumes in full all obligations of the merging groups. The commissioner may hold a hearing on the merger and shall do so if any party, including a



## ACTS, 1985. – Chap. 802.

member of either group, so requests.

Section 6. The commissioner may examine the affairs, transactions, accounts, records and assets of each group as often as the commissioner deems advisable.

Section 7. Each public employee self-insurance group shall be operated by a board of trustees which shall consist of not less than three persons who are elected officials or employees of public entities within this commonwealth. The board of trustees of each group shall ensure that all claims are paid promptly and take all necessary precautions to safeguard the assets of the group, including all of the following:

(A) The board of trustees shall:

(1) Maintain responsibility for all monies collected or disbursed from the group and segregate all monies in a claims fund account and an administrative fund account. Net premiums shall be placed into a designated depository for the sole purpose of paying claims, allocated claims expenses, reinsurance or excess insurance, and special fund contributions. This shall be called the claims fund account. The remaining net premium after any payments for reinsurance or excess insurance shall be placed in a designated depository for the payment of taxes, general regulatory fees and assessments and administrative costs. This shall be called the administrative fund account.

(2) Maintain minutes of its meetings and make such minutes available to the commissioner.

(3) Designate an administrator to carry out the policies established by the board of trustees and to provide day to day management of the group and delineate in the written minutes of its meetings the areas of authority it delegates to the administrator.

(4) Funds not needed for current obligations may be invested by the board of trustees in accordance with section fifty-four of chapter forty-four.

(5) Retain an independent certified public accountant to prepare the statement of financial conditions required by subsection (A) of section ten.

(B) The board of trustees shall not borrow any monies from the group or in the name of the group except in the ordinary course of business, without first advising the commissioner of the nature and purpose of the loan and obtaining prior approval from the commissioner.

Section 8. (A) A public employer joining a public employer's self-insurance group after the group has been issued a certificate of approval shall submit an application for membership to the board of trustees or its administrator. Membership takes effect no earlier than each member's date of approval. The application for membership and its approval shall be maintained as permanent records of the board of trustees.

(B) Individual members of a group shall be subject to cancellation by the group pursuant to the by-laws of the group. In addition, individual members may elect to terminate their participation in the group. A voluntary termination may not be tendered prior to the members participation in the group for a period of less than one year. The group shall notify the commissioner of the termination or cancellation of a



ACTS, 1985. – Chap. 802.

member within ten days and shall maintain coverage of each cancelled or terminated member for thirty days after such notice, at the terminating member's expense, unless the group is notified sooner by the insurance department that the cancelled or terminated member has insurance, has become a self-insurer, or has become a member of another public employer self-insurance group.

(C) The agreement between the group and the member shall specify the terms and conditions of payment of benefits for each member's incurred liabilities during its period of membership.

(D) A group member is not relieved of its liabilities incurred during its period of membership except through payment by the group or the member or a combination thereof. Payment of benefits by the group to the member shall be limited to the terms specified in the agreement between the group and the member.

(E) There shall be a minimum period of at least one year for which a member shall contract to participate in the group.

Section 9. Except for trustees, officers, directors or salaried employees of a group or its administrator, any person soliciting membership in a property and casualty self-insurance group must be a licensed agent as provided by section sixty-three of chapter one hundred and seventy-five.

Section 10. (A) Each group shall submit to the commissioner of insurance thirty days before the end of its policy year a performance report estimating total outstanding liability, including incurred but not reported claims, for that policy year.

(B) Each group shall submit to the commissioner a statement of financial condition audited by an independent certified public accountant on or before the last day of the sixth month following the end of the group's fiscal year. The financial statement shall be on a form prescribed by the commissioner and shall include, but not be limited to, actuarially appropriate reserves for (1) known claims and expenses associated therewith, (2) claims incurred but not reported and expenses associated therewith, (3) unearned premiums and (4) bad debts, which reserves shall be shown as liabilities.

(C) The commissioner may prescribe a uniform financial reporting system for all public employer self-insurance groups to ensure the accurate and complete reporting of groups' financial information.

(D) The commissioner may prescribe the format and frequency of other reports which may include, but shall not be limited to, payroll audit reports, summary loss reports, and quarterly financial statements.

section 11. (A) A group shall file with the commissioner its rating plan.

(B) Each group shall be audited at least annually by an auditor acceptable to the commissioner to verify proper rating. A report of the audit shall be filed with the commissioner in a form prescribed by the commissioner. A group or any member thereof may request a hearing on any objections to the rating. If the commissioner determines that as a result of an improper rating a member's premium contribution is insufficient, he shall order the group to assess that member an amount equal to the deficiency. If the commissioner determines that as a result



**ACTS, 1985. – Chap. 802.**

of an improper rating a member's premium is excessive, he shall order the group to refund to the member the excess collected. The audit shall be at the expense of the group.

Section 12. (A) Any monies for a fund year in excess of the amount necessary to fund all obligations, including reserves for claims and reserves for incurred but not reported claims for that fund year may be declared to be refundable by the board of trustees not less than six months after the end of the fund year.

(B) Each member shall be given a written description of the refund plan at the time of application for membership. A refund for any fund year shall be paid only to those employers who remain participants in the group for the entire fund year.

Section 13. (A) Each group shall establish to the satisfaction of the commissioner a premium payment plan in which at least thirty-three per cent of each members estimated net annual premium is payable at the start of the groups fund year and payment of the balance of each member's annual premium is payable within the first nine months of that fund year in monthly or quarterly installments.

(B) Each group shall establish and maintain actuarially appropriate loss reserves which shall include reserves for (1) known claims and expenses associated therewith and (2) claim incurred but not reported and expenses associated therewith.

Section 14. (A) If the assets of a group are at any time insufficient to enable the group to discharge its legal liabilities and other obligations and to maintain the reserves required of it under this chapter, it shall forthwith make up the deficiency or levy an assessment upon its members for the amount needed to make up the deficiency.

(B) In the event of a deficiency in any fund year, such deficiency shall be made up immediately, either from (a) administrative funds, (b) assessment of the membership, if ordered by the group or, (c) such alternate method as the commissioner may approve or direct.

(C) If the group fails to assess its members or to otherwise makeup such deficit within ninety days the commissioner shall order it to do so.

(D) If the group fails to make the required assessment of its members within ninety days after the commissioner orders it to do so, or if the deficiency is not fully made up within one hundred and twenty days after the date on which such assessment is made, or within such longer period of time as may be specified by the commissioner, the group shall be deemed to be insolvent.

Section 15. After notice and opportunity for a hearing, the commissioner may issue an order requiring a person or public employer self-insurance group to cease and desist from engaging in an act or practice found to be in violation of any provision of this chapter or of any rules or regulations promulgated thereunder.

Section 16. (A) After notice and opportunity for a hearing, the commissioner may revoke a public employer self-insurance group's certificate of approval if it (1) is found to be insolvent, (2) fails to pay any regulatory fee or assessment, imposed upon it, or (3) fails to comply with any of the provisions of this chapter, with any rules promulgated thereunder, or with any lawful order of the commissioner within the time



ACTS, 1985. – Chap. 803.

prescribed. In addition, the commissioner may revoke a group's certificate of approval if, after notice and opportunity for hearing, the commissioner finds that (a) any certificate of approval that was issued to the group was obtained by fraud; (b) there was a material misrepresentation in the application for the certificate of approval; or (c) the group or its administrator has misappropriated, converted, illegally withheld, or refused to pay over upon proper demand any monies that belong to a member, an employee of a member, or a person otherwise entitled thereto and that have been entrusted to the group or its administrator in its fiduciary capacities.

(B) Any ruling, order or decision of the commissioner under authority of this section shall be subject to review by appeal to the superior court department of the trial court at the instance of any party in interest, which appeal shall be on the basis of the record of the proceeding before the commissioner. Said court shall have jurisdiction to modify, amend, annul, review, or affirm such action, order, finding or decision, shall review all questions of fact and of law involved therein, and may make any other appropriate order or decree. Said court shall determine whether the filing of the appeal shall operate as a stay of any such order or decision of the commissioner.

Approved January 10, 1986.

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**Chapter 803. AN ACT ESTABLISHING A DISQUALIFICATION SYSTEM FOR THE SALE OF CERTAIN CITY AND TOWN PROPERTIES.**

Be it enacted, etc., as follows:

Section 77B of chapter 60 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by inserting after the second paragraph the following paragraph:—

Any officer or board which executes a deed to convey property acquired by a city or town by foreclosure of a tax title or under section eighty, shall not execute such deed to any person unless such person has submitted to said board or officer a statement signed under the pains and penalties of perjury that neither he nor any person who would gain equity in the property as a result of such conveyance has ever been convicted of a crime involving the willful and malicious setting of a fire or of a crime involving the aiding, counseling or procuring of a willful and malicious setting of a fire, or of a crime involving the fraudulent filing of a claim for fire insurance; or is delinquent in the payment of real estate taxes to the city or town in which the property is being sold, or if delinquent, that a pending application for abatement of such tax, or a pending petition before the appellate tax board or the county commissioners has been filed in good faith. If there is more than one grantee of such deed, each grantee must file such statement, and no such deed shall be valid unless it contains a recitation that the board or officer granting the deed has received such statement.

Approved January 10, 1986.



ACTS, 1985. – Chaps. 804, 805.

**Chapter 804. AN ACT RELATIVE TO THE AVAILABILITY OF  
RESPIRE CARE.**

Be it enacted, etc., as follows:

Section 43 of chapter 140 of the acts of 1985 is hereby amended by striking out the second, third, and fourth and sentences and inserting in place thereof the following two sentences:— All such agencies and departments which offer respite care services shall establish a system of sliding fees for such services, provided that agencies within the executive office of human services which provide respite care services to their clients shall exempt mentally and physically disabled clients from the provision of any system of sliding fees or other system of payment for such respite care services. Such system of sliding fees shall consider the income and resources of both the client and his family.

Approved January 10, 1986.

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**Chapter 805. AN ACT FURTHER REGULATING THE BORROWING  
POWER AND CERTAIN OTHER POWERS OF THE  
SOUTHEASTERN MASSACHUSETTS UNIVERSITY  
BUILDING AUTHORITY AND THE UNIVERSITY OF  
LOWELL BUILDING AUTHORITY.**

Be it enacted, etc., as follows:

**SECTION 1.** Section 1 of chapter 557 of the acts of 1961 is hereby amended by striking out paragraph (d), as amended by section 2 of chapter 685 of the acts of 1963, and inserting in place thereof the following paragraph:—

(d) The word "project" shall mean the construction or leasing of new buildings or structures and the acquisition, leasing, addition to, alteration, enlargement, reconstruction, rehabilitation, remodeling and other work in or upon or respecting existing buildings or structures, including but not limited to the alteration of existing facilities or the provision of additional or new facilities necessary or desirable in view of changed or new requirements of law or other circumstances such as, by way of example and not by way of limitation, use by or access for handicapped persons, conservation of energy, or improved safety or security of persons and property, 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 of 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.



**ACTS, 1985. – Chap. 805.**

**SECTION 2.** Said section 1 of said chapter 557 is hereby further amended by striking out paragraph (g), as amended by section 3 of chapter 708 of the acts of 1975, and inserting in place thereof the following paragraph:–

(g) The word "trustees" shall mean the trustees of the University of Lowell under section nine of chapter fifteen A of the General Laws, as inserted by chapter three hundred and twenty-nine of the acts of nineteen hundred and eighty, or if such trustees 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 and chapter seventy-five A of the General Laws with respect to the University shall be given by law.

**SECTION 3.** Said chapter 557 is hereby further amended by striking out section 3, as most recently amended by chapter 868 of the acts of 1975, and inserting in place thereof the following section:–

**Section 3. Purpose.** The Authority is created for the general purposes of aiding and contributing to the performance of the educational and other purposes of the University by providing dormitories, dining commons and other buildings, structures and facilities for the use of the University, its students and staff, their dependents, and others as hereinafter provided. Such use shall include, but not be limited to, use by an organization or association, in any form, of students or others the activities of which are a part of the activities of the University and subject to regulation by the trustees or use by a research foundation or other research organization the operation of which in conjunction with the University is approved by the trustees, or use by any other entity whose activities are approved by the trustees as furthering the purposes of the University; such use may be in the discretion of the Authority be in the form of a lease of facilities to such organization, association, research foundation or other research organization. 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 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 are 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 an organization or association of students or others, a research foundation or other research organizations or other entity as above defined.

**SECTION 4.** Section 4 of said chapter 557 is hereby amended by striking out clause (g) and inserting in place thereof the following clause:–

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

**SECTION 5.** Said section 4 of said chapter 557 is hereby further



**ACTS, 1985. – Chap. 805.**

amended by striking out clause (i), as amended by section 6 of chapter 684 of the acts of 1963, 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 6.** Said section 4 of said chapter 557 is hereby further amended by striking out clause (n) and inserting in place thereof the following clause:–

(n) To invest any fund 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 by any other agency or corporation which has been or is hereafter created pursuant to an act of the 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 by obligations described in subclauses (i) and (iii) 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 7.** Clause (a) of section 5 of said chapter 557 is hereby amended by inserting after the word "Lowell", in line 2, the words:– or in other sites off the campus of the University.

**SECTION 8.** Section 7 of said chapter 557 is hereby amended by striking out the first paragraph, as most recently amended by section 1 of chapter 189 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, including the payment of all or any part of the cost of a project, the payment of interest on notes or bonds of the Authority, the establishment of reserves to secure such



**ACTS, 1985. – Chap. 805.**

bonds and notes, including the reserve funds created pursuant to section ten, and the payment of all other expenditures of the Authority incident to or necessary or convenient to the execution of its corporate purposes and powers, for the purpose of refunding outstanding indebtedness of the Authority incurred under this act or any other authority; 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 forty-two million dollars.

**SECTION 9.** The third paragraph of said section 7 of said chapter 557, as most recently amended by section 1 of chapter 738 of the acts of 1974, is hereby further amended by striking out, in line 4, the word "three" and inserting in place thereof the word:– five,– and by striking out, in line 10, the word "seven" and inserting in place thereof the word:– ten.

**SECTION 10.** The fourth paragraph of said section 7 of said chapter 557 is hereby amended by striking out the second sentence and inserting in place thereof the following two sentences:– Bonds issued hereunder 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 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 557 is hereby amended by striking out the fifth and sixth sentences.

**SECTION 12.** The sixth paragraph of said section 7 of said chapter 557 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 or for the payment of the principal amount of the bonds or notes which they are issued to refund, together with accrued interest, premium if any, and related fees and expenses, 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 557 is hereby further amended by striking out section 10, as most recently amended by section 13 of chapter 868 of the acts of 1975, 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 under section seven.



ACTS, 1985. – Chap. 805.

Such guaranty shall be executed on each bond by an officer of the trustees. Each such contract shall contain such limitations as to the cost of the project or projects, if any, to be financed by the bonds to be guaranteed under this section 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 on any one issue or series of bonds secured by a single trust agreement in any year after the twelfth year next succeeding the year in which such issue or series of bonds was issued, and the term "year" shall mean a calendar year.

Such annual series requirement shall be in effect as to any issue or series of bonds for and only for the twelve years next succeeding the year in which the same was issued. 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 issues or series of bonds of which are outstanding on the first day of such year minus or plus, as the case may be, the excess or deficiency 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, over or under the aggregate of all annual series requirements in effect for prior years in respect of all 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 under the trust agreement 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 the 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 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



ACTS, 1985. – Chap. 805.

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 issue or series of bonds entitled to the benefits thereof, 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 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 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 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 issue 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.

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, that the total amount of notes and bonds so guaranteed shall not exceed forty-two million dollars in the aggregate for all projects of the Authority, exclusive of bonds and notes previously refunded or being or to be refunded thereby.

**SECTION 14.** Section 1 of chapter 703 of the acts of 1964, as most recently amended by chapter 347 of the acts of 1970, is hereby amended by striking out paragraph (d) and inserting in place thereof the following paragraph:—

(d) "Project", the construction or leasing 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



**ACTS, 1985. – Chap. 805.**

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 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.

**SECTION 15.** Said chapter 703 is hereby further amended by striking out section 3, as most recently amended by section 14 of chapter 868 of the acts of 1975, 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 University by providing dormitories, dining commons and other buildings, structures, and facilities for the use of the University, its students, staff and their dependents, which may be located at such place or places as the trustees may 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 are designed primarily to provide facilities for the housing, feeding, medical care or extracurricular use by students, staff and dependents or facilities for use by an organization or association of students or others, a research foundation or other research organization, or other entity as above defined.

**SECTION 16.** Section 4 of said chapter 703 is hereby amended by striking out clause (g), as amended by section 19 of chapter 513 of the acts of 1978, 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 including to finance and refinance the costs of projects 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.



ACTS, 1985. – Chap. 805.

**SECTION 17.** Clause (i) of said section 4 of said chapter 703 is hereby amended by inserting after the word "acquire", in line 1, the words:– by lease, purchase or otherwise, provided that the Authority shall have no power to acquire property by an eminent domain proceedings.

**SECTION 18.** Said section 4 of said chapter 703 is hereby further amended by striking out clause (n), as amended by section 3 of chapter 665 of the acts of 1966, and inserting in place thereof the following clause:–

(n) To invest any funds held by its pending disbursements, 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 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 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 said 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 19.** Section 7 of said chapter 703 is hereby amended by striking out the first, second, third and fourth paragraphs and inserting in place thereof the following four paragraphs:–

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 for achieving any of its corporate purposes or for the purpose of refunding outstanding indebtedness of the Authority incurred under this 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 forty million



**ACTS, 1985. – Chap. 805.**

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.

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 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.

The Authority is further authorized, subject to such conditions, limitations and restrictions as may be set forth in the resolution or resolutions authorizing or the trust agreement or agreements securing any bonds or notes theretofore issued, to provide by resolution at one time or from time to time for the issue under this act of such additional bonds for the above purposes as may hereafter be authorized by the general court.

**SECTION 20.** 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 21.** Said chapter 703 is hereby further amended by striking out section 10, as most recently amended by chapter 868 of the acts of 1978, 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



ACTS, 1985. – Chap. 805.

corporate purposes or to refund outstanding indebtedness of the Authority incurred under this act or any other authority for any such purposes. 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 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 such 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



**ACTS, 1985. – Chap. 805.**

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 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



**ACTS, 1985. – Chap. 806.**

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 forty million dollars in the aggregate, exclusive of bonds and notes refunded or being funded thereby.

**SECTION 22.** The division of capital planning and operations is hereby authorized, in the name and on behalf of the commonwealth, located on the campus of the University of Lowell Building Authority, for a nominal sum, two parcels of real property of the commonwealth, located on the campus of the University of Lowell in the City of Lowell and under the control of the trustees of the University of Lowell, the first such parcel of real property being the land and building thereon known as Concordia Hall and the second parcel of such real property being the land and building thereon known as the South Campus Cafeteria.

Approved January 10, 1986.

EMERGENCY LETTER: January 24, 1986 @ 1:37 P.M.

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**Chapter 806. AN ACT RELATIVE TO UNINSURED MOTOR VEHICLES.**

Be it enacted, etc., as follows:

**SECTION 1.** Section 34J of chapter 90 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:– Whoever operates or permits to be operated a motor vehicle which is subject to the provisions of section one A during such time as the motor vehicle liability policy or bond or deposit required by the provisions of this chapter has not been provided and maintained in accordance therewith shall be punished by a fine of not less than three hundred dollars nor more than one thousand five hundred dollars or by imprisonment for not more than one year in a house of correction, or both such fine and imprisonment; provided, however, that any municipality that enforces the provisions of this section shall retain two hundred dollars of any such fine.

**SECTION 2.** Said chapter 90 is hereby further amended by inserting after section 34 O the following section:–

Section 34P. The registrar after receipt of a notice as referred to in section thirty-four H, that a motor vehicle which is subject to the provisions of section one A and for which a motor vehicle liability policy or bond or deposit required by the provisions of this chapter has not been provided and maintained in accordance therewith, and upon the effective date of revocation pursuant to said section thirty-four H, shall notify state law enforcement agencies and the municipal police department of



ACTS, 1985. – Chap. 807.

the city or town of principal garaging of said motor vehicle of such failure to provide and maintain said policy or bond or deposit. Further, such notice shall include the name and address of the owner of the motor vehicle and the address of the principal place of garaging.

State law enforcement personnel or the police of the city or town in which such motor vehicle is so garaged shall, upon receipt of said notice from the registrar seize the registration plates in use on said motor vehicle and return them forthwith, unless the owner shall present a notice of reinstatement from the insurer or evidence of a new motor vehicle insurance policy dated at least two days prior to the effective date of revocation pursuant to section 34H.

Approved January 10, 1986.

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**Chapter 807. AN ACT ESTABLISHING PROCEDURES FOR THE ADOPTION OF HOME RULE CHARTERS BY COUNTIES.**

**Whereas**, The deferred operation of this act would tend to defeat its purpose, which is to immediately provide for counties to study and adopt home rule charters, 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:

The General Laws are hereby amended by inserting after chapter 34 the following chapter:–

**CHAPTER 34A.  
COUNTY CHARTER PROCEDURES.**

Section 1. This chapter may be cited as the "County Charter Procedures Act". As used in this chapter, the terms "board of registrars of voters", "city council", and "board of selectmen" shall include any local authority of different designation performing like duties.

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

Section 3. (A.) Whenever authorized by resolution of the county commissioners or by the advisory board on county expenditures, or on petition of the registered voters of any county, except in Barnstable county an election shall be held in the county upon the question, "Shall a charter study commission be created to study the present governmental structure of ... 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. The petition shall be filed with the state secretary not later than the last Tuesday in February in the year which



**ACTS, 1985. – Chap. 807.**

the question is to appear on the state election ballot. Such petition may consist of a number of separate sheets, but each sheet shall be in substantially the form prescribed therefore in section fourteen and shall be signed in accordance with the instructions contained therein. The state secretary shall furnish forms for such petition to any registered voter of the county requesting the same; no sooner than six months prior to the date by which the petition is to be filed with the state secretary. The signature contained on said petition shall be certified by the board of registrars of voters of the cities and towns in the county prior to the filing of said petition with the state secretary. Such certification shall be performed in the manner prescribed for the certification of signatures on nominating petitions, under section seven of chapter fifty-three. Any petition or separate sheet of a petition submitted for certification shall be processed and returned to the person who submitted it within ten days after the submission. Objections to the sufficiency and validity of the signatures on any such petition as certified by the boards of registrars of voters shall be made in the same manner as provided by law for objections to nominations for county offices. Upon the filing with the state secretary of a petition under section three, the state secretary shall furnish a receipt for the same to the person or persons filing the petition, and within thirty days after the filing of any such petition which contains the necessary number of certified signatures, the state secretary shall notify the city council of each city in such county and the board of selectmen of each town in such county that the question of the adoption or revision of a charter under this chapter is to be submitted to the voters of such county; provided, however, that no election of the charter commission may be held on the nineteen hundred and eighty-six state election on petition of the registered voters as provided in subsection A of section three and subsection B of section three and shall be inapplicable in the year nineteen hundred and eighty-six.

(C.) When a resolution or petition for the creation of a charter study commission has been duly filed with the county commissioners no other resolution or petition and no other proceedings for the adoption of any other charter or form of government available to the county may be filed unless the voters shall decide the aforesaid question in the negative or until the charter study commission created by the voters shall have been discharged.

section 4. (A.) At the same election as the public question is submitted, fifteen members of a charter study commission shall be elected by the county's registered voters. The voting instructions shall state that the voter may vote on the question and that, regardless of how and whether he voted on the charter question, he may vote for members of the charter study commission who shall serve if the question is determined in the affirmative.

(B.) The ballots to be used in such county at such election shall be prepared and furnished by the state secretary in accordance with the requirements of this chapter and of chapter fifty-four. The charter commission candidates shall appear on the ballot as the last candidates to be elected. The question in subsection (A) of section three shall be the first question on the ballot and shall be designated by the letter "A".



**ACTS, 1985. – Chap. 807.**

(C.) Said election shall be a statewide general election.

Section 5. (A.) Candidates for the charter commission shall be persons who are registered voters of such county in which they are a candidate.

(B.) The signatures of three hundred registered voters residing in such county shall be required to nominate at-large charter commission members, and signatures of one hundred and fifty registered voters residing in the district shall be required to nominate district charter commission members. Nominating papers containing required number of signatures shall be filed with the state secretary not later than the tenth Tuesday prior to the election in which charter commission members are to be chosen. Nominations for charter commission members shall be governed by the provisions of chapter fifty-three which are applicable to nominations for state office, except that no party or political designations shall be used and that the eight-word statements provided for in section forty-five of chapter fifty-three shall not be used. The clerk of each city and town in such county shall furnish to each candidate for charter commission upon request one copy of the list of registered voters of such city or town and one copy of the list of residents provided for in section six of chapter fifty-one.

Section 6. (A.) A charter commission shall consist of fifteen registered voters of such county elected by official ballot, without party or political designation, at an election held in accordance with relevant provisions of general law and this chapter. In addition, each county commissioner, or his designee, and the chairman of the county advisory board, or his designee, shall be non-elected members of the charter commission. In order to take into account widely differing population sizes of counties, charter commission members shall be elected at large or individually by district or both as follows: where the inhabitants of a county number less than fifty thousand persons, the election of all charter commission members in such county shall be at large; where the inhabitants of a county number at least fifty thousand but less than two hundred thousand persons, five charter commission members shall be elected at large and ten shall be elected by district; where the inhabitants of a county number two hundred thousand persons or more, the election of all charter commission members shall be by district.

The boundaries of the districts, for the purposes of electing charter commission members, shall be determined by the state secretary; not later than June first of the year in which members are to be elected, by dividing the county into districts of contiguous territory so that each representative shall represent an equal number of inhabitants, as nearly as may be.

Such districts shall also be so formed that no town containing less than six thousand inhabitants shall be divided.

(B.) For the purpose of this section, population shall be determined from the latest federal or state census. The names of the at-large candidates and the names of the candidates from each district nominated in accordance with section five shall be placed on such ballot in alphabetical order, preceded by the instruction in subsection A of section four.

(C.) The provisions of chapter fifty-four regarding votes on



**ACTS, 1985. – Chap. 807.**

amendments to the constitution shall govern the canvassing and counting of votes on the question and the custody and disposition of ballots and related records.

(D.) The secretary shall provide a thirty day comment and review period prior to a final determination of district boundaries.

Section 7. The commission member who received the highest number of votes shall convene the first meeting of the charter commission as soon as possible but in no event later than fifteen days after certification of the results of the state election by the governor and governor's council. If said member does not act, the state secretary shall designate another member of the charter commission to convene the first meeting. At that meeting the charter commission shall promptly organize by the election from among its members of a chairman, a vice chairman, a treasurer and a clerk and shall file a notice of such organization with the secretary of the commonwealth. If no notice of organization is received by the state secretary within twenty-four days after the organizational meeting he shall designate a charter commission for such purpose. A charter commission shall continue to exist until thirty days after the election at which its charter adoption or revision proposal, if any, is required to be submitted to the voters under this chapter or until thirty days after submission to the state secretary of a final report recommending no new charter or revision.

If any member dies, resigns or ceases to be a registered voter of such county or the district of such county from which such member was elected, such vacancy shall be filled by the unsuccessful candidate who received the greatest number of votes in the election of said charter commission member. If the vacancy cannot be filled in this manner, the remaining members of the charter commission shall fill the vacancy. The commission may continue to act notwithstanding the existence of any vacancy. Members shall serve without compensation but shall be reimbursed from the commission's account for expenses lawfully incurred by them in the performance of their duties.

Section 8. It shall be the function and duty of the charter commission to study the form of government of the county, to compare it with other forms available under the laws of this state, to determine whether or not in its judgment the government of the county could be strengthened, made more clearly responsive or accountable to the people or whether its operation could be more economical or efficient, under a changed form of government.

Section 9. (A.) A charter commission may adopt rules governing the conduct of its meetings and proceedings and may employ such legal, research, clerical or other employees, who shall not be subject to the provisions of chapter thirty-one, or consultants as its account may permit. In addition to funds made available by a county the charter commission account may receive funds from any other source, public or private, provided, however, that no contribution of more than five dollars shall be accepted from any source other than the county unless the name and address of the person or agency making the contribution, the amount of the contribution and the conditions or stipulations as to its



**ACTS, 1985. – Chap. 807.**

receipt or use, if any, are disclosed in writing filed with the office of the county commissioners. The consent of a charter commission to any such condition or stipulation shall not be binding upon the county. Within thirty days after submission of its final report the charter commission shall file with the office of the county commissioners a complete account of all its receipts and expenditures for public inspection. Any balance remaining in its account shall be credited to such county's surplus revenue account.

(B.) Each such county shall provide its charter commission, free of charge, with suitable office space, and each county, and each city and town within the county shall provide the county charter commission free of charge, with reasonable access to facilities for holding public hearings.

The board of commissioners and the advisory board on county expenditures shall, upon request of the county charter commission contribute reasonable clerical and other assistance to such commission, to supplement the resources of the commission provided for in this chapter, and each county and each city and town within the county, shall permit the charter commission to consult with and obtain advice and information from county, city, or town officers and employees during ordinary working hours.

Within twenty days after the election of a charter commission the county treasurer shall credit to the account of the charter commission, with or without appropriation, the sum of thirty-five thousand dollars, provided, however that, in no event shall a county or its treasurer provide said commission with more than one-tenth of one per cent of the total county budget unless said appropriation has been approved by the advisory board on county expenditures.

If payment is to be made after the annual tax levy of the county, it shall be provided by transfer from available funds, or by exercise of emergency borrowing powers without, however, any reference of the question to the registered voters of the county. In any other county, such sum shall be levied against the cities and towns in the county in proportion to their respective borrowing limits, as determined under the provisions of chapter forty-four. Such levies shall be met in the manner provided in subsection (b) of section eight of chapter forty-three B. A county through its advisory board on county expenditures may appropriate additional funds for its charter commission provided the aggregate contribution to the charter commission does not exceed five times the initial contribution required under this section.

Section 10. (A.) In any county in which a charter commission has been established under this chapter, the members of the advisory board on county expenditures shall have the right to participate in the deliberations of the charter commission, but without the right to vote; except the chairman of the advisory board on county expenditures as provided in section six, on commission recommendations or to endorse or dissent from any report of the commission by virtue of their official advisory role, although this shall in no way be deemed to inhibit their comments as individuals after release of the charter commission report, or as an elected member of a charter commission.

(B.) The secretary of administration or his designee shall serve



ACTS, 1985. – Chap. 807.

ex-officio as nonvoting advisor on all charter commissions established under this chapter. It shall be his duty to collect, evaluate and transmit to each commission such information, advice, plans, and policies as he may deem pertinent to county government and its relationship to the state and municipal government. He shall meet with the commission as frequently as the commission shall request in order to assist the commission in determining the best form to recommend for the county's government.

section 11. (A.) The charter commission shall hold public hearings, sponsor public forums and otherwise provide for the widest possible dissemination of information and the stimulation of public discussion respecting the purposes and progress of its work.

(B.) The charter commission shall report its findings and recommendations to the citizens of the county on or before the eighteenth calendar month next following the date of its election in the form of a final report which it shall file with the county clerk who shall distribute it to all elected county and municipal officials, all members of the counties' legislative delegation, and the state secretary.

In addition there shall be printed and made available at cost to the public at large a number of copies equal to at least one-tenth of one per cent of the county's registered voters as of forty days before the most recent primary or general election.

The commission shall publish in two newspapers of known general circulation within said county on two successive weeks the full text of the proposed charter, together with a summary of its finding and recommendations, a summary of the provisions of the plan, if any, which it recommends for approval, and an analysis of and commentary on such plans.

section 12. (A.) The charter study commission may report and recommend:

(i) That a referendum be held to submit to the voters of the county the question of adopting one of the optional forms of the government set forth in sections seventeen, eighteen, and nineteen of this chapter that the commission has designated; or (ii) That the charter commission shall petition the legislature for the enactment of a special charter, the text of which shall be appended to the charter commission's report; or (iii) That the form of government of the county remain unchanged.

The commission may also draft and submit to the commissioners whatever recommendations it deems appropriate for the efficient administration of the county. Such recommendations may include a model administrative code. Such recommendations may be adopted by the commissioners in whole or in part whether or not a new charter is recommended by the commission or approved by the voters.

(B.) If the charter commission shall vote to recommend adoption of one of the optional forms set forth in sections seventeen, eighteen, and nineteen of this chapter, it shall also consider and make findings with respect to each of the three subjects set forth below, and determine which plan would provide the best representation of the people of the county. The final report shall set forth said findings and determinations in detail.



**ACTS, 1985. – Chap. 807.**

(i) Commissioners, number and term. The commission shall make recommendations as to changes if any in the number and terms of service of the county commissioners.

(ii) The commission shall recommend either a continuation of the present system of nonconcurrent terms or the adoption of a new system of concurrent terms.

(iii) Constituencies. The commission can recommend that the commissioners be elected at large or that they be elected by districts.

Section 13. (A.) If the charter commission shall have recommended the adoption of one of the optional forms of government authorized by this chapter; the charter commission shall notify the state secretary by the first Wednesday in August to place the following referendum question on the election ballot.

"Shall the (designate the caption of section \_\_\_\_\_ of the County Charter Procedures Act) be adopted for ..... county, with the provision for a board of commissioners of \_\_\_\_\_ members elected for (concurrent or non-concurrent as the case may be) terms and elected (at large, or from districts)?"

The commission may specify that the question be submitted at a general election occurring not less than sixty days or more than two hundred and forty days next following such filing of the report. At such election, the referendum question shall appear on the ballot in the same manner as other public questions are printed on the ballot. The attorney general shall prepare the summary to accompany such question.

(B.) If the charter commission shall have proposed a special charter, it shall be the duty of the commission to petition the legislature forthwith for a special law or laws, pursuant to the state constitution and in the manner provided by general enabling legislation thereunder, to carry out the recommendations of the charter commission.

Upon enactment of such enabling legislation, the special charter shall be submitted to the voters of the petitioning county for adoption in a manner provided in subsection (A), or as may otherwise be appropriate. No special charter shall become operative unless approved by a majority of all votes cast on the question.

section 14. The charter may be revised or amended in the same manner as provided for in its original adoption by section three.

(a) A petition for the adoption or revision of a charter shall: conform with the requirements of subsection (c) and shall have a sentence in substantially the following form at the top of each page.

Each of the undersigned requests that the county revise its present charter or adopt a new charter, and each of the undersigned certifies that he is a registered voter of said county whose residence addresses at the times set forth below were as shown below, and that he has not signed this petition more than once.

(b) A petition suggesting a charter amendment under this section shall conform with the requirements of subsection (c) and shall have a sentence in substantially the following form at the top of each page.

Each of the undersigned requests that the charter commission propose the charter amendments attached hereto to the voters of the county.

Each of the undersigned certifies that he is a registered voter of said



ACTS, 1985. - Chap. 807.

county whose residence addresses at the times set forth below were as shown below, and that he has not signed this petition more than once.

(c) All petitions shall require the following information to be furnished by each signer in accordance with the following instructions which shall be printed on each page:

Name*	Present Address (Street and Number)	Registered Address (Street and Number January 1, 19 **)
_____	_____	_____
_____	_____	_____
_____	_____	_____

Instructions:

\*Written signature to voter to be supplied; provided that a registered voter prevented from writing by physical disability may authorize another person to write his signature and address.

\*\*If a voter was registered later than this date, the registered address on such later date shall be used.

If a petition is expected to be filed on or after July fifteenth of any year, the registered address on the preceding January first shall be used. If a petition is expected to be filed before July fifteenth of any year, the registered address on the second preceding January first shall be used.

No petition shall contain or be accompanied by any indication of party or political designation.

(A) Duplicate certificates shall be prepared setting forth any charter amendments approved, and shall be signed by the state secretary. One such certificate shall be deposited in the office of the state secretary and another shall be recorded in the records of the county and deposited among its archives. All courts may take judicial notice of the charter and charter amendments of the county.

The executive body of the county shall, at intervals of not greater than ten years, cause the charter of said county as revised or amended to be reprinted for distribution to such registered voters of said county as may apply therefor at the office of the executive body of the county. Acts of the general court which are included in such charter may be referred to by appropriate subject headings and statutory citations instead of being set forth at length. Copies of said document may be sold at a price not to exceed the cost of paper, printing and binding thereof, plus mailing charges if any, as determined by the county executive body.

(B) A new charter or charter revision approved by a majority of the voters of the county voting thereon shall take effect on the day specified in such charter or revision, and any proposed amendment to be approved shall take effect upon the date specified therein. If two or more charter adoption, revision or amendment proposals are submitted to the voters in the alternative and are approved, only the alternative proposal receiving



ACTS, 1985. -- Chap. 807.

the highest number of affirmative votes shall take effect. If two or more charter adoption, revision or amendment proposals containing conflicting provisions are submitted to the voters, but not as alternatives, and are approved, all such proposals shall take effect, but the proposal receiving the highest number of affirmative votes shall be construed to prevent all conflicting provisions containing in other proposals from taking effect.

Section 15. Upon adoption by the registered voters of any county, except Barnstable county: of any optional form of government set forth in this chapter, the county shall thereafter be governed by the plan adopted, by the provisions of this chapter applicable to all optional plans and by all general laws, subject to provisions of this chapter.

(B.) For the purposes of this chapter, a "general law" shall be deemed to be such a law or part thereof, heretofore or hereafter enacted, that:

(i) is not inconsistent with this chapter; and (ii) is by its terms applicable to or available to all counties, or, (iii) is applicable to all counties or to any category or class of counties and deals with one or more of the following subjects: the administration of the judicial system, education, elections, health, county public authorities, taxation, and finance, and welfare.

(C.) Except as it relates to judicial or penal administration, or the administration of the registry of deeds nothing in this chapter shall be construed to prevent counties from abolishing or consolidating agencies the existence of which has heretofore been mandated by general law provided that if such abolition or consolidation shall alter the obligation of the county to continue services theretofore rendered by such abolished or consolidated agency, said alteration must be approved by the general court prior to taking effect.

(D.) The intent of this chapter is to enable a county that has adopted a charter pursuant to this chapter to cause any duty that has been mandated to it by the General Laws to be performed in the most efficient and expeditious manner, and, absent a clear legislative declaration to the contrary, without regard to organizational structural, or personnel provisions contained in prior general law, and further, the intent of this chapter is to encourage a review of the functions which a county provides.

Section 16. (A.) Any county that has adopted a charter pursuant to this chapter may, in accordance with the provisions of such charter, and subject to the provisions of general law and the Constitution of the Commonwealth of Massachusetts.

(i) Organize and regulate its internal affairs; create, alter, abolish offices, positions and employments and define functions, powers and duties thereof; establish qualifications for persons holding offices, positions and employments; and provide for the manner of their appointment and removal and for their term, tenure and compensation.

(ii) Adopt, amend, enforce, and repeal ordinances and resolutions notwithstanding the effect of any referendum conducted prior to the county's adoption of its charter pursuant to this chapter.

(iii) Construct, acquire, operate and maintain public improvements, projects or other enterprises for any public purposes, subject to such



ACTS, 1985. – Chap. 807.

referendum as may otherwise be imposed by law.

(iv) Exercise powers of eminent domain, borrowing and taxation only as provided by general law;

(v) Exercise all powers of county government in such manner as its board of commissioners and advisory board on county expenditures may determine.

(vi) Sue and be sued, have a corporate seal; contract and be contracted with, buy, sell, lease, hold and dispose of real and personal property; appropriate and expend monies for county purposes;

(vii) Contract with or sign agreements with other governmental units for the provision of joint, coordinated, or cooperative service provision.

(B.) Nothing in this chapter shall be construed to impair or diminish or infringe on the powers and duties of cities and towns under the General Laws. It is the intent of this chapter only to permit cities and towns to employ services and facilities of the county for more effective, efficient and adequate provision of services if and when cities and towns may deem it desirable to do so. Cities and towns are and shall remain the broad repository of local police power in terms of the right and power to legislate for the general health, safety, and welfare of their residents.

(C.) The grant of powers under this act is intended to be as broad as consistent with the construction of the Constitution of the Commonwealth of Massachusetts and the General Laws relating to local government. The grant of powers shall be construed as liberally as possible in regard to the county's right to reorganize its own form of government, to reorganize its structure and to alter and abolish its agencies, subject to the general mandate of performing services whether they be performed by the agency previously established or by a new agency or other department of county government. Based on the need to develop effective services to meet problems which cross city or town boundaries and which cannot be met effectively on an individual basis by the cities and towns, or the state, this chapter shall be construed as intending to give the county power to establish innovative programs and to perform such regional services as the Constitution of the Commonwealth of Massachusetts and the General Laws permit and to establish such other programs and services as may from time to time be permitted.

Section 17. (A.) Form of Government.

(i) The form of government provided in this section shall be known as the "county executive plan," and shall together with sections fifteen, sixteen and twenty of this chapter, govern any county whose voters have adopted it pursuant to this chapter.

(ii) Elected officers; governing body defined; exercise of administrative or executive functions by county executive.

(a) Each county operating under this section shall be governed by an elected board of commissioners and an elected county executive and by such other officers and employees as may be duly appointed pursuant to this act, general law, or ordinance.

(b) In each county operating under this section the term "governing body" of the county shall be construed to include both the commissioners and the county executive. For the purpose of the construction of any



ACTS, 1985. – Chap. 807.

applicable law, any and all administrative or executive functions heretofore assigned by general law to the commissioners shall be exercised by the county executive, and any and all legislative and investigative functions heretofore assigned by general law to the commissioner shall be exercised by the board.

(B.) County Executive.

(i) The county executive shall be a qualified voter of the county residing in the county. He shall be elected from the county at large for a term of four years commencing on January first, next following his election.

(ii) The salary of the county executive shall be fixed by ordinance of the commissioners; such salary shall be reasonable and commensurate with the duties of the office and with the fact that the position of county executive is and shall be a full-time position. The salary of the county executive may not be lowered during his tenure in office.

(iii) The office of county executive shall be deemed vacant if the incumbent moves his residence from the county or he is by physical or mental illness or other casualty unable to continue to serve as county executive. Any vacancy in the office of county executive shall be filled in the manner prescribed by law for the election of county officers at the next general election occurring not less than sixty days after the occurrence of the vacancy. The commissioners may appoint one of their number or the chief administrator to serve as acting county executive until a successor has been elected. During the temporary absence or temporary disability of the county executive the chief administrator shall serve as acting county executive.

(iv) The executive power of the county shall be exercised by the county executive. He shall:

(a) Report annually to the board of commissioners, the advisory board on county expenditures and to the people on the state of the county, and the work of the previous year; he shall also recommend to the board of commissioners whatever action or programs he deems necessary for the improvement of the county and the welfare of its residents. He may from time to time at his discretion recommend any course of action or programs he deems necessary or desirable for the county to undertake;

(b) Prepare and submit to the board of commissioners and advisory board for consideration and adoption an annual operating budget and a capital budget and a capital program, establish the schedules and procedures to be followed by all county departments, offices and agencies in connection therewith, and supervise and administer all phases of the budgetary process;

(c) Enforce the county charter, the county's laws and all general laws applicable thereto;

(d) Supervise the care and custody of all county property, institutions and agencies;

(e) Supervise the collection of revenues, and audit and control all disbursements and expenditures and shall prepare a complete account of all expenditures. He shall also designate the repositories of county funds;

(f) Sign all contracts, bonds or other instruments requiring the consent of county;



ACTS, 1985. – Chap. 807.

(g) Review, analyze and forecast trends of county services and finances and programs of all boards, commissions, agencies and other county bodies, and report and recommend thereon to the board;

(h) Develop, install and maintain centralized budgeting, personnel and purchasing procedures as may be authorized by the administrative code;

(i) Negotiate contracts for the county subject to board and, where appropriate, advisory board approval; make recommendations concerning the nature and location of county improvements and execute improvements determined by the board;

(j) Assure that all terms and conditions, imposed in favor of the county or its inhabitants in any statute, franchise or other contract, are faithfully kept and performed;

(k) Serve as an ex-officio nonvoting member of all appointive bodies in county government;

(v) The county executive:

(a) Shall supervise, direct and control all county administrative departments;

(b) With the advice and consent of the board of commissioners, shall appoint the county-counsel, the administrator, the heads of all departments and any divisions created within such departments, and the members of all county boards, commissions and authorities;

(c) May, at his discretion, remove or suspend any official in the unclassified service of the county over whose office the county executive has power of appointment;

(d) May, at his discretion, but subject to any pertinent provision of the general laws or civil service regulations, delegate to department heads powers of appointment and removal of their departmental employees. If the county executive does not so delegate his power he may appoint and remove, subject to civil service regulations, all employees;

(e) May require reports and examine the accounts, records and operations of any agency of county government;

(f) May, at his discretion, order any agency under his jurisdiction to undertake any task for any other agency on a temporary basis if he deems it necessary for the proper and efficient administration of county government to do so;

(g) Shall approve each ordinance of the board of commissioners by signing it, or may veto any ordinance by returning it to the clerk of the board within ten days of passage with a written statement of his objections to the ordinance. If two-thirds of the full membership of the board, upon reconsideration of the measure, shall vote for it, the executive's veto shall be overridden and the ordinance shall become law without the executive's signature in accordance with the provisions of law.

(C.) Board of Commissioners.

(i) The legislative power of the county shall be vested in the board of commissioners. Such legislative power shall be exercised by ordinance, except for the exercise of the following powers which are required to be or are permitted to be, exercised by resolution:

(a) The conduct of an inquiry; or investigation;

(b) The expression of disapproval of the suspension or dismissal of



ACTS, 1985. – Chap. 807.

officers or employees;

(c) The exercise of the power of advice and consent to actions of the executive;

(d) The override of a veto of the county executive;

(e) The adoption of rules for the board;

(f) The establishment of times and places for board meetings;

(g) The establishment of the board as a committee of the whole and the delegation of any number of its members as an ad hoc committee;

(h) The declaration of emergencies;

(i) The identification of emergency situations;

(j) The establishment of county personnel policies;

(k) Designation of newspapers; for required advertisements and notices;

(l) The appointment and removal of such officers and employees as the board is permitted by law;

(m) Approval of contracts presented by the county executive;

(o) Actions specified as resolutions; and

(p) The expression of such board policies or opinions as require no formal action by the governing body.

(ii) At its organizational meeting each January the board shall select one of its members to serve as chairman and one as vice-chairman for the year.

(iii) The county executive may be present and participate in the discussions at all board meetings.

(iv) The board of commissioners.

(a) Shall advise and consent to all appointment by the executive for which board confirmation is specified under this article;

(b) Shall pass in accordance with this chapter whatever ordinances and resolutions it deems necessary and proper for the good governance of the county;

(c) Shall appoint a clerk to the board who shall keep the records and minutes of the board, and who shall serve at the pleasure of the board or for such term, not to exceed three years, as may be provided by the commissioners provided, however, that an ordinance providing for the adoption of any such term shall not be enacted between October first of any year and January first of the succeeding year;

(d) May appoint counsel to the board, if such position is created by the administrative code, to serve at the pleasure of the board;

(e) May pass a resolution of disapproval or dismissal;

(f) May override a veto of the county executive by a two-thirds vote of its full membership;

(g) Shall approve the annual operating and capital budgets, prior to presenting the budgets for advisory board appropriation.

(D.) Chief Administrator.

(i) The county executive shall appoint a chief administrator who shall serve at his pleasure. The board shall advise and consent to his nomination but shall not prevent his suspension or dismissal by passage of a resolution of disapproval.

(ii) The chief administrator shall by education, experience and ability be qualified to perform the duties established for him.



**ACTS, 1985. – Chap. 807.**

He need not be a resident of the county at the time of his appointment, but during his tenure he may live outside the county only with the permission of the county executive.

(iii) The chief administrator shall be responsible only to the executive. He shall, under the direction and supervision of the executive, undertake to assist in the orderly and efficient administration of the county, performing whatever supervisory or administrative duties the executive deems necessary and proper.

Nothing in this section shall be deemed to prohibit the chief administrator's being appointed to head one or more departments on a temporary or permanent basis.

**Section 18. (A.) Form of Government.**

(i) The form of government provided in this section shall be known as the "county manager plan," and shall, together with sections fifteen, sixteen and twenty of this chapter, govern any county whose voters have adopted it pursuant to this chapter.

(ii) Each county operating under this section shall be governed by an elected board of commissioners and an appointed county manager and by such other officers and employees as may be duly appointed pursuant to this section, the general laws, or ordinance.

**(B.) County Manager.**

(i) The county manager shall be qualified by administrative and executive experience and ability to serve as the chief executive of the county. He shall be appointed by a majority vote of the commissioners and shall serve for an indefinite term. He may be removed by a majority vote of the board subject to due notice and a public hearing. Such notice shall be in writing and shall be accompanied by a written bill of particular charges and complaints and said public hearing on these charges shall be held no less than fifteen nor more than thirty days after personal service of notice and charges.

At the time of his appointment the manager need not be a resident of the county but after his appointment he may reside outside the county only with permission of the board.

(ii) The salary of the county manager shall be fixed by the commissioners; such salary shall be reasonable and commensurate with the fact that the position of county manager is and shall be a full-time position. The salary of the county manager may not be lowered during his tenure in office.

(iii) The office of county manager shall be deemed vacant if: the incumbent moves his residence from the county without board permission; or he is by physical or mental illness or other casualty unable to continue to serve as county manager. Any vacancy in the office of county manager shall be filled in the manner prescribed by clause (i) of subsection (B) of this section. The commissioners may appoint the deputy manager or any department head to serve as acting county manager until a successor has been appointed. During the temporary absence or temporary disability of the county manager the deputy manager or a department head designated by the manager if there be no deputy manager, shall serve as acting county manager.

(iv) The executive power of county shall be exercised by the county



ACTS, 1985. – Chap. 807.

manager. The county manager shall:

(a) Report annually to the commissioners, the advisory board on county expenditures and to the people, on the state of the county, the work of the previous year, and he shall also recommend to the board whatever action or programs he deems necessary for the improvement of the county and the welfare of its residents. He may from time to time at his discretion recommend any course of action or programs he deems necessary or desirable for the county to undertake;

(b) Prepare and submit to the board for its consideration and adoption an annual operating budget, and a capital budget, establish the schedules and procedures to be followed by all county departments, offices and agencies in connection therewith, and supervise and administer all phases of the budgetary process.

(c) Enforce the county charter, the county's laws and all general laws applicable thereto;

(d) Supervise the care and custody of all county property, institutions and agencies;

(e) Through the county treasurer, have oversight on the collection of revenues, audit and control all disbursements and expenditures and shall prepare a complete account of all expenditures;

(f) Sign all contracts, bonds or other instruments requiring the consent of the county;

(g) Organize the work of county departments subject to the administrative code adopted by the board. He shall further review their administration and operation and make recommendations pertaining thereto to the board;

(h) Review, analyze and forecast trends of county services and finances and programs of all boards, commissions, agencies and other county bodies, and report and recommend thereon to the board;

(i) Develop, install and maintain centralized budgeting, personnel and purchasing procedures as may be authorized.

(j) Negotiate contracts for the county subject to board and where appropriate, advisory board approval and make recommendations concerning the nature and location of county improvements and execute improvements determined by the board;

(k) Assure that all terms and conditions imposed in favor of the county or its inhabitants in any statute, franchise or other contract, are faithfully kept and performed;

(l) Serve, as ex-officio, nonvoting member of all appointive bodies in county government.

(v) The county manager:

(a) Shall supervise, direct and control all county administrative departments;

(b) Shall appoint the deputy manager, if that position is created by the board, the heads of all county departments and divisions created within such departments, and all other administrative officers and county personnel the manner of whose appointment is not prescribed elsewhere in this section;

(c) May, at his discretion, remove or suspend any official in the unclassified service of the county over whose office the county manager



ACTS, 1985. – Chap. 807.

has power of appointment;

(d) May at his discretion, but subject to any pertinent provisions of the general laws and civil service regulations delegate any department head powers of appointment and removal of their departmental employees. If the county manager does not so delegate his power he may appoint and remove, subject to civil service regulations, all employees whose positions have been created.

(e) May require and examine the accounts, records and operations of any agency of county government; and

(f) May, at his discretion, order any agency under his jurisdiction to undertake any task for any other agency on a temporary basis if he deems it necessary for the proper and efficient administration to do so.

(C.) Board of Commissioners.

(i) The legislative power of the county shall be vested in the board of commissioners. Such legislative power shall be exercised by ordinance, except for the exercise of the following powers which are required to be, or are permitted to be, exercised by resolution:

(a) The establishment of a municipal advisory council;

(b) The conduct of an inquiry or investigation;

(c) The expression of disapproval of the suspension or dismissal of officers or employees;

(d) The adoption of rules for the board;

(e) The establishment of times and places for board meetings;

(f) The establishment of the board as a committee of the whole and the delegation of any number of its members as an ad hoc committee.

(g) The declaration of emergencies;

(h) The identification of emergency situations;

(i) The establishment of county personnel policies;

(j) The election, appointment and removal of such officers and employees as the board is permitted by law;

(k) Designation of newspapers; for required advertisements and notices.

(l) Approval of contracts presented by the county manager;

(m) Actions specified as resolutions; and

(n) The expression of such board policies or opinions as require no formal board action.

(ii) At its organizational meeting each January the board shall select one of its members to serve as chairman and one to serve as vice-chairman of the year. The chairman shall preside over board meetings during his tenure, and in his absence the vice-chairman shall preside.

(iii) The county manager may be present at all board meetings and participate in all deliberations, without the right to vote.

(iv) (a) The board shall appoint a county manager under the provisions of this chapter and may create the office of deputy manager;

(b) Shall appoint a clerk to the board who shall serve at its pleasure and keep the records and minutes of the board, and who shall serve at the pleasure of the board or for such term, not to exceed three years, as may be provided by the commissioners; provided, however, that an ordinance providing for the adoption of any such term shall not be



**ACTS, 1985. – Chap. 807.**

enacted between October first of any year and January first of the succeeding year;

(c) Shall appoint a county counsel, who shall head the county's legal department, and who shall serve at the pleasure of the board or for such term, not to exceed three years, as may be provided by the administrative code; provided, however, that an ordinance providing for the adoption of any such term shall not be enacted between October first of any year and January first of the succeeding year. An administrative code may also establish a term, not to exceed three years, for the position of assistant county counsel;

(d) Shall appoint members of all boards and commissions and other bodies whose manner of appointment is not otherwise specified in this section;

(e) May pass a resolution of disapproval of a suspension or dismissal;

(f) Shall approve the annual operating and capital budgets; prior to presenting them for advisory board appropriation; and

(g) Shall pass in accordance with this chapter whenever ordinances and resolutions it deems necessary and proper for the good governance of the county.

(D.) Deputy Manager.

(i) Subject to creation of such position the county manager may appoint a deputy manager who shall serve at his pleasure; the board may not prevent his suspension or dismissal by passage of a resolution of disapproval.

(ii) The deputy manager shall by education, experience and ability be qualified to perform the duties established for him.

He need not be a resident of the county at the time of his appointment, but during his tenure may live outside the county only with the permission of the manager.

(iii) The deputy manager shall be responsible only to the manager. He shall, under the direction and supervision of the manager, undertake to assist in the orderly and efficient administration of the county, performing whatever supervisory or administrative duties the manager deems necessary and proper.

Nothing in this section shall be deemed to prohibit the deputy manager's being appointed to head one or more departments on a temporary or permanent basis.

Section 19. (A.) Form of Government.

(i) The form of government provided in this article shall be known as the "board chairperson plan," and shall, together with sections fifteen, sixteen and twenty of this chapter govern any county whose voters have adopted it pursuant to this chapter.

(ii) Each county operating under this article shall be governed by an elected board of commissioners and a commissioner board chairperson and by such other officers and employees as may be duly appointed pursuant to this chapter, the general laws or by ordinance.

(B.) Board Chairperson.

(i) The board chairperson shall be a duly elected member of the board of commissioners. He shall be elected by the board commissioners at their organizational meeting for a term of one year, such term to begin



ACTS, 1985. – Chap. 807.

immediately after his election on January first.

(ii) The salary of the board chairperson shall be fixed by ordinance of the board of commissioners, such salary shall be reasonable and commensurate with the duties of the office.

(iii) The office of board chairperson shall be deemed vacant if: the incumbent moves his residence from the county; or he is by physical or mental illness or other casualty unable to continue to serve as board chairperson. Any vacancy in the office of board chairperson shall be filled by the board of commissioners which shall appoint one of their number to serve as board chairperson for the remainder of the unexpired term. During the temporary absence or temporary disability of the board chairperson the vice chairperson shall serve as acting chairperson.

(iv) The executive power of the county shall be exercised by the board chairperson. He shall:

(a) Report annually to the board of commissioners, the advisory board on county expenditures, and to the people of the county on the work of the previous year and he shall also recommend to the board whatever action or programs he deems necessary for the improvement of the county and the welfare of its residents. He may from time to time at his discretion recommend any course of action or programs he deems necessary or desirable for the county to undertake;

(b) Preside over board meetings with the right to vote on all questions;

(c) Serve as spokesman for the board on matters concerning policies and programs;

(d) Serve as representative of the board at ceremonial and civic occasions;

(e) Through the county administrative officer; enforce the county charter, the county's laws and all general laws applicable thereto;

(f) Represent the board in all dealing with the county administrative officer except as otherwise specified herein;

(g) Execute all contracts, bonds or other instruments requiring the consent of the county.

(v) The board chairperson.

(a) Insure adequate supervision, direction and control of all county administrative departments, and care and maintenance of all county properties, institutions and agencies by the administrative officer;

(b) With the advice and consent of the board, appoint all members of boards, and commissions and authorities, and all other officials not serving in the administrative service of the county the manner of whose appointment is not prescribed elsewhere in this section.

(c) Serve as an ex-officio nonvoting member of all appointive bodies in county government;

(d) At his discretion, require from the administrative officer reports and examine the accounts, records and operations of any agency of county government;

(e) At his discretion, remove or suspend anyone occupying one of the offices specified in subclause (b) of clause (v) of subsection (B) of this section.

(C.) Board of Commissioners.

(i) The legislative power of the county shall be vested in the board of



ACTS, 1985. – Chap. 807.

commissioners. Such legislative power shall be exercised by ordinance, except for the exercise of the following powers which are required to be, or are permitted to be, exercised by resolution:

- (a) The establishment of a municipal advisory council;
- (b) The conduct of an inquiry or investigation;
- (c) The expression of disapproval of the suspension or dismissal of officers or employees;
- (d) *The exercise of the power of advice and consent to actions of the chairperson and administrative officer;*
- (e) The adoption of rules for the board;
- (f) The establishment of times and places for board meetings;
- (g) The establishment of the board as a committee of the whole and *the delegation of any number of its members as an ad hoc committee;*
- (h) The declaration of emergencies;
- (i) The identification of emergency situations;
- (j) The establishment of county personnel policies;
- (k) Designation of newspapers; for required advertisement and notices;
- (l) The appointment and removal of such officers and employees as the board is permitted by law;
- (m) Approval of contracts presented by the county administrator;
- (n) Actions specified as resolutions and,
- (o) The expression of such board policies or opinions as require no formal board action.

(D.) Chairperson and vice-chairperson; election.

(i) The board shall elect a chairperson as specified in this section. At its reorganizational meeting each January the board shall select one of its members to serve as vice-chairperson for the year.

(ii) The board of commissioners:

(a) Shall pass in accordance with this chapter whatever ordinances or resolutions it deems necessary and proper for the good governance of the county;

(b) Shall appoint and remove the administrative officer by a majority vote and may create the office of, appoint and remove, a deputy administrative officer by a majority vote.

(c) Shall advise and consent to all appointments by the president and administrative officer for which board confirmation is specified under this section.

(d) Shall appoint a clerk to the board who shall serve at its pleasure and keep the records and minutes of the board and who shall serve at the pleasure of the board or for such term not to exceed three years as may be provided by the commissioners provided however that an ordinance providing for the adoption of any such term shall not be enacted between October first of any year and January of the succeeding year.

(e) Shall appoint the county counsel to the county's legal department to serve at the pleasure of the board or for such term not to exceed four years as may be provided by the commissioner, provided, however, that no ordinance providing for the adoption of any such term shall not be enacted between October first of any year and January first of the succeeding year. *The commissioner may also establish a term not to exceed three years for the position of assistant county counsel.*



**ACTS, 1985. – Chap. 807.**

(f) May pass a resolution of disapproval of a suspension or dismissal.

(g) Shall approve the annual operating and capital budget prior to presenting the budgets for advisory board appropriation.

(E.) Chief Administrator.

(i) The county administrative officer shall serve at the pleasure of the board.

(ii) The chief administrative officer shall by education, experience and ability be qualified to perform the duties established for him. He need not be a resident of the county at the time of his appointment, but during his tenure he may live outside the county only with the permission of the board.

(iii) The administrative officer shall be responsible to the board through the chairperson except as specified below. He shall be responsible for the efficient administration of the county's government. He shall:

(a) Prepare and submit directly to the board for its consideration and adoption an annual operating budget and a capital budget, establish the schedules and procedures to be followed by all county departments, offices and agencies in connection therewith, and supervise and administer all phases of the budgetary process.

(b) Through the treasurer, supervise the collection of revenues, and audit and control disbursements and expenditures and prepare a complete account of all expenditures;

(c) Supervise the care and custody of all county property, institutions and agencies;

(d) Organize the work of county departments, subject to the administrative code adopted by the board. He shall further review their administration and make recommendations pertaining thereto to the board;

(e) Review, analyze and forecast trends of county services and finances and programs of all boards, commissions, agencies and other county bodies, and report and recommend to the board;

(f) Develop, install and maintain centralized budgeting, personnel and purchasing procedures.

(g) Negotiate contracts for the county with the approval of the county commissioners, and, where appropriate the advisory board on county expenditures, and make recommendations concerning the nature and location of county improvements and executive improvements determined by the board; and

(h) Assure that all terms and conditions imposed in favor of the county or its inhabitants in any statute, franchise or other contract are faithfully kept and performed.

(iv) Powers.

The administrative officer shall:

(a) Supervise, direct and control all county administrative departments;

(b) Appoint the heads of all county departments and if so provided in the administrative code of any designated divisions within such departments and the advice and consent of the board of commissioners and appoint all other county personnel the manner of whose appointment



ACTS, 1985. – Chap. 807.

is not prescribed elsewhere in this section;

(c) At his discretion, remove or suspend any official in the unclassified service of the county over whose office the administration officer has power of appointment;

(d) At his discretion, but subject to any pertinent provisions of the General Laws or civil service regulations, delegate to any department head powers of appointment and removal of his departmental employees. If the administrative officer does not so delegate his power he may appoint and remove, subject to civil service regulations, all employees whose positions have been created in accordance with actions of the commissioners and the manner of whose appointment is not specified elsewhere in this section;

(e) At his discretion, require reports and examine the accounts, records and operations of any agency of county government; and

(f) At his discretion, order any agency under his jurisdiction to undertake any task for any other agency on a temporary basis if he deems it necessary for proper and efficient administration to do so.

section 20. Relations between the Legislative and Executive Branches.

A. Separation of Powers.

In any county that shall have adopted a charter under this chapter, the commissioners shall deal with county employees only through the officials responsible for the overall executive management of the county's affairs as designated in sections of this chapter –, through the county executive, the county manager, and the board chairperson respectively. All contact with county employees, all actions and communications concerning the administration of the county's government and provision of services shall be through the aforementioned officials, except as otherwise provided in this chapter. Nothing in this act shall be construed to prohibit the board's inquiry into any act or problem of the county's administration. Any commissioner may require a report on the aspect of the government of the county at any time by making a written request to the head of the executive branch of county government. The board may, by majority vote of the whole number of its members, require the head of the executive branch to appear before the board sitting as a committee of the whole, and to bring before the board such records and reports and such officials and employees of the county as the board shall deem necessary to insure clarification of the matter under study.

The board further may, by majority vote of the whole number of its members, delegate any number of its members as an ad hoc committee to consult with the head of the executive branch to study any matter and to report to the board thereon.

It is the intent of this chapter to confer on the board general legislative and such investigative powers as are germane to the exercise of its legislative powers, but to retain in the head of the executive branch full control over the county administration and over the administration of county services provided for in this chapter.

B. Appointments and dismissal; suspension procedure.

(i) No member of any board of commissioners in a county operating under a charter adopted pursuant to this chapter shall individually or



**ACTS, 1985. – Chap. 808.**

collectively seek to influence the head of the executive branch to dismiss any person from, or to appoint, or to promote any person to any position in the executive branch of county government, except that the board may, by a resolution of disapproval adopted by a two-thirds vote of the whole number of the board, prevent the dismissal of certain employees under conditions as set forth in clause (ii) of this subsection.

(ii) Suspensions will take effect immediately upon personal service of notice setting forth the order of suspension or dismissal. Dismissal or suspension for a definite term shall occur automatically in thirty calendar days from receipt of notice. But, if the officer or employee requests a public hearing on his dismissal or suspension for a definite term, no action beyond temporary suspension may be taken until the individual to be suspended or dismissed is given a public hearing not less than fifteen nor more than thirty days after personal service of written notice of contemplated action. A copy of such notice shall be filed with the clerk to the board of commissioners immediately upon service of notice to the individual to be suspended or dismissed. In the event that within thirty-five days of receiving such notice, the board shall pass by a two-thirds vote of the whole number of the board, a resolution of disapproval, all proceedings and any suspension or dismissal of the individual shall be voided. In terms of recompense to the individual, a vote of disapproval shall be deemed to negative the suspension or dismissal order and for purposes of pay and civil service standing the action shall be deemed never to have transpired. If, however, the suspension or dismissal order shall allege that the individual against whom action is contemplated or pending has committed a criminal act in the conduct of his public trust, no resolution of the board shall stay proceedings and the matter shall be brought to a public hearing in the manner prescribed above. If at that hearing probable cause for prosecution is found, all evidence shall immediately be forwarded to the county prosecutor for further action. If any suspension or dismissal order is resolved upon hearing in favor of the office or employee, he shall be restored to his original position without record of the action, or prejudice therefrom, and shall receive full compensation retroactive to the date of his suspension.

Section 21. The provisions of this act shall not apply to the county of Barnstable.

Approved January 13, 1986.

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**Chapter 808. AN ACT PROVIDING FOR THE ENFORCEMENT BY THE COMMISSIONER OF LABOR AND INDUSTRIES OF THE PROCUREMENT OF THE DESIGN SERVICE FOR CERTAIN PUBLIC BUILDING PROJECTS.**

Be it enacted, etc., as follows:

Chapter 149 of the General Laws is hereby amended by striking out section 44H, as appearing in the 1984 Official Edition, and inserting in



**ACTS, 1985. – Chap. 809.**

place thereof the following section:-

Section 44H. Except as otherwise provided by the provisions of sections forty-four A to forty-four H, inclusive, of this chapter, and of section four H of chapter seven, and except for the consideration and determination after contract award as to whether an item is equal to an item named or described in the specifications for a contract, the commissioner of labor and industries or his designee shall enforce sections forty-four A to forty-four H, inclusive, of this chapter and section thirty-nine M of chapter thirty, and sections thirty-eight C to thirty-eight N, inclusive, of chapter seven. He shall have all the necessary powers to require compliance therewith including the power to institute and prosecute proceedings in the superior court to restrain the award of contracts and the performance of contracts in all cases where, after investigation of the facts, s/he has made a finding that such award or performance has resulted in a violation, directly or indirectly, of the provisions of said sections forty-four A to forty-four H, inclusive, or of said section thirty-nine M or of said sections thirty-eight C to thirty-eight N, inclusive, and he shall not be required to pay the clerk of the court any entry fee in connection with the institution of any such proceeding.

Approved January 13, 1986.

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**Chapter 809. AN ACT REGULATING THE RECORDING AND REGISTRATION OF MEMORANDA OF LIS PENDENS.**

Be it enacted, etc., as follows:

Section 15 of chapter 184 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by adding the following paragraph:-

Upon motion of any party, a justice of the court before which the action is pending shall, if the subject matter of the action constitutes a claim of a right to title to real property or the use and occupation thereof or the buildings thereon, make a finding to that effect and endorse said finding upon said memorandum. No register of deeds nor assistant recorder of any district of the land court shall accept such memorandum for recording unless it contains such endorsement and is accompanied by an affidavit to the effect that the moving party has served notice of the allowance of such motion by certified mail addressed to all other parties prior to the recording of the memorandum. In the event the finding is made pursuant to an ex parte proceeding, any party aggrieved thereby may by motion move the dissolution of the memorandum and the court shall hear said motion forthwith. At such hearing, the party whose motion was allowed ex parte shall have the burden of justifying any finding in the ex parte order which is challenged by the party aggrieved thereby. Any party aggrieved by any ruling under this section may appeal pursuant to the provisions of section one hundred and eighteen of chapter two hundred and



**ACTS, 1985. – Chaps. 810, 811.**

thirty-one. Nothing herein shall deprive an owner of registered land from proceeding under the provisions of section one hundred and fourteen of chapter one hundred and eighty-five to challenge the validity of the registration of a memorandum of lis pendens.

Approved January 13, 1986.

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**Chapter 810. AN ACT AUTHORIZING THE DIVISION OF CAPITAL PLANNING AND OPERATIONS TO LEASE A CERTAIN PARCEL OF DESIGNATED LAND AT CASTLE ISLAND IN SOUTH BOSTON.**

Be it enacted, etc., as follows:

**SECTION 1.** The deputy commissioner of capital planning and operations is hereby authorized, subject to the provisions of section forty F 1/2 and forty H through forty J inclusive of chapter seven of the General Laws to lease to the present lessee of the original establishment, for a term not to exceed twenty-five years, which may be renewed and extended up to four additional consecutive five year terms, the parcel of land adjacent to the original establishment and buildings presently located at castle island in the South Boston section of the city of Boston. Such parcel and building shall be in the master plan of the metropolitan district commission castle island plan and will be mutually agreed upon by all parties involved. The parcel shall contain at least 2,000 square feet and no more than 6,000 square feet and shall have an agreed upon acceptable building constructed and whatever additional features are necessary to public safety, health regulations and easements for delivery and construction purposes.

**SECTION 2.** No lease of the property described in section one shall be valid unless such lease provides that said property shall be used exclusively for a concession stand with products including food, beverage (non-alcoholic), dairy products and concession stand non-food products. Further said lease shall provide that there be adequate space and planning for trash storage and removal and deliveries of products and supplies needed to operate said establishment. Compliance with the terms of lease shall be monitored every five years with reports to the general court.

Approved January 13, 1986.

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**Chapter 811. AN ACT PROVIDING FOR AN ACCELERATED TRANSPORTATION DEVELOPMENT AND IMPROVEMENT PROGRAM FOR THE COMMONWEALTH.**

Be it enacted, etc., as follows:



ACTS, 1985. – Chap. 811.

**SECTION 1.** The department of public works, hereinafter referred to as the "department", is hereby authorized and directed to expend a sum not to exceed nine hundred and thirteen million dollars and the metropolitan district commission, hereinafter referred to as the "commission", is hereby authorized and directed to expend a sum not to exceed thirty-three million dollars for the following purposes:

Projects for the laying out, construction, reconstruction, resurfacing, relocation or improvement of highways, bridges, bicycle paths or facilities, parking facilities, auto-restricted zones, scenic easements, grade crossing eliminations and alterations of other crossings, traffic safety devices on state highways and on roads constructed under the provisions of section thirty-four of chapter ninety of the General Laws, highway or mass transportation studies, including without limitation, traffic environmental or parking studies, establishment of school zones in accordance with section seventeen of said chapter ninety, improvements on routes not designated as state highways without assumption of maintenance responsibilities, and notwithstanding any law to the contrary, projects to alleviate the contamination of public and private water supplies caused by the department's storage and use of snow removal chemicals which are necessary for the purposes of highway safety, and for the relocation of persons or businesses, or replacement of dwellings or structures including, without limitation, the provision of last resort housing under federal law and such functional replacement of structures in public ownership as may be necessary for the foregoing purposes and for relocation benefits to the extent necessary to satisfy the requirements of the Uniform Relocation Assistance and Real Property Acquisition Act, 42 USC 4601 et. seq., and to sell, at public or private sale, any structure the title to which has been acquired for highway purposes. When dwellings or other structures are removed, in furtherance of any of the foregoing projects, the excavations or cellar holes remaining shall be filled in and brought to grade within one month.

Funds authorized by this section shall, except as otherwise specifically provided in this act, be subject to the provisions of the first paragraph of section six and sections seven and nine of chapter seven hundred and eighteen of the acts of nineteen hundred and fifty-six and, notwithstanding any law to the contrary, may be used for the purposes stated in this act in conjunction with funds of cities, towns, and any political subdivision of the commonwealth.

In carrying out the provisions of this section the department may enter into such contracts or agreements as are appropriate with other state, local or regional public agencies or authorities. In relation to such agreements between the department and other state agencies or authorities, the department is hereby authorized to and may advance to such agencies or authorities, without prior expenditure by such agencies or authorities, monies necessary to carry out such agreements; provided, however, the department certifies to the comptroller the amounts so advanced; provided further, that such agreement contains provisions satisfactory to the department for the accounting of such monies as expended by said agency or authority; and provided, further, that all monies not expended under such agreement be credited to the account of



## ACTS, 1985. – Chap. 811.

the department from which it was advanced.

In addition to the foregoing the department is further authorized:

(1) to expend funds made available by this act to acquire from any person land or rights in land by lease, purchase, eminent domain under the provisions of chapter seventy-nine of the General Laws, or otherwise for parking facilities adjacent to any public way, to be operated by the department or under contract with any person; and

(2) to expend funds made available by this act for the acquisition of van-type vehicles used for multipassenger, commuterdriven carpools; and

(3) to exercise all powers and do all things necessary and convenient to carry out the purpose of this act.

**SECTION 1A.** None of the funds authorized for expenditure by the commission under section one shall be expended until sixty days after the governor submits to the clerk of the senate, the clerk of the house of representatives, the senate committee on ways and means, the house committee on ways and means, the joint committee on transportation, and the inspector general a report which describes the improvements made in the commission's management capabilities in accordance with a comprehensive improvement plan, and which demonstrates that the commission has the necessary technical, managerial, and financial capability to execute one or more projects to be funded under this act and to maintain such projects in good repair. Within thirty days after receiving said report, the inspector general shall provide his written comments thereon to the clerk of the senate, the clerk of the house of representatives, the senate committee on ways and means, the house committee on ways and means, and the joint committee on transportation.

**SECTION 2.** Amounts authorized by section one of this act shall be available for expenditure and shall be allocated on the accounting records of the comptroller to the department as follows:

(a) a sum not to exceed three hundred million dollars to the department for projects, pursuant to the provisions of section one, on the interstate federal aid highway system;

(b) a sum not to exceed five hundred and forty million dollars to the department for projects, pursuant to the provisions of section one, on the federal aid highway system, other than interstate;

(c) a sum not to exceed sixty million dollars to the department for engineering and other consultant services essential to the purposes and projects authorized by this section; provided, however, that a sum of not less than three million dollars of this amount shall be expended for salaries of engineering employees of the department, other than engineers appointed as provided in this section; and provided, further, that the commissioner of public works may appoint, without regard to chapter thirty-one of the General Laws or any collective bargaining agreement pursuant to chapter one hundred and fifty E of the General Laws, persons qualified as described herein to serve in engineering and construction inspection titles of the department as specified herein. Except as otherwise specified herein, following appointment under this



ACTS, 1985. – Chap. 811.

paragraph, no such person shall be subject to the provisions of said chapter thirty-one; and no such person shall be terminated or otherwise removed from such position as a result, directly or indirectly, of the establishment or operation of any civil service list pursuant to said chapter thirty-one. Employees of the department who meet the qualifications stated herein shall be eligible to apply for promotion to a position governed by this paragraph, such promotion to be deemed an "appointment" for purposes of this paragraph. Any employee previously holding a position in the department who is terminated from any position under this paragraph shall be restored to his previous title. All appointments under this paragraph shall be terminated prior to any reduction in force of department employees due to lack of work, lack of funding for positions subject to said chapter thirty-one, or abolition of positions subject to said chapter thirty-one.

(1) The commissioner may appoint to serve as junior civil engineers in the department persons, not to exceed a total of one hundred in any fiscal year, who have received the degree of bachelor of science in an appropriate engineering discipline from an accredited college or university. Following their appointment, persons appointed under this subparagraph shall be subject to all other applicable provisions of any collective bargaining agreement under said chapter one hundred and fifty E, but shall not be subject to any provisions of said chapter thirty-one except as otherwise specified below. Within one year of their appointment, persons appointed under this subparagraph shall have secured certification as an engineer-in-training by the board of registration of professional engineers and land surveyors under the provisions of section eighty-one of chapter one hundred and twelve of the General Laws. Following their appointment, persons appointed under this subparagraph shall be eligible to take, and shall take, the next promotional civil service examination for the title of junior civil engineer held more than one year following their appointment. If the employee secures certification as an engineer-in-training, and passes the promotional civil service test, such employee shall be appointed as a permanent junior civil engineer in the order of his ranking on the applicable promotional civil service list, and the provisions of said chapter thirty-one shall thereafter apply to such employee. If such a person appointed under this subparagraph fails to pass the engineer-in-training examination within one year of his appointment, or to take or pass the first promotional examination held more than one year following his appointment, the commissioner shall, notwithstanding the provisions of chapter thirty-one or any collective bargaining agreement, terminate the employment of such person.

(2) The commissioner may appoint persons qualified in construction inspection to serve temporarily as junior engineering aids, senior engineering aids, general construction inspectors, or senior general construction inspectors, for the purpose of construction inspection of department projects. The total number of appointments under this subparagraph shall not exceed one hundred and fifty at any one time. Notice of the availability of positions under this subparagraph shall be given to qualified employees of the department. At least forty per cent



**ACTS, 1985. – Chap. 811.**

of the total appointments under this subparagraph shall be posted within the department in accordance with the posting provision of the applicable collective bargaining agreement, and shall be offered to qualified employees of the department, whose applications shall be considered in accordance with the promotional criteria contained in the applicable collective bargaining agreement. Following their appointment, persons appointed under this subparagraph, notwithstanding said chapter thirty-one or any applicable collective bargaining agreement, shall be considered temporary, and may be continued as construction inspectors on other department projects or terminated because of reduced need for construction inspectors; provided, that, in the event of a reduction in force because of reduced need for construction inspectors, persons appointed under this subparagraph shall be laid off in accordance with the layoff and recall provisions of the applicable collective bargaining agreement, except that seniority and bumping rights for purposes of such layoffs shall be determined only with respect to other persons appointed under this subparagraph, and recall rights shall extend only to the temporary positions established herein.

(3) The commissioner may appoint, to serve in any civil engineering title in the department at the assistant, senior, principal, associate, or supervising level, for the purposes of planning, preliminary engineering, and final engineering of department projects, any person who (i) holds a permanent position in the department in the next title lower than the position applied for, in the same or a similar career ladder, and who is qualified by training and experience for said position; or (ii) has received the degree of bachelor of science in an appropriate engineering or environmental discipline from an accredited college or university, and has been certified as an engineer-in-training or a registered professional engineer by the board of registration of professional engineers and land surveyors under the provisions of section eighty-one of chapter one hundred and twelve of the General Laws. The total number of appointments under this subparagraph shall not exceed one hundred at any one time; and after one hundred such appointments have been made, additional appointments may be made under this subparagraph only to fill vacancies created by termination of appointments previously made under this subparagraph. The total number of appointments under this subparagraph shall include no more than fifty-two appointments at the assistant level, thirty-six at the senior level, twenty at the principal level, twelve at the associate level, and four at the supervising level. Notice of availability of positions under this subparagraph shall be given to qualified employees of the department. At least one-quarter of the appointments under this subparagraph at each level shall be posted within the department in accordance with the posting provision of the applicable collective bargaining agreement, and shall be offered to qualified employees of the department, whose applications for such positions shall be considered in accordance with the promotional criteria contained in the applicable collective bargaining agreement. Following their appointment, persons appointed under this subparagraph shall be eligible to take, and shall take, the first promotional civil service examination for the title to which they have been appointed held more



ACTS, 1985. – Chap. 811.

than one year following their appointment; provided, that prior to such examination, there shall have been added to the schedule of permanent offices and positions approved by the joint committee on ways and means, as it exists on the effective date of this act, a number of permanent positions within the department in said title equal to the number of persons appointed in said title under this subparagraph who are taking such examination, which additional permanent positions shall be filled from the civil service list to be established on the basis of such examination. In the event that the number of persons appointed in said title under this subparagraph exceeds the number of permanent positions added to the schedule as provided in the preceding sentence, persons appointed under this subparagraph shall be eligible to take the promotional examination to the extent of the available additional positions in the order of their appointment. If the employee passes such promotional examination, such employee shall be appointed as permanent in such title in the order of his or her ranking on the applicable civil service list, without regard to requests for lateral transfers to such positions under any applicable collective bargaining agreement, and the provisions of chapter thirty-one shall thereafter apply to such employee. Until such time as a person appointed under this subparagraph may be permanently appointed to the title as a result of such promotional examination; or if such person fails to take or fails to pass the first promotional examination for which he or she is eligible held more than one year following his or her appointment; the commissioner may, notwithstanding chapter thirty-one or any collective bargaining agreement, terminate the employment of such person in his sole discretion. No appointments may be made under this subparagraph after September thirtieth, nineteen hundred and ninety. Persons appointed under this subparagraph who have not, on or before September thirtieth, nineteen hundred and ninety, either been permanently appointed from an applicable civil service list or taken a promotional civil service examination, shall be terminated from positions established under this subparagraph. Termination under the preceding sentence shall be deemed to be a layoff due to reduction in force under the layoff and recall provisions of the applicable collective bargaining agreement, and such persons shall be laid off in accordance with such provisions, except that an employee laid off under the preceding sentence may not bump any employee of the department holding a position subject to chapter thirty-one.

Nothing in this section shall be construed to relieve the department of any appointment obligations pursuant to any relevant court orders or consent decrees. To the extent practicable, preference in initial appointments made pursuant to this section shall be given first to disabled veterans as defined in section one of said chapter thirty-one; second to veterans as defined in said section one of said chapter thirty-one; and third to all other qualified persons. The commissioner of the department shall institute appropriate recruitment procedures to effectuate the purposes of this paragraph.

(d) a sum not to exceed twelve million dollars to the department for direct expenses in connection with research and planning projects and



ACTS, 1985. – Chap. 811.

work to be done on a cooperative basis with educational institutions and other state, regional and federal agencies;

(e) a sum not to exceed one million dollars for administrative and engineering expenses directly attributable to the purposes and projects authorized by section one.

**SECTION 3.** In addition to the funds and purposes authorized by section one of this act, the department is hereby authorized and directed to expend the following sums:

(a) a sum not to exceed three million dollars for the acquisition and improvement of maintenance sites, including the construction of sanitary facilities, the erection of protective fences, and the construction of salt storage sheds; provided, however, that the department shall make available to cities and towns a sum of two million dollars for the construction of salt storage sheds;

(b) a sum not to exceed twenty-five million dollars for the design and reconstruction of, and improvements to state highway bridges and other bridges; provided, however, that notwithstanding the provisions of any other law to the contrary, the provisions of section forty of chapter one hundred and thirty-one of the General Laws and sections sixty-one and sixty-two of chapter thirty of the General Laws shall not apply to the repair, reconstruction or replacement of existing state highway bridges and other bridges in which the design is substantially the functional equivalent of, and in similar alignment to, the structure to be reconstructed or replaced; provided, further, that the provisions of sections eleven, twelve, twelve A, and fourteen of chapter ninety-one of the General Laws shall not apply to bridge projects of the department; provided, further, that in case of any state highway or other bridge crossing over a railroad right-of-way or railroad tracks, the department shall seek the opinion of any railroad company operating on said track of a desirable clearance between said track and the state highway bridge, but said clearance shall be at the discretion of the department; provided, further, that the department may enter upon any land or premises of a railroad company for such purposes as it may deem necessary or convenient to carry out the provisions of this act; and provided, further, that the department shall develop and utilize, whenever feasible, a standard bridge design for reconstruction of such bridges;

(c) a sum not to exceed one hundred million dollars for the design and construction, repair or improvement to non-federally reimbursable projects; provided, however, that the secretary of the executive office of transportation and construction is hereby authorized and directed to expend a sum not to exceed three million five hundred thousand dollars for the purpose of determining the feasibility of the design and construction of a deck in the air rights over that portion of the Southeast Expressway, Routes I-93 and I-95, that runs through East Milton Square in the town of Milton.

(d) a sum not to exceed sixty million dollars for projects for construction and reconstruction of town and county ways under subdivision (a) of clause (2) of section thirty-four of chapter ninety of the General Laws; provided, however, that the department shall certify



ACTS, 1985. – Chap. 811.

to the comptroller the amount to be apportioned to each city and town; and provided, further, that said apportionments shall be a direct grant to each city and town which shall not require the prior expenditure of any funds by any city or town as a condition for receipt of any such direct grant;

(e) a sum not to exceed five million dollars for non-federal aid highway expenditures which are potentially reimbursable by the federal government;

(f) a sum not to exceed one million dollars to alleviate the contamination of public or private water supplies caused by the department's storage and use of snow removal chemicals which are necessary for the purposes of highway safety;

(g) a sum not to exceed twenty-five million dollars for the design and construction of roads, roadways and any other transportation-related public works projects deemed necessary for economic development by the secretary of transportation upon the petition of the appropriate local executive government body. Said twenty-five million dollars shall be expended in accordance with the provisions of chapter nineteen of the acts of nineteen hundred and eighty-three;

(h) a sum not to exceed six million dollars for the construction and reconstruction of or alteration and improvements to the department's garages and maintenance shops. Notwithstanding any general or special law to the contrary, such projects shall be carried out by the department;

(i) a sum not to exceed five million dollars for the purpose of implementing the provisions of section thirty-two of chapter six hundred and thirty-seven of the acts of nineteen hundred and eighty-three;

(j) a sum not to exceed three million dollars for laying out, construction, reconstruction or other improvement of bicycle paths and facilities;

(k) a sum not to exceed one million dollars for capital projects necessary for the provision of boat services for commuter operations;

(l) a sum not to exceed five million dollars for the design and construction in the town of Wareham of a District 7 office, so-called;

(m) a sum not to exceed ten million dollars for the acquisition, by eminent domain under the provisions of chapter seventy-nine or by purchase or otherwise, of land or rights in land within or adjacent to public ways for the purpose of restoring, preserving, or enhancing areas of scenic beauty or special environmental value. Such acquisition shall be made following consultation with the secretary of environmental affairs and appropriate advisory committees and with the prior approval of the house and senate committees on ways and means.

(n) a sum not to exceed one million dollars to establish a program to assist towns with populations of fifteen thousand or less undertaking projects to construct, reconstruct, widen, resurface, rehabilitate, and otherwise improve roads, highways, and bridges within the commonwealth that provide access to state-owned land. Said program shall provide grant funds to towns for projects authorized by this section. Towns shall be eligible to receive only one grant and the amount of any such grant shall not exceed two hundred thousand dollars.

In carrying out the provisions of this section, the department may



ACTS, 1985. – Chap. 811.

enter into such contracts or agreements as are appropriate with other state, local or regional public agencies, authorities, or political subdivisions, which are hereby granted the authority to enter into such contracts or agreements with the department; and may enter into appropriate agreements with private persons. In relation to such agreements between the department and other state agencies or authorities, the department is hereby authorized to and may advance to such agencies or authorities, without prior expenditure by such agencies or authorities, monies necessary to carry out such agreements; provided, however, that the department certifies to the comptroller the amounts so advanced; provided further, that such agreement contain provisions satisfactory to the department for the accounting of such monies as expended by said agency or authority; and provided, further, that all monies not expended under such agreement be credited to the account of the department from which it was advanced. The commissioner of said department shall prepare and file semi-annual reports with the house and senate committees on ways and means and the joint committee in transportation detailing the expenditures made under the provisions of this program.

**SECTION 4.** Pursuant to the provisions of section one, the department is hereby authorized and directed to expend a sum not less than two hundred million dollars for projects in the following four areas: not less than fifty million dollars in the counties of Berkshire, Hampden, Hampshire and Franklin; not less than fifty million dollars in the counties of Norfolk and Worcester; not less than fifty million dollars in the counties of Essex and Middlesex and not less than fifty million dollars in the counties of Barnstable, Bristol, Dukes, Nantucket and Plymouth.

**SECTION 5.** No payment in excess of one hundred thousand dollars by way of purchase of real estate or any interest therein shall be made by the department and no settlements in excess of one hundred thousand dollars and in excess of the amount recommended by the real estate review board established by section six of chapter seven hundred and eighteen of the acts of nineteen hundred and fifty-six shall be made out of court for damage recoverable under chapter seventy-nine of the General Laws, by reason of a purchase or taking under this act or under chapter six hundred and seventy-nine of the acts of nineteen hundred and sixty-five or chapter six hundred and sixteen of the acts of nineteen hundred and sixty-seven or chapter seven hundred and sixty-eight of the acts of nineteen hundred and sixty-nine or chapter seven hundred and sixty-five of the acts of nineteen hundred and seventy-two or chapter eight hundred and fifty-nine of the acts of nineteen hundred and seventy-five or chapter three hundred and fifty-six of the acts of nineteen hundred and seventy-seven or chapter four hundred and eighty of the acts of nineteen hundred and seventy-nine or chapter seven hundred and thirty-two of the acts of nineteen hundred and eighty-one or chapter three hundred and thirty-five of the acts of nineteen hundred and eighty-two or chapter six hundred and thirty-seven of the acts of nineteen hundred and eighty-three. Each recommendation of the real



## ACTS, 1985. – Chap. 811.

estate review board shall be in writing and shall be accompanied by a written statement of the reasons for such recommendation.

No settlement by reason of taking under this act or under said chapters six hundred and seventy-nine, six hundred and sixteen, seven hundred and sixty-eight, seven hundred and sixty-five, eight hundred and fifty-nine, three hundred and fifty-six, four hundred and eighty, seven hundred and thirty-two, three hundred and thirty-five, six hundred and thirty-seven in excess of one hundred thousand dollars and in excess of the recommendation of the real estate review board, shall be made by agreement of the parties during or after trial except with the written approval of the court; provided, however, that the settlements in excess of the recommendation of the board may be made without such approval if the settlement does not exceed the amount of any verdict or finding which may have been rendered, together with interest and costs.

**SECTION 6.** The department may provide functional replacement of real property in public ownership whenever the department has acquired such property under the provisions of this act as a result of a highway or highway-related project and whenever the department determines such functional replacement is made necessary by such project and is in the public interest. Functional replacement is defined as the replacement of real property, either land or facilities or both, which will provide equivalent utility.

Whenever the department determines it is necessary that any utility, as defined in 23 USC 123, is required to be relocated because of construction of a project authorized under the provisions of this act which is to be reimbursed federally in whole or in part, then such facilities shall be relocated by the owner thereof in accordance with the order of the department; provided, however, that the commonwealth may reimburse the owner of such utility facility for the "cost relocation" as such cost is defined in said 23 USC 123; and provided, further, that any relocation of facilities carried out under this section which is not performed by employees of the owner shall be subject to the provisions of section twenty-seven of chapter one hundred and forty-nine of the General Laws.

**SECTION 7.** Any amounts made available by sections one and three of this act or heretofore made available by section one of chapter six hundred and sixteen of the acts of nineteen hundred and sixty-seven and section one of chapter seven hundred and sixty-eight of the acts of nineteen hundred and sixty-nine and sections one and four of chapter seven hundred and sixty-five of the acts of nineteen hundred and seventy-two and sections six and eight of chapter eight hundred and fifty-nine of the acts of nineteen hundred and seventy-five and sections one and two of chapter three hundred and fifty-six of the acts of nineteen hundred and seventy-seven and sections one and two A of chapter four hundred and eighty of the acts of nineteen hundred and seventy-nine and sections fifteen and seventeen of chapter seven hundred and thirty-two of the acts of nineteen hundred and eighty-one and section one of chapter three hundred and thirty-five of the acts of



## ACTS, 1985. – Chap. 811.

nineteen hundred and eighty-two and sections one and three of chapter six hundred and thirty-seven of the acts of nineteen hundred and eighty-three shall be available for expenditure until June thirtieth, nineteen hundred and ninety.

**SECTION 8.** Notwithstanding the provisions of any other law to the contrary, the department is hereby authorized and directed to take all necessary actions to secure federal highway or mass transportation assistance which is or may become available to said department, including, without limitation, actions authorized under or in compliance with the provisions of Title 23 of the United States Code and section one hundred and forty-five of the Surface Transportation Assistance Act of 1982, PL 97-424, and actions such as filing applications for federal assistance, supervising the expenditure of funds under federal grants or other assistance agreements, and making any determinations and certifications necessary or appropriate to the foregoing. If any federal law, administrative regulation or practice requires any action relating to such federal assistance to be taken by any department, agency or other instrumentality of the commonwealth other than said department, such other department, agency or instrumentality is hereby authorized and directed to take such action.

In furtherance of the foregoing purposes, said department shall apply for and accept any federal funds available for projects authorized in sections one and three of this act and such federal funds when received shall be credited to the Federal Highway Construction Program Fund. To meet a portion of the expenditures authorized by sections one and three, there is hereby appropriated from the Federal Highway Construction Program Fund a sum of seven hundred and eleven million dollars which shall be expended, subject to the limitation contained in Article LXXXVIII of the Amendments to the Constitution and which shall be in addition to the amounts appropriated in section six of chapter six hundred and seventy-nine of the acts of nineteen hundred and sixty-five, section seven of chapter six hundred and sixteen of the acts of nineteen hundred and sixty-seven, section six of chapter seven hundred and sixty-seven, section six of chapter seven hundred and sixty-eight of the acts of nineteen hundred and sixty-nine, section six of chapter seven hundred and sixty-five of the acts of nineteen hundred and seventy-two, section eleven of chapter eight hundred and fifty-nine of the acts of nineteen hundred and seventy-five, section eight of chapter three hundred and fifty-six of the acts of nineteen hundred and seventy-seven, section eight of chapter four hundred and eighty of the acts of nineteen hundred and seventy-nine, section twenty-three of chapter seven hundred and thirty-two of the acts of nineteen hundred and eighty-one, section one of chapter three hundred and thirty-five of the acts of nineteen hundred and eighty-two and section one of chapter six hundred and thirty-seven of the acts of nineteen hundred and eighty-three.

**SECTION 9.** To meet a portion of the expenditures necessary in carrying out the provisions of sections one and three, the state treasurer shall, upon request of the governor, issue and sell bonds of the



**ACTS, 1985. – Chap. 811.**

commonwealth to an amount to be specified by the governor from time to time, but not exceeding in the aggregate, the sum of four hundred and eighty-five million dollars, to be in addition to bonds authorized to be issued and sold in section eleven of chapter six hundred and sixteen of the acts of nineteen hundred and sixty-seven, section nine of chapter seven hundred and sixty-five of the acts of nineteen hundred and seventy-two, section fourteen of chapter eight hundred and fifty-nine of the acts of nineteen hundred and seventy-five, section nine of chapter three hundred and fifty-six of the acts of nineteen hundred and seventy-seven, section nine of chapter four hundred and eighty of the acts of nineteen hundred and seventy-nine, section twenty-four of chapter seven hundred and thirty-two of the acts of nineteen hundred and eighty-one, section two of chapter three hundred and thirty-five of the acts of nineteen hundred and eighty-two and section ten of chapter six hundred and thirty-seven of the acts of nineteen hundred and eighty-three. All bonds issued by the commonwealth as aforesaid shall be designated on their face the words, Highway Improvement Loan, Act of 1985 and shall be issued for such maximum term of years, not exceeding twenty years, as the governor may recommend to the general court pursuant to Section 3 of Article LXII of the Amendments of the Constitution of the Commonwealth; provided, however, that all such bonds shall be payable not later than June thirtieth, two thousand and ten. All interest and payments on account of principal of such obligations shall be payable from the Highway Fund.

Bonds and interest thereon issued under the authority of this section shall be general obligations of the commonwealth.

**SECTION 10.** The state treasurer may borrow from time to time on the credit of the commonwealth such sums of money as may be necessary for the purpose of meeting payments authorized by this act and may issue and renew from time to time notes of the commonwealth therefor bearing interest payable at such time and at such rates as shall be fixed by the state treasurer. Such notes shall be issued and may be renewed one or more times for such terms, not exceeding one year, as the governor may recommend to the general court in accordance with Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth, but the final maturities of such notes, whether original or renewal, shall not be later than June thirtieth, nineteen hundred and ninety-eight.

Notes and interest thereon issued under the authority of this section shall be general obligations of the commonwealth. All payments on account of principal on the notes allocable to the Federal Highway Construction Program Fund shall be repaid from said Fund.

**SECTION 11.** The secretary of transportation and construction is hereby authorized and directed to expend a sum not to exceed two million dollars for the purposes of further implementing the provisions of section thirteen of chapter six hundred and thirty-seven of the acts of nineteen hundred and eighty-three.



**ACTS, 1985. – Chap. 811.**

**SECTION 12.** To meet the expenditures necessary in carrying out the provisions of section eleven the state treasurer shall, upon request of the governor, issue and sell bonds of the commonwealth to an amount to be specified by the governor from time to time, but not exceeding, in the aggregate, the sum of two million dollars. All bonds issued by the commonwealth, as aforesaid, shall be designated on their face, Mobility Assistance Program Loan, Act of 1985 and shall be issued for such maximum term of years, not exceeding five years, as the governor may recommend to the general court pursuant to Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth; provided, however, that all such bonds shall be payable not later than June thirtieth, nineteen hundred and ninety-three. Bonds and interest thereon issued under the authority of this section shall, notwithstanding any other provision of this act, be general obligations of the commonwealth.

**SECTION 13.** There is hereby appropriated a sum of two million dollars from the General Fund, for the continued implementation of emergency measures to alleviate traffic congestion and continue traffic management measures on the Southeast Expressway, Route 3, and Route 128. Said amount shall be held in a reserve account under the control of the secretary of transportation and construction. Said secretary is authorized, with the prior approval of the commissioner of administration, to transfer amounts from said reserve account to the appropriate accounts of the agencies and authorities within the executive office of transportation and construction in order to carry out the purposes of this section, provided that all future towing contracts are competitively bid.

Said secretary shall prepare and file semi-annual reports with the house and senate committees on ways and means and the joint committee on transportation detailing expenditures by item from this reserve.

**SECTION 14.** The secretary of transportation and construction is hereby authorized and directed to expend a sum not to exceed five million dollars for the purposes set forth in section three of chapter one hundred and sixty-one D of the General Laws.

Said secretary shall prepare a report semi-annually detailing revenues and expenditures under said program and file the same with the house and senate committees on ways and means and the joint committee on transportation within thirty days after each filing period.

**SECTION 15.** To meet the expenditures necessary in carrying out the provisions of section fourteen of this act, the state treasurer shall, upon request of the governor, issue and sell bonds of the commonwealth to an amount to be specified by the governor from time to time, but not exceeding in the aggregate, the sum of five million dollars. All bonds issued by the commonwealth as aforesaid shall be designated on their face the words, Intercity Bus Capital Assistance Loan, Act of 1985 and shall be issued for such maximum term of years not exceeding ten years, as the governor may recommend to the general court pursuant to Section



ACTS, 1985. – Chap. 811.

3 of Article LXII of the Amendments to the Constitution of the Commonwealth; provided, however, that all such bonds shall be payable not later than June thirtieth, nineteen hundred and ninety-eight. All interest and payments on account of principal of such obligations shall be payable from the Intercity Bus Capital Assistance Program Fund to the extent that there are funds available therein for such payments. Notwithstanding the foregoing, bonds and the interest thereon issued under the authority of this section shall be general obligations of the commonwealth.

Said bonds shall not be subject to section fifty-three of chapter twenty-nine of the General Laws.

**SECTION 16.** The Massachusetts aeronautics commission is hereby authorized and directed to expend a sum not to exceed three million three hundred thousand dollars for the purpose of airport systems improvement and development in the commonwealth, for payments, reimbursements or both to cities, towns and counties for planning, design and construction of airports pursuant to sections thirty-nine F and fifty-one K of chapter ninety of the General Laws, for providing navigational aids pursuant to section forty of chapter ninety of the General Laws and for the purpose of implementing the provisions of section thirty-nine of chapter ninety of the General Laws. Sums authorized by this section shall be in addition to any prior sums authorized for such purposes; provided further that of the above amount said commission is hereby authorized and directed to expend a sum not to exceed five hundred thousand dollars for the purpose of establishing and administering an airport safety and maintenance program to assist in the maintenance and repair of airports in the Massachusetts airports system plan, excluding those airports owned and operated by the Massachusetts Port Authority.

The commission shall establish rules and regulations governing this program, which shall include a provision that the commonwealth's share of the total cost of each project shall not exceed seventy per cent.

**SECTION 16A.** To meet the expenditures necessary in carrying out the provisions of section sixteen, the state treasurer shall, upon request of the governor, issue and sell bonds of the commonwealth to an amount to be specified by the governor from time to time, but not exceeding in the aggregate, the sum of three million three hundred thousand dollars. All bonds issued by the commonwealth, as aforesaid, shall be designated on their face, Airport Capital Outlay Loan, Act of 1985, and shall be issued for such maximum term of years, not exceeding twenty years, as the governor may recommend to the general court pursuant to Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth; provided, however, that all such bonds shall be payable not later than June thirtieth, two thousand and ten. All interest and payments on account of principal of such obligations shall be payable from the General Fund. Bonds and interest thereon issued under the authority of this section shall, notwithstanding any other provisions of this act, be general obligations of the commonwealth.



**ACTS, 1985. – Chap. 811.**

**SECTION 17.** There is hereby appropriated from the Passenger Rail Transportation Fund, established under the provisions of paragraph (a) of section two of chapter eight hundred and fifty-nine of the acts of nineteen hundred and seventy-five, the sum of three million dollars for the purchase, rehabilitation, design and construction of such rail rights of way, stations, maintenance facilities and related facilities as are necessary for restoring passenger rail service between Attleboro and Cape Cod.

**SECTION 18.** The secretary of transportation and construction is hereby authorized and directed to expend a sum not to exceed seventeen million dollars for the purpose of implementing the provisions of chapter one hundred and sixty-one C of the General Laws.

**SECTION 18A.** The secretary of transportation and construction is hereby authorized and directed to expend a sum not to exceed one million five hundred thousand dollars for passenger rail improvements to the so-called Inland Route in the town of Framingham. Said improvements shall be in addition to those provided for in section twenty-eight of chapter seven hundred and thirty-two of the acts of nineteen hundred and eighty-one.

**SECTION 19.** To meet the expenditures necessary for carrying out the provisions of sections eighteen and eighteen A of this act, the state treasurer shall, upon request of the governor, issue and sell bonds of the commonwealth, in an amount to be specified by the governor from time to time but not exceeding in the aggregate eighteen million five hundred thousand dollars; provided, however, that proceeds not to exceed thirteen million five hundred thousand dollars of such bonds shall be expended only for passenger rail transportation purposes; and provided, further, that proceeds not to exceed five million dollars of such bonds shall be expended only for freight rail purposes.

All bonds issued by the commonwealth as aforesaid shall be designated on their face, Rail Transportation Loan, Act of 1985 and shall be issued for such maximum term of years, not exceeding twenty years, as the governor may recommend to the general court pursuant to Section 3 of Article LXII of the Amendments to the Constitution of the Commonwealth; provided, however, that all such bonds shall be payable not later than June thirtieth, two thousand and ten. All interest and payments on account of principal of such obligations shall be payable from the General Fund.

Bonds and the interest thereon issued under the authority of this section shall be general obligations of the commonwealth.

**SECTION 20.** There is hereby appropriated from the General Fund the sum of five hundred thousand dollars to provide financial assistance for the continued operation of rail freight services on lines acquired by the commonwealth or on lines over which any railroads corporation may operate. The secretary of transportation and construction may expend said sum for said purposes, which shall be in addition to any other sums



**ACTS, 1985. – Chap. 811.**

made available for this purpose.

**SECTION 21.** The provisions of section thirty-two of this act shall not affect the civil service status, seniority, retirement, or any other rights of any employee of the department who, on April eleventh, nineteen hundred and seventy-eight, held a permanent appointment under chapter thirty-one or had tenure under the provisions of sections nine A, nine B, or nine D of chapter thirty, in the position of highway engineer, district highway engineer, highway and structures engineer or bridge engineer.

**SECTION 22.** The proceeds of three hundred and eighty-four million eight hundred eighty thousand dollars of additional bond authorization provided under section thirty-five of this act shall be expended for the capital needs of the authority, including but not limited to the following: (a) purchase, long term leasing and rehabilitation of rolling stock, (b) construction, rehabilitation and expansion of shops and carhouses, (c) commuter rail improvements, (d) subway construction and subway structural and ventilation improvements, (e) system wide track and power improvements, (f) station expansion, modernization and improvements, (g) plant and facility improvements and material and equipment procurements, and (h) construction of rapid transit or steel wheeled surface lines.

The Massachusetts Bay Transportation Authority shall on or before a date set by the secretary of the executive office of transportation and construction, no later than December thirty-first, nineteen hundred and eighty-six, and annually thereafter, prepare and submit to the house and senate committees on ways and means a report detailing expenditures made for the purposes enumerated above. In addition, said report shall contain statements which include the authorized, unissued, and outstanding bonds and notes of the authority at the end of the preceding fiscal year, an estimate of the amount of said bonds and notes at the end of the current fiscal year, and an estimate of amount of said bonds and notes, including the amount to be sold, retired or refinanced, at the end of the subsequent fiscal year and shall indicate the source of revenues to finance such bonds and notes, including any financial assistance from the commonwealth, such as guarantees, contract assistance, or other such assistance.

**SECTION 23.** The secretary of the executive office of transportation and construction, is hereby authorized to establish a program to provide capital assistance funds to regional transit authorities organized pursuant to the provisions of chapter one hundred and sixty-one B of the General Laws. Funds provided for this purpose shall be awarded to regional transit authorities for capital projects; said projects shall be limited to purchase of vehicles and engineering, design, acquisition or construction of facilities. Said secretary shall make, and from time to time revise, guidelines for the allocation and distribution of capital assistance funds made available for this purpose among the regional transit authorities; provided, however, that ninety per cent of such funds shall be expended only for projects for which the regional transit



**ACTS, 1985. – Chap. 811.**

authority has agreements with the federal government providing for funds of at least three-quarters of the estimated eligible cost of such projects or for expenditures that are preliminary to obtaining federal funds. Said secretary shall report to the house and senate committees on ways and means no later than December thirty-first, nineteen hundred and eighty-six and thereafter annually on the status of the program.

**SECTION 23A.** The executive office of transportation and construction is hereby directed to expend a sum not to exceed four million dollars for the purposes set forth in section twenty-three of this act. To meet said expenditures, the state treasurer shall upon the request of the governor, issue and sell at public or private sale, bonds or notes of the commonwealth, registered or with interest coupons attached, as the treasurer may deem best, to an amount specified by the governor from time to time, but not exceeding in the aggregate, four million dollars. All bonds or notes issued by the commonwealth as aforesaid shall be designated on their face by the words Regional Transit Authority Capital Assistance Program Loan, act of nineteen hundred and eighty-five and shall be issued for such maximum term of years, not exceeding twenty years, as the governor may recommend to the general court pursuant to Section 3 of the Article LXII of the Amendments to the Constitution of the Commonwealth; provided, however, that all such bonds shall be payable not later than June thirtieth, two thousand and ten. Bonds and interest thereon issued under the authority of this section shall, notwithstanding any other provisions of this act, be general obligations of the commonwealth.

**SECTION 24.** The department of public works, notwithstanding any other special or general law to the contrary, is hereby authorized and directed to expend a sum not to exceed ten million dollars for the purchase of heavy maintenance fleet equipment.

**SECTION 25.** To meet the expenditures necessary in carrying out the provisions of section twenty-four, the state treasurer shall, upon the request of the governor, issue and sell bonds of the commonwealth in an amount to be specified by the governor from time to time but not exceeding in the aggregate the sum of ten million dollars. All bonds issued by the commonwealth as aforesaid shall be designated on their face Heavy Maintenance Fleet Equipment Loan, Act of 1985, and shall be issued for such maximum term of years, not exceeding ten years, as the governor may recommend to the general court pursuant to Section 3 of Article LXII of the amendments to the Constitution of the Commonwealth; provided, however, that all such bonds shall be payable not later than June thirtieth, one thousand nine hundred and ninety-six. All interest and payments on account of principal of such obligation shall be payable from the Highway Fund. Bonds and interest thereon issued under the authority of this section shall be general obligations of the commonwealth.

**SECTION 25A.** Notwithstanding the provisions of section fifteen of



ACTS, 1985. – Chap. 811.

chapter five hundred and ninety-eight of the acts of nineteen hundred fifty-eight or any other law inconsistent with the provisions of this section, the commonwealth or any political subdivision thereof, or any authority or other public instrumentality may lay out and construct as a state highway an additional harbor crossing within one mile downstream from the center line of either the Sumner or the Callahan tunnel, provided that such additional crossing may be operated by the Authority as part of an integrated system of tunnels and shall be opened for traffic only after one of the following conditions has been met:

(a) The commonwealth has paid to the Massachusetts Turnpike Authority, in this section called the Authority, an amount sufficient to redeem the bonds and interim receipts which have been issued and which are outstanding under said chapter five hundred and ninety-eight as of the date on which any such crossing is opened for traffic;

(b) The commonwealth has set aside in trust for the benefit of the bondholders a sufficient amount of funds for the payment of all such bonds and interim receipts and the interest thereon to the maturity thereof; or

(c) The commonwealth has entered into an agreement with the Authority which provides that if, at any time after such crossing is opened for traffic, the Authority determines that the revenues of the Sumner-Callahan tunnels are not sufficient to provide for the payment of current expenses, to make deposits to the credit of the Replacement Reserve Fund and to make deposits to the credit of the Sinking Fund in accordance with Section 501(d) of the Trust Agreement Relating to Tunnel Revenue Bonds by and between the Massachusetts Turnpike Authority and the First National Bank of Boston, as Trustee, dated as of April first, nineteen hundred and fifty-nine, then in such event (i) the Authority shall certify to the state treasurer the amount of such insufficiency which is not attributable to loss of revenue from major maintenance on, damage or injury to, or destruction of the Sumner-Callahan tunnels or any part thereof; (ii) upon any such certification, the commonwealth shall pay to the Authority the amount so certified; (iii) the obligation of the commonwealth to make any such payment to the Authority pursuant to such agreement shall be in the nature of a contractual obligation pledging the full faith and credit of the commonwealth, and shall be enforceable as a contract of the commonwealth by the Authority, or on behalf of the Authority, by any holder or holders of the tunnel revenue bonds then outstanding or by the trustee under said trust agreement securing such bonds; and (iv) whenever the commonwealth shall make any payments to the Authority pursuant to the agreement entered into as provided in this paragraph, the Authority shall review the schedule of tolls then being charged for the use of the Sumner-Callahan tunnels, and whenever it shall appear necessary, revise such tolls, as provided in Section 501 of said trust agreement. For the purposes of any such review or revision, the Authority shall include, as revenues within the meaning of said trust agreement, only that portion of such payment which is attributable to an insufficiency of revenues resulting from a decrease in traffic which otherwise would have used the Sumner-Callahan tunnels but for the



**ACTS, 1985. – Chap. 811.**

operation of any such additional crossing.

**SECTION 26.** Whenever such bonds and interim receipts have been redeemed as provided in section twenty-five A of this act, or whenever the commonwealth has established said trust for the purpose set forth in said section twenty-five A or whenever such bonds and interim receipts and the interest thereon shall otherwise have been paid, title to the control over the Sumner-Callahan tunnels shall pass to the commonwealth as provided in section sixteen of said chapter five hundred and ninety-eight.

**SECTION 27.** The secretary of the executive office of transportation and construction is hereby authorized and directed to develop, in cooperation with the city of Boston and representatives of affected neighborhoods and commercial areas, a planning and design process for the development of air-rights to be created as a result of the proposed Central Artery project, which process shall assure that (i) future uses of said Central Artery air-rights are environmentally sound and compatible with the character of the neighborhoods, historic districts and commercial areas traversed, and (ii) priority in planning, design and development is accorded to neighborhoods and businesses affected by the Central Artery project. The secretary of the executive office of transportation and construction shall seek the establishment of any financing and development mechanisms and procedures determined to be necessary to facilitate the development of Central Artery air-rights in accordance with the results of the planning and design process.

**SECTION 28.** The secretary of transportation and construction is hereby authorized and directed to undertake a study for the purpose of recommending to the General Court the method or methods by which the commonwealth should finance its share of the proposed Central Artery/Third Harbor Tunnel project, so-called.

Said secretary is further authorized to enter into agreements with the Massachusetts Port Authority and the Massachusetts Turnpike Authority for the performance or funding of such analyses, evaluations or services as he may require for said project.

Said secretary shall submit his recommendations to the clerk of the house of representatives who shall forward said recommendations to the joint committee on transportation on or before December thirty-first, nineteen hundred and eighty-six.

**SECTION 29.** There is hereby established a special commission on marine transit, comprised of three members of the senate, seven members of the house of representatives, the secretary of the executive office of transportation and construction or his designee, the commissioner of the department of public works or his designee, the commissioner of the metropolitan district commission or his designee, the commissioner of the department of environmental management or his designee, the general manager of the Massachusetts Bay Transit Authority or his designee, the executive director of the Massachusetts



**ACTS, 1985. – Chap. 811.**

Port Authority or his designee, the executive director of the Woods Hole, Martha's Vineyard and Nantucket steamship authority or his designee, and three persons appointed by the governor, for the purpose of conducting an investigation and study relative to the establishment and expansion of marine passenger transportation in the commonwealth. Said investigation and study shall include, but not be limited to, a determination of the feasibility of increased marine commuter service to and from the city of Boston, the accessibility of ground transportation to marine transit facilities, passenger shuttle service between Boston and Logan international airport via Boston harbor, the operation of ferry service as currently provided to Cape Cod, Martha's Vineyard, and Nantucket, the use of navigable rivers for marine passenger service, the means of financing and operating said services, methods of managing marine traffic in the commonwealth, and the effect of expanded marine passenger service upon ground transportation facilities. Said commission shall retain the services of a licensed naval architect and marine engineer who shall, in conjunction with said commission, conduct a comprehensive study of marine transit in the commonwealth and make recommendations thereto to said commission. Said commission shall report the findings of its study and any recommendations for legislation thereto to the clerk of the house of representatives and to the joint committee on transportation on or before the first Wednesday of December, nineteen hundred and eighty-six.

**SECTION 30.** Any interest earned from the deposit or investment of any funds made available to any city or town under the provisions of clauses (d), (g) and (i) of section three of this act, or paragraph (c) of section seventeen of chapter seven hundred and thirty-two of the acts of nineteen hundred and eighty-one, or paragraph (b) of section one of chapter three hundred and thirty-five of the acts of nineteen hundred and eighty-two, or clause (d) or (h) section three of chapter six hundred and thirty-seven of the acts of nineteen hundred and eighty-three shall only be used for the purposes that said funds were originally made available to such city or town without further appropriation. This section shall apply to any interest earned after the effective date of this act and also to any interest earned prior to the effective date of this act and still available for expenditure by such city or town. Any interest not so expended shall be returned to the commonwealth.

**SECTION 31.** The department of public works shall continue its investigation and study relative to the feasibility of increasing the number of lanes on state highway Route 3, a divided highway extending from the New Hampshire border through the town of Burlington, as provided in section fourteen of chapter one hundred and sixty-seven of the acts of nineteen hundred and eighty-four. Said department shall file quarterly reports as to the status of the study and including, but not limited to, an analysis of costs, time tables for completion, the agencies involved and approvals required, with the house and senate committees on ways and means and the joint committee on transportation no later than thirty days after each of said quarters, and provided that the first



**ACTS, 1985. – Chap. 811.**

of said quarterly reports shall be filed no later than January thirtieth, nineteen hundred and eighty-six.

**SECTION 32.** Chapter 16 of the General Laws is hereby amended by striking out section 4, as appearing in the 1984 Official Edition, and inserting in place thereof the following section:–

Section 4. The commissioner shall appoint and may remove all employees in the department under the public works commission. Except as provided herein or as otherwise provided by law, all such appointments and removals shall be made in accordance with the provisions of chapter thirty-one. From time to time the commissioner may, subject to appropriation and regulation, employ such consultants as he may deem necessary.

The commissioner may appoint and remove without regard to chapter thirty-one, but with the approval of the secretary, a chief engineer; five deputy chief engineers; and assistant chief engineer; a highway and structures engineer; a bridge engineer; highway engineers; district highway engineers; a chief counsel to serve in the office of the commissioner; a director to serve in the division of administrative services; four executive assistants to the commissioner; a personnel director; a director of the right of way bureau; and a director of public information. The total number of appointments to be made by the commissioner under this paragraph shall not exceed thirty-five. No person holding an appointment under this paragraph shall be subject to the provisions of chapter thirty-one or section nine A of chapter thirty. Nothing in this section shall be deemed to exempt the positions named herein from the provisions of sections forty-five to fifty, inclusive, of chapter thirty.

So far as practicable in the judgment of the commissioner, appointments to said positions not classified under chapter thirty-one shall be made by promoting employees of the commonwealth serving in positions so classified. Any person appointed to the position of chief engineer, deputy chief engineer, assistant chief engineer, highway and structures engineer, bridge engineer, highway engineer or district highway engineer, shall be a person of experience and skill as an engineer and shall be (i) an employee of the department holding an office or position classified under said chapter thirty-one with permanent status of senior civil engineer or higher; or (ii) a registered professional engineer; or (iii) a person who has received the degree of bachelor of science in an appropriate engineering discipline from an accredited college or university. Where an employee of the commonwealth having permanent status in a position classified under or having tenure by reason of section nine A of chapter thirty is so promoted to such unclassified position, upon termination of service in such unclassified position the employee shall be restored to the position from which he was promoted; or to a position equivalent thereto in the salary grade in the same state agency; or if he had been promoted in accordance with said chapter thirty-one during promotion in the unclassified position, to the position to which he was so promoted or to a position equivalent thereto in salary grade in the same state agency. In cases of restoration



**ACTS, 1985. – Chap. 811.**

under said chapter thirty-one, or under said section nine A of said chapter thirty, such restoration shall be without impairment of civil service status or tenure under said section nine A, and without loss of the seniority, retirement and other rights to which uninterrupted service in the position would have entitled the employee, provided, however, that if his service in such unclassified position shall have been terminated for cause, the employee's right to be restored shall be determined by section forty-three of said chapter thirty-one. During the period of such appointment the person so appointed shall be eligible to take any competitive promotional examination for which he would otherwise have been eligible.

**SECTION 33.** Section 29A of chapter 81 of the General Laws, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:–

The department may lay out or alter ways other than state highways in any county, city or town provided that the county commissioner of the county, or the mayor of the city or the board of selectmen of the town consents thereto. Land or rights in land may be acquired for this purpose by eminent domain under chapter seventy-nine by the department in behalf of the county, city or town in which the land lies. Any person whose property has been taken or injured by any action of said department under authority of this section may recover from the commonwealth under chapter seventy-nine such damages therefor as he may be entitled to. For this purpose the department may use any funds which may be available for highway purposes, including federal aid, and may also use any money appropriated for a county, or by a city or town, toward the damages sustained, provided that the county commissioners, selectmen or mayor have agreed in writing to pay the money thus appropriated upon the order of the department.

**SECTION 34.** Clause (2) of section 34 of chapter 90 of the General Laws, as so appearing, is hereby amended by striking out clauses (i), (j) and (k).

**SECTION 34A.** Section 5 of chapter 161A of the General Laws, as so appearing, is hereby amended by striking out subsections (b) and (c) and inserting in place thereof the following two subsections:–

(b) No real estate shall be sold unless notice of the intent to sell such real estate shall have been given to the advisory board not less than thirty days prior to the date of sale and unless the sale shall have been advertised at least once a week for three successive weeks prior to the date of sale in a newspaper of general circulation in the city or town in which the real property to be sold is located; provided that no such advertising shall be required if a sale or conveyance of such real estate is made to the commonwealth or any political subdivision thereof or to any agency or instrumentality of either of them. Such real property shall, unless sold to the commonwealth or any political subdivision thereof or to any agency or instrumentality of either of them, be sold to the highest bidder subject to any restrictions, covenants, or conditions



**ACTS, 1985. – Chap. 811.**

the authority shall find that sound reasons in the public interest require.

(c)(i) Any concession or lease of property for a term of more than one year or development agreement shall be awarded to the highest responsible and eligible bidder therefor unless the authority shall find that sound reasons in the public interest require otherwise.

(ii) Any property which is the subject of a lease or development agreement pursuant to paragraph (i) shall not be subject to subsection (o).

**SECTION 35.** Section 23 of said chapter 161A, as so appearing, is hereby amended by striking out the third paragraph and inserting in place thereof the following paragraph:–

Not more than one billion two hundred fifty-two million one hundred eighty thousand dollars of bonds of the authority under clauses (1), (2), (3), and (4) shall be outstanding at any time; provided, however, that such funds are expended for capital projects; and provided, further, that any bonds which are redeemed on or after January first, nineteen hundred and eighty-eight shall not be reissued.

**SECTION 36.** The first paragraph of section 28 of said chapter 161A, as so appearing, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:– The portion of the net cost of service not to be so assessed, hereinafter called contract assistance, is limited to (A) the annual debt service on bonds issued prior to January first, nineteen hundred and seventy-one for which such contract assistance has been provided by contract, and the annual debt service on ninety per cent of the bonds issued thereafter, but not exceeding under this clause the debt service on one billion one hundred twenty million one hundred eighty thousand dollars of bonds outstanding at any time, and (B) not more than a total of five million dollars to be paid to the authority for not more than one-half of the cost to the authority of agreements with railroads authorized by paragraph (2) of section twenty-three, and (C) not more than three million dollars annually to pay interest, principal and sinking fund requirements due upon indebtedness incurred or assumed by the authority issued to finance or refinance mass transportation facilities or equipment for express service; provided that all facilities, title to which was transferred to the Metropolitan Transit Authority, pursuant to paragraph (d) of section eight A of chapter five hundred and forty-four of the acts of nineteen hundred and forty-seven shall be considered to be express service mass transportation facilities for the purpose of this clause (C); and provided, further, that such indebtedness shall not be subject to the limitations contained in the following paragraph; and (D) ninety per cent of the lease payments arising from lease obligations of the Authority providing for the long term use of mass transportation facilities and equipment.

**SECTION 37.** Section 5 of chapter 161D of the General Laws, as so appearing, is hereby amended by striking out clause (3) and inserting in place thereof the following clause:–

(3) Said rate shall be set by the secretary, and shall as nearly as possible, produce sufficient revenues to the commonwealth in



**ACTS, 1985. – Chap. 811.**

combination with the estimated revenues from the sale of such vehicles under the provisions of clause (4), to recover the principal cost to the commonwealth of said program provided however, that the rate for any lease entered into pursuant to this chapter and in effect as of December twenty-seventh, nineteen hundred and eighty-five shall not be increased except as specifically permitted by the lease and any reduction authorized by the secretary pursuant to this section shall not be retroactive.

**SECTION 37A.** The third sentence of the first paragraph of section 8 of chapter 354 of the acts of 1952 is hereby amended by striking out, in line 9, the words:– " , not exceeding six per cent per annum",– and by striking out the last sentence and inserting in place thereof the following sentence:– The Authority may sell such bonds in such manner, either at public or at private sale, and for such price or prices, as it may determine to be in the best interest of the Authority.

**SECTION 37B.** Chapter 859 of the acts of 1975 is hereby amended by striking out sections 6C and 6D and inserting in place thereof the following two sections:–

**Section 6C.** Pursuant to the provisions of section six, the department of public works, notwithstanding any other law to the contrary, is hereby authorized and directed to expend a sum of not less than three and one-half million dollars for the reconstruction of state highway route one hundred and forty from the Sterling–West Boylston line to the Sterling–Princeton line or for such other purposes as the department may determine.

**Section 6D.** Pursuant to the provisions of section six, the department of public works, notwithstanding any other law to the contrary, is hereby authorized and directed to expend a sum of not less than four million dollars for the purpose of reconstructing and extending route fifty-six from the junction of Pleasant Street and route fifty-six in the town of Leicester to the Leicester–Paxton line or for such other purposes as the department may determine.

**SECTION 38.** Section 2 of chapter 487 of the acts of 1980 is hereby amended by striking out, in line 10, the word "seventy" and inserting in place thereof the word:– seventy-five.

**SECTION 39.** Section 4 of said chapter 487 is hereby amended by striking out the first sentence, as most recently amended by section 26 of chapter 637 of the acts of 1983, and inserting in place thereof the following sentence:– To meet the expenditures necessary in carrying out the provisions of this act, the state treasurer shall, upon the request of the governor, issue and sell at public or private sale, bonds or notes of the commonwealth, registered or with interest coupons attached, as he may deem best, to an amount specified by the governor from time to time, but not exceeding in the aggregate ninety million dollars.

**SECTION 40.** Section 32 of chapter 637 of the acts of 1983 is hereby



**ACTS, 1985. – Chap. 811.**

amended by striking out, in lines 3 and 4, the words "fifteen hundred" and inserting in place thereof the words:– two thousand.

**SECTION 41.** Section 34 of chapter 637 of the acts of 1983 is hereby amended by inserting after the word "construction", in lines 6 and 7, the words:– shall be available for expenditure until June thirtieth, nineteen hundred and eighty-seven.

**SECTION 42.** Subsection (f) of section 1 of chapter 240 of the acts of 1984 is hereby amended by inserting after the second sentence the following sentence:– The provisions of this subsection shall not apply to any stockholder of a corporation the stock of which is registered or listed for sale to the general public with the Securities and Exchange Commission, if any such stockholder holds less than ten per cent of the outstanding stock entitled to vote at the annual meeting of such corporation.

**SECTION 43.** The provisions of section thirty-seven shall take effect as of December twenty-fourth, nineteen hundred and eighty-one.

**SECTION 44.** The provisions of section thirty-four shall take effect on July first, nineteen hundred and eighty-six.

**SECTION 45.** In addition to any contract assistance paid to the authority under the provisions of chapter one hundred and sixty-one A of the General Laws or any other general or special law, the executive office of administration and finance, acting on behalf of the commonwealth, shall, on the recommendation of the secretary, enter into a contract or contracts with the Massachusetts Bay Transportation Authority providing for additional contract assistance for the authority's net additional expense of providing mass transportation or rail service to cities and towns outside the area constituting the authority under contracts with said cities and towns, with regional transportation areas, or with the operator of said transportation service and such amounts shall be paid by the commonwealth to the authority and shall not be reimbursed by said cities and towns to the authority. Said contract or contracts shall not exceed four million dollars in total obligation.

**SECTION 46.** No action shall be taken by the executive office of transportation and construction, the Massachusetts Bay Transportation Authority, or the department of environmental management to prohibit or unreasonably restrict the continuation of the services now provided by privately operated commuter and excursion vessels using the State Pier in the town of Hingham and Rows Wharf in the city of Boston.

**SECTION 47.** To assure quality of construction, Class I Bituminous Concrete shall continue to be accepted by the department of public works only from those batch plants meeting the section M3.11.00 thru section M3.11.09 specification of the department of public works standard specifications for highways and bridges published nineteen



**ACTS, 1985. – Chap. 812.**

hundred and seventy-three and as revised in the supplemental specifications to the nineteen hundred and seventy-three standard specifications for highways and bridges dated June nineteenth, nineteen hundred and eighty-five. Bituminous Concrete from drum mixers shall not be accepted.

Approved January 13, 1986.

EMERGENCY LETTER: January 13, 1986 @ 3:53 P.M.

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**Chapter 812. AN ACT AUTHORIZING DESIGN AND CONSTRUCTION  
OF REPLACEMENT ARMORIES FOR THE  
COMMONWEALTH ARMORY.**

Be it enacted, etc., as follows:

**SECTION 1.** Item 0431-8833 of section 2 of chapter 649 of the acts of 1982 is hereby amended by striking out, in line 3, the words "Salem and Boston – Commonwealth Avenue Armories" and inserting in place thereof the words:- Boston-Commonwealth Avenue Armory, – and by striking out, in lines 21 to 23, inclusive, the words "; and provided, further, that the contribution of the commonwealth for these projects shall not extend four million dollars.

**SECTION 2.** Section 5 of said chapter 649 is hereby amended by striking out, in line 6, the words "seven million, one" and inserting in place thereof the words:- nineteen million, two.

**SECTION 3.** Section 8 of chapter 649 of the acts of 1982 is hereby amended by striking the last sentence of that paragraph of said section 8 immediately preceding the numbered subparagraphs and the number of subparagraphs (1), (2), and (3) of said section and inserting in place thereof the following sentences and subparagraphs;

The deputy commissioner of the division of capital planning and operations is authorized to enter into a land disposition agreement with the Trustees of Boston University. The deed and agreement conveying such property to Boston University shall contain the following conditions and restrictions:

(1) that ownership and control of said property shall remain with Boston University so long as it continues to do business in the Commonwealth and carry on such activities on said property as may be permitted by this Act;

(2) that use of said property shall be restricted to (a) educational activities of students of Boston University, (b) the provision of student housing for students of Boston University, (c) athletic activities of students of Boston University and of students enrolled in the Boston public schools or in other primary or secondary schools in the Commonwealth, and (d) the administration of or the conduct of research by the University;

(3) that use of said property shall not include facilities for



**ACTS, 1985. – Chap. 812.**

independent commercial activities or housing for persons other than students enrolled at the University; except for those commercial activities which are incidental to or compatible with the uses provided for by this section.

(4) that Boston University shall permit the unrestricted use of the property by the National Guard of the Commonwealth, at no cost to the Commonwealth, until such time as the National Guard effectuates the transfer of activities presently conducted on the property to other suitable premises;

**SECTION 4.** The division of capital planning and operations with the cooperation and assistance of the armory commission is hereby directed to undertake a study to identify an appropriate site and facility for the relocation of the Salem Armory.

**SECTION 5.** In accordance with the provisions of item 0431-8833 of section two of chapter six hundred and forty-nine of the acts of nineteen hundred and eighty-two, the division of capital planning and operations is hereby authorized to design and construct the replacement armories and facilities for the Boston-Commonwealth Armory on land currently under the control of the National Guard of the commonwealth located at Camp Curtis Guild in Reading and Speen Street in the town of Natick, and said division may, in consultation with the national guard and with the prior approval of the appropriate federal agencies, design and construct a replacement armory or facility at Fort Devens.

Approved January 13, 1986



**RESOLVES, 1985 – Chaps. 1, 2.**

**Chapter 1.      RESOLVE REVIVING, CONTINUING AND INCREASING  
THE MEMBERSHIP OF CERTAIN SPECIAL COMMISSIONS.**

RESOLVED, That the special commissions, established by chapter thirteen of the resolves of nineteen hundred and seventy-seven, section four of chapter seven hundred and four of the acts of nineteen hundred and seventy-nine, chapters ten and twenty-five of the resolves of nineteen hundred and seventy-nine, section seventy-four of chapter three hundred and twenty-nine of the acts of nineteen hundred and eighty, chapter seven hundred and thirty-eight of the acts of nineteen hundred and eighty-one, chapter eleven of the resolves of nineteen hundred and eighty-two, section twenty-two of chapter two hundred and forty-one of the acts of nineteen hundred and eighty-two, chapters five and six of the resolves of nineteen hundred and eighty-three, section thirteen of chapter seven, section twenty-three of chapter two hundred and four, section twenty of chapter two hundred and ninety-seven and section thirty-nine of chapter six hundred and thirty-seven of the acts of nineteen hundred and eighty-three, chapters two, three and six of the resolves of nineteen hundred and eighty-four, item 0185-7803 of section two of chapter two hundred and thirty-four of the acts of nineteen hundred and eighty-four, item 0185-7822 of said section two of said chapter two hundred and thirty-four, and item 0185-7824 of said section two of said chapter two hundred and thirty-four are hereby revived and continued until the last Wednesday of December, nineteen hundred and eighty-six; and be it further

RESOLVED, That the membership of the special commission, established by section thirty-nine of chapter six hundred and thirty-seven of the acts of nineteen hundred and eighty-three, is hereby increased by three members of the senate and five members of the house of representatives; and be it further

RESOLVED, That the membership of the special commission, established by section thirteen of chapter seven of the acts of nineteen hundred and eighty-three, is hereby increased by one member of the senate and three members of the house of representatives; and be it further

RESOLVED, That the membership of the special commission, established by item 0185-7822 of section two of chapter two hundred and thirty-four of the acts of nineteen hundred and eighty-four is hereby increased by three members of the senate, five members of the house of representatives and by two members appointed by the governor.

Approved April 25, 1985.

EMERGENCY LETTER: April 25, 1985 @ 4:48 P.M.

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**Chapter 2.      RESOLVE PROVIDING FOR AN INVESTIGATION AND  
STUDY BY A SPECIAL COMMISSION FOR THE**



### RESOLVES, 1985 – Chap. 3.

#### PURPOSE OF EXAMINING THE PROCEDURES OF ADMITTING CERTAIN DRUG-ALCOHOL PATIENTS FOR DETOXIFICATION AND EXTENDED DRUG-ALCOHOL EDUCATION AND REHABILITATION BY INSURANCE COMPANIES.

**RESOLVED.** That a special commission is hereby established for the purpose of examining the procedures of admitting drug-alcohol patients for detoxification and extended drug-alcohol education and rehabilitation by insurance companies and health maintenance organizations and the denial of coverage for extended hospitalizations. Said commission shall consist of five members of the house of representatives, three members of the senate and nine members to be appointed by the governor, one of whom shall be a physician with no less than eight years experience dealing with drug-alcohol rehabilitation, one of whom shall be a drug-alcohol counselor with no less than eight years experience in the field, one of whom shall be a hospital administrator with no less than eight years experience, one of whom shall be a member of the Massachusetts State Labor Council, AFL-CIO, one of whom shall be a member of the national Association of Treatment Providers, one of whom shall be a member of the Massachusetts Association of Private Alcoholism Providers, one of whom shall be a member of the Association of Labor and Management Alcoholic Council of America, one of whom shall be a member of the Massachusetts Association of Alcoholism Counselors and one lay person. Said commission may accept and expend gifts and grants of money from the Federal Government or any other public or private source. Said commission may travel within and without the commonwealth. Said commission shall report to the general court the results of its recommendations, if any, together with drafts of legislation necessary to carry such recommendations into effect by filing the same with the clerk of the house of representatives on or before the thirtieth day of December, nineteen hundred and eighty-five.

Approved July 16, 1985.

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#### Chapter 3. RESOLVE INCREASING THE MEMBERSHIP OF THE SPECIAL COMMISSION RELATIVE TO ESTABLISHING A SUITABLE MEMORIAL TO PRESIDENT JOHN F. KENNEDY.

**RESOLVED.** That the membership of the special commission established by chapter six of the resolves of nineteen hundred and eighty-three and most recently revived and continued by chapter one of the resolves of nineteen hundred and eighty-five is hereby increased by one member of the senate, two members of the house of representatives and four persons to be appointed by the governor from a list submitted by the current commission.

- Approved August 1, 1985.



**RESOLVES, 1985 – Chaps. 4, 5, 6.**

**Chapter 4. RESOLVE INCREASING THE MEMBERSHIP OF THE SPECIAL COMMISSION ESTABLISHED TO MAKE AN INVESTIGATION AND STUDY RELATIVE TO NON-PROFIT HOSPITAL SERVICES CORPORATIONS AND NONPROFIT MEDICAL SERVICES CORPORATIONS.**

RESOLVED, That the membership of the special commission, established by section two of chapter one hundred and ninety-two of the acts of nineteen hundred and eighty-four, is hereby increased by two persons to be appointed by the governor, one of whom shall be a representative of the Massachusetts Businessman's Association and one of whom shall be a representative of a health maintenance organization not affiliated with a nonprofit hospital services corporation nor a nonprofit medical services corporation, as established pursuant to chapters one hundred and seventy-six A and one hundred and seventy-six B of the General Laws.

Approved October 29, 1985.

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**Chapter 5. RESOLVE PROVIDING FOR AN INVESTIGATION AND STUDY BY A SPECIAL COMMISSION RELATIVE TO PROVIDING PARENTING LEAVE.**

RESOLVED, That a special commission to consist of two members of the senate, one of whom shall be the chairman of the commerce and labor committee, five members of the house of representatives, one of whom shall be the assistant majority whip, and one of whom shall be the chairman of the committee on commerce and labor and eight persons to be appointed by the governor is hereby established for the purpose of making an investigation and study relative to the feasibility of requiring all employers in the commonwealth to provide a minimum period of disability leave to employees, and an insurance or other system to provide compensation to employees during periods of parenting leave and disability leave. Said commission shall report to the general court the results of its investigation and study, and its recommendations, if any, together with drafts of legislation necessary to carry such recommendations into effect, by filing the same with the clerk of the house of representatives on or before the first Wednesday in November, nineteen hundred and eighty-five.

Approved October 31, 1985.

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**Chapter 6. RESOLVE PROVIDING FOR AN INVESTIGATION AND STUDY BY A SPECIAL COMMISSION RELATIVE TO ESTABLISHING A SUITABLE MEMORIAL TO HENRY CABOT LODGE, JR.**

RESOLVED, That a special commission to consist of five members of



## **RESOLVES, 1985 – Chaps. 7, 8.**

the senate, ten members of the house of representatives, and four persons to be appointed by the governor, is hereby established for the purpose of developing plans to promote, through public subscription, the establishing of an appropriate memorial to Henry Cabot Lodge, Jr. Such commission may receive and expend such funds as may be donated to it for such purposes. Said commission shall report to the general court the results of its investigation and study and its recommendations, if any, together with an accounting of funds received and expended and drafts of legislation necessary to carry its recommendations into effect by filing the same with the clerk of the house of representatives on or before the last Wednesday in December, nineteen hundred and eighty-six.

Approved December 4, 1985.

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### **Chapter 7. RESOLVE PROVIDING FOR THE PAYMENT OF FUNERAL EXPENSES OF ROBERT P. DANA.**

RESOLVED, That for the purpose of discharging a moral obligation of the commonwealth, there shall be allowed and paid out of the state treasury, subject to appropriation, to Farley Funeral Home, Inc., the sum of four thousand four hundred eleven dollars and eighty cents in full satisfaction of the bill for funeral expenses of Robert P. Dana, a metropolitan police officer who was killed in the performance of his duty in May, nineteen hundred and eighty-four. No payment shall be made by the treasurer of the commonwealth under the authority of this resolve unless and until a certificate has been signed and filed with said treasurer by the chief executive officer of the Farley Funeral Home, Inc. stating under the pains and penalties of perjury that the amount payable pursuant to this resolve represents the fair market value for services rendered relative to the funeral of Robert P. Dana.

Approved December 23, 1985.

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### **Chapter 8. RESOLVE PROVIDING FOR AN INVESTIGATION AND STUDY BY A SPECIAL COMMISSION RELATIVE TO THE TOXICITY AND COMBUSTIBILITY OF BUILDING MATERIALS AND FURNISHINGS USED IN HIGH DENSITY HUMAN OCCUPANCY BUILDINGS.**

RESOLVED, That a special commission, to consist of three members of the senate, one of whom shall serve as co-chairman, three members of the house of representatives, one of whom shall serve as co-chairman, the state fire marshal or his designee, the commissioner of public health or his designee, the chairman of the state building code commission or his designee, and nine persons to be appointed by the governor, each of whom shall be qualified by training or experience and interest in the fields of fire safety, combustion toxicology or the combustibility of materials, and one of whom shall be a member of the Fire Chiefs



## RESOLVES, 1985 – Chap. 8.

Association of Massachusetts, Inc., one of whom shall be a member of the Professional Firefighters Association of Massachusetts, one of whom shall be a member of the Massachusetts Fire Prevention Association, one of whom shall be the member of the board of fire prevention regulations who sits as graduate fire chemist with fire testing experience and a full member of a national organization of chemists pursuant to section fourteen of chapter twenty-two of the General Laws, three of whom shall be professional scientists who have affiliations with academic institutions, expertise and experience in the areas of combustion toxicology, combustibility or public health, and shall be independent of any entities which have any commercial interest in the results of said investigation and study, and two of whom shall be concerned citizens of the commonwealth, is hereby established for the purpose of making an investigation and study relative to the serious fire safety problem caused by the combustibility of materials used in building construction and furnishings, and by the toxic smoke and gases produced by the combustion of such materials and furnishings.

Such investigation and study shall include a complete analysis of test methods in the fields of both combustion toxicology and combustibility, of all building materials and furnishings used in or as a part of high density human occupancy buildings, such buildings being those as are determined by the commission to pose, by virtue of their size, height, use, public access, density of human occupancy, location or any other relevant characteristic, a potential danger of injury or loss of life as a result of a fire.

Said commission shall further study and investigate test methods relative to the combustibility and toxicity of materials used in building construction and furnishings in order to assure that such testing shall demonstrate an acceptable level of accuracy and reproducibility based upon principles of scientific research; shall be relevant to actual building fire scenarios; and shall be used in conjunction with other appropriate fire tests in an overall hazard analysis, including, but not limited to, ignitability, flame spread, rate of heat release, and rate and extent of smoke propagation. Such hazard analysis shall take into account other fire protection measures such as the use of early detection and fast acting suppression systems.

Before making recommendations, said commission shall hold at least one public hearing and shall consult with, receive evidence from, and solicit the opinions of, the board of fire prevention regulations, interested state agencies, professional firefighters, fire chiefs, firefighters' unions, other fire professionals, the health professions, industries which manufacture or supply such building materials and furnishings, public interest groups, and the general public as it may determine appropriate.

Said commission may also request that officials of the commonwealth or its various subdivisions or that officials of the federal government and its various agencies or that other state governments and their agencies provide it with information it may desire to study. Said commission may expend for expenses and for expert, legal, clerical and other assistance such funds as may be appropriated therefor.



**RESOLVES, 1985 – Chaps. 9, 10.**

Said commission shall make such recommendations with respect to fire safety measures needed to achieve a greater degree of fire safety in high density human occupancy buildings as it determines appropriate.

Said commission shall report to the general court the results of its investigation and study, and its recommendations, together with drafts of legislation necessary to carry its recommendations into effect, by filing the same with the clerk of the house of representatives on or before the first Wednesday in December, nineteen hundred and eighty-six.

Approved December 23, 1985.

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**Chapter 9. RESOLVE PROVIDING FOR AN INVESTIGATION AND STUDY BY A SPECIAL COMMISSION RELATIVE TO CHILDREN IN NEED OF SERVICE.**

**RESOLVED**, That a special commission to consist of three members of the senate, six members of the house of representatives including one member of the minority party, the commissioner of the department of social services or his designee, the commissioner of the department of youth services or his designee, the director of the office for children or his designee, and three persons to be appointed by the governor, one of whom shall be a justice of the trial court, is hereby established for the purpose of making an investigation and study relative to determining the adequacy and effectiveness of section thirty-nine E to thirty-nine J, inclusive, of chapter one hundred and nineteen of the General Laws.

Said commission shall report to the general court the results of its investigation and study and its recommendations, if any, together with drafts of legislation to carry its recommendations into effect, by filing the same with the clerk of the house of representatives on or before the first Wednesday in November, nineteen hundred and eighty-six.

Approved January 6, 1986.

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**Chapter 10. RESOLVE PROVIDING FOR AN INVESTIGATION AND STUDY BY A SPECIAL COMMISSION RELATIVE TO THE PRESERVATION AND USE OF CERTAIN BUILDINGS ON KENT'S ISLAND, NEWBURY.**

**RESOLVED**, That a special commission to consist of the commissioner of the department of fisheries, wildlife and environmental law enforcement, or his designee, the director of the division of fisheries and wildlife or his designee, the chairman of the Newbury board of selectmen or his designee, the chairman of the Newbury historic commission or his designee, the chairman of the Massachusetts historical society or his designee, a member of the Essex county sportsmen's league to be designated by its president, a representative of the department of capital planning and operations to be designated by its deputy



RESOLVES, 1985 – Chap. 11.

director, and two members of the general public to be appointed by the governor, is hereby established for the purpose of making an investigation and study relative to the review of the conditions of the former home of John E. Marquand on Kent's Island in the town of Newbury, and the formulation of a plan for the refurbishing, preservation and future use of the property to the end that the citizens of the commonwealth shall benefit from its unique historical and literary value.

Said commission shall have five ex officio members consisting of the member of the Massachusetts Senate representing the town of Newbury, the member of the Massachusetts House of Representatives representing the town of Newbury, a member of a local newspaper published in the vicinity, a student in the Newbury public school system, and a member of a local trade union, the last three to be appointed by the chairman of the commission, who himself shall first be chosen from and by its members.

Said commission may hold public meetings and involve in advisory roles such persons, organizations, or public and private institutions as it may determine appropriate.

Said commission shall report to the general court the results of its investigation and study together with its recommendations and drafts of legislation necessary to carry said recommendations into effect, by filing the same with the clerk of the house of representatives on or before the first Wednesday in April in the year nineteen hundred and eighty-six.

Approved January 7, 1986.

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**Chapter 11. RESOLVE PROVIDING FOR AN INVESTIGATION AND STUDY BY THE EXECUTIVE OFFICE OF HUMAN SERVICES RELATIVE TO ESTABLISHING A PROGRAM FOR THE TREATMENT AND REHABILITATION OF COMPULSIVE GAMBLERS.**

RESOLVED, That the executive office of human services is hereby authorized and directed to make an investigation and study relative to the feasibility of establishing a program for the treatment and rehabilitation of compulsive gamblers. Such department shall address the following issues: the exact services to be provided by such a program and the attendant cost; a recommendation for appropriate providers; a recommendation of the agency or agencies best suited to administer said program; and the advisability of using lottery proceeds to fund such a program, specifically making recommendations on the use of unclaimed prize money versus the use of other sources of funds and such other related matters. Said department shall report to the general court the results of its investigation and study, and its recommendations, if any, together with drafts of legislation necessary to carry its recommendations into effect, by filing the same with the clerk of the house of representatives who shall transmit copies of said report to the joint committee on human services and elderly affairs, and to the house and senate committee on ways and means on or before May first, nineteen hundred and eighty-six.

Approved January 8, 1986.



RESOLVES, 1985 – Chaps. 12, 13, 14.

**Chapter 12. RESOLVE PROVIDING FOR AN INVESTIGATION AND STUDY BY THE DEPARTMENT OF FISHERIES, WILDLIFE AND ENVIRONMENTAL LAW ENFORCEMENT RELATIVE TO THE NORTH ATLANTIC RIGHT WHALE.**

RESOLVED, That the Department of Fisheries, Wildlife and Environmental Law enforcement is hereby authorized and directed, subject to appropriation, to make an investigation and study of the North Atlantic Right Whale, including an assessment of the population of said whale, and the need for and the implications of establishing measures designed to protect such population. Said department shall report to the General Court the results of such investigation and study and its recommendations, if any, together with drafts of legislation necessary to carry its recommendations into effect by filing the same with the Clerk of the House of Representatives on or before the last Wednesday in June, nineteen hundred and eighty-eight.

Approved January 8, 1986.

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**Chapter 13. RESOLVE REVIVING AND CONTINUING THE SPECIAL COMMISSION ESTABLISHED TO MAKE AN INVESTIGATION AND STUDY RELATIVE TO ALZHEIMER'S DISEASE.**

RESOLVED, That the special commission, established by chapter five of the resolves of nineteen hundred and eighty-four, is hereby revived and continued and that the special commission established by section seventy-one of chapter one hundred and forty of the acts of nineteen hundred and eighty-five is hereby revived and continued to the last Wednesday of December, nineteen hundred and eighty-six.

Approved January 9, 1986.

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**Chapter 14. RESOLVE PROVIDING FOR AN INVESTIGATION AND STUDY BY A SPECIAL COMMISSION RELATIVE TO THE LICENSING PROCEDURES OF MOTORCYCLISTS.**

RESOLVED, That a special commission, to consist of three members of the senate, three members of the house of representatives, the commissioner of public safety or his designee, the registrar of motor vehicles or his designee, and one person to be appointed by the governor who shall be a motorcyclist licensed in the commonwealth, is hereby established for the purpose of making an investigation and study of the procedures, regulations, practices, and laws relative to issuance of learner's permits and the licensing of persons to operate motorcycles in the commonwealth by the registry of motor vehicles. Said commission shall report to the general court the results of its investigation and



**RESOLVES, 1985 – Chap. 14.**

study, if any, together with drafts of legislation necessary to carry such recommendations into effect by filing the same with the clerk of the house of representatives on or before the first Wednesday of November, nineteen hundred and eighty-six.

Approved January 9, 1986.



NUMBER OF ACTS AND RESOLVES APPROVED, APPROVAL WITHHELD, ACTS VETOED  
BY THE GOVERNOR, PASSED OVER HIS VETO AND ACTS DECLARED EMERGENCY LAWS  
BY THE GOVERNOR UNDER AUTHORITY OF THE CONSTITUTION.

The General Court during its first session held in 1985 passed 812 Acts and 14 Resolves of which 811 Acts and 14 Resolves received executive approval. One Act from which executive approval was withheld became law by virtue of Chapter 1, Section 1, Article II of the Constitution of the Commonwealth.

Chapter 109 was passed but failed to receive executive approval; as, however, it was not returned, with objections thereto, within ten day after it was received in the executive department, the General Court not having dissolved in the meantime, said Act has the force of law, under the provisions of the Constitution governing such a case and has been so certified.

Seventy-two Acts and one Resolve were declared to be emergency laws by the Governor in accordance with provisions of the forty-eighth amendment to the Constitution, the Referendum II, Emergency Measures; respectively Chapters 3, 4, 9, 16, 25, 26, 36, 48, 68, 83, 84, 91, 102, 103, 114, 130, 150, 155, 165, 183, 188, 201, 207, 208, 214, 231, 237, 241, 259, 286, 288, 307, 310, 326, 329, 361, 370, 373, 374, 379, 410, 416, 417, 438, 460, 477, 481, 514, 536, 540, 562, 572, 579, 588, 591, 593, 602, 631, 639, 643, 648, 652, 655, 680, 682, 713, 737, 739, 741, 783, 805, 811; and Chapter 1 of the Resolves.

The General Court was dissolved on Tuesday, December 31, 1985 at twelve o'clock midnight, the session having occupied 364 days.

February 10, 1986

MICHAEL JOSEPH CONNOLLY,  
Secretary of State.



OFFICE OF THE SECRETARY OF STATE, BOSTON, JULY 8, 1986.

I hereby certify that the Acts and Resolves contained in these volumes are true copies of the originals on file in this department.

I further certify that the Index and Table of Changes contained in this volume have been prepared under the direction of the Committee on Rules of the two branches of the General Court in accordance with the provisions of Section 51 of Chapter 3 of the General Laws.

MICHAEL JOSEPH CONNOLLY,  
SECRETARY OF STATE.



# INDEX

## A.

	Chapter	Section
<b>Abbot Corporation and Arthur W. Gauthier</b> , easement over certain land, authorizing the town of Andover to grant	122	
<b>Abington, town of</b> (see Cities and towns).		
<b>Abington-Rockland</b> joint water works, land, conveyance by commonwealth of certain parcels in the town of Rockland to the	681	
<b>Absent voting ballots</b> , applications for, relative to	599	
<b>Absentee ballots</b> (see elections)		
<b>Absentee ballot</b> , allowing voter to apply for and to vote during the same visit	113	
<b>Absentee voting</b> , further regulating	562	
<b>Abuse and neglect</b> , of children, further regulating the reporting of and the investigation of	776	
<b>Accountancy</b> , public, regulating the practice of	705	
<b>Accounts</b> , allowance of, making certain changes in the probate law relative to	738	
<b>Acid rain and acid deposition</b> , limiting	590	
<b>Acton, town of</b> (see Cities and towns).		
<b>Acupuncture</b> , licensing the practice of	759	
<b>Acushnet, town of</b> (see Cities and towns).		
<b>Adams, town of</b> (see Cities and towns).		
<b>Adams Agricultural Fair Association</b> , authorizing the town of Adams to lease a certain parcel of land to the	350	
<b>ADMINISTRATION AND FINANCE, EXECUTIVE OFFICE FOR:</b>		
<b>in general:</b>		
fees, for use of commonwealth services and facilities, extending the time for the secretary to determine	200	4, 7
<b>Adoption, of children</b> , by certain persons, further regulating	316	
<b>Adoption records</b> , certain, confidentiality of, relative to	793	
<b>Adoptions</b> , certain, relative to petitions dispensing with parental consent in	244	
<b>Advisory council on workers' compensation</b> , establishment of	572	4, 7
<b>African Development bank</b> , authorizing domestic insurance companies to invest in certain obligations of the	321	
<b>Agawam, town of</b> (see Cities and towns).		
<b>AGED PERSONS:</b>		
elderly home care providers, relative to	755	
health care facilities and residential facilities for the elderly, providing for the financing of, by cities and towns	753	
<b>Agricultural and horticultural land</b> , taxation of, relative to	387	
<b>Agricultural land</b> , relative to the use of	613	
<b>Air pollution control law</b> , penalties for violation of, relative to	335	
<b>Aircraft</b> , landing areas, private, regulating the use of	30	
tax on aviation fuel, by cities and towns, establishing	145	1, 2
<b>Airport commissions</b> , acquisition of real property by, relative to procedures for	17	
<b>Aircraft lien</b> upon, for repairs to, providing for	50	
<b>Albano, Frank</b> , civil service examination for firefighter, authorization to take	497	



	Chapter	Section
<b>ALCOHOLIC BEVERAGES:</b>		
<b>in general:</b>		
delivery of alcoholic beverages by certain dealers to certain licensees on Sundays and legal holidays, authorizing false identification, use of to purchase alcohol or alcoholic beverages, relative to	600	
liquor legal liability insurance, relative to	340	
out-of-state convictions for certain motor vehicle violations, requiring registrar to revoke or suspend license of operator	223	
publication of certain notices for the issuance of licenses to sell alcoholic beverages, relative to	391	
transportation of certain alcoholic beverages for one's own use, relative to	661	
transportation of, further regulating	389	
<b>special provisions relative to particular cities and towns:</b>	379	
Bourne, issuance of certain license in the town of, relative to	649	
Chicopee, licensing commissioners, board of relative to	584	
Marshfield, Greenbush Realty Corp., authorizing the town to issue a license for the sale of, to	502	
New Marlborough, Lowman, David and Barbara, authorizing the town to issue a license for the sale of, to	119	
Northampton, license for the sale of alcoholic beverages, authorizing the city to issue, to the faculty center at Smith College	500	
<b>Alewife Station Interim Access project</b> , Massachusetts Bay Transportation Authority, authorizing the transfer of certain state land in Arlington, Belmont and Cambridge to the department of public works in connection with	16	
<b>Alford, town of</b> (see Cities and towns).		
<b>Alienation of affection</b> , abolishing causes of action for	274	
<b>Aliens</b> , tuition charges for certain, at institutions of higher learning, establishing	720	
<b>Allen, Ralph and Henrietta</b> , land in the city of Melrose, authorizing the commonwealth to convey a certain parcel to	723	
<b>Alzheimer's disease</b> , reviving and continuing the special commission making an investigation and study of...(Resolves)	13	
<b>Ambulance operator or attendant</b> , assault on, while performing in the line of duty, prohibiting	347	
<b>Amesbury, town of</b> (see Cities and towns).		
<b>Amesbury Municipal Hospital</b> , establishing a special account for	24	
<b>Amherst, town of</b> (see Cities and towns).		
<b>Anchor Motor Freight</b> , or General Motors Corporation, or both, directing the commonwealth to lease certain land in the town of Framingham to	419	
<b>Andover, town of</b> (see Cities and towns).		
<b>Animal dealers</b> , certain, further regulating the inspection of	328	
<b>Antipsychotic medications</b> , treatment of mentally ill persons with, relative to court adjudications of competency in cases involving	525	
<b>Appellate tax board</b> , appeal by utility companies of certain cases pending before, providing for the uniform determination of	532	



	Chapter	Section
<b>APPROPRIATION:</b>		
<b>in general:</b>		
general appropriation Bill for 1986	140	
<b>capital outlay</b>		
asbestos, removal of, in public schools, providing financial assistance for	614	3
certain capital outlay appropriations, relative to	573	
correctional institutions, jails and houses of correction, improvement of, providing for	799	16
Greylock Glen Recreational facility in Berkshire county, development of, providing for	676	
lockup facilities, improvements to, providing for	785	3
transportation development and improvement program for the commonwealth, providing for	811	12
water pollution control and water supply conservation, providing for	786	
<b>supplemental:</b>		
activities, new and existing, for fiscal year ending June 30, 1985, for	200	
Charlestown, skating rink, providing funding for repairs to	710	
collective bargaining agreement between the board of regents of higher education and AFSCME, SEIU and MTC for certain class reallocations, funding of	501	
collective bargaining agreement between the board of regents and the University of Massachusetts, Boston Patrolmen's Association, funding of	400	
collective bargaining agreement between the board of regents of higher education and the Massachusetts Community College Council/MTA/NEA, funding of	11	
collective bargaining agreement between the board of regents of higher education and the Southeastern Massachusetts University Faculty Federation, Local 1895, AFT, AFL-CIO, funding of	2	
collective bargaining agreement between the commonwealth and the Alliance, AFSCME, Council 93, AFL-CIO, funding of	472	
collective bargaining agreement between the commonwealth and the National Association of Government Employees, Local R1-207 (unit 6), funding of	404	
collective bargaining agreement between the commonwealth and the National Association of Government Employees, local R1-283 (unit 1), funding of	544	
collective bargaining agreement between the Massachusetts trial court and the Middlesex Superior Court Officers' Association, funding of	6	
collective bargaining agreement between the Massachusetts trial court and the Suffolk Superior Court Officers' Association, funding of	7	
Cushing Hospital, administration of	1	
disaster relief, Brookfield, Ware and Warren, providing funds for costs of public services incurred as result of tornado	449	
disaster relief for damage caused by hurricane Gloria, relative to	757	
existing and new activities for fiscal 1985	54	



## Chapter      Section

**APPROPRIATION: —Concluded.****supplemental: —Concluded.**

hazardous waste program, providing certain funding for housing units, additional, in the commonwealth, providing funding for	5 748
<b>Arbitrators</b> , in labor disputes, providing for the confidentiality of work products of	357
<b>Arlington, town of</b> (see Cities and towns).	
<b>Armories</b> , replacement for the Commonwealth Armory, authorizing the design and construction of	812
<b>Arrest without warrant</b> , for engaging in sexual conduct for a fee, authorizing	142
<b>Asbestos</b> , removal or containment of, providing financial assistance to cities, towns and regional school districts for	614
<b>Ashburnham, town of</b> (see Cities and towns).	
<b>Ashby, town of</b> (see Cities and towns).	
<b>Ashfield, town of</b> (see Cities and towns).	
<b>Ashland, town of</b> (see Cities and towns).	
<b>Ashland Water and Sewer Commission</b> , establishing	295
<b>Assault</b> on ambulance operator or attendant or on an emergency medical technician while they are performing in the line of duty, prohibiting	347
<b>Assault and battery</b> , upon certain transportation employees, establishing the crime of	153
upon employees of the department of social services in the performance of their duties, prohibiting	555
<b>Athol, town of</b> (see Cities and towns).	
<b>Attleboro, city of</b> (see Cities and towns).	
<b>Attorneys' fees</b> , in certain civil cases, providing for the award of	689
<b>Auburn, town of</b> (see Cities and towns).	
<b>Auctions</b> , establishing certain licensing and permit requirements for the conduct of	618

**AUTHORITIES AND COMMISSIONS:****in general:**

industrial development financing authorities, issuance of revenue bonds by, relative to	700
---	-----

**specific:**

Ashland Water and Sewer Commission, establishing	295
Cambridge Housing Authority, land, conveyance by the commonwealth of a certain parcel to the, authorizing	730
Civic and Convention Center Commission, in the city of Springfield, relative to the membership of	678
Historic Business District Commission, Chatham, establishment of, in the town of	641
Massachusetts Health and Educational Facilities Authority Act, authorizing the financing of hospital facilities owned by certain nonprofit corporations	789
Massachusetts State College Building Authority, further regulating the borrowing powers and certain other powers of the	800
Medford Housing Authority, acquisition by the commonwealth of a parcel of land from the, authorizing	694
Metropolitan Water Resources Authority, Quabbin Watershed Advisory Committee of the, relative to	734
Southeastern Massachusetts University Building Authority, further regulating the powers of	805



	Chapter	Section
<b>AUTHORITIES AND COMMISSIONS: —Concluded.</b>		
<b>specific: —Concluded.</b>		
Springfield Parking Authority, further regulating	178	
University of Lowell Building Authority, further regulating the powers of	805	
Wood's Hole, Martha's Vineyard and Nantucket Steamship Authority, relative to the operation of	460	
Wood's Hole, Martha's Vineyard and Nantucket Steamship Authority, relative to the operation of	579	
<b>Autistic children</b> , guardians for, authorizing the appointment of	315	
<b>Automobile franchise</b> , action by manufacturer for indemnification, providing for award of attorney's fees	689	
<b>Automobile graveyards</b> , further regulating the control of certain	663	
<b>Avon, town of</b> (see Cities and towns).		
<b>Ayer, town of</b> (see Cities and towns).		
<b>B.</b>		
<b>BALLOT QUESTIONS:</b>		
Agawam, charter amendments, placing certain questions on the ballot relative to	410	
Barnstable county, adoption of charter defining functions of county	801	
Brockton, term of office for mayor, relative to	655	
Dukes County Land Bank, establishment of, acceptance needed by towns of Chilmark, Edgartown, Gay Head, Oak Bluffs, Tisbury, and West Tisbury	736	
home rule charters for counties	807	
Methuen, hiring of the town solicitor, relative to	182	
National health program, requiring that a nonbinding question be placed on the ballot regarding	324	
safety belts in certain motor vehicles, requiring the use of	416	
<b>Ballots, absent voting</b> , applications for, relative to	599	7
<b>BANKS AND BANKING:</b>		
<b>in general:</b>		
agreements between banking institutions and cities, towns and districts, authorization to enter into	740	
branch banks, certain, increasing the establishment of, in one calendar year	288	
branch banking, relative to	443	
change of control in a state-chartered stockholder owned bank	38	
deposit insurance, relative to	405	
disclosure, by banks, to consumer of information relative to accounts in such banks, providing for	585	
Federal Depository Institutions Act of 1982, alternative mortgage transaction preemption provisions of, commonwealth declines to apply for	224	
insurance policies, group accident and health, requiring banks which purchase such policies notify debtors of any amendment to or cancellation of said policy	626	
trust departments in certain banks, operation of, further regulating	438	
<b>co-operative banks:</b>		
savings accounts which earn interest, increasing the minimum deposit required	317	
<b>credit unions:</b>		
board of directors of, power to borrow funds, further regulating	82	



	Chapter	Section
<b>BANKS AND BANKING: —Concluded.</b>		
<b>credit unions: —Concluded.</b>		
election of officers in, further regulating	18	
investment in federal funds with banking corporations, by further regulating	280	
loans on mobile homes, by, increasing the amount permitted	282	
loans to members having special notice account, authorizing a credit union to make	479	
mortgages, certain, of real estate granted by credit unions, increasing the total liability of any one member as borrower	331	
par value of shares in, increasing	56	
rates and payment of dividends, in credit unions, further regulating	509	
share deposit accounts, certain, authorizing credit unions to increase	508	
shares in credit unions, relative to the par value of	660	
<b>federal savings banks:</b>		
authorization to be the depositaries of public monies	735	
<b>savings banks:</b>		
corporators and trustees of, relative to	115	
loans to certain officers and board members, increasing amounts of	672	
mergers and conversions, relative to	764	
<b>trust companies:</b>		
interest rate on certain deposits in, relative to	39	
<b>BARNSTABLE COUNTY: (see Counties).</b>		
<b>Barnstable, town of (see Cities and towns).</b>		
<b>Barnstable Housing Authority,</b> conveyance of a certain parcel of land in the town of Barnstable from the commonwealth, to the, authorizing	594	
<b>Barre, town of (see Cities and towns).</b>		
<b>Barrett, Arlene,</b> vacation time, authorizing the town of Wareham to compensate her for	160	
<b>Barry, Maryellen,</b> civil service status as policewoman stenographer in the town of Tewksbury, providing for	158	
<b>Bazaars</b> further regulating the conduct of	222	
<b>Becket, town of (see Cities and towns).</b>		
<b>Bedford, town of (see Cities and towns).</b>		
<b>Belchertown, town of (see Cities and towns).</b>		
<b>Bellingham, town of (see Cities and towns).</b>		
<b>Belmont, town of (see Cities and towns).</b>		
<b>Berkley, town of (see Cities and towns).</b>		
<b>BERKSHIRE COUNTY: (see Counties).</b>		
<b>Berlin, town of (see Cities and towns).</b>		
<b>Berman &amp; Sons, Inc.,</b> lease with the department of the state auditor, relative to the provisions of	481	
<b>Bernardston, town of (see Cities and towns).</b>		
<b>Beverly, city of (see Cities and towns).</b>		
<b>Beverly Police Relief Association, Incorporated,</b> retirement and death benefits paid by, relative to	131	
<b>Bidding,</b> certain public construction contracts, increasing the exemption from the requirements of	675	
municipal light companies exempted from, in purchase of oil and other fuel supplies	234	



	Chapter	Section
<b>Bidding law</b> , skating rinks, exempting concessions at, from the provisions of the	733	
relative to the eligibility of certain bidders	507	
bonds in public works construction contracts, relative to	406	
<b>Billerica, town of</b> (see Cities and towns).		
<b>Birds</b> , migratory game, authorizing the shooting, from a powered boat, of certain wounded	329	
<b>"Birds of Massachusetts"</b> , paintings by Fuertes, authorizing the reproduction of	483	
<b>Blandford, town of</b> (see Cities and towns).		
<b>Blowgun</b> , prohibiting the carrying of on one's person or having under one's control in a vehicle	349	
<b>Blueberry Hill Estates Corp.</b> , Abington, easement in certain land in the town of, authorizing the commonwealth to grant to	43	
<b>Board of education</b> (see also Education). allowing certain education professionals to serve on the	112	
<b>Board of Examiners of Plumbers and Gas Fitters</b> , further regulating	627	
<b>Boards of registration</b> (see Registration, boards of)		
<b>Boards of park commissioners</b> , relative to	128	
<b>Bolton, town of</b> (see Cities and towns).		
<b>Bomb</b> (see explosives)		
<b>Bonds and Notes</b> (see State Finance)		
<b>Boston, city of</b> (see Cities and towns).		
<b>Bourne, town of</b> (see Cities and towns).		
<b>Bourque, Denis</b> , civil service laws, police officer in the town of Lynnfield, authorization to certify and appoint as	545	
<b>Boxborough, town of</b> (see Cities and towns).		
<b>Boxford, town of</b> (see Cities and towns).		
<b>Boxing matches</b> , relative to the regulation of	388	
<b>Boxing teams</b> , municipal police or state police, further regulating	782	
<b>Boylston, town of</b> (see Cities and towns).		
<b>Braintree, town of</b> (see Cities and towns).		
<b>Bray, Mayor Hedley, Bridge</b> , Fitchburg, designating a certain bridge in the city of, as	72	
<b>Breaking and entering of a vehicle</b> , providing for a certain penalty for	312	
<b>Brewster, town of</b> (see Cities and towns).		
<b>BRIDGES:</b>		
Attleboro, Castro, Manuel O., Sr., Memorial Bridge, designating a certain bridge in the city of, as the	22	
Boston, Griffin, Private First Class Robert A., Memorial Bridge, designating a certain bridge in the city of, as the	718	
Cambridge, Russell, Mayor Leonard J., Memorial Bridge, designating a certain bridge in the city of, as the	151	
Charlton, Charlton Vietnam Veterans Memorial Bridge, designating a certain bridge in the town of, as the	362	
Danvers, licenses to construct a certain bridge in the town of, authorizing the application for	762	
Fitchburg, Bray, Mayor Hedley, Bridge, designating a certain bridge as the	72	
Holden, Korean and Vietnam War Veterans Memorial Bridge, designating a certain bridge in the town of, as the	74	
Lowell, Cox, John E., Memorial Bridge, designating a certain bridge in he city of, as the	586	



	Chapter	Section
<b>BRIDGES: —Concluded.</b>		
Oxford, Huguenot Fort Bridge, designating a certain bridge in the town of, as the	409	
Somerville, Roderick, Mary C., Bridge, designating a certain bridge in the city of, as the	724	
<b>Bridgewater, town of</b> (see Cities and towns).		
<b>Brimfield, town of</b> (see Cities and towns).		
<b>BRISTOL COUNTY:</b> (see Counties).		
<b>Brockton, city of</b> (see Cities and towns).		
<b>Brookfield, town of</b> (see Cities and towns).		
<b>Brookline, town of</b> (see Cities and towns).		
<b>Brown, Sergeant John W.</b> , Revere, authorizing the city to continue the employment of, after the age of seventy	535	
<b>Buckland, town of</b> (see Cities and towns).		
<b>Bureau of solid waste disposal</b> (see Environmental Affairs, Executive Office for)		
<b>Bureau of special investigations</b> , providing police powers for	662	
<b>Burlington, town of</b> (see Cities and Towns)		
<b>Business certificate</b> , stating real name of person conducting business providing for the renewal of	337	
<b>Buzzards Bay Water District</b> , transfer of land in the town of Bourne from the district and the division of fisheries, wildlife and recreational vehicles to the department of public works, authorizing	130	
<b>C.</b>		
<b>Cable television</b> , obscene material on, authorizing a city or town to prohibit the distribution of	651	
<b>Cable television companies</b> , providing for the inclusion of, as part of the utility underground plant damage prevention system	243	
<b>Cable television system facilities</b> , installation of, further regulating	644	
<b>Cahir, Honorable Jeremiah F., Memorial Highway</b> , designating a certain section of route 25 as the	67	
<b>Cambridge, city of</b> (see Cities and towns).		
<b>Cambridge Housing Authority</b> , land, conveyance by the commonwealth of a certain parcel in the city of Cambridge, to the, authorizing	730	
<b>Campaign contributions</b> , allowing depository candidates to purchase goods and services from a political committee of their party	522	
<b>Canton, town of</b> (see Cities and towns).		
<b>Capias</b> (see Courts)		
<b>Capital outlay</b> (see Appropriations)		
<b>Cardiac rehabilitation expenses</b> , requiring that certain health insurance plans provide for coverage of	628	
<b>Carlisle, town of</b> (see Cities and towns).		
<b>Carver, town of</b> (see Cities and towns).		
<b>Cashing of pensioners' checks</b> and retirees' checks, limiting the maximum amount banks are required to honor	596	
<b>Castro, Manuel O., Sr., Memorial Bridge</b> , Attleboro, designating a certain bridge in the city of, as the	22	
<b>CATV</b> (see Cable television)		
<b>CEMETERIES:</b>		
American Indian burial place, Uxbridge, certain, authorizing the department of public works to relocate, for highway purposes	68	



	Chapter	Section
<b>CEMETERIES: —<i>Concluded.</i></b>		
Amherst, cemetery land, certain, authorizing the town to convey	157	
Paxton, conveyance by town of, a certain parcel of land to the First Congregational Church of Paxton for cemetery purposes, authorizing	126	
Taunton Cemetery, authorizing the city of Taunton to receive and administer the property of the	352	
<b>Cemetery corporations</b> , relative to	393	
<b>Central Berkshire Regional School District</b> , authorization to expend certain funds	232	
<b>Ceremonial march of the commonwealth</b> , designating a certain song as the	496	
<b>Chapman, R.E., Company</b> , lease of a certain parcel of land, in the town of West Boylston, by the commonwealth, to, authorizing	693	
<b>Charitable organizations and institutions</b> , certain, taxation of, further regulating	489	
<b>Charitable solicitation</b> , further regulating	790	
<b>Charlemont, town of</b> (see Cities and towns).		
<b>Charlton, town of</b> (see Cities and towns).		
<b>Charlton Vietnam Veterans Memorial Bridge</b> , Charlton, designating a certain bridge in the town of, as the	362	
<b>Chatham, town of</b> (see Cities and towns).		
<b>Checks</b> , issued by the commonwealth, certain, further regulating the payment of	657	
<b>Chelmsford Center Industrial Sewer District</b> , establishment of	420	
<b>Chelmsford, town of</b> (see Cities and towns).		
<b>Chelsea, city of</b> (see Cities and towns).		
<b>Chernick, Sidney A.</b> , authorizing the continued employment as a court officer in Hampden County of	749	1
<b>Cheshire, town of</b> (see Cities and towns).		
<b>Chester, town of</b> (see Cities and towns).		
<b>Chesterfield, town of</b> (see Cities and towns).		
<b>Chicopee, city of</b> (see Cities and towns).		
<b>Child abuse cases</b> , certain, reporting of, requiring clerk/magistrates of district courts to make a	209	
<b>Child witness</b> , videotape of testimony of, admissible as evidence, authorizing courts to allow	682	
<b>CHILDREN:</b> (see also Infants)		
adoption of, by certain persons, further regulating	316	
autistic children, guardians for, authorizing the appointment of	315	
cover charge or minimum charge for, in eating or drinking establishments, prohibiting	427	
custody and support of minor children, clarifying certain procedures relative to	490	
delinquent children, certain, permitting the release of the names of	425	
drug treatment for certain children in need of services, relative to	791	
institutional abuse and neglect cases, further regulating the reporting of	776	
newborn infant, testing of for certain treatable infectious diseases, providing for	529	
sexual offenses, certain, against children, requiring the reporting of, to the District Attorney	343	



	Chapter	Section
<b>Chilmark, town of</b> (see Cities and towns).		
<b>Chiropractors</b> , certain, notice relative to medicare assignment, requirement to post	298	
<b>Christo, Kevin N.</b> , justice of peace in New Hampshire, solemnization of marriage between Ronald Gerard Graveline and Kathleen Jean Despres, by, authorizing the state secretary to authorize	80	
<b>Cinematograph</b> , license to operate, further regulating the issuance of	743	2
<b>CITIES AND TOWNS:</b>		
<b>in general:</b>		
agreements with banking institutions, authorizing cities, towns and districts to enter into	740	
agricultural incentive area, providing for the establishment of, in said city or town	613	
annual town meeting, dates for, relative to, extending time for submission of budgets in cities	9	
asbestos, removal of, providing financial assistance to cities, towns and regional school districts for	614	
authorizing the financing of continuing care facilities for the elderly, and residential housing in connection with, by cities and towns	753	
bonds and notes, investment of, by cities and towns, relative to	488	
bonds, industrial development, issuance of by municipalities, further regulating	359	
borrowing, certain, by cities, towns, and districts, further regulating	238	
boxing matches, by certain groups, eliminating the necessity of city or town approval	388	
budgets, annual, extending time for submission, relative to the dates for annual town meetings	9	
cable television, obscene material on, authorizing a city or town to prohibit the distribution of	651	
chief of police, municipal, providing for a hearing before removal of a	210	
cities, authorization to issue bonds and notes secured by insurance or by letters or lines of credit or other credit	571	
collection of local taxes, authorizing the use of facsimile signatures on warrants by tax collectors in cities and towns	86	
contract negotiations, certain, allowing executive session for	333	
dog licensing, control and regulation, authorizing cities and towns to assume responsibility and liability for	308	
electronic voting machines, authorizing cities and towns to decrease the number used at elections	653	
enforcement of uninsured motor vehicle law, by cities and town, providing for; cities and towns to receive portion of fine	806	
estimated tax payments for fiscal 1986, in certain cities and towns, authorizing	52	
false alarm, reward for information relative to person causing, increasing amount cities and towns may offer	196	
firefighters and police officers, certain, further regulating the rights of	360	
immunity, certain, for any member of the local municipal arson squad of the fire or police department, granting	322	



	Chapter	Section
<b>CITIES AND TOWNS: —Continued.</b>		
in general: —Continued.		
insurance policies, certain, further regulating the payment, by insurance companies, to cities and towns, of the proceeds of	464	
jails, municipal, relative to	3	
late acceptance of certain provisions of the so-called Education Reform Bill, by, providing for	704	
leasing of certain property by cities and towns to the Massachusetts Vietnam-Era Veterans Association, Inc., authorizing	40	
licenses and permits, certain, relative to the granting or renewing of, in cities and towns	640	
licenses for certain automobile graveyards and motor vehicle junkyards, relative to the issuance of	664	
lockup facilities, further regulating the care and protection of detainees in	208	
providing for improvements to, by cities and towns	785	
lockup facility, towns, certain, relative to	240	
motor vehicle parking identification plates for handicapped persons, relative to the issuance of	632	
nomination papers and petitions, for city or town offices or local issues, providing for objections to	624	
operators of motor vehicles owned or operated by cities and towns, requiring classification of licenses for	195	
parking offenses in, further regulating	696	
parks, assessments on cities and towns for maintenance of, repealing	200	5, 6
pensions, unfunded, in certain cities and towns, providing for	156	
police boxing teams, municipal, further regulating	782	
pooled insurance by governmental units, regulating	802	
real estate tax, on certain property, authorizing cities and towns to collect	25	
reimbursement by commonwealth to cities and towns for payments made for veterans' benefits, cost of living adjustment in, providing for	709	
revision of precincts in towns, and of precincts and wards in cities, and filing same with secretary of state, extending the time for	165	
sale of city and town properties, establishing a disqualification system relative to	803	
scenic roads, designation of by cities and towns, relative to	384	
school committees, clarifying the duties of	577	
expenditures allowed for collective bargaining legal services, by, increasing the amount	523	
requiring the establishment of a pupil absence notification program by	551	
school construction, relative to increasing aid for	33	
sewers, common, notice requirements regarding the use of in cities and towns, decreasing	289	
street listings, requiring that nursing and rest home residents be included in	125	
street lists, municipal, further regulating the availability of	478	
tax, on aircraft fuel and hotel room occupancy, authorizing cities and towns to impose an excise tax upon	145	
tax taking of land valued at \$5000.00 or less, relative to	89	



	Chapter	Section
<b>CITIES AND TOWNS: —Continued.</b>		
<b>in general: —Concluded.</b>		
taxes, certain, further regulating the payment of	598	
towns, stabilization fund in, authorizing the appropriation of	94	
towns, vacancies on a board of selectmen, relative to the filling of	34	
violations of health regulations in, increasing the fines for water supply systems, providing for grants to cities and towns for the conservation and protection of certain zoning, subdivision plans, moratoriums upon, relative to	786 494	
<b>special provisions relative to particular cities:</b>		
Attleboro, designation of a certain bridge as the Manuel O. Castro, Sr. Memorial Bridge	22	
Boston, civil service laws, police department, providing tenure at present civil service rank to Lieutenant Edward F. Connolly	42	
designating a certain section of Castle Island as the James F. Dahill Harborview	46	
designating a certain bridge as the Private First Class Robert A. Griffin Memorial Bridge	718	
pension to Manuel J. Gregorio, directing the State-Boston Retirement Board to grant	701	
retirement benefits to Janet and Joseph McGrail, directing the State-Boston Retirement Board to pay	747	
superintendent of schools, term of office for, relative to	212	
Brockton, branch library, relative to the construction of, in the city of	561	
civil service laws, position of tax collector, exempting from	301	
mayor of the city of, term of office for, relative to sewer easements in the city of, authorizing the town of Whitman to acquire	655	
Cambridge, designating a certain parcel of land in the city of, as the Senator Michael LoPresti, Sr. Riverside Park	149 32	
rent control and evictions in the city of, further regulating	399	
Russell, Mayor Leonard J., Memorial Bridge, designating a certain bridge in the city of, as the widow of, Mayor Leonard J. Russell, authorizing the city to pay salary and other benefits to	151 201	
Chelsea, civil service laws, police officer in the city of, authorization to appoint Michael A. Morabito as school department of, authorization to stay open on June 17, 1985	245 90	
Chicopee, bonds, authorizing the city to issue certain refunding bonds for electric purposes	110	
board of licensing commissioners, in the city of, relative to	584	
park land, lease of a certain parcel by city to Hampden County, authorizing	604	
Everett, park land, sale of a certain parcel by the city, authorizing	13	
tax abatements, authorizing additional time for city to act on	166	



	Chapter	Section
<b>CITIES AND TOWNS: —Continued.</b>		
<b>special provisions relative to particular cities: —Continued.</b>		
Fall River, special account for the purpose of making improvements to municipal incinerator, authorizing the city to establish	147	
Fitchburg, Bray, Mayor Hedley, Bridge, designating a certain bridge as the	72	
delegation of rate setting authority for parking in an off-street parking facility, authorizing the city	652	
land, in the city of but owned by the city of Leominster, authorizing the commonwealth to acquire certain parcels, for highway purposes	540	
Gardner, borrowing for wastewater treatment purposes, authorizing certain terms for	473	
Haverhill, refunding of certain hospital bonds and establishment of a hospital enterprise fund	569	
Holyoke, park land, authorizing the city to convey a certain parcel for housing purposes	79	
Lawrence, continued employment of police captain Thomas Nastasia, providing for	611	
estimated tax bills, authorizing the city to issue	565	
financing of certain school projects in the city of, relative to	542	
park land, conveyance of a certain parcel by the city, authorizing	423	
Leominster, land, authorizing the commonwealth to acquire certain parcels owned by the city of, for highway purposes	540	
Lowell, city engineer, relative to the appointment of, in the city of	263	
Cox, John E., Memorial Bridge, designating a certain bridge in the city of, as the	586	
land, sale of a certain parcel by city, to MCTC Associates, Inc., authorizing	15	
park land, conveyance by the commonwealth of certain parcels and a certain easement to the city of, authorizing	638	
park land, granting of certain easements over, to the city of, by the commonwealth, authorizing	665	
Lynn, estimated tax payments, authorizing certain	361	
harbor of, further establishing certain harbor lines in overlay deficit, authorizing and regulating the	189	
continuation of, in the city of	8	
Malden, city councillor from ward 2 in said city, providing that person elected shall assume office upon		
certification of the votes	432	
Medford, bonds, certain, authorizing the city to issue	51	
finances, authorization to accept cash for payment of certain	179	
Melrose, land, conveyance of a certain parcel by the commonwealth to the town of, authorizing	484	
New Bedford, rehabilitation of Brooklawn Park in the city of, authorizing the department of environmental		
management to providing funds for	780	
water supply, authorizing the city to contract with the town of Dartmouth and the Greater New Bedford		
Regional Refuse Management District relative to	299	



**CITIES AND TOWNS: —Continued.****special provisions relative to particular cities: —Continued.**

Newburyport, civil service laws, position of treasurer-collector, exempting from	116
Newton, real estate tax exemptions to certain veterans who reside in said city, authorizing	656
Northampton, alcohol beverages, authorizing the city to issue to the faculty center at Smith College a license for the sale of	500
Peabody, civil service laws, office of assistant manager of the Municipal Lighting Commission, providing that such office shall be subject to the provisions of the; also providing tenure to Victor Unhao, present incumbent of office	371
listing of chemical and flammable substances used by certain businesses in the city of, authorizing the city to require certain businesses to file	731
Pittsfield, park land, certain authorizing the city to grant an easement on, to New England Telephone Company	190
park land, certain, authorizing the city to use for water system improvements	191
Quincy, borrowing money on behalf of the Quincy City Hospital, authorizing the city	470
overlay deficit, appropriation of over a period of years, authorizing	531
Revere, employment of Sergeant John W. Brown after the age of seventy, authorizing the city to continue the revision of the precincts and wards in the city of, authorizing the city to make	535
Salem, election wards and precincts in the city of, relative to	448
Somerville, assessors, board of, relative to the election and composition of	729
condominium conversion in the city of, relative to	23
designation of a certain bridge in the city of, as the Mary C. Roderick Bridge	218
incinerators, municipal, authorization to enter into agreements for use of	724
leases, long-term, authorizing the city to enter into	216
purchasing agent, appointment of, providing for	769
Southbridge, violations of the sewer regulations of the town of, increasing the penalties for	486
Springfield, Civic and Convention Center Commission in the city of, relative to the membership of	358
civil service laws, position of medical worker at municipal hospital, exempting from	678
Cobble Mountain Hydroelectric Facility, further regulating the authority of the city to lease	117
mobile home parks, establishment of regulations relative to rents and evictions in, providing for	265
park land, authorizing city to use for recreational or other purposes	610
Springfield, Springfield Municipal Hospital, establishing a special account for	78
relative to the membership of the board of trustees of	773
Springfield Parking Authority, further regulating	647
	178



	Chapter	Section
<b>CITIES AND TOWNS: —Continued.</b>		
<b>special provisions relative to particular cities: —Concluded.</b>		
Taunton, civil service laws, clerical and aide positions in the Taunton school department, exempting from	225	
civil service laws, positions of municipal health safety agent and zoning code enforcement officer, exempting from	227	
civil service laws, position of supervisor of vehicular maintenance, exempting from	226	
land, conveyance of a certain parcel by the town to the commonwealth, authorizing	143	
	226	
positions of municipal health safety agent and zoning code enforcement officer, exempting from	227	
Taunton cemetery, authorizing the city to receive and administer the property of the	352	
Worcester, abatement of a certain betterment assessment, authorizing	180	
Worcester Civic Center Commission, providing that one member be a labor representative	14	
<b>special provisions relative to particular towns:</b>		
Abington, dogs, relative to the licensing and keeping of	108	
Acton, additional justice of the peace, in, authorizing the governor to designate	287	
use of certain land, transferring from recreational use to other uses, authorizing	603	
Adams, lease of a certain parcel of land to the Adams Agricultural Fair Association, authorizing the town reimbursement of veterans' benefits paid by the town, authorizing the commonwealth to make	350	
	635	
Agawam, charter amendments, placing certain questions on the ballot relative to	410	
designating the criminal justice training center in the town of as the Edward W. Connelly Criminal Justice Training Center	366	
Amesbury, Amesbury Municipal Hospital, establishment of a special account for, authorizing the town	24	
Amherst, cemetery land, certain, authorizing the town to convey	157	
Andover, land, easement over, authorizing the town to grant to Arthur W. Gauthier and the Abbot Corporation	122	
land, exchange of certain parcels between the town and Earl and Margaret Efinger, authorizing	645	
civil service laws, board of assessors, employees in the office of, exempting from	262	
Arlington, scholarship fund, relative to the investment of funds of The Town of Arlington Scholarship Fund	206	
Ashburnham, reimbursement of veterans' benefits paid by the town, authorizing the commonwealth	273	
Avon, civil service laws, position of chief of police, exempting from	207	
Barnstable, conservation land, authorizing the town to convey certain parcels to the West Barnstable Fire District in exchange for certain other land	471	
park land, easement, authorizing the town to grant, to the Cotuit Library Association	12	



	Chapter	Section
<b>CITIES AND TOWNS: —Continued.</b>		
<b>special provisions relative to particular towns: —Continued.</b>		
Barnstable, conservation land, authorizing the town to convey certain parcels to the West Barnstable Fire District in exchange for certain other land — <i>Concluded.</i>		
town of Barnstable scholarship fund, authorizing the town to establish	267	
validating a certain proceeding at a certain special town meeting of the town of	746	
Barre, land, conveyance of certain parcels and easements by the commonwealth to the town, for the reconstruction of route 67, authorizing	26	
Bellingham, placing the town under the jurisdiction of the Housing Court of Worcester County	171	
Belmont, dogs, relative to the licensing and keeping of	444	
Billerica, land, acquisition by the commonwealth of certain parcels from the town of, authorizing	591	
Bourne, alcoholic beverages, issuance of certain licenses for the sale of, in the town of, relative to	649	
Braintree, land, authorizing the town to lease a certain parcel to Semass Partnership	466	
Brewster, utility easement, authorizing the commonwealth to grant to the town of	264	
Bridgewater, dogs, relative to the licensing and keeping of	105	
Brookfield, disaster relief, funds for public services costs incurred as result of tornado, providing	449	
Brookline, town administrator, establishing the position of	270	
town meetings, special, relative to the scheduling of	269	
Charlton, Charlton Vietnam Veterans Memorial Bridge, designating a certain bridge in the town of, as the	362	
Chatham, historic business district and an Historic Business District Commission, establishing	641	
town clerk, appointment of, providing for		
validating certain action taken by the town at its annual town election in 1984	707	
Chelmsford, conservation land, easement in, authorizing town to grant to Chelmsford Water District	104	
Clinton, park land, authorizing the town to use a certain parcel of, for highway purposes	294	
recall elections, providing for	204	
Cohasset, reimbursement of certain legal expenses, by the town, to Martin W. Dooley, authorizing	251	
Concord, historic districts, certain, establishment of, in the town of, relative to	213	
Danvers, licenses to construct a certain bridge in the town of, authorizing the application for	762	
Dartmouth, reimbursement for loss of pay for certain call firefighters in the town of, authorizing	310	
water supply, authorizing the town to contract with the city of New Bedford and the Greater New Bedford Regional Refuse Management District for	299	
Dedham, civil service laws, position of town hall custodian, exempting from	302	
three hundred and fiftieth anniversary of incorporation as town, authorization to appoint committee to		
arrange celebration	164	
Dover, dogs, relative to the licensing and keeping of	59	



	Chapter	Section
<b>CITIES AND TOWNS: —Continued.</b>		
<b>special provisions relative to particular towns: —Continued.</b>		
Dracut, Tyngsborough, authorizing said towns to enter into agreement with the town of Pelham, New Hampshire, for the restoration of Long Pond	435	
Duxbury, public works, establishing a department of	266	
Eastham, recall elections, providing for	318	
Easthampton, hydroelectric power generating facility, authorizing the town to establish, install and construct a	135	
East Longmeadow, dogs, relative to the licensing and keeping of	450	
Falmouth, historical district, certain, providing for a change in the boundary line of	290	
Florida, land in the town of, authorizing the commonwealth to convey a certain parcel to the department of public works for town way purposes	48	
Foxborough, acquisition by town of easements in land in the town of Mansfield, to lay sewage mains over, and to connect to Mansfield sewage disposal system, authorizing	144	
dogs, relative to the licensing and keeping of	53	
Framingham, land, conveyance of certain parcels by the commonwealth to the town, and conveyance of a certain parcel by the town to the commonwealth, authorizing and directing	419	
land, conveyance of a certain parcel to the town of, relative to	568	
Granby, borrowing to reimburse the surplus revenue account of said town, authorizing	567	
Halifax, dogs, relative to the licensing and keeping of	60	
Hanover, guaranteed deposit fund, authorizing the town to establish	304	
Harvard, listing requirements with respect to residents of Fort Devens, exempting the town from	247	
Hawley and Plainfield, Dubuque, Kenneth M., Memorial State Forest, designating a certain state forest in the towns of, as the	346	
Holden, Korean and Vietnam War Veterans Memorial Bridge, designating a certain bridge in the town of, as the	74	
land, lease of a certain parcel by the commonwealth to the town of, authorizing	601	
Hopedale, real estate, certain, proceeds from the sale of, relative to	412	
Hopkington, land, conveyance by the commonwealth of an easement in a certain parcel, to the town of, authorizing	772	
Hubbardston, authorization to defer its assessment of taxes in the amount necessary to satisfy certain abatements	69	
Hull, civil service laws, position of light plant manager, exempting from	248	
collection of overdue ambulance bills by the town of, relative to	199	
Ipswich, dogs, relative to the licensing and keeping	63	
validating certain actions taken at its annual town meeting in 1985	499	



	Chapter	Section
<b>CITIES AND TOWNS: —Continued.</b>		
<b>special provisions relative to particular towns: —Continued.</b>		
Lawrence, park land, conveyance of a certain parcel by the city to the Lawrence Housing Authority, authorizing	268	
Lee, debt service schedule for certain bonds or notes of the town of, relative to	159	
Lenox, public works department in the town of, further regulating	547	
Leverett, recall elections, providing for	37	
Lexington, dogs, authorizing the chief of police to hear complaints relating to	558	
selectman-town manager form of government in the town of, relative to	120	
Leyden, validating certain election results	514	
Ludlow, estimated tax payments, authorizing certain	372	
Lynnfield, civil service laws, police officer in the town of, authorization to certify and appoint Denis Bourque as, notwithstanding his separation from such position for over five years	545	
Mansfield, capital depreciation fund, authorizing the town to establish		162
civil service laws, firefighter in the town of, authorizing Neal R. Ferrick to take civil service examination for	518	
Marshfield, alcoholic beverages, Greenbush Realty Corp., authorizing the town to issue a license for the sale of, to	502	
easements over land in the town of, authorizing the town of Foxborough to acquire, to lay sewage mains over, and to connect to Mansfield sewage disposal system, authorizing	144	
Mattapoisett, civil service laws, position of plumbing inspector, exempting from	309	
Maynard, civil service laws, position of chief of police, exempting from	254	
Medfield, payment of a certain sum of money to Joseph Erskine, authorizing the town	296	
Methuen, Merrimac River, authorizing the town to take hold and convey water from	106	
town solicitor, hiring of, amending charter relative to	182	
Middleborough, land in, conveyance to the Central Baptist Church of Middleborough by the trustees of a certain trust, authorizing	169	
land in, easements over, authorizing the town to grant to Hosea F. and Lucy M. Maxim	133	
Milford, town meeting members, relative to the nomination and election of	403	
town meeting members, nomination of candidates for, relative to	612	
Millis, park land, transfer of certain parcels by the town, authorizing	429	
Milton, civil service laws, positions of health agent and principal clerk in the board of health, exempting from	161	
Monson, validating the proceedings at the annual town meeting in 1985	121	
Montgomery, dogs, relative to the licensing and keeping of	369	
Mount Washington, health insurance coverage for municipal employees, relative to	546	



CITIES AND TOWNS: —*Continued.*special provisions relative to particular towns: —*Continued.*

	Chapter	Section
Nantucket, historic district commission for the town of, relative to the membership of	291	
New Braintree, land, conveyance of certain parcels and easements by the commonwealth, to the town, for the reconstruction of route 67, authorizing	26	1, 2
Newburyport, land, conveyance of a certain parcel to the town of West Newbury, by, authorizing	422	
New Marlborough, alcoholic beverages, Lowman, David and Barbara, authorization to issue license for the sale of, to	119	
North Attleborough, annuity to Muriel Mildred Roberts, authorizing the town to pay	184	
civil service laws, police officer in the town of, authorizing George Fisk to take the examination for	556	
civil service laws, police officer in the town of, authorizing Robert St. John to take the examination for	564	
North Brookfield, conservation land, authorizing the town to use certain parcels for the reconstruction of route 67	26	5
North Reading, land, conveyance of certain parcels to Emjay Realty Trust, by town, authorizing	10	
Norton, board of water commissioners of the town of, relative to	431	
Norwood, civil service laws, certain positions in various departments of the town of, exempting from	467	
Oak Bluffs, planning board of the town of, relative to the composition of	292	
Orange, mobile home parks, establishment of regulations relative to rents and evictions in, providing for, in the town of	608	
Orleans, appropriations for municipal advertising, relative to	163	
Oxford, Huguenot Fort Bridge, designating a certain bridge in the town of, as the	409	
Paxton, land, conveyance of a certain parcel to the First Congregational Church of Paxton, for cemetery purposes, authorizing the town	126	
state highways, certain, in the town of, relative to the reconstruction of	426	
Pepperell, dogs, relative to the licensing and keeping of	285	
Petersham, dogs, relative to the licensing and keeping of	61	
Plainfield and Hawley, Dubuque, Kenneth M. Memorial State Forest, designating a certain state forest in the towns of, as the	346	
Randolph, additional justice of the peace, authorizing the governor to designate	548	
civil service laws, all positions in the office of the board of assessors, exempting from	87	
civil service laws, positions of school traffic supervisor and assistant town engineer, exempting from	363	
Reading, dogs, relative to the licensing and keeping of	57	
Saugus, taxation of a certain resource recovery facility in the town of, relative to	84	
Water System Improvement Fund, authorizing the establishment of	643	



	Chapter	Section
<b>CITIES AND TOWNS: — <i>Continued.</i></b>		
<b>special provisions relative to particular towns: — <i>Continued.</i></b>		
Scituate, designation of a portion of state highway route 123 as Old Satuit Trail	31	
land, authorizing the town to sell a certain parcel	424	
reimbursement for legal expenses incurred by a certain police officer, authorizing the town to make	446	
special fund, authorizing the town to collect certain fees and establish a special fund therefor	445	
Sharon, validating the proceedings at a certain special town meeting held in 1985	530	
validating certain proceedings taken in the town of	529	
Shirley, reimbursement of certain tax payments, authorizing the town to make	434	
Shrewsbury, designating a certain boat ramp as the Honorable Leo R. Corazzini Boat Ramp, in the town of	257	
dogs, relative to the licensing and keeping of	58	
unpaid bills, certain, authorization to pay	88	
Southampton, land, acquisition by the commonwealth of certain parcels from the town of, authorizing	639	
Stow, designating certain persons as residents of the town for a certain period of time	418	
Swampscott, borrowing to pay certain court judgments, authorizing	75	
Tewksbury, civil service laws, firefighter in the town of, authorizing Gerald D. Colton to take examination for	503	
civil service laws, position of junior engineering aide, exempting from	27	
civil service status for Maryellen Barry as policewoman stenographer in the town of, providing	158	
land, granting by the commonwealth of certain easements to the town of, authorizing	779	
police station, construction of, extending the time for town to commence	214	
Tisbury, revolving fund for certain library fees, authorizing the establishment of	261	
Townsend, park land, authorizing the town to convey a certain parcel to Rural Housing Improvement, Inc.	49	
Tyngsborough, Dracut, authorizing said towns to enter into agreement with the town of Pelham, New Hampshire, for the restoration of Long Pond	435	
Ware, disaster relief, providing funds for costs of public services incurred as result of tornado	449	
Wareham, payment of a certain sum of money to a certain public school employee	462	
vacation time, authorizing town to compensate certain employees for	160	
Warren, disaster relief, providing funds for costs of public services incurred as result of tornado	449	
mobile home parks, providing for the establishment of regulations relative to rents and evictions in	642	
Watertown, court judgment, certain, authorizing town to borrow money to pay	217	
land, conveyance by the commonwealth of certain easements to the town of, authorizing	787	



	Chapter	Section
<b>CITIES AND TOWNS: —Concluded.</b>		
<b>special provisions relative to particular towns: —Concluded.</b>		
Webster, designation of a certain access ramp as the Private First Class Joseph C. Parent and Sergeant Arthur C. Parent Memorial Access Ramp	20	
designation of a certain intersection as the Robert Siff Square	19	
designation of a certain traffic island as the Harry Seder Memorial Square	21	
Wellesley, dogs, relative to the licensing and keeping of	55	
Westford, park land, authorizing the town to transfer a certain parcel to the Westford Housing Authority	433	
West Newbury, land, conveyance of a certain parcel by the city of Newburyport, to the town of, authorizing	422	
Weston, injured town employees, authorization to supplement compensation to	487	
West Tisbury, land, conveyance by the commonwealth of a certain parcel in Martha's Vineyard State Forest, authorizing	775	
Westport, recall elections, providing for	495	
veterans' services, directing the commonwealth to reimburse the town for monies expended for	538	
water supply and water distribution system in the town of, establishment of, authorizing	235	
Weymouth, conservation land, conveyance of a certain parcel, authorizing the town	148	
Weymouth, position of executive administrator in the town of, establishing	230	
Whately, municipal water department, establishing	373	
Whitman, sewer easements in the city of Brockton, authorizing the town to acquire	149	
Wilmington, civil service laws, authorizing Earl F. Enos to take examination for police officer in the town, notwithstanding maximum age requirement	192	
town forest, authorizing the transfer of the care, custody and control of, from the town to the conservation commission	480	
Winthrop, civil service laws, certain positions in the town of, exempting from	378	
civil service laws, position of firefighter in the town of, authorizing Terry L. McKenna to take the examination for	203	
moderator, providing for the election of, for a three year term		401
Yarmouth, cranberry bogs, authorizing the conservation commission to operate and maintain	176	
<b>CITY AND TOWN CLERKS:</b>		
absentee ballot applications, providing that permanently disabled voters shall be sent, by	383	
certificate, certain, of person conducting business in the commonwealth, providing for the renewal of, in the office of	337	
horse or dog racing, elections held in cities or towns relative to granting a license for, requiring the reporting of the results to the state racing commission, by	353	
license fees, hunting and fishing, relative to	630	
<b>Civil actions,</b> transfer to and from Superior Court, changing the jurisdictional amount relative to	533	



## Chapter      Section

**CIVIL SERVICE:**

<b>in general</b> eligible lists for appointment as firefighter or police officer, relative to the order of certain persons on entrance requirements for certain civil service examinations, further regulating	402 527
<b>department of personnel administration</b> effective dates of reallocations approved by the personnel administrator or the civil service commission, relative to	766
<b>provisions for particular cities and towns:</b>	
Arlington, board of assessors, employees in the office of, exempting from	262
Avon, position of chief of police, exempting from	207
Brockton, position of tax collector, exempting from	301
Chelsea, police officer in, authorizing the city to appoint Michael A. Morabito as, notwithstanding civil service laws	245
Cohasset, position of town accountant, exempting from	246
Dedham, position of town hall custodian, exempting from eligible lists for appointment as firefighter or police officer, relative to the order of certain persons on	302 402
Hull, position of light plant manager, exempting from	248
Lynnfield, police officer in the town of, authorization to certify and appoint Denis Bourque as, notwithstanding his separation from such position for over 5 years	545
Mansfield, firefighter, Neal R. Herrick, authorization to take civil service examination for, in the town of	518
Mattapoisett, position of plumbing inspector, exempting from	309
Maynard, position of chief of police, exempting from	254
Milton, positions of health agent and principal clerk in the board of health, exempting from	161
Newburyport, position of treasurer-collector, exempting from	116
North Attleborough, police officer in the town of, authorizing George Fisk to take the examination for police officer in the town of, authorizing Robert S. John to take the examination for	556 564
Norwood, positions in various departments of the town of, exempting from	467
Peabody, office of assistant manager of the municipal lighting commission, providing that said office shall be subject to the provisions of civil service laws	371
Randolph, all positions in the office of the board of assessors, exempting from	87
positions of school traffic supervisor and assistant town engineer, exempting from	363
Springfield, position of medical worker at municipal hospital, exempting from	117
Taunton, office of chief of the fire department, placing under civil service laws	459
positions, aide and clerical, in the school department, exempting from	225
position of supervisor of vehicular maintenance, exempting from	226
Tewksbury, firefighter, Gerald D. Colton, authorization to take civil service examination for, in the town of	503
position of junior engineering aide, exempting from	27



	Chapter	Section
<b>CIVIL SERVICE: —Continued.</b>		
<b>provisions for particular cities and towns: —Concluded.</b>		
Wilmington, firefighter in the town of, authorizing Terry L. McKenna to take the examination for	203	
police officer in the town of, authorizing Earl F. Enos to take the examination for, notwithstanding		
maximum age requirements	192	
Winthrop, certain positions in the town of, exempting from	378	
<b>provisions for specific individuals:</b>		
Albano, Frank, firefighter, authorization to take examination for, notwithstanding maximum age requirements	497	
Barry, Maryellen, policewoman stenographer, providing civil service status in the town of Tewksbury for	158	
Bourque, Denis, Lynnfield police officer, authorizing the certification and appointment of, as, notwithstanding his separation from such position for over 5 years	545	
Colton, Gerald D., Tewksbury, firefighter in the town of, authorization to take civil service examination for the position of	503	
Connolly, Edward F., police department, Boston, providing tenure at present civil service rank to	42	
DeFazio, John, firefighter, authorization to take examination for, notwithstanding maximum age requirements	482	
Drinkwater, John C., firefighter, authorization to take examination for	559	
Enos, Earl F., police officer in the town of Wilmington, authorization to take the civil service examination for, notwithstanding maximum age requirements	192	
Fisk, George, North Attleborough, police officer in the town of, authorization to take examination for	556	
Gile, Kevin, motor vehicle examiner, authorization to take examination for, notwithstanding maximum age requirements	174	
Hanna, John J., motor vehicle examiner, providing for the appointment of, as, notwithstanding the civil service law relative to transfers	66	
Herrick, Neal R., Mansfield, firefighter in the town of, authorization to take civil service examination for the position of	518	
Manfra, Maryanna, police officer, authorization to take civil service examination notwithstanding maximum age requirements	447	
McKenna, Terry L., firefighter in the town of Franklin, authorization to take civil service examination for	203	
Mellor, Stephen M., police officer, authorization to take examination for, notwithstanding maximum age requirements	553	
Morabito, Michael A., police officer in the city of Chelsea, authorizing the city to appoint, as	245	
Nickerson, Ronald Allan, firefighter, authorizing the certification and appointment of, notwithstanding maximum age requirements	242	
O'Neil, Robert, firefighter, authorization to take examination for, notwithstanding maximum age requirements	485	



	Chapter	Section
<b>CIVIL SERVICE: —<i>Concluded.</i></b>		
<b>provisions for specific individuals: —<i>Concluded.</i></b>		
Reardon, John, firefighter, authorization to take next open competitive entrance examination for, notwithstanding maximum age requirements	517	
St. John, Robert, North Attleborough, police officer in the town of authorization to take examination for	564	
Swift, Robert, firefighter, authorization to take civil service examination for, notwithstanding maximum age requirement	255	
<b>Clarksburg, town of</b> (see Cities and towns).		
<b>Clerk/magistrates of district courts</b> , requiring the reporting of certain child abuse cases, by	209	
<b>Clinical laboratories</b> , further regulating	76	
<b>Clinton, town of</b> (see Cities and towns).		
<b>Cobble Mountain Hydroelectric Facility</b> , leasing by the city of Springfield of the, further regulating	265	
<b>Cogeneration facilities</b> , providing financial incentives for	370	
<b>Cohasset, town of</b> (see Cities and towns).		
<b>COLLEGES, UNIVERSITIES AND INSTITUTES:</b>		
immunization of certain college students, before admission to an institution of higher education, requiring	73	
public colleges and universities, student members on, Boards of Trustees of, establishing the term of representation for	100	
Roxbury Community College, providing additional financing for construction of facilities at	205	
state colleges and universities, student government associations, to be the official representative of the student body, providing	609	
tuition, at public colleges and universities, placing a limit on the maximum level of increase allowed	140	47
<b>Colrain, town of</b> (see Cities and towns).		
<b>Colton, Gerald D.</b> , civil service examination for firefighter in the town of Tewksbury, authorization to take	503	
<b>COMMISSIONS:</b>		
rate setting commission, establishment of hospital rates of payments and charges by the, relative to	574	
rates of payment and reimbursement for providers of health care, authorizing certain exclusions by the commission in determining	761	
water and sewer commissions of the commonwealth, providing grants to, for the metering of public water supply systems	786	
<b>COMMISSIONS, SPECIAL:</b>		
Alzheimer's Disease, reviving and continuing the special commission making an investigation and study of...Resolve	13	
awards for educational achievement, granting of, providing for investigation and study of	188	27A
children in need of service, investigation and study relative to, by, providing for...Resolve	9	
colleges and universities, allocation of resources to, investigation and study of, establishing	140	71
compensation of public elementary and secondary school teachers, levels and manner of, providing for a study of	188	27



	Chapter	Section
<b>COMMISSIONS, SPECIAL: —Concluded.</b>		
district attorneys, assistant district attorneys, clerk of court, registers of deeds and recorders of the land court, staffing and operation of the offices of, investigation and study of, establishing	140	59
granting of awards for educational achievement, and the effectiveness of local school improvement councils, investigation and study relative to, establishing	188	27A
greyhound racing industry, current issues and problems involved in, investigation and study of, providing for	580	12
health care financing and delivery reform, investigation relative to, providing for	574	19
insurance coverage for extended hospitalization for certain drug-alcohol patients, examination of procedures for admission of, providing for...Resolve	2	
marine transit, investigation and study of, by, providing for Memorial to President John F. Kennedy, establishment of, increasing the membership of commission...Resolve	811	29
memorial to Henry Cabot Lodge, Jr., establishment of, providing for an investigation and study relative to, by...Resolve	3	
motorcyclists, licensing procedures for, investigation and study relative to, by, providing for...Resolve	6	
nonprofit hospital services corporations and nonprofit medical services corporations, commission established to make an investigation and study relative to, increasing the membership of...Resolve	14	
parenting leave and disability leave, investigation and study relative to the feasibility of requiring employers to provide...Resolve	4	
preservation and use of certain buildings on Kent's Island in the town of Newbury, investigation and study relative to, providing for...(Resolve)	5	
public commissions, certain, relative to the qualification of persons appointed to	10	
reviving, continuing and increasing the membership of certain special commissions...Resolve	332	
school improvement councils, local, providing for an investigation and study as to the effectiveness of	1	
small businesses, failure rate of, investigation and study of, establishing	188	27A
state administrative practices regarding personnel, fringe benefits, purchasing and contracting procedures, investigation and study relative to, efficiency of, establishing	140	58
toxicity and combustibility of certain building materials and furnishings, investigation and study relative to, by, providing for...Resolve	140	69
trade between the commonwealth and certain underdeveloped countries, advancement of, investigation and study relative to, establishing	8	
transportation of certain children and certain mentally retarded persons, investigation and study of, establishing	140	60
use of diagnostic pharmaceutical agents on certain patients by certified optometrists, study of, providing for, by	140	72
<b>COMMONWEALTH:</b>	654	5
<b>in general:</b>		
appointment and removal of state department heads, relative to	737	



	Chapter	Section
<b>COMMONWEALTH: —Continued.</b>		
<b>in general: —Concluded.</b>		
bonds and notes, issuance of, relative to	549	
bonds and notes, terms of, relative to	430, 783	
capital outlay appropriations, certain, relative to	573	
asbestos, removal of, in public schools, providing		
financial assistance for	614	3
correctional institutions, jails and houses of corrections,		
providing for the improvement of	799	16
lockup facilities, improvements to, providing for	785	3
recreational facility in Berkshire County, development		
of, providing	676	9
transportation development and improvement program		
for the commonwealth, providing for	811	
water pollution control and water supply conservation,		
providing for	786	8
ceremonial march of the commonwealth, designating a		
certain song as the	496	
checks, certain, issued by the commonwealth, further		
regulating the payment of	657	
Federal Depository Institutions Act of 1982, alternative		
mortgage transaction preemption provisions of,		
commonwealth declines to apply for	224	
lease, certain, between the department of the state auditor		
and Berman & Sons, Inc., relative to the provisions of	481	
motor vehicles owned or operated by the commonwealth,		
operators of, requiring classification of licenses for	195	
motor vehicles, state, repair of, further regulating the		
expenditure of funds for	620	
plaque commemorating certain Viet Nam veterans,		
authorizing the erection of	541	
public works construction contracts, relative to bid bonds in	406	
retirement systems of the commonwealth, further		
regulating	742	
state contracts, extra work or materials, claims and orders		
for, relative to	521	
state property, work performed on by federal agencies,		
authorizing the department of environmental		
management to reimburse said agencies	407	
transportation development and improvement program,		
further regulating	167	
transportation development and improvement program for		
the commonwealth, providing for	811	
<b>land:</b>		
Abington, easement in certain land in the town of,		
authorizing the commonwealth to grant to Blueberry		
Hill Estates Corp., for easement purposes	43	
Acton, acquisition by the commonwealth of certain parcel		
in the town of, and transfer of control to department		
of public works	476	
Adams, Greylock Glen Recreational Facility, providing for		
acquisition of land to develop	676	
Arlington, Belmont, Cambridge, transfer of certain parcels		
to the department of public works in connection with		
the Massachusetts Bay Transportation Authority's		
Alewife Station Project, authorizing	16	



	Chapter	Section
<b>COMMONWEALTH: —Continued.</b>		
<b>land: —Continued.</b>		
Ashland, easements in certain land under the control of the metropolitan district commission in the town of, authorizing the commonwealth to convey to Middlesex County	198	
Barnstable, land, in the town of, authorizing the commonwealth to convey a certain parcel to the Barnstable Housing Authority	594	
Barre, New Braintree, authorizing the commonwealth to convey certain easements and parcels to the towns of, for the reconstruction of route 67 in said towns		
Billerica, land, acquisition of, certain parcels by the commonwealth from the town of and transfer of said parcels to the public works department, authorizing	591	
Boston, acquisition by the commonwealth of certain land along Carson Beach, to construct parks thereon, authorizing	795	
lease by the commonwealth of a certain parcel at Castle Island in the city of, authorizing	810	
Brimfield State Forest Property, Hampden county, easement across certain land in, authorizing the commonwealth to grant	519	
Brewster, easement in certain land in the town of, authorizing the commonwealth to convey to the Villages Development Company	327	
utility, easement, certain, authorizing the commonwealth to grant to the town of	264	
Brockton, acquisition by the commonwealth of a certain parcel of land in the city of, and transfer of control over said parcel to the department of public works, authorizing	458	
Bourne, transfer of certain parcels in the town of, to the department of public works from the division of fisheries, wildlife and recreational vehicles and the Buzzards Bay Water District, authorizing	130	26
Brockton, acquisition by the commonwealth of a certain parcel of land in the city of, and transfer of control over said parcel to the department of public works, authorizing	458	
Canton, easements in certain land in the town of, authorizing the commonwealth to grant to Audrey C. Fields and Barbara F. Walker, trustee	185	
consent of commonwealth to acquisition by the United States of certain land, granting; and ceding jurisdiction over said land, to	456	
easements in land of the commonwealth, General Electric Company to convey other land to the commonwealth in return for permission to transfer certain easements to Electric Power Research Institute, authorizing	528	
Fitchburg, Leominster, acquisition by the commonwealth of certain parcels in the cities of, authorizing	540	
Florida, transfer of a certain parcel of land in the town of, from the department of environmental management to the department of public works, authorizing the commonwealth	48	



## Chapter      Section

**COMMONWEALTH: —Concluded.****land: —Concluded.**

Framingham, conveyance of certain parcels to the town,  
acquisition of a certain parcel by the commonwealth  
from the town, and leasing of certain other parcels to  
private firms, authorizing and directing 419

Hardwick, permit to use land in the town of, for purposes  
of entrance and egress to other lands, authorizing the  
commonwealth to issue a 575

Holden, lease of a certain parcel by the commonwealth to  
the town of, authorizing 601

Hopkington, easement in a certain parcel, conveyance by  
the commonwealth to the town of, authorizing 772

Hubbardston, Princeton, exchange of certain parcels in the  
towns of, with Theodore H. Curtis, authorizing the  
commonwealth 576

Lowell, conveyance of certain parcels of park land and a  
certain easement, by the commonwealth, to the city  
of, authorizing 638

Melrose, conveyance of a certain parcel of land to the city  
of, authorizing 484

Natick, easements in certain land in the town of,  
authorizing the commonwealth to grant to Lodge  
Trust 602

Newton, lease of a certain building in the city of, by the  
commonwealth, authorizing 376

Princeton, Hubbardston, exchange of certain parcels in the  
towns of, with Theodore H. Curtis, authorizing the  
commonwealth 576

Rutland, conveyance by the commonwealth of a certain  
parcel and easement in the town of, to James M.  
Leger and Janet Leger, authorizing 633

Southampton, acquisition of certain parcels by the  
commonwealth from the town of, and transfer of said  
parcels to public works department, authorizing 639

Sterling, transfer of certain parcels in the town of, from the  
metropolitan district commission to the department of  
public works, authorizing 437

Taunton, a certain parcel of land, authorizing the city to  
convey to the commonwealth 143

Tewksbury, easements, certain, authorizing the  
commonwealth to grant to the town of 774

Uxbridge, American Indian Burial Place in the town of,  
authorizing the commonwealth to relocate 68

Warwick, transfer of certain parcels in the town of, from  
the department of environmental management to the  
department of public works, for use as a town way,  
authorizing 83

Watertown, conveyance by the commonwealth of certain  
easements to the town of, authorizing 787

West Tisbury, conveyance by the commonwealth of a  
certain in Martha's Vineyard State Forest to the town  
of, authorizing 775

**Commonwealth Armory**, replacement for, authorizing the design  
and construction of other armories as 812

**COMMUNITY AFFAIRS, DEPARTMENT OF:**

fees on persons seeking to finance housing programs or  
projects, authorizing the department to assess 200



	Chapter	Section
<b>Competency tests</b> , of defendants in criminal cases, authorizing the courts to have qualified psychologists perform	617	
<b>Concord, town of</b> (see Cities and towns).		
<b>Condominiums</b> , development of, on certain leased land, further regulating	788	
<b>Confidentiality of communications</b> made during certain mediation of disputes, providing for	325	
<b>Confidentiality of work products of mediators, factfinders and arbitrators</b> , providing for, in labor disputes	357	
<b>Conflict of interest law</b> , exemption, allowing municipal employees to receive housing subsidy	98	
housing subsidy, further regulating the right of certain municipal employees to receive	415	
<b>Connelly, Edward W., Criminal Justice Training Center</b> , Agawam, designating the Massachusetts criminal justice training center in the town of, as the	366	
<b>CONSERVATION:</b>		
Acton, land in the town of, authorizing the commonwealth to acquire a certain parcel and transfer control to the department of public works	476	
Andover, exchange of certain parcels of conservation land between Earl and Margaret Efinger and the town of, authorizing	645	
banning the sale of gas appliances with continuously burning pilot lights	686	
Barnstable, land, authorizing the exchange of certain parcels between the town and the West Barnstable Fire District	471	
Chelmsford, easement in conservation land, authorizing town to grant to Chelmsford water district	104	
restrictions, certain, on land titles, relative to the duration of water, relative to	351	
water supply systems, providing grants for the conservation and protection of certain; also providing for water pollution control	786	
Weymouth, land, conveyance of certain land, authorizing the town	148	
<b>Construction contracts</b> , public works, relative to bid bonds in	406	
<b>Consumer account disclosure</b> , relative to	585	
<b>Consumer credit transactions</b> , certain, rebates in, prohibiting certain computation methods in	428	
<b>Consumer protection</b> , deceptive trade practices, providing for civil penalties and attorney fees in certain actions relative to	468	
health spas, regulating contracts between said spas and their customers	607	
<b>Contempt actions</b> (see courts)		
<b>Continuing care facilities</b> , for the elderly, providing for the financing of, by cities and towns	753	
<b>Contract actions</b> , authorizing the mailing of certain documents by certified mail only, in	323	
<b>Contracts</b> , between health spas and their customers, regulating	607	
<b>Controlled substances</b> , certain, dispensing of, further regulating use of certain premises where such substances are kept, manufactured or sold, regulating	421	
<b>Conway, town of</b> (see Cities and towns).		



	Chapter	Section
<b>Cook, Beverly L.,</b> widow of James J. Cook, directing the town of Greenfield to make certain payments to	712	
<b>CORPORATIONS:</b>		
<b>in general:</b>		
cemetery corporations, relative to	393	
charitable corporations, certain, further regulating the taxation of	469	
corporations, certain, investigation relative to discrimination in employment and freedom of workplace opportunity, providing for	516	
foreign corporations, certain, further regulating their right to bring certain actions against domestic corporations	278	
gas and electric companies, articles of organization of, relative to	658	
professional corporations, further regulating	774	
<b>provisions relative to particular corporations:</b>		
Northern Berkshire Industrial Park and Development Corporation, establishing	758	
Williston Academy a/k/a Williston Seminary, merger with Northampton School for Girls, Inc., to become Williston Northampton School, authorizing and ratifying	172	
<b>Correctional facilities,</b> inmate savings accounts, relative to	440	
<b>Correctional, institutions, jails and houses of correction,</b> providing for the orderly administration and improvement of	799	
<b>Correctional institutions,</b> further regulating	326	
<b>CORRECTIONS, DEPARTMENT OF:</b>		
employment opportunities at certain correctional institutions, relative to	721	
<b>Corrective changes,</b> certain general laws, making	228	
relative to assistance to certain students, making	606	
<b>Cosmetology,</b> board of registration of, designating the board of registration of hairdressers as the	719	
<b>Cotuit Library Association,</b> authorizing the town of Barnstable to grant a license with respect to certain park land to the	12	
<b>COUNTIES:</b>		
<b>in general:</b>		
advisory boards on county expenditures, granting further authority over certain expenditures to	396	
home rule charters for counties, adoption of by voters, establishing procedures for	807	
motor vehicle insurance, increasing the liability insurance limits on officers and employees of counties	284	
operators of motor vehicles owned by counties, requiring classification of licenses for	195	
real property, sale or lease of, further regulating	173	
school construction, relative to increasing aid for	33	
treasurers, county, removal of, relative to	29	
<b>special provisions relative to particular counties:</b>		
Barnstable county, charter defining functions of county, authorizing voters to adopt	801	
nursing home on the grounds of the Barnstable County Hospital, authorizing the county commissioners to develop	669	
unpaid bills, certain, authorization to pay	99, 109	



	Chapter	Section
<b>COUNTIES: —<i>Concluded.</i></b>		
<b>special provisions relative to particular counties: —<i>Concluded.</i></b>		
Berkshire county, acquisition by the commonwealth of several parcels of land for the development of a regional economic and recreational facility area in, authorizing	676	
clean lakes program, authorizing the county commissioners to borrow money for	134	
Dukes county Land Bank establishing	736	
Essex, county unpaid bills, certain, authorizing the treasurer to pay	354	
Hampden, county continued employment of Sidney A. Chernick as a court officer, authorizing	749	1
dogs, relative to the licensing and keeping of	102	
jail industry program, authorizing the county to borrow to provide funds for	588	
lease of a certain parcel of park land to, by the city of Chicopee, authorizing	604	
Middlesex county, continued employment of Philip Gibson as a court officer, authorizing	749	2
easements in certain land in the town of Ashland, authorizing the commonwealth to convey to	198	
expenditure of certain unexpended funds for installation of traffic control signal in town of Wilmington, authorizing the county to make	150	
unpaid bills, certain, authorization to pay	92	
Norfolk county, borrowing to construct building at Norfolk County Recreational Facility, authorizing the county commissioners	474	1
jail and house of correction, relative to the use of facilities at	629	
unpaid bills, authorization to pay	543	
certain, authorization to pay	96	
<b>County advisory boards, granting further authority over certain         expenditures</b>	396	1
<b>COUNTY COMMISSIONERS:</b>		
affirmative action officer in counties, directing the commissioners of each county to designate and appoint	283	
private ways or town ways, repealing the authority to lay out, alter or accept upon refusal of the town to do so	276	
<b>COURTS:</b>		
<b>in general:</b>		
admissibility of videotape of testimony of child witness, authorizing courts to determine	682	
competency tests, for defendants in criminal trials, authorizing courts to have qualified psychologists perform	617	
juveniles, transfer to adult division of the trial court, further regulating	744	
trial court, consolidation of cases in the, relative to	221	
<b>appeals court:</b>		
concurrent jurisdiction with the supreme judicial court, further defining	314	
<b>district, in general:</b>		
clerk/magistrates of, requiring the reporting of certain child abuse cases, by	209	
commitment of mentally ill persons, competency hearings by district courts relative to, providing for	344	



	Chapter	Section
<b>COURTS: —Concluded.</b>		
<b>district, special provisions</b>		
East Boston district court, jurisdiction of, relative to	186	
second district court of southern Worcester, establishing the position of Assistant Clerk in	750	
<b>housing:</b>		
Competency tests, for defendants in criminal trials, authorizing courts to have qualified psychologists perform	617	
Worcester county, placing the town of Bellingham under the jurisdiction of the Housing Court of	171	
<b>juvenile</b>		
additional justice in both the Springfield and Worcester courts, providing for	636	
<b>probate and family</b>		
capias in contempt actions, providing for service of, by sheriff, constable or person designated by court	342	
custody and support of minor children, clarifying certain procedures relative to	490	
divorces, relative to the time for the issuance of a judgment of divorce NISI	691	
guardians, appointment of, in court adjudications of competency where treatment with antipsychotic medications is involved	525	
wills, trusts, allowance of accounts, further regulating	738	
<b>superior:</b>		
removal of certain cases from, and the transfer of certain cases to, the superior court, further regulating	533	
<b>supreme judicial court:</b>		
concurrent jurisdiction with the appeals court, further defining	314	
<b>Cover charge or minimum charge for eating or drinking   establishments, prohibiting, for certain persons</b>	427	
<b>Cox, John E., Memorial Bridge, Lowell, designating a certain   bridge in the city of, as the</b>	586	
<b>Credit card fraud, venue, relative to</b>	319	
<b>Credit plans, open end, and revolving credit agreements, finance   charges under, relative to</b>	585	
<b>Credit unions (see BANKS AND BANKING).</b>		
<b>CRIMES:</b>		
acupuncture, violations of the law licensing the practice of	759	1
air pollution, violation of law relative to, increasing the penalties for	335	
alienation of affection, abolishing causes of action for	274	
assault and battery upon employees of the department of social services in the performance of their duties, prohibiting	555	
assault on an ambulance operator or attendant or on an emergency medical technician while they are performing n the line of duty, prohibiting	347	
assault and battery upon certain public transportation employees, establishing the crime of	153	
blowgun, prohibiting the carrying of on one's person or having under one's control in a vehicle	349	
breaking and entering of a vehicle, providing for a certain penalty for	312	
charitable solicitation, violation of laws relative to	790	



	Chapter	Section
<b>CRIMES: —Concluded.</b>		
controlled substances, prohibiting the use of certain premises		
for the keeping, manufacture or sale of	421	
criminal conversation, abolishing causes of action for	274	
defrauding innkeepers, increasing the penalty for	348	
destruction of a ship or vessel, penalty for, relative to	659	
explosives, illegal use of, increasing the penalty for	320	
false identification to purchase alcohol or alcohol beverages,		
by using motor vehicle license of another, relative to	340	
fraudulent claim for compensation as victim of violent crime,		
false statement or concealment of facts relative to,		
prohibiting	605	
gift certificates, issuance and redemption of, regulating	511	
hazardous waste, violations of laws relative to, further		
regulating the penalties for	646	
hazing, prohibiting the practice of	536	
indictments for certain crimes, limitation on, relative to	123	
indictment, waiver of, relative to	256	
juveniles, trial as adults, further regulating	744	
larceny, certain crimes of, increasing the maximum fine for	306	
larceny of motor vehicles, clarifying the law relative to	380	
laundries, commercial coin operated, violation of law		
regulating the operation of	634	
motor vehicles, certain, alteration of odometer, further		
regulating the punishment for	155	
motor vehicles, failure to have inspection of, relative to	385	
operating uninsured motor vehicles, increasing the minimum		
fine for	806	
perjury, in testifying before the state ethics commission,		
penalties for, clarifying	118	
prostitution, arrest without warrant for engaging in,		
authorizing	142	
rubbish, dumping of, on certain land, increasing the penalty		
for	197	
safety belts in motor vehicles, failure to wear while operating	416	
sale or installation of certain gas appliances, prohibiting	686	
telecommunications service and equipment, theft of,		
increasing the penalties for	685	
tobacco products, sale of, to persons under the age of		
eighteen, prohibiting	345	
unemployment compensation, making false statement relative		
to	4	23
victims of violent crimes, compensation of, further regulating	605	
violation of court orders issued under the Massachusetts Civil		
Rights Act, prohibiting	619	
<b>CRIMINAL PRACTICE AND PROCEDURE:</b>		
evidence, videotape of testimony of child witness admissible		
as, authorizing	682	
indictments for certain crimes, limitation on, relative to	123	
indictment, waiver of, relative to	256	
<b>Criminal records,</b> disclosure of in application for public		
employment, relative to	560	
<b>Cummington, town of</b> (see Cities and towns).		
<b>Curtis, Theodore H.,</b> authorizing the commonwealth to		
exchange certain parcels of land in the towns of		
Hubbardston and Princeton with	576	



	Chapter	Section
<b>Cushing Hospital</b> , supplemental appropriation for administration of	1	
<b>D.</b>		
<b>Dahill, James F.</b> , Harborview, designating a section of land on Castle Island, Boston, as the	46	
<b>Dalton, town of</b> (see Cities and towns).		
<b>Dams</b> , certain, relative to	767	
<b>Dana, Robert P.</b> , providing for payment of funeral expenses of...Resolve	7	
<b>Dangerous weapons</b> , blowgun, prohibiting the carrying of on one's person or having under one's control in a vehicle	349	
<b>Danvers, town of</b> (see Cities and towns).		
<b>Dartmouth, town of</b> (see Cities and towns).		
Day care centers or homes (see Family day care homes)		
<b>Deaf persons</b> , establishing a commission for	716	
<b>Deceptive Trade Practices</b> (see Trade practices)		
<b>Dedham, town of</b> (see Cities and towns).		
<b>Dedham-Westwood Water District</b> , establishment of	193	
<b>Deeds</b> (see Registers of deeds)		
<b>Deerfield, town of</b> (see Cities and towns).		
<b>DeFazio, John</b> , civil service examination for firefighter, authorization to take	482	
<b>Defenses</b> , in certain civil actions, exempting from civil liability occupants of dwellings for the justifiable killing or injury of certain persons	589	
<b>Delinquent children</b> (see Children)		
<b>Dennis, town of</b> (see Cities and towns).		
<b>Dental care</b> , in certain health plans, regulating	615	
<b>Department heads</b> , state, appointment and removal of, relative to	737	
<b>Deposit insurance</b> (see Banks and Banking)		
<b>Designer selection board</b> , requiring public agencies to follow procedures approved by	397	
<b>Despres, Kathleen Jean</b> , solemnization of marriage to Ronald Gerard Graveline by Kevin N. Christo, authorizing the state secretary to authorize	80	
<b>Dighton, town of</b> (see Cities and towns).		
<b>Disabled persons</b> , mental or physical, exempting from payment of fees for respite care	804	
<b>Disclosure</b> , by financial institutions, to consumer, relative to accounts in said institution	585	
of criminal record, in application for public employment, relative to	560	
<b>Discrimination</b> , against mentally retarded persons, in certain insurance policies, prohibiting	520	
<b>DISTRICTS:</b>		
<b>in general:</b>		
agreements with banking institutions, authorizing districts and cities and towns to enter into	740	
borrowing, certain, by, further regulating	238	
operators of motor vehicles owned or operated by districts, requiring classification of licenses for	195	
pooled insurance, by governmental units, regulating	802	
right to vote, in certain districts, further regulating	414	



	Chapter	Section
<b>DISTRICTS: —Continued.</b>		
<b>in general: —Concluded.</b>		
stabilization fund, authorizing the appropriation of, in districts	94	
water supply systems, providing for grants to districts for the conservation and protection of certain	786	
<b>special classes of districts:</b>		
fire, West Barnstable Fire District, authorizing the exchange of certain land between the district and the town of Barnstable	471	
historic, Concord, relative to the establishment of certain historic districts in the town of	213	
historic business, Chatham, establishing certain areas as an historic business district	641	
industrial sewer, Chelmsford Center Industrial Sewer District, establishment of	420	
refuse disposal, Martha's Vineyard Refuse Disposal and Resource Recovery District, relative to	303	
refuse, Greater New Bedford Regional Refuse Management District, authorization to contract with the city of New Bedford and the town of Dartmouth for the supply of water to the town	299	
Greater New Bedford Regional Refuse Management District, relative to	436	
regional school, asbestos, removal of, providing financial assistance for, to	614	
Central Berkshire Regional School District, authorization to expend certain funds	232	
Frontier Regional School District, reimbursement to member towns of, for certain transportation costs, relative to	792	
late acceptance of certain provisions of the so-called education reform bill, by, providing for	704	
leasing or renting of regional school buildings, by, authorizing	732	
Minuteman Regional Vocational School District, vote on certain contracts or leases of, relative to	36	
Mohawk Trail Regional School District, issuance of notes by, relative to	41	
school construction, relative to increasing aid for	33	
South Middlesex Regional Vocational Technical School District, group insurance premium for certain retired employees, authorizing the district to pay a percentage of	510	
restoration/preservation, Lake Buel		
Restoration/preservation district, establishing	756	
school districts, end of year reports, relative to the submission of, by	505	
sewerage, South Essex Sewerage District, relative to	170	
Leino Park Water District, in the town of Westminster, establishing	398	
Lunenburg water district, appointment of clerk and treasurer, of, relative to	673	
water, Buzzards Bay Water District, transfer of land in the town of Bourne to the department of public works from the, authorizing	130	



	Chapter	Section
<b>DISTRICTS: —Concluded.</b>		
<b>special classes of districts: —Concluded.</b>		
Chelmsford water district, authorizing the town of		
Chelmsford to grant an easement in conservation land		
to	104	
Dedham-Westwood Water District, establishment of	193	
water pollution abatement, upper Blackstone Water		
Pollution Abatement District, authorizing the		
establishment of a training center for wastewater		
treatment facility operators in the	413	
Upper Blackstone Water Pollution Abatement District,		
further regulating	739	
<b>Division of water resources</b> (see Water resources, division of).		
<b>Divorce</b> (see Courts, probate and family)		
<b>Doctors,</b> (see Physicians).		
<b>Dog licensing,</b> control and regulation, authorization cities and		
towns to assume responsibility and liability for	308	
<b>DOGS:</b>		
Abington, relative to the licensing and keeping of	108	
Bridgewater, relative to the licensing and keeping of	105	
Dover, relative to the licensing and keeping of	59	
East Longmeadow, relative to the licensing and keeping of	450	
Foxborough, relative to the licensing and keeping of	53	
Halifax, relative to the licensing and keeping of	60	
Hampden county, licensing and keeping of, relative to	102	
impounded, prohibiting the painful killing of	394	
Ipswich, relative to the licensing and keeping of	63	
Montgomery, relative to the licensing and keeping of	369	
Pepperell, relative to the licensing and keeping of	285	
Petersham, relative to the licensing and keeping of	61	
Reading, relative to the licensing and keeping of	57	
Shrewsbury, relative to the licensing and keeping of	58	
vicious, disposal and restraining of, further regulating	455	
Wellesley, relative to the licensing and keeping of	55	
West Springfield, relative to the licensing and keeping of	444	
<b>Dooley, Martin W.,</b> Cohasset, authorizing the town to		
reimburse certain legal expenses to	251	
<b>Douglas, town of</b> (see Cities and towns).		
<b>Dover, town of</b> (see Cities and towns).		
<b>Dracut, town of</b> (see Cities and towns).		
<b>Driver Licenses,</b> requiring the registrar of motor vehicles to		
revoke the license of persons violating the motor vehicle		
identification law	386	
<b>Drinkwater, John C.</b> civil service examination for firefighter,		
authorization to take	559	
<b>Drugs</b> (see also Controlled substances)		
generic, increasing the availability of, and relative to		
prescriptions for	582	
interchangeable, further regulating the formulary of	797	
<b>Dubue, Kenneth M., Memorial State Forest,</b> designating a		
certain state forest as the	346	
<b>Dudley, town of</b> (see Cities and towns).		
<b>DUKES COUNTY:</b> (see Counties).		
<b>Dumping of rubbish,</b> on certain public land or on the property of		
another, increasing the penalties for	197	
<b>Dunstable, town of</b> (see Cities and towns).		
<b>Duxbury, town of</b> (see Cities and towns).		



	Chapter	Section
<b>Dwellings, justifiable killing or injury of persons unlawfully in, by occupants, exemption from civil liability</b>	589	
<b>E.</b>		
<b>East Bridgewater, town of</b> (see Cities and towns).		
<b>East Brookfield, town of</b> (see Cities and towns).		
<b>East Longmeadow, town of</b> (see Cities and towns).		
<b>Eastham, town of</b> (see Cities and towns).		
<b>Easthampton, town of</b> (see Cities and towns).		
<b>Easton, town of</b> (see Cities and towns).		
<b>Edgartown, town of</b> (see Cities and towns).		
<b>EDUCATION:</b>		
<b>in general:</b>		
board of education, allowing certain education professionals to serve on the	112	
excusing the absence of students in educational and vocational training institutions because of their religious beliefs	375	
improving the public schools of the commonwealth	188	
school committees, expenditures allowed for collective bargaining legal services, by, increasing the amount	523	
<b>higher education:</b>		
immunization, of certain college students, requiring before admission to an institution of higher education	73	
public colleges and universities, board of trustees of, student members on, establishing the term of representation for	100	
student government associations, at state colleges and universities, providing that said associations shall be the official representative of the student body	609	
tuition charges for certain nonresident aliens at institutions of higher learning, establishing	720	
<b>Educational collaboratives, late acceptance of certain provisions of the so-called Education Reform Bill, by, providing for relative to the authority of</b>	704	
	631	
<b>Efinger, Earl and Margaret, land, authorizing the exchange of certain between the town of Andover and</b>	645	
<b>Egremont, town of</b> (see Cities and towns).		
<b>ELDER AFFAIRS, DEPARTMENT OF:</b>		
elderly home care providers, relative to	755	
<b>Elderly Persons</b> (see Aged persons)		
<b>ELECTIONS:</b>		
<b>in general:</b>		
absent voting ballots, certain applications for, relative to absentee ballot applications, requiring that the city or town clerk send such application to permanently disabled voters	599	
absentee voting, further regulating	383	
allowing a voter to apply for an absentee ballot and to vote during the same visit	562	
	113	
election laws of the commonwealth, certain, further regulating	477	
electronic voting equipment, certain, authorizing	537	
electronic voting machines, authorizing cities and towns to decrease the number used at elections	653	
horse or dog racing, elections relative to granting a license for, requiring the reporting of the results to the state racing commission	353	



## Chapter                      Section

**ELECTIONS: —Concluded.****in general: —Concluded.**

initiative and referendum petitions, repealing the requirements of certain affidavits for	124
nomination papers and petitions, for city or town offices or local issues, providing for objections to	624
registrars of voters, duties of, further regulating	181
revision of precincts and wards in cities and towns, and filing same, extending the time for	165
towns, vacancies on a board of selectmen, relative to the filling of	34
voter registration sessions, municipal, further regulating	127

**special provisions relative to particular cities and towns:**

Eastham, recall elections, providing for	318
Leverett, recall elections, providing for	37
Oak Bluffs, shellfish licenses, sale of, relative to	417
Salem, election wards and precincts in the city of, relative to	729
Truro, recall elections, providing for	204
Westport, recall elections, providing for	495

<b>Electric Power Research Institute</b> , transfer of certain easements in land of the commonwealth by General Electric Company, to, authorizing the commonwealth to permit	528
--	-----

<b>Elevators</b> , regulation of, by the commonwealth, providing for	687
--	-----

<b>Elevator operators</b> , issuance of license to work as, further regulating	743	1
--	-----	---

<b>Emergency first aid</b> , civil liability for, further regulating school department personnel from	111
---	-----

<b>Emissions inspection and safety law</b> , relative to	139
--	-----

<b>Emjay Realty Trust</b> , North Reading, conveyance of certain parcels by town, authorizing	10
---	----

**EMPLOYERS AND EMPLOYEES:**

industrial accidents, compensation for, further regulating	572
lie detectors, use of, by employers, further regulating	587
minimum wage for certain employees, increasing	760
state department heads, appointment and removal of, relative to	737

<b>Employment security</b> , division of, further regulating the operation of, and authorizing the expenditure of a certain fund	4
--	---

<b>Employment security</b> , division of, further regulating the operation of, and authorizing the expenditure of a certain fund	4
--	---

<b>Energy conservation</b> , industrial, providing financial incentives for	370
---	-----

**Energy, solar** (see Solar energy)

<b>Enos, Earl F.</b> , civil service examination for police officer in the town of Wilmington, authorization to take, notwithstanding maximum age requirements	192
--	-----

**ENVIRONMENTAL AFFAIRS, EXECUTIVE OFFICE FOR:****in general:**

bureau of solid waste disposal, transfer to the department of environmental quality engineering from the department of environmental management	140	67
---	-----	----

**environmental management, department of:**

assessments on certain cities and towns for maintenance of parks, repealing	200	6
---	-----	---



	Chapter	Section
<b>ENVIRONMENTAL AFFAIRS, EXECUTIVE OFFICE FOR: —Concluded.</b>		
<b>environmental management, department of: —Concluded.</b>		
board of environmental management, members of,		
providing for the removal of certain	272, 676	4A
terms of members, eligibility	676	4
Brewster, land in the town of, conveyance by the		
commonwealth of easement on a certain parcel under		
the control of the department to the Villages		
Development Company, authorizing	327	
Brimfield State Forest Property, land, easement across,		
authorizing the department to grant to the Tennessee		
Gas Pipeline Company	519	
dams, erection of signs in vicinity of certain dams by,		
providing for	767	
Hawley, Plainfield, designation of a certain state forest in		
the towns of, as the Kenneth M. Dubuque Memorial		
State Forest, marker by	346	
hazardous waste facility siting, local assessment		
committee, relative to the appointment of certain		
designees for members of	154	
land, Warwick, transfer of certain parcels in the town of,		
from the department of environmental management to		
the department of public works, for use as a town way,		
authorizing	83	
reimbursement to federal agencies for work performed on		
certain state property, authorizing the department to		
make	407	
skating rinks, concessions at, requiring the department to		
establish, in conjunction with the metropolitan district		
commission, rules and regulations exempting said		
concessions from the bidding law	733	
<b>environmental quality engineering, department of</b>		
Danvers, licenses to construct a certain bridge in the town		
of, authorizing the department to issue	762	
division of water resources, relative to the duties of	64	
license, certain, directing the department to reissue	260	
penalties, administrative, for certain environmental		
violations, imposing	95	
<b>fisheries, wildlife and recreational vehicles, department of:</b>		
division of fisheries and wildlife, further regulating public		
access to information in the Massachusetts natural		
heritage program data base	77	
<b>Fisheries, Wildlife and Environmental Law Enforcement,</b>		
<b>Department of</b>		
investigation and study by, relative to the North Atlantic		
Right Whale, providing for...Resolve	12	
law enforcement, division of, relative to the organization		
of	231	
<b>Ericson, Leif, Day,</b> annual observance of, proclamation by		
governor	356	
<b>Erskine, Joseph,</b> Medfield, authorizing the town to pay a certain		
sum of money to	296	
<b>Erving, town of</b> (see Cities and towns).		
<b>Escape,</b> by sexually dangerous persons, from confinement,		
providing for prosecution of	241	
<b>ESSEX COUNTY:</b> (see Counties).		
<b>Ethics commission,</b> perjury committed in testimony before,		
clarifying the penalties for	118	



	Chapter	Section
<b>Everett, city of</b> (see Cities and towns).		
<b>Eviction cases</b> , requirement that indigent tenants must give bond or security in, relative to	754	
<b>Evidence</b> : confidentiality of communications made during certain mediation of disputes, providing for	325	
of rape, preservation of, relative to	355	
privileged communications between patients and psychiatric nurse mental health clinical specialists, providing	85	
videotape of testimony of child witness, admissible as, authorizing	682	
<b>Excise</b> (see Taxation)		
<b>Explosives</b> , illegal use of, increasing the penalty for	320	
<b>F.</b>		
<b>Factfinders, in labor disputes</b> , providing for the confidentiality of work products of	357	
<b>Fairhaven, town of</b> (see Cities and towns).		
<b>Fall River, city of</b> (see Cities and towns).		
<b>Falmouth, town of</b> (see Cities and towns).		
<b>False alarms</b> , reward for information relative to person causing, increasing the amount cities and towns may offer	196	
<b>Family day care homes</b> , day care centers, group care facilities and certain other institutions, further regulating the reporting of and investigation of cases involving abuse or neglect of children in	776	
<b>Farm</b> , relative to the right to	613	
<b>Farmer-Winery Licensees</b> , and farmer-brewery licensees, products of, authorizing trucking firms and parcel delivery businesses to transport	379	
<b>Federal agencies</b> , reimbursement by the department of environmental management for work performed on certain state property, authorizing	407	
<b>Federal Depository Institutions Act of 1982</b> , alternative mortgage transaction preemption provisions of, commonwealth declines to apply for	224	
<b>Fees</b> , attorneys', in certain civil cases, providing for the award of for testing and inspection of elevators, directing that a schedule be established	689	
for use of commonwealth services and facilities, extending the time allowing the secretary of administration to set	687	7
hunting and fishing licenses, relative to	200	4
service of process, further regulating	630	
<b>Fiduciaries</b> , further regulating the manner in which securities may be held by	680	
<b>Fields, Audrey C.</b> , and Barbara F. Walker, trustee, authorizing the commonwealth to grant certain easements in land in the town of Canton, to	454	
<b>Fields, Audrey C.</b> , and Barbara F. Walker, trustee, authorizing the commonwealth to grant certain easements in land in the town of Canton, to	185	
<b>Financial disclosure</b> , clarifying the penalties for perjury in testifying before the ethics commission	118	
<b>Firearms</b> , possession or carrying of, during certain television, movie or stage productions, authorizing	566	
<b>FIRE DEPARTMENTS AND FIREFIGHTERS:</b>		
<b>in general:</b>		
eligible lists for appointment as firefighter or police officer, relative to the order of certain persons on	402	
firefighters laid off in certain years, further regulating the rights of	360	



	Chapter	Section
<b>FIRE DEPARTMENTS AND FIREFIGHTERS: —<i>Concluded.</i></b>		
<b>in general: —<i>Concluded.</i></b>		
immunity, certain, for members of the local municipal arson squad, granting	322	
surviving spouses of certain firefighters, pensions for, relative to	781	
<b>provisions for particular cities and towns:</b>		
Mansfield, Herrick, Neal R., civil service examination for firefighter in the town of, authorization to take	518	
Needham, Needham Fireman's Mutual Relief Inc., retirement benefit paid by, increasing	215	
Taunton, civil service, office of chief of the fire department, placing under the civil service laws	459	
Tewksbury, Colton, Gerald D., civil service examination for firefighter in the town of, authorization to take	503	
Wilmington, civil service laws, firefighter in the town of, authorizing Terry L. McKenna to take the examination for	203	
<b>provisions for specific individuals:</b>		
Albano, Frank, civil service examination for firefighter, authorization to take	497	
Colton, Gerald D., civil service examination for firefighter in the town of Tewksbury, authorization to take	503	
DeFazio, John, civil service examination for firefighter, authorization to take	482	
Drinkwater, John C., civil service examination for firefighter, authorization to take	559	
Herrick, Neal R., civil service examination for firefighter in the town of Mansfield, authorization to take	518	
McKenna, Terry L., firefighter in the town of Wilmington, authorization to take the civil service examination for	203	
Nickerson, Ronald Allan, firefighter, directing the certification and appointment of, notwithstanding maximum age requirements	242	
O'Neil, Robert, civil service examination for firefighter, notwithstanding maximum age requirements, authorizing	485	
Reardon, John, civil service examination for firefighter, authorization to take	517	
Swift, Robert, civil service examination for firefighter, authorization to take notwithstanding maximum age requirement	255	
<b>Fire insurance information</b> , providing for the disclosure and dissemination of	138	
<b>Fire prevention</b> , further regulating the sale and use of certain space heaters	625	
<b>First Congregational Church of Paxton</b> , conveyance by town of certain parcel to the, authorizing, for cemetery purposes	126	
<b>Fish</b> , commercial taking, landing and distribution of, relative to	132	
<b>Fisheries and wildlife, division of</b> : nongame wildlife fund of, use of to acquire certain interests in certain property, authorizing	770	
<b>Fisheries, wildlife and environmental law enforcement, department of</b> (see Environmental Affairs, Executive Office for)		
<b>Fisheries, wildlife and recreational vehicles, department of</b> (see fisheries, wildlife and environmental law enforcement, department of)		



	Chapter	Section
<b>Fishing licenses</b> , fees for, relative to	630	
<b>Fisk, George</b> , civil service examination for police officer, in the town of North Attleborough, authorization to take	556	
<b>Fitchburg, city of</b> (see Cities and towns).		
<b>Flag</b> , prisoners of war and missing in action, directing that it be flown on the grounds of certain state buildings	28	
<b>Florida, town of</b> (see Cities and towns).		
<b>Foreign countries</b> , certain, transfer or exchange of certain prisoners between the United States and, relative to	578	
<b>Formaldehyde</b> (see also formaldehyde foam insulation)		
<b>Foxborough, town of</b> (see Cities and towns).		
<b>Framingham, town of</b> (see Cities and towns).		
<b>FRANKLIN COUNTY:</b> (see Counties).		
<b>Franklin, town of</b> (see Cities and towns).		
<b>Freetown, town of</b> (see Cities and towns).		
<b>Frontier Regional School District</b> , reimbursements to members towns of, for certain transportation costs, relative to	792	
<b>Fuertes bird paintings</b> , authorizing the reproduction of	483	
<b>G.</b>		
<b>Gamblers</b> , compulsive, providing for an investigation of feasibility of establishing a program for the treatment and rehabilitation of...Resolve	11	
<b>Gardner, town of</b> (see Cities and towns).		
<b>Gas</b> , penalties for violation of regulation governing the storage, transportation and distribution of, regulating	777	
<b>Gas and electric companies</b> , articles of organization of, relative to	658	
<b>Gas appliances</b> , certain, banning the sale or installation of	686	
<b>Gas fitters</b> (see Plumbers and gas fitters)		
<b>Gauthier, Arthur W.</b> , and the Abbot Corporation, easement over certain land, authorizing the town of Andover to grant, to	122	
<b>Gay Head Indian land claims</b> , implementing the settlement of	277	
<b>Gay Head, town of</b> (see Cities and towns).		
<b>General Electric Company</b> , conveyance of parcel to the commonwealth, by, in return for permission to transfer certain easements to Electric Power Research Institute, authorizing	528	
<b>General Motors Corporation</b> , or Anchor Motor Freight, or both, directing the commonwealth to lease certain land in the town of Framingham to	419	
<b>Generic drugs</b> , increasing the availability of, and relative to prescriptions for	582	
interchangeable, further regulating the formulary of	797	
<b>Georgetown, town of</b> (see Cities and towns).		
<b>Gift certificates</b> , regulating the issuance and redemption of	511	
<b>Gibson, Philip</b> , authorizing the continued employment of, as a court officer in Middlesex County of	749	2
<b>Gill, town of</b> (see Cities and towns).		
<b>Gloucester, city of</b> (see Cities and towns).		
<b>Goshen, town of</b> (see Cities and towns).		
<b>Gosnold, town of</b> (see Cities and towns).		
<b>GOVERNOR:</b>		
justice of the peace, additional, in the town of Acton, authorizing the Governor to designate	287	
proclamation by:		
Joshua James Day, annual observance of, providing for	211	



	Chapter	Section
<b>GOVERNOR: —Concluded.</b>		
<b>proclamation by: —Concluded.</b>		
Labor Week, annual observance of, providing for	129	
Leif Ericson Day, annual observance of, providing for	356	
Social Security Day, annual observance of, providing for	233	
Visiting Nurse Association Week, annual observance of,		
providing for	93	
Youth in Government Day, annual observance of,		
providing for	65	
<b>Grafton, town of</b> (see Cities and towns).		
<b>Granby, town of</b> (see Cities and towns).		
<b>Grant program</b> , teacher compensation supplement,		
establishment of	188	13
<b>Granville, town of</b> (see Cities and towns).		
<b>Graveline, Ronald Gerard</b> , solemnization of marriage to		
Kathleen Jean Despres by Kevin N. Christo, authorizing		
the state secretary to authorize	80	
<b>Great Barrington, town of</b> (see Cities and towns).		
<b>Greater Athol - Orange chamber of commerce</b> , authorizing		
eligibility for funding for local tourist councils	140	73
<b>Greater New Bedford Regional Refuse Management District</b> ,		
authorization to contract with the town of Dartmouth and		
the city of New Bedford relative to the supply of water to		
the town	299	
relative to	436	
<b>Greater Springfield Regional Wastewater Treatment Facility</b> ,		
relative to	392	
<b>Greenbush Realty Corp.</b> , Marshfield, alcoholic beverages,		
authorizing the town to issue a license for the sale of, to	502	
<b>Greenfield, town of</b> (see Cities and towns).		
<b>Gregorio, Manuel J.</b> , pension, directing the State-Boston		
retirement board to grant to	701	
<b>Greylock Glen Recreational Facility</b> , development of, providing		
for	676	
<b>Griffin, Private First Class Robert A.</b> , Memorial Bridge, Boston,		
designating a certain bridge in the city of, as the	718	
<b>Group insurance commission</b> , cost of health insurance for state		
employees, directing the commission to prepare a report on	140	62
<b>Groton, town of</b> (see Cities and towns).		
<b>Groveland, town of</b> (see Cities and towns).		
<b>Guardian</b> , appointment of relative to court adjudications of		
competency in cases involving treatment with antipsychotic		
medications	525	
<b>Guardians</b> , for autistic children, authorizing the appointment of	315	
of mentally retarded persons, relative to the authority of	796	
<b>Guyer, Cynthia</b> , solemnization of marriage to Jeffrey		
Malachowsky, authorizing the state secretary to authorize	249	

H.

<b>Hadley, town of</b> (see Cities and towns).		
<b>Hairdressers</b> , board of registration of, designating this board as		
the board of registration of cosmetology	719	
<b>Halifax, town of</b> (see Cities and towns).		
<b>Hamilton, town of</b> (see Cities and towns).		
<b>HAMPDEN COUNTY:</b> (see Counties).		
<b>Hampden, town of</b> (see Cities and towns).		
<b>HAMPSHIRE COUNTY:</b> (see Counties).		



	Chapter	Section
<b>Hancock, town of</b> (see Cities and towns).		
<b>Handicapped Affairs</b> , office of, increasing the salary of the director of	307	
<b>Handicapped persons</b> , access to certain service stations for, relative to	664	
<b>Handicapped persons</b> , parking identification plates on motor vehicles, relative to the issuance of, to	632	
<b>Hanna, John J.</b> , motor vehicle examiner, providing for the appointment of, as, notwithstanding the civil service law relative to transfers	66	
<b>Hanover, town of</b> (see Cities and towns).		
<b>Hanscom Air Force Base</b> , granting the consent of the commonwealth to the acquisition of and jurisdiction over, by the United States, of certain land for use in connection with	456	
<b>Hanson, town of</b> (see Cities and towns).		
<b>Hard of hearing persons</b> , establishing a commission for	716	
<b>Hardwick, town of</b> (see Cities and towns).		
<b>Harvard, town of</b> (see Cities and towns).		
<b>Harwich, town of</b> (see Cities and towns).		
<b>Hatfield, town of</b> (see Cities and towns).		
<b>Haverhill, city of</b> (see Cities and towns).		
<b>Hawley, town of</b> (see Cities and towns).		
<b>Hazardous materials</b> , rail transport of, establishing safety standards for	674	
<b>Hazardous waste</b> , local assessment committee, relative to the compensation of the members of	616	
violations of laws relative to, further regulating the penalties for	646	
<b>Hazardous waste facility siting</b> , local assessment committee, relative to the appointment of certain designees for members of	154	
<b>Hazing</b> , prohibiting the practice of	536	
<b>Health care and hospital services assistance</b> , rates of payment and reimbursements, excluding certain grants, gifts and income in determining	761	
<b>Health care facilities and residential facilities for the elderly</b> financing of, by cities and towns, providing for	753	
<b>Health care plans</b> , certain, relative to dental care, regulating	615	
<b>Health regulations in towns</b> , violations of, increasing the fines for	70	
<b>Health spas</b> , contracts between customers and, regulating	607	
<b>Hearing</b> , establishing a commission for persons who are hard of hearing	716	
<b>Heath, town of</b> (see Cities and towns).		
<b>Herrick, Neal R.</b> , civil service examination for firefighter in the town of Mansfield, authorization to take	518	
<b>Highway reconstruction</b> , route 67, authorizing certain easements and conveyances by the commonwealth of land in the towns of Barre and New Braintree, and authorizing the town of North Brookfield to use certain conservation land for highway purposes	26	
<b>HIGHWAYS:</b>		
<b>in general:</b>		
boundaries of certain highways, failure to establish, further regulating	367	



	Chapter	Section
<b>HIGHWAYS: —Concluded.</b>		
<b>in general: —Concluded.</b>		
dumping of rubbish on or near certain public highways, increasing penalties for	197	
land adjoining state highways, removal of encroachments on, by the department of public works, authorizing	44	
<b>special provisions:</b>		
Cahir, Jeremiah F. Memorial Highway, route 25, designating a certain section of, as	67	
Old Satuit Trail, route 123, Scituate, state highway, designating a portion of, as	31	
Paxton, certain state highways in the town of, relative to the reconstruction of	426	
<b>Hingham, town of</b> (see Cities and towns).		
<b>Hinsdale, town of</b> (see Cities and towns).		
<b>Holbrook, town of</b> (see Cities and towns).		
<b>Holden, town of</b> (see Cities and towns).		
<b>Holiday</b> , legal, Martin Luther King, Jr., relative to the celebration of his birthday as	451	
<b>Holland, town of</b> (see Cities and towns).		
<b>Holliston, town of</b> (see Cities and towns).		
<b>Holyoke, city of</b> (see Cities and towns).		
<b>Home care providers</b> , elderly, relative to	755	
<b>Homestead exemption</b> , increasing	623	
<b>Hopedale, town of</b> (see Cities and towns).		
<b>Hopkinton, town of</b> (see Cities and towns).		
<b>Horse racing</b> , further regulating the conduct of	580	
<b>Horticultural and agricultural land</b> , taxation of, relative to	387	
<b>HOSPITALS:</b>		
<b>in general:</b>		
disclosures, certain, to maternity patients, requiring admitting hospital to make	714	
financing of hospital facilities owned by certain nonprofit corporations under the Massachusetts Health and Educational Facilities Authority Act, authorizing	789	
<b>special provisions relative to particular hospitals:</b>		
Amesbury Municipal Hospital, establishing a special account for	24	
Cushing Hospital, supplemental appropriation for administration of	1	
Quincy City Hospital, authorizing the city of Quincy to borrow money on behalf of	470	
Springfield Municipal Hospital, establishing a special account for the	773	
membership of the board of trustees of, relative to	647	
<b>Hospital rates</b> , authorizing the rate setting commission to make certain exclusions in determining	761	
of payments and charges, relative to the establishment of	574	
<b>Hotel room occupancy tax</b> , by cities and towns, establishing	145	6
<b>Hotels, motels, inns</b> , increasing the penalty for the defrauding of the owner or keeper of	348	
<b>Housatonic Railroad Company</b> , authorizing the incorporation of	798	
<b>Houses of correction and houses of detention</b> , further regulating	326	
<b>Houses of correction, jails and correctional institutions</b> providing for the orderly administration and improvement of	799	



	Chapter	Section
<b>Housing</b> , providing state funding for additional housing units in the commonwealth	748	
Westford, authorizing the town to transfer a certain parcel of land to the Westford Housing Authority for elderly and family housing	433	
<b>Housing Authority Bonds Sinking Fund</b> , establishment of	570	
<b>Housing Finance Agency</b> , Massachusetts, relative to	259	
<b>Housing Partnership Fund</b> , Massachusetts establishment of	405	35
<b>Housing projects</b> , public, authorizing the sale of certain	570	
<b>Housing subsidy</b> , right of certain eligible persons to receive, further regulating	415	
<b>Hubbardston, town of</b> (see Cities and towns).		
<b>Hudson, town of</b> (see Cities and towns).		
<b>Huguenot Fort Bridge</b> , Oxford, designating a certain bridge in the town of, as the	409	
<b>Hull, town of</b> (see Cities and towns).		
<b>HUMAN SERVICES, EXECUTIVE OFFICE FOR:</b>		
investigation and study by, relative to establishing a program for the treatment and rehabilitation of compulsive gamblers, providing for...Resolve	11	
<b>Hunting licenses</b> , fees for, relative to	630	
<b>Huntington, town of</b> (see Cities and towns).		
<b>Hurd, Kenneth B., III</b> , solemnization of marriage to Leslie E. Meras, authorizing the state secretary to authorize	258	
<b>Hydroelectric facilities</b> , certain, licensing procedures for, further regulating	595	
<b>I.</b>		
<b>Immunization</b> , of certain college students, requiring	73	
<b>Indian</b> , American, burial place, authorizing the department of public works to relocate, for highway purposes	68	
Gay Head, land claims, implementing the settlement of	277	
<b>Indictment, waiver of</b> , relative to	256	
<b>Indictments for certain crimes</b> , limitation on, relative to	123	
<b>Industrial accidents</b> , department of, establishing	572	
<b>Industrial development</b> , providing financing incentives for cogeneration facilities, small power production facilities and industrial energy conservation	370	
<b>Industrial development bonds</b> , issuance of, by municipalities, further regulating	359	
<b>Industrial development financing authorities</b> , issuance of revenue bonds by, relative to	700	
<b>Infants</b> , newborn, testing of for certain treatable infectious diseases, providing for	529	
prematurely born, certain, relative to the identification and treatment of	557	
<b>Initiative and referendum petitions</b> , repealing the requirements of certain affidavits for	124	
<b>Inmates</b> (see Correctional facilities)		
<b>Innkeepers</b> , certain, defrauding of, relative to	348	
<b>Insect pest control</b> , bureau of, change of name to the bureau of shade tree management and pest control	765	1
<b>INSURANCE:</b>		
<b>in general:</b>		
governmental units pooled insurance, authorizing and regulating	802	



	Chapter	Section
<b>INSURANCE: —Concluded.</b>		
<b>in general: —Concluded.</b>		
insurance policies, further regulating the form and readability of	137	
real estate, insurance required by mortgagees, evidence of, relative to	187	
state employees, and retired state employees, group insurance benefits, further regulating	648	
<b>specific classes of insurance:</b>		
accident and health, group, requiring banks which purchase such policies to notify debtors of any amendment to or cancellation of, said policy	626	
fire, disclosure and dissemination of fire insurance information, providing for	138	
health, cardiac rehabilitation expenses, requiring that certain health insurance plans provide coverage for cost of health insurance for state employees, directing the group insurance commission to prepare a report on regulating certain health plans relative to dental care	140	62
liability, liquor legal liability insurance, relative to	615	
life, debtors of a bank, association, financial or other institution, increasing the amount of insurance covering	223	
motor vehicle, further regulating	237	
motor vehicle, further regulating	286	
<b>INSURANCE COMPANIES:</b>		
certain separate accounts of certain insurance companies, further regulating	622	
certified nurse midwives, services performed by, providing for reimbursement for, by	683	
domestic insurance companies, authorization to invest in certain obligations of the African Development Bank	321	
domestic life insurance companies, investment advisors of, relative to	336	
insurance policies, certain, further regulating the payment of the proceeds of, by	464	
life insurance companies, investment practices of, relative to mentally retarded persons, providing that certain insurance policies shall not discriminate against	745	
policies shall not discriminate against	520	
<b>Interstate use of water,</b> authorizing the towns of Dracut and Tyngsborough to enter into an agreement with the town of Pelham, New Hampshire for the restoration of Long Pond	435	
<b>Ipswich, town of</b> (see Cities and towns).		
<b>J.</b>		
<b>Jails</b> (see also Lockup facilities)		
<b>Jail and house of correction,</b> Norfolk County, use of certain facilities at, relative to	629	
<b>Jails, houses of correction and correctional institutions,</b> providing for the orderly administration and improvement of	799	
<b>Jails, houses of correction, lockups, etc.,</b> further regulating municipal jails, relative to	326	
	3	
<b>James, Joshua, Day,</b> annual observance of, proclamation by governor	211	
<b>Jet skis,</b> regulating the operation of	498	
<b>Judgment nisi,</b> relative to the time for the issuance of, in divorces	691	



	Chapter	Section
<b>Jurors</b> , examination of, relative to	463	
selection of, further regulating	313	
<b>Justice of the peace</b> , additional, in the town of Acton,		
authorizing the governor to designate	287	
<b>Justices</b> , additional, Springfield and Worcester Juvenile Courts,		
providing for	636	
<b>Juveniles</b> , certain, trial as adults, further regulating	744	
parental liability for torts committed by, relative to	442	
placement of in a secure detention facility, setting criteria for	334	
<b>K.</b>		
<b>King, Martin Luther, Jr.</b> , relative to the celebration of his		
birthday	451	
<b>Kingston, town of</b> (see Cities and towns).		
<b>Korean and Vietnam War Veterans Memorial Bridge</b> , Holden,		
designating a certain bridge in the town of, as the	74	
<b>L.</b>		
<b>LABOR:</b>		
employment application, must provide space thereon for		
previous volunteer activity by applicant to be included	684	
lie detectors, use of by employers, further regulating	587	
minimum wage for certain employees, increasing	760	
<b>Labor and industries, commissioner of</b> , authorizing the		
suspension of the operation of certain labor laws by the	305	
enforcement of the procurement of the design service for		
certain public building projects, providing for, by	808	
<b>Labor disputes</b> , confidentiality of work products of mediators,		
factfinders and arbitrators, providing for	357	
<b>Labor laws</b> certain, authorizing the commissioner of labor and		
industries to suspend the operation of	305	
<b>Labor Relations Commission</b> , appeals of certain orders of the,		
relative to	330	
<b>Labor Week</b> , annual observance of, proclamation by governor	129	
<b>Laboratories</b> , clinical, further regulating	76	
<b>Lake Buel Restoration/Preservation District</b> , establishing	756	
<b>Lakeville, town of</b> (see Cities and towns).		
<b>Lancaster, town of</b> (see Cities and towns).		
<b>Land, commonwealth</b> (see Commonwealth)		
<b>Land surveyors</b> , professional societies of, further regulating	512	
use of measuring devices other than standardized measuring		
tapes by, authorizing	621	
<b>Land titles</b> , conservation restrictions on, relative to the duration		
of	351	
<b>Lanesborough, town of</b> (see Cities and towns).		
<b>LaPorte, Donald J.</b> , pension to, authorizing	679	
<b>Larceny</b> , certain crimes of, increasing the maximum fine for	306	
<b>Laundries</b> , commercial coin operated, regulating the operation		
of	634	
<b>Law enforcement</b> , division of (see fisheries, wildlife and		
environmental law enforcement, department of)		
<b>Lawrence, city of</b> (see Cities and towns).		
<b>Lawrence Housing Authority</b> , park land, conveyance of a certain		
parcel by the city of Lawrence to the, authorizing	268	
<b>Lease</b> , certain, between the department of the state auditor and		
Berman & Sons, Inc., relative to the provisions of	481	



	Chapter	Section
<b>Lee, town of</b> (see Cities and towns).		
<b>Legal holiday</b> (see Holiday, legal)		
<b>Leger, James M. and Janet</b> , land in the town of Rutland, conveyance of a certain parcel and easements by the commonwealth, to, authorizing	633	
<b>Legion of Valor of the United States of America</b> , authorizing the issuance of distinctive license plates to members of	778	
<b>Leicester, town of</b> (see Cities and towns).		
<b>Leino Park Water District</b> , in the town of Westminster, establishing	398	
<b>Lemon law</b> , so-called, further regulating	702	
<b>Lenox, town of</b> (see Cities and towns).		
<b>Leominster, city of</b> (see Cities and towns).		
<b>Leverett, town of</b> (see Cities and towns).		
<b>Lexington, town of</b> (see Cities and towns).		
<b>Leyden, town of</b> (see Cities and towns).		
<b>Libraries</b> , regional systems, circulation of library materials within, further defining	506	
<b>License plates</b> , distinctive, providing for the issuance of, to members of the Legion of Valor	778	
<b>LICENSES AND PERMITS:</b>		
acupuncture, licensing the practice of	759	
auctioneers, providing for the licensing of	618	
automobile graveyards and motor vehicle junkyards, further regulating the control of	663	
cinematograph, license to operate, further regulating the issuance of	743	2
dog licensing, authorizing cities and towns to assume responsibility and liability for	308	
elevator operators, issuance of license to, further regulating	743	1
fishing licenses, fees for relative to	630	
granting or renewing certain licenses and permits in cities and towns, relative to	640	
hunting licenses, fees for, relative to	630	
hydropower facilities, certain, licensing procedures for, further regulating	595	
license, certain, directing the Department of Environmental Quality Engineering to reissue	260	
lobsters, establishing a family lobster license	47	
motor vehicle license, requiring registrar to revoke or suspend for certain out-of-state convictions involving operation of motor vehicles	391	
requiring registrar to revoke where person violates the motor vehicle identification law	386	
use of, to provide false identification for purchase of alcoholic beverages or alcohol, relative to	340	
oil burner technician, license to operate as, further regulating the issuance of	743	4
operators of motor vehicles owned by the commonwealth or any of its political subdivisions, requiring classification of licenses for	195	
pipefitters, issuance of license to work as, further regulating	587	
<b>Lie detectors</b> , use of, by employers, further regulating		
<b>Liens</b> , aircraft, providing for a lien upon certain aircraft for repairs to such aircraft	50	
private detective business, license to engage in, relative to the issuance of	395	



	Chapter	Section
<b>Liens</b> , aircraft, providing for a lien upon certain aircraft for repairs to such aircraft — <i>Concluded</i> .		
shellfish, certain, further regulating	339	
small loans licensees, maximum charge that may be made by, after maturity of a loan, increasing	368	
<b>Limitation of liability</b> , school department personnel, civil liability for emergency first aid, further regulating	111	
<b>Lincoln, town of</b> (see Cities and towns).		
<b>Linemen</b> , protection of when repairing or installing live wires, further regulating	597	
<b>Liquor legal liability insurance</b> (see Insurance)		
<b>Lis pendens</b> , memoranda of, further regulating the recording and registration of	809	
<b>Littleton, town of</b> (see Cities and towns).		
<b>Litwack, Bessie</b> , directing the board of registration of social workers to issue a license to	725	
<b>Lloyd, Lawrence W., Memorial Pool</b> , Melrose, authorizing the conveyance, by the commonwealth to the city of, of a certain parcel of land known as the	484	
<b>LOANS</b> : small loans licensees, maximum charge that may be made by, after maturity of a loan, increasing	368	
<b>Lobsters</b> , establishing a family lobster license	47	
<b>Local assessment committee</b> , involved in the siting of a hazardous waste facility, relative to the compensation of the members of	616	
<b>Lockup facility</b> , towns, certain, relative to	240	
<b>Lockup facilities</b> , certain, care and protection of detainees in, further regulating	208	
improvements to, providing for	785	
relative to	3	
<b>Lockups</b> , further regulating	326	
<b>Lodge Trust</b> , easements in certain land in the town of Natick, authorizing the commonwealth to grant, to	602	
<b>Longmeadow, town of</b> (see Cities and towns).		
<b>Long Pond</b> , restoration of, agreement between certain Massachusetts towns and a New Hampshire town, relative to	435	
<b>LoPresti, Senator Michael, Sr.</b> , Riverside Park, Cambridge, designating a certain parcel of land as the	32	
<b>Lowell, city of</b> (see Cities and towns).		
<b>Lowman, David and Barbara</b> , New Marlborough, alcoholic beverages, authorization to issue license for the sale of, to	119	
<b>Ludlow, town of</b> (see Cities and towns).		
<b>Lunenburg, town of</b> (see Cities and towns).		
<b>Lunenburg Water District</b> , appointment of clerk and treasurer of, providing for	673	
<b>Lynn, city of</b> (see Cities and towns).		
<b>Lynnfield, town of</b> (see Cities and towns).		

## M.

<b>Malachowsky, Jeffrey</b> solemnization of marriage to Cynthia Guyer, authorizing the state secretary to authorize	249
<b>Malden, city of</b> (see Cities and towns).	
<b>Manchester, town of</b> (see Cities and towns).	
<b>Mandatory retirement age</b> , providing that certain public employees may continue to work beyond	751
<b>Mandatory retirement</b> , relative to	239



	Chapter	Section
<b>Manfra, Maryanna</b> , civil service examination for police officer, authorization to take	447	
<b>Mansfield, town of</b> (see Cities and towns).		
<b>Marblehead, town of</b> (see Cities and towns).		
<b>March</b> , official ceremonial, of the commonwealth, designating a certain song as the	496	
<b>Marine fisheries, division of</b> (see Fisheries, wildlife and environmental law enforcement, department of)		
<b>Marion, town of</b> (see Cities and towns).		
<b>Marlborough, city of</b> (see Cities and towns).		
<b>Marriage</b> , certain, solemnization of, between Leslie E. Meras and Kenneth B. Hurd, III, authorizing the state secretary to authorize	258	
solemnization of, by out-of-state justice of the peace, authorizing the state secretary to authorize	80	
solemnization of, by out-of-state attorney, authorizing the state secretary to authorize, between Cynthia Guyer and Jeffrey Malachowsky	249	
<b>Marriages</b> , advertising by certain persons relative to the authority to solemnize marriages, permitting	250	
<b>Marshfield, town of</b> (see Cities and towns).		
<b>Martha's Vineyard Refuse Disposal and Resource Recovery District</b> , relative to	303	
<b>Martha's Vineyard State Forest</b> , land in, conveyance by the commonwealth of a certain parcel to the town of West Tisbury, authorizing	775	
<b>Mashpee, town of</b> (see Cities and towns).		
<b>Massachusetts Bay Transportation Authority</b> , Alewife Station Project, authorizing the transfer of certain state land in Arlington, Belmont and Cambridge to the department of public works in connection with	16	
authorizing the disposing or selling of certain power plants and substations of the	722	
use of certain land in the city of Cambridge by the, relative to	784	
<b>Massachusetts Civil Rights Act</b> , enforcement of court orders issued, relative to	619	
<b>Massachusetts Clean Waters Act</b> , providing funds for the implementation of	786	1
<b>Massachusetts Credit Union Share Insurance Corporation</b> , powers of, relative to	670	
<b>Massachusetts Hazardous Waste Facility Siting</b> , local assessment committee, relative to the appointment of certain designees for members of	154	
<b>Massachusetts Health and Educational Facilities Authority Act</b> , authorizing the financing of hospital facilities owned by certain nonprofit corporations under the	789	
<b>Massachusetts Housing Finance Agency</b> , relative to	259	
<b>Massachusetts Housing Partnership Fund</b> , establishment of	405	35
<b>Massachusetts Natural Heritage Program Data Base</b> , further regulating public access to information in	77	
<b>Massachusetts Port Authority</b> , designating as the James F. Dahill Harborview a certain section of land on Castle Island, Boston, belonging to the	46	
<b>Massachusetts State College Building Authority</b> , further regulating the borrowing power and certain other powers of the	800	
<b>Massachusetts Vietnam-era Veterans Association, Inc.</b> , authorizing cities and towns to lease certain property to	40	



	Chapter	Section
<b>Massachusetts Water Management Act</b> , establishment of, relative to	592	
<b>Maternity patients' rights</b> , requiring hospitals to make certain disclosures to such patients	714	
<b>Mattapoisett, town of</b> (see Cities and towns).		
<b>Maxim, Hosea F. and Lucy M.</b> , Middleborough, easements over certain land, authorizing the town to grant to	133	
<b>Maynard, town of</b> (see Cities and towns).		
<b>McGrail, Janet and Joseph</b> , retirement benefits to, directing the State-Boston retirement board to pay	747	
<b>McKenna, Terry L.</b> , civil service examination for firefighter in the town of Wilmington, authorization to take	203	
<b>McLaughlin, Doctor William F.</b> , building, designating the administration building at the Metropolitan state hospital as the	97	
<b>MCTC Associates, Inc.</b> , Lowell, sale of a certain parcel of land by the city, to, authorizing	15	
<b>Medfield, town of</b> (see Cities and towns).		
<b>Mediators</b> , in labor disputes, providing for the confidentiality of work products of	357	
<b>Medical malpractice insurance joint underwriting association</b> , extending	650	
<b>Medical malpractice</b> , relative to	671	
<b>Medical service corporations</b> , certain, requiring the posting of certain notice relative to medicare assignment by	298	
<b>Medford, city of</b> (see Cities and towns).		
<b>Medicaid payment ratio</b> , further regulating	200	3
<b>Medical Service Corporations, certain</b> , requiring the posting of certain notice relative to medicare assignment by	298	
<b>Medical services</b> , permitting physician assistants to perform, when assisting a physician other than a general practitioner	107	
<b>Medicare assignment</b> , posting of certain notice relative to, requiring	298	
<b>Medicine, board of registration in</b> , authorization to impose fines and other sanctions in disciplinary cases	374	
<b>Medway, town of</b> (see Cities and towns).		
<b>Mellor, Stephen M.</b> , civil service examination for police officer, authorization to take	553	
<b>Melrose, city of</b> (see Cities and towns).		
<b>Memorial Drive</b> , authorizing the metropolitan district commission to close a portion of, on certain Sundays	457	
<b>Memorials, soldiers'</b> , trustees of, relative to	175	
<b>Mendon, town of</b> (see Cities and towns).		
<b>MENTAL HEALTH, DEPARTMENT OF:</b>		
facility, medium security, for the care and control of certain persons, directing the department to develop sexually dangerous persons, relative to the treatment and release of	140	61
transfer of mentally retarded person to another residential facility, requiring department to consult with guardian or relative of said retarded person	752	
Waltham, metropolitan state hospital, designation of administration building as the Doctor William F. McLaughlin Building, marker by	796	
<b>Mental health facilities</b> , certain, taxation of, further regulating	97	
charitable non-residential, further regulating the taxation of	489	
	469	



	Chapter	Section
<b>Mentally ill persons</b> , adjudications of competency, in cases involving treatment with antipsychotic medications, relative to	525	
commitment of, providing for district court adjudications of competency and medical treatment relative to	344	
<b>Mentally retarded persons</b> , guardians or relatives of, certain, relative to the authority of	796	
providing that certain insurance policies shall not discriminate against	520	
<b>Meras, Leslie E.</b> , solemnization of marriage to Kenneth B. Hurd, III authorizing the state secretary to authorize	258	
<b>Merrimac, town of</b> (see Cities and towns).		
<b>Methuen, town of</b> (see Cities and towns).		
<b>METROPOLITAN DISTRICT COMMISSION:</b>		
<b>in general:</b>		
assessments on certain cities and towns for maintenance of parks, repealing	200	5
collective bargaining impasses involving the unit representing certain metropolitan district commission police officers, further regulating	726	
lockup facilities, further regulating the care and protection of detainees in	208	
providing for improvements to, by the commission	785	
skating rinks, exempting from the provisions of the bidding law concessions at, and requiring commission to establish rules and regulations in conjunction with the department of environmental management	733	
<b>special provisions:</b>		
Ashland, land in, under the control of, authorizing the commonwealth to convey to Middlesex county certain easements in	198	
Boston, land, acquisition by the commonwealth of certain land along the Carson Beach waterfront in the city of, authorizing	795	
land, lease by the commonwealth of a certain parcel at Castle Island in the city of, authorizing	810	
Cambridge, designating a certain parcel of land as the Senator Michael LoPresti, Sr. Riverside Park, marker by	32	
Charlestown, skating rink in, providing funds for repair of	710	
Hardwick, land in the town of, and under the control of the commission, authorizing the commonwealth to issue a permit to use said land for purposes of entrance and egress to other lands	575	
Holden, land, lease of a certain parcel by the commonwealth to the town of, authorizing	601	
land, lease of a certain parcel under the control of the commission to the town of, authorizing	692	
Hubbardston, Princeton, land in the towns of, authorizing the commonwealth to exchange certain parcel with Theodore H. Curtis	576	
Melrose, land in the city of, under the control of the commission, conveyance of a certain parcel to Ralph and Henrietta Allen, authorizing	723	
Memorial Drive, portion of, authorizing the closing of, on certain Sundays, by the	457	
Natick, land in the town of, easements in, authorizing the commonwealth to grant, to Lodge Trust	602	



**METROPOLITAN DISTRICT COMMISSION: —*Concluded.***  
**special provisions: —*Concluded.***

Quincy, land, transfer of Willard Street in the city of from the department of public works to the commission, authorizing	668	
Sterling, land, transfer of certain parcels in the town of, from the metropolitan district commission to the department of public works, authorizing	437	
Watertown, land, conveyance by the commonwealth of certain easements in land under the control of the commission to the town of, authorizing	787	
West Boylston, land in the town of, under the control of the commission, lease of a certain parcel by the commonwealth to R.E. Chapman Company, authorizing	693	
<b>Metropolitan Water Resources Authority</b> , Quabbin watershed advisory committee of the, relative to	734	
<b>Micrographics production services</b> , authorizing the commissioner of administration to charge other agencies for the cost of	140	68
<b>Middleborough, town of</b> (see Cities and towns).		
<b>Middlefield, town of</b> (see Cities and towns).		
<b>MIDDLESEX COUNTY:</b> (see Counties).		
<b>Middleton, town of</b> (see Cities and towns).		
<b>Midwifery services</b> , authorizing medical service corporations to offer to subscribers	683	8
<b>Midwives</b> , certified nurse, providing for reimbursement by insurance companies and others for services performed by	683	
<b>Milford, town of</b> (see Cities and towns).		
<b>Milk</b> , bulk, trailers transporting, exemption from certain weight limitations	141	
purchasing of, further regulating	91	
<b>Millbury, town of</b> (see Cities and towns).		
<b>Millis, town of</b> (see Cities and towns).		
<b>Millville, town of</b> (see Cities and towns).		
<b>Milton, town of</b> (see Cities and towns).		
<b>Minors</b> , certain, admission to roller skating rinks, relative to sale of tobacco products to, prohibiting	71 345	
uniform gift to minors act, powers of custodians under, further regulating	439	
<b>Minuteman Regional Vocational School District</b> , vote on certain contracts or leases of, relative to	36	
<b>Missing in action flag</b> , directing that it be flown on the grounds of certain state buildings	28	
<b>Mobile home parks</b> , effect that death of tenant has upon term of tenancy, relative to	554	
Middleborough, providing for the establishment of regulations relative to rents and evictions in	703	
Orange, providing for the establishment of regulations relative to rents and evictions in	608	
Springfield, providing for the establishment of regulations relative to rents and evictions in	610	
rules of, relative to the review of	45	
Warren, providing for the establishment of regulations relative to rents and evictions in	642	
<b>Mohawk Trail Regional School District</b> , issuance of notes by, relative to	41	



	Chapter	Section
<b>Monroe, town of</b> (see Cities and towns).		
<b>Monson, town of</b> (see Cities and towns).		
<b>Montague, town of</b> (see Cities and towns).		
<b>Monterey, town of</b> (see Cities and towns).		
<b>Montgomery, town of</b> (see Cities and towns).		
<b>Morabito, Michael A.</b> , Chelsea, police officer in, authorizing the city to appoint, notwithstanding civil service laws	245	
<b>Mortgagees</b> , insurance required by, evidence of, relative to	187	
<b>Mortgages</b> , certificates of title in mortgage transactions, relative to	297	
Federal Depository Institutions Act of 1982, commonwealth declines to apply for alternative mortgage transaction preemption	224	
<b>Motels, hotels, inns</b> , increasing the penalty for defrauding the owner or keeper of	348	
<b>Motorboats and other vessels</b> : further regulating certain water recreational vehicles	498	
water recreational vehicles, certain, further regulating	498	
<b>Motorcyclists</b> , investigation and study of licensing procedures relative to, providing for...Resolve	14	
<b>MOTOR VEHICLE INSURANCE</b> (see Insurance)		
<b>MOTOR VEHICLES</b> :		
accident reports, amount of property damage necessary to require filing, increasing	168	
bumper height of motor vehicles, relative to	461	
colored lights on certain motor vehicles, further regulating the display of	539	
commercial motor vehicles, inspection of, authorizing certain registry of motor vehicle personnel to conduct	194	
excise tax on, abatements of, further regulating	35	
relative to the collection of certain	534	
information, certain, in the records of the registrar, further regulating the availability of	390	
inspection of, failure to have, relative to the penalty for	385	
larceny of, clarifying the law relative to	380	
license plates, distinctive, authorizing the issuance of, to members of the Legion of Valor	778	
requiring registrar to revoke or suspend for certain out-of-state convictions involving operation of motor vehicles	391	
requiring registrar to revoke where person violates the motor vehicle identification law	386	
use of, to provide false identification for purchase of alcoholic beverages or alcohol, relative to	340	
minor offenses involving motor vehicles, relative to	794	
odometer, on certain motor vehicles, further regulating the alteration of	155	
operation of, without a license issued by the commonwealth, further regulating	146	
operators of motor vehicles owned by commonwealth or its political subdivisions, requiring classification of licenses for	195	
out-of-state convictions of persons involving the operation of, requiring registrar to revoke or suspend the license of operator	391	
parking identification plates for handicapped persons, relative to the issuance of	632	



	Chapter	Section
<b>MOTOR VEHICLES: —Concluded.</b>		
parking offenses, in cities and towns, further regulating	696	
revocation of drivers license by registrar for violation of motor vehicle identification law, requiring	386	
safety and emissions inspection law, relative to	139	
safety belts, requiring the use of in certain motor vehicles	416	
sale and repair of, certain, further regulating	702	
school buses, further regulating the painting of	136	
storage charge for certain motor vehicles, regulating	452	
state motor vehicles, repair of, further regulating the expenditure of funds for	620	
trailer, eliminating certain dollies from the definition of	464	
trailers transporting bulk milk, exempting from certain weight limitations	141	
truck weight provisions, modifying	713	
uninsured motor vehicles, relative to	806	
weight of commercial vehicles, limitation, excluding certain foreign carriers from	771	
windows on certain motor vehicles, further regulating	411	
<b>Motor vehicle junkyards, further regulating the control of certain</b>	663	
<b>Mount Greylock state reservation, allowing for a turkey hunting season in a certain area of</b>	219	
submission of management plans, requiring	676	4B
<b>Mount Washington, town of (see Cities and towns).</b>		
<b>MUNICIPAL FINANCE:</b>		
annual budget, cities, extending the time for submission of	9	
authorizing cities to issue same if secured by insurance or by letters or lines of credit or other credit facilities	571	
bonds and notes, authorizing cities to issue same if secured by insurance or by letters or lines of credit or other credit facilities	571	
investment of, by cities and towns, relative to	488	
borrowing, certain, by cities and towns, further regulating	238	
collection of local taxes, authorizing the use of facsimile signatures on warrants issued by tax collectors in cities and towns	86	
estimated tax payments for fiscal 1984, in certain cities and towns, authorizing	52	
industrial development bonds, further regulating the issuance of, by municipalities	359	
<b>MUNICIPAL LAND:</b>		
Amherst, cemetery land, certain, authorizing the town to convey	157	
Andover, easement over certain land, authorizing the town to grant to Arthur Gauthier and the Abbot Corporation	122	
Barnstable, conservation land, authorizing the exchange of certain parcels between the town and the West Barnstable fire district	471	
Brockton, sewer easements in, authorizing the town of Whitman to acquire	149	
Chelmsford, easement in conservation land, authorizing town to grant to Chelmsford water district	104	
Clinton, park land, authorizing the town to use a certain parcel of, for highway purposes	294	
Holyoke, park land, sale of a certain parcel for housing purposes, authorizing the city	79	



	Chapter	Section
<b>MUNICIPAL LAND: —Concluded.</b>		
Lawrence, conveyance of a certain parcel of park land by the city to the Lawrence Housing Authority, authorizing	268	
Lawrence, conveyance of a certain parcel of park land by the city, authorizing	423	
Lowell, sale of a certain parcel by city, to MCTC Associates, Inc., authorizing	15	
Mansfield, easements in land in, authorizing the town of Foxborough to acquire, to lay sewage mains over and to connect to the Mansfield sewage disposal system	144	
Middleborough, easements over certain land, authorizing the town to grant to Hosea F. and Lucy M. Maxim	133	
Millis, transfer of certain parcels of park land by the town, authorizing	429	
North Reading, conveyance of certain parcels to Emjay Realty Trust, by town, authorizing	10	
Paxton, conveyance by town of certain parcel for cemetery purposes, authorizing	126	
Pittsfield, use of certain park and school land for water improvement purposes, authorizing the city	191	
Scituate, authorizing the town to sell a certain parcel of water supply land	424	
Springfield, park land, use of a certain parcel for recreational or housing purposes	78	
Taunton, conveyance of a certain parcel by the town to the commonwealth	143	
Weymouth, conveyance of certain land, authorizing the town	148	
<b>Municipal light companies</b> , certain, authorization to purchase oil and other fuel supplies without bids	234	
<b>MUNICIPAL OFFICERS AND EMPLOYEES:</b>		
allowing municipal employees to receive housing subsidy	98	
housing subsidy, further regulating the right of certain municipal employees to receive	415	
school personnel, certain, election to public office, relative to leave of absence for	493	
<b>Municipal street lists</b> (see Street lists)		

N.

<b>Nahant, town of</b> (see Cities and towns).	
<b>NANTUCKET COUNTY:</b> (see Counties).	
<b>Nantucket Islands Land Bank</b> , relative to	202
<b>Nantucket, town of</b> (see Cities and towns).	
<b>Nastasia, Thomas</b> , Lawrence, providing for the continued employment of, as police captain in the city of	611
<b>Natick, town of</b> (see Cities and towns).	
<b>National health program</b> , requiring that a nonbinding question be placed on the ballot regarding	324
<b>Needham Fireman's Mutual Relief Inc.</b> , retirement benefit paid by, increasing	215
<b>Needham, town of</b> (see Cities and towns).	
<b>Nelson, Mellin G.</b> , directing the Department of Environmental Engineering to reissue a certain license to	260
<b>Newborn infants</b> (see Infants, newborn)	
<b>New Ashford, town of</b> (see Cities and towns).	
<b>New Bedford, town of</b> (see Cities and towns).	
<b>New Braintree, town of</b> (see Cities and towns).	
<b>New Marlborough, town of</b> (see Cities and towns).	



	Chapter	Section
<b>New Salem, town of</b> (see Cities and towns).		
<b>Newbury, town of</b> (see Cities and towns).		
<b>Newburyport, city of</b> (see Cities and towns).		
<b>Newton, city of</b> (see Cities and towns).		
<b>Nickerson, Ronald Allan</b> , civil service laws, firefighter authorizing the certification and appointment of, notwithstanding maximum age requirements	242	
<b>Nomination papers and petitions</b> , providing for objections to	624	
<b>Non-game wildlife fund</b> , use of to acquire certain interests in certain property, authorizing	770	
<b>NORFOLK COUNTY:</b> (see Counties).		
<b>Norfolk, town of</b> (see Cities and towns).		
<b>North Adams, city of</b> (see Cities and towns).		
<b>North Andover, town of</b> (see Cities and towns).		
<b>North Attleborough, town of</b> (see Cities and towns).		
<b>North Brookfield, town of</b> (see Cities and towns).		
<b>North Reading, town of</b> (see Cities and towns).		
<b>Northampton, city of</b> (see Cities and towns).		
<b>Northampton School for Girls, Inc.</b> , merger with Williston Academy, a/k/a Williston Seminary, authorizing and ratifying	172	
<b>Northborough, town of</b> (see Cities and towns).		
<b>Northbridge, town of</b> (see Cities and towns).		
<b>Northern Berkshire Industrial Park and Development Corporation</b> , establishment of	758	
<b>Northfield, town of</b> (see Cities and towns).		
<b>Norton, town of</b> (see Cities and towns).		
<b>Norwell, town of</b> (see Cities and towns).		
<b>Norwood, town of</b> (see Cities and towns).		
<b>Nuclear materials</b> , certain, further regulating the possession and use of	563	
<b>Nurses</b> , privileged communications between patients and psychiatric nurse mental health clinical specialists, providing for	85	
<b>O.</b>		
<b>Oak Bluffs, town of</b> (see Cities and towns).		
<b>Oakham, town of</b> (see Cities and towns).		
<b>Obscene material</b> , on cable television, authorizing a city or town to prohibit the distribution of	651	
<b>Odometer</b> (see MOTOR VEHICLES:)		
<b>Office for children</b> , investigation of reports involving the abuse and neglect of children, by, directing	776	
<b>Oil burner technician</b> , license to operate as, further regulating the issuance of	743	4
<b>Old Rochester Regional School District</b> , payment of school construction grant, extending the time for	200	10
<b>Old Satuit Trail</b> , designating a portion of state highway route 123 in the town of Scituate as	31	
<b>O'Neil, Robert</b> , civil service examination for firefighter, authorization to take	485	
<b>Open meeting law</b> , relative to municipal government, allowing certain contract negotiations to be held in executive session	333	
<b>Optometrists</b> , use of certain eye drops by, authorizing	654	
<b>Orange, town of</b> (see Cities and towns).		
<b>Organ transplants</b> , advisory council on, relative to the membership of	177	



	Chapter	Section
<b>Orleans, town of</b> (see Cities and towns).		
<b>Otis, town of</b> (see Cities and towns).		
<b>Oxford, town of</b> (see Cities and towns).		
<b>P.</b>		
<b>Palmer, town of</b> (see Cities and towns).		
<b>Parent, Private First Class Joseph C. and Sergeant Arthur C., Memorial Access Ramp</b> , Webster, designating a certain access ramp as the	20	
<b>Parental liability for tort of juvenile</b> , relative to	442	
<b>Parents</b> , requiring school committees to establish a program under which parents would be requested to notify the school in the event of a child's absence from school	551	
<b>Park commissioners</b> , boards of, relative to	128	
<b>Parking</b> (see MOTOR VEHICLES)		
<b>PARK LAND:</b>		
Barnstable, easement, authorizing the town to grant, to the Cotuit Library Association	12	
Chicopee, lease of a certain parcel by city Hampden County, authorizing	604	
Clinton, authorizing the town to use a certain parcel of, for highway purposes	294	
Everett, sale of a certain parcel by the city, authorizing	13	
Holyoke, authorizing the city to convey a certain parcel for housing purposes	79	
Lawrence, conveyance of a certain parcel by the city to the Lawrence Housing Authority, authorizing	268	
conveyance of a certain parcel to the Psychological Center, Inc., by the city of, authorizing	423	
Lowell, conveyance of certain parcels and easement to the city of, authorizing	638	
easements over certain parcel, authorizing the commonwealth to grant to the city of	665	
Millis, transfer of certain parcels by the town, authorizing	427	
Pittsfield, easement on, authorizing the city to grant, to New England Telephone Company	190	
use for water system improvements, authorizing the city	191	
Springfield, authorizing the city to use a certain parcel for recreational or other purposes	78	
Townsend, authorizing the town to convey a certain parcel to Rural Housing Improvement, Inc.	49	
<b>Parks</b> , assessments on cities and towns for maintenance of, repealing	200	5, 6
<b>Patients' rights</b> , maternity, requiring hospitals to make certain disclosures to maternity patients	714	
<b>Paxton, town of</b> (see Cities and towns).		
<b>Peabody, city of</b> (see Cities and towns).		
<b>Pelham, town of</b> (see Cities and towns).		
<b>Pelham, New Hampshire</b> , authorizing the towns of Dracut and Tyngsborough to enter into an agreement with the town of, for the restoration of Long Pond	435	
<b>Pembroke, town of</b> (see Cities and towns).		
<b>Pension reserves or retirement funds</b> , certain, investigation of corporations where such funds are invested, providing for	516	
<b>Pensioners and retirees</b> , checks of, limiting maximum amount banks are required to cash	596	



	Chapter	Section
<b>Pensions, (see RETIREMENT SYSTEMS AND PENSIONS).</b>		
<b>Pepperell, town of (see Cities and towns).</b>		
<b>Perjury, in testifying before Ethics Commission, penalties for, clarifying</b>	118	
<b>Personal property, written leases or rental agreements of, further regulating the requirements of</b>	279	
<b>Peru, town of (see Cities and towns).</b>		
<b>Petersham, town of (see Cities and towns).</b>		
<b>Phillipston, town of (see Cities and towns).</b>		
<b>Physicians, permitting physician assistants to perform medical services in assisting a physician other than a general practitioner</b>	107	
certain, notice relative to medicare assignment, requirement to post	298	
registration of, further regulating	475	
<b>Pilot lights, certain, authorizing the banning of</b>	686	
<b>Pipefitter, license to work as, further regulating the issuance of</b>	743	3
<b>Pittsfield, city of (see Cities and towns).</b>		
<b>Plainfield, town of (see Cities and towns).</b>		
<b>Plainville, town of (see Cities and towns).</b>		
<b>Plaque commemorating certain Viet Nam veterans, authorizing the erection of, in the statehouse</b>	541	
<b>Plumbers and gas fitters, board of examiners of, further regulating</b>	627	
certain, relative to	338	
<b>PLYMOUTH COUNTY: (see Counties).</b>		
<b>Plymouth, town of (see Cities and towns).</b>		
<b>Plympton, town of (see Cities and towns).</b>		
<b>Podiatrists, certain, notice relative to medicare assignment, requirement to post</b>	298	
<b>POLICE DEPARTMENTS AND POLICE OFFICERS:</b>		
<b>in general:</b>		
boxing teams, municipal police and state police, further regulating	782	
chief of police, municipal, providing for a hearing before removal of	210	
eligible lists for appointment as police officer or firefighter, relative to the order of certain persons on	402	
immunity, certain, for members of the local municipal arson squad, granting	322	
lockup facilities of cities and towns, the state police and the metropolitan district commission, providing for improvements to	785	
police officers laid off in certain years, further regulating the rights of	360	
police stations, further regulating	326	
surviving spouses of certain police officers, relative to pensions for	781	
<b>provisions for particular cities and towns:</b>		
Avon, civil service laws, position of chief of police, exempting from	207	
Beverly, Beverly Police Relief Association, Incorporated, retirement and death benefits paid by, relative to	131	
Lawrence, police captain in the city of, providing for the continued employment of Thomas Nastasia as	611	



	Chapter	Section
<b>POLICE DEPARTMENTS AND POLICE OFFICERS: —Concluded.</b>		
<b>provisions for particular cities and towns: —Concluded.</b>		
Lynnfield, civil service laws, authorization to certify and appoint Denis Bourque as police officer in the town of, notwithstanding his separation from such position for over 5 years, authorizing	545	
Maynard, civil service laws, exempting the position of chief of police from	254	
North Attleborough, civil service laws, authorizing Robert S. John to take the examination for police officer in the town of	564	
authorizing George Fisk to take the examination for police officer in the town of	556	
Wakefield, Wakefield Police Relief Association, Inc., increasing the amount of death benefits to members of	62	
Wilmington, civil service laws, authorizing Earl F. Enos to take the examination for police officer in the town of, notwithstanding maximum age requirements	192	
Winchester, Winchester Police Relief Association, Inc., benefits to members, authorization to broaden range of	377	
<b>provisions for specific individuals:</b>		
Barry, Maryellen, civil service status as policewoman stenographer in the town of Tewksbury, providing for	158	
Bourque, Denis, Lynnfield, civil service laws, police officer in the town of, authorizing the town to certify and appoint, notwithstanding his separation from such position for over 5 years	545	
Brown, John W., Revere, Sergeant in the Revere police department, authorizing the city to continue the employment of, after age seventy	535	
Connolly, Edward F., police lieutenant, Boston, providing tenure to	42	
Enos, Earl F., police officer in the town of Wilmington, authorization to take the civil service examination for, notwithstanding maximum age requirements	192	
Fisk, George, civil service examination for police officer, in the town of North Attleborough, authorization to take	556	
Manfra, Maryanna, civil service examination for police officer, authorization to take	447	
Mellor, Stephen M., civil service examination for police officer, authorization to take, notwithstanding maximum age requirements	553	
Morabito, Michael A. Chelsea, police officer in, authorizing the city to appoint, as, notwithstanding civil service laws	245	
Nastasia, Thomas, Lawrence, police captain in the city of, providing for the continued employment of	611	
St. John, Robert, civil service examination for police officer, in the town of North Attleboro, authorization to take	564	
Voke, Edward R., capitol police patrolman, relative to creditable service for	81	
<b>Police, state, (see STATE POLICE).</b>		
<b>Political candidates, certain, purchase of goods and services from a political committee of their party, by, allowing</b>	522	
<b>Polygraphs, further regulating the use of, by employers</b>	587	



	Chapter	Section
<b>PRACTICE IN CIVIL ACTIONS:</b>		
civil process, service of, further regulating the fees for	680	
confidentiality of communications made during certain mediation of disputes, providing for	325	
dwellings, occupants of, justifiable killing or injury to certain persons by, exemption from civil liability	589	
eviction cases, requirement of a bond or security be given by indigent tenants, relative to	754	
lis pendens, relative to	809	
manufacturer of motor vehicles, action for indemnification of, providing for award of attorneys' fees to	689	
removal of certain cases from, and the transfer of certain cases to, the Superior Court, further regulating	533	
small claim actions, increasing the jurisdictional amount for venue of, relative to	101	
tort and contract actions, authorizing the mailing of certain documents by certified mail only	311	
<b>Prematurely born infants</b> , certain relative to the identification and treatment of	323	
<b>Princeton, town of</b> (see Cities and towns).	557	
<b>Prisoners</b> , certain, voluntary transfer to certain foreign countries, relative to	578	
in certain lockup facilities, further regulating the care and protection of	208	
pastoral counseling of, allowing	236	
<b>Prisoners of war flag</b> , directing that it be flown on the grounds of certain state buildings	28	
<b>Prisons</b> , further regulating	326	
<b>Private detective business</b> , license to engage in, relative to the issuance of	395	
<b>Private ways</b> , authority of county commissioners to lay out, alter or accept a private way or town way upon refusal of the town, repealing	276	
<b>Privileged communications</b> , between patients and psychiatric nurse mental health clinical specialists, providing for	85	
<b>Professional corporations</b> , further regulating	774	
<b>Professional societies of land surveyors</b> , further regulating	512	
<b>Prostitution</b> , arrest without warrant for engaging in, authorizing	142	
<b>Providers of health care</b> , rates of payments and reimbursements for, authorizing the exclusion of certain gifts, grants and income when determining	761	
<b>Provincetown, town of</b> (see Cities and towns).		
<b>Psychological Center Inc.</b> , Lawrence, conveyance of a certain parcel of park land by the city of, to, authorizing	423	
<b>Psychologists</b> , authorizing courts to order competency tests of defendants in criminal cases, by qualified	617	
<b>Public accountancy</b> , practice of, regulating	705	
<b>Public building projects</b> , design service for, providing that the commissioner of labor and industries shall have the power to enforce the procurement of	808	
<b>Public colleges and universities</b> , board of trustees of, student members on, establishing the term of representation for	100	
<b>Public construction contracts</b> , bidding on, increasing the exemption from	675	
further regulating payment and periodic estimates on sub-bids to contractors on	341	
<b>Public employees</b> , certain, providing that they may continue to work beyond the mandatory retirement age	751	



	Chapter	Section
<b>Public employees</b> , certain, providing that they may continue to work beyond the mandatory retirement age	751	
<b>Public employment</b> , application for, relative to	560	
<b>PUBLIC HEALTH, DEPARTMENT OF:</b>		
laboratories, clinical, further regulating	76	
newborn child, testing of for treatable infectious diseases, providing for	529	
organ transplant advisory council, membership on, relative to	177	
<b>Public health</b> , immunization of certain college students, requiring before admission to an institution of higher education	73	
<b>Public records</b> , further defining	220	
public access to information in the Massachusetts Natural Heritage Program data base, further regulating	77	
<b>PUBLIC SAFETY, DEPARTMENT OF:</b>		
state police, appointments to the first training class of, authorizing the commissioner to make	103	
<b>Public utilities</b> , articles of organization of, relative to	658	
<b>PUBLIC UTILITIES, DEPARTMENT OF:</b>		
rail transport of hazardous materials, requiring the department to promulgate rules and regulations relative to	674	
certain, articles of organization of, relative to	658	
<b>PUBLIC WELFARE, DEPARTMENT OF:</b>		
bureau of special investigation, providing police powers for study of rental housing costs availability and other related matters as related to public assistance recipients, to be conducted by	140	74
<b>Public works construction contracts</b> , relative to bid bonds in	406	
<b>PUBLIC WORKS, DEPARTMENT OF:</b>		
<b>in general:</b>		
encroachments upon state highways, authorizing the department to remove	44	
<b>registry of motor vehicles:</b>		
availability of information under the control of the registrar, further regulating	390	
inspection of commercial motor vehicles, certain, authorizing certain registry of motor vehicles personnel to conduct	194	
license revocation, by the registrar, of persons violating the motor vehicle identification law, requiring	386	
registrar, certain powers of, relative to	768	
<b>special provisions:</b>		
Attleboro, designation of a certain bridge as the Manuel O. Castro, Sr. Memorial Bridge, marker by	22	
Billerica, land owned by the town of, authorizing the commonwealth to acquire and transfer to the department of public works	591	
Boston, designation of bridge as the Private First Class Robert A. Griffin Memorial Bridge, marker by	718	
Bourne, land in, the town of, transfer of certain parcels from the division of fisheries, wildlife and recreational vehicles and the Buzzards Bay Water District to the department of public works, authorizing	130	
Brockton, land, transfer of a certain parcel to the department of public works from the commonwealth after acquisition of said parcel, authorizing	458	



	Chapter	Section
<b>PUBLIC WORKS, DEPARTMENT OF: —<i>Concluded.</i></b>		
<b>special provisions: —<i>Concluded.</i></b>		
Cambridge, designation of bridge as the Mayor Leonard J. Russell Memorial Bridge, marker by	151	
Charlton, designation of a certain bridge as the Charlton Vietnam Veterans Memorial Bridge, marker by	362	
Indian, American, burial places, in Uxbridge, authorizing the department to relocate certain such places, for highway purposes	68	
Lowell, designation of bridge as the John E. Cox Memorial Bridge, marker by	586	
land, conveyance by the commonwealth of a certain parcel in the city of, under the control of the department to Xenophon Speronis, authorizing	717	
Medford, land in the city of, transfer of a certain parcel to the department of public works after commonwealth acquires said parcel from the Medford Housing Authority, authorizing	694	
Montague, land, in the town of, acquisition by commonwealth, and diverting use to the department for highway purposes, authorizing	666	
Quincy, land, transfer of Willard Street in the city of, from the department to the metropolitan district commission, authorizing	668	
Sandwich, land, transfer of control of an easement over a certain parcel to the department after the commonwealth acquires such easement from the town of, authorizing	668	
Scituate, designation of a portion of state highway route 123 as Old Satuit Trail, marker by	31	
Southampton, land, transfer of certain parcels to, after commonwealth acquires said land from town of, authorizing	639	
Sterling, land, transfer of certain parcels in the town of, from the metropolitan district commission to the department of public works, authorizing	437	
<b>Pumping Stations</b> , certain, exempting from bidding on certain public construction contracts	675	
<b>Pupil absence notification program</b> , requiring the establishment of	551	
<b>Q.</b>		
<b>Quabbin watershed advisory committee of the Metropolitan Water Resources Authority</b> , relative	734	
<b>Quincy, city of</b>		
<b>Quincy City Hospital</b> , authorizing the city of Quincy to borrow money on behalf of the	470	
<b>R.</b>		
<b>Racing</b> , horse or dog, elections held relative to granting a license for, requiring the reporting of the results to the state racing commission	353	
horse, further regulating the conduct of	580	
<b>Railroads</b> , Housatonic Railroad Company, authorizing the incorporation of	798	
<b>Randolph, town of</b> (see Cities and towns).		



	Chapter	Section
<b>Rape</b> , preservation of the evidence of, relative to	355	
<b>Rate setting commission</b> , establishment of hospital rates of		
payments and charges by the, relative to	574	
rates of payment and reimbursement for providers of health		
care services, authorizing certain exclusions by the		
commission in determining	761	
<b>Raynham, town of</b> (see Cities and towns).		
<b>Reading, town of</b> (see Cities and towns).		
<b>REAL ESTATE:</b>		
city and town properties, certain, sale of, establishing a		
disqualification system relative to	803	
conservation restrictions, certain, on land titles, relative to the		
duration of	351	
homestead exemption, increasing	623	
land adjoining state highways, removal of encroachments on,		
by the department of public works	44	
lis pendens, memoranda of, further regulating the recording		
and registration of	809	
mortgage transactions, relative to certificates of title in	297	
mortgages, insurance required by, evidence of, relative to	187	
sales of residential dwellings, requiring owner to determine		
whether the dwelling has formaldehyde foam insulation		
before sale	728	
taxes, residential exemption, providing for an appeal from a		
denial of	382	
tax taking, sale of land valued at \$5000.00 or less, relative to	89	
<b>Real property</b> , acquisition of, by airport commissions, relative to		
procedures for	17	
counties, further regulating the sale or lease of	173	
<b>Reardon, John</b> , civil service examination for firefighter,		
authorization to take	517	
<b>Recall elections:</b>		
Eastham, providing for	318	
Leverett, providing for	37	
Truro, providing for	204	
Westport, providing for	495	
<b>Records</b> , public, further defining	220	
<b>Recreational vehicles</b> , water, further regulating	498	
<b>Referendum and initiative petitions</b> , repealing the requirements		
of certain affidavits for	124	
<b>Reformatories</b> , further regulating	326	
<b>Regional planning agencies</b> , grants to	763	
<b>Regional school districts</b> (see Districts, regional school)		
<b>Regional Schools</b> (see Schools)		
<b>Register of deeds</b> , fees of, relative to the clarification of	515	
<b>REGISTRATION, BOARDS OF:</b>		
hairdressers, designating the board of registration of		
hairdressers as the board of registration of cosmetology	719	
medicine, authorization to impose fines and other sanctions in		
disciplinary cases	374	
physicians, further regulating the registration of, by	475	
social workers, directing the board to issue a license to Bessie		
Litwack	725	
<b>REGISTRY OF DEEDS:</b>		
lis pendens, memoranda of, relative to the recording and		
registration of, at	809	



	Chapter	Section
<b>REGISTRY OF MOTOR VEHICLES</b> , (see PUBLIC WORKS, DEPARTMENT OF, REGISTRY OF MOTOR VEHICLES).		
<b>Rehoboth, town of</b> (see Cities and towns).		
<b>Religious beliefs</b> , students, excusing the absence of, because of, in educational or vocational training institutions	375	
<b>RESOLVES:</b>		
Dana, Robert P., providing for payment of funeral expenses...Resolve	7	
increasing membership of special commission studying nonprofit hospital services corporations and nonprofit medical services corporations...Resolve	4	
increasing membership of special commission studying the establishment of memorial to President John F. Kennedy...Resolve	3	
investigation and study, children in need of service, special commission...Resolve	9	
investigation and study, establishment of a program for the treatment and rehabilitation of compulsive gamblers, by the executive office of human services...Resolve	11	
investigation and study, insurance coverage for certain extended hospitalization and procedures for admission, special commission...Resolve	2	
investigation and study, memorial to Henry Cabot Lodge, Jr., special commission...Resolve	6	
investigation and study, North Atlantic Right Whale, by the department of fisheries, wildlife and environmental law enforcement...Resolve	12	
investigation and study, preservation and use of certain buildings on Kent's Island in the town of Newbury, special commission...Resolve	10	
investigation and study, requiring employers to provide parenting leave and disability leave, special commission...Resolve	5	
investigation and study, toxicity and combustibility of building materials and furnishing, special commission...Resolve	8	
motorcyclists, licensing procedures relative to, investigation and study of, special commission...Resolve	14	
reviving and continuing the special commission investigating Alzheimer's Disease...Resolve	13	
reviving, continuing and increasing the membership of certain special commissions...Resolve	1	14
<b>Resource recovery facility</b> , certain, Saugus, relative to the taxation of, by the town of	84	
<b>Respite care</b> , availability of, relative to fees for, exempting mentally and physically disabled clients from	804	
<b>Respite care services</b> , authorizing the department of elder services and agencies within the executive office of human services to provide	140	43
<b>Retired state employees</b> , group insurance benefits for, further regulating	648	
<b>Retirees and pensioners</b> , checks of, limiting the maximum amount banks are required to cash	596	
<b>Retirement, mandatory</b> , relative to	239	



	Chapter	Section
<b>RETIREMENT SYSTEMS AND PENSIONS:</b>		
<b>in general:</b>		
audits of contributory retirement systems by public accountants, providing for	550	
firefighters and police officers, certain, surviving spouses of, relative to pensions for	781	
pensions, unfunded, in certain cities and towns, providing for	156	
further regulating the retirement systems of the commonwealth	741	
public employees, providing that certain such employees may continue to work beyond the mandatory retirement age	751	
state employees, retired, further regulating group insurance benefits for	648	
<b>special provisions:</b>		
Barnstable county retirement system, relative to the classification of the positions of Chatham harbormaster and Chatham Shellfish Constable in	667	
North Attleborough, Roberts, Muriel Mildred, annuity to, authorizing the town to pay	184	
State-Boston retirement board, directing that Donald J. LaPorte be retired with a pension by the	679	
directing that the board pay retirement benefits to Janet and Joseph McGrail	747	
directing them to grant a pension to Manuel J. Gregorio	701	
Voke, Edward R., police officer, relative to creditable service as a patrolman in the capitol police	81	
<b>Revere, city of</b> (see Cities and towns).		
<b>Revolving credit agreements</b> , finance charges under, relative to	585	
<b>Revolving fund</b> , SSI/SSA Revolving Fund, continuing	140	48
Tisbury, for certain license fees, authorizing the establishment of	261	
<b>Richmond, town of</b> (see Cities and towns).		
<b>Right to farm</b> , relative to	613	
<b>Rinks</b> , roller skating, admission of young persons to, relative to	71	
<b>Roads</b> , scenic, designation of by cities and towns, relative to	384	
<b>Roberge, Lucille</b> , vacation time, authorizing the town of Wareham to compensate for	160	
<b>Roberts, Muriel Mildred</b> , North Attleborough, authorizing the town to pay a certain annuity to	184	
<b>Rochester, town of</b> (see Cities and towns).		
<b>Rockland, town of</b> (see Cities and towns).		
<b>Rockport, town of</b> (see Cities and towns).		
<b>Roderick, Mary C., Bridge</b> , Somerville, designating a certain bridge in the city of, as the	724	
<b>Roller skating rinks</b> (see Rinks, roller skating).		
<b>Rowe, town of</b> (see Cities and towns).		
<b>Rowley, town of</b> (see Cities and towns).		
<b>Roxbury Community College</b> , additional financing for construction of facilities at, providing	205	
<b>Royalston, town of</b> (see Cities and towns).		
<b>Rubbish, dumping of</b> , on certain public land or on the property of another, increasing the penalties for	197	
<b>Rural Housing Improvement, Inc.</b> , Townsend, authorizing the town to convey a certain parcel of park land to	49	



	Chapter	Section
<b>Russell, Leonard J.</b> , widow of, authorizing city of Cambridge to pay certain benefits to	201	
<b>Russell, Mayor Leonard J., Memorial Bridge</b> , Cambridge, designating a certain bridge in the city of, as the	151	
<b>Russell, town of</b> (see Cities and towns).		
<b>Rutland, town of</b> (see Cities and towns).		
<b>S.</b>		
<b>Salem, city of</b> (see Cities and towns).		
<b>Sales:</b>		
motor vehicles, further regulating	702	
residential dwellings, requiring owner to determine, before the sale, whether building has UFFI	728	
space heaters, certain, further regulating the sale and use of	625	
<b>Sandisfield, town of</b> (see Cities and towns).		
<b>Salisbury, town of</b> (see Cities & Towns)		
<b>Sandwich, town of</b> (see Cities and towns).		
<b>Saugus, town of</b> (see Cities and towns).		
<b>Savoy, town of</b> (see Cities and towns).		
<b>Scenic roads</b> (see Roads, scenic)		
<b>Scholarship fund, town of Barnstable</b> , authorizing the town of Barnstable to establish the	267	
<b>School buses</b> , painting of, further regulating	136	
<b>School committees</b> , duties of, clarifying	577	
requiring the establishment of a pupil absence notification program by	551	
<b>School Districts</b> (see Districts, special classes)		
<b>SCHOOLS:</b>		
<b>public:</b>		
late acceptance, by cities, towns and school districts, of certain provisions of the education reform bill, so-called, providing for	704	
pupil absences, requiring parents or guardians to notify schools relative to	551	
regional school buildings, renting or leasing of surplus space in, regulating	732	
school committees, clarifying the duties of	577	
expenditures for certain collective bargaining legal services, by, increasing the amount allowed	523	
school personnel elected to public office, leave of absence for, relative to	493	
school union superintendents, certain, eliminating tenure of	381	
improving the public schools of the commonwealth	188	
liability, civil, for emergency first aid, further regulating school department personnel from	111	
school construction, relative to increasing aid for	33	
silence, period of, in all public schools, further defining	690	
vocational school teachers and employees, certain, tenure rights for, relative to	491	
<b>Scituate, town of</b> (see Cities and towns).		
<b>Seat belts</b> (see MOTOR VEHICLES)		
<b>SECRETARY, STATE:</b>		
elections held relative to granting a license for horse or dog racing, requiring the reporting of the results to the State Racing Commission, by the	353	



	Chapter	Section
<b>SECRETARY, STATE: —<i>Concluded.</i></b>		
marriage, solemnization of a certain between Leslie E. Meras and Kenneth B. Hurd, III, authorizing the state secretary to authorize	258	
solemnization of a certain marriage, by out-of-state attorney, authorizing, between Cynthia Guyer and Jeffrey Malachowsky	249	
solemnization of a certain marriage by out-of-state justice of the peace, authorizing	80	
<b>Securities</b> , further regulating the manner in which fiduciaries may hold certain	454	
<b>Seder, Harry</b> , Memorial Square, Webster, designating a certain traffic island in the town of, as the	21	
<b>Seekonk, town of</b> (see Cities and towns).		
<b>Selectmen</b> , boards of, vacancies on, relative to the filling of	34	
<b>Service of civil process</b> , fees for, further regulating	680	
<b>Service stations</b> , certain, requiring that service be provided to handicapped persons at self-service pumps	664	
<b>SEWERS AND DRAINS:</b>		
<b>in general:</b>		
grants to public entities relative to construction of	786	9, 10, 11
notice of requirements regarding the use of common sewers in cities and towns, decreasing	289	
<b>special provisions relative to particular cities, towns or districts</b>		
Foxborough, Mansfield, authorizing the town of Foxborough to acquire easements in land in the town of Mansfield to lay sewage mains and to connect to the Mansfield sewage disposal system	144	
South Essex Sewerage District, relative to	170	
Wayland/Sudbury Septage Facility, authorizing the establishment of a lien upon real estate for unpaid septage disposal charges assessed in connection with	293	
<b>Sexual conduct</b> , arrest without a warrant for engaging in, for a fee, authorizing	142	
<b>Sexually dangerous persons</b> , escape from confinement, providing for prosecution of	752	
relative to the treatment and release of	241	
<b>Shade tree management and pest control, bureau of</b> , change of name from bureau of insect pest control to	765	
<b>Shade trees</b> , establishing a program to encourage communities in the care, control and management of public shade trees	765	
<b>Sharon, town of</b> (see Cities and towns).		
<b>Sheffield, town of</b> (see Cities and towns).		
<b>Shelburne, town of</b> (see Cities and towns).		
<b>Shellfish licenses</b> , certain, further regulating	339	
<b>Sherborn, town of</b> (see Cities and towns).		
<b>Ship, or vessel</b> , penalty for destruction of, relative to	659	
<b>Shirley, town of</b> (see Cities and towns).		
<b>Shooting preserves, commercial</b> , further regulating	253	
<b>Shrewsbury, town of</b> (see Cities and towns).		
<b>Shutesbury, town of</b> (see Cities and towns).		
<b>Siff, Robert, Square</b> , Webster, designating a certain intersection to the town of, as the	19	
<b>Silence</b> , period of, in all public schools, further defining	690	



	Chapter	Section
<b>Silverstein, Lawrence I., and M. Gordon Ehrlick, authorizing</b> the commonwealth to convey certain easements across the Wachusett aqueduct in the town of Northborough to	183	
<b>Skating rinks, admission of young persons to</b>	71	
certain, exempting from provisions of the bidding law concessions at	733	
<b>Small claim actions, increasing the jurisdictional amount for</b>	101	
venue of, relative to	311	
<b>Small power production facility, providing financial incentive for</b>	370	
<b>Smith College, Northampton, alcoholic beverages, authorizing</b> the city to issue a license for the sale of, to the faculty center at	500	
<b>Social Security Day, annual observance of, proclamation by</b> Governor	233	
<b>SOCIAL SERVICES, DEPARTMENT OF:</b> children, certain sexual offenses against, requiring the reporting of, by	343	
employees of, prohibiting assault and battery upon while they are in the performance of their duties	555	
<b>Social workers, disclosure of information acquired from clients,</b> relative to	524	
<b>Solar energy systems, promoting solar energy for and protecting</b> access to sunlight for	637	
<b>Soldiers' memorials, trustees of, relative to</b>	175	
<b>Somerset, town of</b> (see Cities and towns).		
<b>Somerville, city of</b> (see Cities and towns).		
<b>South Africa, investment of pension funds in financial</b> institutions doing business with, prohibiting the town of Watertown from making	698	
<b>South Hadley, town of</b> (see Cities and towns).		
<b>Southampton, town of</b> (see Cities and towns).		
<b>Southborough, town of</b> (see Cities and towns).		
<b>Southbridge, town of</b> (see Cities and towns).		
<b>Southeastern Massachusetts University Building Authority and</b> the University of Lowell Building Authority, further regulating the borrowing power and certain other powers of	805	
<b>South Middlesex Regional Vocational Technical School District,</b> authorization to pay a percentage of the group insurance premium for certain retired employees	510	
<b>Southwick, town of</b> (see Cities and towns).		
<b>Space heaters, unvented liquid fired, further regulating the sale</b> and use of	625	
<b>Special permits</b> (see Zoning)		
<b>Spencer, town of</b> (see Cities and towns).		
<b>Speronis, Xenophon, land in the city of Lowell, authorizing the</b> commonwealth to convey a certain parcel to	717	
<b>Springfield, city of</b> (see Cities and towns).		
<b>Springfield, Greater Regional Wastewater Treatment Facility,</b> relative to	392	
<b>Springfield Municipal Hospital, relative to the membership of</b> the board of trustees of	647	
<b>Springfield Parking Authority, further regulating</b>	178	
<b>Springfield state office building management fund, establishing</b>	140	51
<b>SSI/SSA Revolving fund, continuing</b>	140	48
<b>St. John, Robert, civil service examination for police officer in</b> the town of North Attleborough, authorization to take	564	
<b>Stabilization fund, in towns and districts, authorizing the</b> appropriation of	94	



	Chapter	Section
<b>State auditor</b> , duties of, further defining	441	
lease, certain, between the department of the state auditor and Berman & Sons, Inc., relative to the provisions of	481	
<b>State colleges or universities</b> (see colleges, universities and institutes)		
<b>State contracts</b> , extra work or materials in, relative to orders and claims for	521	
<b>State employees</b> , department heads, appointment and removal of, relative to	737	
group insurance benefits for, further regulating	648	
<b>STATE FINANCE:</b>		
bonds and notes, issuance of, relative to	549	
terms of, relative to	783	
terms of, relative to	430	
<b>State highways</b> , land adjoining, removal of encroachments on, authorizing the department of public works	44	
<b>STATE HOUSE,</b>		
flag for prisoners of war and missing in action, directing that it be flown on the grounds of certain state buildings, including the	28	
plaque commemorating certain Viet Nam veterans	541	
<b>State lottery funds</b> , expanding the investment of	552	
<b>STATE POLICE:</b>		
appointments to the first training class of the, authorizing the commissioner to make certain	103	
boxing teams, further regulating	782	
collective bargaining impasses involving members of the bargaining unit of the uniformed branch of the, further regulating	726	
lockup facilities, further regulating the care and protection of detainees in	208	
improvements to, providing for	785	
officers, mileage fees for court attendance as witnesses, relative to	581	
<b>State property</b> , certain, work performed on, authorizing the Department of Environmental Management to reimburse federal agencies for	407	
<b>State reservations, parks, and forests</b> , submission of management plans, requiring	676	4B
<b>STATE SECRETARY</b> (see Secretary, state)		
<b>Sterling, town of</b> (see Cities and towns).		
<b>Stockbridge, town of</b> (see Cities and towns).		
<b>Stoneham, town of</b> (see Cities and towns).		
<b>Storage Charge</b> , for certain motor vehicles, regulating	452	
<b>Stoughton, town of</b> (see Cities and towns).		
<b>Stow, town of</b> (see Cities and towns).		
<b>Street listings</b> , cities and towns, requiring that nursing and rest home residents be included in	125	
<b>Street lists, municipal</b> , availability of, further regulating	478	
<b>Student government associations</b> , at state colleges and universities, providing that said associations shall be the official representative of the student body	609	
<b>Student members</b> , on the Board of Trustees of public colleges and universities, establishing the term of representation for	100	
<b>Student medical contract program</b> , requiring physicians who received financial assistance from state to work in certain areas of the state, establishment of	140	45



	Chapter	Section
<b>Students</b> , assistance to, for advancing educational goals, making certain corrective changes relative to	606	
college, certain, requiring immunization of, before admission to an institution of higher education	73	
hazing, prohibiting the practice of	536	
religious beliefs, excusing the absence of, in an educational or vocational training institution because of	375	
<b>Sturbridge, town of</b> (see Cities and towns).		
<b>Subdivision plans</b> , appeals on, requiring the posting of bonds in moratoriums upon, relative to	492	
	494	
<b>Sudbury, town of</b> (see Cities and towns).		
<b>SUFFOLK COUNTY:</b> (see Counties).		
<b>Sundays</b> , delivery of alcoholic beverages on, by certain dealers to certain licensees, authorizing	600	
<b>Sunderland, town of</b> (see Cities and towns).		
<b>Surf jets</b> , regulating the operation of	498	
<b>Sutton, town of</b> (see Cities and towns).		
<b>Swampscott, town of</b> (see Cities and towns).		
<b>Swansea, town of</b> (see Cities and towns).		
<b>Sweet, Vivian</b> , authorizing the town of Mansfield to pay a certain sum of money to	699	
<b>Swift, Robert</b> , civil service examination for firefighter, authorization to take notwithstanding maximum age requirement	255	
<b>T.</b>		
<b>Taunton, city of</b> (see Cities and towns).		
<b>Taunton Cemetery</b> , authorizing the city of Taunton to receive and administer the property of the	352	
<b>TAXATION:</b>		
<b>in general:</b>		
refund of overpayment of taxes after certain audits, authorizing	281	
tax relief, in certain types of taxes, providing for	593	
<b>special classes of taxes:</b>		
estate, further regulating the estate tax	711	
excise, aircraft fuel tax, by cities and towns, establishing	145	1,2
hotel room occupancy tax, by cities and towns, establishing	145	6
motor vehicle, abatements of, further regulating	35	
motor vehicles, registered, relative to the collection of certain	534	
vessels, certain, relative to the assessment and collection of	526	
income, interest on deposits in a federal savings bank, relative to the taxation of	583	
property, agricultural and horticultural land, relative to the taxation of	387	
real and personal, certain mental health facilities, further regulating the taxation of	489	
payment of, further regulating	598	
real estate, certain property, authorizing cities and towns to collect tax on	25	
charitable corporations, certain, further regulating the taxation of	469	
exemption for organizations of veterans of war, further regulating	727	



	Chapter	Section
<b>TAXATION: —Concluded.</b>		
<b>special classes of taxes: —Concluded.</b>		
real estate, certain property, authorizing cities and towns to collect tax on — <i>Concluded.</i>		
tax credit for renewable energy systems, extending the time available for	708	
residential exemption, providing for an appeal from denial of	382	
tax exemptions, certain, increasing the time allowed for filing application for	300	
tax refunds, certain, application for, relative to	453	
waiver of certain charges by tax collector, authorizing	365	
sales, exemption for equipment related to wood-fueled heating systems, eliminating	708	2
<b>Teachers</b> (see also <b>Schools</b> )		
certain, leaves of absence for	504	
<b>Teachers, and other school personnel</b> , election to public office, relative to leave of absence for	493	
<b>Telecommunications service and equipment</b> , theft of, relative to	685	
<b>Television</b> , cable, system facilities, further regulating the installation of	644	
<b>Templeton, town of</b> (see <b>Cities and towns</b> ).		
<b>Tenants</b> , indigent, relative to the requirement that a bond or security be given in eviction cases by the	754	
<b>Tenneco, Inc.</b> (see <b>Tennessee Gas Pipeline Company</b> )		
<b>Tennessee Gas Pipeline Company</b> , easement across certain land, authorizing the department of environmental management to grant to the	519	
<b>Tenure</b> , Peabody, Victor Unhao, assistant manager of the municipal lighting commission, providing tenure for vocational school teachers and employees, relative to the tenure rights for	491	
<b>Tewksbury, town of</b> (see <b>Cities and towns</b> ).		
<b>Tisbury, town of</b> (see <b>Cities and towns</b> ).		
<b>Tobacco products</b> , sale or distribution to persons under the age of eighteen, prohibiting	345	
<b>Tolland, town of</b> (see <b>Cities and towns</b> ).		
<b>Topsfield, town of</b> (see <b>Cities and towns</b> ).		
<b>Tort actions</b> , authorizing the mailing of certain documents by certified mail only, in	323	
<b>Townsend, town of</b> (see <b>Cities and towns</b> ).		
<b>Town way</b> , authority of county commissioners to lay out, alter or accept a town way or private way upon refusal of the town, repealing	276	
<b>Trade practices</b> , deceptive, providing for civil penalties and attorney fees in certain actions by the attorney general relative to	468	
<b>Trailer</b> , where used in connection with a motor vehicle, changing the definition of and eliminate certain dollies from	464	
<b>Transportation development and improvement program</b> for the commonwealth, providing for	811	
<b>TREASURER, STATE:</b>		
bonds and notes, terms of, relative to	430, 783	
custodian of the housing authority bonds sinking fund, appointment as	570	



	Chapter	Section
<b>TREASURER, STATE: —<i>Concluded.</i></b>		
federal savings bank, allowing the state treasurer to deposit		
public monies of	735	
investigation of certain corporations by, relative to		
discrimination in employment	516	
<b>Trees, shade</b> (see Shade trees)		
<b>Trefry, Douglas V. and Elizabeth S.</b> as residents of the town of		
Stow for a certain period of time	418	
<b>Truck weight grandfather provisions</b> , modifying	713	
<b>Truro, town of</b> (see Cities and towns).		
<b>Trusts</b> , making certain changes in the law relative to	738	
<b>Tuition</b> , at public colleges and universities, limiting maximum		
level of increase in	140	47
<b>Tyngsborough, town of</b> (see Cities and towns).		
<b>Tyringham, town of</b> (see Cities and towns).		

## U.

<b>UFFI</b> (see urea formaldehyde foam insulation)		
<b>Unfair or deceptive trade practice</b> , further regulating the right		
of certain foreign corporations to bring action against		
domestic corporations for	278	
<b>Unhao, Victor</b> Peabody, assistant manager of the municipal		
lighting plant, granting tenure to	371	
<b>Uniform gift to minors act</b> , powers of custodians under, further		
regulating	439	
<b>United States</b> , granting the consent of the commonwealth to the		
acquisition of and jurisdiction over certain land to the	456	
<b>United States of America</b> , transfer or exchange of certain		
prisoners, with certain foreign countries, relative to	578	
<b>University of Lowell Building Authority and the Southeastern</b>		
Massachusetts University Building Authority, further		
regulating the borrowing power and certain other powers of	805	
<b>Upper Blackstone Water Pollution Abatement District</b> ,		
authorizing the establishment of a training center for		
wastewater treatment facility operators in the	413	
further regulating	739	
<b>Upton, town of</b> (see Cities and towns).		
<b>Urea formaldehyde foam insulation</b> , establishing a fund for		
homeowners, relative to	728	
<b>Utility companies</b> , appeals of certain cases before the appellate		
tax board, by, providing for the uniform determination of	532	
<b>Utility underground plant damage prevention system</b> , providing		
for the inclusion of cable television companies as part of	243	
<b>Uxbridge, town of</b> (see Cities and towns).		

## V.

<b>Vessel, or ship</b> , penalty for destruction of, relative to	659	
<b>VETERANS</b> (see also Vietnam Veterans)		
death benefits for, further regulating	271	
Massachusetts Vietnam-era Veterans Association, Inc.,		
authorizing cities and towns to lease certain property to	40	
records of, relative to	229	
<b>Veteran organizations</b> , certain, real estate exemption for		
property of, further regulating	727	
<b>Victims</b> of violent crimes, compensation of, further regulating	605	



	Chapter	Section
<b>Vietnam veterans</b> , plaque commemorating those who were awarded the congressional medal of honor, authorizing the erection of	541	
<b>Vietnam War Veterans Memorial Bridge</b> , (see Korean and Vietnam War Veterans Memorial Bridge).		
<b>Villages Development Company, inc.</b> authorizing the commonwealth to convey an easement in certain land under the control of the department of environmental management to the	327	
<b>Vocational school teachers and employees</b> , certain, tenure rights for, relative to	491	
<b>Voters</b> , permanently disabled, providing for absentee ballot, application shall be sent to	383	
<b>Voting</b> : (see also ELECTIONS)		
absentee, further regulating	562	
applications for absent voting ballots, relative to	599	
municipal street lists, further regulating the availability of	478	
right to vote in certain districts, further regulating	414	
<b>voting equipment</b> , electronic, certain, authorizing	537	
<b>voting machines</b> , electronic, authorizing cities and towns to decrease the number used at elections	653	
<b>W.</b>		
<b>Wagering</b> , pari-mutuel, relative to	580	7, 8, 9
<b>Wages</b> , minimum wage for certain employees, increasing	760	
<b>Wakefield Police Relief Association, Inc.</b> , death benefits to members, increasing	62	
<b>Wakefield, town of</b> (see Cities and towns).		
<b>Wales, town of</b> (see Cities and towns).		
<b>Walker, Barbara F. Trustee and Audrey C. Fields</b> , authorizing the commonwealth to grant certain easements in land in the town of Canton, to	185	
<b>Walpole, town of</b> (see Cities and towns).		
<b>Waltham, city of</b> (see Cities and towns).		
<b>Ware, town of</b> (see Cities and towns).		
<b>Wareham, town of</b> (see Cities and towns).		
<b>Warren, town of</b> (see Cities and towns).		
<b>Warwick, town of</b> (see Cities and towns).		
<b>Washington, town of</b> (see Cities and towns). 392		
<b>Wastewater treatment facility</b> , greater Springfield Regional, relative to	392	
<b>Water conservation</b> , relative to	275	
<b>Water pollution control</b> , providing grants and funds for	786	
<b>Water recreational vehicles</b> , certain, further regulating	498	
<b>Water resources management advisory committee</b> , establishment of	592	1
<b>WATER SUPPLY</b> :		
<b>in general</b> :		
establishment of a Massachusetts Water Management Act, relative to	592	
water supply systems, providing for grants for the conservation and protection of certain	786	
<b>special provisions</b> :		
Dartmouth, New Bedford, Greater New Bedford Regional Refuse Management District, authorizing both municipalities and the district to enter into a contract for the supply of water to said town	299	



## Chapter      Section

**WATER SUPPLY:** —*Concluded.*    **special provisions:** —*Concluded.*

Saugus, water system improvement fund, authorizing the establishment of	643
Westport, water supply and water distribution system in, establishment of, authorizing	235
<b>Water resources</b> , division of, relative to the duties of	64
<b>Watertown, town of</b> (see Cities and towns).	
<b>Wayland/Sudbury Septage Facility</b> , authorizing the establishment of a lien upon real estate for unpaid septage disposal charges assessed in connection with	293
<b>Wayland, town of</b> (see Cities and towns).	
<b>Ways</b> , certain, boundaries of, failure to establish, further regulating	367
<b>Webster, town of</b> (see Cities and towns).	
<b>Wellesley, town of</b> (see Cities and towns).	
<b>Wellfleet, town of</b> (see Cities and towns).	
<b>Wendell, town of</b> (see Cities and towns).	
<b>Wenham, town of</b> (see Cities and towns).	
<b>West Barnstable Fire District</b> , exchange of land with the town of Barnstable, authorizing	471
<b>West Boylston, town of</b> (see Cities and towns).	
<b>West Bridgewater, town of</b> (see Cities and towns).	
<b>West Brookfield, town of</b> (see Cities and towns).	
<b>Westford Housing Authority</b> , authorizing the town of Westford to transfer a certain parcel of land to the	433
<b>West Newbury, town of</b> (see Cities and towns).	
<b>West Springfield, town of</b> (see Cities and towns).	
<b>West Stockbridge, town of</b> (see Cities and towns).	
<b>West Tisbury, town of</b> (see Cities and towns).	
<b>Westborough, town of</b> (see Cities and towns).	
<b>Westfield, town of</b> (see Cities and towns).	
<b>Westford, town of</b> (see Cities and towns).	
<b>Westhampton, town of</b> (see Cities and towns).	
<b>Westminster, town of</b> (see Cities and towns).	
<b>Weston, town of</b> (see Cities and towns).	
<b>Westport, town of</b> (see Cities and towns).	
<b>Westwood, town of</b> (see Cities and towns).	
<b>Wetbikes</b> , regulating the operation of	498
<b>Weymouth, town of</b> (see Cities and towns).	
<b>Whale</b> , north atlantic right, providing for an investigation and study of the...Resolve	12
<b>Whately, town of</b> (see Cities and towns).	
<b>Whitman, town of</b> (see Cities and towns).	
<b>Wilbraham, town of</b> (see Cities and towns).	
<b>Wildlife Fund</b> (see also Nongame Wildlife Fund)	
<b>Williamsburg, town of</b> (see Cities and towns).	
<b>Williamstown, town of</b> (see Cities and towns).	
<b>Wills</b> , making certain changes in the probate laws relative to	738
<b>Wilmington, town of</b> (see Cities and towns).	
<b>Winchendon, town of</b> (see Cities and towns).	
<b>Winchester Police Relief Association, Inc.</b> , benefits to members, authorization to broaden range of	377
<b>Winchester, town of</b> (see Cities and towns).	
<b>Windsor, town of</b> (see Cities and towns).	
<b>Winthrop, town of</b> (see Cities and towns).	
<b>Woburn, city of</b> (see Cities and towns).	



	Chapter	Section
<b>Wood's Hole, Martha's Vineyard and Nantucket Steamship</b>		
<b>Authority</b> , relative to the operation of	460	
ratifying the provisions of a certain legislative act relative to		
the operation of	579	
<b>Worcester, city of</b> (see Cities and towns).		
<b>Worcester Civic Center Commission</b> , providing that one member		
of commission shall be a labor representative	14	
<b>WORCESTER COUNTY:</b> (see Counties).		
<b>Workmen's compensation</b> , relative to	572	
<b>Worthington, town of</b> (see Cities and towns).		
<b>Wrentham, town of</b> (see Cities and towns).		

XYZ.

<b>Yarmouth, town of</b> (see Cities and towns).		
<b>Youth in Government Day</b> , annual observance of, proclamation		
by governor	65	
<b>ZONING:</b>		
appeals on subdivision plans, requiring the posting of bonds in		
special permits, relative to the issuance of	408	
subdivision plans, moratoriums upon, relative to	494	



## **TABLE OF CHANGES**

SHOWING

TO WHAT EXTENT THE GENERAL LAWS OF THE COMMONWEALTH,  
AS APPEARING IN THE 1984 OFFICIAL EDITION OF GENERAL  
LAWS, HAVE BEEN AFFECTED BY LEGISLATION PASSED BY THE  
GENERAL COURT THROUGH NINETEEN HUNDRED AND EIGHTY-FIVE.

### **Chapter 1. — Jurisdiction of the Commonwealth and of the United States.**

#### **Chapter 2. — Arms, Great Seal and Other Emblems of the Commonwealth.**

SECT. 7, third sentence revised, 1985, 231 § 1. (See 1985, 231 § 65.)

SECT. 27 added, 1985, 496 (designating the song "The Road To Boston" as the official ceremonial march of the commonwealth).

### **Chapter 3. — The General Court.**

#### **Chapter 4. — Statutes.**

SECT. 7, clause Eighteenth revised, 1985, 451 § 1; clause Twenty-sixth, subclause (1) added, 1985, 220; clause Forty-third, eighth paragraph amended, 1985, 114.

### **Chapter 5. — Printing and Distribution of Laws and Public Documents.**

#### **Chapter 6. — The Governor, Lieutenant Governor and Council, Certain Officers under the Governor and Council, and State Library.**

SECT. 12JJ added, 1985, 93 (providing for the annual observance of Visiting Nurse Association Week).

SECT. 12 KK added, 1985, 129 (relative to the annual observance of Labor Week).

SECT. 12LL added, 1985, 233 (providing for the annual observance of Social Security Day).

SECT. 15WW added, 1985, 65 (relative to the annual observance of "Youth in Government Day").

SECT. 15XX added, 1985, 211.

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SECT. 15YY added, 1985, 356 (relative to the annual observance of Leif Ericson Day).

SECT. 17 revised, 1985, 737 § 1.

SECT. 22 revised, 1985, 737 § 2.

SECT. 24, first sentence revised, 1985, 737 § 3.

SECT. 40, second and third sentences revised, 1985, 737 § 4; paragraph added, 1985, 737 § 5.

SECT. 75, paragraph (a), first sentence revised, 1985, 737 § 6.

SECT. 76, first sentence revised, 1985, 737 § 7; last sentence revised, 1985, 737 § 8.

SECTS. 84A-84I repealed, 1985, 716 § 1. (See 1985, 716 § 7.)

SECT. 84H, second and third sentences revised, 1985, 737 § 9.

SECT. 92, paragraph added, 1985, 563.

SECT. 129, second paragraph, first sentence revised, 1985, 737 § 12; third paragraph, first sentence revised, 1985, 737 § 13; last sentence revised, 1985, 737 § 14.

SECT. 185, fourth sentence revised, 1985, 307 § 1. (See 1985, 307 § 2.)

SECTS. 191-199 added, 1985, 716 § 2 (establishing a commission the deaf and hard of hearing). (See 1985, 716 § 7.)

#### **Chapter 6A. — Executive Offices.**

SECT. 16 amended, 1985, 715 § 3. (See 1985, 716 § 7.)

SECT. 17B, first sentence revised, 1985, 572 § 1. (See 1985, 572 § 69.)

SECT. 17C, first paragraph revised, 1985, 572 § 2. (See 1985, 572 § 69.)

SECT. 31 revised, 1985, 574 § 1. (See 1985, 574 § 24.)

SECT. 32, second sentence revised, 1985, 737 § 10; seventh sentence revised, 1985, 737 § 11.

SECT. 37, paragraph added, 1985, 574 § 2. (See 1985, 574 § 24.)

SECT. 51, stricken out and section 51A inserted, 1985, 574 § 3. (See 1985, 574 § 24.)

SECT. 51A inserted, 1985, 574 § 3; clause (d) stricken out, 1985, 574 § 3A. (See 1985, 574 § 24.)

SECT. 52 revised, 1985, 574 § 4. (See 1985, 574 § 24.)

SECT. 53 revised, 1985, 574 § 5. (See 1985, 574 § 24.)

SECT. 53A added, 1985, 574 § 5. (See 1985, 574 § 24.)

SECT. 56 revised, 1985, 574 § 6. (See 1985, 574 § 24.)

SECT. 57 revised, 1985, 574 § 7. (See 1985, 574 § 24.)

SECT. 59A added, 1985, 574 § 8. (See 1985, 574 § 24.)

SECT. 63 revised, 1985, 574 § 9. (See 1985, 574 § 24.)

SECT. 63A added, 1985, 574 § 9. (See 1985, 574 § 24.)

SECT. 68, subsection B, paragraph (d) revised, 1985, 574 § 10. subsection C, paragraph (e), sentence inserted after first sentence, 1985 200 § 3. (See 1985, 200 § 24; 574 § 24.)

SECT. 68A revised, 1985, 574 § 11. (See 1985, 574 § 24.)

SECT. 75 added, 1985, 574 § 12. (See 1985, 574 § 24.)

SECT. 76 added, 1985, 574 § 12. (See 1985, 574 § 24.)

SECT. 77 added, 1985, 761 § 1. (See 1985, 761 § 2.)



**Chapter 7. — Executive Office for Administration and Finance**  
(former title,  
**Commission on Administration and Finance).**

SECT. 3B, fourth paragraph amended, 1985, 200 § 4. (See 1985, 200 § 24.)

SECT. 38C, subparagraph (b) revised, 1985, 397.

SECT. 38H, paragraph (f), first paragraph revised, 1985, 228 § 1. (See 1985, 228 § 4.)

**Chapter 8. — State Superintendent of Buildings; and State House.**

**Chapter 9. — Department of the State Secretary.**

**Chapter 10. — Department of the State Treasurer.**

SECT. 35D, second paragraph, first sentence revised, 1985, 770 § 1.

SECT. 35F added, 1985, 188 § 2. (See 1985, 188 § 30.)

**Chapter 11. — Department of the State Auditor.**

SECT. 12 amended, 1985, 441.

**Chapter 12. — Department of the Attorney General, and the  
District Attorneys.**

SECT. 11J added, 1985, 619.

**Chapter 12A. — OFFICE OF INSPECTOR GENERAL.**

**Chapter 13. — Department of Civil Service and Registration.**

SECT. 16 revised, 1985, 654 § 1.

SECT. 33 revised, 1985, 705 § 1. (See 1985, 705 § 5.)

SECT. 34, subsection (a), paragraph added after third paragraph, 1985, 705 § 2. (See 1985, 705 § 5.)

SECT. 35 revised, 1985, 705 § 3. (See 1985, 705 § 5.)

SECT. 42, caption preceding section 42 stricken out and caption "Board of Registration of Cosmetologists" inserted, 1985, 719 § 1.

**Chapter 14. — Department of revenue.**

SECT. 6 amended, 1985, 593 § 1.

**Chapter 15. — Department of Education.**

SECT. 1E, first paragraph, third sentence revised, 1985, 112; third paragraph revised, 1985, 188 § 3. (See 1985, 188 § 30.)

SECT. 1G, three paragraphs added, 1985, 188 § 4; three paragraphs inserted after fourteenth paragraph, 1985, 188 § 5. (See 1985, 188 § 30.)

SECTS. 49-60 added, 1985, 188 § 6. (See 1985, 188 § 30.)

**Chapter 15A. — BOARD OF REGENTS OF HIGHER EDUCATION.**

SECT. 2 revised, 1985, 609 § 1.



SECT. 5 amended, 1985, 609 § 2; clause (aa) added, 1985, 609 § 2.

SECT. 5A added, 1985, 720 § 1. (See 1985, 720 § 2.)

SECT. 7, two paragraphs added, 1985, 188 § 7. (See 1985, 188 § 30.)

SECT. 7A added, 1985, 188 § 8. (See 1985, 188 § 30.)

SECT. 9, first paragraph revised, 1985, 100.

**Chapter 15B — THE NEW ENGLAND EDUCATIONAL LOAN  
MARKETING  
CORPORATION ACT.**

**Chapter repealed, 1982, 356 § 2.**

**Chapter 15C. — MASSACHUSETTS COLLEGE STUDENT LOAN  
AUTHORITY.**

**Chapter 16. — DEPARTMENT OF PUBLIC WORKS.**

SECT. 4 revised, 1985, 811 § 32.

SECT. 12 repealed, 1985, 231 § 2. (See 1985, 231 § 65.)

**Chapter 17. — Department of Public Health.**

SECT. 2, third sentence revised, 1985, 737 § 15.

SECT. 15, first paragraph, first sentence revised, 1985, 177.

**Chapter 18. — Department of Public Welfare.**

SECT. 3, second sentence revised, 1985, 737 § 16.

SECT. 6, first and second paragraphs revised, 1985, 737 § 17.

**Chapter 18A. — Department of Youth Services.**

SECT. 1, second sentence revised, 1985, 737 § 18.

SECT. 3, first sentence revised, 1985, 737 § 19.

SECT. 9, first five sentences revised, 1985, 737 § 20.

**Chapter 18B. — Department of Social Services.**

SECT. 6, first sentence revised, 1985, 737 § 21.

**Chapter 19. — Department of Mental Health (former title,  
Department of Mental Diseases).**

SECT. 2, first paragraph revised, 1985, 737 § 22.

SECT. 3, first sentence revised, 1985, 737 § 23.

SECT. 11, first sentence revised, 1985, 737 § 24.

SECT. 12, first sentence revised, 1985, 737 § 25.

SECT. 16, first sentence revised, 1985, 737 § 26.

**Chapter 19A. — Department of Elder Affairs.**

SECT. 4, third paragraph, clause (c) revised, 1985, 755.

**Chapter 20. — Department of Agriculture.**



**Chapter 21. — Department of Natural Resources  
(former title, Department of Conservation).**

SECTS. 2-2A revised, 1985, 676 § 4.

SECT. 2B, two paragraphs added, 1985, 272; 676 § 4A.

SECT. 2F added, 1985, 676 § 4B.

SECT. 4B amended, 1985, 765 § 1.

SECT. 4C revised, 1985, 765 § 2.

SECT. 5, first sentence revised, 1985, 231 § 3. (See 1985, 231 § 65.)

SECT. 6 revised, 1985, 231 § 4. (See 1985, 231 § 65.)

SECT. 6A, second paragraph amended, 1985, 231 § 5. (See 1985, 231 § 65.)

SECT. 6B revised, 1985, 231 § 6.

SECT. 6C revised, 1985, 231 § 7. (See 1985, 231 § 65.)

SECT. 6D revised, 1985, 231 § 8. (See 1985, 231 § 65.)

SECT. 6E, first sentence revised, 1985, 231 § 9. (See 1985, 231 § 65.)

SECT. 6F, amended, 1985, 231 § 10; last paragraph revised, 1985, 231 § 10A. (See 1985, 231 § 65.)

SECT. 7 amended, 1985, 231 § 11. (See 1985, 231 § 65.)

SECT. 7C revised, 1985, 231 § 12. (See 1985, 231 § 65.)

SECT. 14, third paragraph amended, 1985, 64 § 1.

SECT. 15, first paragraph amended, 1985, 64 § 2.

SECT. 17A, first sentence revised, 1985, 231 § 13. (See 1985, 231 § 65.)

SECT. 30A amended, 1985, 786 § 9. (See 1985, 786 § 14.)

SECT. 33, second paragraph, first sentence revised, 1985, 786 § 10; third paragraph, sentence added, 1985, 786 § 11. (See 1985, 786 § 14.)

**Chapter 21A. — Executive Office of Environmental Affairs.**

SECT. 7, amended, 1985, 231 § 14; 231 § 14A. (See 1985, 231 § 65.)

SECT. 8, fourth paragraph revised, 1985, 231 § 15; fifth paragraph revised, 1985, 231 § 16; sixth paragraph, first sentence stricken out, 1985, 231 § 17. (See 1985, 231 § 65.)

SECT. 8A amended, 1985, 231 § 18. (See 1985, 231 § 65.)

SECT. 11 revised, 1985, 231 § 19. (See 1985, 231 § 65.)

SECT. 16 added, 1985, 95.

**Chapter 21B. — Mining Regulation and Reclamation**

**Chapter 21C. — Massachusetts Hazardous Waste Management Act**

SECT. 10, third sentence revised, 1985, 646.

SECT. 14 amended, 1985, 231 § 19A. (See 1985, 231 § 65.)

**Chapter 21D. — Massachusetts Hazardous Waste Facility Siting Act.**

SECT. 5, first paragraph, clause (6) amended, 1985, 154 § 1; sentence added, 1985, 646 § 1.

**Chapter 21E.—MASSACHUSETTS OIL AND HAZARDOUS  
MATERIAL RELEASE PREVENTION  
AND RESPONSE ACT**



**Chapter 21F — "Coastal Facilities Improvement".**  
new chapter added, 1983, 589 § 19.

**Chapter 21G. — MASSACHUSETTS WATER MANAGAEMENT ACT.**  
New chapter inserted, 1985, 592 § 1.

**Chapter 22. — Department of Public Safety.**

**Chapter 22A. — CENTRAL REGISTER FOR MISSING CHILDREN.**

**Chapter 22B. — CAPITOL POLICE**

**Chapter 23. — Department of Labor and Industries.**

SECT. 9L, paragraph added, 1985, 4 § 1.

SECTS. 14-24 repealed, 1985, 572 § 3. (See 1985, 572 § 69.)

**Chapter 23A. — Department of Commerce and Development**  
(former title,  
Department of Commerce).

**Chapter 23B. — Department of Community Affairs.**

SECT. 3, subsection (r) amended, 1985, 748 § 24.

SECT. 25, definition of "Low and moderate income rental housing project" revised, 1985, 259 § 1.

**Chapter 23C. — BOARD OF CONCILIATION AND ARBITRATION.**

**Chapter 23D. — MASSACHUSETTS INDUSTRIAL SERVICE PROGRAM.**

**Chapter 23E. — DEPARTMENT OF INDUSTRIAL ACCIDENTS.**

New chapter inserted, 1985, 572 § 4. (See 1985, 572 § 69.)

**Chapter 24. — Department of Industrial Accidents.**

Chapter repealed, 1953, 314 § 14.

**Chapter 25. — Department of Public Utilities.**

SECT. 5C added, 1985, 674 § 1.

**Chapter 25A. — Executive Office Of Energy Resources**

**Chapter 26. — Department of Banking and Insurance.**

**Chapter 27. — Department of Correction.**

SECT. 1, fourth sentence revised, 1985, 737 § 27.



SECT. 2, first sentence revised, 1985, 737 § 28.

SECT. 3, first paragraph, first five sentences revised, 1985, 737 § 29.

### **Chapter 28. — Metropolitan District Commission.**

#### **Chapter 28A. — Office for Children.**

SECT. 3, first sentence revised, 1985, 737 § 30.

SECT. 8, first paragraph, first three sentences revised, 1985, 737 § 31.

SECT. 10, paragraph (f) added, 1985, 776 § 1.

### **Chapter 29. — State Finance.**

SECT. 20A, amended, 1985, 521.

SECT. 32 revised, 1985, 657.

SECT. 34A revised, 1985, 735 § 1; 735 § 2. (See 1985, 735 § 3.)

SECT. 38, paragraph inserted after second paragraph, 1985, 552.

SECT. 49, paragraph inserted after second paragraph, 1985, 549.

### **Chapter 29A. — Financing the Judicial System.**

#### **Chapter 30. — General Provisions Relative to State Departments, Commissions, Officers and Employees.**

SECT. 12 revised, 1985, 332.

SECT. 36A amended, 1985, 620.

SECT. 39K, third paragraph, second sentence revised, 1985, 341.

SECT. 39M, paragraph (a), third sentence revised, 1985, 406; subsection (c) revised, 1985, 507.

SECT. 49, paragraph inserted after first paragraph, 1985, 766 § 1.

SECT. 57, first sentence revised, 1985, 766 § 2.

#### **Chapter 30A. — State Administrative Procedure.**

SECT. 1, paragraph (2) amended, 1985, 572 § 5. (See 1985, 572 § 69.)

### **Chapter 31. — Civil Service.**

SECT. 1, definition of "Certification" revised, 1985, 527 § 1; definition of "Entrance requirements" revised, 1985, 527 § 2.

SECT. 6, third paragraph revised, 1985, 527 § 3.

SECT. 13 revised, 1985, 527 § 4.

SECT. 20, paragraph added, 1985, 560.

SECT. 22, first paragraph amended, 1985, 527 § 5; second paragraph, clause (3) amended, 1985, 527 § 6; third paragraph amended, 1985, 527 § 7.

SECT. 23, first paragraph amended, 1985, 527 § 8; second paragraph amended, 1985, 527 § 9.

SECT. 24, first paragraph amended, 1985, 527 § 10; second paragraph amended, 1985, 527 § 11.

SECT. 25, first sentence revised, 1985, 527 § 12; fifth paragraph revised, 1985, 527 § 15; third paragraph revised, 1985, 527 § 13; fourth paragraph revised, 1985, 527 § 14. fifth paragraph revised, 1985, 527 § 15.



SECT. 26, seventh paragraph stricken out and three paragraphs inserted, 1985, 402 § 1.

SECT. 27 revised, 1985, 527 § 16.

SECT. 55, fourth paragraph revised, 1985, 477 § 1.

### **Chapter 31A. — MUNICIPAL PERSONNEL SYSTEMS.**

#### **Chapter 32. — Retirement Systems and Pensions.**

SECT. 3, subdivision (2), paragraph (e) revised, 1985, 751 § 1.

SECT. 16, subdivision (5), second sentence revised, 1985, 188 § 9. (See 1985, 188 § 30.)

SECT. 21, subdivision (1), paragraph (a), four sentences added, 1985, 550 § 1; subdivision (2) amended, 1985, 550 § 2.

SECT. 28, subdivision (4), paragraph (c), three sentences added, 1985, 741 § 1.

SECT. 90F revised, 1985, 751 § 2.

SECT. 90G revised, 1985, 751 § 3.

SECT. 100 revised, 1985, 781.

#### **Chapter 32A. — Contributory Group General or Blanket Insurance for Persons in the Service of the Commonwealth.**

SECT. 5 amended, 1985, 648 § 1.

SECT. 6, first sentence revised, 1985, 648 § 2.

SECT. 10, first paragraph, first sentence revised, 1985, 648 § 3.

#### **Chapter 32B. — Contributory Group General or Blanket Insurance for Persons in the Service of Counties, Cities, Towns and Districts, and their Dependents.**

#### **Chapter 33. — Militia.**

SECT. 15, subsection (b), fifth paragraph amended, 1985, 229.

#### **Chapter 34. — Counties and County Commissioners.**

SECT. 3 revised, 1985, 799 § 1. (See 1985, 799 § 26.)

SECT. 14, last two sentences stricken out and five paragraphs inserted, 1985, 173.

### **Chapter 34A. — COUNTY CHARTER PROCEDURES**

New chapter inserted, 1985, 807.

#### **Chapter 35. — County Treasurers, State Supervision of County Accounts and County Finances.**

SECT. 28 amended, 1985, 284.

SECT. 32, tenth paragraph stricken out, 1985, 396.

SECT. 53A added, 1985, 283.

#### **Chapter 36. — Registers of Deeds.**



### **Chapter 37. — Sheriffs.**

### **Chapter 38. — Medical Examiners.**

### **Chapter 39. — Municipal Government.**

SECT. 6A, amended, 1985, 252.

SECT. 9 amended, 1985, 9 § 1.

SECT. 23B, fourth paragraph, clause (3) revised, 1985, 333.

### **Chapter 40. — Powers and Duties of Cities and Towns.**

SECT. 4E revised, 1985, 631 § 1.

SECT. 5, clause (41) amended, 1985, 231 § 19B. (See 1985, 231 § 65.)

SECT. 5B, third paragraph revised, 1985, 94.

SECT. 5D, fifth paragraph revised, 1985, 741 § 2.

SECT. 9, first sentence revised, 1985, 40.

SECT. 15, first paragraph revised, 1985, 384.

SECT. 21, clause (23) revised, 1985, 632 § 1.

SECT. 22, second paragraph revised, 1985, 632 § 2.

SECT. 22A, first paragraph, fourth sentence revised, 1985, 632 § 3; second paragraph, first sentence stricken out and two sentences inserted, 1985, 632 § 4.

SECT. 22D, first sentence revised, 1985, 632 § 5.

SECT. 34, amended, 1985, 240.

SECT. 36B revised, 1985, 208 § 1. (See 1985, 208 § 2.)

SECT. 57 added, 1985, 640.

SECT. 39J added, 1985, 275.

SECT. 40 repealed, 1985, 592 § 2.

### **Chapter 40A. — Zoning Regulations.**

SECT. 1A, definitions of "Solar access" and "Solar energy system" added, 1985, 637 § 1.

SECT. 3, paragraph added, 1985, 637 § 2.

SECT. 6, fifth paragraph, sentence added, 1985, 494.

SECT. 9, second paragraph, first sentence revised, 1985, 637 § 3; fifth paragraph, sentence inserted after third sentence, 1985, 637 § 4; sixth paragraph, sentence added, 1985, 637 § 5; ninth paragraph amended, 1985, 408.

SECT. 9B added, 1985, 637 § 6.

SECT. 17, paragraph inserted after fifth paragraph, 1985, 492 § 1.

### **Chapter 40B. — Regional Planning.**

### **Chapter 40C. — Historic Districts.**

SECT. 7, first paragraph, sentence inserted after second sentence, 1985, 637 § 7.



**Chapter 40D. — Industrial Development of Cities and Towns.**

SECT. 1, paragraph (c½) inserted, 1985, 370 § 1; paragraph (l), sentence inserted after first sentence, 1985, 370 § 2; paragraph (l), first sentence revised, 1985, 700; paragraph (m) revised, 1985, 370 § 3; paragraph (q½) inserted, 1985, 370 § 4. section amended, 1985, 753 § 1; 753 § 2; paragraph added, 1985, 753 § 3.

SECT. 3, second and third paragraphs revised, 1985, 359 § 1.

SECT. 4, second paragraph stricken out and two paragraphs inserted, 1985, 359 § 2.

SECT. 5, fourth paragraph stricken out and two paragraphs inserted, 1985, 359 § 3.

SECT. 6, second paragraph stricken out, 1985, 359 § 4.

SECT. 7, paragraph (a) amended, 1985, 359 § 5; paragraph (c) revised, 1985, 370 § 5.

SECT. 10, paragraph inserted after third paragraph, 1985, 359 § 6.

SECT. 12, subsection (2), first paragraph revised, 1985, 359 § 7; third paragraph, introductory clause revised, 1985, 359 § 8; clause (k) revised, 1985, 359 § 9; fifth paragraph, first two sentences revised, 1985, 359 § 10; sixth paragraph stricken out, 1985, 359 § 11.

SECT. 23 revised, 1985, 370 § 6.

**Chapter 40E. — Massachusetts Industrial Development Authority.**

**Chapter 40F. — The Massachusetts Community  
Development Finance Corporation.**

**Chapter 40G. — Massachusetts Technology Development Corporation.**

**Chapter 40H. — Community Economic Development Assistance  
Corporation.**

**Chapter 40I. — THE BAY STATE SKILLS CORPORATION ACT.**

**Chapter 40J — Massachusetts Technology Park Corporation.**

**Chapter 40K. — MASSACHUSETTS PRODUCT DEVELOPMENT  
CORPORATION.**

**Chapter 40L — AGRICULTURAL INCENTIVE AREAS.**

New chapter inserted, 1985, 613 § 1.

**Chapter 40M.—GOVERNMENTAL UNITS POOLED INSURANCE**

New chapter inserted, 1985, 802.

**Chapter 41. — Officers and Employees of Cities,  
Towns and Districts.**

SECT. 10, paragraph inserted, 1985, 34.



SECT. 21A added, 1985, 210.

SECT. 81M, sentence inserted after second sentence, 1985, 637 § 8.

SECT. 81Q, two sentences inserted after seventh sentence, 1985, 637 § 9.

SECT. 81BB inserted, 1985, 492 § 2 (requiring the posting of bonds in appeals on subdivision plans).

SECT. 92, second sentence revised, 1985, 680 § 1.

SECT. 96B amended, 1985, 231 § 20; 231 § 20A. (See 1985, 231 § 65.)

SECT. 97B, paragraph added, 1985, 355.

SECT. 105 revised, 1985, 175.

#### **Chapter 42. — Boundaries of Cities and Towns.**

##### **Chapter 43. — City Charters.**

SECT. 17A, amended, 1985, 252 § 2.

SECT. 39 revised, 1985, 477 § 2.

SECT. 40, first sentence revised, 1985, 477 § 3.

SECT. 42, first paragraph revised, 1985, 477 § 4.

#### **Chapter 43A. — Standard Form of Representative Town Meeting Government.**

##### **Chapter 43B. — Home Rule Procedures.**

##### **Chapter 44. — Municipal Finance.**

SECT. 4, last sentence stricken out and two sentences inserted, 1985, 238.

SECT. 21A, last sentence revised, 1985, 488.

SECT. 22A inserted, 1985, 571 § 1 (authorizing cities to issue bonds and notes secured by insurance or by letters or lines of credit or other credit facilities).

SECT. 32, first paragraph, first sentence amended, 1985, 9 § 2; fourth paragraph amended, 1985, 9 § 3.

SECT. 53F added, 1985, 740 § 1.

SECT. 55B added, 1985, 740 § 2.

#### **Chapter 44A. — QUALIFIED BOND ACT.**

##### **Chapter 45. — Public Parks, Playgrounds and the Public Domain.**

SECT. 2, second sentence revised, 1985, 128.

##### **Chapter 46. — Return and Registry of Births, Marriages and Death.**

##### **Chapter 47. — Infirmarys.**

##### **Chapter 48. — Fires, Fire Departments and Fire Districts.**

##### **Chapter 49. — Fences, Fence Viewers, Pounds and Field Drivers.**



**Chapter 49A. — Use of Certain Animals for  
Scientific Investigation,  
Experiment or Instruction.**

**Chapter 50. — General Provisions relative to  
Primaries, Caucuses and Elections.**

**Chapter 51. — Voters.**

- SECT. 1, sentence inserted after first sentence, 1985, 414.
- SECT. 2 amended, 1985, 477 § 5.
- SECT. 7, sentence added, 1985, 478.
- SECT. 10A revised, 1985, 125 § 1.
- SECT. 28 amended, 1985, 127.
- SECT. 37, first sentence revised, 1985, 477 § 6.
- SECT. 40, second sentence stricken out, 1985, 477 § 7.
- SECT. 42C, sentence added, 1985, 477 § 8.
- SECT. 50 revised, 1985, 477 § 9.
- SECT. 51 amended, 1985, 477 § 10.
- SECT. 61, first paragraph revised, 1985, 181; 1985, 477 § 11.

**Chapter 52. — Political Committees.**

- SECT. 1, first and second sentences revised, 1985, 477 § 12.
- SECT. 2, first sentence revised, 1985, 477 § 13.

**Chapter 53. — Nominations, Questions to be submitted to  
the Voters, Primaries and Caucuses.**

- SECT. 7, fourth paragraph, first sentence revised, 1985, 477 § 14;  
seventh paragraph, third sentence revised, 1985, 477 § 15.
- SECT. 7A, first sentence revised, 1985, 477 § 16.
- SECT. 8, first sentence revised, 1985, 477 § 17.
- SECT. 10, fourth paragraph revised, 1985, 477 § 18.
- SECT. 13, last sentence stricken out and two sentences inserted, 1985,  
477 § 19.
- SECT. 22A, sentence added, 1985, 477 § 20.
- SECT. 22B repealed, 1985, 124.
- SECT. 48A repealed, 1985, 477 § 21.
- SECT. 61, second sentence revised, 1985, 477 § 22.

**Chapter 54. — Elections.**

- SECT. 25 second paragraph revised, 1985, 653.
- SECT. 31 second paragraph, second sentence revised, 1985, 477 § 23.
- SECT. 33A, sentence inserted after third sentence, 1985, 537 § 1.
- SECT. 33E amended, 1985, 477 § 24; last paragraph revised, 1985, 537  
§ 2.
- SECT. 35B, second paragraph, sentence inserted after second sentence,  
1985, 537 § 3.
- SECT. 40 revised, 1985, 477 § 25.



- SECT. 41, third paragraph, first sentence revised, 1985, 477 § 26.
- SECT. 41A, first sentence stricken out and two sentences inserted, 1985, 477 § 27.
- SECT. 42, first and second paragraphs revised, 1985, 477 § 28.
- SECT. 43A amended, 1985, 477 § 29.
- SECT. 79 revised, 1985, 477 § 30.
- SECT. 86, first sentence revised, 1985, 477 § 31; section revised, 1985, 562 § 1; first sentence revised, 1985, 599 § 1; sentence inserted after third sentence, 1985, 383; section revised, 1985, 562 § 1.
- SECT. 87, subsection (c) revised, 1985, 562 § 2.
- SECT. 89, first and second sentences revised, 1985, 477 § 32; section revised, 1985, 562 § 3.
- SECT. 89A added, 1985, 599 § 2 (relative to certain applications for absent voting ballots).
- SECT. 91, sentence inserted after first sentence, 1985, 113; section amended, 1985, 599 § 3.
- SECT. 92, second paragraph, second and third sentences revised, 1985, 477 § 33; section revised, 1985, 562 § 4.
- SECT. 93 revised, 1985, 562 § 5.
- SECT. 94 amended, 1985, 562 § 6; 599 § 4.
- SECT. 95 amended, 1985, 477 § 34; second paragraph, first sentence revised, 1985, 477 § 35.
- SECT. 98 revised, 1985, 562 § 7.
- SECT. 100, second sentence revised, 1985, 477 § 36.
- SECT. 102 amended, 1985 477 § 37.
- SECT. 103B, definition of "Federal service personnel stricken out, 1985, 477 § 38; definition of "Specially qualified voter" inserted, 1985, 477 § 38A.
- SECT. 103C revised, 1985, 477 § 39.
- SECT. 103E, third paragraph, second sentence revised, 1985, 562 § 8.
- SECT. 103H, second sentence revised, 1985, 562 § 9; section revised, 1985, 477 § 40.
- SECT. 103J amended, 1985, 477 § 41; fourth paragraph, first sentence revised, 1985, 477 § 42.
- SECT. 103O, paragraph (b) revised, 1985, 562 § 10.
- SECT. 103P, first and second paragraphs revised, 1985, 477 § 43.
- SECT. 103Q amended, 1985, 477 § 44.
- SECT. 105A, paragraph inserted after first paragraph, 1985, 537 § 4.
- SECT. 116, second and third sentences revised, 1985, 477 § 45.
- SECT. 135 amended, 1985, 477 § 46.

**Chapter 54A. — Election of City and Town Officers by  
Proportional Representation and Preferential Voting.**

**Chapter 55. — Disclosure of Campaign Expenditures and  
Contributions and Election Inquests  
(former title, Corrupt Practice and Election Inquests).**

- SECT. 1 amended, 1985, 522.



**Chapter 55A. — Limited Public Financing of Campaigns for  
Statewide Elective Office.**

**Chapter 55B. — The State Ballot Law Commission.**

SECT. 7 revised, 1985, 624.

**Chapter 56. — Violations of Elections Laws.**

SECT. 4 revised, 1985, 125 § 2.

SECT. 26, last sentence revised, 1985, 477 § 47.

**Chapter 57. — Congressional, Councilor and Senatorial  
Districts, and Apportionment of Representatives.**

**Chapter 58. — General Provisions relative to Taxation.**

**Chapter 58A. — Appellate Tax Board  
(former title, Board of Tax Appeals).**

SECT. 12D added, 1985, 532 (providing for uniform determination of appeals in cases before the appellate tax board).

SECT. 13 amended, 1985, 314 § 1. (See 1985, 314 § 10.)

**Chapter 59. — Assessment of Local Taxes.**

SECT. 2C added, 1985, 25.

SECT. 5, clause Third added, 1985, 489; clause Fifth A inserted, 1985, 727.

SECT. 5C, two paragraphs added, 1985, 382.

SECT. 23, sentence inserted after first sentence, 1985, 571 § 2.

SECT. 25, first sentence revised, 1985, 156.

SECT. 49 repealed, 1985, 300 § 1. (See 1985, 300 § 6.)

SECT. 57A added, 1985, 598 § 1. (See 1985, 598 § 3.)

SECT. 59, third paragraph revised, 1985, 300 § 2. (See 1985, 300 § 6.)

SECT. 84 repealed, 1985, 300 § 3. (See 1985, 300 § 6.)

SECT. 94 revised, 1985, 300 § 4. (See 1985, 300 § 6.)

**Chapter 59A. — Classification of Real Property**

**New chapter inserted, 1978, 580 § 38. (See 1978, 580 § 40.)**

**Chapter 60. — Collection of Local Taxes.**

SECT. 15, paragraph added, 1985, 365.

SECT. 29, first paragraph, sentence added, 1985, 86.

SECT. 77B, paragraph inserted after second paragraph, 1985, 803.

SECT. 79, third sentence amended, 1985, 89.

SECT. 106 revised, 1985, 598 § 2. (See 1985, 598 § 3.)

**Chapter 60A. — Excise Tax on Registered Motor Vehicles in Lieu  
of Local Tax.**

SECT. 1, seventh paragraph, last sentence revised, 1985, 35.



SECT. 2, twelfth sentence revised, 1985, 534;

**Chapter 60B. — Excise on Boats, Ships and  
Vessels in Lieu of Local  
Property Tax.**

SECT. 2 paragraph (f) amended, 1985, 526.

**Chapter 61. — Classification and Taxation of Forest Lands  
and Forest Products (former title Taxation of Forest Products  
and Classification and Taxation of Forest Lands).**

**Chapter 61A. — Assessment and Taxation of Agricultural  
and Horticultural Land**

SECT. 4, second paragraph, second sentence revised, 1985, 387 § 1.

SECT. 9 paragraph added, 1985, 387 § 2.

**Chapter 61B. — Classification and Taxation of Recreational Land**

**Chapter 62. — Taxation of Incomes.**

SECT. 1, subsection (c) revised, 1985, 593 § 2. (See 1985, 593 § 50.)

SECT. 2 amended, 1985, 583; subsection (a), paragraph (2), subparagraph (H) inserted, 1985, 593 § 3; subsection (G) inserted, 1985, 593 § 4. (See 1985, 593 § 50.)

SECT. 3, subsection (B), paragraph (a), subparagraph (9) revised, 1985, 593 § 5; paragraph (b), subparagraphs (1) to (3) revised, 1985, 593 § 6. (See 1985, 593 § 50.)

SECT. 5, paragraph (a) revised, 1985, 592=3 § 7. (See 1985, 593 § 50.)

SECT. 25 revised, 1985, 593 § 8.

SECT. 30 revised, 1985, 593 § 16.

SECT. 63, paragraph (a), clause (1) revised, 1985, 593 § 9; paragraph (c) amended, 1985, 593 § 9A. (See 1985, 593 § 50.)

**Chapter 62A. — Simplified Method of Computing Individual  
Income Taxes.**

**Chapter 62B. — Withholding of Taxes on Wages and Declaration  
of Estimated Income Tax**

SECT. 4, paragraph (a) revised, 1985, 593 § 10;

SECTS. 13-18 stricken out and sections 13, 14 and 15 inserted, 1985, 593 § 12. (See 1985, 593 § 50.)

**Chapter 62C. — Administrative Provisions Relative to  
State Taxation.**

SECT. 6 amended, 1985, 593 § 12. (See 1985, 593 § 50.)

SECT. 11, paragraph (b) stricken out, 1985, 593 § 13. (See 1985, 593 § 50.)

SECT. 16, subsection (j) stricken out and subsections(j) and (k) inserted, 1985, 145 § 1. (See 1985, 145 § 9.)



- SECT. 17, paragraph (a), first sentence revised, 1985, 711 § 1.  
SECT. 19, second paragraph revised, 1985, 593 § 14. (See 1985, 593 § 47.)  
SECT. 25 first sentence revised, 1985, 145 § 2. (See 1985, 145 § 9.)  
SECT. 26 amended, 1985, 593 § 15.  
SECT. 27, sentence added, 1985, 281.  
SECT. 30 revised, 1985, 593 § 16.  
SECT. 31A added, 1985, 593 § 17. (See 1985, 593 § 48.)  
SECT. 33, subsection (d), second sentence revised, 1985, 593 § 18.  
SECT. 36, paragraph added, 1985, 453 § 1. (See 1985, 453 § 2.)  
SECT. 37A added, 1985, 593 § 19. (See 1985, 593 § 50.)  
SECT. 38 revised, 1985, 593 § 20.  
SECT. 45A, paragraph added, 1985, 593 § 21. (See 1985, 593 § 49.)  
SECT. 49A amended, 1985, 593 § 22.  
SECT. 66, first paragraph revised, 1985, 145 § 3. (See 1985, 145 § 9.)  
SECT. 67, first paragraph revised, 1985, 145 § 4. (See 1985, 145 § 9.)  
SECT. 69 amended, 1985, 300 § 5. (See 1985, 300 § 6.)

**Chapter 62D. — SET-OFF DEBT COLLECTION.**

**Chapter 62E.—WAGE REPORTING SYSTEM.**

**Chapter 63. — Taxation of Corporations.**

- SECT. 30, clause (b), paragraph (5), second sentence revised, 1985, 593 § 23.  
SECT. 38K added, 1985, 188 § 10; repealed, 1985, 188 § 10A. (See 1985, 188 § 30.)

**Chapter 63A. — Taxation of Certain Corporations, Associations and Organizations Engaged in the Sale of Alcoholic Beverages.**

**Chapter 63B. — Declaration of Estimated Tax by Corporations.**

**Chapter 63C. — Taxation of Income of Certain Corporations.**

**Chapter repealed, 1985, 593 § 24.**

**Chapter 64. — Taxation of Stock Transfers.**

**Chapter 64A. — Taxation of Sales of Gasoline (former title, Taxation of Sales of Gasoline and Certain other Motor Vehicle Fuel).**

- SECT. 8A, sentence added, 1985, 145 § 5. (See 1985, 145 § 9.)

**Chapter 64B. — Excise upon Charges for Meals served to the Public.**

**Chapter 64C. — Cigarette Excise.**

- SECT. 1, paragraph added, 1985, 593 § 25. (See 1985, 593 § 50.)



SECT. 6 amended, 1985, 593 § 26; paragraph added, 1985, 593 § 27.  
(See 1985, 593 § 50.)

SECT. 28 revised, 1985, 593 § 28. (See 1985, 593 § 50.)

**Chapter 64D. — Excise on Deeds, Instruments and Writings.**

**Chapter 64E. — Taxation of Special Fuels Used in the Propulsion  
of Motor Vehicles.**

**Chapter 64F. — Taxation of Fuel and Special Fuels Acquired  
Outside and Used within the Commonwealth.**

**Chapter 64G. — Room Occupancy Excise.**

SECT. 3A added, 1985, 145 § 6. (See 1985, 145 § 9.)

**Chapter 64H. — Tax on Retail Sales of  
Certain Tangible Personal Property.**

SECT. 3 amended, 1985, 593 § 29.

SECT. 6 amended, 1985, 593 § 30; paragraph (hh) stricken out, 1985,  
708 § 2. (See 1985, 708 § 3.)

**Chapter 64I. — Tax on Storage, Use or Other Consumption of  
Certain Tangible Personal Property.**

SECT. 27, first sentence stricken out and two sentences inserted, 1985,  
593 § 31.

**Chapter 64J. — TAXATION OF FUELS USED IN THE PROPULSION  
OF AIRCRAFT.**

**New chapter inserted, 1985, 145 § 7.**

(See 1985, 145 § 9.)

**Chapter 65. — Taxation of Legacies and Successions.**

SECT. 13 revised, 1985, 711 § 2.

SECT. 27 amended, 1985, 593 § 32.

SECT. 32 amended, 1985, 593 § 33.

**Chapter 65A. — Taxation of Transfers of Certain Estates.**

SECT. 2 amended, 1985, 593 § 34.

SECT. 5 revised, 1985, 711 § 3.

SECT. 5A revised, 1985, 711 § 4.

**Chapter 65B. — Settlement of Disputes respecting  
the Domicile of Decedents for Death Tax Purposes.**

**Chapter 65C. — Massachusetts Estate Tax.**

SECT. 1, paragraph (d) revised, 1985, 711 § 5; paragraph (f) revised,  
1985, 711 § 6.



SECT. 2, subsection (a) amended, 1985, 711 § 7; 711 § 7A; subsection (b) revised, 1985, 711 § 8.

SECT. 3, subsection (a) revised, 1985, 711 § 9; subsection (b), sentence added, 1985, 711 § 10; subsection (c) stricken out and subsections (c) and (d) added, 1985, 711 § 11.

SECT. 3A, added, 1985, 711 § 12.

SECT. 4, subsection (b) revised, 1985, 711 § 13.

SECT. 5 revised, 1985, 711 § 14.

SECT. 14, subsection (b) revised, 1985, 711 § 15; paragraph (f) added, 1985, 711 § 16.

### **Chapter 66. — Public Records.**

SECT. 17D revised, 1985, 77.

### **Chapter 66A. — Fair Information Practices.**

### **Chapter 67. — Parishes and Religious Societies.**

### **Chapter 68. — Donations and Conveyances for Pious and Charitable Uses.**

SECTS. 18-33 revised, 1985, 790 § 1. (See 1985, 790 § 2.)

### **Chapter 68A. — Limitations Upon the Conduct of Certain Trusts and Corporations Having Charitable Interests.**

### **Chapter 69. — Powers and Duties of the Department of Education.**

### **Chapter 70. — School Funds and State Aid for Public Schools (former title, School Funds and Other State Aid for Public Schools).**

SECT. 6 revised, 1985, 188 § 11. (See 1985, 188 § 30.)

### **Chapter 70A.**

New chapter inserted, 1985, 188 § 12.

(See 1985, 188 § 30.)

### **Chapter 71. — Public Schools.**

SECT. 1A revised, 1985, 690 § 1.

SECT. 16, clause (j) revised, 1985, 523 § 1; clause (r) added, 1985, 732.

SECT. 37E amended, 1985, 523 § 2.

SECT. 37F revised, 1985, 523 § 3.

SECT. 38, second and third paragraphs revised, 1985, 577; four paragraphs added, 1985, 188 § 14. (See 1985, 188 § 30.)

SECT. 38G, paragraph added, 1985, 188 § 15. (See 1985, 188 § 30.)

SECT. 40, first sentence stricken out and one sentence inserted, 1985, 188 § 16. (See 1985, 188 § 30.)



SECT. 41A, paragraph added, 1985, 493; section amended, 1985, 504.

SECT. 42 revised, 1985, 188 § 18. (See 1985, 188 § 30.)

SECT. 42A amended, 1985, 188 § 19. (See 1985, 188 § 30.)

SECT. 55A, second paragraph revised, 1985, 111.

SECT. 63, last paragraph stricken out, 1985, 381.

SECT. 71D revised, 1985, 631 § 2.

### **Chapter 71A. — Transitional Bilingual Education.**

### **Chapter 71B. — Children With Special Needs.**

### **Chapter 72. — School Registers and Returns.**

SECT. 3, first sentence revised, 1985, 505 § 1.

SECT. 6 revised, 1985, 505 § 2.

### **Chapter 73. — State Colleges and Community Colleges (former title, State Teachers Colleges and Community Colleges).**

### **Chapter 74. — Vocational Education.**

SECT. 22E, sentence inserted after first sentence, 1985, 491.

### **Chapter 75. — University of Massachusetts (former title, Massachusetts State College).**

### **Chapter 75A. — University of Lowell (former title, Lowell Technological Institute of Massachusetts).**

### **Chapter 75B. — Southeastern Massachusetts University (former title, South Eastern Massachusetts University) (former title, Southeastern Massachusetts Technological Institute).**

### **Chapter 75C. — Private Correspondence Schools.**

### **Chapter 75D. — Private Business Schools.**

### **Chapter 76. — School Attendance.**

SECT. 1A added, 1985, 551.

SECT. 15C added, 1985, 73 § 1. (See 1985, 73 § 2.)

### **Chapter 77. — School Offenders and County Training Schools.**

### **Chapter 78. — Libraries.**

SECT. 19F added, 1985, 506.

### **Chapter 79. — Eminent Domain.**

### **Chapter 79A. — Relocation Assistance.**



**Chapter 80. — Betterments.****Chapter 80A. — Eminent Domain Takings and Betterment Assessments by Judicial Proceedings.****Chapter 81. — State Highways.**

SECT. 22 revised, 1985, 44.

SECT. 29A, first paragraph revised, 1985, 811 § 33.

**Chapter 82. — The Laying Out, Alteration, Relocation and Discontinuance of Public Ways, and Specific Repairs Thereon.**

SECTS. 26-27 repealed, 1985, 276.

SECT. 40, last paragraph revised, 1985, 777 § 1.

**Chapter 83. — Sewers, Drains and Sidewalks.**

SECT. 10, second sentence revised, 1985, 289.

**Chapter 84. — Repair of Ways and Bridges.****Chapter 85. — Regulations and By-Laws relative to Ways and Bridges.**

SECT. 30A, paragraph inserted after second paragraph, 1985, 771 § 1.

**Chapter 86. — Boundaries of Highways and Other Public Places, and Encroachments Thereon.**

SECT. 1 revised, 1985, 367.

**Chapter 87. — Shade Trees.****Chapter 88. — Ferries, Canals and Public Landings.****Chapter 89. — Law of the Road.****Chapter 90. — Motor Vehicles and Aircraft.**

SECT. 1, definition of "Occupant crash protection device" inserted, 1985, 416 § 1; definition of "Trailer" revised, 1985, 465. (See 1985, 416@ § 9.)

SECT. 2, sixth paragraph, third sentence stricken out, /a1985, 632 § 6; sentence inserted after fourth sentence, 1985, 778 § 1; paragraph inserted after sixth paragraph, 1985, 632 § 7.

SECT. 7A, first paragraph, first sentence revised, 1985, 139; second paragraph revised, 1985, 416 § 2. (See 1985, 416 § 9.)

SECT. 7B amended, 1985, 136.

SECT. 7E, second paragraph amended, 1985, 539 § 1; third paragraph amended, 1985, 539 § 2.

SECT. 7N ½, subsection (3) revised, 1985, 702 § 1; subsection (5), fourth paragraph revised, 1985, 702 § 2; subsection (6) stricken out and subsections (6), (6A), (7) and (8) inserted, 1985, 702 § 3.



- SECT. 7BB added, 1985, 416 § 3. (See 1985, 416 § 9.)  
SECT. 7P revised, 1985, 461.  
SECT. 8, fifth paragraph revised, 1985, 195.  
SECT. 9D revised, 1985, 411.  
SECT. 10, first paragraph revised, 1985, 146.  
SECT. 19, third paragraph, sixth sentence amended, 1985, 141.  
SECT. 19A, third paragraph revised, 1985, 771 § 2.  
SECT. 20, first paragraph, second sentence revised, 185, 385.  
SECT. 20E revised, 1985, 696 § 1.  
SECT. 21 revised, 1985, 794 § 1. (See 1985, 794 § 14.)  
SECT. 22, paragraph (c) revised, 1985, 391.  
SECT. 24J, second paragraph revised, 1985, 223 § 14.  
SECT. 26, first sentence revised, 1985, 168.  
SECT. 29, third, fourth and fifth sentences revised, 1985, 768.  
SECT. 30A revised, 1985 390.  
SECT. 33, paragraph inserted after penultimate paragraph, 1985, 778 § 2.  
SECT. 34, clause (2), clauses (i), (j) and (k) stricken out, 1985, 811 § 34. (See 1985, 811 § 44.)  
SECT. 34J, first sentence revised, 1985, 806 § 1.  
SECT. 34P added, 1985, 806 § 2.  
SECT. 39B, paragraph added, 1985, 30.  
SECT. 51G, second sentence stricken out, 1985, 17.

### **Chapter 90A. — The Highway Safety Act.**

#### **Chapter 90B. — Motorboats and Other Vessels.**

- SECT. 1, definitions of “Director” and “Division” stricken out and definitions of “Commissioner”, “Department”, “Director” and “Division” inserted, 1985, 231 § 21; definition of “Jet skis” inserted, 1985, 498 § 1; definition of “Surf jet” inserted, 1985, 498 § 2; definition of “Wetbike” inserted, 1985, 498 § 3. (See 1985, 231 § 65.)  
SECT. 4A amended, 1985, 231 § 22. (See 1985, 231 § 65.)  
SECT. 11, clause (j) revised, 1985, 498 § 4.  
SECT. 12, first sentence revised, 1985, 231 § 23. (See 1985, 231 § 65.)  
SECT. 20, definition of “Law enforcement officer” revised, 1985, 231 § 24. (See 1985, 231 § 65.)  
SECT. 30 amended, 1985, 231 § 25. (See 1985, 231 § 65.)  
SECT. 32, first sentence revised, 1985, 231 § 26. (See 1985, 231 § 65.)

#### **Chapter 90C. — Procedure against Violators of Motor Vehicle Laws.**

- SECT. 1, definition of “Automobile law violation”, two sentences added, 1985, 794 § 2. (See 1985, 794 § 14.)  
SECTS. 2-4 revised, 1985, 794 § 3. (See 1985, 794 § 14.)  
SECT. 7 revised, 1985, 794 § 4. (See 1985, 794 § 14.)

#### **Chapter 90D. — Motor Vehicle Certificate of Title.**



**Chapter 90E. — Bikeways.****Chapter 91. — Waterways.****Chapter 91A. — Port of Boston Commission  
(formerly entitled Port of Boston Authority)****Chapter 92. — Metropolitan Sewers,  
Water and Parks.**

SECTS. 57-59 repealed, 1985, 200 § 5. (See 1985, 200 § 24.)

SECT. 114, third sentence revised, 1985, 734.

**Chapter 92A. — Massachusetts Public  
Building Commission.****Chapter 93. — Regulation of Trade and  
Certain Enterprises.**

SECT. 18B added, 1985, 634.

SECT. 70, second paragraph revised, 1985, 297.

SECT. 77 added, 1985, 279.

SECTS. 78-88 added, 1985, 607 § 1. (See 1985, 607 §§ 2-3.)

**Chapter 93A. — Regulation of Business Practices for  
Consumers Protection.**

SECT. 4, first paragraph, sentence added, 1985, 468.

SECT. 11, first paragraph amended, 1985, 278 § 1; second paragraph amended, 1985, 278 § 2; paragraph inserted after seventh paragraph, 1985, 278 § 3.

**Chapter 93B. — Regulation of Business Practices Between  
Motor Vehicle Manufacturers, Distributors and Dealers.**

SECT. 5C, paragraph added, 1985, 689 § 1.

SECT. 12A, paragraph added, 1985, 689 § 1.

**Chapter 93C. — Protection of Consumers Against Careless  
and Erroneous Billings.****Chapter 93D. — Control of Outdoor Advertising Adjacent  
to the Interstate and Primary Systems.****Chapter 93E. — Regulation of Dealers' Agreements  
for the Sale of Gasoline.****Chapter 93F. — Regulating Certain Business Practices Between Motion  
Picture Distributors and Exhibitors****Chapter 94. — Inspection and Sale of Food,  
Drugs and Various Articles.**

SECT. 48B revised, 1985, 91.



SECT. 295CC added, 1985, 664.

**Chapter 94A. — Milk Control.**

**Chapter 94B. — Hazardous Substances.**

**Chapter 94C. — Controlled Substances Act.**

SECT. 7, paragraph (d), subparagraph 10 added, 1985, 654 § 2.

SECT. 9, subsection (b ½) inserted, 1985, 364.

**Chapter 95. — Measuring of Leather.**

**Chapter 96. — Measurement of Lumber.**

**Chapter 97. — Surveying of Land.**

SECT. 3 revised, 1985, 621.

**Chapter 98. — Weights and Measures.**

**Chapter 99. — The Metric System of  
Weights and Measures.**

**Chapter 100. — Auctioneers.**

**Chapter revised, 1985, 618 § 1.**

(See 1985, 618 § 3.)

**Chapter 101. — Transient Vendors,  
Hawkers and Peddlers.**

**Chapter 102. — Shipping and Seamen,  
Harbors and Harbor Masters.**

**Chapter 103. — Pilots.**

**Chapter 104. — Agents, Consignees and Factors.**

**Chapter 104A. — Consignment of Fine Art.**

**Chapter 105. — Public Warehouses.**

**Chapter 105A. — SELF-STORAGE FACILITIES.**

**Chapter 106. — Uniform Commercial Code.**

**Chapter 107. — Money and Registration, Issuance and  
Redemption of Bonds and other Securities, Facsimile Signatures  
(former title, Money and Negotiable Instruments)**



**Chapter 107A. — Assignments of Accounts Receivable.****Chapter 108. — Criminal Offences Relative to Bills of Lading  
(former title, Bills of Lading)****Chapter 108A. — Partnerships.****Chapter 109. — Limited Partnerships.****Chapter 110. — Labels, Trade Marks, Names and Registration  
thereof.**

SECT. 5 revised, 1985, 337 § 1. (See 1985, 337 § 2.)

**Chapter 110A. — Uniform Securities Act.****Chapter 110B. — Registration and Protection of Trademarks.****Chapter 110C. — Regulation of Take-over Bids in the  
Acquisition of Corporations.****Chapter 111. — Public Health.**

SECT. 20 revised, 1985, 326 § 1.

SECT. 21 revised, 1985, 326 § 2.

SECT. 22 revised, 1985, 326 § 3.

SECT. 31, first paragraph revised, 1985, 70.

SECT. 51D added, 1985, 574 § 13. (See 1985, 574 § 24.)

SECT. 67A revised, 1985, 557 § 1. (See 1985, 557 § 5.)

SECT. 67B repealed, 1985, 557 § 2. (See 1985, 557 § 5.)

SECT. 67C revised, 1985, 557 § 3. (See 1985, 557 § 5.)

SECT. 67D repealed, 1985, 557 § 4. (See 1985, 557 § 5.)

SECT. 70E, sixth paragraph, clauses (g) and (h) stricken out and clauses (g), (h) and (i) inserted, 1985, 714 § 1.

SECT. 110A amended, 1985, 529 § 1; 529 § 2. (See 1985, 529 § 3.)

SECT. 125A, first paragraph revised, 1985, 613 § 2.

SECT. 142A revised, 1985, 335 § 1.

SECT. 142B, fifth paragraph revised, 1985, 335 § 2.

SECT. 143 paragraph added, 1985, 613 § 2A; first paragraph amended, 1985, 613 § 3.

SECT. 160A, paragraph added, 1985, 742.

**Chapter 111A. — Drug Addiction Rehabilitation.**

**Chapter repealed, 1969, 889 § 23A.**

**Chapter 111B. — Alcoholism.****Chapter 111C. — Emergency Medical Care.**



**Chapter 111D. — Clinical Laboratories.**

SECT. 7, first paragraph amended, 1985, 76.

**Chapter 111E. — DRUG REHABILITATION.**

SECT. 13A added, 1985, 791.

**Chapter 111F.—HAZARDOUS SUBSTANCES DISCLOSURE BY EMPLOYERS.****Chapter 111G. — EARLY CHILDHOOD INTERVENTION SERVICES****Chapter 112. — Registration of Certain Professions and Occupations.**

SECT. 2, paragraph inserted after fifth paragraph, 1985, 475.

SECT. 5 amended, 1985, 374.

SECT. 9E, second paragraph amended, 1985, 107.

SECT. 12D, second to sixth paragraphs, inclusive, stricken out and five paragraphs inserted, 1985, 582 § 1; second paragraph, sentence added, 1985, 797. (See 1985, 582 § 2.)

SECT. 12Y added, 1985, 298 § 1.

SECT. 66 stricken out and sections 66-66A inserted, 1985, 654 § 3.

SECT. 68A added, 1985, 654 § 4.

SECTS. 87A-87E stricken out and nine sections inserted, 1985, 705 § 4. (See 1985, 705 § 5.)

SECT. 87F amended, 1985, 719 § 3.

SECT. 87T, caption revised, 1985, 719 § 4; definition of “Board” revised, 1985, 719 § 5; definition of “Cosmetologist” inserted, 1985, 719 § 6.

SECT. 87AAA½ added, 1985, 728 § 10. (See 1985, 728 § 15.)

SECT. 135 revised, 1985, 524.

SECTS. 148-162 added, 1985, 759 § 1.

**Chapter 113. — Promotion of Anatomical Science.****Chapter 114. — Cemeteries and Burials.****Chapter 115. — Veterans’ Benefits (former title, State and Military Aid, Soldiers’ Relief, etc.).**

SECT. 8 first sentence stricken out and two sentences inserted, 1985, 271.

**Chapter 115A. — Soldiers’ Homes.****Chapter 116. — Settlement.****Chapter 117. — Support by the Commonwealth (former title, Support by the Cities and Towns).**



**Chapter 118. — Aid to Families with Dependent Children  
(former title, Aid to Dependent Children).**

**Chapter 118A. — Assistance to the Aged and Disabled (former  
title, Old Age Assistance and Medical Assistance for the Aged).**

**Chapter 118B. — The Merit System in the Administration of Aid to  
Families with Dependent Children and Old Age Assistance.**

**Chapter 118C. — Coverage of Certain Employees under the  
Federal Social Security Act.**

**Chapter 118D. — Assistance to Persons who are Disabled.**

**Chapter 118E. — Medical Care and Assistance.**

**Chapter 119. — Protection and Care of Children, and  
Proceedings against Them.**

SECT. 39I, paragraph added, 1985, 314 § 2. (See 1985, 314 § 10.)

SECT. 51A, first paragraph, first sentence revised, 1985, 209.

SECT. 51B, clause (4), subclause (b) revised, 1985, 343. clauses (9) and  
(10) added, 1985, 776 § 2.

SECT. 60A, paragraph added, 1985, 425.

SECT. 61 amended, 1985, 744.

SECT. 68, two paragraphs inserted after first paragraph, 1985, 334.

SECT. 74 revised, 1985, 794 § 5.

**Chapter 120. — Department of Youth Services and  
Massachusetts Training Schools  
(former title, Youth Service Board and  
Massachusetts Training Schools).**

**Chapter 121. — Powers and Duties of the Department of  
Public Welfare, and the Massachusetts Hospital School.**

**Chapter 121A. — Urban Redevelopment Corporations.**

**Chapter 121B. — Housing and Urban Renewal.**

SECT. 1, definition of "Urban Revitalization and Development Project"  
inserted, 1985, 748 § 18.

SECT. 34, third paragraph stricken out and two paragraphs inserted,  
1985, 570.

SECT. 39 amended, 1985, 748 § 19.

SECT. 53 revised, 1985, 748 § 20.

SECT. 54 revised, 1985, 748 § 21.

SECT. 57 amended, 1985, 748 § 22; clause (d) added, 1985, 748 § 22A.

**Chapter 121C. — Economic Development and  
Industrial Corporations.**



**Chapter 122. — Tewksbury Hospital (former titles,  
Tewksbury State Hospital and Infirmary and State Infirmary).**

**Chapter 123. — Treatment and Commitment of Mentally Ill  
and Mentally Retarded Persons.**

SECT. 3, paragraph added, 1985, 796 § 2.

SECT. 3A added, 1985, 796 § 1.

SECT. 4, last paragraph revised, 1985, 796 § 3.

SECT. 5 amended, 1985, 344 § 1.

SECT. 8B added, 1985, 344 § 2.

SECT. 9 revised, 1985, 344 § 3.

SECT. 15, paragraph (a) revised, 1985, 617 § 1; paragraph (b), second and third sentences revised, 1985, 617 § 2; paragraph (c) revised, 1985, 617 § 3; paragraph (f) revised, 1985, 617 § 4.

SECT. 18, paragraph (a) revised, 1985, 617 § 5.

SECT. 19 revised, 1985, 617 § 6.

**Chapter 123A. — Care, Treatment and Rehabilitation of  
Sexually Dangerous Persons (former title,  
Care, Treatment and Rehabilitation of  
Sexual offenders and Victims of such Offenders).**

SECTS. 1-11 stricken out and twelve sections inserted, 1985, 752 § 1.

**Chapter 124. — Powers and Duties of the Department of Correction.**

**Chapter 125. — Correctional Institutions of the Commonwealth  
(former title, Penal and Reformatory Institutions  
of the Commonwealth).**

**Chapter 126. — Jails, Houses of Correction and Reformation,  
and County Industrial Farms.**

SECT. 7, sentence added, 1985, 799 § 2. (See 1985, 799 § 26.)

**Chapter 127. — Officers and Inmates of Penal and Reformatory  
Institutions, Paroles and Pardons.**

SECT. 36B added, 1985, 236.

SECT. 48A, second paragraph, second sentence revised, 1985, 440.

SECT. 97B added, 1985, 578.

**Chapter 128. — Agriculture.**

SECT. 2, paragraph (g) amended, 1985, 580 § 7. paragraph added, 1985, 580 § 8.

**Chapter 128A. — Horse and Dog Racing Meetings.**

SECT. 5, third paragraph, first sentence revised, 1985, 580 § 9.

SECT. 14D added, 1985, 353.



**Chapter 128B. — Conservation of Soil and Soil Resources  
and Prevention and Control of Erosion.**

**Chapter 129. — Livestock Disease Control  
(former title, Animal Industry).**

SECT. 9 revised, 1985, 328.

**Chapter 129A. — Marine Fish and Fisheries, Inland Fish and  
Fisheries, Birds and Mammals, General Provisions.**

**Chapter 130. — Marine Fish and Fisheries (former title, Marine  
Fish and Fisheries, including Crustacea and Shellfish).**

SECT. 1, definition of "Commissioner" revised, 1985, 231 § 27; definition of "Department" revised, 1985, 231 § 27A. (See 1985, 231 § 65.)

SECT. 8A revised, 1985, 231 § 28. (See 1985, 231 § 65.)

SECT. 9 amended, 1985, 231 § 29. (See 1985, 231 § 65.)

SECT. 13 amended, 1985, 231 § 30. (See 1985, 231 § 65.)

SECT. 15A amended, 1985, 231 § 31. (See 1985, 231 § 65.)

SECT. 38, first paragraph, second sentence revised, 1985, 47.

SECT. 39 amended, 1985, 231 § 32. (See 1985, 231 § 65.)

SECT. 57, paragraph inserted after first paragraph, 1985, 339.

SECT. 76 amended, 1985, 231 § 33. (See 1985, 231 § 65.)

SECT. 80, second paragraph revised, 1985, 132.

**Chapter 131. — Inland Fisheries and Game and Other  
Natural Resources (former title, Powers and Duties of  
the Division of Fisheries and Game).**

SECT. 1, definition of "Department" amended, 1985, 231 § 34; 231 § 34A; definition of "Deputy" amended, 1985, 231 § 34B; definition of "Environmental police officer inserted, 1985, 231 § 34D. definition of "Natural resource officer" stricken out, 1985, 231 § 34C; (See 1985, 231 § 65.)

SECT. 4, clause (14) amended, 1985, 231 § 35. (See 1985, 231 § 65.)

SECT. 6, clauses (1) and (2) revised, 1985, 770 § 2.

SECT. 12 amended, 1985, 231 § 36. (See 1985, 231 § 65.)

SECT. 14 amended, 1985, 231 § 37. (See 1985, 231 § 65.)

SECT. 17 revised, 1985, 630 § 1.

SECT. 20 amended, 1985, 231 § 38. (See 1985, 231 § 65.)

SECT. 25 amended, 1985, 231 § 39. (See 1985, 231 § 65.)

SECT. 26A amended, 1985, 231 § 40. (See 1985, 231 § 65.)

SECT. 27 amended, 1985, 231 § 41. (See 1985, 231 § 65.)

SECT. 31, second paragraph, clause (1) revised, 1985, 253.

SECT. 32 amended, 1985, 231 § 42. (See 1985, 231 § 65.)

SECT. 37 amended, 1985, 231 § 43. (See 1985, 231 § 65.)

SECT. 40 amended, 1985, 231 § 44. (See 1985, 231 § 65.)

SECT. 40A amended, 1985, 231 § 45. (See 1985, 231 § 65.)

SECT. 45 amended, 1985, 231 § 46. (See 1985, 231 § 65.)



- SECT. 59 amended, 1985, 231 § 47. (See 1985, 231 § 65.)  
SECT. 63 amended, 1985, 231 § 48. (See 1985, 231 § 65.)  
SECT. 65, second paragraph revised, 1985, 329.  
SECT. 82 amended, 1985, 231 § 49. (See 1985, 231 § 65.)  
SECT. 87 amended, 1985, 231 § 50. (See 1985, 231 § 65.)  
SECT. 88 amended, 1985, 231 § 51. (See 1985, 231 § 65.)  
SECT. 89 amended, 1985, 231 § 52. (See 1985, 231 § 65.)

### **Chapter 132. — Forestry.**

- SECT. 1A revised, 1985, 765 § 3.  
SECT. 8 amended, 1985, 765 § 4.  
SECT. 11 amended, 1985, 765 § 5.  
SECT. 11A repealed, 1985, 765 § 7.  
SECT. 12A amended, 1985, 765 § 8.  
SECT. 13 revised, 1985, 765 § 9.  
SECT. 16 revised, 1985, 765 § 6.  
SECT. 17 repealed, 1985, 765 § 10.

### **Chapter 132A. — State Recreation Areas outside of the Metropolitan Parks District (former title, State Parks and Reservations outside of the Metropolitan Parks District).**

- SECTS. 4-6 repealed, 1985, 200 § 6. (See 1985, 200 § 24.)

### **Chapter 132B. — Massachusetts Pesticide Control Act.**

### **Chapter 133. — Disposition Of Old And Infirm Animals.**

### **Chapter 134. — Lost Goods And Stray Beasts.**

### **Chapter 135. — Unclaimed and Abandoned Property.**

### **Chapter 136. — Observance of a Common Day of Rest and Legal Holidays (former title, Observance of the Lord's Day and Legal Holidays).**

- SECT. 13, first paragraph revised, 1985, 451 § 2.

### **Chapter 137. — Gaming.**

### **Chapter 138. — Alcoholic Liquors (old title, Intoxicating Liquors and Certain Non-Intoxicating Beverages).**

- SECT. 15A amended, 1985, 661.  
SECT. 18, paragraph added, 1985, 600.  
SECT. 22, first paragraph revised, 1985, 389. paragraph added, 1985,  
379.  
SECT. 34B, third paragraph amended, 1985, 340.



**Chapter 139. — Common Nuisances.**

SECT. 16 revised, 1985, 421 § 1.

SECT. 16A revised, 1985, 421 § 2.

SECT. 19 revised, 1985, 421 § 3.

SECT. 20 revised, 1985, 421 § 4.

**Chapter 140. — Licenses.**

SECT. 12, first sentence revised, 1985, 348 § 1.

SECT. 32J, paragraph added, 1985, 554.

SECT. 32L, subsection 5 revised, 1985, 45 § 1.

SECT. 32P revised, 1985, 45 § 2.

SECT. 54A revised, 1985, 663 § 1.

SECT. 59A revised, 1985, 663 § 2.

SECT. 100 amended, 1985, 368; second paragraph revised, 1985, 428 § 1.

SECT. 131F ½ added, 1985, 566.

SECT. 131H, third paragraph revised, 1985, 231 § 53. (See 1985, 231 § 65.)

SECT. 136A, definition of “Live stock or fowl” amended, 1985, 231 § 54. (See 1985, 231 § 65.)

SECT. 147A added, 1985, 308.

SECT. 150, first sentence revised, 1985, 477 § 48.

SECT. 151A, first sentence revised, 1985, 394 § 1; fourth paragraph, first sentence revised, 1985, 394 § 2.

SECT. 153 amended, 1985, 394 § 3; 394 § 4.

SECT. 157 amended, 1985, 455.

SECT. 161A amended, 1985, 231 § 55. (See 1985, 231 § 65.)

SECT. 183D revised, 1985, 427.

SECT. 198 revised, 1985, 71.

**Chapter 140A. — Regulation of Certain Credit Transactions.****Chapter 140B. — Control of Certain Junkyards.****Chapter 140C. — Consumer Credit Cost Disclosure.****Chapter 140D. — CONSUMER CREDIT COST DISCLOSURE.****Chapter 140E. — CONSUMER ACCOUNT DISCLOSURE.****Chapter 141. — Supervision of Electricians.****Chapter 142. — Supervision of Plumbing.**

SECT. 13 revised, 1985, 627.

SECT. 16 amended, 1985, 338.



**Chapter 143. — Inspection and Regulation of, and Licenses for, Buildings, Elevators and Cinematographs.**

SECTS. 62-66 stricken out and six sections inserted, 1985, 687 § 1. (See 1985, 687 § 8.)

SECT. 68 revised, 1985, 687 § 2. (See 1985, 687 § 8.)

SECT. 70, paragraph (a) amended, 1985, 687 § 3; paragraph (d) amended, 1985, 687 § 3. (See 1985, 687 § 8.)

SECT. 71B, last sentence revised, 1985, 687 § 5. (See 1985, 687 § 8.)

SECT. 71G revised, 1985, 743 § 1.

SECT. 75, fourth and fifth sentences stricken out and eight sentences inserted, 1985, 743 § 2.

**Chapter 144. — Tenement Houses in Cities.**

**Chapter 145. — Tenement Houses in Town.**

**Chapter 146. — Inspection of Boilers, Air Tanks, etc., Licenses of Engineers, Firemen, and Operators of Hoisting Machinery.**

SECT. 85, second paragraph, last sentence stricken out and seven sentences inserted, 1985, 743 § 3.

**Chapter 147. — State and Other Police, and Certain Power and Duties of the Department of Public Safety.**

SECT. 10L amended, 1985, 662 § 1.

SECT. 10M added, 1985, 662 § 2.

SECT. 24, third sentence revised, 1985, 395.

SECT. 39, fourth sentence revised, 1985, 782.

SECT. 50A revised, 1985, 388.

**Chapter 148. — Fire Prevention.**

SECT. 5A, first sentence revised, 1985, 625 § 1.

SECT. 10D, first paragraph, last sentence stricken out and two sentences inserted, 1985, 743 § 4.

SECT. 20B, two sentences inserted after ninth sentence, 1985, 743 § 5.

SECT. 25B, first sentence revised, 1985, 625 § 2.

SECT. 25E added, 1985, 686 § 1. (See 1985, 686 § 2.)

SECT. 32, first two paragraphs revised, 1985, 138; third paragraph revised, 1985, 322.

**Chapter 149. — Labor and Industries.**

SECT. 19B revised, 1985, 587 § 1. (See 1985, 587 § 2.)

SECT. 29B revised, 1985, 228 § 2. (See 1985, 228 § 4.)

SECT. 29C revised, 1985, 228 § 3. (See 1985, 228 § 4.)

SECT. 30C amended, 1985, 231 § 56. (See 1985, 231 § 65.)

SECT. 44A, subsection 2 revised, 1985, 675.

SECT. 44H revised, 1985, 808.



SECT. 51B repealed, 1985, 572 § 6. (See 1985, 572 § 68.)

SECT. 52B added, 1985, 684 § 1. (See 1985, 684 § 2.)

SECT. 129C, last paragraph revised, 1985, 597.

**Chapter 150. — Conciliation and Arbitration of Industrial Disputes.**

SECT. 10A added, 1985, 357 § 1.

**Chapter 150A. — Labor Relations.**

SECT. 6, subsections (e)-(i) stricken out and subsections (e)-(f) inserted, 1985, 330 § 1.

**Chapter 150B. — Peaceful Settlement of Industrial Disputes  
Dangerous to Public Health and Safety.  
Public Health and Safety.**

**Chapter 150C. — Collective Bargaining Agreements to Arbitrate.**

**Chapter 150D. — Registration of Labor Replacements of Strike  
Breakers.**

**Chapter 150E. — Labor Relations; Public Employees.**

SECT. 9, paragraph added, 1985, 357 § 2.

**Chapter 151. — Minimum Fair Wages (former title, Minimum  
Fair  
Wages for Women and Minors).**

SECT. 1, second sentence revised, 1985, 760 § 1; 760 § 2; 760 § 3. (See 1985, 760 § 4.)

**Chapter 151A. — Employment Security (for title, Unemployment  
Compensation).**

SECT. 1, subsection (y) added, 1985, 4 § 1A.

SECT. 14, subsection (a), paragraph (2), first sentence stricken out and three sentences inserted, 1985, 4 § 2; subsection (b) revised, 1985, 4 § 3; subsection (e), paragraph (3) stricken out, 1985, 4 § 4; subsection (e), paragraphs (5) and (6) revised, 1985, 4 § 5; subsection (f) revised, 1985, 4 § 6; subsection (h), paragraph (2) revised, 1985, 4 § 7; subsection (i) revised, 1985, 4 § 8; subsection (j) revised, 1985, 4 § 9; subsection (n), paragraph 5, second sentence revised, 1985, 4 § 10. (See 1985, 4 § 29.)

SECT. 14A, subsection (a), amended, 1985, 4 § 11; second paragraph, paragraph (5) revised, 1985, 4 § 12.

SECT. 14C, subsection (1) added, 1985, 4 § 13.

SECT. 15, subsection (b) revised, 1985, 4 § 14; subsection (e), paragraph (6) revised, 1985, 4 § 15.

SECT. 15A added, 1985, 4 § 16.

SECT. 16 revised, 1985, 4 § 17.

SECT. 25, subsection (d), first sentence revised, 1985, 572 § 6A. (See 1985, 572 § 68.)



SECT. 29, subsection (d), paragraph (6) revised, 1985, 4 § 18.

SECT. 30, second paragraph revised, 1985, 4 § 19.

SECT. 30A, subsection (3), paragraph (c) revised, 1985, 4 § 20; subsection (6) revised, 1985, 4 § 21.

SECT. 35, first paragraph revised, 1985, 4 § 22.

SECT. 42 amended, 1985, 314 § 3. (See 1985, 314 § 10.)

SECT. 47 revised, 1985, 4 § 23.

**Chapter 151B. — Unlawful Discrimination Because Of Race,  
Color, Religious Creed, National Origin, Ancestry Or Sex  
(former title, Unlawful Discrimination Against Race, Color,  
Religious Creed, National Origin or Ancestry)**

SECT. 4, subsection 17, clause (b) amended, 1985, 239.

**Chapter 151C. — Fair Education Practices.**

SECT. 2B added, 1985, 375.

**Chapter 151D. — Health, Welfare and Retirement Funds.**

**Chapter 151E. — Prohibition of Certain Discrimination  
by Business.**

**Chapter 152. — Workmen's Compensation.**

SECT. 1, paragraph (1A) revised, 1985 572 § 7; paragraph (2) revised, 1985, 572 § 8; paragraph (4), first paragraph revised, 1985, 572 § 9; paragraph (5), paragraph added, 1985, 572 § 10; paragraph (7A), sentence added, 1985, 572 § 11; paragraph (8) revised, 1985, 572 § 12; paragraphs (9), (10) and (11) added, 1985, 572 § 13 paragraph (12) added, 1985, 572 § 13A. (See 1985, 572 §§ 69.)

SECT. 2 amended, 1985, 572 § 14. (See 1985, 572 § 69.)

SECT. 4 repealed, 1985, 572 § 15. (See 1985, 572 § 69.)

SECT. 5 revised, 1985, 572 § 16. (See 1985, 572 § 69.)

SECTS. 6-6B stricken out and sections 6, 6A and 6B inserted, 1985, 572 § 17. (See 1985, 572 § 70.)

SECT. 7 revised, 1985, 572 § 18. (See 1985, 572 § 70.)

SECT. 7C revised, 1985, 572 § 19. (See 1985, 572 § 70.)

SECT. 7E repealed, 1985, 572 § 20. (See 1985, 572 § 70.)

SECT. 8 revised, 1985, 572 § 21. (See 1985, 572 § 70.)

SECT. 8A repealed, 1985, 572 § 22. (See 1985, 572 § 70.)

SECT. 9 repealed, 1985, 572 § 23. (See 1985, 572 § 70.)

SECT. 10 revised, 1985, 572 § 24. (See 1985, 572 § 70.)

SECT. 10A added, 1985, 572 § 24. (See 1985, 572 § 70.)

SECTS. 11 stricken out and sections 11-11C inserted, 1985, 572 § 25. (See 1985, 572 § 70.)

SECT. 12 revised, 1985, 572 § 26. (See 1985, 572 § 70.)

SECT. 12A revised, 1985, 572 § 27. (See 1985, 572 § 70.)

SECT. 13 revised, 1985, 572 § 28. (See 1985, 572 § 69.)



- SECT. 13A added, 1985, 572 § 28A. (See 1985, 572 § 70.)
- SECT. 14 revised, 1985, 572 § 29. (See 1985, 572 § 68.)
- SECT. 15, eighth and ninth sentences revised, 1985, 572 § 30. (See 1985, 572 § 69.)
- SECT. 16 revised, 1985, 572 § 31. (See 1985, 572 § 31.)
- SECT. 17 revised, 1985, 572 § 32. (See 1985, 572 § 70.)
- SECT. 19 revised, 1985, 572 § 33. (See 1985, 572 § 70.)
- SECT. 23 revised, 1985, 572 § 34. (See 1985, 572 § 70.)
- SECT. 24 revised, 1985, 572 § 35. (See 1985, 572 § 67.)
- SECTS. 25E-25U added, 1985, 572 § 36. (See 1985, 572 § 69.)
- SECT. 28, paragraph added, 1985, 572 § 37. (See 1985, 572 § 69.)
- SECT. 29 revised, 1985, 572 § 38. (See 1985, 572 § 67.)
- SECT. 30A revised, 1985, 572 § 39. (See 1985, 572 § 70.)
- SECTS. 30E-30I added, 1985, 572 § 40. (See 1985, 572 § 40.)
- SECT. 31, seventh, eighth and ninth paragraphs stricken out, 1985, 572 § 41. (See 1985, 572 § 70.)
- SECT. 34 revised, 1985, 572 § 42. (See 1985, 572 § 68.)
- SECT. 34A revised, 1985, 572 § 43. (See 1985, 572 § 68.)
- SECT. 34B added, 1985, 572 § 43A. (See 1985, 572 § 70.)
- SECT. 35 revised, 1985, 572 § 44. (See 1985, 572 § 68.)
- SECTS. 35C-35F added, 1985, 572 § 45. (See 1985, 572 § 70.)
- SECT. 36 revised, 1985, 572 § 46. (See 1985, 572 § 68.)
- SECT. 36A, second paragraph, first sentence revised, 1985, 572 § 47. (See 1985, 572 § 68.)
- SECT. 36B added, 1985, 572 § 47A. (See 1985, 572 § 68.)
- SECT. 37, second sentence revised, 1985, 572 § 48; last paragraph revised, 1985, 572 § 49. (See 1985, 572 § 70.)
- SECT. 41 revised, 1985, 572 § 50. (See 1985, 572 § 68.)
- SECT. 41A repealed, 1985, 572 § 51. (See 1985, 572 § 70.)
- SECT. 48 revised, 1985, 572 § 52. (See 1985, 572 § 70.)
- SECT. 49, last two sentences stricken out, 1985, 572 § 68. (1985, 572 § 68.)
- SECT. 53A added, 1985, 572 § 54. (See 1985, 572 § 68.)
- SECT. 65 revised, 1985, 572 § 55. (See 1985, 572 § 67.)
- SECT. 69 amended, 1985, 572 § 56. (See 1985, 572 § 68.)
- SECT. 69B amended, 1985, 572 § 57. (See 1985, 572 § 69.)
- SECTS. 75A-75B added, 1985, 572 § 58. (See 1985, 572 § 68.)

**Chapter 153. — Liability of Employers to Employees for Injuries not resulting in Death.**

**Chapter 154. — Assignment of Wages.**

**Chapter 155. — General Provisions relative to Corporations.**

**Chapter 156. — Business Corporations.**



**Chapter 156A. — Professional Corporations.**

SECT. 1, paragraph (b) revised, 1985, 759 §2.

**Chapter revised, 1985, 774 § 1. (See 1985, 774 § 6.)**

**Chapter 156B. — Certain Business Corporations.**

SECT. 3, introductory clause revised, 1985, 774 § 2.

SECT. 80, clause (5) revised, 1985, 393 § 1.

SECT. 100, paragraph (d), sentence added, 1985, 593 § 35. (See 1985, 593 § 50.)

SECT. 101, first paragraph revised, 1985, 593 § 36; third paragraph, last sentence revised, 1985, 593 § 37. (See) 1985, 593 § 50.)

**Chapter 157. — Co-operative Corporations.**

**Chapter 157A. — EMPLOYEE COOPERATIVE CORPORATIONS.**

**Chapter 157B.—"Cooperative Housing Corporations"**

**Chapter 158. — Certain Miscellaneous Corporations.**

**Chapter 159. — Common Carriers.**

**Chapter 159A. — Common Carriers of Passengers by Motor Vehicle.**

**Chapter 159B. — Carriers of Property by Motor Vehicle.**

SECT. 6C, three paragraphs added, 1985, 452.

SECT.14A revised, 1985, 194.

**Chapter 160. — Railroads.**

**Chapter 161. — Street Railways.**

**Chapter 161A. — Massachusetts Bay Transportation Authority.**

SECT. 5, subsections (b) and (c) revised, 1985, 811 § 34A. (See 1985, 811 § 43.)

SECT. 23, third paragraph revised, 1985, 811 § 35. (See 1985, 811 § 43.)

SECT. 28, first paragraph, second sentence revised, 1985, 811 § 36. (See 1985, 811 § 43.)

**Chapter 161B. — Transportation Facilities, Highway Systems and Urban Development Plans.**

**Chapter 161C. — Rail Transportation in the Commonwealth.**



**Chapter 161D. — THE MASSACHUSETTS INTERCITY BUS  
CAPITAL ASSISTANCE PROGRAM.**

SECT. 5, clause (3) revised, 1985, 811 § 37. (See 1985, 811 § 43.)

**Chapter 162. — Electric Railroads.**

**Chapter 163. — Trackless Trolley Companies.**

**Chapter 164. — Manufacture and Sale of Gas and Electricity.**

SECT. 6, paragraph (a), clause 5 revised, 1985, 658.

SECT. 69H½ revised, 1985, 595 § 4. (See 1985, 595 § 4.)

SECT. 76D revised, 1985, 243.

SECT. 105A, two paragraphs added, 1985, 777 § 2.

**Chapter 164A. — New England Power Pool.**

**Chapter 165. — Water and Aqueduct Companies.**

**Chapter 166. — Telephone and Telegraph Companies,  
and Lines for the Transmission of Electricity.**

SECT. 42A, first sentence revised, 1985, 685 § 1.

SECT. 42B, first sentence revised, 1985, 685 § 2.

**Chapter 166A. — Community Antenna Television Systems.**

SECT. 16, paragraph added, 1985, 651 § 1. (See 1985, 651 § 2.)

SECT. 19, first sentence revised, 1985, 644 § 1.

SECT. 22, fifth paragraph stricken out and six paragraphs inserted,  
1985, 644 § 2.

**Chapter 167. — Supervision Of Banks.**

SECT. 46, first paragraph revised, 1985, 596.

SECT. 47 added, 1985, 728 § 11. (See 1985, 777 § 15.)

**Chapter 167A. — Bank Holding Companies.**

**Chapter 167B. — ELECTRONIC BRANCHES AND ELECTRONIC  
FUND TRANSFERS.**

**Chapter 167C. — BANK LOCATIONS.**

SECT. 3, paragraph inserted after second paragraph, 1985, 443; fourth  
paragraph amended, 1985, 288.

**Chapter 167D. — DEPOSITS AND ACCOUNTS.**

**Chapter 167E. — MORTGAGES AND LOANS.**

**Chapter 167F. — INVESTMENTS AND OTHER POWERS.**

SECT. 2, paragraph 17 amended, 1985, 626.



SECTS. 6-7 revised, 1985, 405 § 1.

**Chapter 167G. — TRUST DEPARTMENT.**

SECT. 8 amended, 1985, 438.

**Chapter 168. — Savings Banks.**

SECT. 9, first sentence revised, 1985, 115 § 1.

SECT. 10, paragraph 2 revised, 1985, 115 § 2.

SECT. 19, revised, 1985, 672.

SECT. 34C, fourth paragraph amended, 1985, 38.

SECT. 34E added, 1985, 764 § 1.

SECT. 36, second paragraph stricken out and two paragraphs inserted, 1985, 405 § 2.

SECT. 37, seventh paragraph revised, 1985, 405 § 3.

**Chapter 169. — Deposits with Others than Banks.**

**Chapter 170. — Co-operative Banks.**

SECT. 20A amended, 1985, 317.

SECT. 26C, fourth paragraph amended, 1985, 38 § 2.

SECT. 26E added, 1985, 764 § 2.

SECT. 28, fifth paragraph, clause 1 revised, 1985, 405 § 4; clause 2, first two sentences revised, 1985, 405 § 5.

**Chapter 171. — Credit Unions.**

SECT. 10, first paragraph, second sentence revised, 1985, 56; 660 § 1; sixth sentence revised, 1985, 405 § 6.

SECT. 15, first two sentences stricken out and three sentences inserted, 1985, 18.

SECT. 16, fifth sentence revised, 1985, 82.

SECT. 21, second paragraph, paragraph (o) revised, 1985, 280.

SECT. 24, subdivision (A), paragraph 5, first sentence revised, 1985, 479; subdivision (B), subsection (b), paragraph 8 amended, 1985, 331; paragraph 13, amended, 1985, 508; subdivision (E), last sentence amended, 1985, 282.

SECT. 25, second paragraph, second sentence revised, 1985, 660 § 2; third, fourth and fifth paragraphs stricken out and one paragraph inserted, 1985, 509.

**Chapter 172. — Trust Companies.**

SECT. 26A added, 1985, 38 § 3.

SECT. 35 revised, 1985, 39.

**Chapter 172A. — Banking Companies.**

**Chapter 173. — Mortgage Loan Investment Companies.**



**Chapter 174. — Bond and Investment Companies.**

**Chapter stricken out, 1950, 822 § 1.**

**Chapter 174A. — Regulation of Rates for Fire, Marine and Inland Marine Insurance, and Rating Organizations.****Chapter 174B. — Regulation of Automobile Clubs.****Chapter 175. — Insurance.**

SECT. 2B, subsection 1, clause (b) revised, 1985, 137 § 1.

SECT. 47D added, 1985, 628 § 1; 683 § 1; 715 § 1.

SECT. 63, paragraph 3A revised, 1985, 321; section amended, 1985, 745 § 1; 745 § 2; paragraph 7B inserted, 1985, 745 § 3; paragraph 14A, first sentence revised, 1985, 745 § 4; paragraph 14C, clause 2, subclause (b) revised, 1985, 745 § 5.

SECT. 64, second paragraph, second sentence revised, 1985, 336. 745 § 6.

SECT. 65 amended, 1985, 745 § 7; 745 § 8.

SECT. 66, first paragraph, second and third sentences revised, 1985, 745 § 9; second paragraph, first sentence revised, 1985, 745 § 10; third paragraph revised, 1985, 745 § 11.

SECT. 97A, second paragraph revised, 1985, 464 § 1.

SECT. 99, clause Twelfth, introductory paragraph revised, 1985, 137 § 2; Clause Fourteenth, second paragraph revised, 1985, 464 § 2.

SECT. 99B added, 1985, 137 § 3.

SECTS. 112A-112B added, 1985, 223 § 15.

SECT. 113B, paragraph inserted after twelfth paragraph, 1985, 416 § 4. (See 1985, 416 § 9.)

SECT. 113H, subsection (c), paragraph inserted after second paragraph, 1985, 286.

SECT. 132F, second paragraph amended, 1985, 745 §§ 12-12A; third paragraph, sentence added, 1985, 745 § 13; fifth paragraph stricken out, 1985, 622 § 1.

SECT. 132G, third paragraph, first sentence stricken out, 1985, 622 § 2.

SECT. 132H, first paragraph, second sentence stricken out, 1985, 745 § 14; fourth sentence revised, 1985, 622 § 3.

SECT. 133, clause (c) revised, 1985, 237.

SECT. 141, first paragraph, sentence added, 1985, 745 § 15.

SECT. 147 added, 1985, 17.

SECT. 149 revised, 1985, 745 § 16.

SECT. 180B, second paragraph, last sentence revised, 1985, 745 § 18.

SECT. 180C, third paragraph, first sentence revised, 1985, 745 § 19.

SECT. 180F, third paragraph, clause (4) revised, 1985, 745 § 20.

SECT. 193T amended, 1985, 520.

SECT. 196 added, 1985, 223 § 16.



**Chapter 175A. — Regulation of Rates for Certain Casualty Insurance, including Fidelity, Surety and Guaranty Bonds, and for all other Forms of Motor Vehicle Insurance, and Regulation of Rating Organizations.**

**Chapter 175B. — Unauthorized Insurer's Process Act.**

**Chapter 175C. — Urban Area Insurance Placement Facility.**

**Chapter 175D. — Massachusetts Insurers Insolvency Fund.**

**Chapter 175E. — Regulation of Rates for Optional Motor Vehicle Insurance.**

**Chapter 175F. — Medical Malpractice Self-Insurance Trust Funds.**

**Chapter 176. — Fraternal Benefit Societies.**

**Chapter 176A. — Non Profit Hospital Service Corporations.**

SECT. 8G added, 1985, 628 § 2; 715 § 2.

**Chapter 176B. — Medical Service Corporations.**

SECT. 1, definition of "Certified nurse midwife" inserted, 1985, 683 § 2; definition of "Participating nurse midwife" inserted, 1985, 683 § 3.

SECT. 3, paragraph added, 1985, 298 § 2.

SECT. 4, first paragraph revised, 1985, 683 § 4.

SECT. 4F added, 1985, 628 § 3; 683 § 5; 715 § 3.

SECT. 7, first paragraph, first sentence revised, 1985, 683 § 6; third, fourth, fifth, sixth and seventh sentences revised, 1985, 683 § 7; paragraph added, 1985, 683 § 8.

SECT. 13, second paragraph revised, 1985, 683 § 9.

**Chapter 176C. — Non-Profit Medical Service Plans.**

**Chapter 176D.—UNFAIR METHODS OF COMPETITION AND UNFAIR AND DECEPTIVE ACTS AND PRACTICES IN THE BUSINESS OF INSURANCE.**

**Chapter 176E. — Dental Service Corporations.**

**Chapter 176F. — Optometric Service Corporations.**

**Chapter 176G. — Health Maintenance Organizations.**

SECT. 4, sentence added, 1985, 628 § 4; 715 § 4.

SECT. 11A added, 1985, 615 § 2.

**Chapter 176H. — Legal Service Plans.**



**Chapter 178. — Savings Bank Life Insurance.**

**Chapter 179. — Proprietors of Wharves, Real Estate  
lying in Common, and General Fields.**

**Chapter 180. — Corporations for Charitable and  
Certain Other Purposes.**

SECT. 4, clause (m) inserted, 1985, 393 § 2; paragraph added, 1985, 774 § 3.

SECT. 10 amended, 1985, 393 § 3.

**Chapter 180A. — Management of Institutional Funds.**

**Chapter 181. — Foreign Corporations.**

**Chapter 182. — Voluntary Associations and Certain Trusts.**

SECT. 5A added, 1985, 774 § 4. (See 1985, 774 § 6.)

**Chapter 183. — Alienation of Land.**

SECT. 65 added, 1985, 187.

**Chapter 183A. — Condominiums.**

SECT. 1, definition of “Common areas and facilities”, clause (4) revised, 1985, 788 § 1; definition of “Condominium” revised, 1985, 788 § 2.

SECT. 2 revised, 1985, 788 § 3.

SECT. 3 revised, 1985, 788 § 4.

SECT. 4, clause (1) revised, 1985, 788 § 5; clause (3) revised, 1985, 788 § 6.

SECT. 8, clause (j) added, 1985, 788 § 7.

SECT. 8A added, 1985, 788 § 8.

SECT. 9, paragraph (a), sentence added, 1985, 788 § 9.

SECT. 13, first sentence revised, 1985, 788 § 10.

**Chapter 184. — General Provisions relative to Real Property.**

SECT. 15, paragraph added, 1985, 809.

SECT. 23C added, 1985, 637 § 10.

SECT. 26, first paragraph, clause (c) revised, 1985, 351 § 1.

SECT. 33, fifth paragraph stricken out, 1985, 351 § 2.

**Chapter 184A. — The Rule against Perpetuities.**

**Chapter 184B. — SHORT FORM TERMS FOR WILLS AND TRUSTS.**

**Chapter 185. — The Land Court and Registration of  
Title to Land.**

**Chapter 185A. — Housing Court of the City of Boston,  
Jurisdiction and Powers.**



**Chapter 185B. — Housing Court of the County of Hampden,  
Jurisdiction and Powers.**

**Chapter 185C. — Housing Court Department.**

SECT. 1, first sentence revised, 1985, 171.

**Chapter 186. — Estates for Years and at Will.**

**Chapter 187. — Easements.**

SECT. 1A added, 1985, 637 § 11.

**Chapter 188. — Homesteads.**

SECT. 1 amended, 1985, 623.

**Chapter 189. — Dower and Curtesy.**

**Chapter 190. — Descent and Distribution of Real and Personal  
Property.**

**Chapter 190A. — Effect of Apparently Simultaneous Deaths  
Upon Devolution and Disposition of Property,  
including Proceeds of Insurance.**

**Chapter 191. — Wills.**

SECT. 1A, clause 6 revised, 1985, 738 § 1.

**Chapter 191A. — Disclaimer of Certain Property Interest Act.**

**Chapter 192. — Probate of Wills and Appointment of Executors.**

SECT. 2, clause (iii) stricken out and two clauses inserted, 1985, 738  
§ 2.

**Chapter 193. — Appointment of Administrators.**

**Chapter 194. — Public Administrators.**

**Chapter 195. — General Provisions relative to  
Executors and Administrators.**

**Chapter 196. — Allowances to Widows and Children,  
and Advancements.**

**Chapter 197. — Payments of Debts, Legacies and Distributive  
Shares.**

**Chapter 198. — Insolvent Estates Of Deceased Persons.**

**Chapter 199. — Settlement Of Estates Of Deceased Non-residents.**



**Chapter 199A. — General Provisions Regarding  
Certain Foreign Fiduciaries.**

**Chapter 200. — Settlement of Estates of Absentees.**

**Chapter 200A. — Abandoned Property.**

**Chapter 201. — Guardians and Conservators.**

SECT. 6 revised, 1985, 525 § 1.

SECT. 6A revised, 1985, 525 § 2.

SECT. 14 revised, 1985, 525 § 3.

SECT. 34 revised, 1985, 315.

**Chapter 201A. — Uniform Gifts to Minors Act.**

SECT. 4, subdivision (g), sentence added, 1985, 439.

**Chapter 201B. — UNIFORM DURABLE POWER OF ATTORNEY  
ACT.**

**Chapter 201C. — STATUTORY CUSTODIANSHIP TRUSTS.**

**Chapter 202. — Sales, Mortgages and Leases of Real Estate  
by Executors, Administrators, Guardians and Conservators.**

SECT. 32 amended, 1985, 711 § 17.

**Chapter 203. — Trusts.**

SECT. 14B added, 1985, 454.

**Chapter 203A. — Uniform Common Trust Fund Act  
(former title, Collective Investment  
of Small Trust Funds).**

**Chapter 204. — General Provisions relative to Sales, Mortgages,  
Releases, Compromises, etc., by Executors, etc.**

**Chapter 205. — Bonds of Executors, Administrators, Guardians,  
Conservators, Trustees and Receivers.**

**Chapter 206. — Accounts and Settlements of Executors,  
Administrators, Guardians, Conservators, Trustees,  
and Receivers.**

SECT. 24, second paragraph, first sentence revised, 1985, 783 § 3; paragraph inserted after second paragraph, 1985, 738 § 4.

**Chapter 207. — Marriage.**

SECT. 47B added, 1985, 274.

SECT. 58 repealed, 1985, 250.



**Chapter 208. — Divorce.**

SECT. 1A, first sentence revised, 1985, 691 § 1. second and third paragraphs revised, 1985, 691 § 2; section amended, 1985, 691 § 3.

SECT. 28, first sentence stricken out and two sentences inserted, 1985, 490 § 1.

SECT. 28A added, 1985, 490 § 2.

**Chapter 209. — Husband and Wife.**

**Chapter 209A. — Abuse Prevention.**

**Chapter 209B.—Massachusetts Child CUSTODY Jurisdiction Act.**

**Chapter 210. — Adoption of Children and Change of Names.**

SECT. 3, paragraph (b), sentence added, 1985, 244.

SECT. 5D added, 1985, 793.

SECT. 11A, first sentence revised, 1985, 316.

**Chapter 211. — The Supreme Judicial Court.**

SECT. 4 revised, 1985, 29.

**Chapter 211A. — Appeals Court.**

SECT. 5 amended, 1985, 330 § 2.

SECT. 10, first paragraph revised, 1985, 314 § 4; second paragraph amended, 1985, 314 § 5. (See 1985, 314 § 10.)

**Chapter 211B. — Trial Court of the Commonwealth.**

**Chapter 211C. — Commission on Judicial Conduct.**

**Chapter 211D.— Committee For Public Counsel Services.**

**Chapter 212. — The Superior Court.**

SECT. 30 revised, 1985, 330 § 3.

**Chapter 213. — Provisions Common to the Supreme Judicial and Superior Courts.**

**Chapter 214. — Equity Jurisdiction (former title, Equity Jurisdiction and Procedure in the Supreme Judicial and Superior Courts).**

**Chapter 215. — Probate Courts.**

SECT. 6B added, 1985, 490 § 3.

SECT. 34A, amended, 1985, 342.



**Chapter 216. — Courts of Insolvency.****Chapter 217. — Judges and Registers of Probate and Insolvency.****Chapter 218. — District Courts.**

SECT. 1, under caption "Suffolk", sixth paragraph revised, 1985, 186.

SECT. 10, first paragraph amended, 1985, 750 § 1.

SECT. 19A amended, 1985, 314 § 6. (See 1985, 314 § 10.)

SECT. 19B, second paragraph amended, 1985, 314 § 7. (See 1985, 314 § 10.)

SECT. 21 amended, 1985, 101; third sentence revised, 1985, 311.

SECT. 58, first paragraph, first sentence revised, 1985, 636.

**Chapter 219. — Trial Justices.****Chapter 220. — Courts and Naturalization.****Chapter 221. — Clerks, Attorneys and Other Officers of Judicial Court.**

SECT. 62C, clause (e) revised, 1985, 794 § 6.

SECT. 92A amended, 1985, 715 § 4; seventh paragraph revised, 1985, 715 § 7. (See 1985, 715 § 7.)

**Chapter 221A.—THE MASSACHUSETTS LEGAL ASSISTANCE CORPORATION ACT.****Chapter 222. — Justices of the Peace, Notaries Public and Commissioners.****Chapter 223. — Commencement of Actions, Service of Process.**

SECT. 1, first sentence revised, 1985, 319.

SECT. 2A revised, 1985, 221.

**Chapter 223A. — Jurisdiction of Courts and of the Commonwealth over Persons in Other States and Countries.****Chapter 224. — Arrest on Mesne Process and Supplementary Proceedings in Civil Actions.****Chapter 225. — PROCESS AFTER JUDGMENT FOR NECESSARIES OR LABOR**

SECT. 12I added, 1985, 728 § 12. (See 1985, 728 § 15.)

**Chapter 226. — Bail.****Chapter 227. — Proceedings against Absent Defendants and upon Insufficient Service.**



**Chapter 228. — Survival of Actions and Death  
and Disabilities of Parties.**

**Chapter 229. — Actions for Death and Injuries Resulting in Death.**

**Chapter 230. — Actions By and Against Executors  
and Administrators.**

**Chapter 231. — Pleading and Practice.**

SECT. 60B, seventh paragraph revised, 1985, 759 § 3.

SECT. 60F added, 1985, 223 § 17.

SECT. 85G revised, 1985, 442.

SECT. 85N amended, 1985, 512.

SECT. 85S added, 1985, 223 § 18.

SECT. 85T added, 1985, 589.

SECT. 94B revised, 1985, 348 § 2.

SECT. 102C amended, 1985, 533 § 1.

SECT. 104 amended, 1985, 533 § 2.

SECT. 108, first sentence revised, 1985, 794 § 7. (See 1985, 794 § 14.)

SECT. 109, first and second sentences stricken out and one sentence inserted, 1985, 314 § 8; section amended, 1985, 314 § 9. (See 1985, 314 § 10.)

**Chapter 231A. — Procedure for Declaratory Judgments.**

**Chapter 231B. — Contribution among Joint Tortfeasors.**

**Chapter 232. — Set-off and Tender.**

**Chapter 232A. — Tender.**

**Chapter 233. — Witnesses and Evidence.**

SECT. 20B, definition of "Psychotherapist" revised, 1985, 85.

SECT. 23C added, 1985, 325.

SECT. 79G first paragraph, first sentence revised, 1985, 323.

**Chapter 234. — Juries.**

SECT. 27 revised, 1985, 313.

SECT. 28, first paragraph, two sentences added, 1985, 463.

**Chapter 234A. — Office Of Jury Commissioner For Commonwealth.**

**Chapter 235. — Judgment and Execution.**

**Chapter 236. — Levy of Executions on Land.**

**Chapter 237. — Writs of Entry.**



**Chapter 238. — Writs of Dower.**

**Chapter 239. — Summary Process for Possession of Land.**

SECT. 5, fifth paragraph revised, 1985, 754.

**Chapter 240. — Proceedings for Settlement  
of Title to Land.**

**Chapter 241. — Partition of Land.**

**Chapter 242. — Waste And Trespass.**

**Chapter 243. — Actions for Private Nuisances.**

**Chapter 244. — Foreclosure and Redemption  
of Mortgages.**

**Chapter 245. — Informations by the Commonwealth.**

**Chapter 246. — Trustee Process.**

**Chapter 247. — Replevin.**

**Chapter 248. — Habeas Corpus and Personal Liberty.**

**Chapter 249. — Audita Querela, Certiorari,  
Mandamus and Quo Warranto.**

**Chapter 250. — Writs of Error, Vacating Judgment,  
Writs of Review.**

**Chapter 251. — Uniform Arbitration Act for  
Commercial Disputes (former title, Arbitration).**

**Chapter 252. — Improvement of Low Land and Swamps.**

**Chapter 253. — Mills, Dams and Reservoirs.**

SECT. 50A added, 1985, 767.

**Chapter 254. — Liens on Buildings and Land.**

**Chapter 255. — Mortgages, Conditional Sales and Pledges of  
Personal Property, and Liens thereon.**

SECT. 12G, second and third sentences stricken out and one sentence inserted, 1985, 428 § 2. (See 1985, 428 § 8.)

SECT. 13L revised, 1985, 428 § 3. (See 1985, 428 § 8.)

SECT. 31E, paragraph added, 1985, 50.



**Chapter 255A. — Trust Receipts and Pledges without Possession in the Pledgee.**

**Chapter 255B. — Retail Instalment Sales of Motor Vehicles.**  
SECT. 16 revised, 1985, 428 § 4. (See 1985, 428 § 8.)

**Chapter 255C. — Insurance Premium Finance Agencies.**  
SECT. 19 revised, 1985, 428 § 5. (See 1985, 428 § 8.)

**Chapter 255D. — Retail Installment Sales and Services.**  
SECT. 13, subsection B, first three sentences stricken out and one sentence inserted, 1985, 428 § 6. (See 1985, 428 § 8.)

**Chapter 256. — Recognizances for Debts.**

**Chapter 257. — Seizure And Libelling Of Forfeited Property.**

**Chapter 258. — Claims And Indemnity Procedure for the Commonwealth, Its Municipalities, Counties And Districts And The Officers And Employees Thereof.**

**Chapter 258A. — Compensation of Victims of Violent Crimes.**  
SECT. 1 revised, 1985, 605 § 1.  
SECT. 2, paragraph added, 1985, 605 § 2.  
SECT. 3 revised, 1985, 605 § 3.  
SECT. 4 revised, 1985, 605 § 4.  
SECT. 5 revised, 1985, 605 § 5.  
SECTS. 7A-7B added, 1985, 605 § 6.

**Chapter 258B.—Rights of Victims and Witnesses of Crime.**  
SECT. 1, definition of "Court" revised, 1985, 794 § 8. (See 1985, 794 § 14.)  
SECT. 8, fourth and fifth sentences stricken out and three sentences inserted, 1985, 794 § 9. (See 1985, 794 § 14.)

**Chapter 259. — Prevention of Frauds and Perjuries.**

**Chapter 260. — Limitation of Actions.**

**Chapter 261. — Costs in Civil Actions.**

**Chapter 262. — Fees of Certain Officers.**  
SECT. 8, subdivision A, clauses (1) and (2) revised, 1985, 680 § 2.  
SECT. 10 amended, 1985, 680 § 3.  
SECT. 38, first paragraph revised, 1985, 515.  
SECT. 53B, second sentence revised, 1985, 581.



**Chapter 263. — Rights of Persons Accused of Crime.****Chapter 264. — Crimes against Governments.****Chapter 265. — Crimes against the Person.**

SECT. 13D revised, 1985, 153; 555.

SECT. 13I added, 1985, 347.

**Chapter 266. — Crimes against Property.**

SECT. 16 revised, 1985, 312 § 1.

SECT. 17 revised, 1985, 312 § 2.

SECT. 28, subsection (a), first paragraph revised, 1985, 380.

SECT. 30, paragraph (1) amended, 1985, 306 § 1; paragraph (4) amended, 1985, 306 § 2.

SECT. 75C added, 1985, 511.

SECT. 102 amended, 1985, 320.

SECT. 108 amended, 1985, 659 § 1; six paragraphs added, 1985, 659 § 2.

SECT. 139, paragraph added, 1985, 386.

SECT. 141, first sentence revised, 1985, 155.

**Chapter 267. — Forgery and Crimes against the Currency.****Chapter 268. — Crimes against Public Justice.**

SECT. 16 revised, 1985, 241.

**Chapter 268A. — Conduct of Public Officials and Employees  
(former title, Code of Ethics).**

SECT. 20, third paragraph, Clause (e) revised, 1985, 98; paragraph added, 1985, 252 § 3; .252 § 4; section amended, 1985, 415.

**Chapter 268B. — Financial Disclosure by certain Public  
Officials and Employees.**

SECT. 7, last paragraph amended, 1985, 118.

**Chapter 269. — Crimes Against Public Peace.**

SECT. 10 amended, 1985, 349.

SECTS. 17-19 added, 1985, 536.

**Chapter 270. — Crimes Against Public Health.**

SECT. 6 revised, 1985, 345.

SECT. 16, first sentence revised, 1985, 197.

**Chapter 271. — Crimes against Public Policy.**

SECT. 7A, paragraph added, 1985, 222.



**Chapter 272. — Crimes against Chastity, Morality, Decency and Good Order.**

SECT. 54 revised, 1985, 142.

**Chapter 273. — Desertion, Non-support and Illegitimacy.**

**Chapter 273A. — Uniform Reciprocal Enforcement Of Support.  
(former title, Enforcement of the Duty to  
Support Dependents).**

**Chapter 274. — Felonies, Accessories and Attempts to Commit Crimes.**

**Chapter 275. — Proceedings to Prevent Crimes.**

**Chapter 276. — Search Warrants, Rewards, Fugitives from Justice, Arrest, Examination, Commitment and Bail.  
Probation Officers and Board of Probation.**

SECT. 10, second paragraph revised, 1985, 196.

SECT. 38, two sentences added, 1985, 256.

**Chapter 276A. — District Court Pretrial Diversion of Selected Offenders.**

**Chapter 277. — Indictments and Proceedings before Trial.**

SECT. 63, second sentence revised, 1985, 123.

**Chapter 278. — Trials and Proceedings before Judgment.**

SECT. 16D added, 1985, 682.

**Chapter 279. — Judgment and Execution.**

SECT. 42 revised, 1985, 794 § 10. (See 1985, 794 § 14.)

**Chapter 280. — Fines and Forfeitures.**

SECT.2, second paragraph revised, 1985, 794 § 11. (See 1985, 794 § 14.)

**Chapter 281. — The General Laws And Their Effect.**