Chap. 304

mind cure, massage, Christian science or cosmopathic method of healing, if they do not violate any provisions of section six. Sections two and eight shall not apply to an intern or medical officer registered as provided in section nine, while engaged in the practice of medicine as authorized by said section.

SECTION 3. Section 61 of said chapter 112, as so appearing, is hereby amended by inserting after the word "law", in line 1, the following words: the board of registration in medicine and.

Approved August 9, 1996.

Chapter 305. AN ACT AUTHORIZING THE COMMISSIONER OF THE DIVISION OF CAPITAL PLANNING AND OPERATIONS TO ACQUIRE A CERTAIN PARCEL OF LAND IN THE TOWN OF FRAMINGHAM.

Be it enacted, etc., as follows:

The commissioner of the division of capital planning and operations is hereby authorized, notwithstanding the provisions of sections forty H and section forty I of chapter seven of the General Laws, to acquire by eminent domain under the provisions of chapter seventy-nine of the General Laws, by purchase, gift or otherwise, and the town of Framingham is hereby authorized to convey to the commonwealth acting by and through the division of capital planning and operations, a parcel of land in the town of Framingham; provided, however, that if such acquisition is by purchase the purchase price for said property shall be based on an appraisal of the value of the property for highway use by a professional appraiser using professional appraising practices. Said parcel is owned by said town and is presently used for park land purposes. The parcel is to be diverted from its present use to a highway use. Said parcel is shown as parcel 4-16-T on a plan entitled, "Plan of Framingham, Massachusetts, Middlesex County, Owned by the town of Framingham and required for Highway Purpose, Scale 1" = 20'; January 20, 1995", which shall be kept on file by the chief engineer of the department of highways.

Approved August 9, 1996.

Chapter 306. AN ACT FURTHER REGULATING THE DISABILITY RETIREMENT SYSTEM.

Be it enacted, etc., as follows:

SECTION 1. Chapter 7 of the General Laws is hereby amended by striking out section 49, as appearing in the 1994 Official Edition, and inserting in place thereof the following section:-

1276
Section 49. (a) There shall be within the executive office of administration and finance, but not subject to its control, a public employee retirement administration commission consisting of seven members, three of whom shall be appointed by the governor, three of whom shall be appointed by the state auditor, and one of whom shall be chosen by the first six members and who shall be chairman. Of the three persons appointed by the governor, one shall be the governor or his designee, one shall be a representative of a public safety union, and one shall be qualified by having training and experience in the investment of funds as a result of having been principally employed in such occupation for a period of at least ten years. Of the three persons appointed by the state auditor, one shall be the state auditor or his designee, the president of the Massachusetts AFL-CIO or his designee, and one shall be a representative of the Massachusetts Municipal Association. Each member of the commission shall serve for a term of five years; provided, however, that in making initial appointments, the governor and the state auditor shall each appoint one member for a term of three years and one member for a term of four years. The members shall serve without compensation but shall receive their necessary expenses incurred in the discharge of their official duties. Upon the expiration of the term of an appointed member, or the chairman, or a vacancy otherwise created in said positions, the successor for said position shall be appointed in the manner aforesaid, or for the remainder of said term, whichever is applicable. The public employee retirement administration commission shall select an executive director, and enter into an employment contract with said director. The provisions of sections nine A, forty-five, forty-six, and forty-six C of chapter thirty, chapter thirty-one, and chapter one hundred and fifty E shall not apply to the executive director or any other employee of the commission.

(b) Four members of the board shall constitute a quorum; provided however, that a majority of members present and voting shall be needed to approve any motions.

(c) The executive director; shall with the approval of the commission:

(i) plan, direct, coordinate and execute administrative functions in conformity with the policies and directives of the commission;

(ii) shall employ an actuary, a general counsel and other employees as necessary, prescribe their duties and fix their compensation; provided that the salaries of said employees shall not exceed the sum annually approved therefore by the commission.

(iii) report to the commission on all operations under his control and supervision.

(d) The commission shall adopt an annual budget and supplemental budgets as deemed necessary by the said commission. Said budgets shall be funded from the investment income account of the state employees and state teachers' system.

SECTION 2. Section 50 of said chapter 7, as so appearing, is hereby amended by striking out, in lines 1 and 73, the words "commissioner of public employee retirement" and inserting in place thereof, in each instance, the following words:- public employee retirement administration commission.

SECTION 3. Said section 50 of said chapter 7, as so appearing, is hereby further amended by striking out, in line 4, the word "commissioner" and inserting in place thereof the following words:- public employee retirement administration commission is.
SECTION 3A. Said section 50 of said chapter 7, as so appearing, is hereby further amended by striking out, in lines 46, 53, 89, 92, 96 and 98, the word "commissioner", each time it appears, and inserting in place thereof, in each instance, the following words:- public employee retirement commission.

SECTION 3B. Said section 50 of said chapter 7, as so appearing, is hereby further amended by striking out, in lines 71 and 72, the words "division of public employee retirement administration", each time they appear, and inserting in place thereof, in each instance, the following words:- public employee retirement administration commission.

SECTION 4. Chapter 10 of the General Laws is hereby amended by striking out section 18, as so appearing, and inserting in place thereof the following section:-

Section 18. There shall be a state board of retirement serving in the department for the purpose of administering the state employees' retirement system established under the provisions of chapter thirty-two. Such board shall consist of five members as follows: the state treasurer who shall be a member ex officio and who shall serve as chairman, a second member who shall be appointed by the treasurer, a third and fourth member who shall be elected by the members in or retired from service of such system from among their numbers in such manner and for such term, not exceeding three years, as the commission shall determine, and a fifth member who shall not be an employee, a retiree, or official of the commonwealth and shall be chosen by the other four for a term of three years. Future elections of the third and fourth member shall be held under the supervision of such retirement board and the term of the third and fourth member shall be so arranged as not to expire in the year of expiration of the term of the third and fourth member. If a fifth member is not chosen by the other four members within thirty days after the expiration of the term of the fifth member, the governor shall appoint a fifth member for a term of three years. Each member of such retirement board shall continue to hold office until the expiration of his term and until the qualification of his successor. Upon the expiration of the term of office of any elected, chosen or appointed member or in case of a vacancy in any of said offices, his successor shall be elected, chosen or appointed as aforesaid for a three-year term or for the unexpired portion thereof, as the case may be, except that in no event shall the term of the third and fourth member expire in the same year as the term of the fifth member.

SECTION 5. Chapter 15 of the General Laws is hereby amended by striking out section 18, as so appearing, and inserting in place thereof the following section:-

Section 18. Subject to appropriation, the teachers' retirement board shall appoint an executive director and shall establish his salary. Subject to appropriation and to the approval of the board, the executive director shall employ other employees, prescribe their duties and fix their compensation; provided, that the salaries of said employees shall not exceed the sum annually approved therefore by the board. The provisions of section nine A, forty-five, forty-six, and forty-six C of chapter thirty, chapter thirty-one, and chapter one hundred and fifty E shall not apply to any employee of the board.

SECTION 6. Section 1 of chapter 32 of the General Laws, as so appearing, is hereby amended by striking out, in line 19, the words "commissioner of public employee retirement" and inserting in place thereof the following words:- public employee retirement
administration commission.

SECTION 6A. Said section 1 of said chapter 32, as so appearing, is hereby further amended by striking out the definition of "Commissioner" and inserting in place thereof the following definition:- "Commission", the public employee retirement administration commission established under section forty-nine of chapter seven.

SECTION 6B. Said section 1 of said chapter 32, as so appearing, is hereby further amended by striking out, in lines 349 and 350, the words "commissioner of public employee retirement" and inserting in place thereof the following words:- public employee retirement administration commission.

SECTION 7. Section 3 of said chapter 32, as so appearing, is hereby amended by striking out, in line 720, the word "commissioner" and inserting in place thereof the following word:- commission.

SECTION 8. Section 4 of said chapter 32 is hereby amended by striking out, in line 284, as so appearing, the words "commissioner of public employee retirement" and inserting in place thereof the following words:- "public employee retirement administration commission", and by striking out, in lines 294, 407, and 411 the word "commissioner" and inserting in place thereof, in each instance, the following word:- commission.

SECTION 9. Section 5 of said chapter 32, as so appearing, is hereby amended by striking out, in line 275, the words "commissioner of public employee retirement" and inserting in place thereof the following words:- public employee retirement administration commission.

SECTION 10. Said chapter 32 is hereby further amended by inserting after section 5A the following section:-

Section 5B. (a) Every retirement board established pursuant to the provisions of this chapter shall establish, in consultation with appropriate officials of the governmental unit, and a representative of the unions in the governmental unit, an early intervention plan which shall be subject to the review and approval of the commission. In the case of member's of the teacher's retirement system, the appropriate official of the governmental unit shall be a designee of municipal or regional school committees. Said plan shall be designed to implement programs and procedures that will effectuate the delivery of a coordinated employee assistance program and procedures that will effectuate the delivery of a coordinated employee assistance program for injured members; to provide educational programs designed to encourage workplace safety; and to identify hazards for the employer's attention. The goal of the plan shall be to limit the system's liability for disability benefits by ensuring the continued employment of disabled members through medical and vocational rehabilitation, reasonable accommodation of disabled workers, and a safer workplace.

(b) In order to facilitate the implementation of the system's early intervention plan, every employer, following written notice to the affected member shall notify the retirement board whenever a member has been absent from work for thirty work days or more as the result of a work-related injury, if it is determined by a physician selected by the employee and a physician selected by the employer that the employee's return to work is not imminent; provided, that if the two physicians do not agree whether the return to work is imminent, said
physicians shall select a third physician who shall make said determination. Upon receipt of said notification, the retirement board shall determine whether the member is a candidate for further review pursuant to the system's early intervention plan. If the board determines that further review is warranted, it shall proceed to assemble an early intervention team which shall consist of a representative of the retirement board who shall serve as chair of the team, the employer's personnel or human service director or workers compensation agent, a rehabilitation specialist designated by the commission, a representative of the members union and the members treating physician. Said team shall have access to records pertaining to the member's injury to determine the condition of the member. Any records obtained by the team shall be used for the sole purpose of making the determination required by this section and shall not be used for any other purpose relating to the member's employment. Such records shall be exempt from disclosure pursuant to clause Twenty-sixth of section seven of chapter four and chapter sixty-six. No member of the team shall disclose to any person who is not a member of the team any confidential medical information or other personal information about the member that has been supplied to the team under the provisions of this section. If the board, upon recommendation of the early intervention team, determines that the member is likely to be unable to perform the essential duties of his job, it shall have the authority to require the member to undergo an assessment to determine whether he would benefit from a medical or vocational rehabilitation program. The determination by a retirement board as to whether a member is a candidate for further review pursuant to the early intervention plan, the scope of the review by the early intervention team, and the extent of any recommended vocational or rehabilitation program shall be limited to the member's injury which caused the original notification to the retirement board. The board shall make every reasonable effort to make such determination in a expeditious manner and said determination shall not be arbitrary, capricious or unreasonable. If the member fails to participate in the assessment or required rehabilitation, he shall be deemed to have waived his rights to benefits pursuant to sections six or seven.

(c) For purposes of designing the rehabilitation program, the early intervention team shall utilize resources available from the local retirement board, the employer, the member's collective bargaining representative, the Massachusetts rehabilitation commission, the public employee retirement administration commission, and such other sources as it deems necessary. The early intervention plan shall be reasonable and shall not unduly burden the member with regard to travel and time requirements. The plan shall be submitted to the board for approval; provided, however, that the member shall first be given notice and an opportunity to be heard by the board.

(d) The early intervention team shall monitor the implementation of the rehabilitation plan and shall continue to monitor the member's progress until he is returned to work or is granted a disability retirement pursuant to section six or seven.

(e) The board shall assume responsibility for all costs associated with the assessment and subsequent rehabilitation plan, less any amounts payable under insurance available to the employer or to the member. If the board determines that the member has failed without good cause to complete the rehabilitation plan designed by the early intervention team, the
member shall be deemed to have waived his rights to benefits pursuant to section seven in connection with the injury for which the rehabilitation was designed.

(f) If, following completion of a rehabilitation plan, the early intervention team determines that the member is able to perform the essential duties of the position in which the member was employed prior to his absence from work, the member shall be returned to work in his former position; provided that nothing in this section shall interfere with said member's right to use sick leave or take other leaves of absence subject to the same terms and conditions applicable to employees who have not been subject to the requirements of this section; and provided, further, that no information obtained by the board or the member's employer as a result of the early intervention process shall be admissible in support of any application for involuntary retirement pursuant to sections six or seven.

SECTION 11. Section 6 of said chapter 32, as so appearing, is hereby amended by striking out, in lines 27, 32, 45, 124, 133, 144, 145, 149, 159, 171, 188-189, 196, 206, 209, the word "commissioner", each time it appears, and inserting in place thereof, in each instance, the following word:- commission.

SECTION 11A. Said section 6 of said chapter 32, as so appearing, is hereby further amended by striking out, in lines 115, 116, 130 and 131, the words "commissioner of public employee retirement", each time they appear, and inserting in place thereof, in each instance, the following words:- public employee retirement administration commission.

SECTION 12. Said section 6 of said chapter 32, as so appearing, is hereby further amended by striking out, in lines 2, 5 and 6, and 9 and 10, the words "who becomes totally and permanently incapacitated for further duty" and inserting in place thereof, in each instance, the following words:- is unable to perform the essential duties of his job and that such inability is likely to be permanent,- and by striking out, in lines 36 and 37, the words "mentally or physically incapacitated for further duty, that such incapacity is likely to be permanent" and inserting in place thereof the following words:- unable to perform the essential duties of his job and that such inability is likely to be permanent.

SECTION 13. Subdivision (3) of said section 6 of said chapter 32, as so appearing, is hereby amended by striking out paragraph (d).

SECTION 14. Section 7 of said chapter 32 is hereby amended by striking out, in lines 4 and 5, as so appearing, the words "becomes totally and permanently incapacitated for further duty" and inserting in place thereof the following words:- is unable to perform the essential duties of his job and that such inability is likely to be permanent,- by striking out, in lines 30 to 33, inclusive, the words "mentally or physically incapacitated for further duty to the extent and under the circumstances set forth in this section, that such incapacity is likely to be permanent" and inserting in place thereof the following words:- unable to perform the essential duties of his job and that such inability is likely to be permanent.

SECTION 15. Said section 7 of said chapter 32, as so appearing, is hereby further amended by striking out, in lines 26, 235 and 238 the word "commissioner" and inserting in place thereof, in each instance, the following word:- commission,- and by striking out, in lines 52, 154 the words "commissioner of public employee retirement" and inserting in place thereof the following words:- public employee retirement administration commission.
SECTION 16. Said chapter 32 is hereby further amended by striking out section 8 as so appearing and inserting in place thereof the following section:—

Section 8. (1) Evaluations and Reexamination of Members:—

(a) The commission shall require, after consultation with the local board, any member retired for disability under the provisions of section six and seven to participate in an evaluation to determine whether such member's return to his former or similar job within the same department would likely be expedited by participation in a medical or vocational rehabilitation program. Such evaluation shall occur once per year during the first two year period next succeeding the date of his retirement, once in each three year period thereafter, and at any time upon the written request by any such member; provided, however, that an initial evaluation shall occur as soon as possible after October first, nineteen hundred and ninety-six for any member who has been retired for more than two years and has not participated previously in such an evaluation; and provided, further, that such evaluations shall occur not more frequently than once in any twelve month period. Such evaluations shall include mental or physical medical examinations, vocational testing, meetings, and consultations with medical professionals, including the member's treating physician and vocational rehabilitation counselors, which are necessary to determine whether the disability for which the member was retired continues to render the member unable to perform the essential duties of his job; provided, however, that the commissioner may excuse a member from such examination if the commissioner determines based on written findings that such examination is unwarranted based on the catastrophic nature of the member's illness or injury. If such member shall refuse without good cause to submit to any evaluation, his rights in and to the pension provided for in section six and seven shall promptly be terminated by the board; provided, however, that the member shall first be given written notice and an opportunity to be heard by the board with respect to such termination. Said member may appeal such termination to the contributory retirement appeals board.

If, following the evaluation, the commission determines that such retired member may benefit from such a rehabilitation program and that such a program is cost effective, the board shall provide such rehabilitation program for such member and shall pay the costs of the program less any benefits payable under insurance policies of the member for such programs and less any scholarships or grants otherwise available for such programs. Such rehabilitation program shall include only such services as shall appear on a list of services approved by the commission. Any such member who is unreasonably denied access to such program may appeal such denial to the contributory retirement appeals board. If the retired member fails to complete the program without good cause, said member's rights in and to the pension provided for in section six and seven shall immediately be suspended. Said member may appeal his suspension to the contributory retirement appeals board.

Upon the completion of the rehabilitation program the board shall require the member to submit to a mental or physical examination, pursuant to paragraph (b); provided, however, that if said board believes that an examination is unwarranted, said board shall file a statement of fact with the commission, stating the reasons why the examination is unwarranted. If the commission rejects this statement, the board shall conduct the examina-
tion. The examination required pursuant to this section shall, at a minimum, determine the scope of the member's physical capabilities in light of the completed rehabilitation program and whether the member is able to perform the essential duties of his job or the essential duties of a similar job within the same department given the member's condition. If such member shall fail to appear at any such required examination without good cause, all his rights in and to the retirement allowance provided for in section six or seven shall be terminated by the board; provided, however, that the member shall be given written notice and an opportunity to be heard prior to such termination. Said member shall may appeal such termination to the contributory retirement appeals board.

(b) For the purposes of mental or physical examinations under this section, the commissioner may appoint either a single physician or a three member regional panel to examine the retired member.

(2) Restoration to service in same governmental unit; (a) If, within two years of the date that a member is retired under section six or seven or after the completion of a rehabilitation program required under subdivision (1), and regional medical panel determines that the retired member is able to perform the essential duties of the position from which he retired, the member shall be returned to such position and his disability retirement benefit shall be revoked; provided, however, that if the retired member is able to perform the essential duties of a similar job within the same department for which he is qualified, as determined by the department of personnel administration, and such a position is vacant, said member shall return to such position. If the similar position shall pay less than the position from which such member shall have retired, such member shall be granted an amount from the retirement system equal to the difference between the regular compensation of the position for which such member was restored and the regular compensation such member would have received had he been restored to the position from which he retired.

If, after two years of the date that a member is retired under section six or seven, the regional medical panel determines that the retired member is qualified for and able to perform the essential duties of the position from which he retired or a similar position within the same department, as determined by the personnel administrator, said member shall be returned to said position, provided the position is vacant. If the position has been filled, the member shall be granted a preference for the next available position or similar position for which he is so qualified. If the similar position shall pay less than the position from which such member shall have retired from, such member shall be granted an amount from the retirement system equal to the difference between the regular compensation of the position for which such member was restored and the regular compensation such member would have received had he been restored to the position from which he retired.

When under the provisions of this section, no vacancy exists in the same or similar position he shall continue to receive such retirement allowance until such reinstatement takes place or as a result of the submission of earnings information under section ninety-one A which may require his pension to be reduced or revoked.

(b) Upon return to work, he shall again become a member in service and regular deductions shall again be made from his regular compensation. Any creditable service in
effect for him at the time of his retirement for disability shall thereupon be restored to full force and effect, and upon his subsequent retirement he shall be entitled to a normal yearly amount of retirement allowance computed as though such disability retirement and reinstatement had not taken place. No additional member contributions shall be required as a precondition of receiving such creditable service.

(c) The board shall, upon the written request of such retired member after his pension has been reduced, revoked or suspended as provided for in this section, cause him to again be examined by either a single physician or a three member regional medical panel as determined by the commission; provided, however, that such retired member shall not be re-examined if such member had been examined by such single physician or regional medical panel within the previous twelve months. If such medical report is to the effect that the mental or physical condition of such member has deteriorated, the board may increase or restore his pension as the report may warrant.

(d) Nothing in this section shall excuse an employer or a member returned to work under the provisions of this section from compliance with the provisions of section one hundred and three of chapter ninety-three, paragraph sixteen of section four of chapter one hundred and fifty-one B, of the Americans with Disabilities Act, 42 USC { 12101 et seq., or of any other state or federal law concerning persons with disabilities.

(3) Modifications of retirement allowance. If as a result of such medical report by a regional medical panel, as a result of the submission of earnings information under section ninety-one A, or as the result of the completion of a rehabilitation program as provided for under subdivision (1), or under subdivision (5) of section twenty-one, the commission finds that such retired member is engaged or is able to engage in gainful occupation and that the annual rate of his actual or potential earnings is less than his regular compensation as defined in this subdivision, but is more than the difference between such regular compensation plus the sum of five thousand dollars, and the normal yearly amount of his retirement allowance, then the yearly amount of his pension shall be reduced, and if his actual or potential earnings are more than such regular compensation, his pension shall be suspended. Notwithstanding any other provisions of this section, if such member submits earnings information pursuant to section ninety-one A, indicating earnings in excess of regular compensation, as therein described, such member's pension shall be reduced as provided for in this subdivision and shall not be increased for a period of one year unless such medical report finds that the mental or physical condition of such member has deteriorated. If the annual rate of his earnings should later be changed, the yearly amount of his pension shall be further modified by reinstating, increasing, reducing, or suspending it, as the case may be. For purposes of this subdivision, regular compensation means, subject to further definition by regulations of the public employee retirement administration commission, regular compensation which would have been payable during the preceding year had the member continued in service in the grade held by him at the time he was retired. The public employee retirement administration commission shall, subject to the provisions of section fifty of chapter seven, promulgate regulations establishing, and providing a system for annually adjusting for inflation and such other equitable factors as the commission deems relevant, the fair amount
of outside income that may be earned by a member retired pursuant to section six or seven, and shall promulgate regulations for the determination of the potential earnings of any such retired member based upon such member's functional capacity, age, education, and experience. Any such modification may be appealed by the member to the contributory retirement appeals board.

SECTION 17. Subdivision (1) of section 12 of said chapter 32, as so appearing, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:— Any member who is retired for disability under the provisions of section six, section seven or who is retired under the provisions of subdivision (2) of section twenty-six, may elect to have his allowance paid in accordance with the terms of option (a), option (b), or option (c) of subdivision (2) of this section.

SECTION 18. Subdivision (1) of section 12 of said chapter 32, as so appearing, is hereby amended by adding the following paragraph:—

For any member who is married, an election shall not be valid unless it is accompanied by the signature of the member's spouse indicating the member's spouse's knowledge and understanding of the retirement option selected. The retirement board shall provide the member and spouse with detailed information regarding the benefit option selected in order for the member and spouse to make an informed decision regarding said option. If any member who is married files an election which is not so accompanied, the board shall within fifteen days notify the member's spouse by registered mail of the option election and of the spouse's right to sign and return an acknowledgment of receipt and understanding of such information within thirty days after receipt of the acknowledgment. The election shall not take effect until it is accompanied by the signature of the member's spouse; provided, however, that no such signature shall be required if the spouse fails to submit such signed acknowledgment on or before the thirtieth day from receipt of the information from the retirement board. Such election made prior to the spousal notification may be changed in accordance with the spouses understanding of the retirement allowance selected, or at any later time otherwise permitted under this chapter. Nothing in this paragraph shall be deemed to affect the effective date of any retirement allowance. The provisions of this section relative to the retirement of the member's election being accompanied by the member's spouse shall not apply in the case of a member who is divorced and who has previously filed with the retirement board a domestic relations order which has been entered by the probate court and provides for the option to be elected by the member.

SECTION 19. Section 16 of said chapter 32 as so appearing is amended by striking out subdivision (2).

SECTION 20. Said section 16 of said chapter 32, as so appearing, is hereby further amended by striking out, in lines 67, 71, 79, 86-87, 93-94, the words "commissioner of public employee retirement" and inserting in place thereof, in each instance, the following words:— public employee retirement administration commission.

SECTION 21. Said section 16 of said chapter 32, as so appearing, is hereby amended by striking out, in lines 100 and 101, 107 and 108, 115 and 116 and in line 117, the
words "commissioner of public employee retirement" and inserting in place thereof the following words: public employee retirement administration commission.

SECTION 21A. Said section 16 of said chapter 32, as so appearing, is hereby further amended by striking out, in lines 102, 120, 122, 125 and 126 the word "commissioner" and inserting in place thereof, in each instance, the following word: commission.

SECTION 22. Section 18 of said chapter 32, as so appearing, is hereby amended by striking out, in lines 27, 29, 30, 32, 34 and 36, the word "commissioner" and inserting in place thereof, in each instance, the word: commission.

SECTION 23. Section 20 of said chapter 32 is hereby amended by striking out in lines 217 and 218, 690 and 691, 695 and 696, 711, 715, as so appearing, the words "commissioner of public employee retirement" and inserting in place thereof, in each instance, the following words: public employee retirement administration commission,- by striking out, in lines 220, 222, 696 and 697, 698, 699, 702, 704 and 705, the word "commissioner" and inserting in place thereof, in each instance, the word: commission,- by striking out, in lines 798 and 799 the words "commissioner of the division of public employee retirement administration" and inserting in place thereof, in each instance, the words: public employee retirement administration commission.

SECTION 24. Paragraph (b) of subdivision (3) of said section 20 of said chapter 32, as so appearing, is hereby amended by striking out the first two paragraphs and inserting in place thereof the following two paragraphs: Each such county system shall be managed by a retirement board which shall have the general powers and duties set forth in subdivision (5). Said board shall consist of five members as follows: the county treasurer, who shall be a member ex officio and serve as chairman, a second member appointed by the county commissioners, two members hereinafter referred to as the elected members, and one member of the county retirement board advisory council who shall be elected by a majority of those present and voting at a public meeting of said council, properly posted, called specifically for such election pursuant to paragraph (g). The election of the elected member shall be run in accordance with the provisions of paragraph (h).

SECTION 25. Subdivision (5) of said section 20 of said chapter 32, as so appearing, is hereby amended by striking out paragraph (d) and inserting in place thereof the following: (d) Any such board shall designate a neutral medical doctor or doctors with training or experience in the particular field of medicine applicable to the disability to advise the board in the determination of applications for ordinary disability retirement, accidental disability retirement, or in the case of an application for accidental death benefit.

SECTION 26. Subdivision (4) of said section 20 of said chapter 32, as so appearing, is hereby amended by striking out paragraphs (b) and (c) and inserting in place thereof the following two paragraphs: (b) Each such city or town system shall be managed by a retirement board which
shall have the general powers and duties set forth in subdivision (5). Such board shall consist of five members and shall be chosen in the following manner, except as provided in paragraph (c), the city auditor or town accountant or other officer having similar powers and duties who shall be a member ex officio, a second member appointed by the appointing authority of a city or town, a third and fourth member who shall be elected by the members in or retired from service of such system from among their number in such manner and for such term, not exceeding three years, as the mayor in a city or the board of selectmen in a town shall determine, and a fifth member who shall not be an employee, a retiree, or official of the governmental unit and shall be chosen by the other four for a term of three years. If the fifth member is not chosen by the other four members within thirty days after the expiration of the term of the fifth member, said member shall be appointed in a city by the mayor, subject to confirmation by the city council, or in a town by the board of selectmen. Future elections of the third and fourth members shall be held under the supervision of such retirement board and the term of the third and fourth member shall be so arranged as not to expire in the year of expiration of the term of the fifth member.

(c) In any city or town exercising the local option contained in this subsection shall upon the recommendation of the city manager with the approval of the city council or the board of aldermen in a Plan D or Plan E city, or the mayor with the approval of the city council or the board of aldermen in any other city, or board of selectmen with the approval of town meeting in a town may adopt the following method for selection of the members of the retirement board. Such board shall consist of five members and shall be chosen as follows:

The city manager in a Plan D or Plan E city, the mayor in any other city, the board of selectmen in a town shall appoint two members for a period of three years, a third and fourth member who shall be elected by the members in or retired from service of such system from among their number in such manner and for such term, not exceeding three years, as mayor in a city, or city manager in a Plan D or Plan E city, or town council or board of selectmen in a town shall determine. The fifth member shall be appointed by the public employee retirement administration commission after being nominated by the other four members provided, however, in the event said four members cannot agree on such nominee to submit to the commission within ten days, then each member shall within five days submit a list of three names of individuals ready and willing to serve, and the commission shall then appoint the fifth member from such list who shall be a resident of such community and who shall not be a current or former member of the retirement system under this chapter or an official of the governmental unit. Each member of the city or town retirement board provided for in paragraphs (b) and (c) shall continue to hold office until the expiration of his term and until the qualification of his successor. Upon the expiration of the term of office of any elected or appointed member or in case of a vacancy in either of said offices, his successor shall be elected or appointed as aforesaid for a three-year term or for the unexpired portion thereof, as the case may be, except that in no event shall the term of the third and fourth member expire in the same year as the term of the fifth member. The mayor of a city, the board of selectmen of a town under the manager of a municipality having a town council
form of government shall notify in writing all heads of departments of such city or town of any such vacancy in said board to be filled by election, and a notice of such vacancy and election shall be posted in a conspicuous place in such city or town.

SECTION 27. Subdivision (4 1/4) of said section 20 of said chapter 32, as so appearing, is hereby amended by striking out paragraph (b) and inserting in place thereof the following paragraph:-

(b) Said system shall be managed by an retirement board which shall have the general powers and duties set forth in subdivision (5). Said board shall consist of five members as follows: the treasurer of the agency who shall be a member ex officio, a second member appointed by the appointing authority of the agency, a third and fourth member who shall be elected by the members in or retired from service of such system from among their number in such manner and for such term, not exceeding three years, as the chairman of the agency shall determine, and a fifth member who shall not be an employee, retiree, or official of the governmental unit and shall be appointed by the other four members for a term of three years. Future elections of the third and fourth members shall be held under the supervision of such retirement board and the term of the third and fourth members shall be so arranged so as not to expire in the year of expiration of the term of the fifth member. Each member of such retirement board shall continue to hold office until the expiration of his term and until the qualification of his successor. Upon the expiration of the term of office of any elected or appointed member or in case of a vacancy in either of said offices, his successor shall be elected or appointed as aforesaid for a three year term or for the unexpired portion thereof, as the case may be, except that in no event shall the term of the third and fourth member expire in the same year as the term of the fifth member.

SECTION 28. Subdivision (4½) of said section 20 of said chapter 32, as so appearing, is hereby amended by striking out paragraph (b) and inserting in place thereof the following paragraph:-

(b) Said system shall be managed by an retirement board which shall have the general powers and duties set forth in subdivision (5). Said board shall consist of five members as follows: the secretary-treasurer of the authority who shall be a member ex officio, a second member appointed by the appointing authority of the authority, a third and fourth member who shall be elected by the members in or retired from service of such system from among their number in such manner and for such term, not exceeding three years, as the chairman of the authority shall determine, and a fifth member who shall not be an employee, retiree, or official who shall be appointed by the other four members for a term of three years. Future elections of the third and fourth members shall be held under the supervision of such retirement board and the term of the third and fourth members shall be so arranged so as not to expire in the year of expiration of the term of the fifth member. Each member of such retirement board shall continue to hold office until the expiration of his term and until the qualification of his successor. Upon the expiration of the term of office of any elected or appointed member or in case of a vacancy in either of said offices, his successor shall be elected or appointed as aforesaid for a three year term or for the unexpired portion thereof, as the case may be, except that in no event shall the term of the
Chap. 306

third and fourth member expire in the same year as the term of the fifth member.

SECTION 29. Subdivision (4%) of said section 20 of said chapter 32, as so appearing, is hereby amended by striking out paragraph (b) and inserting in place thereof the following paragraph:-

(b) Said system shall be managed by an retirement board which shall have the general powers and duties set forth in subdivision (5). Said board shall consist of five members as follows: The treasurer of the authority who shall be a member ex officio, a second member appointed by the appointing authority of the authority, a third and fourth member who shall be elected by the members in or retired from service of such system from among their number in such manner and for such term, not exceeding three years, as the chairman of the authority shall determine, and a fifth member who shall not be an employee, retiree, or official of the governmental unit and shall be appointed by the other four members for a term of three years. Future elections of the third and fourth members shall be held under the supervision of such retirement board and the term of the third and fourth members shall be so arranged so as not to expire in the year of expiration of the term of the fifth member. Each member of such retirement board shall continue to hold office until the expiration of his term and until the qualification of his successor. Upon the expiration of the term of office of any elected or appointed member or in case of a vacancy in either of said offices, his successor shall be elected or appointed as aforesaid for a three year term or for the unexpired portion thereof, as the case may be, except that in no event shall the term of the third and fourth member expire in the same year as the term of the fifth member.

SECTION 30. Subdivision (4 7/8) of said section 20 of said chapter 32, as so appearing, is hereby amended by striking out paragraph (b) and inserting in place thereof the following paragraph:-

(b) Said system shall be managed by an retirement board which shall have the general powers and duties set forth in subdivision (5). Said board shall consist of five members as follows: The secretary-treasurer of the authority who shall be a member ex officio, a second member appointed by the appointing authority of the authority, a third and fourth member who shall be elected by the members in or retired from service of such system from among their number in such manner and for such term, not exceeding three years, as the chairman of the authority shall determine, and a fifth member who shall not be an employee, retiree, or official of the governmental unit who shall be chosen by the other four members for a term of three years. Future elections of the third and fourth members shall be held under the supervision of such retirement board and the term of the third and fourth members shall be so arranged so as not to expire in the year of expiration of the term of the fifth member. If a fifth member is not chosen by the other four members within thirty days after the expiration of the term of the fifth member, the authority board shall appoint a fifth member for a term of three years. Each member of such retirement board shall continue to hold office until the expiration of his term and until the qualification of his successor. Upon the expiration of the term of office of any elected or appointed member or in case of a vacancy in either of said offices, his successor shall be elected or appointed as aforesaid for a three year term or for the unexpired portion thereof, as the case may be,
except that in no event shall the term of the third and fourth member expire in the same year as the term of the fifth member.

SECTION 31. Subdivision (4 7/8A) of said section 20 of said chapter 32, as so appearing, is hereby amended by striking out paragraph (b) and inserting in place thereof the following paragraph:-

(b) Said system shall be managed by an retirement board which shall have the general powers and duties set forth in subdivision (5). Said board shall consist of five members as follows: The treasurer of the district who shall be a member ex officio, a second member appointed by the appointing authority of the districts, a third and fourth member who shall be elected by the members in or retired from service of such system from among their number in such manner and for such term, not exceeding three years, as the director of the district shall determine, and a fifth member who shall not be an employee, retiree, or official of the governmental unit who shall be chosen by the other four for a term of three years. Future elections of the third and fourth members shall be held under the supervision of such retirement board and the term of the third and fourth members shall be so arranged so as not to expire in the year of expiration of the term of the fifth member. If a fifth member is not chosen by the other four members within thirty days after the expiration of the term of the fifth member, the district commission shall appoint a fifth member for a term of three years. Each member of such retirement board shall continue to hold office until the expiration of his term and until the qualification of his successor. Upon the expiration of the term of office of any elected or appointed member or in case of a vacancy in either of said offices, his successor shall be elected or appointed as aforesaid for a three year term or for the unexpired portion thereof, as the case may be, except that in no event shall the term of the third and fourth member expire in the same year as the term of the fifth member.

SECTION 32. Subdivision (4 7/8B) of said section 20 of said chapter 32, as so appearing, is hereby amended by striking out paragraph (b) and inserting in place thereof the following paragraph:-

(b) Said system shall be managed by an retirement board which shall have the general powers and duties set forth in subdivision (5). Said board shall consist of five members as follows: The treasurer of the school system who shall be a member ex officio, a second member appointed by the appointing authority of the system, a third and fourth member who shall be elected by the members in or retired from service of such system from among their number in such manner and for such term, not exceeding three years, as the superintendent-director of the school system shall determine, and a fifth member who shall not be an employee, retiree, or official of the governmental unit who shall be chosen by the other four for a term of three years. Future elections of the third and fourth members shall be held under the supervision of such retirement board and the term of the third and fourth members shall be so arranged so as not to expire in the year of expiration of the term of the fifth member. If a fifth member is not chosen by the other four members within thirty days after the expiration of the term of the fifth member, the school system board shall appoint a fifth member for a term of three years. Each member of such retirement board shall continue to hold office until the expiration of his term and until the qualification of his
successor. Upon the expiration of the term of office of any elected or appointed member or in case of a vacancy in either of said offices, his successor shall be elected or appointed as aforesaid for a three year term or for the unexpired portion thereof, as the case may be, except that in no event shall the term of the third and fourth member expire in the same year as the term of the fifth member.

**SECTION 33.** Subdivision (4 7/8C) of said section 29 of said chapter 32, as so appearing, is hereby amended by striking out paragraph (b) and inserting in place thereof the following paragraph:-

(b) Said system shall be managed by a retirement board which shall have the general powers and duties set forth in subdivision (5). Said board shall consist of five members as follows: The treasurer of the district who shall be a member ex officio, a second member appointed by the appointing authority of the district, a third and fourth member who shall be elected by the members in or retired from service of such system from among their number in such manner and for such term, not exceeding three years, as the superintendent-director of the district shall determine, and a fifth member who shall not be an employee, retiree, or official of the governmental unit who shall be chosen by the other four for a term of three years. Future elections of the third and fourth members shall be held under the supervision of such retirement board and the term of the third and fourth members shall be so arranged so as not to expire in the year of expiration of the term of the fifth member. If a fifth member is not chosen by the other four members within thirty days after the expiration of the term of the fifth member, the district school committee shall appoint a fifth member for a term of three years. Each member of such retirement board shall continue to hold office until the expiration of his term and until the qualification of his successor. Upon the expiration of the term of office of any elected or appointed member or in case of a vacancy in either of said offices, his successor shall be elected or appointed as aforesaid for a three year term or for the unexpired portion thereof, as the case may be, except that in no event shall the term of the third and fourth member expire in the same year as the term of the fifth member.

**SECTION 34.** Section 21 of said chapter 32, as so appearing, is hereby amended by striking out, in lines 1 and 2, the words "commissioner of public employee retirement" and by striking out, in lines 2, 17, 42 and 43, 53, 59-60, 66, 82, 109, 120, 184, 231, 237, the words "commissioner of public employee retirement retirement administration commission," by striking out, in lines 6, 11, 18, 27, 29, 31, 32, 36, 71, 74, 84, 88, 91, 93, 93, 105, 114, 115, 118, 123, 124, 127, 128, 133, 136, 137, 141, 142, 143, 156, 158, 160, 168, 243, 258, 260, 261, 262, 264, 265, 271-272, 274, 275, 277, 279, 289, 290, 295, 297, 299, 299, 302, 328, 329, 331 and 334, the word "commissioner" and inserting in place thereof, in each instance, the words:- public employee retirement administration commission,- by striking out, in lines 59, 77, 87, 687 and 688, 689, 692, 1110, the word "commissioner" and inserting in place thereof the following words:- public employee retirement administration commission.
and inserting in place thereof, in each instance, the following word:- commission,- and by striking out, in lines 350, 354 and 355, 363, 367, 376, 1139 and 1140, the words "commissioner of public employee retirement" and inserting in place thereof, in each instance, the following words:- public employee retirement administration commission.

SECTION 36. Said section 22 of said chapter 32 is hereby further amended by inserting after the word "paid", in line 591, as so appearing, the following words:- ; provided, however, that each retirement board shall adopt an annual budget and supplemental budgets as deemed necessary by said board. Said budgets shall be funded solely from the investment income account of each system and without any further appropriation from the municipality, county or other governmental unit the current or former employees of which are served by said board. Notwithstanding the foregoing, at least thirty days prior to the adoption of said budgets, the boards shall file said budgets with the appropriate legislative body of the governmental unit the current or former employees of which are served by said board. Said governmental unit at its option may, but shall not be required to, appropriate additional monies for use by the retirement board in carrying out the purposes of section five B.

SECTION 37. Section 22D of said chapter 32 as so appearing is hereby amended by striking out, in lines 33, 49, 67, 69, the word "commissioner", each time it appears, and inserting in place thereof, in each instance, the following word:- commission.

SECTION 38. Section 23 of said chapter 32 as so appearing is hereby amended by striking out, in lines 41, 46, 248, 264 and 265, 269 and 468 and 469 the words "commissioner of public employee retirement", each time it appears, and inserting in place thereof, in each instance, the following words:- public employee retirement administration commission.

SECTION 38A. Said section 23 of said chapter 32, as so appearing, is hereby further amended by striking out, in lines 43, 49, 229, 272 and 273, 280, 307, 328, 334, 363, 365, 487 and 492 the word "commissioner" and inserting in place thereof, in each instance, the following word:- commission.

SECTION 38B. Said section 23 of said chapter 32, as so appearing, is hereby further amended by striking out, in lines 334 and 335, the words "commissioner of public employee retirement" and inserting in place thereof the following words:- a designee of the public employee retirement administration commission.

SECTION 39. Section 24 of said chapter 32, as so appearing, is hereby amended by striking out, in lines 1 and 2 and in lines 17 and 18, the words "commissioner of public employee retirement" and inserting in place thereof, in each instance, the following words:- public employee retirement administration commission.

SECTION 40. Section 25 of said chapter 32, as so appearing, is hereby amended by striking out, in line 125, the words "division of public employee retirement administration" and inserting in place thereof, in each instance, the following words:- public employee retirement administration commission,- and by striking out, in line 130, the word "division" and inserting in place thereof the following word:- commission.

SECTION 40A. Section 26 of said chapter 32, as so appearing, is hereby amended
by striking out subdivision (4) and inserting in place thereof the following subdivision:-
(4) Sections five, six, and subdivisions (1) to (3), inclusive, of section ten shall not apply to any member so classified in Group 3. Section seven shall not apply to any member so classified to whom the provisions of subdivision (2) of this section are applicable. Notwithstanding any provisions to the contrary, sections five B, eight, and fifteen shall apply to any member so classified.

SECTION 41. Section 28 of said chapter 32, as so appearing, is hereby amended by striking out, in lines 40, 89 and 90, 94 and 95, 146, 201, 202, 237, 238, 264 and 265, 265 and 266, 291, and in lines 292 and 293, the words "commissioner of public employee retirement" and inserting in place thereof, in each instance, the following words:- public employee retirement administration commission,- and by striking out, in lines 42, 101, 102, 145, 152, and 213, the word "commissioner" and inserting in place thereof, in each instance, the following word:- commission.

SECTION 42. Section 40 of said chapter 32, as so appearing, is hereby amended by striking out in lines 2 and 9, the words "commissioner of public employee retirement" and inserting in place thereof, in each instance, the following words:- public employee retirement administration commission,- and by striking out, in lines 10, 12 and 13, and in line 14 the word "commissioner" and inserting in place thereof, in each instance, the following word:- commission.

SECTION 43. Section 44B of said chapter 32, as so appearing, is hereby amended by striking out, in line 33, the word "commissioner" and inserting in place thereof the following word:- commission.

SECTION 44. Section 58B of said chapter 32, as so appearing, is hereby amended by striking out, in lines 39 and 40, the words "commissioner of public employee retirement" and inserting in place thereof the following words:- public employee retirement administration commission.

SECTION 45. Section 65C of said chapter 32, as so appearing, is hereby amended by striking out, in line 34, the words "commissioner of public employee retirement" and inserting in place thereof the following words:- public employee retirement administration commission.

SECTION 46. Section 77A of said chapter 32, as so appearing, is hereby amended by striking out, in lines 32 and 33, the words "commissioner of public employee retirement" and inserting in place thereof the following words:- public employee retirement administration commission.

SECTION 47. Section 85J of said chapter 32, as so appearing, is hereby amended by striking out, in line 37, the words "commissioner of public employee retirement" and inserting in place thereof the following words:- public employee retirement administration commission.

SECTION 48. Section 90G½ of said chapter 32, as so appearing, is hereby amended by striking out, in line 17, the word "commissioner" and inserting in place thereof the following word:- commission.

SECTION 49. Section 90G¾ of said chapter 32, as so appearing, is hereby amended
Chap. 306

by striking out, in line 21, the word "commissioner" and inserting in place thereof the following word:— commission.

SECTION 50. Said chapter 32 is hereby further amended by striking out section 91A, as so appearing, and inserting in place thereof the following section:—

Section 91A. Every person pensioned or retired under any general or special law for disability, including accidental disability, shall in each year on or before April fifteenth subscribe, under the penalties of perjury, and file with the commission a statement, in such form as the commission shall prescribe, certifying the full amount of his earnings from earned income during the preceding year. Such pensioned or retired person shall annually submit to the commission all pertinent W-2 forms, 1099 forms, other requested tax forms and proof of income, and any other documentation requested by the commission. Said forms and information shall be submitted on or before April fifteenth of each year. If such pensioned or retired person fails to submit such statement or such forms, and unless such person shall show good cause for such failure to submit such statements to the commission, the member's rights in and to the retirement allowance provided for in section six and seven shall cease and shall in no event be reinstated until the member has complied with his reporting requirements under this section. If such earnings exceed an amount which when added to the member's retirement allowance is greater than the amount of regular compensation which would have been payable to such member if such member had continued in service in the grade held by him at the time he was retired plus the sum of five thousand dollars, said member shall refund the portion of his retirement allowance for such preceding year equal to such excess and until such refund is made, his pension or retirement allowance shall be held as security therefor. Prior to any termination or reduction of benefits pursuant to this section, the member shall be given a written notice and an opportunity to be heard by the retirement board and, upon such termination or reduction of benefits, shall have the right to appeal such action to the contributory retirement appeal board.

SECTION 51. Said chapter 32 is hereby further amended by striking out section 91B, as so appearing, and inserting in place thereof the following section:—

Section 91B. To facilitate the enforcement of the provisions of section ninety-one A by the public employee retirement administration commission, there shall be a wage reporting system and computer match file, which shall be operated in accordance with the provisions of this section.

(A) On an annual basis, the public employee retirement administration commission shall provide to the department of revenue such information as may be agreed upon pursuant to the terms of an interagency agreement between the department of revenue and the public employee retirement administration commission.

(B) The department of revenue shall compare such lists with data furnished to it in accordance with section ninety-one A, so as to determine if persons retired or pensioned and subject to the provisions of said section ninety-one A have complied with said section. Upon receipt of such information, the commission shall notify the respective retirement board which shall take the appropriate formal action provided for under this chapter.

SECTION 52. Said chapter 32 is hereby further amended by inserting after sec-
tion 91B the following section:-

Section 91C. The public employee retirement administration commission is hereby deemed to be an agency required to have access to criminal record offender information pursuant to clause (b) of section one hundred and seventy-two of chapter six. On at least an annual basis, the commission shall compare lists of all those receiving retirement allowances pursuant to sections six and seven with the information obtained pursuant to clause (b) of said section one hundred and seventy-two of chapter six. In the event said comparison gives the commission reason to believe that action should be taken in accordance with sections six or seven of this chapter, the commission shall notify the appropriate retirement board.

SECTION 53. Section 102 of said chapter 32, as appearing in the 1994 Official Edition, is hereby amended by striking out, in lines 1 and 2, the words "division of public employee retirement administration" and inserting in place thereof the following words:- public employee retirement administration commission.

SECTION 54. Chapter 338 of the acts of 1990 is hereby amended by striking out sections 1 and 2, as amended by section 99 of chapter 398 of the acts of 1991, and inserting in place thereof the following section:-

Section 1. (a) Notwithstanding the provisions of any general or special law to the contrary, the Automobile Insurance Bureau of Massachusetts, or its successor licensed under the provisions of section eight of chapter one hundred and seventy-five A of the General Laws, the Workers' Compensation Rating and Inspection Bureau of Massachusetts or its successor licensed under the provisions of section fifty-two of chapter one hundred and fifty-two, and the public employee retirement administration commission established in section forty-nine of chapter seven of the General Laws are hereby authorized to create an insurance and pension fraud bureau with the powers and duties specified in this section for the prevention and investigation of fraudulent insurance transactions and disability pension payments.

(b) Said insurance and pension fraud bureau shall be governed by a board consisting of eighteen members, one of whom shall be the secretary of the executive office of public safety, one of whom shall be the secretary of the executive office of labor, one of whom shall be the registrar of motor vehicles, one of whom shall be the commissioner of insurance, one of whom shall be the commissioner of the department of industrial accidents, one of whom shall be the commissioner of the public employee retirement administration commission, four of whom shall be members of the governing committee of the Automobile Insurers Bureau of Massachusetts, or its successor, four of whom shall be members of the governing committee of the Workers' Compensation Rating and Inspection Bureau of Massachusetts or its successor, and four of whom shall be members of the various boards of retirement established by section twenty of chapter thirty-two of the General Laws, as determined by the state board of retirement.

(c) The governing board of said insurance and pension fraud bureau shall employ an executive director and a general counsel. The executive directors shall be responsible for the administrative operation of said insurance and pension fraud bureau and shall perform such other tasks as said board may direct. The executive director shall ensure that appropri-
ate resources of the insurance and pension fraud bureau are dedicated to the investigation of fraudulent workers' compensation insurance transactions and disability pension claims, as well as other fraudulent insurance transactions. The general counsel shall be the chief legal officer of said insurance and pension fraud bureau.

(d) The executive director shall appoint other employees of said insurance and pension fraud bureau as necessary. The executive director may expend for legal, investigative, clerical and any other such expenses in such sums as may be necessary. The executive director shall also disseminate provisions of this section by the publishing of informational brochures and other such materials which encourage the public to report workers' compensation fraud and shall maintain a toll free number to receive such reports. All costs of administration and operation of said insurance and pension fraud bureau shall be equally borne by the Automobile Insurers Bureau of Massachusetts, or its successor, by the Workers Compensation Rating and Inspection Bureau of Massachusetts or its successor, and by the public employee retirement commission or its successor. The executive director shall determine the estimated costs for the operation of said insurance fraud bureau and, upon approval by said board, shall assess the Automobile Insurers Bureau of Massachusetts, the Workers' Compensation Rating and Inspection Bureau of Massachusetts and the public employee retirement commission for such estimated costs. The estimated costs shall be paid to the executive director and he shall subsequently make adjustments to future assessments for any variation between estimated and actual costs on a fair and reasonable basis.

(e) The executive director shall designate such authorized personnel employed by said insurance and pension fraud bureau to have access to the following information and records when the same are relevant to any said insurance and pension fraud bureau investigation: records kept within the registry of motor vehicles; records kept within the department of industrial accidents; records kept within the department of revenue, records kept within the department of welfare, records kept within the Workers' Compensation Rating and Inspection Bureau, records kept within the department of employment and training; records kept by insurance companies; records kept by any retirement board of a city or town, as provided in section twenty of chapter thirty-two of the General Laws; and criminal offender record information pursuant to clause (b) of section one hundred and seventy-two of chapter six of the General Laws; provided, however, that access to such information and records shall be solely for the use by such authorized personnel in the performance of their official duties and responsibilities within said insurance fraud bureau.

(f) Any insurer licensed pursuant to the provisions of chapter one hundred and seventy-five of the General Laws, any person engaged in the business of insurance in the commonwealth exempted from compliance with the licensing requirements of said chapter one hundred and seventy-five, or other similar entity, having reason to believe that an insurance transaction or disability pension claim may be fraudulent, or having knowledge that a fraudulent insurance transaction or disability pension claim payment is about to take place, or has taken, place, shall within thirty days after determination that the transaction may be fraudulent, send to said insurance fraud bureau, on a form prescribed by the executive director, the information requested by the form and such additional information
relative to the transaction and the parties involved as the executive director may require. Fraudulent insurance and pension transactions shall include, but not be limited to, fraud and abuse of the system by attorneys, insurers, employers, medical providers, vocational rehabilitation providers, agents for attorneys or other service providers, claimants, state employees who are members of the state pension system under the provisions of chapter thirty-two of the General Laws, or any other individuals or companies alleged to have engaged in unlawful acts under the provisions of section fourteen of chapter one hundred and fifty-two, sections one hundred and eleven A or one hundred and eleven B of chapter two hundred and sixty-six or other laws of the commonwealth concerning insurance and pension fraud.

(g) Said insurance and pension fraud bureau shall review each such report and undertake such further investigation as it deems necessary and proper to determine the validity of the transaction. Upon receipt of such report pursuant to subsection (f), or other information which provides reason to believe that any person has violated any law of the commonwealth concerning insurance or pension fraud, said insurance and pension fraud bureau may conduct an investigation within or without the commonwealth. A person having material which is located outside the commonwealth and is requested by the executive director may make it available to the executive director or his representative to be examined at the place where it is located. The executive director may designated representatives, including officials of the state in which the material is located, in inspect the material on his behalf, and may respond to similar requests from officials of other states.

(h) The executive director, or his designee, may request the attendance and testimony of witnesses and the production of books and records relevant to an investigation. If a person neglects or refuses to comply with any request to provide testimony or produce books and records relevant to the investigation, the executive director may refer the matter to the attorney general, the district attorney, or the United States attorney.

(i) Whenever the executive director is satisfied that a material fraud, deceit, or intentional misrepresentation has been committed in an insurance transaction or disability pension claim or purported insurance transaction or disability pension claim, or that a violation of subsection three of section fourteen of chapter one hundred and fifty-two or sections one hundred and eleven A and one hundred and eleven B of chapter two hundred and sixty-six of the General Laws, or other laws of the commonwealth concerning insurance fraud has occurred, the executive director shall refer the matter to the attorney general, the district attorney or the United States attorney. The executive director shall also report any suspected violation of law to the appropriate licensing agencies of the state and federal governments.

(j) In the absence of malice or bad faith, no insurer, member of said insurance fraud bureau, member of said governing board, or an employee or agent of said insurance and pension fraud bureau or other person subject to the provisions of this section, or an employee or agent of such insurer or person, shall be subject to civil liability for damages by reason of any statement, report or investigation made pursuant to the provisions of this section.
(k) Beginning August first, nineteen hundred and ninety-two and every six months thereafter said insurance and pension fraud bureau shall file a report with the clerk of the house of representatives who shall forward the same to the joint legislative committee on commerce and labor and a similar report shall be filed with the attorney general which shall include appropriate information, unless otherwise prohibited by law, on the disposition of matter referred to said insurance and pension fraud bureau. Beginning August first, nineteen hundred and ninety-two and every six months thereafter the attorney general shall file a report with the clerk of the house of representatives who shall forward the same to the joint legislative committee on insurance and to the joint legislative committee on commerce and labor and a similar report shall be filed with said insurance and pension fraud bureau which shall include appropriate information, unless prohibited by law, on the disposition of matters referred to the attorney general by said insurance fraud bureau. Said insurance and pension fraud bureau shall periodically report to insurers regarding the status of matters reported to said insurance fraud bureau by insurers, the outcome of all investigations and prosecutions conducted by said insurance and pension fraud bureau, and patterns and practices of fraudulent insurance transactions and disability pension claims identified in the course of performing its duties. Said insurance and pension fraud bureau shall perform such research functions and data collection efforts as directed by the governing board to assist in the prevention, detection and prosecution of fraudulent insurance transactions and disability pension claims.

(l) A person convicted for the violation of any law concerning insurance and pension fraud, following the investigation and referral for prosecution by said insurance and pension fraud bureau, shall be ordered to make restitution to the insurer or the state pension system for any financial loss sustained as a result of such violation.

SECTION 55. The public employee retirement administration commission shall succeed to and perform the duties and responsibilities of the division of public employee retirement administration. All duties, responsibilities, obligations, rule and regulation making authority, and all other activities formerly mandated to, granted to or performed by the division of public employee retirement administration and all books, papers, records, property, documents, equipment, and other property, both personal and real, which immediately prior to the effective date of this act are in the custody of the division of public employee retirement administration are hereby transferred to the public employee retirement administration commission and all existing contracts, memoranda, of understanding, and other obligations of the division of public employee retirement administration which are in force on the effective date of this act shall become the obligations and shall thereafter be performed by said public employee retirement administration commission, and all orders, rules, regulations, other determinations, approvals, and permissions granted by the division of public employee retirement administration shall continue in effect as if established or granted by the public employee retirement administration commission unless or until amended, modified, suspended, or revoked. All monies heretofore appropriated for the division of public employee retirement administration remaining unexpended on the effective date of this act are hereby transferred to the public employee retirement administra-
tion commission and shall be available for expenditure by said commission for the purposes
for which such funds were originally appropriated.

Pursuant to the provisions of this act, the division of public employee retirement
administration has been renamed the public employee retirement administration commission,
all employees of said division may be transferred to the commission established by the
operation of this act; and any such employees shall continue to be an employee and without
loss of accrued rights to holidays, sick leave, vacation and benefits, and shall thereafter
perform his duties at the direction of the public employee retirement administration
commission. Nothing in this act shall prevent the commission from appointing the
commissioner of the public employee retirement administration as the executive director of
the public employee retirement administration commission.

SECTION 56. Nothing in section five B of chapter thirty-two of the General Laws,
inserted by section ten of this act, shall supersede any rights expressly provided for under
any collective bargaining agreement in effect on the effective date of this act unless and until
such rights expressly provided for in such collective bargaining agreement are renegotiated
to agreement.

SECTION 57. Notwithstanding the provisions of any general or special law to the
contrary the current elected member of the retirement board shall continue to serve office
until the expiration of his term and until the qualification of his successor. The public
employee retirement administration commission shall determine the manner in which the
new elected member of the board shall first be elected. Said elected or appointed members
shall be so elected or appointed within sixty days of the effective date of this act.

SECTION 58. Subdivision (7) of said section 22 of said chapter 32, as so appearing,
is hereby amended by striking out paragraph (a) and inserting in place thereof the following
paragraph:-

(a) Expense Funds of the State Employees' Retirement System and the Teachers'
Retirement System - The state board of retirement and the teachers' retirement board shall
each adopt annual budgets and supplemental budgets as deemed necessary by the boards.
Said budgets shall be funded from the investment income account of each system without
further appropriation. At least thirty days prior to the adoption of said budgets the boards
shall file said budgets with the house and senate committees on ways and means and the
joint committee on public service.

Approved August 9, 1996.

Chapter 307. AN ACT PROVIDING FOR INCREASED PUBLIC ACCESS TO
DATA CONCERNING PHYSICIANS.

Be it enacted, etc., as follows:

SECTION 1. Section 6 of chapter 118G of the General Laws, as appearing in
section 275 of chapter 151 of the acts of 1996, is hereby amended by adding the following