
ACTS, 1987. - Chap. 272.

Section 52A of chapter 112 of the General Laws, as appearing in the 1984 Official Edition, is hereby amended by inserting after the first sentence the following sentence:- No such registered dentist, person practicing dentistry, or dental hygienist shall include, or permit, or cause to be included, in any newspaper, radio or television advertisement or in any display sign, personal solicitation or other manner of advertising, any written or spoken words or statements of a character that: (1) contains a statement of opinion as to the quality of dental services; (2) refers to benefits or other attributes of dental procedures or products that involve significant risks but that do not include realistic assessments of the safety and efficacy of such procedures or products; (3) contains statistical data, representations, or other information that is not susceptible to reasonable verification by the public; (4) refers to a fee or fees for dental services and fail to disclose that additional fees may be involved in individual cases, if the possibility of incurring such additional fees may be reasonably foreseen; (5) offers a discount for dental services without disclosing the total fee from which the discount will apply; (6) fails to make a disclosure of the source and authorship of any message published under a dentist's byline; or (7) contain a statement concerning the availability of specialty services to make the public believe that specialty care is rendered in a dental office by a qualified specialist when such is not the case.

Approved July 16, 1987.

Chapter 272. AN ACT REGULATING CONTROL SHARE ACQUISITIONS.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately regulate control share acquisitions, 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 110C the following chapter:-

CHAPTER 110D.

REGULATION OF CONTROL SHARE ACQUISITIONS.

Section 1. As used in this chapter, the following words, unless the context clearly requires otherwise, shall have the following meanings:-

(a) "Associate", any person who directly or indirectly controls, or is controlled by, or is under common control with, a person or who is acting or intends to act jointly or in concert with a person in connection with a control share acquisition; as used herein, control shall mean the

possession, direct or indirect, of the power to direct or cause the direction of the management or policies of a person, whether through the ownership of voting securities, by contract or otherwise; any corporation or organization of which a person is an officer, director or partner or in which a person performs a similar function; any direct or indirect beneficial owner of ten per cent or more of any class of equity securities of a person; any trust or estate in which a person has a beneficial interest or as to which a person serves as trustee or in a similar fiduciary capacity; and any relative or spouse of a person, or any relative of such spouse, any one of whom has the same residence as such person.

(b) "Beneficial ownership", the sole or shared power to dispose or direct the disposition of shares or the sole or shared power to vote or to direct the voting of shares, whether such power is direct or indirect or through any contract, arrangement, understanding, relationship or otherwise. A person shall not be deemed to be a beneficial owner of shares as to which such person may exercise voting power solely by virtue of a revocable proxy conferring the right to vote. A member of a national securities exchange shall not be deemed to be a beneficial owner of shares held directly or indirectly by it on behalf of another person solely because such member is the record holder of such securities and, pursuant to the rules of such exchange, may direct the vote of such shares, without instruction, on other than contested matters or matters that may affect substantially the rights or privileges of the holders of the shares to be voted but is otherwise precluded by the rules of such exchange from voting without instructions.

(c) (1) "Control share acquisition", the acquisition by any person of beneficial ownership of shares of an issuing public corporation which, but for the provisions of this chapter, would have voting rights and which, when added to all other shares of such corporation beneficially owned by such person, would entitle such person, upon acquisition of such shares, to vote or direct the voting of shares of such corporation having voting power in the election of directors within any of the following ranges of such voting power:-

- (i) one-fifth or more but less than one-third of all voting power;
- (ii) one-third or more but less than a majority of all voting power; or
- (iii) a majority or more of all voting power.

If this chapter applies to an issuing public corporation at the time a person makes a control share acquisition, all shares of such issuing public corporation the beneficial ownership of which is acquired by such person within ninety days before or after the date on which such person makes an acquisition of beneficial ownership of shares which results in such control share acquisition, regardless of whether this chapter was in effect or applies to such corporation during such ninety day period, and all shares acquired by such person pursuant to a plan to make a control share acquisition, shall be deemed to have been acquired in the same control share acquisition for purposes of this chapter.

(2) Subject to the provisions of the last paragraph of paragraph (1) of subsection (c), a "control share acquisition" shall not include the acquisition of beneficial ownership of shares acquired:

(i) before June twenty-sixth, nineteen hundred and eighty-seven; provided, however, that the aggregate of shares acquired before such date exceeds the range of voting power established by clause (i) of paragraph (1);

(ii) pursuant to a contract to acquire shares existing before June twenty-sixth, nineteen hundred and eighty-seven;

(iii) during any period after July fifteenth, nineteen hundred and eighty-seven that this chapter does not apply to the issuing public corporation pursuant to the provisions of section two;

(iv) by will or pursuant to the laws of descent and distribution;

(v) pursuant to the satisfaction of a pledge or other security interest created in good faith and not for the purpose of circumventing the provisions of this chapter;

(vi) pursuant to a tender offer, merger or consolidation, but only if such tender offer, merger or consolidation is pursuant to an agreement of merger or consolidation to which the issuing public corporation is a party; or

(vii) directly from the issuing public corporation or a wholly-owned subsidiary thereof.

(3) The acquisition of beneficial ownership of shares of an issuing public corporation does not constitute a control share acquisition if the acquisition is made by or from:

(i) a person whose voting rights with respect to shares of such corporation were previously authorized by the stockholders of the corporation in compliance with this chapter, unless such acquisition, when added to all other shares of such corporation beneficially owned by the person making such acquisition, would entitle such acquiring person to vote or direct the voting of shares of such corporation having voting power in the election of directors in excess of the range of voting power within which all shares beneficially owned by such person whose voting rights were previously so authorized had voting power immediately following such authorization; or

(ii) a person whose previous acquisition of beneficial ownership of shares of such corporation would have constituted a control share acquisition but for the provisions of paragraph (2) of subsection (c), unless such later acquisition, when added to all other shares of such corporation beneficially owned by the person making such acquisition, would entitle such acquiring person to vote or direct the voting of shares of such corporation having voting power in the election of directors in excess of the range of voting power within which the person who made such previous acquisition could exercise voting power immediately following such previous acquisition.

(d) "Interested shares", the shares of an issuing public corporation which are beneficially owned by:

(i) any person who has acquired or proposes to acquire beneficial ownership of shares of such issuing public corporation in a control share acquisition;

(ii) any officer of the issuing public corporation; or

(iii) any employee of the issuing public corporation who is also a director of such corporation.

(e) "Issuing public corporation", a corporation to which the provisions of section three of chapter one hundred and fifty-six B applies or to which the provisions of section three of chapter one hundred and sixty-four applies, or a trust or association subject to regulations under sections three to fourteen, inclusive, of chapter one hundred and eighty-two; provided, however, that such issuing public corporation has:

(i) two hundred or more stockholders of record; and

(ii) its principal place of business, its principal office, or substantial assets within the commonwealth; and

(iii) either: more than ten per cent of its stockholders of record residing within the commonwealth; or more than ten per cent of its issued and outstanding shares owned of record by residents of the commonwealth.

The record date for determining the percentages and numbers of stockholders and shares specified in this subsection shall be the last stockholder record date before the control share acquisition as to which the determination is being made or, if earlier, before the date on which a control share acquisition statement relating thereto is filed under the provisions of section three. A stockholder record date is the date fixed by the board of directors, or if applicable, the date when transfer books are closed by the board of directors, in connection with determining stockholders entitled to notice of and vote at a meeting, or to consent or dissent, to receive any dividend or other distribution, or for the purpose of any other lawful action. If a stockholder record date has not been fixed by the board of directors within the preceding four months, the determination shall be made as of the end of the issuing public corporation's most recent fiscal quarter.

The residence of each stockholder is presumed to be the address appearing in the records of the corporation. Shares held of record by brokers or nominees shall be disregarded for purposes of calculating the percentages and numbers specified in this subsection. Any shares of an issuing public corporation allocated to the account of an employee or former employee, or beneficiaries of employees or former employee, of such corporation and held in a plan that is qualified under section 401(a) of the Internal Revenue Code of 1986, as amended, and is a defined contribution plan within the meaning of section 414(i) of said Code shall be deemed, for the purposes of clause (iii), to be held of record by the employee to whose account such shares are allocated.

(f) "Person", any individual, corporation, partnership, unincorporated association or other entity, and any associate of any such person.

Section 2. (a) If the articles of organization or by-laws of an issuing public corporation provide, at the time of any control share acquisition which occurs prior to January first, nineteen hundred and eighty-eight, that this chapter shall apply to control share acquisitions of such corporation, shares of such corporation acquired in any such control share acquisition shall have only such voting rights as are authorized pursuant to the provisions of section five.

(b) If the board of directors of an issuing public corporation has adopted a vote prior to any control share acquisition which occurs prior to January first, nineteen hundred and eighty-eight, that the provisions of this chapter shall apply to control share acquisitions of such corporation, shares of such corporation acquired in any such control share acquisition shall have only such voting rights as are authorized pursuant to the provisions of section five. Within thirty days after the adoption of any such vote, the corporation shall submit to the state secretary a certificate signed under the penalties of perjury by the president or a vice president and by the clerk or an assistant clerk setting forth a copy of such vote of the directors, the date of adoption of such vote, and a certification that such vote was duly adopted by the directors.

(c) Unless the articles of organization or by-laws of an issuing public corporation provide, at the time of any control share acquisition which occurs on or after January first, nineteen hundred and eighty-eight, that the provisions of this chapter shall not apply to control share acquisitions of such corporation, shares of such corporation acquired in such control share acquisition shall have only such voting rights as are authorized pursuant to section five.

(d) If the articles of organization or by-laws of an issuing public corporation are amended to provide that the provisions of this chapter shall not apply to control share acquisitions of such corporation, or to eliminate a provision that this chapter shall not apply to control share acquisitions of such corporation, any such amendment shall apply only to control share acquisitions which occur after the effective date of such amendment.

(e) No amendment to the articles of organization adopted by a corporation pursuant to the provisions of this section shall be considered to affect the rights of stockholders adversely within the meaning of the provisions of section seventy-seven of chapter one hundred and fifty-six B.

Section 3. Any person who has made a control share acquisition or has made a bona fide written offer to make a control share acquisition may deliver to the issuing public corporation, personally or by registered or certified mail at its principal office, a control share acquisition statement which shall contain the following:

(i) the identity of such person and any associate of such person who intends to acquire or has acquired beneficial ownership of shares of the issuing public corporation;

(ii) a statement that such control share acquisition statement is being made and delivered pursuant to the provisions of this chapter;

(iii) the number and class or series of shares of the issuing public corporation beneficially owned by such person and each associate of such person prior to the control share acquisition;

(iv) the number and class or series of shares acquired or proposed to be acquired by such person pursuant to the control share acquisition and the range of voting power to which the control share acquisition is or, if consummated, would be subject pursuant to the provisions of subsection (c) of section one;

(v) a description of the terms and conditions of the proposed or completed control share acquisition, including but not limited to the prices paid by such person in the control share acquisition and the dates upon which the shares were acquired; and

(vi) if the control share acquisition has not been completed, a representation by such person that such person has the financial capacity to consummate the proposed control share acquisition, together with a statement in reasonable detail of the material facts upon which such representation is based.

Section 4. (a) If the person delivering the control share acquisition statement so demands in writing contemporaneously with the delivery of such control share acquisition statement, the board of directors of the issuing public corporation, within ten days after the receipt of the demand, shall call a special meeting of stockholders for the purpose of considering whether voting rights shall be authorized for the shares acquired or to be acquired in the control share acquisition. The demand shall not be effective unless accompanied by an undertaking to pay the corporation's reasonable expenses in connection with the special meeting but not including the expenses of the corporation incurred in opposing a vote to authorize voting rights for the shares acquired or proposed to be acquired in the control share acquisition. As promptly as reasonably practicable after the board has called the special meeting, the corporation shall give written notice of the special meeting to stockholders. Such notice shall be given not less than twenty days before the date of the special meeting. Unless the person delivering the control share acquisition statement and the corporation shall agree in writing to a later date, the special meeting shall be held not more than fifty days after the receipt by the corporation of the demand. If the person delivering the control share acquisition statement so requests in the demand, the special meeting shall be held no sooner than thirty days after receipt by the corporation of the demand.

(b) If no demand respecting a special meeting of the issuing public corporation's stockholders is made in accordance with subsection (a), consideration of the voting rights to be authorized for the shares acquired or to be acquired in the control share acquisition shall be presented at the next annual or special meeting of the corporation's stockholders notice of which has not been given prior to the receipt by the corporation of the control share acquisition statement.

(c) The notice to the issuing public corporation's stockholders of any annual or special meeting at which the voting rights to be accorded shares acquired or proposed to be acquired in a control share acquisition are to be considered shall be directed to all stockholders of record of the issuing public corporation as of the record date set for such meeting. Such notice shall include or be accompanied by a copy of the control share acquisition statement received by the issuing public corporation pursuant to this chapter, notice of rights, if any, arising pursuant to section seven and such other information as the issuing public corporation deems appropriate.

Section 5. Shares acquired in a control share acquisition shall have the

same voting rights as all other shares of the same class or series of the issuing public corporation only to the extent authorized by vote of the stockholders of the issuing public corporation at any annual meeting of stockholders or special meeting of stockholders. Such authorization shall require the affirmative vote of the holders of a majority of all of the shares entitled to vote generally in the election of directors, excluding interested shares. Interested shares shall be disregarded for determining a quorum and shall not be entitled to vote with respect to such authorization. If no such vote is adopted, such shares shall regain their voting rights upon transfer of beneficial ownership of such shares to another person unless such transfer constitutes a control share acquisition by the acquirer, in which event the voting rights of such shares shall be subject to the provisions of this chapter.

Section 6. (a) The articles of organization or by-laws of an issuing public corporation, by provision effective at the time of the occurrence of a control share acquisition, may authorize the redemption, at the option of such corporation but without requiring the agreement of the person who has made a control share acquisition, of all but not less than all shares acquired in such a control share acquisition, from such person for the fair value of such shares if:

(i) no control acquisition statement has been delivered; or

(ii) a control acquisition statement has been delivered and voting rights were not authorized for such shares by the stockholders in accordance with the provisions of section five.

(b) Notice of such redemption shall be given by the issuing public corporation not later than sixty days after the date on which the stockholders of the issuing public corporation voted not to authorize voting rights for the shares to be redeemed, or if no control share acquisition statement has been delivered prior to the date on which notice of redemption is given by the issuing public corporation, sixty days after the first date on which the board of directors of the issuing public corporation has actual knowledge of such control share acquisition.

(c) For purposes of this section, fair value shall be determined as of the date on which stockholders of the issuing public corporation voted not to authorize voting rights for the shares to be redeemed, or, if no control acquisition statement is delivered, as of the date on which the issuing public corporation determines to make a redemption under this section. Such value shall be determined in accordance with procedures adopted by the issuing public corporation and without regard to the effect of the denial of voting rights under the provisions of section five.

Section 7. Unless otherwise expressly provided in an issuing public corporation's articles of organization or by-laws in effect at the time of a control share acquisition of shares of such corporation, if voting rights are authorized for shares acquired in such control share acquisition in accordance with the provisions of section five and, in such control share acquisition, the person making such control share acquisition has acquired beneficial ownership of shares that, when added to all other shares of such corporation beneficially owned by such person, entitle such person to vote, or direct the voting of, shares of such corporation

having a majority or more of all voting power in the election of directors, each stockholder of record of such corporation, other than the person making such control share acquisition, who has not voted in favor of authorizing voting rights for the shares acquired in such control share acquisition may demand payment for his stock and an appraisal in accordance with the provisions of section eighty-six to ninety-eight, inclusive, of chapter one hundred and fifty-six B, and such stockholder and such corporation shall have the rights and duties and follow the procedures set forth in those sections as nearly as practicable. For purposes of said sections eighty-six to ninety-eight, inclusive, the corporate action shall be deemed to have become effective on the later of the date such voting rights are authorized or the date on which such control share acquisition is made. For purposes of this section, fair value shall be determined as of the date on which the stockholders authorize voting rights for the shares acquired in such control share acquisition, but in no event it shall be less than the highest price per share paid by the person who made such control share acquisition in such control share acquisition.

Section 8. To the extent that any provision of this chapter is inconsistent with any provision of chapter one hundred and fifty-six B, one hundred and sixty-four or one hundred and eighty-two the provisions of this chapter shall govern.

No provisions of this chapter shall be deemed to limit the power of an association or trust to amend its instrument or declaration of trust to the extent otherwise lawful.

SECTION 2. The General Laws are hereby further amended by inserting after chapter 110D the following chapter:

CHAPTER 110E.

REGULATION OF CONTROL SHARE ACQUISITIONS OF
FOREIGN CORPORATIONS.

Section 1. As used in this chapter, the following words, unless the context clearly requires otherwise, shall have the following meanings:-

(a) "Associate", any person who directly or indirectly controls, or is controlled by, or is under common control with, a person or who is acting or intends to act jointly or in concert with a person in connection with a control share acquisition; as used herein, "control" means the possession, direct or indirect, of the power to direct or cause the direction of the management or policies of a person, whether through the ownership of voting securities, by contract or otherwise; any corporation or organization of which a person is an officer, director or partner or in which a person performs a similar function; any direct or indirect beneficial owner of ten per cent or more of any class of equity securities of a person; any trust or estate in which a person has a beneficial interest or as to which a person serves as trustee or in a similar fiduciary

capacity; and any relative or spouse of a person, any relative of such spouse, any one of whom has the same residence as such person.

(b) "Beneficial ownership", the sole or shared power to dispose or direct the disposition of shares or the sole or shared power to vote or to direct the voting of shares, whether such power is direct or indirect or through any contract, arrangement, understanding, relationship or otherwise. A person shall not be deemed to be a beneficial owner of shares as to which such person may exercise voting power solely by virtue of a revocable proxy conferring the right to vote. A member of a national securities exchange shall not be deemed to be a beneficial owner of shares held directly or indirectly by it on behalf of another person solely because such member is the record holder of such securities and, pursuant to the rules of such exchange, may direct the vote of such shares, without instruction, on other than contested matters or matters that may affect substantially the rights or privileges of the holders of the shares to be voted but is otherwise precluded by the rules of such exchange from voting without instruction.

(c) (1) "Control share acquisition", the acquisition by any person of beneficial ownership of shares of an issuing public corporation which, but for the provisions of this chapter, would have voting rights and which, when added to all other shares of such corporation beneficially owned by such person, would entitle such person, upon acquisition of such shares, to vote or direct the voting of shares of such corporation having voting power in the election of directors within any of the following ranges of such voting power:-

- (i) one-fifth or more but less than one-third of all voting power;
- (ii) one-third or more but less than a majority of all voting power; or
- (iii) a majority or more of all voting power.

If this chapter applies to an issuing public corporation at the time a person makes a control share acquisition, all shares of such issuing public corporation the beneficial ownership of which is acquired by such person within ninety days before or after the date on which such person makes an acquisition of beneficial ownership of shares which results in such control share acquisition, regardless whether this chapter was in effect or applies to such corporation during such ninety day period, and all shares acquired by such person pursuant to a plan to make a control share acquisition, shall be deemed to have been acquired in the same control share acquisition for purposes of this chapter.

(2) Subject to the last paragraph of paragraph (1) of subsection (c), a "control share acquisition" does not include the acquisition of beneficial ownership of shares acquired:-

- (i) before June twenty-sixth, nineteen hundred and eighty-seven; provided, however, that the aggregate of shares acquired before such date exceeds the range of voting power established by clause (i) of paragraph (1);
- (ii) pursuant to a contract existing before June twenty-sixth, nineteen hundred and eighty-seven;
- (iii) during any period after July fifteenth, nineteen hundred and

eighty-seven that this chapter does not apply to the issuing public corporation pursuant to the provisions of section two;

(iv) by will or pursuant to the laws of descent and distribution;

(v) pursuant to the satisfaction of a pledge or other security interest created in good faith and not for the purpose of circumventing this chapter;

(vi) pursuant to a tender offer, merger or consolidation, but only if such tender offer, merger or consolidation is pursuant to an agreement of merger or consolidation to which the issuing public corporation is a party; or

(vii) directly from the issuing public corporation or a wholly-owned subsidiary thereof.

(3) The acquisition of beneficial ownership of shares of an issuing public corporation does not constitute a control share acquisition if the acquisition is made by or from:-

(i) a person whose voting rights with respect to shares of such corporation were previously authorized by the stockholders of the corporation in compliance with this chapter, unless such acquisition, when added to all other shares of such corporation beneficially owned by the person making such acquisition, would enable such acquiring person to vote or direct the voting of shares of such corporation having voting power in the election of directors in excess of the range of voting power within which all shares beneficially owned by such person whose voting rights were previously so authorized had voting power immediately following such authorization; or

(ii) a person whose previous acquisition of beneficial ownership of shares of such corporation would have constituted a control share acquisition but for paragraph (2) of subsection (c), unless such later acquisition, when added to all other shares of such corporation beneficially owned by the person making such acquisition, would entitle such acquiring person to vote or direct the voting of shares of such corporation having voting power in the election of directors in excess of the range of voting power within which the person who made such previous acquisition could exercise voting power immediately following such previous acquisition.

(d) "Interested shares", the shares of an issuing public corporation which are beneficially owned by:-

(i) any person who has acquired or proposes to acquire beneficial ownership of shares of such issuing public corporation in a control share acquisition;

(ii) any officer of the issuing public corporation; or

(iii) any employee of the issuing public corporation who is also a director of such corporation.

(e) "Issuing public corporation", a corporation that has been established, organized or chartered under laws other than those of the commonwealth that has:-

(i) two hundred or more stockholders of record;

(ii) its principal executive office within the commonwealth and more of its employees, including employees of its majority owned subsidiaries,

or assets employed or located in the commonwealth than in any other state as of the end of any of its four fiscal quarters immediately preceding the control share acquisition as to which the determination is being made or, if earlier, immediately preceding the date on which a control share acquisition statement relating thereto is delivered pursuant to section three and

(iii) either: more than ten per cent of its stockholders of record residing within the commonwealth; or more than ten per cent of its issued and outstanding shares owned of record by residents of the commonwealth.

The record date for determining the percentages and numbers of stockholders and shares specified in this subsection shall be the last stockholder record date before the control share acquisition as to which the determination is being made or, if earlier, before the date on which a control share acquisition statement relating thereto is filed under the provisions of section three. A stockholder record date is the date fixed by the board of directors, or if applicable, the date when transfer books are closed by the board of directors, in connection with determining stockholders entitled to notice of and vote at a meeting or to consent or dissent, to receive any dividend or other distribution, or for the purpose of any other lawful action. If a stockholder record date has not been fixed by the board of directors within the preceding four months, the determination shall be made as of the end of the public corporation's most recent fiscal quarter.

The residence of each stockholder is presumed to be the address appearing in the records of the corporation. Shares held of record by brokers or nominees shall be disregarded for purposes of calculating the percentages and numbers specified in this subsection. Any shares of an issuing public corporation allocated to the account of an employee or former employee or beneficiaries of employees or former employees of such corporation and held in a plan that is qualified under Section 401(a) of the Internal Revenue Code of 1986, as amended, and is a defined contribution plan within the meaning of section 414(i) of said Code shall be deemed, for the purposes of clause (iii), to be held of record by the employee to whose account such shares are allocated.

(f) "Person", any individual, corporation, partnership, unincorporated association or other entity, and any associate of any such person.

Section 2. (a) If the charter or bylaws of an issuing public corporation provide, at the time of a control share acquisition, that this chapter applies to control share acquisitions of shares of such corporation, shares of such corporation acquired in such control share acquisition have only such voting rights as are authorized pursuant to the provisions of section five.

(b) A corporation may amend its charter or bylaws to eliminate a provision adopted pursuant to subsection (a), in which event this chapter shall not apply to any control share acquisition respecting the stock of such corporation which occurs after the effective date of such amendment.

Section 3. Any person who has made a control share acquisition or has

made a bona fide written offer to make a control share acquisition may deliver to the issuing public corporation, personally or by registered or certified mail at its principal office, a control share acquisition statement which shall contain the following:-

(i) the identity of such person and any associate of such person who intends to acquire or has acquired beneficial ownership of shares of the issuing public corporation;

(ii) a statement that such control share acquisition statement is being made and delivered pursuant to this chapter;

(iii) the number and class or series of shares of the issuing public corporation beneficially owned by such person and each associate of such person prior to the control share acquisition;

(iv) the number and class or series of shares acquired or proposed to be acquired by such person pursuant to the control share acquisition and the range of voting power to which the control share acquisition is or, if consummated, would be subject pursuant to the provisions of subsection (c) of section one;

(v) a description of the terms and conditions of the proposed or completed control share acquisition, including but not limited to the prices paid by such person in the control share acquisition and the dates upon which the shares were acquired; and

(vi) if the control share acquisition has not been completed, a representation by such person that such person has the financial capacity to consummate the proposed control share acquisition, together with a statement in reasonable detail of the material facts upon which such representation is based.

Section 4. (a) If the person delivering the control share acquisition statement so demands in writing contemporaneously with the delivery of such control share acquisition statement, the board of directors of the issuing public corporation, within ten days after the receipt of the demand, shall call a special meeting of stockholders for the purpose of considering whether voting rights shall be authorized for the shares acquired or to be acquired in the control share acquisition. The demand will not be effective unless accompanied by an undertaking to pay the corporation's reasonable expenses in connection with the special meeting but not including the expenses of the corporation incurred in opposing a vote to authorize voting rights for the shares acquired or proposed to be acquired in the control share acquisition. As promptly as reasonably practicable after the board has called the special meeting, the corporation shall give written notice of the special meeting to stockholders. Such notice shall be given not less than twenty days before the date of the special meeting. Unless the person delivering the control share acquisition statement and the corporation shall agree in writing to a later date, the special meeting shall be held not more than fifty days after the receipt by the corporation of the demand. If the person delivering the control share acquisition statement so requests in the demand, the special meeting will be held no sooner than thirty days after receipt by the corporation of the demand.

(b) If no demand respecting a special meeting of the issuing public

corporation's stockholders is made in accordance with the provisions of subsection (a), consideration of the voting rights to be authorized for the shares acquired or to be acquired in the control share acquisition shall be presented at the next annual or special meeting of the corporation's stockholders notice of which has not been given prior to the receipt by the corporation of the control share acquisition statement.

(c) The notice to the issuing public corporation's stockholders of any annual or special meeting at which the voting rights to be accorded shares acquired or proposed to be acquired in a control share acquisition are to be considered shall be directed to all stockholders of record of the issuing public corporation as of the record date set for such meeting. Such notice shall include or be accompanied by a copy of the control share acquisition statement received by the issuing public corporation pursuant to this chapter and such other information as the issuing public corporation deems appropriate.

Section 5. Shares acquired in a control share acquisition shall have the same voting rights as all other shares of the same class or series of the issuing public corporation only to the extent authorized by vote of the stockholders of the issuing public corporation at any annual meeting of stockholders or special meeting of stockholders. Such authorization shall require the affirmative vote of the holders of a majority of all of the shares entitled to vote generally in the election of directors, excluding interested shares. Interested shares shall be disregarded for purposes of determining a quorum and shall not be entitled to vote with respect to such authorization. If no such vote is adopted, such shares shall regain their voting rights upon transfer to another person unless such transfer constitutes a control share acquisition by the acquirer, in which event the voting rights of such shares shall be subject to the provisions of this chapter.

Section 6. If the jurisdiction under the laws of which an issuing public corporation is organized has adopted or adopts any law which expressly limits, restricts or otherwise affects the voting rights of any person in the event that such person acquires or proposes to acquire shares of such issuing public corporation which exceed or meet any level or range of ownership or voting powers specified in such law, and such law contains provisions that are expressly inconsistent with the provisions of this chapter as applicable to such issuing public corporation, the provisions of this chapter shall be inapplicable to such issuing public corporation to the extent necessary to resolve such inconsistency.

Section 7. No provisions of this chapter shall be deemed to limit the power of an association or trust to amend its instrument or declaration of trust to the extent otherwise lawful.

SECTION 3. Two years following the effective date of this act the governor, upon the advice of the secretaries of economic affairs and labor, shall submit to the general court a report evaluating the effect of chapters one hundred and ten D and one hundred and ten E of the General Laws on the commonwealth's economic well-being. Said report shall include, but not be limited to, the effect of said chapters on

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patterns and trends in mergers and acquisitions, jobs saved or retained, long-term investments in capital equipment and research and development, managerial accountability and shareholder voting rights. Said report shall also, include recommendations for legislative action to address any problems or opportunities referred to in said report.

Approved July 21, 1987.

Chapter 273. AN ACT PROVIDING FOR CERTAIN CREDITABLE SERVICE FOR CERTAIN EMPLOYEES IN THE PUBLIC RETIREMENT SYSTEM.

Be it enacted, etc., as follows:

SECTION 1. Subdivision (1) of section 4 of chapter 32, as appearing in the 1986 Official Edition, is hereby amended by inserting after paragraph (p) the following paragraph:-

(q) Any veteran employed in the service of the commonwealth or of any county, city, town or district, or any housing authority or any redevelopment authority thereof, who is a member in service in a public retirement system, and who is elected to the office of national commander of any congressionally chartered veterans organization, shall, while on leave of absence for the purpose of acting in a full-time capacity in said office, be considered on leave of absence without pay for the period of his term of office as national commander; provided, however, that such leave of absence shall not exceed fifteen months; and, provided further, that the period of time of such leave of absence shall be deemed creditable service for retirement purposes upon said member's depositing into the retirement fund of the system of which he is a member the total amount of the payments said member would have paid into the system had he remained in the service during said leave of absence, in one lump sum, or in installments, upon such terms as the board of retirement may prescribe. The provisions of this paragraph shall be effective for the members of the state employees' retirement system and of the teachers' retirement system and for the members of a county retirement system by vote of the county retirement board, subject to the approval of the county commissioners, of a town retirement system by vote of the town retirement board, subject to the approval of the town meeting, of a city retirement system by vote of the city retirement board subject to the approval of the council, and of a district retirement system by vote of the district retirement board, subject to the approval of the district meeting.

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

Approved July 21, 1987.

EMERGENCY LETTER: July 21, 1987 @ 4:54 P.M.