

of the third district court of eastern Middlesex, shall be paid such pension as she would have been eligible to receive, under the provisions of section sixty-five C of chapter thirty-two of the General Laws, had said Judge William J. O'Neill been eligible for retirement under the provisions of section sixty-five B of said chapter thirty-two as of the date of his death, and such pension payable to said widow shall be effective retroactively to the date of death of said judge.

*Approved August 19, 1971.*

**Chap. 677.** AN ACT RELATIVE TO THE APPLICATION OF THE CIVIL SERVICE LAW WHEN A POSITION BECOMES SUBJECT TO SAID LAW BY VIRTUE OF A CHANGE IN LAW OR RULE.

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

SECTION 1. Whenever an office or position becomes subject to the civil service law and rules by virtue of a change in law or rule and the director of civil service determines that an injustice would exist if the provisions of section forty-seven A of chapter thirty-one of the General Laws were applied, the status of the incumbent of such office or position shall be determined in accordance with the provisions of this act and the provisions of said section forty-seven A shall not apply, except as hereinafter provided. The words "by virtue of a change in law or rule" shall, as determined by said director, include those cases where an office or position is brought under civil service indirectly by a change in law or rule or by a change in the classification of a position, but shall not include cases where the change in law or rule clearly and directly brings under civil service positions previously exempt from said law. This act shall apply to incumbents of offices or positions employed on a permanent or temporary basis.

If the office or position is in the official service the incumbent may be retained subject to a qualifying examination prescribed by said director, and if he passes shall be certified for permanent or temporary appointment, as the case may be. If the position is in the labor service he shall be certified for permanent or temporary appointment, as the case may be. If certified for permanent appointment, he shall be required to serve a probationary period if he has been employed for less than two years. If he has been employed for more than two years, he shall not be required to serve a probationary period.

If he fails to pass the qualifying examination, he may be continued by the appointing authority in the office or position for the remainder of the term, if any, for which he was appointed, but shall not otherwise be subject to the provisions of said chapter thirty-one.

All officers and employees affected by any provision of this act who have tenure in their positions by reason of section nine A, nine B or nine D of chapter thirty of the General Laws shall continue to be employed without interruption of service within the meaning of said sections and without reduction in compensation and salary grade; all such officers and employees who do not have tenure by reason of said sections shall continue to be employed without interruption of service within the meaning of said sections and without reduction in compensation and salary grade. Any person who had such tenure or acquires such tenure and who does not pass the qualifying examination shall

continue to be employed subject to the provisions of section nine A, nine B or nine D, as the case may be, but shall not be subject to any provision of chapter thirty-one of the General Laws, except as provided in said sections.

If certified for a temporary appointment, and the office or position is subsequently made permanent during the period in which this act is in effect, he may at the request of the appointing authority attain permanent civil service status in said office or position without further examination, if applicable, and shall be required to serve a probationary period from the date of such permanent appointment.

SECTION 2. The provisions of this act shall apply to the incumbents of offices and positions brought under civil service by chapter eight hundred and thirty-eight of the acts of nineteen hundred and sixty-nine.

SECTION 3. The provisions of this act shall apply to incumbents of positions affected by the change in civil service rule three which became effective on February the seventh, nineteen hundred and sixty-six, provided that the director of civil service shall have discretionary powers to determine the most practicable date when said rule became or shall become effective in each agency of the commonwealth, city or town which is subject to the operation of said rule. In making such determination the director shall consider the individual needs of each such agency and the length of time elapsing between the effective date of the change in said rule and the date when the application of the provisions of said rule became or shall become possible.

SECTION 4. This act shall cease to be operative on July the first, nineteen hundred and seventy-five. *Approved August 19, 1971.*

THE COMMONWEALTH OF MASSACHUSETTS  
EXECUTIVE DEPARTMENT, STATE HOUSE  
BOSTON, August 26, 1971

The Honorable JOHN F. X. DAVOREN, *Secretary of the Commonwealth, State House, Boston, Massachusetts.*

DEAR MR. SECRETARY: — I, Francis W. Sargent, pursuant to the provisions of Article XLVIII of the Amendments to the Constitution, the Referendum II, Emergency Measures, hereby declare in my opinion the immediate preservation of the public convenience requires that the law being Chapter 677 of the Acts of 1971, entitled "AN ACT RELATIVE TO THE APPLICATION OF THE CIVIL SERVICE LAW WHEN A POSITION BECOMES SUBJECT TO SAID LAW BY VIRTUE OF A CHANGE IN LAW OR RULE." and the enactment of which received my approval on August 19, 1971, should take effect forthwith.

I further declare that in my opinion said law is an emergency law and the facts constituting the emergency are as follows:

To provide forthwith for the protection of the rights of the employees of the Commonwealth whose positions are covered by this act.

Sincerely,  
FRANCIS W. SARGENT,  
*Governor of the Commonwealth.*

OFFICE OF THE SECRETARY, BOSTON, August, 26 1971.

I, John F. X. Davoren, Secretary of the Commonwealth, hereby certify that the accompanying statement was filed in this office by His Excellency the Governor of the Commonwealth of Massachusetts at

twelve o'clock and fifty-two minutes, P.M., on the above date, and in accordance with Article Forty-eight of the Amendments to the Constitution said chapter takes effect forthwith, being chapter six hundred and seventy-seven of the acts of nineteen hundred and seventy-one.

JOHN F. X. DAVOREN,  
*Secretary of the Commonwealth.*

**Chap. 678.** AN ACT DIRECTING THE DEPARTMENT OF PUBLIC WORKS TO CONSTRUCT A CERTAIN BY-PASS ROADWAY IN THE TOWN OF NEWBURY.

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

The department of public works is hereby authorized and directed to relocate the easterly end of Elm street and reconstruct Middle road from its new point of intersection with Elm street to route U.S. 1 in the town of Newbury.

For the purposes of this act the department may expend funds authorized in section one of chapter seven hundred and sixty-eight of the acts of nineteen hundred and sixty-nine.

*Approved August 19, 1971.*

**Chap. 679.** AN ACT CHANGING THE NAME OF THE NEW YORK BUREAU IN THE DIVISION OF ECONOMIC DEVELOPMENT IN THE DEPARTMENT OF COMMERCE AND DEVELOPMENT TO THE BUREAU OF ECONOMIC DEVELOPMENT FOR WESTERN MASSACHUSETTS.

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

Section 4 of chapter 23A of the General Laws is hereby amended by striking out, in line 2, as appearing in section 1 of chapter 636 of the acts of 1964, the words "New York bureau" and inserting in place thereof the words: — bureau of economic development for western Massachusetts.

*Approved August 19, 1971.*

**Chap. 680.** AN ACT PROVIDING THAT THE JUDGE OF PROBATE FOR NANTUCKET COUNTY SHALL DEVOTE HIS FULL TIME TO JUDICIAL DUTIES AND ESTABLISHING HIS SALARY.

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

SECTION 1. Chapter 217 of the General Laws is hereby amended by striking out section 6, as most recently amended by section 1A of chapter 756 of the acts of 1963, and inserting in place thereof the following section: —

*Section 6.* No judge of probate shall be interested in, or benefited by, the fees or emoluments which may arise in any matter pending before any probate court or court of insolvency of this commonwealth, or which may arise in any suit or action pending in any court of this commonwealth where the subject matter or cause of action is founded upon or derived from proceedings begun in any of the probate courts or courts of insolvency nor shall he, except as otherwise provided, be appointed or act as executor, administrator, guardian, conservator, trustee under a will, commissioner, appraiser or assignee of or upon an estate within