

HOUSE No. 2175

By Mr. Pettoruto of Andover, petition of Albert P. Pettoruto that provision be made for the recall of certain retired chief justices and associate justices of the Superior Court for temporary active service. Pensions and Old Age Assistance.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Sixty-Six.

AN ACT TO PROVIDE FOR THE RECALL OF CERTAIN RETIRED CHIEF JUSTICES AND ASSOCIATE JUSTICES OF THE SUPERIOR COURT FOR TEMPORARY ACTIVE SERVICE.

1 *Whereas*, The deferred operation of this act would tend to
2 defeat its purpose, which is to minimize delays and disloca-
3 tions due to illnesses and other necessary absences of justices
4 in the trial of cases in the Superior Court, it is hereby de-
5 clared to be an emergency act, necessary for the immediate
6 preservation of the public convenience.

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

1 SECTION 1. Chapter 32 of the General Laws is hereby
2 amended by inserting after section 65C the following new
3 section 65D: —

4 *Section 65D.* (a) Any chief justice or associate justice of
5 the superior court retired under the provisions of section
6 sixty-five A of this chapter may, subject to his consent, be
7 recalled for temporary active service in that court as an as-
8 sociate justice.

9 (b) Such recall shall be made by the chief justice of the
10 superior court. During such temporary active service the
11 chief justice or associate justice thus recalled shall exercise
12 all judicial power and authority pertaining to the office of

13 associate justice of said court and shall be available for and
14 subject to the performance of any judicial powers, functions
15 and duties thereof.

16 (c) A chief justice or associate justice recalled for such
17 temporary active service shall be compensated as follows: —
18 For each day of service he shall be paid a per diem amount
19 determined on the basis of the annual salary of an associate
20 justice of the court. In calculating such per diem compensa-
21 tion Sundays and holidays shall be excluded. From the amount
22 of per diem compensation thus determined there shall be de-
23 ducted a similarly determined per diem of the pension pay-
24 able to him. He shall also be reimbursed for expenses in-
25 curred while sitting in any place other than his residence.
26 Such compensation and expenses shall be paid by the com-
27 monwealth.

28 (d) The fact of such temporary active service by a retired
29 chief justice or associate justice shall be stated on the records
30 of the court, but need not be separately stated in the record
31 or docket of any cause or proceeding acted upon by him.

32 (e) No retired chief justice or associate justice serving
33 temporarily under the provisions of this section shall be
34 counted in the number of justices authorized or required for
35 the court by any applicable statute.

1 SECTION 2. This act shall take effect on December first,
2 nineteen hundred and sixty-five.