

By Mr. Conte, a petition (accompanied by bill, Senate, No. 656) of John J. Conte for legislation to phase out part-time services of special justices of the district court. The Judiciary.

The Commonwealth of Massachusetts

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

AN ACT TO PHASE OUT THE PART-TIME SERVICES OF SPECIAL JUSTICES OF THE DISTRICT COURTS.

*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 218 of the General Laws is hereby  
 2 amended by inserting after Section 6 the following new  
 3 section: —

4 Section 6A. (a) Any special justice of the district courts  
 5 holding office as of the effective date of this act may, in accord-  
 6 ance with the provisions of paragraph (c) of this section,  
 7 certify in writing to the chief justice of the district courts  
 8 that upon said certificate becoming effective, said special jus-  
 9 tice shall devote full time during ordinary business hours to  
 10 the duties of his office and shall not engage directly or indirect-  
 11 ly in the practice of law. Said certificate shall become effective  
 12 on the first day of July of the year in which it is filed, and may  
 13 not be withdrawn thereafter.

14 (b) Upon said certificate becoming effective, said special  
 15 justice shall be subject to the following provisions: (1) he  
 16 shall devote full time during ordinary business hours to the  
 17 duties of his office, and shall not engage directly or indirectly  
 18 in the practice of law; (2) he shall be paid a salary equal to  
 19 that paid justices of the district courts who are required to  
 20 devote full time to their duties, other than the chief justice of  
 21 the district courts, said salary to be paid from the same source  
 22 and in the same manner as the salary of the justice of the  
 23 court to which the special justice is appointed, and travel and  
 24 expense allowances to the same extent as the law provides for  
 25 justices of district courts; (3) he shall sit in the district courts

26 by assignment of the chief justice of the district courts and  
27 perform such other duties as are assigned him by said chief  
28 justice; he shall sit in the municipal court of the city of Boston  
29 if so assigned jointly by the chief justice of said court and the  
30 chief justice of the district courts; he shall sit in such other  
31 courts in such manner as the law provides for special justices;  
32 and he shall have the same powers, duties, rights and privi-  
33 leges, including the power to hear and decide civil actions, as  
34 a justice of a district court who is required to devote full time  
35 to his duties and who is not the administrative head of his

36 (c) The certificate provided for in paragraph (a) of this  
37 act may be filed with the chief justice of the district courts  
38 only during the month of May in the years nineteen hundred  
39 seventy-six, nineteen hundred seventy-seven, nineteen hundred  
40 seventy-eight or nineteen hundred seventy-nine, and not there-  
41 after.

42 (d) Except as provided in paragraph (f) of this section,  
43 nothing in this section shall affect the powers, duties, rights  
44 and privileges of any special justice who is serving at the time  
45 of the effective date of this section and who does not file a  
46 certificate under paragraph (a).

47 (e) A special justice who serves full time in accordance with  
48 the provisions of this act shall be permitted to be absent from  
49 his duties for thirty days in any one fiscal year. In addition  
50 to said absences, the provisions of section six of chapter two  
51 hundred eighteen of the general laws with regard to absences  
52 of justices from their courts due to illness or physical dis-  
53 ability, including the provisions relative to accumulation of  
54 sick leave, shall be deemed applicable to all special justices  
55 who serve full time in accordance with the provisions of this  
56 act. During the fiscal year in which the certificate is filed by  
57 the special justice, the special justice shall be entitled to the  
58 number of absences from duty and absences due to illness or  
59 physical disability corresponding to the proportion of said year  
60 remaining after said certificate becomes effective or after the  
61 special justice assumes office, as the case may be.

62 Notwithstanding any provisions of the General Laws to the  
63 contrary, (1) for the purposes of determining responsibilities

64 a special justice appointed, or first appointed, as the case may  
65 be, to his office prior to January 2, 1975 who serves full-time  
66 in accordance with the provisions of this section shall not be  
67 subject to the provisions of section 65D of chapter 32; and  
68 (2) for purposes of determining the pension rights of a special  
69 justice who serves full-time in accordance with the provisions  
70 of this section said special justice may elect to waive the pro-  
71 visions of section 65B of chapter 32 and his full-time service  
72 shall be deemed the service of a justice of a district court and  
73 said special justice shall be entitled to the same credit for his  
74 part-time service, if any, as a special justice as is provided in  
75 section 65A of chapter 32 for a justice of a district court who  
76 has previously served as a special justice; provided, however,  
77 that nothing herein shall be construed to alter the pension  
78 rights and responsibilities applicable to a special justice who  
79 does not file a certificate under the provisions of this section;  
80 (3) a special justice who assumes office on or after the effec-  
81 tive date of this act, shall be subject to the same pension laws  
82 as would be applicable to him, had he assumed the office of  
83 justice of a district court on the date he assumes the office of  
84 special justice of a district court.

85 (f) Every special justice who does not file a certificate  
86 according to the provisions of this act, shall, after July 1, 1979  
87 be precluded from engaging directly or indirectly in the prac-  
88 tice of law.

89 (g) Every special justice who assumes office on or after the  
90 effective date of this act shall devote full time during ordinary  
91 business hours to the duties of his office, shall not engage  
92 directly or indirectly in the practice of law and shall be sub-  
93 ject to the other provisions of paragraph (b) of this section.

94 (h) Nothing in this section shall be construed to establish  
95 a new judicial position nor to abolish the tenure of any in-  
96 cumbent special justice of a district court.

1 SECTION 2. This act shall take effect on May one, nineteen  
2 hundred seventy-six.

