

By Mr. Mooney of Canton, petition of John J. Mooney for legislation to expand equity jurisdiction of the Superior Court and Supreme Judicial Court. The Judiciary.

The Commonwealth of Massachusetts

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

AN ACT TO EXPAND EQUITY JURISDICTION OF THE SUPERIOR AND SUPREME JUDICIAL 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 3 of chapter 214 of the General Laws, as most
2 recently amended by chapter 387 of the acts of one thousand
3 nine hundred fifty, is hereby amended by adding at the end
4 thereof the following subdivision: —

5 (13) (a) Suits to correct practices or procedures of any
6 public agency, board, commission, authority, committee, de-
7 partment, or other administrative or executive body, or any
8 officer, member or employee thereof, of the Commonwealth,
9 or any political subdivision thereof which are contrary to or
10 inconsistent with the constitution or statutes of the United
11 States, the constitution or statutes of the Commonwealth of
12 Massachusetts, or rules or regulations promulgated under the
13 authority of such state or federal statutes, where such practices
14 or procedures are common, general, or repeated. Such suits
15 may request injunctive or declaratory relief (as if commenced
16 under the provisions of chapter two hundred thirty-one A). If
17 more than one person is alleged to be aggrieved by the practice
18 or procedure, any aggrieved person may commence the suit as
19 a class suit on behalf of all persons similarly situated, affected
20 or likely to be affected.

21 (b) If the suit is maintained as a class suit, the court may
22 require the petitioner to give notice to all members of the class
23 in such manner as the court directs. Members of the class and
24 other persons may be allowed to intervene as parties petitioner
25 upon a proper showing of an interest in the litigation, which

26 interest will probably not be adequately represented by the
27 existing petitioner or petitioners.

28 (c) If a petitioner has personally suffered damage by reason
29 of the practice or procedure alleged to be contrary to or
30 inconsistent with law, he may also include in his petition a
31 separate prayer for his own compensatory damages, and the
32 court may award such compensatory damages as may be fair,
33 just, and equitable against any officer, member or employee
34 sued under this section if such individual has acted or failed to
35 act in bad faith, for personal benefit or with knowledge or
36 reason to know that his act or omission was unlawful. Com-
37 pensatory damages may be awarded only to those who have
38 originally petitioned or intervened, prayed for and proved such
39 damages.

40 (d) The court shall also issue such orders or decrees as may
41 be necessary to render appropriate relief to correct any prac-
42 tices or procedures, including orders or decrees to compel any
43 action unlawfully withheld or unreasonably delayed or to
44 enjoin unlawful practices or procedures. Notwithstanding any
45 representation by any respondent that the practices or pro-
46 cedures complained of have been discontinued, the court shall
47 issue such orders or decrees as will insure that any unlawful
48 practices or procedures do not recur.

49 (e) A class suit shall not be dismissed or compromised with-
50 out approval of the court, and notice of the proposed dismissal
51 or compromise shall be given to all members of the class in
52 such manner as the court directs.

53 (f) Following the entry of a final order or decree in a class
54 suit wherein the respondent is directed to perform any action
55 unlawfully withheld or unreasonably delayed or to desist from
56 any unlawful practice or procedure, any member of the class
57 represented by the petitioner in said suit and aggrieved by an
58 violation of said order or decree shall thereafter be entitled to
59 compel compliance therewith, if necessary by filing a petition
60 against the respondent or his successor in office for contempt
61 of court.