

By Mr. O’Flaherty of Chelsea, petition of Eugene L. O’Flaherty to establish a commission on judicial compensation, benefits and pension. Public Service.

The Commonwealth of Massachusetts

In the Year Two Thousand and Seven.

AN ACT TO ESTABLISH A COMMISSION ON JUDICIAL COMPENSATION, BENEFITS AND PENSION.

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. Amend Section 162 of Chapter 6 Official Edition of
2 the General Laws by striking all references to “judicial” in para-
3 graph one.

1 SECTION 2. Amend Section 162 of the General Laws Official
2 Edition by adding Section Chapter 162 Section 6A, Commission on
3 Judicial Compensation, Benefits and Pension.

1 SECTION 3. Establishment of Commission.
2 A Judicial Commission on Judicial Compensation, Benefits and
3 Pension (Commission) is hereby created that shall establish, subject
4 to the veto power of the individual houses of the Great and General
5 Court, the salary and benefits, including retirement, to be paid from
6 the state treasury and other sources for all justices and judges of this
7 state, including retired justices and judges sitting on assignment.

1 SECTION 4. Appointment of Members.
2 The Commission shall consist of five members selected from
3 among the registered voters of this state:— one shall be appointed
4 by the Governor, one by the Senate President, one by the Speaker of
5 the House of Representatives; the current President of the Massachu-
6 setts Bar Association, and the President of the Massachusetts Judges
7 Conference. The public official with the power to appoint a member

8 shall be the person in office on the day of commencement of the
9 member's term.

1 SECTION 5. Terms of Office.

2 The initial members of the Judicial Compensation Commission
3 shall serve for a term of two years, commencing than January 1,
4 2008 or sooner, and may continue to serve for no more than six
5 years, at the discretion of the appointing authority. The Presidents of
6 the Massachusetts Bar Association and the Massachusetts Judges
7 Conference appointments shall be coterminous with their respective
8 positions.

1 SECTION 6. Vacancies.

2 Any vacancy on the Commission shall be filled promptly for the
3 remainder of the term in the same manner in which such position
4 was originally filled under Section 2.

1 SECTION 7. Designation of Chairperson.

2 The members of the Judicial Compensation Commission shall, by
3 majority vote, designate a chairperson from among their number
4 who shall serve for two years from the date of election or until his or
5 her successor is designated by majority vote and assumes the
6 responsibilities.

1 SECTION 8. Meeting, Quorum, Concurrence. The Commission
2 shall meet, either in person or by teleconference, on the call of the
3 chairperson or on the request of at least three members. The pres-
4 ence of at least three members shall be required to conduct a
5 meeting. The concurrence of at least three members shall be required
6 for any formal action taken by the commission.

1 SECTION 9. Compensation; Reimbursement of Reasonable
2 Travel Expenses.

3 The members of the Commission shall receive no compensation
4 for their services.

1 SECTION 10. Annual Report Required.

2 Not later than December 1 of each year, the Judicial Compensa-
3 tion Commission shall make its annual report to the Great and

4 General Court, The Governor and the Chief Justice of the Supreme
5 Judicial Court. The annual report shall include findings, conclusions,
6 and recommendations as to the proper salary and benefits, including
7 retirement, to be paid from the state treasury, for all justices and
8 judges of this state, including retired justices and judges sitting on
9 assignment. The annual report shall also include such legislative
10 proposals as the Commission deems necessary to implement these
11 recommendations.

1 SECTION 11. Directive of Commission.

2 The Commission is established in recognition of the fact that
3 inadequate compensation, which results in unreasonable economic
4 hardship, prevents many highly qualified individuals from serving as
5 judges or prevents them from serving on the bench for a sufficiently
6 long period of time. This economic reality severely undermines the
7 essential goal of maintaining the highest level of public confidence
8 in the State Judiciary. The Commission shall therefore conduct its
9 study and make its recommendations with respect to all aspects of
10 judicial compensation in this Massachusetts to the end that the judi-
11 cial compensation structure shall be adequate to ensure that the most
12 highly qualified individuals in this state, selected from a diversity of
13 life and professional experiences, will be attracted to the state judi-
14 ciary and will be able to serve and to continue to serve without
15 unreasonable economic hardship and with a level of judicial inde-
16 pendence unaffected by financial concerns.

1 SECTION 12. Criteria for Recommendations.

2 In order to make findings, conclusions, and recommendations as
3 to the proper salary and benefits for all justices and judges in Massa-
4 chusetts, and in order to fulfill the directive of this Commission, the
5 Commission may consider, but shall not be limited to, the following
6 factors:—

7 (a) the skill and experience required of the particular judgeship at
8 issue;

9 (b) the value of compensable service performed by justices and
10 judges, as determined by reference to judicial compensation in other
11 states and the federal government as referenced in studies conducted
12 by the National Center for State Courts;

13 (c) the compensation of attorneys in the private sector;

14 (d) the average consumer prices commonly known as the cost of
15 living, as well as the changes in such measure;

16 (e) such other factors, not confined to the foregoing, that are nom-
17 inally or traditionally taken into consideration in the determination
18 of such compensation; and

19 (f) most importantly, that the level of overall compensation cre-
20 ates parity with the ten states of highest compensation, when
21 adjusted for “cost of living” according to the national judicial com-
22 pensation survey conducted by the National Center for State Courts.
23 And further, that said compensation ensures that the most highly
24 qualified individuals in Massachusetts, selected from a diversity of
25 life and professional experiences, will be attracted to the judiciary
26 and will be able to serve there and to continue to serve there without
27 unreasonable economic hardship and with a level of judicial inde-
28 pendence unaffected by financial concerns.

1 SECTION 13. Binding Nature of Report.

2 The recommendations made by the Judicial Compensation Com-
3 mission in its annual report to the Great and General Court, the Gov-
4 ernor and the Chief Justice of the Supreme Judicial Court shall be
5 binding and have full force of law immediately upon the 90th day
6 following the lodging of the annual report with the clerk of the
7 House and the Senate, provided that neither a majority of the Senate
8 nor a majority of the House of Representatives votes to reject any or
9 all such recommendations within 90 days following the lodging of
10 the annual report with the clerk of the House and Senate. In the
11 event that either a majority of the Senate and/ or a majority of the
12 House of Representatives votes to reject one or more, but not all, of
13 such recommendations, the recommendations rejected by neither a
14 majority of the Senate nor a majority of the House of Representa-
15 tives shall be binding and have full force of law immediately upon
16 the [90th] day following the lodging of the annual report with the
17 clerk of the House and Senate.