

By Mr. Bellotti of Quincy, petition of Michael G. Bellotti and Steven A. Tolman for legislation to establish a judicial compensation commission based on a model statute of the American Judicature Society. The Judiciary.

**The Commonwealth of Massachusetts**

In the Year One Thousand Nine Hundred and Ninety-Seven.

AN ACT TO ESTABLISH A JUDICIAL COMPENSATION COMMISSION BASED ON AMERICAN JUDICATURE SOCIETY MODEL STATUTE.

*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 211 of the General Laws, as appearing in  
2 the 1990 Official Edition, is hereby amended by adding a new  
3 section, section 22A, immediately following section 22 as  
4 follows:—

5 Establishment of Commission. A Judicial Compensation  
6 Commission is hereby created that shall establish, subject to the  
7 veto power of the individual houses of the Great and General  
8 Court, the salary and benefits, including retirement, to be paid  
9 from the state treasury and other sources for all justices and  
10 judges of this state, including retired justices and judges sitting on  
11 assignment.

1 SECTION 2. Appointment of Members. The Judicial  
2 Compensation Commission shall consist of five members selected  
3 from among the registered voters of this state; two shall be  
4 appointed by the Governor, one by the Auditor, one by the Senate  
5 President, and one by the Speaker of the House of  
6 Representatives. The public official with the power to appoint a  
7 member shall be the person in office on the day of commencement  
8 of the member's term. The commission shall at all times remain  
9 bipartisan in its membership, comprised of no more than three  
10 members of the same political party. Therefore, if at the time of

11 the appointment of a member of the Judicial Compensation  
12 Commission, the commission has three members of a particular  
13 political party, the public official with the power to appoint a  
14 member shall select a person who either is registered to another  
15 political party or is registered as Unnerved.

1 SECTION 3. Terms of Office. The initial members of the  
2 Judicial Compensation Commission appointed by the Auditor and  
3 Senate President shall serve until December 31, 1997. The initial  
4 members of the Judicial Compensation Commission appointed by  
5 the Governor shall serve until December 31, 1999. The initial  
6 member of the Judicial Compensation Commission appointed by  
7 the Speaker of the House shall serve until December 31, 2001.  
8 Thereafter, members of the Judicial Compensation Commission  
9 shall serve for terms of six years, beginning January 1, 1998 for  
10 members appointed by the Auditor and Senate President, begin-  
11 ning January 1, 2000 for members appointed by the Governor, and  
12 beginning January 1, 2002 for the member appointed by the  
13 Speaker of the House. Members shall be limited to one term.

1 SECTION 4. Vacancies. Any vacancy on the Judicial  
2 Compensation 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. In the event that a vacancy  
5 remains unfilled for more than [90 days], a temporary member of  
6 the Judicial Compensation Commission shall be appointed by a  
7 majority vote of the remaining commission members to serve with  
8 full powers of a commission member. Such a temporary member  
9 of the commission shall serve until such time as the vacancy is  
10 filled by the public official with the power to appoint the member  
11 under Section 2 and this section.

1 SECTION 5. Prohibition on Public Service. No member of the  
2 Judicial Compensation Commission shall hold any other public  
3 office, nor shall any member be a compensated state, county or  
4 municipal employee during such member's tenure on the Judicial  
5 Compensation Commission. A violation of this section by any  
6 member of the commission shall result in immediate constructive

7 resignation, and the resulting vacancy shall be filled according to  
8 Section 4.

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

1 SECTION 7. Meeting, Quorum, Concurrence. The Judicial  
2 Compensation Commission shall meet, either in person or by tele-  
3 conference, on the call of the chairperson or on the request of at  
4 least three members. The presence of at least three members shall  
5 be required to conduct a meeting. The concurrence of at least  
6 three members shall be required for any formal action taken by the  
7 Judicial Compensation Commission.

1 SECTION 8. Administration Under Administrative Office of  
2 the Trial Court. For administrative and staffing purposes only, the  
3 Judicial Compensation Commission shall be attached to the  
4 Administrative Office of the Trial Courts. The Judicial  
5 Compensation Commission shall be entitled to request and receive  
6 and shall utilize such staff support, meeting facilities, temporary  
7 work facilities, including computer, telephone, reproduction, and  
8 facsimile equipment, available data, and other resources of the  
9 Administrative Office of the Trial Courts as it reasonably deems  
10 necessary to carry out properly its powers and duties thereunder.  
11 No reasonable request for such staff support and resources, as pro-  
12 vided in this section, shall be denied by the Chief Justice for  
13 Administration and Management. The Chief Justice for  
14 Administration and Management shall take into account such  
15 staffing requirements, resource requirements, and reimbursement  
16 expenditures under Section 9 when formulating its own budget  
17 requirements for the fiscal year.

1 SECTION 9. Reimbursement. Members shall be reimbursed for  
2 actual and necessary expenses related to the travel to and from  
3 Judicial Compensation Commission meetings, provided that such  
4 expenses shall be approved by the chairperson. Members shall

5 also be reimbursed for reasonable expenses incurred in the exer-  
6 cise of their powers under Section 13. Such reimbursement shall  
7 be made through the reimbursement procedures and fund of the  
8 Administrative Office of the Trial Courts established for the reim-  
9 bursement of expenses of justices, judges, and other court offi-  
10 cials. No reasonable request for reimbursement, as provided in  
11 this section, shall be denied by the Chief Justice for  
12 Administration and Management. No other expenses shall be  
13 reimbursed by State funds.

1 SECTION 10. No Compensation. The members of the Judicial  
2 Compensation Commission shall receive no compensation for  
3 their services.

1 SECTION 11. Powers of Investigation. Each member of the  
2 Judicial Compensation Commission who is a member in good  
3 standing of the state bar, and each member of the state bar who is  
4 designated by a majority vote of the Judicial Compensation  
5 Commission to serve, on a pro bono basis, as counsel to the com-  
6 mission, shall have the power to administer oaths, to take testi-  
7 mony, and to request the attendance of witnesses located within  
8 the state and the production of all books, papers, records, or docu-  
9 ments reasonably deemed by such member of such counsel to be  
10 material or pertinent to any subject within the scope of the studies  
11 and investigations of the Judicial Compensation Commission.

1 SECTION 12. Biannual Report Required. Not later than  
2 December 1 of each even-numbered year, the Judicial  
3 Compensation Commission shall make its biannual report to the  
4 Great and General Court. The biannual report shall include find-  
5 ings, conclusions, and recommendations as to the proper salary  
6 and benefits, including retirement, to be paid from the state trea-  
7 sury, and other sources, for all justices and judges of this state,  
8 including retired justices and judges sitting on assignment. The  
9 biannual report shall also include such legislative proposals as the  
10 Judicial Compensation Commission deems necessary to imple-  
11 ment these recommendations.

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

1 SECTION 14. Criteria for Recommendations. In order to carry  
2 out its responsibilities under Section 12 to make findings, conclu-  
3 sions, and recommendations as to the proper salary and benefits  
4 for all justices and judges of this state, and in order to fulfill the  
5 directive of the Judicial Compensation Commission as set out in  
6 Section 14, the Judicial Compensation Commission may consider  
7 the following factors:

- 8 (a) the skill and experience required of the particular judgeship  
9 at issue;
- 10 (b) the time required of the particular judgeship at issue;
- 11 (c) the value of compensable service performed by justices and  
12 judges, as determined by reference to judicial compensation in  
13 other states and the federal government;
- 14 (d) the value of comparable service performed in the private  
15 sector, including private judging, arbitration and mediation, based  
16 on the responsibility and discretion required in the particular  
17 judgeship at issue and the demand for such services in the private  
18 sector;
- 19 (e) the compensation of attorneys in the private sector;
- 20 (f) the average consumer prices commonly known as the cost of  
21 living, as well as the changes in such measure;

22 (g) the overall compensation presently received by other public  
23 officials in this state, including state constitutional officeholders  
24 and deans, presidents, and chancellors of the public university  
25 systems, and also including district attorneys, chiefs of police,  
26 county counsel, and city attorneys in major metropolitan areas for  
27 which such information is readily available;

28 (h) such other factors, not confined to the foregoing, that are  
29 normally or traditionally taken into consideration in the determi-  
30 nation of such compensation; and

31 (i) most importantly, that level of overall compensation ade-  
32 quate to ensure that the most highly qualified individuals in this  
33 State, selected from a diversity of life and professional experi-  
34 ences, will be attracted to the judiciary and will be able to serve  
35 there and to continue to serve there without unreasonable eco-  
36 nomic hardship and with a level of judicial independence unaf-  
37 fected by financial concerns.

1 SECTION 15. Binding Nature of Report. The recommendations  
2 made by the Judicial Compensation Commission in its biannual  
3 report, to the Great and General Court shall be binding and have  
4 full force of law immediately upon the 90th day following the  
5 lodging of the biannual report with the clerk of the House and the  
6 Senate, provided that neither a majority of the Senate nor a  
7 majority of the House of Representatives votes to reject any or all  
8 such recommendations within 90 days following the lodging of  
9 the biannual report with the clerk of the House and Senate. In the  
10 event that either a majority of the Senate and/or a majority of the  
11 House of Representatives votes to reject one or more, but not all,  
12 of such recommendations, the recommendations rejected by nei-  
13 ther a majority of the Senate nor a majority of the House of  
14 Representatives shall be binding and have full force of law imme-  
15 diately upon the [90th] day following the lodging of the biannual  
16 report with the clerk of the House and Senate. In the event that a  
17 majority of the Senate and/or a majority of the House of  
18 Representatives votes to reject any or all of such recommenda-  
19 tions, such legislative body or bodies, whatever the case may be,  
20 must issue, to the governor, the Chief Justice for Administration  
21 and Management, and to the president of the state bar, a report  
22 detailing the reasons for each such rejection of a recommendation

23 made by the Judicial Compensation Commission in the biannual  
24 report. Any rejected recommendation may be reconsidered by the  
25 legislature in the next session, or after six months.

The first part of the report deals with the general situation of the country and the progress of the war. It is followed by a detailed account of the operations of the various units of the Army, including the 1st, 2nd, 3rd, 4th, 5th, 6th, 7th, 8th, 9th, 10th, 11th, 12th, 13th, 14th, 15th, 16th, 17th, 18th, 19th, 20th, 21st, 22nd, 23rd, 24th, 25th, 26th, 27th, 28th, 29th, 30th, 31st, 32nd, 33rd, 34th, 35th, 36th, 37th, 38th, 39th, 40th, 41st, 42nd, 43rd, 44th, 45th, 46th, 47th, 48th, 49th, 50th, 51st, 52nd, 53rd, 54th, 55th, 56th, 57th, 58th, 59th, 60th, 61st, 62nd, 63rd, 64th, 65th, 66th, 67th, 68th, 69th, 70th, 71st, 72nd, 73rd, 74th, 75th, 76th, 77th, 78th, 79th, 80th, 81st, 82nd, 83rd, 84th, 85th, 86th, 87th, 88th, 89th, 90th, 91st, 92nd, 93rd, 94th, 95th, 96th, 97th, 98th, 99th, 100th.