HOUSE DOCKET, NO. 2245 FILED ON: 1/17/2013

HOUSE . . . . . No. 2392

The Commonwealth of Massachusetts

PRESENTED BY:

James M. Murphy

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying:

An Act relative to the Office of Senior Justice.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
James M. Murphy	*4th Norfolk*

HOUSE DOCKET, NO. 2245 FILED ON: 1/17/2013

HOUSE . . . . . No. 2392

By Mr. Murphy of Weymouth, a petition (accompanied by bill, House, No. 2392) of James M. Murphy relative to the retirement earnings and benefits of certain senior justices. Public Service.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE
HOUSE
, NO. *2965* OF 2011-2012.]

The Commonwealth of Massachusetts

An Act relative to the Office of Senior Justice.

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

SECTION 1. Chapter 32 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by inserting after section 65F the following section:

Section 65F½. A chief justice, or associate justice of the appeals court who is retired from or resigns his office, having attained the age of sixty-five years but not having attained the age of seventy years and who is receiving a pension at an annual rate equal to three fourths of the rate of salary payable to him at the time fo his retirement or resignation may notify the chief justice of the appeals court in writing that he wishes his name to be placed upon the list of senior justices of the appeals court. The chief justice of the appeals court shall place the name of any such chief justice or associate justice on the list of senior justices of the appeals court. With respect to those whose names have been placed on such list upon retirement, any retired chief justice or associate justice or any surviving spouse of such chief justice or associate justice, shall be entitled to the same pension and all other benefits which he or his surviving spouse would have been entitled to receive if he had retired without his name having been placed on such list, notwithstanding any other law to the contrary, and a vacancy shall exist in the judicial office theretofore occupied by such retired chief justice or associate justice.

A retired chief justice or associate justice of the appeals court whose name has been placed on the list of senior justices shall be eligible to perform judicial duties until attaining the age of seventy years or until requesting, in writing, that his or her name be removed from the list of senior justices.

20 A retired chief justice or associate justice of the appeals court, while eligible to perform
21 such judicial duties, shall not engage in the practice of law directly or indirectly, and shall not
22 hold any office which is incompatible with holding the office of justice of the court of which he
23 is on the senior justice list under the provisions of Article II of Chapter VI of Part the Second of
24 the Constitution of the Commonwealth or Article VIII of the Amendments thereto.

25 SECTION 2. Said chapter 32 of the General Laws is hereby further amended by
26 inserting after section 65G the following section.

27 Section 65G½. Any justice of a department of the trial court who retires from or resigns
28 his office, having attained the age of sixty-five years but not having attained the age of seventy
29 years and who is receiving a pension at a annual rate equal to three fourths of the rate of salary
30 payable to him at the time of his retirement or resignation may notify the chief justice for
31 administration and management of the trial court in writing that he wishes his name to be placed
32 upon the list of senior justices of the trial court. Said chief justice shall place the name of any
33 such justice on the list of senior justices of the trial court.

34 With respect to those whose names have been placed on such list upon retirement, any
35 retired justice or any surviving spouse of such justice shall be entitled to the same pension and all
36 other benefits which he or his surviving spouse would have been entitled to receive if he had
37 retired without his name having been placed on such list, notwithstanding any other law to the
38 contrary, and a vacancy shall exist in the judicial office theretofore occupied by such retired
39 chief justice or associate justice.

40 A retired justice of the trial court whose name has been placed on the list of senior
41 justices shall be eligible to perform judicial duties until attaining the age of seventy years or until
42 requesting, in writing, that his or her name be removed from the list of senior justices.

43 A retired justice of the trial court, while eligible to perform judicial duties, shall not
44 engage in the practice of law directly or indirectly, and shall not hold any office which is
45 incompatible with holding the office of justice of the court of which he is on the senior justice
46 list under the provisions of Article II of Chapter VI of Part the Second of the Constitution of the
47 Commonwealth or Article VIII of the Amendments thereto.

48 SECTION 3. Chapter 211A of the General Laws as appearing in the 2010 Official
49 Edition, is hereby amended by inserting after section 16 the following section.

50 SECTION 16A. A retired chief justice or associate justice of the appeals court, shall
51 become eligible to be a senior justice upon the date of retirement as provided in section sixty-five
52 F and one half of chapter thirty two. A senior justice shall be designated and assigned by the
53 chief justice of the appeals court to perform, during his term of eligibility, such of the duties of
54 the office of associate justice of the appeals court as may be requested of him and which he is
55 willing to undertake. Such senior justice may also be designated and assigned by the chief

56 justice of the appeals court to perform, during his term of eligibility, such of the duties of judge
57 of any lower court as may be requested of him and which he is willing to undertake provided that
58 no such single assignment shall be for a term of longer than ninety days.

59 In performing the services requested of him, a senior justice shall exercise all judicial
60 power and authority pertaining to the office in which he acts, in respect of matters as to which
61 he is designed to act, and the fact of such service shall be stated on the records of the court, but
62 need not be separately stated in the record or docket of any particular cause or proceeding.
63 Service under the provisions of this section shall not be counted in determining the number of
64 offices authorized or required for any court, on which a senior justice serves, by any applicable
65 statute.

66 A senior justice so serving shall be paid by the commonwealth, in addition to the pension
67 or retirement allowance received, a per diem differential rate of compensation equivalent to one
68 two hundred twentieths of the balance remaining after

69 deducting the annual pension or retirement allowance received from the current annual
70 salary of such justice if not retired. The per diem differential rate of compensation shall be paid
71 monthly from the Judiciary appropriated funds.

72 Such senior justice shall be entitled to all other benefits of a regular incumbent of the
73 appeals court and shall be reimbursed for expenses incurred while performing such services at
74 any place other than his place of residence. While so serving he shall be entitled to receive such
75 staff support, clerical assistance and facilities as are customarily available to judges of the court
76 on which he serves.

77 A senior justice shall be eligible for designation and assignment by the chief justice of the
78 appeals court until he attains the age of seventy years. Thereafter senior justices may apply to
79 the chief justice of the supreme judicial court, pursuant to section sixty five F of chapter thirty
80 two, to continue such judicial service.

81 SECTION 4. Chapter 211B of the General Laws, as appearing on the 2010 Official
82 Edition, is hereby amended by inserting after section 14 the following section:

83 Section 14A. A retired justice of the trial court shall become eligible to be a senior
84 justice upon the date of retirement as provided in section sixty five G and one half of chapter
85 thirty two. A senior justice shall be designated and assigned by the chief justice for
86 administration and management of the trial court to perform, during his term of eligibility, such
87 of the duties of the office of a justice of the trial court as may be requested of him and which he
88 is willing to undertake Such senior justice may also be designated and assigned by said chief
89 justice of the appeals court to perform, during his term of eligibility, such of the duties of a judge
90 of any other department of the trial court as may be requested of him and which he is willing to
91 undertake provided that no such single assignment shall be for a term of longer than ninety days.

92 In performing the services requested of him, a senior justice shall exercise all judicial
93 power and authority pertaining to the office in which he acts, in respect of matters to which he is
94 designated to act, and the fact of such service shall be stated on the records of the court, but need
95 not be separately stated in the record or docket of any particular cause or proceeding. Service
96 under the provisions of this section shall not be counted in determining the number of offices
97 authorized or required for any court, on which he serves by any applicable statute.

98 A senior justice so serving shall be paid by the commonwealth, in addition to the pension
99 or retirement allowance received, a per diem differential rate of compensation equivalent to one
100 two hundred twentieths of the balance remaining after

101 deducting the annual pension or retirement allowance received from the current annual
102 salary of such justice if not retired. The per diem differential rate of compensation shall be paid
103 monthly from the Judiciary appropriated funds.

104 Such senior justice shall be entitled to all other benefits of a regular incumbent of the trial
105 court and shall be reimbursed for expenses incurred while performing such services at any place
106 other than his place of residence. While so serving he shall be entitled to receive such staff
107 support, clerical assistance and facilities as are customarily available to judges of the court on
108 which he serves.

109 A senior justice shall be eligible for designation and assignment by the chief justice for
110 administration and management of the trial court until he attains the age of seventy years.
111 Thereafter senior justices may apply to the chief justice of the supreme judicial court, pursuant to
112 section sixty five G of Chapter thirty two, to continue such judicial service.

113 Prior to the act taking effect upon its passage, the General Court may make
114 clerical or editorial changes to the bill and may make other amendments within the cope of this
115 petition and are approved prior to enactment and final form by the General Court.

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