

HOUSE No. 2373

The Commonwealth of Massachusetts

PRESENTED BY:

Rady Mom

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 adoption of the accompanying bill:

An Act relative to judicial pensions.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Rady Mom</i>	<i>18th Middlesex</i>	<i>1/16/2015</i>
<i>Joseph W. McGonagle, Jr.</i>	<i>28th Middlesex</i>	<i>8/7/2019</i>

HOUSE No. 2373

By Mr. Mom of Lowell, a petition (accompanied by bill, House, No. 2373) of Rady Mom and Joseph W. McGonagle, Jr., relative to judicial pensions. Public Service.

The Commonwealth of Massachusetts

In the One Hundred and Eighty-Ninth General Court
(2015-2016)

An Act relative to judicial pensions.

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: - Notwithstanding any general or special law to the contrary, Chapter 32 of the
2 General Laws is hereby amended by striking section 65D in its entirety and inserting in its place
3 the following new section:

4 Section 65D. A chief justice or any associate justice of the appeals court or any justice of
5 the trial court of the commonwealth, appointed on or after January second, nineteen hundred and
6 seventy-five, and who is not included under sections sixty-five A or sixty-five B by way of
7 previous appointment to judicial office and a chief justice or an associate justice of the supreme
8 judicial court, shall be subject to the following retirement provisions. No other retirement
9 provisions shall be applicable to judges first appointed on or after January second, nineteen
10 hundred and seventy-five, except as provided in section sixty-five A in the case of a chief justice
11 or an associate justice of the supreme judicial court.

12 (a) Any such judge appointed on or after January second, nineteen hundred and seventy-
13 five shall be subject to this section within ninety days of his appointment.

14 (b) There shall be deducted and withheld from the salary of each judge appointed on or
15 after January second, nineteen hundred and seventy-five, a sum equal to seven per cent of the
16 salary of such judge. There shall be deducted and withheld from the salary of each judge who
17 entered the service of the commonwealth or a political subdivision thereof on or after January
18 first, nineteen hundred and eighty-eight, a sum equal to eight per cent of the first thirty thousand
19 dollars salary of each judge, nine per cent of such salary between thirty thousand dollars and
20 forty-five thousand dollars and ten per cent of such salary in excess of forty-five thousand
21 dollars; provided, however, that any judge who entered the service of the commonwealth or a
22 political subdivision thereof between January first, nineteen hundred and seventy-nine and
23 January first, nineteen hundred and eighty-eight shall be subject to the additional deduction
24 provided for in paragraph (b 1/2) of subdivision (1) of section twenty-two. The provisions of
25 section fifty of chapter three hundred and sixty-seven of the acts of nineteen hundred and
26 seventy-eight shall not apply to any judge making the deduction provided for in the second
27 sentence of this paragraph or the additional deduction provided for in said paragraph (b 1/2). The
28 amounts so deducted and withheld from the salary of each judge shall, in accordance with such
29 procedures as may be prescribed by the retirement board of the retirement system established for
30 the particular governmental unit from which such judge receives his regular compensation, be
31 deposited to the credit of a fund to be known as the "judges retirement fund". The amounts so
32 deducted shall be credited to the individual accounts of the respective members for whom such
33 deductions have been made in such manner as may be prescribed by the retirement board.

(c) Each such judge first appointed to judicial office on or after January second, nineteen hundred and seventy-five and who (1) shall be retired under Article LVIII of the Amendments to the Constitution, or (2) shall have served in such office or offices for at least fifteen years continuously and has attained the age of sixty-five years but not having attained the age of seventy, and shall resign his office, shall thereupon be entitled to receive a retirement allowance for life at an annual rate equal to three fourths of the annual rate of salary, after serving for at least eighteen months at said rate of salary will be payable to him at the time of such retirement or resignation. For the purpose of clause (2), a year of service as a special justice shall be computed by dividing the number of days of actual sittings in such capacity by two hundred and sixty, whether or not such sittings occurred in one calendar or fiscal year, provided that such judge deposits into the judges' retirement fund an amount equal to seven per cent or such other amount as would be applicable pursuant to paragraph (b) of the compensation received by him during such period of service as a special justice plus regular interest to the date of such deposit. A judge shall be deemed to have served continuously, although a period not in excess of thirty days shall have intervened between the holding of one judicial office and the holding of another judicial office.

(d) Any such judge who does not qualify for a retirement allowance under the provisions of paragraph (c) upon his retirement under Article XCVIII of the Amendments to the Constitution at age seventy shall thereupon be entitled to receive a retirement allowance for life at an annual rate equal to ten per cent of three fourths of the salary of the office from which he retired at the time of such retirement multiplied by the number of years not exceeding ten, and fractions thereof consisting of a month or more which he has served in such office or offices. For the purposes of this paragraph, a year of service as a special justice shall be computed by

dividing the number of days of actual sittings in such capacity by two hundred and sixty, whether or not such sittings occurred in one calendar or fiscal year, provided that such judge deposits into the judges' retirement fund an amount equal to seven percent or such other amount for at least eighteen months as would be applicable pursuant to paragraph (b) of the compensation received by him during such period of service as a special justice plus regular interest to the date of such deposit. A judge shall be deemed to have served continuously, although a period not in excess of thirty days shall have intervened between the holding of one judicial office and the holding of another judicial office.

(e) A justice of a district court who is retired under Article LVIII of the Amendments to the Constitution or who resigns in accordance with the provisions of this section, and who has served continuously for ten years prior to such retirement or resignation in the appellate division of a district court or in the superior court under the provisions of sections fourteen B to fourteen E of chapter two hundred and twelve, or corresponding provisions of earlier laws, or as a member of the administrative committee of the district courts, shall, in addition to all other amounts received under the provisions of this section, be entitled to receive a retirement allowance for life equal to three fourths of the average annual compensation paid him for such services during the ten years next preceding such retirement or resignation, provided that such justice deposits into the judges' retirement fund an amount equal to seven per cent or such other amount for at least eighteen months as would be applicable pursuant to paragraph (b) of the compensation received by him during such period of service plus regular interest to the date of such deposit.

(f) If any such judge resigns from office and does not meet the requirements for retirement or resignation set forth in paragraphs (c) or (d) the amount credited to his individual

80 account plus interest shall be returned to him within thirty days of such resignation; provided,
81 however, that if such judge is an active or inactive member of another contributory retirement
82 system he may request that the amount credited to his individual accounts plus interest be
83 credited to his individual account in such other contributory retirement system.

84 (g) The provisions of section sixty-five C shall apply to those judges first appointed on or
85 after January second, nineteen hundred and seventy-five.

86 (h) The payment of pensions, annuities, retirement allowance and refunds to the various
87 judges who are retired or who resign under the provisions of this section, to the various judges
88 subject to the provisions of the fourth paragraph of section sixty-five B, and to the surviving
89 spouses of such judges under the provisions of section sixty-five C shall be made from the
90 judges' retirement fund, provided that any amount needed for the payment of such pensions,
91 annuities, retirement allowances or refunds in excess of the amount on deposit in the judges'
92 retirement fund shall be paid from the same source from which the salaries of like judicial
93 officers of the courts of such various judges are paid.

94 For the purposes of this section any judge or justice appointed to the superior court, the
95 land court, a housing court, the Boston municipal court, a juvenile court, a probate court or a
96 district court, who is holding office on July first, nineteen hundred and seventy-eight, shall be
97 deemed to have been appointed to the trial court. Any such chief justice, justice or judge who is
98 retired or who has resigned from any such court prior to July first, nineteen hundred and seventy-
99 eight shall continue to receive the pension he was entitled to receive at the time of such
100 retirement or resignation.

(i) Pursuant to the provisions of section four hundred and fourteen (h)(2) of the United States Internal Revenue Code, the governmental unit from which each judge receives his regular compensation shall assume and pay the contributions which would be payable by the judge under paragraph (b). The contributions so assumed shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code. Contributions which are assumed pursuant to this subdivision shall be treated and identified as member contributions for all purposes of the retirement system, except as specifically provided to the contrary in this subdivision.

Contributions assumed pursuant to this subdivision shall be paid from the same source of funds used for the payment of compensation to the judge. A deduction shall be made from the judge's compensation equal to the amount of the judge's contributions assumed by the employer. This deduction, however, shall not reduce the judge's compensation for purposes of computing benefits under the retirement system pursuant to this chapter or for purposes of determining any other employee benefits. Assumed contributions shall be transferred to the Judges Retirement Fund in accordance with the provisions of paragraph (b) and shall be credited to a separate fund within the individual accounts of the respective members for whom such contributions have been made in order that the amounts contributed prior to the effective date for the assumption of such contribution may be distinguished from the amounts contributed on or after the date on which the governmental employer is required by law to assume the contributions.