

SENATE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Morrissey, Michael (SEN)

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 bill:

An Act to establish a commission on judicial compensation.

PETITION OF:

NAME: Morrissey, Michael (SEN)	DISTRICT/ADDRESS: Norfolk and Plymouth
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[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. S00974 OF 2007-2008.]

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT TO ESTABLISH A COMMISSION ON JUDICIAL COMPENSATION.

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. Section 162 of Chapter 6 as it appears in the 2004 Official Edition of the
2 General Laws is hereby amended by striking all references to “judicial” in paragraph one.

3 SECTION 2: Chapter 6 as it appears in the 2004 Official Edition of the General Laws is hereby
4 amended by adding the following new section:

5 Section 6A, Commission on Judicial Compensation, Benefits and Pension

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

11 (2) Appointment of Members. The Commission shall consist of five members selected from
12 among the registered voters of this state: one shall be appointed by the Governor, one by the
13 Senate President, one by the Speaker of the House of Representatives; the current President of
14 the Massachusetts Bar Association, and the President of the Massachusetts Judges Conference.
15 The public official with the power to appoint a member shall be the person in office on the day
16 of commencement of the member's term.

17 Terms of Office: The initial members of the Judicial Compensation Commission shall serve for
18 a term of two years, commencing than January 1, 2008 or sooner, and may continue to serve for
19 no more than six years, at the discretion of the appointing authority. The Presidents of the
20 Massachusetts Bar Association and the Massachusetts Judges Conference appointments shall be
21 coterminous with their respective positions.

22 (3) Vacancies: Any vacancy on the Commission shall be filled promptly for the remainder of
23 the term in the same manner in which such position was originally filled under Section 2.

24 (4) Designation of Chairperson. The members of the Judicial Compensation Commission shall,
25 by majority vote, designate a chairperson from among their number who shall serve for two
26 years from the date of election or until his or her successor is designated by majority vote and
27 assumes the responsibilities.

28 (5) Meeting, Quorum, Concurrence. The Commission shall meet, either in person or by
29 teleconference, on the call of the chairperson or on the request of at least three members. The
30 presence of at least three members shall be required to conduct a meeting. The concurrence of at
31 least three members shall be required for any formal action taken by the commission.

32 (6) Compensation; Reimbursement of Reasonable Travel Expenses. The members of the
33 Commission shall receive no compensation for their services.

34 (7) Annual Report Required. Not later than December 1 of each year, the Judicial Compensation
35 Commission shall make its annual report to the Great and General Court, The Governor and the
36 Chief Justice of the Supreme Judicial Court. The annual report shall include findings,
37 conclusions, and recommendations as to the proper salary and benefits, including retirement, to
38 be paid from the state treasury, for all justices and judges of this state, including retired justices
39 and judges sitting on assignment. The annual report shall also include such legislative proposals
40 as the Commission deems necessary to implement these recommendations.

41 (8) Directive of Commission.. The Commission is established in recognition of the fact that
42 inadequate compensation, which results in unreasonable economic hardship, prevents many
43 highly qualified individuals from serving as judges or prevents them from serving on the bench
44 for a sufficiently long period of time. This economic reality severely undermines the essential
45 goal of maintaining the highest level of public confidence in the State Judiciary. The
46 Commission shall therefore conduct its study and make its recommendations with respect to all
47 aspects of judicial compensation in this Massachusetts to the end that the judicial compensation
48 structure shall be adequate to ensure that the most highly qualified individuals in this state,
49 selected from a diversity of life and professional experiences, will be attracted to the state
50 judiciary and will be able to serve and to continue to serve without unreasonable economic
51 hardship and with a level of judicial independence unaffected by financial concerns.

52 (9) Criteria for Recommendations. In order to make findings, conclusions, and
53 recommendations as to the proper salary and benefits for all justices and judges in

54 Massachusetts, and in order to fulfill the directive of this Commission, the Commission may
55 consider, but shall not be limited to, the following factors:

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

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

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

61 (d) the average consumer prices commonly known as the cost of living, as well as the changes
62 in such measure.

63 (e) such other factors, not confined to the foregoing, that are nominally or traditionally taken
64 into consideration in the determination of such compensation; and

65 (f) most importantly, that the level of overall compensation creates parity with the ten states of
66 highest compensation, when adjusted for “cost of living” according to the national judicial
67 compensation survey conducted by the National Center for State Courts. And further, that said
68 compensation ensures that the most highly qualified individuals in Massachusetts, selected from
69 a diversity of life and professional experiences, will be attracted to the judiciary and will be able
70 to serve there and to continue to serve there without unreasonable economic hardship and with a
71 level of judicial independence unaffected by financial concerns.

72 (10) Binding Nature of Report. The recommendations made by the Judicial Compensation
73 Commission in its annual report to the Great and General Court, the Governor and the Chief

74 Justice of the Supreme Judicial Court shall be binding and have full force of law immediately
75 upon the 90th day following the lodging of the annual report with the clerk of the House and the
76 Senate, provided that neither a majority of the Senate nor a majority of the House of
77 Representatives votes to reject any or all such recommendations within 90 days following the
78 lodging of the annual report with the clerk of the House and Senate. In the event that either a
79 majority of the Senate and/ or a majority of the House of Representatives votes to reject one or
80 more, but not all, of such recommendations, the recommendations rejected by neither a majority
81 of the Senate nor a majority of the House of Representatives shall be binding and have full force
82 of law immediately upon the [90th] day following the lodging of the annual report with the clerk
83 of the House and Senate.