

**HOUSE . . . . . No. 2373**

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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:

*Rady Mom*

*18th Middlesex*

*Joseph W. McGonagle, Jr.*

*28th Middlesex*

**HOUSE . . . . . No. 2373**

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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.

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The Commonwealth of Massachusetts

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

34 (c) Each such judge first appointed to judicial office on or after January second, nineteen  
35 hundred and seventy-five and who (1) shall be retired under Article LVIII of the Amendments to  
36 the Constitution, or (2) shall have served in such office or offices for at least fifteen years

37 continuously and has attained the age of sixty-five years but not having attained the age of  
38 seventy, and shall resign his office, shall thereupon be entitled to receive a retirement allowance  
39 for life at an annual rate equal to three fourths of the annual rate of salary, after serving for at  
40 least eighteen months at said rate of salary will be payable to him at the time of such retirement  
41 or resignation. For the purpose of clause (2), a year of service as a special justice shall be  
42 computed by dividing the number of days of actual sittings in such capacity by two hundred and  
43 sixty, whether or not such sittings occurred in one calendar or fiscal year, provided that such  
44 judge deposits into the judges' retirement fund an amount equal to seven per cent or such other  
45 amount as would be applicable pursuant to paragraph (b) of the compensation received by him  
46 during such period of service as a special justice plus regular interest to the date of such deposit.  
47 A judge shall be deemed to have served continuously, although a period not in excess of thirty  
48 days shall have intervened between the holding of one judicial office and the holding of another  
49 judicial office.

50 (d) Any such judge who does not qualify for a retirement allowance under the provisions  
51 of paragraph (c) upon his retirement under Article XCVIII of the Amendments to the  
52 Constitution at age seventy shall thereupon be entitled to receive a retirement allowance for life  
53 at an annual rate equal to ten per cent of three fourths of the salary of the office from which he  
54 retired at the time of such retirement multiplied by the number of years not exceeding ten, and  
55 fractions thereof consisting of a month or more which he has served in such office or offices. For  
56 the purposes of this paragraph, a year of service as a special justice shall be computed by  
57 dividing the number of days of actual sittings in such capacity by two hundred and sixty, whether  
58 or not such sittings occurred in one calendar or fiscal year, provided that such judge deposits into  
59 the judges' retirement fund an amount equal to seven percent or such other amount for at least

60 eighteen months as would be applicable pursuant to paragraph (b) of the compensation received  
61 by him during such period of service as a special justice plus regular interest to the date of such  
62 deposit. A judge shall be deemed to have served continuously, although a period not in excess of  
63 thirty days shall have intervened between the holding of one judicial office and the holding of  
64 another judicial office.

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

78 (f) If any such judge resigns from office and does not meet the requirements for  
79 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.

101 (i) Pursuant to the provisions of section four hundred and fourteen (h)(2) of the United  
102 States Internal Revenue Code, the governmental unit from which each judge receives his regular  
103 compensation shall assume and pay the contributions which would be payable by the judge under

104 paragraph (b). The contributions so assumed shall be treated as employer contributions in  
105 determining tax treatment under the United States Internal Revenue Code. Contributions which  
106 are assumed pursuant to this subdivision shall be treated and identified as member contributions  
107 for all purposes of the retirement system, except as specifically provided to the contrary in this  
108 subdivision.

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