

**HOUSE . . . . . No. 02965**

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The Commonwealth of Massachusetts

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PRESENTED BY:

*James M. Murphy*

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*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 Relative to the Office of Senior Justice

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PETITION OF:

NAME:

*James M. Murphy*

DISTRICT/ADDRESS:

*4th Norfolk*

# HOUSE . . . . . No. 02965

By Mr. Murphy of Weymouth, a petition (accompanied by bill, House, No. 2965) of James M. Murphy relative to the retirement earnings and benefits of certain senior justices. Public Service.

## The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

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:*

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

3           Section 65F½. A chief justice, or associate justice of the appeals court who is retired  
4 from or resigns his office, having attained the age of sixty-five years but not having attained the  
5 age of seventy years and who is receiving a pension at an annual rate equal to three fourths of the  
6 rate of salary payable to him at the time fo his retirement or resignation may notify the chief  
7 justice of the appeals court in writing that he wishes his name to be placed upon the list of senior  
8 justices of the appeals court. The chief justice of the appeals court shall place the name of any  
9 such chief justice or associate justice on the list of senior justices of the appeals court. With  
10 respect to those whose names have been placed on such list upon retirement, any retired chief  
11 justice or associate justice or any surviving spouse of such chief justice or associate justice, shall

12 be entitled to the same pension and all other benefits which he or his surviving spouse would  
13 have been entitled to receive if he had retired without his name having been placed on such list,  
14 notwithstanding any other law to the contrary, and a vacancy shall exist in the judicial office  
15 theretofore occupied by such retired chief justice or associate justice.

16 A retired chief justice or associate justice of the appeals court whose name has been  
17 placed on the list of senior justices shall be eligible to perform judicial duties until attaining the  
18 age of seventy years or until requesting, in writing, that his or her name be removed from the list  
19 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 65G<sup>1/2</sup>. 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 Edition, is  
49 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 salary of  
70 such justice if not retired. The per diem differential rate of compensation shall be paid monthly  
71 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 Edition, is  
82 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 salary of  
102 such justice if not retired. The per diem differential rate of compensation shall be paid monthly  
103 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.

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