



# House of Representatives

General Assembly

**File No. 156**

February Session, 2000

Substitute House Bill No. 5709

*House of Representatives, March 22, 2000*

The Committee on Judiciary reported through REP. LAWLOR of the 99<sup>th</sup> Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## ***An Act Concerning Funding For Probate Courts With Inadequate Income And The Retirement Of Probate Judges.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (j) of section 45a-82 of the general statutes is  
2 repealed and the following is substituted in lieu thereof:

3 (j) In the event that any court of probate otherwise receives income  
4 which is insufficient to meet, on an ongoing basis, the reasonable and  
5 necessary financial needs of that court, including the salaries of the  
6 judge and the judge's staff, there shall be transferred from time to time  
7 from the Probate Court Administration Fund such amounts as are  
8 determined by the Probate Court Administrator to be reasonable and  
9 necessary for the proper administration of each such court. Except as  
10 provided in subsection (k) of section 45a-92, the judge's annual salary  
11 shall not exceed the average annual salary of such judge for the three-  
12 year period next preceding the request for financial assistance or the  
13 product resulting from the multiplication of fifteen dollars by the

14 annual weighted workload of the court, as defined in subsection (c) of  
15 section 45a-92, whichever is greater, but not to exceed the annual  
16 compensation provided in subsection (k) of section 45a-92.

17       Sec. 2. Section 45a-36a of the general statutes is repealed and the  
18 following is substituted in lieu thereof:

19       Any judge of probate in office on or after October 1, 1997, whose  
20 probate district is merged with another district and who has not been  
21 elected to a term which begins at the time of, or subsequent to, such  
22 consolidation, or any judge of probate in office on or after the effective  
23 date of this act, who retires at any time prior to January 1, 2003, and  
24 whose probate district is merged with another district by the action of  
25 the General Assembly prior to January 1, 2003, effective on the  
26 Wednesday following the first Monday of January, 2003, (1) may elect  
27 to receive four years of credited service, as defined in subdivision (2) of  
28 section 45a-34, (2) may elect to receive a reduction of [his] such judge's  
29 retirement age of not more than four years pursuant to subsection (a)  
30 of section 45a-36, or (3) may elect any combination of subdivisions (1)  
31 and (2) of this section, provided such combination shall not exceed  
32 four years in total.

**JUD   Committee Vote:**   Yea   35   Nay   2   JFS

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

---

**OFA Fiscal Note**

**State Impact:** Cost (Probate Court Administration Fund and Probate Retirement Fund)

**Affected Agencies:** Probate Court (Judicial Department)

**Municipal Impact:** None

**Explanation**

**State Impact:**

The bill sets minimum salaries for probate judges and makes more judges eligible for enhanced pension credits and early retirement benefits. Passage of the bill would result in costs to both the Probate Court Administration Fund (PCAF) and the Probate Retirement Fund. There are currently 130 probate courts in the state and an equal number of judges. The number of probate judges potentially affected by the passage of this bill is uncertain at this time.

More specifically, the bill establishes an alternative formula for a minimum salary for probate court judges based on what is referred to as “annual weighted workload”. The purpose is to provide funds from the PCAF to probate districts that have few large decedents’ estates and a heavy concentration of guardianship and conservatorship matters. The current formula provides for the determination of judges salaries based on the net income of the various probate courts. Under this bill, probate judges are entitled to whichever formula results in a

higher salary.

Despite salary caps associated with the current formula such as 75% of a superior court judge salary and average compensation for the past three years, it appears that any judge who is currently below the higher of the two formulas will eventually receive an increase in compensation. This alternative formula as proposed in the bill represents additional costs to the PCAF in that courts with insufficient revenue to meet their daily expenses, including judge compensation, may seek funds from the PCAF to meet any such shortfall.

Finally, the bill makes enhanced benefits available to probate judges who retire before their districts merge as long as the effective date of the merger is no later than January 6, 2003. Passage of the bill represents additional costs to the Probate Retirement Fund.

Although these costs to the PCAF and Probate Retirement Fund are indeterminate, passage of the bill does place greater demands on these accounts. It should be noted that the phase out of the succession or inheritance tax has had and is expected to continue to have a negative effect on the PCAF.

---

**OLR Bill Analysis**

sHB 5709

***AN ACT CONCERNING FUNDING FOR PROBATE COURTS WITH INADEQUATE INCOME AND THE RETIREMENT OF PROBATE JUDGES.***

**SUMMARY:**

The bill sets minimum salaries for probate judges in districts too poor to pay them from court revenues. It allows the Probate Court Administration Fund (PCAF) to pay these judges \$15 per weighted case, presumably using previous year's weighted caseload, if that figure is more than the average of their three previous years' salary (which is the current measure). In either case, they cannot earn more than high volume probate court judges.

The bill also makes more judges in probate districts that merge between October 1, 2000 and January 1, 2003 eligible for enhanced pension credits, early retirement, or a combination, totaling four years. They must retire between those dates, and the effective date of legislation merging or consolidating their districts must be no later than January 6, 2003, the first day of the legislature's January, 2003 regular session.

EFFECTIVE DATE: October 1, 2000

**ENHANCED RETIREMENT BENEFITS**

Probate judges who retire after their districts merge with others are currently entitled to enhanced retirement benefits, so long as they have not been re-elected since the merger. The bill makes these benefits available to judges who retire before their districts merge. For example, a judge who retires on October 1, 2000 will be eligible so long as the effective date of legislation merging his district with another is January 6, 2003 or earlier.

**BACKGROUND**

***Probate Judge Compensation***

Probate judge salaries are usually paid from fees and assessments they charge those who use their courts. After deducting PCAF assessments and other permissible expenses, judges can keep up to \$72 for each case they handle, until their salary reaches the statutory salary cap for high volume probate courts, meaning those serving populations of 70,000 or more. In practice, the maximum salary is 75% of an equivalent Superior Court judge's pay.

The law also sets minimum salaries, either \$15 per weighted case or no less than the judge's average salary from January 1, 1996 to December 31, 1998. When a probate court's income is too small to pay its judge, he may apply to the PCAF for funds to bring his salary up to the minimum. The PCAF currently calculates such judges' salaries by averaging what they earned in the three years prior to their application, with no provision for per-case payments.

***Probate Court Administration Fund***

The PCAF is comprised of money collected by probate courts from user fees and assessed costs. The probate judge keeps a specified amount as salary and allowable expense reimbursement and pays the rest to the state treasurer, who administers the fund.

The PCAF returns some of this money to probate courts that do not generate enough in fees and assessments to cover their costs. This may occur in districts with large guardianship and conservatorship caseloads involving indigent people, or in which there are few large decedent's estates to administer.

**COMMITTEE ACTION**

Judiciary Committee

Joint Favorable Substitute  
Yea 35    Nay 2

