



House of Representatives

General Assembly

File No. 496

February Session, 2010

Substitute House Bill No. 5408

House of Representatives, April 13, 2010

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

AN ACT CONCERNING PROBATE COURT OPERATIONS.

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

1 Section 1. Subsection (g) of section 45a-8a of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective*
3 *January 5, 2011*):

4 (g) (1) The Probate Court Administrator, with the advice of the
5 participating probate judges of the districts located in the designated
6 region, shall appoint an administrative judge for each regional
7 children's probate court. The administrative judge shall be a probate
8 judge at the time of such appointment. If the administrative judge
9 ceases to serve as a probate judge after such appointment, the
10 administrative judge may continue to serve as administrative judge at
11 the pleasure of the Probate Court Administrator, but shall not have the
12 powers granted to an elected probate judge and shall not hear and
13 determine children's matters before such regional children's probate
14 court. Subject to the approval of the Chief Court Administrator, the
15 Probate Court Administrator shall fix the compensation of the

16 administrative judge and such compensation shall be paid from the
17 Probate Court Administration Fund. Such compensation, together with
18 the administrative judge's compensation as a probate judge of the
19 district to which he or she was elected, shall not exceed the
20 compensation provided for a judge of probate under [subsection (k) of
21 section 45a-92] subdivision (4) of subsection (a) of section 45a-95a. The
22 administrative judge shall have such benefits as may inure to him or
23 her as a probate judge and shall receive no additional benefits, except
24 for compensation provided under this section.

25 (2) Each administrative judge shall be responsible for the
26 management of cases, coordination of social services, staff, financial
27 management and record keeping for the regional children's probate
28 court for which the administrative judge is appointed. The
29 administrative judge may, with the approval of the Probate Court
30 Administrator, purchase furniture, office supplies, computers and
31 other equipment and contract for services that the administrative judge
32 may deem necessary or advisable for the expeditious conduct of the
33 business of the regional children's probate court. Such expenses shall
34 be paid for pursuant to section 45a-8. If a separate facility for a regional
35 children's probate court is established pursuant to subdivision (2) of
36 subsection (d) of this section, the participating town or city shall be
37 reimbursed for such expenses from the Probate Court Administration
38 Fund upon presentation of vouchers to the Probate Court
39 Administrator.

40 Sec. 2. Section 45a-20 of the general statutes is repealed and the
41 following is substituted in lieu thereof (*Effective January 5, 2011*):

42 When a three-judge court is appointed by the Probate Court
43 Administrator, [said] the administrator may pay from the fund
44 authorized under section 45a-82 a per diem rate not to exceed two
45 hundred fifty dollars for each judge that has been cited in, other than
46 the judge in whose district the matter is being heard, provided such
47 payment under this section, when combined with the compensation
48 that the judge receives as a judge of probate of the district to which the

49 judge was elected, does not exceed the compensation provided for a
50 judge of probate under subdivision (4) of subsection (a) of section 45a-
51 95a. Such payment shall be made in accordance with regulations
52 promulgated by the Probate Court Administrator. [and shall be
53 included as income to the receiving judge under section 45a-92.]

54 Sec. 3. Section 45a-79b of the general statutes is repealed and the
55 following is substituted in lieu thereof (*Effective January 5, 2011*):

56 (a) There shall be special assignment probate judges appointed by
57 the Chief Justice of the Supreme Court, on nomination by the Probate
58 Court Administrator, from among the judges of probate elected as
59 provided in section 45a-18. A nominee of the Probate Court
60 Administrator shall have demonstrated the special skill, experience or
61 expertise necessary to serve as a special assignment probate judge. The
62 Probate Court Administrator shall issue regulations pursuant to
63 subdivision (1) of subsection (b) of section 45a-77 to establish
64 requirements concerning the responsibilities of special assignment
65 probate judges and the number, geographic distribution and expertise
66 of such judges. A special assignment probate judge shall serve at the
67 pleasure of the Chief Justice.

68 (b) Subject to the approval of the Chief Court Administrator, the
69 Probate Court Administrator shall fix the compensation of special
70 assignment probate judges appointed pursuant to this section. Such
71 compensation shall, on the order of the Probate Court Administrator,
72 be paid from the Probate Court Administration Fund established
73 under section 45a-82. Such compensation, including compensation that
74 a special assignment probate judge receives as a judge of probate of the
75 district to which [he or she] the judge was elected, shall not exceed the
76 compensation provided for a judge of probate under [subsection (k) of
77 section 45a-92] subdivision (4) of subsection (a) of section 45a-95a. A
78 special assignment probate judge shall have such benefits as may inure
79 to him or her as a judge of probate and shall receive no additional
80 benefits, except compensation provided under this subsection.

81 Sec. 4. Section 45a-44 of the general statutes is repealed and the

82 following is substituted in lieu thereof (*Effective January 1, 2011*):

83 (a) Each employee shall contribute to the fund three and three-
84 quarters per cent of that portion of [such] the employee's pay from
85 which contributions are not to be deducted under the Federal Old Age
86 and Survivors Insurance System as provided for in sections 7-452 to 7-
87 459, inclusive, and one per cent of that portion of pay from which
88 contributions are to be deducted. [Contributions are to be deducted by
89 the employing court of probate and forwarded] The Probate Court
90 Administrator shall deduct the employee's contributions from the
91 employee's pay and shall forward such contributions to the Retirement
92 Commission to be credited to the retirement fund on the employee's
93 account. [, in four payments, payable on or before the last day of
94 March, June, September and December of the applicable year. Any
95 retirement contributions not paid within thirty days of such date shall
96 incur simple interest at the rate of twenty per cent per annum.]

97 (b) (1) Any employee who leaves the employment of the court
98 before becoming eligible for retirement may, on request to the
99 Retirement Commission, withdraw the total of all contributions made
100 by [him] the employee, without interest, provided, if [he] the employee
101 makes no such request within ten years after leaving, [his] the
102 employee's contributions shall revert to the fund.

103 (2) Notwithstanding the provisions of subdivision (1) of this
104 subsection, if such employee's departure from probate service or
105 withdrawal of contributions is on or after October 1, 1986, the
106 withdrawal of contributions shall include interest credited from the
107 later of (A) January 1, 1986, or (B) the first day of the calendar year
108 following the date of actual contribution, to the first day of the
109 calendar year coincident with or preceding the date the employee
110 leaves probate service. Such interest shall be credited at the rate of five
111 per cent per year. In addition, for the partial calendar year during
112 which the employee leaves probate service or withdraws
113 contributions, provided such date is after January 1, 1986, interest shall
114 be credited at the rate of five-twelfths of one per cent multiplied by the

115 full number of months completed during such calendar year, such
116 interest rate to be applied to the value of contributions, including any
117 prior interest credits, as of the first day of such calendar year.

118 (3) Any employee who withdraws [his] the employee's
119 contributions from the fund and is subsequently reinstated shall not
120 receive credited service for such prior employment in the computation
121 of any benefit with respect to [him] the employee under the retirement
122 plan unless the withdrawn contributions have been repaid with
123 interest at a rate to be determined by the commission. Any employee
124 who was ineligible for retirement benefits at the time of [his] the
125 employee's employment and who has not made contributions under
126 this section, who becomes eligible, or whose spouse becomes eligible,
127 for any benefit under the retirement plan, shall receive credited service
128 for any employment, provided such employee makes such
129 contributions with interest at a rate to be determined by the
130 commission.

131 Sec. 5. Section 45a-45 of the general statutes is repealed and the
132 following is substituted in lieu thereof (*Effective January 1, 2011*):

133 (a) Each judge of probate shall contribute to the fund three and
134 three-quarters per cent of that portion of the judge's annual
135 compensation with respect to which contributions are not made to the
136 Federal Old Age and Survivors System as provided for in sections 7-
137 452 to 7-459, inclusive, and one per cent of that portion from which
138 such contributions are made. [Contributions are to be forwarded by
139 the judge of probate] The Probate Court Administrator shall deduct
140 the judge's contributions from the judge's compensation and shall
141 forward such contributions to the Retirement Commission to be
142 credited to the retirement fund on the judge's account.

143 [(b) Retirement contributions to the fund shall be made in four
144 installments payable on or before the last day of March, June,
145 September and December of the applicable year, and each payment
146 shall approximate as closely as possible one-fourth of the estimated
147 annual contribution based upon the estimated annual net income of

148 the office, provided, if the amount to be forwarded is less than one
149 hundred dollars, remittances shall be made in one payment on or
150 before December thirty-first of the applicable year.

151 (c) When the actual net income for a particular year becomes
152 known, and in no event later than March first of the following year, the
153 probate judge shall add to his next payment the amount of any
154 deficiency, or subtract from his next payment the amount of any excess
155 contributions for said year. If a judge has no net income in any
156 particular year, the Probate Court Administrator shall report
157 accordingly to the Retirement Commission. Any retirement
158 contributions not paid within thirty days of the time prescribed in
159 subsection (b) or this subsection shall incur simple interest at the rate
160 of twenty per cent per annum.]

161 [(d)] (b) (1) Any judge [leaving] who leaves office before becoming
162 eligible for a retirement allowance may, on request to the Retirement
163 Commission, withdraw the total of all contributions made by [him] the
164 judge, without interest, provided, if [he] the judge makes no such
165 request within ten years after leaving office, [his] the judge's
166 contributions shall revert to the fund.

167 (2) Notwithstanding the provisions of subdivision (1) of this
168 subsection, if such judge's departure from office or withdrawal of
169 contributions is on or after October 1, 1986, the withdrawal of
170 contributions shall include interest credited from the later of (A)
171 January 1, 1986, or (B) the first day of the calendar year following the
172 date of actual contribution, to the first day of the calendar year
173 coincident with or preceding the date the judge leaves office. Such
174 interest shall be credited at the rate of five per cent per year. In
175 addition, for the partial calendar year during which the judge leaves
176 office or withdraws contributions, provided such date is after January
177 1, 1986, interest shall be credited at the rate of five-twelfths of one per
178 cent multiplied by the full number of months completed during such
179 calendar year, such interest rate to be applied to the value of
180 contributions, including any prior interest credits, as of the first day of

181 such calendar year.

182 (3) Any judge who withdraws [his] the judge's contributions from
183 the fund and is subsequently reinstated shall not receive credited
184 service for such prior time in office in the computation of any benefit
185 under the retirement plan unless the withdrawn contributions have
186 been repaid with interest at a rate to be determined by the commission.
187 Any judge who was ineligible for retirement benefits at the time he or
188 she became a judge and who has not made contributions under this
189 section, who becomes eligible, or whose spouse becomes eligible, for
190 any benefit under the retirement plan, shall receive credited service for
191 any time in office, provided such judge makes such contributions with
192 interest at a rate to be determined by the commission.

193 Sec. 6. Section 45a-74 of the general statutes is repealed and the
194 following is substituted in lieu thereof (*Effective from passage*):

195 (a) There shall be a Probate Court Administrator who shall be
196 appointed from among the judges of the several courts of probate by
197 the Chief Justice of the Supreme Court to serve at his pleasure. If the
198 Probate Court Administrator is unable by reason of sickness, absence
199 or other disability to perform the duties of his office, or if there is a
200 vacancy in the office of Probate Court Administrator, the Chief Justice
201 shall designate another judge of a court of probate to act in his stead
202 until he resumes his duties or until a new Probate Court Administrator
203 is appointed.

204 (b) The Probate Court Administrator shall devote full time to the
205 duties of his office except that he may serve as a judge of probate but
206 shall not engage in the private practice of law. Any Probate Court
207 Administrator who continues to serve as a judge of probate shall not
208 receive compensation as a judge of probate or benefits that would
209 ordinarily inure to him as a judge of probate while he is serving as
210 Probate Court Administrator. Any Probate Court Administrator who
211 ceases to serve as a judge of probate may continue to serve as Probate
212 Court Administrator at the pleasure of the Chief Justice.

213 Sec. 7. Section 45a-92 of the 2010 supplement to the general statutes
214 is repealed and the following is substituted in lieu thereof (*Effective*
215 *from passage*):

216 (a) Each person who is a judge of probate at any time during any
217 calendar year shall file with the Probate Court Administrator on or
218 before April first of the succeeding year a statement signed under
219 penalty of false statement showing the actual gross receipts and
220 itemized costs of his or her office and the net income for each such
221 calendar year. If such person ceases to hold office, he or she shall also
222 file with the Probate Court Administrator, on or before April first of
223 the second and third years next following, a statement signed under
224 penalty of false statement showing his or her net income from his or
225 her former office for the first and second calendar years next following
226 the calendar year in which he or she ceased to hold office. At the time
227 of filing, each such person shall pay to the State Treasurer as
228 hereinafter provided the sum required by this section, less sums
229 previously paid to the State Treasurer on account. Payment shall be
230 credited by the State Treasurer to the fund established by section
231 45a-82. The requirement to file a statement under this subsection shall
232 not apply with respect to any calendar year beginning on or after
233 January 1, 2011.

234 (b) The personal representative of each person who holds the office
235 of judge of probate, at any time during any calendar year, and dies
236 while in office, or within twenty-four months after ceasing to hold
237 office, shall file with the Probate Court Administrator, on or before
238 March first next following such death, a statement signed under
239 penalty of false statement showing the actual gross receipts and
240 itemized costs of the decedent's office for the preceding calendar year
241 and the decedent's net income from that office for such calendar year.
242 The personal representative shall file with the Probate Court
243 Administrator on or before March first of the second year following
244 said death a statement signed under penalty of false statement
245 showing the net income to the decedent's estate from such office for
246 the preceding calendar year. The requirement to file a statement under

247 this subsection shall not apply with respect to any calendar year
248 beginning on or after January 1, 2011.

249 (c) Each judge of probate or personal representative, except a judge
250 of probate who is the Probate Court Administrator, shall at the time of
251 filing such returns pay to the State Treasurer to be credited to the fund
252 established by section 45a-82, a percentage of the annual net income
253 from such office based on the following table in which the percentage
254 appearing in the left column shall first be multiplied by the minimum
255 annual compensation of a high volume court as provided in subsection
256 (k) of this section, as in effect on the first day of July of the calendar
257 year for which an assessment is due pursuant to this section, the
258 product of which shall then be multiplied by the applicable percentage
259 appearing in the right column:

T1	First 20% of the compensation assessment rate	
T2	of a high volume court	\$1 nominal
T3	Next 6.67%	5%
T4	Next 6.66%	10%
T5	Next 6.67%	15%
T6	Next 6.67%	25%
T7	Next 6.66%	35%
T8	Next 13.34%	50%
T9	Next 33.33%	75%
T10	Next 33.67%	80%
T11	Next 66.67%	85%
T12	Next 133.33%	95%

260 Excess over 333.67%, up to maximum amount computed at 97.5% by
261 the Probate Court Administrator

262 All over the maximum amount computed at 100% by the Probate
263 Court Administrator.

264 As used in this subsection, "maximum amount" means the amount of
265 annual net income from such office which, when applying the
266 percentage payments set forth above, shall result in the judge of
267 probate retaining as net compensation, after the payment of the above
268 amounts, no more than the product resulting from the multiplication

269 of seventy-two dollars by the annual weighted-workload of the court,
270 as defined in regulations issued by the Probate Court Administrator
271 pursuant to subdivision (1) of subsection (b) of section 45a-77, but not
272 to exceed the compensation of a high volume court as set forth in
273 subsection (k) of this section, provided this limitation shall not apply to
274 those courts described in subsection (k) of this section. Such payment
275 shall be deemed to be a necessary expense of such office, but shall not
276 be deductible from the gross income for the purpose of determining
277 net income of such office under this section. Notwithstanding the
278 provisions of this subsection, the annual minimum compensation of a
279 judge of probate shall be no less than the product resulting from the
280 multiplication of fifteen dollars by the annual weighted-workload of
281 the court, as defined in regulations issued by the Probate Court
282 Administrator pursuant to subdivision (1) of subsection (b) of section
283 45a-77, or no less than the judge's average compensation for the three-
284 year period from January 1, 1996, to December 31, 1998, but, in no
285 event shall that minimum compensation exceed that provided
286 pursuant to subsection (k) of this section.

287 (d) (1) Any judge of probate who is the Probate Court Administrator
288 shall pay to the State Treasurer, to be credited to said fund, one
289 hundred per cent of the annual net income from his office during the
290 period of time he serves as Probate Court Administrator. (2) For the
291 purposes of this assessment, fees received after but earned before his
292 appointment as Probate Court Administrator shall be subject to the
293 assessment set forth in the table in subsection (c) of this section. Fees
294 received after such judge of probate ceases to be the Probate Court
295 Administrator but earned during his term as Probate Court
296 Administrator shall be paid in full to the State Treasurer after the
297 deduction of the expenses of his office. (3) The books and records of
298 any judge of probate acting as Probate Court Administrator shall be
299 audited by the Auditors of Public Accounts at the beginning of his
300 term as Probate Court Administrator and thereafter at least annually
301 during his term as Probate Court Administrator and upon completion
302 of his term as Probate Court Administrator or as judge of probate
303 whichever occurs first. (4) A judge of probate who is Probate Court

304 Administrator shall make no expenditure in his court for salaries,
305 equipment, or any other expenditure exceeding the sum of one
306 hundred dollars in the aggregate, annually, without first having
307 obtained the approval of the Chief Court Administrator.

308 (e) (1) On or before January thirty-first of each year, each person
309 required to make payment under this section shall estimate such
310 annual net income and shall advise the Probate Court Administrator
311 thereof, upon such forms and pursuant to such regulations as said
312 administrator shall promulgate. (2) Each person who takes office as a
313 judge of probate after February first of any calendar year, as the result
314 of death, retirement, resignation or removal of the immediately
315 previous incumbent of that office, shall file his estimate of annual net
316 income with the Probate Court Administrator and shall make the
317 necessary payment to the State Treasurer in accordance therewith not
318 later than sixty days after taking office. (3) The requirement to estimate
319 such annual net income and advise the Probate Court Administrator
320 thereof under subdivision (1) of this subsection, and the requirement
321 to file an estimate with the Probate Court Administrator under
322 subdivision (2) of this subsection, shall not apply with respect to any
323 calendar year beginning on or after January 1, 2011.

324 (f) If, based upon such estimate, the amount payable shall be less
325 than one hundred dollars, the payment thereof shall be made in one
326 payment on or before December thirty-first of the applicable year.
327 Otherwise, the amount payable shall be made in four substantially
328 equal installments payable on or before the last day of March, June,
329 September and December of the applicable year, except that in the case
330 of an estimate filed pursuant to subdivision (2) of subsection (e) of this
331 section, the amount payable under such estimate shall be made in
332 substantially equal installments on such installment payment dates
333 next following the timely filing of such estimate in such year. The
334 estimated payment may be amended and changed at any time during
335 the year in which it is payable by increasing or decreasing the amount.
336 The amount of such increase or decrease shall be paid for or adjusted
337 in the installment or payment due at the time the estimated assessment

338 is next payable after such amendment. The Probate Court
339 Administrator may issue regulations pursuant to subdivision (1) of
340 subsection (b) of section 45a-77 to [carry out the intent of] implement
341 this subsection.

342 (g) Upon the completion of each calendar year, and in any event on
343 or before the first day of April of the succeeding calendar year, each
344 person required to make payment under this section shall make a
345 report signed under penalty of false statement to the Probate Court
346 Administrator, upon forms prescribed by and subject to regulations
347 promulgated by the administrator, of the following: (1) The gross
348 income received by virtue of such office; (2) actual expenses incurred
349 in connection with the office; (3) the net income of such office prior to
350 the payment of the assessment installments hereinbefore provided; (4)
351 the amount paid during the preceding calendar year to the State
352 Treasurer on account of the foregoing estimate; and (5) the amount of
353 the difference, if any, between the amount so paid and the amount
354 actually due. [This] Such report shall be open to public inspection. The
355 requirement to make a report under this subsection shall not apply
356 with respect to any calendar year beginning on or after January 1, 2011.

357 (h) If the amount already paid was less than the amount due, such
358 person shall, on or before March first of the succeeding calendar year,
359 pay to the State Treasurer the entire deficiency. If the amount already
360 paid was more than the amount due, such person shall either, at [his]
361 such person's election and pursuant to regulations promulgated by the
362 State Treasurer, be entitled to a refund of such excess payment to be
363 paid from the fund provided by section 45a-82, or a credit in the
364 amount of the overpayment to be charged against the future
365 obligations of such person to said fund.

366 (i) (1) If any estimated quarterly payments required to be paid
367 pursuant to subsection (f) of this section are less than one-fourth of
368 seventy per cent of the total assessment due for that year or less than
369 one-fourth of ninety-five per cent of the assessment paid for the prior
370 year, such person shall be obligated to pay to such fund a penalty of

371 ten per cent of the amount of the deficiency, except that the Probate
372 Court Administrator may waive such penalty for cause in accordance
373 with regulations issued pursuant to subdivision (1) of subsection (b) of
374 section 45a-77. Any such penalty shall become payable upon demand
375 by the Probate Court Administrator, and be due within thirty days
376 after such demand, in accordance with regulations issued by the
377 Probate Court Administrator, and shall be subject to interest under
378 subdivision (2) of this subsection in the event of default in such
379 payment. (2) Any payments required under subsection (f) or (h) of this
380 section which are not paid at the applicable times prescribed in said
381 subsections, and any penalty payment required under subdivision (1)
382 of this subsection which is not timely paid, shall incur simple interest
383 at the rate applicable under section 12-376 for delinquent payment of
384 succession and transfer taxes where no extension has been granted, to
385 be payable to the State Treasurer and to be added to the [fund] Probate
386 Court Administration Fund established under section 45a-82. Any
387 alleged delinquency of a judge of probate in making payments as
388 required under this section shall be referred by the State Treasurer to
389 the Attorney General for such action as the Attorney General deems
390 necessary.

391 (j) (1) As used in this subsection and subsections (c) to (i), inclusive,
392 of this section, for any calendar year, the term "actual expenses
393 incurred in connection therewith" may include as an allowable
394 deduction the amount of any net operating loss for a prior calendar
395 year as provided in this section. (2) The term "net operating loss"
396 means the excess of itemized costs and expenses of office allowed by
397 this section over the gross income. A net operating loss may be
398 deducted in the calendar year following the year in which the net
399 operating loss occurred, but (A) if the net income of such subsequent
400 year is not sufficient to pay all of such net operating loss, then the
401 balance of such net operating loss may be deducted in the second
402 calendar year following such net operating loss; and (B) if the net
403 income of such second calendar year is not sufficient to pay all of the
404 remaining net operating loss, then the balance of such net operating
405 loss may be deducted in the third calendar year following such net

406 operating loss. In no event shall any such net operating loss or part
407 thereof be deductible for any report beyond the third calendar year in
408 which it occurred.

409 (k) Notwithstanding the provisions of subsection (c) of this section
410 concerning percentage payments, a judge of probate who is the judge
411 in a court of probate designated as a high volume court shall be
412 permitted to retain as net compensation, before the payment of any
413 amounts due under sections 45a-34 to 45a-54, inclusive, and section
414 45a-75, the sum which shall be the greater of (1) the net compensation
415 resulting from the application of the percentages in subsection (c) of
416 this section or (2) the compensation earned after payment of actual
417 expenses of the office not to exceed seventy-five per cent of the amount
418 of the salary of a Superior Court judge as determined in accordance
419 with subsection (a) of section 51-47 as determined on July first of the
420 calendar year for which the assessments are being paid pursuant to
421 this section. If a judge of probate of a high volume court leaves office
422 during a calendar year, or if a judge of probate of a high volume court
423 assumes office and serves during a portion of the calendar year, the
424 minimum net compensation provided in this section shall be prorated
425 in accordance with the number of days served during the calendar
426 year as the numerator, and three hundred [and] sixty-five as the
427 denominator. [, provided if the business of the court in a calendar year
428 does not produce sufficient income with which to pay the minimum
429 net compensation, then payment for that year shall not be extended to
430 subsequent calendar years.] For the purposes of this subsection, "high
431 volume court" [shall mean] means a court of probate which serves a
432 district having an estimated population of seventy thousand or more
433 persons as reported in the State Register and Manual for the calendar
434 year immediately preceding (A) the year for which the judge was
435 elected, (B) the year in which such judge was elected, or (C) any year of
436 the term of office of such judge. The amount of assessment payable to
437 the State Treasurer under this section shall be reduced by the amount
438 necessary to provide to the judge the minimum compensation to which
439 such judge is entitled under this section, and the estimates of annual
440 net income required in subsections (e) and (f) of this section may be

441 reduced accordingly. Minimum compensation as provided [herein] in
442 this section shall only be payable if all ordinary and necessary
443 expenses of the court are paid.

444 (l) This section applies only to income received by the courts of
445 probate prior to January 5, 2011, except that payments made under
446 section 45a-93, as amended by this act, to a judge who leaves office or
447 dies while in office shall be subject to the assessment under subsection
448 (c) of this section regardless of when such payments are made.

449 (m) Notwithstanding the provisions of this section, the
450 compensation of each probate judge in office during the period from
451 January 1, 2011 to January 4, 2011, inclusive, shall be calculated by
452 multiplying the judge's allowable compensation for calendar year
453 2010, as determined under the provisions of this section, by a fraction
454 with the number of days served during such period as the numerator,
455 and three hundred sixty-five as the denominator.

456 Sec. 8. Section 45a-93 of the 2010 supplement to the general statutes
457 is repealed and the following is substituted in lieu thereof (*Effective*
458 *from passage*):

459 (a) (1) If a judge of probate leaves office or dies while in office, the
460 successor to such judge in said office shall pay to such judge or the
461 personal representative of a deceased judge a sum representing the
462 accounts receivable for payments due the court in accordance with
463 section [45a-105] 45a-107, as of the date of separation from said office
464 or the date of death in the case of a judge who dies while holding such
465 office. Determination of the basis for such accounts receivable
466 including computation for work in process shall be made in
467 accordance with regulations issued by the Probate Court
468 Administrator. Any payments made to such judge or the personal
469 representative of a deceased judge shall be subject to the provisions of
470 section 45a-92, as amended by this act, and no such payments shall be
471 made unless and until the accounts receivable are collected, [by the
472 successor judge] and no such payments shall be made [except within
473 the time for filing a statement signed under penalty of false statement

474 showing the actual gross receipts of the itemized costs of the office in
475 accordance with section 45a-92. There] after December thirty-first of
476 the second calendar year following the year in which the judge leaves
477 office or dies while in office. Prior to January 5, 2011, there may be
478 deducted from any such amounts by a successor judge the cost of
479 collection thereof, and any expenses directly attributable to the
480 outgoing judge's or deceased judge's term of office paid by the
481 successor judge.

482 (2) On and after January 5, 2011, such payments shall include only a
483 sum representing accounts receivable for costs, charges and fees
484 assessed on the estates of decedents arising in a town within the
485 judge's district as such district existed on January 4, 2011. Such
486 payments shall be made in annual installments, payable on or before
487 April first of the year immediately following the year in which such
488 accounts receivable are collected. There shall be deducted from any
489 such payment (A) any assessment, penalty or interest due pursuant to
490 section 45a-92, as amended by this act, and applicable regulations, (B)
491 the cost of collection of such accounts receivable, and (C) any expenses
492 directly attributable to the outgoing judge's or deceased judge's term of
493 office.

494 (3) In no event shall any such payments exceed the maximums
495 allowable under the provisions of section 45a-92, as amended by this
496 act, in any one calendar year, and in the aggregate in no event shall the
497 total payments payable under this section exceed one hundred per cent
498 of the average final compensation for such judge as defined in
499 subdivision (1) of section 45a-34, except that such allowable maximum
500 payment shall not include any amounts of money due and payable to
501 the judge at the time of separation from the court or at the time of such
502 judge's death for amounts advanced by such judge to the court for
503 operating expenses and not previously repaid, which amounts may be
504 paid to such judge or personal representative upon receipt of
505 satisfactory proof of the existence of balances due.

506 (b) (1) Except as provided in subdivision (2) of this subsection, the

507 provisions of subsection (a) of this section shall apply to any judge in
508 office on or before January 4, 2011.

509 (2) The provisions of subsection (a) of this section shall not apply to
510 a judge who is [first] elected to a term that begins on or after January 5,
511 2011. [, or who resumes office after a break in service on or after
512 January 5, 2011.]

513 (c) On and after January 5, 2011, any payments due a judge under
514 subsection (a) of this section shall be paid from the Probate Court
515 Administration Fund.

This act shall take effect as follows and shall amend the following sections:		
Section 1	January 5, 2011	45a-8a(g)
Sec. 2	January 5, 2011	45a-20
Sec. 3	January 5, 2011	45a-79b
Sec. 4	January 1, 2011	45a-44
Sec. 5	January 1, 2011	45a-45
Sec. 6	from passage	45a-74
Sec. 7	from passage	45a-92
Sec. 8	from passage	45a-93

JUD Joint Favorable Subst.

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 11 \$	FY 12 \$
Probate Court	PCAF - Savings; GF - Revenue Gain	None	Potential

Note: PCAF=Probate Court Administration Fund; GF = General Fund

Municipal Impact: None

Explanation

The bill generates savings by abolishing work-in-process payments for any probate court judge who retires after January 2010. Note that beginning in FY 12, any surplus in the Probate Court Administration Fund is to be transferred to the General Fund. To the extent that the bill increases future surpluses, transfers to the General Fund would be increased.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**sHB 5408*****AN ACT CONCERNING PROBATE COURT OPERATIONS.*****SUMMARY:**

This bill:

1. specifies that Probate Court judges do not get extra compensation for acting as (a) an administrative judge for a regional children's court, (b) a member of a three-judge panel, (c) a special assignment judge, or (d) the probate court administrator and
2. conforms statute to reflect the centralized accounting and new pay formula that go into effect on January 5, 2011.

EFFECTIVE DATE: January 5, 2011, except the payroll deduction and financial reporting provisions are effective January 1 and the provisions relating to (1) the chief court administrator's pay; (2) financial reporting; (3) pro rata salary payments; and (4) work-in-process payments, are effective upon passage.

CENTRALIZED ACCOUNTING***Payroll Deductions***

PA 09-144 centralized Probate Court accounting and payroll functions and placed them in the Office of the Probate Court Administrator effective January 5, 2011, the start of the next probate term. The bill makes conforming changes by authorizing the probate court administrator to (1) deduct statutory retirement contributions from paychecks of judges and court staff and (2) transfer those funds to the Probate Court Retirement Fund. Currently, individual probate judges forward funds to the treasurer for deposit in the fund.

Financial Reporting

The bill also eliminates the following financial reporting requirements effective January 1, 2011:

1. actual gross receipts and itemized costs of the judge's office and net income for the calendar year;
2. with respect to a judge who dies in office, the same information filed by the judge's personal representative;
3. estimates of annual net income; and
4. at the end of each calendar year, the information listed in item (1) above plus the difference between the amount paid to the state and the amount actually due. (This document is a public record.)

Instead of relying on these reports, under the bill and PA 09-144, the chief court administrator will receive equivalent financial information in the normal course of business.

COMPENSATION***Pro Rata Pay for January 1 Through January 4, 2011***

The bill requires that compensation for January 1 through January 4, 2011 be calculated on a pro rata basis (e.g., 4/365), rather than using the current law's income-based formula. Under PA 09-144, a simplified calculation formula, based on population and a court's workload goes into effect on January 5, 2011.

Judges Who Leave or Die in Office

Accounts Receivable. Currently, when a judge leaves office, his or her successor makes installment payments that reflect the portion of the office's accounts receivable for costs, charges, and fees assessed on the estates that accrued due to the former judge's work. The law also factors in payment amounts for a former judge's work-in-process—work the judge performed which had not concluded when he or she left office.

Under the bill, the period in which a judge receives these payments is capped at December 31 of the second calendar year following the year the judge left office.

Under the bill, beginning January 5, 2011, former judges will receive only a sum representing accounts receivable for costs, charges, and fees assessed on estates of decedents arising in a town within the judge's district as of January 4, 2011. Payments are made in yearly installments, which are to be paid on or before April 1 of the year after the receivables were collected. The probate court administrator may deduct (1) assessments, penalties, or interest due to the state treasurer; (2) collection costs; and (3) expenses attributable to the outgoing or deceased judge's term in office.

Work-In-Process Payments. The bill eliminates work-in-process payments for these former judges. These compensate the former judge for estates on which he or she worked before leaving office that had not yet paid the probate fees. The new compensation formula keeps a judge's compensation current, thus making work-in-process payments unnecessary.

Judges Affected. These provisions do not apply to judges elected to a term that begins on or after January 5, 2011. Current law makes them inapplicable to newly elected judges and judges who return to office after a break in service on or after January 5, 2011.

BACKGROUND

Related bill

sHB 5406, reported favorably by the Judiciary Committee, makes several changes to Probate Court rules and regulations.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 41 Nay 0 (03/26/2010)