

MAINE STATE LEGISLATURE

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117th MAINE LEGISLATURE

FIRST REGULAR SESSION-1995

Legislative Document

No. 1474

S.P. 536

In Senate, May 2, 1995

An Act to Establish the Maine Judicial Compensation Commission.

Submitted by the Judicial Department pursuant to Joint Rule 24.
Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "May M. Ross".

MAY M. ROSS
Secretary of the Senate

Presented by Senator CIANCHETTE of Somerset.
Cosponsored by Representative DiPIETRO of South Portland and
Senators: ABROMSON of Cumberland, AMERO of Cumberland, BEGLEY of Lincoln,
BUSTIN of Kennebec, BUTLAND of Cumberland, CAREY of Kennebec, CARPENTER of
York, CASSIDY of Washington, CLEVELAND of Androscoggin, FAIRCLOTH of
Penobscot, FERGUSON of Oxford, HARRIMAN of Cumberland, KIEFFER of Aroostook,
LAWRENCE of York, LONGLEY of Waldo, LORD of York, MICHAUD of Penobscot,
MILLS of Somerset, O'DEA of Penobscot, PARADIS of Aroostook, PINGREE of Knox,
RAND of Cumberland, RUHLIN of Penobscot, STEVENS of Androscoggin, Representatives:
AIKMAN of Poland, AULT of Wayne, CAMERON of Rumford, CAMPBELL of Holden,
FARNUM of South Berwick, FISHER of Brewer, GWADOSKY of Fairfield, KEANE of Old
Town, LEMONT of Kittery, LIBBY of Kennebunk, MORRISON of Bangor, REED of
Dexter, SIMONEAU of Thomaston, VIGUE of Winslow, YACKOBITZ of Hermon.

2 **Be it enacted by the People of the State of Maine as follows:**

4 **Sec. 1. 4 MRSA c. 35** is enacted to read:

6 **CHAPTER 35**

8 **JUDICIAL COMPENSATION COMMISSION**

10 **§1701. Judicial Compensation Commission**

12 **1. Commission established.** The Judicial Compensation
14 Commission, referred to in this chapter as the "commission,"
16 established by Title 5, section 12004-G, subsection 23-A shall
18 establish, subject to approval by the Senate and the House of
Representatives, the salary, benefits and retirement to be paid
for all justices and judges of the Supreme Judicial Court, the
Superior Court, the District Court and the Administrative Court.

20 **2. Members.** The commission consists of 3 members selected
22 from among the registered voters of the State; one is appointed
24 by the Governor, one by the President of the Senate and one by
the Speaker of the House. The public official with the power to
appoint a member is the person in office on the day that member's
term begins. The commission may not contain more than 2 members
of any political party.

26 **3. Terms of office.** The initial member appointed by the
28 Speaker of the House serves until December 31, 1996. The initial
member appointed by the President of the Senate serves until
30 December 31, 1998. The initial member appointed by the Governor
serves until December 31, 2000. After the initial appointments,
32 members serve for terms of 6 years, beginning January 1, 1997 for
the member appointed by the Speaker of the House, beginning
34 January 1, 1999 for the member appointed by the President of the
Senate and beginning January 1, 2001 for the member appointed by
36 the Governor. Members are limited to 2 consecutive terms.

38 **4. Vacancies.** A vacancy on the commission is filled
40 promptly for the remainder of the term in the same manner in
which the position was originally filled under subsection 2. If
42 a vacancy remains unfilled for more than 90 days, a temporary
member of the commission must be appointed by a vote of the
remaining commission members to serve with full powers of a
44 commission member. A temporary member of the commission serves
until the vacancy is filled by the public official with the power
46 to appoint that member under subsection 2 and this subsection.

48 **5. Prohibition on public service.** A member of the
commission may not hold any other public office or be an employee
50 or member of any state department, agency, board or commission

2 during the member's tenure on the commission. A violation of
3 this subsection by a member of the commission results in
4 immediate constructive resignation and the resulting vacancy must
5 be filled according to subsection 4.

6 **6. Designation of chair.** The members, by majority vote,
7 shall designate a chair from among their number who shall serve
8 for 2 years from the date of election or until a successor is
9 designated by majority vote and assumes the responsibilities.

10 **7. Meeting; quorum; concurrence.** The commission shall
11 meet, either in person or by teleconference, on the call of the
12 chair or on the request of at least 2 members. The presence of
13 at least 2 members is required to conduct a meeting. The
14 concurrence of at least 2 members is required for any formal
15 action taken by the commission.

16 **8. Administration.** The Legislature's Office of Fiscal and
17 Program Review shall provide staff support for the commission.

18 **9. Reimbursement.** Members are entitled to reimbursement
19 for actual and necessary expenses related to the travel to and
20 from commission meetings when the expenses are approved by the
21 chair. Members also are entitled to reimbursement for reasonable
22 expenses incurred in the exercise of their powers under
23 subsection 13. All other expenses must be approved by the Office
24 of Fiscal and Program Review. The reimbursement must be made
25 from the funds of the administrative office of the court system.
26 Other expenses are not reimbursed by state funds.

27 **10. No compensation.** The members of the commission receive
28 no compensation for their services.

29 **11. Biennial report required.** Not later than December 1st
30 of each odd-numbered year, the commission shall make its biennial
31 report to the Legislature. The biennial report must include
32 findings, conclusions and recommendations as to the proper salary
33 and benefits, including retirement, to be paid from the State
34 Treasury and other sources for all justices and judges of this
35 State. The biennial report also must include legislative
36 proposals the commission determines necessary to implement these
37 recommendations.

38 **12. Directive of commission.** The commission shall study
39 and make recommendations with respect to all aspects of judicial
40 compensation in this State so that the judicial compensation
41 structure is adequate to ensure that the most highly qualified
42 lawyers in this State, drawn from diverse life and professional
43 experiences, are not deterred from serving or continuing to serve
44 in the state judiciary and do not become demoralized during
45 the term of their service.

2 service because of compensation levels that do not meet the
3 criteria set forth in subsection 13.

4 13. Criteria for recommendations. In order to carry out
5 its responsibilities under subsection 11 to make findings,
6 conclusions and recommendations as to the proper salary and
7 benefits for all justices and judges of this State and to fulfill
8 the directive of the commission as set out in subsection 12, the
9 commission may consider the following factors:

10 A. The skill and experience required of the particular
11 judgeship at issue;

12 B. The time required of the particular judgeship at issue;

13 C. The value of compensable service performed by justices
14 and judges, as determined by reference to judicial
15 compensation in other states and the Federal Government;

16 D. The value of comparable service performed in the private
17 sector, including private judging, arbitration and
18 mediation, based on the responsibility and discretion
19 required in the particular judgeship at issue and the demand
20 for those services in the private sector;

21 E. The compensation of attorneys in the private sector;

22 F. The Consumer Price Index and changes in that index;

23 G. The overall compensation presently received by other
24 public officials and employees; and

25 H. Any other factors that are normally or traditionally
26 taken into consideration in the determination of
27 compensation.

28 14. Binding nature of report. The recommendations made by
29 the commission in its biennial report to the Legislature are
30 binding and have full force of law 180 days following the filing
31 of the biennial report with the Clerk of the House and the
32 Secretary of the Senate as long as neither a majority of the
33 Senate nor a majority of the House votes to reject any or all
34 recommendations within 180 days following the filing of the
35 biennial report. In the event that either a majority of the
36 Senate or a majority of the House votes to reject one or more,
37 but not all, of the recommendations, the recommendations not
38 rejected by a majority of the Senate nor a majority of the House
39 are binding and have full force of law 180 days following the
40 filing of the biennial report with the Clerk of the House and
41 Secretary of the Senate respectively.

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Sec. 2. 5 MRSA §12004-G, sub-§23-A is enacted to read:

<u>23-A.</u>	<u>Judicial</u>	<u>Not</u>	<u>4 MRSA</u>
<u>Judiciary</u>	<u>Compensation</u>	<u>Authorized</u>	<u>§1701</u>
	<u>Commission</u>		

STATEMENT OF FACT

The Judicial Compensation Commission is established in recognition of the fact that inadequate compensation prevents many highly qualified lawyers from serving as judges, limits the diversity of judges, prevents judges from serving on the bench for a sufficiently long period of time and results in a serious deterioration in the morale of the judiciary. This economic reality undermines the goal of maintaining a judiciary of the highest quality and the concomitant goal of maintaining the highest level of public confidence in the judiciary.

As envisioned by this bill, the commission will develop findings, conclusions and recommendations as to the proper salary and benefits, including retirement, to be paid for all justices and judges of this State. Because the Judicial Compensation Commission uses the staff of the Office of Fiscal and Program Review, and because the expenses incurred by commission members are paid out of the funds of the Judicial Branch, it is not necessary for the Legislature to appropriate any separate funds for the establishment and expenses of the Judicial Compensation Commission.