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CHAPTER 567

LAWS OF 20 10

SENATE BILL 68010

ASSEMBLY BILL _____

STATE OF NEW YORK

10

Third Extraordinary Session

IN SENATE

November 29, 2010

Introduced by COMMITTEE ON RULES -- (at request of the Governor) -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT in relation to establishing a special commission on compensation, and providing for their powers and duties; and to provide periodic salary increases to state officers

A. 42010 Rules

DATE RECEIVED BY GOVERNOR:

DEC 01 2010

ACTION MUST BE TAKEN BY:

DEC 13 2010

DATE GOVERNOR'S ACTION TAKEN:

12/10/10

000001

SENATE VOTE 58 Y 0 N

HOME RULE MESSAGE Y N

DATE 11/29/10

ASSEMBLY VOTE 99 Y 22 N

DATE 11/29/10

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S68010 RULES Same as A 42010 Rules

<u>11/29/10</u>	S68010	Assembly Vote	Yes: 99	No : 22
<u>11/29/10</u>	S68010	Senate Vote	Aye: 58	Nay: 0

Go to Top of Page**Floor Votes:**

11/29/10 S68010 Assembly Vote Yes: 99 No : 22

No Abbate	Yes Alessi	Yes Alfano	No Amedore
ER Arroyo	Yes Aubry	Yes Bacalles	No Ball
Yes Barclay	Yes Barra	Yes Barron	Yes Benedetto
Yes Benjamin	Yes Bing	Yes Boyland	Yes Boyle
Yes Brennan	ER Brodsky	Yes Brook-Krasny	Yes Burling
Yes Butler	Yes Cahill	ER Calhoun	Yes Camara
Yes Canestrari	ER Carrozza	Yes Castelli	Yes Castro
ER Christensen	Yes Clark	Yes Colton	Yes Conte
ER Cook	No Corwin	Yes Crespo	Yes Crouch
Yes Cusick	No Cymbrowitz	ER DelMonte	Yes DenDekker
No Destito	Yes Dinowitz	No Duprey	Yes Englebright
Yes Errigo	ER Espaillat	Yes Farrell	No Fields
Yes Finch	No Fitzpatrick	No Gabryszak	Yes Galef
ER Gantt	Yes Gianaris	Yes Gibson	Yes Giglio
Yes Glick	Yes Gordon	Yes Gottfried	Yes Gunther A
Yes Hawley	No Hayes	Yes Heastie	Yes Hevesi
ER Hikind	ER Hooper	ER Hoyt	ER Hyer-Spencer
Yes Jacobs	Yes Jaffee	Yes Jeffries	ER John
Yes Jordan	Yes Kavanagh	ER Kellner	Yes Kolb
ER Koon	Yes Lancman	Yes Latimer	Yes Lavine
Yes Lentol	Yes Lifton	Yes Lopez P	ER Lopez V
ER Lupardo	Yes Magee	Yes Magnarelli	ER Maisel
ER Markey	Yes Mayersohn	Yes McDonough	Yes McEneny
Yes McKevitt	Yes Meng	No Miller J	Yes Miller M
Yes Millman	Yes Molinaro	Yes Montesano	No Morelle
Yes Murray	ER Nolan	No Oaks	Yes O'Donnell
Yes O'Mara	Yes Ortiz	Yes Parment	Yes Paulin
No Peoples-Stokes	Yes Perry	Yes Pheffer	ER Powell
Yes Pretlow	No Quinn	No Rabbitt	Yes Raia
Yes Ramos	No Reilich	No Reilly	ER Rivera J
Yes Rivera N	Yes Rivera P	ER Robinson	Yes Rosenthal
Yes Russell	Yes Saladino	ER Sayward	ER Scarborough
Yes Schimel	No Schimminger	Yes Schroeder	Yes Scozzafava
Yes Skartados	Yes Spano	ER Stirpe	Yes Sweeney

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No Tedisco
Yes Tobacco
Yes Weisenberg
Yes Mr. Speaker

Yes Thiele
Yes Towns
Yes Weprin

Yes Titone
No Townsend
Yes Wright

Yes Titus
ER Weinstein
Yes Zebrowski K

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Floor Votes:

11/29/10 S68010 Senate Vote Aye:58 Nay: 0

Aye Adams	Aye Addabbo	Aye Alesi	Aye Aubertine
Exc Bonacic	Aye Breslin	Aye DeFrancisco	Aye Diaz
Aye Dilan	Aye Duane	Abs Espada	Aye Farley
Aye Flanagan	Aye Foley	Aye Fuschillo	Aye Golden
Aye Griffo	Aye Hannon	Aye Hassell- Thompson	Aye Huntley
Aye Johnson	Aye Johnson C	Aye Klein	Aye Krueger
Aye Kruger	Aye Lanza	Aye Larkin	Aye LaValle
Aye Leibell	Aye Libous	Aye Little	Aye Marcellino
Aye Maziarz	Aye McDonald	Aye Montgomery	Aye Nozzolio
Aye Onorato	Aye Oppenheimer	Aye Padavan	Aye Parker
Aye Peralta	Aye Perkins	Aye Ranzenhofer	Aye Robach
Aye Saland	Aye Sampson	Aye Savino	Aye Schneiderman
Aye Serrano	Aye Seward	Aye Skelos	Aye Smith
Aye Squadron	Aye Stachowski	Aye Stavisky	Aye Stewart-Cousins
Aye Thompson	Aye Valesky	Aye Volker	Aye Winner
Exc Young			

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STATE OF NEW YORK
EXECUTIVE CHAMBER
ALBANY 12224

TO THE ASSEMBLY (In Extraordinary Session):

Pursuant to the provisions of Section 14 of Article III of the Constitution and by virtue of the authority conferred upon me, I do hereby certify to the necessity of the immediate vote on Assembly Bill Number 42010 / Senate Bill Number 68010, entitled:

"AN ACT in relation to establishing a special commission on compensation, and providing for their powers and duties; and to provide periodic salary increases to state officers"

The facts necessitating an immediate vote on the bill are as follows:

This bill is necessary to create a commission to evaluate and adjust judicial salaries.

Because the bill has not been on your desks in final form for three calendar legislative days, the Senate has requested this message to permit the immediate consideration of this bill.

G I V E N under my hand and the Privy

Seal of the State at the
Capitol in the City of Albany
this twenty-ninth day of
November in the year two
thousand ten.



BY THE GOVERNOR

Eric A. Kirman
Counsel to the Governor

David A. Paterson



STATE OF NEW YORK
EXECUTIVE CHAMBER
ALBANY 12224

TO THE SENATE (In Extraordinary Session):

Pursuant to the provisions of Section 14 of Article III of the Constitution and by virtue of the authority conferred upon me, I do hereby certify to the necessity of the immediate vote on Senate Bill Number 68010, entitled:

"AN ACT in relation to establishing a special commission on compensation, and providing for their powers and duties; and to provide periodic salary increases to state officers"

The facts necessitating an immediate vote on the bill are as follows:

This bill is necessary to create a commission to evaluate and adjust judicial salaries.

Because the bill has not been on your desks in final form for three calendar legislative days, the Senate has requested this message to permit the immediate consideration of this bill.

G I V E N under my hand and the Privy

Seal of the State at the
Capitol in the City of Albany
this twenty-ninth day of
November in the year two
thousand ten.



BY THE GOVERNOR

John A. Kazan
Counsel to the Governor

David A. Paterson

**NEW YORK STATE SENATE
INTRODUCER'S MEMORANDUM IN SUPPORT
submitted in accordance with Senate Rule VI. Sec 1**

BILL NUMBER: S68010

SPONSOR: RULES

TITLE OF BILL:

An act in relation to establishing a special commission on compensation, and providing for their powers and duties; and to provide periodic salary increases to state officers

PURPOSE:

This bill would provide for a special commission on judicial compensation to examine, evaluate and make recommendations with respect to compensation, adjustments and non-salary benefits of certain State-paid judges and justices of the Unified Court System.

SUMMARY OF PROVISIONS:

Section 1 of the bill would provide for the creation of the Commission on Judicial Compensation. to consist of seven members appointed as follows: three by the Governor, one by the Speaker of the Assembly, one by the Temporary President of the Senate and two by the Chief Judge. The Commission would be required to report its findings, conclusions, determinations and recommendations within 150 days of its establishment.

Every four years the Commission would examine, evaluate and make recommendations with respect to judicial compensation. The Commission would determine what the judicial salaries shall be and would make recommendations to effect the changes to salaries. Such recommendations would become effective the next fiscal year. The recommendations of the Commission would have the force of law.

Section 2 of the bill would establish the date the recommendations of the Commission become effective.

Section 3 of the bill would provide that any adjustment of salaries under this bill would be funded to the nearest hundred dollar.

Section 4 of the bill would provide for an immediate effective date.

EXISTING LAW:

Salaries for State-paid judges and justices of the Unified Court System were last increased pursuant to Chapter 630 of the Laws of 1998.

STATEMENT IN SUPPORT:

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Salaries for New York State Judges were last adjusted in 1999. As a result, judicial salaries have become an increasing subject of controversy in recent years. Moreover, the absence of a pay increase has produced legal challenges, culminating in the Court of Appeals decision in *In the Matter of Maron v. Silver*, 14 N.Y.3d 230 (2010). In that decision, the Court found that "whether the Judiciary is entitled to a compensation increase must be based upon an objective assessment of the Judiciary's needs." Further, the court stated that the Legislature should give the matter of judicial compensation "expeditious and appropriate consideration."

This bill would address the issue, in a manner consistent with the Court of Appeals decision, by establishing a quadrennial Commission on Judicial Compensation to ensure that the proper salary level is set on a regular basis. The members of the Commission would include representatives of the Executive, Legislature and Judiciary, so as to ensure input from all different branches of government in determining judicial compensation, "expeditious and appropriate consideration."

BUDGET IMPLICATIONS:

The cost to the State from the operation of the Commission would be minimal. To the extent the Commission recommends a salary increase for judges, such increase would have a fiscal impact on the State.

EFFECTIVE DATE:

This bill would take effect immediately upon enactment.

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NEW YORK STATE
Unified Court System

OFFICE OF COURT ADMINISTRATION

MARC C. BLOUSTEIN
LEGISLATIVE COUNSEL

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ANN PFAU
CHIEF ADMINISTRATIVE JUDGE

December 3, 2010

Hon. Peter J. Kiernan
Counsel to the Governor
Executive Chamber
State Capitol
Albany, New York 12224

Re: Senate 68010

Dear Mr. Kiernan:

This will provide you with the comments of this Office on the above-referenced measure, which was approved by the Legislature during its recent special session.

This measure would establish a permanent special commission on judicial compensation. Meeting every four years, beginning April 1, 2011, this commission is to determine whether prevailing pay levels and non-salary benefits received by State judges are adequate or in need of adjustment. Where the commission finds adjustments are necessary, it is to recommend them, scheduling them for April first of any or all of the succeeding four years. Once recommended, these adjustments will have the force of law and take effect unless, prior to the date(s) for which they are scheduled, they are modified or abrogated by statute.

We are very grateful to the Governor for his leadership on this issue of extraordinary importance to the Judiciary in this State. This measure implements ends long sought by judges: *i.e.*, separation of the Judiciary from the other Branches where matters of judicial compensation are concerned, and statutory provision for regular reviews of the adequacy of such compensation and adjustment thereof where it is in order. By so doing, this measure will go a long way toward fostering a strong and independent Judiciary in the years ahead. For this reason, we **STRONGLY APPROVE** it and urge that it be signed into law.

Very truly yours,

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CYRUS R. VANCE, JR.
DISTRICT ATTORNEY

DISTRICT ATTORNEY
OF THE
COUNTY OF NEW YORK
ONE HOGAN PLACE
New York, N. Y. 10013
(212) 335-9000

November 29, 2010

BY FAX

Honorable John Sampson
Conference Leader, New York State Senate
Legislative Office Building
Room 409
Albany, New York 12247

Honorable Sheldon Silver
Speaker, New York State Assembly
Legislative Office Building
Room 932
Albany, New York 12248

Dear Sirs:

I write in support of Governor Paterson's call for a bill to establish a commission to evaluate and adjust judicial salaries when the Legislature returns to Albany for its final session. Such a commission, as has been commonly conceived, would be comprised of members appointed by all three branches of government, who would use objective economic data to recommend fair and appropriate judicial compensation every four years.

Simply put, the independence and effectiveness of the judiciary depend on making sure that the best and the brightest are appointed to the bench and given the incentive to stay. As you are aware, our judges have not received a salary increase in 11 years, which continues to place a financial strain on them. Recently, one of our appellate judges announced that he was stepping down because of his financial concerns in raising his family. And many sitting judges regularly raise such concerns in our Manhattan courthouses. Countless others are no doubt dissuaded from seeking the bench because of the gravity of the problem. What has been for more than a decade a political problem cries out for the non-political solution of a quadrennial commission.

In light of the importance of this issue to all of our communities and to the administration of the criminal justice system, it is not surprising that the vast majority of candidates for Senate and Assembly who responded to a recent survey by the Committee for Modern Courts support the establishment of a commission. The Committee surveyed more than 300 candidates seeking election in 2010 on a number of topics, including judicial raises. Of those who responded, nearly 90% indicated that they would support a judicial salary

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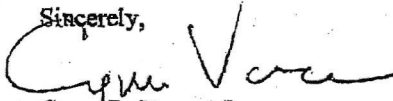
FAX: 212 335 9800

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increase and the establishment of a quadrennial commission. Clearly, members and their opponents understand the significance of this issue.

Establishing a commission to examine present pay levels and study and recommend pay levels going forward would be a vital first step in addressing this important issue. Thank you for allowing me to add my voice to those who champion the idea of adequate compensation for the judiciary.

Sincerely,



Cyrus R. Vance, Jr.

cc: Peter Kiernan
Counsel to the Governor

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STATE OF NEW YORK

10

Third Extraordinary Session

IN SENATE

November 29, 2010

Introduced by COMMITTEE ON RULES -- (at request of the Governor) -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT in relation to establishing a special commission on compensation, and providing for their powers and duties; and to provide periodic salary increases to state officers

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

- 1 Section 1. (a) On the first of April of every fourth year, commencing
2 April 1, 2011, there shall be established for such year a commission on
3 judicial compensation to examine, evaluate and make recommendations with
4 respect to adequate levels of compensation and non-salary benefits for
5 judges and justices of the state-paid courts of the unified court
6 system. In accordance with the provisions of this section, the commis-
7 sion shall:
- 8 (i) examine the prevailing adequacy of pay levels and non-salary bene-
9 fits received by the judges and justices of the state-paid courts of the
10 unified court system and housing judges of the civil court of the city
11 of New York and determine whether any of such pay levels warrant adjust-
12 ment; and
- 13 (ii) determine whether, for any of the four years commencing on the
14 first of April of such years, following the year in which the commission
15 is established, the annual salaries for the judges and justices of the
16 state-paid courts of the unified court system and housing judges of the
17 civil court of the city of New York warrant adjustment.
- 18 In discharging its responsibilities under paragraphs (i) and (ii) of
19 this subdivision, the commission shall take into account all appropriate
20 factors including, but not limited to: the overall economic climate;
21 rates of inflation; changes in public-sector spending; the levels of
22 compensation and non-salary benefits received by judges, executive
23 branch officials and legislators of other states and of the federal

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 government; the levels of compensation and non-salary benefits received
2 by professionals in government, academia and private and nonprofit
3 enterprise; and the state's ability to fund increases in compensation
4 and non-salary benefits.

5 (b) The commission shall consist of 7 members to be appointed as
6 follows: 3 shall be appointed by the governor; 1 shall be appointed by
7 the temporary president of the senate; 1 shall be appointed by the
8 speaker of the assembly; and 2 shall be appointed by the chief judge of
9 the state. Of the members appointed by an official pursuant to this
10 subdivision, where such official has more than one such appointment, at
11 least one-half (at least a majority, in the case of the governor) shall
12 not be employees of the state or any political subdivision thereof, and
13 at least one-half shall not be members of the bar of the state. The
14 governor shall designate the chair of the commission from among the
15 members so appointed. Vacancies in the commission shall be filled in the
16 same manner as original appointments. To the extent practicable, members
17 of the commission shall have experience in one or more of the following:
18 determination of executive compensation, human resource administration
19 and financial management.

20 (c) The commission may meet within and without the state, may hold
21 public hearings and shall have all the powers of a legislative committee
22 pursuant to the legislative law.

23 (d) The members of the commission shall receive no compensation for
24 their services but shall be allowed their actual and necessary expenses
25 incurred in the performance of their duties hereunder.

26 (e) No member of the commission shall be disqualified from holding any
27 other public office or employment, nor shall he or she forfeit any such
28 office or employment by reason of his or her appointment pursuant to
29 this section, notwithstanding the provisions of any general, special or
30 local law, regulation, ordinance or city charter.

31 (f) To the maximum extent feasible, the commission shall be entitled
32 to request and receive and shall utilize and be provided with such
33 facilities, resources and data of any court, department, division,
34 board, bureau, commission, agency or public authority of the state or
35 any political subdivision thereof as it may reasonably request to carry
36 out properly its powers and duties pursuant to this section.

37 (g) The commission may request, and shall receive, reasonable assist-
38 ance from state agency personnel as necessary for the performance of its
39 functions.

40 (h) The commission shall make a report to the governor, the legisla-
41 ture and the chief judge of the state of its findings, conclusions,
42 determinations and recommendations, if any, not later than one hundred
43 fifty days after its establishment. Each recommendation made to imple-
44 ment a determination pursuant to paragraph (ii) of subdivision (a) of
45 this section shall have the force of law, and shall supersede inconsis-
46 tent provisions of article 7-B of the judiciary law, unless modified or
47 abrogated by statute prior to April first of the year as to which such
48 determination applies.

49 (i) Upon the making of its report as provided in subdivision (h) of
50 this section, each commission established pursuant to this section shall
51 be deemed dissolved.

52 § 2. Date of entitlement to salary increase. Notwithstanding the
53 provisions of this act or of any other law, each increase in salary or
54 compensation of any officer or employee provided by this act shall be
55 added to the salary or compensation of such officer or employee at the
56 beginning of that payroll period the first day of which is nearest to

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1 the effective date of such increase as provided in this act, or at the
2 beginning of the earlier of two payroll periods the first days of which
3 are nearest but equally near to the effective date of such increase as
4 provided in this act; provided, however, the payment of such salary
5 increase pursuant to this section on a date prior thereto instead of on
6 such effective date, shall not operate to confer any additional salary
7 rights or benefits on such officer or employee.

8 § 3. The annual salaries as prescribed pursuant to this act for the
9 state-paid judges and justices of the unified court system whenever
10 adjusted pursuant to the provisions of this act, shall be rounded up to
11 the nearest multiple of one hundred dollars.

12 § 4. This act shall take effect immediately.
