



SPONSOR: Sen. Henry & Rep. Viola
Sens. Peterson, Poore, Townsend; Reps. Bennett, Gray,
Hudson, J. Johnson, Mitchell, Paradee, Ramone, B. Short,
Smyk, Yearick

DELAWARE STATE SENATE
148th GENERAL ASSEMBLY

SENATE BILL NO. 212

AN ACT TO AMEND TITLE 10 OF THE DELAWARE CODE RELATING TO THE ASSIGNMENT OF RETIRED COMMISSIONERS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend Chapter 5, Title 10 of the Delaware Code by making deletions as shown by strike through and
2 insertions as shown by underline as follows:

3 § 513. Assignment of retired Commissioners to active duty.

4 (a) The President Judge, with the approval of the Chief Justice of the Supreme Court, may designate a retired
5 Commissioner to serve temporarily in the Superior Court if all of the following apply:

6 (1) The retired Commissioner was serving in good standing as a Commissioner at the time of retirement.

7 (2) The retired Commissioner assents to such designation.

8 (3) The retired Commissioner is not involved or employed in any position which would create a conflict of
9 interest with the position of Commissioner, including the private practice of law, holding of any state office, or
10 employment by the State in any capacity.

11 (b)(1) The Superior Court shall compensate a retired Commissioner who accepts an active duty designation on a
12 per diem basis on the formula representing 1/260 of the annual salary for a Commissioner. The per diem pay for a retired
13 Commissioner may not exceed the maximum per diem pay for retired judges as provided in § 5610(b) of Title 29 and the
14 total annual compensation of a retired Commissioner may not equal or exceed the current annual salary for a
15 Commissioner.

16 (2) The Superior Court shall reimburse a retired Commissioner who accepts an active duty designation for
17 travel necessarily incurred for the performance of such active duty. The President Judge must approve travel by a
18 retired Commissioner who accepts an active duty designation before reimbursement is permitted.

19 (c) The Superior Court shall make expenditures for work performed under this section from funds appropriated for
20 this purpose, or from other court funds approved to be expended for this purpose.

SYNOPSIS

This Act permits the Superior Court to temporarily assign duties to a retired Commissioner at the designation of the President Judge with the approval of the Chief Justice of the Supreme Court. A retired Commissioner must have been in good standing at the time of his or her retirement, agree to the assignment, and not be involved or employed in any position that would create a conflict, including the private practice of law, holding any state office, or being employed by the State in any capacity.

The ability to temporarily assign duties to a retired Commissioner will enable the Superior Court to maintain its current workflow without interruption in the event a Commissioner was unavailable for a period of time. In addition, both the Family Court and the Court of Common Pleas currently have the ability to temporarily assign duties to a retired Commissioner. This Act is substantively similar to those provisions; however, it differs stylistically to conform to the guidelines of the *Delaware Legislative Drafting Manual*.

Author: Senator Henry