

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE RESOLUTION

No. 540 Session of
2005

INTRODUCED BY HICKERNELL, TRUE, ARMSTRONG, BALDWIN, BARRAR,
BOYD, BUXTON, CAPPELLI, CLYMER, CREIGHTON, DALLY, DeLUCA,
DIVEN, FREEMAN, GILLESPIE, GINGRICH, GOOD, HANNA, HARRIS,
HERMAN, HUTCHINSON, JAMES, M. KELLER, LEH, LEVDANSKY, MAHER,
MAITLAND, MARSICO, METCALFE, S. MILLER, NAILOR, PAYNE,
PETRARCA, READSHAW, REED, RUBLEY, SATHER, SAYLOR, SCAVELLO,
SONNEY, STERN AND TURZAI, DECEMBER 15, 2005

REFERRED TO COMMITTEE ON STATE GOVERNMENT, DECEMBER 15, 2005

A RESOLUTION

1 Expressing the disappointment of the House of Representatives on
2 the filing of a lawsuit by certain judges in this
3 Commonwealth to have declared unconstitutional Act 72 of
4 2005.

5 WHEREAS, Act 44 of 2005, enacted on July 7, 2005, increased
6 the salaries of members of the General Assembly, the Executive
7 Branch and justices, judges and justices of the peace of the
8 Commonwealth; and

9 WHEREAS, Act 44 of 2005 was uniformly criticized by the
10 citizens of Pennsylvania and quickly became the focus of public
11 outrage; and

12 WHEREAS, Citizens all across this Commonwealth demanded a
13 repeal of the pay raises; and

14 WHEREAS, On November 2 and 3, 2005, the Senate and the House
15 of Representatives voted nearly unanimously to repeal the entire
16 pay raise package; and

1 WHEREAS, To ensure that the pay raise repeal legislation was
2 properly drafted to meet the requirements of the Constitution of
3 Pennsylvania, final passage of the pay raise repeal legislation
4 did not occur until November 16, 2005; and

5 WHEREAS, Governor Edward G. Rendell signed Act 72 of 2005,
6 which repealed in its entirety Act 44 of 2005; and

7 WHEREAS, On December 5, 2005, Philadelphia Common Pleas Court
8 Judge Albert W. Sheppard, Jr., filed suit to reinstate the pay
9 raises for all the judges, legislators and executive branch
10 officials; and

11 WHEREAS, On December 6, 2005, Philadelphia Orphans' Court
12 Judge John W. Herron filed suit to reinstate the pay raise
13 solely for the Commonwealth's judges; and

14 WHEREAS, The General Assembly, in repealing Act 44 of 2005
15 through the enactment of Act 72 of 2005, expressly considered
16 and included provisions declaring that the clear intent of the
17 General Assembly was to repeal the pay raise for all salaried
18 officers of the Commonwealth as defined under Act 72 of 2005;
19 and

20 WHEREAS, The Constitution of Pennsylvania is the framework
21 for Pennsylvania government, providing for the creation of the
22 General Assembly, the Executive Department and the judicial
23 system; and

24 WHEREAS, Section 2 of Article I of the Constitution of
25 Pennsylvania provides that "All power is inherent in the people,
26 and all free governments are founded on their authority and
27 instituted for their peace, safety and happiness. For the
28 advancement of these ends they have at all times an inalienable
29 and indefeasible right to alter, reform or abolish their
30 government in such manner as they may think proper"; and

1 WHEREAS, Section 16(a) of Article V of the Constitution of
2 Pennsylvania expressly permits the compensation of justices,
3 judges and justices of the peace to be reduced during their
4 terms in office, so long as it is done so by law applying
5 generally to all salaried officers of the Commonwealth; and

6 WHEREAS, Act 72 of 2005 reduced the compensation of justices,
7 judges and justices of peace along with the other salaried
8 officers of the Commonwealth, including members of the General
9 Assembly and the Executive Department; and

10 WHEREAS, The sovereign people of Pennsylvania have expressed
11 in the greatest and strongest terms possible that the repeal of
12 Act 44 of 2005 is appropriate and necessary; and

13 WHEREAS, The people of Pennsylvania, through their elected
14 members of the General Assembly, have the inalienable and
15 indefeasible right to alter or reform their government in a
16 proper manner; and

17 WHEREAS, The General Assembly properly repealed Act 44 of
18 2005 under the authority of the people of Pennsylvania;
19 therefore be it

20 RESOLVED, That the House of Representatives convey in the
21 strongest possible terms that the administration of government
22 in Pennsylvania must be done with the consent of the governed;
23 and be it further

24 RESOLVED, That the House of Representatives recognize that
25 the salaried officers of the Commonwealth are in the employ of
26 the public, funded through taxes imposed upon the people of
27 Pennsylvania; and be it further

28 RESOLVED, That no salaried officer should use the
29 Constitution of Pennsylvania to better themselves financially;
30 and be it further

1 RESOLVED, That Act 72 of 2005 was enacted lawfully and in a
2 manner consistent with the requirements of the Constitution of
3 Pennsylvania; and be it further

4 RESOLVED, That efforts to restore the pay raises originally
5 enacted under Act 44 of 2005 and repealed under Act 72 of 2005
6 are not in the best traditions of the Commonwealth of
7 Pennsylvania and do not reflect the sovereignty of the people of
8 Pennsylvania over their government; and be it further

9 RESOLVED, That the House of Representatives express its
10 sincere disappointment in the efforts of certain judges in this
11 Commonwealth to restore the pay raises originally authorized
12 under Act 44 of 2005 and repealed under Act 72 of 2005; and be
13 it further

14 RESOLVED, That copies of this resolution be transmitted to
15 the Honorable Ralph Cappy, Chief Justice of the Pennsylvania
16 Supreme Court, to Philadelphia Common Pleas Court Judge Albert
17 W. Sheppard, Jr., and to Philadelphia Orphans' Court Judge John
18 W. Herron.