

MAINE STATE LEGISLATURE

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MAINE STATE
COMPENSATION COMMISSION

INTERIM REPORT
February 25, 1986

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INTRODUCTION

The Maine State Compensation Commission was established by the 110th Legislature. Appointed every two years for a term to coincide with the legislative biennium, the Commission is responsible for making recommendations regarding the compensation of the Governor, justices and judges, constitutional officers, legislators, representatives of Indian tribes, the Clerk and Assistant Clerk of the House, and the Secretary and Assistant Secretary of the Senate. The 1985-86 State Compensation Commission, appointed to serve for the period of the 112th Legislature, is the third Commission to have been appointed since the law took effect in 1981.

In conducting its review of compensation, this Commission has considered the work of preceding Commissions and the subsequent action by the Legislature on those recommendations, as well as areas related to compensation that have not previously been addressed.

The recommendations of the preceding Commissions have culminated in enactment by the Legislature of significant changes in compensation policy and practices for some public officials. Most notably, justices and judges have a new compensation and retirement plan, and the four Constitutional Officers are now assigned to salary ranges with provisions for annual salary review following their initial appointment.

However, some significant recommendations of the 111th Commission were defeated during the First Regular Session of the 112th Legislature. These include a recommended increase in the Governor's salary, increases in the salaries of both Public Utilities Commissioners and Workers' Compensation Commissioners, and several technical changes in the judicial retirement system.

The following report constitutes the Commission's interim report to the Legislature as provided by law. In some cases, the recommendations contained in the report reaffirm the compensation policy already in effect. Other recommendations address areas the Commission believes require action by the 112th Legislature during the Second Regular Session. In identifying these areas requiring action, the Commission has taken into consideration two provisions in the Maine Constitution. The first, Article IV, Section 7, prohibits the

Legislature from enacting legislation which increases the compensation of its members during the existence of that Legislature. The second, Article V, Section 6, provides that the compensation of the Governor shall not be increased during his continuance in office. Thus, a decision by the 112th Legislature not to take action means that legislators' compensation could not change until December, 1988; and any change in the Governor's compensation would be deferred until the next Governor has completed his service in that office.

GOVERNOR

At present, the Maine Governor's salary is the lowest in the nation. The Governor's salary has not changed since January 1975, when it was set at \$35,000. In the eleven years since 1975, the U.S. Department of Labor's Consumer Price Index has nearly doubled: that is, prices have increased approximately 100% in that period. The 111th Legislature increased the Governor's salary to \$50,000, effective January, 1987; and the 1983-1984 Compensation Commission recommended a further increase to \$70,000. This recommendation was included in legislation which failed during the First Regular Session.

This Commission has reviewed its predecessor's recommendation and the factors underlying it and can only reaffirm the need for it in the strongest terms. In a few months, the citizens of Maine will elect a new Governor. The \$50,000 salary which the next Governor will receive will be substantially lower than the salaries of many of the commissioners that Governor will appoint. Should the next Governor serve two terms, the term of office will extend until 1994. To go through that period with no changes in either the level of gubernatorial compensation or the method for determining it will not only represent economic discrimination against that governor, but will further diminish the importance of the office.

Recommendations

The State Compensation Commission recommends the following, effective January, 1987:

1. That the Governor's salary be increased to \$70,000.
2. That a new method for periodic review and revision of the Governor's salary be established. The Commission recommends that the current statutory duties of the State Compensation Commission be revised to require review of the Governor's salary on a quadrennial basis. The review should be scheduled so that the Commission's recommendations are made to the Legislature for consideration in the third year of the incumbent Governor's term.

LEGISLATORS AND INDIAN REPRESENTATIVES

The 111th Legislature enacted increases in both the salary and expense allowances for legislators and Indian representatives. These increases, which took effect with the seating of the 112th Legislature in December, 1984, were recommended on the basis that the cost of living had increased significantly since legislators' salaries had last been raised. This Commission has reviewed legislators' current compensation, with particular care in view of the Constitutional provisions described previously.

Salary

This Commission, like its predecessors, is concerned that while no one method of compensation will make it possible for all citizens of Maine to serve in the Legislature with equal ease, it is essential to provide a level of compensation which will allow persons of modest means with family responsibilities to serve in the Legislature.

Even with the most recent increase in salary, Maine legislators rank among the lowest paid legislators in the country. In spite of the increase in 1984, legislators' salaries for the two-year biennium have increased by only \$4000 since 1974, from \$7500 to \$11,500.

Maine's Legislature, like many states, is a part-time Legislature. However, this Commission notes that as the responsibilities of state legislatures have increased, the amount of time required to carry out these responsibilities has increased. Legislators now spend nearly six months in the First Regular Session and nearly four months in the Second Regular Session in Augusta. These time commitments limit the employment opportunities available to many legislators; thus, their legislative compensation may represent a significant portion of their total income.

The Commission believes it is vital that the 113th Legislature look to the future and assume the responsibility for assuring that the level of compensation available to members of the 113th and, perhaps future Legislatures, supports the diversity and competence required to enact sound laws for the State.

The Commission is therefore recommending increases in legislators' salaries for the biennium and in the per diem for attendance at authorized committee meetings during the interim. The Commission notes the many demands on the available State funds, but has concluded that it is important that the level of legislators' compensation be a part of deliberations about how best to allocate those limited monies.

Expense Allowances

Although there may be debate about what constitutes an adequate salary for legislators, the Commission believes that it is unreasonable to expect legislators to subsidize their living expenses while they are in Augusta. Therefore, the Commission is also recommending increases in expense allowances, which have been designed to simply reflect current costs out-of-pocket to legislators.

In reviewing the expense allowances currently available to legislators, the Commission focussed on two issues: 1) the overall adequacy of current allowances relative to general trends in the cost of living, as measured by the consumer price index; and 2) the differences in legislators' out-of-pocket costs during the interim, when the legislature is not in session, as compared to costs during the regular session.

Many legislators reside in Augusta during the legislative session. For the most part, they make lodging arrangements for the session, thus availing themselves of special weekly rates. A survey of the major motels in Augusta reveals that even these weekly rates have risen in the past year. Thus, the Commission recommends an increase in the total daily expense allowance, from \$50 to \$60, with the total amount of the increase to be allotted to the lodging or mileage-in-lieu-of-lodging allowance.

In the course of its review of legislators' expense allowances, the Commission noted the general increase in legislative activity during the months when the Legislature is not in regular session. The interim provides Legislative Committees with the opportunity to study particularly complex and/or controversial issues. In addition, many Legislative Committees are required to meet for the purpose of reviewing gubernatorial appointments prior to confirmation by the Senate. At these interim meetings legislators' attendance is important; yet the current law discourages participation in two ways. First, reimbursement for lodging is limited to the same \$26 ceiling that applies when the Legislature is in regular session. Yet, the average single room rate at Augusta hotels is approximately \$40 in the summer. In order to avoid paying this difference out-of-pocket, legislators may drive hundreds of miles in a single day.

Second, testimony from members of the Legislature and a review of total expense reimbursements reveals that air fare is, in some cases, less than round trip mileage at the State rate. Moreover, air travel also makes attendance at one day meetings during the interim feasible for many legislators who must now spend one day traveling in order to attend a one day committee meeting. The Commission proposes, therefore, that actual lodging expenses be reimbursed during the interim. In addition, the Commission recommends the law be amended to permit those legislators who live more than 150 miles from Augusta to claim reimbursement for air fare at the commercial rate in lieu of lodging, provided that air travel would be limited to one trip a week during the regular session.

Constituent Service Allowance

The Constituent Service Allowance was raised from \$300 to \$330 effective December, 1984 following the recommendation of the 111th Compensation Commission. This Commission reviewed the Constituent Service Allowance with the initial intent of recommending an increase to keep pace with the cost of living. Further study of the allowance suggests that it represents only a fraction of what an average legislator spends on constituent services in the course of a year. In addition to sharing in the cost of printing and postage, legislators incur hundreds of miles, and perhaps, hundreds of dollars in unreimbursed expenses in order to attend meetings throughout their district. The Commission has concluded that while it is not feasible at this time for the allowance to meet all of the expenses legislators incur in representing their constituents, it is important that the allowance be increased.

Recommendations:

Effective with the seating of the 113th Legislature in December 1986:

1. Increase the biennial salary for legislators to \$15,000: \$9,000 in the First Regular Session and \$6,000 in the Second Regular Session.
2. Increase the per diem compensation for special sessions and authorized committee meetings during the interim from \$50 to \$55 per day. This is still less than the average daily salary legislators receive during the regular session.
3. Maintain the existing salary differentials for House and Senate leadership. The Commission considered the issue of providing salary differentials for Committee Chairs, but concluded that it was more important to address the base salary for all legislators at this time.

4. Increase the compensation of the two Indian representatives to \$100 for each day's attendance, consistent with the proposed average daily salary for legislators.
5. Increase the annual constituent service allowance to \$500.
6. Increase the daily expense allowance to \$60 per day, with no change in the current ceiling of \$26 for meals allowance and a \$10 increase in the current ceiling for the lodging allowance for legislators who live in Augusta during the session, or mileage in lieu of lodging for those legislators who commute.
7. Reimburse the actual cost of lodging at the single room rate for attendance at authorized meetings during the interim.
8. Authorize reimbursement of round trip air fare at the commercial rate for legislators whose residence is 150 miles or more from Augusta. Legislators could claim only one round trip by air in any one week during the legislative session, and, when the Legislature is not in regular Session, for days when authorized meetings or daily sessions are held.

JUDICIAL RETIREMENT

The 1983-84 Commission's final report and draft legislation included two technical provisions concerning the Maine Judicial Retirement System. As L.D. 289 was not enacted during the First Regular Session, the 1985-86 Commission recommends that the 112th Legislature reconsider these provisions during the Second Regular Session. Below are the findings and recommendations of the 1983-84 Commission, which are no less germane today.

Findings

1. The Commission finds that the lack of portability of state service for purposes of determining eligibility to retire discriminates against state employees who become judges and justices. A justice who has 9 years of non-judicial state service and 9 years of judicial service, a total of 18 years of state service, is not eligible for retirement if he or she is under 60 years of age. A state employee who has 18 years of non-judicial service has vested in the retirement system and may leave state service prior to age 60 and still receive retirement benefits at age 60. The Commission has noted that the calculation of benefits under the state and judicial retirement systems and the vesting requirements under both systems are identical.

In addition, a judge may currently use his or her prior non-judicial service for purposes of calculating the benefit, but not determining eligibility.

2. The Commission finds that Sections 1352 and 1358 of Title 4 may be misinterpreted and, therefore, should be clarified.

Recommendations

The State Compensation Commission recommends the following corrections in the judicial retirement statute:

1. That the creditable service for non-judicial state service as a member of the Maine State Retirement System be credited to a judge or justice for purposes of determining eligibility for retirement in the Judicial Retirement System.
2. That 4 MRSA Section 1352, sub-section 4, and Section 1358 be amended to clarify the intent with respect to calculation of minimum benefits as distinct from cost-of-living adjustments in relation to regular benefits.

CONSTITUTIONAL OFFICERS

The 111th Legislature enacted legislation which placed each of the Constitutional Officers in one of the existing salary ranges established by the Department of Personnel for unclassified employees. This Commission has concluded that these ranges continue to be appropriate and recommends no further action at this time.

PUBLIC UTILITIES COMMISSIONERS AND WORKERS COMPENSATION COMMISSIONERS

When a new judicial salary and retirement structure was enacted by the 111th Legislature, the salaries of Public Utilities Commissioners, Workers' Compensation Commissioners, and other officials whose salaries had been linked to judicial compensation were "untied" from judicial salaries. Following the recommendation of the 111th Compensation Commission, fixed salaries were set by statute for each of these positions until a more complete review of the appropriate salary level and method could be conducted.

The 111th Compensation Commission did complete such a review, but the legislation implementing its recommendations was defeated last spring. As a result, none of the Public Utilities or Workers' Compensation Commissioners has had any salary adjustment since December, 1984.

This Commission has reviewed both the compensation of these Commissioners with regard to level and method of compensation and the options considered by the 111th Compensation Commission. The November 1984 Report of the Compensation Commission provides a complete discussion of the work of these Commissioners, which continues to be relevant. In brief, that report points out that the statutory responsibility and authority of both of these Commissions has increased significantly in recent years. The work of each is characterized by complexity and, in some cases, controversy.

This Commission would reiterate the conclusions of its predecessor that the primary objectives of compensation policy for these positions must be to assure a level of compensation which is sufficient to attract well-qualified professionals and to retain them over a period of time to provide continuity to these respective Commissions. Equally important to the level of compensation is the method for assigning and adjusting compensation. The effectiveness of both Commissions is highly dependent on their independence from day-to-day political pressure. Salary adjustments of the Commissioners should not have to run the political gauntlet.

After much deliberation, the Commission has concluded that the Commissioners' salaries should not be tied to judicial salaries. The compensation and retirement plan established for the judicial branch was specifically designed to address some of the unique circumstances of persons appointed to the bench in Maine. The Commission was unable to develop a rationale for re-tying these Commissioners to judicial salaries. While some of the responsibilities of both Commissions may be quasi-judicial in nature, the Commissions are actually a part of the executive branch of Maine's state government. The members of the Compensation Commission believe firmly that the compensation of the Commissioners should also be rooted in the executive branch and that the most desirable option in the near term is to assign the Chairs of the two Commissions and the Commissioners to a range and step within the State's salary

system for confidential employees. Cost-of-living adjustments made to these ranges and steps would be applied to the Commissioners' salaries. In order to insulate these positions from political pressures that will inevitably arise, the Commission further recommends that review of these salaries be added to the Compensation Commission's biennial review.

Recommendations:

1. That the Commissioners' salaries not be tied to judicial salaries.
2. That the salaries of the Commission Chairs be fixed in salary range 91, Step G effective July 1, 1986 and adjusted to Step H effective July 1, 1987.
3. That the salaries of the Commissioners be fixed in salary range 90, Step G effective July 1, 1986, and adjusted to Step H effective July 1, 1987.
4. That these salaries be reviewed biennially by the State Compensation Commission.

SECRETARY AND ASSISTANT SECRETARY OF THE SENATE; CLERK AND ASSISTANT CLERK OF THE HOUSE

The Commission has reviewed the current salary ranges for the Senate Secretary and Assistant Secretary and the House Clerk and Assistant Clerk. The assignment to ranges has provided a systematic way of adjusting these salaries to reflect experience gain in these positions.

The Commission has concluded that these ranges continue to be appropriate. While no further action is recommended at this time, the Commission would note that by assigning the incumbents to the same step within the range without regard for prior experience in the position has essentially nullified the major benefit the range system offers.