

ARIZONA STATE LEGISLATURE
Forty-fourth Legislature – First Regular Session

COMMISSION ON SALARIES FOR ELECTIVE STATE OFFICERS

Minutes of Meeting
Thursday, October 28, 1999
Senate Hearing Room 2 – 10:30 a.m.

(Tape 1, Side A)

The meeting was called to order at 10:34 a.m. by Chairman Thomas and attendance was noted by the secretary.

Members Present

Hawley Atkinson
C. Webb Crockett

Dennis Mitchem
Martha Taylor Thomas, Chairman

Members Absent

Lonnie J. Williams, Jr.

Speakers Present

Scott Smith, Legislative Liaison, Arizona Department of Administration (ADOA)
Pete Dunn, Attorney, representing Arizona Judges' Association
Tom Toone, President-Elect, Maricopa County Bar Association
Judge Robert Meyers, Presiding Judge, Arizona Superior Court
Carolyn Friedman, Compensation Manager, Arizona Department of Administration (ADOA)
Drew Langley, Project Manager, Arizona State Mine Inspector's Office
Senator Randall Gnant

OPENING REMARKS

Chairman Thomas welcomed everyone present. She explained that the purpose of the Commission is to review rates of pay to determine and provide pay levels appropriate to the duties and responsibilities of elected State officials in accordance with statute (Attachment 1).

SALARY PRESENTATION BY THE ARIZONA DEPARTMENT OF ADMINISTRATION

Scott Smith, Legislative Liaison, Arizona Department of Administration (ADOA), pointed out that the Arizona Constitution prohibits changes in elected State officials' salaries during their term of office; therefore, any recommendations made by the Commission for statewide offices

will not become effective until January 1, 2000. Those provisions do not apply to the Judiciary, Legislative, or Clerk of the Court salaries. He added that in 1997, the Commission recommended a pay raise for Legislators and per diem consistent with State employee per diem. The pay raise was implemented and contested, and an action was filed in the Supreme Court. Oral arguments were heard on September 23, 1999, but there has been no finding to date.

Mr. Smith related his thanks to Carolyn Friedman and Joan Toner, who were very instrumental in preparing a 1999 Report to the Commission on Salaries for Elective State Officers (Attachment 2). He explained that salaries are compared to western states, states with similar populations, and all other states, as well as various indexes.

PUBLIC TESTIMONY

Pete Dunn, Attorney, representing Arizona Judges' Association, addressed judicial salaries for the years 2001 and 2002. Referring to pages 30 and 31 of the 1999 Report to the Commission (Attachment 2), he commented that if the intent is to attract and retain the best lawyers on the bench, the salaries of judges in surrounding states or around the nation are of little relevance. What is relevant are the salaries of lawyers in private practice, federal judges, Deans of law schools, Chief City Magistrates, City Managers, and Chiefs of Police in Arizona, which are addressed in a Maricopa County Bar Association Salary Report (Attachment 3). He contended that most of the figures in the 1999 Report to the Commission are not accurate, but outdated (Attachment 2).

He pointed out that if the Commission decides not to provide raises to judges, judges will not receive a raise from January 1, 2001 until January 1, 2003, which means these hard-working men and women in the best judicial system in the United States will not receive a raise for three years. He submitted that the reason could not be that judges are doing a poor job because anyone who travels around the country and compares judiciaries in other states knows that the Arizona Judiciary is second to none. If the claim is made that no money is available for raises, that is inaccurate, because there is money available. He said he does not believe in spending money needlessly, but it would not be right not to give these men and women raises for three years. He noted that other speakers will address the County Bar Association recommendations and asked to speak at the conclusion of their testimony.

Tom Toone, President-Elect, Maricopa County Bar Association, noted that the Maricopa County Bar Association is a voluntary group of about 4,500 legal professionals. One of the goals and basic principles of the Association is to provide a good, competent, experienced judiciary to citizens in Maricopa County. In order to accomplish that goal, it is important to retain competent judges on the bench and new people coming on board. That is why the Association, through the Committee on Judicial Salaries, developed a rather extensive report for the Commission's review (Attachment 3). He submitted that consideration of salary increases is very timely. The Board of Supervisors in Maricopa County recently opened up 10 new positions and is currently conducting interviews, and a number of judges are planning to retire. There may be many attorneys applying for the positions, so this is a good time to increase salaries to attract competent, experienced people. He concluded by stating that he believes it is in the best interest of Arizona citizens to adopt the salary increases in the Association report (Attachment 3).

Judge Robert Meyers, Presiding Judge, Arizona Superior Court, testified that during 10 years on the bench in Maricopa County and 27 years as a trial lawyer in the Phoenix area, he has seen many lawyers become judges, but unfortunately, he has also seen many judges become lawyers. He noted that one of the highest callings for a lawyer is to serve as a judge, but the pattern is changing in Arizona. It is a long difficult effort in many states to become a judge, particularly in Arizona, especially in Maricopa and Pima counties where 72 percent of Arizona Superior Court judges work and reside. He acknowledged that there will be many openings for new judgeships in Maricopa County due to new appointments and upcoming retirements.

Judge Meyers explained that judges are merit selected and candidates are willingly analyzed, interviewed, questioned, assessed, and evaluated. Once on the bench, judges are subject to similar scrutiny every two years through a judicial performance review process in which every lawyer who comes into a judge's courtroom is given an exit questionnaire. Witnesses who are sworn in, parties in the case, and staff in the judge's area are also provided questionnaires. Last year in Maricopa County alone, 52,000 to 53,000 questionnaires were anonymously returned. For the most part, polls demonstrate that judges are well-educated, knowledgeable in the law, fair, considerate of diversity, and the caliber most people want to retain in office. Judges are on the ballot every four years on the Superior Court level and every six years on the Appellate level. Over the years, several have been removed by the electorate, which will continue to happen from time to time, but relatively few have not been retained. He added that judges are visited by a three-person committee every two years after a poll is taken to review the results and discuss areas of needed improvement. This process, although difficult, makes good judges.

He commented that compensation in a judicial candidate's life is often not the most important influence. Many have a passion to serve on the bench. He submitted that judicial compensation must be at a responsible level, if only to collectively give the message to candidates that the community values judges as one of the most honorable and important professions in society. He noted that although lawyers may not seek the bench for money, judges often leave the bench for money, such as Chris Skelly (Attachment 4). He added that many retired judges work as mediators, arbitrators, Special Masters, or return to law practice since pensions are based on salaries when they leave the bench, and they must work to fulfill obligations.

Judge Meyers conveyed the fact that besides losing talented judges, the cost of judicial training dramatically increases when judges leave the bench. Lawyers do not automatically metamorphous into judges, but an incredible amount of training is necessary. A new judge, in the first two to five years in the courtroom, typically spends 10 to 20 percent of time in education and training in a classroom. Every two or three years judges are moved from one department to another, which is good for the community, court, and the judge's own emotional state; however, every time a judge moves, more training and education is needed. When a trained judge leaves the bench prematurely, a large investment is lost.

He stated that if one of the legitimate goals of the Commission is to keep salaries attractive for lawyers seeking the bench, a parallel goal should be to promote responsible judicial salaries to avoid a growing fight to retain judges who may move to private practice or other more lucrative jobs. He pointed out that an article in the local newspaper in June 1999 entitled, "In Arizona

Government Women Have the Power But Men Get the Bucks-The Illusion of Equality," a footnote pointed out that Chief Justice Thomas Zlaket of the Arizona Supreme Court, a highly regarded individual nationwide, is the 340th highest paid government employee in Arizona. There are 339 people who make more money than he does, including the Director of the Arizona Department of Corrections (ADC), basketball coaches, and University Presidents. He answered questions posed by the Members.

(Tape 1, Side B)

Mr. Dunn directed the Members' attention to Page 8 of the Maricopa County Bar Association Report and asked that the recommendations be adopted (Attachment 3). He added that Arizona has an outstanding State Judiciary and there is a need to continue to attract the best and brightest from private as well as public law practice. Adopting these recommendations will go a long way toward that goal.

SALARY RECOMMENDATIONS

Carolyn Friedman, Compensation Manager, Arizona Department of Administration (ADOA), answered questions posed by the Members concerning the Report prepared by ADOA (Attachment 2).

Salaries of State Officers

Mr. Smith advised that salary information packets were mailed to the elected officials' offices.

The Members reviewed the following elected officials' salaries and highlighted areas in which more information is needed:

- **Governor:** Governors' mansions in other states.
- **Secretary of State:** Salaries of Lieutenant Governors in other western states.
- **Attorney General:** No comments.
- **Treasurer:** No comments.
- **Superintendent of Schools:** A comparison of relative responsibilities (if available).
- **Corporation Commission:** The difference in salaries between appointed Commissioners in other states and elected Commissioners.
- **Mine Inspector:** The changing nature of the position in Arizona with events currently in process, including consolidation, and the impact on the scope and duties of the position. More definitive information on salary among the five western states.

Drew Langley, Project Manager, Arizona State Mine Inspector's Office, offered to answer questions.

Chairman Thomas indicated that if more information is going to be obtained, the Commission should withhold making final recommendations. At Mr. Atkinson's suggestion, she requested that Mr. Smith offer an invitation to elected officials to provide input to the Commission regarding salaries. She noted that a second meeting will be held to review information specific to the questions in relation to the positions.

Legislative Salaries

Mr. Smith clarified that Legislators are receiving the salary increase recommended by the Commission in 1997; however, the per diem structure remained the same.

Mr. Atkinson submitted that increases in Legislators' salaries should not have to be placed on the ballot, but should be voted on by the Legislature like other elected officials' salaries. He indicated that he does not know if a Constitutional change would be required.

Mr. Crockett noted that it is becoming more and more difficult for people to run for the Legislature because of the amount of time it takes from their regular job, and \$24,000 does not provide enough compensation.

Mr. Atkinson indicated that one of the finest Legislators he has known since his involvement in politics in Arizona is former Representative David Eberhart, who had to drop out because of the low salary and the time it took away from his own business and family.

Senator Randall Gnant advised that there is a Constitutional requirement that Legislative salaries be voted on by the people. He submitted that State government is considerably more complex than in the days of the founding fathers, and from a budget standpoint, has grown significantly. Every day articles in the newspaper address another issue the State is facing. As Chairman of the Appropriations Committee, he is at the Capitol every day, but many Legislators leave in April and are not seen again until January of the following year, leaving lobbyists, who work 12 months a year, in charge.

He stated that over 99 percent of the population in Arizona are practically ineligible to serve in the Legislature. People ages 25 to 45 years old with jobs at good companies would love to provide public service and may even feel confident about finding another job if a company will not hold their job, but it is difficult to make ends meet on a salary of \$24,000.

He speculated that increasing the salaries of Legislators would equalize the cost of mistakes currently made because Legislators are not at the Capitol during the summer to analyze situations and make appropriate decisions. He added that Arizona is different than any other state in the west. It is growing faster than any state besides Nevada and is very complex. He urged the Commission, in reviewing Legislative salaries, not just to look at the percentage increase or rank, but what can be done to attract very talented people to serve at the Legislature.

Chairman Thomas noted that dialogue will continue at the next meeting. The information received in relation to judiciary salaries will also be discussed.

Without objection, the meeting adjourned at 12:17 p.m.

Linda Taylor, Committee Secretary

(Original minutes, attachments, and tape are on file in the Office of the Chief Clerk. A copy of minutes and attachments are on file with the Senate Secretary.)