

ARIZONA STATE LEGISLATURE
Forty-seventh Legislature – Second Regular Session

COMMISSION ON SALARIES FOR ELECTIVE STATE OFFICERS

Minutes of Meeting
Wednesday, July 26, 2006
House Hearing Room 3 -- 2:00 p.m.

Chairman Sal Rivera called the meeting to order at 2:07 p.m. and attendance was noted by the secretary.

Members Present

Betsy Bolding
C. Webb Crockett

Lonnie J. Williams, Jr.
Sal Rivera, Chair

Members Absent

Speakers Present

Eryn McCarthy, Assistant Attorney General
Joanne Carew, Classification/Compensation Manager, Department of Administration (D.O.A.)

Chairman Rivera called the meeting to order at 2:07 p.m. and attendance was noted.

Legislative Salary Report

Chairman Rivera noted that the Commission has made several versions of the Legislative Salary Report and the one in front of everyone is the most recent version (Attachment 1), which includes all the proposed revisions that were discussed at the last meeting of the Commission (Attachment 2).

Mr. Crockett suggested a change on page one under “Executive Summary.” He asked that in the last paragraph under that section, in the second line, the word “many” be changed to “some” since “many” conveys to him a large number, which in this case is eleven states out of fifty, and he thinks “some” would be more representative of what they are trying to convey. There were no objections.

Mr. Crockett moved that the report be approved, as changed, as the final recommendation for legislative salaries to accompany the previously submitted legislative salaries proposal. The motion was seconded. The motion carried.

Presentation of Attorney General's Office

Chairman Rivera said that Eryn McCarthy, Assistant Attorney General, is present for the purpose of responding to questions raised at the initial meeting of this Commission, the basic question being what effect the recommendation of the Commission has in particular years in relation to certain elected officials. Chairman Rivera also opened the discussion to any other questions the commissioners might have.

Mr. Crockett said there are two categories of elected officials that become final; one is judges and the other is the Corporation Commission because these two classifications have staggered terms. Subject to that and regarding the remaining offices, he has a question as to what effect, jurisdiction and authority the Commission has in order to make changes in those salaries, i.e., whether they could be implemented before the next Commission is appointed to consider the matter.

Eryn McCarthy, Assistant Attorney General, asked if the Commission would like to go into Executive Session, as allowed by law, for the sake of confidentiality. The consensus of the Commissioners was that since the questions relate to the interpretation of the statutes, they did not see any reason to go into Executive Session unless Ms. McCarthy thinks otherwise. Ms. McCarthy said that it is the Commission's call. Chairman Rivera suggested they continue in a public forum, and, if need be, they can then go into Executive Session.

Chairman Rivera asked if one of the members would present the question to Ms. McCarthy. Mr. Crockett asked Ms. McCarthy if the Commission has the jurisdiction to set the salaries for the judicial officers at this point in time so that they can be implemented before the installation of another Commission. Ms. McCarthy clarified her understanding of the question to be if the Commission has the authority to designate salaries for judicial officers. Mr. Crockett added that for implementation under the statute there is a question as to when the effective date of any recommendation that this Commission would make, which is followed up by the Governor or the Legislature, would become effective – if, in fact, it would become effective before the installation of a new Commission under the statute.

Ms. McCarthy said she would like to first give a general overview of the effective dates which may address the particular questions the Commission has. She stated that under the Constitution, an elected official is not entitled to an increase or decrease in salary during their term. For example, the Commission meets every two years in even-numbered years, e.g., 2006, and makes a recommendation; the recommendation is passed on to the Governor, who, in turn, transmits a recommendation to the Legislature. That would not effectively happen until 2007 in this case and would become effective, assuming that the Legislature does not take action by enacting a statute or either house specifically disapproves any recommendation, on the Monday of the following year or January 2008. In the case of the Governor's office, it would not take effect until January 2011 because of the Constitutional prohibition. Mr. Williams asked what is the effect of the present Commission's recommendation as it relates e.g., to the Governor's office, since there will be another Commission appointed that will be considering salary increases before that recommendation becomes effective.

Ms. McCarthy said the action of the present Commission would stand even if another Commission comes in 2008, because, in the case of the Governor's office, if a Commission

comes in 2008 and makes a recommendation and transmits it to the Governor and if the Governor puts it in the 2009 budget, generally speaking, it would become effective in 2010. However, since it is still during that Governor's term, the recommendation would not be effective until the following year.

Mr. Williams stated that if they were to make a recommendation and even if the Governor wanted to adopt it, it could not be acted upon because the budget, to which it would relate, is years away. He said when this Commission was put together there was on the books, but is no longer, a two-year budget cycle, and the Commission was never changed to adapt to that. He believes the reason the timing on the recommendations does not work is because there is no two-year budget cycle. The way the Commission is set up, it works out basically every six years for some offices. He said if a Governor submits a budget for fiscal 2008 in 2007, there would not be any numbers to put in for the 4-year term offices because that budget would not affect it.

Ms. McCarthy said she agreed there is a tremendous confusion. It would seem to her that those who are dealing with this on a practical basis, given the history of the Commission, would see that a change is suggested, as it seems that the statute has not taken those types of things mentioned into account. At this point, given what the Legislature has in place right now and in answering the Commission's question on what their recommendation impact will be in the future, given the fact that another Commission comes in 2008, she said she is not able to satisfactorily answer that question. It just seems to her that it might be the interplays of the statutes causing this confusion.

Mr. Williams said it seems to him that one of the problems is that if this Commission met in odd years, they would have met last year and any recommendation would have gone into effect for 2007 before those elected took office and would have worked, but because it has not been changed, he thinks this problem will continue for the offices that hold 4-year terms; it works every other year. For the other offices it is not an issue.

Ms. Bolding asked if in the case of there being no practical reason to make a recommendation, the Commission is bound by statute to do it anyway. Ms. McCarthy said she believes the Legislature has spoken and has charged the Commission with the obligation of submitting a report and recommendation, and, as far as the date of when these things will take effect or not take effect, though she understands the Commissioners' concerns, that is not part of its charge. The Commission is just to go ahead and put together a report and a recommendation.

Chairman Rivera said he agrees it is clear from the statute that they must make a recommendation. He asked if the 2008 Commission comes in and considers the same issue, does one trump the other. Are both recommendations considered? Does the 2008 Commission supersede what the 2006 Commission has done?

Ms. McCarthy said she believes that under the Constitution, as well the statute, whatever is most recent that has been accepted, supersedes the previous one. The Commission makes its recommendation to the Governor. The Governor takes the recommendation and forms a recommendation. Mr. Crockett commented that it all becomes moot if the Governor or Legislature rejects the recommendation.

Chairman Rivera thanked Ms. McCarthy for her presentation and asked what the will of the Commission is insofar as making the final recommendations. Mr. Williams said it was his understanding that the only individuals for whom they have not made a recommendation are the four-year office holders. He said recommendations were made for the judges and he thought a recommendation was also made for the Corporation Commission at the first meeting. Chairman Rivera said he has a note that says \$100,000 for the Corporation Commission and it says effective 2009. Mr. Williams said that the 2004 report made a request that this problem be addressed, but to no avail. He believes, in respect to the 4-year office holders, that legally a recommendation has to be made, but, in his opinion, it has no meaning. But he believes it would be appropriate to adopt the 2004 recommendations as he sees no purpose in going through an exercise of what salaries should be five years from now. He thinks they should simply adopt the 2004 recommendations and again urge the Legislature to modify the law so that this problem does not exist. With respect to the judges, he said it is appropriate, but to ask them to do something that has no real meaning, impedes on their time and does not make any sense. Ms. Bolding agreed and stated that three of the five members on this Commission made that suggestion two years ago and she said they had worked hard to come up with the numbers. If it is not going to make any difference anyway, why not leave it for the next Commission to come up with figures that will go into effect in 2011.

Chairman Rivera said he does not necessarily disagree with adopting the recommendations of the 2004 Commission, but, in light of Ms. McCarthy's advice, it seems to him that even though their recommendations may not be adopted, they also could be the basis for the Governor's recommendation. He thinks, therefore, that there is an obligation to at least revisit the recommendations from 2004, determine that they remain appropriate and then offer those as part of this Commission's recommendations.

Mr. Crockett said he is a little bothered by the charge that they have to come up with a recommendation that accurately reflects the value and worth of an individual in a particular office, with their responsibilities, etc., using recommendations that were made in 2004 for today's environment; he thinks they ought to index them for purpose of this proceeding.

Mr. Williams said if they were to make recommendations for the 4-year office holders he would be curious as to the time element. He knows with the judicial officers, he is making a recommendation that will be effective on a certain date, but in this case he does not know and he believes that indexing would be appropriate, but indexing for what period would be the question. Mr. Crockett said he would index from 2004 to today. Ms. Bolding said this would lay the groundwork or basis for the next Commission to look at. Mr. Williams repeated he has a great concern with when the recommendation will be effective and he hopes that the Legislature will address this at some point.

Chairman Rivera said Mr. Williams was correct in asking how can they say what would be an appropriate salary for a Governor in 2011 right now, and said he believed indexing makes a lot of sense and asked Ms. Carew if included in their materials is the 2004 recommendations indexed to 2006. She said that in the material that was received at the first meeting there should be some updates through 2005. Ms. Carew asked if the Commission would like the staff to apply the four different indices to the 2004 recommendations and come back to the Commission with the information.

Mr. Williams asked when the report is due. Chairman Rivera said that now that they have submitted their Legislative salary recommendations, which had an absolute deadline, they should just complete their report in a timely manner to allow the Governor to analyze it for her budget. Mr. Williams said that, in light of that answer, it would be better to meet again and see the actual numbers, which would not be possible today.

The Commissioners agreed that it would be good to meet again and finalize the 4-year officers, having already finalized the salaries for judges and corporation commissioners. Mr. Williams suggested that, in looking at the 4-year offices, he thinks they are forced to look again at the judicial officers and then look at all the offices together. Chairman Rivera clarified that Mr. Williams is asking for staff to also look at the 2004 recommendations for judicial officers and index those to 2006. Mr. Williams said there are two alternatives in doing this, one as he stated with the indices and the second one to simply apply their decision concerning the judges' salary increase by 6 percent to the other offices. He said he is concerned with being consistent. Mr. Williams also said they should notify Mr. Dunn about this.

Chairman Rivera reiterated that they need to see the 2004 recommendations indexed effective 2007 and 2008 for all offices except the Legislature.

Ms. Carew said the figures for 2006, 2007, and 2008 are not yet available but they can make projections which would be estimates. Mr. Williams questioned the value of state employee increases and said that since this is a Legislative decision, he does not know how you could possibly predict for the future since it is not objective. There was a consensus of the Commission not to use that index.

Ms. Bolting moved that the Department of Administration calculate salaries to 2008 for all offices assigned to the Commission for Salaries for Elective State Officers, except for the Legislature, using three different indices and a flat six percent increase, based on the Commission's 2004 recommendation, and supply those numbers to the Commission for the purpose of making a final decision on salary recommendations. The motion was seconded. The motion carried.

Chairman Rivera complimented the staff on their work. Ms. Bolding also mentioned appreciation for Ms. McCarthy's presentation from the Attorney General's office. Chairman Rivera suggested that they wait until they hear from Ms. Carew with the information before they set the date of the next meeting. Mr. Williams asked for an opportunity to see the figures before the meeting and also asked that a file containing it in spreadsheet form be sent by email to the Commission. Ms. Carew said they would supply an electronic spreadsheet together with a hardcopy.

Without objection, the meeting adjourned at 3:03 p.m.

Pat Hudock, Committee Secretary
July 31, 2006

(Original minutes, attachments and tape on file in the Chief Clerk's Office.)