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TO: Members of the Compensation Council

FROM: Stephanie J. James, Senate Counsel (651/296-0103) *SJ*

DATE: February 13, 2013

RE: Statutory Duties of the Compensation Council

This memorandum sets out the duties assigned to the Compensation Council by Minnesota Statutes, section 15A.082. A copy of the statute is attached. This memorandum also addresses questions often raised by members of previous councils.

1. What are the legal underpinnings of the Compensation Council?

The Minnesota Constitution, article IV, section 9, says that “The compensation of senators and representative shall be prescribed by law. No increase in compensation shall take effect during the period for which the members of the existing house of representatives may have been elected.” Article V, section 4, says that “The duties and salaries of the executive officers shall be prescribed by law.” Article VI, section 5, says that “The compensation of all judges shall be prescribed by the legislature and shall not be diminished during their term of office.”

Minnesota Statutes, section 15A.082, creates the Compensation Council “to assist the legislature” in establishing those salaries.

2. What must the Compensation Council do and by when?

The Compensation Council makes salary recommendations to the Legislature for constitutional officers, members of the Legislature, and judges, and recommends salary ranges for the head of state and metropolitan agencies. Currently, the only metropolitan agency heads affected by the council’s recommendations are the chairs of the Metropolitan Council and the Metropolitan Airports Commission. For agency heads, the maximum for each salary range must be expressed as a percentage of the governor’s salary. In addition, the council must recommend the range to which each agency head should be assigned.

The Council’s recommendations are due to the Legislature by May 1 of each odd-numbered year, Minn. Stat. § 15A.08, subdivision 3.



Recommendations may be expressly modified or rejected by the legislature. Minn. Stat. § 15A.082, subdivision 3.

3. How and when do the council's recommendations take effect?

The recommendations for constitutional officers, legislators, and judges will not take effect until the first Monday in January of the next odd-numbered year – in this instance, 2015 – if the necessary money has been appropriated by then. The council may also recommend a single adjustment, to take effect on January 1 of the subsequent year – 2016 for this council – again subject to the necessary money having been appropriated.

The Legislature may expressly modify or reject the recommendations. In addition, salary recommendations for legislators do not preclude changes in the members' mileage reimbursement or per diem expenses or in additional compensation for those in leadership positions.

The council's recommendations for agency head salary ranges are effective retroactively to January 1 of the year in which they are made – if they are enacted into law.

4. What must the council consider in making its recommendations?

The council is instructed by statute to consider:

- (1) the amount of compensation paid in government service and the private sector to persons with similar qualifications;
- (2) the amount needed to attract and retain experienced and competent persons;
- (3) the ability of the state to pay the recommended levels;
- (4) the average length of legislative sessions;
- (5) the amount of work required of legislators during the interim; and
- (6) the members' opportunities to earn income from other sources without neglecting their legislative duties.

5. Why don't the council's recommendations for legislators, constitutional officers, and judges take effect until two years after they are submitted?

The Minnesota Constitution, article IV, section 9, empowers the Legislature to set its members' compensation by law, but provides that an increase approved in one biennial session may not take effect until the next biennium, after the election of a new House of Representatives. Accordingly, in this instance, a legislative pay increase enacted during the 2013-2014 session may not take effect before the 2015-2016 biennial session, after the election of November 2014. There is no similar restriction on legislative enactment of pay increases for constitutional officers

and judges, but the law establishing the council also requires it to make its recommendations for those groups two years into the future.

6. What happens to the council once it has submitted its recommendations?

Under Minnesota Statutes, section 15A.082, subdivision 6, the council ceases to exist once its recommendations have been submitted. Under the statute, the council has until May 1 to submit its recommendations.

7. May the council make any other recommendations?

Yes, and some councils have done so. However, recommendations other than those required by statute have no official standing. The Legislature could consider them, follow them, reject them, or simply ignore them.

8. What if the council submits its recommendations after the May 1 deadline?

Those recommendations would have no official standing. The Legislature, nonetheless, would be free to consider them, just as it could consider suggestions from any other source.

9. May the council submit its salary recommendations by May 1, then continue to meet after that date to consider other recommendations?

Yes, but since the council would have ceased to exist as an official body upon submission of its recommendations, its members would no longer be entitled to per diem payments, expense reimbursements, or administrative and support services.

TSB/SJJ:rdr