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TO: Members of the Compensation Council

FROM: Stephanie James, Senate Counsel (651/296-0103)

DATE: March 4, 2019

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 V, section 4, says that “[t]he duties and salaries of the executive officers shall be prescribed by law.” Article VI, section 5, says that “[t]he 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 “the compensation of constitutional officers, justices of the Supreme Court, judges of the Court of Appeals and district court, and the heads of state and metropolitan agencies included in section 15A.0815.”

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

The Compensation Council makes salary recommendations to the Legislature for constitutional officers and judges, and recommends salary ranges for the heads of state agencies and the Metropolitan Airports Commission. For agency heads, the recommendations must include the appropriate group to which each agency head should be assigned and a limit on the maximum range of salaries in each group, expressed as a percentage of the salary of the governor. The governor’s annual salary is \$127,629 for 2019. (Laws 2013, chapter 142, article 6, section 12.)

The Council’s recommendations are due to the Legislature by April 1 of each odd-numbered year. Recommendations may be expressly modified or rejected by the legislature.

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

Action by the legislature is required before the recommended salaries go into effect.

The recommendations for constitutional officers and judges take effect the first Monday in January of the next odd-numbered year – in this instance, 2021 – 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 – 2022, for this council – again subject to the necessary money having been appropriated.

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; and
- (3) the ability of the state to pay the recommended levels.

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

Until 2017, the Compensation Council had the duty to recommend legislator salaries, as well as officers' and judges' salaries. The constitution prohibits a sitting legislature from increasing salaries of its members. Therefore, statute provided a two-year delay before new salaries would take effect so that they would apply to the next legislature.

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 April 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 April 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 April 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.

SJJ:rdr