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Citizens' Commission on Compensation for Elected Officials

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Revised February 2008

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Overview

For most of Missouri's history, salaries for legislators, judges and statewide elected officials were set by statute but legislators have had difficulty increasing that compensation and many legislators have found it popular to oppose them. Since 1975, the General Assembly increased the per diem allowance paid to legislators twice (1977, 1999) and salaries for legislators once (enacted in 1980). Statewide elected officials received salary increases in 1977 and 1984 while judges received raises five times since 1975. The most significant change in compensation occurred in 1982 and 1984 when the General Assembly authorized cost-of-living increases for judges and legislators/statewide elected offices, respectively. The procedure for calculating the cost-of-living increases was established in Section 474.405, Revised Statutes of Missouri (RSMo) for judges and in 105.005, RSMo for all others. These increases had to be appropriated in a specific line in the appropriations bill and the amount of the annual increase was published in APPENDIX D for the judiciary and APPENDIX E for other elected officials of the Missouri Revised Statutes.¹

In recognition of the challenges associated with increasing salaries, the General Assembly proposed a constitutional amendment as Article XIII, Section 3 (HJR 38, 1994), which created a commission and charged it with setting the compensation of elected officials. That proposal was approved by 57% of the voters. The amendment contained a number of features to be described subsequently, but it also contained two provisions that significantly affected the operation of the amendment:

- The General Assembly could disapprove of the proposed changes in compensation by concurrent amendment; and
- Moneys to fund the changes were subject to appropriation.²

As a result, a compensation plan approved by the commission

could be rejected by the General Assembly but, even if not rejected, the General Assembly had the option of including or excluding the moneys in the annual appropriations bill. These provisions negated most of the advantages envisioned when the commission was proposed because that they ensured that the General Assembly must approve the proposed increases, just as was required prior to the adoption of the amendment. Consequently, the commission did not operate as originally intended. Its recommendations were implemented only once and in recognition of this record Governor Holden did not appoint a commission to make recommendations in 2004 and 2006. Indeed Governor Blunt's budget recommendations for FY07 (2006–2007) included proposed cost of living increases.³ This was an admission that the commission was effectively dead, even if it remained in the constitution.

In 2006, HJR 55 was proposed to address these issues.⁴ The resolution, proposed by the General Assembly and approved by the voters in November 2006, permits the General Assembly to disapprove of the commission's recommendations but only by a two-thirds majority, not the simple majority previously authorized.⁵ It also strikes the requirement that the compensation be appropriated. The latter revision means that if the General Assembly does not disapprove, moneys will "stand appropriated" to fund the recommendations without legislative action.

Governor Blunt, the Secretary of State and the Supreme Court appointed a commission which met in late November and submitted recommendations on December 1, 2006. Those recommendations provided a salary increase for statewide elected officials and judges effective July 1, 2007 and authorized an increase for FY08 and FY09 that is equivalent to the increase provided to the average state employee. The commission recommended salary increases for legislators but stipulated that they would not take effect until January 2009. The General Assembly allowed the recommendations of the commission to take effect.

¹ These appendices were published by the Joint Committee on Legislative Research in the annual supplement to Missouri statutes. Cost-of-living increases were provided for statewide elected officials and judges from FY 86 (1985–1986) through FY 2001 (2000–2001).

² Both provisions were added by amendment in the Senate.

³ See HB 1012 as introduced (2006). This was an implicit recognition of the failure of the commission and an attempt to return to the cost-of-living adjustments used in the past.

⁴ The resolution also provides that public officials whose position is covered by the Citizens' Commission on Compensation for Elected Officials will lose their pension upon a felony conviction or removal from office.

⁵ The amendment was approved by 84% of the voters.

Central provisions of Article XIII, Section 3

The Article creates a commission, sets methods of appointment for the members, assigns specific duties to the commission, and outlines a specific timetable for the commission to work. It also provides methods by which the commission's decisions may be delayed or overturned. These are summarized below:

Membership and terms of office — The commission is composed of 22 members, nine chosen at random by the Secretary of State (one from each congressional district), one chosen by the Supreme Court, and 12 selected by the governor. Members serve four year terms and are reimbursed for expenses but are not paid for their services.

Commission duties — A commission is to be appointed every four years and each is charged with setting compensation, which includes salary, mileage, and per diem expense allowances. Per diem expense allowances are essentially travel allowances for daily food and lodging expenses. Each commission is charged with submitting a report every two years.⁶

Implementation of commission recommendations — The commission is tasked with studying salaries and making recommendations for adjustments on December 1 of each even-numbered year. Changes made in HJR 55 (2006) allow the General Assembly to disapprove of the recommendations only by a two-thirds vote in both chambers and if not disapproved, the recommendations are automatically funded without further action.

Brief history of the Citizens' Commission on Compensation for Elected Officials

The commission was approved by the voters in November 1994 by a vote of 57% and revisions to the commission's authority were approved in November 2006 by a startling 84% of the voters. The first commission was appointed in 1996 and that commission made recommendations in 1996 and 1998. A second commission was appointed in 2000 and it made recommendations in 2000 and 2002. The commission's recommendations were disapproved by the General Assembly in 1998, 2002 and 2004. They were also disapproved in 1996 but, in response to a challenge to that disapproval, the Missouri Supreme Court ruled that the disapproval was adopted in a manner that did not meet constitutional requirements for bill passage, thereby nullifying the disapproval.⁷ Nonetheless, these recommendations were not funded. The recommendations of the commission were partially funded by appropriation in 2000 which was vetoed by Governor Carnahan and then finally funded by a supplemental

appropriation adopted in early 2001.⁸

These conditions led the commission to include the following in its 2002 report:

The recommendations of the Commission were ignored and criticized in 1996, 1998, and 2000. Members of the Commission recognize that this year's recommendations may receive the same fate. If that is the case then it is clear that the current constitutional provisions are not working and will not work.

When government tries an activity that does not work it should be changed or eliminated. Continuation of the Commission and the reaction to its recommendations only serve to bring state government into disrepute with Missourians. It is unfair to our citizens and the members of the Commission who take time out of their lives to serve the State to continue this process as currently constituted.

The commission correctly assessed the reaction to its recommendations and, in recognition of this reality, Governor Bob Holden did not appoint a new commission in February, 2004 after the expiration of the terms of the previous commission. House Joint Resolution 55, 2006, was designed to facilitate the implementation of future recommendations of the commission.

Conclusion

The recommendations of the Citizens' Commissions since 1996 have not been well received and the 2006 revision was specifically designed to overcome legislators' aversion to approving pay raises for themselves and other elected officials. The approach appears to have been effective, judging from the response to the 2006 recommendation of the Citizens' Commission on Compensation for Elected Officials. While the process of developing recommendations remains the same, rejection of the recommendations will be difficult and unlikely under the revisions made in 2006.

Author Biography

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⁶Since Governor Holden did not appoint a commission in 2004, the next customary appointment cycle would begin in March 2008 and that commission would make recommendations in December 2008 and December 2010. However, Governor Blunt made some of his appointments to the Commission on October 31, 2006; the balance were appointed shortly after HJR55 was adopted in November 2006. The commission submitted recommendations on November 30, 2006. These recommendations can be found in Appendix G, Revised Statutes of Missouri.

⁷See *Weinstock v. Holden* 995 sw. 2d 411 (1999).

⁸The governor's veto was based upon the court's almost simultaneous action in *Weinstock v Holden* in which the court questioned the ability of the General Assembly to partially fund the commission's recommendations. The supplemental appropriation for FY 01 was HB 1014. To further complicate matters, the General Assembly passed SB 299 in 1999 to increase the per diem allotment for legislators, and judges under limited circumstances, from \$35 per day to 80% of the amount allowed for federal employees when in Jefferson City. The court upheld this change in *Weinstock* and subsequent commission recommendations have included it.