House Legislative Analysis Section

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SOCC DETERMINATION APPROVAL

Senate Joint Resolution D
(Substitute H-2)
Sponsor: Sen. Thaddeus G. McCotter

Senate Committee: Government Operations
House Committee: House Oversight and Operations
First Analysis (3-15-01)

THE APPARENT PROBLEM:

The state constitution was amended in 1968 to give the responsibility for determining the salaries and expense allowances of members of the legislature, the governor, lieutenant governor, and justices of the supreme court to a special commission, the State Officers Compensation Commission (SOCC). The seven-member SOCC meets every even-numbered year after July 1 for no more than 15 session days and, after holding public hearings and accepting public comment, files its determinations with the Clerk of the House of Representatives, the Secretary of the Senate, and the director of the Department of Management and Budget between December 1 and December 31. Those determinations take effect as of January 1 unless the legislature rejects them by concurrent resolution adopted by two-thirds of the membership of each house before February 1. The legislature can reject the entire determination or specific determinations for specific positions.

In recent years, the recommendations of the SOCC and the legislature's response to them have been controversial. In 1991, the legislature rejected the SOCC determinations; in 1993, a resolution to reject them failed in the House and the Senate did not vote. The commission's 2000 report generated much public controversy: the commission recommended first year salary increases of 13.7 percent for the governor, to $172,000; 19.6 percent for the lieutenant governor, to $120,400; 13.6 percent for supreme court justices, to $159,960; and 35.8 percent for legislators, to $77,400. It recommended second year increases of 2.9 percent for each office. Following much public outcry, the House of Representatives voted to reject the SOCC salary determinations; the Senate did not vote. As a result, the salary increases took effect, retroactive to January 1, 2001. The controversy can be seen as both the result of and a contributor to the perceived increase in public disaffection and cynicism with government.

There are several problems with the current process. For one thing, the SOCC determinations apply immediately, which means legislators are faced with a decision about their own current compensation levels. This invites public skepticism and cynicism. Further, the SOCC determinations go into effect automatically unless rejected by the legislature and the legislature is not required to vote on them at all. If the legislature does not put the issue to a vote, it is seen as dodging its responsibilities. So, there is a great deal of political pressure to vote on the issue, even if it is obvious that the SOCC recommendations have overwhelming support. The only resolution the legislature can vote on is one to reject the SOCC determinations, which casts the issue in an undesirable light. If a resolution to reject the determinations is put to a vote, but the necessary votes (two-thirds of the membership) cannot be found, the legislature is portrayed as "giving itself a raise," because increases are effective for that legislative session. At the same time, a large majority of the legislators in any one house can vote to reject a pay raise (and point the vote out to the electorate in self-defense) without their votes defeating the SOCC determinations because of the supermajority requirement. Indeed, one entire chamber can vote to reject the recommendations without that having any effect if the other does not vote to reject or does not address the issue at all. In addition, many legislators (and others) object to the "all or nothing" approach embodied in the current process; it is argued that the recent SOCC determinations, with a 35.8 percent increase in legislative salaries, was just too large an increase to be implemented all at once, but that a reasonable, "cost of living" increase would have been palatable to the public. In addition, some question the credibility of a commission composed entirely of gubernatorial appointees with no specified qualifications or expertise in the practice of setting compensation.

While there may be no ideal way to establish legislative salaries or those of other elected officials or any way such decisions can escape some public criticism, amendments have been proposed aimed at improving the current system.

THE CONTENT OF THE JOINT RESOLUTION:

Currently, under Article IV, Section 12 of the state constitution, the State Officers Compensation Commission (SOCC) determines the salaries and expense allowances of the members of the legislature, the governor, the lieutenant governor, and the justices of the state supreme court. Unless the legislature adopts, by a two-thirds majority of the members elected to and serving in each house, a concurrent resolution rejecting the salaries and expense allowances proposed by the SOCC, the salaries and expense allowances are implemented.

Senate Joint Resolution D would amend the state constitution to:

- Add the attorney general and the secretary of state to the list of state officials whose salaries and expense allowances are determined by the SOCC.

- Provide that commission members' qualifications could be determined by law.

- Require the commission to make three separate determinations, one each for the legislative branch, the executive branch, and the judicial branch.

- Specify that if a determination of the SOCC for a branch of government did not exceed current salary and expense levels by more than the total percentage increase in compensation for state classified civil service employees in the immediately preceding two calendar years, then that determination would immediately take effect.

- Specify that if a determination of the SOCC for a branch of government exceeded current salary and expense allowances by a greater percentage than the percentage increase in civil service compensation, then the amount equaling the increase received by civil service employees would take effect immediately, but that any excess amount would take effect only upon an affirmative vote of a majority of the members elected to and serving in each house of the legislature. In that instance, the proposal would require that each house of the legislature conduct a record roll call vote on a concurrent resolution to approve each SOCC determination, with the resolutions originating in the House and the Senate in alternate years.

- If such a concurrent resolution were adopted, the part of the salary determination being voted on (the portion in excess of the percentage increase received by state civil service employees) would take effect for the next legislative session.

- If the concurrent resolution were not adopted, "existing" salary and expense allowances (including the portion of the SOCC's determination that did not exceed the percentage increase received by civil service employees) would remain in effect.

If adopted by the legislature, the constitutional amendment would be placed on the ballot at the next general election.

HOUSE COMMITTEE ACTION:

As passed by the Senate, the joint resolution provided that the salary and expense determinations of the SOCC would be effective only if the legislature approved them by a concurrent resolution adopted by a majority of the members elected to and serving in each house. It would have allowed the legislature to amend the salary and expense determinations to reduce one or more of them. And, it would have specified that if approved or amended, the determinations would become effective for the legislative session immediately following the next general election. The Committee on House Oversight and Operations rewrote the proposal (see *Content*).

BACKGROUND INFORMATION:

2000 State Officers Compensation Commission report. The commission filed its report containing salary and expense determinations for the offices of governor, lieutenant governor, supreme court justice, and legislator on December 28, 2000. In considering the salary level for the office of governor, the commission noted that it compared the existing salary for the governor ($151,245) with salaries for other elected officials in Michigan, including the Mayor of Detroit ($176,176), Wayne County Executive ($146,707), and Oakland County Executive ($139,221), with salaries for the presidents of the six major state-supported universities (all over $200,000), the state superintendent of public instruction ($145,000), and with top executive positions in the private sector (estimates of $450,000 to $1.3 million).

In discussing salary levels for the lieutenant governor, supreme court justices, and legislators, the commission decided on a formula that linked these offices to a percentage of the governor's salary. The report sets the lieutenant governor's salary at 70 percent of the governor's salary, sets supreme court justices' salaries at 93 percent of the governor's salary, and sets legislators' salaries at 45 percent of the governor's salary.

In particular, with regard to legislators' salaries, the commission considered the effects of term limits and the experiences of other states, particularly other states with comparable legislatures. The commission considered the following salary levels when determining legislative salaries: Detroit City Council members ($81,312), Wayne County Board of Commissioners ($58,683), California legislators ($99,000), and New York legislators ($79,500). The commission's report notes that Michigan legislators (then current) salaries were 15.3 percent below the average of legislator salaries in the six states with full-time legislatures surveyed by the commission's staff.

Legislative Service Bureau report on Legislative Compensation. The Legislative Research Division of the Legislative Service Bureau issued a report in January 2001 that provides an overview of the history of legislative compensation in Michigan, details past SOCC determinations and legislative actions, shows a comparison of legislative salaries to the Consumer Price Index, and discusses proposals for change in the process for setting legislative salaries. The LSB report notes that 21 states have compensation commissions that recommend salary levels for legislators. In five of those states, the commission determines the salaries without a vote of the legislature (which cannot vote to accept or reject the determinations). In nine of the states, the commission's role is advisory; that is, its recommendations must be voted on by the legislature. In six other states (including Michigan), the commission's determinations are also advisory; however, the legislature must vote to reject the determinations or they take effect. One state (Arizona) places its commission's recommendations on the ballot for approval or disapproval by the voters.

FISCAL IMPLICATIONS:

Fiscal information is not available.

ARGUMENTS:

For:

This proposal would improve the current method of setting the salaries of legislators and certain other public officials in a number of ways.

It would eliminate the "all or nothing" approach to setting compensation, so that there would be an option, with every two-year period, for legislators and other state officials to receive an increase in salary that was comparable to the increases being given other state employees. (Reportedly, recent annual pay raises for civil service employees have been 2 to 3 percent.) This would likely preclude the scenario that occurred this year from happening again. Many have argued that the public would have accepted, even approved, a modest salary increase, but that they were outraged by the huge increase that was proposed and allowed to take effect. In addition, if a larger increase were warranted, the proposal would require an affirmative vote by a majority of each chamber of the legislature, so that legislators could not simply fail to act. And, it would require that the two chambers alternate beginning the process, which would reduce the chance of mischief.

Further, any increase above the amount received by state employees would take effect after the next general election, rather than immediately. This means the legislators would not be voting on their own salary increase but only that of future legislators and officeholders.

This approach is a useful compromise between having the legislature set compensation levels directly and avoiding the decision entirely. It would add accountability into the process; voters could respond at the polls if they were unhappy about the pay levels that resulted.

For:

The proposal would add the secretary of state and the attorney general to the list of officials whose salaries and expense allowances are determined by the SOCC. This is only fitting, as these officials are elected in statewide elections as are the governor and lieutenant governor. (Currently, salaries and expenses for the attorney general and the secretary of state are set by the legislature during the state budget process.)

For:
The resolution would add language to the constitution that would allow the legislature to establish, in statute, some sort of qualifications for members of the SOCC. One criticism of the current process is that these important decisions are being made by gubernatorial appointees who may or may not have any qualifications that the public would find credible. It is expected that companion legislation to amend Public Act 357 of 1968, the SOCC implementation law, will be forthcoming, and that it may include a requirement that at least some members of the commission possess some expertise in the field of compensation (from such fields as business administration, personnel administration, finance, and so forth).

Against:
The presumption of the current system is that an independent commission is able to reach a rational and responsible set of determinations about public officials' salaries that only an extraordinary legislative vote should be able to prevent from taking effect. It recognizes the political difficulty of carrying out this task entirely within a legislative arena. This proposal casts doubt on the validity of and need for a separate and independent commission. While it can be argued that the changes in compensation should not take effect in the term during which they are voted on, the current system otherwise seems to accomplish its original purpose. The nature of the controversy surrounding SOCC deliberations and legislative action on SOCC determinations may be inevitable no matter what system is in place.

Against:
Why not just do away with the SOCC and have the legislature set compensation levels? If they are going to be held responsible anyway, legislators might as well have more influence in determining what is to be voted on.

Against:
Another way to address this issue would be to take it out of the legislature's hands completely. Let the commission alone determine the compensation levels, at least for the legislature. There is some sentiment that the legislature should not have any role in establishing its own compensation. Then if legislators do not approve of the levels of compensation, they can choose not to run.

POSITIONS:

There are no positions on the joint resolution.

Analyst: D. Martens

■This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.