

James Robins: Compensation Council Submitted Testimony – HF 3431

Thank you to Chair Klevorn and committee members for the opportunity to submit testimony regarding proposed Compensation Council changes to the State and Local Government omnibus bill - HF 3431. The Legislature considered major changes to Chapter 15A by expanding Compensation Council authority in 2023, and I suggested modifications that were adopted into law – the addition of legislative appointees representing all four caucus leaders, and the exclusion of currently registered lobbyists from serving on the Council. Those constructive changes are much appreciated. However, some other late-arriving provisions last year raised significant concerns.

In an in-depth bipartisan effort during the legislative interim, I joined eight other recent Compensation Council members in an Ad-Hoc Group tasked with reviewing the 2023 restructuring and providing remedial revisions where needed. Our group included judicial and governor appointees who served a total of 25 terms from 2017-2023. We sought participation from all interested parties, including state judicial administration, the Minnesota District Judges Association (MDJA), key legislators and MMB staff who answer to the governor. Chair Klevorn asked our group to formulate recommendations as soon as possible to ensure that revisions could be fully considered by the Legislature. With technical assistance from the LCC and legislative counsel, HF 3707 (Freiberg) was introduced in early February for full consideration.

Although members of the Ad-Hoc Group supported the major 2023 changes that provide real budgeting authority to the Council, we also found deep flaws in those changes based on our conversations with the interested parties and our own experiences on the Compensation Council over the past seven years. Taken as a whole, the current Chapter 15A statutes pertaining to expanded Compensation Council authority unacceptably restricts Judiciary branch budgeting coordination, pilfers the Legislature's inherent power of the purse, and irresponsibly concentrates power within the Executive branch via the MMB.

In my view, three essential changes of the Ad-Hoc recommendations are needed immediately. First, extend the existing timeline deadline of less than three months for Council deliberations to 20 months - Aug. 1 of the second year of the biennium (15A.082, Subd. 3), allowing for more thorough deliberations and judicial branch budget coordination - aligning with the unanimous formal recommendations approved by the Minnesota Judicial Council on Feb. 15, 2024 as presented by MDJA. Failure to act on the judiciary requested timeline in 2024 will delay budget coordination by two full years to FY 2030-31 at the earliest.

Second, repeal the 2023 ban on ex parte communications between Compensation Council members and the judiciary (15A.082, Subd. 2 & 7) – another provision unanimously passed by the Minnesota Judicial Council and fully supported by MDJA. The judiciary communications ban unreasonably concentrates information-sharing authority within the MMB, and is likely to discourage qualified attorneys from seeking participation as members of the Council.

Finally, the Legislature should limit the extent of authority it relinquished in 15A.082, Subd. 3, which states: "... salaries take effect on July 1 of that year and July 1 of the subsequent even-numbered year **and at whatever interval the council recommends thereafter, unless the legislature by law provides otherwise.**"

The Ad Hoc Group asked legislative staff to find out the reasoning for this potentially binding language and the MMB failed to provide an explanation for handing over unlimited reach to the unelected Compensation Council. Striking the unneeded (boldface) language would restore appropriate long-term power of the purse to the Legislature.

The Ad-Hoc Group recommended several other corrective revisions in statute that can be addressed at a later date, if necessary. Those provisions are contained in HF 3707 along with the three essential changes referenced above. The other body has acted favorably in committee on one of the minor Ad-Hoc recommendations expanding authority to newly created agencies (SF 5115), so Compensation Council revisions are already likely to be topic in conference committee negotiations.

Given the clearly evident need for revisions and based on the unanimous support from the Judicial Council, please amend HF 3431 accordingly to include these three essential changes. The remaining six Ad-Hoc Group proposed changes will help the Compensation Council in the long run, but can wait for fuller review by your committee when time allows. The timeline expansion, repeal of communications ban and repeal of unrestricted Compensation Council authority into the future all require your attention this year.

Thank you to Chair Klevorn, Republican Lead Nash and members for your timely consideration.

Sincerely,



James Robins

James Robins was appointed by the Supreme Court to serve Compensation Council terms in 2017 and 2019 (designated DFL slots). He declined an invitation to apply for a third term in 2021. The five-page Ad-Hoc Group Final Report is available by request via email at jamesnrobins@yahoo.com.