

Department of Legislative Services
Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE
Revised

Senate Joint Resolution 5 (The President)

Budget and Taxation

Appropriations

General Assembly Compensation Commission - Recommendations

This joint resolution rejects the recommendations of the General Assembly Compensation Commission (GACC) regarding (1) salary increases for members and Presiding Officers of the General Assembly (Items 1A and 1B of the GACC resolution); (2) in-district travel allowances; (3) out-of-state travel reimbursements; and (4) the Legislative Pension Plan (LPP). It also reaffirms that membership in LPP is optional for each member during the 2011-2014 term of office and establishes provisions related to pension forfeiture under specified conditions.

Fiscal Summary

State Effect: None. Compensation for General Assembly members remains unchanged. The pension forfeiture provisions have no discernable effect on State pension liabilities or contributions due to their limited applicability.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: Provisions related to compensation for members and Presiding Officers of the General Assembly remain as provided in the Resolution of the General Assembly Compensation Commission dated January 6, 2006.

The resolution also rejects the GACC's recommendations with respect to:

- reimbursing members for out-of-state lodging and meals related to attendance at conferences, meetings, and functions (Item 2D);
- increasing members' in-district travel allowance from \$500 to \$650 (Item 2C);
- repealing or amending optional forms of retirement allowances for members of LPP (Item 3A, Section 12); and
- allowing vested LPP members to receive up to three years of service credit for military service that either predates or interrupts membership in the plan (Item 3A, Section 22).

The resolution prohibits a retired member, or a member's beneficiary, from receiving a retirement allowance under LPP if the member is convicted of or enters a plea of *nolo contendere* to any felony or to a misdemeanor related to the member's public duties and responsibilities that was committed during the member's term of office and that involves moral turpitude for which the penalty may be incarceration. Such members or retirees are subject to the forfeiture of LPP benefits, but remain entitled to receive a return of the member's or retiree's contributions with interest, less any benefits already paid prior to the forfeiture. If the member's conviction is later reversed or overturned, the member's LPP benefits must be restored.

Current Law: A constitutional amendment, approved by the voters in 1970, created the nine-member GACC and specified that the commission submit salary and allowance recommendations to the legislature every four years. Members of the General Assembly and State and local government officers and employees are not eligible for appointment to the commission.

The constitutional provisions, Article III, Section 15, provide that:

- The compensation commission must submit its compensation, allowances, and pension recommendations to the General Assembly by formal resolution within 15 days after the beginning of the last regular General Assembly session in a four-year term of office. In 2010, the commission was required to submit its resolution proposing compensation and allowances for the 2011-2014 General Assembly term by January 27, 2010.
- Rates of compensation and pensions must be uniform for all members of the General Assembly, except that the officers of the Senate and the House of Delegates (traditionally, the President and the Speaker) may receive higher compensation.
- Compensation allowances may not be less than the dollar amounts prior to the establishment of the first compensation commission in 1970.
- Through a joint resolution, the General Assembly may reduce or reject, but may not increase, any item in the resolution.

- The commission's resolution, with any reductions concurred in by joint resolution of the General Assembly, has the force of law and takes effect at the beginning of the next General Assembly.
- The provisions of each resolution govern until superseded by a subsequent resolution.

The Maryland Constitution, as interpreted by the Attorney General, gives the commission exclusive jurisdiction over salaries, meal and lodging expense allowances, travel allowances, employee benefit programs, and the legislative retirement system. This exclusive jurisdiction extends only to payments made to the legislators themselves.

The *Report of the General Assembly Compensation Commission*, published on January 12, 2010, contains exhibits that set forth the process and time line by which a resolution takes effect, and summarize the commission's nine preceding resolutions.

Background: GACC recommends that salaries remain at current levels for the first two years of the next term of office – \$43,500 for members and \$56,500 for Presiding Officers. The commission also recommends that if the State's annual unemployment rate is 5% or lower for calendar 2012, the salary for members of the General Assembly increases to \$45,500 on January 1, 2013, and remains at that level for calendar 2014. A similar \$2,000 increase also takes effect for the Presiding Officers, to \$58,500. Under the commission's recommendation, if the State unemployment rate for calendar 2012 is greater than 5%, but is 5% or lower for calendar 2013, the salary for members of the General Assembly increases to \$45,500 only for calendar 2014. Compensation for Presiding Officers also increases by \$2,000 under those conditions.

Regarding expense reimbursements and allowances, the commission recommends that the annual in-district travel allowance increases from \$500 to \$650; the General Assembly previously rejected an increase from \$500 to \$600 recommended by the 2006 commission. The commission's resolution also replaces the current \$225 per-day limit for reimbursement of approved out-of-state travel expenses with a requirement that such reimbursements be subject to the most current published federal General Services Administration (GSA) daily per-diem rates for meals and lodging. The 18-city average reimbursement rate of \$222 under the GSA schedule is comparable to the current \$225 limit.

The commission recommends two changes to LPP. First, members who have served, or currently serve, in the active duty military are eligible to claim up to three years of military service credit after accruing eight years of creditable service in LPP. Second, the commission's resolution repeals or amends two optional forms of retirement allowances due to Internal Revenue Service concerns that the optional allowances put the plan's tax-exempt status at risk; similar changes were made to the employees' and teachers' plans administered by the State Retirement and Pension System. The commission also

recommends continuation of the current resolution with respect to health and other benefits that are generally available to State employees.

Additional Comments: The Department of Legislative Services' fiscal estimate of the General Assembly Compensation Commission's recommendations, if adopted in their entirety, would consist of an annual \$28,000 general fund expenditure increase during the 2011-2014 period due to the \$150 increase in the in-district travel allowance. If the State annual unemployment falls to 5% in calendar 2012, general fund expenditures would increase by \$752,000 to reflect a two-year salary increase of \$2,000 for each member. If the State unemployment rate falls to 5% only in calendar 2013, the increase would be \$376,000 for a one-year increase. The military service credit option would have no discernable effect on State pension liabilities.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Legislative Services

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