

ALASKA LEGISLATURE

Representative Jonathan Kreiss-Tomkins

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Per Diem & SOCC Historical Background

1976: Through a referendum, voter repealed pay raises and a generous retirement system that the Legislature had given itself. The Elected Public Officers Retirement System was effective January 1, 1976. It was repealed by referendum in the 1976 general election. The Alaska Supreme Court ruled that elected state officials who served in 1976 were entitled coverage under EPORS.

Subsequently, the five-member Alaska Salary Commission was established by ch 263 SLA 1976, which gave the Salary Commission the authority to advise legislative salary, per diem, and additional allowances.

1978: AK Salary Commission amended by 80 SLA 1978 amended the list of employee groups covered by the Commission.

1980: AK Salary Commission repealed by ch 3 SLA 1980, which set legislative per diem equal to that of other state employees, and amended annual compensation to \$15,500 per year (\$1261.67/month).

1983: Chapter 83 SLA 1983 repealed the legislative per diem statute (AS 24.15.010) and amended legislator salaries to \$3900/month, with no per diem.

1984 - 1986: Legislators did not receive per diem.

1986: Legislation trying to bring back a salary commission was enacted: named the State Officers Compensation Commission, it was written into statute with a provision that it needed to be approved by a constitutional amendment to be fully vested with authority to set compensation, including per diem..

In the meantime, per diem guidelines based on the SOA rate were written into statute, with an end of section note (Sec 24.10.105, ch 124 SLA 1986) that they would be repealed once once the SOCC got off the ground. By 1992, the constitutional amendment had not yet been passed by voters.

October 1992: The legislature was subject to the same per diem rates as other SOA employees. The rates were set by the Commissioner of Administration. There was a short-term rate (for legislators who didn't live in their permanent residences during session or while doing legislative business), and a long-term rate (for legislators who did live in their permanent residences), with variations based on region. There was also reimbursement for travel to the capital city. (Enacted in [SLA 1992 Sec. 24.10.105.](#))

March 15th, 1993: A Subcommittee on Legislators' Taxation and Compensation tasked with making recommendations issued [this memo](#) to Leg Council explicitly recommending that the Council introduce a bill that 1) allowed Leg Council to set per diem policy, and, once it had the authority 2) set the session per diem rate to the federal level. (Subcommittees are not required to keep, and consequently very rarely send, documents to the library.)

April 1st, 1993: Leg Council reviewed the [recommendations of the subcommittee](#) (that Leg Council sets travel per diem for legislators, and stable long-term per diem rate for all legislators) and adopted them.

May 10, 1993: An amendment is given on the House Floor by Rep. Eldon Mulder, chair of Leg Council. (Audio of this floor session is available [at this link](#), and the relevant discussion of SB 99 starts at 42:00 ish, discussion of Amendment 2 starts at 44:40.)

Rep. Mulder gave a floor speech saying that his intent with the amendment was to give Leg Council the authority to set travel per diem, and to standardize per diem rates to one rate. Leg Council wanted to link a consistent rate — implying the federal rate — of \$50-\$60 dollars per day.

One member voices a concern that the legislature will appear as if they're taking care of their own. Senator Hoffman voiced a conflict of interest, to the comedy of those on the floor, and is required to vote. The amendment passed the House with 28 yays, 12 nays. The Senate concurred. ([Enacted as Sec. 53 ch 63 SLA 1993 here.](#))

November 8, 1993: Warren Endicott (Executive Director of LAA) issued a memo which established federal rates for per session per diem.

December 23, 1993: Legislative Council Chair Eldon Mulder issued a memo allowing legislators to choose either the federal or old state per diem rate for the 1994 session.

December 12, 1994: Leg Council adopted the federal per diem and meal allowance rates.

1995: A fairly insubstantial amendment was made to AS 39.23.240(c), the section on SOCC, that they had to prepare and make available a report to the legislature based on their activity.

2008: Rep. Doogan introduces a bill to repeal and replace the old Commission-related statutes with the SOCC as we know it today: a five member board, nominated by the governor, Senate President,

and Speaker of House, who would assess and set legislative compensation. His goals was to create a working system to address legislative compensation that would keep the legislature at arms length from the process, and avoid the PR issues of having to adjust their salaries every two years.

It's fairly clear from the testimony given on the House and Senate side that the intent of the bill was for SOCC to include per diem within compensation. Two highlights below:

House State Affairs, 1/17/2008, [HB 240 minutes](#):

REPRESENTATIVE DOOGAN, in response to a question from Representative Johansen, said the reason that the bill would form a compensation commission as opposed to a salary commission is that the legislation recognizes the fact that there are other elements to compensation beside what is strictly called salary. He said he has attempted to not be too prescriptive in terms of what the commission would do, but he has in mind that the commission would consider all elements of the compensation package."

During committee, an expert on leg compensation from NCSL indicates that per diem is not only considered compensation, but salary.

[Senate State Affairs](#), 2/26/2008, HB 240 minutes:

SENATOR BUNDE offered Conceptual Amendment 2: the commission should have a broad scope, but because of the problem of the legislative council not being, apparently, under the direction of the legislature, [the Legislature cannot force Leg Council to re-classify per diem as salary] he wants the commission to review long-term per diem to see if it is more accurately defined as salary.

CHAIR MCGUIRE asked why Senator Bunde thinks the commission won't have that authority.

SENATOR BUNDE said without this letter [intent language] the Commission may choose to ignore the issue.

SENATOR GREEN asked if Senator Bunde said Legislative Legal told him that long-term per diem is salary.

SENATOR BUNDE said no. They said long-term per diem versus salary is a creature of the Legislative Council, "and we can't tell them to change that." The council has chosen the term, and he thinks it is a subterfuge to say that legislators don't have a big salary, but he was told that IRS sees it as salary. He said he is just suggesting the commission review the accuracy of those terms.

CHAIR MCGUIRE said it is a directive, and she feels that the committee has made it clear on the record that the commission will look at all compensation.

On the House floor, Senator Stoltze tried to amend it to require recommendations from the committee enter the body as a “Rules by request of SOCC” bill. The amendment failed, and the bill passed the House.

The bill passed through Senate State Affairs, and was heard in Senate Finance. A subcommittee was formed to examine HB 240 before the next hearing in House Finance. There is no record, but the subcommittee consisted of Rep. Doogan, Senator Dyson, and Senator Olsen, and the subcommittee made no changes to the bill. It was reported out of the Senate Finance with a due pass recommendation.

The bill was rolled into HB 417 in Senate Finance for final passage as CH 21 SLA 2008.

That bill’s final passage created the statutory language on the books today, which under AS 24.10.130, says that...

(c) The Alaska Legislative Council shall adopt a policy in accordance with AS 39.23.540(d) regarding reimbursement for moving expenses applicable to all legislators and an applicable per diem allowance policy. The policy must set conditions for the reimbursement for moving expenses and payment of per diem and prescribe the amounts of reimbursement adapted to the special needs of the legislative branch as determined by the council.

AS 39.23.540(d) is the section of statute which define the duties and of the SOCC in statute:

Sec. 39.23.540. Duties of the commission.

(d) The commission shall make available to the governor and presiding officers of each house of the legislature a final report of its findings and recommendations as to the rate and form of compensation, benefits, and allowances for legislators, the governor, the lieutenant governor, and each principal executive department head during the first 10 days of a legislative session. Subject to (g) of this section and unless a bill disapproving all the recommendations for all officers listed in this section is enacted into law within 60 days after the recommendations are submitted to the governor and presiding officers of each house of the legislature, a recommendation as to the compensation, benefits, and allowances for

(1) a legislator has the force of law and becomes effective on the first day of the next regular legislative session

Furthermore, the bill used the same language (“in accordance with AS 39.23.540”) to task SOCC with recommending salaries for legislators, the governor, etc., which SOCC has done. They have not taken on per diem rates.

2009: In early 2009, the commission made its first recommendations, including:

The annual salary of legislators shall be \$50,400 [up from \$24,000]. Legislators shall receive no additional compensation for legislative service, except that the president of the senate and the speaker of the house shall each receive an additional payment of \$500. Session per diem, travel expenses, moving allowances, and office expense accounts shall not be considered compensation. (AS 24.10.100.)

The Legislative Council shall set the amount and rules governing moving expense and per diem allowances. (AS 24.10.130.)

2011: On January 26, 2011, the commission recommended salary adjustments for the governor and lieutenant governor, which were adopted.

2013-14: The commission recommended salary increases for the governor, lieutenant governor, and commissioners' salaries in 2014. An [ADN article](#) from the time indicates that the SOCC recommended increased salaries "to catch up with pay increases for other executive-branch employees."

Gov. Sean Parnell said he would decline an increase for himself in light of budget issues, but said he believed an increase in pay for commissioners was warranted.

The recommendations were rejected by the legislature in the form of [SB 125](#).

2015: The SOCC recommended that if a deputy commissioner whose paid at a rate higher than that of a commissioner accepts a commissioner position, they can keep their "deputy" salary rate. At the time, 10 of 23 deputies were making more money than their commissioners.