

HB

274

Terry Gardiner

Box 6092, Ketchikan, Alaska 99901 Pouch V, Juneau, Alaska 99811

Minutes of the Committee Meeting of 3/17/77

The meeting was called to order by Chairman Gardiner at 7:00p.m.

Present were: Chairman Gardiner

Vice - Chairman Miles

Rep. Brown

Rep. Specking

Rep. Dankworth

Absent were:

Rep. Eliason

Rep. Rudd

The Committee first took up the salary commission report and heard testimony from Kay Deeble of the Salary Commission. Ms. Deeble briefly went over parts of the report, dealing with the executive and judicial categories and discussed the three major aspects of legislative provisions dealing with salary, per diem, and vouchers. Ms. Deeble was questioned by the Committee and other Legislators and observed at the meeting regarding specific methods by which they arrived at the per diem recommendation and the vouchery recommendations.

The Committee then heard from LAA Attorney, Dick Bradley, regarding a request that had been made by Chairman Gardiner for a legal opinion dealing with aspects of the Salary Commission report. A three page memo was handed out to the Committee members prior to the meeting in the full report had not been typed as of the time of the meeting but Mr. Bradley gave an oral presentation.

Rep. Swanson testified briefly on HB 8 which would repeal the salary commission and the salary commission recommendations.

Speaker Malone testified on HB 8 and HB 274, 275, 276, 277, 278 & 279. Malone testified in favor of repealing the salary commission report with respect to legislative compensation or taking the legislative compensation out of the purview of the salary commission.

Rep. Parr testified in favor of amending the existing law governing the salary commission but basically letting it continue in its work. He also testified that the legislative recommendations of the report should be ignored and the legislature enact its own salary and benefit levels.'

The Committee discussed the various proposals brought up through the testimony but did not reach a conclusion on how to treat the salary commission report nor the other items of legislation pending a presentation of the issue to the full Committee.

The meeting adjourned at 10:00 pm.

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

March 14, 1977

SUBJECT: Final Report of Salary Commission (W.O. #3646)
TO: Representative Terry Gardiner
FROM: Richard A. Bradley *B*
Legislative Counsel

By your request of March 7, you have requested my comments on the January 18, 1977 report of the Alaska Salary Commission to the Legislature.

Your request asked:

- (1) Do the Salary Commission recommendations follow the law (AS 39.23)? If they do not, set out the questionable areas.
- (2) May a resolution approving the request amend the recommendations and condition legislative approval or is the legislature limited to an approval or rejection of the recommendations?

You also asked that I draft a resolution consistent with my conclusions.

An analysis of AS 39.23 is required in order to provide you the advice you request.

AS 39.23.080(c) provides that the Salary Commission will make a

"final report of its findings and recommendations as to the rate and form of compensation and retirement benefits ... within 10 days after the first regular session of a legislature convenes. The recommendations regarding compensation become effective, retroactive to January 1, only if approved by concurrent resolution before the end of a session. The recommendations regarding retirement become effective if enacted into law by the legislature." (Emphasis added.)

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Sec. 80(d) allows the commission to submit amendments to its report, apparently without any limitation as to time, except that a new report is required for a new legislature. Recommendations as to compensation lapse if not affirmatively approved during the first session of each legislature and the law contains no express mechanism for resubmission of proposals regarding compensation to the second session of the legislature of the first recommendations lapse.

Sec. 120 provides the "Policy of the Legislature:"

It is the policy of the legislature that the commission determine the salary schedule and retirement benefits for public officers based upon equitable relationships being maintained among state positions. (Emphasis added)

In my opinion, the legislature by the enactment of AS 39.23 has divested itself of the authority to set the compensation of the public officers listed in AS 39.23.060. While legislative approval is required, it is by a resolution of relatively low dignity, a concurrent resolution. Uniform Rules, Alaska State Legislature, Rule 51(c). If a concurrent resolution is used, in my opinion the legislature is limited to an approval or disapproval of the recommendations as to compensation. If a recommendation is disapproved, the legislature has in effect directed the commission to resubmit recommendations. I note that §80(d) allows the commission to amend its recommendations and it may clearly amend if a recommendation is rejected.

A more difficult question is presented by the possibility that the legislature may wish to reject some recommendations while approving the remainder. The charge to the commission in §110 of the law is to establish a "schedule" "based upon equitable relationships being maintained among state positions." At least in theory, an approval that is less than total may cause the establishment of inequity among the positions. Nonetheless, in my judgment the legislature may approve or disapprove all the recommendations or it may approve only a part. Note that while in my opinion the legislature retains an option to disapprove recommendations, its failure to approve a recommendation becomes a rejection at the "end of [the] session." Sec. 80(c).

A proposal as to retirement benefits must be adopted by an amendment to the retirement act by law.

I assume that you recognize, moreover, that my opinion as to the limited options that the legislature possesses is neces-

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sarily founded on a decision by the legislature to remain within the framework of AS 39.23. The legislature cannot, by the enactment of any law, divest itself of the underlying constitutional prerogative of setting the compensation of the officers listed in AS 39.23.060.

Accordingly, in my opinion, the legislature

- (1) must approve a recommendation before it can take effect.
- (2) may approve less than all of the recommendations.
- (3) may not change a recommendation as to compensation by a concurrent resolution.
- (4) may approve a recommendation as to retirement benefits only by amending the retirement law.

My opinion as to the consistency of the Commission's recommendations with AS 39.23, existing law, and the Constitution is contained in a separate memorandum.

RAB:hjd

Amendment of March 2, 1977 to Alaska Salary Commission Final Report.

Amend Page 7, Section 13, Paragraph D to read:

D) Legislators receive an /vouchered/ annual allowance of / \$2500/ \$4000 with vouchering of the allowance to begin January 1, 1978.

Amend Page 8, Section 13, Paragraph G to read:

G) Recognizing the need for maintaining constituent contact, each legislator shall be reimbursed at cost, and upon presentation of proof, for one round-trip to his home district during each regular session. The trip is considered to be legislative business and per diem outlined in Paragraph F shall apply.

3/14/77

7pm

Salary Commissions

present

Gardner

Miles

Dankworth

~~Spickard~~

Spickard

Brown

Salary Commission Report

Kay Diebel

Legislative per diem

Calif |-----| full time

New York |-----|

Illinois |-----|

~~Alaska~~

Salaries

if adopted would be rights

nobody on Commission ~~any~~ ^{even} worked in any of the positions for which salary recommendations were made.

McKinnon

statute = pay in 12 equal monthly instalments

recommendations = pay in not

only items before committee
recommendations -
not specifics
~~was~~ not philosophy

Governor 50,000

- ① retirement
- ② ~~longevity~~ longevity

The act creating salary commissions
gave no guidelines

1st Governor 44,000 = 47,300

Dept. Commissioners

47,300

not legal or constitutional

Deputy

43,200

Deputy Governor

Directors -

no change recommended
but salary level is set by division
of personnel - no legislation or regulations

conclude

- ① Division of personnel has set its basis
to set salary
- ② didn't realize wide disparity

about 1000 ft Bradley

3/14/77

problem with directors

Commissions =

APUC

Limited Entry

Pipeline

Judges.

10c

11c

12c

} not before committee at this
time

10d, 11d, 12d judges after
1/78

Legislature

13(a) no ~~stat~~ statutory authority
to recommend other than 12-monthly
installments.

13(a) ~~is~~

13(b)

13(b) ambiguity =

~~13~~

13 (g) Trip home during summer
apparently finding it in Commission
changes. or if in charge - authority to
recommending in ~~addition~~ other
expenses.

13 (H) for item.

13 (i) retirement system membership

13 (j) no authority for vacation

13 (k) - no legal or constitutional
Burdley. offense or citation.

Sumner
HBT
in favor of reporter of Salary Commission

MALONE

400 ~~ft~~

39,23,072 (6)

↳ AB §.

Salary Commission
concept was not working.

with respect to legislative compensation
go back to old system -
take legislative pay out of salary
commission.

HB 274.

Solo Commission doesn't work

275 - adopts recommendations of
Commission

HB 276 -

Sec. 1 - sets legislation for legislative
salary

to satisfy - increase salary from \$9,000
to 14,705

live w/ ~~from~~ voucher system
per diem = \$50.00.

~~was~~ recommendation to drop
per diem after 100 days bad.

HB 277 increase per diem

Minutes of constitution convention
good public policy to cover costs
of legislators increase.

HB 278 -

make adjustment of cost of living
for areas of the state

HB 279 -

same as Salary Commission
except make it retroactive to
10/14/76.

Rep Parr

0920 pm

~~Refused report~~

① amend existing law governing the
commission - let it continue.

② ^{ignore} ~~not approve~~ legislative recommendations
of report

③ approve ~~governor~~ / judicial ^{particular} ~~part~~
of report.

Committee discussion. about 900

0930 pm

Spearing = adopt Malone approach
disagree numbers

Brown - want consensus of fellow
legislators.

Dankworth - support the initiative
vote against any pay raise
legislators set own salaries
do away with ^{salary} commission
per diem suggest to equal to what other
state employees

Miles - do not repeal commission
agree w/ Para
give another chance - give better
direction
do not adopt commission
recommendations.

Gardner.

- commission made a better
recommendation than last legislature
- ~~is~~ 89% acceptable
- more thought, research
- changes to salary commission act
 - ① no repeal for commission
 - ② legal standards
 - ③ authority to make optional recommendations
 - ④ approve all of the legal recommendations
put this out.