



# STATE OF MINNESOTA

OFFICE OF THE ATTORNEY GENERAL

June 8, 2016

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Secretary of State Steve Simon  
State Office Building #180  
100 Dr. Rev. Martin Luther King Jr. Blvd.  
St. Paul, MN 55155

## Re: Proposed 2016 Constitutional Amendment

Dear Secretary Simon:

Pursuant to Minn. Stat. § 3.21, this letter provides a statement of the purpose and effect of a proposed amendment to the Constitution of the State of Minnesota that will be presented for voter approval at the state general election on November 8, 2016.

In May 2013, the Minnesota Legislature enacted a proposal to amend Article IV, Section 9 of the state constitution, which addresses legislators' salaries. 2013 Minn. Laws ch. 124, §§ 1-2. In May 2014, the legislature revised the proposed amendment and enacted a new statute that will take effect if voters approve the amendment. 2014 Minn. Laws ch. 282 (creating Minn. Stat. § 15A.0825).<sup>1</sup> Under the 2014 proposal, the current language of Article IV, Section 9 of the state constitution<sup>2</sup> would be removed and replaced with the following:

The salary of senators and representatives shall be prescribed by a council consisting of the following members: one person who is not a judge from each congressional district appointed by the chief justice of the Supreme Court, and one member from each congressional district appointed by the governor. If Minnesota has an odd number of congressional districts, the governor and the chief justice must each appoint an at-large member in addition to a member from

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<sup>1</sup> In the past, questions have been raised regarding the legislature's authority to make revisions to a previously passed legislative proposal for a state constitutional amendment. While no Minnesota court has addressed this question, other state courts have held that a legislature has authority to revise a proposed state constitutional amendment that had been previously enacted by the legislature. *See, e.g., Bourbon v. Governor of Md.*, 265 A.2d. 477, 479 (Md. 1970); *In re Senate Concurrent Resolution No. 10*, 328 P.2d 103, 105 (Colo. 1958); *Opinion of the Justices*, 135 N.E.2d 741, 748 (Mass. 1956); *Clements v. Powell*, 116 S.E. 624, 626 (Ga. 1923); *Crawford v. Gilchrist*, 59 So. 963, 968 (Fla. 1912).

<sup>2</sup> Article IV, Section 9 currently reads: "**Compensation.** The compensation of senators and representatives shall be prescribed by law. No increase of compensation shall take effect during the period for which the members of the existing house of representatives may have been elected."



each congressional district. One-half of the members appointed by the governor and one-half of the members appointed by the chief justice must belong to the political party that has the most members in the legislature. One-half of the members appointed by the governor and one-half of the members appointed by the chief justice must belong to the political party that has the second-most members in the legislature. None of the members of the council may be current or former legislators, or the spouse of a current legislator. None of the members of the council may be current or former lobbyists registered under Minnesota law. None of the members of the council may be a current employee of the legislature. None of the members of the council may be a current or former judge. None of the members of the council may be a current or former governor, lieutenant governor, attorney general, secretary of state, or state auditor. None of the members of the council may be a current employee of an entity in the executive or judicial branch. Membership terms, removal, and compensation of members shall be as provided by law. The council must prescribe salaries by March 31 of each odd-numbered year, taking into account any other legislative compensation provided to legislators by the state of Minnesota, with any changes in salary to take effect on July 1 of that year. Any salary increase for legislators authorized in law by the legislature after January 5, 2015, is repealed.

The purpose of the amendment is to divest the Minnesota Legislature of legal authority to prescribe legislators' salaries and to create an alternative structure for setting those salaries.

The effect of the amendment would be to create a Legislative Salary Council that is independent of the legislature and has the authority to prescribe legislators' salaries. The governor and chief justice of the supreme court would each appoint half of the members of the council. Current and former state officeholders (including judges), current and former lobbyists, legislators' spouses, and current state-government employees would not be permitted to serve on the Council. The membership of the Council would be evenly divided between members of the two largest parties in the legislature. The Council would be required to prescribe salaries by March 31 of each odd-numbered year, and the salaries would take effect on July 1 of that year.

Minnesota Statutes section 15A.0825, which the legislature enacted with its 2014 revision of the proposed constitutional amendment, will take effect if voters approve the constitutional amendment. The new statute would implement the provisions of the constitutional amendment if it is approved by voters. The statute would also add further details, such as provisions governing Council staffing and compensation, the election of a chair,<sup>3</sup> and communications between Council members and legislators. Minn. Stat. § 15A.0825 (Supp. 2015).

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<sup>3</sup> The new statute appears to contain a drafting error. Subdivision 8 provides that “[t]he *commission* shall elect a chair from among its members.” Minn. Stat. § 15A.0825, subd. 8 (Supp. 2015) (emphasis added). The legislature likely intended to authorize the *Council*, not any “commission,” to elect a chair.

Secretary of State Steve Simon  
June 8, 2016  
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Very truly yours,



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Enclosures: 2013 Minn. Laws ch. 124  
2014 Minn. Laws ch. 282  
Minn. Stat. § 15A.0825 (Supp. 2015)

**15A.0825 LEGISLATIVE SALARY COUNCIL.**

Subdivision 1. **Membership.** (a) The Legislative Salary Council consists of the following members:

(1) one person, who is not a judge, from each congressional district, appointed by the chief justice of the Supreme Court; and

(2) one person from each congressional district, appointed by the governor.

(b) If Minnesota has an odd number of congressional districts, the governor and the chief justice must each appoint an at-large member, in addition to a member from each congressional district.

(c) One-half of the members appointed by the governor and one-half of the members appointed by the chief justice must belong to the political party that has the most members in the legislature. One-half of the members appointed by the governor and one-half of the members appointed by the chief justice must belong to the political party that has the second most members in the legislature.

(d) None of the members of the council may be:

(1) a current or former legislator, or the spouse of a current legislator;

(2) a current or former lobbyist registered under Minnesota law;

(3) a current employee of the legislature;

(4) a current or former judge; or

(5) a current or former governor, lieutenant governor, attorney general, secretary of state, or state auditor.

Subd. 2. **Initial appointment; convening authority; first meeting.** Appointing authorities must make their initial appointments by January 2, 2017. The governor shall designate one member to convene and chair the first meeting of the council. The first meeting must be before January 15, 2017. At its first meeting, the council must elect a chair from among its members. Members that reside in an even-numbered congressional district serve a first term ending January 15, 2019. Members residing in an odd-numbered congressional district serve a first term ending January 15, 2021.

Subd. 3. **Terms.** (a) Except for initial terms and for the first term following redistricting, a term is four years or until new appointments are made after congressional redistricting as provided in subdivision 4. Members may serve no more than two full terms or portions of two consecutive terms.

(b) If a member ceases to reside in the congressional district that the member resided in at the time of appointment as a result of moving or redistricting, the appointing authority who appointed the member must appoint a replacement who resides in the congressional district to serve the unexpired term.

Subd. 4. **Appointments following redistricting.** Appointing authorities shall make appointments within three months after a congressional redistricting plan is adopted. Members that reside in an even-numbered district shall be appointed to a term of two years following redistricting. Members that reside in an odd-numbered district shall be appointed to a term of four years following redistricting.

Subd. 5. **Removal; vacancies.** Members may be removed only for cause, after notice and a hearing, for missing three consecutive meetings, or as a result of redistricting. The chair of the council or a designee shall inform the appointing authority of a member missing three consecutive meetings. After the second consecutively missed meeting and before the next meeting, the chair or a designee shall notify the member

in writing that the member may be removed for missing the next meeting. In the case of a vacancy on the council, the appointing authority shall appoint a person to fill the vacancy for the remainder of the unexpired term.

Subd. 6. **Compensation.** Members shall be compensated under section 15.059, subdivision 3.

Subd. 7. **Duties.** By March 31 of each odd-numbered year, the council must prescribe salaries for legislators to take effect July 1 of that year. In setting salaries, the council must take into account any other legislative compensation provided to the legislators by the state and the most recent budget forecast. The council must submit a report by March 31 of each odd-numbered year with the prescribed salaries to the governor, the majority and minority leaders of the senate and the house of representatives, the chairs of the committees in the senate and the house of representatives with jurisdiction over the legislature's budget, and the chairs of the committees in the senate and house of representatives with jurisdiction over finance. The report must describe the council's rationale for selecting the prescribed salaries.

Subd. 8. **Chair.** The commission shall elect a chair from among its members.

Subd. 9. **Staffing.** The Legislative Coordinating Commission shall provide administrative and support services for the council.

Subd. 10. **No ex parte communications.** Members may not have any communication with a member of the legislature during the period after the first meeting is convened under subdivision 2 and the date the legislator salaries are submitted under subdivision 7.

**History:** 2014 c 282 s 1

**NOTE:** This section, as added by Laws 2014, chapter 282, section 1, is effective upon adoption of the constitutional amendment proposed under Laws 2013, chapter 124, as amended by Laws 2014, chapter 282, sections 2 and 3. Laws 2014, chapter 282, section 1, the effective date.

**CHAPTER 282--H.F.No. 3169**

*An act relating to state government; establishing a legislative salary council; modifying a proposed constitutional amendment to remove lawmakers' power to set their own pay; amending Laws 2013, chapter 124, sections 1; 2; proposing coding for new law in Minnesota Statutes, chapter 15A.*

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. **[15A.0825] LEGISLATIVE SALARY COUNCIL.**

Subdivision 1. **Membership.** (a) The Legislative Salary Council consists of the following members:

(1) one person, who is not a judge, from each congressional district, appointed by the chief justice of the Supreme Court; and

(2) one person from each congressional district, appointed by the governor.

(b) If Minnesota has an odd number of congressional districts, the governor and the chief justice must each appoint an at-large member, in addition to a member from each congressional district.

(c) One-half of the members appointed by the governor and one-half of the members appointed by the chief justice must belong to the political party that has the most members in the legislature. One-half of the members appointed by the governor and one-half of the members appointed by the chief justice must belong to the political party that has the second most members in the legislature.

(d) None of the members of the council may be:

(1) a current or former legislator, or the spouse of a current legislator;

(2) a current or former lobbyist registered under Minnesota law;

(3) a current employee of the legislature;

(4) a current or former judge; or

(5) a current or former governor, lieutenant governor, attorney general, secretary of state, or state auditor.

Subd. 2. **Initial appointment; convening authority; first meeting.** Appointing authorities must make their initial appointments by January 2, 2017. The governor shall designate one member to convene and chair the first meeting of the council. The first meeting must be before January 15, 2017. At its first meeting, the council must elect a chair from among its members. Members that reside in an even-numbered congressional district serve a first term ending January 15, 2019. Members residing in an odd-numbered congressional district serve a first term ending January 15, 2021.

Subd. 3. **Terms.** (a) Except for initial terms and for the first term following redistricting, a term is four years or until new appointments are made after congressional redistricting as provided in subdivision 4. Members may serve no more than two full terms or portions of two consecutive terms.

(b) If a member ceases to reside in the congressional district that the member resided in at the time of appointment as a result of moving or redistricting, the appointing authority who appointed the member must appoint a replacement who resides in the congressional district to serve the unexpired term.

Subd. 4. **Appointments following redistricting.** Appointing authorities shall make appointments within three months after a congressional redistricting plan is adopted. Members that reside in an even-numbered district shall be appointed to a term of two years following redistricting. Members that reside in an odd-numbered district shall be appointed to a term of four years following redistricting.

Subd. 5. **Removal; vacancies.** Members may be removed only for cause, after notice and a hearing, for missing three consecutive meetings, or as a result of redistricting. The chair of the council or a designee shall inform the appointing authority of a member missing three consecutive meetings. After the second consecutively missed meeting and before the next meeting, the chair or a designee shall notify the member in writing that the member may be removed for missing the next meeting. In the case of a vacancy on the council, the appointing authority shall appoint a person to fill the vacancy for the remainder of the unexpired term.

Subd. 6. **Compensation.** Members shall be compensated under section 15.059, subdivision 3.

Subd. 7. **Duties.** By March 31 of each odd-numbered year, the council must prescribe salaries for legislators to take effect July 1 of that year. In setting salaries, the council must take into account any other legislative compensation provided to the legislators by the state and the most recent budget forecast. The council must submit a report by March 31 of each odd-numbered year with the prescribed salaries to the governor, the majority and minority leaders of the senate and the house of representatives, the chairs of the committees in the senate and the house of representatives with jurisdiction over the legislature's budget, and the chairs of the committees in the senate and house of representatives with jurisdiction over finance. The report must describe the council's rationale for selecting the prescribed salaries.

Subd. 8. **Chair.** The commission shall elect a chair from among its members.

Subd. 9. **Staffing.** The Legislative Coordinating Commission shall provide administrative and support services for the council.

Subd. 10. **No ex parte communications.** Members may not have any communication with a member of the legislature during the period after the first meeting is convened under subdivision 2 and the date the legislator salaries are submitted under subdivision 7.

**EFFECTIVE DATE.** This section is effective upon adoption of the constitutional amendment proposed under Laws 2013, chapter 124.

Sec. 2. Laws 2013, chapter 124, section 1, is amended to read:

Section 1. **CONSTITUTIONAL AMENDMENT PROPOSED.**

An amendment to the Minnesota Constitution is proposed to the people. If the amendment is adopted, article IV, section 9, will read:

Sec. 9.

The salary of senators and representatives shall be prescribed by a council consisting of the following members: one person who is not a judge from each congressional district appointed by the chief justice of the Supreme Court, and one member from each congressional district appointed by the governor. If Minnesota has an odd number of congressional districts, the governor and the chief justice must each appoint an at-large member in addition to a member from each congressional district. One-half of the members appointed by the governor and one-half of the members appointed by the chief justice must belong to the political party that has the most members in the legislature. One-half of the members appointed by the governor and one-half of the members appointed by the chief justice must belong to the political party that has the second-most members in the legislature. None of the members of the council may be current or former legislators, or the spouse of a current legislator. None of the members of the council may be current or former lobbyists registered under Minnesota law. None of the members of the council may be a current employee of the legislature. None of the members of the council may be a current or former judge. None of the members of the council may be a current or former governor, lieutenant governor, attorney general, secretary of state, or state auditor. None of the members of the council may be a current employee of an entity in the executive or judicial branch. Membership terms, removal, and compensation of members shall be as provided by law. The council must prescribe salaries by March 31 of each odd-numbered year, taking into account any other legislative compensation provided to legislators by the state of Minnesota, with any changes in salary to take effect on July 1 of that year. Any salary increase for legislators authorized in law by the legislature after January 5, 2015, is repealed.

Sec. 3. Laws 2013, chapter 124, section 2, is amended to read:

Sec. 2. **SCHEDULE AND QUESTION.**

(a) The proposed amendment must be submitted to the people at the 2016 general election. The question submitted must be:

"Shall the Minnesota Constitution be amended to remove ~~legislators' ability~~ state lawmakers' power to set their own salaries, and instead establish an independent, citizens-only council to prescribe salaries for legislators of lawmakers?"

Yes .....

No ....."

(b) The title required under Minnesota Statutes, section 204D.15, subdivision 1, for the question submitted to the people under paragraph (a) shall be: "Remove Lawmakers' Power to Set Their Own Pay."

Presented to the governor May 16, 2014

Signed by the governor May 21, 2014, 10:53 a.m.



**CHAPTER 124—H.F.No. 1823**

*An act relating to state government; proposing an amendment to the Minnesota Constitution, article IV, section 9; authorizing a council to establish salaries for legislators; changing the composition of the Compensation Council; amending Minnesota Statutes 2012, section 15A.082, subdivisions 1, 2, 3.*

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. **CONSTITUTIONAL AMENDMENT PROPOSED.**

An amendment to the Minnesota Constitution is proposed to the people. If the amendment is adopted, article IV, section 9, will read:

Sec. 9. The ~~compensation~~ salary of senators and representatives shall be prescribed by law. ~~No increase of compensation shall take effect during the period for which the members of the existing house of representatives may have been elected;~~ a council consisting of the following members: one person who is not a judge from each congressional district appointed by the chief justice of the Supreme Court, and one member from each congressional district appointed by the governor. If Minnesota has an odd number of congressional districts, the governor and the chief justice must each appoint an at-large member in addition to a member from each congressional district. One-half of the members appointed by the governor and one-half of the members appointed by the chief justice must belong to the political party that has the most members in the legislature. One-half of the members appointed by the governor and one-half of the members appointed by the chief justice must belong to the political party that has the second-most members in the legislature. None of the members of the council may be current or former legislators. None of the members of the council may be current or former lobbyists registered under Minnesota law. Membership terms, removal, and compensation of members shall be as provided by law. The council must prescribe salaries by March 31 of each odd-numbered year, taking into account any other legislative compensation provided to legislators by the state of Minnesota, with any changes in salary to take effect on July 1 of that year.

Sec. 2. **SCHEDULE AND QUESTION.**

The proposed amendment must be submitted to the people at the 2016 general election. The question submitted must be:

"Shall the Minnesota Constitution be amended to remove legislators' ability to set their own salaries, and instead establish an independent, citizens-only council to prescribe salaries for legislators?"

Yes .....  
No .....

Sec. 3. Minnesota Statutes 2012, section 15A.082, subdivision 1, is amended to read:

Subdivision 1. **Creation.** A Compensation Council is created each ~~even-numbered~~ odd-numbered year to assist the legislature in establishing the compensation of constitutional officers, ~~members of the~~

~~legislature~~; justices of the Supreme Court, judges of the Court of Appeals and district court, and the heads of state and metropolitan agencies included in section 15A.0815.

Sec. 4. Minnesota Statutes 2012, section 15A.082, subdivision 2, is amended to read:

Subd. 2. **Membership.** The Compensation Council consists of 16 members: ~~two members of the house of representatives appointed by the speaker of the house; two members of the senate appointed by the majority leader of the senate; one member of the house of representatives appointed by the minority leader of the house of representatives; one member of the senate appointed by the minority leader of the senate; two~~ eight nonjudges appointed by the chief justice of the Supreme Court, of whom no more than four may belong to the same political party; and one member from each congressional district appointed by the governor, of whom no more than four may belong to the same political party. Appointments must be made ~~by October~~ † after the first Monday in January and before January 15. The compensation and removal of members appointed by the governor or the chief justice shall be as provided in section 15.059, subdivisions 3 and 4. The Legislative Coordinating Commission shall provide the council with administrative and support services.

Sec. 5. Minnesota Statutes 2012, section 15A.082, subdivision 3, is amended to read:

Subd. 3. **Submission of recommendations.** (a) By ~~May~~ April 1 in each odd-numbered year, the Compensation Council shall submit to the speaker of the house and the president of the senate salary recommendations for constitutional officers, ~~legislators~~; justices of the Supreme Court, and judges of the Court of Appeals and district court. The recommended salary for each other office must take effect on the first Monday in January of the next odd-numbered year, with no more than one adjustment, to take effect on January 1 of the year after that. The salary recommendations for ~~legislators~~; judges; and constitutional officers take effect if an appropriation of money to pay the recommended salaries is enacted after the recommendations are submitted and before their effective date. Recommendations may be expressly modified or rejected. ~~The salary recommendations for legislators are subject to additional terms that may be adopted according to section 3.099, subdivisions 1 and 3.~~

(b) The council shall also submit to the speaker of the house and the president of the senate recommendations for the salary ranges of the heads of state and metropolitan agencies, to be effective retroactively from January 1 of that year if enacted into law. The recommendations shall include the appropriate group in section 15A.0815 to which each agency head should be assigned and the appropriate limitation on the maximum range of the salaries of the agency heads in each group, expressed as a percentage of the salary of the governor.

Sec. 6. **EFFECTIVE DATE.**

Sections 3 to 5 are effective January 1, 2017, if the constitutional amendment proposed in section 1 is adopted by the voters.

Presented to the governor May 22, 2013

Filed with the Secretary of State May 24, 2013