DELAWARE COMPENSATION COMMISSION

2013

Final Report

January 8, 2013

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INTRODUCTION

Creation of Commission

In July 1984, Governor DuPont approved a law (29 Del. C. Sections 3301- 3304) creating the Delaware Compensation Commission.

In January 1985, the first Commission submitted its recommendations as required under the statute, and the recommendations became effective on February 1, 1985. In December 1988, in accordance with the statute, the 1989 Commission submitted its report and recommendations, which became effective on February 1, 1989.

In January 1993, the 1993 Commission submitted its report and recommendations. By joint resolution, the General Assembly rejected the report of the 1993 Commission. In April 1993, the General Assembly passed legislation adjusting salaries for members of the Judiciary, General Assembly, other Elected Officials, and the Cabinet.

In January 1997, the 1997 Commission submitted its report and recommendations, which became effective February 1, 1997. Likewise, in January 2001, the 2001 Commission submitted its report and recommendations, which became effective February 1, 2001. In January 2005, the 2005 Commission submitted its report and recommendations, which became effective February 1, 2005. In January 2009, the 2009 Commission submitted its report and recommendations, which became effective July 1, 2009. Due to comments received from the public hearing and based on the economic condition of the State's budget and the national economic climate, the 2009 Commission did not recommend salary increases for any of the positions covered by this report. The effective date of the Commissions' reports was changed from February 1 to July 1 in the Fiscal Year 2009 Budget Act Epilogue, Section 35.

The report of this Commission, referred to as the 2013 Commission, has the force and effect of law as of the first day of July following submission (July 1, 2013) unless the General Assembly, by joint resolution, rejects the report in its entirety within 30 days following commencement of its 2013 session.

Members

The 2013 Commission consisted of six members and was co-chaired by Michael Ratchford, appointed by the Speaker of the House, and Jennifer W. Davis, appointed by the President Pro Tempore of the Senate. Other members included William Willis, Chair of the Delaware Business Roundtable; Harold E. Stafford, appointed by the Governor; and Donald Puglisi, appointed by the Governor. Ann Visalli, Director of the Office of Management and Budget, served as an Ex-Officio and non-voting member. Meaghan Brennan, Deputy Director of Budget Development, Planning and Administration, attended for Ms. Visalli.

Authorization

Under its enabling statute, the Commission was authorized to study the "remuneration" of key office holders within the Executive, Judicial, and Legislative branches of state government. It was also authorized to issue a report no later than January 8, 2013, establishing "remuneration" for these public officials.

Meetings and Hearings

The 2013 Commission met on November 19, 2012, November 27, 2012, December 13, 2012, December 18, 2012, and January 3, 2013. In addition, the 2013 Commission held a public hearing on December 13, 2012 in Dover, Delaware. The following individuals testified at the public hearing and/or submitted written comments: Chief Justice Myron Steele, Supreme Court; Michael Parkowski, Esq., on behalf of the Delaware Bar Association's Compensation Committee; Michael Barlow, Chief of Staff for Governor Jack Markell; and James McGiffin, member of the public and attorney in Delaware. The Republican caucuses in the State Senate and House of Representatives sent a letter to the 2013 Commission on December 11, 2012 requesting that the 2013 Commission not recommend salary increases for Members of the General Assembly.

The 2013 Commission members were provided with information showing a historical view of salaries, budgets, positions, and general salary increases from Fiscal Year 2005 to the present, along with current organizational charts, and agency descriptions.

Michael Nadol, Managing Director of Public Financial Management, Inc. was engaged as a consultant to the 2013 Commission, providing and interpreting salary survey data requested by the 2013 Commission.

Further, the reports of the 2005 and 2009 Commissions, and both verbal and written remarks received from the December 13, 2012 public hearing, were reviewed and considered. Based on the information received and the 2013 Commission members' own deliberations and experience, the 2013 Commission submits unanimously the following findings and determinations.

Attracting and Retaining Talent

The 2013 Commission, as was the case with the previous Commissions, believes strongly that the quality of State government depends largely on its ability to attract and retain highly talented individuals to lead its various programs and activities. While no member of the 2013 Commission argued that government salaries should parallel those in the private sector, the 2013 Commission concluded that reasonable compensation, set by an impartial body such as the Commission, would play an important role in attracting and retaining top talent.

This is particularly the case for Delaware government leadership positions since many services are offered statewide in Delaware that are either not offered by other government entities or that are offered in other states at a local level. We have a nationally respected, fair, high quality, and efficient court system, a responsive state legislature and a dedicated and effective Executive Branch of state government. The people who agree to represent the people in those positions, in order to attract and retain the best, are entitled to earn competitive and appropriate wages.

Past Commissions' Recommendations

It is believed that the determinations of the 1985, 1989, 1997, 2001, and 2005 Commissions, which were accepted by the state legislature, improved considerably the compensation for most of the positions that this report evaluates. Delaware is most fortunate to be able to continue to attract highly qualified individuals to the three branches of government. The Compensation Commission was created in 1984, in large part, to remove deliberations on executive level salaries from the political arena.

After rejecting the 1993 Commission report, the General Assembly passed legislation providing 4% increases for members of the Judiciary, 3% for members of the General Assembly and other Elected Officials, and an average of 4.1% increases for members of the Cabinet. The legislation also increased legislative supplements for members of the General Assembly by 3%.

Due to the economic condition of the State's budget and the national economic climate, the 2009 Commission did not recommend any salary increase for any of the positions covered by the Commission.

All positions have received the same general salary increases given to other State employees. The exception to this rule is the Governor, whose position is restricted, by law, from receiving these increases. Through the work of the Commission and the Legislature, much progress has been made in providing more appropriate compensation to those within the Commission's jurisdiction. This Commission is of the firm view that its role is and should be a periodic review to assure that the salaries of the affected positions are appropriate and competitive in view of events and developments over the previous four years. The Commission's role is to analyze the positions, not the people currently in those positions. Decisions on the appropriate level of remuneration for a position are a reflection of the Commission's view of the value and responsibility of that position, not a performance assessment of the individual currently serving in that position. In order to maintain further appropriate compensation, it is essential that regular general salary increases made for other State employees also continue to be extended to all of those covered by this report.

Compensation Comparisons with Other States

The 1989, 1993, and 1997 Commissions compared Delaware salaries for the offices under review with the states of New Jersey, Pennsylvania, Maryland, Virginia, New York, North Carolina, and Massachusetts. Although there is no requirement to do so, the 2013 Commission also decided to look at the seven state comparisons as one of our references. Because of its concern as to the significant demographic differences between some of the States in this comparative group of states, the 2001 Commission felt it appropriate to examine other states of comparable size. Consequently, the 2001 Commission identified and

considered salary data from three states with similar budgets (Rhode Island, New Hampshire, and Vermont), as additional references. We want to emphasize, however, that throughout our deliberations and in this report we were not constrained by rigid comparisons, as statewide comparisons can be difficult because of the numerous differences among the states. The 2013 Commission also considered salary survey data from local entities in Delaware, Maryland, and Pennsylvania.

Unique Circumstances Affecting the Work of the 2013 Commission

As the 2013 Commission began its deliberations, the Commission noted that while the emergency situation impacting the national, state, and local economic climate faced by the 2009 Commission had improved somewhat, recovery has been slow, and revenues are generally flat. December revenue projections from the Delaware Economic and Financial Advisory Committee (DEFAC) anticipate revenues to be $73.4 million less in Fiscal Year 2014 than Fiscal Year 2013, with projected spending outpacing revenues into Fiscal Year 2015. As anticipated by the 2009 Commission, re-organizations in state government have taken place to meet financial obligations and balance the budget, which resulted in major changes in the responsibilities of some of the positions under consideration by the Commission, particularly among the Cabinet Secretaries. The 2013 Commission considered a variety of courses of action in an effort to balance their strong commitment to maintain competitive and fair salaries to attract and retain the highest caliber of top state management officials with a consideration of the slow economic recovery. If it were not for flat state revenues and the inability of the State to more modestly increase salaries for all State employees, the 2013 Commission would wholeheartedly endorse moderate salary increases for all positions covered by this report.

The salary increases in this report are to be effective July 1 of the Fiscal Year in which they are recommended on Table A.

Conceptual Framework for Analysis

Before beginning its deliberations on specific salary recommendations, the 2013 Commission discussed compensation for State executives and agreed upon the following principles:

1. The Governor need not be the highest paid member of the Executive Branch but should be the highest paid Elected Official;

2. DEFAC revenue projections need to be given considerable weight;

3. Executive Branch tiers should be collapsed into fewer tiers;

4. Executive Branch tier placement should consider changes in FTEs, budgets, responsibility, risk, and span of control since 2005;

5. The relationship between the Secretary of Education's salary and the salaries of the public school district superintendents needs to be re-assessed;

6. Some phasing-in of salary increases should be considered due to economic realities;

7. Salaries need to be kept competitive and should be focused on recruitment of top talent;

8. The Governor should continue to have flexibility in making salary offers to cabinet secretaries;

9. In determining salary increases, market data, median salaries, and internal equity need to be considered;

10. The judicial salary hierarchy changes made by the 2005 Commission from those of the 2001 Commission need to be reviewed;

11. Judicial salaries need to be reviewed with an emphasis on attracting a diverse applicant pool;

12. Some members of the Judiciary may be paid more than the Governor;

13. The concept of a supplement for administrative duties is valid for leadership positions within the Judiciary and Legislature;

14. Consideration should be given to all public comments by legislative leaders and written comments received from the Republican caucuses, the Judiciary, the Delaware Bar Association, the Governor's Office, and private citizens in determining compensation;

15. A balance between the need for salaries attractive for recruitment and retention and the State's financial climate needs to be addressed; and

16. General salary increases provided to other State employees have been and should continue to be applied to all of the positions covered by this report with

the exception of the Governor who by law cannot receive a mid-term salary increase or decrease.

EXECUTIVE BRANCH

The 2013 Commission concludes that the salaries for the Executive Branch should be as established in Table A. The recommended tiers for the various offices within the Executive Branch are a reflection of each office's level of responsibility and authority. The 2013 Commission also took into consideration the comparisons of Delaware salaries with comparable positions in other states and local governments in Delaware , the general salary increases that have been provided to state officials, and the recommendations of the Governor.

Governor

The 2013 Commission believes, unlike prior Commissions, that the Governor, the highest executive officer in Delaware, need not be the highest paid executive official in the State. The 2013 Commission further believes the Governor should be the highest paid Elected Official in the State. In order to maintain such, this Commission recommends that when the Governor takes office in 2017, the salary should reflect the current base salary of $171,000 plus the sum total of the amount of general salary increases provided to state employees over the next four years. Delaware's Constitution prohibits the Governor from receiving any salary increases or decreases during the period for which he or she shall have been elected (Article III§7.)

The 2001 Commission, in its report of January 2001, proposed a salary of $132,500, effective when the Governor takes office in 2005. That Commission also strongly suggested the General Assembly entertain, prior to January 16, 2001, legislation to increase the Governor's salary to $122,500. This, in effect, raised the salary of the Governor to be the highest Elected Official at that time. As continues to be the case, under the Delaware Constitution, the Governor is prohibited from receiving any salary increase during an elected term. The 2005 Commission, in its report of January 2005 proposed a salary that was 10% above the highest base salary ($155,450) paid to an Executive Branch official (agency heads of the Department of Technology & Information and Department of Education), effective when

the Governor took office in 2009 which resulted in a salary of $171,000. That Commission also recommended that prior to January 18, 2005, the General Assembly entertain legislation to increase the salary of the incoming Governor to $165,702 (10% above $150,638, the recommended salary for the highest paid Executive Branch official).

Due to economic conditions, the 2009 Commission did not recommend any salary increases to any of the positions covered by this report.

Cabinet

Cabinet members currently receive salaries that fall into four tiers. The salaries were clustered into those four tiers by prior Commissions based upon a combination of factors including the size of the agency as measured by budget and personnel employed, and the impact of the agency on the citizens and economy of the State. The 2013 Commission recognizes the advantages of such a tiered pay scale and believes that, in general, all cabinet members should be placed in an appropriate tier. The 2013 Commission also gave consideration to other factors such as risk, 24/7 operations, and major organizational changes. In addition, the 2013 Commission recommends a two-tier system as shown in Table A below.

After reviewing the size of the agencies as measured by budget and personnel employed, the impact of the agencies on the citizens and economy of the State, the events of the last eight years, flat revenue projections, salaries paid to comparable positions in the surrounding states, and the recommendations of the Governor, the 2013 Commission does not recommend any salary changes effective July 1, 2013 (Fiscal Year 2014.) However, effective Fiscal Year 2015, the changes that follow are recommended:

- Due to significant changes in responsibilities in the following departments, the 2013 Commission recommends that the salaries of these cabinet secretaries increase on July 1 as shown in Table A below over Fiscal Year 2015, Fiscal Year 2016, and Fiscal Year 2017. These increases are consistent with the spirit of the language in Section 10 (c) (ii) of the Fiscal Year 2013 Budget Act Epilogue and recommendations of the Governor.

- Department of Health and Social Services - implementing Affordable Care Act reforms, administering the State's largest department of over 4,300 employees in 12 divisions, including the Delaware Psychiatric Center (130 patients), three long-term care facilities (289 beds), and the Stockley Center (54 beds) for developmentally-disabled persons, with a total budget exceeding $2 billion, and overseeing a significant information technology implementation.

- Department of State - the Division of Corporations generates almost one-third of the State's revenues and additionally, legal-related businesses bring in tens of millions of dollars in addition to state and local taxes; administration of the State's Veteran's Home (150 positions), and the addition of 76 positions in Professional Regulation, the Public Service Commission, the Public Advocate, the Merit Employees Relations Board, the Public Employment Relations Board, and the Public Integrity Commission from the disbanded Department of Administrative Services.

- Department of Transportation - greenways planning and development, right of way section restructuring, internal restructuring of tolls administration, and continued emphasis on multi-modal forms of transportation.

- Department of Services for Children, Youth and Their Families - serving at-risk children and families; administering 24/7 crisis operations, suicide prevention programs, child abuse intervention, and five secure-care youth facilities; the fourth largest department by positions; and overseeing the development and implementation of an integrated, department-wide, client-based information system.

- The 2013 Commission believes that the current tier system created some unintended consequences. Despite changes in the level of experience or education, and despite changes to the responsibilities or circumstances surrounding a cabinet post, those salaries could only be reviewed every four years. The 2013 Commission believes it appropriate to establish cabinet salaries as ranges, not a fixed number. This is consistent with salaries for such positions in most of the private and public sectors.

- The 2013 Commission believes that Governors should have some flexibility to set the salaries of cabinet officials to ensure the recruitment and retention of talented people. The 2005 Commission report provided the Governor the flexibility to pay cabinet officials a salary that is within a range of 5% below to 5% above the recommended salary of the position. In order to provide the Governor increased flexibility, effective July 1, 2013, for new hires or appointments only, the 2013 Commission recommends that the Governor be able to pay cabinet officials a salary that is within a range of 10% below to 10% above the recommended salary for the position, provided that the maximum of the

range does not exceed the 20% cap required by law. Per 29 Del Code, Chapter 33, §3303 (b), salary increases applied to the salaries of positions covered by the Delaware Compensation Commission, cannot exceed 20% of the salary received in the fiscal year in which the report is submitted. Absent action by the Governor, the July 1, 2013 salary shall be the recommended salary for each position. All positions should continue to receive regular general salary increases approved by the legislature for other State employees. Please see Table A for the recommendations of the 2013 Commission.

- Prior Commissions based the salary of the Secretary of Education on the average of the three highest salaries paid to school district superintendents in the State. The 2013 Commission believes that this approach is no longer appropriate and that the Secretary of Education's salary should be established consistent with other Cabinet members.

Other Elected Officials

The 2013 Commission does not recommend any salary changes for the Lieutenant Governor, the Attorney General, the State Auditor, the State Treasurer, and the Insurance Commissioner. Please see Table A.

JUDICIAL BRANCH

The 2013 Commission concludes that the salaries of the Judicial Branch should be as listed in Table A.

Impact of the Judiciary on Delaware

The 2013 Commission recognizes that Delaware has gained a national and increasingly international reputation for its outstanding courts and highly qualified Judiciary. The Delaware Judiciary adjudicates sensitive issues faced by Delaware citizens in their daily lives and renders decisions of major importance that affect corporate governance, stockholders' rights, and the business marketplace in the United States and around the world. Therefore, recruiting and retaining outstanding, diverse, and high caliber judges is essential to the quality of life and economic well being of the people of Delaware. Further, 20% to 30% of the State's revenues can be attributed to Delaware's renowned legal system and Judiciary, in addition to the key role played by the Secretary of State's Office.

Judicial Salaries

In addition to the stature and reputation of Delaware's Judiciary, the 2013 Commission considered the thoughtful and uniform approach explained in the December 13, 2012 presentation of Chief Justice Myron Steele along with the recommendations of the Delaware State Bar Association's Committee on Judicial Compensation report also presented to the Commission on December 13, 2012. The Delaware State Bar Association Committee Report compares Delaware to not only those states in geographic proximity to Delaware, but also to those states that compete with Delaware as commercial litigation jurisdictions, namely New York, New Jersey, Illinois, California, Florida, and Georgia.

The 2013 Commission recommends, effective July 1, 2013, that the salaries of the Supreme Court Justices be set $500 above the salaries of the Chief Judges of the Chancery, Superior, and Family Courts in order to recognize the position of the Supreme Court in the hierarchy of the State's judicial system. In addition, recognizing the significant contributions of Delaware's Judiciary and its outstanding national reputation, the 2013 Commission

recommends a 3% salary increase effective Fiscal Year 2015 and a 3% salary increase effective Fiscal Year 2016 for all members of the Judiciary.

The 2013 Commission recognizes that its recommended salary increases are less than the Judiciary requested. However, the 2013 Commission believes its recommendations are fair and reasonable based on the information and the data it examined, particularly in light of the State's forecasted financial conditions. The 2013 Commission's recommendations address the significance of recognizing the hierarchy within Delaware's Judiciary.

LEGISLATIVE BRANCH

The 2013 Commission recommends that the salaries, supplements, and expense allowances of the Legislative Branch be as established in Table A.

The 2013 Commission recommends no adjustments to the base salaries, supplements, and expense allowances of the Legislative Branch. This recommendation is consistent with public comments by legislative leaders and written comments from the Republican caucuses concerning salary increases, is appropriate given revenue projections for the next two fiscal years, and is consistent with the salary treatment given to other Elected Officials.

The 2013 Commission is not recommending any changes in pension benefits for the Legislature.

It is recommended that legislative salaries continue to be subject to the same general percentage pay increases that may be approved for other state employees.

Expense Allowances

The 2013 Commission recommends Expense Allowances for the General Assembly continue to be set at $7,334.

TABLE A
RECOMMENDATIONS
(Salary increases below are effective July 1 of the Fiscal Year in which they are recommended)

GOVERNOR	FY 2018 Salary = Current Salary ($171,000) + any general increases in FY 2014 through FY 2017						
LEGISLATURE	No increases in salary or other emoluments; no change to pension						
OTHER STATE ELECTED OFFICIALS	No increases in salary						
CABINET			**FY 2014**	**FY 2015**	**FY 2016**	**FY 2017**	**FY 2017 Salary*** **
Tier 1	**Current Salary**						***does not reflect gsi
Education	$ 160,145						$ 160,145
Chief Information Officer	$ 160,145						$ 160,145
Health and Social Services *	$ 147,370			3.0%	3.0%		$ 156,345
Office of Management and Budget	$ 147,370						$ 147,370
Correction	$ 147,370						$ 147,370
Finance	$ 147,370						$ 147,370
State	$ 127,590			3.0%	3.0%	3.0%	$ 139,421
Services for Children, Youth and Their Families	$ 132,741			3.0%	3.0%		$ 140,825
Transportation	$ 137,995			3.0%	3.0%		$ 146,399
Tier 2							
Safety and Homeland Security	$ 132,741						$ 132,741
Delaware Economic Development Office	$ 127,590						$ 127,590
Natural Resources and Environmental Control	$ 127,590						$ 127,590
Adjutant General	$ 121,821						$ 121,821
Agriculture	$ 119,040			2.336%			$ 121,821
Labor	$ 119,040			2.336%			$ 121,821
Delaware State Housing Authority	$ 119,040			2.336%			$ 121,821

JUDICIARY	Current Salary		FY 2014	FY 2015	FY 2016	FY 2017	FY 2017 Salary***
							***does not reflect gsi
Chief Justice Supreme Court	$200,631			3.0%	3.0%		$ 212,850
Supreme Court Justice	$190,639		$191,860 ($500 above Chief Judges - Superior, Family, Chancery Courts)	3.0%	3.0%		$ 203,544
Chancellor -- Court of Chancery	$191,360			3.0%	3.0%		$ 203,014
President Judge Superior Court	$191,360			3.0%	3.0%		$ 203,014
Vice Chancellor -- Court of Chancery	$180,233			3.0%	3.0%		$ 191,209
Associate Judge -- Superior Court	$180,233			3.0%	3.0%		$ 191,209
Chief Judge -- Family Court	$191,360			3.0%	3.0%		$ 203,014
Associate Judge -- Family Court	$180,233			3.0%	3.0%		$ 191,209
Chief Judge -- Court of Common Pleas	$189,196			3.0%	3.0%		$ 200,718
Associate Judge -- Court of Common Pleas	$173,949			3.0%	3.0%		$ 184,542
Justice of the Peace 3rd term	$ 77,832			3.0%	3.0%		$ 82,572
Justice of the Peace 2nd term	$ 75,462			3.0%	3.0%		$ 80,058
Justice of the Peace 1st term	$ 72,887			3.0%	3.0%		$ 77,326
Chief Magistrate	$125,427			3.0%	3.0%		$ 133,066
Commissioners - Superior Court	$111,275			3.0%	3.0%		$ 118,051
Commissioners - Family Court**	$107,398			3.0%	3.0%		$ 113,939
Commissioners - Court of Common Pleas	$107,398			3.0%	3.0%		$ 113,939

NOTES:

1. For cabinet new hires/appointments only, the Governor may offer a salary 10% above/below recommended salary, provided that the maximum of the range does not exceed the 20% cap required by law.

2. All positions are eligible for any general salary increases (gsi)

*** If the Secretary of Health and Social Services holds a State Medical License, the salary listed in Section 10 (a) of the FY Budget Act shall be increased by $12,000. Additionally, if the Secretary of Health and Social Services is a Board Certified Physician, a $3,000 supplement shall be added to the annual salary listed in Section 10 (a) of the Budget Act**

*** * Salary adjustment pending**

SUMMARY

The 2013 Commission recognizes that it is not feasible to compensate our public officials at levels commensurate with those paid to individuals of similar experience and ability in the private sector. To a great extent, people who choose public service typically do so for reasons other than the salary. No public official appearing before the 2013 Commission, commenting to the 2013 Commission, or writing to the 2013 Commission expressed a different view. However, as stated by the 1985 Commission, "It is important, however, that compensation be provided to avoid unreasonable sacrifice by these public servants." The 2013 Commission feels strongly that the recommendations presented in this report reflect this tenet tempered by flat or decreasing revenue projections for the next two fiscal years. The 2013 Commission sincerely hopes that when economic conditions significantly improve, the salaries of the positions covered by this report, in addition to the salaries of other state employees, can be increased by more substantial amounts.

While the Compensation Commission is charged by statute to examine and make salary recommendations on a quadrennial basis, the 2013 Commission also recognizes that market forces affect certain positions and the Governor and General Assembly should remain aware of the need to address these forces as appropriate.

Quality performance requires quality people with reasonable compensation. As a result of our fact-finding, analysis, deliberations, and judgment, the 2013 Commission is of the unanimous opinion that the remuneration and levels found in Table A of this report, and incorporated in this report by this reference, should take effect on July 1 of the Fiscal Year indicated. Furthermore, to maintain appropriate compensation, it is essential that regular general salary increases authorized for other State employees continue to be extended to all of those covered by this report.

If any provision of this Report or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Report which can be given effect without the invalid provision or application, and to that end the provisions of this Act are declared to be severable.

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