

## James Robins: Compensation Council Submitted Testimony - SF5115 / HF4797

Thank you for the opportunity to submit testimony regarding Compensation Council changes proposed in SF 5115 / HF 4797. A year ago, this committee considered major changes to Chapter 15A pertaining to expanded Compensation Council authority, and I suggested modifications that were adopted – the addition of legislative appointees representing all four caucus leaders, and the exclusion of current registered lobbyists from serving on the Council. Those constructive changes from 2023 are much appreciated. However, some other late-arriving provisions last year raised significant concerns.

In an in-depth bipartisan effort during the legislative interim, I joined eight other recent Compensation Council members in an Ad-Hoc Group tasked with reviewing the 2023 restructuring and providing remedial revisions where needed. Our group included judicial and governor appointees who have served a total of 25 terms from 2017-2023. We sought participation from all interested parties, including state judicial administration, the Minnesota District Judges Association (MDJA), key legislators and MMB staff who answer to the governor. Early on, we noticed that last year's changes missed a number of new agency positions in 15A.0815 - Subd. 2: salary setting for the executive director of Office of Cannabis Management among them. We communicated the omission to MMB, and that has resulted in the limited SF5115 / HF4707 legislation the committee is now considering.

Unfortunately, our group found deeper flaws in last year's changes based on our conversations with the interested parties and our own experiences on the Compensation Council over the past seven years. These observations are my own, and are not necessarily fully shared by all members of our group.

Taken as a whole, the current Chapter 15A statutes pertaining to expanded Compensation Council authority unacceptably restricts Judicial branch budgeting coordination, over-reaches the Legislature's inherent power of the purse, and recklessly concentrates power within the Executive branch via the MMB. Recognizing only the current unmet permanent status of the Office of Cannabis Management structure alone should expedite changes necessary to restore the proper balance of the three government branches in the context of 15A.0815 and 15A.082.

In my view, three essential changes are needed as soon as possible. First, extend the existing timeline deadline of less than three months for Council deliberations to 20 months to allow for more thorough deliberations and judicial branch budget coordination (15A.082, Subd. 3) - aligning with the formal recommendations of the Minnesota Judicial Council and MDJA. Failure to act in 2024 will delay budget coordination by two full years to FY 2030-31 at the earliest. Second, repeal the 2023 ban on ex parte communications between council members and the judiciary (15A.082, Subd. 2 & 7) – another provision unanimously passed by the Minnesota Judicial Council and fully supported by MDJA. The judiciary communications ban unreasonably concentrates information-sharing authority within the MMB, and is likely to discourage qualified attorneys from participating in the Compensation Council. Finally, the Legislature should limit the extent of authority it relinquished in 15A.082, Subd. 3, which states: "... salaries take effect on July 1 of that year and July 1 of the subsequent even-numbered year **and at whatever interval the council recommends thereafter, unless the legislature by law provides**

**otherwise."** The Ad Hoc Group asked legislative staff to find out the reasoning for this potentially binding language and the MMB failed to provide an explanation for handing over unlimited reach to the unelected Compensation Council. Striking the unneeded (boldface) language would restore appropriate long-term power of the purse to the Legislature.

The Ad-Hoc Group recommended several other corrective revisions in statute that can be addressed at a later date, if necessary. Those provisions are contained in SF3863 / HF3707 along with the three essential changes referenced above. Recognizing that this committee is under unusual time stresses due to very unfortunate circumstances not within your control, I suggest you amend SF5115 now to include those three essential revisions, and re-refer the bill for further consideration in the Judiciary Committee. The other changes will be helpful to the Compensation Council in the long run, but can wait for full review by your committee when time allows. The timeline expansion, repeal of communications ban and repeal of unrestricted Compensation Council authority into the future require action this year.

Thank you to Chair Dziedzic, Ranking Minority member Anderson and members for your consideration.

Sincerely,



James Robins

*James Robins was appointed by the Supreme Court to serve Compensation Council terms in 2017 and 2019 (designated DFL slots). He declined an invitation to apply for a third term in 2021 and was replaced by former Senator Richard Cohen representing the Fourth Congressional District.*