South Dakota Legislator Salaries

South Dakota Legislature
Legislative Research Council

Background

The South Dakota Legislature was first granted the authority to set the level of their own base salaries, by law, when South Dakota voters approved an amendment to Article XXI, Section 2, of the state constitution in 1946. Since then, the Legislature has adjusted its base salaries eight times – once in the 1940's, once in the 1950's, twice in the 1960's, once in the 1970's, twice in the 1980's, and once in the 1990's. The 2000's were the first decade since 1946 in which the Legislature authorized no increases in legislator base salaries. No increases have been authorized in the 2010's, either. The 2018 legislative session will mark 20 years since the Legislature last authorized an increase, doubling the previous 10-year record without raises (1947-1957 and 1988-1998). As a result, the buying power of South Dakota legislator salaries is at its lowest level since the current system was put in place in 1946. Economic well-being of South Dakotans

Given this long drought, and the political difficulties associated with a system which requires legislators to vote for their own pay increases, an examination of alternate means of establishing legislator compensation is in order.

Alternative Approaches to Legislator Base Compensation

There are three types of legislator base compensation models. In the first, followed by most states, including South Dakota, compensation is set by law or by the state constitution. Changes in compensation must come about by means of legislation, requiring legislators to go on the record and vote for their own pay level each time it is adjusted.

Citizen Commissions

In the second type of model, legislator base compensation is set by a third party citizen commission. There are 19 states that set legislator salaries by commission. In three cases, the decisions of the commission are binding (CA, OK, WA). In two cases, they must be approved by the voters statewide (AZ, TX). In five states, the recommendations take effect unless rejected or modified by the Legislature (AK, DE, HI, ID, NY). In the remaining nine states, the recommendations are advisory only, and must still be voted on by the Legislature, which would seem to defeat one of the purposes of having a citizen commission involved in setting legislator compensation – namely, removing the decision from the political arena.

Membership on these commissions is by appointment. Appointing authorities almost always include the Governor (except Maine), and usually include appointments by legislative leaders. For example, the Speaker of the House has an appointment in about two-thirds of cases. In about one-third of cases, the Chief Justice or the state Supreme Court appoints one or more members. One-third of commissions have no legislative appointments at all. Except in Idaho, all appointments in these cases are made solely by the Governor. Idaho also includes appointments by the state Supreme Court.

Advantages of a citizen commission can include appointing citizens with expertise in compensation issues, and removing politics from legislator compensation decisions, in the case of those states in which commission decisions are binding, or take effect unless rejected or modified by the Legislature. Politics would still be prevalent in the case of those states which still require a vote of the Legislature to adopt the commission's recommendation.

Disadvantages include having to put a constitutional amendment onto the ballot to make such a change, the cost associated with commission meetings, possible public scrutiny of commission members, and some loss of legislative control over the issue. However, given the toxic politics surrounding the issue of legislator compensation, loss of control would likely prove to be an improvement in keeping legislator base salaries current.

Compensation Tied to Outside Factor

Six states tie adjustments in legislator base salaries to an outside factor. Florida and Montana adjust these salaries by the same percentage adjustment given to state employees, while Pennsylvania ties the adjustment to the consumer price index. In Indiana, legislator base salaries are set at 18% of the salaries of judges, and are therefore automatically adjusted when salaries for judges are increased.

Two states – Alabama and Massachusetts – ties their legislator base salaries to the state median household income. In both cases, a constitutional amendment had to be passed in order to bring about this policy – Massachusetts in 1998 and Alabama in 2012. In both cases, the proposals passed with 68.5% voter approval.

Advantages of tying legislator base salaries to an outside factor include reducing the politics associated with the decision, in the case of tying it to an outside factor controlled by the Legislature, like salaries for state employees or judges, or removing politics from it completely, in the case of tying it to factors outside the Legislature's direct control, like CPI or state median household income.

Tying it to CPI or state median household income would also have the advantage of an automatic adjustment, requiring no action, which would have the effect of keeping base salary buying power current. Tying it to state median household income would also have the advantage of aligning legislative pay with the overall performance of the state's economy and the prosperity of its citizens. If the state does well, so would legislators. If the state's economy contracts, so would legislator paychecks, giving some outlet to the impulse that when times are hard, legislators should suffer in the same measure as the state's citizens.

Disadvantages include having to put a constitutional amendment onto the ballot to make such a change, and some loss of legislative control over the issue. However, the identical experience in Massachusetts and Alabama – two very different states – suggests that voters will respond favorably to a constitutional amendment which strips the Legislature of its ability to set salaries for its own members, and aligns legislator pay with the overall economic well-being of the people. Also, as has been stated previously, the toxic politics of the issue are such that loss of legislator control would likely prove to be an improvement in keeping legislator base salaries current.

Conclusion

South Dakota legislator salaries are at their lowest effective level in over 70 years, and reflects the inadequacy of the current methodology for adjusting legislator base compensation. If the South Dakota Legislature chooses to address this issue, the approach taken in recent years by Alabama and Massachusetts, would seem to hold the most promise for success, and the fewest disadvantages.

Depending on whether one takes an approach that looks at the number of session days as a percent of the overall work days in a year, or session days "plus" approach that also accounts for having to drive to Pierre the day before each week of the session (legislators typically finish early on the last day of each week, and drive home the same day), legislators spend 1/6th to 1/5th of their time in legislative session.

South Dakota's median household income, according to the most recent (2015) U.S. Census numbers, is $50,957. If legislator base salaries were set at one of these fractions of South Dakota median household income, the result would an annual base salary of $8,493 or $10,191, significant improvement over the current $6,000, and closer to the historic average buying power of legislator base salaries.

By comparison, Alabama's legislator base salaries are pegged at 100% of the state median household income, while Massachusetts' have simply been adjusted each year by the percentage change in state median household income.