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Joint Committee on Finance

Paper #284

Commissioner Per Diems (Elections and Ethics Commissions)

[LFB 2017-19 Budget Summary: Page 156, #3 and Page 169, #2]

CURRENT LAW

Under current law, commissioners on both the Elections and Ethics Commissions receive the same per diem as a reserve circuit court judge (\$454.11 per day).

GOVERNOR

Elections Commission. Delete \$25,700 GPR annually from the Commission's general program operations appropriation associated with funding decreased funding for per diems (delete \$27,400 GPR) and increased funding for materials and services (\$1,700 GPR). Specify that the per diem for a commissioner is \$50 per day on which the member attends a meeting or participates by audio or video conference call.

Ethics Commission. Delete \$7,500 GPR annually from the Commission's general program operations appropriation associated with funding for per diems. Specify that the per diem for a commissioner is \$50 per day on which the member attends a meeting or participates by audio or video conference call.

DISCUSSION POINTS

1. Commissioners on the Elections and Ethics Commissions receive the per diem for each day they are actually and necessarily engaged in performing their duties. This may include preparation time for meetings. Commissioners read materials prepared by staff regarding program activities and decision items, along with court decisions and litigation filings in preparation for each meeting.

2. In the 2013-15 biennium, the Government Accountability Board (GAB), the predecessor of the Elections and Ethics Commissions, was meeting at least eight times per year. All members of the Board were reserve judges and were compensated as reserve judges. The Board budgeted \$43,000 GPR in 2015-16 for meetings and per diems, of which \$33,000 GPR was allocated for per diems and \$10,000 GPR for meeting expenses. With the transition from GAB to the separate Elections and Ethics Commissions, funding for per diems was established at \$39,700 GPR and \$1,000 PR and was split between the new agencies in proportion to the expenditures on each subject area of the agency from 2015-16. No additional funding was provided to account for having 12 rather than six commissioners. While the requirement that members be retired judges was eliminated, the per diem amount remained unchanged for both commissions.

3. Under currently law, the Elections Commission annual per diem and meeting expense budget is \$29,800 GPR, which could fund approximately 11 meetings a year if funding were only utilized for per diem expenses. Elections commissioners will hold at least four in-person meetings and two telephonic meetings each year. In addition, the Commission is budgeting for the possibility of two additional meetings. The per diem cost per meeting, including a half day per diem for preparation time, is \$4,100 (approximately seven meetings with their current per diem budget). According to the Elections Commission, commissioners review between 100 and 200 pages while preparing for each meeting.

4. Under currently law, the Ethics Commission's annual per diem and meeting expense budget is \$9,900 GPR and \$1,000 PR which could fund approximately four meetings a year if funding were only utilized for per diem expenses. The Ethics Commission has planned to meet four times in odd years and six times in even years. Ethics commissioners decide when to authorize a per diem and practice has been to authorize one per diem for a full day meeting. If Ethics met for four hours, the commissioners would authorize a half per diem. Ethics commissioners have chosen not to authorize a per diem for brief teleconferences. In addition, Ethics commissioners have an unofficial policy of not authorizing a per diem for preparation time. According to the Ethics Commission, commissioners typically review between 150 and 200 pages of materials. This does not include any additional research individual commissioners may decide to do.

5. The bill provides funding for eight meetings with per diems of \$50 (\$2,400 GPR) for each commission a year, but does not provide funding for a half day of preparation time. In addition, the bill provides \$1,700 GPR to the Elections Commission for increased materials and services. The administration indicates that since "the provisions of 2015 Act 118 have eased the professional background requirements of commissioners, the budget bill adjusts per diems for both commissions to align them with other state boards and commissions." In addition, "\$50 per day is the second-highest statutory daily per diem among state boards and commissions, behind the \$454.11 per day paid to Elections and Ethics commissioners."

6. The administration indicates that the Elections and Ethics Commissions are most like the Group Insurance Board (per diem of \$25 per day) and the Investment Board (per diem of \$50 per day). These boards are offered as comparisons, because like "Elections and Ethics commissioners, these board members are responsible for extensive pre-meeting preparation and are respected professionals and/or retirees within their fields. They also make decisions that impact state

employees and residents, as well the state's financial and budgetary position. And, similar to Elections and Ethics commissioners, the members of the Group Insurance Board make decisions that are subject to public attention and scrutiny." Given the change in statutorily required qualifications, the Committee may wish to adopt the Governor's recommendation. [Alternative 1] As a result, the Committee would modify statute to specify commissioners' per diem is \$50 per day on which the member attends a meeting or participates by audio or video conference call for both the Ethics and Elections Commissions.

7. Unlike GIB and SWIB, the Ethics Commission receives complaints, investigates the complaints, and then may issue a formal opinion on whether an individual committed wrongdoing. These quasi-judicial functions are different than the duties of GIB and SWIB. The Elections Commission has similar authority to issue formal opinions, but exercises it infrequently. Other commissioners on quasi-judicial state commissions, while being full-time salaried positions, receive compensation as follows: Labor and Industry Review Commission (Executive Salary Group (ESG) 5, \$82,139 to \$135,533); Tax Appeals Commission (ESG 4, \$76,066 to \$125,528); and Public Service Commission (ESG 5, \$82,139 to \$135,533). These salaries may range between \$293 and \$521 per day.

8. Given that commissioners on commissions with similar quasi-judicial functions receive a range of salaries and per diems, an amount different from that proposed by the Governor could be provided. As a result, the Committee could modify statute to specify commissioners' per diem for both the Ethics and Elections Commissions.

9. The table below identifies various alternative per diem amounts, which correspond to amounts that would be needed for each agency to fund eight meetings of six commissioners, and the change to the bill without a half day per diem for preparation time. Between the bill and current law, the Commissioners could be provided per diems twice the amount in the bill or half the amount of what is currently received. [Alternative 2 (the Elections Commission) and 3 (the Ethics Commission)] Alternative 2 does not include the \$1,700 GPR annually in materials and services in the base columns.

Elections or Ethics Per Diem Amount

<u>Per Diem</u>	<u>Estimated Per Diem Amount</u>
\$50	\$2,400
100	4,800
227 (Half of Current Rate)	10,900
454 (Current Rate)	21,800

10. Neither commission requested the decrease in per diems. Given that the Commissions did not request the decrease, the Committee may wish to maintain current law and funding. [Alternative 4] As a result, both of the Commissions may have to reallocate resources and expenses in order to pay the current statutory per diem.

ALTERNATIVES

1. Approve the Governor's recommendation to modify statute to specify commissioners' per diem is \$50 per day on which the member attends a meeting or participates by audio or video conference call for both the Ethics and Elections Commissions.

ALT 1	Change to	
	Base	Bill
Ethics		
GPR	- \$15,000	\$0
Elections		
GPR	- \$51,400	\$0

2. Modify statute to specify Elections commissioners' per diem is one of a. through d., below. In addition, modify funding provided to the agency such that eight meetings of six commissioners would be supported. [Amounts below are annual.]

<u>Alternative</u>	<u>Per Diem</u>	<u>Amount</u>	<u>Change to Bill</u>	<u>Change to Base</u>
a.	\$50	\$2,400	\$0	-\$27,400
b.	100	4,800	2,400	-25,000
c.	227	10,900	8,500	-18,900
d.	454	21,800	19,400	-8,000

3. Modify statute to specify Ethics commissioners' per diem is one of a. through d., below. In addition, modify funding provided to the agency such that eight meetings of six commissioners would be supported. [Amounts below are annual.]

<u>Alternative</u>	<u>Per Diem</u>	<u>Amount</u>	<u>Change to Bill</u>	<u>Change to Base</u>
a.	\$50	\$2,400	\$0	-\$7,500
b.	100	4,800	2,400	-5,100
c.	227	10,900	8,500	1,000
d.	454	21,800	19,400	11,900

4. Maintain current law and funding.

ALT 4	Change to	
	Base	Bill
Ethics		
GPR	\$0	\$15,000
Elections		
GPR	\$0	\$51,400

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