

MAINE STATE LEGISLATURE

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REP. JOHN L. MARTIN
CHAIR

SEN. DENNIS L. DUTREMBLE
VICE-CHAIR

STATE OF MAINE

114th LEGISLATURE

LEGISLATIVE COUNCIL

**LEGISLATIVE COUNCIL
OCTOBER 21, 1990
MEETING SUMMARY**

APPROVED NOVEMBER 30, 1990

SEN. CHARLES P. PRAY
SEN. NANCY RANDALL CLARK
SEN. CHARLES M. WEBSTER
SEN. PAMELA L. CAHILL
REP. DAN A. GWADOSKY
REP. JOSEPH W. MAYO
REP. MARY CLARK WEBSTER
REP. FRANCIS C. MARSANO

SARAH C. DIAMOND
EXECUTIVE DIRECTOR

CALL TO ORDER

The Legislative Council meeting was called to order in the Council Chambers by the Chair, Speaker Martin, at 12:10 p.m.

ROLL CALL

Senators:	Sen. Pray, Sen. Clark, Sen. Dutremble, Sen. Cahill Absent: Sen. Webster
Representatives:	Rep. Martin, Rep. Gwadosky, Rep. Mayo, Rep. Webster, Rep. Marsano
Legislative Officers:	Sally Tubbesing, Executive Director, Legislative Council John Wakefield, Director, Office of Fiscal and Program Review Martha Freeman, Director, Office of Policy and Legal Analysis David Kennedy, Revisor of Statutes David Silsby, Director, State House & Capitol Park Commission Joy J. O'Brien, Secretary of the Senate

SECRETARY'S REPORT

The Summary of the September 20, 1990, Legislative Council meeting was approved and placed on file. (Motion by Rep. Marsano; second by Sen. Clark; unanimous).

EXECUTIVE DIRECTOR'S REPORT

Sally Tubbesing, Executive Director, presented the following items for Council consideration and action:

Item #1: Approved Step Increases

Ms. Tubbesing reported that she had approved step increases for the following employees based on the recommendations of their respective Office Directors:

David C. Elliott, Principal Analyst, Office of Policy and Legal Analysis, (Salary Range 12), from Step 5 to Step 6, effective October 8, 1990.

Molly Gallant, Office Assistant II, Law and Legislative Reference Library, (Salary Range 2), from Step 2 to Step 3, effective October 8, 1990.

William T. Glidden, Jr., Principal Analyst, Office of Policy and Legal Analysis, (Salary Range 12), from Step 5 to Step 6, effective October 8, 1990.

Judith L. Hayes, Paralegal Assistant, Office of the Revisor, (Salary Range 7), from Step 2 to Step 3, effective October 1, 1990.

Julie S. Jones, Principal Analyst, Office of Policy and Legal Analysis, (Salary Range 12), from Step 5 to Step 6, effective October 8, 1990.

Jeanne C. Morang, Office Assistant II, Law and Legislative Reference Library, (Salary Range 2), from Step 2 to Step 3, effective October 8, 1990.

Patrick T. Norton, Legislative Analyst, Office of Policy and Legal Analysis, (Salary Range 10), from Step 1 to Step 2, effective October 1, 1990.

Paul J. Saucier, Legislative Analyst, Office of Policy and Legal Analysis, (Salary Range 10), from Step 1 to Step 2, effective October 1, 1990.

Motion: That this report be accepted and placed on file. (Motion by Rep. Webster; second by Rep. Mayo; unanimous).

Item #2: Office of Fiscal and Program Review: Recommendation to appoint James A. Clair as Deputy Director

Mr. Wakefield reported that he had had six applicants for the position, all currently members of the non-partisan staff. His recommendation of Mr. Clair's appointment followed interviews with each of the six and a thorough evaluation of the experience and skills

that each would bring to the position. In response to a question from Sen. Pray, Mr. Wakefield reported that Mr. Clair would continue to be responsible for managing the staffing of the Appropriations Committee.

Motion: That James A. Clair be appointed Deputy Director of the Office of Fiscal and Program Review, effective immediately. (Motion by Rep. Marsano; second by Sen. Clark; unanimous).

Item #3: Other Personnel Actions

Ms. Tubbesing drew Council members' attention to a list of individuals who had been selected to fill vacant positions in the non-partisan offices subject to the Council's final approval. They are:

Office of Fiscal and Program Review

Grant Pennoyer, as Principal Analyst, (Range 12, Step 4) to fill the vacancy created by Jim Clair's promotion, effective October 22.

Office of Policy and Legal Analysis

Mila Dwelley, Bangor, Maine, as Research Assistant, (Range 7, Step 1), to fill the vacancy created by Barbara McGinn's resignation, effective November 5.

Michael Higgins, Raymond, Maine, as Legislative Analyst, (Range 10, Step 1), to fill the vacancy occasioned by Hartley Palleschi's resignation, effective November 12.

Karen Hruby, Biddeford, Maine, as Legislative Analyst, (Range 10, Step 2), to fill the temporary vacancy created by Haven Whiteside's leave of absence, effective December 3.

Jill Ippoliti, currently a Research Assistant in OPLA, to the half-time Legislative Analyst position (to be shared with Gro Flatebo), effective November 19.

Roy Lenardson, Bowdoinham, Maine, as Research Assistant, (Range 7, Step 1), to fill the vacancy created by Jill Ippoliti's promotion, effective November 12.

Jane Orbeton, Augusta, Maine, as Legislative Analyst, (Range 10, Step 1), to fill the vacancy occasioned by Todd Burrowes' resignation, effective November 5.

Office of the Revisor of Statutes

Karen Farmer, North Whitefield, Maine, to fill the session position of Office Assistant/Receptionist, (Range 2, Step 2), effective December 1.

Motion: That these individuals be hired as recommended. (Motion by Sen. Clark; second by Rep. Webster; unanimous).

Item #4: Proposed Procedure for Handling After Deadline Bill Requests.

Ms. Tubbesing reported that David Kennedy, Martha Freeman and she had drafted an outline of a proposed procedure that had been prepared at the Council's direction. The proposal would channel after deadline bill requests to the joint standing committees for recommendations to the Council about a) whether separate legislation was required and b) whether the bill request should be let in. The Council's discussion of the proposal included the following questions and observations:

- Why is the committee role enhanced? (Sen. Clark)
Ms. Tubbesing responded that the Council had specifically directed staff to develop a procedure to involve committees in the review of after deadline bill requests.
- The proposal might provide a vehicle for weeding out duplicates. (Rep. Mayo)
- An alternative to this proposal would be to require a 2/3 vote of the Council to approve an after deadline bill for introduction. This would assure bipartisan support. (Rep. Webster)
 - Disagree: There is a role for the majority party here. (Sen. Clark)
- All members would have the option of going to the floor with an after deadline request under the proposal. (Sen. Pray)
 - But, this would add significantly to floor debate, and current process (through Council) is preferable to that. (Rep. Martin)
- We need to re-examine and enforce cloture rules for Department and Governor's bills. (Rep. Martin)
- The less after deadline legislation we allow, the more smoothly the process will work. (Rep. Marsano)
- Referring requests to committees might actually slow the process because it represents an additional step. (Sen. Dutremble)

Martha Freeman, Director of the Office of Policy and Legal Analysis, in response to a question, suggested that Committees might have difficulty dealing with after deadline requests in a timely manner given the other demands on their time at many points during the session.

Motion: That the proposal be rejected. (Motion by Sen. Clark; second by Rep. Webster; this motion was superseded by the following motion to Table).

Motion: That the proposal be tabled. (Motion by Rep. Marsano; second by Rep. Mayo; motion failed 5-4).

The vote was then taken on the previous motion by Sen. Clark, and it failed 5-4.

Motion: That the proposal be tabled. (Motion by Rep. Marsano; second by Rep. Mayo; motion failed 5-4).

Motion: That the proposal be accepted. (Motion by Rep. Mayo; second by Rep. Gwadosky; motion failed 2-6-1, with Rep. Marsano abstaining).

Item #5: Legislative Printing Contracts for the 115th Biennium

Ms. Tubbesing reported that the deadline for submitting bids had been the previous Wednesday, October 17. She had distributed a summary of the low bidders for each of the contracts, noting that the bids were all based on the use of recycled paper, and recommended that the Council authorize the Bureau of Purchases to execute contracts on behalf of the Legislature as follows:

Senate and House Calendars:	J.S. McCarthy*
LD's	: J.S. McCarthy*
Acts & Resolves	: Quality Copy*
Legislative Record	: Quality Copy*
Rosters	: J.S. McCarthy (\$7,335)
Senate and House Register :	Pen Mor (\$39,702)

Note: Those marked with an asterisk are bid on a price per page rather than a total price.

Motion: That the Legislative Council accept the recommendations regarding printing contracts for the 115th legislative biennium. (Motion by Sen. Pray; second by Sen. Cahill; unanimous).

REPORTS FROM COUNCIL COMMITTEES

None.

OLD BUSINESS

None.

NEW BUSINESS

Item #1: Proposed Fees for Legislative Documents and Publications for 115th Legislature/First Regular Session

Ms. Tubbesing reported that the Council needed to act on proposed prices for the following:

1. Legislative Document Service

Council members had Clerk Pert's prospectus for those publications which are distributed through the Legislative Document Room. In response to a question from Sen. Pray regarding why the Clerk was proposing to reduce prices for some items, Ms. Tubbesing responded that while the Clerk was proposing some decreases, most services reflected increases, and that his objective overall had been to restructure Document Service pricing so that all categories reflected the Legislature's actual costs. She further noted that Clerk Pert had factored the increased postal rates, which are scheduled to take effect February 1, 1991, into the his recommendations.

Motion: That the Clerk's recommendations regarding pricing for the Legislative Document Service for the 1st Regular Session of the 115th Legislature be approved. (Motion by Sen. Pray; second by Sen. Dutremble; unanimous).

2. Legislative Drafting Manual and Cumulative Index to the Laws of Maine

Ms. Tubbesing reported that these publications were newly issued and that the recommended price of \$15.00 for the Drafting Manual covered the actual cost of printing and initial mailing, as well as the anticipated cost of providing updated sections to subscribers. The recommended price of the Cumulative Index was \$25.00.

Motion: That the recommended prices be approved. (Motion by Sen. Clark; second by Sen. Dutremble; unanimous).

Item #2: Recommendation to Copyright the Legislative Drafting Manual and to Develop Policy and Procedures for Copyrighting Selected Legislative Publications

David Kennedy, Revisor of Statutes, reported that he had already been asked if the recently-completed Legislative Drafting Manual had been copyrighted by the State. He had discussed the issue with the Executive Director, and they had agreed that the decision about

whether to copyright the Manual or any other legislative publication raised policy issues that required Legislative Council consideration. The primary rationale for copyrighting the Drafting Manual is that it is a manual in which specific parts will change over time to reflect current law, practice, etc.; a copyright would allow the Legislature to maintain control over the integrity of the publication. Rep. Marsano asserted that since the Manual had been developed with public funds, it was in the Legislature's interest to assure the widest possible distribution and, therefore, not try to control distribution through claiming a copyright.

Motion: That the recommendation to claim a copyright on the Legislative Drafting Manual be approved. (Motion by Sen. Pray; second by Rep. Mayo; motion failed 2-5).

Item #3: Request from Maine Merchants Association to Approve an Easement Across State-Owned Property. (Request of Representative Hickey).

Ms. Tubbesing noted that the Maine Merchant Association's request to the Council had originally been a request to the Bureau of Public Improvements. The Association is currently constructing a new building on Grove Street and needs an easement across state property to permit the installation of an underground pipe to an existing storm water pipe. Easements across State property require approval by the Legislature; however, since the Legislature is not currently in session, the Attorney General's Office had suggested that the Association approach the Legislative Council. Delaying installation of the pipe until December or later would cost the Association an additional \$45,000 - \$50,000.

In the ensuing discussion, Council members acknowledged their interest in having the State be a "good neighbor", but concluded that they had no legal authority to grant the Association's request.

No formal action was taken.

EXECUTIVE SESSION

Motion: That the Council go into Executive Session for the purpose of discussing matters related to personnel. (Motion by Sen. Clark; second by Sen. Cahill). There being no objection, the Council went into Executive Session at 12:55 p.m.

RECONVENE

Motion: That the resignation of John Selser be accepted effective February 1, 1991, with regret; and, further, that Martha Freeman be authorized to fill Mr. Selser's position as early as November 1, 1990. (Motion by Sen. Pray; second by Sen. Clark; unanimous).

ANNOUNCEMENTS AND REMARKS

The Chair reported that he would notify members of the date of the November Council meeting.

ADJOURNMENT

The Legislative Council was adjourned at 1:13 p.m., on the motion of Sen. Dutremble.