

MAINE STATE LEGISLATURE

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SEN. CHARLES P. PRAY
CHAIR

REP. DAN A. GWADOWSKY
VICE-CHAIR



STATE OF MAINE

115th LEGISLATURE

LEGISLATIVE COUNCIL

SEN. NANCY RANDALL CLARK
SEN. DENNIS L. DUTREMBLE
SEN. CHARLES M. WEBSTER
SEN. PAMELA L. CAHILL
REP. JOHN L. MARTIN
REP. JOSEPH W. MAYO
REP. WALTER E. WHITCOMB
REP. FRANCIS C. MARSANO

SARAH C. TUBBESING
EXECUTIVE DIRECTOR

LEGISLATIVE COUNCIL

Thursday, May 16, 1991

MEETING SUMMARY

APPROVED MAY 29, 1991

CALL TO ORDER

The Legislative Council meeting was called to order by the Chair, Senator Pray, at 9:13 a.m., in the Legislative Council Chamber.

ROLL CALL

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

SECRETARY'S REPORT

The Summary of the May 7, 1991, Council meeting was approved and placed on file. (Motion by Speaker Martin; second by Sen. Clark; unanimous).

EXECUTIVE DIRECTOR'S REPORT

The Chair asked for status reports on both bill drafting and committee work. David Kennedy, Revisor of Statutes, reported that 52 bills remained in his office of which about half were in production, 5 still in initial drafting, and the remainder awaiting sponsors' signatures. Martha Freeman, Director of the Office of Policy and Legal Analysis, drew members' attention to a summary report of bills still in committee, noting that committees (excluding Appropriations and Taxation) had not yet taken action on 164 bills out of the 1,638 referred to these committees to this point.

No Council action was required.

REPORTS FROM COUNCIL COMMITTEES

None.

OLD BUSINESS

Item #1: Request from the Attorney General for Payment of Attorney's Fees and Expenses incurred in Auburn Police Union, et al. v. James E. Tierney, Civil 90-0042-P. (Tabled at May 7 meeting).

The Chair recognized Vendean Vafiades, Deputy Attorney General, and invited her to discuss the Attorney General's request for payment. Ms. Vafiades noted that when the State loses a case on constitutional grounds, federal law provides that the plaintiff is entitled to request reimbursement of fees and expenses through the Court. In this case, the plaintiff, the Auburn Police Union, had originally requested \$58,000. The Attorney General had filed an objection; and the Court had finally ruled that the plaintiff was owed \$37,981.79.

Motion: That the Council approve payment of the requested amount. (Motion by Rep. Marsano; second by Sen. Clark).

Discussion focussed primarily on two issues: 1) why the request had come to the Legislative Council, and 2) what alternatives there were for handling the payment. Council members expressed concern that if they were to authorize payment, the funds would have to come out of the legislative account.

1. Why the Attorney General had submitted the request to the Council

Ms. Vafiades responded that, in this case, the Attorney General had been defending the constitutionality of a particular law and not the actions of any agency.

Sen. Cahill asked if there was any precedent for the Legislature paying a claim resulting from a court case. Speaker Martin responded that the Council had been asked to pay legal fees only once before by the plaintiffs in a lawsuit regarding the 1980 redistricting plan. In that instance, the plaintiff had made the request to the Council directly -- it had not been authorized by the Courts -- and the Council had voted not to pay.

2. Alternatives

Speaker Martin suggested that the Council could approve introduction of a bill to authorize payment; however, Rep. Marsano pointed out that if the legislation failed enactment, the Court will still levy the costs to the State.

Rep. Mayo suggested that the appropriate source of funds was the Risk Management Fund administered by the State.

Rep. Marsano withdrew his motion.

Motion: That the Council authorize introduction of legislation to require the bill to be paid from the Risk Management Fund. (Motion by Rep. Mayo).

The Chair asked that the vote on the motion be deferred until the Council took up After Deadline Requests.

NEW BUSINESS

Item 1: Requests to Carry Over Legislation to the Second Regular Session.

Motion: That all pending requests be approved. (Motion by Sen. Dutremble).

Speaker Martin objected to a motion for blanket approval, expressing his concern that too many bills were being carried over, that many of them were being carried over to accommodate special interests, and that the Council's approval of all of the requests would create a bottleneck during the Second Regular Session.

Senator Clark noted that most committees had worked long and hard this session, and needed to have carryovers at this point so that they would have time to review the budget. Rep. Gwadosky agreed that the focus on the budget was critical at this point. Sen. Clark suggested that it would be important for the presiding officers to establish a deadline for reporting out carryovers early in the Second Regular Session to avoid the potential bottleneck.

Sen. Dutremble's motion was repeated and seconded by Rep. Marsano. The motion was approved 7-2.

Item #2: After Deadline Requests.

A summary of the Council's action on After Deadline Requests is attached.

EXECUTIVE SESSION

Motion: That the Council go into Executive Session for the purpose of discussing matters related to personnel. (Motion by Sen. Pray; second by Sen. Clark).

There being no objection, the Council proceeded to go into Executive Session at 9:53 a.m.

RECONVENE

The Council meeting was reconvened at 10:30 a.m., on the motion of Speaker Martin.

Motion: That the Executive Director be authorized to designate non-partisan staff as "essential" next Friday, May 24, after notification to the presiding officers. (Motion by Rep. Mayo; second by Speaker Martin; unanimous).

Motion: That compensatory time be awarded to employees who are defined as "essential," the Personnel Policies notwithstanding. (Motion by Speaker Martin; second by Sen. Clark; unanimous).

ANNOUNCEMENTS AND REMARKS

ADJOURNMENT

The Legislative Council meeting was adjourned at 10:31 a.m., on the motion of the Chair.