

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

Tuesday, May 12, 1992

MEETING SUMMARY

Approved June 24, 1992

CALL TO ORDER

The Chair, Senator Pray, called the Council to order at 4:10 p.m., in the Council Chamber.

ROLL CALL

Senators: Sen. Pray, Sen. Clark, Sen. Dutremble,
Sen. Cahill
Absent: Sen. Webster

Representatives: Rep. Martin, Rep. Whitcomb, Rep. Mayo,
Rep. Marsano
Absent: Rep. Gwadosky

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 April 14, 1992, Council meeting was accepted and placed on file. (Motion by Sen. Dutremble; second by Rep. Marsano; unanimous).

EXECUTIVE DIRECTOR'S REPORT

Sally Tubbesing, Executive Director, presented the following items to the Council for its consideration:

Item #1: Resignation of Rose Breton, Office of Fiscal & Program Review

Ms. Tubbesing noted that she had sent copies of Ms. Breton's letter of resignation to Council members soon after she received it, but that formal Council action was still required. She also stressed that, although Ms. Breton's

Finally, Ms. Tubbesing requested Council authorization to fill this position as soon after July 1 as possible, given that this represents the second vacant Analyst position in the Office of Fiscal & Program Review.

Motion: That Ms. Breton's resignation be accepted with sincere regret and that the Executive Director and Director of the Office of Fiscal & Program Review be authorized to fill the position any time after July 1. (Motion by Sen. Clark; second by Speaker Martin; unanimous).

Item #2: Status of Legislative Budget

Ms. Tubbesing drew members' attention to two reports in the agenda packet: a summary of expenditures through March 31 and balances remaining in the General Legislative account and a comparable report for the other accounts administered by the Legislature. Ms. Tubbesing reported that with one quarter of the fiscal year remaining, it was still too early to estimate ending balances with any precision; however, she stated that if expenditures continued at the current rate, it appeared that the balance forward in the General Legislative account could exceed \$1 million.

Discussion:

Sen. Cahill stated that she would like to see some of the balance forward used to do some work on the exterior of the State House. Sen. Pray expressed appreciation for these concerns, but noted that the State as a whole still has a negative cash flow and that it would be unwise to spend any of the apparent surplus yet.

The Council took no formal action on this item.

Item #3: Legislative Staff Management Institute: Application of Meg Matheson

Ms. Tubbesing reported that the Humphrey Institute for Public Affairs, University of Minnesota, was once again offering a 2-week Legislative Staff Management Institute in cooperation with the National Conference on State Legislatures (NCSL). She noted that two Maine staff

members had attended the Institute last year - Grace Cleaves, Senate Majority Office, and Julie Jones, OPLA - and that Ms. Jones had received a scholarship which covered the full cost of tuition, room and board for the 2 weeks, valued at \$1,950.

Because most states have budget problems, NCSL and the Humphrey Institute have decided to offer no full scholarships this year so that they can offer partial support to more applicants. Ms. Tubbesing requested Council support for sending Meg Matheson if she received a partial scholarship, noting that the non-partisan staff directors considered the Humphrey Institute program to be one of the best investments available for senior non-partisan staff.

Motion: That the Council authorize payment of up to half the tuition cost, if necessary, in order for Margaret Matheson to attend the Legislative Staff Management Institute. (Motion by Rep. Mayo; second by Sen. Cahill; unanimous).

Item #4: Blue Ribbon Commission/Workers' Compensation: Status Report on Staffing

At Ms. Tubbesing's request, the Chair, Sen. Pray, asked Martha Freeman to report. Ms. Freeman noted that the Commission had met on four occasions thus far and had scheduled its next meeting for the following Friday, May 15. Two staff members from the Office of Policy & Legal Analysis -- Jane Orbeton and Lisa Copenhaver -- have been attending the meetings in order to keep abreast of the Commission's progress; however, the Commission has, as yet, defined no formal role for the non-partisan staff. The Commission has hired a law student, a consultant, John Lewis, and may also have engaged the services of a professor at the Law School, David Gregory.

Ms. Freeman expressed the shared concern of the non-partisan staff Directors that it was essential for members of the Commission to understand the legislative process at an early point in their work, if their efforts were to be successful. She reported that she had sent a letter to the Chairs following the April Council meeting, as directed by the Council, and now proposed that she contact the Chairs again to request an opportunity for the non-partisan staff directors to present to the entire Commission a description of the legislative process and the bill drafting process.

Discussion:

The Chair, Sen. Pray, noted that he had had discussions with the Governor and members of the Commission, in which both had expressed their concerns that OPLA staff were an extension of the Legislature's Democratic staff, which was why the non-partisan staff had not been invited to make a presentation. Notwithstanding the concerns about

non-partisan staff, Sen. Pray noted that members of the Administration and members of the Governor's own staff had been active with the Commission, briefing individual members. He expressed his high degree of confidence in the personal and professional character and integrity of the Legislature's non-partisan staff.

Speaker Martin reported that he had had similar encounters with the Governor and one of the Commission's Co-Chairs, Richard Dahlbeck, and that he shared Sen. Pray's concerns about any questioning of the integrity of the non-partisan staff. He stated that it is essential that Council members understand who the non-partisan staff are and the roles they play -- as well as the roles they do not assume by virtue of who they are.

In the general discussion that followed, Council members expressed the following concerns:

- That it is essential for the Commission to avoid the politics of workers' compensation and to focus on the substantive issues. (Sen. Dutremble)
- That it is essential that non-partisan staff be formally involved in the actual drafting effort. (Sen. Pray; Sen. Dutremble; Sen. Cahill)
- That it is vital that the Commission's independence be protected and that the Council be the vehicle for all further communication regarding the role of non-partisan staff, rather than members of the Council acting individually. (Sen. Clark; Rep. Mayo; Sen. Pray; Sen. Cahill)

In summary, Ms. Freeman noted that the Directors' primary concerns are: first, that if the Commissioners do not understand the technical process, they will submit a document that they do not want changed, but that needs technical changes; and, second, the questions about the non-partisanship of non-partisan staff. She stressed that the only way for the non-partisan staff to address these concerns is directly and encouraged Council members to bring any questions or concerns to Sally or the other Directors.

Motion: That Ms. Freeman be authorized to again contact the Chairs of the Blue Ribbon Commission to request that the non-partisan Directors be invited to present a description of the process and, further, that Ms. Freeman report again to the Council at its next meeting. (Motion by Rep. Mayo; second by Rep. Whitcomb; unanimous).

REPORTS FROM COUNCIL COMMITTEES

Subcommittee on Audit & Program Review Committee

Speaker Martin, Subcommittee Chair, drew members' attention to the letter in the agenda packet which summarized the results of the Subcommittee's meeting with the Chairs of the Audit & Program Review Committee, Senator Bustin and Representative Erwin, and Representative Eleanor Murphy. Also serving on the Subcommittee were Senators Clark and Cahill. The letter details agreements regarding both the scope and schedule for the Committee's work. Speaker Martin stressed that the Committee understood that all of its work must be completed by December 1, and that any deviations from the agreed upon scope would require prior approval by the Council.

Motion: That the Subcommittee's report be accepted. (Motion by Speaker Martin; second by Rep. Mayo; unanimous).

OLD BUSINESS

Item #1: Council of State Governments

a. Reconsideration of Dues

b. Invitation to Host 1995 ERC Meeting

This item had been tabled previously, pending additional information about the status of the budget for the legislative account and the probability of a balance forward. The Chair, Sen. Pray, noted that CSG was asking Maine to pay its dues for the year nearly completed, FY 92, as well as for the coming year which begins July 1. CSG has just announced that it has "rolled back" its FY 93 dues to FY 92 rates; thus, the total amount of Maine's outstanding dues is \$103,400 for the 2 years.

Motion: That the item be tabled until more complete information about the Balance Forward is available. (Motion by Rep. Whitcomb; second by Sen. Dutremble; motion failed 4-4).

Discussion following the failed motion raised the following questions and concerns:

1. Whether the Council could pay the dues for FY 93 only? (Sen. Clark)

Speaker Martin indicated that Maine would have to pay both years in order to be eligible to host the 1995 meeting of CSG's Eastern Regional Conference. Sen. Pray added that such conferences are beneficial to the State's economy.

2. It is important to have more information not only about Legislature's budget status, but the state budget overall before the Council takes final action on this item. (Rep. Marsano)

Motion: That the item be tabled. (Motion by Rep. Mayo; second by Rep. Marsano; approved 6-2).

NEW BUSINESS

Item #1: Total Quality Management

The Chair, Sen. Pray, noted that each of the 3 branches of government is required to file a plan for achieving Total Quality Management pursuant to a Resolve passed during the Second Regular Session (Resolves, ch. 73). He then suggested that staff present a proposal to the Council; however, in the brief discussion that ensued, it was agreed that members of the Council should also participate in the development of a plan.

Motion: That the Council Chair appoint a Committee to address this issue. (Motion by Sen. Dutremble; second by Sen. Cahill).

Amendment of the Motion: That the above motion be amended to clarify that the Committee shall include members of the Council, other members of the Legislature, and members of the legislative staff. (Amendment offered by Speaker Martin and accepted by Sen. Dutremble).

The vote on the motion, as amended, was approved unanimously.

Item #2: Submission of Interim Reports

a. Jt. Select Committee to Study the Feasibility of a Statewide Health Insurance Program

b. Commission to Study the Future of Maine's Courts

Motion: That both reports be accepted and placed on file. (Motion by Speaker Martin, second by Sen. Dutremble; unanimous).

Item #3: Request for Council Authorization of an Interim Study on Recall (letter from Rep. Lemke)

Motion: That the item be tabled. (Motion by Rep. Mayo; second by Sen. Dutremble; approved 7-1).

Item #4: 1992 State-Municipal Summit: Payment for Legislators' Lunches

This item was on the agenda at Sen. Pray's request. He explained that members of both the Senate and House received a letter from MMA stating that if they chose to attend the luncheon billed in conjunction with the State-Municipal Summit, they would have to pay for the luncheon. Sen. Pray had reiterated this policy to Senators in an announcement from the rostrum. Speaker Martin stated that his office was not involved in planning for the Summit and that he had not been consulted about the policy regarding payment for the luncheon in advance so that he did not alert House members. He further indicated that he had been opposed to scheduling the Summit on a session day because of the accelerated schedule in the Second Regular Session and that he was opposed to having MMA be reimbursed for the luncheon from the legislative account because the State would, in effect, be paying twice for legislators' lunch on that day since House members had already received their meal allowance for that day (the meal had previously been deducted from Senators' expense checks). Senators Clark and Dutremble agreed that the double payment would be inappropriate. Further discussion yielded the concern that if the Council approved payment, it would be setting a precedent for other groups. (Rep. Whitcomb).

Finally, Speaker Martin agreed that if MMA could produce a list of House members who attended, he would write each member and ask them to send a check to MMA for the luncheon. Sen. Pray agreed to find out if MMA had such a list.

Motion: That the item be tabled pending further information. (Motion by Sen. Clark; second by Rep. Marsano; unanimous).

ANNOUNCEMENTS AND REMARKS

None.

ADJOURNMENT

The Council meeting was adjourned at 5:31 p.m., on the motion of the Chair, Sen. Pray.