

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

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

MEETING SUMMARY

Wednesday, June 24, 1992

Approved July 22, 1992

CALL TO ORDER

The Chair, Sen. Pray, called the Legislative Council to order at 3:10 p.m., in the Council Chamber.

ROLL CALL

Senators:

Sen. Pray, Sen. Clark, Sen. Dutremble,
Sen. Cahill

Absent: Sen. Webster

Representatives:

Rep. Martin, Rep. Gwadosky, Rep. Mayo,
Rep. Marsano

Absent: Rep. Whitcomb

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 12, 1992, Council meeting was approved and placed on file. (Motion by Rep. Mayo; second by Rep. Marsano; unanimous).

EXECUTIVE DIRECTOR'S REPORT

Sally Tubbesing presented the following items to the Council for consideration.

Item #1: Personnel Actions

Ms. Tubbesing reported the following:

- Retirement of Dorothy Rollins, Legislative Information Officer

Ms. Tubbesing reported that Mrs. Rollins has decided to retire effective August 31 of this year, upon completion of 25 years of service in State government. Mrs. Rollins first came to the Legislature in 1969, and worked with the docket, the forerunner of the current computerized bill status system. Ms. Tubbesing noted that Mrs. Rollins was a highly valued employee, whose knowledge of both parliamentary procedure and the bill status system is unique, and that she had generously agreed to return for the 3rd Special Session and the 1st Regular Session of the 116th Legislature to assist in the Information Office.

In response to a question from Sen. Cahill regarding whether Mrs. Rollins' retirement would provide an opportunity to restructure the Information Office, as had been discussed by the Budget Subcommittee last spring, Ms. Tubbesing reported that she needed some time to review the Office and hoped to present a recommendation to the Council at its August meeting.

- Resignation of Bret Preston, Research Assistant, Office of Policy and Legal Analysis

Ms. Tubbesing stated that Mr. Preston's decision was both a professional and a personal one.

Motion: That Dorothy Rollins' plan to retire and Bret Preston's resignation be accepted with regret and that letters of appreciation be sent. (Motion by Speaker Martin; second by Sen. Cahill; unanimous).

- Recommendation to hire Alexandra Avore for the position of Legislative Analyst, Office of Fiscal & Program Review, effective August 3, 1992.

Motion: That this item be tabled until later. (Motion by Sen. Pray; second by Sen. Clark). The item was tabled until later without objection.

Item #2: Recommendations for Out-of-State-Travel

Ms. Tubbesing reported that the non-partisan Office Directors had screened available conferences and meetings with particular care this year, given the significant reduction in the Legislature's out-of-state travel budget. However, two meetings are of such potential value given current issues that she is recommending approval as follows:

- Paul Saucier, OPLA, to attend a workshop on Strategies for Controlling Health Care Costs at the University of Maryland, July
- David Kennedy, Revisor of Statutes, to attend a special meeting of Revisors from all 50 states that has been called in conjunction with the NCSL Annual meeting in Cincinnati, the last week of July. The topic of this meeting is code revision.

Motion: That both travel requests be approved. (Motion by Sen. Clark; second by Speaker Martin; unanimous).

Sen. Clark clarified that the approval of Mr. Kennedy's travel to attend the special meeting should be interpreted as authorization to participate in the entire annual meeting if he so desired.

Item #3: 116th Legislature/1st Regular Session: Cloture Date

Ms. Tubbesing referred Council members to a memo from David Kennedy which had been included in their agenda packets. Mr. Kennedy recommended that since the cloture date established by Joint Rule would fall on Christmas Day, the cloture date for newly-elected members be moved to Monday, December 21. After brief discussion, however, there was consensus that Mondays were not as "good" as Fridays and that the revised date should be Friday, December 18.

Motion: That the cloture date for newly-elected members of the Legislature, including those members who are moving to the other body, be moved to Friday, December 18. (Motion by Speaker Martin; second by Sen. Dutremble; unanimous).

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

Ms. Tubbesing noted that she, Martha Freeman, David Kennedy and John Wakefield had all attended the Blue Ribbon Commission's meeting on June 1 by invitation. Directors had presented information about the roles and responsibilities that each of the offices would have with regard to the Commission's proposed legislation. No formal working relationship has yet been established, although Jane Orbeton and Lisa Copenhaver continue to attend the Commission meetings.

Ms. Tubbesing also drew Council members' attention to a Budget Status Report for the Commission, noting that, through June 15, the Commission had spent \$7,344 of the \$250,000 appropriated to it. She then turned to a letter of agreement that the Commission's Co-Chairs had executed with a consultant, John Lewis, stating that this required Council approval in accordance with policies previously adopted by the Council. The agreement provides that Mr. Lewis will be authorized to work 17-22 days for the Commission, at the rate of \$1,500/day, plus expenses.

Motion: That the Commission's contract with John Lewis be approved. (Motion by Speaker Martin; second by Rep. Marsano; unanimous).

Item #5: Proposal to Revamp Public Bill Status System

Council members had received a copy of the Proposal in the advance agenda packet. Ms. Tubbesing summarized the memo briefly and asked if there were any questions.

Motion: That the Proposal be approved. (Motion by Rep. Mayo; second by Sen. Clark; unanimous).

Item #6: Legislative Budget: Status Report

Council members had received a copy of the Legislature's expenditures by line for the first 11 months of the current fiscal year and a cover memo from Ms. Tubbesing that provided some analysis of those lines which were most under budget. The report confirms that the Legislature will have a balance forward of \$1 - \$1.5 million, an amount that Ms. Tubbesing stated reflected an extraordinary savings effort: the Legislature's total "All Other" expenditures for the current fiscal year will be less than they have been in any year since 1985.

Commission on Uniform State Laws Budget

The Chair, Sen. Pray, then recognized Robert Robinson, Chair of the Commission on Uniform State Laws, who was present. Mr. Robinson requested that the Council reconsider its decision to eliminate the Commission's out-of-state travel budget in FY 93. He noted that the National Conference had been formed to preserve, protect and secure states rights against pre-emption by Federal law. Maine has been a member of the National Conference of Commissioners of Uniform State Laws since 1895 and has, over the years, adopted 60-70 of the uniform laws that have grown out of the Conferences' work, including the Uniform Commercial Code, the Uniform Probate Code, and uniform legislation protecting the rights of the terminally ill.

Mr. Robinson observed that Maine's 3 Commissioners are all lawyers in private practice. They work throughout the year, contributing their time. He described the annual meeting as the antithesis of a junket, noting that commissioners from across the country meet as a committee-of-the-whole for the entire week of the conference, drafting legislation and critiquing those drafts.

The 3 Maine members have paid virtually all of their own expenses in the past 2 years, and Mr. Robinson urged the Council to restore the funds necessary to reimburse them fully for their expenses, given the importance of their work to the State of Maine.

Discussion focussed on:

1. How Commission members are appointed (Sen. Pray)

Mr. Robinson responded that they were all appointed by the Governor, pursuant to Statute; Rep. Marsano noted, however, that the Commissioners essentially "report" to the Legislature, since the uniform legislation comes directly to the Legislature.

2. Whether the appointing authority should be changed (Sen. Pray)

Speaker Martin observed that Maine still had the same appointing process it had adopted in 1895, when Maine first joined the Conference, and that many other states had changed the appointment process.

Motion: That the Council restore \$3,500 for the purpose of reimbursing all of the Commissioners' expenses incurred in attending the Annual Conference. (Motion by Speaker Martin; second by Rep. Marsano; approved 6-2).

General Legislative Budget

The Council's discussion then returned briefly to the Legislature's own budget. Rep. Marsano expressed concern about the size of the balance forward; however, Speaker Martin noted that the new Legislature would not be able to sustain the same level of savings because it is possible "to live without" some things through the short session that must be funded in the long session. Rep. Mayo reminded Council members how deeply they had cut, and Sen. Clark noted that the Legislature had severely curtailed its ability to respond to constituents.

The Council took no further formal action on this item.

REPORTS FROM COUNCIL COMMITTEES

Subcommittee on Audit & Program Review Committee

Speaker Martin drew members' attention to the letter from the Chairs of the Joint Standing Committee on Audit & Program Review requesting clarification about when the Committee should schedule the public hearings on its bill. The Speaker reported that the Council had previously approved a December 1 deadline for completion of all work based on the Subcommittee's recommendation, and that the hearing needed to be scheduled in accordance with this deadline.

The Council agreed that a letter of clarification should be sent to the Chairs that the December 1 deadline applied to all of the Committee's work.

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; unanimous).

The Council proceeded to go into Executive Session at 4:34 p.m.

RECONVENE

The Council reconvened in public session at 5:04 p.m.

Personnel Committee

Rep. Gwadosky, Committee Chair, presented the following motions on behalf of the Committee.

Motion: That the Personnel Policies Manuals for Senate and House Staff as previously approved by the Council be published and distributed at the earliest possible time; and, further, that the presiding officers review current policies regarding the accrual and expenditure of overtime in their respective bodies and determine whether a single policy can be established. (Motion by Rep. Gwadosky; second by Speaker Martin; unanimous).

Motion: That the Council adopt the following policies regarding the accrual and expenditure of overtime and other earned leave, consistent with the policies that have already been adopted for other state employees.

Vacation and Sick Leave:

Rate of accrual: No change.

Expenditure : Employees to be charged 7 hours of leave if they are absent on the scheduled 7-hour day.

Overtime:

Employees in Salary Ranges 1-6

The 40th hour in each week will be worked at "straight time"; all additional hours will earn time and a half.

Employees in Range 7

All time beyond the 39th hour will be compensated at straight time.

Employees in Ranges 8-13

Employees will be awarded compensatory time for all work performed over and above 44 hours in a week at the rate of hour-for-hour.

Employees in Range 14-15

(Are not eligible to earn overtime)

(Motion by Speaker Martin; second by Sen. Cahill; unanimous).

Motion: That the Council adopt the proposed revision to the Income Protection policy and that the revised policy take effect January 1, 1993, and be applied to all legislative employees who deliver after that date; and, further, that any employee who is currently pregnant be offered the option of applying for Income Protection under either policy. (Motion by Rep. Gwadosky; second by Sen. Clark; unanimous).

Motion: That the Legislative Council authorize extension of its Income Protection Plan to eligible employees as recommended by the Personnel Committee. (Motion by Rep. Gwadosky; second by Sen. Cahill; unanimous).

Motion: That Lynn Randall, State Law Librarian, be awarded a step increase effective as of her anniversary date, June 16. (Motion by Rep. Gwadosky; second by Sen. Clark; approved 6-2).

Motion: That the recommendation to hire Alexandra Avore for the position of Analyst in the Office of Fiscal & Program Review be approved. (Motion by Rep. Speaker Martin; second by Sen. Clark; unanimous).

Committee on Total Quality Management

The Chair, Sen. Pray, reported that the Committee had met for the first time that morning and had begun to define areas of focus for their future meetings. He noted that this Committee was required by law to submit an interim report by September 1 and that the report would come to the Council.

No Council action was required.

OLD BUSINESS

Item #1: Council of State Governments: Reconsideration of Dues and Invitation to Host 1995 Meeting (Tabled at May 12 meeting, pending further information regarding the legislative budget)

Motion: That the Council approve payment of the dues (Motion by Sen. Clark; second by Sen. Cahill).

Discussion centered on the following issues:

- Whether the intent of the motion was to approve payment of Maine's dues for both 1992 and 1993 (Speaker Martin).

Sen. Pray responded that the intent was to pay 1993 only. After further discussion, members agreed that it was necessary to clarify with CSG/ERC whether payment of only 1 of the two year's of outstanding dues would be sufficient to reinstate Maine as a member.

- The relationship between approving payment of the CSG dues and supporting individual legislators' travel to meetings sponsored by CSG (Speaker Martin).

Speaker Martin expressed his concern that out-of-state travel had become a partisan issue and that it was difficult to justify payment of the dues (\$51,700 for each of the two years) if there was no support for legislators' participation in the organization. Sen. Cahill responded that the decision to make out-of-state travel a political issue was an individual decision.

- Whether Maine needs to participate in two national organizations given the State's current situation (Rep. Marsano; Sen. Dutremble).

Sen. Clark responded that she had found that CSG/ERC's focus on regional issues extremely valuable.

- The benefits of participating in national organizations, both to individual legislators and to the State's economy. Notwithstanding the concern about the current budget situation, both Sen. Clark and Rep. Marsano stressed the importance of supporting legislators' participation in these organizations because they offer "incredible" learning opportunities.

Sen. Pray observed that Maine had been scheduled to host the CSG/ERC annual meeting in 1995, but that this "invitation" would be withdrawn if Maine did not pay its dues. He pointed out that hosting a meeting such as ERC generates economic activity, and that it is necessary "to spend money to make money".

Motion: That this item be tabled to provide an opportunity to have further discussions with CSG. (Motion by Rep. Marsano; second by Rep. Gwadosky; approved 7-1).

Item #2: Request for Council Authorization of an Interim Study on Recall (Tabled at May 12 meeting, pending further information regarding the legislative budget)

Motion: That the proposed study be approved with a revised budget (Motion by Speaker Martin; second by Sen. Clark).

Discussion:

This study had originally been proposed in legislation (LD 1964), which was indefinitely postponed during the Second Regular Session. The bill specified a total membership of 12, including 6 who were not legislators. The Chair, Sen. Pray, noted that the Council did not have the authority to approve formation of a study group that included non-legislative members. After brief discussion, Rep. Mayo offered a "friendly amendment" to the original motion to authorize the President and Speaker to appoint an ad hoc committee to carry out this study. The amendment was accepted, and the vote was taken on the original motion as amended with, 6 members voting in the affirmative and 2 opposing.

Speaker Martin announced that he would assign someone from his staff to staff this committee.

NEW BUSINESS**Item #1: Constitutional Officers and State Auditor: Salary Status**

The Chair, Sen. Pray reported that he had written the letter in response to inquiries from two of the Constitutional Officers, noting that the letter simply clarifies that the provisions in the recently passed budget (Ch 780, P.L. 1991) regarding the reduced work week and the extension of salary reductions for certain State employees applied to the Constitutional Officers and State Auditor.

Motion: That the letter be accepted and placed on file (Motion by Rep. Mayo; second by Sen. Clark; unanimous).

Item #2: Recommendation from the Speaker regarding the Salary for the Clerk of the House, Debbie Wood

Speaker Martin reported that he had appointed Ms. Wood to the position of Clerk upon Ed Pert's retirement in accordance with House Rules, and that his recommendation to the Council to place Ms. Wood in Step 2 of Range 14 was consistent with the statute. Rep. Marsano stated that he interpreted the statutory provisions regarding salary as pertaining only to individuals who had been elected to the positions. However, Speaker Martin replied that he had asked the Attorney General's office for advice on whether he was simply appointing a Clerk *pro tem* and was advised that he was appointing a new Clerk.

Sen. Dutremble asked whether there would be a special election at the September Special Session, and Speaker Martin replied affirmatively.

Motion: That Deborah Wood be assigned to Salary Range 14, Step B, pursuant to statutory authority, effective as of the date of her appointment. (Motion by Speaker Martin; second by Sen. Clark; unanimous).

Item #3: Request from Joint Standing Committee on Education for Interim Study of Maine's School Funding Formula

After brief discussion of the letter from the Committee Chairs, Sen. Estes and Rep. Crowley, Council members agreed that they would reconsider this item at their August meeting, in order to allow members to have some time to think about how to structure a legislative study committee for this purpose to ensure continuity to the 116th Legislature.

Motion: That the item be tabled (Motion by Sen. Clark; second by Sen. Cahill; unanimous).

Item #4: Letter from David Silsby

Mr. Silsby had sent all Council members a letter announcing his wish to "retire" from his contractual arrangement as of June 30, the end of the fiscal year. He reported that his lifelong avocation - painting - has become a new vocation and that he no longer can devote the time to his duties with both the State House and Capitol Park Commission and the Special Committee to Develop a New Capitol Area Master Plan that these require. He stressed that he would always be available to this Council and to future Councils, but strongly encouraged the Council to find someone with the requisite skills to continue to pursue the issues he had outlined in his letter on behalf of the Council. Speaker Martin asked Mr. Silsby for recommendations of individuals qualified to assist the Council in this regard.

The Chair, Sen. Pray, complimented Mr. Silsby on his letter to the Council, noting that it provided Council members with an excellent summary of the major issues surrounding both the preservation/restoration of the State House and the development of a new Master Plan for the Capitol Area. He went on to express his personal appreciation to Mr. Silsby for his continued service to the Legislature in many capacities.

Motion: That Mr. Silsby's letter be accepted with the Council's deepest regret. (Motion by Speaker Martin; second by Sen. Clark; unanimous).

Item #5: Planting around the State House

Sally Tubbesing, Executive Director, drew Council members' attention to the fact that most of the gardens around the State House had not been planted due to the lack of funds available to buy plants. She reported that several legislative staff had suggested that they would be willing to contribute to a "Flower Fund" for the purpose of buying the flowers and stated that her purpose in bringing this item before the Council was merely to determine whether there would be any objections. The project was approved by unanimous consent!

ANNOUNCEMENTS AND REMARKS

Sen. Pray announced the date of the July Council meeting: Wednesday, July 22, at 1 p.m.

ADJOURNMENT

The Council meeting was adjourned at 5:24 p.m., without objection.