

MAINE STATE LEGISLATURE

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VICE-CHAIR

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SEN. MARY E. SMALL
SEN. PAUL T. DAVIS, SR.
SEN. SHARON ANGLIN TREAT
REP. PATRICK COLWELL
REP. JOSEPH BRUNO
REP. WILLIAM S. NORBERT
REP. WILLIAM J. SCHNEIDER

DAVID E. BOULTER
EXECUTIVE DIRECTOR

120th MAINE STATE LEGISLATURE
LEGISLATIVE COUNCIL

**MEETING SUMMARY
JANUARY 22, 2002
APPROVED FEBRUARY 27, 2002**

CALL TO ORDER

The Chair, Speaker Michael V. Saxl, convened an informational meeting of the Legislative Council at 9:08 a.m.

ROLL CALL

Senators: Sen. Michaud, Sen. Daggett, Sen. Davis
Absent: Sen. Small, Sen. Treat

Representatives: Speaker Saxl, Rep. Bruno, Rep. Schneider
Absent: Rep. Colwell, Rep. Norbert

Legislative Officers: Millicent MacFarland, Clerk of the House
David Shiah, Assistant Clerk of the House
David Boulter, Executive Director, Legislative Council
Paul Mayotte, Director, Legislative Information Services

REPORTS FROM EXECUTIVE DIRECTOR AND STAFF OFFICE DIRECTORS

None.

REPORTS FROM COUNCIL COMMITTEES

None

OLD BUSINESS

None

NEW BUSINESS

Item #1: An Act to Clarify the Law Enforcement Authority of Capitol Security Personnel (LD 2079)

The Chair, Speaker Saxl reported that on Friday, January 18, 2002, there was legislation before the House of Representatives regarding Capitol Security personnel and concern had been expressed to him that there had not been an adequate opportunity for public comment or to ask questions. The bill, LD 2079, had not been referred to a committee. The purpose of the Council meeting is to give that opportunity and discuss the legislation in a public setting.

Attending the meeting was Donald Switter, Director, Capitol Security and Michael Kelly, Commissioner, Department of Public Safety.

Discussion: Commissioner Kelly briefed Council members regarding the number of hours of training currently required for various levels of law enforcement personnel. Director Switter spoke on what was required and given for training to Capitol Security personnel.

Rep. Bruno asked for a summary of what gave rise to the legislation. Commissioner Kelly said that the Department of Public Safety was required to provide a Government Evaluation Act report to the Legislature in the 2nd Regular Session. As the review was being done in preparation for the report, it was discovered that Capitol Security personnel were not provided an exemption under law, as had been assumed, to the 750 hour training requirement. Without the training, Capitol Security officers may not use law enforcement powers. It had been presumed that 100 hours of training was sufficient. In a past legislative session, the Department had sought a direct exemption to the training requirement for Capitol Security, the director of the State Fire Marshal's office and Liquor Enforcement. As part of the legislation, Capitol Security officers would train to a 750 hour level. However, the legislation failed to pass (died on Appropriations Table).

As part of the Government Evaluation Act review, Commissioner Kelly asked the Attorney General's Office for an opinion as to who within Capitol Security is exempt from the 750 hour training requirement. On January 10, 2002 the Attorney General opined that 4 of the Capitol Security officers were not afforded the exemption, therefore removing their law enforcement powers. Three, being hired prior to 1990, were exempt from requirement, Chief Switter being one.

LD 2079 proposes to provide a limited term exemption so Capitol Security officers may be reinstated with law enforcement powers. Chair, Speaker Saxl noted that matters involving the administration of the Legislature as an institution need to be decided through the Council process. The Legislative Council is charged with that responsibility. The Speaker suggested there should be a Council process to review the Governor's budget proposal for additional resources for Capitol Security and make a policy determination, inviting the Criminal Justice Committee to participate. When the emergency budget is passed, LD 2079 can be sunsetted, but until then, the Chair felt that the Legislature should provide security and safety for all at the State House, which requires law enforcement powers for Capitol Security.

Rep. Bruno, not disagreeing, sought to determine how the problem should be addressed for the long-term solution. He believes the Criminal Justice Committee, who heard the bill originally, should participate in the review process. Speaker Saxl noted the matter arose originally through the Government Evaluation Act and because the Criminal Justice Committee has policy jurisdiction over the Department of Public Safety, the matter was discussed in the committee. From a policy perspective, there is concurrent jurisdiction by the Council and the committee. The Council is the management arm of the Legislature and has responsibility over operations, including State House security, and the Criminal Justice Committee has the responsibility to oversee the Department of Public Safety. The Speaker recommended that the Legislative Council ask the Criminal Justice Committee for comments and participation, but that the Council make the recommendation on the legislation.

Sen. Davis inquired as to what would happen if the bill did not pass. Commissioner Kelly said the law enforcement powers would be removed from Capitol Security personnel, and they could perform only security guard duties.

Rep. Schneider asked if the Department intended to extend the training exemption on a permanent basis. Commissioner Kelly explained that the sunset provision in LD 2079 would allow time to develop a long-term solution. Commissioner Kelly explained that there are various levels of law enforcement training that had been proposed but rejected. The Criminal Justice Committee and the Department can agree on an alternate plan, but the law only recognizes two levels of training, the 720 and 100. A long-term solution is required.

Speaker Saxl believed Council members will need additional information as they review the proposed long-term resolution. He asked Commissioner Kelly to submit a written explanation of the 100 hour and the 750 hour training requirements and the 280 hour requirement that had been considered. He also asked that the Commissioner identify any other law enforcement entities that are affected by the Attorney General's opinion for which a waiver is necessary.

The Chair, Speaker Saxl thanked Commissioner Kelly and Chief Sutter for meeting with the Council.

ANNOUNCEMENTS AND REMARKS

None.

ADJOURNMENT

No action was taken.

The meeting ended at 9:32 p.m. (There was not a quorum).