

MAINE STATE LEGISLATURE

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REP. MICHAEL V. SAXL
CHAIR

SEN. MICHAEL H. MICHAUD
VICE-CHAIR

SEN. BEVERLY C. DAGGETT
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
May 29, 2002
Approved June 24, 2002

CALL TO ORDER

The Chair, Speaker Michael V. Saxl, called the Legislative Council meeting to order at 10:37 a.m. in the Legislative Council Chamber.

ROLL CALL

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

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

Legislative Officers: Pamela Cahill, Secretary of the Senate
David Shiah, Assistant Clerk of the House
David Boulter, Executive Director, Legislative Council
Grant Pennoyer, Director, Office of Fiscal and Program Review
Patrick Norton, Interim Director, Office of Policy and Legal Analysis
Suzanne Gresser, Principal Attorney, Office of the Revisor of Statutes
Lynn Randall, State Law Librarian
Paul Mayotte, Director, Legislative Information Services

SUMMARY OF THE APRIL 23, 2002 COUNCIL MEETING

Motion: That the Meeting Summary of April 23, 2002 be accepted and placed on file. (Motion by Sen. Michaud, second by Rep. Colwell, unanimous)

REPORTS FROM EXECUTIVE DIRECTOR AND STAFF OFFICE DIRECTORS

- **Executive Director's Report**

Executive Director Boulter presented one item to the Legislative Council, which involved the dioramas in the connector. He reported that he has had discussions with the Maine State Museum regarding a schedule and funding for final completion of the diorama restoration. Museum funds have not been made available for the project. Mr. Boulter indicated that he will ask the Space Committee to review the matter, before there is a proposal for the full Council.

No Council action required.

- **Legislative Budget Update**

Rose Marie Breton, Assistant for Administrative Services, Office the Executive Director, reported that the Governor issued an Executive Order that curtailed spending in FY 02 and FY 03. Speaker Saxl, Senate President Pro Tempore Michaud, and President Bennett also issued a related memo directing legislative offices to curtail spending. Discussions with the Governor's Office and the Budget Office revealed that the Legislature will be expected to absorb the cost of the general salary increases for FY 03 in the amount of approximately \$700,000. Account balances may be available at the end of FY 02 to fund that cost.

Ms. Breton said based on her preliminary analysis, if spending is curtailed in FY 03 for the Legislature based on discretionary All Other funds, it appears that the budget reduction would be approximately \$55,000.

No Council action required.

- **Fiscal Report**

Grant Pennoyer, Director, OFPR, presented the following fiscal report.

1. **General Fund and Highway Fund Revenue Variances**

The General Fund was below revenue projections by \$44.6 million in April and below budget by \$61.8 million fiscal year to date. The problem areas are individual income tax, corporate income tax and estate tax. The positive areas are sales tax, insurance companies tax and cigarette tax.

The General Fund Revenue, excluding the individual income tax line, is very close to projections. Individual income tax was reprojected downward twice for FY 2002 by the Revenue Forecasting Committee: \$30.7 million down in November 2001 and an additional \$3.1 million down in February, 2002. May revenue collections appear to be under budget in individual income, sales, corporate income and cigarette taxes, but estate tax gained ground due to a large estate settlement, and insurance company tax is well above budget.

Revenues for the Highway Fund are up by \$0.8 million for April and up \$5.8 million for fiscal year to date.

2. Revenue Forecasting Schedule

A joint meeting of the Economic Forecasting Commission and the Revenue Forecasting Committee is scheduled for June 20th in Room 228 of the State House.

Personal income revenue revisions are to be released by the Federal government on July 24, 2002.

The Revenue Forecasting schedule will depend on the needs of the Legislature.

3. Cash Balances

Mr. Pennoyer provided information on the General Fund and Highway Fund cash positions. For March, the General Fund cash position, excluding reserves, (the Maine Rainy Day Fund, the Revenue Reserve, and Working Capital Advance), was \$261 million negative. The 12-month moving total also was negative, for the 1st time since 1994. The Tax Anticipation Note issuance next year will improve the cash position.

No Council action required.

- **Office of Information Services' Report**

Mr. Mayotte, Director, Office of Information Services, reported to the Council that:

1. Progress Report on the computer migration/bill drafting system

Contract Amendment 4, was entered into by Compaq and the Executive Director, on behalf of the Legislative Council, on May 21, 2002. The contract provides for Compaq to complete, test and deliver the new bill drafting system within 100 business days.

2. Legislative Director Internet Access

There are no major technical issues. There remain three items: the global address list finalization; the address approval by the CIO; and to implement the secure link with BIS. The secure link is physically in place and is being tested. Mr. Mayotte said he is in discussions with BIS regarding the process for the global address, which allows the Legislature and the Executive Branch to exchange state email addresses.

Mr. Mayotte noted that a Special Session will potentially affect the timing of the implementation, a matter he would present to the Technology Committee for discussion. Speaker Saxl suggested that Mr. Mayotte work with the Secretary, Clerk, Leadership and the Executive Director to resolve issues that may arise.

REPORTS FROM COUNCIL COMMITTEES

- **Personnel Committee**

Speaker Saxl, Chair of the Personnel Committee, reported the Committee is in the final stages of hiring a new Director for the Office of Policy and Legal Analysis. It is the Committee's hope, to have a recommendation to the Council in the very near future.

The Chair moved that the Council take an item out of order, unless there was objection. Hearing none, the Chair moved to a request for unpaid leave of absence.

- **Request for Unpaid Leave of Absence**

Executive Director Boulter reminded Council members that under the current Personnel Policy Handbook, requests for unpaid leave of absences are subject to approval by the Legislative Council. The Council has received a request for unpaid leave of absence and was reviewed by the Personnel Committee. The Personnel Committee recommended to the Council that the unpaid leave of absence as requested by Polly Gosselin be approved subject to one condition.

Motion: That the request by Polly Gosselin for an unpaid leave of absence be granted, subject to a pro-ration of health insurance costs during the period of unpaid leave. (Motion by Speaker Saxl, second by Rep. Bruno, unanimous).

- **Technology and Migration Committee**

None.

- **Space Committee**

The Space Committee submitted its Meeting Summary of the April 30, 2002 to the Legislative Council, and is included in the Council's packet.

A member raised a question as to the current status of the snack bar. Currently, the snack bar is closed except for several soda vending machines and candy vending machine.

Mr. Boulter explained that the Division of the Blind notified him that the snack bar vendor (who also runs the Cross Building Cafeteria) had closed the snack bar because it was unprofitable. The division has been seeking a new vendor but to date has been unsuccessful. Under current law, the preference must be given to vendors who are blind or sight-impaired to operate the snack bar. If the division is unable to find a suitable vendor under its program, the Legislature may seek a commercial vendor.

Legislative Council members commented that unprofitability may be related to the previous vendor's limited food variety, erratic hours of operation and availability and lack of signs announcing foods and specials, and costs. The Legislative Council expressed the desire to see a fully operational snack bar year-round and required the executive director take the necessary steps to find a new vendor, including issuing a RFP for a commercial vendor if necessary.

No Council action required.

OLD BUSINESS

None

NEW BUSINESS

Item #1: Council Actions Taken by Ballot

Speaker Saxl drew Council members' attention to the ballot approved for a contract amendment between the Legislature and Compaq Computer Corporation. A copy of the ballot is attached.

Item #2: Request for Authorization to Complete Selected State House Renovations Projects

Executive Director Boulter reported that the North Wing renovations are nearly completed. He has had the opportunity to review the budget for available contingency funds that may be used to complete some projects that were put on hold because of the then uncertainty of the total cost for interior renovations work. Several significant projects that were placed on hold until it was known there was enough funds to proceed. The major work remaining includes the restoration of the east steps and the south steps, installation of safety railings for the roof (currently there is no protection for persons on the roof) and the membrane repair on the north and south ends of the roof where there has been deterioration. According to Granger Northern the estimate for the work is approximately \$456,000 with a completion date of fall of this year. The contingency balance is approximately \$406,000. The Department of Transportation has offered \$100,000 as a contribution towards restoration of the east side steps. Therefore, there should be sufficient funds to complete the work projects within the original GMP for the North Wing renovations, allowing for some contingency.

Motion: That the Legislative Council authorize the proposed work, utilizing remaining funds budgeted for the current State House renovations work and the DOT funds made available to the Legislative Council. (Motion by Sen. Michaud, second by Rep. Norbert, unanimous).

Item #3: Proposal for Security Camera Installation in State House

Mr. Boulter reminded members that security cameras were recommended by the Committee to Consider Additional Security Measures. As proposed, cameras would be installed at all exterior door locations and at the outside entrances (plaza areas). The Council had requested a proposal before proceeding and he was reporting back to the Council.

Mr. Boulter had received a proposal from E.S. Boulos Company for the purchase and installation of the cameras and operating system and also a supplemental proposal from the Department of Public Safety, Maine State Police, recommending certain additional camera installations and other technical changes to enhance building security. There are a variety of costs and options to consider with respect to camera type, system design and sophistication and installation locations. Costs to implement the proposals range from a low of about \$64,000 to a high of about \$112,000. Money for camera installation would

come from the Reserve Fund for State House Preservation and Maintenance; sufficient funds would be available after July 1, 2002. Mr. Boulter continues to have discussions with representatives from the Department of Administrative and Financial Services about a cost-sharing arrangement, but has not received any firm commitment for sharing costs for the project.

Motion: That the proposal for security camera installation be referred to the Legislative Council Subcommittee to Consider Additional Security Measures for review and decision. (Motion by Sen. Treat, second by Sen. Davis, unanimous).

Item #4: Request by Maine State Employees Association, SEIU Local 1989, AFL-CIO for Voluntary Recognition of Union to Represent Certain Legislative Employees

Executive Director Boulter reported that he had received three (3) forms on May 28, 2002 from the Maine State Employees Association: a form for voluntary recognition of MSEA as the bargaining agent for three (3) proposed bargaining units of Legislative employees; a form for agreement to MSEA's proposed bargaining units; and a form for agreement to a process to agree upon bargaining units with subsequent voluntary recognition of the union. Mr. Leinonen, Executive Director of MSEA requested that the matter be placed on the May 29th Legislative Council agenda. His request was accommodated. Mr. Boulter noted that the Legislative Council was free to accept the union proposal for the Council's agreement to the proposed bargaining units and voluntary recognition of the union as legislative employees' bargaining agent; alternatively it may request (through the Maine Labor Relations Board) that all affected employees be afforded the opportunity to vote whether to organize, and if so, on who would be their recognized bargaining agent. He also noted that not all employees who would be bound by a decision to recognize a union had been made aware of the proposal made by MESA. Mr. Boulter commented that the Legislative Council is not obligated to act immediately, but may take time to study the proposal and consider its options and the implications.

Speaker Saxl offered Mr. Carl Leinonen, Executive Director, Maine State Employees Association, SEIU Local 1989, the opportunity to address the Council on his request. Mr. Leinonen said approximately four years ago the Legislature passed legislation to allow legislative employees to join a union. The law states the employees may make a request to the Council for union recognition, as the Council is the employer of record. Mr. Leinonen asserted that the Council upon determining that a majority of employees desire representation, must grant recognition, unless it chooses to use an alternative route. He further stated that in the law, the first option is to grant recognition upon proof of majority. Mr. Leinonen suggested a majority of employees in this situation be verified by a "card check" and that the Maine Labor Relations conduct it.

The second issue he raised was the scope of the bargaining units. Mr. Leinonen said they had included in the information provided to the Council their proposals for appropriate bargaining units. Once the units are determined, he proposed the card check.

Members then asked several questions of Mr. Leinonen. In summary, according to Mr. Leinonen:

- The first threshold question is how to determine the certification, whether it be by certifying union cards, by holding an election or by just unilaterally certifying the union without a vote.

- Prior to the certification, it would be appropriate for the Council to sit down with representatives from the employees who chose to organize to discuss bargaining units and then make a determination of bargaining units and then if there is an impasse there, the matter would go to the Maine Labor Relations Board for resolution.
- The third step would be allowing for the Maine Labor Board to certify those cards or if the Council wishes an election, then there would be a different process used, which he thought would be more cumbersome.

Speaker Saxl asked Mr. Boulter to introduce Linda McGill, the labor attorney hired to represent the Legislative Council. Linda McGill, is an attorney from the law firm of Moon, Moss, McGill and Hayes, of Portland.

EXECUTIVE SESSION

Motion: That the Council go into Executive Session for the purpose of discussing personnel matters. (Motion by Rep. Bruno, second by Sen. Small, discussion.) There was brief discussion regarding attorneys having different interpretations and the necessity of an executive session. Rep. Bruno withdrew his motion.

Motion: That the Council go into Executive Session for the purpose of discussing the union certification process and related collective bargaining matters. (Motion by Rep. Bruno, second by Sen. Davis, the motion passed, 8-1, Sen. Treat opposed).

The Council proceeded to go into Executive Session at 11:45 a.m.

MEETING RECONVENED

The Council ended its Executive Session and reconvened in open session at 12:05 p.m., on the motion of the Chair.

Discussion after reconvening regarded referring the union recognition matter to the Personnel Committee and when the Personnel Committee would meet. A request was made by some Council members that the matter be acted upon expeditiously.

Motion: That the requests by MSEA be referred to the Personnel Committee for review and recommendation and that the Personnel Committee consider this matter at its earliest available opportunity. A friendly amendment added by Speaker Saxl, that the Personnel Committee meet on the nearest date possible that the Personnel Committee is available. (Motion by Rep. Bruno, second by Speaker Saxl, unanimous).

ANNOUNCEMENTS AND REMARKS

The next Legislative Council meeting is scheduled for June 26, 2002 at 1:00 p.m.

ADJOURNMENT

The Legislative Council meeting was adjourned at 12:10 p.m. (Motion by Rep. Bruno, second by Sen. Davis, unanimous).