

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

120th MAINE STATE LEGISLATURE
LEGISLATIVE COUNCIL

DAVID E. BOULTER
EXECUTIVE DIRECTOR

MEETING SUMMARY
June 24, 2002
APPROVED July 31, 2002

CALL TO ORDER

The Chair, Speaker Michael V. Saxl, called the Legislative Council meeting to order at 1:27 p.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, Rep. Schneider
Legislative Officers:	Pamela Cahill, Secretary of the Senate Joy O'Brien, Assistant Secretary of the Senate Millicent MacFarland, Clerk of the House David Shiah, Assistant Clerk of the House David E. Boulter, Executive Director, Legislative Council Grant Pennoyer, Director, Office of Fiscal and Program Review Patrick Norton, Interim Director, Office of Policy and Legal Analysis Margaret Matheson, Revisor of Statutes Lynn Randall, State Law Librarian Paul Mayotte, Director, Legislative Information Services

SUMMARY OF THE MAY 29, 2002 COUNCIL MEETING

Motion: That the Meeting Summary of May 29, 2002 be accepted and placed on file. (Motion by Sen. Michaud, second by Sen. Treat, unanimous).

REPORTS FROM EXECUTIVE DIRECTOR AND STAFF OFFICE DIRECTORS

- **Executive Director's Report**

Executive Director Boulter gave an update on current renovations in the State House. The final touch-ups on the punch list for the Hall of Flags are being done, finish work on the interior of the building is being completed and the exterior work will begin the end of June or first of July. All trailer units in the lower parking lot have been removed.

Mr. Boulter distributed to Council members the Enacted Law Digest, prepared jointly by the Offices of Fiscal and Program Review and Policy and Legal Analysis. It is a summary of all the laws, joint orders and resolves passed during the 120th, 2nd Regular Session. As companion documents, bill summaries are also now available.

Executive Director Boulter also reported that the Percent for Art Committee is continuing its work and within the next several months, will be making a recommendation to the Legislative Council with respect to artists and art work for the 1st floor of the State House.

- **Legislative Budget Update**

Rose Marie Breton, Assistant for Administrative Services, Office of the Executive Director said she had been notified by the Budget Office of the Governor's plan for addressing the revenue short fall that includes a \$200,000 reduction to the Legislature. Based on a preliminary review of the accounts, the Legislature will meet the reduction from savings through budget reduction measures implemented by the Chair and Vice-Chair of the Council and the Senate President. In FY 03 the Legislature is also expected to absorb the costs of salary increases, totaling approximately \$700,000.

Rep. Bruno asked if the Legislative Council intended to make further decisions to reduce its budget by 5%. The Speaker responded that with already approved actions, including self-funding collective bargaining, furlough days, restricting travel, limiting off-site committee meetings and postponing filling position vacancies, that amount could be reached.

No Council action required.

- **Fiscal Report**

Grant Pennoyer, Director, Office of Fiscal and Program Review, presented the following fiscal report.

- 1. General Fund and Highway Fund Revenue Variances for May**

The General Fund was below revenue projections by \$37.2 million in May and below budget by \$58.5 million fiscal year to date. The problem areas are corporate income tax, individual income tax and income from investments. The positive revenue areas are insurance companies tax, estate tax, and the Inland Fisheries & Wildlife license fee.

The General Fund Revenue (excluding individual income and corporate income taxes) is more than \$15 million ahead for fiscal year to date.

Revenues for the Highway Fund are up \$3.4 million for May and up \$9.1 million for fiscal year to date.

Mr. Pennoyer reported that the FY 02 revenues will be greater than \$100 million less than projected once the final figures are in.

2. Revenue Forecasting Schedule

The Economic Forecasting Commission met with the Revenue Forecasting Committee on Thursday, June 20, 2002. The release of the personal income revision will be out on July 24, 2002 at which time it is expected that the Bureau of Economic Analysis will be revising the personal income numbers downward for 2001 and will affect the Economic Forecast. The Consensus Economic Forecasting Commission is scheduled to meet July 25th or 26th, immediately after the release of the data. The Revenue Forecasting Committee is scheduled to meet August 14th and if further discussion is needed, will meet again on August 28th. The meetings will be held in the Appropriations Committee Room, Room 228, State House.

No Council action required.

- **Office of Information Services' Report**

Paul Mayotte, Director, Legislative Information Services, reported on two items.

1. Computer Migration/Bill Drafting System

The implementation of Contract Amendment 4 with Compaq is well underway. Compaq is on schedule and on track to the work plan. There are no major issues at the present. Compaq has assigned a new project manager to the Legislature and the transition has gone very well.

2. Legislative Direct Internet Access

Mr. Mayotte reported there were only two issues remaining to be resolved and he is receiving support from the State's CIO in resolving them. He is working with BIS on the global address list, (exchanging addresses between the Executive Branch and the Legislative Branch) and the final approval from the CIO on the "Maine.gov" address for the Legislature.

Sen. Treat asked the timetable for the address changes. Mr. Mayotte said they would continue to use the current "state.me.us" address for both the Web page and email addresses, and will activate "Maine.gov" so the Legislature would have both addresses. The plan would be to phase out the old address by the time the 121st Legislature is sworn in so stationery, business cards, etc. could be printed with the new address.

No Council action required.

- **Update on Interim Study Appointments**

Patrick Norton, Interim Director, Office of Policy and Legal Analysis, reported that his office is tracking nine new legislative studies that require legislative appointments. To date, the only study that has completed its appointments is the Study of Benefits and Costs for Increasing Access to Family and Medical Leave for Maine Families and its first meeting will be set up shortly.

No Council action required.

REPORTS FROM COUNCIL COMMITTEES

- **Personnel Committee**

- a) **Recommendation to appoint David C. Elliott as OPLA Director**

Speaker Saxl, Chair of the Personnel Committee, reported that the Committee has concluded the search for the OPLA Director and offered the following motion:

Motion: That the Legislative Council appoint David C. Elliott of Whitefield, Maine as director of the Office of Policy and Legal Analysis; that Mr. Elliott's appointment be for a 3-year term pursuant to 3 MRSA, section 162, subsection 6, subject to a 1-year probationary period; and that Mr. Elliott's initial salary in the position be a salary grade 14, step 6; further that,

the organizational structure of the Office of Policy and Legal Analysis be changed from the current director/principal analyst to director/deputy director structure, with implementation of the changed structure be carried out by the director and the executive director; and further that,

the executive director, develop, subject to approval of the Personnel Committee, performance standards and goals for the director of the Office of Policy and Legal Analysis for his first year of appointment. (Motion by Speaker Saxl, second by Sen. Small, approved 9-0-1. Rep. Schneider abstained).

[**Note:** Mr. Elliott's appointment became effective on July 1, 2002.]

The Legislative Council congratulated Mr. Elliott on his appointment as Director.

- b) **Request for Income Protection**

Motion: That income protection, as provided for under the Legislative Council's Personnel Policies and Guidelines for a legislative employee, be granted as reviewed and recommended by the Personnel Committee at its June 24, 2002 meeting. (Motion by Rep. Bruno, seconded by Sen. Small, unanimous).

- c) **Update on MSEA Request for Union Recognition and Agreement Information to Bargaining Units.**

Speaker Saxl said a letter had been sent on June 20, 2002 to MSEA agreeing to meet for the sole purpose of discussing the scope and composition of a bargaining unit(s). The Personnel Committee appointed Legal Counsel Linda McGill, Esq., Sen. Small and Sen. Daggett and Executive Director Boulter to the Subcommittee to discuss the bargaining unit(s). The Speaker may participate ex officio.

Discussion on the status of certification of the union followed. Speaker Saxl said the Personnel Committee has discussed how to certify or how to allow employees to certify the unionization effort. There is disagreement among members of the Personnel Committee on certification; the committee has not yet resolved the issue of whether it would be by election or by card check. MSEA has submitted a revised proposed bargaining unit composition, changing from 3 bargaining units to 1 unit, which is now under consideration by the Personnel Committee.

There was discussion by Council members on whether the union bargaining unit(s) should be decided before the procedure for certifying the election or certifying the cards is determined. Some Council members wanted to move forward and have the union recognized and other members believed that the bargaining unit(s) should be established first, especially in light of 2 employee communications already received. The first was a letter received from the Office of Fiscal and Program Review stating that MSEA Executive Director Carl Lenenion misrepresented its position whether or not OFPR employees wanted to be in a union and a second memo from employees requesting an election.

Motion: That the Legislative Council accept the card certification method as the way of verifying that those employees that seek to organize can form a collective bargaining unit. Also that the Legislative Council also charge the Personnel Committee with the task of recommending to the Council the makeup of that bargaining unit. (Motion by Rep. Colwell, second by Sen. Treat).

Discussion: The Legislative Council had further discussion on the method(s) of union certification before the bargaining unit(s) were established. After discussion, the Chair referred back to the motion on the floor. Clarification of the motion was requested. In order to have a card check or an election, the bargaining unit(s) must be agreed upon or decided upon by the Maine Labor Relations Board, so under any circumstance, that would have to come first. The motion is not to recognize the union, but is to set up a process whereby once the bargaining units are decided, this would be the method in determining whether a union is recognized. The motion was restated.

Motion: That the Legislative Council establish a process of voluntary recognition of MSEA as the bargaining agent for eligible legislative employees, subject to verification of signed union cards by the Maine Labor Relations Board that a majority exists in the bargaining unit(s) once they are agreed to or determined. (Motion by Rep. Colwell, second by Sen. Treat, Motion approved 6-4. Sen. Small, Sen. Davis, Rep. Bruno and Rep. Schneider opposed).

d) Personnel Policies

The Chair, Speaker Saxl, reported that the Personnel Committee has completed its review of the revised proposed personnel policies. The Committee will conduct a final review of the final draft with the goal of presenting them at the next Legislative Council meeting for adoption.

e) June 12, 2002 Meeting Summary

No Council action required.

• Technology and Migration Committee

No report

- **Subcommittee to Consider Additional Security Measures**

The Subcommittee will be meeting June 24, 2002 immediately following the Legislative Council meeting.

- **Space Committee**

The Space Committee will be meeting Monday, June 24, 2002 at 3:15 in the Legislative Council Chamber.

OLD BUSINESS

None.

NEW BUSINESS

Item #1: Request for \$2,500 from Jonathan Connick, Maine Center on Deafness, to cover the cost of producing a videotape presentation for members of the Deaf Community in Maine regarding the Legislature's final report on its action to create the Baxter Compensation Authority

Executive Director Boulter referred Council members' to the letter in the packet received from Jonathan Connick of the Maine Center on Deafness requesting \$2,500 from the Legislature to produce a videotape presentation for members of the deaf community in Maine regarding the final report and recommendations for the Baxter Compensation Authority. The Baxter Compensation Authority was an outgrowth of a study report. The Authority is underway and producing informational material to help interested members of the public as well as victims to work through claims for compensation. Mr. Connick is requesting the Legislature to pay for the videotape of the final report.

The Speaker asked if the Legislature made a request to the Maine Center on Deafness to produce the videotape or if the Legislature has a provision in the budget to pay for the videotape. Mr. Boulter said the Legislature did not make the request, that he understood that the Maine Center on Deafness did not make such a request, and the \$2,500 had not been budgeted.

Motion: That the Legislative Council decline to approve the request and instead send a letter to the Maine Center on Deafness suggesting that it make the request for the videotape to the Baxter Compensation Authority, and, further, that the Legislative Council would support that expense as an allowable expense by the Baxter Compensation Authority. (Motion by Rep. Schneider, second by Sen. Michaud, unanimous).

Item #2: Consideration of furlough days for legislative employees

Executive Director Boulter reported that Governor King had outlined his plan to deal with the current budget shortfall. Among the steps he is implementing is requiring Executive Branch employees to take 3 furlough days within the next fiscal year, the first being July 5th. In and of itself, the Governor's decision does not affect legislative employees; that is

a decision of the Legislative Council. If the Council decides to follow the Governor's decision and place legislative employees on furlough (unpaid leave with benefits paid) for 3 days, the estimated Personal Services savings would be about \$105,000 for FY 03.

There was discussion among Legislative Council members on the use of furlough days and options: Take no action; track the Governor's decision and take same furlough days, closing offices; track the governor's decision but not his schedule, allowing employees to stagger their furlough days thereby keeping offices open; or require reductions and adjustments to legislative accounts to achieve a similar savings to the budget, but through means other than the use of employee furlough days.

Motion: That the Legislative Council follow the action that the Governor has outlined for other state employees and require legislative employees to take 3 days without pay and closing offices on those days. (Motion by Rep. Colwell, second by Speaker Saxl).

Discussion: Several members noted that the Council had already voted by ballot to furlough employees on July 5, 2002. (See attached ballot). There was consensus among the members that before the Legislative Council takes any action mandating 2 additional furlough days for legislative employees, that other available options should be fully considered.

Rep. Colwell and Speaker Saxl withdrew the above motion.

ANNOUNCEMENTS AND REMARKS

The next Legislative Council meeting is scheduled for July 31, 2002 at 1:00 p.m.

ADJOURNMENT

The Legislative Council meeting was adjourned at 2:40 p.m. (Motion by Sen. Michaud, second by Rep. Colwell, unanimous).