

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. BETH EDMONDS
CHAIR

REP. GLENN A. CUMMINGS
VICE-CHAIR

123RD MAINE STATE LEGISLATURE
LEGISLATIVE COUNCIL

SEN. ELIZABETH H. MITCHELL
SEN. CAROL WESTON
SEN. JOHN L. MARTIN
SEN. RICHARD W. ROSEN
REP. HANNAH M. PINGREE
REP. JOSHUA A. TARDY
REP. SEAN FAIRCLOTH
REP. ROBERT H. CROTHWAITE

MEETING SUMMARY
November 15, 2007
Approved December 20, 2007

CALL TO ORDER

Legislative Council Chair, President Edmonds called the Legislative Council meeting to order at 10:36 A.M. in the Legislative Council Chamber.

ROLL CALL

Senators: President Beth Edmonds, Sen. Elizabeth Mitchell, Sen. John Martin,
Sen. Carol Weston, Sen. Richard Rosen

Representatives: Speaker Glenn Cummings, Rep. Hannah Pingree, Rep. Sean
Faircloth, Rep. Robert Crothwaite, Rep. Joshua Tardy

Legislative Officers: David E. Boulter, Executive Director of the Legislative Council
Rose Breton, Legislative Finance Director
Debra Olken, Human Resources Director
Millicent MacFarland, Clerk of the House
Michael Cote, Assistant Clerk of the House
Patrick Norton, Director, Office of Policy & Legal Analysis
Grant Pennoyer, Director, Office of Fiscal and Program Review
Margaret Matheson, Revisor of Statutes
Paul Mayotte, Director, Legislative Information Services

Legislative Council Chair, President Edmonds convened the meeting at 10:36 A.M. with a quorum of members present.

SUMMARY OF OCTOBER 25, 2007 MEETING OF LEGISLATIVE COUNCIL

Motion: That the Meeting Summary of October 25, 2007 be accepted and placed on file. Motion by Senator Mitchell. Second by Representative Pingree. **Motion passed unanimous (10-0).**

President Edmonds asked if there was any objection to taking 2 items out of order. Hearing none, the Chair then moved to **New Business, Items 1 and 2.**

NEW BUSINESS

Item #1: Suggested Procedures for Deciding Appeals of Legislative Bill Requests

The agenda included a suggested protocol for deciding appeals of legislative bill requests. President Edmonds asked Executive Director Boulter to summarize the suggested protocol which he did, as follows:

1. Under the terms of the Maine Constitution, Section 1 of Article IV, Part Third, Legislative Power, the business of the second regular session must be limited to budgetary matters; legislation in the Governor's call; legislation of an emergency nature admitted by the Legislature; legislation referred to committees to study and report by the Legislature in the first regular session; and legislation presented to the Legislature by written petition of the electors (direct citizen initiative).
2. Under the 123rd Legislative Council's Rules of Procedure, any action of the Council requires the affirmative vote of at least 6 members.
3. Under Rule 203 of the Joint Rules of the 123rd Legislature, any vote of the Legislative Council to accept or reject a bill or resolve for introduction under the procedures established under the Joint Rules must be taken by the yeas and nays, and that vote must be recorded and made available for public inspection.
4. Under Rule 217 of the Joint Rules, a bill that has been introduced and finally rejected in a regular or special session may not be introduced in a subsequent session of the same Legislature except by a vote of 2/3 of both chambers. Therefore, determinations as to the relevancy of Rule 217 are within the purview of the presiding officers, not the Legislative Council.

Suggested Protocol for deciding appeals

- A. The Legislative Council will review appeals alphabetically by sponsor.
- B. For procedural consistency, when voting on an appeal of a bill request that was denied, the initial motion on a bill will be presumed to be a motion to accept the bill request for introduction into the second regular session along with a second to that motion. (Yea is to let in a bill; nay is to reject the bill for introduction).
- C. In order to review all legislative appeals in a timely manner, voting will be by electronic vote or a show of hands, with each Council Member's vote on each bill being recorded. The record of each vote will be made available for public inspection following the meeting.
- D. Legislators who appeal a decision of the Legislative Council will be given a brief opportunity to make their case to the Council. A time limit of 2 minutes will be observed for Legislators making an appeal. Only by leave of the Chair of the Legislative Council may a person who is not a Legislator address the Council.
- E. Discussion of a bill request will be limited to whether it is appropriate for introduction under Constitutional provisions for second regular session bills, and will not speak to the merits of the bill itself. If a bill was turned down because it is closely related to another legislative request

or to a carryover bill, the burden is on the Sponsor to convincingly distinguish his or her bill request from the closely related one.

Motion: That the Legislative Council adopt the suggested protocol for deciding legislative appealed bill requests as set forth in the "Deciding Appeals of Legislative Bill Requests Turned Down By the Council" document dated November 15, 2007. Motion by Senator Martin. Second by Representative Faircloth. **Motion passed, unanimous (10-0).**

Item #2: Consideration of Legislators' Appeals of Council Action on Bill Requests

The Council proceeded to consider and vote on 124 appeals of the Legislative Council decisions on bill requests in accordance with the adopted protocol, and using an automated voting system. The council's action on the appeals is attached.

RECESS

The Council recessed at 12:31 on the motion of the Chair.

RECONVENED

The Chair reconvened the meeting at 12:50 p.m. and continued with consideration of appeals until all appeals had been considered.

Of the 124 appeal requests, the Council authorized 46 requests for introduction in the 2nd Regular Session of the 123rd Legislature, 71 failed and 7 were tabled until a future Legislative Council meeting. A list of the bills and the roll call votes are attached.

The Chair then proceeded with the other items on the agenda.

REPORTS FROM EXECUTIVE DIRECTOR AND COUNCIL OFFICES

Executive Director's Report

David Boulter, Executive Director of the Legislative Council, reported on the following.

1. Copies of Original Maine Constitution

Work is underway to make reproductions of the original Maine Constitution and other historical documents. Time permitting, State Archivist David Cheever will be available at the council meeting to describe the project and display a reproduction page from the Constitution.

2. Appointment of New Employees

Ms. Carolyn Russo was appointed to the position of part-time Legislative Analyst in the Office of Policy and Legal Analysis, effective on Monday, November 19, 2007.

Ms. Maureen Dawson was appointed to the position of Principal Analyst in the Office of Fiscal and Program Review, effective on October 17, 2007.

Mr. Cheever displayed a reproduction of the 1st page of the original Maine Constitution and a letter from James Monroe proclaiming Maine to be a State. Mr. Cheever explained that the chairs of the Joint Standing Committee on State and Local Government had requested that the reproduction of the Constitution be displayed in the committee room. Legislative Council Chair Edmonds reminded

council members and Mr. Cheever that decisions to place artwork or historical artifacts such as the Constitution rest with the Legislative Council, acting through its State House Facilities Committee. At a future meeting, the Facilities Committee will discuss where best to display the 14 framed, full size reproduction pages of the Maine Constitution. After a short recess to view the documents, the meeting was reconvened at 1:05 P.M.

Fiscal Report

Grant Pennoyer, Director, Office of Fiscal and Program Review, reported the following.

Revenue Update

Total General Fund Revenue - FY 2008 (\$'s in Millions)

	Budget	Actual	Var.	% Var.	Prior Year	% Growth
October	\$238.0	\$239.9	\$1.9	0.8%	\$226.9	5.8%
FYTD	\$839.2	\$836.0	(\$3.2)	-0.4%	\$826.0	1.2%

- General Fund revenue for October was over budget by \$1.9 million, reducing the negative variance for the fiscal year-to-date (FYTD) to \$3.2 million or -0.4%. The growth over FY 2007 remains modest at 1.2%.
- Two of the problem areas noted last month, the corporate income tax and the cigarette tax, actually had positive variances in October, but remain under budget for the FYTD, \$8.4 million and \$3.0 million, respectively.
- Sales tax revenue did not perform well in October (representing September sales), running under budget by \$2.96 million. The negative variance for the FYTD increased to \$5.8 million or 2.0%. With the recent record high oil prices as we head into the heating season, this negative variance is expected to worsen as more taxable sales are displaced with tax-exempt fuel oil purchases.
- Some notable positive variances that are temporary in nature include:
 - BETR payments are below expectations, but still resulting in a positive FYTD variance of \$8.8 million;
 - Judicial fine revenue was not distributed to the highway fund and other dedicated accounts in October; and
 - IF&W revenue includes a positive variance for the FYTD of \$2.7 million associated with revenue undistributed to various categories and dedicated accounts.

Total Highway Fund Revenue - FY 2008 (\$'s in Millions)

	Budget	Actual	Variance	% Var.	Prior Year	% Growth
October	\$29.5	\$28.5	(\$1.0)	-3.2%	\$28.1	1.6%
FYTD	\$97.6	\$92.2	(\$5.4)	-5.5%	\$93.4	-1.2%

- Highway fund revenue was under budget in October by \$1.0 million, increasing the negative variance of the FYTD to \$5.4 million or 5.5%. Highway fund revenue showed negative growth of 1.2% for the FYTD over the same period in FY 2007.
- Most of this negative variance is driven by the negative variance in fuel taxes, which was under budget by \$1.2 million in October and \$4.2 million or 6.6% for the FYTD. However, motor vehicle registration and fees revenue category has also been under performing and is \$1.1 million under budget or 4.0% for the FYTD.

Schedule for Revenue Forecast

- The Revenue Forecasting Committee will meet on Monday, November 19th at 9:30AM to conclude the fall forecast for the December 1st report date.

Information Technology Report

Paul Mayotte, Director, Office of Legislative Information Services, reported the following.

Bill Drafting System:

No changes to report from the October Legislative Council Meeting – which stated:

The post session statute update and publishing process is reaching a conclusion. The process has required the Information Services office and contractor support to address issues identified during the update process. The work of the staff in the Revisor's office in using the new system for the first time has been excellent.

The updated Maine Revised Statutes on the Legislature's web page will be available shortly after the statute update process is completed.

Having used the bill drafting system for one complete session, staff is now preparing a long-term plan for maintaining and improving the bill drafting application.

Production Tracking System:

User testing has been extended to ensure a complete test. No significant problems have been found to date. The vendor, Voyager, has been prompt in the resolution of the problems found in testing.

Staff training and implementation plans are being finalized.

Chamber Automation Request for Proposals (RFP):

Five vendor responses were received on Friday, November 2, 2007.

An RFP evaluation team has been appointed by the Chair of the Subcommittee for Technology. As of Thursday, November 08, 2007, copies of each proposal have been forwarded to the members of the evaluation team for an initial review. The Subcommittee to Administer Technology is scheduled to meet Wednesday, December 5, 2007.

Status of Legislative Studies

Pat Norton, Director, Office of Policy and Legal Analysis, reported the following:

The studies are progressing and are in the final stages of completion.

REPORTS FROM COUNCIL COMMITTEES

1. Personnel Committee

Speaker Cummings reported that the Personnel Committee has been meeting over the past six weeks reviewing applications and interviewing applicants from around the country for the Director of the Law and Legislative Reference Library. The committee has concluded the recruitment process and recommends an excellent candidate based on his performance in the interview and prior education and work experience.

Motion: That upon the unanimous recommendation of the Personnel Committee, the Legislative Council appoint John F. Barden of Richmond, Virginia to a 3-year term as Director of the Law and Legislative Reference Library, the date of appointment effective January 2, 2008.

Initial salary for Mr. Barden is established at Step 3 of Grade 14 of the Legislature's salary schedule for legislative employees.

Motion by Speaker Cummings. Second by Senator Mitchell. **Motion passed, unanimous (10-0).**

2. State House Facilities Committee

(No Report)

Note: The State House Facilities Committee will make recommendations as to where the reproductions of the original Maine Constitution and other historical documents will be placed in the State House or Cross Building.

3. Subcommittee to Review the Study Committee Process

(No Report)

4. Budget Subcommittee

(No Report)

5. Subcommittee to Administer Technology

(No Report)

There was no Old Business. President Edmonds then proceeded to **Item 3** under New Business.

NEW BUSINESS

ITEM #3: Request for Reconsideration of Legislative Council's Decision on Request by the Joint Standing Committee on Criminal Justice and Public Safety to Partially Fund a Sentencing Summit (Speaker Cummings)

Speaker Cummings reported this was a request for reconsideration by the Joint Standing Committee on Criminal Justice and Public Safety of the Legislative Council's decision not to approve the request to partially fund the Sentencing Summit. The summit was held in October and Speaker Cummings asked that the Legislative Council reconsider its earlier decision not to authorize funds to partially fund this summit.

Mr. Boulter explained that after the council's decision last month, he spoke with the Department of Corrections to explain the council's decision. At that time, the department representative indicated that the Summit was sponsored by their department and it was more interested in legislator

participation rather than a financial contribution. Speaker Cummings indicated that he understood that the chairs of the Criminal Justice and Public Safety committee had made a contribution personally.

No motion was made on the request, but it was the sense of the committee that Mr. Boulter will contact the Department of Corrections about reimbursing the chairs if they in fact made a donation and wished to be reimbursed. No action was taken.

ITEM #4: Limited License Agreement Between Time Warner Cable and Legislative Council to Televis Legislative Broadcasts

The proposed license agreement would authorize Time Warner Cable to televise live the proceedings of the House and Senate to its cable television subscribers beginning in January 2008. The proceedings are now broadcast on the Internet. Broadcasting on cable television would be at "broadcast" quality, a higher transmission quality than through the Internet. Time Warner Cable would absorb the costs of equipment and related installation costs so there would be no cost to the legislature for televising the broadcasts.

Thomas Federle, legal counsel to Time Warner Cable, spoke briefly to the Legislative Council and answered questions. Mr. Federle reiterated that Time Warner Cable (TWC) would merely televise what was sent to it by the legislature, with the legislature retaining full control over content. Mr. Federle indicated that not all of TWC's service area would receive the two legislative channels when broadcasts began in January due to technical reasons (switching to digital equipment). Roll out of the new technology will occur across its service areas throughout 2008. As an alternative, TWC is willing to begin a pilot broadcast to select areas as a first step. By 2009, virtually all areas (95 %+) within TWC's service territory would be equipped with the digital technology to allow for the legislative broadcasts. Council Chair President Edmonds mentioned the importance of making the legislative process as transparent as possible, and providing an educational opportunity to the public.

Speaker Cummings stated that the House and Senate may be on different timelines for televising its proceedings and suggested that the Clerk of the House, Secretary of the Senate, the Executive Director, and Time Warner meet soon to answer some of the technical questions that need to be addressed before televising can begin. No action was taken.

ITEM #5: Joint Proposal by University of Maine Margaret Chase Smith Policy Center, USM Muskie School of Public Service, UMaine Law School and the Maine Development Foundation to Hold Legislative Educational Forums

President Edmonds summarized the proposal and indicated that the proposed forums are an outgrowth of the work that was done at the beginning of the first regular session to provide information sessions to Legislators. The proposal is to hold brief seminar-type forums to small groups of legislators on topical issues. The forums would be held at the Cross Café at breakfast time. Mr. Boulter reported that the plan is preliminary and dates and times have not been decided yet. The focus would be in a format where speakers would speak on a topic for around 20 minutes followed by discussions by legislators.

Motion: To approve the request to hold legislative educational forums and to have the Legislative Council chair appoint a subcommittee to help decide the topics to be presented. Motion by Senator Mitchell. Second by Representative Pingree. **Motion passed. (8-0)** [Representative Faircloth and Representative Tardy absent for vote.]

President Edmonds then solicited volunteers to serve on the subcommittee. Selected were: Senator Mitchell, Senator Weston, and Representative Pingree, who will meet with the Maine Development Foundation, coordinator of the forums, to help plan the forums.

ITEM #6: Request From The Joint Select Committee On Future Maine Prosperity For Subcommittee Meeting On November 28

Motion: To approve the request for one subcommittee meeting. Motion by Senator Martin. Second by Representative Pingree. **Motion passed. (8-0)** [Representative Faircloth and Representative Tardy absent for vote.]

ITEM #7: Request To Extend The Reporting Deadline Of The Working Group To Study The Effectiveness And Timeliness Of Early Identification And Intervention For Children With Hearing Loss In Maine

Mr. Pat Norton reported that the Working Group to Study the Effectiveness and Timeliness of Early Identification and Intervention for Children with Hearing Loss in Maine ("Working Group") is requesting that the working group be authorized to meet on December 12, 2007. Further, the request is to extend the reporting date of the working group from December 7, 2007 to March 1, 2008. Authorization for the study ends on December 12, 2007 and legislation to reauthorize the study would be required to continue into 2008.

Motion: To approve the request to hold one meeting on December 12, 2007 only and allow the working group to discuss pursuing legislation re-authorizing the study for the 2008 interim. Motion by Senator Martin. Second by Senator Mitchell. **Motion passed, unanimous. (8-0)** [Representative Faircloth and Representative Tardy absent for vote.]

ITEM #8: Annual Report of the Washington County Development Authority

ITEM #9: Loring Development Authority of Maine 2007 Annual Report (Separate Handout)

ITEM #10: Third Annual Report of the Citizen Trade Policy Commission (Separate Handout)

Motion: To accept the Annual Report of the Washington County Development Authority, the Loring Development Authority of Maine 2007 Annual Report, and the Third Annual Report of the Citizen Trade Policy Commission and place them on file. Motion by Senator Martin. Second by Representative Crosthwaite. **Motion passed, unanimous. (8-0)** [Representative Faircloth and Representative Tardy absent for vote.]

ANNOUNCEMENTS AND REMARKS

None

ADJOURNMENT

The Legislative Council meeting was adjourned at 1:34 P.M. **Motion passed unanimous. (8-0)** [Representative Faircloth and Representative Tardy absent for vote.]