

# MAINE STATE LEGISLATURE

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# **LEGISLATIVE COUNCIL**

**August 16, 1993**

## **REVISED AGENDA**

### **CALL TO ORDER**

### **ROLL CALL**

### **SECRETARY'S REPORT**

Summary of July 14, 1993, Council Meeting

### **EXECUTIVE DIRECTOR'S REPORT**

### **REPORTS FROM COUNCIL COMMITTEES**

- Personnel Committee
- Committee on Total Quality Management in the Legislature

### **OLD BUSINESS**

Item #1: Report from the State House and Capitol Park Commission regarding the Vietnam Veterans' Memorial. (Item referred by the Legislative Council in October, 1992).

Item #2: Request from Jt. Standing Committee on Audit & Program Review for Allocation of Resources to Support Committee's Interim Work Schedule. (Tabled at July 14, 1993 meeting)

### **NEW BUSINESS**

Item #1: Submission of Interim Report from Joint Select Committee on Rules

### **ANNOUNCEMENTS AND REMARKS**

### **ADJOURNMENT**

REP. DAN A. GWADOSKY  
CHAIR

SEN. DENNIS L. DUTREMBLE  
VICE-CHAIR



STATE OF MAINE

SEN. DONALD E. ESTY, JR.  
SEN. PAMELA L. CAHILL  
SEN. BEVERLY MINER BUSTIN  
SEN. DAVID L. CARPENTER  
REP. JOHN L. MARTIN  
REP. WALTER E. WHITCOMB  
REP. PATRICK E. PARADIS  
REP. STEPHEN M. ZIRNKILTON

SARAH C. TUBBESING  
EXECUTIVE DIRECTOR

116th LEGISLATURE

LEGISLATIVE COUNCIL

## MEETING SUMMARY

**July 14, 1993**

**Approved August 16, 1993**

### CALL TO ORDER

The Chair, Rep. Gwadosky, called the Council meeting to order at 1:10 p.m. in the Legislative Council Chamber.

### ROLL CALL

**Senators:**

Sen. Dutremble, Sen. Esty, Sen. Bustin,  
Sen. Carpenter  
Absent: Sen. Cahill

**Representatives:**

Speaker Martin, Rep. Gwadosky, Rep.  
Whitcomb, Rep. Paradis, Rep. Zirkilton

**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  
Richard N. Sawyer, Jr., Administrative  
Services Director  
Joy O'Brien, Secretary of the Senate  
Joseph Mayo, Clerk of the House

### SECRETARY'S REPORT

The Summary of the June 3, 1993, Council meeting was approved and placed on file. (Motion by President Dutremble; second by Speaker Martin; unanimous)

## EXECUTIVE DIRECTOR'S REPORT

Sally Tubbesing presented the following items for the Council's consideration:

### Item #1: Resignations of Non-Partisan Staff

Ms. Tubbesing notified Council members that the following non-partisan employees had resigned their positions:

**David Kennedy**, Revisor of Statutes, who has resigned effective July

**Erna Koch**, Analyst, Office of Fiscal & Program Review, who has resigned

; and

**Micki Hoddinott**, Paralegal Assistant, Office of the Revisor, who has resigned

Ms. Tubbesing, noting that Mr. Kennedy's contributions had been well-recognized in both chambers during the session, confirmed that the accolades were both accurate and well-deserved. She added that Mr. Kennedy had also been a valued member of the non-partisan management team comprising the Office Directors -- and that his communication skills, his creativity, his energy and his commitment to preserving the quality of the Maine Statutes would be missed. The Chair, Rep. Gwadosky, echoed the comments made on the floors of both houses and thanked Mr. Kennedy for the candor of his letter, which emphasized the impact of the extraordinary overtime requirements on employees' personal lives and on the quality of their work.

**Motion:** That these resignations be accepted with regret and that letters of appreciation be sent. (Motion by Senate President Dutremble; second by Rep. Gwadosky; unanimous).

**Motion:** That Margaret Matheson be appointed Interim Revisor of Statutes until such time as the position is filled permanently. (Motion by Rep. Whitcomb; second by Sen. Dutremble; unanimous).

The Chair, Rep. Gwadosky, recognized Ms. Matheson, who was in attendance, and extended congratulations to her on behalf of the Council.

### Item #2: Adjustments in Compensation for Executive Branch Employees: Status Report

This item was deferred initially and then later tabled pursuant to the following motion:

**Motion:** That this item be tabled and that the Executive Director be directed to prepare a budget for implementation of adjustments in legislative employees' compensation based on what has been ratified in the collective bargaining agreements. (Motion by Speaker Martin; second by Sen. Dutremble; unanimous).

**Item #3: State House Repairs: Status Report**

Ms. Tubbesing reported that with the appropriation of funds for the restoration of both the wall surrounding the State House and the dome ceiling, she had made arrangements to proceed with work on the development of bid specifications and with the prequalification of contractors for both projects. She estimated that it would be early to mid September before actual work could begin.

No Council action was required on this item.

**Item #4: 1993 Reapportionment: Status Report**

Ms. Tubbesing reported that David Kennedy and his staff were in the process of developing an "appendix" for the Courts which puts the Court's Redistricting Plan into language comparable to the bill that had contained the Legislative proposal. The Court intends to issue this Appendix as a Supplementary Order; and Mr. Kennedy proposes to publish both the original Order and the Supplementary Order at the back of the Laws of Maine, which will be published sometime in late September. Ms. Tubbesing closed by noting that with the publication of the Order, the non-partisan staff had carried out the directions issued by the Council in the spring.

No Council action was required on this item.

**Item #5: Proposed Out-of-State Travel**

Ms. Tubbesing reported that she had just received the program for the Association of Legislative Information Technology, the organization for legislative information systems staff within NCSL. Noting that the program included workshops covering every issue that is on our own Information Systems Group's agenda, she requested Council authorization to send Gerry Thibault, Information Systems Manager, to the Conference.

**Motion:** That Gerry Thibault be authorized to attend the NCSL Annual Meeting as recommended. (Motion by Speaker Martin; second by Rep. Paradis; unanimous).

**Item #6: Resumption of 39-Hour Week**

Ms. Tubbesing reminded Council members that with the Legislature's adjournment on July 1, employees had returned to a 39-hour work week in compliance with the law. She reported that, in consultation with the Council Chair and the presiding officers, offices had, in general, resumed the 4 p.m. closing on Friday in order to implement the reduced work schedule.

There was no further discussion of this item, and no Council action was required.

**REPORTS FROM COUNCIL COMMITTEES****Personnel Committee**

Rep. Gwadosky announced that he would be scheduling a committee meeting in advance of the next Council meeting.

**OLD BUSINESS****Item #1: Interim Study Requests**

At the Chair's request, Sally Tubbesing briefly led Council members through the material included in their packets, which listed both the statutory study commissions that require staffing by the Legislative Council and the requests directly from Committees to the Council for interim studies. The Chair then asked Martha Freeman to comment on the availability of staff resources; and Ms. Freeman responded that, assuming that staff from the Office of Fiscal & Program Review would also be available, it would be possible to provide staff as required to all of the studies listed.

**Discussion**

Senator Esty asked if the adoption of the study list as presented would preclude the assignment of OPLA staff to the Audit Committee. At this point, the Chair, Rep. Gwadosky, recognized the Audit Committee Chairs, Senator Cleveland and Rep. Erwin, and invited them to express their concerns about staffing for their committee. Senator Cleveland responded that because one of the two positions assigned to the Committee was now vacant due to Erna Koch's resignation, it had been the Committee's hope that a member of OPLA's staff could support the Committee's review of the Department of Corrections, one of two agency reviews scheduled for this summer, each review requiring 9-12 committee meetings. He noted that if the Committee did not get some additional staff assistance, it could not meet its statutory responsibilities.

The discussion then turned to the proposed scope and schedule of the Committee's work:

- Use of the full Committee rather than subcommittees (Rep. Gwadosky)

Rep. Erwin responded that in their experience subcommittees "wasted a lot of time." She added, however, that she did not think the Committee needed 24 meetings.

- Pursuit of the preview of the Dept. of Mental Health & Mental Retardation given the recently signed restructuring legislation (Speaker Martin)

Both Sen. Cleveland and Rep. Erwin agreed that this was questionable; however, Sen. Cleveland expressed his hope that the Audit Committee should have some role in the restructuring process.

**Motion:** That the Audit & Program Review Committee review the restructuring plan once it has been developed by the Special Committee formed for this purpose. (Motion by Speaker Martin; second by President Dutremble).

Sen. Esty again asked whether OPLA staff would be available to supplement the present Audit staff; and Speaker Martin responded that this was a separate issue from the motion he had offered. The Chair, Rep. Gwadosky, asked whether additional staffing would be required if the Committee focussed solely on the Dept. of Corrections; and Sen. Cleveland responded that the Committee was already looking ahead to the new "full plate" it would have in January. Martha Freeman pointed out that assigning OPLA staff to the Audit Committee would diminish the availability of staff for the other studies listed.

The Speaker then withdrew the motion he had offered previously and offered the following motion in its place:

**Motion:** That the Audit & Program Review Committee delay its review of the Dept. of Mental Health & Mental Retardation and review the completed restructuring plan when it is available; and, further, that the Committee provide copies of any materials it may have received from DMHMR to the Transition Committee (Motion by Speaker Martin; second by President Dutremble; unanimous).

**Motion:** That the requests from the following Committees for staff to assist the committee in conducting interim studies be approved: Audit & Program Review (Dept. of Corrections only); Education; Energy & Natural Resources; and Judiciary (laws related to accessibility only). (Motion by Speaker Martin; second by Sen. Esty; unanimous).

**Motion:** That the Education Committee's request be approved for 5 committee meetings; and that the request from the Energy & Natural Resources Committee be amended to 6 meetings. (Motion by Speaker Martin; second by Sen. Bustin; unanimous).

**Motion:** That the Audit & Program Review Committee be authorized to have up to 12 full committee meetings for the purpose of conducting the review of the Department of Corrections (Motion by Speaker Martin; second by Sen. Esty; unanimous).

**Motion:** That Sen. Cleveland's request to fill the vacant position currently assigned to the Audit & Program Review Committee be tabled until the August Council meeting (Motion by Speaker Martin; second by President Dutremble; approved 8-1).

## **NEW BUSINESS**

**Item #1:** Recommendation from State House and Capitol Park Commission to Enter a Contract with Ann Beha Associates for the purpose of Conducting a Historic Structures Study of the State House and its Grounds.

Council members had received a letter from Earle Shettleworth, Commission Chair, forwarding the Commission's unanimous recommendation.

**Motion:** That the Council approve the recommendation to enter into a contract with Ann Beha Associates for the purpose of conducting a Historic Structures Study of the State House and its Grounds and that the Executive Director be directed to work with the Commission to execute the necessary agreements (Motion by Speaker Martin; second by Sen. Bustin; unanimous).

**Item #2:** Request from Jt. Standing Committee on Audit & Program Review for Allocation of Resources to Support Committee's Interim Work Schedule.

**Motion:** That this item be tabled (Motion by Sen. Dutremble; second by Speaker Martin; unanimous).



**Item #3: Payment of Health Insurance Benefits for Legislature's Session Employees**

The Chair, Rep. Gwadosky, noted that the legislative budget that the Council had ultimately delivered to the Appropriations Committee had eliminated payment of health and dental insurance for session employees during periods when they were not active on the payroll. President Dutremble clarified that this particular decision had been modified by the Council in later budget discussions, but that the "B" budget had never been modified to reflect this action. Speaker Martin asserted that payment of benefits on a year round basis was essential to maintain continuity in session staff. Sen. Bustin expressed concern, on the other hand, about a 2-tiered system, which would "grandfather" employees who had worked 5 years or more.

**Motion:** That the current policy be continued and that the Budget Committee be directed to study the issue and submit a report and recommendations to the Council in January (Motion by Speaker Martin; second by Sen. Bustin; approved 7-2).

**Item #4: Legislative Council Review of Operations, Organization and Staffing**

**Motion:** That this item be tabled (Motion by Speaker Martin; second by Sen. Bustin; unanimous).

**ANNOUNCEMENTS AND REMARKS**

The Chair announced that the August meeting would be scheduled as soon as possible so that members could plan accordingly.

**ADJOURNMENT**

The Meeting was adjourned at 2:27 p.m. (Motion by President Dutremble; second by Sen. Carpenter).

SENATE

JOHN J. CLEVELAND, DISTRICT 22, CHAIR  
M. IDA LUTHER, DISTRICT 8  
CHARLES M. BEGLEY, DISTRICT 20



HOUSE

PHYLLIS R. ERWIN, RUMFORD, CHAIR  
BEVERLY C. DAGGETT, AUGUSTA  
GEORGE A. TOWNSEND, EASTPORT  
WILLIAM LEMKE, WESTBROOK  
MONA WALKER HALE, SANFORD  
ELEANOR M. MURPHY, BERWICK  
WESLEY FARNUM, SOUTH BERWICK  
ALBERT G. STEVENS, JR., SABATTUS  
ALVIN L. BARTH, JR., BETHEL  
EDWARD L. DEXTER, KINGFIELD

STATE OF MAINE  
ONE HUNDRED AND SIXTEENTH LEGISLATURE  
COMMITTEE ON AUDIT AND PROGRAM REVIEW

July 8, 1993

Honorable Dan Gwadosky, Chair  
and Members of the Legislative Council  
116th Maine State Legislature  
Augusta, Maine 04333

Dear Chair Gwadosky and Members of the Legislative Council:

We are writing to ask for your assistance in meeting the Audit Committee's statutory mandate and in pursuing a Legislative request for information originally posed in 1992. In order to obtain the needed information, we request that the Council augment current staff resources by assigning additional Legislative staff to finally provide this information originally sought by the Legislature 18 months ago.

A brief background and overview of the project is as follows:

On February 6, 1992, the chairs at that time of the Business Legislation Committee, Sen. John Baldacci and Rep. Carl Sheltra, sent a letter to the then-chair of the Board of Optometrists requesting 5 points of information; one of which is as follows [complete letter attached]:

"[The Business Legislation] Committee left the various restrictions on corporate practice in place based particularly on [the Board's] testimony concerning deterioration in the quality of care that could occur if

these restrictions were dropped. Now that there is more time we would appreciate it if you would give statistical documentation to this testimony. What we would have in mind is a complaints per 100 licensed optometrists in a state with and without these restrictions and/or the complaints per 100 optometrists in a state before and after it removed these restrictions."

A second letter was sent to the Optometrists on Business Legislation stationery the following month, March 1992, which included some of the items in the February letter, but did not include the item as listed above.

Accordingly, neither the Business Legislation Committee, nor the Legislature, has ever received the information originally sought.

During the course of the Audit Committee's review of the Board of Optometry, we have also reviewed the business restrictions imposed on the corporate practice of optometry and administered by the professional regulatory board. Since the sole purpose of a professional regulatory board is to protect the public's health and welfare, and not to regulate the corporate practice of the profession, we, too, raised questions similar to those raised by the Business Legislation Committee back in 1991.

Since the mandate of the Audit Committee is to ensure that entities under its review are operating in accordance with Legislative intent, the information requested by the Business Legislation Committee continues to be relevant to our mandate.

Therefore, since the one staff person currently assigned to the Audit and Program Review Committee is fully engaged in carrying out the Committee's business at hand, we are requesting that the Council assign other appropriate Legislative staff the task of collecting this information needed for the Committee to complete its review of the Board of Optometry.

For our purposes, we anticipate that the project would entail a survey of all regulatory boards of optometry in the country for the purposes of:

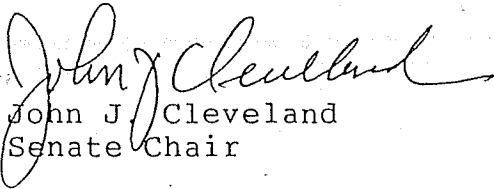
- determining the number of boards with jurisdiction over economic regulation;
- the nature and scope of these boards' authority over the corporate practice of the profession;


- the rationale for authorizing these professional regulatory boards to also exercise restrictions on the practice of the profession; and
- a determination of the public benefit derived from the boards' economic regulation of the profession.

We would need these data by January 1, 1994.

We would be happy to elaborate on our request for additional staffing assistance and appreciate your consideration.

Sincerely,

  
John J. Cleveland  
Senate Chair

  
Phyllis R. Erwin  
House Chair