

MAINE STATE LEGISLATURE

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Lynn Randall
Legislative Council Info.

REP. DAN A. GWADOSKY
CHAIR

SEN. DENNIS L. DUTREMBLE
VICE-CHAIR



STATE OF MAINE

116th LEGISLATURE

LEGISLATIVE COUNCIL

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

SARAH C. TUBBESING
EXECUTIVE DIRECTOR

MEETING SUMMARY

August 29, 1994

Approved September 29, 1994

CALL TO ORDER

The Chair, Speaker Gwadosky, called the Council to order at 1:47 p.m. in the Legislative Council Chamber.

ROLL CALL

Senators:	President Dutremble, Sen. Esty, Sen. Cahill, Sen. Bustin, Sen. Carpenter
Representatives:	Speaker Gwadosky, Rep. Jacques, Rep. Paradis, Rep. Zirnkilton Absent: Rep. Whitcomb,
Legislative Officers:	Sally Tubbesing, Executive Director, Legislative Council John Wakefield, Director, Office of Fiscal and Program Review Martha Freeman, Director, Office of Policy and Legal Analysis Margaret Matheson, Revisor of Statutes Joy O'Brien, Secretary of the Senate Joseph Mayo, Clerk of the House

(Note: Other staff attending included Tim Glidden and David Elliott, Office Policy & Legal Analysis, and Suzanne Gresser, Office of the Revisor.)

SECRETARY'S REPORT

The Summary of the July 27, 1994, Council meeting was approved and placed on file. (Motion by Rep. Jacques; second by Rep. Paradis; unanimous).

EXECUTIVE DIRECTOR'S REPORT

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

Item #1: Request for Authorization of Tuition Assistance for Jim Clair to Attend 1994 Leadership Maine Institute

Ms. Tubbesing reported that Jim Clair had been accepted to be one of 44 participants from across the State to participate in the 1994 Leadership Maine Institute, a program established by the Maine Development Foundation to equip Maine's current and future leaders with awareness and understanding of issues related to Maine's economy and with leadership skills. Two legislators participated in the program last year - Representatives Campbell and Rowe -- and three more have been accepted into this year's program -- Representatives Ahearne, Birney and Carleton.

Noting that the tuition for the program, which consists of 10 sessions between September and May, is \$2,300, Ms. Tubbesing suggested that a \$1,000 commitment from the Legislative Council toward Jim's tuition would be comparable to the level at which the Council has supported those legislative staff members who have attended NCSL's Legislative Staff Management Institute.

The Chair, Speaker Gwadosky, noted that the Maine Development Foundation has indicated that it would underwrite the 3 legislators' participation this year with the hope that, prospectively, it could look to the Legislature for support.

Motion: That the Legislative Council authorize payment of \$1,000 from the legislative account in support of Jim Clair's participation in the 1994 Leadership Maine Program. (Motion by Sen. Esty; second by Sen. Cahill; unanimous).

Item #2: Requests for Authorization of Staff Travel

- John Wakefield and Kevin Madigan, to attend Annual Meeting of Eastern States Legislative Fiscal Officers' Association, September 27-30, Providence, Rhode Island

Motion: That attendance at the Annual Meeting be approved. (Motion by Sen. Carpenter; second by Sen. Esty; unanimous).

- **John Knox to attend Annual Conference of the Council on Licensure, Enforcement and Regulation (CLEAR) September 28-October 1, Boston**

Motion: That attendance at the annual conference be approved. (Motion by Sen. Cahill; second by Sen. Carpenter; unanimous).

- **Jane Orbeton and Patrick Norton to attend NCSL Skills Development Seminar for Senior Research Staff, October 13-15, Hartford, Connecticut**

Motion: That attendance at the Skills Seminar be approved. (Motion by Sen. Carpenter; second by Rep. Jacques; unanimous).

Item #3: Recommendation to Appoint David Elliott as Acting Director, Office of Policy & Legal Analysis

Ms. Tubbesing, noting that Martha Freeman's resignation would take effect on September 6, recommended that the Council appoint David Elliott as Acting Director of the Office until a new Director has been selected and assumed his or her responsibilities. She explained that her recommendation was based on the fact that Mr. Elliott is one of the 2 Principal Analysts in the Office at this point and that the other, Julie Jones, had applied for the Director's position. Sen. Esty asked whether a salary increase would accompany the designation as Acting Director, and Ms. Tubbesing responded that it had been the Council's policy in the past to temporarily assign everyone in an acting capacity to the new salary range if the "acting" designation was for a period of more than one month.

Motion: That David Elliott be appointed as Acting Director of the Office of Policy & Legal Analysis until such time as a new Director has assumed the duties of the position. (Motion by Rep. Jacques; second by Sen. Cahill; unanimous).

Item #4: Legislative Budget Request for FY 96 - FY 97 Biennium

Ms. Tubbesing reported that the Budget Office had set September 1 as the deadline for all departments' submission of "Part I" budget requests for the 1996-1997 fiscal biennium. She drew members' attention to materials in their agenda packet and explained that they constituted proposed budget requests for each account administered by the Legislature that had been developed in accordance with guidelines provided by the Budget Office. She noted that both this Council and the new Council would have opportunities to review and modify the request in detail before it was finally printed.

Motion: That the Executive Director be authorized to submit the budget requests to the Budget Office as presented. (Motion by Sen. Cahill; second by Rep. Jacques; unanimous).

REPORTS FROM COUNCIL COMMITTEES

Personnel Committee

Speaker Gwadosky, who chairs the Committee, reported that the Committee had met twice to conduct annual performance reviews with the Directors of the non-partisan staff offices, including John Wakefield, Margaret Matheson, Lynn Randall and Sally Tubbesing. He noted that the Committee is also working on recommendations to reclassify certain non-partisan staff positions.

Search Committee for OPLA Director

Speaker Gwadosky, who also chairs this Committee, reported that the Committee had met and selected 11 resumes from the 158 that were submitted for interviews.

Committee on Total Quality Management in the Legislature

The Chair, Speaker Gwadosky, recognized Rep. Kontos, who chairs the TQM Committee. Rep. Kontos reported that the Committee was continuing to develop its final recommendations regarding orientation of both new members and committee chairs for the Council's consideration at its October meeting. Because one of the recommendations would affect planning and scheduling of activities immediately following the November elections, the Committee had unanimously endorsed bringing it to the Council at this meeting.

The Committee recommends that the Council extend the traditional orientation schedule by adding a series of regional meetings for all new members prior to the Pre-Legislative Conference in early December. The focus of these meetings would be to acquaint new members with the general structure of the Legislature and the roles of the various legislative offices; to present information about legislators' salary and benefits; and to explain cloture and the process for filing legislation. The Committee proposes that there be 5 regional meetings in Augusta, Bangor, Houlton, Lewiston, and Portland, scheduled in the evening in mid to late November. The proposed number and duration of meetings is designed to minimize the cost.

Motion: That the Legislative Council sponsor a series of 5 regional meetings as part of the orientation program for the 117th Legislature; and that these meetings be located in Augusta, Bangor, Houlton, Lewiston and Portland between November 14 and November 30. (Motion by President Dutremble; second by Sen. Carpenter; approved 8-1).

OLD BUSINESS

None.

NEW BUSINESS

Item #1: Maine Health Care Reform Commission: Request for Authorization to Reallocate Funds Originally Budgeted for Commissioners' Per Diem

The letter from the Commission's Acting Chair, Dr. Robert Keller, requested the Council's approval of allowing Commission members to forego the \$75 per diem to which each is authorized to collect by law and make these funds available to reimburse travel and other appropriate expenses to members of the public who would not otherwise be able to participate on the Commission's advisory committees or attend Commission meetings.

The Chair, Speaker Gwadosky, opened the discussion by pointing out that the Council had no authority to take formal action on the Commission's request. In other discussion, Council members expressed concern about setting such a precedent (Sen. Cahill and Rep. Jacques); and after further discussion, which focussed on the lack of its legal authority to act on this request, voted.

Motion: That whether or not the Council has legal authority, the request to use funds available to the Commission in this manner not be approved. (Motion by Rep. Jacques; second by Sen. Carpenter; unanimous).

Item #2: Request from Reverend Gerard Begin for Authorization to Use Capitol Park for the Period September 19-24 for a 24-hour Prayer Vigil

The Chair, Speaker Gwadosky, drew members' attention to Rev. Begin's application for a permit and to related materials in the packet. Following a brief review of the issues that needed to be addressed in considering the request, he recognized Rev. Begin, who offered to respond to questions and concerns of Council members. They included:

- Responsibility for assuming costs associated with portable toilets, additional security, if required; liability insurance, etc. (Speaker Gwadosky; Sen. Cahill)
- Nature of the group sponsoring the event. (Sen. Cahill)

Rev. Begin stated that his organization was a religious organization and that it was his intent to invite other religious organizations throughout the State to participate in the prayer vigil.

- Whether it would not be more appropriate to use the City portion of the Park. (Sen. Carpenter)

Rev. Begin responded that it was vital, symbolically, to use the state-owned portion, since the purpose of the vigil was to pray for all state employees.

Motion: That the Legislative Council approve the request to hold a prayer vigil in Capitol Park in September, provided that the sponsoring organization work with the Executive Director and the Director of Capitol Police to negotiate all arrangements including schedule, parking, traffic control, security and sanitation, with the understanding that the sponsoring organization is responsible for assuming the cost of these arrangements and any cost required for repairs; and, further, that a certificate of insurance be required. (Motion by President Dutremble; second by Rep. Zirnkilton; unanimous).

Item #3: Request for the Council to Intervene in a Situation Involving Bottle Clubs

The Chair, Speaker Gwadosky, recognized Rep. Coffman, who, in turn, introduced Ms. Patricia Clark as the spokesperson for the Maine Bottle Clubs Association. Ms. Clark reported that representatives from 9 other Bottle Clubs were present to seek the Council's assistance in resolving their dispute with ASCAP, which is entitled to collect royalties for songs played in the bottle clubs. Until recently, ASCAP had collected royalties from the performers; however ASCAP representatives have now been assessing bottle club owners for these fees. In addition to questioning whether they are liable for the fees, bottle club owners have questions about how the fees are assessed. Ms. Clark reported that many clubs were faced with having to close because could not afford the fees. The Association has asked the Attorney General's Office to conduct an investigation, but feels the response of that Office has been insufficient.

Rep. Jacques indicated that he was familiar with the issue, noting that one of his constituents had brought it to his attention. The Chair, Speaker Gwadosky, reported that he had called the Attorney General and gained his commitment to work with an informal group that includes representatives from the Bottle Clubs to pursue the issue.

No Council action was required at this time.

**Item #4: Joint Select Committee to Study and Review the
Implementation of the Auto Emissions Inspection Program:
Progress Report**

The Chair, Speaker Gwadosky, reported that the Committee, which had been established by himself and Senate President Dutremble, had been asked to report to the Council by August 29. He then turned to Rep. Jacques, House Chair of the Jt. Select Committee, to review the Committee's work. Rep. Jacques reported that the Committee was still in the process of developing its recommendations, but that it had voted unanimously that morning to support the suspension of the program and to direct DEP and CarTest to work together to develop performance standards and a schedule for correcting problems encountered in the program and for implementing a revised program. He noted, however, that it was not yet clear whether the 2 parties would agree to work together and expressed his conviction that it was important for the Committee to be extended for the purpose of monitoring the implementation of the changes until the 117th Legislature convenes and the new Jt. Standing Committee on Energy & Natural Resources is in place.

The Chair, Speaker Gwadosky, thanked Rep. Jacques, Sen. Carey, and all members of the Committee for their work and for the significant time and energy they had devoted to this task. He then commended the staff for its work, and Rep. Jacques echoed the high quality of staff work.

Motion: That the Council support the Committee's preliminary recommendation and encourage the Committee to report again to the Council with further recommendations as soon as possible. (Motion by Sen. Esty; second by Sen. Bustin).

Discussion:

Sen. Carpenter expressed concern that the motion should be more specific and established a "date certain" for the Committee's next report. This was followed by discussion among the Council members regarding:

- The importance of public involvement in the Committee's continuing work. (President Dutremble)
- Clarification that only DEP and CarTest could agreed to suspend the program, and that it is important to confirm their commitment to work together before the Committee could finalize its recommendations. (Rep. Jacques). Rep. Jacques went on to say that if the parties refuse to work together, the Committee had discussed terminating the program as well as legal action against CarTest.

- The implications of suspension of the program on those car owners who get notices in September. (Sen. Cahill)
- Concern that the Committee's work not go on indefinitely. (There seemed to be consensus among all members on this point).

The vote was taken on the previously stated motion, and it was approved unanimously.

Item #5. Request From Rep. Coffman

Rep. Coffman presented Council members with a list of bill titles which he described as "emergency measures" and which he asked the Council to vote on. He further requested that he be seated on the Council as the leader of the Independent Caucus.

The Chair, Speaker Gwadosky, noted that the Council has authority pursuant to the Joint Rules to screen bills for introduction to the Second Regular Session, but that the 116th Legislature's Second Regular Session had been adjourned *sine die* in April. President Dutremble agreed, noting that there is currently no session to present bills to. The Chair then recommended that he and Senate President Dutremble meet with Rep. Coffman, adding that the two presiding officers would have to poll all of the members of their respective bodies to determine if Rep. Coffman's bills were of sufficient importance to bring the Legislature into special session. Sen. Bustin pointed out that the Constitution describes the circumstances under which special sessions may be called and that the Council has no power in this area.

The Council took no action on this request.

ANNOUNCEMENTS AND REMARKS

Recognition of Martha Freeman and Tim Glidden

The Chair, Speaker Gwadosky, read resolutions honoring the service and contributions of both Martha Freeman and Tim Glidden, on behalf of the entire Council.

ADJOURNMENT

The Council meeting was adjourned at 3:40 p.m. on the motion of Sen. Esty (second by Sen. Carpenter).