

MAINE STATE LEGISLATURE

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SEN. JANE A. AMERO
CHAIR

REP. ELIZABETH H. MITCHELL
VICE-CHAIR



Lynn Randall
Legislative Council Info.

JEFFREY H. BUTLAND
LEO KIEFFER
MARK W. LAWRENCE

SEN. BEVERLY MINER BUSTIN
REP. DAN A. GWADOSKY
REP. PAUL F. JACQUES
REP. WALTER E. WHITCOMB
REP. JOSEPH G. CARLETON, JR.

SARAH C. TUBBESING
EXECUTIVE DIRECTOR

117th MAINE STATE LEGISLATURE
LEGISLATIVE COUNCIL

MEETING SUMMARY

December 5, 1995

Approved January 17, 1996

CALL TO ORDER

Senator Amero, Council Chair, called the Council meeting to order at 10:17 a.m. in the Legislative Council Chamber.

ROLL CALL

Senators:	President Butland, Sen. Lawrence, Sen. Kieffer, Sen. Bustin, Sen. Amero
Representatives:	Speaker Gwadosky, Rep. Jacques, Rep. Whitcomb, Rep. Mitchell, Rep. Carleton
Legislative Officers:	Sally Tubbesing, Executive Director, Legislative Council Lynn Randall, State Law Librarian John Wakefield, Director, Office of Fiscal and Program Review David Boulter, Director, Office of Policy and Legal Analysis Margaret Matheson, Revisor of Statutes May Ross, Secretary of the Senate Joseph Mayo, Clerk of the House Millicent MacFarland, Assistant Clerk of the House

SUMMARY OF NOVEMBER 9 COUNCIL MEETING

Motion: That the Meeting Summary be approved. (Motion by Speaker Gwadosky; second by Rep. Jacques; unanimous).

EXECUTIVE DIRECTOR'S REPORT

Item #1: Longevity Bonuses for Legislative Employees

Sally Tubbesing drew members' attention to the materials in their packet, noting that she had prepared the information at the Council's request following its action to Table this Item at the October 25 Council Meeting. Referring to a summary of the legislative budget for the current fiscal year, she noted that salary savings for the first quarter of the fiscal year and projected savings for the balance of the year were more than sufficient to cover the gap between the cuts the Council had identified last spring and the total deappropriations from the legislative account, due to turnover and deferred filling of vacancies. This would permit the Council to award the longevity bonuses if it so chose.

Motion: That award of longevity bonuses to eligible legislative employees be approved. (Motion by Sen. Bustin; second by Sen. Lawrence).

Discussion:

Council members raised the following questions in brief discussion:

- Does payment of this bonus in the form of a lump sum that does not increase the salary base violate the Fair Labor Standards Act? (Sen. Bustin)

Ms. Tubbesing responded that since this federal law specifically **exempts** legislative employees, the lump sum payment is not a violation.

- Has the Council ever not approved payment of the bonuses in the past? (Rep. Whitcomb)

Ms. Tubbesing responded "No."

The Chair, Sen. Amero, proceeded to call the vote on the question; and the motion was approved 9-1.

Committee on State House Space Improvement and Allocation

The Committee Chair, Rep. Mitchell, reported that the Committee had met immediately preceding the Council meeting to consider the following items.

1. **A Request from the Chairs of the Joint Standing Committee on Business and Economic Development for Assignment of a Permanent Hearing Room.**

Rep. Mitchell reported that the Committee had discussed the request and concluded that it is important to keep Room 113 unassigned, since it is the only hearing room that can accommodate a large crowd. She stressed that members of the Committee fully recognize that neither the general appearance

of many of the rooms in the State Office Building nor the acoustics are conducive to good public hearings and noted that Committee members had asked Sally Tubbesing to develop a list of repair and renovation projects, with cost estimates, for the Council's review so that the Council could set priorities. Finally, she noted that the Chairs of those committees that do not have assigned hearing rooms had been given larger offices, with the objective of providing them with a place to conduct some of their smaller committee-related meetings.

No Council action was required on this item.

2. Letter from Rep. Heeschen Regarding Smoking In and Around the State House.

The letter, which had been referred to the Committee by the full Council in September, expressed concern about the effects of "second hand smoke" in the State House and, particularly, in areas adjacent to those designated areas where smoking is permitted. Rep. Mitchell reported that those who had attended the Committee meeting had agreed to bring a unanimous recommendation to the Council to ban smoking in both the State House and within 50 feet of the building.

Motion: That the Committee's recommendation -- to ban smoking in the State House and within an area of 50 feet surrounding the State House -- be accepted. (Motion by Sen. Bustin; second by Rep. Jacques).

Discussion:

• **Clarification of Motion**

Does the motion apply to the State Office Building too? (Sen. Kieffer). Rep. Mitchell responded that the Legislature did not have jurisdiction over that building except in the legislative hearing rooms on the 1st floor, where Council policy already prohibits smoking.

• **Second Hand Smoke**

Rep. Jacques noted that this is an issue that has no halfway solution and that, in his experience with other public facilities, the only way to eliminate the problem raised by Rep. Heeschen is to ban smoking totally.

Sen. Bustin stated that she is affected by second-hand smoke and that it elicits a severe reaction in people who are allergic to smoke or who have other respiratory problems. She noted that her ability to participate in the legislative process is compromised if the environment is not smoke free. She went on to observe that smokers still have a choice -- to go beyond the non-smoking "boundary."

- **Area Affected by Ban**

- Experience in Cape Elizabeth, where smoking was banned on the school grounds suggests that although enforcement is sometimes difficult, the ban does serve to heighten awareness about effects of smoking/second hand smoke. (Sen. Amero)
- Need to find a reasonable balance: to what extent does smoking outside of the entrances and on the porches really affect people? (Rep. Carleton)
- The source of the 50 foot recommendation was the engineers who advised the Waterville Housing Authority. (Rep. Jacques)
- Can the Council specify a "perimeter" around the State House, or does this need to be done by law? (Rep. Whitcomb)

Motion: That the original motion be amended to ban smoking within the State House only. (Motion by Rep. Carleton; second by Sen. Kieffer).

Discussion: Sen. Lawrence observed that he appreciated Rep. Carleton's concern, but that the impact of this amendment would be that he would no longer use the porch. He noted that smoke comes in through open windows and that people are forced to walk through smoke at the entrances to the State House in order to get in.

The vote on the amendment was 3-7; thus, the amendment failed.

Motion: That the original motion be amended to ban smoking within an area of 20 feet of the State house. (Motion by Rep. Carleton; second by Rep. Jacques)

Discussion:

1. Incremental Approach

Speaker Gwadosky reflected that the Legislature and the Legislative Council have both taken an incremental approach to limiting smoking and expressed his support for banning smoking in the building as a first step. Sen. Kieffer indicated that he, too, would support this approach. Speaker Gwadosky then asked whether smoke is any worse than the exhaust from cars that park up near the "Governor's Entrance."

2. 20 Foot Limit

Senate President Butland asked whether Rep. Carleton's amendment would allow smoking on the porch, and Rep. Jacques responded "No." Rep. Jacques continued by noting that if smoking were banned in the State House, everyone would go to the Balcony. Rep. Carleton responded that the intent of his amendment was to ban smoking within 20 feet of the entrances to the State House. Rep. Jacques noted that since the 3rd floor balcony is not an entrance, the effect of Rep. Carleton's motion would be to ban smoking on the 3rd floor Balcony and in any area within 20 feet of any entrance to the State House.

The vote on the amendment with this clarification was then taken, and the amendment was approved 7-3.

Motion: That smoking be allowed on the 3rd floor Balcony in any area that is more than 20 feet from any entrance to the State House. (Motion by Rep. Carleton; second by Sen. Kieffer; failed 2-8).

Final Vote: Finally, the Council voted on the motion with the adopted amendment: that smoking be banned in all areas in the State House, including the 3rd floor Balcony, and within 20 feet of any entrance to the State House. The motion as amended was approved 6-4.

OLD BUSINESS

None.

NEW BUSINESS

Item #1: Second Annual Conference for Legislators on Rural Health Issues: Request for Council Support. (Letter from Helen Zidowecki for the Maine Rural Health Association)

Motion: That this item be referred to the presiding officers to consider as they plan the session schedule. (Motion by Rep. Jacques; second by Sen. Kieffer; unanimous).

Item #2: Study Commission on Property Rights and the Public Health, Safety and Welfare Budget Status. (Letter from Sen. Mills and Rep. Treat)

Sen. Amero briefly summarized the letter from the Chairs, Sen. Mills and Rep. Treat by noting that while the Study Commission had exceeded its budget, it had achieved consensus on a very complex issue. In response to a question from Rep. Carleton about the reference in the letter to the budget requested in the Majority Report, Ms. Tubbesing responded that the Legislative Council had reviewed this proposed budget as it had all other interim study budgets last spring.

Rep. Mitchell expressed her concern that while the Commission appears to have done a good job, it is not appropriate for any study commission with a fixed budget to either overspend or spend funds in a manner that exceeds the intent of the original appropriation. Rep. Jacques supported this position, noting that he had served on two study commissions during the current interim that had planned carefully and worked hard to complete their work within the allotted time and budget.

Motion: That the Council authorize payment of the expenses in excess of the Commission's appropriation from the legislative account and that the Council Chair send a letter to chairs of all Joint Standing Committees, Study Commissions and Task Forces informing them that it is their responsibility to let the Council know about budget problems in advance. (Motion by Rep. Jacques; second by Rep. Mitchell)

Discussion:

Speaker Gwadosky asked what the process was for notifying study commissions of their budget status. Ms. Tubbesing responded that her office prepares periodic budget and expenditure summaries, which are distributed to both the Chair(s) and the assigned staff. The Speaker then asked that the Council receive copies of this correspondence.

Rep. Whitcomb then commented that this incident raises a variety of issues and questions related to study commissions including the fact that we have too many commissions and some of them are too big to be productive. He concluded that the Council needs to re-examine its own role in creating some of the problems. Rep. Mitchell expanded on this point, noting that the Council should assume the responsibility for developing a consistent policy regarding payments to members of study commissions. She expressed concern about the unfairness of the current situation in which members of some study groups serve with no pay at all; other receive reimbursement for mileage only; and still others receive both a \$55 per diem and expenses.

The motion was approved 7-2.

Item #3: After Deadline Bill Requests

After deadline requests were considered by the Legislative Council. The Council's action on these requests is included on the attached list.

ANNOUNCEMENTS AND REMARKS

None.

ADJOURNMENT

The Council meeting was adjourned at 12:03 p.m.