

# MAINE STATE LEGISLATURE

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SEN. MARK W. LAWRENCE  
CHAIR

REP. G. STEVEN ROWE  
VICE-CHAIR



119th MAINE STATE LEGISLATURE  
LEGISLATIVE COUNCIL

SEN. CHELLIE PINGREE  
SEN. JANE A. AMERO  
SEN. ANNE M. RAND  
SEN. RICHARD A. BENNETT  
REP. MICHAEL V. SAXL  
REP. THOMAS W. MURPHY, JR.  
REP. DAVID C. SHIAH  
REP. RICHARD H. CAMPBELL

SARAH C. TUBBESING  
EXECUTIVE DIRECTOR

**MEETING SUMMARY**  
**September 22, 1999**  
**Approved October 25, 1999**

**CALL TO ORDER**

The Chair, Senate President Lawrence, called the Council meeting to order at 1:21 p.m. in the Legislative Council Chamber.

**ROLL CALL**

Senators:	President Lawrence, Sen. Amero, Sen. Rand, and Sen. Bennett Absent: Sen. Pingree
Representatives:	Speaker Rowe, Rep. Saxl, Rep. Murphy, and Rep. Shiah Absent: Rep. Campbell
Legislative Officers:	Joy O'Brien, Secretary of the Senate Joseph Mayo, Clerk of the House Sally Tubbesing, Executive Director, Legislative Council James Clair, Director, Office of Fiscal and Program Review David Boulter, 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 AUGUST 31, 1999, COUNCIL MEETING**

**Motion:** That the Summary be accepted and placed on file. (Motion by Rep. Shiah; second by Sen. Rand; unanimous).

## REPORTS FROM EXECUTIVE DIRECTOR AND COUNCIL STAFF DIRECTORS

- Interim Studies: Update

David Boulter drew Council members' attention to a printed summary that had been distributed previously. He reported that while the majority of the interim studies were "off to a good start", the chairs of a few of the study commissions have deferred starting until late October due to other commitments.

This item required no Council action.

- Bill Filing: Update

Margaret Matheson reported that about 125 bills had been filed to date, noting that the cloture date is October 1. She went on to briefly describe the book that her office will prepare for Council members to use at the October 25 Bill Screening, and indicated that her goal was to distribute the book by Wednesday, October 20, to give Council members the opportunity to review it in advance of the meeting.

Ms. Matheson also noted that the Laws of Maine from the First Regular Session are now available on the Legislature's Website.

Rep. Shiah asked Ms. Matheson to clarify that bill requests are confidential until the book has been distributed; Ms. Matheson affirmed this.

This item required no formal Council action.

- Fiscal Update

Jim Clair stated that both the Revenue Forecasting Commission and Consensus Economic Forecasting Commission had met recently to explore why revenues had been so much higher than budgeted at the end of Fiscal Year 1999. A primary factor appears to be the capital gains effect, which was much higher than predicted. Mr. Clair stated that he had followed up on a request that Senator Bennett had made at the August Council meeting to include previous year data on the monthly revenue report that the State Controller issues and reported that the State Controller is currently weighing two options for doing this.

Mr. Clair proceeded to report on Highway Fund Revenues, which had been down at the end of July, but reflected an increase for the month of August. He then turned to a brief overview of unfunded liability of the Maine State Retirement System in response to a question that Rep. Saxl had raised at the August meeting. He noted that the unfunded actuarial liability, which was \$2.8 billion in FY 95, is decreasing due in large part, to asset gains as a result of a strong stock market: the return on investment for the System's portfolio has been higher than the 8% projected. The unfunded liability is now based on a 25-year amortization schedule due to legislative action last year; and total payments will be approximately \$6.7 billion, compared to the more than \$10 billion that would have been paid

out had the previous 31-year schedule been maintained. He noted that the Retirement System would receive the valuation of the unfunded liability as of June 30 sometime in October and that he would provide this information to Council members when it became available.

This item required no formal Council action.

## REPORTS FROM COUNCIL COMMITTEES

### ▪ **Personnel Committee**

#### **a. Collective Bargaining**

Speaker Rowe, Committee Chair, reported that the Committee had met with Julie Armstrong, the attorney who has been retained to assist the Council to develop a framework suitable for collective bargaining. Ms. Armstrong has met with both the Personnel Committee and the Council staff office Directors to present an overview of the rights and responsibilities of both the public employer and those employees who are now eligible to organize for purposes of collective bargaining pursuant to law. Speaker Rowe stated that these briefings had been very valuable and that the Personnel Committee had asked Ms. Armstrong to prepare a “primer” covering the main points of her presentation, which will be distributed.

#### **b. Employee Recognition Day**

Speaker Rowe reminded Council members that the annual recognition ceremony for employees is scheduled for October 6. (**Note:** The date was subsequently changed).

#### **c. NCSL Classification and Compensation Study**

Speaker Rowe reported that NCSL is making some final corrections to the Report based on feedback from the senior management group. He stated that it is the Committee’s goal to present recommendations related to implementation of the report at the Council’s November meeting.

This report required no formal Council action.

### ▪ **Committee on Allocation of Legislative Space**

Senator Rand, Committee Chair, stated that members of the Committee had met with the Governor the previous week in an effort to clarify his interest in relocating his State House offices to the space currently occupied by the Law Library. She reported that the Governor stated unequivocally that he would not support any additional funding to relocate the Law Library or to redesign the existing Library space, either for the Governor or for other legislative purposes. Noting that this decision eliminates opportunities to relieve overcrowding in some legislative offices, Senator Rand stated that the Committee has agreed to recommend the following:

1. That, in addition to Rooms 221 and 223, which the Council assigned to the Governor at its August meeting, Room 225 be allocated to the Governor's staff -- space that had previously been part of the Office of Fiscal and Program Review.

Senator Rand noted that this would give the Governor a total of 1,189 square feet in the South Wing for a proposed full-time staff of 7-8 people, yielding an average of 148.6 square feet per person. She pointed out that, although this was less space than the Governor's staff had previously been assigned in the South Wing, it was fair, based on the number of people.

2. That the Engrossing Division be assigned to Room 121 on a temporary basis until renovation of the North Wing has been completed.
3. That the six OPLA staff who are currently in Room 135 be assigned to one of the portable units for the Second Regular Session.

Senator Rand stated that the Committee had concluded that the implication of the Governor's position on the Law Library space is that it will be necessary to move one staff office to the State Office Building. The Committee has concluded that OPLA is the obvious office to be relocated, and Senator Rand commended Dave Boulter for his cooperation in exploring this option.

4. That Sally Tubbesing and Dave Boulter be authorized to work with the architects to analyze the best way to accommodate OPLA in the State Office Building and to present plans and options to the Space Committee for review and to the Council for final approval.

Council members' discussion following Senator Rand's presentation focused on the following:

- ♦ Whether the Governor's Office had been invited to the Council meeting.  
(Senate President Lawrence)

Senator Rand stated that Kay Rand was aware of both the meeting schedule and the agenda.

- ♦ That the renovations of the State House cannot create significantly more usable space without a decision to relocate some functions currently housed in the State House.  
(Rep. Saxl)

**Motion:** That the Committee's recommendations be approved. (Motion by Sen. Rand; second by Rep. Saxl; failed 5-1)

Further discussion ensued following the vote. Rep. Murphy expressed concern that the proposed assignment of space to the Governor's staff represents almost a 50% reduction in his space, and he went on to say that he would not vote for anything until he saw and agreed with a complete plan for utilization of legislative space. He asked how much space OPLA would need if it were to relocate to the State Office Building. Senator Rand responded that OPLA currently occupies nearly 3100 square feet; thus it would need 3100-3500 square feet, and that this would necessitate eliminating at least one of the hearing rooms on the second floor of the State Office Building. Current plans would provide 8 hearing rooms in the State House and 9 in the State Office Building. Rep. Saxl expressed concern about reducing the

number of hearing rooms, while Senator Bennett expressed his view that the proposed large hearing room in the State Office Building would be underutilized. Rep. Murphy stated that he would rather continue the current practice of shared hearing rooms than constrict staff space and reminded Council members that space planning must address three challenges: 1) a safe, functional work environment for permanent employees; adequate accommodations for a large elastic work force; and provisions for public hearings. After agreeing that the Space Committee needs to step back and develop a proposal for the use of all legislative space, the original motion was restated:

**Motion:** That Room 225 be assigned to the Governor; that the Engrossing Division be assigned to Room 121; that OPLA staff currently assigned to Room 135 be temporarily assigned to one of the portable units; and that the Committee come back to the Council with proposals for relocating the entire OPLA staff to the State Office Building and for use of all areas assigned to the Legislature in both the State House and State Office Building. (Motion by Rep. Shiah; second by Rep. Saxl; approved 6-1)

▪ **Migration Project Steering Committee**

Senate President Lawrence, who chairs the Committee, reported that Speaker Rowe has agreed to co-chair the Committee, noting that this would ensure balance between the Senate and House. He then offered a series of motions which he described as necessary to re-establish a direction and schedule for the migration project.

1. **Motion:** That the Council authorize discussions with KPMG LLP to establish the following contractual responsibilities for KPMG LLP:

- Overall Migration Project, Project Manager
- Migration Project technical systems architecture design
- Migration Project data integration (data repository/data sharing)

(Motion by Senate President Lawrence; second by Rep. Saxl; approved 7-0).

2. **Motion:** That the Legislative Council, in agreement with the Senate and House of Representatives, authorize KPMG LLP to enter into discussions with International Roll-Call Corporation (IRC) to establish a contractual relationship between KPMG LLP (prime) and IRC (sub). IRC shall provide chamber support systems and support the integration of data between chamber support systems and drafting and analysis stems.

Senator Rand asked for clarification regarding whether this motion included the bill status system; and Senate President Lawrence responded that it did not -- that the Committee is still working on this issue and would come back to the Council with recommendations. (Motion by Senate President Lawrence; second by Rep. Saxl; approved 7-0).

3. **Motion:** That KPMG LLP and legislative staff proceed to complete the Legislative Process review in a prompt manner and provide an initial report to the Council at the Council's October 25, 1999 meeting. (Motion by Senate President Lawrence; second by Rep. Saxl; approved 7-0).

4. **Motion:** That KPMG LLP and legislative staff provide to the Legislative Council an executive level Migration Project schedule based on implementing a new drafting and analysis system for the 1st Session of the 120th Legislature. (Motion by Senate President Lawrence; second by Rep. Saxl; approved 7-0).
5. **Motion:** That KPMG LLP develop a cost proposal for the "system design" phase of the Migration Project for consideration at Council's October 25, 1999 meeting. (Motion by Senate President Lawrence; second by Rep. Saxl; approved 7-0).
6. **Motion:** That, subject to the review and approval of the Legislative Council, legislative staff proceed to identify a contractor to provide the drafting and analysis system. (Motion by Senate President Lawrence; second by Rep. Saxl; approved 7-0).

## OLD BUSINESS

### Item #1: Legislative Summit: Progress Report

Rep. Saxl, who chairs the Council's Planning Subcommittee for the proposed Summit, reported that initial response has been strong: nearly 70 legislators and 9 staff members have registered to date. He drew Council members' attention to the revised agendas for both the Sunday and Monday programs, noting that each panel will include faculty from the Muskie School, the University of Maine at Orono and Margaret Chase Smith Center, and others. He then turned to Libby Mitchell, who thanked everyone for their help in putting the programs together.

In response to a question from Speaker Rowe regarding the format, Ms. Mitchell responded that the panelists have been encouraged to try and develop a real dialogue with the legislators in attendance. She stated that the initial response reflects that the greatest interest is in the Education and Transportation panels. Speaker Rowe then expressed concern about the Leaders' Forum on Sunday, a concern echoed by Rep. Saxl, who noted that Senator Amero is the only Senator who will be attending. Discussion confirmed that this is not due to lack of interest, but to long-scheduled conflicts.

This item required no formal Council action.

### Item #2: State House Renovations

This item had three major components: a) Status and Issues; b) Guaranteed Maximum Price for 1999 Work; and c) Dioramas.

#### a. Status and Issues

Stan Fairservice reported that while asbestos abatement has been completed on all floors, lead abatement continues. Mechanical and electrical roughins are in process on the 3rd and 4th floors, and ceilings and walls are being framed up on the 4th floor; "thus, the build back has begun." He offered to take Council members on a tour of the South Wing, and both Senate President Lawrence and Rep. Murphy encouraged this.

In response to a question from Rep. Saxl regarding the timeline, Mr. Fairservice reported that he, Granger Northern, and the architect, Rick Burt had just completed a reassessment of the schedule and that the earliest move-in date is now very close to January 1. Bruce Hilfrank, Senior Project Manager for Granger Northern, displayed a graphic, which shows the work to be done on a day-by-day basis, and indicates that the 4th floor should be ready for furnishing by mid-December, the Senate Chamber and 3rd floor offices just before Christmas, and the 2nd and 1st floors after that. He stated that he has spent significant time with the various subcontractors allocating manpower and that the mechanical subcontractor would begin working 10-hour days the following week. He continued, stating that the outside work -- bringing the utilities over from the State Office Building -- is going very well and is on schedule. He stressed that the schedule is extremely tight and that space planning, including final furnishings decisions, are the whole key to meeting the schedule, concluding that it is "still doable." Joy O'Brien, Secretary of the Senate, reported that the carpet for the Senate Chamber has been ordered and that the carpet for Senate Offices was scheduled to be ordered by the coming Friday.

**b. Presentation of Guaranteed Maximum Price for 1999 Work**

Bruce Hilfrank, Granger Northern, drew Council members' attention to a letter he had distributed that set forth the GMP for the current work. The bottom line, which includes both a 5% contingency and overhead and profit, is \$7,459,667. Mr. Hilfrank drew Council members' attention to a budget overview that he had put together to put the GMP for this summer's work in context. He noted that the current work includes much of the "core" for the entire State House renovation: by the end of this phase, all of the "head end equipment for both the mechanical and sound systems will be in place; 2 new elevators have been installed; and both Chambers will have been renovated. Although he had projected a total project cost that is approximately \$1 million over budget, he stressed that this is worst case: it uses a cost per square foot based on those costs to date, which include both Chambers and the core systems for the entire building and are, no doubt, high. The projects also include a 5% contingency, which, if eliminated, yields a total project on budget.

Rep. Saxl asked Mr. Fairservice if he was concerned about Granger's cost projections; and Mr. Fairservice responded that he thought they presented an accurate picture but that with timely and thoughtful space planning, it would be possible to complete the entire renovation very close to the original budget. Mr. Hilfrank stressed the criticality of completing the space plan for the rest of the State House, noting that it would allow Granger to purchase some items in bulk and to issue subcontracts for the balance of the work. He pointed out that the construction market is extremely tight at the present time; thus last-minute decisions related to design have a premium cost. He reiterated that "time and money go hand-in-hand", and expressed his confidence that the numbers can go down. Senate President Lawrence asked if this is a worst case picture, and Mr. Hilfrank responded that it is a realistic picture but that it is still possible to come in on budget.



Discussion continued, covering the following points:

- ◆ Clarification that reinstallation of the dioramas are not reflected in the budget presented by Granger Northern and will increase the total costs. (Rep. Saxl)
- ◆ That the Council's decision to bring Granger Northern in as the Construction Manager and to hire Stan Fairservice as the Council's Owner's Representative has been very important to the project: every decision has been scrutinized closely, resulting in cost savings in many cases and in improved methods and quality of work (Rick Burt, architect).
- ◆ That the project needs to be thoroughly documented. (Rep. Shiah)

Mr. Fairservice confirmed that there will be a full set of "as built" drawings.

**Motion:** That the Council accept the Guaranteed Maximum Price as proposed by Granger Northern. (Motion by Rep. Saxl; second by Sen. Rand; unanimous).

### c. Dioramas: Status Report

The Chair, Senate President Lawrence, recognized the architect, Rick Burt, and asked him to summarize the results of the studies that he and the design team have completed to date regarding options for re-installing the dioramas. Mr. Burt stated that he had worked closely with Ron Harvey, the conservator who had overseen the removal of the dioramas, and his engineer to understand the requirements for reinstallation. They have identified several, including: 1) the ceiling height required for reinstallation (10' 11"); 2) the total floor space required to allow access into the diorama cases for maintenance and repair; 3) the strong preference for preserving the dioramas as pairs, given the risk of destroying the integrity of the plaster and paint if they were to be split; 4) the need to build in enough space to provide the proper viewing distance; and 5) the need for a dedicated climate control system.

Mr. Burt reported that the design team has studied 2 options for re-installation - all in areas within the Council's jurisdiction. These include:

#### a) Location in the new West Wing entrance

Current ceiling heights in this area are not high enough; and it would be necessary to either raise the ceiling (which is the floor of the Governor's office) or lower the grade of the 1st floor, which would require removal of ledge. In addition, Mr. Burt showed a graphic that indicates that one pair of the dioramas would take most of the floor space in the new West Wing entrance, precluding use of this space for other functions.

#### b) Location at the mid-point of the new tunnel (Option #1)

A graphic demonstrated that the "roof" of the dioramas would be visible above ground due to the ceiling height requirements. Mr. Burt noted that location here would preclude the incorporation of the skylight at the midpoint of the tunnel.

- c) Immediately below the new West Wing entrance, at the State House head of the tunnel (Option #2).

Mr. Burt stated that the dioramas would be completely underground at this location because of the grade change and depicted a lobby area at the lower level. Placement in this location would also require ledge removal, but it would result in a completely level path through the tunnel, thus improving the handicapped accessibility.

Mr. Burt stated that Granger Northern had prepared preliminary cost estimates associated with both locations in the tunnel, noting that Granger had not priced the option of locating them in the 1st floor West Wing area, given the constructability issues. The estimated cost of Option #2 is \$115,000 more than Option #1, and this difference be attributed to the need to level the route through the tunnel (which would be optional with Option #1). Option #1 would require more exterior work whereas Option #2 would require more ledge removal.

In the discussion that followed, Council members raised a series of questions and concerns:

- ♦ Did the dioramas have optional viewing distance of 9' before they were removed? (Senate President Lawrence).

Mr. Burt responded that the viewing area for one pair of cases had been completely open to the south entrance, and that he would not know the width of the corridor in front of the pair on the west side. He stated that there had been no climate control system in the previous location.

- ♦ To what extent had the dioramas suffered due to lack of light and climate control? (Senate President Lawrence)

Mr. Burt responded that he would defer to Mr. Harvey and Museum staff to answer that, but that he knew many specimens had faded and suffered from the lack of temperature and humidity control.

- ♦ The safety issues associated with having school children and other groups in the middle of the tunnel. (Speaker Rowe)

Mr. Burt replied that he had consulted with City Code officials, who expressed no concern since there are exit paths at either end of the tunnel.

- ♦ Are there options in the State House? (Sen. Amero)  
The Hall of Flags? (Rep. Shiah)

Mr. Burt responded that there is not room physically in the Hall of Flags for both the flag cases and the dioramas.

- ♦ The value of the dioramas (Sen. Bennett), who described the price of reinstallation as unacceptable.

Sally Tubbesing stated that the State Museum has established itself as the owner of the dioramas.

- ◆ Has a Visitor's Center been established yet? (Rep. Murphy)

Mr. Burt responded that discussions to date have been to locate this in the new West Wing entrance area.

Senator Rand stated that the public has expressed a desire to keep the dioramas in the State House, and Speaker Rowe recalled the numbers of people who remember the dioramas from their early visits to the building. Mr. Burt noted that he could not proceed with completing detailed designs for the tunnel until the Council makes a decision about whether they will be in the tunnel. Senate President Lawrence suggested that the Community Liaison Committee be included in the discussion, and Representative Saxl concurred.

- Total cost associated with reinstallation of the dioramas (Sen. Amero).

Mr. Burt responded that the estimates prepared by Granger Northern address **only** the construction of the structure to house the dioramas and that he would have to work with Mr. Harvey and Museum staff to develop a complete budget.

Senator Bennett expressed support for taking the issue to the Citizens Advisory Committee but stated that it is ultimately the Council's decision and reiterated his opinion that the cost is too high.

The Council took no final action on this item based on the fact that the Citizens Advisory Committee was scheduled to meet the following day and that there was consensus that this issue should be referred to them.

## **NEW BUSINESS**

None.

## **ADJOURNMENT**

The Council meeting was adjourned at 4:05 p.m. (Motion by Rep. Saxl; second by Rep. Shiah).