

MAINE STATE LEGISLATURE

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SEN. BEVERLY C. DAGGETT
CHAIR

REP. PATRICK COLWELL
VICE-CHAIR



121st MAINE STATE LEGISLATURE

LEGISLATIVE COUNCIL

SEN. SHARON ANGLIN TREAT
SEN. PAUL T. DAVIS, SR.
SEN. KENNETH T. GAGNON
SEN. CHANDLER E. WOODCOCK
REP. JOHN RICHARDSON
REP. JOSEPH BRUNO
REP. ROBERT W. DUPLESSIE
REP. DAVID E. BOWLES

DAVID E. BOULTER
EXECUTIVE DIRECTOR

MEETING SUMMARY

June 8, 2004

Approved July 13, 2004

CALL TO ORDER

In the absence of the chair, the vice-chair, Speaker Colwell, called the Legislative Council meeting to order at 2:15 p.m. in the Legislative Council Chamber.

ROLL CALL

Senators:	Sen. Treat, Sen. Davis, Sen. Gagnon Absent: President Daggett and Sen. Woodcock
Representatives:	Speaker Colwell, Rep. Richardson, Rep. Duplessie, Rep. Bowles Absent: Rep. Bruno
Legislative Officers:	Millicent MacFarland, Clerk of the House David Shiah, Assistant Clerk of the House David E. Boulter, Executive Director, Legislative Council Grant Pennoyer, Director, Office of Fiscal and Program Review David Elliott, Director, Office of Policy and Legal Analysis Margaret Matheson, Revisor of Statutes Lynn Randall, State Law Librarian Paul Mayotte, Director, Legislative Information Services Joy O'Brien, Secretary of the Senate (joined the meeting in progress)

SUMMARY OF THE MAY 11, 2004 COUNCIL MEETING

Motion: That the Meeting Summary of May 11, 2004 be accepted and placed on file. (Motion by Sen. Treat, second by Sen. Davis, unanimous).

REPORTS FROM EXECUTIVE DIRECTOR AND STAFF OFFICE DIRECTORS

- **Executive Director's Report**

David Boulter, Executive Director, reported on the following items:

1. The State House and Capitol Park Commission met on June 2, 2004. The Commission voted to proceed to build the living memorial garden in Capitol Park, which was earlier authorized by statute. The memorial will be in the northwest section of Capitol Park. There is not enough money in its budget to do the entire project at this time; however, there are sufficient funds to complete approximately $\frac{3}{4}$ of the garden this year. The Commission will seek bids for the project. Mr. Boulter said he has a copy of the design plans in his office if anyone wants to review them. The garden is to be very natural with walk paths, plantings and benches.
2. Mr. Boulter announced that Patrick Norton, Deputy Director, Office of Policy and Legal Analysis, has now returned from his authorized leave of absence to attend the Muskie School of Public Service where he is pursuing his PhD. We welcome Mr. Norton's return.

No Council action required.

- **Fiscal Report**

Grant Pennoyer, Director, Office of Fiscal and Program Review, presented his report to the Council.

General and Highway Fund Revenue Variances for May, 2004

The General Fund revenue for the month of May was ahead of budget by \$71.5 million, increasing the positive year-to-date variance to \$114.1 million. Approximately \$75 million of the year-to-date variance is related to the liquor wholesale privatization contract (a major one-time event budgeted to be received in June). After adjusting for that, the General Fund was under budget in May by \$3.5 million, but remains \$39.1 million above budget for year-to-date. Individual Income Tax revenue was \$8.7 million below budget for May but \$25.1 million above budget for year-to-date; Sale Tax revenue was above budget \$2.5 million in May and above budget \$11.1 million year-to-date; Corporate Income Tax revenue was above budget \$2.0 million in May and above budget \$4.9 million year-to-date; Liquor Revenue and Investment Income revenues are above budget for May and for year-to-date. Cigarette Tax revenue was under budget \$2.0 million in May and under budget \$3.1 million year-to-date; Estate Tax revenue was over budget \$1.0 million for May, but under budget \$1.9 million year-to-date; and Insurance Company Tax revenue was over budget \$3.2 million in May and remained under budget \$1.5 million year-to-date.

The total Highway Fund revenue was under budget by a minor amount in May, but has a positive year-to-date variance of \$6.6 million.

Cash Pool Status

Mr. Pennoyer reported that absent the Reserves and the TAN borrowing, the General Fund cash position would have been \$261.2 million negative.

Mr. Pennoyer said the balances are better than projections made a year ago. The revenue surpluses and last year's ending surplus have enhanced the State's cash position. The TAN should be able to be paid off and rolled over to the next fiscal year.

No Council action required.

- **Office of Information Services' Report**

Paul Mayotte, Director, Legislative Information Services, presented the current status of the bill drafting system being developed by HP/Compaq. He reiterated his position that the Legislature should not accept the bill drafting system until the eight items listed below are addressed:

1. Acceptable performance speed
2. Validation that the Cross Reference process works as required
3. Correction of the Conflict Checking process
4. Implementation of the Phrase Search function
5. Establishment of a manual database with audit and history at the user level
6. Correction of several functions with Joint Orders and Resolves processes
7. Submission of information related to the populating and maintenance of the database
8. Extension of a warranty period to cover a full legislative session

Mr. Mayotte believes several of the above items are easily resolved, for example, two would require only several weeks to complete.

HP has since disagreed with the Legislature's position on 3 items proposed to be corrected during the warranty period. The items are:

1. Laws of Maine output styles
2. Pre-engrosser printed date
3. Uniform Code Bill specific requirements

Based on Mr. Mayotte's review of the requirements of the contract, it is his position that HP has not met the requirements of the contract. His office is now working with the Attorney General's Office to develop the options to assure HP is in compliance with the contract.

Discussion: Rep. Bowles asked what HP's actions were at this time, if they were cooperative and working toward resolution. Mr. Mayotte believes HP is resistant to further system programming or improvements. Executive Director Boulter mentioned that HP's current position may be the result of a change in management personnel. The current manager at HP is taking a harder line and is treating discussion with legislative staff as first round negotiations. He believed that the time for negotiating system changes has passed, even though HP is clearly trying to negotiate away some of its requirements.

Speaker Colwell said it appeared the Legislature may be forced to litigate, with the Attorney General representing us. He noted that the system needs to be in place for the next session and asked if there was a contingency plan. Mr. Mayotte said there were two contingency plans: the first being continuing to use the Wang system and the other, assuming the code is available to his office, completing the items using in-house resources. Mr. Mayotte feels some of the items listed above could be done in-house with the right tools and others could be done with assistance from local software support.

Mr. Boulter said he and Mr. Mayotte would be meeting with the Attorney General's Office. He then asked for guidance from the Legislative Council. If the Attorney General's Office believes it to be prudent for the Legislature to pursue litigation to force HP to deliver a workable system, should the matter be brought back to the Legislative Council for authorization or is the Executive Director's office authorized to proceed in accordance with guidance from the Attorney General's Office?

Discussion: Sen. Treat said she felt that the Legislature was at a point where if the system was not running shortly, it would not be ready the upcoming session. She would like the Legislative Council to authorize all necessary legal action to compel delivery of a working system and hoped that action would be taken as quickly as possible. She noted that the problem had been going on for years and the Legislature cannot wait any longer. Speaker Colwell agreed. Rep. Richardson thought the Legislature should try one more time to negotiate a solution with HP as an alternative to litigation and pursue legal action if there was no solution in the next two weeks. Rep. Richardson suggested the Legislative Council give HP 2 or 3 more weeks of time to negotiate a resolution to the process with Mr. Mayotte, Mr. Boulter and Ms. Matheson and if that failed the Legislative Council would litigate. Discussion followed as to whether Mr. Boulter should bring the matter back to the Council prior to proceeding with the Attorney General's Office. Rep. Richardson preferred having more information about the facts and circumstances as to what the Attorney General says and where the Legislature is with negotiations before he would support a lawsuit. He would prefer that Mr. Boulter report back to the Council either by telephone or call a Council meeting.

Motion: That the Executive Director continue to seek an administrative resolution with HP that will result in delivery of an acceptable bill drafting system. If no resolution is reached by July 1, 2004, then the Executive Director is authorized to proceed with the Attorney General, following consultation of the chair and vice-chair of the Legislative Council, to bring suit against HP to enforce the terms and conditions of the contract. (Motion by Sen. Gagnon, second by Rep. Duplessie, unanimous).

REPORTS FROM COUNCIL COMMITTEES

- **Personnel Committee**

Rep. Richardson, Chair of the Personnel Committee, reported that the committee met prior to the Council meeting, but had nothing of note to report to the Council at this time.

- **State House Facilities Committee** (Sen. Gagnon, Chair)

The State House Facilities Committee did not meet.

OLD BUSINESS

None

NEW BUSINESS

Item #1: 2004 Enacted Law Digest

David Elliott, Director, Office of Policy and Legal Analysis, confirmed that his office and the Office of Fiscal and Program Review had completed the work on the 2004 Enacted Law Digest for the 121st Second Regular and Second Special Sessions and the Digest has been distributed to all legislators.

COLLECTIVE BARGAINING (Executive Session)

None.

ANNOUNCEMENTS AND REMARKS

None.

ADJOURNMENT

The Legislative Council meeting was adjourned at 2:44 p.m. (Motion by Rep. Bowles, second by Sen. Treat, unanimous).