

MAINE STATE LEGISLATURE

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SEN. BEVERLY C. DAGGETT
CHAIR

REP. PATRICK COLWELL
VICE-CHAIR



**Lynn Randall
Legislative Council Info.**

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

DAVID E. BOULTER
EXECUTIVE DIRECTOR

121st MAINE STATE LEGISLATURE
LEGISLATIVE COUNCIL

**MEETING SUMMARY
July 13, 2004
Approved August 24, 2004**

CALL TO ORDER

The Chair, Senate President Daggett, called the Legislative Council meeting to order at 2:17 p.m. in the Legislative Council Chamber.

ROLL CALL

Senators: President Daggett, Sen. Treat, Sen. Gagnon
Absent: Sen. Davis and Sen. Woodcock

Representatives: Rep. Richardson, Rep. Bruno, Rep. Bowles
Absent: Speaker Colwell,
Rep. Duplessie joined the meeting in progress

Legislative Officers: Millicent MacFarland, Clerk of the House
David E. Boulter, Executive Director, Legislative Council
Grant Pennoyer, Director, Office of Fiscal and Program Review
Patrick Norton, Deputy Director, Office of Policy and Legal Analysis
Margaret Matheson, Revisor of Statutes
Paul Mayotte, Director, Legislative Information Services

SUMMARY OF THE JUNE 8, 2004 COUNCIL MEETING

Motion: That the Meeting Summary of June 8, 2004 be accepted and placed on file. (Motion by Sen. Treat, second by Rep. Bruno, unanimous).

REPORTS FROM EXECUTIVE DIRECTOR AND STAFF OFFICE DIRECTORS

- **Executive Director's Report**

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

1. The Legislature continues its work with contractors. Granger Northern, Inc., the construction manager for the State House projects, was purchased by Consigli Construction, Inc. from Massachusetts and Consigli will assume Granger's contract obligations.
2. Mr. Boulter is exploring alternatives to the late spring date for the YMCA's annual Youth in Government Program that would be less disruptive to the legislative session. Under consideration is a Fall date and January/February date.
3. Bids for the Living Memorial Garden in Capitol Park are due on Friday, July 23, 2004. The bid opening will be on Monday, July 26, 2004.
4. Mr. Boulter announced the appointment of **Debra Olken** as the Legislature's Human Resources Director in the Office of the Executive Director. Ms. Olken's first day of employment will be September 7, 2004. Ms. Olken was in attendance and Mr. Boulter introduced Ms. Olken to the members of the Legislative Council.

The Chair, President Daggett, on behalf of the entire Legislative Council, welcomed Ms. Olken to the Legislature.

Discussion: Rep. Bowles inquired as to when the north parking lot would re-open for legislator use. Mr. Boulter said the work on the West Wing should conclude sometime in October, 2004.

Rep. Bowles asked if Consigli Construction, Inc. had been a bidder for the 2004 renovation work. Mr. Boulter said that Consigli had not bid on any projects but had expressed a general interest in working at the State House as the general contractor not a subcontractor.

- **Fiscal Report**

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

General and Highway Fund Revenue Variances for June, 2004

Mr. Pennoyer noted that his report for June is preliminary and there are closing transactions that will affect revenue.

The General Fund revenue for the month of June was running \$20 million above projections after adjusting for the \$75 million liquor wholesale privatization contract. For Fiscal Year 2004, the General Fund will have a positive variance of approximately \$60 million. Sales tax revenue was close to budget for the month of June and over budget for FY 04 by \$11

million; Individual income tax was over budget by \$1 million in June and over budget by \$26 million for FY 04; Corporate income tax was over budget by \$3 million in June and over budget by approximately \$8 million for FY 04; Cigarette tax recovered in June and will be approximately \$1.5 million under budget for FY 04; Estate tax is over budget by \$2 million in June. Investment income may be over budget by \$1 million for FY 04 and Liquor and Lottery Revenue (excluding the liquor contract) may be very close to budget on a combined basis. Other Revenue may be over budget by more than \$15 million for FY 04.

The Highway Fund revenue is \$7 million over budget for FY 04. Based on PL 2003, c. 690, Part I, this surplus will be transferred to the Highway and Bridge Improvement, Highway Fund account in the Department of Transportation.

Mr. Pennoyer said, given the year end surplus of approximately \$60 million and with \$5 million in lapsed balances, the total surplus is about \$65 million. After the required distribution of the Budget Stabilization Fund, Retirement Allowance Fund, Reserve for General Fund Operating Capital, State Contingent Account, Loan Insurance Reserve Fund and the Fiscal Year 2003-2004 "Cascade" – PL 2003, c. 513, Part P, there is a net increase to unappropriated surplus of approximately \$7 million. The above items will be adjusted to FY 2005 appropriations. The Budget Stabilization Fund will have a balance in excess of \$31 million and the Reserve for Working Capital will increase to over \$15 million. The General Fund cash balance, (excluding the Reserves and Tax Anticipated notes) was negative by \$132 million in May, but by June it had decreased to \$88 million. The Tax Anticipation Notes that were issued July 1, 2004 for FY 05 were \$190 million, \$85 million less than what was issued in FY 04.

Rep. Bowles inquired as to how the revenues compared to the prior year. Mr. Pennoyer said it represents a modest growth of 4 to 5 percent. (Note: the growth was actually over 12%, not 4-5%, when checked by Mr. Pennoyer following the meeting).

- **Office of Information Services' Report**

Paul Mayotte, Director, Legislative Information Services, presented his report to the Council on the status of the HP contract to develop a bill drafting system. At this time HP has tentatively agreed to correct 3 unresolved issues: Add Pre-engrosser date printing; correct uniform code bill formatting; and correct joint order/resolution items.

Following the Council's instructions in May, Mr. Mayotte developed an assessment of the Legislature's strength of position for the Legislature regarding those items. Mr. Mayotte scheduled a meeting with HP; however, HP postponed a July 12, 2004 meeting. It is being rescheduled to a later date.

Discussion: Sen. Gagnon asked if Mr. Mayotte had sent a letter to HP since the June Council meeting outlining the Legislature's position. Mr. Mayotte said he has been in communication with the project manager to follow up on the Council's discussion at the June, 2004 meeting, but he had not sent a letter. Mr. Boulter noted that a letter had been sent to HP prior to the June Council meeting outlining the Legislature's position.

Discussion followed as to what the Legislature's response should be at this time. Mr. Mayotte stated that if the new system is not in place and working within the next three weeks, it will be another legislative session before the system would be available for use.

Some members suggested that if HP was not willing to meet immediately, the Legislature should move directly to litigation to enforce the terms of the contract. Mr. Mayotte and Mr.

Boulter will relay the Legislative Council's view to the Legislative Council's legal counsel in this matter.

- **Update on Interim Studies**

Patrick Norton, Deputy Director, Office of Policy and Legal Analysis, gave an update on the interim studies. There are six studies continuing from the last interim; 3 have had one meeting and 3 others are in the process of planning their interim meeting schedule. Four new studies have been authorized for this interim. Member appointments to those studies have not yet been completed so no committees have met. Once appointments have been completed, the study committees will meet.

REPORTS FROM COUNCIL COMMITTEES

- **Personnel Committee** (Rep. Richardson, Chair)

The Personnel Committee did not meet.

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

The State House Facilities Committee did not meet.

OLD BUSINESS

None

NEW BUSINESS

Item #1: Background Information on the Office of Program Evaluation and Governmental Accountability (OPEGA)

Executive Director Boulter had received several inquiries about the law that establishes the Office of Program Evaluation and Government Accountability (OPEGA). The law has been amended several times since it was first passed and the latest amendments become effective on July 30, 2004.

Mr. Boulter indicated that most of the administrative work and policy decisions under OPEGA are vested in the legislative committee established to oversee program evaluation and governmental accountability matters, including hiring of staff, development of budgets and annual work plans and evaluating the director in his or her work performance. Much of the substantive work conducting program evaluations and audits and issuing reports is the work of the OPEGA staff.

The Legislative Council is charged with appointing the director of the office and establishing the director's compensation. Under the law, the director must be nonpartisan and is appointed for an initial 5-year term upon an affirmative vote of 8 members of the Legislative Council.

Also under the law, the Commissioner of Administrative and Financial Services must provide office space to house the OPEGA offices within the Cross Building at no charge.

Motion: That the Executive Director prepare a job description and outline of a recruitment process and a schedule for recruiting and selecting a director of OPEGA and to bring the information back to the Council for its review and ratification. (Motion by Sen. Gagnon, second by Rep. Bruno, unanimous).

Item #2: Commission to Arrange for World War II and Korean War Memorial Plaques in the Hall of Flags

Sen. Gagnon said it was his understanding that the \$20,000 appropriated by the Legislature for the World War II and Korean War plaques that should have been directed to the Office of the Executive Director, was directed to the Department of Defense, Veterans' and Emergency Management Services. It was Sen. Gagnon's understanding that a financial order to redirect the funds was under consideration. Rose Breton, Legislative Finance Director, said that the Bureau of Veterans' Services had researched having a financial order to transfer the \$20,000 to the Legislature, but because it was a direct appropriation that action is impermissible. It is her understanding that the Bureau of Veterans' Services will issue a contract for the \$20,000 specifying that the funds be used to pay for one of the plaques. Donated funds will be used to pay for the second plaque.

Motion: That the recommendations of the Commission to Arrange for World War II and Korean War Memorial Plaques in the Hall of Flags as contained in its final report be referred to the State House Facilities Committee. (Motion by Sen. Gagnon, second by Sen. Treat, unanimous).

COLLECTIVE BARGAINING (Executive Session)

Motion: That, in accordance with 1 MRSA section 405, subsection 6, the Legislative Council enter into an executive session with its counsel and negotiators for the purposes of discussing labor contracts and proposals involving MSEA and its represented legislative employees. (Motion by Sen. Treat, second by Rep. Bruno, unanimous).

The Council proceeded into Executive Session at 2:59 p.m.

MEETING CONVENED

The Council ended its Executive Session and reconvened in open session at 3:36 p.m. on the motion of Sen. Gagnon, second by Rep. Bowles, unanimous.

ANNOUNCEMENTS AND REMARKS

None

ADJOURNMENT

The Legislative Council meeting was adjourned at 3:37 p.m. (Motion by Rep. Duplessie, second by Rep. Bowles, unanimous).