

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
October 12, 2004
Approved November 9, 2004

CALL TO ORDER

The Chair, Senate President Daggett, called the Legislative Council meeting to order at 2:31 p.m. in the Legislative Council Chamber.

ROLL CALL

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

Representatives: Speaker Colwell, Rep. Richardson, Rep. Bruno,
Rep. Duplessie, Rep. Bowles

Legislative Officers: Millicent MacFarland, Clerk of the House
David 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

SUMMARY OF THE SEPTEMBER 14, 2004 COUNCIL MEETING

Motion: That the Meeting Summary of September 14, 2004 be accepted and placed on file. (Motion by Speaker Colwell, second by Rep. Duplessie, unanimous).

REPORTS FROM EXECUTIVE DIRECTOR AND STAFF OFFICE DIRECTORS

• **Executive Director's Report**

David Boulter, Executive Director of the Legislative Council, reported on the following items:

1. With the agreement of the State YMCA of Maine Executive Director, the Youth and Government Program has been scheduled for April 8 – 10, 2005. A second program will be held in November of 2005, and thereafter the program will be held in the fall.

2. On September 22, 2004 the Governor issued Executive Order # 24, FY 04/05, which creates a task force on traditional land uses and public access to lands in Maine. The task of the group is to develop recommendations about how best to address issues relating to access to private land for "traditional uses." The task force is comprised of 24 members; the President and the Speaker are invited to make 1 appointment each to the task force. An interim report is due on February 15, 2005, and a final report by September 1, 2005.
3. Recruitment is underway for the OPEGA Director. Once the director is selected, the director will then begin recruitment and selection of staff to start the office. By law the Department of Administration and Financial Services is required to make space available without cost to house OPEGA offices. The Commissioner of DAFS, after considering several areas within the Cross Building, rejected the space as being inadequate because of size, having insufficient privacy, or separation of executive branch agencies. Therefore, the Commissioner recommended that the OPEGA offices be housed in office space that is available in the NASH School, which is located immediately to the west of the Cross Building and it currently houses offices of the Secretary of State. Director Boulter will be consulting with the OPEGA Oversight Committee chairs as to the suitability of the space for the OPEGA offices.

Motion: That the Executive Director, be charged with entering into agreements with the Commissioner of the Department of Administrative and Financial Services to secure suitable offices for OPEGA, in or adjacent to the Cross Building, and that such agreements be completed by December 15, 2004. Prior to completing the agreements, the Executive Director must consult with the chairs of the OPEGA Oversight Committee. (Motion by Sen. Gagnon, second by Sen. Treat, unanimous).

- **Fiscal Report**

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

General Fund and Highway Fund Revenue

The General Fund was \$17 million ahead of revenue projections for the month of September, bringing the year-to-date positive variance to \$39.2 million for the first quarter. Sales tax revenue was under budget for the month of September. Although individual income tax revenue was a major contributor to the positive variance, Maine Revenue Services believes it is a timing issue and by fiscal year end individual income tax may be at projected levels. Corporate income tax revenues were ahead of budget by \$5.5 million in September and \$11.2 million for the first quarter.

The Highway Fund revenues continue to perform well and were \$1.4 million ahead of budget in September and \$4.4 million ahead for the year-to-date.

Revenue Forecasting Committee

The Consensus Economic Forecasting Commission met on October 7, 2004 and developed a tentative forecast. The major economic variables were the wage and salary employment, personal income and the consumer price index. Mr. Pennoyer said he would not expect the tax revenues driven by the economic variables to increase significantly as a result of the economic forecast.

The Revenue Forecasting Committee has not yet set a date for its first meeting, although the work is ongoing. Mr. Pennoyer will advise Council members once a date is set for a Revenue Forecasting Committee meeting.

Cash Pool Status

The General Fund remains negative absent the use of Tax Anticipated Notes and reserves. The trend however is still improving.

No Council action is required.

The Council proceeded with the status of interim legislative studies.

- **Status of Interim Studies**

David Elliott, Director, Office of Policy and Legal Analysis, referred members to the Progress Report on Legislative Studies in their packet. The six studies from the previous year are all making progress toward their reporting deadlines. The Commission to Study Public Health is requesting an extension, which is on the Agenda for Council action later in the meeting.

A copy of the Progress Report on Legislative Studies is attached.

- **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. Performance testing of the system concluded on September 17, 2004. Two of the three criteria was met by HP and significant improvement was shown in the third criteria item. Based on discussion with HP senior management, the Executive Director issued a proposal to HP for further upgrades to the hardware. As of October 8, 2004, HP accepted the proposal in writing. Mr. Mayotte believes the performance issue of the contract has been addressed to the level that meets the contract and the Revisor's needs. Final negotiations are moving forward to resolve the remaining functional items. Negotiations are expected to begin the week of October 18, 2004.

Mr. Mayotte advised that non-English Spam filters have been added to the Legislature's software in a continuing effort to control junk email.

No Council action required.

REPORTS FROM COUNCIL COMMITTEES

- **Personnel Committee**

Rep. Richardson, Chair of the Personnel Committee, reported that the committee met earlier in the day to review the work performance of office directors Lynn Randall, Grant Pennoyer and David Boulter.

No action by the Legislative Council is required for Lynn Randall. Both Mr. Pennoyer and Mr. Boulter had completed a 3-year term and are subject to reappointment. Reappointments will be considered later in today's Council meeting.

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

The State House Facilities Committee did not meet.

OLD BUSINESS

Item #1: Council Actions Taken by Ballot

Funding provisions of the Maine Drug Return Implementation Group under P.L. 2003, c. 679, sec. 2(7).

Motion: Pursuant to P.L. 2003, c. 679, the Legislative Council accepts funds in the amount of \$3,000 offered by the Maine Medical Association (MMA) to fund costs related to the Maine Drug Return Implementation Group, and accepts MMA's representation that it has no pecuniary or other vested interest in the outcome of the matters to be studied. The Implementation Group is hereby authorized to convene.

Approved: September 23, 2004, 7 - 1 - 0 - 2

NEW BUSINESS

Item #1: OPEGA Director Update

Executive Director Boulter reported that the position advertisement has been made in the area newspapers, Boston Globe, and the Internet sources, including a program evaluation society website for peers of this position in other states. The application deadline is October 20, 2004. Once the application deadline is closed, the Council's recruitment committee will review applications and schedule interviews.

Sen. Gagnon asked if the Commission could be provided with demographic information regarding the applicants. Mr. Boulter said that information would be provided.

Item #2: Request for Further Extension of Study Reporting Deadline

- Commission to Study Public Health (from its first extension request of November 3, 2004 to December 1, 2004).

Motion: That the request of the Commission to Study Public Health's request for an extension to December 1, 2004 be granted. (Motion by Sen. Treat, second by Sen. Gagnon, failed 5-4, Representatives Richardson, Bruno, Bowles and Senator Davis opposed).

Item #3: Reappointment of Grant T. Pennoyer, Director, Office of Fiscal and Program Review

Motion: That upon the unanimous recommendation of the Personnel Committee, Grant Pennoyer be reappointed to a 3-year term as Director of the Office of Fiscal and Program Review, the date of reappointment being retroactive to April 26, 2004. (Motion by Rep. Richardson, second by Rep. Bruno, unanimous).

Item #4: Reappointment of David E. Boulter, Executive Director of the Legislative Council

Motion: That upon the unanimous recommendation of the Personnel Committee, David E. Boulter be reappointed to a 3-year term as Executive Director of the Legislative Council, the date of reappointment being retroactive to September 17, 2004. (Motion by Rep. Richardson, second by Sen. Gagnon, unanimous).

Item #5: Labor Contract Between Legislative Council and MSEA, Local 1989, SEIU, AFL-CIO

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 Speaker Colwell, second by Sen. Treat, unanimous).

The Council proceeded into Executive Session at 2:52 p.m.

MEETING CONVENED

The Council ended its Executive Session and reconvened in open session at 3:00 p.m. on the motion of Sen. Treat, second by Speaker Colwell, unanimous.

Motion: That pursuant to its authority under 26 MRSA, section 979-A, subsection 5, the Legislative Council of the 121st Legislature ratifies the collective bargaining agreement negotiated and tentatively agreed to by authorized representatives of the Legislative Council and the Maine State Employees Association, Local 1989, SEIU, AFL-CIO on behalf of the Administrative Unit of Legislative Employees. Such agreement shall expire on September 30, 2007. (Motion by Sen. Treat, second by Sen. Gagnon).

Discussion: Rep. Bruno said that he will vote in favor of ratification, with some hesitancy. Rep. Bruno does not favor the longevity pay provision in the contract but indicated that he believed the contract negotiated by legal counsel Linda McGill and Legislative Council employees Rose Breton and David Boulter led to a reasonable compromise and a fair agreement.

President Daggett believed it to be a fair contract with considerable time, effort and care being put into it and that it represents the interest of all parties.

(Motion by Sen. Treat, second by Sen. Gagnon, approved 8-1, Rep. Bowles opposed).

Motion: That the Legislative Council provide for a one-time payment of \$1,000 for full-time and \$700 for part-time and session-only employees who were employed by the Legislature during the 1st or 2nd regular or special sessions of the 121st Legislature and who remain employed as of December 1, 2004 and who are not represented by a collective bargaining agent. The executive director shall administer this payment when administratively feasible but not later than December 31, 2004 and shall make such payment using funds from unexpended balances in legislative accounts.

Furthermore, the Executive Director is authorized to enter into negotiations for a comparable payment with representatives of legislative employees who are authorized to bargain collectively but who have not entered into a collective bargaining agreement with the Legislative Council. (Motion by Speaker Colwell, second by Rep. Richardson).

Discussion: Rep. Richardson asked for clarification as to which group of legislative employees who are authorized to bargain have not reached an agreement. Mr. Boulter said the group of employees that those in the Independent Association of Nonpartisan Legislative Professionals bargaining unit. The group includes certain positions of analysts, paralegals, and researchers totaling approximately 29 employees. The IANLP has not sought to negotiate an agreement. Rep. Duplessie inquired as to the anticipated scope of negotiations that would be undertaken for this bargaining unit. Mr. Boulter responded that it would be solely to negotiate a payment comparable to that authorized for other legislative employees. He has had initial discussions with a representative of the group and believes it may be a very brief negotiation, but payment is subject to negotiation. Mr. Boulter clarified that this group is unaffiliated with MSEA and is not subject to the contract. Sen. Treat supported the motion and said that she believed all employees should receive the same financial arrangement. Rep. Duplessie asked whether the Independent Association of Nonpartisan Legislative Professionals was piggybacking on the MSEA contract. Executive Director Boulter clarified that the Independent Association of Nonpartisan Legislative Professionals group has not been privy to any provisions of the tentative contract with MSEA and had not expressed any inclination to negotiate a similar contract.

(Motion by Rep. Colwell, second by Rep. Richardson, approved 8-1, Rep. Bowles opposed).

Motion: That the Legislative Council reinstate a policy of providing for longevity stipends to eligible legislative employees in the same manner and to the same extent as the longevity stipend policy that was adopted by the Legislative Council and the presiding officers in 2002. This policy is effective on December 1, 2004 and shall apply to legislative employees not covered by a collective bargaining agreement entered into by the Legislative Council. (Motion by Sen. Gagnon, second by Speaker Colwell, approved 8-1, Rep. Bowles opposed).

Item #6: W. Tom Sawyer, Jr., et al v. Legislative Council et. al (CV-04-97)

Motion: That, in accordance with 1 MRSA, section 405, subsection 6, the Legislative Council enter into an executive session for the purposes of discussing the pending lawsuit by W. Tom Sawyer, Jr., et al v. Legislative Council et al. (Motion by Speaker Colwell, second by Sen. Treat, unanimous).

The Council proceeded into Executive Session at 3:10 p.m.

MEETING RE-CONVENED

The Council ended its executive session and reconvened in open session at 3:23 p.m. on the motion of Sen. Treat, second by Speaker Colwell, unanimous.

ANNOUNCEMENTS AND REMARKS

None.

ADJOURNMENT

The Legislative Council meeting was adjourned at 3:25 p.m. (Motion by Speaker Colwell, second by Rep. Duplessie, unanimous).

Progress Report on Legislative Studies
(Studies authorized or undertaken following the 121st Legislature)

Status as of 10/6/2004 4:38:36PM

<u>Study Name</u>	<u>First Meeting Date</u>	<u>Date, Time & Location of Next Meeting</u>	<u>Report Dates/ Reports To</u>	<u>Comments/Status of Study</u>
Recodification of Title 7 SP0586 -			January 15, 2005: ACF Committee	2-year study begun in 2003; OPLA/ROS developing draft for ACF Committee review
Commission to Study Public Health LD0471 - Resolve 2003, Chapter 95	12/5/03		November 3, 2004: 1st Regular Session, 122nd Legislature	Continuation of 2003 study; public hearing to take comments on preliminary recommendations held 9/26/04; requesting additional meeting and extension of reporting deadline to 12/1/04
Health Care System and Health Security Board LD0855 - Public Law 2001, Chapter 439, Part ZZZ	10/12/01		Nov. 1, 2004: 1st Reg. Session of 122nd Legislature	No more meetings - Drafting final report and recommended legislation
Commission to Study Compliance with Maine's Freedom of Access Laws LD1079 - Resolve 2003, Chapter 83	11/19/03	10/8/04 9:00 am State House, Room 438 10/19/04 9:30 am State House, Room 438	November 3, 2004: Joint Standing Committee on Judiciary	Study extended from 2003 by PL 2003, c. 709; commission has formed 3 subcommittees to address new charge
Task Force to Study Parity and Portability of Retirement Benefits for State Law Enforcement Officers, Municipal and County Law Enforcement Officers and Firefighters LD1343 - Resolve 2003, Chapter 76	8/11/03		December 1, 2004: 1st Reg. Session of 122nd Legislature	Continuation of 2003 study; met 8/11/04; 2 additional meetings authorized in 2004
Commission to Improve the Sentencing, Supervision, Management and Incarceration of Prisoners LD1614 - Public Law 2003, Chapter 451	9/4/03	10/14/04 10:00 am Rm 228, SH	2/5/2004: Criminal Justice and Public Safety Committee 1/1/2005: Criminal Justice and Public Safety Committee	Study extended from 2003 by PL 2003, c. 707

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Citizen Trade Policy Commission LD1815 - Public Law 2003, Chapter 699	10/6/04	10/6/04 9:00 am State House, Taxation Room - 127	Annual: Governor, Legislature AG and municipalities Annually: Congressional delegation, Maine International Trad : Maine International Trade Center : Maine Municipal Association : United States Trade Representative's Office : NCSL and NAAG	Appointments made; 1st meeting held
Maine Drug Return Implementation Group LD1826 - Public Law 2003, Chapter 679	10/15/04	10/15/04 2:00 pm Room 202, Cross Building	January 31, 2005: Health and Human Services Committee	Appointments made; outside funding secured; 1st meeting scheduled
Health and Human Services Committee Review of the Establishment of the Department of Health and Human Services LD1913 - Public Law 2003, Chapter 689	7/27/04		None Required	1st meeting held 7/27/ 04; 2nd meeting 9/15/04
Intergovernmental Advisory Group LD1930 - Public Law 2003, Chapter 696			Annually in January: State and Local Government Committee	2 of 15 appointments made
Government Oversight Committee (OPEGA) LD2193 - Public Law, Ch. 702	8/19/04	10/6/04 1:00 pm Rm 334, SH		Committee rules adopted; working on mission statement

Selection criteria:
 Session ID = 121
 Study Type = Legislative

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 Study Type = Legislative