

MAINE STATE LEGISLATURE

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DAVID E. BOULTER
EXECUTIVE DIRECTOR
OF THE LEGISLATIVE COUNCIL



MAINE STATE LEGISLATURE

OFFICE OF THE EXECUTIVE DIRECTOR
LEGISLATIVE COUNCIL

LEGISLATIVE COUNCIL

July 27, 2006

1:00 p.m.

ADDENDUM TO REVISED AGENDA

OLD BUSINESS

Item #2: Attorney General's Decision Regarding Request for Payment from Representative William Smith



HOUSE OF REPRESENTATIVES

2 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0115
(207) 287-1400
OFFICE

TTY: (207) 287-4469
2006 JUN 12 A 11: 12

William J. Smith

P. O. Box 7
Van Buren, ME 04785
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June 9, 2006

David E. Boulter
Executive Director
Maine State Legislature
115 State House Station
Augusta, ME 04333-0115

RE: Special Session Pay-121st Legislature

Dear Mr. Boulter:

Thank you for your letter of June 6, 2006 regarding my request for payment of \$3,300 in Special Session pay for the 121st Legislature.

I must disagree with the refusal to honor my request. Please bring this to the attention of the Legislative Council for consideration.

I ask that they consider the following:

1. The right of legislators to receive special session pay for the 121st legislature was established by decision of Kennebec Superior Court in W. Tom Sawyer et al v. Legislative Council, Docket No: CV-04-97.

In this case the Court specifically ruled that 3 M.R.S.A. § 2 provided for compensation of \$100 a day for each day's attendance after the first and second regular session.

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The Court further ruled that the Joint Order of January 30, 2004 was ineffective to deny legislators 100 for each day's attendance at the second special session (page 9); that the amendment of 3 M.R.S.A. § 2 was not retroactive; that the legislators' right to the pay was vested; and that legislators had a contractual right to this pay which was not extinguished by the amendment.

2. Since the Superior Court decided that the Legislative Council could not, by Joint Order, extinguish a right to special session pay, the Legislative Council certainly cannot subsequently extinguish the right to the special session pay by an arbitrary deadline.

3. You will find attached, copies of your memo of May 16, 2005 and the calculation/refusal form. Please note the language which appears on both:

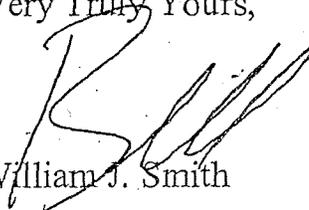
"If you do not refuse payment, payment will be sent to you."

or
"Note unless this option (Refusal) is chosen on this form is not returned, payment WILL be made to you."

I did not refuse, I simply did not respond. Having now applied, payment is in order.

I thank the Legislative Council for their consideration. Please advise when it will be considered and if I might be heard by telephone conference call.

Very Truly Yours,



William J. Smith

WJS/ag
Enc.