

MAINE STATE LEGISLATURE

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REP. SARA GIDEON
CHAIR

SEN. MICHAEL D. THIBODEAU
VICE-CHAIR

EXECUTIVE DIRECTOR
GRANT T. PENNOYER



128TH MAINE STATE LEGISLATURE
LEGISLATIVE COUNCIL

SEN. GARRETT P. MASON
SEN. ANDRE E. CUSHING
SEN. TROY D. JACKSON
SEN. NATHAN L. LIBBY
REP. ERIN D. HERBIG
REP. JARED F. GOLDEN
REP. KENNETH W. FREDETTE
REP. ELEANOR M. ESPLING

**LEGISLATIVE COUNCIL
MEETING SUMMARY**

December 8, 2016

Approved January 31, 2017

CALL TO ORDER

President Thibodeau called the December 8, 2016 organizational meeting of the Legislative Council to order at 1:54 p.m. in the Legislative Council Chamber.

ROLL CALL

Senators: President Thibodeau, Senator Mason, Senator Cushing, Senator Jackson and Senator Libby

Representatives: Speaker Gideon, Representative Herbig, Representative Golden, Representative Fredette and Representative Espling

Legislative Officers: Heather Priest, Secretary of the Senate
Bradley Sawyer, Assistant Secretary of the Senate
Robert Hunt, Clerk of the House
Jennifer McGowan, Assistant Clerk of the House
Grant T. Pennoyer, Executive Director of the Legislative Council
Jackie Little, Human Resources Director
Marion Hylan Barr, Director, Office of Policy and Legal Analysis
Chris Nolan, Director, Office of Fiscal and Program Review
Suzanne Gresser, Revisor of Statutes
John Barden, Director, Law and Legislative Reference Library
Kevin Dieterich, Director, Legislative Information Technology

President Thibodeau convened the meeting at 1:54 p.m. with a quorum of members present.

President Thibodeau, declaring that a quorum was present and pursuant to the Rules of Procedure adopted by the 127th Legislative Council and the Joint Rules adopted by the 127th Maine Legislature, called the first meeting of the 128th Legislative Council to order for the purposes of electing a Chair and a Vice-chair of the Legislative Council, adoption of rules of procedures and such other matters of the Legislative Council.

The Legislative Council's Rules of Procedure prescribe the following with regard to the election of Legislative Council Officers:

Rule #2 provides that the position of Chair alternate in succeeding biennial sessions between a member from the Senate and a member from the House of Representatives. Thus, pursuant to these Rules, the Chair for this new Legislative Council should be a Legislative Council member who serves in the Maine House of Representatives.

Rule #3 provides that the Vice-chair not be a member of the same body of the Legislature as the Chair. Thus, the Vice-chair for the 128th Legislative Council should be a member who serves in the Senate.

President Thibodeau stated that unless there was objection, the Legislative Council would continue its long-standing practice of conducting the vote by a showing of hands. Upon the election of a chair, the chair will preside over the remainder of this meeting.

Hearing no objection, President Thibodeau opened the floor for nominations for Chair of the Legislative Council.

Nomination: That House Speaker Sara Gideon of Freeport serve as Chair of the Legislative Council for the 128th Legislature. (Nominated by Senator Jackson, seconded by Representative Herbig).

President Thibodeau asked if there were further nominations. Hearing none, President Thibodeau closed the nominations. The vote for Legislative Council Chair was taken. House Speaker Gideon was elected to serve as Chair of the Legislative Council for the 128th Legislature. Motion passed unanimously (10-0).

Speaker Gideon then presided for the remainder of the meeting. Speaker Gideon proceeded to open the floor for nominations for Vice-chair of the Legislative Council.

Nomination: That Senate President Michael Thibodeau of Winterport serve as Vice-chair of the Legislative Council for the 128th Legislature. (Nominated by Senator Mason, seconded by Representative Fredette).

Speaker Gideon asked if there were further nominations. Hearing none, Speaker Gideon closed the nominations. The vote for Legislative Council Vice-chair was taken. President Thibodeau was elected to serve as Vice-chair of the Legislative Council for the 128th Legislature. Motion passed (9-0-1-0, with President Thibodeau abstaining).

ADOPTION OF RULES OF PROCEDURE

Proposed Rules of Procedure for Legislative Council Adoption

Executive Director Pennoyer briefly explained the provisions of the suggested *Rules of Procedure* for the Legislative Council of the 128th Legislature, which was revised from the rules for the Legislative Council of the 127th Legislature.

At the request of Rep. Fredette, Mr. Pennoyer explained the process of circulating and approving ballots.

Motion: That the Legislative Council adopt the proposed Rules of Procedure for the Legislative Council of the 128th Legislature. Motion by President Thibodeau. Second by Senator Mason. **Motion passed unanimously (10-0).**

[Note: A copy of the Rules of Procedure as adopted by the Legislative Council is attached.]

OLD BUSINESS

None

Rep. Fredette asked why the decision on the secure forensic psychiatric facility was not on the agenda. President Thibodeau explained that the issue was not tabled at the last meeting of the 127th Legislative Council and that the last motion failed therefore the issue was dropped from further consideration.

NEW BUSINESS

Item #1: Summary of Legislative Council Authority and Duties

Mr. Pennoyer gave an overview of the authority and duties of the Legislative Council as set forth in Maine law. No action by the Legislative Council was required.

Item #2: Establishment of Salaries for Constitutional Officers and the State Auditor

One of the initial decisions required of the Legislative Council once a new Legislature is convened is the assignment of the salary for newly elected Constitutional Officers and a newly elected State Auditor. State law prescribes the salary grade and the initial salary step for each official or allows for step-increases for continuous service. As all of the Constitutional Officers and the State Auditor were re-elected into another term for the 128th Legislature, they qualify for step increases.

Motion: That the Legislative Council approve a step increase for the Secretary of State to Step 7, the State Treasurer to Step 5, and the Attorney General and State Auditor both to Step 9, effective January 1, 2017. Motion by Senator Mason. Second by Senator Libby. **Motion passed unanimously (10-0).**

Item #3: Establishment of Initial Salaries for Secretary of the Senate and Clerk of the House

Another initial decision required of the Legislative Council once a new Legislature is convened is establishing the initial salary for a newly elected Secretary of the Senate and a newly elected Clerk of the House. State law also prescribes the salary grade and the initial salary options for each of the Legislative officials. Both the Secretary of the Senate and the Clerk of the House were originally elected at the convening of the 127th Legislature, and were re-elected into office for the 128th Legislature. As such both the Secretary of the Senate and the Clerk of the House qualify for step increases.

Motion: That the Legislative Council approve a one-step step increase for the Secretary of the Senate to Step 5 and the Clerk of the House to Step 5 of Salary Grade 14 of the

Legislature's salary schedule, in accordance with State law. Motion by Senator Mason. Second by Representative Herbig. **Motion passed unanimously (10-0).**

Item #4: Legislative Council Policy on Processing Closely-Related Legislator Bill Requests

Revisor Suzanne Gresser explained that in past sessions, the Legislative Council has established a policy whereby the Office of the Revisor of Statutes was directed to combine legislator bill requests for duplicate or closely related bills (Joint Rule 206). This provision of Joint Rule 206 has existed since the 118th Legislature.

Joint Rule 206, Section 2 provides that:

For duplicate or closely related bills or resolves, the Legislative Council may establish a policy for combination of requests and the number of cosponsors permitted on combined requests.

Before the above language was adopted by the 118th and subsequent legislatures, every bill was simply processed and printed without regard to whether it was closely related to another. Since the advent of the rule, however, each Legislative Council has used its authority to direct that the Revisor's Office in some manner combine closely related bills in order to facilitate the efficient processing of bills.

When the 124th Legislature adopted a cloture deadline of mid-January, the process was modified slightly in order to allow the printing of some bills in advance of the later cloture deadline. The Legislative Council of the 124th Legislature directed the Revisor's Office to make reasonable efforts to identify duplicate bills as the office processed them before cloture and to notify sponsors as in the past, setting up primary and "mandatory" cosponsors. The Council recognized that by printing bills prior to cloture, a number of potential duplicates would not be identified and combined; however, the Council did not want to suspend the printing of bills until after the cloture date because it would not further the Legislature's goal of expeditious processing and printing of bills.

Because the cloture deadline of the 128th Legislature is December 30, 2016, in order to facilitate the expeditious processing of bills in the same manner as was done in the first regular sessions of the 124th, 125th, 126th and 127th legislatures, Ms. Gresser recommended that the Legislative Council adopt the process that was established by the those legislatures.

Motion: That the Legislative Council adopt the Policy on Processing of Closely-Related Legislator Bill Requests recommended by the Revisor for the 128th Legislature. Motion by Speaker Gideon. Second by President Thibodeau. **Motion passed unanimously (10-0).**

Item #5: Legislative Council Policy on Legislator Attendance

Mr. Pennoyer reviewed provisions of the policy on Legislator Attendance. During discussion, concerns were raised about the differences between how the Senate and the House record legislator attendance, a lack of a provision for appeal and the retroactive effective date. The Legislative Council decided that the policy should be referred back to the Personnel Committee for review.

Motion: That the Legislative Council table this item and refer it back to the Personnel Committee for review. Motion by President Thibodeau. Second by Senator Mason. **Motion passed unanimously (10-0).**

Item #6: Legislative Council Policy on Harassment

Mr. Pennoyer explained the revisions to the Legislative Council Policy on Harassment. The update to this policy includes a new definition of harassment generally at the request of a member of the 127th Legislative Council. The previous version only had a definition of sexual harassment.

Motion: That the Legislative Council adopt the *Legislative Council Policy on Harassment*. Motion by Representative Espling. Second by President Thibodeau. **Motion passed (9-0-1-0**, with Representative Fredette abstaining).

New Item

Rep. Espling moved to add an item to the agenda about the Riverview expansion.

Speaker Gideon explained that she had not anticipated taking this item up at this meeting as she has reached out to the Governor's Office to meet and figure out the best path for providing a step-down facility, that meeting with the Governor has been scheduled. Therefore, she recommends not bringing this matter up at this time.

Rep. Fredette expressed concern about the delay in dealing with this important matter until the next council meeting more than six weeks away.

Speaker Gideon noted that if there is progress that a meeting of the Legislative Council could be considered earlier or the matter could be addressed by ballot.

Motion: That the Legislative Council add an item to the agenda. Motion by Representative Espling. Second by Representative Fredette. **Motion failed (5-5)**.

Item #7: Legislative Council meeting schedule for 2017

Mr. Pennoyer reviewed the proposed Legislative Council meeting schedule for 2017. Representative Fredette requested an additional Legislative Council meeting to be added to the schedule. Speaker Gideon said that she would consider adding an additional meeting to the schedule after she has had the opportunity to meet with the Governor.

Motion: That the Legislative Council adopt the proposed Legislative Council meeting schedule for 2017. Motion by Senator Mason. Second by Senator Cushing. **Motion passed (8-1-0-1**, with Representative Fredette absent).

ANNOUNCEMENTS AND REMARKS

Mr. Pennoyer recognized Capitol Police Officer Meghan Fenton who used her life-saving training on a legislative employee who was aspirating. Officer Fenton heard the call for help and rushed to provide aid. Using her training, she quickly applied the appropriate technique to clear the airway of the very panicked employee. The Legislative Council offered their sincere appreciation to Officer Fenton for her quick actions.

With no other business to consider or further announcements, the Legislative Council meeting was adjourned at 2:53 p.m.