



HOUSE OF REPRESENTATIVES

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April 24, 2013

Senator Cain and members of the Government Oversight Committee,

I hereby request an OPEGA review of a meeting held on March 21, 2013, at the Blaine House, attended by Governor Paul LePage, hearing officers from the Division of Administrative Hearings in the Bureau of Unemployment Compensation, and certain other officials from the Administration and the Maine Department of Labor. Those decisions control the administration of substantial funds within the Unemployment Insurance system. The system is regulated by federal and state laws, regulations and court precedents.

During the meeting, the Governor and the Chair of the Unemployment Insurance Commission raised concerns brought to them by members of the public relating to decisions reached by the Division of Administrative Hearings. This message was reportedly perceived by some to constitute improper interference in the independent hearing process. Media reports have included email quotes obtained through Maine's Freedom of Access Act (FOAA) revealing an attendee's concerns of "political pressure/bias" being injected into the "quasi-judicial process within the Maine Department of Labor".¹

The meeting raises significant questions concerning the proper balance between the need to protect the integrity of the hearing process from political influence and the administration's interest in addressing concerns raised by the public relating to the operation of the unemployment insurance system as a whole. The matter was reported anonymously to the press, and has generated substantial public concern. On the one hand, certain media outlets have accused the hearing officers who reported the event of lying to advance a personal political agenda. On the other hand, some have accused the Governor and the Chair of the Unemployment Insurance Commission of serious misconduct in seeking to interfere with the administrative hearing process. As a result, the public's confidence in state government as a whole has been undermined, along with the efficacy and independence of the appeals process.

¹ Mistler, S. (2013, April 17). Documents: Hearing officer felt pressured by LePage. *The Portland Press Herald*. Retrieved from http://www.pressherald.com/politics/lepage-meeting-a-group-scolding_2013-04-17.html

The incident raises concerns about the respective roles and responsibilities of the Maine and United States Departments of Labor, the Maine Unemployment Insurance Commission, and the Governor's Office in administering the hearing process. Without a prompt and impartial examination of these concerns, the appeals process is threatened with the taint or the reality of political influence or bias, whether from one side of the political spectrum or the other. More fundamentally, the public needs assurance that the Administration can exercise its authority over executive branch agencies, but will so do in a manner that is consistent with the applicable laws.

For the reasons set forth below, I hereby request that OPEGA conduct an investigation to, at a minimum, answer the following questions:

- a Was there perceived or actual improper influence by any public official during or related to the March 21, 2013 meeting?
- b Is legislation, governmental action or any other measure needed to strengthen and improve the structures of accountability and independence between the Office of the Governor, the Department of Labor, its Division of Administrative Hearings, and the Unemployment Insurance Commission?

I expect that a prompt and thorough investigation will help sort rumor from fact and reassure the public that concerns can and will be addressed through proper channels, consistent with law, in a manner that ensures the independence of the administrative hearing officers hearing unemployment appeals.

Other bodies are reviewing distinct issues within their respective jurisdictions. The United States Solicitor of Labor is conducting an audit, the Governor has appointed a Blue Ribbon Commission to investigate the underlying concerns raised by members of the public and still others may conduct additional inquiries on questions of law or policy. OPEGA's independence and purview makes it well-suited to review the content and implications of the March 21, 2013 meeting and to review the systems of accountability and independence that govern relations between the Office of the Governor, the Unemployment Insurance Commission, and the Department of Labor.

This review is crucial if we are to ensure current and future concerns are explored and addressed in ways that safeguard both the appearance and reality of an impartial hearing process and restore public confidence.

Given the seriousness of the accusations, I believe that the investigation is well within the bounds of OPEGA's authority and ask that this investigation be expedited.

Sincerely,



Representative Chuck Kruger