Fiscal Opportunity Study

FINAL REPORT

Excerpted Sections for GOC Meeting on 4-12-13

State Boards, Committees, Commissions, and Councils — Opportunities May Exist to Improve the State's Fiscal Position and Increase Efficiency

Report No. SR-SBC-07

a report to the
Government Oversight Committee
from the
Office of Program Evaluation & Government Accountability
of the Maine State Legislature

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ABOUT OPEGA & THE GOVERNMENT OVERSIGHT COMMITTEE

The Office of Program Evaluation and Government Accountability (OPEGA) was created by statute in 2003 to assist the Legislature in its oversight role by providing independent reviews of the agencies and programs of State Government. The Office began operation in January 2005. Oversight is an essential function because legislators need to know if current laws and appropriations are achieving intended results.

Although the Maine Legislature has always conducted budget reviews and legislative studies, until OPEGA, the Legislature had no independent staff unit with sufficient resources and authority to evaluate the efficiency and effectiveness of Maine government. The joint legislative Government Oversight Committee (GOC) was established as a bipartisan committee to oversee OPEGA's activities. OPEGA's reviews are performed at the direction of the Government Oversight Committee. Legislators, committees, or members of the public should make their requests for reviews to members of the Committee or OPEGA directly.

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EXECUTIVE SUMMARY

State Boards, Committees, Commissions, and Councils – Opportunities May Exist to Improve the State's Fiscal Position and Increase Efficiency

Introduction

This study was intended to identify potential cost savings or efficiencies, not to evaluate the effectiveness of State boards and commissions.

The Maine Legislature's Office of Program Evaluation and Government Accountability (OPEGA) has completed a fiscal opportunity analysis of State boards, committees, commissions, and councils. OPEGA conducted this study at the direction of the joint legislative Government Oversight Committee (GOC), in accordance with 3 MRSA §§991-997.

The GOC added this study to OPEGA's biennial workplan as part of a broader effort to identify opportunities for improving the State's financial situation. This study focused primarily on potential cost savings, efficiencies, or other fiscal opportunities rather than on the effectiveness of boards and commissions.

OPEGA compiled and analyzed information on a total of 261 boards and commissions throughout State government, focusing on the boards listed in 5 MRSA Chapter 379 and in the Maine State Government Annual Report. According to the data gathered, these boards collectively consumed about 349,015 hours of State employee staff time (approximately 168 FTEs) and had costs (i.e. member fees, travel, staffing, facility and refreshment expenses) totaling about $12 million in 2007.

Summary

The State's boards and commissions appear to present some opportunities for reducing administrative costs and streamlining government.

OPEGA acknowledges the value that some boards contribute to State government. However, this area appears to offer some opportunities for reducing administrative costs and streamlining State government. Analyses of self-reported data from an OPEGA survey of the boards and of data from the Secretary of State's Office identified:

- boards with little or no activity;
- boards with many seats that have expired terms, or with terms that have been expired for a number of years;
- boards that appear to have similar areas of focus;
- a large number of advisory boards;
- occupational and professional licensing boards that have largely, but not completely, consolidated administration;

- some boards paying for refreshments or facility rentals for meetings; and
- disparate rates of compensation and expense reimbursement for board members.

Based on our analyses, OPEGA developed four general recommendations in addition to seven fiscal opportunities for the Legislature's consideration.

Recommendations and Fiscal Opportunities

Recommendations

The Legislature should consider:

A. Exploring the potential fiscal opportunities identified in this report. Recommendation D describes processes that may be used for this purpose.

B. Reviewing the current list of boards included in 5 MRSA Chapter 379 to determine whether the list is still comprehensive and appropriate given the chapter's intent.

C. Amending reporting requirements in 5 MRSA Chapter 379 to provide for capture of all costs associated with the listed boards.

D. Implementing sunrise and sunset processes for all boards and commissions included in 5 MRSA Chapter 379. OPEGA provides some criteria for sunrise and sunset review of boards in Appendix B.

Fiscal Opportunities

Cost savings or savings of State employee hours may be achieved through:

1. Eliminating a percentage of boards with little or no activity.
2. Reconsidering the number of seats on boards with many expired seats, or reconsidering the need for the boards themselves.
3. Considering whether some boards could be consolidated with others that appear to share the same area of focus.
4. Repealing a percentage of the State's advisory boards.
5. Consolidating the administration for all licensing boards.
6. Reducing expenditures on refreshments and facilities for all boards.
7. Evaluating the disparate levels of compensation currently authorized for board members.

OPEGA developed rough savings estimates for three of these opportunities, totaling $190,000 and 4,012 hours of State employee time. Developing reasonable savings estimates for the other opportunities requires more detailed analysis. However, nearly all opportunities identified present the potential benefit of freeing up time for staff in the Secretary of State's Office and for the appointers in both the Governor's Office and the Legislature. For more details, see the full report.

Recommendations

Title 5 Chapter 379 was created to prevent the proliferation of, and control costs associated with, boards, but the chapter may currently be of limited use.

Title 5 Chapter 379 was created to prevent the proliferation of, and control costs associated with, boards. It has produced two valuable items: an inventory of boards and a collection of data at the Secretary of State's Office. The statute, however, may currently be of limited use. The Secretary of State expressed multiple concerns regarding the effectiveness of 5 MRSA Chapter 379 as currently written. In addition, OPEGA noted:

- not all the boards existing in statute are included in the list of boards in 5 MRSA Chapter 379;
- data collected by the SOS does not include all costs associated with boards nor does it include information that addresses the boards' effectiveness or value; and
- it does not appear that the Legislature uses this data to periodically review the boards.

Some have suggested that once a board is created it will likely continue into perpetuity, often because as an individual budget line it appears to have minimal cost and, therefore, does not warrant the time it would take to review. Given the results of our analyses, however, OPEGA offers the following recommendations.

The Legislature should consider exploring the fiscal opportunities presented in this report and reviewing the current list of boards included in 5 MRSA Chapter 379.

A. The Legislature should consider exploring the potential fiscal opportunities identified in this report. These fiscal opportunities involve deciding whether the number of boards can be reduced and/or whether administrative costs can be further limited. OPEGA notes that some boards may be providing necessary services at costs that are less than the State would otherwise have to pay for those services. Others may offer the best avenue for critical citizen input. As such, decisions about eliminating boards should be made using a legislative process that allows for a full understanding of cost-benefits and potential consequences, and includes input from key stakeholders. Recommendation D below describes processes that may be used for this purpose.

B. The Legislature should consider reviewing the current list of boards included in 5 MRSA Chapter 379 to determine whether there are:

   - boards that could be removed because the intent of statute does not apply to them[1]; and
   - other boards in statute which are not already listed but should be included.

   In conjunction with this, the Legislature should also consider establishing a means of assuring that any newly created statutory boards get added to 5 MRSA Chapter 379 as appropriate, and that enacting statutes for these boards contain proper references to 5 MRSA Chapter 379 and its requirements.

[1] For example, boards associated with the governance of quasi-State agencies like the Maine Turnpike Authority and the Finance Authority of Maine.

OPEGA recommends the Legislature review the adequacy of the reporting requirements in 5 MRSA Chapter 379.

C. The Legislature should consider amending reporting requirements in 5 MRSA Chapter 379 to provide for capture of all costs associated with the listed boards. Currently Title 5 requires reporting of only member costs, leaving out costs associated with refreshments, facilities, staffing, and overhead. Additionally, the Legislature should consider whether other information related to effectiveness or value should be reported so the Secretary of State can better assess whether a board should be recommended for elimination.

The Legislature should consider implementing sunrise and sunset processes for all boards, commissions, and similar entities.

D. The Legislature should consider implementing sunrise and sunset processes for all boards and commissions included in 5 MRSA Chapter 379. A sunrise process would help prevent the creation of unnecessary or duplicative boards. All proposals for new boards or commissions would be screened to make sure that any new entity:

- is necessary and desirable for the taxpayers of Maine;
- has a potential benefit that justifies its cost; and
- has a mission that is not already under the responsibility of, or more appropriately under the responsibility of, a different board or State agency.

The sunrise process could be built on one that currently exists in statute for occupational and professional regulation boards.[2]

The sunset process, on the other hand, would address boards already in statute. Through this process, the Legislature would periodically assess the activities, mission, costs, and results of each board to determine whether the boards are cost-effectively performing critical missions for the State and should be continued.

Many of the boards inventoried in 5 MRSA Chapter 379 are already scheduled for Government Evaluation Act reviews; however, a sunset review offers a different perspective.

Some boards listed in the inventory in 5 MRSA Chapter 379 are already scheduled for a legislative review under the Government Evaluation Act (GEA).[3] A sunset review, however, generally starts from a different perspective than GEAs in that it assumes the statutory authorization for an entity should expire unless the Legislature decides to extend that authorization. This approach may lead to fewer boards over time because it requires effort to actually keep the entities authorized rather than requiring effort to eliminate them. OPEGA has provided some criteria for sunrise and sunset review of boards in Appendix B.

[2] 32 MRSA §60-J through L.
[3] 3 MRSA §959 suggests a schedule for review of the entities subject to the Act.

Appendix B. Model Sunrise and Sunset Criteria for Boards and Commissions

These criteria are based on those used by Arizona in that state's sunset review process. See Arizona's website for more information about the specific processes used there: (http://www.azleg.state.az.us/Sunset_Review.pdf).

Sunrise Criteria – for consideration when evaluating the need for a new board or commission.

1. The existing problem that could be addressed by the creation of a new board, including the nature of the potential harm to the public if the board is not created.
2. The extent to which citizens need, and will benefit from, the creation of the new board.
3. Other boards currently in statute that deal with topics of a similar nature.
4. Alternatives considered and reasons why each was determined unacceptable.
5. The extent to which the new board may harm the public, if at all.
6. Whether the need for the board will be constant and permanent, or is more temporary in nature and could have a date of dissolution built into its enacting statute or could instead be established as an ad-hoc entity.
7. Expected costs to the state and the general public of implementing the board.

Sunset Criteria – for consideration in evaluating the need to continue a pre-existing board or commission.

1. The purpose of continuing the board, including the benefit the public can expect from the board's continuation.
2. The extent to which repealing the board would harm the citizens of the State.
3. Whether any of the board's responsibilities overlap or conflict with the responsibilities currently held by any other State boards or agencies.
4. How effectively that board has fulfilled its purpose, and whether it has done so efficiently.
5. Whether rules adopted by the board are in keeping with its legislative mandate.
6. The extent to which the board has encouraged public input and kept the public apprised of its actions.
7. How well the board has been able to investigate and resolve complaints within its jurisdiction (if applicable).
8. What barriers exist that interfere with the board's ability to fulfill its statutory mandate.
9. The extent of member participation in board meetings, and any difficulties the board has experienced in maintaining a full complement of members.
10. The level of activity of the board, including whether meetings have been held and minutes indicate substantive actions.
11. The costs associated with the board, and whether the costs are justified and appropriate in the current social and fiscal environment.