



SEN. ELIZABETH H. MITCHELL, CHAIR
REP. MARILYN E. CANAVAN, CHAIR

MEMBERS:

SEN. PHILIP L. BARTLETT, II
SEN. JONATHAN T.E. COURTNEY
SEN. DANA L. DOW
SEN. JOSEPH C. PERRY
SEN. KEVIN L. RAYE
REP. ANDREA M. BOLAND
REP. SCOTT E. LANSLEY
REP. EVERETT W. MCLEOD, SR.
REP. PEGGY A. PENDLETON
REP. MICHAEL A. VAUGHAN

MAINE STATE LEGISLATURE
GOVERNMENT OVERSIGHT COMMITTEE

MEETING SUMMARY

April 23, 2007

Accepted April 30, 2007

CALL TO ORDER

The Chair, Sen. Mitchell, called the Government Oversight Committee meeting to order at 1:20 p.m. in Room 211 of the Burton Cross Building.

ATTENDANCE

Senators:	Sen. Mitchell, Sen. Bartlett, and Sen. Courtney Joining the meeting in progress: Sen. Raye Absent: Sen. Perry and Sen. Dow
Representatives:	Rep. Canavan, Rep. McLeod, Rep. Lansley and Rep. Vaughan Absent: Rep. Pendleton and Rep. Boland
Legislative Officers and Staff:	Beth Ashcroft, Director of OPEGA Etta Begin, Adm. Secretary, OPEGA

Introduction of the Government Oversight Committee Members

Members of the Government Oversight Committee introduced themselves for the benefit of the listening audience.

Director Ashcroft reported that today's meeting material had been posted to OPEGA's web site so those listening will have the information available. She noted the material is posted as drafts and will be removed after today's meeting. This is because the GOC may make changes to the documents and the Director does not want to have documents in the public that are not correct versions. Rep. McLeod asked if anyone could download, copy or change the posted material. Director Ashcroft said OPEGA protected the material from copying or printing, but the technology to keep someone from saving a document was too complex for OPEGA to do for this meeting. Once the material is finalized OPEGA will post it on its web site as appropriate.

SUMMARY OF APRIL 9, 2007 MEETING

Motion: That the Meeting Summary of April 9, 2007 be accepted as written. (Motion by Sen. Courtney, second by Sen. Bartlett, PASSED, unanimous, 7-0).

Chair Mitchell asked if Director Ashcroft had any response regarding OPEGA's Biennial Work Plan for 2007-08. Director Ashcroft said that a lot of interest has been expressed in the Contracting for Health and Social Services by the Department of Health and Human Services project.

REPORT OF OPEGA DIRECTOR

- **Update on Legislation With Potential to Impact OPEGA**

Director Ashcroft reported on the bills in progress with potential impact to OPEGA.

LD 984 - Resolve, To Evaluate MaineCare Finances

Health and Human Services Committee voted ought not to pass at the recent work session so OPEGA will do nothing further at this time.

LD 1021 – Resolve, To Lower The Cost Of State Government

The work session was cancelled and has not yet been rescheduled. This bill has potential for substantial impact to OPEGA. A few of the projects on OPEGA's current work plan addresses some of the issues contained in the LD.

LD 109 – An Act To Create The Maine Natural Resource And Environment Efficiency Commission

A straw vote was taken after the public hearing and the majority vote was ought not to pass. OPEGA will do nothing further at this time.

LD 1318 – Resolve, To Require The Department of Marine Resources And The Office Of Program Evaluation And Government Accountability To Conduct A Review And Audit Of The Water Quality Division

Marine Resources Committee has tabled the bill. The Committee is checking if there is a national organization that may be able to conduct the review rather than OPEGA. Director Ashcroft believes that Sen. Dow requested that in the tabling motion the reference to OPEGA be removed from the bill. The bill is still tabled.

LD 1321 – An Act To Require The Office Of Program Evaluation And Government Accountability To Provide Audit And Oversight Services Regarding Medical And Dental Services Provided In The County Jails And State Prisons

Director Ashcroft spoke to Rep. Saviello, the sponsor of the bill, regarding the issues he was concerned with. The Director felt that the audit on Criminal Justice: Adult included in OPEGA's work plan may address his issues. He thought the review may be a good alternative to his bill. A public hearing has not yet been scheduled.

LD 1848 – An Act To Promote Sustainable Prosperity

The bill creates a special commission that OPEGA would provide assistance to as requested. Director Ashcroft has been asked to provide an impact statement to OPEGA. The Director has spoken briefly to President Edmonds, the sponsor, to let her know that a number of projects on OPEGA's work plan may address areas of concern in the bill. The public hearing has not been scheduled. This bill has potential for substantial impact to OPEGA.

LD 1163 – An Act To Implement The Recommendations Of The Office Of Program Evaluation And Government Accountability Regarding Economic Development In Maine

Director Ashcroft has been working with Catherine Renault from the Office of Innovation, Department of Economic and Community Development, to work through what DECD's new management responses will be to OPEGA's report. DECD is ready to put forth a plan for possibly doing an annual macro level evaluation of all economic development programs. Director Ashcroft will also be available to work with the BRED Committee at the work session on this bill which is scheduled for April 24, 2007.

UNFINISHED BUSINESS

• **Process for Handling Requests for OPEGA Audits**

Director Ashcroft referred GOC members to the information in their notebooks regarding the process for handling OPEGA audit requests. Director Ashcroft proposed that the GOC consider revising its new process for handling citizens' requests as she does not believe OPEGA can sustain that process with its present resources without impacting the work plan and legislators' requests. OPEGA spent considerably more time than envisioned on the most recent two citizen requests. In addition, although she was trying to have OPEGA play a filtering role, that role got somewhat confused in the process of the GOC wanting to hear from all parties involved in the review request. Many offices similar to OPEGA in other states that report to the Legislature only take legislators' requests and require citizen requests to go through a legislator. In other states, it is the state auditor's office that takes citizen requests and that office has the authority to decide which requests to investigate on their own.

The GOC discussed OPEGA's process for handling requests for audits. That discussion included:

- whether there was a process for the public to make requests to the State of Maine Auditor;
- whether the State Auditor's Office had established a hot line for audit requests and whether they accept written requests from citizens;
- the need to balance legislative and citizen concerns with resources available to OPEGA;
- the possibility of the Chairs and Leads of the GOC reviewing the requests first and deciding whether they should be brought forward and added to a GOC agenda;
- whether all review requests should come through a legislator;
- whether a request from a legislator would need a cosponsor and whether the cosponsor should be from a different party than the requestor;
- that OPEGA collect request topics and prepare a list for the GOC's review on a quarterly, semi-annual or annual basis;
- continued use of OPEGA's audit request form and what changes to make on the form;
- the different ways a request should be filtered; and
- the need to listen to citizens.

Chair Mitchell asked if Director Ashcroft had recommendations regarding the process. The Director said she feels strongly that OPEGA works for the Legislature, would want to be doing work that was of interest to the Legislature, and if that included taking citizen requests, OPEGA would do that. She would prefer that requests come from a legislator, but knows from the citizens she has dealt with it has been problematic for them. They believe they have an issue that deserves attention, are struggling to find out which legislator to talk with, or feel very uncomfortable doing so because of the politics. Director Ashcroft believes that citizen requests coming directly to OPEGA are problematic with the current citizen request procedure.

Chair Mitchell suggested that each recommendation discussed by the Committee be addressed and an informal vote be taken as to whether it should be part of the procedure.

Recommendations on what should be included in the review process:

- the filtering process of gathering all requests and OPEGA drafting a list for the GOC to review quarterly;
- legislator and citizen requests will be added to the list prepared by OPEGA for GOC review on a quarterly basis;
- any member of the GOC can bring a request forward at any time with the approval of the rest of the GOC;
- if any request was of an egregious nature, it would be brought before the GOC immediately.

Recommendations on what not to include in the review process:

- having the Chairs and Leads review all audit requests to decide what requests will go forward to the GOC; and
- establishing a hot line.

Further Committee discussion followed regarding the review process.

The Committee asked if Director Ashcroft could check with the State Auditor's Office to find out if the hot line has been installed and whether that Office accepts written requests from citizens.

Sen. Courtney clarified that if a citizen went through a Committee member, that member would have the privilege of bringing the request forward at any time with a majority vote of the Committee.

Chair Mitchell said citizens would have two routes. They could either bring the request to a legislator or could go to OPEGA to fill out an audit request form and that request would be added to the list the GOC would review quarterly.

Rep. Canavan expressed concerns about GOC members being lobbied to move a request through the Committee. She asked about a process that could take the onus off the legislators. She suggested that a letter from the GOC or OPEGA be sent to each requestor explaining that their request will go before the GOC and the Committee will decide whether to move the request forward.

Chair Mitchell said she believes the screening process of putting requests on the list for the Committees review would address Rep. Canavan's concerns.

Sen. Raye originally thought the request should come from a legislator, but with the screening process in place, did not mind requests going through OPEGA to be put on a list for GOC review. The process addresses both legislative and citizen requests.

Director Ashcroft said she would want to make sure that, whether the request was from a legislator or a citizen, the process would no longer involve the individual and agency being asked to address the Committee as a matter of routine. She would prefer that request be added to a list, OPEGA would do the background work to be able to give the GOC some information to help it understand what the concerns are, and the Committee votes on the action it wants to take. The Director indicated she was envisioning a list similar to the one the GOC recently used to select topics for OPEGA's work plan. The information provided to the GOC, then, would be much the same as all the other topics it considers.

Rep. McLeod and Rep. Lansley asked how it would be determined whether a request would come forward to the GOC, and if requests had to meet certain criteria to be added to the list. They both were in favor of creating a list for requests, but expressed that whatever the procedure was, it be used for all requests received.

Director Ashcroft said another way to handle citizen requests would be for OPEGA to collect requests, and organize them by topics. In doing this, OPEGA may potentially see a theme, in which case, what would be presented to the GOC would be that theme instead of any of the individual requests. If the GOC wanted additional input from legislators on a topic, OPEGA could send a list of topics to the committees of jurisdiction, or to all legislators, asking that they contact OPEGA if the topics were of interest to them. Over time the GOC may be able to determine what topics are of higher interest.

Sen. Mitchell summarized the discussion, noting the revised process does not interfere with existing practice that legislators on the GOC can always bring requests to the Committee. What the Committee is trying to deal with is how to handle citizen requests. The Committee agreed they want to create an avenue for accepting citizen requests without giving false expectations. The Committee liked the idea of reviewing a list of reviews received on a quarterly basis and that legislators or citizens can submit a request. OPEGA will draft a form (may use the one it already has) that will be used for submitting a

review request. OPEGA will be looking for patterns and trends, but will not filter any requests at first other than to assure that the request is within the GOC's and OPEGA's purview. OPEGA would also determine whether another party (State Auditor, AG) should get the request. All requests will be brought before the GOC for consideration and the Committee will look for trends. The Committee can act immediately on the request, can send it to the committee of jurisdiction, or take any other action it may decide it wants to take. The waiver that allows the Committee to act on egregious violations immediately will remain in the process.

Director Ashcroft asked if the Committee was going to have a procedure for handling egregious violations. Handling such violations with the same process would be problematic.

Rep. Canavan wanted to make sure that if a person wanted to remain anonymous, they could. Director Ashcroft said OPEGA has the authority under its statute to keep an identity confidential.

Chair Mitchell suggested that Director Ashcroft draft the process for handling requests for OPEGA audits incorporating the recommendations that had been discussed. She suggested the revised process be reviewed again at the next meeting. The Committee agreed.

Director Ashcroft clarified what the Committee had decided should be included in the process. She would eliminate from the current process that the detailed request be presented individually to the GOC and asking the requestor and agency to address the Committee. Chair Mitchell confirmed that would no longer be the process for citizen requests. Director Ashcroft asked whether along with the request list, the GOC still would like a document similar to OPEGA's Audit Request Recommendation Form. The Committee had concerns about items #5 and #6 on that Form. Sen. Courtney also wanted to make sure that OPEGA did not do too much scoping prior to the request getting to the Committee. Sen. Bartlett suggested that the request list be categorized instead. If OPEGA could get the information, one category could be whether the subject topic was being looked at by another organization or committee and then OPEGA could let the GOC know that there may be another investigation underway that may be related. All the information would be included on the review list so a separate form would not be needed. Sen. Mitchell suggested the list be organized by category. Director Ashcroft will prepare a draft of what the Committee discussed for the next GOC meeting. Rep. Canavan asked if a side-by-side could be done so the Committee could see how the process had changed and Director Ashcroft said she would do that.

- **Prioritized List of OPEGA Biennial Work Plan for 2007-08**

At the Committee's request Director Ashcroft prioritized the project topics on OPEGA's Work Plan, noting that within each section the topics were listed alphabetically.

Included in the First Level Priority:

- Boards/Committees/Commissions/Councils
- Contracting for Health and Social Services
- Real Estate/Public Buildings
- Revenue Collected Through Courts
- State Administration-Staffing
- State Publications

Included in the Second Level Priority:

- Contracted Evaluations for Healthy Maine Partnership Programs
- Criminal Justice: Adult
- Division of Financial and Personnel Services (Service Centers)
- Higher Education

- Information Technology: Acquisition & Maintenance of Technology Infrastructure
- Information Technology: Project Management
- Information Technology: Systems Security
- State-funded Grants
- State Lottery

Director Ashcroft said a letter will be sent out shortly to DHHS announcing the initiation of the Contracting for Health and Social Services review. The Chair asked Director Ashcroft if she could give the Committee an update on projected timelines on OPEGA's projects and the Director said she could only give a broad estimate until OPEGA gets through its preliminary research.

The revised Work Plan will be posted to OPEGA's web site later this week.

NEW BUSINESS

None

SCHEDULE NEXT COMMITTEE MEETING

The Committee scheduled Monday, April 30, 2007 at 1:00 p.m. for the next GOC meeting.

ADJOURNMENT

The Government Oversight Committee meeting was adjourned at 2:35 p.m. (Motion of Rep. McLeod, second by Sen. Courtney, unanimous).