

GOVERNMENT OVERSIGHT COMMITTEE

(Joint Legislative Committee on Program Evaluation
And Government Accountability)

Meeting Summary
May 8, 2006
Accepted July 13, 2006

CALL TO ORDER

The Chair, Senator Mitchell, called the Government Oversight Committee to order at 2:17 p.m. in the Labor Committee Room.

ATTENDANCE

Senators: Sen. Mitchell, Sen. Dow, Sen. Courtney
Absent: Sen. Perry, Sen. Raye and Sen. Bartlett

Representatives: Rep. Collins, Rep. Crosthwaite, and Rep. Canavan
Joining the meeting in progress: Rep. Trahan
Absent: Rep. Dugay and Rep. O'Brien

Legislative Officers and Staff: Beth Ashcroft, Director of OPEGA
Diana Stiles Friou, Principal Analyst, OPEGA
Wendy Cherubini, Analyst, OPEGA
Jennifer Reichenbach, Analyst, OPEGA
Scott Farwell, Analyst, OPEGA
Etta Begin, Adm. Secretary, OPEGA

Director Ashcroft made the Committee aware that Commissioner Harvey had provided two annual reports that had been distributed to them - the State of Maine's Office of Adult Mental Health Services and 2005 Client Satisfaction Survey. These reports were also given to the Health and Human Services Committee. The reports are an informational item only.

Chair Mitchell asked if there was objection to taking an agenda item out of order. Hearing none, the Chair then moved to **The Report From OPEGA Director.**

REPORT FROM OPEGA DIRECTOR

• Project Status Report

Director Ashcroft referred members to OPEGA's Revised Annual Work Plan for FY 06 in their notebooks. The purpose of the Work Plan is to give members an overview on the status of OPEGA's reviews. She revised the Plan to reflect what the Committee had approved at

its meeting on April 3, 2006. For all completed projects, the Plan includes revised budget hours that reflect the total hours spent on the project. The Committee had also approved the discontinuance of the Vacant Positions review. Director Ashcroft referred members to the memo dated May 2, 2006 to the Members of the Government Oversight Committee from her regarding OPEGA's recommendation to discontinue the Vacant Positions review.

Director Ashcroft reported the status of the three reviews in progress:

- **Guardian Ad Litem for Children** is transitioning from fieldwork to report phase. The review is 95% complete. An exit conference with the Court was held on May 5, 2006 and OPEGA staff is in the process of drafting the report with a completion date for sometime in June.
- **Economic Development Programs** is in the fieldwork phase. Results of detailed surveys on more than 50 programs are being analyzed that will help to evaluate whether there are mechanisms in place that would allow OPEGA to evaluate the effectiveness and efficiencies of the programs.
- **Highway Fund Use by Public Safety** is in the preliminary research phase. The RFP has been distributed. Four parties indicated their intent to bid and participated in the pre-bid conference held on May 8, 2006. Proposals are due May 12, 2006. Jennifer Reichenbach will lead the review assisted by the consultant.

Three reviews that remain on the planned list are:

- Highway and Bridge Improvement;
- Support and Learning Systems; and
- Bureau of Rehabilitation Services.

Rep. Canavan asked if OPEGA checked with the Joint Standing Committees as to whether any reviews had been done that may be related to an OPEGA review. Director Ashcroft said OPEGA checks with the Joint Standing Committees, OPLA and/or OFPR analysts, the State Auditor, State Controller's Office, and wherever else there might be information that may be relevant.

Rep. Crosthwaite would like to have the OPEGA Annual Work Plan Chart indicate when an outside contractor is being used. It was agreed that it will be included as a footnote.

• **Status of GOC Actions on OPEGA Findings**

Director Ashcroft reported on what had been done to implement the actions that the GOC wanted to take in regard to OPEGA's findings and recommendations. The actions fell into three categories: (1) items that all legislators need to be aware of as they do their work on Joint Standing Committees; (2) items that needed to be addressed to specific Committees of jurisdiction; and (3) items that needed to be addressed to the heads of the different branches of government.

Director Ashcroft reported that, to date, she had:

- (1) Distributed a memo to Members of the 122nd Legislature with an attachment of findings and recommendations from OPEGA's Review of State-wide Planning and Management of Information Technology that needed the support and continuing oversight of legislators.

- (2) Distributed a memo to the Members of State and Local Government and the Appropriations and Financial Affairs Committees, as the committees of jurisdiction, with an attachment of findings and recommendations from OPEGA's Review of State-wide Planning and Management of Information Technology that needed the support and oversight of these Committees.

Director Ashcroft also plans to send a similar letter to the leaders of the different branches of government with a table of findings and recommendations that are relevant to each Branch.

- **Status of OPEGA Follow-up on Open Findings**

Director Ashcroft reviewed with the Committee the report titled Status of Follow Up on OPEGA Findings and Recommendations. She explained that the report included all findings with management action due dates earlier than May 1, 2006. The findings are grouped by status:

1. **Reported** - OPEGA has not yet taken follow-up action on.
2. **Follow-up in Progress** – OPEGA is in the process of following up.
3. **Closed** - OPEGA has received confirmation that the action was taken, therefore, it is considered closed and will no longer require follow up.

Sen. Mitchell expressed concern that there were not specific management actions for some of the findings. Director Ashcroft explained that these were cases where OPEGA had made recommendations that would be the responsibility of the Legislative or Judicial Branch to implement. While those Branches had not been the subject of the review, there were recommendations that were relevant to the other branches stemming from what OPEGA had learned in the review. OPEGA had not discussed these items with responsible parties in those branches prior to releasing the report and, consequently, did not obtain specific management actions to be included in the report. The Director reminded the GOC that they had reviewed those report findings in March for the purpose of determining what action they would like to take as a Committee. The letters that the Director had sent to legislators and that were planned for the leaders of the Legislative and Judicial Branches were the result of this.

Further discussion ensued regarding the procedure OPEGA should follow when the action that needs to be taken involves the Judicial or Legislative Branch.

The GOC discussed and agreed that OPEGA have a clear directive and recommended the following procedure for all reviews: OPEGA performs the review; reports its findings; makes its recommendations to the appropriate authority; inquires what action they plan to take; and report back to the GOC whether the actions were taken. This procedure should also be followed when the action that needs to be taken involves the Judicial or Legislative Branch. The Legislative Council is the proper authority to oversee management actions required by the Legislature. Director Ashcroft will find out who the appropriate person would be for the Judicial Branch.

While reviewing the report, the Director drew the Committee's attention to a finding from the Title IV-E Adoption Assistance review where the due date on the management action had been extended several times. The finding was that DHHS Office of Children and Family

Services and Division of Regional Operation have not always taken effective and timely corrective actions in response to Title IV-E Adoption Assistance findings. The management action was that the DHHS Director of Internal Audit would establish a process to ensure accountability and follow-up on audit findings. The Director noted that DHHS Internal Audit Director had started developing the process but that position was now vacant. The follow-up memo had, therefore, been recently sent to Commissioner Harvey.

Sen. Mitchell requested that Director Ashcroft pass on whatever information was received from Commissioner Harvey regarding the Department's plan of action and also that the Commissioner have the opportunity to be heard at the next OPEGA meeting.

Sen. Mitchell recognized Lucky Hollander, Director for Legislative Relations with the Department of Health and Human Services. Director Hollander stated that the Department has been working on establishing a new system to improve DHHS' response to audit findings. The delay in reporting back to OPEGA was not only because there was no longer an internal auditor but also because DHHS wants to set up only one system that will respond to any audit in a timelier manner. Director Hollander said information would be forwarded to the GOC when it was available. Sen. Courtney requested information be given to the GOC prior to its next meeting. Director Ashcroft will invite the Commissioner to the next meeting.

Rep. Trahan asked if the GOC should adopt a procedure regarding the continuous delays on a project. Director Ashcroft said that under the statute, the Committee has the ability to request that management explain the delay and eventually the status of the follow-up report they were currently reviewing will include the number of times that a date has been revised. Sen. Mitchell said that the GOC could invite management to attend a GOC meeting to discuss extensive delays in meeting due dates.

Sen. Mitchell noted that sufficient time needed to be included in OPEGA's work plan for follow up work as this was a valuable aspect of OPEGA's reviews.

• **Summary of Other OPEGA Activities**

- TeamMate Purchase - OPEGA has ordered TeamMate but has yet to receive it.
- Input on LD 1741, An Act To Encourage Reporting of Potential Fraud in State Government (legislation regarding establishing a hotline in the State Auditor's Department).

Director Ashcroft reported that she had met with Rep. Trahan and State Auditor Douglass to assist in making sure that everything was in place to make a hotline effective. Rep. Trahan proposed a floor amendment which requires the State Audit Department, OPEGA and the Attorney General's Office to work together in order to set criteria for which office would respond to calls received by the hotline. The amendment was also to add language that would allow the Director of OPEGA to look at confidential information and share it with the State Auditor, for the purpose of allowing them to work together and to distribute hotline reports appropriately. Rep. Trahan said the legislation had come before the House, was amended with the changes and is currently in non-concurrence with the Senate. The bill will be sent to the Senate, and the Senate will have to adopt the amendment in order for it to be in-concurrence. There was no objection in the House.

MEETING SUMMARY OF APRIL 3, 2006

Motion: That the Meeting Summary of April 3, 2006 be accepted as written. (Motion by Rep. Crosthwaite, second by Rep. Collins, PASSED by unanimous vote).

OLD BUSINESS

None.

UNFINISHED BUSINESS

- **Memo on Discontinuance of OPEGA Review of Vacant Positions**

Director Ashcroft reminded the GOC that at its April 3, 2006 meeting it concurred with OPEGA to discontinue the Vacant Position review. The GOC had requested a formal memo be prepared stating the reasons for the discontinuance. Director Ashcroft directed the Committee's attention to that memo.

- **Riverview Data Collection and Analysis**

In the final report on the Riverview bed capacity, it was recommended that certain data elements be collected at Riverview. At the April 3, 2006 meeting, the GOC asked Director Ashcroft to make sure that the information being collected was funneled through OPEGA to the Committee because the Bed Review Committee no longer met.

Director Ashcroft met with Commissioner Harvey and Superintendent Profitt to go over the questions the Committee wanted answers to, and the data that needed to be collected in order to be able to answer the questions. Director Ashcroft designed a data collection form to be used at Riverview to make the process easier and still collect the data that OPEGA needed. She created a spreadsheet that Terry O'Neal, Director of Finance and Ambulatory Care at Riverview, is using to input the data from the forms. Data collection began May 1, 2006. Director O'Neal will forward the information weekly to OPEGA for analysis. Director Ashcroft will forward the results to the GOC and the other joint standing committees of jurisdiction.

Sen. Mitchell asked if Director Ashcroft's creation of the data collection forms might be a step towards helping others trying to manage data. Director Ashcroft believed it was helpful. Riverview had been working with the DHHS Quality Assurance Department to try to improve the process, but still were not collecting all the data she believed would be necessary to answer the GOC's questions.

Rep. Trahan said the process used by Director Ashcroft for Riverview was very impressive and was exactly what needed to be done. He asked whether it was the formal process that the GOC should consider adding to the statutes or rules in order for data to continue being collected at Riverview. Director Ashcroft suggested waiting to see what was sent back and what needed to be monitored on an ongoing basis. She will meet with the chairs of the joint standing committee to ask if it is the information they would like to receive. If the GOC finds it valuable or the Health and Human Services Committee feels it is information it

would like to receive on a regular basis for monitoring, that could be explored, but Director Ashcroft does not want OPEGA to be in the position of having to continue doing the collecting and analyzing of information.

- **Scope for Review of Highway & Bridge Improvement (DOT)**

Three scope options were presented to the GOC at its April 3rd meeting. (1) *Urban-Rural Initiative Program*; (2) *Local Match*; and (3) *Municipal Sand/Salt Building Program*. Rep. Collins was asked to talk with the Transportation Committee members and report its preference. Scott Farwell, OPEGA Analyst, followed up with emails to the Transportation Committee members.

Director Ashcroft recommended the Urban-Rural Initiative Program. The general scope of the review would be: Is the funding provided to Municipalities, Counties and Indian Reservations through this program being equitably distributed and utilized in accordance with statutory requirements? It appears that \$26 million a year is being spent and initial interviews done indicated that there may not be a strong reporting process in place to assure that the money is being used for the purposes intended. Also it is an area that has not been reviewed.

Motion: That OPEGA proceed with the review of the Urban-Rural Initiative Program in place of the review of Highway and Bridge Improvement on OPEGA's Annual Plan for FY 06. (Motion by Rep. Trahan, second by Sen. Dow, PASSED by unanimous vote).

Scott Farwell, OPEGA Analyst, will lead this review.

- **Scope for Potential Review of Emergency Room Stays for Persons Suffering Mental Health Crisis**

Director Ashcroft said that OPEGA reviewed sources of data being collected that may be able to answer GOC questions regarding how long persons in mental health crisis are staying in emergency rooms and what happens if they are refused admission to Riverview. The sources identified are:

- Mental Health Council Statistics for eight hospitals with ER's that are being reported to DHHS monthly;
- Data being collected, analyzed and reported publicly by the Maine Health Data Organization; and
- Data that is now being collected regarding Requests for Admission to Riverview Psychiatric Center.

If the GOC wanted OPEGA to move forward with a review of whether persons in mental health crises are experiencing unreasonably long stays in emergency rooms, OPEGA would:

- evaluate the completeness, reliability and relevance of data already being collected from the identified sources mentioned above (will require cooperation of hospitals);
- perform analysis of data already being collected as appropriate to answer questions;
- identify any additional data not currently being collected that is needed to answer these questions; and

- make recommendations on a process, structure and schedule for collecting data, and reporting the information developed from it, that would be needed for on-going monitoring.

OPEGA could perform the review with its own resources in an estimated 500 hours, but would not be able to begin until the start of FY 07.

Rep. Crosthwaite asked the importance of the review in relation to other reviews of OPEGA in FY 07.

Director Ashcroft said an option would be to put the review On Deck and the GOC could consider its importance in conjunction with the other work that will be reviewed for FY 07.

Sen. Mitchell and Rep. Trahan both spoke regarding the importance of this review. They would like to know how many persons with mental health crises are treated at emergency rooms. They also want to know how much it is costing the State for the emergency room stays.

Motion: That the GOC place the potential review of Emergency Room Visits for Persons With Mental Health Crisis as scoped by OPEGA on Deck with priority. (Motion by Rep. Crosthwaite, second by Sen. Courtney, PASSED by unanimous vote).

- **GOC Action on Legislator Requests for OPEGA Reviews**

- **Overlaps and Duplications in Hospital Licensing and Auditing** (Rep. Janet Mills)

Rep. Mills is concerned that there are overlaps between DHHS and the national hospital accreditation group in regards to licensing requirements and the auditing that ends up resulting in duplication of efforts for hospitals.

The GOC believes that the specific issue regarding DHHS hospital licensing efforts and the Joint Commission on Accreditation of Healthcare Organizations appears to have significant merit. Sen. Courtney said that if Rep. Mills wanted the matter addressed in a timelier manner than what OPEGA could do, she should submit legislation to eliminate the duplication.

Committee discussion followed regarding other areas, in addition to hospitals, where State licensing efforts may duplicate those of other licensing and accreditation bodies. Diana Friou, Principal Analyst, OPEGA, suggested that OPEGA could collect the information on State licensing activities, review it, and at that time decide what the next step should be. Director Ashcroft said it is not known at this time how long it would take OPEGA to complete a survey of what there are for potential duplications in licensing throughout the State.

Sen. Mitchell asked Director Hollander if DHHS ever questioned whether they were performing duplicate accreditation, and if so, what data was available related to this. Director Hollander said Geoff Green oversees all of DHHS' licensing and could answer the Committee's questions. She said there are some State requirements that none of the national organizations include.

Director Ashcroft said that the GOC could add this item to On Deck to be considered at the time OPEGA's annual plan was established for FY 07. The Committee would have to decide whether the review looks only at Rep. Mills' question or whether it should be a broader look at licensing efforts. Sen. Mitchell said the Committee, after its discussion, would want a broader look with Rep. Mills' request as a case study.

The GOC asked that Director Ashcroft write to Rep. Mills informing her of the Committee's suggestion that she may want to consider submitting legislation to eliminate the duplications of hospital licensing. They also wanted her to know that a broader topic of State licensing activities will be considered for inclusion on OPEGA's FY 07 Work Plan.

Motion: That the GOC place the broader topic of State licensing activities, of which hospitals would be one, on the On Deck list to be considered for inclusion in OPEGA's FY 07 Work Plan. (Motion by Rep. Trahan, second by Rep. Canavan, PASSED by unanimous vote).

- **Fund for Healthy Maine Expenditures** (Rep. Thomas Shields)

Rep. Shields is concerned with expenditures for the Tobacco Help Line and Training of Health Professionals that is being funded by Fund for Healthy Maine.

Sen. Dow asked for clarification on the information that was included in their notebooks on this item stating the information contained inconsistencies. Director Hollander said that the information was prepared for the Appropriations and Financial Affairs Committee to give a summary on the Tobacco Help Line. Sen. Dow said the summary given did not answer his question regarding inconsistencies. He requested that a letter be sent to DHHS requesting additional information.

The GOC agreed that Director Ashcroft send a letter to Dr. Dora Mills, Director of the Bureau of Health, requesting additional information on the inconsistencies in explanations for the request of additional funding and staff for the Help Line. The Committee will review the information received and will make its decision at that time. The Committee also asked Director Ashcroft to send a letter to Rep. Shields advising him of the GOC's action on his review request.

NEW BUSINESS

- **Legislative Request for OPEGA Review**

- **MR-Waiver Program** (Rep. Watson)

Rep. Watson's letter to the GOC requested a review of the MR-Waiver Program within DHHS. The Program costs approximately \$200 million in state and federal funds and services fewer than 3000 Maine citizens.

Director Ashcroft said she had not invited Rep. Watson to the meeting because she was not sure whether the Committee would get to reviewing his request at this meeting.

Sen. Mitchell suggested that the GOC also send a letter to the appropriate department or agency requesting more information on this review request before the GOC took any action. The request will remain before the GOC until more information is received. GOC members agreed to the procedure.

The GOC asked Director Ashcroft to send a letter to Commissioner Harvey requesting that the Department respond and comment regarding the expenditure of \$200 million for the number of people served by the MR-Waiver program and ask for an explanation of what the MR-Waiver program is. Director Ashcroft will also send a letter to Rep. Watson informing him of the Committee's action on his request and letting him know that this item will be included on the GOC's June 15, 2006 meeting agenda.

Rep. Trahan asked for clarification on the process for a review request by a legislator. It was his understanding a request should be put in a letter addressed to the Chairs of the GOC. That letter will then be distributed to all members of the Committee. It was agreed by the GOC members that that was the proper procedure to follow.

Sen. Mitchell and the members of the Committee thanked Director Hollander for attending and providing information to the Committee.

SCHEDULE NEXT COMMITTEE MEETING

The Committee set Thursday, June 15, 2006 at 10:00 a.m. for the next GOC meeting.

COMMITTEE DISCUSSION

The GOC discussed the public's knowledge of OPEGA and also its effectiveness. Rep. Trahan asked if OPEGA's work was being widely enough publicized and suggested that an informational piece be prepared for public distribution. Director Ashcroft said she would like to get the next two reports issued and then prepare her annual report which she was in hopes could also be used for a PR piece. This item will be discussed at a future GOC meeting.

ADJOURNMENT

The Government Oversight Committee meeting was adjourned at 4:43 p.m. (Motion by Rep. Trahan, unanimous).