



SEN. ELIZABETH H. MITCHELL, CHAIR
REP. EDWARD R. DUGAY, CHAIR

MAINE STATE LEGISLATURE

MEMBERS:

SEN. PHILIP L. BARTLETT, II
SEN. JONATHAN T.E. COURTNEY
SEN. DANA L. DOW
SEN. JOSEPH C. PERRY
SEN. KEVIN L. RAYE

GOVERNMENT OVERSIGHT COMMITTEE

(Joint Legislative Committee on Program Evaluation
And Government Accountability)

REP. MARILYN E. CANAVAN
REP. RONALD F. COLLINS
REP. ROBERT H. CROSTHWAITE
REP. LILLIAN LAFONTAINE O'BRIEN
REP. A. DAVID TRAHAN

Meeting Summary **September 14, 2006** **Accepted November 14, 2006**

CALL TO ORDER

The Chair, Senator Mitchell, called the Government Oversight Committee meeting to order at 10:07 a.m. in Room 220 of the Burton Cross Office Building.

ATTENDANCE

Senators: Sen. Mitchell, Sen. Raye, Sen. Courtney
Joining the meeting in progress: Sen. Dow
Absent: Sen. Perry, Sen. Bartlett

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

Legislative Officers and Staff: Beth Ashcroft, Director of OPEGA
Wendy Cherubini, Analyst, OPEGA
Scott Farwell, Analyst, OPEGA
Etta Begin, Adm. Secretary, OPEGA

Judicial Officers and Staff: The Honorable John C. Nivison, Chief Judge, Maine District Court
Kirsten Skorpen, Family Resources Coordinator, District Court
Wendy Rau, Director of Court Operations

Introduction of Government Oversight Committee Members

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

COMMITTEE VOTE ON OPEGA FINAL REPORT

•Review of Guardians *ad litem* for Children in Child Protection Cases

Director Ashcroft informed the Committee that OPEGA advertised in four weekend newspapers an announcement of the Public Hearing scheduled for today related to OPEGA's Review of Guardians *Ad Litem* for Children in Child Protection Cases. Rep. Crosthwaite noted that the GOC meeting was not listed on the Weekly Legislative Calendar. Director Ashcroft said she would follow up on that omission.

- Public Comment Period

Chair Mitchell asked if there were public comments on the above report to be heard at this meeting.

Attending and presenting public comment on the Report were:

- ♦ Dennis Lawrence, private citizen, testifying on his own experiences;
- ♦ Hazel Davis, Chairman of the Maine Kids in Distress;
- ♦ Bill Gosselin read a letter from Dr. Assunta Kent, ICF-certified Life Coach, who was unable to attend the meeting;
- ♦ Nicolle Graham Carbone, former Guardian *ad litem*; and
- ♦ Toby H. Hollander, Esq., President, Maine Guardian *Ad Litem* Institute.

The following individuals presented public comment but did not provide a copy of their testimony:

- ♦ Barbara Ford, Foster Parent Liaison, President for the Statewide Liaisons;
- ♦ Rep. Arthur Lerman, Supporter of the Maine Kids in Distress Group; and
- ♦ Susan Burns Chong, State Coordinator for the Youth Leadership Advisory Team for Southern Maine.

The following provided written comments regarding the Report, but were not present at the GOC public hearing:

- ♦ G. Dean Crocker, Ombudsman, Maine Children's Alliance; and
- ♦ Gary F. Elwell, M.S., former Consultant to Interagency Commission on Drug Abuse.

Chair Mitchell informed those at the hearing, that copies of their testimony at public hearings are required for Committee members. She overlooked it for this hearing, but copies will be required at future hearings.

- Committee Work Session

Rep. Trahan asked when a Task Force membership list would be available. Chief Judge Nivison replied that if the GOC voted to accept the GAL Report, they are prepared to establish the Task Force right away.

Chair Mitchell reported that all the proper procedures had been taken in the GOC's rules regarding the process for presenting and voting on a report. Director Ashcroft said that OPEGA's findings in the Report are supported by data collected and include views from a large number of stakeholder groups.

- Committee Vote

Motion: That the Government Oversight Committee endorse OPEGA's final report on the Performance Audit of Guardians *ad litem* for Children in Child Protection Cases. (Motion by Rep. Trahan, seconded by Sen. Raye, PASSED unanimously).

The Government Oversight Committee thanked OPEGA staff for their work on the report, Chief Judge Nivison and other members of the Judicial Branch for their cooperation in developing the report and their commitment to follow up on OPEGA's recommendations.

Chair Mitchell asked if there was objection to taking items on the agenda out of order. Hearing none, the Chair then moved to **NEW BUSINESS, New Requests for OPEGA Reviews.**

NEW BUSINESS

• New Requests for OPEGA Reviews

- Legislative Request for OPEGA Review

•• Privatization of Wholesale Liquor (Rep. Moore)

Chair Mitchell said that Rep. Gary Moore had to leave the GOC meeting and asked that his request be tabled until the next meeting.

Before moving to the next agenda item, Citizen's Requests for OPEGA Review, the Chair asked Director Ashcroft to refresh the members on the Committee's process and procedure for handling such requests. Director Ashcroft explained that requests for reviews that come before the GOC have been received in writing by either OPEGA or the Chairs of the Committee. The Committee has the following options for what action it may take:

- 1) **Vote no further action on the request topic at this time.** The Committee may take this action if:
 - the committee believes there is already enough oversight going on in the committee of jurisdiction on this topic;
 - there is insufficient interest in devoting OPEGA resources to the requested review; or
 - it does not believe it is an appropriate topic for OPEGA review.
- 2) **Vote to place the requested review on the "On Deck" list.** The Committee may take this action if:
 - it is a topic of interest that the GOC may want OPEGA to review within the next two years.
- 3) **Vote to have OPEGA start the review immediately.** This action requires the topic to meet certain established GOC criteria and requires a super majority vote of the Committee.

Chair Mitchell said she had numerous requests from constituents for OPEGA reviews and would suggest a fourth option. She suggested that OPEGA write the appropriate department or agency explaining the review request and ask for a written response.

The Committee proceeded with the Citizen Requests.

- **Citizen Requests for OPEGA Review**

♦♦ **Regionalization of Special Education** (Weston Bonney, Chair, School Strategic Plan Subcommittee)

Mr. Bonney was not in attendance. Director Ashcroft asked if there was anyone present at the meeting to represent the Regionalization of Special Education request.

Hearing no response, Chair Mitchell suggested that the request not be discussed at this meeting because there was no one in attendance to speak on it. Director Ashcroft, however, noted that Mr. Bonney and company had described their request in quite a bit of detail in the request letter. The Director also reminded the Committee that this request had already been postponed from the prior meeting.

The Director then summarized the letter for the Committee and the Committee discussed the request. The members of the Committee were in agreement that a feasibility study of the type requested was not appropriate for an OPEGA audit. They did, however, indicate their respect for the work done by Mr. Bonney and his colleagues and recognized the merit of the regionalization concept.

Sen. Courtney proposed that a letter be sent to Mr. Bonney suggesting he work with the Department of Education, the Joint Standing Committee on Education and Cultural Affairs and his local representatives to promote further consideration of the idea of regionalizing special education. The other Committee members agreed and requested that Director Ashcroft send this letter. The GOC also asked the Director to forward Mr. Bonney's request to Susan Gendron, Commissioner of Education and to the members of the Education and Cultural Affairs Joint Standing Committee

OPEGA will not be doing further research or taking any further action on this request.

♦♦ **DEP Enforcement Efforts** (Peter Lowell, Lake Environmental Association and Maggie Shannon, Maine Congress of Lakes Association)

Chair Mitchell asked that Director Ashcroft summarize the DEP Enforcement Efforts request. The Director said that the Lakes Environmental Association and other groups are concerned that DEP's enforcement efforts have not been as strong as may be warranted and as a result, the environment is at risk.

Peter Lowell, Executive Director of the Lakes Environmental Association said that the request was not a negative initiative. They have had a productive and open dialogue with Commissioner Littell and his staff and believe there is concern within DEP regarding the same issues.

Chair Mitchell confirmed with Mr. Lowell that their request was to have the GOC take an independent look at DEP's resources and their delivery of enforcement services.

Maggie Shannon, Executive Director, Maine Congress of Lake Associations, also requested that the GOC review the effectiveness and efficiency of enforcement on the part of DEP.

The Committee asked Director Ashcroft to gather whatever additional information may be necessary to help the Committee determine action to take on this request. The request will be on a future agenda for further discussion.

♦♦ **Tax Subsidized Competition** (Don McIntire, owner of printing business)

Chair Mitchell asked Director Ashcroft to summarize Mr. McIntire's request. The Director said Mr. McIntire, and others who own small businesses, find themselves in the position of competing with institutions that are tax subsidized entities. Mr. McIntire believes that when those entities bid against private enterprises not all of the actual costs incurred by the tax subsidized entity are included when developing the price quote. Consequently, private enterprises are consistently underbid by tax subsidized competitors. Mr. McIntire is requesting that OPEGA review the costs that are included in the bids made by tax subsidized entities.

Rep. Trahan asked if the Economic Development Review covered this request. Director Ashcroft said that review was on a different track than the above request.

Mr. McIntire told the GOC his concerns regarding printing being done by the University of Maine in Farmington and that his argument is based on economics. His business pays State taxes, (corporate income tax, sales tax, and payroll taxes) but when the University produces a printing job they spend taxes. The Universities have state of the art equipment comparable equipment to the larger printing companies and can also offer retirement benefits to their employees. Mr. McIntire believes it to be unfair competition and the University should liquidate its equipment.

Sen. Raye said he did not know the University had a printing business, and would like to hear from the Chancellor about this practice. Rep. Trahan would like to find out what other colleges have a printing business.

The GOC discussed the procedure of action to follow to get the necessary information on citizens' requests for a review. The Committee did not want to set itself up to be a complaint investigation board. Sen. Courtney suggested that the Committee add the GOC procedure for review requests to its next meeting agenda for discussion. Rep. O'Brien agreed, stating the GOC was getting more well known and it needed to decide how best to utilize OPEGA staff. Director Ashcroft reminded the Committee of the process they had so far been following on legislative requests for OPEGA reviews which was to have OPEGA obtain any additional information that was needed for the GOC to determine what action to take. This had sometimes been done through a letter to the responsible agency.

The GOC requested that Director Ashcroft contact the Chancellor of the University of Maine to obtain additional information regarding Mr. McIntire's request. The topic will be on a future GOC agenda for further discussion.

RECESS

The Government Oversight Committee recessed at 1:10 p.m. on the motion of the Chair.

RECONVENED

The Chair reconvened the meeting at 1:35 p.m. and moved to “**Summary of July 13, 2006 Meeting**”.

SUMMARY OF JULY 13, 2006 MEETING

Chair Mitchell asked members if they had any changes to the July 13th Summary. Hearing none, the Summary was accepted as written.

UNFINISHED BUSINESS

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

- **Tobacco Helpline** (Rep. Shields)

Director Ashcroft gave an update on the status of Rep. Shields’ request regarding the Tobacco Helpline and referred members to the additional information Rep. Shields prepared for today’s meeting. He continues to have questions regarding the expenditures of this program. Following Committee discussion, it was moved to table this request until Rep. Shields could be present to brief the Committee on his concerns.

Motion: That Rep. Shield’s request for review of the Tobacco Helpline is tabled. (Motion by Rep. Trahan, second by Sen. Courtney, PASSED 4-2).

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

Director Ashcroft summarized what has been done on Rep. Watson’s request to date. Discussion followed regarding exactly what Rep. Watson was requesting and what OPEGA would do for a review. Members had concerns with the program because, like many other programs, money is being expended to deliver services through private businesses or non-profit agencies and there are questions of whether the services being provided are appropriate for the monies that are being received by these suppliers.

Motion: That the GOC place the topic of the MR-Waiver Program on Deck to be considered for inclusion in OPEGA’s FY 07 Work Plan. (Motion by Rep. Trahan, second by Rep. O’Brien, PASSED by unanimous vote, 6-0).

REPORT FROM OPEGA DIRECTOR

- **Project Status Report**

Director Ashcroft referred members to OPEGA’s Proposed Partial Annual Work Plan for FY 07 and directed their attention to the proposed State-wide Performance Risk Assessment. She explained the risk assessment would identify all of the auditable units or activities within state government that OPEGA might possibly review, gather information about each of them that would help OPEGA rank which of the auditable entities may be most worth while to review. The end result would be that OPEGA and the GOC would have a foundation of information to use as the Committee moves forward and makes decisions on which audits should be done. The 1500 hours listed is not enough to

complete all of state government, but OPEGA would begin with departments, and going forward in future years, would have the information available to give the GOC. OPEGA would have an inventory of not only the organizational units in the State, but the programs and activities that are going on in each of the units. OPEGA has found no place in State government that can provide that information. The risk assessment effort would also try to figure out how much money is spent on each of those activities, or in each of those programs. OPEGA has found this difficult to do in a lot of circumstances. It would be building valuable information to be used by the GOC for years to come.

Sen. Raye asked if Director Ashcroft had already developed the criteria or measures to be used. The Director replied that OPEGA is in the process of developing the criteria and would be sharing it with the GOC. Sen. Raye recommended that OPEGA continue to work on the criteria and the measures and provide that information to the Committee before it moved forward on the Assessment. Rep. Trahan asked if outside risk consultants could be hired to perform the Assessment. Director Ashcroft said there was value in OPEGA performing the work itself because OPEGA would gain considerable valuable knowledge about the programs or units along the way. Hiring an outside contractor may not be the most valuable result in the end.

Motion: That the GOC direct OPEGA to work on developing proposed criteria measures for a State-wide Performance Risk Assessment and to report back to the Committee. The GOC will determine if it is valid criteria before approving the Assessment. (Motion by Sen. Raye, second by Sen. Courtney).

Rep. O'Brien moved to amend the motion to include a specific number of hours to be spent on developing the criteria. Following discussion, it was decided that a number for the hours to be allowed for the performance of the Assessment would not be included in the motion. (The above Motion PASSED unanimously, 6-0).

NEW BUSINESS

- **Update on Status of Bureau of Rehabilitation Services Scope Statement**

Director Ashcroft said the Scope Statement that was to be presented to the GOC for approval was not ready because several different areas of concern had come to OPEGA's attention during preliminary research and staff was still determining which of those areas of concern should take priority. The Statement is very close to completion and will require the approval of the GOC before OPEGA can continue its work. The GOC decided that the Bureau of Rehabilitation Services Scope Statement be emailed to Committee members and they would vote electronically. For members who do not have email, a hard copy will be mailed to them at home, and they can vote by telephone.

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

Director Ashcroft referred members to the Status of Action Items From OPEGA Performance Audits form in their notebooks. She noted this was a format she had created that may meet the GOC's needs for information on the status of action items from OPEGA performance audits.

Director Ashcroft walked the Committee through what was presented on the report and asked if it was a format that the Committee would like to use. Hearing no objection, she will use the form for future reports on OPEGA's Follow-up Activities.

SCHEDULE NEXT COMMITTEE MEETING

The Committee set Tuesday, November 14, 2006 at 10:00 a.m. for the next GOC meeting.

ADJOURNMENT

The Government Oversight Committee meeting was adjourned at 2:28 p.m. (Motion by Rep. Trahan, second by Rep. O'Brien, unanimous).