



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

**MAINE STATE LEGISLATURE
GOVERNMENT OVERSIGHT COMMITTEE**

MEMBERS:

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

MEETING SUMMARY

October 31, 2007

Accepted December 6, 2007

CALL TO ORDER

The Chair, Senator Mitchell, called the Government Oversight Committee to order at 10:12 a.m. in the Burton Cross Building.

INTRODUCTION OF GOVERNMENT OVERSIGHT COMMITTEE MEMBERS

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

Representatives: Rep. Canavan, Rep. Lansley, Rep. Pendleton, Rep. Boland, and
Rep. McLeod
Joining the meeting in progress: Rep. Vaughan

Legislative Officers and Staff: Beth Ashcroft, Director of OPEGA
Mary Gingrow-Shaw, Principal Analyst, OPEGA
Jennifer Reichenbach, Senior Analyst, OPEGA
Wendy Cherubini, Analyst, OPEGA
Etta Begin, Adm. Secretary, OPEGA

REPORT FROM OPEGA DIRECTOR

• Status of Audits in Progress

Director Ashcroft said three reviews are completed.

- Highway Fund Use by Department of Public Safety
- Requests for Admission to Riverview Psychiatric Center
- Urban Rural Initiative Program

Director Ashcroft summarized the projects in progress that included:

- **Boards/Committees/Commissions/Councils** – OPEGA will bring before the GOC today its recommendation for project direction as the preliminary research is complete.
- **Bureau of Rehabilitation Services** – is in its next to last round of draft reports with BRS' management and OPEGA would like to plan on presenting the report to the GOC at its next meeting.
- **Contracting for Health and Social Services** – the preliminary research is complete and will have a project direction for the GOC to consider later in today's meeting.
- **Three Reviews related to Information Technology** (Project Management, Systems Security, and Acquisition and Maintenance of Technology Infrastructure) have been used as a filler project. OPEGA is in the process of developing a control self-assessment questionnaire in the three areas for the Office of Information Technology to complete. This would give OPEGA a better sense of whether to hire a consultant and what the scope of work would be. The Controller's Office is in the process of establishing an IT audit position dedicated to OIT and is in discussions with OIT about providing internal auditing and performing a risk assessment. OPEGA will have further discussions with the Controller's Office and OIT and may be back to the GOC recommending that the Information Technology reviews be discontinued.
- **State Administration Staffing** is in the preliminary research phase. OPEGA shared its preliminary analyses with the Appropriations Committee and is now working on analyses regarding contracted personal services.

OPEGA has had initial discussions with the Controller's Office regarding the **Revenue Collected Through Courts**. Their internal audit department has a planned review so OPEGA will wait until the Controller's Office review is complete before proceeding with one of its own.

Chair Canavan asked whether quasi state agencies will be included in the **State Publications** review. Director Ashcroft was asked to make a note to revisit this question when the GOC discusses the Project Direction Recommendation for this review.

• **Update on Director's Presentation at GrowSmart Summit**

Director Ashcroft briefed the GOC on her presentation at the GrowSmart Summit. The Summit topic was on streamlining State government. She was asked to speak about the role of OPEGA and the GOC and how we were attempting to work toward the goal of streamlining State government.

• **Update on Legislative Support**

OPEGA made a presentation to the Committee to Study Appropriate Funding of the State Police, provided the committee with information it requested, and has been available to answer questions.

OPEGA is also working on the request from the Taxation Committee as to what confidential tax information OPEGA could have access to that would be valuable for assessing the performance of tax incentives that are designed for economic development. Director Ashcroft said that OPEGA does have access to that data and is in the process of trying to make an inventory or catalogue of what data might exist around the tax incentives. OPEGA plans to meet with the Department of Economic and Community

Development to discuss whether the data available would be valuable, and if so, in what form. Director Ashcroft said at the end of the process she hopes OPEGA can go back to the Taxation Committee with the results of those inquiries, including how the information may be able to be received on a regular basis without OPEGA doing a full review.

- **Review of OPEGA's Response to Right to Know Advisory Committee**

OPEGA had received a request from the Right to Know Advisory Committee. Anyone that has language in their statute that makes records or documents confidential or an exception from public access laws, was asked to answer a series of questions around that. The Right to Know Advisory Committee is assisting the Judiciary Committee with a review of those exceptions to determine whether they still need to exist, and if so, what kind of affect they are having on the public's access.

Director Ashcroft referred members to the information in their notebooks regarding what was provided to the Right to Know Advisory Committee from OPEGA. In July, 2007 Director Ashcroft sent a letter to the Attorney General's Office seeking the AG's opinion regarding the confidentiality provisions and what the statute gave her the authority to do, or not do, in terms of sharing OPEGA's working papers. In early September, 2007 Attorney Pistner informed her that she was still working on the matter. As of this date a response has not yet been received.

OPEGA strongly supports continuation of the exceptions provisions because they are critical to the effectiveness of OPEGA's function and help assure there is not a spread of misinformation among State government and the public at large.

NEW BUSINESS

- **Project Direction Recommendation for:**

Director Ashcroft said that OPEGA has completed its preliminary research, is recommending a specific project direction and is seeking GOC approval of that direction on each review.

Chair Mitchell said the GOC will be making decisions on how to allocate OPEGA's time and, in connection with these decisions, the Committee discussion should include what is expected of OPEGA and the GOC from the Appropriations and Financial Affairs Committee regarding streamlining State government. The Chair asked Director Ashcroft to give a brief summary of OPEGA's ability to be of assistance to the AFA Committee.

Director Ashcroft explained that the projects on the agenda are currently in process as is State Administrative – Staffing and Contracted Personal Services review from which we are providing analyses to AFA. OPEGA is keeping its commitments to AFA, but as she has made clear right from the beginning, the information provided to AFA is preliminary, and OPEGA would not be in a position to provide specific findings or recommendations within the timeframe of the initiative.

- **DHHS Contracting Audit**

Director Ashcroft said that OPEGA noted a number of concerns in the preliminary phase of the review that range through many topic areas including: process efficiencies; risks inherent in having a large number of contractors; competing bidding; monitoring of contractor performance; timely settlement of

contracts for those that need to be settled; the different types of contracts and different contract structures; and the processes being used by different agencies within DHHS.

As the GOC had directed OPEGA to focus its current biennial work plan on opportunities to improve the State General Fund's position, OPEGA recommends that it continue with this audit by focusing on the question of:

Are there opportunities for General Fund cost savings in the agreement development, oversight or financial close-out phases of DHHS' contracting for health and human services?

OPEGA proposed using its own resources to pursue this question with the objective of identifying as many saving opportunities as possible, and will have its finding to the GOC in January, 2008.

To date, approximately 700 hours have been used for preliminary research. An estimate of remaining hours to complete the project will be determined once the fieldwork plan has been designed. Remaining hours required should not exceed 900.

Senator Raye suggested the Committee hear comments from the DHHS Director of Legislative Relations on OPEGA's suggested project direction. Director Ashcroft reminded the GOC that this was not part of past practice and could affect the appearance or reality of objectivity and independence. Following Committee discussion on the OPEGA's audit process and the recommended direction for the DHHS Contracting Audit, the following motion was presented.

Motion: That the Government Oversight Committee accepts the recommendations of OPEGA regarding the DHHS Contracting Audit and that OPEGA proceed with the scope as outlined, not to exceed 900 hours with a report back date of January, 2008. (Motion by Sen. Perry, second by Rep. Lansley, PASSED, vote unanimous 11-0).

- **Boards/Committees/Commissions/Councils**

OPEGA has completed limited preliminary research for an audit of State Boards and Commissions. To date, 289 boards, commissions, committees, councils and other similar organizations have been identified that are associated with Maine State Government. This does not include special subcommittees or study committees of the Legislature, informal task forces or ad-hoc committees formed by individual State agencies, which are not within the scope of this audit.

On January 31, 2007, the Secretary of State reported that compensation totaled \$232,069 and expense reimbursements totaled \$270,416. These amounts do not include facility costs associated with meetings, costs associated with other board activities such as public hearings, or costs associated with boards not required to report to the Secretary of State.

A number of potential concerns related to the costs of State boards and commissions include:

- Other State's performance audit offices have found costs associated with staffing boards and similar organizations can be unnecessarily high;
- The large number of boards identified indicates there is potential for some activities to be overlapping between boards or with other State agencies;
- Meeting costs for such things as facility fees and refreshments are not currently reported to the Secretary of State;

- Other states have identified potential savings by co-locating or otherwise consolidating the resources used to support a number of small boards.
- Boards and commissions currently have widely varied compensation and expense reimbursement available for members.

OPEGA recommends that it continue with this audit by focusing on the question of:

What opportunities exist for General Fund cost savings associated with Maine's boards and commissions?

To date, approximately 90 hours have been used for preliminary research. Remaining hours required is not likely to exceed 900.

Following Committee discussion the members agreed this audit may have a small potential for yielding savings, and for that reason, believed 900 hours was too high.

Motion: That the Government Oversight Committee approves OPEGA's recommendation for project direction of State Boards and Commissions, but changes the remaining hours required from 900 to 400 hours. (Motion by Sen. Perry, second by Rep. Pendleton, PASSED, vote unanimous 11-0).

Senator Raye requested that the Committee reconsider its procedure of whether anyone could address the Committee at this stage of an OPEGA audit. He questioned why the Committee would not want to hear from the department or agency prior to the Committee voting on recommendations for project direction on audits, and how that would negate the GOC's role as being an independent oversight.

Director Ashcroft made the distinction that when the GOC had heard from the Department in the past, it was at the time the Committee was trying to decide whether the topic was something that warranted going on deck or on OPEGA's work plan. The GOC has never heard from the agency when the review is in progress, and believes objectivity is key. At the point the GOC is voting on the review's direction, OPEGA has done a lot of work to be able to inform the GOC where it believes the most value would be. She wants to protect not having that work be for nothing, and also to protect the perception of objectivity, not only of OPEGA, but of the process and the GOC. She believes that allowing anyone to have a voice at this stage in a review, would influence the perception of objectivity.

Following Committee discussion, it was determined that the audit process voted for by the Committee does not afford an outside individual the opportunity to address the GOC at this stage of the process.

• **Review of Statewide Administration – Staffing Results Shared With AFA**

Director Ashcroft said OPEGA had committed to providing the AFA Committee the results of its preliminary analyses on a section of the State Administrative – Staffing Review related to upper level administrative positions in State government.

OPEGA's ongoing review is focused on ultimately trying to answer the question of whether or not there are opportunities to reduce costs of upper level administrative functions in State Government by eliminating positions where the functions performed by others or could be more efficiently and economically performed by other staffing arrangements.

Director Ashcroft said the preliminary analyses do suggest where OPEGA might focus its further work, but no conclusions can be drawn from them in terms of recommendations about where positions could or could not be eliminated. Director Ashcroft described the methodology that was used in the data analyses performed so far. OPEGA tried to identify upper level administrative positions and within that category of positions, have made every attempt to include all the kinds of positions that were being mentioned as of concern throughout the legislative session. Position data used was for Fiscal Years 1997, 2002 and 2007 and was obtained by querying the State's Human Resources data warehouse and eliminating any duplicate position numbers. Queries of the data warehouse did not capture approximately 1,540 crew positions for the Department of Transportation in 1997 and 2002 as the employees were not paid through the State's payroll system in those years. OPEGA relied on DOT to provide the numbers of those employees and added those figures to the totals.

Upper level administrative positions were compared to total positions for the 3 years analyzed to determine growth in both absolute number and percentage. Ratios of upper level positions to all other positions by department were also calculated.

OPEGA also attempted to assess growth specific to Commissioners' or Agency Heads' Offices in the major State departments, including administrative support positions, using 1997 and 2007 organizational charts provided by each agency.

The results of the preliminary analyses for Fiscal Years 1997 and 2007 shows that while there has been minimal increase in total State positions overall, the percentage of total positions in the upper level administration category increased substantially. There may be a number of valid reasons why this growth in upper level administrative positions has occurred. There may be changes in type of work performed, nature of the functions being filled, organizational structure or federal requirements.

OPEGA did note, however, that the increasing number of all confidential and appointed positions has financial implications for the State because one of the benefits provided for these positions is State coverage of the majority, an average of 5% of salary, of the required employee contribution to Maine State Retirement.

OPEGA had just begun to identify factors that may present risk for unnecessary or unplanned growth in upper level administrative functions, and is not in a position to make specific comments on this objective at this time. However, it does appear that there are multiple avenues through which new positions may be proposed by agencies and approved by the Legislature, perhaps not always through the budget process. In addition, it appears that although only the Legislature can approve new positions or reclassifications, existing positions may be transferred from one function to another without the Legislature being involved.

This was an information item on the agenda and required no action by the GOC.

SUMMARY OF SEPTEMBER 13, 2007 MEETING

Chair Mitchell asked members if they had changes to the September 13, 2007 Meeting Summary. Hearing none, the Summary was accepted as written.

UNFINISHED BUSINESS

• Requests for Admission to Riverview Psychiatric Center

- Continuation of Committee Work Session

Chair Mitchell said she would request that the information Mr. Proffitt sent to the Committee following the September 13th GOC be forwarded to the Committee on Criminal Justice and Public Safety. The information was only sent to Chair Mitchell, who will make sure the letter is provided to all GOC members. She recommended that copies of the Report, September 13, 2007 Meeting Summary and letter from Mr. Proffitt be forwarded to both the Criminal Justice and Public Safety and Health and Human Services Joint Standing Committees.

Director Ashcroft will draft a letter to the Joint Standing Committees for the GOC Chairs' signature bulleting items that are of concern to the GOC. The letter will request that each report back if their Committee takes any action regarding this issue. Attachments to the letter sent to the Committees will include a copy of David Proffitt's letter, and the September 13, 2007 GOC Meeting Summary.

Chair Mitchell suggested, and GOC members agreed, that during the Legislative Session the Chairs of Criminal Justice and Public Safety and Health and Human Services be invited to a GOC meeting to share how the Committees are going to or has addressed the issues raised.

• Additional Information Requested by the GOC Regarding the Quarterly Review of Requests Received for OPEGA Audits

- Consolidated Emergency Communications Bureau Regional Communications Centers (RCC) (Dept. of Public Safety)

Director Ashcroft reminded members that this item was on the Quarterly Review of Requests Received for OPEGA Audits. At the September 13, 2007 meeting the GOC had requested that OPEGA find out from the Public Utilities Committee and/or the Regional Communications Center what is included in the rate and how they arrived at the \$2.50 rate per head for Kennebec County.

OPEGA learned that there are two levels of service. There is the PSAP only level of service in which the PSAP answers the E 911 call and then transfers the call to a local dispatch. The second level of service is called dispatch service and involves the PSAP taking the phone call and doing the dispatch of emergency personnel. The only service mandated for consolidation at this time is the PSAP only service, which is just the answering of the call. The Department of Public Safety's Bureau of Consolidated Emergency Communications, in conjunction with the Maine Communications System Policy Board was tasked with developing a method of allocating costs. The \$2.50 rate is based on an analysis of historical information related to PSAP services that the Department of Public Safety had been providing in Aroostook County for the last four years. They reviewed call volume over time, the staffing requirements related to the call volume, and the associated costs and came up with a per capita rate of \$2.50 to charge for the services. They also compared that per capita rate to populations across the State and found that charging that rate would be sufficient to cover the cost associated with the Public Service Answering Point.

Rates for both PSAP and dispatch services will be reviewed when the Department is able to collect sufficient data to be able to analyze the actual costs of providing service.

The question before the GOC is whether it would be valuable for OPEGA to do an in-depth review. The focus of the review and request was for OPEGA to audit how the rate had been set and why they differ so greatly from the rates being charged by those not run by the Department of Public Safety.

Following Committee discussion the motion below was presented:

Motion: That the Government Oversight Committee forward OPEGA's Summary of Research on Rate Development for PSAP and Dispatch Services Provided by the Department of Public Safety's Central Maine Regional Communication Center to the Utilities and Energy Joint Standing Committee. (Motion by Chair Canavan, second by Sen. Raye, PASSED, vote unanimous 11-0).

• **Review Topics On-Deck, Tabled and of Interest in Prior GOC Discussions**

The Government Oversight Committee tabled this item until the next meeting.

SCHEDULE NEXT COMMITTEE MEETING

The Committee set Thursday, December 6, 2007 at 10:00 a.m. for the next GOC meeting.

ADJOURNMENT

The Government Oversight Committee meeting was adjourned at 12:53 p.m. (Motion by Sen.Perry, unanimous).