



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
March 26, 2007
Accepted April 2, 2007

CALL TO ORDER

The Chair, Rep. Canavan, called the Government Oversight Committee meeting to order at 1:15 p.m. in Room 202 of the Burton Cross Building.

ATTENDANCE

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

Representatives: Rep. Canavan, Rep. Pendleton, Rep. Lansley, Rep. Boland,
Rep. McLeod, and Rep. Vaughan

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.

Chair Canavan asked if there was objection to taking items out of order. Hearing none, the Chair then moved to **New Business, Requests for OPEGA Audits.**

NEW BUSINESS

Director Ashcroft reminded GOC members that at their meeting on March 12, 2007, the Committee approved the implementation of a Process for Handling Requests for OPEGA Audits. The two requests are being dealt with in accordance with the approved process.

- **Requests for OPEGA Audits**

- **Citizen Request for Audit of Healthy Maine Partnership Programs Evaluation**

Director Ashcroft summarized what actions OPEGA had taken to date on the request, and the information gathered. OPEGA recommended the topic be added to the current biennial work plan for the following reasons:

- The requestor's claim that he did try to have discussions with a long list of individuals and according to him, got no satisfaction.
- By virtue of the makeup of the Board for the Maine Center for Public Health, there may be some larger questions, not because of this particular organization, about whether such a structure presents opportunities for potential conflicts of interest that would interfere with getting effective evaluations of the programs.
- There are millions of dollars spent on these programs and evaluation is a key measure for assuring those programs are as cost-effective as possible.
- There is general interest among the GOC, other legislators and citizens on making sure that the State is getting the services it expects to be receiving for tax payer dollars and this review poses those kinds of questions.
- This is a current issue, in that changes to how MCPH is providing evaluation services appear to be recent and perhaps still evolving. It would seem to be a timely point at which to determine whether any enhancements may be warranted or to provide validation for the new approach.

Director Ashcroft referred to OPEGA's Audit Request Recommendation form noting that an audit of this topic could seek to answer the following questions:

1. Whether State expenditures on the contract for evaluation of certain Healthy Maine Partnership Programs are a cost-effective use of resources, i.e. are quality evaluation services, results and work products being received for the funds being spent; and
2. Whether the make up of the Maine Center for Public Health Board presents potential for conflicts of interest that could interfere with the State receiving objective, quality evaluations.

Chair Canavan recognized Curtis Mildner, President, Market Decisions, and the requestor of the audit. Mr. Mildner said the GOC should consider the investment being made in the Healthy Maine Partnership and said the investigation should include:

- the timeliness, quality and effectiveness of evaluation services provided by the Maine Center for Public Health under this contract;
- potential conflicts of interest between members of the Board of Directors and staff of the Maine Center for Public Health, and the contracting organization, the Maine Center for Disease Control;
- propriety of having representatives of organizations whose programs are subjects of an evaluation contract, on the Board of Directors of the contracted independent evaluator; and
- an evaluation of the current evaluation project team to determine whether it is still equivalent to the team that was proposed in a competitive bid in May of 2005, and was awarded a contract for evaluation services.

Following Mr. Mildner's presentation, the GOC's questions and discussion involved:

- Market Decisions' contract termination;
- types of evaluations being performed under the contract;
- reasons why another entity was selected to perform the work;
- who is presently the lead contractor; and
- the need for evaluations to have no conflicts of interests.

The Government Oversight Committee thanked Mr. Mildner for attending the meeting and answering the

members' questions.

Chair Canavan recognized Lucky Hollander, Director, Legislative Relations, Department of Health and Human Services and she introduced Chris Zukas-Lessard, Deputy Director, Maine Center for Disease Control. Director Hollander said the Department was aware of the complaint and its general content but was not prepared to respond at this time.

Following Committee discussion of whether to amend the process for handling request for OPEGA audits, the following motion was offered:

Motion: That the Government Oversight Committee amend the audit request process. The audit request becomes public information the first time it is on a GOC meeting agenda. That request will be listed on the next GOC meeting agenda in order to allow the respondent(s) to submit in writing to the GOC a brief response related to the Audit Request and the specific recommendations on OPEGA's Recommendation form. At this meeting the GOC will vote on what action to take on the audit request. (Motion by Sen. Mitchell).

Sen. Raye amended the Motion to reflect that if the audit request was egregious or of a timely nature and the GOC believed it warranted a rapid response, the GOC would have the option of foregoing the delay. Sen. Mitchell agreed to add Sen. Raye's amendment to her motion. (Motion by Sen. Mitchell, second by Sen. Raye, PASSED, vote unanimous, 10-0).

Director Ashcroft noted that in order for OPEGA to get the written material from the respondent of an audit request to the GOC, it needed to be delivered to OPEGA three (3) working days prior to the meeting date. On Mr. Mildner's request for an audit, the respondents were given until Friday, March 30th to provide their written information.

- Citizen Request for Audit of Maine Heritage Outdoor Fund and Board

Director Ashcroft summarized for the Committee the Audit Request from John Glowa, Sr. regarding the Maine Heritage Outdoor Fund and Board. His concerns include:

- Is there a real or potential conflict of interest in the granting of monies from the Maine Outdoor Heritage Fund to entities represented or sponsored by Maine Outdoor Heritage Fund Board members;
- Whether the grants and expenditures under the Board is what the legislation intended;
- Are there constraints or requirements on the use of funds by grant recipients, and if so, how does the Maine Outdoor Heritage Fund monitor and control compliance;
- Are administrative costs of the Maine Outdoor Heritage Fund managed in a manner that is designed to keep administrative costs as low as possible as required by statute; and
- Is there a bid process to award contracts other than the grants given.

Director Ashcroft said the subject area is the responsibility of Inland Fisheries and Wildlife. OPEGA's Audit Request Recommendation is that this audit topic be "placed on deck" with the following focus:

Given not only Mr. Glowa's concerns, but also for general accountability purposes and possible cost savings, OPEGA would recommend conducting a traditional sunset review which would include looking at the purpose of the organization, whether it was effectively and efficiently meeting that purpose, its expenditures, etc. The end result of such a review would include a recommendation on whether the Maine Outdoor Heritage Fund and its Board should be continued.

Director Ashcroft said that Mr. Glowa was in attendance at the meeting and she had invited individuals from Inland Fisheries and Wildlife.

Chair Canavan recognized Richard Anderson, Chairman, Maine Outdoor Heritage Fund, who said he was not in a position to respond to the audit request in a week. The GOC asked Director Ashcroft to invite Commissioner Martin to the April 2nd meeting to respond briefly to the audit request or to submit a written response.

Motion: That keeping with the amended process the citizen request for Audit of Maine Heritage Outdoor Fund and Board that Director Ashcroft present the Committee with the request information and response at the next Government Oversight Committee meeting on April 2, 2007, and the GOC will decide how to go forward in more depth on the request. (Motion by Sen. Raye, second by Sen. Dow, PASSED, vote unanimous, 10-0).

Sen. Raye asked Director Ashcroft to get information for the GOC regarding conflicts of interests in order to help the Committee have a better understanding as it relates to the Committee's jurisdiction with respect to the issues, and whether it is properly in the GOC's realm or more that of the Ethics Commission. The Director will invite the Attorney General to the next meeting, or will have written information regarding conflicts of interest and jurisdiction.

SUMMARY OF MARCH 12, 2007 MEETING

Motion: That the Meeting Summary of March 12, 2007 be accepted as written. (Motion by Sen. Courtney, second by Rep. Boland, PASSED, vote unanimous, 10-0).

Sen. Courtney asked if the Committee could discuss the response to OPEGA's position on the Brookings Report that is being publicly distributed by GrowSmart. Chair Canavan asked if there was objection to taking the matter up. Hearing none, the Committee moved to Sen. Courtney's request.

Sen. Courtney is very concerned that Brookings is misrepresenting OPEGA's position by stating that OPEGA broadly endorses the Brookings Report and validated Brookings methodology. It is not his intention to minimize the good efforts of the Brookings Report, but even after Director Ashcroft communicated with GrowSmart, they are continuing to put out misinformation on OPEGA's position regarding the Report.

Sen. Mitchell agreed with Sen. Courtney's concerns saying that although the Report is an important framework for debate this session, they should stop misrepresenting that OPEGA embraces and endorses the Report. The GOC asked Director Ashcroft to draft a letter on the Committee's behalf making GrowSmart and Brookings aware of their concerns. The letter should also let Brookings know that the GOC's concerns are not meant to reflect anything on their report, but rather reflect on the Government Oversight Committee and its ability to look at requests independently.

Director Ashcroft will draft a letter on behalf of the Government Oversight Committee to Mark Murrell, Brookings Institute and Alan Caron, GrowSmart, asking that they stop misrepresenting OPEGA's response to their Report.

REPORT FROM OPEGA DIRECTOR

• Status of Audits in Progress

Director Ashcroft reported that since the last GOC meeting there has not been significant change in either the Bureau of Rehabilitation Services or Urban-Rural Initiative Program Reviews. OPEGA is hoping to have its new Website up in the next couple of weeks.

• Draft Testimony on Bills Impacting OPEGA

Director Ashcroft reminded Committee members of the pending legislation with potential impacts to OPEGA. She referred members to the draft testimony she intends to give at the public hearings. The testimony is neither for nor against the LD, just discusses the impact the bill has on OPEGA and the GOC. Listed below is the Committee, LD number and meeting information:

- Natural Resources Committee, LD 1089, An Act to Create the Natural Resource and Environment Efficiency Commission, public hearing scheduled for March 27, 2007.

- Marine Resources Committee, LD 1318, Resolve, To Require the Department of Marine Resources and the Office of Program Evaluation and Government Accountability to Conduct an Independent Review and Audit of the Public Health Division, public hearing scheduled for March 28, 2007.
- State and Local Government Committee, LD 1021, Resolve, to Lower the Cost of State Government, public hearing scheduled for March 28, 2007.
- Health and Human Services Committee, LD 984, Resolve, To Evaluate MaineCare Finances, public hearing scheduled for March 29, 2007.

There is one more bill that impacts OPEGA and when information becomes available, it will be provided to the Committee.

The Director asked if any member of the Government Oversight Committee would like to also speak at the public hearings on behalf of the Committee.

Rep. Pendleton asked if the reason bills included OPEGA was because legislators and committees did not understand OPEGA's process, and if that were the case, that either the sponsor of the legislation or the whole committee complete an OPEGA Audit Request Form. She also suggested that a campaign on OPEGA's process may be needed, but for the above mentioned legislation, attending the public hearings seemed the correct course of action.

Rep. Vaughan suggested drafting a letter to the House and Senate Chairs of the Joint Standing Committees attaching an OPEGA Audit Request Form and also contact the Revisor's Office to provide the staff drafting legislation information on OPEGA's work plan process.

Sen. Raye suggested that stronger language be used regarding the Government Oversight Committee's role in overseeing OPEGA's work plan, and suggested that Director Ashcroft draft testimony on the GOC's position regarding the language contained in legislation that directs OPEGA what to do.

Following Committee discussion on what action should be taken by the GOC on this matter, Sen. Raye offered the following motion.

Motion: That the Government Oversight Committee prepare testimony to the Joint Standing Committees outlining the GOC's objections regarding the portion in any bill that impacts OPEGA, the prospect of contravening the GOC's deliberations over OPEGA's work plan and the Committee's priorities and urging the Joint Standing Committees to follow the GOC's regular process regarding OPEGA's work plan. (Motion by Sen. Raye, second by Rep. Pendleton).

Rep. Boland added an amendment to Sen. Raye's motion that in addition to preparing testimony for Joint Standing Committees, that a memo be sent to all Committee Analysts outlining the Government Oversight Committee's position regarding legislation that impacts OPEGA.

Rep. Vaughan also added an amendment to Sen. Raye's motion that staff in the Revisor's Office receive the same information for the same purpose.

Sen. Raye accepted both amendments to his motion. (Motion by Sen. Raye, second by Rep. Pendleton, PASSED, vote unanimous, 7-0).

UNFINISHED BUSINESS

- **Status of Report From the Commissioner of the Department of Economic And Community Development to the BRED Committee**

Director Ashcroft reminded the Committee that at a previous meeting Rep. McLeod had requested information

on the above report. The Director said both the Business, Research and Economic Development Committee

Analyst and the Law and Legislative Reference Library were contacted in an attempt to get information. Although the previous Commissioner of the Department of Economic and Community Development indicated the Department would submit a written report, a new Commissioner has recently been appointed to DECD and that may be the reason the report is not yet available. Director Ashcroft recognized Paul Brunettie, Assistant to the Commissioner.

Mr. Brunettie reported that he believes DECD did prepare a report in 2004, but being unaware of the February 1st requirement, one has not been done yet. He said DECD does have information it can provide and will work with the appropriate agencies to get the report submitted as soon as possible.

- **OPEGA Assistance to Appropriations and Financial Affairs Committee on Oversight of Moving MaineCare Claims Processing to Third-Party Vendor and Identifying Areas for Potential Cost Savings**

Director Ashcroft referred the Committee to information in their notebooks prepared in response to a letter the GOC had previously received from the Appropriations and Financial Affairs Committee. AFA had requested OPEGA's assistance on oversight of moving MaineCare claims processing to a third-party vendor and to help identify areas of potential cost savings. Director Ashcroft met with the AFA Committee Chairs, and on March 24th briefed AFA on ideas for cost-savings and revenue enhancement.

Director Ashcroft listed the following as areas that could be explored by the Appropriations and Financial Affairs Committee and other Joint Standing Committees that may have potential for cost savings or revenue enhancements:

- programs supported by special revenue;
- income, sales and use tax compliance and collections;
- fund balances;
- Medicaid/MaineCare;
- general operations;
- human resources; and
- individual programs, activities or functions.

The Appropriation Committee Chairs also requested that Director Ashcroft prepare information on building accountability into bonds. She referred GOC members to the information in their notebooks prepared in response to the request.

- **Ideas for Audits That Could Result in Cost Savings or Revenue Enhancements**

Director Ashcroft reviewed the information prepared in regard to the GOC request for ideas for audits that could result in cost savings. She reminded the Committee they need to discuss and decide what audit requests will be added to OPEGA's biennial work plan.

Committee discussion followed regarding the need of the Committee to have information on which topics would have the most cost savings. Director Ashcroft suggested that OPEGA do preliminary research on 10 to 12 topic areas suggested by the GOC.

Sen. Raye said review of information regarding topics for OPEGA's work plan required a lot of discussion and that a GOC meeting be scheduled for that purpose only.

Committee discussion followed as to whether someone from the Fiscal and Program Review Office and/or Commissioner Wyke be invited to attend to help further the discussion. It was concluded that OPEGA will gather the information, including suggestions from OFPR as to where the GOC should look to find significant items, and report back to the GOC.

Director Ashcroft suggested the Committee schedule a meeting 2-3 weeks after April 2, 2007 that will be devoted to discussing only OPEGA's work plan. In the meantime, OPEGA staff work on getting information from Commissioner Wyke and OFPR. OPEGA will also do its own research, consisting of an analysis around dollars that go with some of the topics. OPEGA will provide the information to the GOC to help the Committee narrow down the topics it would like OPEGA to explore further.

Motion: That a GOC meeting be scheduled after April 2nd for the purpose of discussing ideas for audits that could result in cost savings or revenue enhancements and that OPEGA staff begin to work on gathering information for that meeting that will help the Committee narrow down the topics it would like OPEGA to explore further. (Motion by Rep. Canavan, seconded by Sen. Courtney, PASSED, vote unanimous, 8-0).

SCHEDULE NEXT COMMITTEE MEETING

The Committee scheduled Monday, April 2, 2007 at 1:00 p.m. for the next GOC meeting.

ADJOURNMENT

The Government Oversight Committee meeting was adjourned at 3:55 p.m. on the motion of Sen. Raye, second by Rep. Pendleton, unanimous.