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STATE OF MAINE

ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE

COMMITTEE ON JUDICIARY

March 27, 2012

To: Senator Richard W. Rosen, Senate Chair
Representative Patrick S. A. Flood, House Chair
Joint Standing Committee on Appropriations and Financial Affairs

From: Senator David R. Hastings III, Senate Chair *DRH*
Representative Joan M. Nass, House Chair *JMN*
Joint Standing Committee on Judiciary

Re: Second Supplemental Budget

Thank you for the opportunity to provide our recommendations concerning items within the jurisdiction of the Joint Standing Committee on Judiciary in the Second Supplemental Budget, LR 2847. This memo covers funding and language that affect the Department of the Attorney General, the Judicial Branch and the Maine Commission on Indigent Legal Services. We will provide our suggestions concerning the proposed subpoena powers and confidentiality for the planned Office of Policy and Management (Part DD) in a separate report.

o Department of the Attorney General

We are pleased that the Governor has recognized the importance of funding the Public Access Ombudsman position in the Department of the Attorney General. Although we much prefer a full-time Ombudsman (and we have recommended that in the Majority Report Committee Amendment to LD 1465), we appreciate the step that the funding in LR 2847 represents. We draw your attention to the fact that funds are provided for Personal Services, but nothing for All Other. We strongly recommend that a small additional amount be appropriated for the technology elements that are necessary to support the Ombudsman, whether it is a full-time or a part-time position: phone, wide area network access and email. We also request funds for the one-time cost to purchase a laptop. The total additional All Other funds is \$3,920 in FY13.

We support all other elements of the Attorney General Budget as proposed.

- Judicial Branch

We are pleased that the Governor supports additional funds for court security purposes. We support the funding, even though it is for contracting for the services.

Part W: We support the language changes in Part W.

Part ZZ: We are concerned about the effect of the increased attrition rate on the Judicial Branch. We understand that the Judicial Branch recognizes that it may cause problems going forward, and it may affect the functioning of the courts in FY13.

- Maine Commission on Indigent Legal Services

We are pleased that the Governor has included additional FY12 funding for the Maine Commission on Indigent Legal Services to pay vouchers for constitutionally-required legal services. As you know, the amount proposed does not meet the needs that have been identified for FY12. MCILS provided information and requested \$1,000,000 in October 2011 to close out FY12; the amount included in the Second Supplemental Budget underfunds the required amount by \$600,000. Failure to provide this funding will result in substantial delay in voucher payments at the end of this fiscal year

The Second Supplemental Budget provides no additional funding for FY13. MCILS identified a need of \$728,000 for FY13 in October 2011. That shortage has been exacerbated by the additional \$260,000 cut through the recommendations of the Streamlining Process that were incorporated into the Supplemental Budget earlier this year. The additional funding to pay constitutionally-required legal services for FY13 is now \$988,000.

The majority of the Judiciary Committee recommends funding the Maine Commission on Indigent Legal Services at the level required to pay the projected vouchers for FY12 and FY13. We therefore request an additional \$600,000 for FY12 (resulting in a total of \$1,000,000) and \$988,000 for FY13. Rep. Waterhouse recommends funding at the level included in LR 2847.

We are attaching a one-page summary prepared by MCILS describing the requests made and the additional funding provided for FY12 and FY13. We draw your attention to item 3 on the sheet, which identifies the public safety concerns that result from failing to provide adequate funding for indigent legal services.

Thank you for the opportunity to provide you with our recommendations concerning the Second Supplemental Budget. We are happy to respond to your questions or requests for further information.

attachment

COMMISSION ON INDIGENT LEGAL SERVICES - BUDGET

1. **FAILURE TO INCREASE THE AMOUNT CURRENTLY PROPOSED FOR SUPPLEMENTAL FUNDING WILL CAUSE A SUBSTANTIAL DELAY IN VOUCHER PAYMENTS AT THE END OF THE FISCAL YEAR 2012.**

-- Final date payment will issue: **May 25, 2012.**

-- Final submit date for vouchers paid prior to July 1: **May 11, 2012.**

2. **NEED FOR ADDITIONAL FUNDS IS DUE TO PREVIOUS REQUESTS FOR FUNDS GOING UNMET, NOT RUNAWAY CURRENT COSTS.**

<u>Need Identified</u>	<u>Date Requested</u>	<u>Amount Requested</u>	<u>Amount Provided</u>
March, 2011	March 28, 2011	FY'12 \$740,000	\$140,000
		FY'13 \$740,000	\$40,000
July 2011	October, 2011	FY'12 \$1,000,000	\$400,000*
		FY'13 \$728,000	\$0*

*Proposed supplemental budget

In addition, despite identified needs, the Streamlining Initiative cut \$260,000 in FY'13.

SUPPLEMENTAL NEEDS:

	<u>Total</u>	<u>Increase over Proposed Supplemental Budget</u>
FY'12	\$1,000,000	\$600,000
FY'13*	\$988,000	\$988,000

*Failure to fund FY'13 would guarantee that MCILS will have to seek supplemental funding in the above amount next year, perpetuating the impression of out-of-control costs. Failure to obtain the supplemental funding next year would leave the Commission unable to pay attorney vouchers for the entire fourth quarter of FY'13.

3. **PUBLIC SAFETY REQUIRES FUNDING INDIGENT LEGAL SERVICES.**

-- To prosecute and punish serious crime – otherwise criminal must be let go

-- To protect children from abusive homes – otherwise kids cannot be removed

-- To hospitalize and treat the serious mentally ill – otherwise no involuntary commitments