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STATE OF MAINE

ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE

COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

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

From: Senator Garrett Mason, Senate Chair *[Signature]*  
Representative Gary Plummer, House Chair *G. E. P.*  
Joint Standing Committee on Criminal Justice and Public Safety

Date: March 28, 2012

Re: Second Supplemental Budget

Thank you for the opportunity to provide our recommendations concerning items within the jurisdiction of the Joint Standing Committee on Criminal Justice and Public Safety in the Second Supplemental Budget, LR 2847. This memo covers funding and language that affect the Department of Corrections, The Department of Public Safety, the State Board of Corrections and the Maine Emergency Management Agency.

- o Department of Corrections. Of the members present and voting, we unanimously approved (8-0) all of the elements of the Department of Correction Budget as proposed.
- o State Board of Corrections. Of the members present and voting, we unanimously approved (7-0) all of the elements of the State Board of Corrections Budget as proposed.
- o Maine Emergency Management Agency. Of the members present and voting, we unanimously approved (9-0) all of the elements of the Maine Emergency Management Agency Budget as proposed.
- o Department of Public Safety. Of the members present and voting, we unanimously approved (10-0) all of the elements of the Department of Public Safety Budget except we divided 8-2 on section WW-1. Those that voted in

favor of WW-1 identified an error in the language of that section that would create an ambiguity in the law regarding the appointment of the State Fire Marshal and have offered an amendment (Attachment A) to correct the problem. Current law provides that the State Fire Marshal may only be removed for cause, by impeachment or by the Governor on the address of the Legislature. Section WW-1 proposes to repeal the “for cause” language but then inadvertently reenacts that phrase later in the amendment. The majority’s proposed amendment corrects the error by removing the phrase “unless removed for cause.”

The minority opposed WW-1 because they felt the State Fire Marshal should be appointed by the Commissioner of the Public Safety without confirmation by the legislature and continue to serve at the pleasure of the commissioner.

We appreciate 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

## ATTACHMENT A

### **Joint Standing Committee on Criminal Justice and Public Safety's proposed amendment to section WW-1**

#### **PART WW**

**Sec. WW-1. 25 MRSA §2396, 1<sup>st</sup> ¶**, as amended by PL 1997, c. 728, §18 is further amended to read:

The Office of the State Fire Marshal is established as a bureau within the Department of Public Safety. The Commissioner of Public Safety, with the advice and consent of the Governor and subject to review by the joint standing committee of the Legislature having jurisdiction over criminal justice matters and to confirmation by the Legislature, shall appoint as State Fire Marshal a person experienced in fire prevention work, who may be removed for cause by the commissioner. to serve for a term of 4 years unless removed for cause. The State Fire Marshal may be removed by impeachment or by the Governor on the address of both branches of the Legislature. The Commissioner of Public Safety or the commissioner's designee shall appoint, subject to the Civil Service Law, such investigators, inspectors and other employees as are necessary to carry out the duties assigned to the office. The State Fire Marshal and the Commissioner of Public Safety or the commissioner's designee have all of the duties and responsibilities assigned to the office.

#### **SUMMARY PART WW**

This Part amends the provisions for the appointment of the State Fire Marshal such that the appointment is made with the consent of the Governor for a term of 4 years, is subject to confirmation by the Legislature and it further clarifies circumstances for removal from the appointment.