

MINUTES OF
Budget and
Control Board
Meeting

May 1, 1984

State of South Carolina
State Budget and Control Board

RICHARD W. RILEY, CHAIRMAN
GOVERNOR
GRADY L. PATTERSON, JR.
STATE TREASURER
EARLEE MORRIS, JR.
COMPTROLLER GENERAL



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REMBERT C. DENNIS
CHAIRMAN, SENATE FINANCE COMMITTEE
TOM G. MANGUM
CHAIRMAN, WAYS AND MEANS COMMITTEE

WILLIAM T. PUTNAM
EXECUTIVE DIRECTOR

May 1, 1984

MEMORANDUM

TO: Budget and Control Board Division Directors

FROM: William A. McInnis, Deputy Executive Director *WAM*

SUBJECT: Summary of Board Actions at May 1, 1984 Meeting

The following is a summary of actions taken by the Budget and Control Board during a telephone conference call meeting conducted on May 1, 1984:

1. Approved the transfer of \$1,000,000 from the line item for nursing homes in the Medical Assistance Program of DSS to fixed charges and contributions in the DSS Medical Assistance Management Program to enable DSS to purchase dollar-for-dollar insurance or bond coverage to protect members of the DSS Board and individual employee defendants involved in the nursing home case; and
2. Affirmed the findings and recommendations of the Fire Marshal Appeal Panel in an appeal involving Hucks' Fireworks of Myrtle Beach and incorporated the Panel's recommendations as its Order; and
3. Ratified actions taken during executive session.

WAM:ns1

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MINUTES OF BUDGET AND CONTROL BOARD MEETING

MAY 1, 1984

9:30 A. M.

TELEPHONE CONFERENCE CALL MEETING

The Budget and Control Board met at approximately 9:30 a.m. on Tuesday, May 1, 1984, by means of a telephone conference call which originated from Room 601 of the Wade Hampton Office Building with the following members participating:

Governor Richard W. Riley (through Executive Assistant Katherine Clarke Hepfer);
Mr. Grady L. Patterson, Jr., State Treasurer
Mr. Earle E. Morris, Jr., Comptroller General;
Representative Tom G. Mangum, Chairman, Ways and Means Committee.

Senator Rembert C. Dennis did not participate in the meeting. He did send word indicating his concurrence in the actions taken.

Executive Director William T. Putnam; Board Secretary William A. McInnis; Chief Deputy Attorney General Joseph A. Wilson, II; Assistant Attorney General Charles W. Gambrell, Jr.; and DSS Attorney Bruce Holland also participated in the meeting.

DEPARTMENT OF SOCIAL SERVICES - TRANSFER REQUEST: Executive Director Putnam advised the Board that the Department of Social Services has requested Board approval of the transfer of \$1,000,000 from a Medicaid line item appropriation to fixed charges and contributions for the purpose of obtaining insurance or bond protection for Board of Social Services members and individual DSS employee defendants in the Health Care Association v. Heckler case. Mr. Putnam further noted that, if the request is approved, Board staff will work with a private carrier for the bond protection or with the Insurance Reserve Fund to provide the dollar-for-dollar protection envisioned. He emphasized that DSS could very likely ask for authorization to expand the coverage involved in the future on a dollar-for-dollar basis and that, in the event Board approval of a transfer is required, the matter would be brought back to the Board for its consideration.

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Mr. Putnam further reported that Deputy Attorney General Wilson had indicated that the federal judge hearing the case today is accepting testimony on the desire of the DSS Board to settle the matter and the judge apparently intends to ask the State Supreme Court to rule on the question of whether the Attorney General has the authority to prevent that Board from proceeding with its desire to settle the case.

Mr. Wilson noted that if the Supreme Court finds that the Attorney General's Office can stop the Board from settling the case then the matter would proceed to trial. Should the court decide that the Attorney General does not have that authority, then the DSS Board presumably could proceed to settle the case.

In response to Mr. Mangum, Mr. Putnam emphasized that the \$1,000,000 to be transferred does not represent a premium as such and Mr. Mangum described the situation as one in which DSS in effect is self-insured on a dollar-for-dollar basis.

Mr. Putnam indicated to Mr. Mangum that Board staff had been given oral assurance by DSS officials that this transfer would in no way jeopardize the agency's ability to pay nursing home bills but DSS attorney Bruce Holland indicated that he could not give that assurance in writing at this time.

Mr. Putnam then restated the request of DSS as seeking authorization to transfer the \$1,000,000 from the Medicaid line item to a fixed charges and contributions category with the knowledge that DSS would buy insurance from the Insurance Reserve Fund or a bond through a private carrier.

Mr. Patterson indicated his preference for the bond approach and Mr. Putnam noted that Chief Deputy Attorney General Wilson has some concerns with that avenue although that approach is preferred by most of those involved in the matter if it can be done.

Mr. Patterson expressed the view that the bond approach is a cleaner one and it was indicated to Mr. Mangum that it is possible to get a bond for an event that has already occurred.

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Mr. Putnam noted that there is some uncertainty about the authority of DSS to purchase a contract bond and Mr. Wilson noted that there is that uncertainty and that it also would require setting up a special fund in the Treasurer's Office to make that work. Mr. Wilson noted that DSS clearly can buy a fidelity bond. Mr. Wilson also pointed out that retroactive insurance is available and he cited the MCM case on the matter.

In response to Mr. Morris' comment that by approving this the Board is helping DSS to hold the funds, Mr. Putnam disagreed and indicated that the objective is an effort to indemnify those individuals connected with the Department of Social Services who are at some risk. He urged that the Board approve the transfer so that whatever protection is to be acquired be put in place at the earliest moment and before any judgment is rendered in the case.

[Secretary's Note: Mr. Gambrell excused himself from the meeting at this point.]

Following a discussion of the matter, upon a motion by Mr. Patterson, seconded by Mr. Mangum, the Board approved the transfer of \$1,000,000 from the line item for nursing homes in the medical assistance program of DSS to fixed charges and contributions in the DSS medical assistance management program to enable DSS to purchase dollar-for-dollar insurance or bond coverage to protect members of the DSS Board and individual employee defendants involved in the nursing home case.

Information relating to this matter has been retained in these files and is identified as Exhibit 1.

EXECUTIVE SESSION: Mr. Putnam announced that one item involving an appeal of a decision of the Fire Marshal had been proposed for consideration in executive session.

Upon a motion by Mr. Patterson, seconded by Mr. Morris, the Board agreed to consider that matter in executive session whereupon the meeting was declared to be in executive session.

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RATIFICATION OF EXECUTIVE SESSION ACTIONS: Following the Board's consideration of the executive session item, the meeting was opened and, upon a motion by Mr. Patterson, seconded by Mr. Mangum, the Board ratified the following action taken during executive session:

1. Affirmed the findings and recommendations of the Fire Marshal Appeal Panel in an appeal involving Hucks Fireworks of Myrtle Beach and incorporated the Panel's recommendations as its Order.

The meeting was adjourned at approximately 9:55 a.m.

[Secretary's Note: In compliance with Section 9 of Act 593 of 1978 (the Freedom of Information Act), public notice of and the agenda for this meeting were posted on bulletin boards in the office of the Governor's Press Secretary in the State House; near the Board Secretary's office in the Wade Hampton Building and in the lobby of the Wade Hampton Office Building at 9:15 a.m. on Monday, April 30, 1984.