

Allocations from the Contingency & Emergency Account

Report to the Joint Legislative Commission  
On Governmental Operations

Office of State Budget and Management

October 21-22, 2008

## **Reporting Allocations from the Contingency & Emergency Account**

A report on allotments from the Contingency and Emergency Account that have been approved since the April 15-16, 2008 meeting of the Joint Legislative Commission on Governmental Operations as required by G.S. § 143C-4-4.

### **1) NC Drought Response Initiative---- \$370,800**

The Department of Agriculture and Consumer Services requested an allotment of \$370,800 for the North Carolina Drought Response Initiative to provide No-till Grass Drills to accelerate pasture renovation. The funds will be provided to the NC Foundation for Soil & Water Conservation, Inc., to acquire and place No-till Grass Drills in 25 soil and water conservation districts to be used by farmers renovating drought damaged pastures and hay land. These drills will be placed under the full control and management of the conservation districts boards of supervisors who will make the drills available to farmers. The ongoing drought has killed pasture vegetation to the point that pastures cannot recover without significant renovation. This program would restore these farming operations to economic production in the most expeditious way possible. The Council of State authorized this request on May 6, 2008.

### **2) Legal Services for State of North Carolina v. Tennessee Valley Authority ---- \$493,054.38**

As provided under G.S. 147-17 and on the advice of the Department of Justice, the firms of the Ayres Group and the Resolution Law Group, P.C., two firms with specialized expertise, have been engaged to assist the Attorney General's Office.

The Attorney General's Office has concluded that pollution released into the air by power plants controlled by the Tennessee Valley Authority (TVA) is causing significant negative impacts on air quality in North Carolina. Litigation against TVA has been necessary to force a reduction of these emissions and protect the citizens of this State from the effects of this pollution. Because of the specialized nature of air quality litigation, TVA's resources, and the likelihood that multiple out-of-state lawsuits will be required, the Attorney General's Office has concluded that it is impracticable for their office to effectively represent the State in this litigation without the assistance of private legal counsel.

This allotment from the C&E Fund is for \$493,054.38 to pay for legal services as follows.

Ayres Law Group (12/1/07 through 2/28/0)	71,726.75
Resolution Law Group, P.C. (11/1/07 through 12/31/07)	159,647.63
Legal Edge Trial Technology (3/13/08)	5,543.00
Ayres Law Group – Invoice #5082	\$11,378.00
Resolution Law Group, P.C. Invoice #7534	\$244,759.00
Total Invoices:	\$493,054.38

The Council of State has previously approved allotments from the C&E fund totaling \$1,508,384.21 for legal fees pertaining to this case. The Council of State approved a \$236,917.38 request at their June 3, 2008 meeting and a \$256,137.00 request at their October 7, 2008 meeting.

**3) Reward for Information Leading to the Arrest and Conviction of the Person or Persons Responsible for the Murder of Jonathan Chase Powell ---- \$3,000.**

Jonathan Chase Powell, age 19, was abducted, robbed and murdered in Columbus County on March 27, 2002. Mr. Powell's body was found on April 17, 2002, in a wooded area of Columbus County; his vehicle was found stripped in Bladen County.

On February 3, 2003, Governor Michael F. Easley issued a proclamation offering a reward of up to \$5,000 for information leading to the arrest and conviction of the person or persons responsible for the murder of Jonathan Chase Powell. After an intensive investigation by the Columbus County Sheriff's Department and the State Bureau of Investigation, Ramel Theodore Troy was arrested, found guilty and sentenced to life imprisonment in June of 2007.

The State Bureau of Investigation along with District Attorney Rex Gore and Sheriff Chris Batten of Columbus County, recommend that the State reward money in the amount of \$3,000 be paid to one or more confidential informants. This request was approved by the Council of State at their July 1, 2008 meeting.

**4) Reward for Information Leading to the Arrest and Conviction of the Person or Persons Responsible for the Murder of Samir Harith Abdul Rasheed ---- \$5,000.**

On March 29, 2004, Mr. Samir Harith Abdul Rasheed, age 22, was found shot to death in his residence on Vincent Hoyle Road in Henderson, North Carolina

On September 30, 2004, Governor Michael F. Easley issued a proclamation offering a reward of up to \$5,000 for information leading to the arrest and conviction of the person or persons responsible for the murder of Samir Harith Abdul Rasheed. After an intensive investigation by the Vance County Sheriff's Department and the State Bureau of Investigation, Brian Hargrove was arrested and convicted for Second Degree Murder and Robbery with a Dangerous Weapon on March 20, 2008

The State Bureau of Investigation along with District Attorney Sam Currin and Sheriff Peter White of Vance County, recommend that the State reward money in the amount of \$5,000 be paid to one or more confidential informants. The Council of State approved this request at their August 5, 2008 meeting.

**5) Legal Services for Alabama, et al. v. North Carolina. ---- \$62,910.**

As provided under G.S. 147-17 and on the advice of the Department of Justice, the services of former Solicitor General Walter Dellinger of O'Melveny & Myers LLP were retained to represent the State in the case of Alabama, et al. v. North Carolina.

This lawsuit was filed as a result of North Carolina's decision to withdraw from membership in the Southeast Interstate Low-Level Radioactive Waste Management Compact. This is ongoing litigation initiated in 1999 related to the development and permitting of a North Carolina low level radioactive waste site that would support nuclear waste disposals from eight southeastern states. The US Supreme Court appointed a Special Master in 2004 to review legal claims and proceedings by the southeastern states.

The Council of State has approved allotments from the C&E fund totaling \$199,171.93 for legal fees pertaining to this case. The Council of State approved a \$52,580 request at their August 5, 2008 meeting and a request of \$5,165 at their October 7, 2008 meeting.

**6) Legal Services for South Carolina, v. North Carolina ---- \$23,895.**

South Carolina filed suit against North Carolina in the United States Supreme Court claiming that North Carolina is taking more than its equitable share of the water from the Catawba River. South Carolina's allegations extend to all uses of water in the Catawba River by North Carolina. A final judgment against North Carolina could require the State to provide a minimum volume of water to South Carolina, thus limiting North Carolina's share for municipal supply, recreation, and economic development. .

As provided under G.S. 147-17 and on the advice of the Department of Justice, the services of Servient, Inc., a firm that is providing expert services (including expert witness services as needed) related to document collection, search, retrieval, and review, especially with respect to electronic documents, were retained to assist the State in the case of South Carolina, v. North Carolina.

The US Supreme Court has appointed a Special Master to oversee the case, take evidence and make recommendations to the Court on South Carolina's claim. Discovery has now commenced and is already unusually voluminous and resource intensive. Over a million documents have been identified for collection and review so far. The Council of State authorized this request at their October 7, 2008 meeting.

**7) Industrial Commission Award - Award of Compensation to Four Claimants Pursuant to G.S. 148-82 - \$1,223,318.77**

A request for payment from the Contingency and Emergency Fund was received from the N. C. Department of Commerce in accordance with the Orders from the Industrial Commission awarding supplemental funds to Darryl Eugene Hunt \$391,455.00, Leo Dewitt Waters \$320,959.65, Steven Edward Snipes \$129,397.26, and Dwayne Allen Dail \$381,506.86. The awards are supplemental awards of compensation due to legislative changes to the erroneous conviction statutes. Changes required by SL 2008-173 include an increase in payment from \$20,000 to \$50,000 for each year of imprisonment served by a person who is later vindicated, increase the maximum payment from \$500,000 to \$750,000, and is retroactive for any person granted a pardon of innocence on or after January 1, 2004. The source of funds is determined by G.S. §§ 148-82, 148-84; approval of the Council of State is not required. The request was processed by OSBM on October 10, 2008