

CONTROLLING BOARD

OHIO OFFICE OF BUDGET AND MANAGEMENT

MINUTES OF THE MAY 03, 2004 MEETING

President, Lisa Dodge, called the Controlling Board meeting to order at 1:50 p.m. Serving on the Controlling Board were Senator Bill Harris, Representative Charles Calvert, Senator John Carey, Representative Jim Hoops, Senator Tom Roberts and Representative Sylvester Patton.

The minutes of the April 19, 2004, meeting were distributed. A motion to approve the minutes was made by Senator Harris, seconded by Representative Calvert and approved by the Board members.

Attached is the May 03, 2004, meeting agenda. President Dodge said Items 60,DYS384-04 has been deferred. A motion for blanket approval of all items not held for questions was made by Representative Calvert and seconded by Senator Harris and approved by all Board members.

The following Items were discussed and acted upon as stated.

Item 18, AGR083-0405 was held by Senator Harris. Senator Harris asked whether Fund 4P7 has substantial balance to support the additional payroll for the remainder of the biennium. Todd Dickson, Department of Agriculture said yes, the fund does have a balance which would support the seven FTE's. Senator Harris asked whether there is any restriction on the use of the rotary dollars that would prohibit the money from being used to pay salaries. Mr. Dickson said there is no restriction for benefits or salary. Senator Harris asked for a detailed breakdown of the travel and lodging expenses contained within the maintenance object code. Mr. Dickson said in December 2003, the department implemented a new travel policy. Within that policy inspectors are required to stay overnight if they are more than 60 miles away from their home base unless the next day's inspection is in the opposite direction. Itineraries are made to ensure they are traveling in a most efficient manner. Senator Harris asked if House Bill 95 appropriated money for the automated licensing process. Mr. Dickson said no. Senator Harris asked why the department is moving forward pursuing the upgrade now as opposed to later. Mr. Dickson said currently none of the division's databases communicate and are all different types of software. The department would like for all of the divisions to be able to communicate and have the same type of databases so that they can extract usable reports as well as gain information for people who may request it in the future. The item was approved without objection.

Item 19, AGR084-04 was held by Representative Calvert. Representative Calvert asked how the infestation of the emerald ash borer happened and whether cutting down trees in Lucas County will do to solve the problem. Todd Dickson, Department of Agriculture said the department would not know until additional eradication efforts are done. This effort is merely to stop known infestations. Representative Calvert asked whether money is being wasted if this effort is not the solution. Matt Beal, Department of Agriculture said the infestations have been imported through firewood or nursery stock and at this time a quarantine is in place to stop the movement. Representative Hoops asked what the difference is from the previous requests and the request today. Mr. Beal said the department is back today because of the additional infestation of Toledo and the federal government asking the department to apply for the money to run the project. Representative Hoops asked whether the department would be back in a few weeks because of new infestations of the emerald ash borer found in different counties.

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Mr. Beal said it is possible because there has been a recent infestation in Indiana. The emerald ash borer situation is very dynamic as it changes daily. The item was approved without objection.

Item 21, AGR086-0405 was held by Representative Calvert. Representative Calvert asked why berries, potatoes, green beans, apples, and Christmas trees are considered specialty crops. Todd Dickson, Department of Agriculture said the federal guidelines define a Specialty Crop as any agricultural crop except wheat, feed grains, oil seeds, cotton, rice, peanuts and tobacco. Representative Calvert asked what the department hopes to accomplish by taking riders out and showing them the specialty crops and paying their expenses. Mr. Dickson said Ohio was allocated \$800,000.00 from the federal government designed solely for advertisement of the state's specialty crops and to promote Ohio's specialty crops to consumers. The item was approved without objection.

Item 22, COM413-04 was held by Senator Carey, Representative Hoops and Senator Roberts. Senator Carey asked why the request is retroactive and what steps are being taken to prevent it from happening again. Anne Petit, Superintendent, Department of Commerce, Division of Real Estate apologized to the Board members for the request being retroactive and said it was caused by the division experiencing numerous difficulties during the period of time that they were negotiating maintenance agreements with the vendor. The fixes that were needed in the mean time for the system to be feasible and workable were also not contemplated in the original negotiations thus software modifications were being made. In addition, she noted that the maintenance contract came due virtually at the same time they received information regarding the necessity of these particular fixes. At that point the department had unfortunate miscommunication between the Fiscal Division, the IT Division and the Division of Real Estate, which caused the request to be retroactive. Representative Hoops asked whether taking money from these funds will increase fees. Ms. Petit said no it would not cause any issue with these particular funds. Representative Hoops asked why money was being taken out of the Cemetery and Private Investigator Funds. Ms. Petit said this will be prorated based on the number of employees and the usage from each of the sections that uses the system. Representative Hoops asked why the vendor from Iowa was selected. Ms. Petit said this particular vendor was selected because they submitted a proposal based on the criteria in the RFP that most closely met the needs of the division at that time and with the lowest cost. Senator Roberts asked why the system is needed. Ms. Petit said this system was necessary because up until 1999 the Division of Real Estate and Professional Licensing Contracting process was done manually. The item was approved without objection.

Item 27, DEV737-04 was held by Senator Roberts. Senator Roberts asked how many jobs would be lost with Kardex shifting manufacturing operations to a site closer to Rack's headquarters in Pennsylvania. Tom Johnston, Department of Development said 119 jobs would be relocated from Marietta to the site in Pennsylvania. Senator Roberts asked how many total jobs would remain in Marietta once the 119 jobs leave. Mr. Johnston said 40 jobs would remain in Marietta. Senator Roberts asked if the manufacturing jobs will leave the state. Mr. Johnston said all of the manufacturing jobs will go to the location of the company that acquired Kardex. Senator Roberts asked where the new equipment is going. Mr. Johnston said the equipment is going to Marietta. The item was approved without objection.

Item 36, OIC042-0405 was held by Representative Calvert and Representative Patton. Representative Calvert asked approximately how many hours the previous physician spent per year. Randall Weber, Fiscal Officer, Ohio Industrial Commission said the department has a ceiling of 1,040 hours and the

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previous physician averaged about 900 hours per year. Representative Patton asked what is the hourly rate of the current physician. Mr. Weber said the current hourly rate is \$125.00 per hour, which has been the same since 1994. Senator Roberts asked why the department did not start at the current rate for the new RFP and work their way to a higher salary. Mr. Weber said if you add a 3 or 4 percent increase over the last ten years it would average in the range of \$170.00 to \$190.00 per hour. President Dodge asked whether this salary is in line with what other doctors are being paid at other institutions. Mr. Weber said he thinks advisors are paid at a higher rate than your current treating physicians. Ms. Dodge asked whether this physician was still lower than the others. Mr. Weber said one was lower and one was in the range and the others were higher. The one who had the lower dollar amount which was \$150.00 per hour disqualified himself because one of the requirements of the commission is that you cannot have a private practice because there is a potential for a conflict and that person would not agree to close his practice. The item was approved with Senator Roberts objecting.

Item 46, DNR185-04 was held by Senator Carey, Senator Roberts and Representative Patton. Senator Carey questioned the selection of the out of state vendor. Chris George, Department of Natural Resources said in evaluating all three vendors, FishPro had done some previous work on the Castalia Fish Hatchery. In addition, they have extensive fish hatchery experience. Senator Carey expressed concern over awarding a lot of out of state contracts when Ohio companies haven't been offered the opportunity to participate. Senator Roberts asked if any of the 26.9% that FishPro is going to sub-contract out going to an Ohio Company. Mr. George said yes, Aerial photography and geotechnical investigation would be going to two Ohio firms based in Central Ohio. Representative Patton expressed his concern of agencies not using Ohio vendors when they have the opportunity. He encouraged the department to use Ohio vendors whenever possible. The item was approved without objection.

Item 48, DNR187-04 was held by Senator Carey and Representative Hoops. Senator Carey asked why the deliverables were not included in the original contract. Chris George, Department of Natural Resources said the initial contract called for historic building assessments and did not call for historic artifact protection. Senator Carey asked whether Middle Bass Island would impact the department's ability to keep other state parks operating. Mr. George said the department and the Division of Parks are committed to keeping park facilities at the service level they are today. Representative Hoops asked whether the Department or the vendor initiated the request for additional money. Mr. George said the supplemental agreement was initiated by the department for an increase in the scope of work. Representative Hoops asked why the department did not re-open the RFP proposal due to the large increase in the contract. Mr. George said that was not done at this time because of a continuum of looking at the historic aspects as well as the time constraints which could have resulted in a delay in getting the historic artifacts catalogued. The item was approved without objection.

Item 51, DRC519-0405 was held by Senator Harris. Senator Harris asked whether \$200,000.09 for FY04 is a reasonable request considering there are less than two months remaining in FY04. Rick Stevens, Department of Rehabilitation and Correction said yes, because the amount is due to an increase in sales from the Bureau of Motor Vehicles. The Bureau's inventory is depleted so they ordered an additional 720,000 placards for FY04. Senator Harris asked how that compares with the previous temporary tags in relationship to the average sale. Mr. Stevens said BMV is an Ohio Penal Industries customer and it is hard to distinguish how many BMV will sell per year. Senator Harris asked whether the placards are date sensitive. Mr. Stevens said no. The item was approved without objection.

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President Dodge asked if there was a motion to waive the seven-day rule to add SOS048-0405, SOS049-0405, SOS050-0405, SOS051-0405 and SOS052-0405 to the agenda. Senator Harris moved and Senator Roberts seconded.

Items 61, SOS048-0405, 62, SOS049-0405, 63, SOS050-0405, 64, SOS051-0405 and 65 SOS052-0405. David Kennedy, Secretary of State's (SOS) Office said the package before the Board is the culmination of several months of vigorous debate between members of the General Assembly and the Secretary of State to reach an accord for how to begin moving forward with implementation of the Help America Vote Act (HAVA) of 2002. The SOS was asked to lay before the Controlling Board what is believed to be a successful path to compliance with House Bill 262. The emergency nature is to allow the 31 counties who wish to proceed in 2004 with the deployment of voting systems to do so. Those counties have a critical priority choice within the next two-weeks on whether or not they are going to move forward. The Board has a number of requests before you which include instruction as to the movement of funds as they relate to the Director of the Office of Budget and Management. As I indicated in some meetings we are not entirely certain that if the money is not moved in the way that we indicate with these requests that there will be any sort of a train wreck or any sort of funds won't be available to move forward in 2004. However, with the abbreviated time frame that we have available we think it's best that we take this precaution and move forward. We apologize for the added complexity but again our objective was to try to find a way to meet the mandate of moving forward in complying with HB 262 in the best manner.

Senator Harris indicated that the events that have led up to this request today have been well documented and Mr. Kennedy just outlined again what the objectives are. It was never the legislature's intent to stall or delay this process. Only to ensure that the expenditures of almost \$160 million in state and federal taxpayer dollars be spent on a dependable technology that ensures the ability of every voter in the state to cast a secure and accurate ballot. Harris said he believed we have met these requirements with bipartisan action by the Joint Committee on Ballot Security, the members of the Senate, State and Local Government Committee, Senate President White and other members of the Senate and House leadership. The requests before us today deal with a few specific issues. The purchase of voting machines for up to 31 counties that are currently scheduled to deploy in 2004, the release of \$5 million for individual counties and the Secretary of State to undertake a voter education and poll worker training program and the administrative components to the Secretary of State's HAVA implementation plan. I know there are a few technical amendments that need to be discussed and I would like to attach as part of the official record a memo from the Secretary of State's Office that deals with several of these issues. We think it is extremely important that we have for the record specifically the approach that is being taken to ensure that the counties that want to move forward within these 31 counties have direction from the Secretary of State in order to follow the procedures that they will need to follow.

President Dodge said we have a couple of amendments to make to these requests. First we have SOS049-0405 and SOS051-0405. What we would like to do is amend SOS049-0405 to become SOS051-0405 and amend SOS051-0405 to become SOS049-0405. This is done really as just a process issue as what we are doing is creating and appropriating a fund before seeking a waiver. A motion to amend SOS049-0405 to become SOS051-0405 and to amend SOS051-0405 to become SOS049-0405 was made by Senator Harris, seconded by Representative Hoops and approved by all Board members. President Dodge said the second change is to SOS048-0405, the top of the request under Funding

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Information shows \$27,334,407.00 and that same amount should be reflected in paragraph three. A motion to change the amount in paragraph three to reflect \$27,334,407.00 was made by Senator Carey, seconded by Senator Harris and approved by all Board members.

Representative Calvert asked if there was anything to prevent us from deferring three of the items for two weeks: (1) the building of the standards, (2) the education of the poll workers and (3) the FY05 spending authority. Mr. Kennedy said it is not so much a function as if you take a snapshot of one individual piece of this package and say could we do without one or the other, it is more a question of how many moving parts can you take in and out of what really has become a process of negotiation and resolution. From the Secretary of State's perspective, continuing to delay and defer action on some while others move forward is a significant impediment to the process. Representative Calvert asked for clarification on whether the SOS would have to come back to the Controlling Board in order to spend the 2005 money. Mr. Kennedy said in terms of the pending legislation (House Bill 262), it does create an \$80 million appropriation within that bill for the 2005 voting machine fund. If there were alterations to the contract that involved a cost differential it is his understanding that they have an obligation to return to the Controlling Board for approval of those amendments to those contracts for the authority to spend that money.

President Dodge said we do have a memo that has come under Secretary of State's letterhead from David Kennedy indicating some clarifications of the requests and it will be attached to the request as an official document to the requests. Also, Ms. Dodge said we have a memo that we can make available to Controlling Board members that was received from Legislative Service Commission as to whether or not the Secretary of State would have to come back to the Controlling Board. They would have to come back if the cost is 20% or more to retrofit and they are seeking a waiver. If they are not seeking a waiver, if they do a true DAS competitive selection they would not have to come back to the Controlling Board.

Senator Roberts thanked the Board for the work they did earlier this year by allowing this issue to be deferred. He stated that in so doing you allowed the Ballot Security Committee to come into existence to do the work that was absolutely necessary for us to get to the point where we are today. Your actions allowed the legislature to thoroughly review this issue and to make voting in Ohio much better. The items were approved with Representative Calvert objecting.

With no further business before the board, the meeting was adjourned at 3:30 p.m.

Respectfully submitted,

Francene Johnson
Controlling Board Executive Secretary

05/03/04 Minutes approved by the Board:

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