

1973 WL 26747 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

May 21, 1973

\*1 The Honorable Fred C. Craft  
Director  
Disaster Preparedness Agency  
Retledge Building  
1429 Senate Street  
Columbia, South Carolina 29201

Dear General Craft:

Thank you for your letter of May 4, 1973, enclosing a copy of Mr. F. E. McEachern, Jr.'s letter of April 30, 1973, directed to you. You and Mr. McEachern raised the question of the meaning of Section 8 of Act R-220, approved April 6, 1973.

R-220 creates the Disaster Preparedness Agency and provides in Section 8 thereof, in pertinent part, that:

‘When the General Assembly is not in session, the Division of General Services of the State Budget and Control Board—may reimburse State agencies for unbudgeted disaster expenditures.’

The Division of General Services has no funds available to it of which I am aware, nor has it authority to make allocation of funds from such sources as the Civil Contingency Fund. Payments from that fund can only be made by unanimous approval of the State Budget and Control Board.

It is my opinion that the authorization to the Division of General Services to pay disaster expenditures amounts, in reality, to a nullity. I cannot read the Act as authorizing the Budget and Control Board to make such payments, although this may be a possible effective construction of the Act. The Act, however, specifically refers to ‘the Division of General Services of the State Budget and Control Board’ and does not purport to authorize the Budget and Control Board itself to make reimbursements authorized by the Act.

I suggest that the Act should be amended to make it effective by incorporating legislation similar to that found in Section 44-86 of the Code of Laws of 1962, as amended. That Act authorizes payments to the National Guard when in aid of civil authorities by warrants ‘drawn upon the General Pund of the State Treasury and paid out of any monies of such Fund not otherwise appropriated.’

Unless this amendment is adopted, it is doubtful that reimbursement under R-220 can effectively be made.

Very truly yours,

Daniel R. McLeod  
Attorney General

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