

Summary Minutes

Emergency Medical Services Regulatory Board

Executive Committee Meetings
Wednesday, May 5, 2010, 8:30
2829 University Avenue SE
Minneapolis, Minnesota

Members Present

James Rieber (by phone)
Pat Lee (by phone)
Kevin Miller
Gary Pearson (by phone)

Members Absent

Paula Fink-Kocken, M.D.

Guests

O.J. Doyle (by phone)
Gwen Keven (by phone)
Buck McAlpin (by phone)
Lance Ross (by phone)
Bill Snoke (by phone)

Staff Present

Katherine Burke Moore
Melody Nagy

Jim King
Juli Vangsness

I. Call to Order

Mr. Rieber called the meeting to order.

II. Legislative Issues

Mr. Rieber said that there was an amendment at the House and we want to discuss what our position is on this and have invited MAA to participate in this meeting. This amendment would restore funding to the grant programs.

Mr. Rieber said that we reviewed the proposed numbers during the last Executive Committee meeting. This amendment would restore more money to the grant programs more than their initial budget in 2010. We want to restore regional programs to their base amount and then the remaining money would go to volunteer training reimbursement (VTR) and EMS operations.

Ms. Burke Moore asked Mr. Rieber if he intended that the regional programs would not take the 5% cut in this biennium. Mr. Rieber said that there has not been a 6% cut. Mr. King said that the Governor's budget included a recommended 6% cut. Mr. Rieber said that is only a proposed cut. Ms. Vangsness said that the 5% cut was from last session and reduced base budgets for all agencies.

Mr. Miller said that CALS should have been at \$408,000 because they received an additional appropriation of \$100,000. Mr. Rieber asked if that includes the appropriation. Ms. Vangsness said it does not.

Mr. Rieber said that if the amendment passes the regional programs would be restored to \$361,000 and CALS would be restored to \$377,000 and the EMSRB would receive an additional appropriation of \$100,000.

Mr. Rieber said to not include the proposed 6% cut. Ms. Vangsness said that the adjusted budget would be column D in the chart that Ms. Burke Moore provided. Mr. Rieber said that CALS would receive \$174,000. Ms. Vangsness said that the \$100,000 was a separate appropriation and only \$74,000 was taken. CALS was not affected by the drafting error and this did not affect the base budget. Mr. Rieber asked if the regional programs had any other cut than the 5%.

Mr. Doyle said that there was a one-time appropriation of \$100,000 which was not included in the budget for the MRU and veterans to paramedic pilot programs.

Mr. Rieber said that if these amounts are restored then regional programs and CALS are back at their base budgets. Ms. Vangsness said that the language states that the appropriation will go to the grant programs. Mr. Rieber said that grantees would receive all the funds and the EMSRB has all the losses. Ms. Burke Moore said that this does not restore EMS operations. Mr. Miller said that the regional programs and CALS are grants. Ms. Vangsness said that VTR is an aid not a grant. Mr. McAlpin asked if the EMSRB had the authority to take these reductions, he questioned the legislative authority to reduce those payments. The EMSRB decided to reduce VTR. This would have taken legislative authority to reduce those funds. Mr. King said that there is nothing in the budget that requires that. Ms. Burke Moore said the Executive Committee decided where to make the reductions after the last session.

Mr. Rieber asked how much is due in payments to VTR. Ms. Burke Moore said that \$122,265 is due. Mr. Rieber said that \$80,000 would be left for EMS operations. Ms. Vangsness said per the current language any remaining funds in VTR cannot be moved to operations it must be distributed to the regional programs. Mr. Rieber asked if the money can be split between funds. Ms. Burke Moore said that the money should be distributed back to the programs in the same manner it was taken.

Mr. Doyle said that the history of this is that the House provided extra money to VTR because MDH did not increase this funding for many years. The amount of money was tripled. This was not considered a grant. Mr. King said that this is a program that will be reduced by 6%. This is not an agency operating expense.

Mr. Rieber said that the language assures that regional programs and CALS would receive the money first and then EMS operations would receive the rest. Ms. Vangsness said that the bill as written would not allow us to move any money to EMS operations. Mr. Rieber said that we can ask the author to consider a change to this language. We could also oppose this language. Ms. Burke Moore said that she is concerned that the regional programs would receive additional money despite that they were not cut. Ms. Vangsness said that better language would be to restore programs as they were reduced and to take the cuts as proposed in the Governor's budget.

Mr. Doyle said that the intent of the language was to restore funding to the regional programs and to VTR. Mr. Rieber said that we make the grant programs whole first and then the remaining would go to the EMSRB budget. Mr. Doyle said that this is a "place holder". Mr. Rieber asked if Mr. Doyle would agree that the remaining funds would go to EMS operations. Mr. Doyle said that he would have to speak to his constituents before he could agree with this.

Mr. McAlpin said that Senator Berglin offered an amendment yesterday that would return money to the EMSRB. Ms. Burke Moore said that Senator Berglin was aware of the \$450,000 drafting error.

Mr. King said that Public Safety has asked their grantees to return funding. Mr. Doyle said there is an error in the spreadsheet. Mr. Doyle said that we had lunch with the Commissioner of Public Safety and he was canceling the appropriation for medical response units. Mr. Doyle said that this will all be resolved in conference committee. Mr. Miller asked if there will be unspent funds. Ms. Burke Moore asked if Mr. Ross received a message from Senator

Berglin's committee. Mr. Doyle said that the money has been appropriated and asked if the legislature has the authority to pull this back. Mr. Doyle said that Representative Thiessen was also involved in this.

Mr. Miller said that we do not know the final number because Senator Berglin's amount is different than the proposed amount of \$361,000. Mr. Doyle said that the Governor's office has suggested vetoing both bills. He said that another question is what we do if there is no restoration.

Mr. Miller said that if we do not receive any funding then the base budget stands. Mr. Miller said that the budget is built on the money that is available today. What is our liability if the money does come back? Where would the funds be spent at the Board level. Ms. Vangsness said that money was pulled from the MNSTAR account. The board operation account would have to take a reduction. Ms. Vangsness said that MNSTAR forms are purchased from an extra account and we may have to take money from that account. We would have to do smaller purchases and then replenish these funds. \$147,000 was taken from these funds to pay for the MNSTAR system. We would have to find other ways to pay these obligations. Mr. Rieber asked why ambulance services do not pay for their own forms. Ms. Vangsness said that it is a cost savings to print the forms in bulk and ship them to services and recoup the printing costs.

Mr. Miller said that this helps him understand the budget position. Ms. Burke Moore said that we have two unfilled positions. Work will be delayed and there may be a rent increase. Mr. Miller said that further cuts would affect operations of the agency. Ms. Vangsness said that there is very limited travel and we have cut other operations within the agency to conserve these funds. We will not be able to find additional savings. Ms. Burke Moore said that any hiring waited a quarter of a year to have salary savings. We will have approximately \$70,000 in salary savings but the other EMS Specialists will have additional travel costs.

Mr. Rieber said that if both these bills fail. We only have \$925,000. We can continue discussions in the legislative committee to lobby for funds. We agree that if money is received that the regional programs and CALS would be made whole and the remaining funds would go to EMS operations.

Mr. Miller said that the Executive Committee is present – we all understand how this is laid out and our time is limited he asked how MAA feels about this. Mr. McAlpin said that we have always extended an “olive branch.” This is unfair to the programs and EMSRB in how this is interpreted. We need to make legislators understand that most of the EMSRB budget goes out in grants.

Mr. Rieber asked that a meeting with the Executive Committee of MAA be scheduled before next Wednesday. Ms. Nagy will work on that.

Mr. Rieber suggested a conference call with the grant programs regarding any potential reductions. Mr. Rieber said that there is a potential 6% reduction. If the grant programs have spent their funds how do we recoup the funds?

Ms. Vangsness said that funds will be reimbursed to grant programs within the language. She said that when we received the memo in December this was authorization to make those cuts. Ms. Vangsness said that we have a 30 day time frame to make payments. We do not know what amounts to make amendments because we do not know budget figures.

Mr. Ross asked if we have authority to do that. Mr. Rieber said that he asked for an AG opinion. Ms. Burke Moore said that she had a discussion yesterday with the AG. Ms. Burke Moore referred to the contract and said no notice is required. She said that she sent an email in April and there is no notice required and the contract language allows us to reduce the amount.

Mr. Miller said that an email is not an official notice to the grantees. Mr. Miller said that this is a point of contention with the regional programs. Ms. Vangsness said that we are held accountable to take these cuts and can't make payment above the amount that will be reduced. Ms. Burke Moore said that there are two regions that can shift funds from the seat belt account.

Mr. Rieber said that the agency is obligated to pay for expenses submitted. Ms. Vangsness said that Minnesota Statutes gives a 30 day time frame to make payment. We are waiting for the end of session to see what the funds will be. Mr. Rieber said that we must have a legal opinion. Ms. Burke Moore said that she sent an email. Ms. Vangsness said that if grant contract funds are reduced we do not know if they are unavailable.

Mr. Miller repeated that a legal challenge has been considered. Ms. Burke Moore said that the AG's legal advice is that the email is adequate legal notice. Ms. Burke Moore said that all invoices have been paid.

Ms. Vangsness said that there is no notice date for an amendment needed. No language in the contract. When grant funds are unavailable the state cannot make payment.

Mr. Doyle said that there would be interest due. Ms. Vangsness said that this would only be a vendor where interest would apply not within a grant contract.

Mr. Rieber said that the regional programs have expended all their funds what is our legal recourse to recoup funds. Mr. King said that the agency cannot exceed their appropriations. Mr. Rieber said that the contract should have been amended. Mr. King said that other agencies have not amended contracts – they are withholding funds. The governor gave authority to take this action. You may consider amending the contracts but since you do not know the amount you would have to amend them twice. We need to know the resolution of the legislative session.

Mr. Lee read the contract language regarding pro rated payment on cancellation of a contract. Ms. Vangsness repeated the language in the contract and said we are not canceling the contract it is just that funds are not available. Ms. Vangsness said that we could cancel the contract but language in part 4 gives the state the ability to reduce the funds available.

Mr. Rieber said that we must receive an AG opinion in writing to confirm what Ms. Burke Moore said regarding the email notice. Ms. Burke Moore said that no notice is required. Mr. Miller asked that this be included in the AG opinion.

Mr. Lee repeated that grant language that said that the grant will be amended to reflect duties that will not be performed and this must be in writing. Ms. Vangsness said that there is a standard format for amendments. Mr. Miller asked what that document looks like. Ms. Vangsness said that there is a formal process for an amendment.

Ms. Burke Moore asked if we are doing two amendments. Mr. Miller said that we need legal advice to share with the regional programs. Once there is a final legislative process then the contract will be amended. Mr. Rieber said that if the funds were reimbursed then the state is entitled to recoup the funds. Then the funds could come from seat belt funds. Do we have the authority to do this? Ms. Vangsness said Minnesota Statute 16A would allow us to do this because we cannot exceed our appropriation. Mr. King said that the board must stay within its appropriation (however they wish to do this). Mr. King said that in other agencies money is being withheld to make this happen.

Mr. Rieber asked if invoices can be held longer than 30 days. Ms. Vangsness said that we must justify why they are not paid and our justification is that the governors language said to make these reductions. Mr. Rieber said that we need to communicate to the regions that we are withholding 6% and we will be recouping the 6% if the money has been spent. Mr. Vangsness agreed. Mr. Rieber said that this must be communicated to the regional programs. Mr. Rieber said that we would invoice them and the regions determine how this is paid. We cannot shift funds. Ms. Burke Moore said that the seat belt fund is also being reduced by 6%. She said that we will add this information about this change also. Ms. Vangsness said that seat belt funds have greatly increased and the cut will be very minimal. Ms. Burke Moore said that she has a chart of seat belt funds revenue. Mr. Ross said that seat belt funds have both increased and decreased over the years.

Mr. Rieber said that we must receive an AG opinion and this must be communicated to the regional programs. We can withhold funds and ask regions to reimburse for expended funds.

Mr. Rieber said that we will need to have our next meeting Wednesday to discuss the progress of this. Ms. Burke Moore said that we have the ability to have an emergency meeting if needed. Mr. Miller said that if this is vetoed then we need to take a different action. Mr. Rieber suggested a conference call with the regional programs. Ms. Burke Moore suggested inviting the regional programs to next Wednesday's meeting at a specific time.

Ms. Burke Moore said that letters will be sent to regional programs today by mail and email. Mr. Miller asked if the board chair could review the letter before it is sent. Mr. Rieber said he would review the letter.

Mr. Rieber asked if there would be unallotments? Ms. Burke Moore said that there could be a special session. Mr. Rieber said that there is a court challenge for the unallotments that has not been decided. Mr. King said that has not been decided.

Mr. McAlpin asked about the money at DPS if we do not get a health and human services bill can we ask that this money be transferred by interagency agreement. Mr. King said that no, it would go to the general fund (it cannot be transferred to anything else) we need the language to pass. Mr. McAlpin said that he would work on amended language.

Mr. Miller said that the current amendment to the house file would mean that the regional programs would not be subject to any cuts and this would cause a cut of \$120,000 to the EMS budget. We need to discuss this with MAA. Mr. Miller suggested a meeting with MAA on Tuesday. Mr. Rieber said that any reductions to programs must be passed on to the programs. Ms. Vangsness said that the bill language must be changed to reflect this understanding.

Mr. Rieber thanked Mr. King and Ms. Vangsness for participating in this meeting. Mr. Miller thanked the persons on the phone.

III. Adjourn
Mr. Miller moved to adjourn. Mr. Lee seconded. Motion carried.