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City Club *of Portland*

BULLETIN

Portland, Oregon

Vol. 57, No. 35

**REPORT
ON
THE STATE EMERGENCY BOARD**

The Committee: Katherine C. Corbett, Harold S. Hirsch, Emerson Hoogstraat,
Fred M. Jory, Helen Lindgren, Maurine B. Neuberger, Diarmuid O'Scannlain,
Thomas S. Stimmel, Carleton Whitehead, Stephen B. Workman,
John E. Huisman, *Chairman.*

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*"To inform its members and the community in public matters and to
arouse in them a realization of the obligation of citizenship."*

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**REPORT
ON
THE STATE EMERGENCY BOARD**

To the Board of Governors,
The City Club of Portland:

I. INTRODUCTION

The Oregon legislature meets in regular session for approximately six months every two years. Between sessions the responsibility for making fiscal adjustments and meeting financial emergencies is assigned to an Emergency Board of fifteen legislators.

A City Club Research Committee was organized early in 1976 to study the board. Its charge:

“The Committee shall:

1. Review the past and present role of the Emergency Board.
2. Consider such basic questions as:
Has the board become more of a political power tool for its presiding officers than a body for emergency considerations?
Does the board take actions which exceed its own legislative authority?
Does the board thwart the function and decisions of the State Legislative Assembly?
Is the membership of the board representative of the legislature as a whole?
Does the composition (membership) of the board violate the one man, one vote principle?
3. Suggest and recommend alternative ways of performing the functions and activities of the board, if appropriate.”

II. SCOPE OF RESEARCH

The committee depended largely on personal interviews for its information. These interviews were conducted weekly from mid-February until mid-June, 1976. It intentionally sought the views of persons familiar with the board from different perspectives: members of the board, legislators who are not members of the board; past and present officials from the governor's office; past and present state agency heads who have appeared before the board; the board's staff director, and legislative lobbyists.

The committee sent a questionnaire to all current members of the legislature, state agency and department heads, state-supported college presidents, and faculty members of political science and economics departments.

Committee members were provided copies of an article on the board which was published in the May, 1976, issue of the *Oregon Law Review*, and interviewed its author, Bromleigh S. Lamb.

The committee visited an Emergency Board meeting in May.

Appendices to this report:

Appendix A—List of persons interviewed.

Appendix B—Questionnaire showing tabulated results.

Appendix C—List of Emergency Board members for the last ten years showing county of residence.

Appendix D—Comparison of the amount of the appropriation for general emergencies to the total state general fund budget, 1967 to date.

Appendix E—Explanation of amounts appropriated to Emergency Board for 1975-7.

Appendix F—Example of Budget Report showing budget note.

Appendix G—CH 447, Ore Laws 1975.

Appendix H—Excerpts from Article III of Oregon Constitution authorizing establishment of Emergency Board.

Appendix I—Excerpts from Oregon Revised Statutes containing definitions and stating powers of Emergency Board.

III. HISTORY

Modern state governments must have a means of adjusting appropriation as needs arise between legislative sessions. Most states delegate this responsibility to the governor, or to a combined executive-legislative authority. Some states require that the governor's decisions be reviewed by a legislative committee.

In 1913 the Oregon legislature created a combination seven-man Emergency Board comprised of three elected state officials (governor, secretary of state, and treasurer) and four legislative leaders. The board had no emergency fund to dispense. It was empowered only to approve appropriation deficiencies so agencies could meet fiscal crises. With board approval the Secretary of State was directed to issue certificates of indebtedness to cover the deficiencies.

The 1931 legislature converted the board to an exclusive legislative membership and gave it an emergency fund for needed supplemental appropriations. Three more legislators replaced the three state officials. The emergency fund was \$150,000. This amount should be compared with recent board emergency funds which have grown from \$2,000,000 in 1967-9 to \$21,500,000 in 1975-7. (See Appendix D.) However, the board has jurisdiction over funds far greater than its own Emergency Fund as will be explained below.

Oregon is one of only four states which vest the fiscal adjustment function exclusively with the legislature. The others are Nevada, South Dakota and Wisconsin. Except for one lapse this function has been entrusted by the legislature to the Emergency Board since 1931. The lapse occurred after the 1951 legislature sought to revise extensively the state's system of financial administration. A bill which would have given the board specific legal authority to administer appropriations was challenged on constitutional grounds. The Attorney General agreed that such authority would violate the separation of powers doctrine—although the practice had existed for 20 years.

The legislature proposed a constitutional amendment "to legalize the state Emergency Board". This was adopted by voters in 1952 and implemented by legislation in 1953. In the interim, the governor alone made emergency allocations—on the "advice" of the board, if he desired.

The 1953 act established the board as it now exists except for the number of members. It spelled out specific board authority for action in these circumstances.

In *emergencies*, the board could:

- 1) augment regular appropriations to an agency, or fund "an activity required by law" which the legislature had not funded;
- 2) allow an agency to exceed its budget, where legal;
- 3) fund an agency activity which developed between legislative sessions. (This applies importantly to federal programs.);
- 4) allow expenditure transfers within an agency budget.

The constitutional and statutory authority for the board's present powers appears in appendices H and I.

The 1953 act provided for nine members. It required that one senator and two representatives be current members of the Joint Ways and Means Committee. The 1973 legislature extended membership to fifteen members, adding three more from each house. The requirement for membership on the Ways and Means Committee was amended to require "experience" on that committee.

The Emergency Board now must consist of the legislative leaders (Senate president and House speaker), Senate and House co-chairmen of Ways and Means; five senators appointed by the president of the Senate (three must have Ways and Means experience), and six representatives appointed by the speaker of the House (four must have Ways and Means experience). The existing Emergency Board, excluding the Senate president and House speaker as ex-officio members, is almost identical with the legislature's Joint Ways and Means committee. In membership, the board is in effect an interim Ways and Means Committee.

Expanding Authority

Passage of the constitutional amendment to legitimize the board's functions and adoption of the 1953 act led to a gradual extension of authority to matters unrelated, or only remotely related, to the board's original purpose, which was fiscal control. This expansion has been the source of much of the criticism of the board.

A precedent, however, was established earlier. In 1945 the board was given joint jurisdiction with the State Board of Control over a \$10 million building fund for prisons, mental hospitals and colleges. That building fund and the Board of Control no longer exist, but the Emergency Board (or the Ways and Means Committee during the sessions) still must approve building plans of these institutions.

After 1953 the board moved into other areas, sometimes on its own direction, sometimes because of statutes which belatedly authorized functions the board had already assumed. Approval of federal grants is an important example. Frequently federal funds would be available to start a new program. Some of these require state matching funds; some do not. The grant would be obtained and the program begun. After a few years the federal funds would be cut off and the state would be left with the program and considerable financial embarrassment.

The 1967 legislature, at the Emergency Board's request, provided that a federal grant for a program not specifically budgeted by the legislature could be used only after board approval. The board went further in 1969 by requiring that even an application for a federal grant must have board approval. This board policy was formally adopted by the 1973 legislature. In practice this has been modified to exempt grant applications from colleges and universities because of their increasing numbers.

The 1973 legislature also authorized the board to approve personnel re-classifications, salary changes and new positions proposed by state agencies. This was an attempt by the legislature, through the board, to exercise some control on a burgeoning state bureaucracy.

To date the board's authority has been augmented by 24 separate statutes since 1945, most of them enacted to meet some contemporary crisis. Among them are approval of plans to create community colleges, approval of rental fees in state buildings, review of research on field burning alternatives (repealed in 1975), and approval of farm land condemnations by the Fish and Wildlife Commission.

The board continues to exercise control over locations and plans of state buildings. This frequently is achieved by a legislative reservation of \$1 for the building, the balance to be determined later by the board.

The \$1 reservation, or more properly a "\$1 expenditure limitation," is a legislative device for dealing with the unknown. The legislature knows that a building must be constructed but it does not know the final cost or how much money would be available. It knows that federal funds will be received for an agency program but it does not know when. It knows that a department will receive license fees but it does not know how much.

In these cases, and others, the legislature establishes a \$1 expenditure limitation and refers final disposition to the Emergency Board. If the legislature did not, the board would have no authority to use the funds. The Emergency Board may increase expenditure limitations imposed by the legislature, but it may not create a spending authority on its own.

The increases authorized by the Emergency Board, e.g., from \$1 to \$5 million for a

building, do not come from the board's emergency fund. Rather they come from other sources: bonds, federal grants, loans, fees.

But the board controls use of the funds from a variety of sources, and in that sense it exercises a significant amount of authority. The practice is defended on the ground that it gives the board authority to carry on necessary state business between legislative sessions. It is criticized on the ground that the business of spending large amounts of state funds should be controlled by the full legislature.

Examples of the "\$1 expenditure limitation" technique may be found in CH 447, Ore Laws 1975, which is attached as Appendix G. This is the bill which authorized construction of the extensions to the Capitol Building in Salem (capitol wings) which will be discussed below.

Obviously the term "expenditure limitation" is a limitation in name only. The legislature does not direct an absolute limitation on the amount of money that may be appropriated for any particular program or project. The actual limit would be the amount appropriated by the legislature (if fully appropriated), the amount of funds available (if from a dedicated fund), or the amount determined by the Emergency Board (in the case of increasing an "expenditure limitation" of \$1).

The legislature could specify a limit "not to exceed \$..." if it chose to do so, but it never has. Perhaps this is because the final determination is made by a legislative committee (the Emergency Board).

Actions taken by the Emergency Board are not formally subject to a governor's veto. But they may be informally limited either before or after allocations are sought and approved. Before: The Executive Department processes each agency request, and may refuse to submit it to the board. After: The Executive Department conducts a quarterly allotment process at which time it may determine whether an allocation should in fact be spent. In practice, however, this is unimportant because almost always the Executive Department is in the position of seeking funds on behalf of various agencies, or on its own behalf, instead of allotting them. Consequently, in the last analysis, it is the board which controls expenditures—at least between legislative sessions. If the board denies an appeal for funds, the governor has no choice but to wait for the next legislative session.

One effect of the board's expanded authority is to increase its work load substantially. In the interim between the 1953 and 1955 sessions, the board held 13 meetings, heard 136 items, and managed an Emergency Fund of \$1,000,000. Twenty years later, between the 1973 and 1975 sessions, it held 15 meetings, heard 808 items, and managed an Emergency Fund of \$10,700,000.

The Emergency Fund appropriated to the current board (1975-77) is \$21.5 million. This is 1.47 per cent of the current biennial general fund budget of \$1.5 billion. (See Exhibit D) The 1975-77 appropriation was disproportionately large because it included a \$5 million contingency fund to cover an underfunded employee salary package and other projected demands which did not develop. It is proving to be about \$10 million more than required.

The board is free to make allocations from the Emergency Fund as it sees fit. However, it would be misleading to suggest that the Emergency Fund of \$21.5 million for 1975-77 is the only source of funds over which the board has control.

It also was appropriated a contingency fund of \$107,598,019 for the 1975-7 biennium to meet anticipated needs. These were specified by the legislature for agency, purpose and amount. (See Appendix E). It is the board's responsibility to release those funds as needed. The combined emergency and contingency funds appropriated from the general fund and available to the board total \$129,098,019.

There are two other fund sources over which the Emergency Board has control. It considers applications for federal grants and it may increase expenditure limitations on the uses of "other funds" (dedicated funds) outside the general fund.

The Legislative Fiscal Office advises that no cumulative total is kept of federal grant requests, in part because applications are indefinite and inconclusive. For example, agen-

cies this year submitted applications for \$77 million in federal public works employment grants — far more than any agency hopes to get.

As an example of increases in "other funds," the board at its December 17, 1976 meeting approved a request for the Motor Vehicles Division for more money for its driver's license program, the money to come from the dedicated Highway Fund.

Both federal grants and dedicated funds are outside the general fund—which is another reason why no cumulative accounting is attempted.

The Emergency Board meets at its own discretion, from which has evolved a regular schedule of monthly meetings over two days or sometimes longer. Requests brought before the board are first reviewed by the executive department and the board staff. Once in session, the board divides itself into three subcommittees for the first meeting day and hears formal requests which have been summarized and presented to members in advance. Explanations are offered and questions are answered by appropriate agency heads, with representatives of the executive department and board staff present. The meetings are open, but the board hears no public testimony. On the following day, subcommittee recommendations are presented for action by the board sitting as a single unit.

IV. DISCUSSION

Exclusive legislative control over interim budget adjustments is an approach shared by some other states, as noted, but Oregon's system is unique in scope and detail.

The Oregon legislature exercises relatively tight control over state agency budgets in the regular appropriation process, and this leads to more substantial adjustments than otherwise might be necessary. Also, the adjustment fund allocated is substantially larger than that of other states, perhaps because the legislature entrusts its use to a committee of its own. The result is a concentration of power, for better or for worse, in a committee (the Emergency Board) comprised of only one-sixth of the legislative body (15 members of 90).

Every person interviewed by the committee found some fault with the board, but only one said it should be abolished. Others found reasons for its being, but suggested changes.

Among the reasons cited for the need for changes were an inordinate concentration of power with the board, a composition unrepresentative of legislative membership, a tendency to flout legislative intent, and usurpation of legislative and administrative prerogatives.

"Eight legislators have the power to abrogate decisions of the whole legislature," said Sen. Wallace Carson, a Republican from Salem and the one person interviewed by the committee who said the board should be abolished. (Carson's statement is calculated on a potential 8-7 vote by the board.)

Several witnesses proffered examples of what they considered to be excessive use of power by the Emergency Board.

The most recent of these, which will surely be debated in the 1977 legislature, regards construction of wings to the state capitol building in Salem at a presently estimated cost of \$11,400,000. The 1975 legislature authorized the addition to be financed from bonds issued by the Oregon Building Authority (also created by the 1975 legislature) and established an expenditure limitation of \$1. Rather than await the necessary bonding by the Authority, the Emergency Board, (on June 27, 1975, less than two weeks after the close of the 1975 session) increased the \$1 expenditure limitation to \$10,477,743 and authorized the Department of General Services to borrow money immediately from the State Treasurer. A month later the treasurer loaned \$5.5 million to permit immediate construction. In June 1976, the Emergency Board authorized the Department of General Services to borrow an additional six million dollars from the State Treasurer to complete construction.

On September 8, 1976, the Oregon Supreme Court, considering an appeal presented by Rep. Roger Martin, struck down the law creating the Oregon Building Authority as unconstitutional. (Martin vs. Oregon Building Authority 276 OR. 135). In its opinion the

court recited that the Oregon Constitution "prohibits the legislature from creating 'debts or liabilities' which, with certain exceptions, exceed in the aggregate \$50,000." The court also said the Authority was created so that it rather than the state could borrow the money to build the wings. However, the state was to bind itself to lease the wings from the Authority long enough to allow the Authority to retire its debt with the lease payments. This meant that, indirectly at least, the state was becoming indebted for more than \$50,000.

In commenting on this program the court said, "It (the Authority) is a gutless intermediary whose sole reason for existence is to insulate the State from the constitutional debt limitations. As has been so pungently stated, 'It is a scheme which would fool only a lawyer.'"

While state law permits a state agency to borrow from the State Treasury and to spend such borrowed sums if authorized by the Emergency Board, the board is now in the position of having to recommend a direct appropriation by the 1977 legislature to reimburse the State Treasury for the cost of construction. There is no other legal source of funding left to meet the debt.

It is not clear what will result if the 1977 legislature refuses to "bail out" the present Emergency Board for authorizing such expenditures before the constitutionality of the Authority had been determined and the funds secured. However, the Attorney General has ruled that the construction contract is a general obligation of the State of Oregon and that a court would so decide if the contractor were to bring suit for the unpaid balance.

Other examples of Emergency Board excesses cited by witnesses were these:

- transfer of \$200,000 in the highway budget for tourist advertising in 1974 after that item had been specifically eliminated by the 1973 legislature;

- installation of an automatic voting board in the House in 1974 after the expenditure had been rejected twice by the legislature;

- reversal of legislative action to merge Hillcrest and MacLaren schools;

- building of Autzen Stadium (University of Oregon) without going through the legislative process (explained below);

- approval of an "Institute for Policy Studies" at Portland State University in 1975 without prior referral to the executive department;

- rejection of a solid waste disposal project initiated by the Metropolitan Service District.

Whether or not some of these examples really were "excesses" as stated by the witnesses, might be a matter of perspective. An "excess" to one person may be a perfectly proper action to another.

Explanations for some of these actions were offered by other witnesses; few actions were formally challenged. The overall effect, however, supported criticism of the Emergency Board, most of which as one witness observed, comes from legislators who are not members of the board.

A concern of critics is the finality of board decisions. Carson said that, "The full legislature has no recourse of any sort to the decisions of the board."

Board members and other legislators assigned at least a portion of their criticisms to a temptation of the legislature to assign unresolved conflicts to the board—a tendency to pass the buck.

Shifting to the board the responsibility for accepting or rejecting the Metropolitan Service District solid waste contract mentioned above was an example of buck passing suggested by Stafford Hansell, now director of the Executive Department and a former legislator with 14 years experience on the board.

Sen. Victor Atiyeh, Senate minority leader, said some matters come before the board because they were poorly drafted or inadequately examined during the regular legislative process. "Legislators who criticize the Emergency Board criticize themselves," Atiyeh said. This he attributes to a deteriorating quality of legislators, for which voters ultimately are responsible.

Witnesses agreed that composition of the board was disproportionate to the population of the state. Almost half the state's population exists in the Portland metropolitan area, but only one-third of the board's membership represents that area. (See Appendix C.) Atiyeh, who represents a metropolitan area district, said the disparity does not represent an attempt "to gang up on Portland," but instead is an indication of the relative competence of Portland and downstate legislators.

Finally, many critics accused the board of violating legislative intent (of which some "abuses of power" listed above were cited as examples). The problem here is to determine what legislative intent is. Jacob Tanzer, now returned to the Court of Appeals but once head of the State Human Resources Department, said he believes the board makes an effort to follow legislative intent "if it can divine it." Rep. Vera Katz, a board member, said the board tries to avoid changing policy established by the legislature—when that policy is clear.

A. Legislative Leadership One question raised by the charge to your committee was whether the board serves as a power tool for the legislative leadership.

Eighty per cent of the respondents to the committee questionnaire indicated that they believed the board was more responsive to the leadership than the membership. Edward Westerdahl, executive assistant to former Gov. Tom McCall, responded to the question with an "emphatic yes — it represents the political structure the leadership wants".

Former Rep. Keith Skelton said the board provides the leadership with "its strongest source of political power" because it "provides a convenient way to get around the legislature in session" and "it has strength that other committees lack."

Most witnesses indicated that the board is a powerful potential force whether used or not. Generally, however, they indicated the force had not been misused.

The potential of power lies in the leadership's appointing authority. The board, as explained above, is almost a replica of the Ways and Means Committee, whose members are appointed by the Senate president and the House speaker. Significantly, the board differs from the Ways and Means Committee in that the president and the speaker also are board members. Their presence on the board is evidence enough, according to some witnesses, that they manipulate board policy.

Speaker Phil Lang responded simply that the board did not serve as a leadership power tool. President Jason Boe said the board's potential as a power tool was minimized by its need to make politically unpopular decisions.

Rep. Roger Martin, House minority leader, contended in a letter to the committee that a legislative leader's influence on the board is the same as his influence on other committees during the session.

Representative Katz asserted that individual members may use their position on the board to promote favored projects in their districts.

The Emergency Board, Tanzer summarized, "may or may not represent the membership (of the legislature), but it is never out of sync or phase with the leadership."

None of the witnesses made any accusation of dishonesty or "pocket-lining" on the part of any board member. However, the concern exists that the present authority and power of the Emergency Board make that possible; the system provides too few safeguards against abuses.

B. State Agencies A major criticism of the board is its increasing penetration into details which agency administrators believe should be left to them. Included in a broad category of "meddling" are board review of federal grants, personnel changes, building plans, and program changes.

C. Budget Notes A recent related development is the increasing use of "budget notes." These are incorporated into Budget Reports prepared by the Joint Ways and Means Committee on appropriation bills. A report is made with respect to each bill, but is not a part of the bill. The notes specify what an agency may and may not do with the money appropriated once the legislature has adjourned. Therefore they fall within the purview

of the Emergency Board. Their existence reflects a growing controversy between the legislature and state agencies over interim activities.

Because Budget Reports (and the budget notes which are a part of the Reports) are difficult to understand in the abstract, a copy of a Budget Report is attached as Appendix F. This is the report dealing with the capitol wings.

Senator Carson was particularly critical of budget notes, on which members of the legislature have no opportunity to vote. He has sought unsuccessfully to strike them from bills under consideration. Senate president Boe conceded that "rulings on budget notes are sometimes difficult," but he defended the controls and restraints they make possible.

One administrator wrote to the committee that as the budget process and notes become more specific, the workload and intervention of the Emergency Board becomes enormous.

Sometimes the process is reversed, however. The board occasionally is presented with an agency proposal which never appeared before the legislature. "Sometimes agencies skip the legislature and go to the board," Hansell said. "It's easier than to chase a bill through a session." The Department of Higher Education asked the board for an expenditure limitation increase to supplement a gift and a reserve which the department held on its own. The board granted the request by raising a \$1.00 limitation appropriated for "auxiliary buildings." The \$2.5 million Autzen Stadium was completed in 1967. But, Hansell said, "It was never mentioned in the legislative process."

Tanzer attributed proliferating detail in which the board becomes involved to growing competition between legislative and administrative departments of government which began in Congress and now is being manifested in the states. "It is a natural tendency for the legislature to say that the executive is trying to get away with something, and for the executive to say that the legislature is ordering it around."

Hansell said an "ambitious legislative leadership generates more legislative functions," but the executive department cannot afford to become antagonized because it must appear before either the legislature or the board every month.

D. Staff The board employs the services of the Legislative Fiscal Office, which serves the Ways and Means Committee during legislative sessions. In effect, a meeting of the Emergency Board bears an indetical appearance to a meeting of Ways and Means — because essentially the same legislators and exactly the same staff are sitting in precisely the same room.

Some respondents to committee questions and questionnaires expressed concern over the influence and motivation of staff recommendations. Excerpts:

"Staff writes budget notes. They could differ from the subcommittees and try to 'shade' new laws if they don't like it."

"Staff can't generate requests, but can plant them."

One person suggested an eight-year limitation to staff terms. Staffers, he said, become better informed than most legislators, develop prejudices against legislators and legislation, and "can and do slant information."

Representative Katz suggested it would be helpful if board members could have their own staff as well as access to the Fiscal Office staff. The advantage would be that board members would have available two different perspectives.

The latter possibility leads to a suggestion made by several witnesses—that larger staffs on other committees could lead to improvement of the legislative product and in that way reduce demands made on the Emergency Board.

E. "Emergency" Defined Throughout its deliberations, your committee heard references to the "emergency" classification of the board. Reactions to this designation varied.

Phil Lang estimated that only ten per cent of the board's agenda represented true emergencies; Representative Katz said the only emergencies were federal grant applications; Bromleigh Lamb said fiscal considerations were, by definition, emergencies.

Atty. Gen. Lee Johnson said the name "Emergency Board" acts as a restraint on bureaucratic requests. On the other hand, he acknowledged that "An emergency is any-

thing the board says it is." In making this remark he was echoing more formal statements of his predecessors in office. In at least two opinions, the attorney general has said:

"... the authority to determine whether, under all the circumstances and facts stated, an 'emergency' exists is for the Emergency Board. Article III., Sec. 3 of the Oregon Constitution, and ORS 291.322 et seq. have conferred on that body the exclusive authority to make such determinations."

(60-62 OAG 284, and 64-66 OAG 304)

The cited excerpts from the Constitution and the statutes appear in Appendices H and I.

V. ALTERNATIVES

Witnesses and respondents were asked to suggest alternatives to the present system which assigns fiscal adjustments to the Emergency Board, or to the board's present pattern of meeting its responsibilities. Answers ranged from abolishing the board to making no changes at all. Between these extremes a number of changes were suggested. These are discussed below:

A. Annual Sessions A number of witnesses and more than half the respondents to the questionnaire suggested annual legislative sessions. The most popular argument for annual sessions is that budgeting on a biennial basis (in practice, attempting to budget two and a half years ahead) requires estimates of revenues and expenditures which are subject to change.

An arrangement frequently used in many states would provide for a general legislative session every two years and a budget session in the intervening years. The interim between legislative sessions would be reduced at least by half. Demands on the Emergency Board would be fewer, and the need for special sessions would be minimized.

The most frequently expressed argument against annual sessions holds that Oregon would lose the qualities of its "citizen legislature" and would become in time a body of professional legislators and experience the added cost of annual sessions.

B. Self-Call In the November 1976 general election, Oregon voters approved a referendum which permits the legislature to call itself into special session upon the written request of a majority of the members of each house. Approval of the measure, which had been defeated four times in the past, may bring significant changes in the interim functions of the legislature and in the future of the Emergency Board.

Some legislative observers anticipate that the legislature, once it becomes accustomed to the potential of a self-call, will convene in special sessions much more frequently than in the past, perhaps as many as six or more times a year. These special sessions would consider many questions now presented to the Emergency Board. The influence of the board would be reduced correspondingly.

However, with either annual sessions or self-call special sessions, there still would be a need for the Emergency Board or its equivalent.

Costs are another consideration. Senator Boe told the committee that the 1975 legislative session cost \$22,000 a day. Special sessions cost about \$8,500 a day. The cost of convening the Emergency Board is relatively insignificant, amounting only to the travel and the \$39 per diem expenses of its members.

C. Executive Authority A partial return to the system in which the governor, not a legislative committee, makes budget adjustments was suggested by some witnesses.

Senator Atiyeh objected to the legislature's tendency to "nit-pick" budgets and suggested that one or two agencies might be given greater flexibility to adjust their own budgets, as an experiment. But other than involving itself in too much detail, Atiyeh felt that the board "generally serves its purpose well, and most alternatives are horrendous."

Dr. Roy Lieuallen, chancellor of the State System of Higher Education, suggested that the board could reduce its work load by permitting agencies to make purely administrative decisions which have no effect on policy. Examples are reclassification of em-

ployees, modification of building plans that do not have fiscal implications, and approval of federal projects which do not involve the state's general fund.

D. Other Committees Changes in the legislative structure to allow other committees more authority were recommended by a number of witnesses. This is the thrust of Senator Carson's bills which would replace the Emergency Board entirely.

Carson would create a separate committee to review federal grant applications. This would be the only interim committee with authority to speak for the legislature; other real emergencies would be met through special sessions. Alternatively, Carson would refer any substantive matters to an appropriate interim committee before referral to the Emergency Board, or subject such issues to a mail referendum of all legislators.

Westerdahl also suggested referral to substantive committees, which might, some day, be reduced in number but strengthened in influence. He would have more joint committees (such as Trade and Economic Development created last year) and more permanent committees. "Don't fiddle with the E Board," he said, "but strengthen the others."

E. Improvements Finally, legislators and agency witnesses agreed that improvements in the legislative product would eliminate some woes of (or with) the Emergency Board.

Hansell and Carson pleaded for better bill drafting. The catch phrase, "notwithstanding any other law," too frequently means that other bills have been inadequately researched. When conflicts are found, troubles appear. Each session routinely begins with a series of amendments to resolve conflicts with laws passed by the previous session. In the meantime, Carson said, "sloppy legislative wording allows the agencies to have a field day." Hansell urged "more careful bill drafting" and commented that "The legislature doesn't have to promulgate rules on everything."

VI. CONCLUSIONS

1. Your committee believes that, for all of its faults, the Oregon system of an all-legislative committee (the Emergency Board) responsible for interim fiscal adjustments is preferable to suggested alternatives.

2. The Emergency Board is in many respects a miniature legislature. It is in operation for approximately 18 months every biennium, while the legislature is in session for approximately six months. Eight persons, a simple majority of the board, can now establish major policy and commit expenditures. It can act without opportunity for appeal of its decision or governor's veto. Decisions can be reached without the preliminary scrutiny of legislative committees and without public input.

3. The board is composed of 15 persons, who are not geographically representative of the population of the state. Historically the Portland metropolitan area has been and is now significantly under-represented.

4. The power of the board is substantial. It can both restrict and control the executive departments and initiate new policy. It can and, on occasion has, intruded into the operation of the executive departments.

5. Relatively minor administrative decisions such as low-level personnel reclassifications, must be submitted to the board for approval.

6. Although excessive exercises of the board's power are not frequent, they illustrate that the power is there to be used. While in general, restraint has been the practice, the opportunity exists for serious political mischief.

7. Abdication of legislative responsibility has increased the board's power. With the board available, willing and able to act free from stress of the process of public decision-making, there has been an increasing tendency for the legislature to defer difficult decisions to the board.

8. The power of the legislative leaders is reinforced by the existence of the board. The power of appointment to the board and the power of the board to control or to initiate action is a lever to influence legislators.

9. Regardless of the problems with the board, there is a need for an interim legisla-

tive agency. Crucial issues such as allocation of funds to meet true emergencies, approval of applications for major federal grants that imply long-term state policy and financial commitments, review of major building plans and contracts, limited fiscal adjustments, and other decisions that may need immediate attention, cannot wait until the next session of the legislature. The difficult question is how to create an agency to handle those problems that does not have the capability of intruding upon or supplanting the executive or legislative departments.

10. Although there is no evidence that any board member has used his power for personal gain, your committee has concluded that some modification of the board's authority is necessary so the people of the state will not be as dependent as they now are upon the personal integrity of the board members.

11. The name "Emergency Board" is misleading. Only a small fraction of the board's activities deal with true emergencies.

VII. RECOMMENDATIONS

1. The Emergency Board should not invade executive branch policies or duties.
2. The board should not initiate expenditures beyond its stipulated authority.
3. The legislature should delegate to the Executive Department, not the board, interim authority over personnel reclassifications, capital construction projects, and federal grants for equipment (as distinguished from staffing).
4. Appropriate substantive interim committees should review agency requests before they are submitted to the board.
5. Composition of the board should reflect the apportionment of the legislature.
6. Experience on the Joint Ways and Means Committee, although desirable, should not be a prerequisite for appointment of a majority of board members.
7. The president of the Senate and the speaker of the House should be excluded from service on the board, but they should retain their authority to appoint board members.
8. Fiscal instructions now included in "budget notes" should be incorporated into the body of appropriation bills.
9. The legislature should impose an upper limit on the amount of money that may be spent on a project.
10. The name of the board should be changed to reflect its true character as an interim fiscal body.

Respectfully submitted,

Katherine C. Corbett
Harold S. Hirsch
Emerson Hoogstraat
Fred M. Jory
Helen Lindgren
Maurine B. Neuberger
Diarmuid O'Scannlain
Thomas S. Stimmel
Carleton Whitehead
Stephen B. Workman
John E. Huisman, *Chairman*

Approved by the Research Board December 16, 1976 for transmittal to the Board of Governors. Received by the Board of Governors December 29, 1976 and ordered published and distributed to the membership for consideration and action January 28, 1977.

APPENDIX A

PERSONS INTERVIEWED BY THE COMMITTEE

Victor Atiyeh, State Senator and former Emergency Board member
 Jason Boe, President, Oregon Senate
 Keith Burns, former Executive Assistant to Governor Robert Straub and former State Senator
 Wallace P. Carson, Jr., State Senator
 Floyd J. Gould, Legislative Fiscal Officer
 Stafford Hansell, Director, Executive Department
 Herbert C. Hardy, Lawyer
 Lee Johnson, Oregon Attorney General
 Vera Katz, State Representative and Emergency Board member
 Bromleigh S. Lamb, Author, "The Emergency Board: Oregon's System of Fiscal Adjustment,"
 appearing in *Oregon Law Review*, May, 1976.
 Philip D. Lang, Speaker, Oregon House of Representatives
 Roy E. Lieuallen, Chancellor, State System of Higher Education
 Norma J. Paulus, State Representative
 Vern B. Pearson, Vice President, United States National Bank of Oregon
 Keith D. Skelton, Lawyer, former State Representative
 Jacob Tanzer, Associate Judge, Oregon Court of Appeals
 Edward G. Westerdahl, former Executive Assistant to Governor Tom McCall

APPENDIX B

A research committee of the Portland City Club has been assigned a study of the legislative Emergency Board. The committee would be helped by your response to the questions below. A self-addressed, stamped envelope is enclosed. Thank you for your cooperation.

1. Is there a better way to do state business between sessions? No, 8. Annual sessions, 53.
 Expanded executive branch authority, 16. Revised Emergency Board authority, 7. Other, 25.

| | <i>Yes</i> | <i>No</i> | <i>Undecided</i> |
|--|------------|-----------|------------------|
| 2. Is two-year budgeting feasible? | 60 | 46 | 2 |
| 3. Does the Board allocate funds and revise budgets responsibly? | 62 | 29 | 13 |
| 4. Does it genuinely meet "needs"? | 56 | 40 | 11 |
| 5. Does the Board make policy? | 91 | 12 | 6 |
| 6. Does it exceed its authority? | 62 | 33 | 14 |
| 7. Does it thwart legislative intent? | 51 | 41 | 16 |
| 8. Does the Legislature duck politically sensitive issues, leaving decisions and responsibility to the Board? | 39 | 57 | 10 |
| 9. Does the Board represent the legislative leadership more than it represents the membership? | 87 | 15 | 6 |
| 10. Has expansion of Board membership to 15 worked? Is the Board's geographical representation in balance? .. | 48 | 42 | 10 |
| 11. Can the Legislature assure Board flexibility within the restraints of legislative intent? | 56 | 39 | 9 |
| 12. Do you support Ballot Measure No. 5 (legislature self-call)? | 67 | 34 | 2 |

If you wish to make any comments, either in general or pertaining to any of the above questions, please feel free to do so in the space provided on the reverse of this questionnaire.

Date _____

Signature (optional) _____

(Note: Most of those who indicated "other" in question 1 suggested annual sessions in combination with expanded executive authority or revised Emergency Board authority.)

APPENDIX C EMERGENCY BOARD MEMBERS

1965-1975

| | | |
|------|---------------------------|---------------------------------|
| 1965 | Potts (Josephine) | Montgomery (Lane) |
| | Boivin (Klamath) | Hansell (Umatilla) |
| | Thiel (Clatsop, Columbia) | Flitcraft (Klamath, Lake) |
| | Newbry (Jackson) | Rogers (Polk) |
| | | Leiken (Douglas) |
| 1967 | Potts (Josephine) | Montgomery (Lane) |
| | Boivin (Klamath) | Hansell (Umatilla) |
| | Thiel (Clatsop, Columbia) | Flitcraft (Klamath, Lake) |
| | Newbry (Jackson) | Bedingfield (Coos) |
| | | Lang (Multnomah) |
| 1969 | Potts (Josephine) | Smith (Harney, Malheur) |
| | Boivin (Klamath) | Hansell (Umatilla) |
| | Newbry (Jackson) | P. Lang (Multnomah) |
| | Huston (Linn) | David (Jackson) |
| | | Day (Marion) |
| 1971 | J. Burns (Multnomah) | Smith (Harney, Malheur) |
| | Potts (Josephine) | Hansell (Umatilla) |
| | Newbry (Jackson) | P. Lang (Multnomah) |
| | Eivers (Clackamas) | Pynn (Clackamas) |
| | | Gwinn (Linn) |
| 1973 | Boe (Douglas) | Eymann (Lane) |
| | Potts (Josephine) | P. Lang (Multnomah) |
| | Newbry (Jackson) | Hansell (Umatilla) |
| | Heard (Klamath) | Akeson (Multnomah) |
| | Ripper (Coos, Curry) | AuCoin (Washington) |
| | Atiyeh (Washington) | M. Roberts (Multnomah) |
| | Holmstrom (Clatsop) | McCoy (Multnomah) |
| | | Ingalls (Benton) |
| 1975 | Boe (Douglas) | P. Lang (Multnomah) |
| | Ripper (Coos, Curry) | Akeson (Multnomah) |
| | Heard (Klamath) | Gwinn (Linn) |
| | Potts (Josephine) | S. Johnson (Deschutes, Klamath) |
| | M. Roberts (Multnomah) | Katz (Multnomah) |
| | Meeker (Yamhill, etc.) | Lindquist (Clackamas) |
| | Fadeley (Lane) | Stevenson (Coos, Curry) |
| | | Sumner (Morrow) |

APPENDIX D

Comparison of the Amount of the Appropriation for General Emergencies to the
Total State General Fund Budget

| <i>Biennium</i> | <i>Emergency Fund Appropriation</i> | <i>Total General Fund Budget</i> | <i>Emergency Fund Percentage of Total</i> |
|-----------------|---|--------------------------------------|---|
| 1975-77 | \$21,500,000 | \$1,464,392,924 | 1.47 |
| 1973-75 | 10,700,000 | 1,048,347,849 | 1.02 |
| 1971-73 | 6,000,000 | 782,031,083 | .77 |
| 1969-71 | 6,000,000 | 712,918,610 | .84 |
| 1967-69 | 2,000,000 | 588,153,416 | .34 |

(Source: Floyd J. Gould, Legislative Fiscal Officer)

APPENDIX E

EXPLANATION OF AMOUNTS APPROPRIATED TO EMERGENCY BOARD

For 1975-77 — General Fund

| | |
|---|----------------------|
| General Emergencies | \$ 21,500,000 |
| Salary Adjustments and Fringe Benefits | 91,140,593 |
| (Includes \$1,655,555 that was allocated by the Emergency Board on June 27, 1975, for May and June 1975 salary increases) | |
| For allocation to the Basic School Support Fund if the increase in the Portland CPI exceeded 8% | 9,381,190 |
| For allocation to the Department of Education if additional funds are necessary to maintain 30% support of the handicapped children's program in local school districts | 1,000,000 |
| For allocation to the Department of Higher Education: | |
| For planning a veterinary hospital facility at OSU if federal funds are received to construct such a facility | 200,000 |
| For unanticipated contingencies | 217,500 |
| To acquire Channel 3 if acquisition is approved by FCC | 79,000 |
| For allocation to the State Library if amount of federal funds anticipated in the adopted budget are not received | 400,000 |
| For allocation to the Children's Services Division if anticipated federal funds are not received | 1,360,096 |
| For allocation to the Corrections Division if HB 2145 became law which established programs for the treatment of alcohol or other drug dependent inmates of correctional facilities | 500,000 |
| For allocation to the Mental Health Division for the remodeling of the existing Psychiatric Security Unit at Oregon State Hospital | 200,000 |
| For allocation to the Department of Environmental Quality: | |
| For disposal of hazardous wastes at Alkali Lake | |
| For receipt of reduced federal funds | |
| For other environmental priority projects | 480,000 |
| For allocation to the Department of Fish and Wildlife for the construction of pollution control facilities at fish hatcheries | 200,000 |
| For allocation to the Department of Land Conservation and Development if budgeted federal funds are not received | 1,000,000 |
| For allocation to the Mass Transit Division: | |
| For payment to the Salem Municipal Transit System if a mass transit district is formed to serve the Salem area | 400,000 |
| For an intercity transportation project | 620,000 |
| For allocation to the Legislative Administration Committee to finance the OLIS system | 216,000 |
| For allocation to the Supreme Court for the compensation and expenses of judges of the circuit and district courts for 1976-77 fiscal year | 203,640 |
| Total | <u>\$129,098,019</u> |

APPENDIX F **BUDGET REPORT — Joint Committee on Ways and Means — 58th Legislative Assembly**

Agency DEPARTMENT OF GENERAL SERVICES
Capital Construction

Sen. Jack Ripper Chairman

Budget Page Bill No. Biennium Subcommittee
 XII 5 SB 5552 1975-77 Capital Construction

Prepared by: (Executive Department)
 R. B. Geltz

Date May 30, 1975

Reviewed by: (Legislative Fiscal Office)
 Mike Stinson

| Budget Appropriation Description | 1973-75 | | 1975-77 | | Differences from | |
|--|------------------------|---------------------------|-----------------------------|--------------------------------|------------------|--|
| | Estimated Expenditures | Governor's Budget Printed | Subcommittee Recommendation | Joint Committee Recommendation | Governor's Rec'd | |
| CAPITAL CONSTRUCTION | | | | | | |
| General Fund | | | | | | |
| -- Debt Service - Capitol building | \$ 138,048 | \$ 138,048 | \$ 138,048 | \$ 138,048 | | |
| -- Construct Mall office building | -- | 4,000,000 | -- | -- | | |
| Total | \$ 138,048 | \$ 4,138,048 | \$ 138,048 | \$ 138,048 | | |
| Other Funds | | | | | | |
| -- Mall buildings, safety improvements | -- | \$ 500,000 | \$ 500,000 | 1 | \$ 1 | |
| -- Remodel Portland State Office Building | -- | 500,000 | 500,000 | 500,000 | 500,000 | |
| -- Construct buildings on Mall | -- | 10,400,000 | 1 | 1 | 1 | |
| -- Construct Pendleton office building addition | -- | 204,000 | 204,000 | 204,000 | 204,000 | |
| -- Construct Salem motor pool addition | -- | 470,593 | 470,593 | 470,593 | 470,593 | |
| -- Oregon State Hospital; remodel selected buildings and install site improvements | -- | 2,823,458 | 2,823,458 | 1 | 1 | |
| -- Remodel Eugene state office building | -- | -- | 188,848 | 188,848 | 188,848 | |
| -- Construct, remodel, or purchase buildings and land | 838,202 | -- | 1 | 1 | 1 | |

SB 5552

| Budget App. Description | 1973-75 | | 1975-77 | | Differ. as from Governor's Rec'd |
|---|------------------------|-------------------|-----------------------------|--------------------------------|----------------------------------|
| | Estimated Expenditures | Governor's Budget | Subcommittee Recommendation | Joint Committee Recommendation | |
| Other Funds (con't) | | | | | |
| -- Land acquisition, Pendleton | -- | -- | 75,000 | 75,000 | 75,000 |
| -- Land acquisition, Eugene | -- | -- | 90,642 | 90,642 | 90,642 |
| -- Purchase and improve Capitol Mall property | 100,000 | 100,000 | 371,000 | 371,000 | 371,000 |
| -- Plan future construction and remodeling | 58,000 | 110,000 | 110,000 | 110,000 | |
| Total | \$ 996,202 | \$15,108,051 | \$ 5,333,543 | \$ 2,010,087 | \$ 2,010,087 |
| Total (by fund) | | | | | |
| General Fund | \$ 138,048 | \$ 4,138,048 | \$ 138,048 | \$ 138,048 | |
| Other Funds | 996,202 | 15,108,051 | 5,333,543 | 2,010,087 | 138,048 |
| Total | \$ 1,134,250 | \$19,246,099 | \$ 5,471,591 | \$ 2,148,135 | \$ 2,148,135 |

SUMMARY OF SUBCOMMITTEE ACTION

The Subcommittee recommends the following changes to the Governor's revised capital construction program.

- A \$1 Other Funds limitation to install safety improvements in Mall buildings.
- A \$1 Other Funds limitation to remodel selected buildings at Oregon State Hospital and install food, mechanical and site improvements.

Budget Note

No moneys appropriated by sections of this 1975 Act shall be expended for capital construction and/or remodeling of buildings or other structures at the Oregon State Hospital in Salem, Oregon for the purpose of any change in the use thereof, including but not limited to conversion to office facilities, until all permits and approvals have been obtained from the State of Oregon, the Capitol Planning Commission and the City of Salem; provided, however, that nothing contained in this section shall prohibit the expenditure of funds for planning, permits, environmental studies and other preconstruction activities or remodeling of buildings or structures for uses permitted or accessor to uses permitted by law or ordinance and authorized by the Capitol Planning Commission.

The Subcommittee recommends authorizing the Department of General Services to enter into agreements with the Oregon Building Authority (established by Enrolled House Bill 2418) to construct and lease extensions to the State Capitol and to construct and lease an office building on the Capitol Mall; subject to final approval of plans and bids by Ways and Means or the Emergency Board.

It is also recommended that the Department of General Services be authorized to borrow funds from the Oregon Building Authority to pay back borrowed trust funds.

APPENDIX G

OREGON LAWS 1975 CHAPTER 447

AN ACT

Relating to the financial administration of the Department of General Services; appropriating money; limiting expenditures; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. There is appropriated to the Department of General Services, for the biennium beginning July 1, 1975, out of the General Fund, the sum of \$138,048 which may be expended only for the payment of debt service on borrowed funds for installation of air conditioning and elevator improvements in the Capitol.

SECTION 2. Notwithstanding any other law, the following sums are established as the maximum amounts to be expended from the State Capital Construction Account established under ORS 276.005 for the following purposes:

| | |
|--|-----------|
| (1) Install safety improvements in Mall buildings | \$ 1 |
| (2) Remodel Portland State Office building | \$500,000 |
| (3) Construct buildings on Capitol Mall | \$ 1 |
| (4) Construct Pendleton office building addition | \$204,000 |
| (5) Construct Salem motor pool addition | \$470,593 |
| (6) Remodel buildings and site improvements at Oregon State Hospital | \$ 1 |
| (7) Remodel Eugene State Office Building | \$188,848 |
| (8) Construct or purchase buildings and land | \$ 1 |
| (9) Land acquisition, Pendleton | \$ 75,000 |
| (10) Land acquisition, Eugene | \$ 90,642 |
| (11) Purchase and improve Capitol Mall property | \$371,000 |
| (12) Plan future construction and remodeling | \$110,000 |

SECTION 3. Prior to any expenditure from the limitation referred to in subsections (1) to (12) of section 2 of this Act, the Department of General Services shall submit plans to and obtain the approval of the Emergency Board.

SECTION 4. Notwithstanding any other law, the sum of \$52,000 shall be paid from the moneys in the State Capital Construction Sinking Fund established under ORS 276.007 to the Executive Department for expenses incurred in the administration of office building space allocation and management and the planning of state construction projects.

SECTION 5. (1) The Department of General Services may enter into an agreement with the Oregon Building Authority established under section 4, chapter 280, Oregon Laws 1975 (Enrolled House Bill 2418), to:

- (a) Construct and lease extensions to the State Capitol.
- (b) Construct and lease an office building on the Capitol Mall.
- (c) Refinance debt on existing state buildings.

(2) Prior to entering into a binding agreement pursuant to subsection (1) of this section, the Department of General Services shall first obtain approval of the plans for construction or refinancing and any bids thereon from the Joint Committee on Ways and Means if during a session of the Legislative Assembly or by the Emergency Board if ready during an interim between legislative sessions.

SECTION 6. This Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this Act takes effect July 1, 1975.

Approved by the Governor June 27, 1975.

Filed in the office of Secretary of State June 27, 1975.

APPENDIX H

EXCERPT FROM ARTICLE III OF OREGON CONSTITUTION AUTHORIZING ESTABLISHMENT OF THE EMERGENCY BOARD

Section 3. Joint legislative committee to allocate emergency fund appropriations and to authorize expenditures beyond budgetary limits. (1) The Legislative Assembly is authorized to establish by law a joint committee composed of members of both houses of the Legislative Assembly, the membership to be as fixed by law, which committee may exercise, during the interim between sessions of the Legislative Assembly, such of the following powers as may be conferred upon it by law.

(a) Where an emergency exists, to allocate to any state agency, out of any emergency fund that may be appropriated to the committee for that purpose, additional funds beyond the amount appropriated to the agency by the Legislative Assembly, or funds to carry on an activity required by law for which an appropriation was not made.

(b) Where an emergency exists, to authorize any state agency to expend, from funds dedicated or continuously appropriated for the uses and purposes of the agency, sums in excess of the amount of the budget of the agency as approved in accordance with law.

(c) In the case of a new activity coming into existence at such a time as to preclude the possibility of submitting a budget to the Legislative Assembly for approval, to approve, or revise and approve, a budget of the money appropriated for such new activity.

(d) Where an emergency exists, to revise or amend the budgets of state agencies to the extent of authorizing transfers between expenditure classifications within the budget of an agency.

(2) The Legislative Assembly shall prescribe by law what shall constitute an emergency for the purposes of this section.

(3) As used in this section, "state agency" means any elected or appointed officer, board, commission, department, institution, branch or other agency of the state government.

(4) The term of members of the joint committee established pursuant to this section shall run from the adjournment of one regular session to the organization of the next regular session. No member of a committee shall cease to be such member solely by reason of the expiration of his term of office as a member of the Legislative Assembly.

[Created through S.J.R. No. 24, 1951, adopted by people Nov. 4, 1952]

Note: Section 3 was designated as "Sec. 2" by S.J.R. No. 24, 1951, adopted by people Nov. 4, 1952.

APPENDIX I

EXCERPTS FROM OREGON REVISED STATUTES CONTAINING DEFINITIONS AND STATING POWERS OF EMERGENCY BOARD

291.322 Definitions for ORS 291.322 to 291.334. As used in ORS 291.322 to 291.334:

(1) "Emergency" means any catastrophe, disaster or unforeseen or unanticipated condition or circumstances, or abnormal change of conditions or circumstances, affecting the functions of a state agency and the expenditure requirements for the performance of these functions.

(2) "State agency" means any elected or appointed officer, board, commission, department, institution, branch or other agency of the state government.

[1953 c.386 s.1]

291.324 Emergency Board created. There hereby is created a joint committee composed of members of both houses of the Legislative Assembly, to be known as the Emergency Board.

[1953 c.386 s.2]

291.326 Powers of Emergency Board concerning expenditures by state agencies. (1) The Emergency Board, during the interim between sessions of the Legislative Assembly, may exercise the following powers:

(a) Where an emergency exists, to allocate to any state agency, out of any emergency fund for that purpose, additional funds beyond the amount appropriated to the agency by the Legislative Assembly, or funds to carry on an activity required by law for which an appropriation was not made.

(b) Where an emergency exists, to authorize any state agency to expand, from funds dedicated or continuously appropriated for the uses and purposes of the agency, sums in excess of the amount of the budget of the agency as approved in accordance with law.

(c) In the case of a new activity coming into existence at such a time as to preclude the possibility of submitting a budget to the Legislative Assembly for approval, to approve, or revise and approve, a budget of the money appropriated for such new activity.

(d) Where an emergency exists, to revise or amend the budgets of state agencies to the extent of authorizing transfers between expenditure classifications within the budget of an agency.

(2) No allocation, authorization or approval under paragraph (a), (b) or (c) of subsection (1) of this section shall be effective unless made at a meeting at which 10 members of the board were present.

(3) The laws enacted by the Legislative Assembly making appropriations and limiting expenditures, or either, are not intended to limit the powers of the Emergency Board.

[1953 c.386 s.3; subsection (3) enacted as 1963 c.182 s.2; 1973 c.201 s.2]