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May 14, 2010

MEMORANDUM

TO : Bill Newton, Acting Director of Finance
Alabama Department of Finance

FROM : Ken Wallis, Chief Legal Advisor
Office of the Governor

SUBJECT: Gulf of Mexico Oil Spill Catastrophe
Governor's Declaration of Emergency
Per Diem for Emergency Workers of State of Alabama

I am hereby responding to requests from you and some of your deputies or staff for a legal opinion regarding the Governor's power and authority to increase the per diem of state emergency employees who have been, are being, or will be sent to Mobile and Baldwin County and perhaps other adjoining south Alabama counties to assist in matters relating to the response and recovery actions of the State of Alabama which are necessary because of the Gulf of Mexico BP Deepwater Horizon oil spill catastrophe.

Under the Governor's broad statutory emergency powers as set out in Section 31-9-6, Section 31-9-8, and Section 31-9-13, the Governor clearly has the authority in a declared State of Emergency, to increase the per diem reimbursement rate for state employees who are called to service by their superiors and sent to the counties affected by the emergency situation. In this instance, we are referencing Baldwin County and Mobile County, but there may be need for state employees to perform services in this emergency situation in other adjoining counties in south Alabama. The Governor has determined that it is unreasonable and unfair to these state employees to require their services for an extended period of time under the circumstances where lodging and meal expenses will reasonably exceed the current state employee per diem rate. The Governor has determined that it is reasonable and proper, during this State of Emergency, if an employee's services are required in these counties by his or her superior, that this employee be reimbursed for his or her actual expenses incurred, which expenses must be reasonable and must be approved by the appointing authority.

Under the above-referenced statutes, the Governor has the authority in this State of Emergency to make this per diem adjustment for the employees within the emergency worker category.

KW/rdg