

**ORANGE COUNTY
BOARD OF EDUCATION**

AGENDA ITEM ABSTRACT

Meeting Date: November 21, 2011

AGENDA ITEM No. 11-11-(2)-14

ACTION ITEM: (Y/N) Y

SUBJECT: Bond Forfeiture Funds

INFO. CONTACT: D. Michael Parker, Attorney **PHONE:** 919-732-8141

ATTACHMENTS: 1. Email from Rod Malone to Mike Parker

PURPOSE: The purpose of this agenda item is for board members to consider contracting with Tharrington Smith to investigate potential bond forfeiture funds.

BACKGROUND: Rod Malone of Tharrington Smith discovered that executions were not issued on some judgments on bond forfeitures due to a computer issue in several area counties including Wake and Chatham. He has offered to investigate to determine if any such judgments exist in Orange County. The matter is potentially time sensitive since litigation is pending involving funds deposited with the Department of Insurance by Frontier Insurance Company when they ceased doing business in North Carolina. If the board decides to employ Mr. Malone to investigate, and the numbers justify it, the board may consider intervening in the pending lawsuit.

FINANCIAL IMPACT: Approximately \$1,500.00 to conduct the investigation.

RECOMMENDATION: The Superintendent recommends the Board of Education discuss this issue and contract with Tharrington Smith to investigate bond forfeiture funds.

Mike Parker

From: "Rod Malone" <RMalone@tharringtonsmith.com>
To: "Mike Parker" <mikeparker@cheshire-parker.com>
Sent: Tuesday, November 15, 2011 5:02 PM
Subject: FW: Bond Forfeiture Issue - Prompt Reply Requested

FYI

Rod Malone
Tharrington Smith, LLP

THARRINGTON SMITH LLP

From: Rod Malone
Sent: Tuesday, November 15, 2011 2:45 PM
To: 'Dr. Eric Bracy'; 'Harris-Rollins, Debbie'; 'Bruce Boyles'; Allison Sholar (asholar@currituck.k12.nc.us); 'Del Burns'; michael.bracy@jonesnc.net; 'smazingo@lenoir.k12.nc.us'; 'Purser Susan'; 'cartnerl@person.k12.nc.us'; Judy S. Grissom; 'epruden@bcswan.net'
Cc: Kris Gardner
Subject: Bond Forfeiture Issue - Prompt Reply Requested

Through our bond forfeiture work for one of our clients, we recently learned that when the North Carolina Administrative Office of the Courts implemented new software for handling bond forfeitures in or around 1999, numerous bond forfeiture judgments across the state were not transferred to the new system. Most of these judgments remain unpaid. In some preliminary work, we have determined that the Alamance-Burlington School System, Chatham County Schools, Durham Public Schools and the Wake County Public School System are each owed substantial amounts of money from this period. For instance, a single insurance company owes one of the school systems nearly \$200,000, and a second insurance company owes the same system in excess of \$100,000.

As part of our work, we just learned that WakeMed has filed a lawsuit seeking the distribution of in excess of \$2,000,000 in funds deposited by Frontier Insurance Company with the North Carolina Department of Insurance. It appears that WakeMed's claim is in the amount of \$1,100,000. The matter is currently scheduled to be heard by the court on December 13, 2011. We have not investigated whether any of you are owed funds by Frontier, but Frontier did have outstanding judgments in each of the four counties we have checked so far (Alamance, Chatham, Durham and Wake Counties). We have received permission from the Alamance-Burlington School System, Chatham County Schools, Durham Public Schools and the Wake County Public School System to intervene in this lawsuit on their behalf in hopes that we can recover the funds owed by Frontier. They have agreed to split the attorney fees among the four of them.

I am contacting you to determine whether you would like for us to look into whether you are owed sufficient funds by Frontier to justify intervening in the matter. If you were to decide that you would like us to intervene on your behalf, we would further divide the legal costs

associated with this matter among all school systems ultimately involved. If there are insufficient funds to cover all of the outstanding judgments, the relevant statutes require the funds to be distributed by the court on a pro-rata basis. Given the minimal attorney fees that would be incurred by each party, we believe the amount collected will more than offset the attorney fees. Please let me know as soon as possible if you would like for us to investigate whether you have any outstanding judgments against Frontier so you can determine whether you would like to intervene in the litigation.

If you have any questions, please do not hesitate to contact me.

Please copy Kris Gardner on any replies to this e-mail. Thanks.

Rod Malone
Tharrington Smith, LLP
209 Fayetteville Street
P.O. Box 1151
Raleigh, North Carolina 27602
Main Telephone: (919) 821-4711, ext. 291
Fax: (919) 546-0489
Email: rmalone@tharringtonsmith.com



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