

POOLED MONEY INVESTMENT BOARD
State Treasurer's Office
915 Capitol Mall, Room 587
Sacramento, California 95814

MINUTES

Wednesday, April 15, 2009

The meeting was called to order at 10:15 AM.

Roll: Francisco Lujano, for State Treasurer Bill Lockyer
Tom Sheehy, for Director of Finance Michael C. Genest
Richard Chivaro, for State Controller John Chiang

Staff Present: Bill Dowell, State Treasurer's Office
Mark Paxson, State Treasurer's Office
Catherine Brown, Attorney General's Office

MINUTES

The Minutes for the April 6, 2009, meeting were approved as submitted, 2-0. (Mr. Chivaro arrived after the minutes were approved.)

PMIB DESIGNATION

Mr. Bill Dowell of the State Treasurer's Office presented the portfolio Summary Report as of March 31, 2009. On that day, the portfolio stood at \$58.670 billion. The effective yield was 1.812%, the quarter-to-date yield was 1.916% and the year-to-date yield was 2.431%. The average life of the portfolio was 196 days and AB 55 Loans approved stood at \$11.769 billion, with \$6.114 billion having been disbursed. The Local Agency Investment Fund had deposits totaling \$23.741 billion, with 2,723 participants.

Mr. Andre Rivera of the Cash Management Division of the State Treasurer's Office presented a Summary of the Forecast of Changes in Portfolio for the Pooled Money Investment Account for the period April 13, 2009, through June 19, 2009. Mr. Rivera highlighted several of the key receipts, as presented in Attachment A. For this ten week period, a total of \$60.133 billion were anticipated in receipts.

Mr. Michael Havey of the State Controller's Office presented the Estimated Pooled Money Disbursements for the forecast period and highlighted several of the major disbursements, also shown in Attachment A. He noted that disbursements for the period were estimated to total \$43.717 billion

Designation No. 1718 was approved, 3-0.

AUTHORIZATION FOR GENERAL FUND INTERNAL BORROWING:

Mr. Dowell presented this document which authorizes the General Fund to borrow from internal sources to meet its cash needs during periods of shortfall. The authorization presented at this meeting was for the period from May 1, 2009, through July 31, 2009. He noted that the amount available from various internal funds is estimated to be up to \$19.372 billion.

The Authorization for General Fund Internal was approved, 3-0.

DECLARATION OF SURPLUS MONEY/REDUCTION OF SURPLUS MONEY

Mr. Dowell presented the changes in the Surplus Money Investment Fund for the period March 1, 2008, through March 31, 2009. During that month, \$8.589 billion was declared Surplus in various special funds, while \$7.862 billion was declared to be a Reduction in Surplus.

The Surplus Money Declaration/Reduction for the month, was approved, 3-0.

SURPLUS MONEY INVESTMENT FUND REQUESTS

Mr. Dowell presented one request to participate in the Surplus Money Investment Fund from the California Horse Racing Board:

Special Deposit Fund
Trainer Audits and Gambling Prevention
Fund Number 0942217

The Board accepted the staff recommendations of the State Controller's Office and the State Treasurer's Office and approved the requests, 3-0.

DISCUSSION AND CONSIDERATION REGARDING THE IMPACT OF CASH MANAGEMENT REQUIREMENTS ON APPROVAL OF AB 55 LOANS, INCLUDING POSSIBLE INCREASES OR REDUCTIONS IN LOAN AMOUNTS, OR FREEZING DISBURSEMENTS, FOR OUTSTANDING, RENEWED, OR NEW LOANS

Mr. Blake Fowler of the State Treasurer's Office Public Finance Division explained that staff was recommending approval of the three renewal loan requests, Items a, b and c on the agenda in the amounts recommended on the summary sheet. He said all renewal loan requests complied with DOF Budget Letter 09-09. Mr. Fowler went on to say staff was recommending the Board not approve any of the new loan requests on the agenda for the following reasons:

d. California Air Resources Board, Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006. Staff does not recommend approval at this time. This loan is not included in DOF's Budget Letter 09-09.

e. California Department of Corrections and Rehabilitation, SPWB Lease Revenue Bonds, AB 900, CA Medical Facility, Vacaville: 64-Bed Intermediate Care Facility. The Federal court overseeing the *Coleman* litigation has ordered the State to submit detailed schedules no later than May 26, 2009, or face possible sanctions. While this loan was included in DOF's Budget Letter 09-09, the staff recommendation to not approve this loan is based on the following:

- As a result of litigation regarding AB 900 filed by the Taxpayers for Improving Public Safety (TIPS), the AG's Office has informed the State Treasurer's Office (STO) that it will not be able to provide its customary bond opinion until there is a final, non-appealable judgment in favor of the State. The PMIB's practice has been to not approve any loans for which the AG's Office can not issue its customary bond opinion.
- Staff of the STO's Public Finance Division had identified excess proceeds associated with another State Public Works Board (SPWB) bond issue for the Department that may be able to be used to fund the amount of this loan request, but there may not be sufficient appropriation authority for the proceeds to be used.

f. California Department of Corrections and Rehabilitation, SPWB Lease Revenue Bonds, AB 900, CA Medical Facility, Vacaville: Enhanced Outpatient Treatment. This request has been withdrawn by the Department pending compliance with the 30-day Legislative notice requirement and project approval by SPWB. No Board action is necessary at this time.

g. California Department of Corrections and Rehabilitation, SPWB Lease Revenue Bonds, AB 900, CA Men's Colony, San Luis Obispo: 50 Mental Health Crisis Beds.

The Federal court overseeing the *Coleman* litigation has ordered the State to take all steps necessary to have contracts with the architect, engineering firm and EIR consultant in place by April 23, 2009, or face possible sanctions. While this loan was included in DOF's Budget Letter 09-09, the staff recommendation to not approve this loan is based on the following:

- As a result of litigation regarding AB 900 filed by the TIPS, the AG's Office has informed the STO that it will not be able to provide its customary bond opinion until there is a final, non-appealable judgment in favor of the State. The PMIB practice has been to not approve any loans for which the AG's Office can not issue its customary bond opinion.
- Staff of the STO's Public Finance Division has identified excess proceeds associated with another SPWB bond issue for the Department that may be able to be used to fund the amount of this loan request, but there may not be sufficient appropriation authority for the proceeds to be used.

Mr. Fowler concluded by saying that staff recommends the Board continue the freeze on AB 55 loan disbursements, except for disbursements authorized by DOF's Budget Letter 09-09. However, as described in the staff report for the April 6, 2009 PMIB meeting, based on completed and planned bond sales for April, more than \$5 billion of direct project funding from bond proceeds is expected to be provided to projects impacted by the freeze.

Mr. Dean Borg, Director of Finance & Administration and Ms. Deborah Hysen, Chief Deputy Secretary of Facility Planning & Construction for the California Department of Corrections and Rehabilitation (CDCR) addressed the Board. They confirmed that Item f had not been approved by the SPWB and was awaiting legislative approval, so it had been withdrawn from consideration by the PMIB at this meeting. However, Ms. Hysen urged approval of the other two requests, particularly Item g, due to a pending court order requiring the State to act by April 23, 2009. Ms. Hysen elaborated on the judge's decision that the San Luis Obispo Men's Colony facilities were inadequate to support the inmate population. She explained that many of the inmates are high risk suicide candidates and the court order determined it is imperative the 50 mental health crisis beds be constructed as soon as possible.

Mr. Sheehy indicated the DOF's support for both CDCR's loan requests. In particular, he said contracts necessary to proceed with the project listed as Item g needed to be executed by April 23, 2009, per the court order and that failure to act will have serious repercussions. He noted: 1) without an appropriation, there is no other viable funding source, and 2) CDCR has a multi-billion dollar support budget from which the loans could be repaid, and therefore the PMIB could be assured of loan repayment. Mr. Sheehy suggested the Board make an exception and approve this particular AB 900 bond-funded project presented in Item g, despite the pending TIPS litigation. Mr. Sheehy noted that DOF would stipulate to the deferral of loan requests for all other AB 900 projects until the TIPS litigation was resolved, but that the state had no choice but to comply with this 30-day court order.

The Chair invited Ms. Catherine Brown of AG's Office to comment on the pending litigation. Ms. Brown said there are two pending cases relating to Item e and g. The first case, *Taxpayers for Improving Public Safety v. Schwarzenegger*, challenges the Public Safety and Offender Rehabilitation Services Act (AB 900) which authorizes the SPWB to issue lease-revenue bonds for the construction and renovation of correctional facilities. While the State had prevailed in the trial court and the decision had been affirmed by the appellate court, there had been mention in the media the plaintiffs was prepared to seek review by the California Supreme Court, and the deadline to file for such review was May 4, 2009. Therefore, the AG's Office was unable to provide its customary "unqualified bond opinion" regarding the validity of AB 900 bonds until after the May 4th deadline, or based on how the Supreme Court handles the appeal.

Ms. Brown went on to mention a second case, *Coleman v. Schwarzenegger*, a class action in which the federal court has ordered the state to take steps to improve mental health services to state prison inmates. The judge had expressed particular frustration with the lack of progress on the 50 Mental Health Crisis Beds at the Men's Colony in San Luis Obispo and ordered the state to execute certain contracts with respect to this project within 30 days. This is the project addressed by the loan request in Item g. She noted the SPWB approved the project on Friday, April 10, 2009. Ms. Brown stated the judge had made it clear he would not tolerate noncompliance and would impose fines, plus other means, to assure the order was implemented by April 23, 2009. She noted that the second project before the Board, the California Medical Facility, Vacaville, 64-bed Intermediate Care Facility (Item e), was not subject to the 30-day order, but the judge had ordered the state to submit detailed schedules for this and other projects by May 26, 2009, or be subject to sanctions.

In response to a question from Mr. Lujano, Ms. Brown concluded by indicating she was not aware of any other funding sources available to initiate these projects.

AB 55 LOAN APPLICATIONS (Government Code §16312)

Agenda Item	Loan Number	Department/Program	Adjusted Loan Amount
a.	0890137	Housing and Community Development Housing and Emergency Shelter Trust Fund Act of 2002	\$677,413,052.38
b.	0890138	Housing and Community Development Housing and Emergency Shelter Trust Fund Act of 2006	\$173,923,127.77
c.	0890139	California Institute for Regenerative Medicine California Stem Cell Research and Cures Bond Act of 2004	\$295,000,000.00
g.	0890142	Department of Corrections and Rehabilitation SPWB Lease Revenue Bonds, AB 900 CA Men's Colony, San Luis Obispo: 50 Mental Health Crisis Beds	\$3,872,000.00

Mr. Sheehy made a motion, which was seconded by Mr. Chivaro, to accept the staff recommendations, with the exception of Item g. The Board approved the three renewal loan requests, declined the new loans requested in Items d and e, and accepted the staff recommendation to continue the Disbursement Freeze, 3-0.

Mr. Sheehy made a motion to approve the new loan request for \$3,872,000, presented in Item g, as requested by CDCR. Mr. Chivaro seconded the motion. The Board approved the loan request, 2-1, with the Treasurer voting no.

PUBLIC COMMENT

None.

ADJOURNMENT

In the absence of further business, the meeting was adjourned at 10:45 AM.

Respectfully submitted,

Bettina Redway
Executive Secretary