

**POOLED MONEY INVESTMENT BOARD**  
**State Treasurer's Office**  
**915 Capitol Mall, Rooms 587/110**  
**Sacramento, California 95814**

**MINUTES**

Wednesday, May 20, 2009

Before calling the meeting to order, Mr. Francisco Lujano noted the meeting was moved from Room 587 to Room 110 due to technical difficulties within the building. He said a conference link was in place, so attendees remaining in Room 587 could listen and speak, as necessary.

The meeting was called to order at 10:40 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 15, 2009, meeting were approved as submitted, 3-0.

**PMIB DESIGNATION**

Mr. Bill Dowell of the State Treasurer's Office presented the portfolio Summary Report as of April 30, 2009. On that day, the portfolio stood at \$61.646 billion. The effective yield was 1.492%, the quarter-to-date yield was 1.607% and the year-to-date yield was 2.353%. The average life of the portfolio was 172 days and AB 55 Loans approved stood at \$6.738 billion, with \$1.171 billion having been disbursed. The Local Agency Investment Fund had deposits totaling \$25.326 billion, with 2,718 participants.

Designation No. 1717 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 April 1, 2009, through April 30, 2009. During that month, \$22.666 billion was declared Surplus in various special funds, while \$13.028 billion was declared to be a Reduction in Surplus.

The Surplus Money Declaration/Reduction for the month of April, 2009, was approved, 3-0.

**SURPLUS MONEY INVESTMENT FUND REQUESTS**

Mr. Dowell presented a request to participate in the Surplus Money Investment Fund:

State Water Resources Control Board (SWRCB)  
Underground Storage Tank Petroleum Contamination Orphan Site Clean-Up Fund  
Fund Number 3145

The Board asked if there was a representative from the SWRCB present. Mr. Sheehy wanted to know if this sub-account was being treated differently than other related sub-accounts. Mr. Dowell indicated that it had been handled consistent with the management of other SMIF requests. Mr. Mike Havey of the State Controller's Office said it was reviewed based on its own merits and he did not know of any similar or related sub-accounts within SMIF. Mr. Sheehy said that since this action would impact the General Fund and SWRCB representatives were not present, he recommended the item be put over to the next meeting.

Mr. Chivaro moved approval, Mr. Lujano seconded the motion and it was passed, 2 - 0, with the Director of the Department of Finance abstaining.

Mr. Sheehy suggested when the PMIB considers future requests of this nature the agency making the request should be present. Mr. Dowell acknowledged the comment and said he would invite future requestors to attend the PMIB meeting when their item is on the agenda.

**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**

Ms. Julie Giordano of the State Treasurer's Office's Public Finance Division presented the staff recommendations, as shown below:

**Loan Renewal Requests:** Staff recommends the Board approve the 17 AB 55 loan renewals (Items 6.a-q) on the agenda in the amounts shown on column g of Exhibit A, subject to the continued freeze on disbursements. The recommended amounts are for either the amount of the existing adjusted loan amount, a decrease requested by the department, or an increase necessary for the requesting department to pay costs authorized by DOF's Budget Letter 09-09.

**New Loan Requests:** Staff recommends the PMIB not approve the two new loan requests on the agenda for the reasons cited below:

**Item 6.r California Department of Corrections and Rehabilitation (CDCR),**

SPWB Lease Revenue Bonds, AB 900, CA Medical Facility Vacaville: 64-Bed Intermediate Care Facility, \$3,293,000.

**Item 6.s California Department of Corrections and Rehabilitation,**

SPWB Lease Revenue Bonds, AB 900, CA Medical Facility, Vacaville: Enhanced Outpatient Treatment, Program and Office Space, \$3,346,000.

While these loans were included in DOF's Budget Letter 09-09, staff recommends these loan requests not be approved based on the following:

- On May 4, 2009, the Taxpayers for Improving Public Safety (TIPS) filed an appeal with the California Supreme Court relating to the AB 900 litigation. The AG's Office has stated that until there is a final, non-appealable judgment in favor of the State, it will not be able to provide its customary bond opinion.
- Although the PMIB approved one AB 900 loan request for Men's Colony, San Luis Obispo, the DOF indicated at the time of approval it would stipulate to the deferral of all other loan requests for AB 900 related projects until the TIPS litigation was fully resolved.
- Staff of the STO's Public Finance Division believes that there are excess proceeds of other PWB bond issues that may be able to be used to fund these loan requests.

**AB 55 Loan Disbursement Freeze:** Staff recommends the Board continue the freeze on AB 55 loan disbursements except for disbursements authorized by DOF's Budget Letter 09-09.

Ms. Catherine Brown of the Attorney General's Office gave an update on two pending litigation matters relating to AB900 projects:

In *Coleman v. Schwarzenegger*, the court has ordered the state to proceed with the two projects (items r and s on the agenda) in 2007. The court is requiring that the state submit detailed activation schedules for all projects involved in the litigation, including these two projects, by May 26, 2009, including a completion date for each project, a description of each step required to complete the projects, timetables for completing each step, and the identities of state agencies and persons involved in approval and execution of each step. The schedule is to include steps required for approval of interim financing. Failure to comply with the order may result in sanctions, and the court may join additional parties if necessary to obtain compliance. The requested loans would provide necessary interim financing for two of the *Coleman* projects.

In *Taxpayers for Improving Public Safety v. Schwarzenegger*, the petitioners, who are challenging the state's authority to issue AB 900 bonds, filed a petition for review in the California Supreme Court on May 4, 2009. The court has up to 90 days to decide whether to review this case. While this litigation is pending, the Attorney General's Office would be unable to issue an unqualified opinion regarding the validity of AB 900 bonds.

Mr. Lujano asked if the Supreme Court accepts the case, how long it would take for them to render a decision. Ms. Brown responded it could be expected to take up to a year.

Mr. Chivaro recalled that Ms. Brown had indicated at the last meeting the 30-day order that was cited when the Board approved the San Luis Obispo Men's Colony projects. He asked if that 30-day order included these two projects before us today. Ms. Brown said no, but there are many projects involved in the *Coleman* case. The court is requiring a detailed schedule of the work on all projects.

Mr. Lujano inquired if there was a legal requirement in the *Coleman* litigation that the PMIB fund the projects or is it just the state that must fund them. Ms. Brown said that it was her understanding the court's orders require the state to provide funding, without specifically identifying the source.

Mr. Sheehy invited Mr. Chris Lief of the Department of Finance to remark on the suggestion that there were other sources of funding available to the CDCR. Mr. Lief discussed a lengthy number of options that had been reviewed in detail with the staffs of the STO and CDCR. After extensive evaluation, he explained the DOF had come to the conclusion that there were no legally appropriated funds available for CDCR to construct the projects contained in the two loan requests.

Mr. Lujano asked Ms. Brown about future projects and the court's expectations. She responded that the projects did not need to be funded immediately, but the court was asking for specifics, including a timetable for such funding. Mr. Chivaro asked when future projects will be before the Board. Ms. Brown indicated she thought there were several more forthcoming and Ms. Giordano concurred. The Board was told that, in addition to the two loan requests up for consideration, two scheduled for June and one for July.

Ms. Deborah Hysen, Chief Deputy Secretary, Facility Planning & Construction for the CDCR addressed the Board and said the present schedules show the legally available process, which is to go before the Public Works Board and then the PMIB. The responsible parties would be those people CDCR would need to seek approval from to assure schedules are completed for all projects. She said the court is very interested in seeing how CDCR responds, noting the prison population has increased significantly.

Mr. Lujano asked if the schedules assume this is the only form of interim funding available. Ms. Hysen said yes, this was the only form that CDCR believes is available. After a discussion regarding the limited options available, Mr. Ben Rice, Chief Counsel of CDCR, addressed the Board. He explained there were two parts of the order for these projects and the CDCR was charged with providing a comprehensive plan to the Special Master in the *Coleman* case. He said the projects were originally ordered in 2007. Mr. Rice noted the court was aware that AB 900 is the funding source, and they also know CDCR was here today seeking loan approvals. Mr. Sheehy asked what would happen the PMIB fails to approve items 6r and 6s? Mr. Rice said the named defendants, including DOF and CDCR, could be held in contempt.

Mr. Chivaro sought further clarification regarding exactly what was required by the May 26, 2009 deadline. Ms. Jennifer Rockwell, Chief Counsel for Department of Finance, commented that the Special Master has been conducting weekly meetings for the last month and a half and one of the things that has been important to the court are the preliminary plans. Ms. Rockwell concluded by noting this was something that if the date and schedule were to be missed, it would be unacceptable to the court. Mr. Sheehy again asked whether a viable funding source had to be in place by May 26, 2009? Ms. Rockwell said, "The Special Master has told me yes." Mr. Sheehy then asked Ms. Brown if the Special Master spoke on behalf of the court and she answered it does.

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Mr. Chivaro remarked that he did not see anything before the Board that placed the PMIB under a court order to come up with funding. Mr. Sheehy asked Ms. Brown whether the state could show the court a date certain without a viable funding source in place. Ms. Brown stated it was her understanding that the Special Master was requesting identification of the funding source as part of the schedule, including the date certain. She acknowledged it would be difficult to show a date certain if a funding source had not been identified. Mr. Sheehy said he wanted to make it clear to all parties that the state is under a court order indicating there could be additional sanctions, including enjoining other parties in the litigation.

Mr. Sheehy moved to approve an AB55 Loan in the amount of \$3,293,000.00 for the California Medical Facility at Vacaville 64 Bed Inmate Care Facility - - item 6r. He went on to add item 6s as a new loan approval for \$3,346,000.00 for an additional project in Vacaville. Mr. Chivaro seconded the motion.

Mr. Lujano said the motion is to approve items 6r and 6s and asked for a roll call:

State Treasurer: No  
State Controller: No  
Director of Department of Finance: Yes

The motion was rejected, 1 – 2.

Ms. Giordano recapped recommendation #1 regarding the renewal loan requests. Mr. Chivaro moved approval of recommendation #1 and Mr. Sheehy seconded the motion. The motion was approved, 3-0.

The Chair invited Public Comment and the following people came forward to speak:

Gail Margolis, Vice President Children's Hospital Los Angeles  
Jennifer West, Sonoma County Water Agency  
Julie Snyder, Housing California

Mr. Lujano noted that the staff recommendation #3 regarding the loan freeze would need to be reworded in light of the action taken earlier by the board. Ms. Giordano clarified by restating the recommendation as, "Staff recommendation is that the Board continue the freeze on AB 55 loan disbursements except for disbursements authorized by DOF's budget letter 09/09, *excluding items 6 r and 6s on today's agenda.*"

Mr. Chivaro moved approval of the staff recommendation and Mr. Lujano seconded the motion. The Chair called for a roll call:

State Treasurer: Yes  
State Controller: Yes  
Director of Department of Finance: No

The motion was passed, 2 – 1.

**AB 55 LOAN APPLICATIONS (Government Code §16312)**

<b>Agenda Item</b>	<b>Loan Number</b>	<b>Department/Program</b>	<b>Adjusted Loan Amount</b>
a.	0890071	Resources Agency Safe Drinking Water, Clean Water, Watershed Protection and Flood Protection Act	\$19,622.80
b.	0890144	University of California Kindergarten-University Public Education Facilities Bond Act of 2004 (Hi-Ed)	\$43,193,826.00
c.	0890145	State Allocation Board – Office of Public School Construction Kindergarten-University Public Education Facilities Bond Act of 2004 (K-12)	\$1,325,441,440.61
d.	0890146	Resources Agency Safe Neighborhood Parks, Clean Water, Clean Air, and Coastal Protection Bond Act of 2000	\$86,598,225.06
e.	0890147	Department of Water Resources Safe Drinking Water, Clean Water, Watershed Protection and Flood Protection Act	\$57,176,487.19
f.	0890148	Department of Public Health Safe Drinking Water, Clean Water, Watershed Protection and Flood Protection Act	\$774,867.87
g.	0890149	State Water Resources Control Board Safe, Clean, Reliable Water Supply Act	\$424,188.67
h.	0890150	Office of Emergency Services Highway Safety, Traffic Reduction, Air Quality and Port Security Bond Act of 2006	\$40,606,311.10
i.	0890151	Department of Forestry and Fire Protection SPWB Lease Revenue Bonds Red Bluff Forest Fire Station/Unit HQ: Replace Station	\$1,480,486.00
j.	0890152	Department of Forestry and Fire Protection SPWB Lease Revenue Bonds Twain Hart Forest Fire Station: Relocate Facility	\$4,167,293.00
k.	0890153	Department of Forestry and Fire Protection SPWB Lease Revenue Bonds Elk Camp Forest Fire Station: Relocate Facility	\$1,350,000.00

l.	0890154	Department of Forestry and Fire Protection SPWB Lease Revenue Bonds Bautista Conservation Camp: Replace Modular Buildings	\$570,609.00
m.	0890155	Department of Mental Health SPWB Lease Revenue Bonds Patton State Hospital – Upgrade Electrical Generator Plant	\$3,058,137.00
n.	0890156	Department of Mental Health SPWB Lease Revenue Bonds Metropolitan State Hospital – Construct New Kitchen	\$24,480,158.00
o.	0890157	Department of General Services SPWB Lease Revenue Bonds Marysville Office Building: Replacement	\$75,176,680.00
p.	0890158	Department of Corrections and Rehabilitation SPWB Lease Revenue Bonds Susanville: Wastewater Treatment Plant Modifications	\$25,870,710.00
q.	0890159	Department of Corrections and Rehabilitation SPWB Lease Revenue Bonds San Quentin Prison: Condemned Inmate Complex	\$19,126,942.00

**PUBLIC COMMENT**

None.

**ADJOURNMENT**

In the absence of further business, the meeting was adjourned at 11:40 AM.

Respectfully submitted,

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Bettina Redway  
Executive Secretary