

## AMENDED MINUTES

**California Health Facilities Financing Authority  
December 3, 2009 – 1:30 P.M.  
915 Capitol Mall, Room 587  
Sacramento, California**

**Meeting held jointly with the California Educational Facilities Authority (CEFA)**

**CEFA Roll Call**

Deputy State Treasurer Patricia Wynne, serving as chairperson, called the CEFA meeting to order at 1:30 p.m. and declared a quorum present after the secretary called the roll.

Deputy State Treasurer, Patricia Wynne, Chairperson called the CHFFA meeting to order at 1:35 p.m.

**CHFFA Roll Call**

Members Present: Patricia Wynne for Bill Lockyer, State Treasurer, Chair  
Ruth Holton-Hodson for John Chiang, Controller's Office  
Miriam Ingenito for Michael C. Genest, Department of Finance  
Jack Buckhorn  
Sumi Sousa  
Dr. Oscar Sablan  
Ronald Joseph  
Harry Bistrin  
Judith Frank via teleconference

Staff Present: Barbara J. Liebert, Executive Director, CHFFA  
Rosalind Brewer, Deputy Executive Director

The Chair declared a quorum present.

**Approval of CEFA Minutes**

The minutes from the California Educational Facilities Authority's (CEFA) October 29, 2009 meeting were approved. Michael Jackson moved for approval of the minutes; John Hiber seconded the motion. The motion was adopted with a 4-0 roll call vote.

**Approval of CHFFA Minutes**

The minutes from the California Health Facilities Financing Authority's (CHFFA) October 8, 2009 meeting were approved. Ruth Holton-Hodson moved approval, and Jack Buckhorn seconded the motion. The minutes were approved with a 7-0 roll call vote (Dr. Oscar Sablan and Judith Frank abstained).

**CEFA's Executive Director's Report**

Ronald Washington provided the Executive Director's report as of October 31, 2009, noting the following: CEFA has issued bonds totaling approximately \$9,512,468,538 and currently had approximately \$4,578,108,382 in bonds outstanding; the CEFA fund balance was \$4,804,496, reflecting income of \$10,854 and expenditures of \$168,636; the Student Loan Program Fund had issued approximately \$265,372,500 in bonds and currently had \$21,590,000 in bonds outstanding; and the Student Loan Program fund balance was \$7,577,516.

**CHFFA's Executive Director's Report**

Ms. Liebert provided the Executive Director's as of October 31, 2009 noting the following: Bonds issued \$23,878,742,017; bonds outstanding \$9,091,037,781; CHFFA Fund Balance \$13,231,086.68; HELP II \$12,144,882; Cedillo-Alarcon Clinic \$201,354; Anthem-WellPoint \$828,361; Children's Hospital Bond Act of 2004 Fund Balance \$294,262,854; and the Children's Hospital Bond Act of 2008 Fund balance \$979,984,384.

At the conclusion of her Executive Director's Report, Ms. Liebert asked Chair Wynne to move the agenda items out of order to accommodate travel schedules of some of the borrowers.

**Item #7**

**Approval of the CEFA Tentative  
Meeting Schedule for 2010**

Ronald Washington reported that CEFA's regulations state that meetings of the Authority will be held on the fourth Thursday of each month unless otherwise ordered by the Authority. Mr. Washington stated that it has been the custom of the Authority to meet on the last Thursday of the month and because of this, the Authority must vote on a tentative meeting schedule.

Mr. Hiber moved for adoption of the Resolution and Miriam Ingenito seconded the motion. The motion was adopted with a 4-0 roll call vote.

Chairperson Wynne stated that Item #8 and Item #9 were relatively the same issue and would be presented one at a time.

**Item #8**

**Resolution of the California Educational Facilities  
Authority Delegating Certain Powers and Authorizing  
Certain Actions Related to Bond Financings  
Resolution No. 2009-05**

Mr. Washington stated that in January of the current year, the Authority approved a master delegation resolution for certain powers to be delegated to both the Executive Director and the Deputy Executive Director. It was agreed that staff would bring the resolution back to the Authority with any changes.

Mr. Washington stated that he and Ms. Liebert have worked through the master delegation resolutions, along with the Attorney General's Office, STO counsel, and several bond counsel firms, and are recommending putting a new resolution into place that reflects a few substantive changes.

Chairperson Wynne asked Mr. Washington to report on what types of issues fell under the master delegation resolution during the last year.

Mr. Washington responded that he was aware of two items that CEFA had approved during the year that fell under the master delegation resolution. Mr. Washington said that in July, Saint Mary's College requested to amend and restate their loan agreement because of changes to the current tax law requiring the college to modify their classified unrestricted assets. Because of that requirement, Saint Mary's needed changes in their supplemental loan agreement. Mr. Washington said that he worked with the Attorney General's Office and approved the reinstated loan agreement. Also, Chapman University came to the Authority in November with a substitution of a letter of credit provider.

Chairperson Wynne state that there was concern by the CEFA Board when this resolution was passed that this was too broad of a delegation. The Board requested monthly reporting of activity and placed a one-year sunset on the resolution. Chairperson Wynne said that this Resolution would extend the delegation and keep the reporting requirement intact.

Chairperson Wynne invited Ms. Liebert to present Item #9 to open the conversation and allow for comments from CHFFA Board members.

**Item #9**

**Resolution of the California Health Facilities Financing  
Authority Delegating Certain Powers and Authorizing  
Certain Actions Related to Bond Financings  
Resolution Number 2009-11**

Ms. Liebert provided an example of the type of issue that has come before CHFFA pursuant to the existing master delegation resolution.

To give context for the board, Ms. Liebert then explained that when the delegation resolution was initially brought before the CHFFA Board earlier in the year, staff estimated that there would be a need to potentially use the delegation resolution three or four times a month because of the then existing market

challenges. In actuality, the delegation resolution was utilized only four or five times over the course of the year.

Ms. Liebert then mentioned that the Attorney General's Office has been instrumental in reviewing and drafting the new proposed resolution.

Mr. Jackson (CEFA Member) stated his concerns of the Board not being involved on decisions in respect to Section 7 of the resolution, which refers to the merger and acquisition of an entity. Mr. Jackson felt that the Board should be involved in handling and making the decisions of such a large issue. Mr. Jackson was also concerned about the proposed open-ended sunset in the CEFA resolution.

Chairperson Wynne responded that the Resolutions were changed to reflect a one-year sunset.

Ms. Liebert added that there is a delicate balance that staff is trying to achieve by handling some transactions via delegation, namely efficiency and nimbleness. Ms. Liebert mentioned each transaction to be handled via delegation is reviewed by the Attorney General's Office to ascertain first whether or not it qualifies under the delegation resolution. The AG's office then also reviews the actual transaction.

Sumi Sousa (CHFFA Member) asked Ms. Liebert where that language was reflected in the resolutions, noting that in Section 15 of both the CEFA and CHFFA resolutions, the language refers to the opinion of counsel as the Authority counsel. Ms. Sousa noted there did not appear to be language referencing the Attorney General.

Ms. Liebert stated that the language could be amended for clarification.

Ms. Smith (STO Counsel) responded that the same issue came up the first time the resolution came before the Board and that consulting with the Attorney General's Office has been Authority policy. Ms. Smith stated that there is a fine line between a merger and an acquisition, and there are questions of what qualifies and what does not. Ms. Smith stated that they have been very conservative in using the resolution this past year and if the documents are simple and more of a formality, staff would handle it under the delegation resolution, but if the issue was complicated like a dissolution or a bankruptcy, or a controversial acquisition, counsel would advise staff to take it before the Board.

Ms. Sousa (CHFFA Member) commented that she does not object to the resolution, but pointed out that the resolution does not seem to require inclusion of the Attorney General.

Ms. Julia Bilaver from the Attorney General's Office (AG) clarified that counsel to the Authority, under the CEFA Act is the Attorney General's Office, but CHFFA's Act does not have a similar provision.

Chairperson Wynne stated that the Boards should amend Section 15 to clarify that counsel to the Authority for purposes of this delegation resolution is the Attorney General's Office.

Chairperson Wynne asked for the Boards preference in regards to Section 7 and asked if the field was too broad, and if the Board was satisfied with the reporting requirements of once a month and a review in a year.

Ms. Bilaver clarified that there are provisions in every loan agreement that have conditions that must be met if a borrower is seeking approval as outlined in Section 7. Ms. Bilaver stated that these conditions are included to protect the security of the bond and the transaction. Ms. Bilaver stated that a private entity can do what is needed for business reasons, but it has to be done in compliance with the bond documents.

Chairperson Wynne motioned to approve an amendment clarifying Section 15, for both CEFA and CHFFA, and to leave Section 7 alone to review it in a year.

Mr. Hiber (CEFA Member) asked for clarification on how information relating to actions taken pursuant to the delegation resolution would be reported to the Board.

Mr. Washington replied that any issue that exercised the delegation would be identified as an information item on the Agenda the following month and staff would inform the Board of the action taken. Mr. Washington stated that Section 14 of the CEFA resolution states that reporting would be reported no less frequently than quarterly. Mr. Washington stated that would allow staff to bring the information on a monthly basis to the Board as the events occur.

Mr. Hiber (CEFA Member) said that his interest was to make sure that there is a clear understanding of the delegation and when the delegation was exercised and that he would prefer more frequent reporting than quarterly. Mr. Hiber recommended that the report be in writing and reported monthly or for it to be reported at the following scheduled meeting. Mr. Hiber clarified that though the policy has been explained clearly during the meeting, the policy is not outlined in the resolution.

Chairperson Wynne replied that the CEFA delegation had been exercised twice over the last year and that both times it was reported in the Executive Directors report. Chairperson Wynne clarified that Mr. Hiber asked for the information to be in writing.

Mr. Hiber (CEFA Member) replied that he would like the report in writing.

Chairperson Wynne said that her issue with monthly reporting was that meetings are sometimes postponed if there is no pending business and she would not want to call the Board together to provide a report because of requirements under this resolution.

Ronald Joseph (CHFFA Member) proposed language that reflected the information be reported at the next scheduled meeting instead of monthly.

Mr. Washington replied that he would make that change to the CEFA delegation resolution so it would be consistent with CHFFA's

Ms. Sousa (CHFFA Member) state that the language is not in the CHFFA delegation either and asked for the language to be added to Section 14, changing the language from on a monthly basis and adding "or at the next regularly scheduled meeting."

Chairperson Wynne directed staff to amend Section 14 of the delegation resolutions for both CEFA and CHFFA, adding "or at the next regularly scheduled meeting."

Ms. Liebert clarified for the record that an earlier resolution did not have a sunset date for CHFFA but was re-circulated with a sunset date of January 31, 2011. Ms. Liebert also clarified that the CHFFA staff reported had an incorrect date on page 2 that should have reflected February 20, 2010.

Chairperson Wynne asked for a motion from both CEFA and CHFFA to amend Section 14, adding "or at the next regularly scheduled meeting" and to amend Section 15 to clarify that counsel to the Authority, for purposes of this delegation resolution, is the Attorney General's Office.

Mr. Jackson (CEFA Member) moved for adoption of the Resolution 2009-05 (CEFA) and Ms. Ingenito (CEFA Member) seconded the motion. The motion was adopted as amended with a 4-0 roll call vote.

Ms. Sousa (CHFFA Member) moved for adoption of the Resolution 2009-11 (CHFFA) and Ms. Holton-Hodson (CHFFA Member) seconded the motion. The motion was adopted as amended with a 9-0 roll call vote.

Chairperson Wynne asked for a motion to move CHFFA Item #13 out of order. Ms. Holton-Hodson (CHFFA Member) moved the motion and it was seconded by Ms. Sousa (CHFFA Member). The motion was passed with a 9-0 roll call vote.

**Item #13****Scripps Health, Resolution No. 349**

Karma Manni of staff introduced John Orsini, Corporate Vice President of Finance with Scripps Health, Richard McKeown, Corporate Controller of Scripps Health, and Peter Reilly, Executive Director of J.P. Morgan Securities. Ms. Manni summarized the transaction pending before the board and noted the policy issue involved in the transaction. Ms. Manni recommended approval of the transaction subject to the conditions set forth in the staff report and that the authority waive the minimum debt service requirement of 1.25x to permit Scripps to comply with its master indenture requirements of a 1.10x debt service coverage ratio. Ms. Liebert noted for the record that the Authority has granted a number of other hospitals, over the course of the last year, the same request to conform to their master agreement requirement.

Harry Bistrin asked Scripps about its investment portfolio for 2009. Mr. McKeown replied that Scripps Health suffered losses due to the catastrophic downturn in the equity market in 2008, but that in 2009, Scripps Health had significant rebounds and recognized a 4.3% return on the portfolio.

Ms. Holton-Hodson asked when Scripps Health would go back to the market. The reply was the week of January 11, 2010.

Mr. Buckhorn moved approval of the resolution and Mr. Bistrin seconded the motion. The motion was adopted with a 9-0 vote.

**Item #10****Update on Working Group Progress regarding CEFA & CHFFA  
Bond Guidelines (Held Jointly with CEFA)**

By way of background, Ms. Liebert mentioned that the working group formed by both Authorities is composed of CEFA and CHFFA staff, representatives from the Attorney General's Office, STO Counsel, Public Financial Management (Financial Advisor for CEFA/CHFFA), Sidley Austin LLP, and Orrick, Herrington & Sutcliffe LLP. Ms. Liebert reported that the working group's primary focus has been to evaluate whether the tax-exempt bond issuance guidelines originally adopted by both authorities should be updated. Ms. Liebert noted that there have been a growing number of requests for exceptions to the guidelines over the last 24 months. Ms. Liebert introduced members of the working group who would be presenting before the Board: Ms. Diane Potter, Esq., Orrick, Herrington & Sutcliffe, Mr. John Bonow, Public Financial Management, and Ms. Julia Bilaver, Deputy Attorney General from the Department of Justice.

Ms. Bilaver, Deputy Attorney General, reported on the existing statutory requirements for both Authorities for tax-exempt bond issuance. Ms. Bilaver stated that as Issuer's Counsel, it is their responsibility to ensure that the statutory requirements are met so they may deliver a standard opinion at the closing of the transaction.

Ms. Bilaver generally mentioned requirements for all bond transactions coming before the Authorities, (1) both the applicant and the project must be eligible, (2) a resolution must be approved by the Board, (3) the State Treasurer serves as Agent for Sale, and (4) new money transactions must demonstrate compliance with CEQA. In addition to those requirements, Ms. Bilaver stated that the statutes for both Authorities impose a financial eligibility review on the boards. Both CEFA and CHFFA must establish financial eligibility standards by "studying the credit worthiness and earning capacity of each project together with the amount of pledged revenue, debt service coverage and basic security."

Chairperson Wynne asked Ms. Bilaver what actions the boards should take whenever the Authority agrees to deviate from the guidelines and create exceptions.

Ms. Bilaver responded that they are still looking at this issue to decide if there is something that needs to be done procedure wise. Ms. Bilaver stated that her responsibility includes making sure the guidelines are not mentioned in the resolution because exceptions need to be made on a discretionary case-by-case basis.

Mr. Bonow, Managing Director, Public Financial Management, talked briefly about the ratings of the Authorities' top borrowers; state-wide and national default rates in the health and education sectors; what

has become of the credit enhancement market; and his recommendations for how the boards may wish to measure creditworthiness of prospective borrowers.

Ms. Holton-Hodson, (CHFFA Member) asked if the Board was being pre-mature in changing its guidelines and asked if it should wait until it knows where the market is going to provide in order to make its guidelines flexible enough for the new products.

Mr. Bonow responded that we need to focus on the market and provide good disclosure. Mr. Bonow felt this was not pre-mature.

Ms. Potter, Esq., Bond Counsel of Orrick, Herrington and Sutcliffe, discussed the importance of disclosure and risk mitigation and how best to satisfy these concerns at the time of bond sale and thereafter.

Chairperson Wynne asked Ms. Liebert if she had direction to proceed or if there were specific questions that she had for the Board Members.

Ms. Liebert replied that she could proceed.

Ms. Frank (CHFFA Member) declared her belief that the Authority should review its due diligence practices because of the recent changes in bond insurance and rating agencies.

Ms. Potter said that the Authority Members may want to spend more time reviewing the actual disclosure requirements of each transaction. Ms. Potter said that the Official Statement of a transaction is a public offering document to investors that discloses the risk and outlines the details of the borrower, which includes audited financial statements, and which outlines relevant risk factors. Ms. Potter said that the Loan Agreement is another document that outlines in detail the financial covenants throughout the life of the bond.

Ms. Sousa (CHFFA Member) suggested that the working group return to the Board with a proposal to the guidelines and as a group, review each item.

Ms. Holton-Hodson (CHFFA Member) stated that she feels we should trust the experts and would like the working group to bring back the recommendations.

Mr. Buckhorn (CHFFA Member) recommended reviewing issues that the Board has made allowances and exceptions for in the past because they are reoccurring. Mr. Buckhorn said that his preference was to stay with investment grade and also, that he wants to be cognizant of the Authority's goal to provide low cost financing to hospitals.

Chairperson Wynne added that the Board should look at the projects that were never brought before the Board because there were issues within the guidelines that they did not like and found financing elsewhere.

Mr. Bistrin (CHFFA Member) noted that he would like to see the staff reports presented in a way that is more clear and easier to read.

Ms. Liebert said that the working group would bring recommendations to the Board and work through them with the Board.

Chairperson Wynne commented that it is unanimous for the working group to bring back recommendations for discussion.

With no public comment for CEFA, the CEFA meeting was adjourned at 3:00 pm.

**Item#14****The Episcopal Home Communities, Resolution No. 2009-12**

Yassar, Dahbour, of Staff, introduced Diane Potter, Esq., Bond Counsel, Orrick, Herrington & Sutcliffe.

Mr. Dahbour summarized the transaction before the board as follows: The Episcopal Home Communities (TEHC) elected to convert its outstanding bonds from auction rate certificates to fixed rate bonds effective January 7, 2010, and upon conversion, TEHC intends to terminate its Ambac insurance policy pursuant to the Release Agreement as the Ambac insurance is no longer financially beneficial to TEHC in the marketing of the bonds as a result of the downgrade of Ambac. TEHC intends to retain the Cal-Mortgage insurance on the Bonds after conversion.

The proposed Release Agreement would allow the termination of the Ambac insurance policy, and it is required by Ambac to accomplish the termination. The Release Agreement requires the parties to release Ambac from liability relating to the original municipal bond insurance policy. The termination of the Ambac insurance is being accomplished by amending certain bond documents with the consent of TEHC, CHFFA, the Trustee, the Remarketing Agent, and Cal-Mortgage. The proposed Release Agreement has no material impact on Authority operations.

Chair Wynne asked if there were any questions from the board. Mr. Bistrin moved approval of the resolution and Ms. Holton-Hodson seconded the motion. The motion was adopted with a 9-0 vote.

**Item#15****Victor Treatment Centers, Inc, Resolution No. HII-245**

Cheryl Ide, of Staff, introduced David Baker, Executive Director of the Stockton Program for Victor Treatment Centers, Inc. (VTC).

Ms. Ide summarized the transaction before the board and then recommended approval subject to the terms and conditions set forth in the staff report.

Ms. Holton-Hodson moved approval of the resolution and Dr. Sablan seconded the motion. The motion was adopted with a 9-0 vote.

Prior to the adjournment of the CHFFA meeting, Ms. Liebert introduced Ms. Rosalind Brewer as the new Deputy Executive Director for both CHFFA and CEFA.

With no other business or public comment, Chair Wynne adjourned the meeting at 3:19 P.M.