

APPROVED

July 18, 2006

Michigan State Administrative Board

Lansing, Michigan

March 28, 2006

A special meeting of the State Administrative Board was held in the Lake Superior Room, 1st Floor, Michigan Library and Historical Center, on Tuesday, March 28, 2006, at 11:15 a.m.

Present: Steve Liedel, Deputy Legal Counsel, representing Jennifer M. Granholm, Governor, Chairperson
Kristie Profit, Policy Advisor, representing John Cherry, Lt. Governor
Patrick F. Isom, Assistant Attorney General, representing Michael A. Cox, Attorney General
Mary G. MacDowell, Director, Financial Services Bureau, representing Julie Croll, Acting State Treasurer
Joseph Pavona, Director, Bureau of Administrative Services, representing Terri Lynn Land, Secretary of State
Carol Wolenberg, Deputy Superintendent for Administration, representing Michael Flanagan, Superintendent of Public Instruction
Ed Timpf, Director, Financial Operations Division, representing Kirk T. Steudle, Director, Department of Transportation
Sherry Bond, Secretary

Others Present:

Terrence P. Grady, Patricia Quinn, Department of Attorney General; Kristi Broessel, Department of Community Health; James Burris, Cindy Collins, Elise Lancaster, Mary Lannoye, Janet Rouse, Tom Saxton, Department of Management and Budget; Kris Squibb, Department of Natural Resources; Cynthia Faulhaber, Joe Fielek, Janet Hunter-Moore, Department of Treasury; Jim Bliss, Dickinson Wright; Jerry Crandall, MIRS

1. CALL TO ORDER:

Mr. Liedel called the meeting to order and led the Pledge of Allegiance to the Flag.

2. HEARING OF CITIZENS ON MATTERS FALLING UNDER JURISDICTION OF THE BOARD:

NONE

3. REPORTS AND RECOMMENDATIONS OF COMMITTEES:

(Please see the following pages)

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Ms. MacDowell presented the Finance and Claims Committee Supplemental Special Agenda and Report from the special meeting of March 21, 2006, and the Finance and Claims Committee 3rd Supplemental Agenda and Report from the regular meeting of March 28, 2006.

Cynthia Faulhaber, who is the Deputy State Treasurer for State and Local Finance, and oversees the Bureau of Bond Finance, reviewed the sale of the tobacco receipts for the Board.

Mr. Liedel said, "Thank you. A few questions."

Mr. Liedel said, "Is the resolution before the State Administrative Board authorizing the sale of a portion of the state's tobacco settlement receipts pursuant to a sale agreement specifically authorized by the Legislature by the enactment of the Michigan Tobacco Settlement Finance Authority Act, Public Act 226 of 2005?"

Ms. Faulhaber said, "Yes, the Michigan Tobacco Settlement Finance Authority Act enacted by the legislature."

Mr. Liedel said, "And the Act authorizing the resolution was approved overwhelmingly by the legislature by a vote of 98 to 7 in the House of Representatives and a vote of 35 to 3 in the Senate?"

Ms. Faulhaber said, "Yes."

Mr. Liedel said, "In Section 2 of the Act, did the legislature find and declare that selling the state's right to receive all or a portion of tobacco settlement payments is a prudent method of managing the risks associated with reliance on the receipt of tobacco settlement payments in perpetuity?"

Ms. Faulhaber said, "Yes."

Mr. Liedel said, "In Section 2 of the Act, did the legislature also find and declare that establishing the authority and execution by the authority of its powers granted under the Act fulfill in all respects a public and governmental purpose for the benefit of the people of this state?"

Ms. Faulhaber said, "Yes."

Mr. Liedel said, “Also, did the legislature also find and declare that the exchange of net proceeds received by the Michigan Tobacco Settlement Finance Authority from the issuance of bonds plus residual interests for the right to receive all or a portion of tobacco settlement payments constitutes a true sale for a fair price?”

Ms. Faulhaber said, “Yes.”

Mr. Liedel said, “In Section 10 of the Act did the legislature determine that the creation of the Authority and the carrying out of its authorized purposes is in all respects a public and governmental purpose for the benefit of the people of this state and for the improvement of their health, safety, welfare, comfort, and security, and that the purposes are public purposes and that the authority will be performing an essential governmental function in the exercise of the powers conferred upon it by the Act?”

Ms. Faulhaber said, “Yes.”

Mr. Liedel said, “And the legislature mandated that the Act must be liberally construed to effectuate its intent and their purposes without implied limitations on the powers of the Authority, the State Budget Director, and the State Treasurer?”

Ms. Faulhaber said, “Yes.”

Mr. Liedel said, “Does Section 8 of the Act require that a sale agreement or agreements provide for the sale of that portion of the state’s tobacco receipts sufficient to provide net proceeds to this state in the amount of \$400 million?”

Ms. Faulhaber said, “Yes.”

Mr. Liedel said, “Does the Act also require that the \$400 million in net proceeds to be held, used and expended by the State Treasurer in the manner provided for in the Michigan Trust Fund Act?”

Ms. Faulhaber said, “Correct.”

Mr. Liedel said, “Under the Michigan Trust Fund Act, the net proceeds of the sale of tobacco settlement revenue to the tobacco settlement finance authority must be deposited in the 21st Century Jobs Trust Fund?”

Ms. Faulhaber said, “Yes.”

Mr. Liedel said, "Interest generated by net proceeds deposited in the 21st Century Jobs Trust Fund is deposited in the state's general fund?"

Ms. Faulhaber said, "Yes."

Mr. Liedel said, "So delays in proceeding with sale of the state's tobacco receipts as previously directed by the legislature will negatively impact the state general fund and the state's budget for the current fiscal year?"

Ms. Faulhaber said, "Yes."

Mr. Liedel said, "Last year, did the legislature appropriate \$400 million in net tobacco settlement proceeds from the 21st Century Jobs Trust Fund for specific purposes for the current fiscal year ending September 30, 2006?"

Ms. Faulhaber said, "Yes, I believe so."

Mr. Liedel said, "So the legislature has already spent the proceeds of tobacco securitization? All \$400 million?"

Ms. Faulhaber said, "Yes."

Mr. Liedel said, "Did the legislature also require certain entities within the executive branch of state government to spend specific amounts for specific purposes in the current fiscal year?"

Ms. Faulhaber said, "Yes."

Mr. Liedel said, "And the legislature also appropriated \$1 million from the general fund for the current fiscal year to pay the operating expenses of the Authority and to fund any reserve requirements?"

Ms. Faulhaber said, "Correct."

Mr. Liedel said, "So a delay in proceeding with this sale would mean a delay in expenditures already authorized and mandated by the legislature?"

Ms. Faulhaber said, "Yes."

Mr. Liedel said, "Section 6 of the Act requires that a member of the Michigan Tobacco Settlement Finance Authority Board, or an officer, employee, or agent of the Authority Board must discharge the duties of his or her position in a nonpartisan manner, with good faith, and with that degree of diligence, care,

and skill an ordinarily prudent person would exercise under similar circumstances in a like position. Do you have any indication that a member of the Authority Board or an officer, employee, or agent has failed to fulfill this statutory responsibility?"

Ms. Faulhaber said, "No, none."

Mr. Liedel said, "Do you believe that the Michigan Tobacco Settlement Finance Authority and the Department of Treasury have faithfully executed Public Act 226 of 2005, as passed by the Legislature?"

Ms. Faulhaber said, "To date, yes. We're not done."

Mr. Liedel said, "As the Michigan Tobacco Settlement Finance Authority and the Department of Treasury proceeded with implementation of the law, was legal counsel at the Department of Attorney General consulted?"

Ms. Faulhaber said, "Yes. I'd like to share one final thing. The Michigan Tobacco Settlement Finance Authority Board met yesterday and approved their part."

Mr. Liedel said, "Senate Bill 906, which has passed the Senate and is currently sitting on the House Calendar, would provide the State Administrative Board with explicit authority to hire a Chief Compliance Officer. Do any of the powers and duties of the Chief Compliance Office relate to the Michigan Tobacco Settlement Finance Authority or other matters before the Board today?"

Ms. Faulhaber said, "No."

Mr. Liedel said, "Is the Michigan Tobacco Settlement Authority Board required to adopt administrative rules?"

Ms. Faulhaber said, "No."

Mr. Liedel said, "Members of the Michigan Tobacco Settlement Finance Authority are appointed by the Governor. One of the members is nominated by the Senate Majority Leader. His nominee completed the appointment documents required by the Governor's office and is serving on the Authority Board. One of the members is nominated by the Speaker. To date all of the Speaker's nominees have not submitted appointment paperwork to the Governor's office. Has the Department of Treasury or the Authority received any indication as to why the information has not been submitted?"

Ms. Faulhaber said, "No."

Mr. Liedel said, "Do we have a motion?"

Mr. Isom said, "The Attorney General's office was involved but not aware of legal problems. Since we have the Speaker's letter (letter dated March 28, 2006) now, could we delay the motion to approve (the Resolution to Approve the Sale of the Tobacco Receipts) for two days?"

Ms. MacDowell said, "For what reason?"

Mr. Isom said, "So we could go through the letter from Speaker DeRoche."

Mr. Liedel said, "I'm not aware of any issues raised in the letter because it was not given to Governor's Office."

Ms. Wolenberg said, "If the Attorney General was involved and found no problems such as the points raised in letter, we could proceed."

Mr. Isom said, "I would like more time out of respect for the Speaker of the House."

Ms. Wolenberg said, "The questions raised in the letter were specific and Cynthia Faulhaber answered them, so I have no further questions."

Mr. Liedel said, "Do we have a motion?"

Mr. Isom said, "Yes." (Earlier he asked, "Could we delay the vote on the motion to approve (the Resolution to Approve the Sale of the Tobacco Receipts) for two days?")

Mr. Pavona supported the motion. Mr. Isom and Mr. Pavona voted Aye and Mr. Liedel, Ms. Profit, Ms. MacDowell, Ms. Wolenberg, and Mr. Timpf voted Nay. The motion to delay the vote to approve the Supplemental Special Agenda from the Special Finance and Claims Committee meeting of March 21, 2006, was not approved.

Mr. Isom left the room.

After review of the forgoing Finance and Claims Committee Reports, Ms. MacDowell moved that the Supplemental Special Agenda from the Special Finance and Claims Committee meeting of March 21, 2006, and the 3rd Supplemental Agenda from the regular Finance and Claims Committee meeting

held March 28, 2006, be approved and adopted. Mr. Pavona asked that we delay the vote until Mr. Isom returned to the meeting. Upon Mr. Isom's return to the meeting, the motion was supported by Ms. Profit. The vote to approve the motion was unanimous except Mr. Isom and Mr. Pavona abstained from approving the Resolution to Approve the Sale of the Tobacco Receipts.

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Ms. MacDowell presented the Building Committee Report for the regular meeting of March 28, 2006. After review of the forgoing Building Committee Report, Ms. MacDowell moved that the Report from the Building Committee meeting of March 28, 2006, be approved and adopted. The motion was supported by Ms. Wolenberg and unanimously approved.

There was no Transportation and Natural Resources Committee Report.

4. ADJOURNMENT:

Ms. Wolenberg moved the meeting be adjourned. The motion was supported by Mr. Pavona and unanimously approved. Mr. Liedel adjourned the meeting.

SECRETARY

CHAIRPERSON