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Assembly
California Legislature

JARED HUFFMAN
ASSEMBLYMEMBER, SIXTH DISTRICT

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BUDGET
NATURAL RESOURCES
UTILITIES AND COMMERCE

BUDGET SUBCOMMITTEE NO 3 ON RESOURCES

November 18, 2009

Bill Lockyer, State Treasurer
Pooled Money Investment Board
915 Capitol Mall, Room 106
Sacramento, CA 95814

RE: Lease-Revenue Bonds for San Quentin Death Row Complex

Dear Chairman Lockyer:

As the Pooled Money Investment Board (PMIB) determines the priority for selling bonds to finance state capitol projects, we feel it's necessary to bring to your attention the apparent illegality of moving forward with the lease-revenue bonds for the San Quentin Condemned Inmate Complex (CIC) since the State Public Works Board (SPWB) turned a blind eye to the legal limitations when they approved the bonds on November 9. The bonds cannot be lawfully issued until the litigation contesting the Governor's constitutional authority over vetoed budget language governing the CIC is resolved.

The budget passed by the Legislature in July contained budget bill language conditioning the financing of the CIC to ensure that the state's limited funds are spent wisely. Specifically, the budget language prohibited the California Department of Corrections and Rehabilitations (CDCR) from encumbering lease-revenue bonds for the CIC unless and until:

1) CDCR determines that it can lawfully double-cell condemned inmates;
2) federal court litigation on prison overcrowding currently before the three-judge panel is resolved; and
3) CDCR completes California Environmental Quality Act analyses and review for any modifications to the project.

By passing this budget language, the Legislature insisted that these conditions be met before CDCR irreversibly commits the state to $1.6 billion in costs on a facility that, according to the State Auditor, could exceed capacity just three years after opening. Governor Schwarzenegger attempted to use his line-item veto authority to strike this language, an action we believe is unconstitutional.

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Senate Pro Tem Darrell Steinberg filed a lawsuit in Superior Court on August 10 against the Governor for unconstitutionally vetoing various line-items in the budget bills, including this one. Other litigants – the Western Center on Law & Poverty and St. John's – have also stepped forward and filed a separate challenge in the Appellate Court over the Governor's dubious line-item vetoes. The Appellate Court lawsuit is narrower than the Superior Court lawsuit, and while it is moving forward, the Superior Court lawsuit is on hold pending the outcome of the Appellate Court case. For all intents and purposes, the PMIB effectively has its hands tied when it comes to issuing bonds for the CIC while the Superior Court case is pending.

Regrettably, the SPWB has moved forward prematurely by authorizing the bonds before the pending litigation has been resolved and, most importantly, before the conditions established by the legislature have been met. We trust that the PMIB will act appropriately and defer any action on this matter until the litigation is resolved. Thank you for your attention to this important matter. We ask that you please keep our offices informed of any relevant decisions or actions by PMIB.

Sincerely,

JARED HUFFMAN
Assembly, 6th District

MARK LENO
Senate, 3rd District

cc: Mike Genest, Director of Finance
John Chiang, State Controller