JOINT INTERIM TASK FORCE
STATUTORY COMMON SCHOOL FUND LOANS
(HB 4063)

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Report

Statutory Common School Fund Loans (HB 4063, 2014)

Summary

The original impetus for HB 4063 came from a search for sources of funds to provide loans for redevelopment of brownfields. Brownfields, in every one of our districts statewide, are a pool of currently unused or underused land that, with some investment in appropriate cleanup, could be returned to economic viability, becoming assets instead of eyesores. We were alerted to the idea that the statutory Common School Fund is an investment fund, one that supports the Common School Fund with its investment income, and could possibly be deployed in this way.

This proved to be much more complicated than we anticipated. In response to information from the Department of State Lands, which is responsible for this fund, the bill was changed to create a task force bill to examine the use of these funds. The bill charged the task force with identifying "opportunities for making loans from the Common School Fund for the purpose of financing projects that provide significant in-state economic benefits."

Instead of asking whether this money could be invested in brownfield redevelopment, the bill asked a more basic question: Could it be invested in a way that produces local or in-state economic activity, with larger in-state economic benefits, while continuing to generate investment income for the Common School fund. If the answer is, "Yes, there is that potential," then loans for brownfield redevelopment might be one of those ways. As stated at the beginning of the task force process, the answer might also be "no."

If we can do it without compromising our returns, we should be ever vigilant for ways to use state funds to support our own businesses and communities. But testimony indicated that the return on investment under current investment practices is holding at about 8%, while business lending is currently at or below 4%. In other words, loans from this fund could not both compete in the lending market and provide returns comparable to what is being achieved with current investment practices. In addition, loan programs are inherently more risky to the fund corpus than current investment practices.

Charge from HB 4063

77th OREGON LEGISLATIVE ASSEMBLY--2014 Regular Session
House Bill 4063
SECTION 1.
(2) The task force shall identify opportunities for making loans from the Common School Fund for the purpose of financing projects that provide significant in-state economic benefits.

Basis of the Common School Investment Funds

INVESTMENT OF STATE FUNDS
293.721 General objective of investments. Moneys in the investment funds shall be invested and reinvested to achieve the investment objective of the investment funds, which is to make the moneys as productive as possible, subject to the standard set forth in ORS 293.726. [1967 c.335 §6]
293.726 Standard of judgment and care in investments; investment in corporate stock. (1) The investment funds shall be invested and the investments of those funds managed as a prudent investor would do, under the circumstances then prevailing and in light of the purposes, terms, distribution requirements and laws governing each investment fund. ... (etc,)

OREGON INVESTMENT ACT (GROWTH BOARD)
SECTION 5.
The Oregon Growth Board has the following duties, functions and powers:
(1) To maintain, invest and reinvest moneys in the Oregon Growth Fund established under section 7 of this 2012 Act consistent with the policies and procedures established by the board and the investment standard stated in ORS 293.726, including but not limited to the creation and maintenance of one or more investment funds within the Oregon Growth Fund. In exercising its authority under this subsection, the board may include economic factors, including but not limited to job retention and creation, as considerations in making investment decisions.

Mary M. Abrams, Director, Department of State Lands, provided a succinct review of the funds available and the limitations of the use of those funds.

(August 7 Memorandum)

> *The composition of the fund changes, sometimes dramatically, over time as the revenues, expenses, unclaimed property receipts and claims, and investment returns vary. The percentages in this memo should be considered representative and not fixed amounts.*
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> *As of June 30, 2014 the fund components as a percentage of the whole fund (at net asset value) are as follows:*
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> - *Constitutional Corpus: 55.0%*
> - *Statutory Corpus 0.3%*
> - *Deposit Liability*
>   - *Unclaimed Property 42.9%*
>   - *10 year Escheat Property 0.5%*
> - *Land Sale Revolving Fund 1.3%*
>
> *The constitutional corpus and the escheat property funds are reserved by the Admission Act and the Oregon Constitution for use by the State Land Board to invest for maximum returns to the Fund and pay for expenses in managing the Fund. These funds are under the Constitutional control of the State Land Board and are not available for loans by the Legislature. The Land Sale Revolving Fund consists of proceeds from the sale of trust lands and therefore falls under the Land Board's constitutional responsibilities and authorities.*

The Unclaimed Property funds are moneys held in custody for the rightful owners and are due and payable to the owner when claimed. A loan from this fund source could not exceed the Constitutional debt limitation of $50,000 or a repayment source other than the General Fund would have to be identified.

The 0.3% identified as statutory corpus represents the net statutory revenues accumulated since the 2001-03 biennium. The accumulated revenues prior to 01-03 were transferred to the schools in a special distribution at the direction of the Legislature. The statutory revenues support the program costs and the Portland Harbor Superfund legal and contract costs. The statutory expenses have exceeded the revenues the last two years as the Portland Harbor Superfund expenses have increased. Statutory revenues are affected by the economy and are only now starting to recover.

The 0.3% portion of the CSF, comprised of just over 10 years of net statutory revenues, is the only portion of the fund that could be considered available for a loan program. However, the accumulated balance is beginning to erode due to the ongoing and increasing costs associated with the Portland Harbor work and the statutory revenue sources are already inadequate to meet the rising expenses.

Finally – each year the CSF distributes 4% of the 3-year average of the CSF's market value which currently represents approximately $1,000,000 per biennium. This distribution is a small but important contribution to Oregon's K-12 school funding. Any proposed loan program using any portion of the CSF would have an effect on this distribution unless the guaranteed return on the program exceeded the lost investment return plus the transactional costs of the program.

Conclusion

It appears that in this case the answer is "no," this would not be an appropriate source of loan funding for brownfield redevelopment or any other lending-based use. Deploying these funds in this way would likely both reduce returns and increase risk. The fund is well managed now, yielding better returns than could be achieved in the lending market, with substantially lower risk. Significant change in the overall economic climate could change that calculation, but as a long term strategy, these funds are currently managed in the highest and best way by the Department of State Lands and the Treasury, excellent stewards of these funds. There are other funds available for projects to support businesses. The investment portfolio of the Common School Fund is not one that is fiscally appropriate at this time.

It also came to our attention that other efforts are under way at the state level to increase funds available for Brownfield redevelopment at a level that would dwarf any potential from this fund.