

*Guidon B. Ford*

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS  
ACTION AGENDA SUMMARY

DEPT: Treasurer-Tax Collector

BOARD AGENDA # \*B-3

Urgent

Routine

AGENDA DATE March 27, 2012

CEO Concurs with Recommendation YES  NO   
(Information Attached)

4/5 Vote Required YES  NO

SUBJECT:

Approval to Introduce and Waive the First Reading of an Ordinance Amending Stanislaus County Code Section 2.30.010 to be Consistent With Current Statutory Requirements for Annual Delegation of Investment Authority, and Approval of an Amendment to the Tobacco Investment Policy

STAFF RECOMMENDATIONS:

1. Introduce and waive the first reading of the attached ordinance to amend Stanislaus County Code 2.30.010 to be consistent with current statutory requirements relating to delegation of investment authority and revocation of authority.
2. Approve amendment to the Stanislaus County Tobacco Investment Policy, to be effective May 3, 2012, to bring the policy into compliance with state law, and delegate the Stanislaus County Treasurer the authority to invest funds as indicated in the Tobacco Investment Policy.

FISCAL IMPACT:

There is no fiscal impact associated with this item.

BOARD ACTION AS FOLLOWS:

No. 2012-123

On motion of Supervisor Monteith, Seconded by Supervisor De Martini  
and approved by the following vote,

Ayes: Supervisors: Withrow, Monteith, De Martini, and Vice-Chairman Chiesa

Noes: Supervisors: None

Excused or Absent: Supervisors: Chairman O'Brien

Abstaining: Supervisor: None

1) X Approved as recommended

2) \_\_\_\_\_ Denied

3) \_\_\_\_\_ Approved as amended

4) \_\_\_\_\_ Other:

MOTION:

INTRODUCED AND WAIVED THE FIRST READING OF ORDINANCE C.S. 1116

*Christine Ferraro*

ATTEST: CHRISTINE FERRARO TALLMAN, Clerk

File No. ORD-55-P-4

Approval to Introduce and Waive the First Reading of an Ordinance Amending Stanislaus County Code Section 2.30.010 to be Consistent With Current Statutory Requirements for Annual Delegation of Investment Authority, and Approval of an Amendment to the Tobacco Investment Policy

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**DISCUSSION:**

County Counsel has recommended that Stanislaus County Code Section 2.30.010 be amended due to a change in state law. The Senate Bill 109 amended Government Code Section 27000.1 such that the Board of Supervisors may delegate the authority to invest County funds to the County Treasurer subject to Government Code Section 53607. Section 53607 states the Board of Supervisors are to delegate the authority to invest annually. The Treasurer-Tax Collector will seek review and renewal when the Treasury items go to the Board during the first half of each calendar year. There is no change to any process this only updates the Stanislaus County Code to conform to the state law. The attached ordinance was prepared by County Counsel.

The Tobacco Investment Policy has been amended to reflect the current statutory requirements related to the delegation of authority to invest and revocation of authority. In addition, the Policy was amended on page 2 of the policy under the heading "Investment Authority and Standards of Care", in the section relating to requirements for the broker dealers, the third bulleted item was changed to reflect the name change of the certifying authority. The changes are italicized in the attached Investment Policy.

**POLICY ISSUES:**

Approval of the amendment to Stanislaus County Code Section 2.30.010 supports the Board's priority of Efficient Delivery of Public Services. All changes have been approved by the Treasury Oversight Committee.

**STAFFING IMPACTS:**

There is no staffing impact associated with this agenda item.

**CONTACT PERSON:**

Gordon B. Ford, Treasurer-Tax Collector. Telephone: 525-4463

ORDINANCE NO. C.S. \_\_\_\_\_

**AN ORDINANCE RELATING TO DELEGATION OF  
AUTHORITY TO TREASURER-TAX COLLECTOR**

**THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS, STATE OF  
CALIFORNIA, ORDAINS AS FOLLOWS:**

**Section 1.** Section 2.30.010 of the Stanislaus County Code is amended to read as follows:

Pursuant to Government Code sections 27000.1 and 53607, the Board of Supervisors delegates the authority to invest or reinvest the funds of the County and the funds of other depositors in the County Treasury to the County Treasurer for a one-year period. This delegation is subject to review and renewal of authority by the Board of Supervisors each year, which may occur by resolution or order of the Board of Supervisors. The funds are to be invested in accordance with state law and the County Treasurer must act as a prudent investor in a fiduciary capacity. The County Treasurer shall thereafter assume full responsibility for those transactions until the delegation of authority is revoked or expires.

**Section 2.** This ordinance shall take effect thirty (30) days from and after the date of its passage and before the expiration of fifteen (15) days after its passage it shall be published once, with the names of the members voting for and against the same, in the Modesto Bee, a newspaper published in the County of Stanislaus, State of California.

Upon motion of Supervisor \_\_\_\_\_, seconded by Supervisor \_\_\_\_\_, the foregoing Ordinance was passed and adopted at a regular meeting of the Board of Supervisors of the County of Stanislaus, State of California, this \_\_\_\_\_ day of \_\_\_\_\_, 2012, by the following called vote:

AYES: Supervisors:

NOES: Supervisors:

ABSENT: Supervisors:

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William O'Brien, Chair of the Board of  
Supervisors of the County of Stanislaus,  
State of California

ATTEST:

Christine Ferraro Tallman  
Clerk of the Board of Supervisors of the  
County of Stanislaus, State of California

By \_\_\_\_\_  
Deputy

APPROVED AS TO FORM:

John P. Doering, County Counsel

By Deirdre McGrath  
Deirdre McGrath  
Deputy County Counsel

# STANISLAUS COUNTY'S

## **INVESTMENT POLICY**

FOR THE INVESTMENT OF THE

### **PROCEEDS FROM THE SECURITIZATION OF THE TOBACCO INDUSTRY'S MASTER SETTLEMENT AGREEMENT**

Effective upon the receipt of the securitization bond proceeds

Prepared by: Tom Watson, Stanislaus County Treasurer/Tax Collector

Approved by the Stanislaus County Board of Supervisors on January 29, 2002

Amendment to become effective on May 3, 2012

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## PURPOSE AND SCOPE

The purpose of the Stanislaus County Investment Policy for the Proceeds from the Securitization of the Tobacco Industry's Master Settlement Agreement is to provide guidance of the investment of funds generated from the proceeds of such securitization and the governance of the distribution of income generated from such investment as well as the final disposition of such funds.

The scope of this policy applies solely to the funds generated from securitization of Tobacco Industry mandated payments to Stanislaus County ("County") through the Master Settlement Agreement (MSA) with the major tobacco product manufacturers in the United States and the interest earned on those funds.

## OBJECTIVE

The primary objective of the investment of the proceeds (with interest earned thereon) from securitization of the Tobacco industry's MSA payments to Stanislaus County is to generate additional discretionary income for Stanislaus County. The additional discretionary revenue will be generated by distributing a majority (80%) of the income from the investment of the funds annually to the County and retaining a smaller portion (20%) for reinvestment and growth of principal to increase the potential of annual income generated to the County.

Safety of principal and surety of interest income is highly important. Investment will be made only in fixed income securities rate "BBB" or higher by Standard and Poor's (or a comparable rating from Moody's or Fitch) at the time of purchase. The goal is to have a very high probability of return of principal and receipt of promised interest payments. Diversification by issuer will further enhance the likelihood of preserving the capital and receiving the interest payments. While no limit will be placed on investment in United States and mortgage agency paper such as the Federal National Mortgage Association (and others), no investment will be made of more than 5% of the entire portfolio at the time of purchase in any on local municipal or corporate issuer.

The only liquidity needs of these funds are the payment of expenses related to the investment administration of these funds and the annual payment to the County.

After consideration of the above safety and liquidity needs of these funds, the funds shall be invested to earn a competitive market rate of return or yield. Due to the primary objective of these funds adding revenue for the County, these funds shall be invested in fixed income vehicles with maturities of up to 30 years from the date of purchase with the average maturity for the entire portfolio ranging between one (1) and fifteen (15) years. An earnings rate goal for the portfolio will generally be 120 basis points higher than inflation.

## INVESTMENT AUTHORITY AND STANDARDS OF CARE

The investment of the funds generated by the securitization of the Tobacco industry's MSA payments *has been delegated to the Stanislaus County Treasurer/Tax Collector ("Treasurer") pursuant to Government Code section 27000.1 and 53607. This is an annual delegation given to the Stanislaus County Treasurer/Tax Collector by the Stanislaus County Board of Supervisors each year and can be revoked by the Stanislaus County Board of Supervisors at any time.* The Stanislaus County Treasurer/Tax Collector is responsible for all transactions undertaken.

All investments shall be made with the care, skill, prudence and diligence which any prudent person acting in a like capacity and familiar with the matters involved given the circumstances then prevailing would use to accomplish the stated objectives.

Financial market security transactions will be executed by delivery versus payment and the securities shall be held by a third party custodian.

The following are the requirements for the broker dealers:

1. Broker/Dealer qualifies under Securities and Exchange Commission Rule 15C3-1 (uniform net capital rule) with a minimum capitalization of \$10,000,000
2. Broker/Dealer staff have at least five years experience with trading in investment grade fixed income securities
3. *Certified by the Financial Industry Regulatory Authority (FINRA) with written documentation supplied*
4. Registered with the State of California (written documentation supplied)
5. Submitted affidavit of review and willingness to comply with this Policy
6. Commitment and adherence to no political contributions being made to any candidate for the Stanislaus County Board of Supervisors or Stanislaus County Treasurer/Tax Collector which exceed the limitations contained in Rule G-37 of the Municipal Securities Rulemaking Board

Internal controls as approved and monitored by the Stanislaus County Auditor-Controller shall be maintained to avoid or detect collusion and separate duties appropriately. The Assistant Treasurer may place all trades. Written confirmation of trades by the Treasurer (acceptable via facsimile message) is only required on investments that mature in one year or more.

To avoid even the appearance of a conflict of interest, all officers and employees involved in the investment process shall refrain from personal business activity which in any way could hinder the proper execution and management of the investment program or impair anyone's ability to make an impartial decision.



## INVESTMENT AUTHORITY AND STANDARDS OF CARE (Continued)

A limit of \$50 per calendar year is placed on the receipt of honoraria, gifts and gratuities by the Stanislaus County Treasurer/Tax Collector and any staff involved in the process from advisors, brokers, dealers, bankers or other persons with whom the Stanislaus County Treasurer/Tax Collector or an deputy conducts business.

### AUTHORIZED INVESTMENTS

Pursuant to Government Code Section 53601, investments will only be made in authorized securities with a maturity of thirty (30) years or less from the transaction settlement date but in no case shall any tax-exempt security have a maturity which exceeds the final maturity on any Tobacco Settlement Asset-Backed Bonds. The purchase of securities with greater than five (5) years maturity may commence ninety (90) days after the Board of Supervisors resolve to accept this investment policy. All individual securities must yield a positive return if held to maturity. The weighted average life of all tax-exempt investments may be no longer than the weighted average life of the Tobacco Settlement Asset-Backed Bonds. The following instruments are authorized for investment of bond proceeds (and any outstanding amount of issued) from the Tobacco Settlement Asset-Backed Bonds:

- a. Individual tax exempt non-Alternative Minimum Tax (“AMT”) State of California obligations or bonds not to exceed 50% of all investments (at time of purchase). Investment in any indebtedness that is related to Tobacco Settlement Asset-Backed Bonds is prohibited.
- b. California local agency bonds, notes or other indebtedness that are tax exempt non-AMT obligations or bonds with no more than 5% of the total portfolio invested in any one municipality or agency (at the time of purchase) with a Standard and Poor’s rating of BBB or higher (or other rating agency equivalent rating) at the time of purchase. Any investment in indebtedness related to Tobacco Asset-Backed Bonds is prohibited.
- c. Diversified management company shares (mutual funds) that invest in tax exempt non-AMT obligations of any governmental entity in the United States and the fund’s income derived is at least 95% produced by such non-AMT instruments. The company must have the highest rating by two of three recognized rating agencies or have an investment adviser registered with the Securities and Exchange Commission (SEC) with at least five (5) years of experience investing in securities authorized by Government Code section 53601 (a) to (m) inclusive. The assets under management in the fund must be in excess of \$500,000,000. No more than 30% of the value of the outstanding Tobacco Settlement Asset-Backed Bonds may be invested in any one mutual fund. The mutual fund cannot contain more than 5% of its assets in Tobacco Settlement Asset-Backed Bonds.

## AUTHORIZED INVESTMENTS (Continued)

Any amount of the portfolio which is greater than the amount of any outstanding Stanislaus County Tobacco Settlement Asset-Backed Bonds may be invested in any security described in Government Code Section 53601 except reverse repurchase agreements.

### ANNUAL DISTRIBUTION

On or before July 15 of each year, 80% of the interest and net gains received through the year-ending on June 30 shall be distributed to Stanislaus County to be used to defray reasonable investment-related expenses and the remainder at the discretion of the Stanislaus County Board of Supervisors.

### REPORTING REQUIREMENTS

The Treasurer/Tax Collector shall prepare an annual report no later than August 15 following the close of each fiscal year on June 30. The report shall be forwarded to the Board of Supervisors for final review and acceptance.

The annual report shall include:

- a) A concise management summary of TSA funds' investment activity and position rendered with statements of review and reconciliation with custodial records, source of market valuation, ability to meet annual disbursement and for compliance with this Policy; the amounts of interest earned and net gains taken and the investment-related expense with net discretionary revenue distribution to the county; and amount subject to non-AMT investment versus taxable investment
- b) Signature(s) of the Treasurer/Tax Collector and staff attesting to the above
- c) Place for signature of the Chairman of the Board of Supervisors showing review and acceptance
- d) A detailed listing of securities held as of June 30 grouped by investment type (e.g. State of California bonds, California local bonds, etc.) delineated as follows:
  - Issuing Agency (e.g. State of California, City of Costa Mesa, etc.)
  - Date purchased (settlement date)
  - Par Value
  - Book Value
  - Market Value
  - Stated interest rate (coupon rate)
  - Yield to Maturity
  - Days to Maturity

## REPORTING REQUIREMENTS (Continued)

- e) A detailed listing of security transactions during the report period (purchases, sales and maturities) grouped by investment type and to include the following:
  - Date of transaction
  - Issuing agency (e.g. State of California, City of Costa Mesa, etc.)
  - Purchase, Sale or Maturity Amount
  - Stated interest rate (coupon rate)
- f) A summary of the total portfolio and average weighted maturity showing compliance with Policy limitations as well as an annualized “cash” rate of return net of expenses for fiscal year-to-date interest received on average daily balances for the TSA funds as a whole
- g) A summary by investment type of beginning period position, purchases and sales/maturities and ending position

## ANNUAL AUDIT

An annual audit shall be conducted to insure that investment transactions are in compliance with State Law and this Policy. The audit shall be supervised by a Certified Public Accountant (CPA) who shall render an opinion to the Stanislaus County Auditor-Controller. The opinion shall be forwarded to the Board of Supervisors for review and acceptance. The Stanislaus County Auditor-Controller shall select the CPA.

## INVESTMENT RELATED EXPENSES

The expenses of administration of the TSA funds shall be paid from interest earnings on the TSA funds. Total costs shall not exceed 25 basis points (0.25%) of the average daily balance of the portfolio for any fiscal year. Investment related expenses shall include:

- a) Normal Treasurer/Tax Collector costs for staff and support services in the area of investment transactions
- b) Custodial safekeeping of securities and banking services related to the TSA funds
- c) Accounting, reporting and auditing of all funds transactions
- d) Informational and educational materials and services related to investment of the funds
- e) Materials showing financial conditions of issuing agencies
- f) Other duties and costs related to the management of the investment of TSA funds

## POLICY REVIEW AND AMENDMENT

This Policy shall be reviewed on an annual basis. Any changes must be prepared by the Stanislaus County Treasurer/Tax Collector and then reviewed and approved for propriety by the Stanislaus County Board of Supervisors.