

RECORD OF PROCEEDINGS

O'Brien Prtg. & Stat. 90912

MINUTES OF BOARD OF DIRECTORS MEETING OF THE PUEBLO CONSERVANCY DISTRICT FEBRUARY 23, 1979

The meeting of the Board of Directors was called to order by the President at 2:20 P.M., on the above date in the Conference Room at the District's Office, 111 E. 5th Street, Pueblo, Colorado.

DIRECTORS PRESENT : P. Kelly, K. Farley and G. Sandstrom
ENGINEER PRESENT : R. Koester
ATTORNEY PRESENT : L. Ward

It was moved and carried that the minutes of the January 30, meeting be approved as read.

The Treasurer's report was read and approved after including an additional invoice for payment of insurance.

The following vouchers were approved for payment:

16435	Park National Bank	\$130,000.00
16436	Midland Federal Savings	100,000.00
16437	American Insurers, Inc.	20.00
16438	K L H Engineering Consultants	430.00
16439	Kathleen Farley	40.00
16440	Patricia Kelly	40.00
16441	Gus Sandstrom, Jr.	40.00
16442	Predovich & Ward Attorneys	150.00
16443	Bryan-Holloran Insurance	507.00

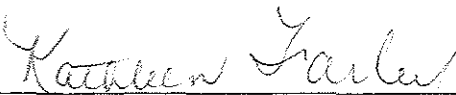
The Treasurer was instructed to transfer \$9,410.55 to the Tel-a-Transfer account to return the checking account balance to \$150.00.

Attorney Ward made a report to the Directors on the Multiple Custodian Plan of investment of Public Funds.

Ward will continue research with FDIC on the policy, but until confirmed, we will not invest with those institutions not collateralizing deposits.

The next regular meeting of the Board was set for 11:00 A.M., Thursday March 29, 1979.

There being no further business the meeting adjourned at 3:00 P.M. to attend a field inspection tour of the West 11th Street Bridge area, by all members present.


Kathleen Farley, Secretary

TREASURER'S REPORT

Date February 20, 1979

Acct. #	Account	1978 Spent	1979 Budget	Current Mo. Voucher	Total @ 2/20/79	Unused Portion of Budget
#80	Attorney's Fees	\$ 1,800.	\$ 1,800.	150.	300.	1500.
#81	Director's Fees	1,400.	2,160.	120.	200.	1960.
#83	Engineer-Administrative	4,560.	4,560.	380.	760.	3800.
#90	Audit Fees	575.	750.	--	--	750.
#92	Insurance & Bond Premiums	1,013.	1,100.	527.00	597.	503.
#96	Office Supplies, Postage	377.	700.	--	159.	541.
#97	Office Rent	600.	600.	50.	100.	500.
#100	Professional Fees	5,543.	12,000.	--	--	12000.
#105	Repairs & Maintenance of Flood Protection Works	14,591.	30,000.	--	--	30000.
#108	Contingencies, unforeseen	000.	5,000.	--	--	5000.
#109	Reserve for emergency flood repairs	000.	36,330.	--	--	36330.
		\$25,459.	\$95,000.	\$1227.	\$2116.	\$92,884.

TOTAL EXPENDED THRU CURRENT MONTH \$ \$2,116.

Vouchers # 16437 thru # 16443

Amount to be transferred \$ 9410.55 from checking to Tel Transfer

Deposits _____

Tel Transfer Balance 2/1/79 \$15,479.08

Checking Account Balance 2/1/79 - \$10,787.55

Total CD's 1,320,000.



minutes
FEDERAL DEPOSIT INSURANCE CORPORATION, Washington, D.C. 20429

OFFICE OF THE GENERAL COUNSEL

May 25, 1978

Mr. Roy Romer
State Treasurer
State of Colorado
Department of the Treasury
Denver, Colorado 80203

Dear Mr. Romer:

In your May 18, 1978 letter, you requested our confirmation of the May 17, 1978 Colorado State Attorney General's opinion which states that the FDIC insurance coverage of \$100,000 per public unit extends to each duly authorized custodian of Colorado counties, cities, towns, and school districts.

Please be advised that the opinion is correct with respect to the extent of the FDIC insurance coverage.

Sincerely,


Jerry L. Langley
Senior Attorney

Federal Home Loan Bank Board

Office of General Counsel



1700 G Street, N.W.
Washington, D.C. 20552
Federal Home Loan Bank System
Federal Home Loan Mortgage Corporation
Federal Savings and Loan Insurance Corporation

May 26, 1978

Honorable Roy Romer
Colorado State Treasurer
140 State Capitol
Denver, Colorado 80203

Dear Mr. Romer:

This is in response to your letter of May 18, 1978, in which you asked whether custodians of public unit funds appointed pursuant to Colorado Senate Bill 249 are each separately insured for up to \$100,000 under § 564.8 of the Insurance Regulations (12 C.F.R. § 564.8). Colorado Senate Bill 249 authorizes certain political subdivisions in Colorado to appoint multiple custodians to invest the funds of such political subdivisions.

Section 564.8 provides that monies of a State or political subdivision deposited in insured associations within the State are insured for up to \$100,000 with respect to "[e]ach such official custodian lawfully investing such funds". It appears that additional custodians for public funds appointed pursuant to Colorado Senate Bill 249 are official custodians lawfully investing public funds. Accordingly, accounts held by such custodians are separately insured for up to \$100,000 as provided in § 564.8.

Sincerely yours,

Anne P. Jones
General Counsel

Jerome S. Plapinger
By:

for Jerome S. Plapinger
Associate General Counsel



J.D. MacFarlane
Attorney General

David W. Robbins
Deputy Attorney General

Edward G. Donovan
Solicitor General

The State of Colorado
DEPARTMENT OF LAW
OFFICE OF THE ATTORNEY GENERAL

STATE SERVICES BUILDING
1525 Sherman Street, 3rd. Fl.
Denver, Colorado 80203
Phone 839-3611 & 839-3621

May 17, 1978

Hon. Roy Romer
Colorado State Treasurer
Room 104, State Capitol Bldg.
Denver, Colorado 80203

Re: Effect of S.B. 249 (1977) upon Treasurer's Authority
to Appoint Custodians to Deposit State Monies

Dear Mr. Romer:

I am writing in response to your oral request for an opinion concerning the extent of insurance coverage permitted deposits of state monies in financial institutions insured by either the Federal Deposit Insurance Corporation (F.D.I.C.) or the Federal Savings and Loan Insurance Corporation (F.S.L.I.C.). More particularly, you have asked whether S.B. 249 (1977) would authorize you, as Treasurer, to divide the custodial authority over state funds, by delegating such custodial function to other persons within your office. If such a division of custodial function is proper, each of the custodians would be insured to the \$100,000 limit as authorized by Title 12, U.S.C., §1728(d)(i). In addition, you have asked whether S.B. 249 also permits various other public units to appoint multiple official custodians within the meaning of applicable F.D.I.C. and F.S.L.I.C. regulations.

As you are aware, on June 16, 1976 the Attorney General rendered an opinion regarding this matter, a copy of which I am attaching hereto. It clearly appears that the primary purpose of S.B. 249 was to authorize custodians of public monies to divide such custodial duties and authority amongst other officers or employees of the state, counties, cities or other political subdivisions.^{1/} This intent is clearly manifested by

^{1/} Sections 330.7 and 561.56, Title 12, C.F.R. each define the term "independent activity" as meaning "any activity other than one directed solely at increasing insurance coverage". My initial concern was that S.B. 249 would not be construed by F.D.I.C. or F.S.L.I.C. as (cont'd)

the amendments to C.R.S. 1973, 30-10-708(1) and 31-20-303(1), relating to the deposits of public funds held by county and city treasurers, by providing the following language:

"For the purposes of investment of funds of the [county or city] ... [the board of county commissioners or the city council], by written resolution, may appoint one or more custodians of the funds...."

With regard to funds belonging to a school district in Colorado, S.B. 249 has amended C.R.S. 1973, 22-32-105 and 107 to provide for the appointment of multiple custodians for the purpose of depositing such funds in financial institutions. The pertinent language of C.R.S. 1973, 22-32-107 provides that -

"In all cases where the moneys belonging to a district are withdrawn from the county treasurer, such withdrawn moneys and all other moneys belonging to the district shall be deposited by the treasurer of the board or such other custodians authorized and appointed by the board...."

Based upon the foregoing amendments, it is now clear that counties, cities, towns and school districts may, by resolution, appoint multiple official custodians for their public funds. Each such custodian would then receive the maximum of federal insurance - \$100,000 per time or savings account - for each separate public unit for which he or she is the lawful custodian. See Title 12, C.F.R., Sections 330.8(a)(b) and 564.8(a)(2) and Appendix E to section 564.

(cont'd)

providing the newly authorized multiple custodians with sufficient "independent activity" within the meaning of the federal regulations to warrant increased insurance coverage. However, through a telephone conversation with Mary Ryan, Senior Attorney, F.D.I.C., I was informed that the term "independent activity" is limited to private partnerships or corporations; and that such term has no application to public units and their custodians.

May 17, 1978

However, no comparable amendment was adopted with reference to the custodial duties of the state treasurer. C.R.S. 1973, 24-36-101 provides that the state treasurer "... is the official custodian of all state moneys and securities, unless otherwise expressly provided by law." Further, C.R.S. 1973, 24-36-104(1), not amended by S.B.249, provides -

"All moneys received by the treasury department shall be promptly deposited in such national or state banks doing business in this state as the state treasurer shall select. Accounts in such depositories shall be carried in the name of 'Treasurer, State of Colorado', and withdrawals therefrom shall be made by checks or drafts drawn and signed in such manner as the state treasurer shall direct."

See also C.R.S. 1973, 24-36-109 authorizing the treasurer to purchase certificates of deposit "issued in the name of Treasurer, State of Colorado."

S.B. 249, however, did amend C.R.S. 1973, 24-75-603(1) to now provide, in pertinent part that -

"It is lawful for the state of Colorado and any of its institutions and agencies, counties, municipalities, districts, and any other political subdivision of the state, and any department ... thereof ... whenever any of the foregoing have funds, and for any bank, savings and loan association, industrial bank ... [or] any other financial institution ... to deposit or cause to be deposited either by or through the treasurer or such other custodian of funds as may be appointed, such funds so eligible for investment in any state bank, national bank, or state or federal savings and loan association in Colorado...."

Based upon the analysis above, I cannot conclude that the state treasurer is presently authorized by statute to appoint multiple custodians for public funds in his custody. While the appointment of such multiple custodians may have been intended to be accomplished by the sponsors of S.B. 249, as evidenced by the amendments made to C.R.S. 24-75-603, no corresponding amendments to sections 24-36-101, 24-36-104(1), and 24-36-109 were made. In my opinion, legislation specifically empowering the state treasurer to divide public funds amongst such other additional custodians he may appoint is required

Hon. Roy Romer

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before others may be clearly considered as "official" custodians for federal insurance purposes. Regulations thus far adopted relating to F.D.I.C. and F.S.L.I.C. insurance of public funds do not provide a definition of the term "official custodian". S.B. 249, by its omission of amendments to the state treasurer's power in this regard, is not sufficient to accomplish this purpose.

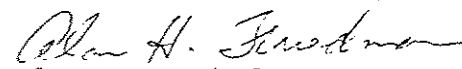
Lastly, this opinion relates solely to the question of whether S.B. 249 now permits the appointment of additional "official custodians". This opinion does not deal with any other issues, such as the insurability of trust funds or the operation of rules concerning the aggregation, for federal insurance purposes, of different funds held by the same custodian.^{2/}

CONCLUSION

In sum, the state treasurer, in my opinion, is not authorized by statute to delegate any authority to any other person to act as "official custodian" of state funds for the purpose of obtaining additional F.D.I.C. or F.S.L.I.C. coverage. Legislation amending sections 24-36-101, 24-36-104(1) and 24-36-109 would be required before such delegation could be properly made. With respect to counties, cities, towns, and school districts, S.B. 249 effectively creates the authority for such public units to appoint multiple official custodians who would receive independent F.D.I.C. and F.S.L.I.C. insurance coverage, assuming all other federal regulations are satisfied.

I hope the foregoing is of assistance and fully responsive to your inquiry.

Yours very truly,


Alan H. Friedman
First Asst. Attorney General
General Legal Services

AHF:ls

^{2/} The rules dealing with aggregation of public funds were considered, as to some issues, in my letter to you of April 10, 1978.