

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS AND REHABILITATION

PRISON INDUSTRY BOARD

PUBLIC MEETING

TUESDAY, DECEMBER 18, 2012

THE BOARD OF PAROLE HEARINGS

1515 K STREET

SACRAMENTO, CALIFORNIA

REPORTED BY:

ESTHER F. SCHWARTZ  
CSR NO. 1564

CAPITOL REPORTERS (916) 923-5447

1 **ATTENDEES**

2 **BOARD MEMBERS :**

3 MARTIN HOSHINO, CHAIR

4 JIM BUTLER

5 BRUCE SAITO

6 DARSHAN SINGH

7 MICHELE STEEB

8 RAY TRUJILLO

9 JEANNE WOODFORD

10 **STAFF :**

11 CHARLES L. PATTILLO, EXECUTIVE OFFICER

12 SCOTT WALKER

13 GARY ALARID

14 ERIC RESLOCK

15 PHYLLIS GUARE

16 LEE DOREY

17 DEVIN FONG

18 NATALIE McCORKLE

19 **COUNSEL :**

20 JEFF SLY

21 **GUEST SPEAKER :**

22 SCOTT HAMMON

23  
24 ----oOo----

1 Sacramento, California

2 TUESDAY, DECEMBER 18, 2012, 10:10 A.M.

3 ---oOo---

4 CHAIR HOSHINO: I call this meeting to  
5 order at approximately 10:10 a.m., Pacific Standard  
6 Time.

7 Good morning. I would like to welcome you all  
8 to the Prison Industry Board, staff and others.  
9 Specifically the Board Members, as always, thank you  
10 for you dedication and time and commitment to this  
11 public effort.

12 At this time I will begin by asking the Board  
13 secretary to call the roll.

14 MS. GUARE: Good morning, everybody.

15 Chair Hoshino.

16 CHAIR HOSHINO: Here.

17 MS. GUARE: Delegate for DGS is --

18 MEMBER BUTLER: Jim Butler for Chief Deputy  
19 Director Almanza.

20 MS. GUARE: Thank you.

21 Member Chapjian is absent.

22 Member Davidson is absent.

23 Member Kelly is absent.

24 Member Masteller is absent.

25 Member Saito.

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MEMBER SAITO: Present.

MS. GUARE: Member Singh.

MEMBER SINGH: Here.

MS. GUARE: Member Steeb.

MEMBER STEEB: Here.

MS. GUARE: Member Trujillo.

MEMBER TRUJILLO: Good morning. I'm here.

MS. GUARE: And Member Woodford.

MEMBER WOODFORD: Good morning. I'm here, also.

MS. GUARE: Thank you. We have a quorum.

CHAIR HOSHINO: Thank you, Madame Secretary.

Let the record reflect we have a quorum. I would like to start by opening with two general comments. Namely, about the strategic planning session that we are planning to have in January, I think, the 23rd of next year. I think it is going to be a good opportunity for us to have a broad conversation about PIA, our role in the California correctional system and the communities of California and things that we can do. I think it is a chance also for folks to get together and to integrate together, and, let's face it, some old

1 fashion team building opportunities in a typical --  
2 in a different kind of setting that we traditionally  
3 operate in.

4 My impression, we talked about this a little  
5 bit at the last Board meeting, how there is so much  
6 change going on in the Department right now. And  
7 everybody's touched and affected by what is going on  
8 in what we call a post-realignment world. It  
9 actually started before realignment, and you really  
10 have a correctional system that at its peak was at  
11 172,000 inmates. A parole system that had 120,000  
12 parolees. You are looking at a parole system that's  
13 dropped about 42,000 of that population. Plans to  
14 drop more of that population in its brick and mortar  
15 prisons, as well as a parole population that has  
16 been cut in half. Literally to about 60,000 today,  
17 and could end up somewhere in the 30- to 40,000  
18 range.

19 Given all that change and a whole lot of -- I  
20 won't call it turmoil, but there's been a lot of  
21 things going on in the Department right down to a  
22 guard changing, a housing unit changing, a mission  
23 changing. At the same time we've embarked on an  
24 ambitious classification project in the Department.  
25 We've also embarked on some more progressive

1 techniques for dealing with security threat groups,  
2 also known as gangs, in the prison system. We've  
3 also gotten some more construction pieces that we're  
4 planning to do in terms of expansion. We've got a  
5 new prison hospital coming on line in June of next  
6 year, which will shift other elements of the  
7 population around and might bring with it more  
8 changes across the spectrum of the system.

9           So it seems appropriate that every program, A,  
10 be very informed about what is going on and, B,  
11 think about what the opportunities are there and how  
12 it will continue to add value to the good work that  
13 it's doing today in order to maintain that, but also  
14 to take a step back, to take a look at different  
15 things or other things we should be doing along the  
16 way and getting organized for that.

17           I would like to commend the Board staff for, I  
18 think, doing an amazing job, like many of the other  
19 programs that have been out there, to try and stay  
20 in step and in tune with what is going on in terms  
21 of the dimension of the change, the level of the  
22 change. Right down to high levels, but down to the  
23 organic level in keeping things working.

24           It hasn't been easy, I would say, on any  
25 executive or any manager with the Department to

1 whittle their way through all of this. And by no  
2 means is it really owed to some extent. But the  
3 good news, I think things are settling in. So  
4 really an appropriate time in January for us to at  
5 least have a first discussion and conversation.

6 And I think it was Member Steeb that let us  
7 know, or at least reminded me, that there had been  
8 some discussion about this in prior Board meetings.  
9 And I'm happy to say -- I'm happy to see that we're  
10 going to be doing something like this in January.  
11 Whether we get it all done then, I don't know, but I  
12 know that Mr. Pattillo has been organizing that  
13 effort for us. So looking forward to that.

14 At this time, then, I invite any other Board  
15 Members to make any comments for the record, if they  
16 wish.

17 Seeing none, we will move to the General  
18 Manager's comments.

19 MR. PATTILLO: For the record, my name is  
20 Charles Pattillo. I am the General Manager of  
21 CALPIA, California Prison Industry Authority,  
22 Executive Officer of this Prison Industry Board.

23 Today we have four action items and two  
24 information items on the agenda. One of the items  
25 is revising the annual plan, which includes an

1 operating budget that reduces our current year  
2 revenues based on many of those things that  
3 Secretary Hoshino went through about implications  
4 from downsizing Corrections, as well as changes in  
5 various revenue sources.

6 And we are still working on actions to reduce  
7 the deficit that we say is going to be \$3.7 million  
8 in the current year. One of the fortunate things  
9 for us is that we had such a substantial ability to  
10 garner cash over the last couple of years. And  
11 we've been able to do things like run an operating  
12 deficit at this time, but it can only go for so  
13 long.

14 One of challenges we have right now of our  
15 cash balances is most of our cash is segregated for  
16 OPEB, which is other post-employment benefits, as  
17 we've discussed numerous times. And currently there  
18 is a pending proposal to transfer about \$25,000,000  
19 of that from PIA to the general fund, and that is  
20 not a loan we're talking about. So there is a lot  
21 of moving parts that are going on right now.

22 You know, there is also significant increase in  
23 overhead payments that we are seeing across the  
24 board. I know we have a couple department level  
25 directors here that can relate to the pro rata in



1 their own department, as well as pro rata going up  
2 significantly. Over the past year, our OPEB went  
3 from about \$3.7 million to \$4.8 million in one year.  
4 That's the overhead that we pay to other state  
5 agencies, the Legislature, the Treasurer.

6 The biggest changes that we see in revenue are  
7 from the actions the Board took last month to  
8 diminish the modular building program, as well as  
9 the construction program, offset by some increases  
10 in pricing which we were catching up on where our  
11 margins had decreased.

12 The budget does have -- does include the  
13 proposed layoffs that were included in the  
14 diminishment of those facilities last month.  
15 However, given some civil service restraints,  
16 constraints, we probably won't do any actual layoffs  
17 until, probably, May at this point, given it's about  
18 a four-month to five-month process with the  
19 department of Cal HR, which is a combination of DPA  
20 and SPB.

21 The operating loss is exacerbated by fully  
22 funding the CTE programs that we have been  
23 operating. The Board put over from last time for  
24 discussion the staff's proposal that we de-fund  
25 those programs, based on the fact that they are not

1 statutory expenditure. And we had been funding it,  
2 but we are trying to work out some kind of agreement  
3 with CDCR for future funding. The Secretary has  
4 been working on this.

5 In addition, I sent you the other day a copy  
6 of the proposed legislation to fund that program  
7 that was passed by this Board several years ago that  
8 didn't go forward. And I think it needs to be  
9 addressed again with the Governor's office as well  
10 as the Legislature.

11 We are continuing to work on day-to-day cost  
12 control. One of the things, our administrative  
13 costs have gone down from last year, but they  
14 increased from what we thought it was at midyear.  
15 The retirement contributions are also becoming a  
16 significant issue. A lot of the stuff changes after  
17 we do our annual budget. Because we pass our budget  
18 every year before the 30th and that is not always  
19 the way that the State runs. Certain things happen  
20 after the State budget closes, including an increase  
21 in retirement contributions on our end. That  
22 usually impacts us. This budget takes into  
23 consideration that.

24 I mentioned the \$25,000,000 that the Department  
25 of Finance believes that is uncommitted funds. That

1 is money that the Board has been setting aside to  
2 abide by federal law that says we must fund, future  
3 fund, our other than pension requirements. At the  
4 end of this year we estimate we'll have \$32,000,000  
5 in cash set aside for that funding per federal  
6 requirement. The Department of Finance believes  
7 that is excess cash and has proposed that we  
8 transfer over \$25,000,000 of that money.  
9 Fortunately, that transfer can't occur under the law  
10 without the Department of Finance and Secretary of  
11 Corrections jointly signing a letter that says that  
12 is excess cash.

13         As I'm sure the Secretary's ears are burning  
14 now because I've said it so many times, it can't  
15 happen. I would appreciate the support of not  
16 letting this happen. It would make us insolvent  
17 very quickly. On the flip side of that, the last  
18 couple of years we've been trying to figure out a  
19 way to invest that cash. There is legislation that  
20 was approved approximately two years ago, two years  
21 ago now, that allows many agencies to reinvest that  
22 cash. Unfortunately, they didn't allow for  
23 California State agencies. So we -- it's just kind  
24 of a glitch in the legislation. We found a way to  
25 fall under that legislation. We're hopeful to

1 invest that cash and not have it slip by the  
2 Department of Finance.

3 As a result of that action taken last month in  
4 general restructuring, we submitted a layoff plan to  
5 Cal HR. We have approximately 12 positions, is what  
6 we have it down to after attrition. We had to  
7 submit a layoff of 33 positions because as for every  
8 one position that you propose to lay off, the  
9 department, State department, requests that you  
10 submit three. We are between 33 and 36, is what it  
11 will be. Fortunately, a lot of those folks are  
12 moving to attrition. We have positions that were  
13 available to them to go to other places. Some have  
14 gone to CDCR. So we are hoping that, as this  
15 attrition goes out in the four months it takes, that  
16 it will be minimal in the end, and we will be able  
17 to do a soft restructuring from there.

18 Any questions at this point?

19 Mr. Singh.

20 MEMBER SINGH: The \$25,000,000, what are we  
21 going to do without, you know, all that money?

22 MR. PATTILLO: We would be insolvent,  
23 Mr. Singh, as you and I talked about the issue. And  
24 it's just a real easy answer. As you know, it can't  
25 happen. What we are going to do in the interim,

1 since there's no tentative, there's no actions out  
2 there on paper that says this. We just know. We  
3 had a discussion with Finance. I'll resubmit a  
4 letter tomorrow stating that what would happen and,  
5 if it does become an issue in a legislative action,  
6 that this Board will take it before the board and  
7 oppose the action. I don't think there is anybody  
8 on this Board who would support the transfer and  
9 that doesn't understand what the implications could  
10 be to the PIA for the transfer.

11 MEMBER SINGH: We can stop that?

12 MR. PATTILLO: Mr. Singh, you, like  
13 everybody else, has -- you have a constituency which  
14 is really your appointing authority. And so I think  
15 discussions, especially when you have documents from  
16 us saying what the impact will be, sharing that with  
17 the folks that appointed you, is the best way for  
18 this to happen. And we can help you with anything.

19 MEMBER SINGH: I'll ask you.

20 MR. PATTILLO: Any other questions on that  
21 part?

22 MEMBER TRUJILLO: I, also, Mr. Secretary.  
23 Also, I'm a little concerned with that, Chuck. Not  
24 only that, but at the last meeting you put a letter  
25 together and answered some questions that I had

1 regarding the funding of some projects. The modular  
2 project being one. I received your letter that you  
3 sent CDCR, I believe. And in the letter they stated  
4 that information you were looking for was not public  
5 records. So maybe I should give the rest of this to  
6 the counsel.

7 Are you aware what I am talking about?

8 MR. SLY: Vaguely.

9 MEMBER TRUJILLO: Okay. There was a letter  
10 sent to every Board Member. I requested the letter,  
11 and every Board Member got it, regarding projects  
12 that we put on ice. And General Manager Pattillo  
13 wrote a letter to CDCR, I believe. I don't have the  
14 letter in front of me.

15 MR. PATTILLO: For clarification. I don't  
16 think I walked in with it. Mr. Trujillo at a public  
17 hearing requested any evaluation that CDCR had done  
18 of the modular building program and any response to  
19 that. A copy of previous letters of evaluation and  
20 my response to that evaluation, which was a very  
21 harshly worded critique, was given to Mr. Trujillo  
22 with a copy to every Member of the Board. That's  
23 what Mr. Trujillo is speaking of.

24 MEMBER TRUJILLO: My question, Counsel, is  
25 that not public records?

1           MR. SLY: Let me start with saying that the  
2 public records are defined in California Public  
3 Records Act at Government Code Section 6253, which  
4 basically states that records of a public agency are  
5 public records, unless specifically excluded in a  
6 statute, which 6254 has 31 subdivisions or  
7 specifically carve out exceptions to public records  
8 that wouldn't be subject to disclosure. Some  
9 examples might be preliminary drafts of memos,  
10 pending litigation, personal medical information  
11 about employees, state employees, proprietary  
12 information, investigations and many other numerous,  
13 specifically enumerated, exclusions.

14           Without seeing the letter that you are  
15 referring to, at this moment I can't imagine that  
16 the type of information that you're asking for would  
17 fall under one of those definitions. I would have  
18 liked to see how they referenced that. But my  
19 position at this point would be that I fail to see  
20 how that specifically falls into one of those  
21 exclusions, unless the information was being  
22 categorized as some type of preliminary draft or not  
23 formally requested document.

24           Since I don't have the letter, I can't give  
25 you a definitive answer on that. I would say it is

1 very hard to get to those exceptions.

2 MEMBER TRUJILLO: I will email the letter  
3 and get back with you. It's hard for me to believe  
4 it is not a matter of public record. The request  
5 had been made from our General Manager.

6 MR. SLY: Based on what I recall the  
7 discussion back in the public hearing in the last  
8 board meeting, and, again, without seeing how they  
9 categorized that information, I would find it  
10 difficult to think that the information would  
11 qualify under one of the specifically enumerated  
12 exclusions, but I can't rule out the possibility  
13 that it does. I would like to see their  
14 explanation. But it's not impossible to get to the  
15 exclusions. There are specific -- I said there were  
16 31 of them. But the default position in the State  
17 of California is records of a public agency are  
18 public records.

19 MR. TRUJILLO: Thank you, Counsel. I'm a  
20 little worried, Mr. Pattillo, General Manager, what  
21 is going on now, that they want \$25,000,000 from the  
22 program that we are doing here.

23 MR. PATTILLO: I share your concern,  
24 Mr. Trujillo. This is one of those times where  
25 Board Members -- I end up doing a lot of the banging



1 on people's heads on behalf of the Board on a lot of  
2 things. I get myself in trouble a lot.

3 Yes, Ms. Woodford, I do.

4 This is one of the cases where each of you and  
5 your constituencies need to step up and help us out  
6 on this. You know, Secretary Hoshino knows what the  
7 implications are, but this is just another one of  
8 those things. This is actually a small thing. I  
9 think we can resolve it very easily. But it's just  
10 a combination of things that constantly happen with  
11 PIA, whether it's getting thrown under the bus with  
12 furloughs, which was an easy one that we should have  
13 been out of, versus \$25,000,000. This is about as  
14 easy as a furlough decision. It just shouldn't  
15 happen.

16 Ms. Woodford.

17 MEMBER WOODFORD: Did this have something  
18 to do with the fact that the State Parks has this  
19 fund sitting over in the corner, all that big mess?  
20 Is this tied to that, or just a misunderstanding of  
21 what this fund is about? That we're really  
22 complying with the law.

23 MR. PATTILLO: It absolutely has to do with  
24 what Parks is about, and that is the issue. Some of  
25 you may or may not be familiar. There was a lot of

1 cash that was in certain accounts that weren't  
2 exactly accounted for when people were crying poor  
3 mouth about their state programs. These things  
4 happen.

5           The Department of Finance is looking very  
6 closely at anybody with cash, any type of account.  
7 They're looking at it generally. I explained to  
8 them very succinctly that this cash is for a certain  
9 federal requirement, and it can't happen. So I  
10 don't think anybody is unclear on it, but it is tied  
11 to what you spoke of.

12           MEMBER WOODFORD: Is there -- did we -- is  
13 there a different kind of account we can set up that  
14 makes it very clear that it is retirement?

15           MR. PATTILLO: It is. And our auditor will  
16 speak to it in a second. It is set aside in our  
17 financial statements as a requirement under  
18 generally accepted or, excuse me, Government  
19 Accounting Standard Boards 45, that it is set aside  
20 for that purpose. It is on our financial  
21 statement.

22           MEMBER WOODFORD: Is there a different kind  
23 of account so it doesn't look like a slush fund?

24           MR. PATTILLO: What the proposal is right  
25 now is to transfer that money over to CALPERS in a

1 higher investment fund. Take it off our books. So  
2 it's sitting as invested, as an investment. So it  
3 can't be swept. You can't sweep money out of  
4 invested funds. So that's what we're looking at  
5 right now. I was a little behind. I should have  
6 known that this was going to happen. When we were  
7 at \$20,000,000, we should have done it instead of  
8 waiting till we are at \$32,000,000.

9 CHAIR HOSINO: To demystify this a little  
10 bit because Member Woodford is dialing in on this.  
11 I think the General Manager is doing a job that he  
12 should be doing, just putting it on the screen or  
13 radar, so to speak, for the Board Members. There  
14 isn't an action that is pending that we know of in  
15 the administration.

16 MR. PATTILLO: No.

17 CHAIR HOSHINO: It is arising out of --  
18 because I want to tamp this down a little bit for  
19 everybody. It is arising out of proper diligence  
20 out of the State government, which is driven by the  
21 Department of Finance to identify all of the funding  
22 sources that are out there, that are either off  
23 general fund or off book or special fund, or however  
24 you want to describe it. But they generally don't  
25 come into the orbit typically of the general fund,

