Newspaper: The Times

June 27, 2007

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Lynch reverses course on tobacco bonds threat

By JIM BARON
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PROVIDENCE — For 24 hours, Attorney General Patrick Lynch roiled Rhode Island's political waters with a threat not to sign off on the sale of tobacco securitization bonds, a move that would have blown a $200 million hole in the revenue side of the state budget passed last week.

Never mind.

Lynch reversed course Tuesday, saying he is now satisfied with the document that needed his signature before the bonds could be sold and he signed it at about 3:30 p.m., about a half-hour past the deadline he cited Monday.

The attorney general gave as few specifics Tuesday about why he signed the document as he gave Monday in saying he might not sign it.

He told reporters that there were three amendments made to the "opinion letter" on Tuesday that caused him to believe that "Rhode Islanders are better protected than they had been previously" and prompted him to sign off. But he said he is "not at liberty" to say what those three amendments were because, until other people sign off on the bond sale agreement, it is not yet a public document.

He did say that one of the topics discussed by the principals in the bond sale is what constitutes "diligent enforcement" of the 1998 Master Settlement Agreement with the big five tobacco companies and whether that would be determined under state or federal law.

Lynch said diligent enforcement is a buzzword contained

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in lawsuits filed in states across the country by the tobacco companies that challenge whether those states are living up to their end of the MSA. If a court finds that a state is not enforcing the MSA diligently, that state could lose some or all of the money it had coming under the agreement in a given year, and leave itself open to subsequent suits in future years.

Lynch said the tobacco companies have started to go to court with such challenges to try to recoup some of the money they promised to pay out under the agreement.

Each of the 46 states that are part of the agreement receives tens of millions of dollars each year. Rhode Island in 2002 decided to sell that revenue stream — through 2025 — to bondholders and used the proceeds from the bond sale to, among other things, close a budget deficit that year.

This year the state decided to go out to bond again, selling the rights to collect the revenue due between 2025 and 2052, and is using the money to, among other things, fill a gaping budget deficit. That bond sale, Lynch said Tuesday, is now back on track to close today.

The MSA, Lynch said, involves hundreds of billions of dollars and sets out specific conditions the state must fulfill in order to ensure that it continues to receive money. Those conditions, he said, "are highly technical and complex. It's my job to slash through the technicalities and, ultimately, make the promise that the State of Rhode Island is continuing to comply with the terms of the MSA because, absent such compliance, the spigot could be turned off. And if we think we have budget problems now, we should try to imagine how magnified they would be without this funding.

"I had and still have concerns about how both the Legislature and the Governor intended to spend the MSA money and how the final budget prioritizes the way it will actually be spent," Lynch said in written statement issued Tuesday. "But I am not the gatekeeper of this money. Again, my role is to make sure that the wording of the bond document properly memorializes our state's obligations and efforts under the MSA."

"The legislature, the governor, both of whom have had different, varying suggestions about how to apply those monies over the last six months, it is their prerogative to make that decisions," Lynch said, "whether or not it disgusts me or any other Rhode Islander.

"There is far more at stake than the $100 million we are talking about today if we fail to execute a document that has sufficient language where I was satisfied that our interests were protected. I was not satisfied yesterday. I was not going to sign had there not been some amendments. At about 3:30 (Tuesday), I got final confirmation, I got out my blue pen and I applied my signature after my team and I reviewed it and were content that they had incorporated language regarding the concerns I had cited in the last 24 hours. The concerns I had (Monday) no longer exist."

Asked for comment Tuesday, Carcieri administration spokesman Jeff Neal said, "the attorney general was the one who raised questions about whether the attorney general was going to sign the document. Apparently the attorney general has made up his mind."