



Testimony before the Little Hoover Commission

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On behalf of the Department of General Services, I am pleased to provide written testimony to the Little Hoover Commission regarding the governance structure of the State Allocation Board (SAB or the Board). The SAB and the Office of Public School Construction (OPSC) fulfill a special mission – allocating billions of dollars in State bond funds to school districts for school construction and modernization. The SAB and OPSC have efficiently and effectively distributed the funds to build thousands of buildings used daily by schoolchildren throughout California. Since January of 1999, school districts have accessed nearly \$26 billion to build or modernize facilities to improve the educational environment for more than 3.63 million students. To its credit, the SAB conducts its affairs collegially and with a high degree of consensus and the organization produces exceptional outcomes.

I have been requested to comment on the following areas – board composition, governance structure, rules of operation, and the fiscal relationship between the SAB and the State.

Board Composition:

Government Code section 15490 provides for a Board composition of 10 members. This section reads as follows:

15490. (a) There is in the state government the State Allocation Board, consisting of the Director of Finance, the Director of General Services, a person appointed by Governor, and the Superintendent of Public Instruction. The board shall also include three Members of the Senate appointed by the Senate Committee on Rules, two of whom shall belong to the majority party and one of whom shall belong to the minority party, and three Members of the Assembly appointed by the Speaker of the Assembly, two of whom shall belong to the majority party and one of whom shall belong to the minority party.

The SAB authorizes the release of funds, and adopts and amends regulations to implement statutes and bond acts under the Leroy Greene School Facilities Act of 1998. Article 16, Section 1 of the California Constitution provides a unique exemption for the legislative members of the SAB to participate in executive functions.

Article 16, Section 1 of the California Constitution states:

Notwithstanding any other provision of this Constitution, Members of the Legislature who are required to meet with the State Allocation Board shall have equal rights and duties with the nonlegislative members to vote and act upon matters pending or coming before such board for the allocation and apportionment of funds to school districts for school construction purposes or purposes related thereto.

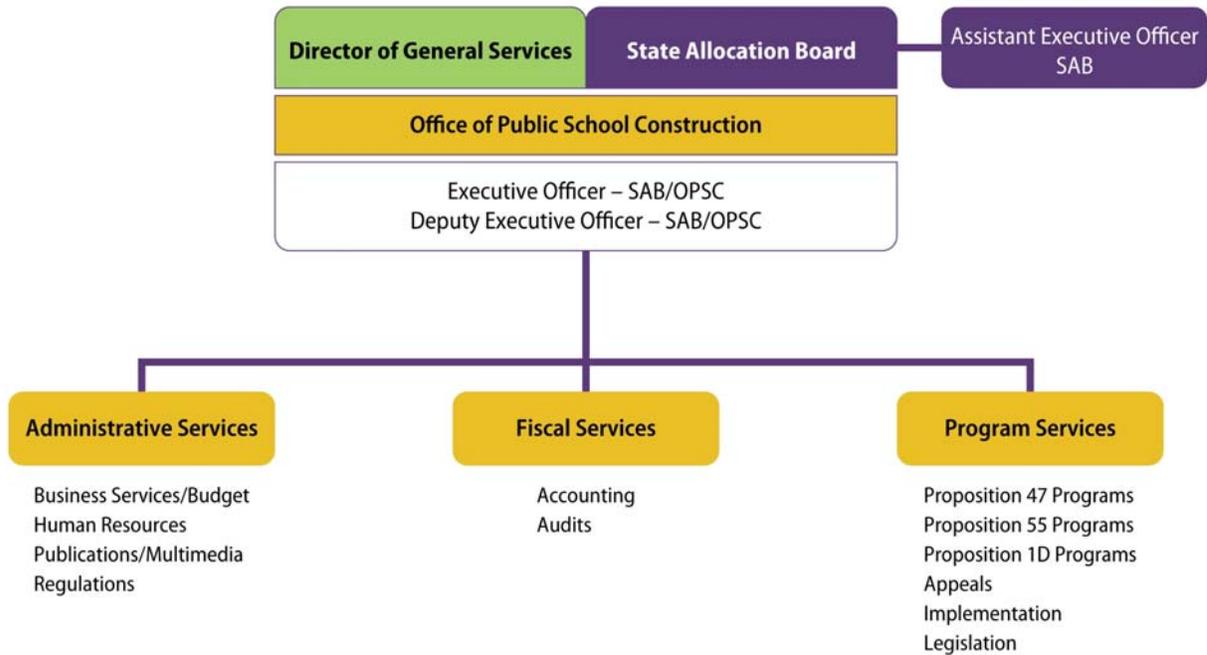
The members of the SAB change frequently. As the table below shows, nine of the ten members have changed since 2004. Five of the six legislative positions have changed hands at least once in that time. The key reason for turnover among legislative members is, of course, term limits. Frequent member turnover means that, as a body, the SAB loses its institutional memory. Under the current structure, staff of the OPSC is the one entity that can retain the institutional memory for the SAB.

	2004	2005	2006	2007
Senate	Dede Alpert	Jack Scott	Jack Scott	Jack Scott
	Bob Margett	Bob Margett	Bob Margett	Bob Margett
	Tom Torlakson	Alan Lowenthal	Alan Lowenthal	Joe Simitian
Assembly	John Dutra	Gene Mullin	Gene Mullin	Gene Mullin
	Jackie Goldberg	Jackie Goldberg	Jackie Goldberg	Kevin De Leon
	Lynn Daucher	Lynn Daucher	Lynn Daucher	Jean Fuller
Superintendent	Jack O'Connell (William Ellerbee)	Jack O'Connell (Kathleen Moore)	Jack O'Connell (Kathleen Moore)	Jack O'Connell (Kathleen Moore)
Public	David Sickler	Rosario Girard	Rosario Girard	Rosario Girard
Finance	Tom Campbell (Anne Sheehan)	Tom Campbell (Anne Sheehan)	Mike Genest (Anne Sheehan)	Mike Genest (Anne Sheehan)
DGS	Ron Joseph (Rob Cook)	Ron Joseph (Rob Cook)	Ron Joseph (Rob Cook)	Will Bush (Rob Cook)

Table 1 -- SAB Membership & Turnover

Governance Structure:

The figure below depicts the governance structure and the organization chart for the SAB and the OPSC.



The Executive Officer and Chain of Command

Education Code section 17070.20 provides that the Director of General Services administers the Leroy F. Greene School Facilities Act of 1998 and directs the Director to provide assistance to the Board as it requires. This section reads as follows:

17070.20. The Director of General Services shall administer this chapter and shall provide assistance to the board as it requires.

Government Code section 14620 establishes an executive officer of the Office of Public School Construction within the Department of General Services who is appointed by the Governor. It reads as follows:

14620. There is in the department a general services planning officer, a procurement officer, and an **executive officer of the Office of Public School Construction**. Each officer or executive director may be appointed by the Governor, upon recommendation of the director, and shall serve at the pleasure of the director. His or her salary shall be fixed by the director in accordance with law. Each officer or executive officer shall have any duties that may be assigned to him or her by, and shall be responsible to, the director for the performance of those duties.

It is the intent of the Legislature that this section is not to result in an increase in the number of positions in the department.

For the executive officer and the director of the department, the responsibilities and the chain of command are clear – the director is ultimately responsible for the execution of the programs authorized by the School Facilities Act and the executive officer is the director’s agent in executing those programs. Further, the Senate must confirm the Director of the Department of General Services. The statutes are clear, the chain of command is clear, accountability is clear and traditional checks and balances maintain separation of powers.

The Assistant Executive Officer and Chain of Command

Government Code section 15490(c) (1) authorizes the Board to appoint an employee to report directly to the Board as assistant executive officer. It states:

(c) The Director of General Services shall provide assistance to the board as the board requires. The board may, by a majority vote of all members, do one or more of the following:

(1) Appoint an employee to report directly to the board as assistant executive officer.

(2) Fix the salary and other compensation of the assistant executive officer.

(3) Employ additional staff members, and secure office space and furnishings, as necessary to support the assistant executive officer in the performance of his or her duties.

In contrast to the statutes authorizing the executive officer, no duties are defined for this role, no single person is responsible for assigning duties to this position, and the position does not report to any one person. Consequently, the position’s chain of command is unclear and accountability is equally unclear.

This position needs to be better defined to assign a structured chain of command and to create accountability.

Executive Officer Reporting Directly to the SAB

The current reporting structure of the executive officer is clear, direct, and accountable. As defined and executed, this position serves the SAB well.

Rules of Operation:

The State Allocation Board is a multimember “state body” for purposes of the Bagley-Keene Open Meeting Act and is subject to the rules and operating requirements of that Act.

Title 2, California Code of Regulations, section 1555 provides that six members of the Board constitute a quorum of the Board and that a vote of at least six members is required for all decisions and actions of the Board.

As noted above, the SAB conducts its affairs collegially and with a high degree of consensus under this limited operating framework. This approach seems to serve the organization well.

Fiscal Relationship between the SAB and the State:

Most of the operating funds for the OPSC and SAB come from general obligation bond funds. Funding for the organization is established through the State's budget process. This process includes the annual development of the Governor's Budget followed by legislative hearings and the enactment of a State budget. The executive officer is responsible for managing the budget as well as the operations.

Appendix 1 details the OPSC budgets, personnel, and program performance since the 1999-2000 fiscal year. The OPSC budget numbers include personnel costs (salaries and benefits), operating expenses such as rent, utilities, and travel, and an allocation to the DGS to provide support services such as human resources, information technology, and fiscal services. Since 1999-2000, these support services have cost the OPSC between six percent and eight percent of its overall operating budget. If the OPSC moved out from DGS to report directly to the SAB, there would still be a need to contract for the support services provided by the DGS. In all likelihood, the OPSC would achieve no savings under this alternative arrangement.

Such a spin-off could come at a bigger cost to working relationships, access to resources, and to advocacy within the administration.

Currently, the DGS is home to two of the three key agencies in school construction – the OPSC and the Division of the State Architect (the third is the Department of Education). A department director responsible for the success of both operations fosters a close working relationship between the OPSC and the State Architect. In addition, the OPSC is able to access substantial business, construction, and real estate expertise within the DGS. Furthermore, the Director of the DGS and the Secretary of State and Consumer Services Agency are now and have been strong advocates on behalf of the School Facility Program. Moving this program out of this support structure could weaken the program within the administration.

The importance of advocacy within the administration was the impetus for a recent reform. The California Seismic Safety Commission until recently operated as an independent entity – without benefit of agency support. Policymakers determined that the Commission needs to be under the structure of a state agency in order for its issues to be championed at the highest level of government. The legislature enacted SB 1278 in 2006 to execute this and other changes on behalf of the Commission. The Commission will now be under the State and Consumer Services Agency.

Conclusion

Within its present governance structure, the program has been highly successful. The OPSC has processed more than 8,600 projects and the SAB has set aside nearly \$26 billion for school facility construction and modernization over the last nine years to the benefit of more than 3.63 million students.

One improvement that could be made to benefit the organization is to develop a better definition of the assistant executive officer's role in order to assign a structured chain of command and to create accountability.

Appendix I
Fiscal and Program Performance

	1998/1999	1999/2000	2000/2001	2001/2002	2002/2003	2003/2004	2004/2005	2005/2006	2006/2007*	Totals
Positions										
Program Services	52.4	66.9	60.3	60.3	62.4	73.4	65.7	69.2	68.2	
Fiscal Services	29.0	27.0	29.8	29.8	32.4	34.3	43.0	42.0	40.0	
Administrative Services	38.0	34.0	38.4	38.4	35.1	30.8	32.0	32.0	35.0	
Total Positions	119.4	127.9	128.5	128.5	129.9	138.5	140.7	143.2	143.2	
Budget										
Personal Services	\$6,805,212	\$7,379,731	\$6,909,223	\$7,723,971	\$8,316,009	\$8,939,537	\$9,497,625	\$9,513,703	\$8,297,721	
Operating Expenses	\$2,682,934	\$2,931,800	\$2,808,110	\$2,634,687	\$2,349,546	\$2,035,392	\$2,711,328	\$2,538,321	\$1,860,633	
Support Services	\$622,000	\$701,000	\$722,000	\$898,000	\$836,000	\$864,231	\$937,000	\$925,000	\$967,000	
Total Budget	\$10,110,146	\$11,012,531	\$10,439,333	\$11,256,658	\$11,501,555	\$11,839,160	\$13,145,953	\$12,977,024	\$11,125,354	
Projects										
New Construction	203	236	215	79	817	567	772	477	307	3,673
Modernization	538	991	113	3	1,822	390	251	598	229	4,935
Total Projects	741	1,227	328	82	2,639	957	1,023	1,075	536	8,608
Funds Reserved										
New Construction	\$720,348,163	\$849,131,208	\$1,031,483,270	\$473,222,382	\$4,643,419,871	\$2,837,755,486	\$3,263,458,379	\$1,882,799,903	\$1,703,822,588	\$17,405,441,250
Modernization	\$804,270,769	\$1,631,936,170	\$190,522,446	\$4,507,303	\$3,031,384,319	\$696,562,366	\$429,975,262	\$1,355,567,414	\$378,011,084	\$8,522,737,133
Total Reserved	\$1,524,618,932	\$2,481,067,378	\$1,222,005,716	\$477,729,685	\$7,674,804,190	\$3,534,317,852	\$3,693,433,641	\$3,238,367,317	\$2,081,833,672	\$25,928,178,383
Funds Released										
New Construction	\$77,698,406	\$695,772,915	\$962,037,808	\$481,640,508	\$3,343,877,917	\$2,284,272,088	\$1,060,608,005	\$1,729,514,419	\$1,512,733,639	\$12,148,155,705
Modernization	\$238,601,238	\$456,743,949	\$1,435,162,237	\$469,738,205	\$1,461,180,512	\$1,597,441,802	\$713,237,598	\$1,127,869,530	\$577,623,652	\$8,077,598,723
Total Released	\$316,299,644	\$1,152,516,864	\$2,397,200,045	\$951,378,713	\$4,805,058,429	\$3,881,713,890	\$1,773,845,603	\$2,857,383,949	\$2,090,357,291	\$20,225,754,428

New Construction amounts include all other non-modernization programs including Critically Overcrowded Schools, Charter School Facilities, and Joint Use.

*Partial year - 2006/2007 fiscal year ends June 30, 2007