

LITTLE HOOVER COMMISSION

May 4, 2007

Governance Structure

Yes, the Executive Officer is appointed by the Governor and as such has had latitude to report to the State Allocation Board (SAB) without interference from the Director of the Department of General Services. Generally, the Director has been respectful of this position and has not interfered with reports and or directives from the SAB. In my experience, the Director's only goal has been that the SAB is provided with the service they expect from its staff and that SAB directives are adhered to.

The Office of Public School Construction (OPSC) and its staff are very loyal to the SAB and see themselves as working for the SAB. They understand the structure and its reporting relationship to the Department of General Services. I'm aware of other governance structures wherein the Executive Officer is selected by the Board. However, I'm not aware of any Board that is dealing with billions of dollars of General Obligation Bonds that builds schools and modernizes existing facilities all over the State of California. It is appropriate that the Executive Branch of State Government be accountable to the voters of California. Most actions taken by the SAB are administrative in nature and therefore a smaller Board should be considered.

I'm not an expert on other Board's and Commissions so I leave it to the Little Hoover Commission to analyze alternative governance structures that are relevant and compare them to the State Allocation Board.

Board Composition

I agree that the majority of the functions of the SAB are largely within the executive branch of state government and that there is a legislative majority on the Board. Because of the majority of the Board members are legislative, it can at times become politically driven. I do believe that the public would be better served if there was more balance in the composition of the Board. Today, depending on the issue there is a tendency to make Legislative appointments at the last minute to obtain the outcome that the party in power is looking for. Changing Board members every month or changing members based on the issue is inappropriate. The school district community should be able and have the right to know who is sitting on the Board from one month to the next.

In the past the Board was made up of seven Board members, four legislative members and three administrative positions. Individuals responsible for the appointments made sure that the Board had representative from the Senate and the Assembly with a representation from the Republican/Democratic Party. This is not the case today.

Rules of Operation

The SAB has adopted quorum and voting rules (see attached report under for *Board Proceedings*). Yes, traditionally the Department of Finance has chaired the SAB and this topic was discussed at the January 25, 2006 and the SAB felt comfortable with the current chair and choose not to make any changes at that time. The SAB also discussed that this could be changed by a majority vote of the SAB at any time. At this time the SAB has selected the Department of Finance as its chair. The current rules have worked for the SAB.

Fiscal Relationship between the SAB and the State

The Department of General Services has the responsibility to provide the SAB with staff in order to support the SAB and its Programs. The OPSC works for the Board and carries out the Board's mission. The Board provides funding to school district to build schools and modernize existing schools and other programs that are the responsibility of the Board. As such, the OPSC through DGS is required to go through the budget process like any other State office. The OPSC is a responsible organization and has done a great job for the SAB. If the Little Hoover Commission is to make a recommendation that the OPSC report directly to the SAB; the change will not be visible.

The OPSC has always been loyal to the Board and will continue to do a great job for them. Staff has been responsive to the Board and has provided the Board with information whether or not it is what the Board wants to hear and has always deferred to the Board to makes its own decision based on the facts. The OPSC has always understood that ultimately it is the Board decision regardless of its recommendation.

accept report

REPORT OF THE EXECUTIVE OFFICER
State Allocation Board Meeting, January 25, 2006

ROLE AND REPORTING RESPONSIBILITIES
FOR THE OFFICE OF PUBLIC SCHOOL CONSTRUCTION

PURPOSE OF REPORT

To present a report regarding the role and reporting responsibilities of the Office of Public School Construction (OPSC).

BACKGROUND

At the August 2005 State Allocation Board (SAB) meeting, the Board directed the OPSC to prepare a report that provides clarification of the roles and responsibilities between the OPSC and participating State agencies, including the Department of General Services, the Department of Finance, and the Superintendent of Public Instruction. The following summary provides pertinent information as requested by the Board and demonstrates the organizational structure of the OPSC in relation to the SAB and related agencies.

DESCRIPTION

Responsibility of the State Allocation Board

The SAB is a statutorily created, administrative body that is responsible for determining the allocation of State funding (proceeds from General Obligation Bond Issues and other designated State funds) used primarily for the new construction and modernization of local public school facilities and is also charged with the administration of the State Relocatable Classroom Program, Emergency Repair Program, and the Deferred Maintenance Program. The SAB is the policy level body for these programs which are administered by the Department of General Services through the OPSC. The SAB meets monthly to apportion funds to the school districts, act on special items and appeals, and adopt policies and regulations as they pertain to the programs administered under the jurisdiction of the SAB.

Board Proceedings

In conducting its meetings, the SAB is subject to statutory requirements, Board regulations, and court decisions that may deal with the conduct of State multimember administrative body meetings. The Board has not adopted any comprehensive rules of order such as Roberts Rules of Order, legislative rules of procedure, or Mason Rules. The Board has adopted quorum and voting rules; these specify that any six members shall constitute a quorum, and a consensus vote of at least six members is required for all decisions or actions by the Board which expressly pertain to the apportionment or allocation of funds for the purpose of school construction and related purposes (Title 2, Regulation Section 1555, California Code of Regulations). In essence, the Board uses common law rules which has served its purpose well as members defer to the Chair throughout the course of its meeting regarding questions, concerns and matters of discussion, which allow the meetings to run in an organized fashion with full participation by all members. The traditional Chair of the SAB has been the Director of the Department of Finance or his/her designee.

Bagley-Keene Open Meeting Act

The Board is also subject to the Bagley-Keene Open Meeting Act which requires that a notice must be mailed to all persons on the OPSC mailing lists at least ten days prior to the public SAB meeting. The notice must state the time and the place of the meeting and give the name, phone number and address of a contact person who can answer questions about the meeting and the agenda. The notice needs to contain enough information to allow interested parties to decide whether to attend the meeting or to participate in that particular agenda item. The notice and agenda requirements apply to both open and closed meetings.

DESCRIPTION (cont.)

The Office of Public School Construction

The OPSC is a division within the Department of General Services that serves as staff to the SAB. The Executive Officer of the OPSC is a statutorily created position that is appointed by the Governor and is subsequently appointed Executive Officer of the SAB by resolution of the SAB. The Executive Officer of the OPSC reports to the General Services Director, who pursuant to statute, administers the programs of the SAB and provides assistance to the Board as the Board requires. The executive officers of the SAB generally consult with the Chair of the SAB when scheduling items for consideration by the SAB. The Executive Officer also responds to SAB related issues, district related issues, staff issues, and has the ultimate responsibility for items that are presented to the Board; taking into consideration input from the SAB members.

The Assistant Executive Officer is authorized by statute and is appointed by the SAB. The Assistant Executive Officer serves as the chair of the SAB Implementation Committee and is actively involved with the OPSC in the development of regulations to implement statutory programs.

The Deputy Executive Officer of the OPSC is appointed by the Executive Officer of the OPSC. The Deputy Executive Officer is granted, through a resolution approved by the SAB, the authority to perform all functions delegated to the Executive Officer, including but not limited to the authority to sign contracts authorized by the SAB and the authority to file regulations on behalf of the SAB.

It is incumbent upon the OPSC to prepare regulations, policies and procedures necessary to administer the SAB programs, and to work with school districts to assist them throughout the application process. The OPSC is responsible for ensuring that funds are disbursed properly and in accordance with the law and decisions made by the SAB.

The SAB meeting notice and agenda, prepared by the OPSC, informs the Board Members, school districts, Staff, and interested parties of all topics to be discussed at the monthly SAB meeting. After the SAB meeting, all actions taken by the SAB are recorded in the minutes of the Board meeting which then serve as the underlying source document used by the State Controller's Office for the appropriate release of funds. The minutes further provide a "historical record" of all SAB actions, and are used by school districts, facilities planners, architects, consultants and others wishing to track the progress of specific projects and/or the availability of funds.

OPSC's Support Operations Budget

The OPSC's operating budget is primarily funded with bond funds with the exception of positions established to support the Williams Settlement programs and Deferred Maintenance Program workload. The primary expenditure authority for the OPSC's support operations is provided in the Department of General Services budget item, however, some of the expenditure authority is provided through the budget items for the California Department of Education and the State Controller's Office. Most of the SAB/OPSC local assistance expenditure authority (Program apportionments) are tracked off budget.

The total current year support operations expenditures authorized for the OPSC is \$12.6 million with \$10.1 million for personal services and \$2.5 million for operating expenses. The OPSC has 142.2 positions authorized for the current year of which 13 are limited term positions that are set to expire on June 30, 2007.

DESCRIPTION (cont.)

Process for Presentation of Appeal and Special Items to the SAB

An Appeal item represents a request by a school district for special consideration by the Board regarding circumstances which the OPSC deems to be outside of the established State school program provisions and which cannot be otherwise administratively resolved. When considering appeal items, the SAB, as an administrative body, is responsible for making decisions in accordance with statutory requirements and board regulations.

A Special item may be specific to a school district or it may be a global issue, either of which Staff has determined should be brought before the Board. A special item may also be presented according to direction given by the Board, such as a requested report.

Regulatory Process

The SAB is charged with adopting regulations that implement the various statutory programs for which it is given responsibility. Upon enactment of legislation, the OPSC prepares an item to be heard by the SAB Implementation Committee to seek public input and discussion regarding the proposed implementation of regulations. The SAB Implementation Committee is made up of members representing various school-related associations, councils, and State departments with a vested interest in policy as it relates to school construction and funding. Meetings are attended by district representatives, consultants, architects, and other members of the public interested in school facilities. Once a proposed regulation package has been heard by the SAB Implementation Committee, the proposed regulation package is taken to the SAB for consideration and approval in accordance with the requirements of the Administrative Procedure Act. The SAB approved regulation package is then routed through the administrative process.

The Economic and Fiscal Impact Statement (Form STD 399) is required when submitting new or amended regulations. The 399 is set forth in the State Administrative Manual (SAM) and is a tool in determining fiscal and economic impacts to the State. The 399 must be signed by the General Services Director or his/her designee, the State and Consumer Services Agency Secretary and the Department of Finance.

AUTHORITY

EC Section 17070.20 states, "The Director of General Services shall administer this chapter [Chapter 12.5, Leroy F. Greene School Facilities Act of 1998] and shall provide assistance to the board as it requires."

EC Section 17070.35 (a)(2) requires the board to "Establish and publish any procedures and policies in connection with the administration of this chapter [Chapter 12.5, Leroy F. Greene School Facilities Act of 1998] as it deems necessary."

Government Code Section 1190 states that, "All assistants, deputies, and other subordinate officers, whose appointments are not otherwise provided for, shall be appointed by the officer or body to whom they are respectively subordinate."

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AUTHORITY (cont.)

Government Code Section 14620 states that, "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 may be appointed by the Governor, upon recommendation of the director, and shall serve at the pleasure of the director...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."

Government Code Section 15490 sets forth the existence and membership of the SAB and states, "The Director of General Services shall provide assistance to the board as the board requires."

Government Code Section 15490 (c) states that 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.

The California Constitution, Article XVI, states "that Members of the Legislature who are required to meet with the State Allocation Board shall have equal rights and duties with the non-legislative 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."

RECOMMENDATION

Accept the report.

REPORT OF THE EXECUTIVE OFFICER
State Allocation Board Meeting, March 22, 2006

STATE ALLOCATION BOARD VICE-CHAIR SELECTION

PURPOSE OF REPORT

To establish and define the responsibilities for a Vice-Chair for the State Allocation Board (SAB).

BACKGROUND

At the January 2006 SAB meeting, the Board directed Staff to develop a process by which a Vice-Chair would be established to support the Chair of the Board. Historically, the Chair has been the Director of the Department of Finance or his/her designee and in the absence of the Chair, the Director of the Department of General Services or his/her designee acts as Vice-Chair. This has been past practice and is not stipulated in the Government Code.

DESCRIPTION

In establishing the position of Vice-Chair and his/her responsibilities, the Board may wish to consider the following items:

Selection Options

- 1. a. The Vice-Chair will be a legislative member of the Board; or,
b. The Vice-Chair will be any member of the Board.
- 2. a. The Vice-Chair will be nominated and elected with approval by the majority of the quorum of the Board; or,
b. The Vice-Chair will serve on a rotational basis.

Duration

will of Bd.

The duration of the Vice-Chair term will be at the will of the Board.

Responsibilities

- 1. The Vice-Chair will assume all responsibilities of the Chair during his/her absence.
- 2. The Vice-Chair will participate with the Chair in reviewing the proposed SAB agenda.

RECOMMENDATION

Consider the items above in selecting a Vice-Chair and proceed with the selection (see Attachment).

Approved

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ATTACHMENT
State Allocation Board Meeting, March 22, 2006

STATE ALLOCATION BOARD VICE-CHAIR SELECTION

Selection of Vice-Chair from the legislative members of the Board:

- Senator Bob Margett
- Senator Alan Lowenthal
- Senator Jack Scott
- Assembly Member Jackie Goldberg
- Assembly Member Lynn Daucher
- Assembly Member Gene Mullin*

* Alternates with Assembly Member Joe Coto

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Selection of Vice-Chair from all members of the Board:

- Rob Cook, Deputy Director, Interagency Support Division, Department of General Services, designated alternate for Ron Joseph, Director, Department of General Services
- Kathleen Moore, Director, School Facilities Planning Division, California Department of Education, designated representative for Jack O'Connell, Superintendent of Public Instruction
- Rosario Girard, President and CEO, Phoenix Construction Services, Inc., appointee of Arnold Schwarzenegger, Governor of the State of California
- Senator Bob Margett
- Senator Alan Lowenthal
- Senator Jack Scott
- Assembly Member Jackie Goldberg
- Assembly Member Lynn Daucher
- Assembly Member Gene Mullin*

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* Alternates with Assembly Member Joe Coto