

Anne Sheehan – Little Hoover Commission Written Testimony – May 24, 2007

Overview

1. Provide a brief overview of the State Allocation Board (SAB) and its responsibilities.

The SAB is composed of 10 members: Director of Finance (Chair), Director of General Services, Superintendent of Public Instruction, 3 Senate Members appointed by the Senate Committee on Rules, 3 Assembly Members appointed by the Speaker of the Assembly, and the Governor Appointee.

- The SAB is the policy level body for the programs administered by the Office of Public School Construction (OPSC).
- The SAB determines the allocation of state resources (e.g., general obligation bonds and other sources) used for the new construction, modernization, and maintenance and repair of local public school facilities.
- The SAB meets monthly to apportion funds to school districts, act on appeals, and adopt policies and regulations as they pertain to the programs administered by the SAB.

Governance Structure

1. Discuss the authorities and chain of command of the executive officer and the assistant executive officer.

- Executive Officer:
 - Is appointed by the Governor as the chief of the OPSC, serving at the pleasure of the Director of General Services (DGS) with salary fixed by the director in accordance with law. Further, the chief also serves as the Executive Officer to the SAB.
 - In this dual capacity, the Executive Officer reports to the SAB and responds to related issues including district inquiries, manages staff of the OPSC, and has the ultimate responsibility for items that are presented to the SAB.
 - Pursuant to statute, DGS administers the programs of the SAB and provides assistance to the SAB as the SAB requires.
- Assistant Executive Officer:
 - Reports directly to the SAB.
 - Not technically a member of the OPSC management and has no line authority over OPSC staff.
 - By tradition has served as the chair of the Implementation Committee and provides input as OPSC develops the regulations to implement statutory programs.

2. Discuss the relative strengths and weaknesses of having an executive officer reporting directly to the SAB, outside the OPSC chain-of-command.

This discussion item could be interpreted in different ways. I am assuming the intent of this question requests discussion of the Assistant Executive Officer position, which reports directly to the SAB, outside of the OPSC chain-of-command.

Strengths:

- The Assistant Executive Officer may be able to call more immediate attention to stakeholder and individual Board member interests in items that may come before the SAB.

Weaknesses:

- Could create conflicts within the SAB and OPSC by providing a different interpretation of what the policies of the SAB are, or should be, with respect to adoption of regulations due to the Assistant's role with the Implementation Committee.
- May create conflicts within the SAB and OPSC with school districts regarding expectations of how the SAB may rule on controversial issues. The Assistant Executive Officer is approved by a majority vote of the SAB and can be perceived to have different objectives and goals than the OPSC.

3. Describe and analyze alternative governance structures that you think are relevant and compare them to the present one.

- A relevant example of an alternative governance structure is the California Transportation Commission (CTC). The CTC consists of nine members appointed by the Governor; confirmed by the Senate, all appointed to staggered four-year terms, and two non-voting ex-officio members, one from the State Senate and one from the State Assembly.
- The CTC is responsible for the programming and allocating of dedicated transportation funds and bond funds for the construction of highway, passenger rail and transit improvements throughout California.
- While the CTC is an independent commission with its own staff, the structure of the Commission appears to strike a more appropriate balance for legislative input in carrying out an Executive Branch function.
- I do not believe it is necessary for separate staff for the SAB, as the OPSC has all the expertise and capacity to support the SAB's activities.

Board Composition

1. Discuss what you see as the relative strengths and weaknesses of the present board composition and its alternatives.

Strengths:

- Legislative Members can potentially bring a general public interest perspective given they represent the people.
- Legislative Members may help clarify the interests of the Legislative Branch in general with regards to matters before the SAB.

Weaknesses:

- It could be more difficult for Legislative Members to balance local interests with statewide interests on matters before the SAB that affect their constituents.
- Because of the predominance of Legislative members on the SAB, their involvement in approving regulations could be perceived as re-interpretations of the laws that were not intended when the bill was signed. This essentially could allow a small portion of the Legislature to pass legislation administratively with no check or balance by the Executive or Judicial Branch.

Alternatives:

- As mentioned above, the CTC model could be a valid alternative.

2. Is the public best served with the present structure or would it be better served by reorganizing the board to include a different composition of public and legislative members? If you think it would be better served with a different composition, please outline what you think would be the best configuration.

The SAB was created at a time when the State was not the predominant source of funding for school construction. Since its creation, the State has played a larger role in this regard and I believe the public would be better served by reorganizing the SAB to include more public members with fewer legislative members. This would help with greater transparency and accountability.

Rules of Operation

1. Please describe and discuss the relative strengths and weaknesses of the SAB's current operation and any changes you would suggest:

Strengths:

- Ability to interpret law through the regulatory power of the SAB.
- Ability to grant apportionments to schools that appeal strict interpretations of law and regulations for the purposes of "equity".

Weaknesses:

- One weakness in current operating policy in my view is the Implementation Committee process. The Implementation Committee was intended to be an informal advisory body established by the OPSC to assist the SAB and the OPSC with implementation of new statutes. The committee membership is composed of many stakeholders, including school districts, county offices of education, architects, contractors, consultants, etc. in addition to relevant state agency representatives. The input of all these stakeholders is very important to the development of regulations by the SAB and OPSC. However, at times, it seems the Committee has strayed from an "advisory role" and has become more influential in program and policy development. This could upset the balance between policy and regulation development and fiscal responsibility if not monitored carefully.

Suggested Changes:

- None, as it relates to the rules of operation for the Board.
- Revamp the Implementation Committee process. Reclaim emphasis on the "advisory" role of the Committee.

2. Please comment on suggestions that the chair be named by the Governor or chosen by the SAB.

A format similar to the CTC could be adopted, wherein the Governor appoints members and the Chair is approved by those members. Absent a reform of the Board's composition, it seems most appropriate for the Department of Finance to continue as chair, given the primary role of the SAB to allocate state resources. With Finance as the chair, a strong voice for fiscal responsibility and transparency will be assured to the public. It is also appropriate because the administration of the State School Facilities Program (SFP) is appropriately an Executive Branch function and the Director of Finance is appointed by the Governor who heads that Branch.

3. Please comment on what you see as the relative advantages and disadvantages of adopting formal rules of operation.

Advantages:

- None, the Board has rules of operation.

Disadvantages:

- The SAB already operates under procedures similar to other Boards and Commissions and is subject to open meeting laws, statutory requirements, SAB regulations, and court decisions that may deal with the conduct of state multimember administrative body meetings.
- In summary, I do not see a compelling reason to change the rules of operation for SAB meetings. However, I reiterate the need to correct the process and role of the Implementation Committee to ensure it as purely an advisory role as initially intended. Further, it would be beneficial to review the qualifications of the committee chair and the committee's rules of operation to ensure that the fiduciary responsibilities of the SAB are applied.

Fiscal Relationship between the SAB and the State

1. Describe the fiscal relationships between the SAB and the state.

- Based on the recommendations of the OPSC, the SAB determines the specific allocation of state resources for school projects pursuant to statutory guidelines and regulations adopted by the SAB.
- The OPSC carries out the administrative activities of the SFP and the allocation of resources approved by the SAB.
- The Executive Officer, Assistant Executive Officer, and roughly 140 OPSC staff comprise a division within the Department of General Services costing approximately \$12.7 million in the current year. OPSC's state operations expenditure authority is determined through the normal budget process and appears in the Department of General Services Budget Act item (organization code 1760). The OPSC's operating budget is primarily funded with bond funds, with the exception of positions supporting the Emergency Repair, Deferred Maintenance and the State Relocatable Classroom Programs.
- The local assistance expenditure authority for funds administered by the SAB with OPSC's assistance is tracked off-budget and reflected in the State School Facilities Program budget display (organization code 6350), pursuant to the continuous appropriation authority authorized in various bond measures.

2. Comment on assertions by legislative SAB members that reported operational expenses do not accurately reflect the true administrative and operational costs because SAB is subject to the budgetary constraints of the DGS.

- I am not aware that the budget reflects inaccurate operational costs for the OPSC.
- The DGS participates in the annual budget development process and must justify its level of expenditures through the same processes any other department must comply with. While the budget process may not be perfect, it has served the state well by requiring expenditures to be scrutinized by both the Executive and Legislative Branches of Government through the annual budget processes.
- I would not advise exempting the OPSC budget from the annual budget process, irrespective of any alternative organization structure.

3. Please comment on the relative strengths and weaknesses of the fiscal relationship and outline any alternatives that you would propose.

Strengths:

- Provides an appropriate check and balance on state spending. State operations costs should continue to be approved through the budget process for transparency and public accountability.
- Local assistance authority for school districts should remain continuously appropriated through actions of an appropriately accountable SAB process.
- Given the timing of project needs and sheer volume of applications, the budget process would not be effective in rationing bond funds to local schools.

Weaknesses:

- None I can think of.

Alternatives:

- I offer no alternatives as the current fiscal processes are appropriate for carrying out financial assistance for local school districts.

4. In particular, please address the suggestion that the OPSC be moved out of the DGS and report directly to the SAB. Please describe what you see as the specific advantages and disadvantages of such a move.

Advantages:

- OPSC may be able to add staffing and expenditure authority in a timelier manner if workload projections were underestimated.

Disadvantages:

- If the OPSC was to become an independent agency, there would likely be greater costs due to dis-economies of scale. For instance, central accounting, budgeting and personnel related services would have to be duplicated. Also, similarly, staffing for information technology and business services operations may need to be increased.
- There may also be less accountability and transparency to the public for the following reasons:
 - The OPSC could become a quasi-legislative body due to the legislative majority on the SAB. It is not clear if there would be oversight on state operations expenditures. Currently, the Legislature and the Administration have input on state operations authority which is approved through the regular budget process, thus ensuring accountability and transparency.
 - The oversight procedures on local assistance allocations under such an arrangement are unclear. An undesirable balance could emerge unchecked between the funding desires of school districts and the fiduciary responsibility of the state.