Executive Summary

Californians want it all. They just don't want to pay for it.

Since 2006, Californians have added more than $54 billion to the state credit card in the form of seven statewide general obligation bond measures. Safer roads and less freeway congestion, modern classrooms for students, clean water, strong levees – these infrastructure investments all are important to many Californians. In 2006, California voters said yes to five bond measures for transportation improvements, K-12 and higher education facilities, affordable housing, levee improvements and natural resource protection. Experts generally agree that these investments were long overdue.

Despite the implosion of the worldwide economy in the fall of 2008, a plunge that hit California particularly hard, California voters generously took on another $10.5 billion in debt to lay the preliminary tracks for a high speed rail system and to fund improvements for children's hospitals.

It all sounds good, especially when advertising tells voters they can have it all with no new taxes.

But bonds are not free money.

Many voters, however, may be unaware that someday the bill for all this bond-financed spending will come due. In one survey of California voters, some two-thirds of respondents admitted they knew very little or nothing about how the state pays for bond measures.[1]

When Californians enact bond measures, they give the state the authority to take out long-term loans to pay for the items identified in the bond measure. For big ticket items that will provide benefits for generations to come, long-term financing is a prudent option, similar to a consumer taking out a mortgage loan to buy a house or an auto loan to pay for a car. Bonds provide the opportunity to pay for investments that the state either cannot or does not want to pay for upfront. But like a mortgage or a car loan, the money eventually must be paid back and paid back with interest.

Money to repay state general obligation bonds comes from the General Fund, the $80 to 90 billion in revenue that the state takes in each year through taxes and fees to pay its bills. When that revenue shrinks, as it typically does during economic downturns, the state must either find another way to add revenue or tighten its belt through spending cuts. As a result of the current recession, state revenue has declined during 2008 and 2009. Despite the decline in revenue, one area of the budget projected to continue to grow and grow the fastest is the debt service – payments the state must make on money it has borrowed through issuing bonds – currently expected to grow at a nearly 10 percent average annual rate.[2]

As a result of the 2008-09 economic meltdown, the day of reckoning for California's perpetually overdrawn checkbook has arrived. In May 2009, voters said no to lengthening the time frame for a tax increase enacted by lawmakers in February 2009 and they said no to borrowing from the lottery, or special funds for mental health and children's programs to close the budget gap. Even had voters said yes to some or all of the measures on the May 2009 ballot, California still would not have enough money to maintain the status quo in spending.

But unlike a household budget, where all options might be considered – downsizing to a smaller apartment for a lower monthly payment, selling a car and opting to take public transportation – not all of the state's budget items are on the table.

Funding for education is at the top of the state's budget list as voters have locked in a certain amount of spending for this priority. Second behind education is the state's commitment to repay its general obligation bonds. General obligation bonds are guaranteed by the California Constitution, as a result, repayment of the bonds takes priority over virtually all other state government expenses beyond education. Repayment of bond debt – or debt service – was less than 1 percent California's total budget in the late 1980s. In 2008-09, debt service has grown to 4 percent of the total budget, a four-fold increase since the 1980s.[3] As Californians commit more to debt without revenue increases, they limit the choices that future generations and future lawmakers can make about spending priorities.

So while the stem cell institute gets funded and children's hospitals get new and improved equipment, thousands of children may get cut from the rolls of the state-sponsored health insurance program. The reason is stem cell research and improvements at children's hospitals are funded with bond money, the state's health insurance program for needy children is not.

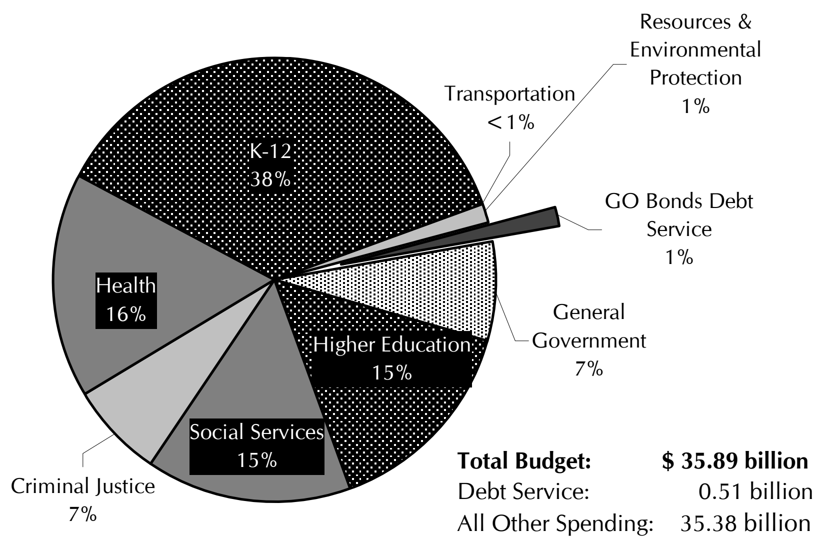
New schools get built while thousands of teachers get pink slips and lawmakers contemplate cutting class time. School facility construction is funded with bond money, teacher salaries are not.

Nearly $10 million is earmarked to improve the park entrance and redevelop day use features at Pfeiffer Big Sur State Park this year and the state has committed more than $5 million for a new visitor center at Calaveras Big Trees State Park, even as Governor Schwarzenegger is proposing to close both parks.[4] Park infrastructure improvements are funded with bond money, park ranger salaries and park operations are not.

But, the state budget deficit coupled with the worldwide credit crisis in 2008 proved that even bond-funded programs are not immune from fiscal downturns. In December 2008, the state's Pooled Money Investment Board, which provides interim financing for bond-funded projects, took the unprecedented step of freezing payments for some 5,400 projects.[5] In March, California successfully marketed new bonds, restoring the money flow to many of these projects.

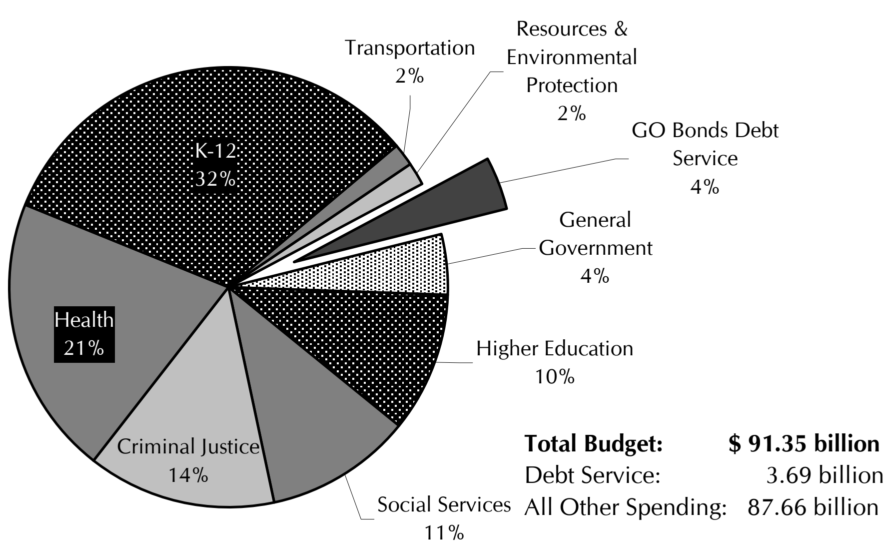
Despite this unprecedented setback, projects and programs funded through bond measures still take priority over other budget areas.

State Spending, Governor's Budget, Fiscal Year 1988-89



Source: Legislative Analyst's Office. See Appendix C.

State Spending, Governor's Budget, Fiscal Year 2008-09



Source: Legislative Analyst's Office. See Appendix C.

As Californians cast their ballots for bond measures, they set priorities that tie the hands of lawmakers when it comes time to trim the budget.

But California voters are not the only ones responsible for the growing debt. While it takes a majority vote to pass a general obligation bond measure, four of the five bond measures enacted by voters in 2006 were placed on the ballot by the Legislature and the governor. The $9.95 billion high speed rail bond placed on the ballot amid the 2008 recession, also was put on the ballot by lawmakers. Each general obligation bond measure requires a two-thirds majority vote in the Legislature and the governor's approval.

Because the repayment of bonds is such a high priority and, in all likelihood, lawmakers will be asking voters to approve more bond measures in the coming years to pay for decades of neglected infrastructure repairs and improvements, it is more critical than ever that government be transparent in its spending of bond money and accountable for the results.

Governor Schwarzenegger identified the need for improved oversight shortly after the 2006 bond package was enacted. In January 2007, he issued an executive order to implement a three-part accountability framework and provide expanded transparency by creating a bond accountability Web site: www.bondaccountability.ca.gov.

This study assesses whether these efforts to bolster accountability and transparency in bond spending – particularly for the five bond measures enacted in 2006 – are adequate or if more is required to ensure bond money is spent efficiently and effectively. This study also looks at additional opportunities to improve oversight through the Legislature or by government entities outside the administration. It also assesses existing models for allocating bond money in transportation and education and whether these models should be replicated for natural resources bonds.

Additionally, this study reviews the current process for getting bond measures enacted on the statewide ballot and options to improve clarity for voters. Finally, this study examines local bond oversight commissions, which oversee school and community college facility construction programs that are funded through state and local bonds, to assess their effectiveness and identify opportunities to bolster their potentially powerful role in bond oversight.

In this study, the Commission did not attempt to determine the best method for financing state infrastructure investments although it is a vital question – one to which the Commission has dedicated a separate study, currently underway. In its infrastructure policy and finance review, the Commission is exploring broad policy issues including how the state identifies, analyzes and prioritizes infrastructure projects, available funding sources and finance mechanisms, as well as current and potential demand management practices.

Additionally, the Commission acknowledges that an analysis of oversight mechanism can not occur in a vacuum. Although the focus of this study is on oversight of bond expenditures, oversight should begin before a bond is placed on the ballot. Several policy questions were raised that require a broader discussion in the Legislature, including:

- Limiting the use of general obligation bonds to capital projects that are valuable for the life of the bond; and,
- Capping the state's debt service.

These discussions are most appropriately taken up by the Legislature. The Commission recommends that the Legislature further study these broader policy options.

Broad Policy Questions Remain

During the course of its study, the Commission surfaced several policy questions that warrant further consideration by the Legislature:

Should bonds only be used for long-term capital projects? Akin to individuals taking out a long-term loan to make major purchase – such as buying a home or a car – should the state only use bond money to fund projects that are valuable for the life of the bond? Policy-makers also should explore whether project planning should be done prior to a bond award rather than financed with bond money.

Should bond measures be placed on the ballot if money from prior bond measures is not yet committed? In this report, the Commission recommends that the state's bond administering agencies standardize the terminology used for bonds, so it is easier for the public and policy-makers to understand how much of each bond measure has been appropriated, committed to fund a project and actually spent. The Legislature should consider keeping new bond measures off the ballot until all the money from prior bond measures funding the same or similar programs has been appropriated and committed to projects.

Should the governor and the Legislature be able to place general obligation bond measures on the ballot in any year when there is a budget deficit? Because general obligation bonds take priority over other projects that are paid for through the General Fund, an increase in general obligation bond debt further reduces the ability of the Legislature to make budgetary decisions during a deficit. Removing this option might ensure bonds are not used to exacerbate the state's debt burden during a fiscal crisis.

Should debt service be capped as a percentage of the state budget? In other words, should there be a limit to the amount of debt the state can incur? In this study, the Commission found that California's debt service was fairly average and other large states had a higher debt burden. But capping the debt service as a percentage of the state budget could rein in spending and force policy-makers and voters to prioritize infrastructure investments.

Should organizations that are awarded bond money pay a penalty to the state if the bond money is used for any expenditure not authorized by the bond measure, bond implementation legislation or the bond administering agency? The Commission heard that there is no hard sanction for organizations that misuse bond money. Rather than a verbal slap on the wrist, the possibility of incurring a financial penalty might deter organizations from mishandling the money.

Expanding Oversight & Accountability

After Californians enacted the largest bond package ever passed in the state in November 2006, Governor Schwarzenegger issued an executive order for all bond-administering entities to establish a three-part accountability system:

- ***Before spending the money*** – Front-end accountability by developing a strategic plan and performance standards for projects.
- ***During the project*** – In-progress accountability that documents ongoing actions needed to ensure that infrastructure projects or other bond-funded activities stay within the previously identified cost and scope.
- ***After the project is finished*** – Follow-up accountability in the form of audits to determine whether expenditures were in line with goals laid out in the strategic plan.

The executive order requires each administering agency to report on the status of its "in-progress" monitoring actions semi-annually to the Department of Finance, including expenditure information for projects that have begun. For the programs financed by the bond measures enacted in 2006, the Department of Finance is implementing enhanced auditing requirements with a performance measurement component.

In a recent report, the Bureau of State Audits found that nearly all bond-administering agencies had established the three-part accountability framework.[6] It is too early to tell whether the follow-up accountability – financial audits of completed projects by the Department of Finance or other auditing entities – will improve outcomes. Few projects have been completed and the audits will not begin on these projects until the 2009-10 fiscal year.

Independent Oversight

While bond-administering entities should continue to comply with the governor's three-part accountability requirements and improve transparency on the bond accountability Web site, the Legislature also must do more to ensure bond money is well-spent. Many of the bond-funded programs require annual budget allocations from the Legislature. This power of the purse provides the Legislature an opportunity to make sure that government agencies are providing annual reports on the bond programs, as required in statute, and are spending the money efficiently and effectively.

After voters enacted the 2006 bond package, the Legislative Analyst's Office published recommendations for the Legislature to improve its oversight. In a 2007 report, the LAO recommended the Legislature use joint committee hearings to review required annual reports from departments administering bond projects.[7] These annual reports, required by statute, must include a list of all projects authorized to receive funds and their geographical location, the amount of money allocated to each project and the project status.[8]

Some experts have suggested that more audits conducted by independent entities, such as the State Controller's Office or the Bureau of State Audits, rather than the Department of Finance, could improve oversight. They suggested that audits should be conducted while the programs are underway rather than after the fact, in the event that mid-course corrections are warranted. Money from the portion of the bonds set aside for administrative purposes could be used to expand the auditing staff of the State Controller's Office or the Bureau of State Audits to pay for more oversight.

Improving Transparency with Technology

In addition to the three-part accountability system, the governor's 2007 executive order also charged the Department of Finance with establishing a Web site where information on the progress of bond-funded programs would be readily accessible to the public. The Web site, www.bondaccountability.ca.gov, is administered by the Department of Finance, but individual bond-administering agencies are responsible for keeping data up-to-date.

Recent reports from the Legislative Analyst's Office and the Bureau of State Audits have found that although the bond accountability Web site is a step in the right direction, it must be kept up-to-date and accurate. If the goal is to provide an opportunity for the public to quickly and easily track where bond dollars are being spent, its content also must be made more consistent and user-friendly.

Experts who testified at the Commission's public hearing as part of this study said the Web site was hard to find and hard to navigate. While the Department of Finance acts as the portal, all of the information provided is maintained and updated by the bond-administering agencies. As a result, the information is as varied as the departments that are administering the bonds. Terminology used for bond money is inconsistent from department to department, making it confusing to determine how much money has been spent and how much money is still available. Some departments link program information to maps and geographical information systems, while pertinent information for other programs is either not available or out-of-date.

While the Department of Finance and the bond-administering agencies should be commended for getting the Web site up and running with existing resources, the state should turn responsibility for Web site management over to an entity whose role is to provide leadership and promote collaboration in the use of technology in state government. In the spring of 2009, as a result of a governor's reorganization plan, authority for information technology was consolidated in the Office of the State Chief Information Officer. Also in 2009, the OCIO was given responsibility for establishing and maintaining a Web site for the federal stimulus money. Like the bond accountability Web site, data for the www.recovery.ca.gov Web site comes from the departments administering the federal stimulus funds. The Department of Finance should continue to oversee the content of the information required to be reported, but the OCIO also should be tasked with administering the bond accountability Web site, making it more user-friendly and standardizing the terminology and the appearance of the site.

Replicate Models That Work

Some bond-funded program areas benefit from public boards and commissions that allocate bond money and provide a point of accountability for infrastructure investments. Several witnesses told the Commission that the state should replicate well-established models such as the California Transportation Commission (CTC) for transportation projects and the State Allocation Board (SAB) for school facility construction. Although all may not agree with the grants awarded by these entities, both have a well-defined, transparent process with ample opportunities for public input.

When voters passed Proposition 1B, the CTC had a pipeline of projects ready to move forward, enabling the money to be quickly committed to projects. Transportation infrastructure investment begins with local and regional planning. Local and regional transportation agencies develop lists of infrastructure needs through the state-required regional transportation plan development process. They also tap local and federal tax dollars for projects and planning. Before the CTC commits any bond money to a local project, the local agencies have to show they have completed or were on track to complete initial steps – including right-of-way purchases and environmental impact studies – ensuring that all state bond-funded grant awards would quickly turn into construction projects.

The Commission reviewed the governance structure of the State Allocation Board in 2007 and though it recommended several reforms of the board's structure, the Commission did not find weaknesses in the way it prioritizes and distributes bond money. Bond-funded transportation and school facility programs are easier to track than some of the state's other bond-funded programs and the outputs – successfully completed roads, highways and schools – are easy to document. Additionally, the lifecycle of these investments most likely will last the life of the bond, typically 25 or 30 years.

Not all bond-funded program areas, however, have the benefit of such lengthy experience with accountability requirements or public grant-making boards, nor do they fund such tangible projects as highways and schools. It is more difficult to track and assess the effectiveness of bond programs in other parts of government, particularly in the natural resources area, where bond money is spent on less tangible infrastructure projects such as habitat restoration or water quality improvement.

The state has spent some $1.6 billion in bond money to pay for programs under the CALFED Bay Delta program to improve water quality and reliability and restore the ecosystem in the Delta.[9] But after spending billions, water is still in short supply and populations of endangered fish species are crashing. It is difficult to track how the money was spent, what outcomes were achieved and whether taxpayers will be paying for these expenditures long after the value has diminished.

Additionally, natural resource bond money has been spent more liberally on project planning and science. Specifically, natural resource bond money has been used for studies or plans to determine ecosystem restoration, flood control or water supply needs. As one witness told the Commission, "wouldn't you think you would do a plan first, and then go ask for the money?"[10]

Witnesses told the Commission that an independent board or commission to oversee the allocation and spending of bond money on water programs could improve accountability and transparency. Specifically, government officials from the California Natural Resources Agency and the Department of Water Resources suggested resurrecting the moth-balled California Water Commission for this purpose. The California Water Commission was established in the late 1950s to oversee the construction of the state water project. It evolved in the late 1970s to provide broader input on water resources.

Beyond oversight of bond-funded water projects, a revived and reconstituted California Natural Resources Commission, modeled after the California Transportation Commission, could drive planning and add greater transparency to the bond allocation process and bring improved accountability to bond-funded natural resource programs.

Recommendation 1: The Legislature and state government entities administering bond programs must improve oversight to ensure bond money is spent efficiently and effectively and as voters intended. Specifically:

- Both houses of the Legislature should establish a bond oversight committee to review performance and financial audits of bond-funded programs and the annual reports statutorily required of bond-administering agencies.
- The Legislature should require independent audits, conducted by a private accounting firm or entity independent from the executive branch – such as the State Controller's Office or the Bureau of State Audits – that are systematic and transparent. The audit should cover the performance of the bond project as well as the dollar amount spent. The independent audit should include: the cost to the state; the level of overall bond indebtedness; and additional overhead as well as hard costs. This should be funded from the portion of the bonds available for administrative purposes.
- Additionally, the governor should charge the Office of the State Chief Information Officer with streamlining and managing the bond accountability Web site and developing mandatory uniform standards for tracking bond expenditures and the outcomes of those expenditures. These uniform standards must include common definitions for allocations and fund commitment so the public can easily understand what bond money has been spent and what is still available.

Recommendation 2: The state should reconstitute the California Water Commission as the California Natural Resources Commission and charge it with prioritizing and overseeing bond-funded programs currently managed within the California Natural Resources Agency. Specifically, using a public process, the California Natural Resources Commission should:

- Develop an overarching plan for funding state natural resources programs.
- Address cross-cutting issues within the bond-funded programs to ensure all government entities work in concert and not at cross purposes.
- Allocate bond money authorized for natural resource projects and programs.

Improving Transparency and Clarity for Voters

California voters can play an important role in ensuring bond money is spent efficiently and effectively by carefully reviewing the text of bond measures proposed on the ballot and approving only those measures that will pay for infrastructure investments that are their highest priority. All general obligation bonds must be authorized by a majority of voters. Unfortunately, when bonds are proposed to voters on the ballot, not only are they lengthy and complicated, they also are not presented within the context of the state's overarching needs for infrastructure investment or the state's overall budget.

Advertisements promoting statewide bond measures further obscure the picture. Often, ads promote a particular bond measure and tell voters that the investment can be made with no new taxes – whether it is to pay for a stem cell institute, high speed rail, children's hospitals or more traditional investments such as educational facilities. Although this is true, the money must come from somewhere, typically existing tax revenues. In enacting bond measures with no source of new revenue, voters are prioritizing funding for the programs identified in the bond measure above all other spending, outside constitutionally guaranteed education spending.

Voters have authorized some $54 billion in bond capacity since 2006. Every billion dollars financed costs the state approximately $65 million each year for up to 30 years.[11] When fully issued, this new debt will require approximately $3.5 billion annually from the state's General Fund for years to come.

Voters are not the only ones that have been on a spending spree. Of the seven bond measures passed in 2006 and 2008, five, totaling nearly $48 billion of the $54 billion enacted, were placed on the ballot through the legislative process, meaning the measures were approved by two-thirds of the Legislature and signed by the governor before being placed on the ballot. The other two recently enacted measures were placed on the ballot through the initiative process; interested parties collected signatures and placed the measures on the ballot.

In light of the current fiscal climate, there is widespread discussion on how to rein in ballot-box budgeting – which occurs when voters enact ballot measures that allocate funds. Three constitutional amendments have been proposed that would either require new revenue to support a general obligation bond measure or identify a specific revenue source or a program that would be cut. Two other proposals aim to enhance voter information by requiring additional information to be included in the ballot pamphlet.

At both its public hearings as part of this study, the Commission discussed opportunities to improve voter awareness by requiring the state to establish standards or fundamental criteria for general obligation bond measures. The Commission discussed adding a simple pass/fail report card to the voter information guide that could show whether certain standards had been met, specifically:

- Where will the money come from to pay for the bond measure?
- Is money left over from prior bond measures that could be used for these projects, and if so, how much?
- Do we know what we are buying – is there a specific list of projects to be funded or will lawmakers make those decisions once a measure passes?
- Is this a good long-term investment – will the proposed projects maintain value over the life of the bond debt?
- Has the bond measure been vetted with opportunities for public input?
- Would the measure provide money for infrastructure projects that have been identified as a priority?

A pass/fail report card, however, may be too simplistic to cover the nuances of the many varied bond measures. More could be done though to simplify and clarify bond measures. The Legislative Analyst is currently charged with evaluating all ballot propositions and providing an unbiased assessment of the fiscal and policy impact of each measure. Existing law allows the Secretary of State to include any information in the ballot pamphlet that will make it easier for voters to understand the ballot. By setting fundamental criteria for general obligation bond measures, the state could provide a guideline for the Legislative Analyst to further enhance and simplify the information included for bond measures in the voter information guides.

Recommendation 3: To improve transparency and clarity for voters, the state must establish fundamental criteria for ballot measures and these criteria should be evaluated and included as a simple and easy-to-understand report card in the voter guide for all bond measures placed on the ballot.

Bolstering Oversight at the Local Level

Since the passage of Proposition 39 in 2000, hundreds of local bond oversight committees have been established in California communities to be the local watchdogs over billions in state and local bond money spending on K-12 school and community college facility construction. Proposition 39 lowered the threshold at the local level for passing bond measures for school facility construction and renovations from two-thirds to a 55 percent majority. Companion legislation adopted in 2000 required school and community college districts to establish a local bond oversight committee and conduct annual fiscal and performance audits on any school construction project financed with bond money approved under the reduced voter threshold.

Ideally, these local volunteer bond oversight committees put thousands of eyes and ears on the ground ensuring school facility bond money is spent efficiently and effectively and as authorized by the voters in the bond measure. Unfortunately, not all local bond oversight committees are created equal. In the best scenarios, bond oversight committee members are appointed with input from local civic groups, are trained adequately on their roles and responsibilities and are given technical and administrative support to conduct public meetings and make their annual reports widely available to the public. They assist local school and community college districts in finding ways to stretch limited public money as far as possible and provide a check on the districts to make sure the bond money is spent for the construction and renovation activities authorized by the voters in the bond measures.

Not all local bond oversight committees have lived up to this promise. But with minor changes and clarifications in statutory code and a small investment in training materials, they could. This is particularly important should the state consider lowering the voter threshold for other local infrastructure investments, such as transportation or water treatment facilities, a recommendation that some experts have said could significantly expand infrastructure projects in California. Before considering this, the state should take steps to bolster local bond oversight commissions.

Local bond oversight commissions are least effective when the purpose of the committee is not made clear to the members. In some cases, local school or community college districts establish the committee's bylaws and neglect to inform the committee members of their authority including their ability to fully review annual financial and performance audits and question expenditures. In some cases, local districts have skipped the more expensive performance audits – which have the potential to save significant money in the long run – and simply conduct financial audits. Unfortunately, it usually is not until a grand jury investigates – often as a result of citizens' complaints – that the shortcomings of the bond oversight committees or the districts bond expenditures come to light.

The president of the California League of Bond Oversight Committees, in testimony to the Commission, provided suggestions for key changes that could significantly improve the functionality of the local oversight committees. He suggested requiring input from civic groups in selecting committee members, requiring that committee members be trained on their roles and responsibilities as described in state law, and requiring local districts to provide the technical support required by state law.[12]

The State Controller's Office, in a scathing review of misspending by a community college district, also recommended that the state more clearly delineate the role and responsibility of the citizens' oversight committees and provide greater independence from the district. The SCO also recommended the state more clearly define the purpose and objectives of the required annual financial and performance audits and specify that audits be conducted in accordance with generally accepted government auditing standards. Finally, the SCO recommended the state impose sanctions, such as preventing a local district from passing future bond measures with the reduced voter threshold, when a district fails to follow constitutional or statutory requirements or requirements authorized in the local bond measure.[13]

Recommendation 4: To improve local oversight of school and community college school facility construction projects passed under the reduced threshold established by Proposition 39, the state should bolster the capabilities of local bond oversight committees. Specifically, the state must:

- Require mandatory independent training for bond oversight committee members. The State Allocation Board and the California Community Colleges should develop and host a Web site with easy-to-access training materials and easy-to-understand descriptions of the roles and responsibilities of the local citizens' oversight committee members. The Web site should include a mandatory online training course.
- Require civic groups to nominate local committee members, allowing veto power for the school or community college district.
- Clearly delineate the role and responsibility of the local oversight committees and define the purpose and objectives of the annual financial and performance audits.
- Encourage county grand juries to review the annual financial and performance audits of expenditures from local school and community college bond measures.
- Impose sanctions for school and community college districts that fail to adhere to constitutional and statutory requirements of Proposition 39, such as preventing the district from adopting future bond measures under the reduced voter threshold.