

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.

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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.

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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

Education Code (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.

BOARD ACTION

This report was accepted by the State Allocation Board on January 25, 2006. In addition, the Board requested staff to report back on the process to select a vice-chair to the SAB.