

BORROWED MONEY: OPPORTUNITIES FOR STRONGER BOND OVERSIGHT

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A LITTLE HOOVER COMMISSION LETTER REPORT
TO THE GOVERNOR AND LEGISLATURE OF CALIFORNIA

To Promote Economy and Efficiency

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The Little Hoover Commission, formally known as the Milton Marks “Little Hoover” Commission on California State Government Organization and Economy, is an independent state oversight agency.

By statute, the Commission is a bipartisan board composed of five public members appointed by the governor, four public members appointed by the Legislature, two senators and two assemblymembers.

In creating the Commission in 1962, the Legislature declared its purpose:

...to secure assistance for the Governor and itself in promoting economy, efficiency and improved services in the transaction of the public business in the various departments, agencies and instrumentalities of the executive branch of the state government, and in making the operation of all state departments, agencies and instrumentalities, and all expenditures of public funds, more directly responsive to the wishes of the people as expressed by their elected representatives...

The Commission fulfills this charge by listening to the public, consulting with the experts and conferring with the wise. In the course of its investigations, the Commission typically empanels advisory committees, conducts public hearings and visits government operations in action.

Its conclusions are submitted to the Governor and the Legislature for their consideration. Recommendations often take the form of legislation, which the Commission supports through the legislative process.

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LETTER FROM THE CHAIR

February 14, 2017



The Honorable Kevin de León
President pro Tempore of the Senate
and members of the Senate

The Honorable Jean Fuller
Senate Minority Leader

The Honorable Anthony Rendon
Speaker of the Assembly
and members of the Assembly

The Honorable Chad Mayes
Assembly Minority Leader

Dear Governor and Members of the Legislature:

Taking on long-term debt is a very serious and important government decision. Paying down bond debt makes a long-term claim on every annual budget and limits all other spending for decades to come. Because of this, bond measures typically require a vote of the people. Bonds are most frequently used to finance large projects such as roads, schools, dams and other infrastructure that is expected to last for generations and would be difficult to pay for all at once.

California voters have been exceedingly supportive of bond measures. In the past decade, voters have approved more than \$70 billion in statewide bond financing. They have been equally supportive of local bonds, with some \$138 billion in local school facilities bonds enacted since voters reduced the threshold for approving these measures in 2000.

Spreading the costs of major infrastructure projects across generations makes sense. But as Californians have put more and more on the tab, a day of reckoning will arrive. When the next recession hits and revenues fall, the payment on the debt remains. Now is a critical time to assess and reevaluate whether current oversight mechanisms are enough to ensure both state and local bond proceeds are spent as efficiently as possible and as voters intended.

Governor Brown, in his 2017-18 proposed budget, highlighted the need for improved oversight on the nearly \$10 billion statewide school construction bond enacted by voters in 2016. The Commission agrees with and applauds the Governor. But oversight should not be implemented bond by bond. The Commission urges the Governor and the Legislature to develop a strategy for oversight of all statewide bond measures that links bond expenditures with results and makes this information easily available to the public.

This brief updates and builds on recommendations the Commission made in a 2009 report, *Bond Spending: Expanding and Enhancing Oversight*. At a September 2016 hearing as part of this update, the Commission found progress in statewide bond oversight and promise in legislation enacted in 2016. SB 1029 (Hertzberg) gave the California Debt Limit Allocation Committee within the State Treasurer's Office the authority to annually track the use of bond proceeds from both state and local debt-issuing agencies. Policymakers should ensure adequate resources are provided to implement this legislation. It holds the potential for making

all state and local bond information available on one statewide Web platform in a format that is easy for researchers, policymakers, the media and the public to understand.

With the table set by the Governor for legislative discussion on statewide bond oversight, the Commission also urges policymakers to assess and improve local bond oversight. A record \$28 billion in local school facility bonding capacity was approved by voters in 2016 alone.

In this update, the Commission learned that the vast majority of borrowing is done by local governments, particularly local school and community college districts. Local government officials often lack the sophistication or experience issuing and managing bonds. The Commission was told this is unnecessarily costing Californians hundreds of millions of dollars.

When poor financing choices are made or when money is spent inefficiently, or on projects not listed in a bond measure, it hurts taxpayers and limits other local spending. Even worse, it very often robs California school children of the benefits of clean and modern learning environments that voters have indicated are a top priority. Better training on bond issuances and prudent debt ratios, truth in borrowing statements and more involvement of county treasurers could help prevent poor municipal financing decisions.

The Commission also recommends that policymakers update and overhaul statutory code enacted in 2000 that created Citizens' Bond Oversight Committees for local school facility construction bonds. The law was written to give these committees active oversight, yet by and large, this is not happening. Some 200 new local bond oversight committees will be formed in the next year with 1,400 Californians volunteering their time to participate on these committees. Policymakers should make sure their time is used as efficiently and effectively as possible so that these important local oversight committees can live up to their promise. This briefing includes a list of specific changes, including improved training for committee members and enhanced performance audits that assess the effectiveness and results of the bond program, as well as other opportunities for improvement.

With significant new bond capacity added in 2016, the time to act is now and the Commission stands ready to assist.



Pedro Nava
Chair, Little Hoover Commission

CONTENTS

5 BOND SPENDING: EXPANDING AND ENHANCING OVERSIGHT - AN UPDATE

Why It Matters	5
Commission’s 2009 Report	6

7 STATEWIDE BONDS

Administrative Improvements in Bond Oversight	8
An Important Step Forward to Improve Transparency	11
Legislation Improves Clarity for Voters	11
2017 Recommendations for Statewide Bond Oversight	12
Recommendation 1: The Governor and the Legislature should adopt a consistent system to improve transparency and oversight of all statewide bonds, particularly the 2008 high-speed rail and the 2016 school facility construction bonds, which currently lack such requirements, as well as all future statewide bond measures.	
Recommendation 2: The Governor and Legislature should ensure adequate resources are available for the California Debt Limit Allocation Committee’s implementation of SB 1029.	

13 LOCAL BONDS

Playing With Financial Matches	14
Limited Progress Improving Local Bond Oversight	15
Independent Training is Key	18
Performance Audits Tailored to Results	18
Other Opportunities for Improving Local Oversight	19
2017 Recommendations for Local Bond Oversight	20
Recommendation 3: The California Debt and Investment Advisory Committee is encouraged to expedite the development of training materials for locally-elected officials on bond issuance.	
Recommendation 4: Policymakers should enact legislation requiring a truth in bonding statement be provided for review by elected officials prior to authorizing a bond issuance.	
Recommendation 5: Policymakers should enact legislation requiring the county treasurer to review and comment on bond issuance proposals prior to authorization. The county treasurer also should advise policymakers on maintaining a prudent debt ratio.	

CONTENTS

Recommendation 6: Develop easy-to-access online training materials for members of Citizens’ Bond Oversight Committees.

Recommendation 7: The Governor and Legislature should update and overhaul the education code related to the Strict Accountability in Local School Construction Bonds Act of 2000.

Recommendation 8: Impose sanctions for school and community college districts that fail to adhere to constitutional and statutory requirements of Proposition 39, including preventing the district from adopting future bond measures under the reduced voter threshold.

21 APPENDICES

Appendix A: Public Hearing Witnesses	21
Appendix B: Cover Photo Credits	22

23 NOTES

BOND SPENDING: EXPANDING AND ENHANCING OVERSIGHT - AN UPDATE

Californians have been exceptionally generous in their willingness to incur long-term debt to pay for infrastructure. Since 2006, Californians have enacted nine statewide bond measures authorizing more than \$70 billion in financing. The proceeds from these bonds have paid for school facilities, transportation infrastructure, including high-speed rail, housing, natural resource projects and other public works projects. Californians have been equally generous with their support of local debt financing. In 2016 alone, Californians gave local K-12 school and community college districts the authority to issue \$28 billion in bonds and authorized 10 other local governments to issue \$7.2 billion for various public works projects.¹

“California and its local governments have borrowed more than \$1.5 trillion from Wall Street over the past three decades to build roads, schools, and other critical public works,” according to written testimony submitted to the Commission by the State Treasurer’s Office. Californians repay statewide bonds with money from the state General Fund. In 2016, California spent approximately \$7.7 billion or approximately 6.5 percent of its total budget on debt service for general obligation bonds.² To finance local bond measures, Californians agree to increase their property taxes.

The Little Hoover Commission first raised concerns regarding state and local oversight of bond measures – specifically the mechanisms or lack thereof, that are in place to monitor spending and ensure that the proceeds from bond measures are spent as the voters intended – in a 2009 report, *Bond Spending: Expanding and Enhancing Oversight*. The impetus for the Commission’s 2009 review was a \$43 billion statewide infrastructure bond package enacted by voters in 2006, by far the largest bond package ever enacted at one time in California. Due to its sheer size, the Commission was concerned that the bond package be spent as efficiently and effectively as possible and as voters intended.

Californians were faced with the choice to authorize another \$43 billion in bond spending on the November 2016 ballot – nearly \$10 billion for a statewide school facility construction bond measure and \$33 billion proposed through 196 local bond measures.³ With the specter of this additional state and local debt looming on the horizon, the Commission held a hearing in September 2016 to get an update on implementation of its 2009 recommendations – to improve transparency and oversight of bond spending – and to assess what more might be necessary to ensure voters are actually getting what was promised in bond measures.

Why It Matters

The decision to take on debt warrants serious consideration whether it is a family considering a car or home purchase or state or local government building schools, roads or other infrastructure. “The responsibility of issuing and managing debt cannot be taken lightly,” municipal finance expert Jay Goldstone told the Commission in written testimony.⁴ It is a long-term commitment to repay debt. Repaying bond debt goes to the front of the line when decisions are made each year on how governments will spend taxpayer dollars. “These are obligations that require repayment and a commitment to a bond means that there will be, in some instances, dollars not available for other things in communities,” Tim Schaefer, deputy treasurer for public finance in the State Treasurer’s Office, told the Commission at its September 2016 hearing. “That’s why bond oversight is so critical,” he added.

When voters enact statewide bond measures – whether they know it or not – they are setting a budget priority for decades to come, for themselves, their children and even their grandchildren. Projects and programs funded through statewide general obligation bond measures take priority over nearly all other budget areas. General obligation bonds are guaranteed by the California Constitution, and as a result, repayment of the bonds

takes priority over virtually all other state government expenses beyond education, which has locked-in funding through Proposition 98. When voters enact a general obligation bond, they are indicating a willingness to tax either themselves to repay the bond debt or reduce spending in other areas.

It is generally agreed that general obligation bonds are a useful government financing tool for major infrastructure projects. Bonds are not necessarily good or bad. They are one financing tool in the government toolbox. Just as it makes sense for most people who could not otherwise afford to purchase a house without a 30-year mortgage, it makes sense for government to finance bridges, highways, schools, dams, parks and other major infrastructure over 30 or 40 years. Government infrastructure projects provide benefits to multiple generations so it is appropriate that the costs of the projects are spread across multiple generations of taxpayers.

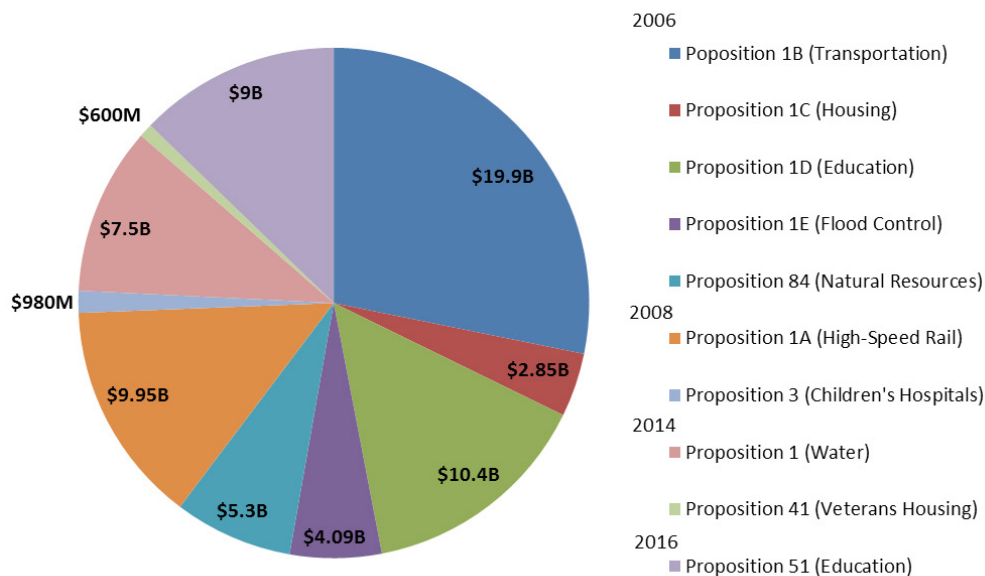
Californians' willingness to finance projects by accumulating debt, however, has grown considerably in the past decade. Repayment of bond debt – or debt service – has risen to 6.5 percent of California's total budget in 2016 from less than 1 percent in the 1980s.⁵ Since 1974, Californians have authorized approximately \$145 billion in statewide general obligation bonds. Nearly half of that – approximately \$71 billion from 10 bond measures – was enacted just in the past decade. As a comparison, voters enacted \$74 billion through

44 bond measures from 1974 to 2004.⁶ California's debt is higher than a majority of other large-population states. California ranks third highest of the 10 most populous states, behind only Illinois and New York as measured by debt per capita, debt as a percentage of personal income and debt as a percentage of GDP.⁷

Commission's 2009 Report

The Commission convened the September 2016 hearing to get an update on its recommendations for improved transparency and oversight of state and local bond spending in its 2009 report. The report focused on improving accountability and transparency of statewide bonds, including specific recommendations for improving oversight of natural resource bonds, improving clarity about statewide bonds on voter ballots and bolstering the effectiveness of local Citizens' Bond Oversight Committees. The following pages are split into two discussions – a focus on oversight of statewide bond measures followed by an analysis of local bond measures, an area of even greater concern than when the Commission conducting its first review in 2009. This increased concern is fueled by the sheer size of the growing local debt and the fact that local oversight and transparency, as well as the sophistication required to manage bond issuances and spending, lags behind the experience and improvements in oversight taking place at the state level.

\$70.57 Billion in Statewide Bonds Added in the Last Decade



impacts of poorly planned and structured bonds last for decades.”²¹

Mr. Schaefer, in his testimony to the Commission, said that the California Debt and Investment Advisory Commission provides workshops for public officials several times each year and has numerous resources available on its website on public works financing. But he also expressed concerns about a continual lack of financial sophistication at the local level. “Elected officials appear to be absent from that kind of training ... If a concerned citizen wants to become engaged in his or her political system in this state, what does she do? She runs for the school board. Now we have five folks at the beginning of their political career, well-intentioned folks who wish to make a contribution to the community, and suddenly they are confronted with these multimillion-dollar decisions that have to be made and experts telling them it’s okay. That strikes me as playing with financial matches,” Mr. Schaefer told the Commission.

Former Assemblymember Fred Keeley, who also has served on the Santa Cruz County Board of Supervisors and as the Treasurer of Santa Cruz County and co-chaired the Task Force on Bond Accountability with Mr. Goldstone, also spoke to the Commission at the September 2016 hearing. Local officials making these decisions have so much information to digest they are literally drinking out of a fire hose, he told the Commission. Mr. Keeley agreed that additional disclosure information for local officials was a good idea, but suggested it be condensed to a page or two.²²

Mr. Schaefer indicated that the State Treasurer’s Office is working on developing ways to assist and educate local officials, either through on-demand videos, webinars or written materials. Commissioners encouraged the development of these tools, particularly a one-or two-page guide as suggested by Mr. Keeley, that would help officials understand bond issuances, but more specifically would help them understand the questions they need to ask of their financial advisors.

Another witness, Michael Turnipseed, president of CalBOC and executive director of the Kern County Taxpayers Association, agreed that “intervention up front is the most effective tool” in bond oversight. Mr. Turnipseed recommended that bond issuers provide a “truth in bonding statement” to local officials before

they vote on a bond issuance, similar to the “truth in lending statement” required for consumers signing a home mortgage. In his written testimony to the Commission, Mr. Turnipseed recommended, “Before final bond issuance documents are signed by the district, a simple, readable summary of costs, fees and projected interest costs should be provided to the district to sign for disclosure, with the other bond documents.”²³

Limited Progress Improving Local Bond Oversight

In its 2009 report, the Commission found great promise in local bond oversight committees, although also many shortcomings in their current design. The Commission in 2009 focused solely on the bond oversight committees overseeing local school construction bonds. But the co-chairs of the Task Force on Accountability also described the importance of independent oversight for all bonds.

Mr. Keeley relayed statements made at a meeting of the Task Force on Bond Accountability. He said that ensuring that bond funds are spent appropriately really depends on prevention and detection.²⁴ Fellow task force co-chair, Mr. Goldstone added that one of the main conclusions from the task force was the constant need for oversight – “Bond oversight is a key element of any bond issuance.”²⁵

The task force recommended that public agencies establish oversight bodies to provide independent review of bond programs. “This may be internal or external to the agency, but it must be afforded the authority and resources needed to exercise control over the program when necessary.”²⁶ The task force was not prescriptive in what the oversight body should look like, but it did include a set of 17 guidelines that, if used, would help to ensure that bond funds are appropriately managed. Those guidelines are available as an appendix to the task force report on the CDIAC website, at http://treasurer.ca.gov/tfba/final_report.pdf.

The task force also found that it is extremely important that all public agencies with bond programs establish a good and current debt policy. With the enactment of SB 1029, all public entities that have bond programs now will be required to have a current debt policy. This should result in improvements in bond oversight at the local level.

Since its inception in 2006, the California League of Bond Oversight Committees (CalBOC) has grown in size and stature. It is an all-volunteer, nonpartisan association of bond oversight committee members who are interested in helping other committee members across California access better training so that they can perform their duties. In recent years, CalBOC has championed legislative changes to improve the effectiveness of local bond oversight. Legislation enacted in 2010, SB 1473 (Wyland), set standards for performance audits required for local school facility construction bonds. In 2011, SB 423 (Wyland), set a timeline for when the audits are submitted to the local bond oversight committee. Legislation in 2013, SB 581 (Wyland), required that local bond oversight committees receive the annual performance and financial audits at the same time the district receives the audits. Finally, SB 584 (Wyland) required the Education Audits Appeals Panel to include explicit guidelines for financial and performance audits for bond funds. These new guidelines were included in the 2016 edition of the panel's Guide for Annual Audits of K-12 Local Education Agencies and State Compliance Reporting.

Although considered progress, local bond oversight committee experts suggest these measures did not go far enough. The audit guide, for example, includes compliance performance audit procedures, but did not provide guidance for measuring program effectiveness and results. Current CalBOC members participated in the Commission's September 2016 hearing and were asked to discuss whether the recommendations the Commission made in 2009 are still valid or if other or additional measures are necessary to ensure local bond accountability. They also were asked what might be required to overcome the logjam that has prevented progress in improving local bond oversight.

As mentioned previously, one of the most common forms of oversight for local bond measures is a Citizens' Bond Oversight Committee, and bolstering the effectiveness of these committees was a focus of the Commission's 2009 report. Some local governments establish oversight committees for various other types of bonds. However, they are only mandatory for local school bond measures enacted under the 55 percent majority option created by Proposition 39, enacted by voters in 2000.

Since 2001, voters have enacted more than 1,100 local school bond measures under the reduced threshold totaling approximately \$138 billion in local bonding capacity.²⁷ One fifth, or more than \$28 billion of that total was added in 2016. Voters approved 41 measures in June 2016 and another 169 in November 2016. In June, voters enacted 91 percent of all local measures on the ballot under the reduced threshold and 95 percent in November.²⁸

The Strict Accountability in Local School Construction Bonds Act of 2000, AB 1908 (Lempert), 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. In its 2009 study, the Commission saw great promise in these oversight committees' ability to ensure school facility bond money was spent efficiently and effectively and as authorized by voters in the bond measure. In many cases, this local bond funding is paired with state bond money, which means the local bond oversight committees also could ensure state school construction bond funds are spent appropriately and efficiently. In its 2009 study, however, the Commission found not all local bond oversight committees lived up to this promise.

At the Commission's September 2016 hearing, it heard from the current president of the California League of Bond Oversight Committees (CalBOC), a co-founder of CalBOC and current member of the West Contra Costa Unified School District's Citizens' Bond Oversight Committee and the chair of the Sweetwater Union High School District Bond Oversight Committee. The West Contra Costa and Sweetwater school districts have one commonality – both have been plagued by scandals in spending bond proceeds and both have since seen constructive changes in their bond oversight committees, providing insight for the hundreds of other oversight committees in California. The West Contra Costa bond oversight committee benefitted from a district employee who blew a whistle on serious bond program mismanagement, which led to a forensic investigation of the bond program.²⁹ In the Sweetwater district, actions were so egregious that numerous officials were charged and convicted of crimes.

According to Sweetwater Citizens' Bond Oversight Committee Chair Nick Marinovich, "The reason why bond oversight has become effective at the Sweetwater Union High School District is that there are nine committed members who understand their role, realize they are independent and it is their role to speak out, and they have sufficient tools/information to make their reports to the public. The primary tool used to assess the overall program effectiveness is an expanded performance audit."³⁰

Several others who have either served or currently serve on local bond oversight committees, as well as other concerned Californians, submitted written comments to the Commission. These comments came from Californians in communities both large and small, across the state, but all painted a grim picture of local oversight.

Most of the concerns revolved around bond oversight committee members who lack training, have conflicts of interest, either real or perceived, and the difficulty committee members have receiving required documents from the districts. Others stated that districts are not following Proposition 39 requirements to specifically list projects that will be paid for with local bond proceeds. Some expressed concerns about the role that bond counsel, bond issuers and construction companies – all who stand to profit when a bond measure is enacted – play in supporting bond measures, often called "pay-to-play" practices. When bond measures are vague about what is going to be paid for with bond proceeds, it adds yet another hurdle to effective oversight by the bond oversight committees.

In written comments to the Commission, Ivette Ricco, appointed to the West Contra Costa County Unified School District's Citizens' Bond Oversight Committee in 2010, describes how she nearly "threw in the towel" after her first three years as a member and then significantly turned the committee around after being elected chair. She relayed that the challenges were many and that the Legislature "had not done the taxpayers any favors when they created the Citizens' Bond Oversight Committee in 2000."³¹ Shortcomings, according to Ms. Ricco as well as others:

- A Citizens' Bond Oversight Committee (CBOC) can meet as infrequently as once a year.

SWEETWATER: SCANDAL GIVES RISE TO MODEL OVERSIGHT COMMITTEE

In 2012, the Sweetwater High School Unified School District was part of a large corruption scandal involving local school facility construction bond proceeds. Sweetwater, located in San Diego County, is the largest high school district in the state with 32 campuses in four Southern California cities. The district superintendent and several school board members were convicted of accepting gifts above the state limit and failure to report gifts. A vendor was convicted of offering something of value to a board member. This pay-to-play scandal revolved around the superintendent and board members encouraging and accepting lavish dinners and expensive professional sports tickets from vendors bidding on bond-funded school construction projects. An extreme example was the district superintendent inviting vendors to attend his daughter's bridal shower and encouraging them to contribute to a money tree. At the time of the scandal, there was not an active independent bond oversight committee.

In the wake of the scandal, with a new superintendent and new board members, the bond oversight committee has evolved into a model for other districts. According to Nick Marinovich, chair of the Sweetwater Citizens' Bond Oversight Committee, key elements of a successful bond oversight committee include comprehensive training for committee members, performance audits that include experts in the field of design, construction and project management and a modest budget from the district.

Additionally, Mr. Marinovich said that Sweetwater now has "a fair and open process for committee member selection, strong support for an expanded performance audit and ongoing efforts to improve transparency. Effective bond oversight requires district "buy in" to the process."

Source: Nick Marinovich, Chair, Sweetwater High School Unified School District Bond Oversight Committee. September 22, 2016. Written testimony to the Commission.

- The same district that the committee is tasked with overseeing, appoints its members.
- The CBOC is not allocated or budgeted resources for training.
- The district is under no obligation to provide timely data or respond to inquiries within a specific timeframe.
- The CBOC is charged with actively reviewing, reporting and informing the community on the expenditures of bond funds, but only after the fact.

Ms. Ricco added, “We are powerless to effect changes. Our only real tool is the media.”³²

With hundreds of new bond measures enacted in 2016 under the reduced threshold allowed by Proposition 39, some 1,400 Californians will be appointed in 2017 to serve on over 200 new Citizens’ Bond Oversight Committees. It is imperative that the volunteers who serve on these committees have every opportunity to use their time wisely and effectively and to live up to the implied promise of oversight. To ensure this happens, the Legislature should update and overhaul the education code created by AB 1908, the Strict Accountability in Local School Construction Bonds Act of 2000, that created the Citizens’ Bond Oversight Committees.

Independent Training is Key

Bond oversight committees in many communities act simply as cheerleaders for the district, often because members simply do not understand their roles or know what actions they can take. Key to the success of bond oversight committees is adequately training members so that they understand their role and the tools they have at their disposal to ensure they are effective. Ideally, training is provided by an organization that is independent from the district. According to the chair of the Sweetwater Union High School District Bond Oversight Committee, the system works when you have “members who are qualified, trained and believe what they are doing can make a difference.”³³

CalBOC president Michael Turnipseed, in written comments to the Commission, said that “in order to

have the most effective bond oversight, the volunteer citizens must have a basic understanding of the role of the bond oversight committee and its required reports.” Mr. Turnipseed and other members of CalBOC suggested that the Fiscal Crisis and Management Assistance Team (FCMAT), a state agency whose mission is to help California local educational agencies fulfill their financial and management responsibilities by providing training and related school business services, might be an appropriate entity to develop online training, with assistance from CalBOC members.³⁴

In part, for a Citizens’ Bond Oversight Committee to be effective, it must know the right questions to ask. Current law requires that school districts change auditors, or, at a minimum, audit partners every six years.³⁵ Bond oversight committee members can ensure local districts abide by this statutorily-required practice by asking how auditors are selected and how audit scopes are created, or even have a role in that process. According to an independent public finance consultant, bond oversight committee members should start by learning more about the policies and procedures in place in the district and any concerns public officials may have in this area. They should ask district staff questions, such as, “How do you ensure that expenditures are made only for the projects on the project list,” or “How do you ensure that we get the best price?” These types of questions not only will help the bond oversight committee members better understand district operations, but may spark a district to inject more rigor into its practices with bond expenditures.³⁶

In its 2009 report, the Commission recommended mandatory training for CBOC members. Witnesses at the 2016 hearing and other CBOC members who reached out to the Commission suggested that training at this juncture, although highly important for successful oversight, should be voluntary as mandatory training might create a recruitment barrier in smaller districts.

Performance Audits Tailored to Results

The Commission also received detailed testimony on improving and better defining performance audits and giving local bond oversight committees a greater role in selecting the auditors and greater freedom communicating with the auditors. Currently, according to

witnesses, almost all performance audits are compliance audits. The audits focus solely on whether any money went to teacher salaries or operating expenses, and whether bond dollars were spent on projects authorized by voters. According to Mr. Marinovich, these audits do not address how effectively the program is being managed or identify possible cost saving measures. He told the Commission that expanded performance audits after the scandal in Sweetwater have provided an invaluable tool in identifying process improvements. Additionally, he said the consultants performing the audits were not just accountants, but included professionals with project management and construction experience.³⁷

Anton Jungherr, co-founder of CalBOC, told the Commission at the September 2016 hearing, “The single most important thing that you could do to assist CBOCs in California would be to require a performance audit that speaks to effectiveness and results.”³⁸

Other Opportunities for Improving Local Oversight

The Commission recommended in 2009 that the state consider changing the appointing authority for the committee members. Oversight committee members are appointed by the district officials they oversee. At the September 2016 hearing, Mr. Keeley told the Commission, “Keys to ensuring effective local bond oversight revolve around the composition of the oversight body – to who and how frequently do they report.”³⁹ The state also could consider rethinking the makeup of the bond oversight committee members, which was established when the Legislature created the requirement for the committees in 2000.

Others suggested the district provide a modest budget for the Citizens’ Bond Oversight Committee to ensure they have the capacity for independent assistance when needed. According to Mr. Marinovich, there are times when issues may arise requiring independent counsel, for example, if there is a dispute over whether a particular expenditure was authorized by the voters.⁴⁰ Additionally, Mr. Keeley said that local CBOCs could benefit from an online presence so that the public can access information. Agendas and reports should be posted online, he said.

Finally, even when a district is found out of compliance

with the requirements of Proposition 39, there is very little recourse. In certain instances, such as with the Sweetwater Union High School District, activities may be so egregious as to warrant criminal charges. In many instances, the only available sanction for districts that violate the requirements of Proposition 39, such as when money is not being spent on the projects outlined in the bond measure, is for a local taxpayer to obtain a restraining order to prevent expenditures of funds, as delineated through California education code or to challenge an actual expenditure in court.⁴¹ This section of education code states that “it is the intent of the Legislature that, upon receipt of allegations of waste or misuse of bonds funds authorized in this chapter, appropriate law enforcement officials shall expeditiously pursue the investigation and prosecution of any violation of law associated with the expenditure of those funds.”⁴²

Although this appears to give some teeth to ensuring bond funds are not wasted or spent differently than outlined in the bond measure, in reality, these sanctions are rarely used. One concerned citizen and former bond oversight committee member provided the Commission with a copy of a complaint that he filed against the Anderson Union High School District in Shasta County regarding misuse of bond funds, the lack of a competitive bidding process and the lack of a bond oversight committee. In a conversation with Commission staff, he said the district was able to do whatever it wanted and local law enforcement did not have the resources to investigate his complaint. “If the laws aren’t enforced, they’re just no good,” he told Commission staff.⁴³

2017 Recommendations for Local Bond Oversight

In its update of its 2009 bond oversight study, the Commission heard testimony and recommendations focusing both on improving the bond issuance process and improving local oversight, particularly in bolstering the effectiveness of local Citizens' Bond Oversight Committees as previously recommended by the Commission. Based on the testimony and written comments received, the Commission expands on and refines its prior recommendations for improving local bond oversight.

Recommendation 3: The California Debt and Investment Advisory Committee is encouraged to expedite the development of training materials for locally-elected officials on bond issuance. Specifically, in addition to webinars, online training and other written materials, this should include a one- or two-page guide for local officials including key questions that should be answered by staff and consultants on the terms of any bond authorization, including total cost of the bond, including interest and fees and the effect of a bond issuance on debt ratio.

Recommendation 4: Policymakers should enact legislation requiring a truth in bonding statement be provided for review by elected officials prior to authorizing a bond issuance.

Recommendation 5: Policymakers should enact legislation requiring the county treasurer to review and comment on bond issuance proposals prior to authorization. The county treasurer also should advise policymakers on maintaining a prudent debt ratio.

Recommendation 6: Develop easy-to-access online training materials for members of Citizens' Bond Oversight Committees. Specifically, the Governor and Legislature should direct and authorize one-time funding to the Fiscal Crisis and Management Assistance Team to develop online training for local Citizens' Bond Oversight Committee members, with input and assistance from the California Debt and Investment Advisory Committee and the California League of Bond Oversight Committees.

Recommendation 7: The Governor and Legislature should update and overhaul the education code related to the Strict Accountability in Local School Construction Bonds Act of 2000. Specifically,

- Amend statutory code on performance audits to include the effectiveness and results of the bond program.
- Expand the role of Citizens' Bond Oversight Committees in selecting and interacting with bond program auditors.
- Require bond measures proposed to voters under the reduced threshold to include specific project lists.
- Change the appointment authority for members of Citizens' Bond Oversight Committees.
- Require districts to provide a minimal budget for the oversight committees, including a budget to hire independent counsel with municipal bond expertise.
- Require districts to provide a Web presence for Citizens' Bond Oversight Committees to prominently display meeting agendas and reports.

Recommendation 8: Impose sanctions for school and community college districts that fail to adhere to constitutional and statutory requirements of Proposition 39, including preventing the district from adopting future bond measures under the reduced voter threshold.

APPENDICES**Appendix A****Public Hearing Witnesses****September 22, 2016*****Sacramento, California***

Bryan Cash, Deputy Assistant Secretary, California
Natural Resources Agency

Fred Keeley, Former Speaker Pro Tempore, California
State Assembly, and Co-Chair, Task Force on Bond
Accountability

Jay Goldstone, Managing Director, Public Finance,
MUFG Americas, and Co-Chair, Task Force on Bond
Accountability

Anton Jungherr, Member and Secretary, West Contra
Costa Unified School District's Citizens' Bond Oversight
Committee, and Co-Founder, California League of
Bond Oversight Committees

Nick Marinovich, Chair, Sweetwater Union High School
District Bond Oversight Committee

Tim Schaefer, Deputy Treasurer for Public Finance,
State Treasurer's Office

Michael Turnipseed, President, California League of
Bond Oversight Committees

Appendix B

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<http://pixel-ca-dwr.photoshelter.com/index>. Accessed on February 9, 2017.

Also, courtesy of the California-High Speed Rail Authority.
<http://www.hsr.ca.gov/Newsroom/Multimedia/images.html>. Accessed on February 9, 2017.

NOTES

- 1 Michael Coleman, Principal, CaliforniaCityFinance.com. December 10, 2016. "Local Revenue Measure Results November 2016." Also, July 5, 2016. "Local Tax and Bond Measure Results, California, June 2016." www.californiacityfinance.com. Website accessed December 30, 2016.
- 2 California State Treasurer's Office. 2016. "California Bonds 101: A Citizen's Guide to General Obligation Bonds." <http://www.treasurer.ca.gov/publications/bonds101.pdf>. Website accessed December 27, 2016.
- 3 Michael Coleman. Refer to endnote 1.
- 4 Jay M. Goldstone. Managing Director, Public Finance, MUFU Americas, and Co-Chair, Task Force on Bond Accountability. September 22, 2016. Written testimony to the Commission.
- 5 California State Treasurer's Office. Refer to endnote 2. (2016 debt service). Legislative Analyst's Office. August 2015. "State of California Expenditures, 1984-85 to 2015-16. (1980s debt service data.)
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- 7 California State Treasurer's Office. Refer to endnote 2.
- 8 California State Auditor. February 26, 2009. "High-Risk Update – Maintaining and Improving Infrastructure. State Agencies Have Established Controls That, if Followed, Should Provide Reasonable Assurance that Infrastructure Bond Proceeds are Used as Intended."
- 9 Adrian Moore, Vice President of Research, Reason Foundation. October 23, 2008. Testimony to the Commission.
- 10 Department of Finance. August 2016. "Final Report: Department of General Services, Office of Public School Construction's Proposition 1D Audit." http://www.dof.ca.gov/Programs/OSAE/Audit_Memos/documents/WEBDepartmentofGeneralServicesOfficeofPublicSchoolConstructionsProposition1DBondFundAudit-BA.pdf. Website accessed January 3, 2017.
- 11 Department of Finance. Refer to endnote 10.
- 12 California Secretary of State. "Statement of Vote: November 8, 2016 General Election." <http://elections.cdn.sos.ca.gov/sov/2016-general/sov/2016-complete-sov.pdf>. Website accessed January 3, 2017.
- 13 Governor Edmund G. Brown Jr. January 10, 2017. "2017-18 Governor's Budget Summary."
- 14 Tim Schaefer, Deputy Treasurer of Public Finance, State Treasurer's Office. September 22, 2016. Testimony to the Commission.
- 15 Tim Schaefer. Refer to endnote 14.
- 16 Proposition 51. School Bond. Funding for K-12 School and Community College Facilities. California General Election November 8, 2016. "Official Voter Guide." <http://voterguide.sos.ca.gov/en/propositions/51/>. Website accessed December 27, 2016.
- 17 Anton Jungherr, Member and Secretary, West Contra Costa Unified School District's Citizens' Bond Oversight Committee, and Co-Founder, California League of Bond Oversight Committees. September 22, 2016. Testimony to the Commission.
- 18 California State Treasurer. <http://debtwatch.treasurer.ca.gov/> Website accessed January 3, 2017.
- 19 Richard Michael, California School Bond Clearinghouse Project. September 6, 2016. Written comments to the Commission.
- 20 Los Angeles County Grand Jury. July 2016. "Capital Appreciation Bonds and Other School Bond Debt: Consequences of Poor Financial Practices."
- 21 Mark Fulmer, Retired Deputy Superintendent, Office of the Kern County Superintendent of Schools. September 8, 2016. Personal and written communication with Commission staff.
- 22 Fred Keeley, Former Speaker Pro Tempore, California State Assembly, and Co-Chair, Task Force on Bond Accountability. September 22, 2016. Testimony to the Commission
- 23 Michael Turnipseed, President, California League of Bond Oversight Committees. September 22, 2016. Written testimony to the Commission.
- 24 Fred Keeley. Refer to endnote 22.
- 25 Jay M. Goldstone. Refer to endnote 4.
- 26 Jay M. Goldstone. Refer to endnote 4.
- 27 Kevin Dayton, Policy Analyst, California Policy Center. July 2015. "For the Kids: California Voters Must Become Wary of Borrowing Billions More From Wealthy Investors for Educational Construction." (From 2001 to 2014, California voters have considered 1,147 ballot measures proposed by K-12 school and community college districts for construction and renovation projects. Voters approved 911 or nearly 80 percent of these measures authorizing approximately \$110 billion for these local bonds.) Also, Michael Coleman, Principal, CaliforniaCityFinance.com. July 5, 2016. "Local Tax and Bond Measure Results California June 2016." Also, December 10, 2016. "Local Revenue Measure Results November 2016." www.californiacityfinance.com.

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29 Dennis Clay, Fiscal/Project Account
Analyst, West Contra Costa Unified
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Public comments and written testimony
to the Commission.

30 Nick Marinovich, Chair,
Sweetwater Union High School District
Bond Oversight Committee. September
22, 2016. Written testimony to the
Commission.

31 Ivette Ricco, Former Member and
Chair of the West Contra Costa County
Unified School District's Citizens' Bond
Oversight Committee, 2010-2016.
August 24, 2016. Written testimony to
the Commission.

32 Ivette Ricco. Refer to endnote 31.

33 Nick Marinovich, Chair,
Sweetwater Union High School District
Bond Oversight Committee. September
22, 2016. Testimony to the Commission.

34 Michael Turnipseed. Refer to
endnote 23.

35 California Education Code 41020
(f)(2).

36 Lori Raineri, President,
Government Financial Strategies.
February 2, 2017. Written
communication.

37 Nick Marinovich. Refer to
endnote 30.

38 Anton Jungherr. Refer to
endnote 17.

39 Fred Keeley. Refer to endnote 22.

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endnote 30.

41 California Education Code 15284.

42 California Education Code 15288.

43 Richard G. Urban. September 7,
2016. Personal communication with
Commission staff and written testimony
to the Commission.

Little Hoover Commission Members

CHAIRMAN PEDRO NAVA (*D-Santa Barbara*) Appointed to the Commission by former Speaker of the Assembly John Pérez in April 2013. Government relations consultant. Former state Assemblymember from 2004 to 2010. Former civil litigator, deputy district attorney and member of the state Coastal Commission. Elected chair of the Commission in March 2014.

VICE CHAIRMAN JACK FLANIGAN (*R-Granite Bay*) Appointed to the Commission by Governor Edmund G. Brown Jr. in April 2012. A member of the Flanigan Law Firm. Co-founded California Strategies, a public affairs consulting firm, in 1997.

SCOTT BARNETT (*R-San Diego*) Appointed to the Commission by former Speaker of the Assembly Toni Atkins in February 2016. Founder of Scott Barnett LLC, a public advocacy company, whose clients include local non-profits, public charter schools, organized labor and local businesses. Former member of Del Mar City Council and San Diego Unified School District Board of Trustees.

DAVID BEIER (*D-San Francisco*) Appointed to the Commission by Governor Edmund G. Brown Jr. in June 2014. Managing director of Bay City Capital. Former senior officer of Genentech and Amgen. Former counsel to the U.S. House of Representatives Committee on the Judiciary. Serves on the board of directors for the Constitution Project.

SENATOR ANTHONY CANNELLA (*R-Ceres*) Appointed to the Commission by the Senate Rules Committee in January 2014. Elected in November 2010 and re-elected in 2014 to represent the 12th Senate District. Represents Merced and San Benito counties and a portion of Fresno, Madera, Monterey and Stanislaus counties.

ASSEMBLYMEMBER CHAD MAYES (*R-Yucca Valley*) Appointed to the Commission by former Speaker of the Assembly Toni Atkins in September 2015. Elected in November 2014 to represent the 42nd Assembly District. Represents Beaumont, Hemet, La Quinta, Palm Desert, Palm Springs, San Jacinto, Twentynine Palms, Yucaipa, Yucca Valley and surrounding areas.

DON PERATA (*D-Orinda*) Appointed to the Commission in February 2014 and reappointed in January 2015 by the Senate Rules Committee. Political consultant. Former president pro tempore of the state Senate, from 2004 to 2008. Former Assemblymember, Alameda County supervisor and high school teacher.

ASSEMBLYMEMBER SEBASTIAN RIDLEY-THOMAS (*D-Los Angeles*) Appointed to the Commission by former Speaker of the Assembly Toni Atkins in January 2015. Elected in December 2013 and re-elected in 2014 to represent the 54th Assembly District. Represents Century City, Culver City, Westwood, Mar Vista, Palms, Baldwin Hills, Windsor Hills, Ladera Heights, View Park, Crenshaw, Leimert Park, Mid City, and West Los Angeles.

SENATOR RICHARD ROTH (*D-Riverside*) Appointed to the Commission by the Senate Rules Committee in February 2013. Elected in November 2012 to represent the 31st Senate District. Represents Corona, Coronita, Eastvale, El Cerrito, Highgrove, Home Gardens, Jurupa Valley, March Air Reserve Base, Mead Valley, Moreno Valley, Norco, Perris and Riverside.

JONATHAN SHAPIRO (*D-Beverly Hills*) Appointed to the Commission in April 2010 and reappointed in January 2014 by the Senate Rules Committee. Writer and producer for Amazon Studios, FX, HBO and Warner Brothers. Former counsel to Kirkland & Ellis LLP, chief of staff to Lt. Governor Cruz Bustamante, counsel for the law firm of O'Melveny & Myers LLP, federal prosecutor for the U.S. Department of Justice Criminal Division in Washington, D.C., and the Central District of California.

JANNA SIDLEY (*D-Los Angeles*) Appointed to the Little Hoover Commission by Governor Edmund Brown Jr. in April 2016. General counsel at the Port of Los Angeles since 2013. Former deputy city attorney at the Los Angeles City Attorney's Office from 2003 to 2013.

HELEN TORRES (*NPP-San Bernardino*) Appointed to the Little Hoover Commission by Governor Edmund Brown Jr. in April 2016. Executive director of Hispanas Organized for Political Equality (HOPE), a women's leadership and advocacy organization.

SEAN VARNER (*R-Riverside*) Appointed to the Little Hoover Commission by Governor Edmund Brown Jr. in April 2016. Managing partner at Varner & Brandt LLP where he practices as a transactional attorney focusing on mergers and acquisitions, finance, real estate and general counsel work.

“Democracy itself is a process of change, and satisfaction and complacency are enemies of good government.”

*Governor Edmund G. “Pat” Brown,
addressing the inaugural meeting of the Little Hoover Commission,
April 24, 1962, Sacramento, California*