



Legislative Proposal 2023 ¹

Little Hoover Commission Recommendation 6 ²

“Develop easy to access online training for members of Citizens Bond Oversight Committees.”

Add Government Code Section 8855(h)(8): “Establish a continuing education, training and support program including independent legal advice to Proposition 39 school bond Citizens’ Bond Oversight Committees established by Education Code Section 15278(a) and districts with Proposition 39 school bond Citizens’ Bond Oversight Committees.

Add Government Code Section 8855(l): The auditor of the annual Proposition 39 school bond independent performance audit required by subparagraph (C) of paragraph (3) of subsection (b) of Section 1 of Article XIII A of the California Constitution shall file a copy of said audit with CDIAC no later than 30 days after its issuance.

Add Government Code Section 8855(m): The auditor of the annual Proposition 39 school bond independent financial audit required by subparagraph (C) of paragraph (3) of subsection (b) of Section 1 of Article XIII A of the California Constitution shall file a copy of said audit with CDIAC no later than 30 days after its issuance.

¹ This document was approved by the Executive Committee on December 22, 2020, and amended on April 27, 2021, to change Performance Audits. The original document was titled “Legislative Program 2021” and subsequently titled “Legislative Proposal 2022.” It is now titled “Legislative Proposal 2023” and includes proposed amendments approved by the Legislation Committee on May 31, 2022, and the Board of Directors on June 11, 2022. This document also displays the application of Grammarly, “a cloud-based typing assistant that reviews spelling, grammar, punctuation, clarity, engagement, and delivery mistakes.” On August 9, 2022, Legislation Committee added district response to CBOG recommendations (other 3). On August 23, 2022, Legislation Committee added auditing activities amendments (item 2) and Brown Act (other 4).

² Borrowed Money: Opportunities for Stronger Bond Oversight, Report # 236, February 2017, page 20.



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Amend Government Code Section 8856 by adding: “The commission may also charge an additional fee to the lead underwriter, the purchaser, or the lender in an amount equal to xxx of 1 percent of the principal amount of the issue Proposition 39 school bonds, but not to exceed

xxx thousand dollars (\$X,000) for any issue for education, training, and support for Proposition 39 school Citizens’ Bond Oversight Committees and districts with Proposition 39 school bond Citizens’ Bond Oversight Committees.

Rational:

CDIAC, CABOC, and the Little Hoover Commission have a common interest in providing education and oversight on debt issuance.

One of the California Debt and Investment Advisory Commission’s (CDIAC) missions is “Establish a continuing education program for local officials having direct or supervisory responsibilities over municipal investments and debt issuance. The commission shall undertake these and any other activities necessary to disclose investment and debt issuance practices and strategies that may be conducive for oversight purposes.” [Government Code Section 8855(h)(7)]

“The *California Association of Bond Oversight Committees* is dedicated to the proposition that taxpayers deserve information on proper bond expenditures through facilitation of independent citizens’ bond oversight committees in accordance with the passage of Proposition 39 (School Facilities. 55% Local Vote.). Our purpose is to develop and deliver support such as training, newsletters, conferences and workshops and to represent our collective interests at the statewide level.” (Articles of Incorporation)

Little Hoover Commission Recommendation 2017

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.

(A Little Hoover Commission Letter Report # 236, February 2017, page 20)



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Little Hoover Commission Recommendation 7 ³

1. “Amend the statutory code on performance audits to include the effectiveness and results of the bond program.” ⁴

As a result of discussions with Mary C. Kelly, CPA, Executive Officer, Education Audit Appeals Panel, CABOC was advised that amendments to the annual audit guide for performance audits, Appendix A, could be made via the administrative rulemaking process. Appendix A was first required in FY2016 and has not been amended. Therefore, it is recommended that this effort be deleted from the Legislative Proposal 2023 and be pursued through the administrative rulemaking process for the FY2023 audit guide.

2. “Expand the role of the Citizen’s Bond Oversight Committees in selecting and interfacing with bond program auditors.”

Education Code Section 15278 (b)

(c) In furtherance of its purpose, the citizens’ oversight committee shall engage in the following activities:

(1) The citizens’ oversight committee shall appoint a representative from its membership to participate in the establishment of the scope of the annual, independent performance and financial audits required by subparagraph (C) of paragraph (3) of subdivision (b) of Section 1 of Article XIII A of the California Constitution, the preparation of the procurement document for the performance and financial auditor, and the selection of the performance and financial auditors, and receipt of interim, and draft final audits.

Rationale: The annual performance audit is one of the essential tools for a bond oversight committee to report to the public on the proper spending of bond dollars. The oversight committee must have meaningful input into the audit process, from who will prepare the audit to what it will cover.

³ Ibid.

⁴ The six proposals displayed are in the same order as in the Little Hoover Commission Report under Recommendation 7.



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3. “Require bond measures proposed to voters under the reduced threshold to include specific project lists.”

Education Code Section 15278

To properly review bond expenditures, the citizens’ oversight committee shall review all spending on all capital projects, including those partially funded by non-bond funding sources and those financed by non-bond funding sources. A long-range facility master plan shall be available to the public online before the authorization of a Proposition 39 bond measure. The proposed bond measure projects must be included in the long-range facilities master plan.

Rationale: It is recognized that capital projects often have multiple funding sources with the mixing of bond proceeds financing along with other revenue, for example, state grants, Mello Roos Community Facilities Districts, and developer fees. Regardless, to properly plan, manage and account for capital projects, all facilities projects should be included in the district’s comprehensive and properly maintained long-range facility master plan, as well as the district’s project management and accounting system, regardless of funding sources. Therefore, to properly assess the district’s budget management capabilities, the CBOC should be able to access and review project budget expenditure reports and audits concerning capital projects, whether they are funded wholly or in part by bond funds. Only projects financed by sources other than bond funds

might be considered outside the purview of the CBOC. However, these too should be included in the facility master plan and related management and accounting systems.

Education Code Section 16322

(h) The facilities master plan shall, for each project, indicate the sources of funding, name of project and location, work to be performed, and cost including, but not limited to, each bond measure approved by or to be submitted to, the district electorate and each bond ballot measure shall reference the facilities master plan in compliance with the Article XIII A requirement for the “list of the specific school facilities projects to be funded.” It is explicitly recognized that such a master plan may include a reasonable contingency for unforeseen conditions and emergency requirements.

Rationale: The electorate must have as much information as possible on how bond proceeds are spent with reasonable flexibility for unforeseen situations. The existence of a master plan to guide bond spending is the foundation of reasonable expenditure.



4. “Change the appointing authority for Citizen’s Bond Oversight Committees members.”

Each K-12 and Community College district shall form a CBOC member nomination committee to process applications for the first CBOC. The members of this Committee appointed by the Board shall be two Board Members and three members of the public. The Committee will prepare a public announcement and use other means as appropriate to inform interested parties that the district is looking for candidates for its CBOC. Interested parties shall complete an application indicating their qualifications and interest in serving on the CBOC.

The selection committee will vet and evaluate the candidates and make recommendations to the governing board for candidates who are qualified for the CBOC.

After the appointment of the first CBOC, a new CBOC Nomination Committee shall be established to make nominations for all future CBOC vacant positions. This four-person Committee shall consist of two CBOC members selected by the CBOC and two District Board members elected by the Board. The Nomination Committee shall make its recommendations to the Board. The Board shall appoint the candidate(s) it determines is most qualified for each CBOC member position from those recommended. The results shall be part of any agenda item for selection recommendations. All applicants’ information, such as application, statement of interest, and resumes, shall be included in the public agenda packet.

After the original appointment of a bond oversight committee member, such member shall be reappointed without such a process. Bond Oversight Committee members, once appointed, shall not be removed except for cause by the Citizens’ Bond Oversight Committee, such as an excessive absence or no longer meeting the minimum legal requirements of the position. Only one Oversight Committee shall exist for a District with multiple bond measures.

Rationale: The foundation for effective bond oversight is the existence of qualified and independent members. The selection process is best served as open and transparent as possible with community input—the presence of an independent selection panel that would recommend transparency to the appointing authority. Consistent with independent oversight, members should only be removed for a significant legal or compliance reason, not because of concerns for proper spending or the bond program management.



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5. “Require districts to provide a minimal budget for the oversight committees, including a budget to hire independent counsel with municipal bond expertise.”

Education Code Section 15280 (a) (1)

The district’s governing board shall provide the citizens’ bond oversight committee with necessary technical assistance. It shall give administrative service in furtherance of its purpose and sufficient resources to hire independent legal counsel and publicize the conclusions of the citizens’ bond oversight committee. At the governing board’s discretion, the proceeds of school construction bonds may be utilized to pay the expenditures of the CBOC.

Rationale: There is an inherent conflict of interest for the Oversight Committee to attempt to use the same Counsel as the District. Independent Legal Counsel is consistent with independent oversight. Also, to clear up potential ambiguities in interpretation, the code should be amended to make it explicit that supporting a bond oversight committee, including their funding of legal counsel, is an appropriate use of bond proceeds.

6. “Require districts to provide a web presence for Citizens Bond Oversight Committees to display meeting agendas and reports prominently.”

Education Code Section 15280 (b)

Documents posted to the website shall be retrievable, downloadable, indexable, and electronically searchable by commonly used Internet search applications. The citizen’s oversight committee shall approve the design of the website. A direct link shall be posted on the governing board’s primary Internet website or home page to the citizen’s oversight committee’s website. The governing board shall provide the citizen’s oversight committee control over their website so that they can promptly upload documents to that website.

Rationale: This recommendation will increase the visibility of the District and its ability to communicate to the public. The proposed language is consistent with AB 2257 (Manschein Local agency meetings: agenda online posting), signed into law in 2016.



Other CABOC Proposals

1. Bylaws developed by the CBOC and consistent with Committee control over process and rules of operation.

Education Code Section 15278 (c)

(c) In furtherance of its purpose, the citizens' oversight committee may engage in any of the following activities:

(A) .

(6) Establishing its operational bylaws (added)

Rationale: Oversight Committee Bylaws are typically prepared by the District and often establish provisions that inhibit good oversight. For instance, there can be a limit on the number of meetings or establishing the District rather than the Oversight Committee setting the meeting agenda. A Committee establishing its bylaws reinforces the independence of the oversight process.

2. Expanded access and information about the Bond Program, including direct access to District consultants and the bond program auditor.

Education Code Section 15278

The citizens' oversight committee shall conduct an entrance and exit conference with each auditor and receive draft audit reports simultaneously as they are delivered to the district.

Rationale: The annual performance audit is one of the essential tools for a bond oversight committee to report to the public on the proper spending of bond dollars. The oversight committee must have meaningful input into the audit process, from who will prepare the audit to what it will cover.



3. Provide for Districts to Respond to CBOC Recommendations

No later than 60 days after the Citizens' Bond Oversight Committee submits a recommendation to the governing board, the governing body shall comment on the recommendation to the Citizens' Bond Oversight Committee in writing.

Rationale: The recommendations of a Proposition 39 independent citizen's bond oversight committee should receive the same respect as a recommendation of a California Civil Grand Jury. The governing board should be required to respond to recommendations made by the citizens' bond oversight committees in the same way as the Civil Grand Jury recommendations.

4. Brown Act

Education Code 15280(b) "All citizens' oversight committee proceedings shall be open to the public and notice to the public shall be provided in the same manner as the proceedings of the governing board of the district including The Ralph M. Brown Act, Government Code Sections 54950 et seq. The citizens' oversight committee shall issue regular reports on the results of its activities. A report shall be issued at least once a year. Minutes of the proceedings of the citizens' oversight committee and all documents received and reports issued shall be a matter of public record and be made available on an Internet Web site maintained by the governing board of the district." (Proposed amendment is underlined.)

Rationale: To make clear that the Brown Act is applicable to all CBOC meetings.