

Date of Hearing: April 25, 2017

ASSEMBLY COMMITTEE ON HIGHER EDUCATION

Jose Medina, Chair

AB 1253 (Cooley) – As Amended April 18, 2017

SUBJECT: Education finance: school bonds: citizens' oversight committees

SUMMARY: Revises the responsibilities of a local citizens' oversight committee (COC). Specifically, **this bill:**

- 1) Requires, instead of authorizes, a COC to do the following:
 - a) Receive and review copies of the annual, independent performance audit required as specified;
 - b) Receive and review copies of the annual, independent financial audit required as specified;
 - c) Inspect school facilities and grounds to ensure that bond revenues are expended in compliance as specified;
 - d) Receive and review copies of any deferred maintenance proposals or plans developed by a school district or community college district; and,
 - e) Review efforts by the school district or community college district to maximize bond revenues by implementing cost-saving measures, including, but not limited to, all of the following:
 - i) Mechanisms designed to reduce the costs of professional fees;
 - ii) Mechanisms designed to reduce the costs of site preparation;
 - iii) Recommendations regarding the joint use of core facilities;
 - iv) Mechanisms designed to reduce costs by incorporating efficiencies in schoolsite design; and,
 - v) Recommendations regarding the use of cost-effective and efficient reusable facility plans.
- 2) With respect to school districts, authorizes a COC to request a County Office of Education (COE) review the school district's employment of professional firms for the conduct of bond issues and expenditures of proceeds of bond issues, including each of the following:
 - a) The school district's explanation or explanations for the selection of the firm or contractor;

- b) Review of the county records to determine whether one or more of the firms or contractors contributed in cash or in kind to the costs of the bond election;
 - c) A determination of whether there was an understanding by school district officials regarding the contributions and the employment of a firm or contractor;
 - d) In making a determination pursuant to the reviews outlined above, a county office of education may review emails, letters, and other correspondence between the superintendent, business manager, or other key officials of the school district and each firm or contractor to make the determination; and,
 - e) Upon conclusion of a review, the county office of education shall provide the information from the review to the citizens' oversight committee that made the request.
- 3) Authorizes a citizen to obtain an order restraining and preventing any expenditure of bond proceeds due to the failure of the governing board of a school district or community college district to cooperate with a COC.
 - 4) Requires the governing board of a school district or community college district to promptly provide to the COC any documentation requested by the COC.
 - 5) Makes technical, clarifying changes.

EXISTING LAW:

- 1) Authorizes, under Section 1 of Article XIII A of the California Constitution, school districts, community college districts, or county offices of education (COEs) to pass a General Obligation (GO) bond by 55% vote, provided that the local initiative includes the following accountability measures:
 - a) A requirement that the proceeds from the sale of the bonds be used only for the construction, reconstruction, rehabilitation, or replacement of school facilities, including the furnishing and equipping of school facilities, or the acquisition or lease of real property for school facilities, and not for any other purpose;
 - b) Provide a list of the specific school facilities projects to be funded and certification that the school district board, community college board, or COE has evaluated safety, class size reduction, and information technology needs in developing that list;
 - c) A requirement that the school district board, community college board, or COE conduct an annual, independent performance audit to ensure that the funds have been expended only on the specified projects; and,
 - d) A requirement that the school district board, community college board, or COE conduct an annual, independent financial audit of the proceeds from the sale of the bonds until all of those proceeds have been expended for the school facilities projects.

- 2) Requires the governing board of a school district or community college district to establish and appoint members to an independent COC within 60 days of the date that the governing board enters the election results on its minutes. (Education Code (EC) Section 15278(a))
- 3) Specifies that the purpose of the COC shall be to inform the public concerning the expenditure of bond revenues, including advising the public as to whether a school district or community college district is in compliance with the authorized uses of bond funds pursuant to Proposition 39 (2000). (EC Section 15278(b))
- 4) Requires the COC to consist of at least seven members who shall serve for a minimum term of two years without compensation and for no more than three consecutive terms. While consisting of a minimum of at least seven members, the COC shall be comprised as follows:
 - a) One member shall be active in a business organization representing the business community located within the school district or community college district;
 - b) One member shall be active in a senior citizens' organization;
 - c) One member shall be active in a bona fide taxpayers' organization;
 - d) For a school district, one member shall be the parent or guardian of a child enrolled in the school district. For a community college district, one member shall be a student who is both currently enrolled in the community college district and active in a community college group, such as student government. The community college student member may, at the discretion of the governing board of the community college district, serve up to six months after his or her graduation; and,
 - e) For a school district, one member shall be both a parent or guardian of a child enrolled in the school district and active in a parent-teacher organization, such as the Parent Teacher Association or schoolsite council. For a community college district, one member shall be active in the support and organization of a community college or the community colleges of the district, such as a member of an advisory council or foundation. (EC Section 15282)
- 5) Specifies that an employee or official of the school district or community college district, a vendor, contractor, or consultant shall not be appointed to the COC. (EC Section 15282)

FISCAL EFFECT: Unknown

COMMENTS: *Background.* In 2000, voters passed Proposition 39, a Constitutional Amendment which, among others, gave school and community college districts the opportunity to seek approval of a local school facilities bond based on 55% vote rather than 2/3 vote, provided that the local bond initiative meets specified accountability measures, including identifying the projects to be funded by the bond measure and conducting annual independent financial and performance audits.

AB 1908 (Lempert), Chapter 44, Statutes of 2000, a companion bill to Proposition 39, requires each district, within 60 days of the passage of a local bond with 55% vote to appoint a COC to monitor and review expenditures to ensure compliance with Proposition 39 requirements, and to keep the public informed about bond expenditures. The oversight committee must be comprised of a minimum of seven members. For school districts, they must include representatives of the business community, a bona fide taxpayers' organization, and a senior citizens' organization; a parent of a student attending the school district; and a parent active in a school's parent-teacher organization.

Individuals appointed to COCs were originally authorized to serve a maximum of two consecutive two-year terms. Over time, districts started seeking waivers by the State Board of Education (SBE) to extend the term of individuals appointed to a COC. Districts cite the difficulties of finding qualified individuals and wanting continuity as reasons for seeking waivers. In 2012, AB 1199 (Brownley), Chapter 73, Statutes of 2012, extended the COC term by two years, from four to six years. This Session, SB 341 (Wilk), which recently passed the Senate, proposes to extend the term of COCs to no more than six two-year terms, for a total of 12 years. Current law prohibits COC members from receiving compensation and requires members to serve at least one two-year term. Imposing additional requirements of the COC may require more frequent meetings, which may deter individuals from volunteering to participate in COCs.

Purpose. The author states that, “County grand juries, citizen oversight advocates, and investment analysts have indicated a strong preference for greater transparency on where bond monies are spent. Bond funds are not free money. Taxpayers and investors are entitled to know what these obligations pay for. Citizen oversight committees are an integral part of oversight and these committees need adequate tools and direction to enable fulfillment of this vital oversight role. Currently, the investigative responsibilities of these oversight committees, as outlined in statute, are vague and largely permissive. This has resulted in a patchwork of unequal oversight of bond fund implementation throughout the state.”

Arguments in support. State Treasurer John Chiang writes, “...voters have approved over \$138 billion in local school facilities bonds since the approval threshold for those measures was lowered from a two-thirds supermajority to 55 percent in 2000. The Little Hoover Commission estimates that 200 new local bond oversight committees with 1,400 volunteers will be formed across the state in the next year to oversee the use of local education bonds. These individuals play a crucial role in ensuring that bond proceeds are spent responsibly and for the intended purposes outlined in local bond measures...AB 1253 will take an important step forward in standardizing the information that must be provided to the citizens’ committee so they can properly evaluate whether the uses of bond proceeds were appropriate for their local community.

Arguments in opposition. Several groups opposed AB 1253 as introduced. Though provisions have been changed requiring COCs to independently conduct active and in-depth investigations, a COC may request a County Office of Education (COE) to conduct an investigation regarding school districts. The California Association of School Business Officials (CASBO) notes that investigations are, “a responsibility and duty currently performed by school district staff and reviewed and approved by school governing boards...the oversight committee members are appointed members of the community, not elected by the community. Should there be a discrepancy in expenditures, governing school boards are responsible for taking corrective measures and responding to their constituents on any number of issues that should arise during the development of capital outlay projects funded by bond proceeds.”

REGISTERED SUPPORT / OPPOSITION:

Support

State Treasurer John Chiang (Sponsor)
California Association of County Treasurers and Tax Collectors

Opposition

California Association of School Business Officials

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