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## FISCAL IMPACT REPORT

ORIGINAL DATE 01/31/12  
 LAST UPDATED 02/02/12    **HB** \_\_\_\_\_

**SPONSOR**    Munoz

**SHORT TITLE**    School & College Citizen Bond Committees    **SB** 208

**ANALYST**    Hartzler-Toon

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY12	FY13		
	NFI		

(Parenthesis ( ) Indicate Expenditure Decreases)

**Note:** See **Fiscal Impact** discussion below. The school district or community college may incur costs associated with providing technical, financial, and project-based expertise to the citizen bond committee and as part of the committee’s reporting responsibilities.

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#### **SOURCES OF INFORMATION**

LFC Files

#### Responses Received From

New Mexico Independent Community Colleges (NMICC)  
 Public Education Department (PED)  
 Public School Facilities Authority (PSFA)

#### **SUMMARY**

##### Synopsis of Bill

Senate Bill 208 would (1) add a new section to the College District Tax Act that would create a “citizens’ oversight bond committee” and (2) would add a new section to the Public School Finance Act that would create a “citizens’ oversight bond committee” (collectively, the oversight bond committees). The oversight committees would keep the public informed about matters related to the community college’s or school district’s expenditures of general obligation bond proceeds.

#### **FISCAL IMPLICATIONS**

Senate Bill 208 does not contain an appropriation for the colleges or school districts to support the citizens’ oversight committees, though the bill requires the college or school district to provide technical and administrative assistance and publicize the committee’s findings. None of the responses estimated an institutional or district-wide cost for providing such support. It is

assumed costs will be absorbed by existing resources, which PSFA notes could have a material impact on institutions' operating budgets.

## **SIGNIFICANT ISSUES**

The bill requires each college and school district that has bond indebtedness or is considering the issuance of general obligation bonds (GOBs) for construction, reconstruction, rehabilitation or replacement of facilities or acquisition or lease of real or personal property for facilities to create oversight bond committees. The school district oversight bond committee shall also review GOB expenditures when proposed or used for charter school facilities.

Under the bill, the college governing board or school board would appoint the oversight bond committee members. Both boards would include representatives from a district's business community and a senior citizen organization. In addition, a college's oversight bond committee would include a student representative. The school district's oversight bond committee would include a parent or guardian who is active in a school's parent-teacher organization or school council and may include a parent or guardian from a charter school, where the oversight bond committee considers GOB use for charter facilities. To avoid conflicts, no college, school district, or charter school official or employee can be appointed to a respective oversight bond committee.

The oversight bond committees' responsibilities include reviewing the expenditure of taxpayers' money for capital improvements and reporting on these activities to the public. Among the specific duties, oversight bond committees shall review and comment on college's and district's master plans, including deferred maintenance, and purpose for which bonds are used; ensure bond proceeds are used for the purposes for which the bonds were issued; ensure bond proceeds are not used for salaries or other operating expenses; receive and review copies of financial and performance audits pertaining to bond proceeds; review facilities and grounds to ensure bond proceeds are used according to the bond's stated purpose; review and provide recommendations on cost-savings measures related to reducing cost site preparation, joint or combined use of facilities, and other energy-efficiency savings measures.

Using non-GOB proceeds, the bill requires the college and school board to provide technical and administrative assistance to the oversight bond committees. The oversight bond committees also are required to produce an annual report of its activities, findings and recommendations.

Current Community Participation in Facilities Decisions. While the creation of a citizens' oversight bond committee would provide a level of review and communication to the college and school districts, some of its responsibilities duplicate responsibilities and oversight by the college's governing board, foundation board, or capital committee and the school district's elected members. The NMICC notes that colleges and school district boards and administrative staff have a fiduciary duty to ensure all expenditures, including those made with bond proceeds, are made in accordance with the law. The PED response noted that elected school boards are responsible for monitoring expenditures.

The PSFA's described the extensive public input, such as citizens' advisory committees, in prioritizing capital projects and passing bond issues. The public is involved when a school district develops a multi-year master facilities plan or a specific project requiring a permit. Educators, administrators, policy makers, students, facilities professionals and others serve on a

steering committee that proposes and refines such plans. A similar approach and public participation is required if a school district receives funding from the Public School Capital Outlay Council (PSCOC).

Further, both the Higher Education Department (HED) and the PSCOC discuss capital projects funded with GOB proceeds. The HED has regular, public meetings where GOB proposals are presented and the status of on-going GOB-supported projects are reviewed and discussed. Once a project receives GOB proceeds and as funds are encumbered, the HED processes an institution's reimbursement vouchers, ensuring GOB proceeds are used for permitted expenses in furtherance of the stated purpose of the GOB ballot language. The PSFA publishes an annual report of the Public School Capital Outlay Council's projects, which includes those where PSCOC awards are matched by GOB proceeds; the HED publishes an annual report that generally describes publically-funded projects.

### **PERFORMANCE IMPLICATIONS**

There are no performance measures associated with this bill, though both the HED and PED or PSFA may report on whether bond oversight committees have been created as required by law. Further, the PSFA stated that "school districts already have compelling incentives to garner significant community input/oversight within their bonding and capital processes, and have statutory and common sense processes in place to assure community input/oversight." The authority concluded that this bill adds another, perhaps unneeded, layer of such input or oversight.

### **ADMINISTRATIVE IMPLICATIONS**

It is unclear what responsibility, if any, the HED, PSCOC, PSFA, or another agency has to ensure a college or school district complies with this bill, if enacted.

### **TECHNICAL ISSUES**

The PED suggested Senate Bill 20 should amend the General Obligation Bonds of School Districts, Section 22-18-1 through 22-18-3 NMSA 1978, which conditions the purpose and uses of GOBs for school districts, instead of the School Finance Act, which conditions the purpose and uses of operational funds.

This bill does not require constitutionally-created institutions to establish a bond oversight committee, though these institutions can issue GOBs. It is unclear whether this is an intentional omission.

On page 2, line 6 and page 5, line 8, the language "oversee the appropriate use of bond proceeds" is unclear. The PSFA responded that this language may conflict with the powers and duties of school boards under Section 22-5-4 NMSA 1978.

### **ALTERNATIVES**

The public can hold elected board members accountable for their stewardship of financial resources.

The HED's, the PED's, and the PSCOC's approval, review, or consideration of a college's or school district's purpose and expenditure of GOB proceeds could be expanded and expanded to

require participation by the groups included in this bill – the business community, senior citizen organizations, and student and parent groups.

**WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

The current level of oversight and review of expenditures of GOB proceeds will continue.

THT/svb:lj