

**MINUTES
of the
FORTY-THIRD MEETING
of the
PUBLIC SCHOOL CAPITAL OUTLAY OVERSIGHT TASK FORCE**

**September 12, 2013
Room 322, State Capitol
Santa Fe**

The forty-third meeting of the Public School Capital Outlay Oversight Task Force (PSCOOTF) was called to order by Representative Mimi Stewart, chair, on September 12, 2013 at 9:12 a.m. in Room 322 of the State Capitol.

Present

Rep. Mimi Stewart, Chair
Sen. John M. Sapien, Vice Chair
Dr. Carl Foster
Cecilia J. Grimes
Kirk Hartom
Leonard Haskie
Rep. Larry A. Larrañaga
Rep. James Roger Madalena
Rep. W. Ken Martinez
Sen. George K. Munoz
Antonio Ortiz, Designee for Paul Aguilar
T.J. Parks
Mike Phipps
Sen. Benny Shendo, Jr.
Rep. James E. Smith
Allan Tapia

Advisory Members

Rep. Eliseo Lee Alcon
Rep. Roberto "Bobby" J. Gonzales
Rep. Sandra D. Jeff

Absent

Tom Clifford
Lisa Grover
Robbie Heyman
Sen. Mary Kay Papen
Sen. Cliff R. Pirtle
Judy Rabon
Sen. Sander Rue
Rep. Henry Kiki Saavedra
Sen. John Arthur Smith

Rep. Sharon Clahchischilliage
Sen. Howie C. Morales
Sen. John C. Ryan
Sen. William E. Sharer
Sen. William P. Soules
Sen. Pat Woods

Staff

Raúl E. Burciaga, Director, Legislative Council Service (LCS)
Sharon Ball, Senior Researcher, LCS

Claudia Armijo, Staff Attorney, LCS
Cassandra Jones, Research Assistant, LCS

Guests

The guest list is in the meeting file.

Handouts

Handouts and other written testimony are in the meeting file.

Thursday, September 12

Approval of Minutes

The task force voted unanimously to approve the minutes of the July 24, 2013 and August 6, 2013 meetings.

Severance Tax Bonding Program and Severance Tax Permanent Fund

By way of background, Stephanie Schardin Clarke, director, State Board of Finance (SBF), told the task force that severance taxes have been collected in New Mexico since 1937. She said that New Mexico imposes several taxes on natural resource production, including school taxes to the general fund, severance taxes to the Severance Tax Permanent Fund (STPF), ad valorem taxes to local governments and conservation taxes to the general fund and the Oil and Gas Reclamation Fund. In addition, the state receives royalty payments from production on state and federal funds, including the land grant permanent funds contributions, federal mineral leasing contributions and diversified use of revenues from oil and gas production.

Ms. Schardin Clarke told the task force that, since 1959, certain severance tax receipts have been deposited into the Severance Tax Bonding Fund (STBF) and used to service severance tax bonds (STBs) to fund capital improvements. The modern STB program dates to 1973, along with the creation of the STPF and the diversion of severance taxes into the STPF. At that time, statute restricted capacity to issue new STBs such that debt service could be paid with 50 percent of prior fiscal year STBF revenue. In 1976, voters agreed to grant the STPF constitutional status. In 1982, a constitutional amendment removed the option to appropriate from the corpus of the STPF.

Beginning in 1999, a judge's order resulting from the *Zuni* lawsuit required the state to establish and implement a uniform system of funding future public school capital improvements, and the STB program was expanded so that additional revenue could be used to pay debt service on supplemental severance tax bonds (SSTBs). SSTBs finance public school capital improvements. Currently, 45 percent of prior fiscal year STBF revenue can be used for SSTBs. Since 1999, SSTBs have provided \$2.4 billion for public school construction statewide. These are funds that, otherwise, would have been deposited to the STPF.

Ms. Schardin Clarke told the task force that senior short-term notes are used to fund

various capital projects, are taxable, are sold each June and December and are used for projects authorized by the legislature. Supplemental short-term notes are used for public school capital projects, are taxable, are also sold each June and December and are used for projects certified by the Public School Capital Outlay Council (PSCOC). Senior long-term bonds are used for various capital projects, are tax exempt and are sold competitively. Supplemental long-term bonds are used for public school capital projects, are tax exempt and are sold competitively.

Ms. Schardin Clarke told the task force that STBF revenues are derived from the production of oil, natural gas and other minerals. The value of these products is naturally volatile. In addition, hurricanes, pipeline constraints, geopolitical events and supply and demand all contribute to revenue volatility. Statute allows for bonds to be issued up to the point at which debt service is 95 percent of the previous fiscal year's STBF revenue or up to the amount of cash available, whichever is less. Ms. Schardin Clarke presented the task force with different STPF scenarios.

Ms. Schardin Clarke presented the task force with several policy considerations. She told members that the bonding programs and the STPF contributions are both worthwhile competing uses for severance tax revenue. She told the task force that STBs and SSTBs finance capital assets that will last for many years and are an investment in the future of New Mexico. She noted, however, that the state must choose projects strategically to ensure that the state's investment in capital assets yields lasting benefits. Capital projects stimulate the economy in the near term through construction activity and generation of gross receipts. The availability of productive capital assets increases the productivity of the state's economy. Ms. Schardin Clarke told the task force that the STPF contributes to general fund revenue, stimulating the economy through government spending over the long term. For every dollar the state wants to spend, STPF distributions to the general fund reduce the amount of taxes that must be collected. STPF contributions increase future general fund revenue, of which approximately 45 percent goes to public education. Permanent funds generate distributions that currently finance 10.8 percent of general fund recurring revenue. Ms. Schardin Clarke told the task force that investing severance tax revenues in the STPF can have some risks. From 1994 to present, after adjusting for contributions and distributions, estimated annual return on the STPF has fluctuated from -29 percent to +22 percent with an average return over the period of 5.3 percent.

Ms. Schardin Clarke explained that other possible uses of severance tax revenues include lowering tax burdens on oil and gas producers, lowering taxes on other businesses and New Mexico households or spending the funds in other ways. Some states with oil and gas revenue make a direct distribution to households from the proceeds. Ms. Schardin Clarke told the task force that each of these uses could have positive effects on the New Mexico economy.

Members of the task force asked questions about and discussed various contributions to the STPF and other state funds; changes and challenges in the market; contributions to the land grant permanent funds and the STPF; capital projects; and distributions to the Public School Capital Outlay Fund.

PSCOC Finances, Funding Allocations and Facilities Condition Index

Jeff Eaton, chief financial officer for the Public School Facilities Authority (PSFA), told the task force that uses of the Public School Capital Outlay Fund, pursuant to the Public School Capital Outlay Act, include state match distributions for the Public School Capital Improvements Act, lease assistance awards, master plan awards, the PSFA's operating budget and standards-based project awards. Annually, approximately 75 percent of SSTB proceeds are used for standards-based projects. The Public School Capital Outlay Act specifies these uses but may also use money in the fund generally for capital expenditures deemed necessary by the PSCOC for an adequate educational program. Recently, the legislature has, through the capital outlay bill for statewide projects, made appropriations from the Public School Capital Outlay Fund for various other purposes. Prior to 1999, public school capital outlay funding received for school projects was allocated annually by the legislature to the critical capital outlay program. The source of funds ranged from the general fund and general obligation bond proceeds to senior STB proceeds. Annual appropriations were highly variable from year to year. As a result of the *Zuni* lawsuit, SSTBs were created to provide a dedicated funding stream for public school capital improvements, and the standards-based process was developed to prioritize the greatest funding needs.

Mr. Eaton told the task force that between 1982 and 1999, the state bonding program operated so that 50 percent of severance taxes were used for statewide capital projects and the other 50 percent were deposited into the STPF. The legislature amended the law as a result of the lawsuit to allow up to 45 percent of the balance of the deposits in the STBF to be used instead for issuing SSTBs for public school capital outlay. The last five percent remains for transfer to the STPF. Since 2001, the SBF has issued SSTBs for PSCOC programs totaling more than \$1.8 billion.

Pat McMurray, senior facilities manager, PSFA, told the task force that the PSCOC utilizes a two-phase funding approach. Phase 1 funding revolves around planning and design. Typically, around 10 percent of the anticipated total project cost includes early planning, including the cost for educational specifications, the cost for a feasibility study, the cost for pre-design services and the cost to enter into an owner-architect agreement. Phase 2 funding is based on actual general contractor costs, and the PSCOC ensures that funding is sufficient but not excessive. This method, known as "just in time" funding, allows funds to begin flowing within three to four weeks after phase 2 construction funding is awarded by the PSCOC.

Chris Aguilar, facilities data manager, PSFA, explained the purpose and operation of the PSCOC facilities assessment database. He explained that a life-cycle renewal requirement exists when a building system is in use beyond its expected life. Each building system is assessed against the original installation or last renovation date to determine the percent used based on an expected system life span, which, in turn, is based on national data. Facility condition assessments are performed in order to determine when a building system needs to be renewed. This analysis can be done by walk-through inspections, mathematical modeling or a combination of both. Mr. Aguilar presented the task force with PSCOC funding needs for projects for the

next six years.

Members of the task force asked questions about and discussed balances in the Public School Capital Outlay Fund; PSCOC procedures in situations in which awarded funding ends up being more than the cost of the project; PSCOC certification of projects; leasing of school buildings; projects in specific districts; options for districts that have a hard time meeting their local match for standards-based projects; public school capital outlay funds for school buses; energy saving standards in standards-based projects; systems-based funding; and funding advances.

Utilization and Maintenance of Public School Facilities

Martica Casias, planning and design manager, PSFA, told the task force that the PSCOC oversees facility issues for 800 schools in 89 districts as well as 52 state-chartered charter schools. Bill Sprick, facilities master planner, PSFA, explained that the concepts of "utilization" and "capacity" are components of long-range planning. The utilization of each facility is analyzed to identify if the schools are too small or too large and to develop solutions to begin to "right-size" schools for their educational programs and current and projected enrollment. The utilization is tied directly with square footage and the number of classrooms.

Ms. Casias told the task force that the majority of districts have too much capacity and inefficient utilization based on their current enrollments. In most of the rural districts, the demographics and population projections are not projecting growth but instead indicate a declining or flat enrollment. The majority of the districts have existing facilities that were sized for much larger student enrollments at the time they were built. Ms. Casias presented the task force with current examples of utilization.

John Valdez, facilities master planner, PSFA, discussed how the PSFA measures capacity. He said that "functional capacity" is the number of students that the general and special education spaces can accommodate based on room size as well as pupil-to-teacher ratio guidelines while discounting the spaces used for specialized activities that may not always be available on a regular basis or are not appropriate for general education instruction. Mr. Valdez told the task force that education specifications (or "ed specs") are pre-planning tools that school districts initiate prior to design of a school facility project. Ed specs can be specific to a project or can apply to all facilities of a certain type.

Ms. Casias told the task force that, over the past 10 years, statewide student enrollment has remained relatively flat with a statewide increase of just over 10,000 students. Within this slight increase, some districts have declined and others have increased. While enrollment growth has remained relatively flat, the gross square footage of schools has increased by eight million gross square feet statewide. Ms. Casias told the task force that the inclusion of preventive maintenance plans into the facilities master plan is important. She explained that the focus of the facilities master plan is to identify and guide capital investments required to provide educational programs to district students and to meet New Mexico's statewide adequacy standards. The preventive

maintenance plan, which is a subset of the facility master plan, seeks to prioritize and schedule preventive maintenance tasks needed to maintain district facility systems and equipment in effective working order. She said that while the purposes of the two plans are different, they are definitely related.

Members of the task force asked questions about and discussed school gross square footage standards; capacity and enrollment for specific schools; students in charter schools; facility master plan development; New Mexico's student enrollment; enrollment projections; and space requirements for virtual charter schools.

Les Martinez, maintenance manager, PSFA, provided the task force with an example of the PSFA's facility maintenance assessment report (FMAR), a tool that the PSFA utilizes to evaluate school facility conditions and determine and verify the implementation of an effective maintenance management program. The FMAR consists of a site survey, a building exterior survey, a building interior survey, a building equipment and systems survey and a maintenance management component. He said that the current average FMAR score is 60.9 percent. He explained that factors that contribute to this score are people, including staff and accountability; methods, including reactive and deferral of maintenance; money, including short-term and long-term planning; and the capitalization of expenses and hardware, including outdated equipment and lack of training. Mr. Martinez provided the task force with a breakdown of the cost of various maintenance components.

Mr. Martinez explained to the task force that he had invited several representatives from school districts to discuss maintenance concerns and procedures. J. Vance Lee, director, support services, Alamogordo Public School District, told the task force that the facility information management system, developed by the PSFA, is an extremely useful tool for managing maintenance issues. He told the task force that the Alamogordo Public School District tries to develop and implement a comprehensive customer care program and communication system and to maximize the efficiency and effectiveness of the maintenance department. Mr. Lee told the task force that since the district has been able to retain licensed contractors in several areas, it has been able to cut certain costs by more than half because of the ability to reduce labor costs and markups. He stressed that the school district strives to balance preventive maintenance with the installation of new systems. Mr. Lee told the task force that he strongly supports systems-based funding by the PSCOC.

John D. Cresto, maintenance director, Gallup-McKinley County School District (GMCSO), told the task force that the GMCSO's maintenance department functions as both a water and gas utility regulated by the Public Regulation Commission. In addition, the GMCSO provides phone service, internet, fire protection, underground storage and wastewater disposal. Mr. Cresto discussed the challenges of performing maintenance on schools that are placed in very remote geographic areas.

Mark Clark, maintenance director, Grants-Cibola County School District (GCCSO), told

the task force that the GCCSD has two licensed contractors on staff. Because of permitting regulations from the Construction Industries Division (CID) of the Regulation and Licensing Department, those contractors cannot deal with certain voltages, which has been a big problem for the GCCSD. Mr. Clark discussed many maintenance challenges that have been faced by the GCCSD, including a fluctuating enrollment and budget cuts.

Bobby J. Stout, director of the physical plant department for the Las Cruces Public School District, told the task force that he has one major concern. In the past, the Las Cruces Public School District has hired apprentice tradespeople licensed by the CID. After 2010, because districts operate off annual permits, experience working for a school district no longer applies toward an apprentice's application to become a journeyman. Mr. Stout recommended that the CID create a separate classification for those that have experience in repair and maintenance and allow the time spent working for a school district to apply.

Terry Cummings, director of operations, Pojoaque Valley Public School District, discussed challenges that the district has faced and ways in which those challenges have been overcome. She told the task force that the district has experienced a reduction in its custodial force and that it has no tradespeople on staff.

Potential Legislation: Discussion and Direction to Staff

Representative Stewart advised task force members to call Ms. Ball with any legislative requests before the October meeting. She told task force members that the task force would consider several pieces of legislation at its October and November meetings for the 2014 legislative session.

Adjournment

There being no further business before the task force, the forty-third meeting of the PSCOOTF adjourned at 3:25 p.m.