

## CITIZENS' OVERSIGHT COMMITTEE

This memo will explain the functions which the citizens' oversight committee is required to perform in connection with the general obligation bond issue of the District, the timing of its creation, and the make-up of the Committee.

150 California Street  
18th Floor  
San Francisco, CA 94108  
t. 415.391.5780  
f. 415.391.5784

Constitutional Reporting Requirements. In order to understand the role of the Committee, it is helpful to start with a discussion of Proposition 39, which amended Article XIII of the California Constitution to permit school districts and community college districts to issue general obligation bonds with a 55% vote. Proposition 39 contains two specific reporting requirements applicable to the District's general obligation program, as follows:

1. "A requirement that the ... school district board ... conduct an annual, independent **performance audit** to ensure that the funds have been expended only on the specific projects listed."
2. "A requirement that the ... school district board ... 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."

These audit functions are not specifically made the responsibility of the Committee, although it is clear that they must be prepared by an organization which is "independent" of the district. The purpose of the first audit is to review what facilities the bond proceeds have been spent on, relative to the description of authorized facilities contained in the ballot measure. The purpose of the second audit is a bit murkier, although we believe it is to review how the bond proceeds have been spent, i.e. the manner in which the expenditure program has been undertaken, including a review of the amount and purpose of individual expenditures.

Timing of Creation of Committee. The Citizens Oversight Committee must be created within 60 days of the date that the governing board enters the election results on its minutes (Education Code Section 15278).

Make-up of the Committee. The Committee must consist of at least 7 members, 5 of whom must meet the following criteria: 1 member must be an active member of the business community, 1 member shall be active in a senior citizens' organization, 1 member shall be active in a bona fide taxpayers' organization, 1 member shall be the parent or guardian of a child enrolled in the District's schools, and 1 member shall be both a parent or guardian of a child enrolled in the District's schools and active in a parent-teacher organization. No employee or officer of the District may serve on the Committee, nor may any vendor, contractor or consultant of the District serve on the Committee. (Section 15282 of the Education Code.)

Statutory Duties of the Committee. The implementing legislation (Sections 15278 through 15282 of the Ed. Code) states that the purpose of the Committee is "to inform the public concerning the expenditure of bond revenues." This is a general statement which does not dictate the specific functions of the Committee. The specific mandatory functions of the Committee are set forth in the Ed. Code as follows:

1. Actively review and report on the proper expenditure of taxpayers' money for school construction.
2. Advise the public as to whether the District is in compliance with Section 1(b)(3) of Article XIII A of the California Constitution<sup>1</sup>.
3. Provide oversight for both of the following:
  - (a) ensuring that bond revenues are expended only for the purposes described in Article XIII A, Section 1(b)(3), and
  - (b) ensuring that no funds are used for any teacher or administrative salaries or other school operating expenses.
4. Issue regular reports on the results of activities, at least once a year.

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<sup>1</sup> Article XIII A, SECTION 1. (a) The maximum amount of any ad valorem tax on real property shall not exceed One percent (1%) of the full cash value of such property. The one percent (1%) tax to be collected by the counties and apportioned according to law to the districts within the counties.

(b) The limitation provided for in subdivision (a) shall not apply to ad valorem taxes or special assessments to pay the interest and redemption charges on any of the following:

- (1) Indebtedness approved by the voters prior to July 1, 1978.
- (2) Bonded indebtedness for the acquisition or improvement of real property approved on or after July 1, 1978, by two-thirds of the votes cast by the voters voting on the proposition.

(3) Bonded indebtedness incurred by a school district, community college district, or county office of education 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, approved by 55 percent of the voters of the district or county, as appropriate, voting on the proposition on or after the effective date of the measure adding this paragraph. This paragraph shall apply only if the proposition approved by the voters and resulting in the bonded indebtedness includes all of the following accountability requirements:

(A) A requirement that the proceeds from the sale of the bonds be used only for the purposes specified in Article XIII A, Section 1(b)(3), and not for any other purpose, including teacher and administrator salaries and other school operating expenses.

(B) A list of the specific school facilities projects to be funded and certification that the school district board, community college board, or county office of education has evaluated safety, class size reduction, and information technology needs in developing that list.



Discussion. In order to discharge its duties, it is clear that the Committee must review the annual performance audit and the annual financial audit which the District is required to provide under Article XIII A as cited above. This review is specifically required in order for the Committee to perform its duties under category 2 above.

Presumably, the annual performance audit and the annual financial audit will provide sufficient information for the Committee to discharge its remaining functions as well, since the audits should contain all of the information which the Committee needs to discharge its duties under categories 1 and 3 above. We would recommend that the independent party(ies) undertaking the annual performance audit and the annual financial audit be instructed by the District to ensure that sufficient detail is contained in these reports to enable the Committee to perform its functions described above.

**Bill Madison**  
**Jones Hall**

