

PROPOSITION 39 □ BOND MEASURE □ CITIZENS' OVERSIGHT COMMITTEES

PRESENTATION FOR:

Citizens' Bond Oversight Committee

PRESENTED BY:
Robert E. Anslow, Partner



Introduction/Overview

- Proposition 39 Citizens' Oversight Committees (COCs)
 - History
 - Statutory Provisions & Principal Purpose
 - Composition, Activities, Organization, Proceedings and COC Website
 - Interaction with School District
 - Audit Issues
 - Annual Reporting
 - COC Wind Up

History

- Proposition 39 – 2000 Statewide election to change voting requirements for general obligation bond authorizations
 - Added provisions in Section 2 of Article 13A of the California Constitution – to allow certain general obligation bond measures of School Districts and Community College Districts to be approved by 55% or more of the voters voting on such measure.

History (cont'd)

- To address perceived issues concerning spending accountability of Bond Funds the State Legislature
 - Passed Assembly Bill (AB) 1908
 - Included certain additional accountability measures which had to be part of a Proposition 39 Bond Measure
 - Included Citizens' Oversight Committees provisions (set out in Education Code Sections 15278, 15280 and 15282)
 - AB 1908 was made contingent upon passage of Prop. 39 at November 7, 2000, Statewide General Election

History (cont'd)

- Proposition 39 passed – making provisions of AB 1908 effective and applicable to 55% General Obligation Bond Elections
 - AB 1908 provisions became effective

Statutory Provisions

- Ballot statement (required to be in ballot pamphlet for 55% (Proposition 39) GO Bond Election Measures)
 - “The [Governing] Board will appoint a Citizens’ Oversight Committee and conduct annual independent audits to assure that [General Obligation Bond] funds are spent only on school and classroom improvements and for not other purposes”

Education Code Section 15272

Statutory Provisions (cont'd)

- Citizen Oversight Committee Provisions are set out in Education Code Sections 15278, 15280 and 15282 (included in hand-out)
- School Districts may adopt policies, by-laws/ guidelines/directives to address Citizens' Oversight Committee matters which are not in conflict with statutory requirements
- The RUSD Board has adopted such policies

Citizen Oversight Committee Principal Purpose

- Principal Purpose of the COC
 - Inform the public concerning the expenditure of bond revenues to be received from sale of bonds authorized at bond election.

[See Education Code §15278(b)]

Citizen Oversight Committee Principal Purpose (cont'd)

- Other Areas/Topics which a Citizens' Oversight Committee may review/comment on
 - Review and report on the proper expenditure of the taxpayers' money for school construction
 - Advise the public as to whether the District is in compliance with the requirements of Prop 39
 - Convene to provide oversight for:
 - Ensuring that bond revenues are only expended 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 as approved by the voters and as identified in the District's school facilities project list prepared for Measure Y
 - Ensuring that no bond revenues are expended for any teacher or administrative salaries or other school operating expenses

Citizen Oversight Committee Principal Purpose (cont'd)

- Education Code §15264(c) - which mandates that the COC shall promptly alert the public to any waste or improper expenditure of school construction bond money.

Citizens' Oversight Committee Composition

- Minimum seven (7) members (with 5 represented groups) appointed by School District Governing Board
 - Some school districts have committees that are larger
 - School districts should consider effectiveness, utilization and requirements of district staff time and resources when setting up Citizens' Oversight Committee member number

Citizens' Oversight Committee Composition (cont'd)

- Citizen Oversight Committee membership must include the following five (5) represented groups
 - Parent of student(s)
 - Parent of student(s) and (Parent Teacher Association) (School Site Council Organization)
 - Senior Citizen's organization
 - Business Community organization
 - Taxpayer organization
- Other groups may be represented at discretion of School District Governing Board

Appointment of Citizens' Oversight Committee Members

- COC members approved by School District Governing Board
- Open session discussion and vote on appointment(s)
- COC members cannot include School District:
 - Employees
 - Contractors
 - Consultants
- Initial COC members must be appointed not later than 60 days after certification of General Bond Measure Election results

Appointment of Citizens' Oversight Committee Members (cont'd)

- Citizens' Oversight Committee Members Serve without Compensation
- Citizens' Oversight Committee Members are Appointed for Two (2) Year Terms – Maximum of 3 Consecutive Terms

Authorized Activities of COC

- [Education Code §15278(c)] – In carrying out its responsibilities, the COC may engage in any of the following activities:
 - Receiving and reviewing copies of the annual, independent performance audit conducted to ensure that the bond revenues have been expended only on the specific projects listed in Measure Y;
 - Receiving and reviewing copies of the annual, independent financial audit of the bond revenues from Measure Y;
 - Inspecting school facilities and grounds to ensure that the bond revenues are expended in compliance with the requirements of paragraph (3) of subdivision (b) of Section 1 of Article XIII A of the California Constitution;

Authorized Activities of COC (cont'd)

- Receiving and reviewing copies of any deferred maintenance proposals or plans developed by the District, including any reports required by Section 17584.1; and/or
- Reviewing efforts by the District to maximize bond revenues by implementing cost-saving measures, including, but not limited to, the following:
 - Mechanisms designed to reduce the costs of professional fees;
 - Mechanisms designed to reduce the costs of site preparation;
 - Recommendations regarding the joint use of core facilities;
 - Mechanisms designed to reduce costs by incorporating efficiencies in schoolsite design; and/or
 - Recommendations regarding the use of cost-effective and efficient reusable facility plans.

Citizen Oversight Committee Proceedings

- Conduct open meetings which comply with the requirements of the Ralph M. Brown Act;
- Issue regular reports on the results of its activities, and issue a report at least once per year; and
- Make all documents and reports available to the public via the internet website of the District.

Citizen Oversight Committee Proceedings (cont'd)

- Citizens' Oversight Committee is Independent
 - School District Staff and Governing Board cannot dictate findings or statements (but can suggest)
 - School District Staff and Governing Board cannot limit COC communications with the public

Citizens' Oversight Committee Proceedings (cont'd)

- Committee meetings subject to requirements of Ralph M. Brown Act (Brown Act) including:
 - Agenda requirements
 - Public comment opportunities
 - Public access requirements
 - Public access to distributed documents

Citizens' Oversight Committee Proceedings (cont'd)

- Interface with School District Staff
- Consideration of Rules of Order
- Election of Committee Officers (suggested)
 - Chair/President
 - Vice Chair
 - Secretary
- Establishing Meeting Schedule(s)
- School Site/Construction Tours are Permitted

Citizen Oversight Committee Proceedings (cont'd)

- Limitations on Citizens' Oversight Committee Actions
 - No Jurisdiction on Scheduling or Selection of Authorized Bond Funded Projects or Project Priorities (this belongs with the School District Governing Board)
- Cannot Direct Auditor on Form or Findings of Audit Reports
- No Access to School District Campuses or Construction Sites without School District Coordination
(Compliance with State law and for liability reasons)

Citizens' Oversight Committee Website

- Required to be Established and Maintained by School District (Education Code Section 15280(b))
- Frequently Linked to School District Home Page
- Used by Citizens' Oversight Committee to Communicate with the Public
- May be Linked to Bond Measure Information Page

Citizens' Oversight Committee Website (cont'd)

- Statutory Requirements for Website Posting:
 - Committee Meeting Agendas
 - Committee Meeting Minutes
 - Reports/Handouts
- COC Annual Reports are Typically Posted to Website
- Posting Duration
 - (setting a written policy(ies))

School District Support of Citizens' Oversight Committee

- Provide information/documentation on bond fund expenditures and bond funded projects
- Provide Committee meeting location(s) and support
 - Respond to questions and information requests
- Operate and maintain COC Website
- Provide other logistical and technical support

School District Support of Citizens' Oversight Committee (cont'd)

- Support costs for Citizens' Oversight Committee operations/activities/support cannot be charged to bond funds
- Citizens' Oversight Committees are not entitled to a separate budget

Annual Audit Requirements

- Required under Constitutional provisions
- Prepared by independent auditor/audit firm (i.e., outside auditor)
 - Most financial audit firms can prepare such audits
- 2 Elements Required
 - Financial Audit (Tracking Funds)
 - Performance Audit (“Agreed Upon Procedures”) (sampling/comparing expenditures to bond project list)

Annual Audit Requirements (cont'd)

- Time of preparation-completion
 - Audit reports must be provided to School District Governing Board and Citizens' Oversight Committee by March 31 (following close of Fiscal Year)
 - Suggestion – match audit period to School District Fiscal Year
- Presented to School Board and COC
 - COC may review and comment
 - Audits can be included in COC Annual Report

Annual Citizens' Oversight Committee Report

- Required by statute – at least one Report per year
 - Can be Calendar Year or Fiscal Year basis (Fiscal Year is most common)
 - No form required by statute

Annual Citizens' Oversight Committee Report (cont'd)

- Suggested contents
 - Reference to COC Agendas
 - Reference to COC Minutes
 - Reference to COC Documents received/on file

Annual Citizens' Oversight Committee Report (cont'd)

- Inclusion of Annual Audit Report(s)
- Statement of COC findings for the included period (suggested)

Annual Citizens' Oversight Committee Report (cont'd)

- COC action on Annual Report(s)
- Posting to COC website
- COC may present Annual Report to School District Governing Board
- COC may distribute to press/media

Citizens' Oversight Committee "Inactive Period"

- Construction funds of issued general obligation bonds have been fully expended (no money to oversee during a given)
- Authorized bonds have not yet been issued
- COC should still meet at least once per year and issue an Annual Report

COC Completion and Wind Up of COC

- Required Events

- All general obligation bonds of the bond measure have been issued (does not include refunding bonds)
- All bond construction funds from all bond issuances have been fully expended (i.e., the “meter reads zero (\$)”)
- The final audit reports have been prepared and received

COC Completion and Wind Up of COC (cont'd)

- Required Events (cont'd)
 - The COC conducts a final meeting to approve final COC annual report
 - Final COC annual report is posted and presented (if applicable)

COC Completion and Wind Up of COC (cont'd)

- Required Events (cont'd)
 - School District Governing Board takes action(s) to terminate COC

Question & Answer Session

Thank You

For questions or comments, please contact:

{ Robert E. Anslow
(949) 453-4260
Rob.anslow@aalrr.com }

aalrr

Atkinson, Andelson
Loya, Ruud & Romo

A Professional Law Corporation

Disclaimer

This AALRR presentation is intended for informational purposes only and should not be relied upon in reaching a conclusion in a particular area of law. Applicability of the legal principles discussed may differ substantially in individual situations. Receipt of this or any other AALRR presentation/publication does not create an attorney-client relationship. The Firm is not responsible for inadvertent errors that may occur in the publishing process.

©2022 Atkinson, Andelson, Loya, Ruud & Romo

