

MINUTES
of the
SIXTY-SEVENTH MEETING
of the
PUBLIC SCHOOL CAPITAL OUTLAY OVERSIGHT TASK FORCE

September 21, 2018
State Capitol, Room 307
Santa Fe

The sixty-seventh meeting of the Public School Capital Outlay Oversight Task Force (PSCOOTF) was called to order by Representative Stephanie Garcia Richard, chair, on September 21, 2018 at 9:10 a.m. in Room 307 of the State Capitol in Santa Fe.

Present

Rep. Stephanie Garcia Richard, Chair
Martha "Marty" Braniff
Greg Ewing
Carl Foster
Rep. Rick Little
Rep. Patricia A. Lundstrom
Antonio Ortiz, Designee for the Secretary of
Public Education
Sen. Mary Kay Papen
Mike Phipps
Rep. Dennis J. Roch
Rep. Debbie A. Rodella
Eugene Schmidt
Debbie Romero, Designee for the Secretary
of Finance and Administration (morning)
Duffy Rodriguez, Secretary of Finance and
Administration (afternoon)

Advisory Members

Rep. Eliseo Lee Alcon
Rep. Harry Garcia
Sen. Mimi Stewart

Absent

Sen. William P. Soules, Vice Chair
Sen. Craig W. Brandt
Rep. Brian Egolf
Kirk Hartom
Sen. Stuart Ingle
T.J. Parks
Richard A. Perea
Rep. G. Andrés Romero
Stan Rounds
Sen. Benny Shendo, Jr.
Sen. John Arthur Smith
Harry Teague

Sen. Daniel A. Ivey-Soto
Rep. D. Wonda Johnson
Sen. Gay G. Kernan
Sen. Howie C. Morales
Sen. Cliff R. Pirtle
Sen. Sander Rue
Sen. Pat Woods

(Attendance times are noted for members not present for the entire meeting.)

Staff

Raúl E. Burciaga, Director, Legislative Council Service (LCS)
Jeff Eaton, Research and Fiscal Policy Analyst, LCS
Michelle Jaschke, Researcher, LCS

Guests

The guest list is in the meeting file.

Handouts

Copies of handouts are in the meeting file.

Friday, September 21**Public School Capital Outlay Council (PSCOC) Financial Plan**

Denise Irion, chief financial officer, Public School Facilities Authority (PSFA), reviewed changes to the PSCOC financial plan for fiscal year (FY) 2019 through FY 2023. She reported that revenue estimates have increased significantly for each of those years. Ms. Irion provided details regarding the recent awards made by the PSCOC to school districts for both standards-based and building systems awards and provided projections for award scenarios in the coming years.

In response to members' questions, Ms. Irion reported that school districts that have already made improvements to school security systems cannot be reimbursed retroactively for the cost of those improvements under the program now being established to award funds from recent special appropriations for school security improvements. Jonathan Chamblin, director, PSFA, observed that 288 applications were received for those funds and that a prioritization process is being developed to help serve the needs of applicants who are not scheduled to receive awards for security improvements at this time. Ms. Irion also reported that the PSCOC seeks to time its awards to dovetail with local bond issuances to ensure that state and local matching requirements for capital projects are met efficiently and cost-effectively. Members also discussed:

- processes and requirements for awarding funds for emergency building needs;
- school bus availability for athletic versus academic purposes; and
- the widespread use of operational funds to support school transportation needs.

2018-2020 PSFA Strategic Plan

Mr. Chamblin presented a strategic plan for the PSFA for 2018 through 2020, including a comparison of how strategic objectives have changed over time in reference to prior-year plans dating back to 2008. In response to information received from staff and school districts, the PSFA has reset the strategic planning process by engaging a strategic planning consultant and establishing a working group, including a representative from each of the PSFA's divisions. Mr. Chamblin described a participatory planning process designed to increase transparency and build community relationships. The focus of the plan is to:

- reduce the initial and ongoing costs of facility projects;
- increase the longevity of new and existing facilities;
- improve partnerships with schools;
- establish a key focus on developing the technology projects group;
- create a new closeout and energy projects group to facilitate the transition between construction and ownership of a project; and
- implement new assessment processes and systems to support energy efficiency goals.

In response to members' questions, Mr. Chamblin reported that a key objective of the new plan is to empower and support staff members as they work collectively to build partnerships and improve agency processes. Each group within the PSFA helps to develop action items for its focus areas. Mr. Chamblin noted that the PSFA has a budget of close to \$5 million annually and employs 46 staff members. Dr. Schmidt asked if the PSFA has developed a vision to solve the continuing issues surrounding charter school lease-assistance payments. Mr. Chamblin said that the PSFA and the PSCOC need to develop more robust processes for assessing special space needs and uses for charter schools. Members also discussed connectivity projects that might provide solutions to broadband limitations in rural areas and asked that Mr. Chamblin provide a follow-up report during the next interim on outcomes from the plan and the planning process.

Progress Report on School Facilities Maintenance

Larry Tillotson, maintenance and operations support manager, PSFA, reported that the condition of school facilities has a tremendous impact on the educational environment and that good maintenance practices save operational dollars and protect capital investments. He described the PSFA's efforts to safeguard and maintain the 61 million square feet of property owned or operated by school districts, charter schools and constitutional schools in the state. In 2010, the Facilities Maintenance Assessment Report (FMAR), a tool to measure maintenance needs and requirements, was established. According to Mr. Tillotson, the FMAR process has been highly successful in moving school districts toward better maintenance practices across the state. Mr. Tillotson reported that over 78% of schools fell below a satisfactory maintenance level in the 2010-2015 FMAR cycle. At present, over 71% of school districts are operating at a satisfactory level after using the FMAR to identify and correct many of the factors that were contributing to poor maintenance efforts.

Mr. Tillotson outlined a number of next steps for the maintenance effort, including:

- establishing effective maintenance and custodial staffing levels;
- developing training and certification programs for key maintenance staff;
- collaborating with the Construction Industries Division (CID) of the Regulation and Licensing Department to define which systems repairs can be completed by district staff;
- encouraging data-driven communication regarding maintenance issues;
- developing energy management programs; and
- collaborating with other state agencies.

The chair and other task force members lauded the improvements that have been made in district maintenance efforts and encouraged sharing best practices from that process with other state agencies. In response to members' questions, Mr. Tillotson reported that the PSFA and school districts are working on developing staff training programs. He observed that charter schools are performing well on maintenance, although much of the charter school space is leased space that may be maintained by lessors. He also noted that the PSFA is looking for ways to collaborate with the CID to find ways to certify district staff to do more maintenance on building systems. In response to a member's question, Martica Casias, deputy director, PSFA, observed that under a memorandum of understanding with the CID, PSCOC projects receive priority for CID inspections and so suffer few delays in that regard.

Zuni Lawsuit Update

Joshua Granata, assistant attorney general, Office of the Attorney General (OAG), provided a status report on the *Zuni* lawsuit. Mr. Granata reported that a status meeting on the ongoing developments in the *Zuni* lawsuit is scheduled for next week. He anticipates that at that meeting, a trial date will be set. Mr. Granata reported that the OAG has filed a motion for partial dismissal on the basis that the Grants-Cibola County School District (GCCSD) has not been an active party to the lawsuit. It is unclear at this point if the GCCSD board will support or oppose that motion. The court has ruled that some of the individual plaintiffs (students) no longer have standing in the lawsuit as they are no longer students, but other student plaintiffs have been ruled to have standing.

Procedurally, Mr. Granata reported that the next steps are to finish the trial, submit findings of fact and pursue the appeals process as necessary. Mr. Granata stated that there is no resolution in sight and that these steps are likely to be lengthy, with appeals from both sides. The plaintiffs' biggest complaint is not being able to build beyond the state-established adequacy standards. The state is defending those standards and has noted to the court recent developments, such as the 2018 legislation providing changes to the state- and local-match formula. One member noted that federal impact aid is still going to the state and not directly to the impact aid areas.

PSCOC Project Prioritization Methodologies

Ms. Casias provided an overview of the following capital improvement programs operated by the PSCOC:

- standards-based projects (large projects such as new or replacement schools);
- systems (small projects to improve building systems);
- facilities master plans;
- security;
- broadband;
- pre-kindergarten classrooms; and
- charter school lease assistance.

Ms. Casias reviewed the eligibility criteria for each program, noting that the recent 2018 authorizations for PSCOC funding from House Bill 306 (2018) and Senate Bill 239 (2018) for security systems will require local matching participation per the state- and local-match formula. The Broadband Deficiencies Correction Program relies in part on federal E-rate matching funds. Ms. Casias reported that the state match may be increased under this program. The chair asked that the task force receive an update on the matching requirements as more information becomes available.

Members discussed the impact of the change in the state- and local-match formula, and Ms. Casias observed that the new formula will only apply to new grants and will not change existing awards. She also reported that school districts may seek waivers of the local match. Mr. Chamblin observed that security systems do not currently meet the building systems definition, but there is opportunity to include those systems in the building systems program. The task force discussed options to develop legislation to clarify inclusion of security systems in the building systems program. Members also discussed what the PSFA and the PSCOC may do to help school districts that will be adversely affected by the state- and local-match formula changes. According to Mr. Chamblin, this may include looking at timing for PSCOC funding cycles and changes to election laws that will impact local bonding. Task force members also discussed the requirements for school districts to certify the availability of their local match and provisions for emergency funding assistance.

Long-Term Charter School Facility Solutions

Matthew Pahl, executive director, New Mexico Coalition for Charter Schools, reported that in New Mexico, charter schools are:

- public schools that are free to any student who chooses to attend;
- governed independently;
- committed to specific academic, financial and organizational performance;
- funded in an equal manner with district schools; and
- using unique educational methods and space to meet student needs.

Mr. Pahl provided a history of charter school facilities, noting that the lease-assistance program for charter schools was established in 2005. He reported that the PSCOC had planned to reduce charter school lease assistance by 20% this year; however, at its meeting the previous day, the PSCOC voted to maintain lease assistance for this year at the current level. Mr. Pahl observed that larger school districts, including the Albuquerque Public School District and Las Cruces Public School District, have begun to invest in long-term facilities and facility renovations for charter schools in exchange for state equalization guarantee or lease-assistance funds. According to Mr. Pahl, the requirement that charter schools be located in public facilities has not been fully realized because of legal issues slowing approval for lease-to-purchase agreements and because few charter schools can afford the local match required to secure facilities funding from the PSCOC. He asserted that lease assistance has only limited benefits for

both the general public and charter schools and offered several possible long-term charter school facility solutions:

- provide a borrowing option at preferred public market rates;
- include separate parameters for charter school loan qualifications; and
- prioritize repurposing capital investments that the public has already made.

Task force members discussed the feasibility of co-locating charter schools with public schools on the same campus and the potential to provide incentives for counties or other political subdivisions of the state to serve as fiscal agents for charter school loans from the New Mexico Finance Authority. Mr. Pahl presented the idea of creating a revolving loan fund to help charter schools meet their facilities needs. He also proposed enhancing charter school access to local mill levy bonds.

In response to members' questions, Mr. Pahl reported that roughly half of New Mexico's 96 charter schools are district-chartered and half are state-chartered. He stated that districts are able to go to the PSCOC on behalf of charter schools and that legislation that was introduced in 2018 that would have clarified that charter school facilities purchased by a private foundation through a lease-to-purchase agreement on behalf of a school would belong to the state upon final purchase. Ms. Casias clarified that there is no standardized lease agreement for charter schools and that the Public Education Department must approve lease-to-purchase agreements. Members also discussed the difficulties of ascertaining demand for charter school services and that certain small school districts face challenges similar to those faced by charter schools.

Adjournment

There being no further business before the task force, the PSCOOTF meeting was adjourned at 3:39 p.m.