

**LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS**

Bill Number: SB 290a

52nd Legislature, 1st Session, 2015

Tracking Number: .198646.1SA

Short Title: Audits of Capital Outlay Projects

Sponsor(s): Senator Carlos R. Cisneros

Analyst: David Craig

Date: March 19, 2015

AS AMENDED

The Senate Public Affairs Committee amendments clarify that only projects receiving more than \$5.0 million in state funds are subject to the special audit, rather than those projects costing more than \$5.0 million and funded in whole or part with state funds.

Original Bill Summary:

SB 290 creates a new section of the *Audit Act* to require special audits on all capital outlay projects over \$5.0 million that are funded partly or entirely with state money.

Fiscal Impact:

SB 290 does not contain an appropriation.

Fiscal Issues:

The provisions of SB 290 would add additional audit requirements to the Public School Capital Outlay Council (PSCOC) standards-based process for school construction. The PSCOC process for school construction is financed through the sale of Supplemental Severance Tax Bonds (SSTBs). As fiscal agents receiving state funds, school districts, state-chartered charter schools, and the Public School Facilities Authority (PSFA) will be required to have the special audit required by SB 290 for capital outlay projects for costs greater than \$5.0 million.

According to a project award schedule provided to the PSCOC in January 2015 (see **Attachment 1**, *Public School Capital Outlay Council Active Projects and Amounts, January 15, 2015*), the PSCOC has at least 48 projects with 24 different fiscal agents that would be required to meet the new requirement for capital outlay. This does not account for approximately \$33.0 million in various projects that may be currently awaiting project finalization and closeout under the current process (see “**Background**” below).

According to the PSFA:

- the fiscal impact to PSFA is dependent upon the amount of appropriations and awards made to school districts or charter schools that require 100 percent of funding and will vary each year; and
- current PSFA staff conducts internal audits of all projects.

Technical Issues:

On page 1, line 22, the term “fiscal agent” is used to identify the entity required to have the special capital outlay audit. The *Audit Act* defines the terms “agency” or “local public body,” and the sponsor may wish to consider using these terms instead of “fiscal agent.”

Substantive Issues:

In addition to an annual audit, current provisions of the *Audit Act* allow the State Auditor:

- to audit, in whole or in part, the financial affairs and transactions of an agency; and
- to promulgate reasonable regulations necessary to carry out the duties of office.

Pursuant to these provisions, the State Auditor’s Office has statutory authority to require special audits on all capital outlay projects with costs greater than \$5.0 million, possibly through regulations. Providing statutory authority for special capital outlay audits would provide legislative input for this program, and allow legislative scoping of the design and nature of the special capital outlay projects.

Background:

Current PSFA Capital Outlay Internal Audit Procedures

Currently, public school capital outlay projects receiving funding through the PSCOC standards-based process for school construction receive a project review by PSFA staff prior to project closeout. **Attachment 2, *PSFA Budget Closeout/Reversion for Projects Receiving Standards-Based Funding***, provides information on the review steps taken by PSFA during the project closeout phase. The review steps include a preliminary review, a meeting between PSFA staff and the school district or charter school, a review of the project’s financial documents and a project closeout and certification. After the PSFA’s project review, any remaining balance reverts back to the Public School Capital Outlay Fund.

Committee Referrals:

SPAC/SFC

Related Bills:

SB 128 *Public School Capital Outlay Building Needs*
SB 130a *Public School Lease Purchase Act Definitions*
SB 246 *Double Required Audit Threshold*
SB 257a *Charter Schools & Public Audit Changes*
SB 478 *Obstruction of a State Audit*
SB 641 *No State Agency Funds Without Audits*
HB 253a *Charter School Facility 4 Year Plans*
HB 352 *Charter School Capital Outlay Assistance*
HB 490 *Public School Capital Outlay Uses*

**Public School Capital Outlay Council Active Projects and Amounts
January 15, 2015**

Fiscal Year	ID	District	Project	Amount	
1	Prior Years	N/A	Various	Various	\$33,100,000
2	FY07	P07-005	Deming	Deming High	\$56,300,000
3	FY08	P08-003	Gadsden	Gadsden HS	\$43,020,000
4	FY09	P09-014	Clovis	James Bickley ES	\$14,448,520
5	FY11	P11-002	Alamogordo	Yucca ES New School	\$8,882,717
6	FY11	P11-005	Gallup	Washington ES	\$19,151,810
7	FY11	P11-006	Gallup	Church Rock Academy	\$14,784,016
8	FY11	P11-008	Gallup	Jefferson ES	\$21,270,110
9	FY11	P11-011	Las Cruces	Las Cruces HS	\$67,901,000
10	FY11	P11-013	Los Alamos	Los Alamos MS	\$6,152,223
11	FY11	P11-014	Los Alamos	Apen ES	\$5,947,206
12	FY11	P11-015	Los Lunas	Los Lunas HS	\$50,480,742
13	FY11	P11-019	Roswell	El Capitan ES	\$11,686,178
14	FY11	P11-020	Clovis	New Middle School	\$19,412,000
15	FY12	P12-005	Bernalillo	Bernalillo HS	\$19,360,000
16	FY12	P12-008	Espanola	ETS Fairview ES	\$10,228,847
17	FY13	P13-002	Bernalillo	Santo Domingo ES/MS	\$7,845,979
18	FY13	P13-003	Capitan	Capitan ES/HS	\$7,386,843
19	FY13	P13-004	Central	Naschiti ES	\$5,871,664
20	FY13	P13-006	Farmington	Farmington HS	\$40,921,114
21	FY13	P13-007	Gadsden	Desert View ES	\$17,115,546
22	FY13	P13-008	NMSD	Santa Fe Campus	\$14,000,000
23	FY13	P13-009	West Las Vegas	West Las Vegas MS	\$5,185,574
24	FY13	P13-010	Zuni	Dowa Yalanne/A:Shiwi ES	\$29,210,359
25	FY14	P14-001	Albuquerque	Marie Hughes ES	\$10,828,166
26	FY14	P14-004	Albuquerque	Atrisco ES	\$5,419,949
27	FY14	P14-005	Belen	Rio Grande ES	\$10,060,605
28	FY14	P14-006	Central	Newcomb High School	\$7,266,257
29	FY14	P14-007	Central	Grace B Wilson ES and Ruth N Bond	\$15,250,000
30	FY14	P14-008	Deming	Deming Intermediate School	\$11,573,000
31	FY14	P14-009	Farmington	Northeast ES	\$11,624,400
32	FY14	P14-010	Farmington	Hermosa MS	\$11,087,400
33	FY14	P14-011	Gadsden	New Elementary School	\$20,328,356
34	FY14	P14-012	Gadsden	Chaparral elementary School	\$12,828,190
35	FY14	P14-013	Gallup	Ramah High School	\$8,815,907
36	FY14	P14-014	Grants	Los Alamos MS	\$16,206,000
37	FY14	P14-015	Hobbs	New Elementary School	\$20,328,356
38	FY14	P14-016	Hobbs	Broadmoor ES	\$9,403,389
39	FY14	P14-017	Lordsburg	Lordsburg HS	\$12,425,000
40	FY14	P14-022	Reserve	Reserve Combined Schools	\$15,212,207
41	FY14	P14-023	Roswell	Parkview Early Literacy	\$9,527,515
42	FY14	B14-001	Statewide	Education Technology Infrastructure	\$10,000,000
43	FY15	P15-002	Albuquerque	Mountain View ES	\$6,865,120
44	FY15	P15-005	Clovis	Parkview ES	\$20,246,483
45	FY15	P15-006	Gallup	Thoreau Elementary School	\$15,163,913
46	FY15	P15-007	Gallup	Combined ES (Lincoln)	\$18,328,259
47	FY15	P15-010	NMSD	Cartwright Hall	\$7,038,366
48	FY15	E15-001	Zuni	High School HVAC	\$9,000,000
49	FY15	N/A	Statewide	Education Technology Infrastructure	\$10,000,000

Budget Closeout/Reversion for Projects Receiving Standards-Based Funding

Overview:

On or before the 12th month following substantial completion of the project or project phase, PSFA staff will schedule a review of all project expenditures that apply to both the scope of work and to the adequacy standards. The purpose of the review is to insure that overall expenditures align with post-offset, post-waiver match percentages for the district and the state, as identified in the Memorandum of Understanding (MOU) for the project. Following mutual agreement on final project status and funding expended, any PSCOC project balances remaining, will be reallocated by the PSCOC. *All PSCOC awards must be fully reconciled and reallocated no later than 18 months after substantial completion.*

Step 1 – The Review

PSFA's field analyst will track the progress of substantially complete projects. At 12-months past substantial completion, the project participation worksheet will be reviewed and sent to the PSFA regional manager for that district, and to the district for a preliminary review. The worksheet should be reviewed to verify accuracy of joint district/PSFA contracts and change orders, and to identify district-only expenditures that should be added to the worksheet. A meeting will be scheduled with the district to review all district expenditures that apply to the scope of the project and to the adequacy standards.

Step 2 – The Meeting

The district will need to provide:

- Payment information and summaries for joint PSFA/district contracts, through cancelled checks to the vendors, or reports from the district's financial system(s)
- District-only purchases such as FF&E, consultants, contractor agreements, or design professional agreements, including the following documentation if applicable:
 - Bid Day Information Packet/ RFP
 - Contracts
 - Performance Bond, Labor and Material Payment Bond, Agent's Affidavit, Certificates of Insurance, and Subcontractors List and Antitrust Claims (signed by Contractor, Subcontractors, and Suppliers as required)
 - Purchase Orders
 - Quotes/Proposals
 - Invoices
 - Proof of payment by cancelled checks or financial reports.

Step 3 – PSFA Staff Review

All purchases will be reviewed with PSFA staff to verify that all requests apply to both the scope of work of the project and to the Adequacy Standards. At the time of review, PSFA will ensure that the overall expenditures align with the match percentages, after necessary offsets and waivers as identified in the Memorandum of Understanding (MOU) for the project.

Upon completion of staff review, the project participation worksheet will be sent to the district for final review of any changes identified by PSFA. PSFA and the district will work together until a mutual agreement of the listed expenditures can be determined.

Step 4 – Project Closeout Certification

Once fully approved, PSFA’s field analyst will issue Project Closeout Certification documents for Superintendent, Board President and RM signature. Documents are then returned to PSFA’s field analyst for final approval by the PSFA Director. Copies of final executed documents will be distributed to all parties.

If necessary, PSFA’s field analyst will issue reimbursements or invoices to districts when projects are out of balance. At that time, PSFA’s field analyst will closeout encumbrances, zero balances in invoice system, and on awards logs. Project balances shall revert to the Public School Capital Outlay fund for reallocation by the PSCOC to fund school improvement needs throughout the State.

PSFA Process Owner:

Casandra Cano

Field Analyst

505-988-5989

ccano@nmpsfa.org

End of Checklist