

Public School Capital Construction Assistance Board Meeting Minutes



COLORADO
Department of Education

Vision

All students in Colorado will become educated and productive citizens capable of succeeding in society, the workforce, and life.

Goals

Every student, every step of the way



Date & Time:

Jan. 27th, 2016
1:00 p.m.

Location:

201 E. Colfax Ave., Room 101
Denver, CO 80203

Capital Construction Assistance Board Members

Lyndon Burnett – Chair
David Tadlock – Vice Chair
Cyndi Wright

Tim Reed
Denise Pearson
Ken Haptonstall

Scott Stevens
Karl Berg
Kathy Gebhardt

I. Call to Order

II. Pledge of Allegiance

III. Roll Call – Karl Berg, Kathy Gebhardt, Ken Haptonstall, Denise Pearson, Tim Reed, Scott Stevens, Cyndi Wright, Lyndon Burnett. CDE Staff Attendees: Scott Newell, Kevin Huber, Dustin Guerin, Jay Hoskinson, Anna Fitzer, Cheryl Honigsberg, and BEST A.G. Heidi Dineen

IV. Approve Agenda

The CCAB Chair called for a motion to approve the agenda:

- So moved by Cyndi Wright;
- Denise Pearson 2nd the motion;
- Scott Newell recommended the addition of Discussion Item – Discuss the \$40 million Proposition BB Funds;
- So moved by Karl Berg;
- Tim Reed 2nd the motion;
- Motion to approve the agenda as amended carried unanimously.

V. Board Report

Kathy Gebhardt told the CCAB that she had attended two meetings with Senator Kerr regarding Senate Bill 16-072. At this point she did not know if the bill had garnered any Republican support, but was working with some Superintendents to have them testify at the Senate Education committee meeting. The CCAB Chair said that Senator Crowder, a Republican from Southern Colorado, was on the bill and supported the BEST program. Denise Pearson added that the East Central BOCES Board, on which she also sits, was in support of the bill and that Frank Reeves, the Superintendent from Genoa-Hugo, planned to testify. The CCAB Chair also informed the CCAB of a conversation he had with Bill Ryan from the State Land Trust Board; he said there had been some issues with the legislation that they were working to iron out.

VI. Director's Report

Scott Newell updated the CCAB on the progress of the Statewide Facility Assessment which had encountered a delay due to issues with the contract. He said the actual commencement would not occur until sometime in February according to the new timeline.

He also informed the CCAB of two school district public relations issues: one was a 9News story regarding damage to the gym floor due to humidity; the other was regarding Centennial's legal settlement as a result of problems

Public School Capital Construction Assistance Board Meeting Minutes

with the geothermal and mechanical systems. Mr. Newell said the division was aware of both and working with each district to help find some resolutions.

Lastly, Mr. Newell added that the hearing for Senate Bill 16-072 would take place the following day and asked if any CCAB members wished to attend.

The CCAB asked if the Centennial settlement would solve the geothermal issues or if it was anticipated the school would ask for a supplemental grant in future. Mr. Newell indicated it was unknown until the settlement was finalized, and discussed the history of the school project, the original grant as well as an additional supplemental grant which the school had also received, and the issues plaguing the project's geothermal system. The CCAB inquired about some technical aspects of the geothermal system and its relation to the size of the facility, the amount the suit was for and the cost to install a replacement system, \$3 million. Cheryl Honigsberg added that the system installed was a horizontal system but reports indicated a vertical system may have been a better solution. The CCAB asked if the issue was design error, which Heidi Dineen, BEST A.G., indicated that is what the litigation is on. The CCAB considered the \$3 million estimate for a vertical system, comparing it to another school with a similar system installed for a third of that price.

The CCAB also inquired about the gym floor at Holly, referencing a situation which one member had in their district. Scott Newell said part of the debate in Holly is over what the GC has identified as the cause of the damage, in addition to mechanical issues.

VII. Discussion Items

- a. **CCAB Legislative Platform** – The CCAB Chair asked if the CCAB had any updates to make to the platform; hearing none, he moved to Discussion Item B.
- b. **Senate Bill 16-072: A Bill For An Act Concerning An Increase In The Maximum Total Amount Of Annual Lease Payments Authorized For Lease-Purchase Agreements Entered Into Under The "Building Excellent Schools Today Act"** – Scott Newell reiterated there would be a hearing for SB16-072 the following day, a bill which would effectively increase the BEST lease-purchase cap by \$20 million staggered over 4 years, allowing \$5 million to be borrowed per year. There are two sections to the bill, one of which would likely have an amendment added to it that had been submitted earlier in the week and would change the State Land Trust obligation. The current draft of SB16-072 crossed out the original \$40 million State Land Trust obligation and increased it to \$60 million; the amendment, however, would change that back to the \$40 million. Mr. Newell delineated the reason behind this being that prior discussions around increasing the lease-purchase cap had been to leverage revenues from other assistance fund sources rather than obligating the State Land Trust to an additional \$20 million; the amendment would instead allow any BEST revenues to be used for purposes of debt service on the cap increase. He noted there was some sensitivity related to one revenue source, but that he was prepared to discuss it at the hearing. Further, he stated there would be additional testimony in support of the bill and that he had not heard of any opposition to it. The CCAB added that CASE and CASB supported SB16-072 and members of each would attend the hearing. The CCAB Chair reiterated his conversation with Bill Ryan at the State Land Trust regarding the \$60 million obligation, and said an additional amendment to add planning grants to the bill had also been discussed. The CCAB asked Scott Newell if he and Heidi Dineen were comfortable with the language of the bill as amended. Mr. Newell indicated they were and said that the amendment regarding planning grants had been submitted with Senator Kerr's go ahead to bill drafters that morning, though it was uncertain if it would make it into the bill before the hearing the next day. The CCAB Chair called on the Director of the State Land Board, Bill Ryan who was in attendance, to see if he had anything he would like to add to the conversation. Mr. Ryan said that he'd like to explain for the CCAB the Land Board's position: historically, BEST legislation says that BEST receives from State Land Board revenues the greater of \$40 million or 50% of the fund's income. With falling oil and gas prices, the Land Board feared increasing the obligation to \$60 million could mean the State Land Trust's allocation to BEST may reach or exceed 75% of their fund's revenue if their FY17 projections if \$80 million are realized. At the conclusion of Mr. Ryan's explanation, the CCAB asked Kathy Gebhardt to attend the hearing and testify on behalf of the CCAB that they supported the bill. The CCAB Chair also instructed her to add support for an amendment on planning grants if the opportunity arose, provided the language aligned with and was reflective of the intent the CCAB had discussed in previous meetings.

Public School Capital Construction Assistance Board Meeting Minutes

- c. **Senate Bill 16-035: A Bill For An Act Concerning The Public School Fund, And, In Connection Therewith, Creating A Public School Fund Investment Board To Direct The State Treasurer On The Investment Of The Fund And Changing The Distribution Of The Interest Or Income Earned On The Investment Of The Moneys In The Fund** – The CCAB Chair asked Bill Ryan if he would provide a brief background and synopsis of the purpose and intent of SB16-035 for the CCAB. Mr. Ryan explained that a priority of CLASS, Children’s Land Alliance Supporting Schools, for the past few years has been to increase the earnings on the permanent fund, currently invested in short-term bonds with an average yield of 2.8% on the \$800 million fund. SB16-035 would establish an investment committee – of which the State Treasurer would be a member – to manage the fund and would broaden the range of investment vehicles in which the fund can be invested to include equities. He told the CCAB that other states’ land boards had adopted similar processes and were earning more on their permanent funds as a result, and that the revenues from the earnings generated on the fund would, for the first \$21 million in earnings, be allocated to School Finance, and the additional earnings up to \$20 million would be allocated to the BEST fund. The CCAB Chair noted that if the earnings were off the interest, the BEST fund would be restricted in how those funds could be used because of the tax free status of the funds. Mr. Ryan said that if the bill passes they may be able to construct a portfolio for BEST that generates dividends or capital gains income that may be treated differently by the IRS. The CCAB Chair informed the CCAB that CLASS would be weighing in on SB16-035 and was supportive of the current bill. The CCAB asked Mr. Ryan to confirm that the \$20 million allocation from the earnings as stipulated in SB16-035 would be supplemental to and would not supplant what the BEST fund currently receives from the permanent fund. Mr. Ryan said that was correct. The CCAB asked if the allocation for School Finance was \$21 million or \$5 million. Mr. Ryan explained that School Finance had historically received the first \$16 million from interest earnings on the fund until the end of the last legislative session when that allocation was increased by \$5 million. The CCAB asked if this was related to “The SWEEP”. Mr. Ryan said they had gotten rid of “The SWEEP”. The CCAB asked if a hearing had been scheduled, which Mr. Ryan said one had not yet been set up but that the bill had been sent to committee. The CCAB discussed if they would support the bill. The CCAB Chair indicated he was comfortable with it but said he was concerned about possible issues regarding the tax free status of the funds which BEST would be allocated. He asked Heidi Dineen if she could review the legal implications for the CCAB. Ms. Dineen said there was a distinction in the bill language between the interest off the fund and other income which could be capital gains or dividends but it is unclear yet if those, too, would have to be restricted. She explained that previously they had only asked the IRS for a ruling on interest, rents, royalties, and timber sales to determine which could be used for lease-purchase grants, and at that time the IRS ruled that interest had to be put into a restricted account and could not be used for lease-purchase projects, but other income may not fall under the same limitation. However, even if the funds were restricted, they could still be used for cash grants. She added that if the bill doesn’t get amended to correct the technical issue with wording, rulemaking could be made around it. The CCAB asked if it would be possible to support the BEST portion of the legislation and remain neutral on the school finance allocation. Bill Ryan remarked that was addressing only a narrow part of the bill, the main crux of which is to create an investment committee and empower their investment authority. The CCAB debated whether or not taking a position for or against the school finance allocation aligned with their mission, and wanting to remain neutral on how the money was spent apart from the BEST allocation. The CCAB reiterated that the allocation would be in addition to the money BEST already gets from the State Land Board trust and agreed that they supported the creation of the investment board and the BEST allocation, but took exception to a position on the portion related to the school finance allocation.
- d. **Discuss the \$40 million Proposition BB Funds** – Scott Newell highlighted that each year funds for the BEST program are annually appropriated based on the legislative report submitted by the Division identifying revenues, forecasts, and the amount the Division will award in grants. The report forecasts 5 years out and based on the declining revenue projections from the State Land Board, a conservative expectation of lottery proceeds, and projections on excise taxes, prior to Proposition BB the Division would recommend \$60 million for the year. With the consideration of Proposition BB funds and based on past conversations of the CCAB regarding sustainability while staying true to the intent of the voters, Mr. Newell asked the CCAB to determine how much they wanted to award this year. He discussed his reservations about increasing the

Public School Capital Construction Assistance Board Meeting Minutes

award amount beyond \$60 million, including a discussion on the timeline of the Statewide Facility Assessment program. The CCAB agreed with Mr. Newell on prudence, and asked what the current budget looked at. They discussed the fund's revenue streams, the amount awarded last year, the models used in the forecasting and multiple scenarios of the budget. The CCAB considered the political component and public perception of Proposition BB, and the legislative discomfort with relying on excise taxes as a revenue source. They reviewed how funds would be allocated if, for example, half of the Proposition BB funds were to be used, which Scott Newell clarified \$5 million would go to the Charter School Grant program and \$15 million towards cash grants for BEST. In response to a CCAB question, Mr. Newell said he would put together models for each scenario and send to the CCAB.

VIII. Future Meetings – Scott Newell briefly outlined the timeline for the upcoming grant selection meetings May 24th and 25th, informing the CCAB they should expect to receive their summary books in April and a training session would be scheduled to refresh them on the evaluation tool and the components of the summary book. The CCAB asked to add a discussion item to the March agenda to reconsider the review process at the meetings.

- February 24th, 2016 – 1:00 p.m. Location: 201 E. Colfax Avenue, Room 101, Denver, CO 80203
- March 23rd, 2016 – 1:00 p.m. Location: 201 E. Colfax Avenue, Room 101, Denver, CO 80203
- April 27th, 2016 – 1:00 p.m. Location: 201 E. Colfax Avenue, Room 101, Denver, CO 80203

IX. Public Comment – The CCAB Chair asked if anyone was signed up for public comment, or if anyone from the public would like to speak. Mason Young with Swallows Charter School introduced himself to the CCAB and asked if they could explain what the CCAB members look for in a BEST grant application. The CCAB Chair said his biggest piece of advice would be for Mr. Young to work closely with Division staff to ensure the project aligns with and is appropriately suited to the program's statutory priorities, that the application is succinct but fully addresses the deficiencies and solutions, and why that solution is best. He added that it should answer the following questions: Does the solution make sense? Is it the location the best location? Is it the best avenue, both in terms of cost and solving the deficiency? Is the project well-planned? Does it fit the issue? He also briefly explained that one consideration for the CCAB is the total cost of the project compared to the total amount of funding for the year. If the project will cost \$50 million and they only have \$60 million to award, the burden is on the applicant to provide a compelling need. Mr. Mason asked if the CCAB looked at charter schools differently than they did traditional schools. The CCAB Chair said no, but that some charters are able to get more money than traditional schools from outside sources. He said that every school has need, but the CCAB tries to sort out which schools need aid most and which are most urgent. The CCAB reemphasized their advice that applicants work with Division staff closely and to remember that the grant is competitive. Mr. Newell advised that applicants go over three mental checks when putting their applications together: 1) is the story being presented compelling enough that relative to all other applications the reader will be convinced the need is dire? 2) Once the reader is convinced, is the solution to address the need appropriate, well-developed, well-planned, and well-thought out? 3) Specifically for charters: where is the match coming from, and is the source fully vetted – leaving no cause for concern that funds are not secured, that repayment terms, or collateralization have not been carefully and fully thought out – such that the reader is convinced the project will be a good investment? As a final note, the CCAB encouraged applicants to have individuals unfamiliar with the project to review their application narratives for clarity and understanding.

X. Adjournment

The CCAB Chair called for a motion to adjourn:

- So moved by Kathy Gebhardt;
- Scott Stevens 2nd the motion;
- Motion to adjourn carried unanimously;
- Meeting adjourned 2:45 p.m.