BOND SPENDING:
EXPANDING AND ENHANCING OVERSIGHT

LITTLE HOOVER COMMISSION

June 2009

State of California

LITTLE HOOVER COMMISSION

June 24, 2009

The Honorable Arnold Schwarzenegger
Governor of California

The Honorable Darrell Steinberg
President pro Tempore of the Senate
and members of the Senate

The Honorable Dennis Hollingsworth
Senate Minority Leader

The Honorable Karen Bass
Speaker of the Assembly
and members of the Assembly

The Honorable Sam Blakeslee
Assembly Minority Leader

Dear Governor and Members of the Legislature:

When the governor proposed California's infrastructure bond package for the November 2006 ballot, he made it clear that the projects were the first step in restoring the state's long-neglected infrastructure system and that the $43 billion that voters approved in bond financing was a down payment.

The state's unprecedented fiscal crisis puts a premium on ensuring that every dollar the state spends delivers value and that money raised by borrowing against the future is invested in ways that ensure a better future. The state must earn Californians' confidence by demonstrating that it is providing oversight and accountability for the dollars put in their trust and delivering the promised value once a project is completed. Such confidence will be critical to the success of any future bond proposals.

The five measures voters approved in 2006 were directed at transportation, K-12 and higher education facilities, affordable housing, levee improvements and natural resource protection. The Commission initiated a study in 2008 to determine whether existing oversight mechanisms of the bond measure were adequate. The Commission found that the state's approach was inconsistent, and has developed its recommendations to address weaknesses in oversight, governance and voter education.

Governor Schwarzenegger took an important first step to bolster accountability for this money when he ordered the development of a Web-based tracking system and required departments to report on how they were spending bond money at three different phases of a project. The Department of Finance responded with a system that forced departments to think through their accountability procedures and gave taxpayers a much-deserved window on where their bond money was going.

The Legislature and the state entities spending bond money now must take the next step, further strengthening oversight to ensure that bond money is spent effectively and efficiently and as voters intended. Both houses of the Legislature should establish bond oversight committees to hold bond-administering agencies and departments accountable and to ensure public money is being spent wisely. The Legislature also should require audits from entities independent of the executive branch, either private audit firms or the State Controller's Office or the Bureau of State Audits, that detail both the performance of the bond project as well as the dollar amount spent.

The governor can fully realize his vision of opening up the process to the public by transferring responsibility for the existing Web-based tracking system to the Office of the State Chief Information Officer, where the system can be streamlined and standardized. This office already has taken on the job of building and operating a Web-based system for monitoring federal stimulus dollars on behalf of the newly appointed Inspector General.

In its study, the Commission found models for oversight that already exist in state government, such as the California Transportation Commission, which has a well-defined, transparent process that allows the public ample input when bond money is spent for roads and highways.

This is not uniformly true throughout state government, especially where bond money is spent on less tangible projects, such as habitat restoration or water quality improvement. Such projects have not been subject to the same level of oversight or accountability. The state has spent $1.6 billion in bond money on the Bay Delta, for example, to improve water quality and restore the Delta's damaged ecosystem. It is not clear what was achieved by this investment, nor is it easy to track how the money was spent.

To provide the needed oversight and standards, the governor and the Legislature should revive and reconstitute the State Water Commission as the California Natural Resources Commission and charge it with prioritizing and overseeing natural resource-related bond spending currently managed by the California Natural Resources Agency. One of its first tasks should be developing a plan for funding state water programs. The state's current water crisis and recent federal actions guarantee continued state investment, some of it likely to be financed by bonds. Stronger oversight is essential to ensuring these investments pay off in more reliable water supplies and a healthier environment.

Voters can play an important role in strengthening accountability if they are engaged and educated before a bond measure is passed. Often, they do not recognize the trade-offs in state spending their vote forces on policy-makers. The state must establish fundamental criteria for ballot measures, and these criteria should be evaluated and included as a simple, easy-to-understand report card in the voter guide for all bond measures placed on the ballot.

At the local level, the Commission also found room for improvement, through training and education of local bond oversight committees. These bodies exist to monitor local school and community college bond spending. When they work well, they provide a valuable service to their communities and taxpayers statewide.

To guarantee a healthy future, the state must continue to invest in the infrastructure that serves as the foundation for our economy and quality of life. The state has borrowed to make those investments. The Californians repaying these debts deserve the highest level of oversight and accountability the state can provide. Their confidence is critical and the state can earn it through improving bond oversight.

Sincerely,

Daniel W. Hancock
Chairman

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Executive Summary

Californians want it all. They just don't want to pay for it.

Since 2006, Californians have added more than $54 billion to the state credit card in the form of seven statewide general obligation bond measures. Safer roads and less freeway congestion, modern classrooms for students, clean water, strong levees – these infrastructure investments all are important to many Californians. In 2006, California voters said yes to five bond measures for transportation improvements, K-12 and higher education facilities, affordable housing, levee improvements and natural resource protection. Experts generally agree that these investments were long overdue.

Despite the implosion of the worldwide economy in the fall of 2008, a plunge that hit California particularly hard, California voters generously took on another $10.5 billion in debt to lay the preliminary tracks for a high speed rail system and to fund improvements for children's hospitals.

It all sounds good, especially when advertising tells voters they can have it all with no new taxes.

But bonds are not free money.

Many voters, however, may be unaware that someday the bill for all this bond-financed spending will come due. In one survey of California voters, some two-thirds of respondents admitted they knew very little or nothing about how the state pays for bond measures.[1]

When Californians enact bond measures, they give the state the authority to take out long-term loans to pay for the items identified in the bond measure. For big ticket items that will provide benefits for generations to come, long-term financing is a prudent option, similar to a consumer taking out a mortgage loan to buy a house or an auto loan to pay for a car. Bonds provide the opportunity to pay for investments that the state either cannot or does not want to pay for upfront. But like a mortgage or a car loan, the money eventually must be paid back and paid back with interest.

Money to repay state general obligation bonds comes from the General Fund, the $80 to 90 billion in revenue that the state takes in each year through taxes and fees to pay its bills. When that revenue shrinks, as it typically does during economic downturns, the state must either find another way to add revenue or tighten its belt through spending cuts. As a result of the current recession, state revenue has declined during 2008 and 2009. Despite the decline in revenue, one area of the budget projected to continue to grow and grow the fastest is the debt service – payments the state must make on money it has borrowed through issuing bonds – currently expected to grow at a nearly 10 percent average annual rate.[2]

As a result of the 2008-09 economic meltdown, the day of reckoning for California's perpetually overdrawn checkbook has arrived. In May 2009, voters said no to lengthening the time frame for a tax increase enacted by lawmakers in February 2009 and they said no to borrowing from the lottery, or special funds for mental health and children's programs to close the budget gap. Even had voters said yes to some or all of the measures on the May 2009 ballot, California still would not have enough money to maintain the status quo in spending.

But unlike a household budget, where all options might be considered – downsizing to a smaller apartment for a lower monthly payment, selling a car and opting to take public transportation – not all of the state's budget items are on the table.

Funding for education is at the top of the state's budget list as voters have locked in a certain amount of spending for this priority. Second behind education is the state's commitment to repay its general obligation bonds. General obligation bonds are guaranteed by the California Constitution, as a result, repayment of the bonds takes priority over virtually all other state government expenses beyond education. Repayment of bond debt – or debt service – was less than 1 percent California's total budget in the late 1980s. In 2008-09, debt service has grown to 4 percent of the total budget, a four-fold increase since the 1980s.[3] As Californians commit more to debt without revenue increases, they limit the choices that future generations and future lawmakers can make about spending priorities.

So while the stem cell institute gets funded and children's hospitals get new and improved equipment, thousands of children may get cut from the rolls of the state-sponsored health insurance program. The reason is stem cell research and improvements at children's hospitals are funded with bond money, the state's health insurance program for needy children is not.

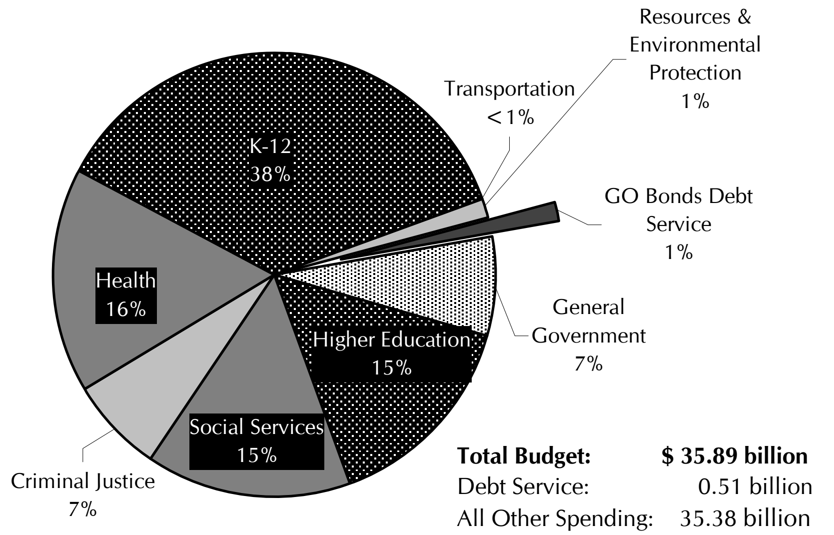
New schools get built while thousands of teachers get pink slips and lawmakers contemplate cutting class time. School facility construction is funded with bond money, teacher salaries are not.

Nearly $10 million is earmarked to improve the park entrance and redevelop day use features at Pfeiffer Big Sur State Park this year and the state has committed more than $5 million for a new visitor center at Calaveras Big Trees State Park, even as Governor Schwarzenegger is proposing to close both parks.[4] Park infrastructure improvements are funded with bond money, park ranger salaries and park operations are not.

But, the state budget deficit coupled with the worldwide credit crisis in 2008 proved that even bond-funded programs are not immune from fiscal downturns. In December 2008, the state's Pooled Money Investment Board, which provides interim financing for bond-funded projects, took the unprecedented step of freezing payments for some 5,400 projects.[5] In March, California successfully marketed new bonds, restoring the money flow to many of these projects.

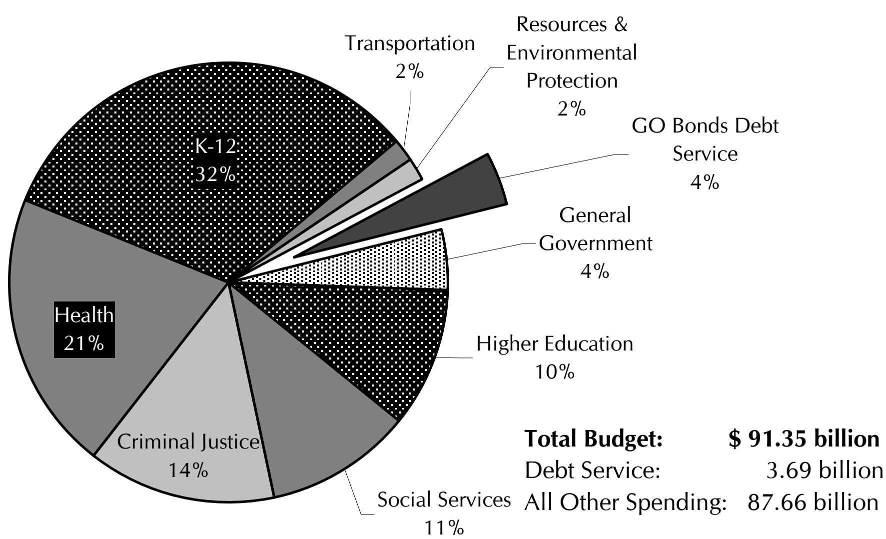
Despite this unprecedented setback, projects and programs funded through bond measures still take priority over other budget areas.

State Spending, Governor's Budget, Fiscal Year 1988-89



Source: Legislative Analyst's Office. See Appendix C.

State Spending, Governor's Budget, Fiscal Year 2008-09



Source: Legislative Analyst's Office. See Appendix C.

As Californians cast their ballots for bond measures, they set priorities that tie the hands of lawmakers when it comes time to trim the budget.

But California voters are not the only ones responsible for the growing debt. While it takes a majority vote to pass a general obligation bond measure, four of the five bond measures enacted by voters in 2006 were placed on the ballot by the Legislature and the governor. The $9.95 billion high speed rail bond placed on the ballot amid the 2008 recession, also was put on the ballot by lawmakers. Each general obligation bond measure requires a two-thirds majority vote in the Legislature and the governor's approval.

Because the repayment of bonds is such a high priority and, in all likelihood, lawmakers will be asking voters to approve more bond measures in the coming years to pay for decades of neglected infrastructure repairs and improvements, it is more critical than ever that government be transparent in its spending of bond money and accountable for the results.

Governor Schwarzenegger identified the need for improved oversight shortly after the 2006 bond package was enacted. In January 2007, he issued an executive order to implement a three-part accountability framework and provide expanded transparency by creating a bond accountability Web site: www.bondaccountability.ca.gov.

This study assesses whether these efforts to bolster accountability and transparency in bond spending – particularly for the five bond measures enacted in 2006 – are adequate or if more is required to ensure bond money is spent efficiently and effectively. This study also looks at additional opportunities to improve oversight through the Legislature or by government entities outside the administration. It also assesses existing models for allocating bond money in transportation and education and whether these models should be replicated for natural resources bonds.

Additionally, this study reviews the current process for getting bond measures enacted on the statewide ballot and options to improve clarity for voters. Finally, this study examines local bond oversight commissions, which oversee school and community college facility construction programs that are funded through state and local bonds, to assess their effectiveness and identify opportunities to bolster their potentially powerful role in bond oversight.

In this study, the Commission did not attempt to determine the best method for financing state infrastructure investments although it is a vital question – one to which the Commission has dedicated a separate study, currently underway. In its infrastructure policy and finance review, the Commission is exploring broad policy issues including how the state identifies, analyzes and prioritizes infrastructure projects, available funding sources and finance mechanisms, as well as current and potential demand management practices.

Additionally, the Commission acknowledges that an analysis of oversight mechanism can not occur in a vacuum. Although the focus of this study is on oversight of bond expenditures, oversight should begin before a bond is placed on the ballot. Several policy questions were raised that require a broader discussion in the Legislature, including:

- Limiting the use of general obligation bonds to capital projects that are valuable for the life of the bond; and,
- Capping the state's debt service.

These discussions are most appropriately taken up by the Legislature. The Commission recommends that the Legislature further study these broader policy options.

Broad Policy Questions Remain

During the course of its study, the Commission surfaced several policy questions that warrant further consideration by the Legislature:

Should bonds only be used for long-term capital projects? Akin to individuals taking out a long-term loan to make major purchase – such as buying a home or a car – should the state only use bond money to fund projects that are valuable for the life of the bond? Policy-makers also should explore whether project planning should be done prior to a bond award rather than financed with bond money.

Should bond measures be placed on the ballot if money from prior bond measures is not yet committed? In this report, the Commission recommends that the state's bond administering agencies standardize the terminology used for bonds, so it is easier for the public and policy-makers to understand how much of each bond measure has been appropriated, committed to fund a project and actually spent. The Legislature should consider keeping new bond measures off the ballot until all the money from prior bond measures funding the same or similar programs has been appropriated and committed to projects.

Should the governor and the Legislature be able to place general obligation bond measures on the ballot in any year when there is a budget deficit? Because general obligation bonds take priority over other projects that are paid for through the General Fund, an increase in general obligation bond debt further reduces the ability of the Legislature to make budgetary decisions during a deficit. Removing this option might ensure bonds are not used to exacerbate the state's debt burden during a fiscal crisis.

Should debt service be capped as a percentage of the state budget? In other words, should there be a limit to the amount of debt the state can incur? In this study, the Commission found that California's debt service was fairly average and other large states had a higher debt burden. But capping the debt service as a percentage of the state budget could rein in spending and force policy-makers and voters to prioritize infrastructure investments.

Should organizations that are awarded bond money pay a penalty to the state if the bond money is used for any expenditure not authorized by the bond measure, bond implementation legislation or the bond administering agency? The Commission heard that there is no hard sanction for organizations that misuse bond money. Rather than a verbal slap on the wrist, the possibility of incurring a financial penalty might deter organizations from mishandling the money.

Expanding Oversight & Accountability

After Californians enacted the largest bond package ever passed in the state in November 2006, Governor Schwarzenegger issued an executive order for all bond-administering entities to establish a three-part accountability system:

- ***Before spending the money*** – Front-end accountability by developing a strategic plan and performance standards for projects.
- ***During the project*** – In-progress accountability that documents ongoing actions needed to ensure that infrastructure projects or other bond-funded activities stay within the previously identified cost and scope.
- ***After the project is finished*** – Follow-up accountability in the form of audits to determine whether expenditures were in line with goals laid out in the strategic plan.

The executive order requires each administering agency to report on the status of its "in-progress" monitoring actions semi-annually to the Department of Finance, including expenditure information for projects that have begun. For the programs financed by the bond measures enacted in 2006, the Department of Finance is implementing enhanced auditing requirements with a performance measurement component.

In a recent report, the Bureau of State Audits found that nearly all bond-administering agencies had established the three-part accountability framework.[6] It is too early to tell whether the follow-up accountability – financial audits of completed projects by the Department of Finance or other auditing entities – will improve outcomes. Few projects have been completed and the audits will not begin on these projects until the 2009-10 fiscal year.

Independent Oversight

While bond-administering entities should continue to comply with the governor's three-part accountability requirements and improve transparency on the bond accountability Web site, the Legislature also must do more to ensure bond money is well-spent. Many of the bond-funded programs require annual budget allocations from the Legislature. This power of the purse provides the Legislature an opportunity to make sure that government agencies are providing annual reports on the bond programs, as required in statute, and are spending the money efficiently and effectively.

After voters enacted the 2006 bond package, the Legislative Analyst's Office published recommendations for the Legislature to improve its oversight. In a 2007 report, the LAO recommended the Legislature use joint committee hearings to review required annual reports from departments administering bond projects.[7] These annual reports, required by statute, must include a list of all projects authorized to receive funds and their geographical location, the amount of money allocated to each project and the project status.[8]

Some experts have suggested that more audits conducted by independent entities, such as the State Controller's Office or the Bureau of State Audits, rather than the Department of Finance, could improve oversight. They suggested that audits should be conducted while the programs are underway rather than after the fact, in the event that mid-course corrections are warranted. Money from the portion of the bonds set aside for administrative purposes could be used to expand the auditing staff of the State Controller's Office or the Bureau of State Audits to pay for more oversight.

Improving Transparency with Technology

In addition to the three-part accountability system, the governor's 2007 executive order also charged the Department of Finance with establishing a Web site where information on the progress of bond-funded programs would be readily accessible to the public. The Web site, www.bondaccountability.ca.gov, is administered by the Department of Finance, but individual bond-administering agencies are responsible for keeping data up-to-date.

Recent reports from the Legislative Analyst's Office and the Bureau of State Audits have found that although the bond accountability Web site is a step in the right direction, it must be kept up-to-date and accurate. If the goal is to provide an opportunity for the public to quickly and easily track where bond dollars are being spent, its content also must be made more consistent and user-friendly.

Experts who testified at the Commission's public hearing as part of this study said the Web site was hard to find and hard to navigate. While the Department of Finance acts as the portal, all of the information provided is maintained and updated by the bond-administering agencies. As a result, the information is as varied as the departments that are administering the bonds. Terminology used for bond money is inconsistent from department to department, making it confusing to determine how much money has been spent and how much money is still available. Some departments link program information to maps and geographical information systems, while pertinent information for other programs is either not available or out-of-date.

While the Department of Finance and the bond-administering agencies should be commended for getting the Web site up and running with existing resources, the state should turn responsibility for Web site management over to an entity whose role is to provide leadership and promote collaboration in the use of technology in state government. In the spring of 2009, as a result of a governor's reorganization plan, authority for information technology was consolidated in the Office of the State Chief Information Officer. Also in 2009, the OCIO was given responsibility for establishing and maintaining a Web site for the federal stimulus money. Like the bond accountability Web site, data for the www.recovery.ca.gov Web site comes from the departments administering the federal stimulus funds. The Department of Finance should continue to oversee the content of the information required to be reported, but the OCIO also should be tasked with administering the bond accountability Web site, making it more user-friendly and standardizing the terminology and the appearance of the site.

Replicate Models That Work

Some bond-funded program areas benefit from public boards and commissions that allocate bond money and provide a point of accountability for infrastructure investments. Several witnesses told the Commission that the state should replicate well-established models such as the California Transportation Commission (CTC) for transportation projects and the State Allocation Board (SAB) for school facility construction. Although all may not agree with the grants awarded by these entities, both have a well-defined, transparent process with ample opportunities for public input.

When voters passed Proposition 1B, the CTC had a pipeline of projects ready to move forward, enabling the money to be quickly committed to projects. Transportation infrastructure investment begins with local and regional planning. Local and regional transportation agencies develop lists of infrastructure needs through the state-required regional transportation plan development process. They also tap local and federal tax dollars for projects and planning. Before the CTC commits any bond money to a local project, the local agencies have to show they have completed or were on track to complete initial steps – including right-of-way purchases and environmental impact studies – ensuring that all state bond-funded grant awards would quickly turn into construction projects.

The Commission reviewed the governance structure of the State Allocation Board in 2007 and though it recommended several reforms of the board's structure, the Commission did not find weaknesses in the way it prioritizes and distributes bond money. Bond-funded transportation and school facility programs are easier to track than some of the state's other bond-funded programs and the outputs – successfully completed roads, highways and schools – are easy to document. Additionally, the lifecycle of these investments most likely will last the life of the bond, typically 25 or 30 years.

Not all bond-funded program areas, however, have the benefit of such lengthy experience with accountability requirements or public grant-making boards, nor do they fund such tangible projects as highways and schools. It is more difficult to track and assess the effectiveness of bond programs in other parts of government, particularly in the natural resources area, where bond money is spent on less tangible infrastructure projects such as habitat restoration or water quality improvement.

The state has spent some $1.6 billion in bond money to pay for programs under the CALFED Bay Delta program to improve water quality and reliability and restore the ecosystem in the Delta.[9] But after spending billions, water is still in short supply and populations of endangered fish species are crashing. It is difficult to track how the money was spent, what outcomes were achieved and whether taxpayers will be paying for these expenditures long after the value has diminished.

Additionally, natural resource bond money has been spent more liberally on project planning and science. Specifically, natural resource bond money has been used for studies or plans to determine ecosystem restoration, flood control or water supply needs. As one witness told the Commission, "wouldn't you think you would do a plan first, and then go ask for the money?"[10]

Witnesses told the Commission that an independent board or commission to oversee the allocation and spending of bond money on water programs could improve accountability and transparency. Specifically, government officials from the California Natural Resources Agency and the Department of Water Resources suggested resurrecting the moth-balled California Water Commission for this purpose. The California Water Commission was established in the late 1950s to oversee the construction of the state water project. It evolved in the late 1970s to provide broader input on water resources.

Beyond oversight of bond-funded water projects, a revived and reconstituted California Natural Resources Commission, modeled after the California Transportation Commission, could drive planning and add greater transparency to the bond allocation process and bring improved accountability to bond-funded natural resource programs.

Recommendation 1: The Legislature and state government entities administering bond programs must improve oversight to ensure bond money is spent efficiently and effectively and as voters intended. Specifically:

- Both houses of the Legislature should establish a bond oversight committee to review performance and financial audits of bond-funded programs and the annual reports statutorily required of bond-administering agencies.
- The Legislature should require independent audits, conducted by a private accounting firm or entity independent from the executive branch – such as the State Controller's Office or the Bureau of State Audits – that are systematic and transparent. The audit should cover the performance of the bond project as well as the dollar amount spent. The independent audit should include: the cost to the state; the level of overall bond indebtedness; and additional overhead as well as hard costs. This should be funded from the portion of the bonds available for administrative purposes.
- Additionally, the governor should charge the Office of the State Chief Information Officer with streamlining and managing the bond accountability Web site and developing mandatory uniform standards for tracking bond expenditures and the outcomes of those expenditures. These uniform standards must include common definitions for allocations and fund commitment so the public can easily understand what bond money has been spent and what is still available.

Recommendation 2: The state should reconstitute the California Water Commission as the California Natural Resources Commission and charge it with prioritizing and overseeing bond-funded programs currently managed within the California Natural Resources Agency. Specifically, using a public process, the California Natural Resources Commission should:

- Develop an overarching plan for funding state natural resources programs.
- Address cross-cutting issues within the bond-funded programs to ensure all government entities work in concert and not at cross purposes.
- Allocate bond money authorized for natural resource projects and programs.

Improving Transparency and Clarity for Voters

California voters can play an important role in ensuring bond money is spent efficiently and effectively by carefully reviewing the text of bond measures proposed on the ballot and approving only those measures that will pay for infrastructure investments that are their highest priority. All general obligation bonds must be authorized by a majority of voters. Unfortunately, when bonds are proposed to voters on the ballot, not only are they lengthy and complicated, they also are not presented within the context of the state's overarching needs for infrastructure investment or the state's overall budget.

Advertisements promoting statewide bond measures further obscure the picture. Often, ads promote a particular bond measure and tell voters that the investment can be made with no new taxes – whether it is to pay for a stem cell institute, high speed rail, children's hospitals or more traditional investments such as educational facilities. Although this is true, the money must come from somewhere, typically existing tax revenues. In enacting bond measures with no source of new revenue, voters are prioritizing funding for the programs identified in the bond measure above all other spending, outside constitutionally guaranteed education spending.

Voters have authorized some $54 billion in bond capacity since 2006. Every billion dollars financed costs the state approximately $65 million each year for up to 30 years.[11] When fully issued, this new debt will require approximately $3.5 billion annually from the state's General Fund for years to come.

Voters are not the only ones that have been on a spending spree. Of the seven bond measures passed in 2006 and 2008, five, totaling nearly $48 billion of the $54 billion enacted, were placed on the ballot through the legislative process, meaning the measures were approved by two-thirds of the Legislature and signed by the governor before being placed on the ballot. The other two recently enacted measures were placed on the ballot through the initiative process; interested parties collected signatures and placed the measures on the ballot.

In light of the current fiscal climate, there is widespread discussion on how to rein in ballot-box budgeting – which occurs when voters enact ballot measures that allocate funds. Three constitutional amendments have been proposed that would either require new revenue to support a general obligation bond measure or identify a specific revenue source or a program that would be cut. Two other proposals aim to enhance voter information by requiring additional information to be included in the ballot pamphlet.

At both its public hearings as part of this study, the Commission discussed opportunities to improve voter awareness by requiring the state to establish standards or fundamental criteria for general obligation bond measures. The Commission discussed adding a simple pass/fail report card to the voter information guide that could show whether certain standards had been met, specifically:

- Where will the money come from to pay for the bond measure?
- Is money left over from prior bond measures that could be used for these projects, and if so, how much?
- Do we know what we are buying – is there a specific list of projects to be funded or will lawmakers make those decisions once a measure passes?
- Is this a good long-term investment – will the proposed projects maintain value over the life of the bond debt?
- Has the bond measure been vetted with opportunities for public input?
- Would the measure provide money for infrastructure projects that have been identified as a priority?

A pass/fail report card, however, may be too simplistic to cover the nuances of the many varied bond measures. More could be done though to simplify and clarify bond measures. The Legislative Analyst is currently charged with evaluating all ballot propositions and providing an unbiased assessment of the fiscal and policy impact of each measure. Existing law allows the Secretary of State to include any information in the ballot pamphlet that will make it easier for voters to understand the ballot. By setting fundamental criteria for general obligation bond measures, the state could provide a guideline for the Legislative Analyst to further enhance and simplify the information included for bond measures in the voter information guides.

Recommendation 3: To improve transparency and clarity for voters, the state must establish fundamental criteria for ballot measures and these criteria should be evaluated and included as a simple and easy-to-understand report card in the voter guide for all bond measures placed on the ballot.

Bolstering Oversight at the Local Level

Since the passage of Proposition 39 in 2000, hundreds of local bond oversight committees have been established in California communities to be the local watchdogs over billions in state and local bond money spending on K-12 school and community college facility construction. Proposition 39 lowered the threshold at the local level for passing bond measures for school facility construction and renovations from two-thirds to a 55 percent majority. Companion legislation adopted in 2000 required school and community college districts to establish a local bond oversight committee and conduct annual fiscal and performance audits on any school construction project financed with bond money approved under the reduced voter threshold.

Ideally, these local volunteer bond oversight committees put thousands of eyes and ears on the ground ensuring school facility bond money is spent efficiently and effectively and as authorized by the voters in the bond measure. Unfortunately, not all local bond oversight committees are created equal. In the best scenarios, bond oversight committee members are appointed with input from local civic groups, are trained adequately on their roles and responsibilities and are given technical and administrative support to conduct public meetings and make their annual reports widely available to the public. They assist local school and community college districts in finding ways to stretch limited public money as far as possible and provide a check on the districts to make sure the bond money is spent for the construction and renovation activities authorized by the voters in the bond measures.

Not all local bond oversight committees have lived up to this promise. But with minor changes and clarifications in statutory code and a small investment in training materials, they could. This is particularly important should the state consider lowering the voter threshold for other local infrastructure investments, such as transportation or water treatment facilities, a recommendation that some experts have said could significantly expand infrastructure projects in California. Before considering this, the state should take steps to bolster local bond oversight commissions.

Local bond oversight commissions are least effective when the purpose of the committee is not made clear to the members. In some cases, local school or community college districts establish the committee's bylaws and neglect to inform the committee members of their authority including their ability to fully review annual financial and performance audits and question expenditures. In some cases, local districts have skipped the more expensive performance audits – which have the potential to save significant money in the long run – and simply conduct financial audits. Unfortunately, it usually is not until a grand jury investigates – often as a result of citizens' complaints – that the shortcomings of the bond oversight committees or the districts bond expenditures come to light.

The president of the California League of Bond Oversight Committees, in testimony to the Commission, provided suggestions for key changes that could significantly improve the functionality of the local oversight committees. He suggested requiring input from civic groups in selecting committee members, requiring that committee members be trained on their roles and responsibilities as described in state law, and requiring local districts to provide the technical support required by state law.[12]

The State Controller's Office, in a scathing review of misspending by a community college district, also recommended that the state more clearly delineate the role and responsibility of the citizens' oversight committees and provide greater independence from the district. The SCO also recommended the state more clearly define the purpose and objectives of the required annual financial and performance audits and specify that audits be conducted in accordance with generally accepted government auditing standards. Finally, the SCO recommended the state impose sanctions, such as preventing a local district from passing future bond measures with the reduced voter threshold, when a district fails to follow constitutional or statutory requirements or requirements authorized in the local bond measure.[13]

Recommendation 4: To improve local oversight of school and community college school facility construction projects passed under the reduced threshold established by Proposition 39, the state should bolster the capabilities of local bond oversight committees. Specifically, the state must:

- Require mandatory independent training for bond oversight committee members. The State Allocation Board and the California Community Colleges should develop and host a Web site with easy-to-access training materials and easy-to-understand descriptions of the roles and responsibilities of the local citizens' oversight committee members. The Web site should include a mandatory online training course.
- Require civic groups to nominate local committee members, allowing veto power for the school or community college district.
- Clearly delineate the role and responsibility of the local oversight committees and define the purpose and objectives of the annual financial and performance audits.
- Encourage county grand juries to review the annual financial and performance audits of expenditures from local school and community college bond measures.
- Impose sanctions for school and community college districts that fail to adhere to constitutional and statutory requirements of Proposition 39, such as preventing the district from adopting future bond measures under the reduced voter threshold.

Background

In November 2006, California voters approved a package of five general obligation bond measures totaling $43 billion in borrowing capacity. The bond package represented California's single largest infrastructure investment financed with long-term bonds.[14] The bond measures directed money toward building and improving highways, schools, universities and housing as well as shoring up levees and bolstering various natural resource programs.

Experts and policy-makers agree that the 2006 bond package is an initial down-payment toward long-neglected infrastructure improvements – with an estimated cost of half a trillion dollars.[15] In November 2008, voters authorized two more bond measures adding another $11 billion for high speed rail and children's hospitals. Policy-makers inevitably will ask Californians for more money, and it will be critical to show that the state has been a good steward of public resources.

This study is focused on assessing whether existing oversight mechanisms are adequate to ensure that the billions of voters approved bond money is spent efficiently and effectively. Improvements in bond oversight will not only ensure that debt already authorized is spent wisely, but also will set the bar high for accountability and transparency for future bond-funded endeavors.

Why Finance With Bonds?

Governments use bond financing much the same way consumers use home and car loans – to pay for big ticket items that it cannot or does not want to pay for up front. For government, funding projects such as highways, schools, universities, dams or other large projects with bonds has the benefit of distributing the cost over the life of the project, spreading the tax burden over the multiple generations who will benefit from the project.

The state typically issues three types of bonds to finance infrastructure projects: general obligation, lease-revenue and revenue bonds. General obligation bonds must be approved by a majority of the voters and are typically repaid by the state's General Fund. The Legislature can place a general obligation bond measure on the ballot by enacting a bill approved by a two-thirds vote and signed by the governor. General obligation bond measures also can be placed on the ballot through the initiative process.

Lease-revenue bonds require a majority vote of the Legislature but do not require voter approval. These bonds are used to pay for construction of state facilities and, unlike general obligation bonds, are repaid through annual lease payments to bondholders. Revenue bonds also are authorized by the Legislature and do not require voter approval. They are used to finance infrastructure projects that generate revenue such as toll roads or parking facilities. Revenue from the project is used to repay the bond.

When a state issues a bond, it borrows money from investors and pays it back each year over time with interest. The annual payment of principal and interest is called debt service. Debt service payments are typically made over a 30-year period, though states also issue bonds for shorter terms. The California State Treasurer is responsible for selling bonds and packaging debt to sell based on existing market conditions.

What Assets Can the State Finance With Bond Money?

According to California's State General Obligation Bond Law, proceeds from the sale of bonds can be used for "the costs of construction or acquisition of capital assets … tangible physical property with an expected useful life of 15 years or more." The law also allows the state to finance capital assets with an expected useful life of 10 to 15 years as long as the investment does not exceed 10 percent of the bond proceeds. As defined by the statute, capital assets include major maintenance, reconstruction, demolition for purposed of reconstruction of facilities, and retrofitting work that is ordinarily not done more often than once every five to 15 years. It also includes expenditures that continue or enhance the useful life of the asset.

Capital assets also include equipment with an expected life of two years or more. Costs allowable under this section of the law include costs incidentally but directly related to construction or acquisition, such as planning, engineering, construction management, architectural, and other design work, environmental impact reports and assessments, required mitigation expenses, appraisals, legal expenses, site acquisitions, and necessary easements. Bond proceeds also may be used to pay the costs of a state agency with responsibility for administering the bond program.

Source: California Government Code Section 16720-16727.

General obligation bonds are not the only method for financing infrastructure projects. For many decades, the state used fees and financed projects on a "pay-as-you-go" basis. For example, gas taxes paid for road and highway construction and repairs. Public-private partnerships provide another financing method although this type of financing still requires a revenue source to pay for the project.

Determining the best method for financing state infrastructure investments is a vital question – one to which the Commission has dedicated a separate study, currently underway. In its infrastructure policy and finance review, the Commission is exploring broad policy issues including how the state identifies, analyzes and prioritizes infrastructure projects, available funding sources and finance mechanisms, as well as current and potential demand management practices.

The lack of an overarching statewide infrastructure strategy, in particular, is a core problem that straddles both studies. Enacting bond measures to fund infrastructure projects without considering statewide priorities can result in bond money being spent ineffectively and inefficiently. This issue, although important to identify here, will be explored in detail in the Commission's infrastructure policy and finance study.

This study does not question whether bond financing is the most appropriate financing mechanism. The focus is on whether there are adequate oversight mechanisms in place to ensure bond money that voters have authorized to date, and any debt authorized going forward, is spent efficiently and effectively.

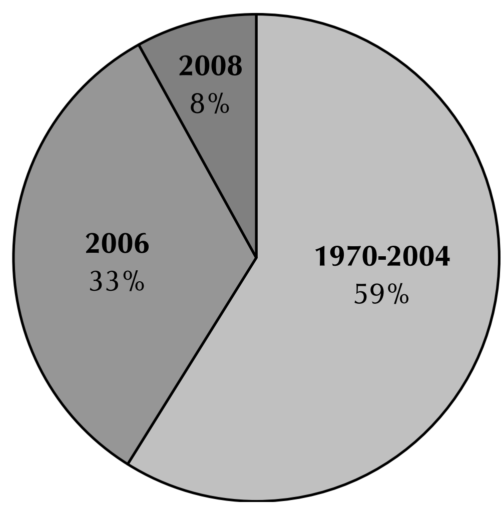
How Much Debt?

Since 1970, Californians have authorized approximately $131 billion in general obligation bonds.[16] In recent years, the dollar amount of individual bond measurers was much larger than the value of the bonds authorized between 1970 and 2004. Accordingly, bonds passed in 2006 and 2008 account for a large share of the state's total authorized bond debt capacity: 41 percent, compared to just 59 percent for bonds approved between 1970 and 2004.

Between 1970 and 2004, voters authorized 69 bond measures totaling approximately $77 billion in spending capacity.[17] Almost half of the bonds authorized in this 24-year span provided money for clean water and natural resource projects ($11 billion) approved in 1996, 2000 and 2002; and for K-12 and higher education facilities ($25 billion) approved in 1998, 2002 and 2004.

In the past few years, bond measures enacted by voters have grown considerably in size. Since 2006, voters added another $54 billion in bonding capacity through seven bond measures, some $43 billion in 2006 and nearly $11 billion in 2008.[18] As a result, total available bonding capacity grew 70 percent to $131 billion from $77 billion within the span of a few years.

An Increasing Reliance on Debt:
Voter authorized bonds, 1970-2008



Sources: State Treasurer's Office. 2008. "2008 Debt Affordability Report: Making the Municipal Bond Market Work for Taxpayers in Turbulent Times." Pages 35-36. Also, California Secretary of State. November 4, 2008. "California General Election Official Voter Information Guide." Proposition 1A and Proposition 3.

The state also has nearly $11 billion in lease-revenue bonds authorized by the Legislature; $15 billion in deficit recovery bonds authorized by voters in 2004; nearly $8 billion in State Public Works Board and other lease-purchase financing; and, more than $6 billion in self-liquidating voter-approved general obligation bonds, primarily bonds to provide home loans to veterans.[19]

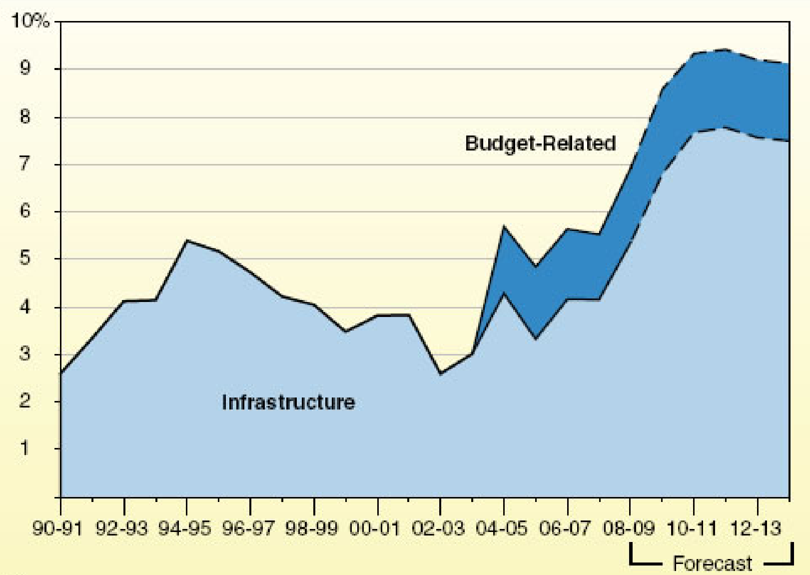
How Much Debt is Too Much?

According to the Legislative Analyst's Office, "there is no accepted rule for how much debt is too much or how many bonds the state can afford." The answer lies in what priority policy-makers and Californians place on using tax dollars to pay for infrastructure projects funded by bonds versus other spending priorities for programs and services.[20]

When the state takes on new debt without new revenue, it is dedicating more of the existing and future budget to paying for the debt. State debt is useful for financing infrastructure investments, but like consumer debt, it places a burden on the overall budget and can restrict future choices. California law requires bond measures to include the following provision: bonds are "valid obligations of the state and a pledge of the full faith and credit of the state for the punctual payment of both principal and interest."[21] As a result, re-payment of bond debt is prioritized above all other state government costs except education. When voters enact bonds, they essentially are prioritizing the funded projects above all other government services. As a former Department of Finance director told the Commission, "Debt service has constitutional status in terms of repayment."[22]

Figure 7

Projected Debt-Service Ratio[a]



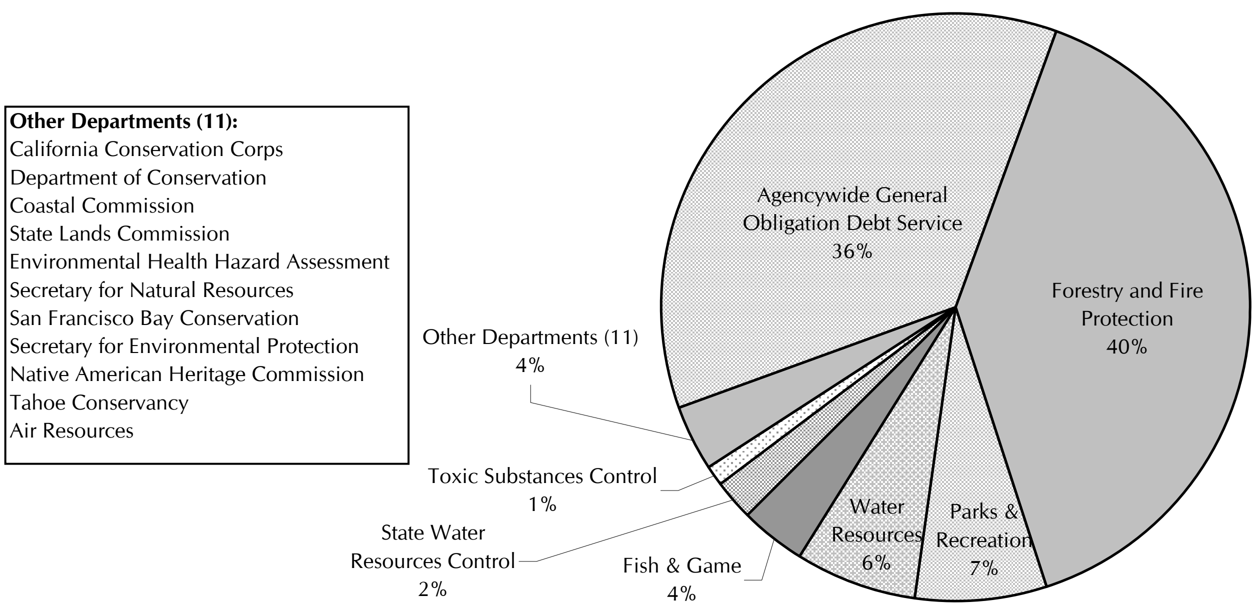
[a]Ratio of annual debt-service payments to General Fund revenues and transfers.

Source: Legislative Analyst's Office. November 20, 2008. California's Fiscal Outlook: LAO Projections 2008-09 Through 2013-14. Page 42.

Every $1 billion in bond financing costs the state $65 million per year.[23] If the interest rate for the bond is 5 percent, the state will pay $2 for each $1 it borrows over a 30-year period. After adjusting for inflation, the actual cost for each dollar borrowed is $1.30.[24] One way of measuring debt is the annual debt service ratio, the portion of the state's annual revenues that must be set aside for debt-service payments on infrastructure bonds. The state's debt-service ratio has risen from less than 1 percent in the late 1980s to 4 percent of the 2008-09 budget. As more authorized but yet unissued bonds are sold, the annual debt service will rise.[25]

According to the California State Treasurer, California's debt level is consistent with other large states and several states have a higher debt burden than California.[26] While California's overall debt is comparable with other states, within certain program areas, payments on bond debt have significantly outpaced spending for other programs. Natural resources, for example, is one program area where payments on bond debt have become a major portion of the total budget. Bond funding has grown to more than 40 percent of total funding for natural resources and environmental protection programs, up from 20 percent ten years ago. Since 1996, voters have approved approximately $22 billion in general obligation bonds for resources and environmental protection programs. In 2009-10, debt service on those bonds will account for more than $720 million out of the General Fund commitment to resources and environmental programs, the second largest budget item behind fire protection.[27]

Governor's Proposed General Fund Expenditures
Resources and Environmental Protection



Source: Legislative Analyst's Office. February 3, 2009. 2009-10 Budget Analysis Series: Resources. A Funding Framework for Natural Resources and Environmental Protection Programs. Figure 5. Page RES-12.

Despite having a fairly average debt ratio for a large state, California has the lowest credit rating in the nation. State Treasurer Bill Lockyer told the Commission that the state's low credit rating was a result of the state's budget deficits and annual budget battles, the product of the two-thirds requirement to pass a budget and two-thirds requirement to raise taxes. Treasurer Lockyer and other state treasurers also have charged that Wall Street credit rating services, such as Moody's and Standard & Poor's consistently rank governments – which have rarely defaulted on loans – lower than troubled investment firms, including Lehman Brothers and Bear Stearns. The low credit rating results in California being forced to offer a higher interest rate to sell its bonds, costing taxpayers millions more in annual debt service payments.

Why Does it Take So Long to Spend Bond Money?

Half of the general obligation bonds authorized by Californians have not been issued. According to the state treasurer's October 2008 debt affordability report, of $120 billion authorized between 1970 and January 2008, the state has approximately $45.6 billion in outstanding bond debt and nearly $58 billion in unissued bonds. Another $16.5 billion has been issued and paid off. These figures do not include the additional $11 billion in bond measures enacted by California voters in November 2008.[28]

When voters authorize the state to incur debt by borrowing through bond sales, California does not immediately sell long-term bonds to raise the money. California does not have general obligation bond money sitting idle. Unlike other states, it draws on its authorized borrowing once projects are complete, financing work in the interim through short-term borrowing in the credit markets. The state's $58 billion in unissued bonds can be better-described as $58 billion in unused borrowing authorization.

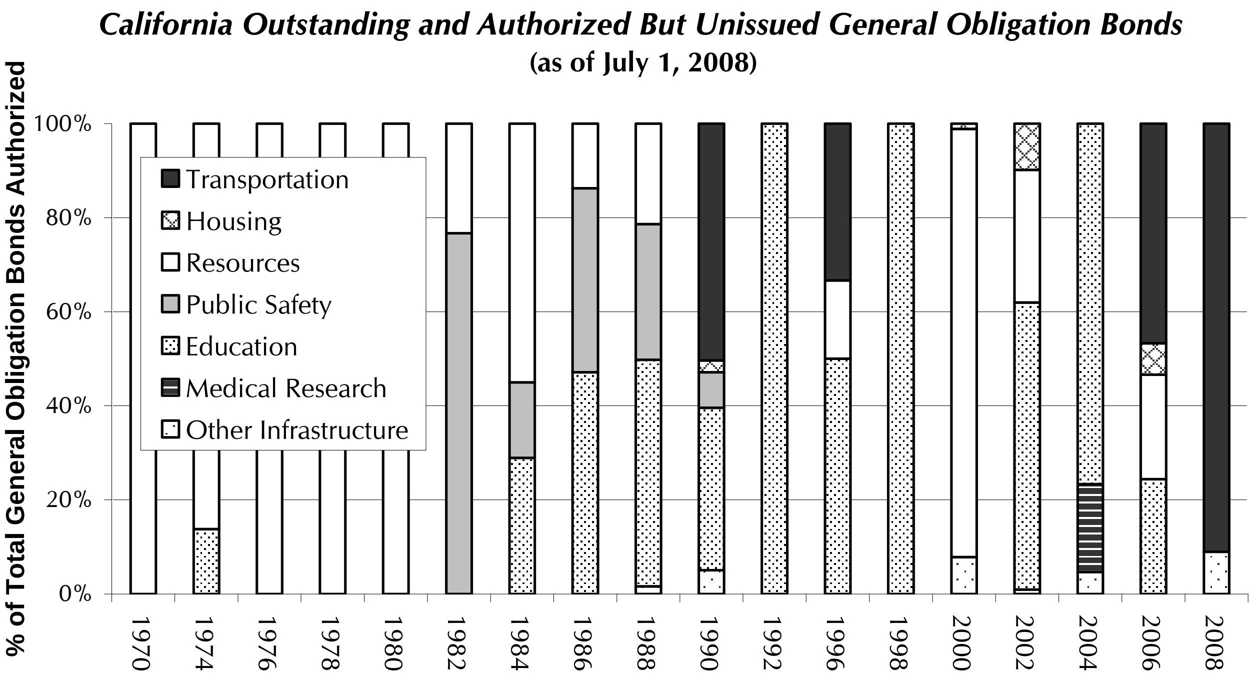
When bond-funded projects are approved and contracts are awarded, the state provides interim financing from the Pooled Money Investment Account. Although a significant portion of authorized general obligation bonds have yet to be issued, a large percentage of the bond money has been committed to projects that are temporarily being funded through other short-term financing measures through the Pooled Money Investment Account.

Pooled Money Investment Account

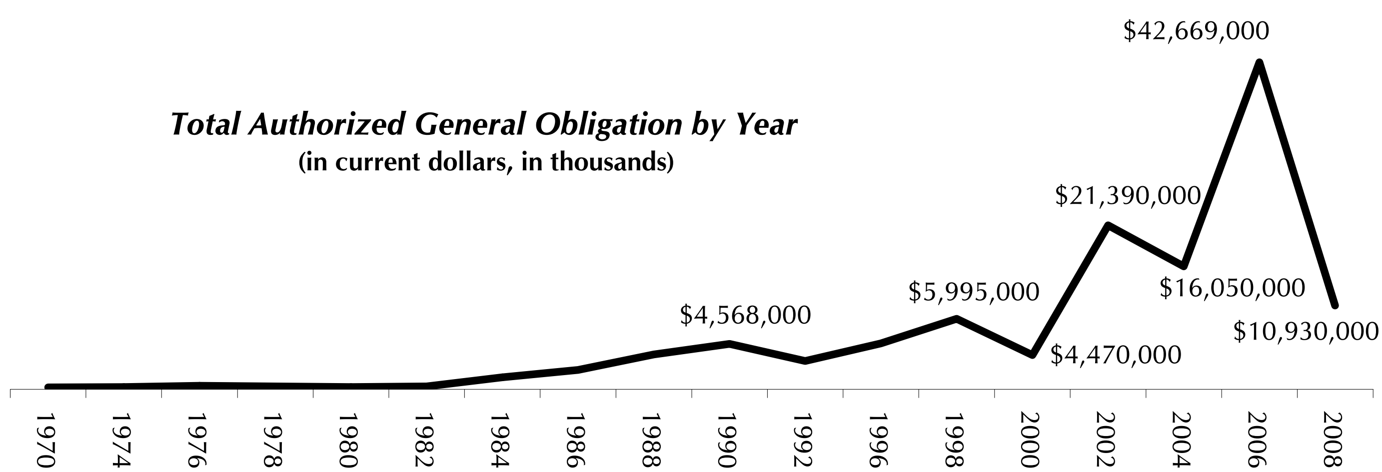
The Pooled Money Investment Account (PMIA) is the state's savings account for short-term investments. Money is deposited into the account from the General Fund and state special funds and is invested in short-term securities, U.S. government securities, corporate bonds, interest-bearing deposits in California banks, savings and loan associations and credit unions, commercial paper and various other low-risk securities. The primary investment objectives are safety, liquidity and yield so that the state will make money on its cash surplus, but also have a ready source of money when bills come due. At the end of March 2009, the PMIA portfolio totaled $58.7 billion.

Due to the size of the account, money from the PMIA is loaned to pay for infrastructure projects that eventually will be paid for through the sale of general obligation or lease-revenue bonds. When the long-term bonds are sold, the proceeds are used to replenish the PMIA account.

The PMIA is overseen by the Pooled Money Investment Board, a three-person board chaired by the state treasurer. The other two members are the state controller and the director of the Department of Finance.



Note: All bonds authorized from 1970-1980 were resource bonds, with the exception of an education bond in 1974.



Sources: State Treasurer's Office. 2008. "2008 Debt Affordability Report: Making the Municipal Bond Market Work for Taxpayers in Turbulent Times." Pages 35-36. Also, California Secretary of State. November 4, 2008. "California General Election Official Voter Information Guide." Proposition 1A and Proposition 3.

The credit crisis that unfolded at the end of 2008 put California's finances in an unprecedented squeeze. Uncertainty about the creditworthiness of major financial institutions seized credit markets, with transactions coming to a standstill because of fear of defaults, severely limiting capital available to finance public and private projects. Compounding the problem, in late 2008 and early 2009, California lawmakers were unable to resolve a projected two-year $41 billion budget hole – a result of the structural budget deficit combined with the global economic downturn. The combination meant California, along with many other governments and institutions, was effectively locked out of the credit market.

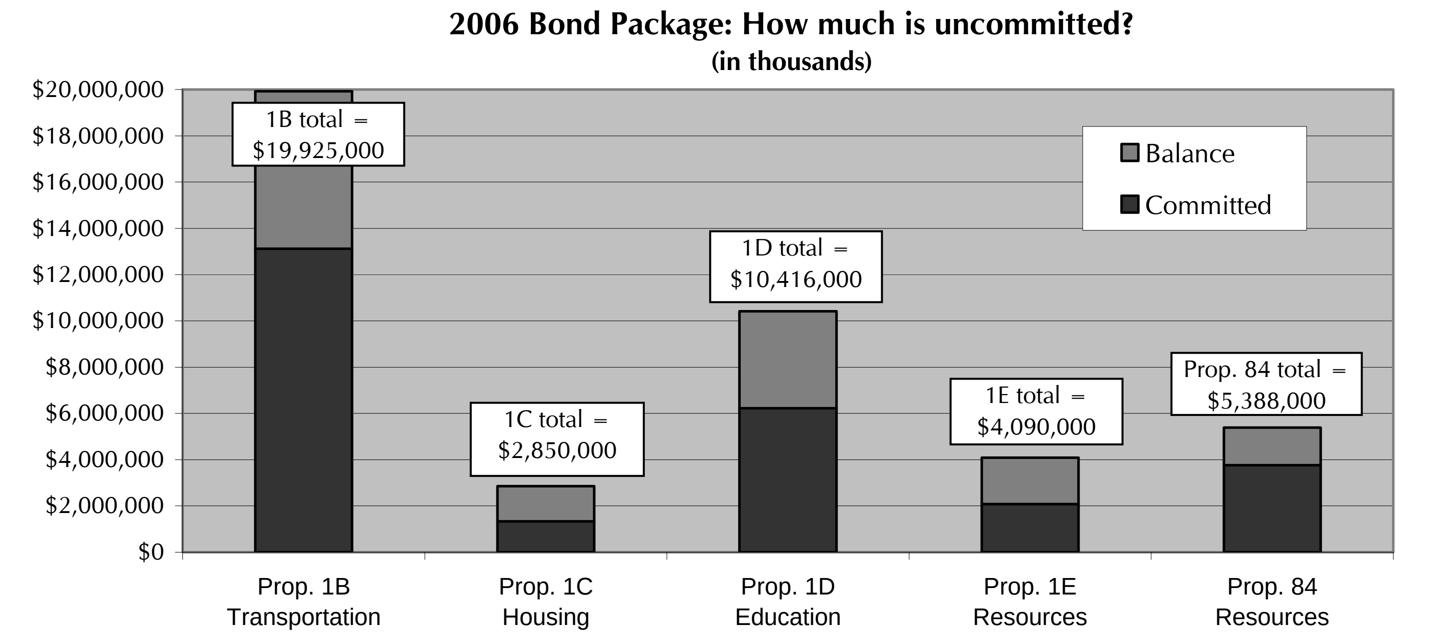
With the state running short of cash, the state's Pooled Money Investment Board – the entity that manages the Pooled Money Investment Account which provides interim financing for bond-funded projects – took the unprecedented step in December 2008 to freeze payments resulting in some 5,400 bond-funded projects being put on hold.[29] In March 2009, California returned to the bond market and sold $6.5 billion in bonds, $2.5 billion more than planned, restoring the money flow to many bond-funded projects. This market-driven slowdown in project implementation, although highly unusual, exposed the risks associated with paying for infrastructure projects through the state's short-term financing system and may result in bond-funded projects taking longer to complete than originally planned.

Other causes for slow implementation are more predictable. In certain program areas, such as housing, experts agree that the quality of projects improves by releasing grants over multiple years rather than all at once.[30]

Other bond-funded programs have been slowed by lack of legislation to implement a program or to appropriate the bond money. Although the lack of a legislative appropriation may slow down implementation, this legislative involvement serves as an important lever to ensure that money flowing to bond administering agencies is used efficiently and effectively.

2006 Bond Package

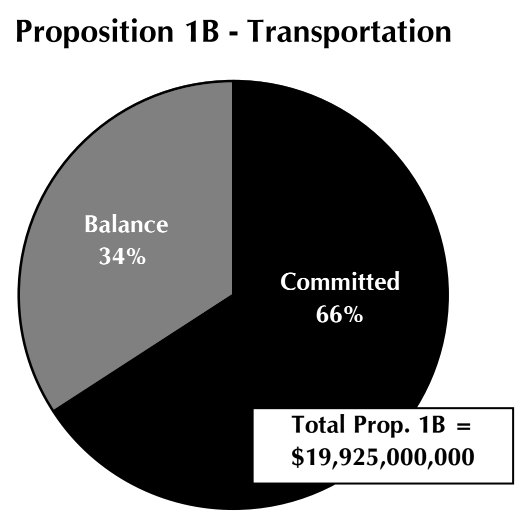
The five bond measures enacted in 2006 span dozens of departments and fund more than 100 programs. They have generated more than a thousand lines of statutory code. The bond proceeds are used for a wide variety of infrastructure investments ranging from roads, bridges and highways to school facilities, affordable housing, levee repairs, wetlands protection and habitat restoration.



Source: California Strategic Grown Plan, Bond Accountability. "Bond Information." http://www.bondaccountability.ca.gov/Bonds/. Accessed April 30, 2009.

Proposition 1B – Transportation

Voters authorized nearly $20 billion in bond expenditures in Proposition 1B, a significant departure from how California previously paid for transportation projects. Until 2006, the majority of California transportation improvement and maintenance projects were funded on a pay-as-you-go basis through taxes and user fees. Though the shift in financing was new, the process for committing funding and awarding transportation contracts has been in place for decades through the California Transportation Commission (CTC), enabling the transportation bond money to move from ballot measure to construction phase more quickly than in some of the other infrastructure areas. The CTC and Caltrans have extensive experience complying with federal accountability and auditing requirements. Transportation officials said that the federal accountability standards are higher than the accountability measures included in the governor's January 2007 executive order.[31]



Source: California Strategic Grown Plan, Bond Accountability. "Transportation." http://www.bondaccountability.dot.ca.gov/bondacc/. Accessed April 30, 2009.

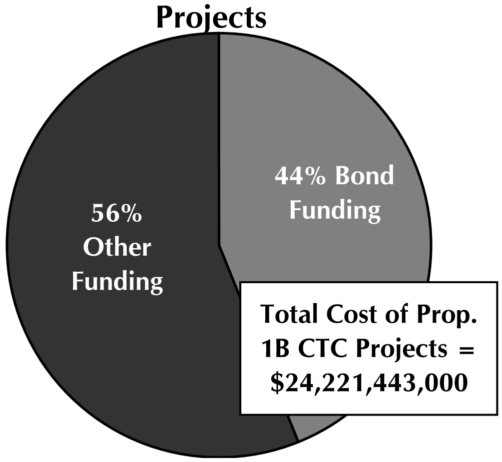
The California Transportation Commission is tasked with allocating approximately $11 billion of the $20 billion authorized in Proposition 1B. All of the money administered by the CTC has been committed to projects.[32] Another $5.6 billion is allocated by formula through the State Controller's Office and the Department of Finance. The Air Resources Board is responsible for another $1.2 billion and the California Emergency Management Agency administers $2.1 billion from this bond measure.[33]

The majority of the transportation bonds require local and regional transportation agencies to provide matching money from sources outside Proposition 1B. These resources can include local tax revenue, federal funds and developer fees. To qualify for the Proposition 1B Corridor Mobility Improvement Account or Trade Corridors Improvement Fund grants, for example, most grantees had five or more additional funding sources.[34] More than 20 of California's 58 counties have passed local sales tax measures to pay for transportation projects; approximately 80 percent of all Californians live in counties where voters have passed local sales tax measures to pay for this infrastructure. This local investment has brought with it a history of high expectations and accountability.[35]

To qualify for the Proposition 1B transportation programs administered by the CTC, applicants had to have completed their environmental reviews, design, engineering and right-of-way processes. Proposition 1B money primarily is used to pay for the next step in the process – construction – which increases the likelihood that these projects will be completed on time and on budget. The CTC has mandates that bond funding for most programs be limited to the cost of construction, ensuring "bond funds are expended for physical capital improvements with quantifiable benefits, once all project planning and design activities are completed."[36]

The Proposition 1B initiative language included details for many of the programs funded through the bond, although some programs required additional legislation to clarify criteria and intent. In August 2007, after consultation with Caltrans and the CTC, the Legislature enacted SB 88 (Committee on Budget and Fiscal Review), a budget trailer bill that completed the list of bond administering agencies and included legislative accountability and

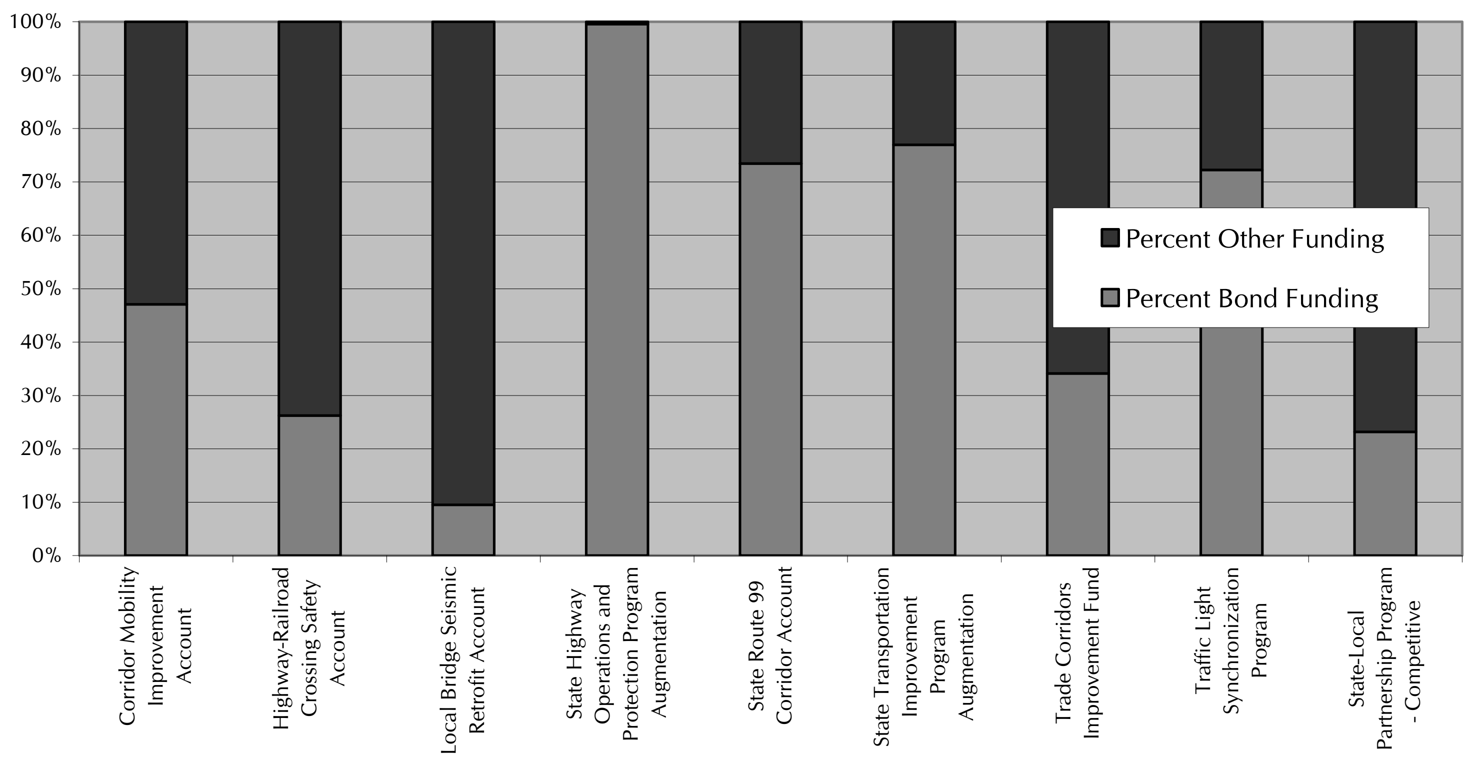
Leveraging Proposition 1B Investment to Fund Transportation Projects



Source: California Transportation Commission. Proposition 1B CTC Projects. Compiled from the Bond Accountability Web site, www.bondaccountability.ca.gov.

expectations for the transportation programs, including quarterly progress reports on projects funded through bond programs. Through the Web site established as a result of the governor's January 2007 executive order, www.bondaccountability.com, anyone interested can review the status of projects that have received money through this bond measure. This accountability process builds on many decades of transportation project delivery and established roles and responsibilities involving the department and other recipient agencies.[37]

Proposition 1B CTC Projects: Funding Sources



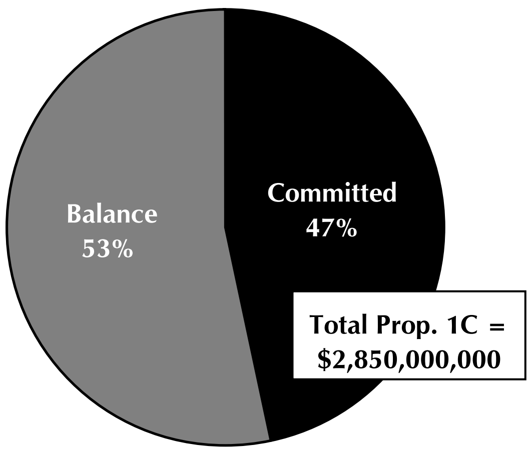
Source: California Transportation Commission. Proposition 1B CTC Projects. Compiled from the Bond Accountability Website, www.bondaccountability.ca.gov.

Propositions 1C – Housing

The Housing and Emergency Shelter Trust Fund Act of 2006, known as Proposition 1C, authorized $2.85 billion in bonding capacity to pay for housing and other infrastructure investments, such as water, sewer, parks and transportation improvements. The Department of Housing and Community Development administers 12 of the 14 programs funded or established through Proposition 1C, with the other two programs administered by the California Housing Finance Agency and the California Pollution Control Financing Agency.

Nearly half of the bond money authorized – $1.35 billion – is for three new programs to promote urban development and parks. This money provides loans and grants for water, sewage, transportation, traffic mitigation, brownfield cleanup, parks, and housing around and near public transit. Eligible applicants include for profit, and non-profit housing developers, local governments, public housing authorities, and redevelopment agencies.

Proposition 1C - Housing



Source: California Strategic Grown Plan, Bond Accountability. "Housing." http://www.bondaccountability.hcd.ca.gov/. Accessed April 30, 2009.

Another $1.35 billion from Proposition 1C will provide money for eight existing programs established through Proposition 46, a 2002 general obligation bond measure that authorized $2.1 billion for 21 housing programs. At the time, it was the largest housing bond ever approved by California voters. Previously, voters had approved a $150 million housing bond measure in 1990 to supply housing for low-income and homeless Californians. At the end of 2008, all of the 1990 bond money had been committed to fund projects and $1.7 billion from Proposition 46 had been awarded.[38]

Four of the eight existing programs encourage homeownership by providing grants or loans for home purchase down-payments or other mortgage assistance for low and moderate income homebuyers. Two of the existing programs provide low-interest loans for housing developments for low-income renters and two provide low-interest loans or grants for farm workers or to develop homeless shelters.

Proposition 1C also authorized $100 million for the Affordable Housing Innovation program which provides grants or loans for pilot projects that create or preserve affordable housing and, separately, $50 million in low-interest loans for projects that provide housing for homeless youth.

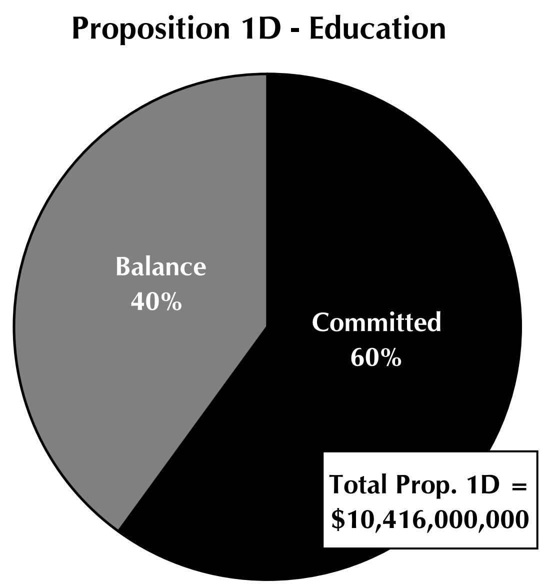
Rather than expend all of the housing bond money in one year, the Department of Housing and Community Development has made it a practice to award grants through certain programs over multiple years in an effort to improve the overall quality of the applicant projects. According to the Legislative Analyst's Office, if too much money was awarded at any one time, low scoring projects would be funded. By making the money available over multiple funding cycles, the state has more opportunities for applicants to develop high-quality projects.[39] As of December 2008, more than $1.11 billion of the $2.85 billion authorized in 2006 by Proposition 1C had been committed or awarded.[40]

Propositions 46 and 1C programs were audited by the Bureau of State Audits (BSA) in 2007 as required by Health and Safety Code Sections 53533 and 53545. The BSA concluded that "the Department of Housing and Community Development and the California Finance Housing Agency generally awarded funds in a timely manner and consistent with the law." However, the BSA noted that the department's monitoring of grant recipients was inconsistent and recommended it strengthen its oversight to ensure that grant recipients were using funds only for eligible costs and that their activities benefit only targeted populations.

The BSA found the department had adequate processes in place to monitor grant recipients when bond money was being spent, to ensure recipients were meeting progress goals and only reimbursed recipients for allowed costs. However, the department lacked processes to adequately ensure compliance once projects were done, which requires ongoing monitoring over multiple years or decades to ensure that the affordable housing projects serve the intended recipients.[41] The BSA is conducting another audit of the housing bond programs and plans to release a report in fall of 2009.[42]

Proposition 1D – Education Facilities

Proposition 1B authorized $10.4 billion to build and renovate education facilities, including $7.3 billion for K-12 facilities and more than $3 billion for community college, California State University and University of California facilities.



Source: California Strategic Grown Plan, Bond Accountability. "Education." http://www.bondaccountability.ca.gov/Bonds/Education/default.php. Accessed April 30, 2009.

K-12 Facilities. Californians have approved more than $35 billion in state general obligation bond financing for K-12 education facilities since 1998, the year the state created the School Facility Program to help K-12 school districts buy land, construct new buildings, and modernize existing buildings. The School Facility Program typically provides local districts with money for 50 percent of new construction costs and 60 percent of facility modernization costs. School districts raise most of their portion of the costs through local bond measures. In 2000, Proposition 39 lowered the threshold required for local bond measures for K-12 and community college facilities. Between 1998 and 2006, voters approved $41 billion in local general obligation bonds for K-12 facilities.[43]

Proposition 1B provides $5.7 billion for four existing state programs – new construction; modernization; charter school facilities; and, joint-use projects – and $1.6 billion for three new programs, severely overcrowded schools, career technical facilities and high performance, energy-efficient schools.

The State Allocation Board (SAB) is responsible for awarding bond money from Proposition 1D and other K-12 educational facilities bonds. To date, $3.4 billion of the $7.3 billion in Proposition 1D funding for K-12 school facility construction and modernization has been committed to local school districts.

Higher Education Facilities. Proposition 1D included $890 million for the University of California, $690 for the California State University system and $1.5 billion for the California Community Colleges. The Legislature appropriates Proposition 1B funds for the higher education systems through the budget process. To date, $874 million of the $890 million available for the University of California and $615 million of the $690 million available for the CSU system have been appropriated or allotted for appropriation. More than $1.3 billion of the $1.5 billion available for community colleges has been committed to school facility construction through the annual budget process.[44]

Natural Resource & Flood Control Proposition 1E and Proposition 84

Since 1996, Californians have enacted seven bond measures in the resources area: Propositions 204, 12, 13, 40, 50, 84 and 1E, totaling nearly $22 billion in borrowing authority.[45] These measures support a broad range of programs that protect, preserve and improve California's water and air quality, open space, public parks, wildlife habitats, and historical and cultural resources.[46]

Nearly half of the $22 billion in bonding capacity for natural resources was approved by voters in 2006. Proposition 1E, a bond measure placed on the ballot by the Legislature, authorized $4.1 billion to provide money for 15 programs with various flood management purposes. Proposition 84, the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006 which was placed on the ballot through the initiative process, authorized nearly $5.4 billion for various water needs, natural resource protection and park improvements.

Resources General Obligation Bonds, 1996 to Present [1] by Program Area

(in Millions)

	Allocation	Previous Appropriations[2]	Balance (May 2009)[3]
Parks and recreation			
State parks	$1,094	$913	$181
Local parks	2,412	1,838	575
Historic and cultural resources	240	236	4
Nature education	100	6	94
Subtotals	($3,846)	($2,993)	($852)
Water quality	$3,647	$2,582	$1,065
Water management	6,843	4,063	2,780
Conservation, restoration and land acquisition	4,711	3,972	739
CalFed/Delta related	1,686	1,557	129
Air quality	1,250	784	466
Totals	**$21,983**	**$15,953**	**$6,030**

[1] Includes Propositions 204, 12, 13, 40, 50, 1B, 1C, 1E and 84.

[2] Includes funds previously appropriated, statewide bond costs, future-year obligations and reversions.

[3] As proposed in the 2009-10 Governor's Budget and the Balance as of July 2010.

Source: Legislative Analyst's Office. February 24, 2009. "The Delta Vision and Bay Delta Conservation Plan: Financing Issues." Page 6.

Resources General Obligation Bonds, 1996 to Present

(in Millions)

Bond	Year	Total Authorization	Previous Appropriations[1]	Balance (May 2009)[2]
Proposition 204[3]	1996	$870	$827	$43
Proposition 12	2000	2,100	2,072	28
Proposition 13[3]	2000	2,095	1,892	203
Proposition 40	2002	2,600	2,574	26
Proposition 50	2002	3,440	3,381	59
Proposition 1B[4]	2006	1,200	735	466
Proposition 1C[5]	2006	200	7	193
Proposition 1E	2006	4,090	1,514	2,576
Proposition 84	2006	5,388	2,949	2,439
Totals		**$21,983**	**$15,953**	**$6,033**

[1] Includes funds previously appropriated, statewide bond costs, future-year obligations and reversions.

[2] As proposed in the 2009-10 Governor's Budget and the Balance as of July 2010.

[3] $125 million was transferred from Proposition 204 to Proposition 13 accounts.

[4] Primarily a transportation bond, this includes sections that have funds for air quality.

[5] Primarily a housing bond, this includes funds dedicated for housing-related parks.

Source: Legislative Analyst's Office. February 24, 2009. "The Delta Vision and Bay Delta Conservation Plan: Financing Issues." Page 6.

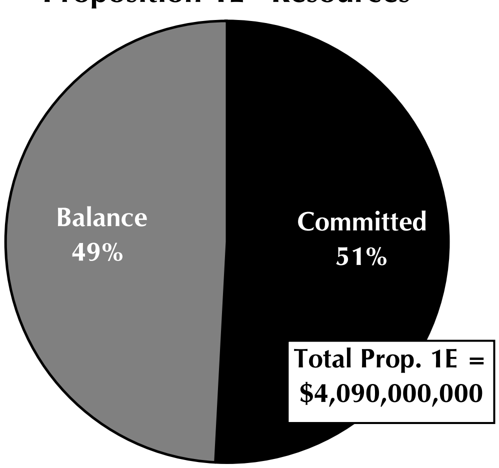
It is important to note that although the past decade has seen a rapid expansion in general obligation bonds for a broad array of resources programs to be paid back through the state's General Fund, water infrastructure – particularly the State Water Project, which supplies water to approximately million Californians – has been primarily funded by revenue bonds and general obligation bonds paid for by the entities that receive water from the project. According to the LAO, the state spent $6.4 billion from 1952 to 2007 to build the State Water Project and estimates that the State Water Project contractors will have paid for about 96 percent of the cost of building the project by the time the bonds are paid off.[47]

Almost all of the $9.5 billion authorized in 2006 and the majority of programs authorized in prior bonds are administered by approximately two dozen departments, boards and conservancies all under the umbrella of the California Natural Resources Agency.[48] The Department of Water Resources has a key role, particularly for the flood control programs funded by Proposition 1E. DWR is responsible for administering 14 of the Proposition 1E programs with the State Coastal Conservancy and the Wildlife Conservation Board administering the other two programs.

Proposition 84 authorized money for more than 60 different purposes and all but a few programs – such as the water quality programs that are overseen by the Department of Public Health – are administered by an entity within the resources agency.[49]

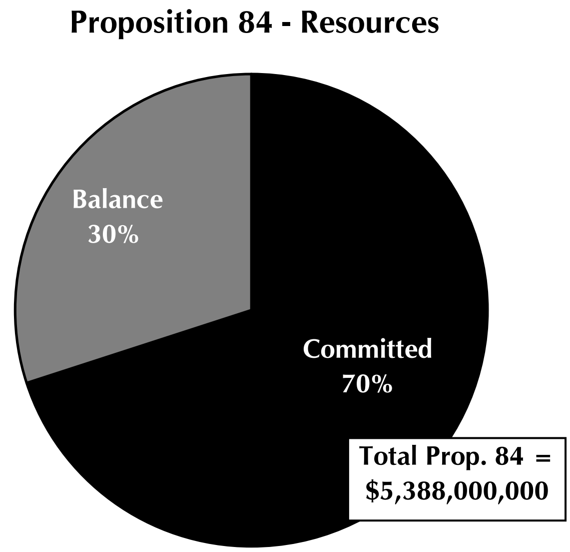
While the Legislature has the authority to appropriate most of the bonding capacity authorized in both Proposition 1E and Proposition 84, it has greater flexibility with Proposition 1E funds. In authorizing Proposition 1E, voters allocated bond money to a handful of general program areas and provided the Legislature the authority to appropriate the money within the general requirements of the bond measure. Proposition 84 included much more specific bond allocations, preventing the Legislature from reallocating any funds provided by the bond within the various uses specified in the bond measure. Because of the breadth and nature of the resources bonds across dozens of program areas and the lack of flexibility in some of the bond programs, it is more difficult to compare and contrast the efficiency and effectiveness of bond program in this area.

Proposition 1E - Resources



Source: California Strategic Grown Plan, Bond Accountability. "Flood Control." http://bondaccountability.resources.ca.gov/p1e.aspx. Accessed April 30, 2009.

Much of the funding authorized through Proposition 1E has gone and will go to pay for projects administered by the Department of Water Resources. Some Proposition 84 bond programs are administered by various boards and commissions, each with its own public process for setting programs guidelines and ultimately awarding grant money to local entities.



Source: California Strategic Grown Plan, Bond Accountability. "Natural Resources." http://bondaccountability.resources.ca.gov/p84.aspx. Accessed April 30, 2009.

In other areas, Proposition 84 was very prescriptive as far as which entities would receive money. For example, of $540 million authorized for the protection of beaches, bays and coastal waters, $360 million was identified for specific purposes. Likewise, nearly $1 billion authorized for the protection of rivers, lakes and streams also identifies how much money individual or specific natural resource conservancies will receive, including $54 million for the Sierra Nevada Conservancy, $36 million for the California Tahoe Conservancy and $45 million for California Conservation Corps projects. A complete list of allocations is included in Appendix B.

Who Has a Role in Bond Oversight?

A number of state entities have a role in ensuring that state bond money is spent wisely and as intended by the voters and follow the statutory rules adopted by the Legislature to govern the bond programs.

Legislative Branch

California State Legislature. The Legislature has the primary authority for ensuring bond funding is spent as intended, spent on time and spent within the budget.

The Legislature has an important bond oversight role in setting program parameters and, in many cases, authorizing bond appropriations. The Legislature's role is to:

- Provide a statutory framework to administer and distribute bond funds.
- Provide appropriations unless the bond measure directed continuous appropriations.

- Provide oversight to ensure the programs are administered in accordance with the Legislature's and the voters' intent.
- Provide oversight to ensure that departments with cross-cutting goals communicate and coordinate.

Because the Legislature holds the purse strings, it can withhold appropriations until it is satisfied that departments will spend the money effectively and for legislative and voter priorities. Bond-funded programs are independently assessed by policy committees and budget committees within the regular legislative process.

The Legislature has enacted reporting requirements for agencies administering bond programs. In 2003, the Legislature enacted AB 1368 (Kehoe), which put into statute a bond oversight mechanism requiring lead agencies administering bond-funded programs to provide annual reports to the Legislature and the Department of Finance including a list of projects and their locations, the amount of funds allocated to each project and the project status.

In 2007, the Legislature enacted SB 88 (Senate Committee on Budget and Fiscal Review) which requires specific reporting for Proposition 1B programs funding transportation-related projects. Specifically, the legislation requires each agency administering Proposition 1B funds to collect information from bond money recipients on the activities and progress made toward project implementation. The administering agencies are required to report this information to the Department of Finance twice per year.

Legislative Analyst's Office. The Legislative Analyst's Office provides fiscal and policy advice to the Legislature, serving as the "eyes and ears" for the Legislature to ensure that the executive branch is implementing legislative policy in a cost efficient and effective manner. With a staff of nearly 60, the LAO is overseen by the Joint Legislative Budget Committee, a 16-member bipartisan joint committee. The LAO reviews implementation of all government programs, including bond-funded programs. As a result, the LAO has done a significant number of reviews of government infrastructure programs funded through voter-authorized bonds. Additionally, the LAO prepares the analyses of all ballot initiatives, including bond measures.

Bureau of State Audits. The state auditor serves a four-year term and, although appointed by the governor, is solely accountable to the Legislature. The Bureau of State Audits (BSA), with about 150 staff positions, is responsible for the Single Audit of California, required by federal statutes, and conducts other financial and performance audits as directed by statute or as requested by the Joint Legislative Audit Committee (JLAC). Any member of the Legislature can request an audit by the BSA. The request goes before the JLAC, which prioritizes and selects which audits it will request the BSA to conduct. The BSA currently has two audits on bond programs in progress, an assessment of the housing bond programs and a review of the children's hospital bond programs. Additionally, in 2005, the BSA was given the authority to develop a risk assessment process to identify, audit and issue reports with recommendations for improvement in areas it identifies as high risk. In May 2007, the BSA identified the state's programs that spend bond proceeds on infrastructure as high risk. In 2009, the BSA released a report reviewing the overall progress of the bond administering agencies in complying with the governor's executive order to expand oversight and accountability and specifically looked at six bond administering agencies that oversee approximately 42 percent of the bond money authorized by the voters in 2006.[50]

Executive Branch

Agencies and Departments. All of the bond measures enacted by voters are administered by various government entities. Sometimes, the bond measure specifically states which government entity will administer the bond program and details the programs and amount of money to be expended. In other cases, the Legislature sets program parameters and determines the state entity that will administer the bond program. Dozens of different departments and agencies administer bond programs. The five measures enacted by voters in 2006, for example, are administered by 22 different government entities. The agencies and departments are responsible for ensuring transparency and accountability for how money is spent and how grants are awarded, where appropriate. These entities also provide oversight of the thousands of individuals' contracts that are awarded as a result of the bond programs. In January 2007, Governor Arnold Schwarzenegger issued an executive order requiring all bond-administering agencies to develop a three-part accountability plan for the programs funded by the 2006 bond package. These departments are required to provide semi-annual reports to the Department of Finance on the progress of the bond-funded programs and projects. Additionally, agencies and departments administering bond programs are required to contract with the Department of Finance or another entity to conduct a follow-up audit of bond program expenditures.

Department of Finance. The Department of Finance oversees bond expenditures through its Office of State Audits and Evaluation and through its capital outlay and budget program managers who oversee various bond program areas. The department has a staff of approximately 400 people. The governor's executive order of 2007 increased the role of the Department of Finance in bond oversight by requiring it to develop a Web site that provides an overview of the 2006 bond programs with links to the agencies and departments administering those programs. As previously mentioned, bond-administering agencies contract with the Department of Finance or other auditing entities for fiscal audits of bond programs expenditures.

California Federal Economic Stimulus Task Force. With an estimated $85 billion in federal economic stimulus headed toward California over the next two years and President Barack Obama requiring expanded transparency and accountability measures for the money, in March 2009, Governor Arnold Schwarzenegger established the California Federal Economic Stimulus Task Force. It is not clear how or if the oversight work of the task force will intersect with programs and projects that are funded by both federal stimulus money and state bond money.

"The Task Force will be charged with tracking the American Recovery and Reinvestment Act (ARRA) funding coming into the state; working with President Barack Obama's administration; helping cities, counties, non-profits, and others access the available funding; ensure that the funding funneled through the state is spent efficiently and effectively; and maintain a Web site that is frequently and thoroughly updated for Californians to be able to track the stimulus dollars."[51]

The task force is led by the director of the Governor's Office of Planning and Research and includes the chief deputy director and the chief operating officer of the Department of Finance, California's Chief Information Officer, the director of the Governor's Constituent Affairs office, and the chief deputy director of communications to the governor. Additionally, the Task Force will include one representative from the administration for each of the main program areas through which the federal funding will flow: Health & Human Services/Health IT; Transportation; Housing; Energy; Natural Resources Agency; Environment/Water Quality; the Governor's Director for Jobs & Economic Growth; Education; Labor; and, Broadband Technology.

To oversee the task force, the governor appointed a Recovery Act Inspector General.

Independent Constitutional Officers

State Controller's Office. The state controller is a constitutional officer elected every four years to serve as the chief fiscal officer of California. With a staff of more than 1,300, the State Controller's Office is responsible for the accurate accounting and disbursement of all state funds. Additionally, the office has the authority to ensure that the state's annual budget is spent properly, part of which is carried out through its audits division which investigates whether taxpayer dollars are being spent as the laws intended. Approximately 300 staff members are in the audits division. The controller has statutory authority to "audit all claims against the state, and may audit the disbursement of any state money, for correctness, legality, and for sufficient provisions of law for payment." The State Controller's Office has conducted audits of bond programs at both the state and local level. To provide oversight on Proposition 1B bond programs, the California Department of Transportation has contracted with the State Controller's Office for 12 auditing positions to independently audit various Caltrans bond-funded projects.

State Treasurer's Office. The state treasurer is a constitutional officer elected every four years with broad responsibilities and authority for investment and finance and serves as the state's lead asset manager, banker and financier. The State Treasurer's Office, with approximately 235 staff positions, does not provide oversight of bond expenditures, although the state treasurer chairs more than 30 bond finance committees. The State Treasurer's Office issues the bonds that finance public works projects. The office also manages the state's Pooled Money Investment Account, which is used as interim financing to pay for bond program expenditures until project completion.

Expanding and Enhancing Oversight

In the past several years, Californians have authorized a sizable amount of borrowing capacity – some $54 billion since 2006 – to pay for a variety of infrastructure investments – new and improved roads, schools, housing and natural resource protection. In enacting bond measures, Californians have committed a growing portion of the annual budget for several decades to come to pay for these investments. Californians deserve accountability and transparency for all government expenditures. Given that debt payments have a higher priority than all other state government program areas outside of education, it is imperative that bond-funded programs are held to the highest level of scrutiny and greatest level of accountability to ensure that investments made today will provide the utmost benefit to the generations who will pay off these obligations.

As previously described, several players have key roles in overseeing bond expenditures – the Legislature, the administration and other state entities such as the Bureau of State Audits and the State Controller's Office.

To his credit, shortly after California voters enacted the single largest bond package in the state's history – the $43 billion bond package enacted in November, 2006 – Governor Schwarzenegger issued an executive order expanding accountability and transparency for state agencies and departments charged with administering the bond programs.

In the executive order, Governor Schwarzenegger proclaimed that:

> *"Accountability consists both of ensuring that bond expenditures contribute to long-lasting, meaningful improvements to critical infrastructure, and providing the public with readily accessible information about how the bonds they approved and are paying for are being spent."*[52]

In this study, the Commission assessed whether these improvements are adequate or if more oversight is required. The Commission found that the governor's policies expanding accountability and oversight have provided a definite step in the right direction, but more could be done to ensure bond money is spent wisely. Because of the diversity, quantity and complexity of programs funded by the bonds, it is difficult to decipher exactly how money is being spent and whether it is being spent efficiently and effectively.

The five bond measures enacted in 2006, for example, span 22 departments and represent more than 100 programs. They have generated more than a thousand lines of statutory code.[53] Bond proceeds are used for a wide variety of infrastructure investments ranging from roads, bridges and highways, to school facilities, affordable housing, levee repairs, wetlands protection and habitat restoration. As a result, there is no standard approach for evaluating the efficiency and effectiveness of the bond-funded programs. According to former Legislative Analyst Elizabeth Hill, "each measure is unique and each measure must be analyzed individually."[54]

In many cases, it is too early to tell how effectively and efficiently the 2006 bond money is being spent. The first financial audits of some of the 2006 bond programs, required upon program completion, are scheduled to begin in the 2009-10 fiscal year; the results of these audits will need to be monitored. In its assessment of the expanded transparency, particularly the bond accountability Web site required by the executive order, the Commission found that the state needs to do more to ensure that information on bond programs and expenditures is readily available to the public – a first step in being able to assess whether the money is being spent wisely.

Beyond the expanded accountability and transparency required in the executive branch, the Commission found that the legislative branch must play a more active role in its stewardship of this public money used for long-term investment. The Commission found a need for independent oversight and opportunities within existing government entities and within existing resources to expand oversight. Additionally, the Commission identified existing models for bond allocation and accountability in the California Transportation Commission and the State Allocation Board, models that should be replicated in other major bond-funded program areas.

Governor's 2007 Executive Order

The governor's 2007 executive order required the Department of Finance to expand oversight of bond-funded programs and directed state agencies and departments administering the bonds to develop a three-part accountability regimen for each program, including:

- Front-end accountability by developing a strategic plan and performance standards for projects before spending the money.
- In-progress accountability that documents ongoing actions needed to ensure that infrastructure projects or other bond-funded activities stay within the previously identified cost and scope.
- Follow-up accountability in the form of audits of completed projects to determine whether expenditures were in line with goals laid out in the strategic plan.

The executive order requires each administering agency to report on the status of its "in-progress" monitoring actions semi-annually to the Department of Finance, including expenditure information for projects that have begun.

Progress of Accountability Plans and Audits

The executive order requires administering agencies to submit their three-part accountability plan to the Department of Finance for approval prior to spending any bond proceeds. The Bureau of State Audits (BSA), in a February 2009 report on the bond programs, found that the three-part accountability plans had been approved for 96 of 105 programs listed on the bond accountability Web site as of December 2008. Seven of the nine programs without approved plans were either approved in early 2009 or had other adequate controls in place.[55]

Overall, the BSA found that the Department of Finance and the bond administering agencies had made progress toward implementing the accountability measures required by the governor's executive order, but found "work remains to achieve the goals of the executive order."[56]

The Department of Finance, Office of State Audits and Evaluation, has issued enhanced guidelines for bond-administering departments to improve auditing capabilities for the bond measures enacted in 2006 and has injected a performance component into the audit requirements. As previously mentioned, it is too early to tell whether the follow-up accountability – financial audits of completed projects by the Department of Finance or other auditing entities – will improve outcomes. Few projects have been completed and the audits will not begin on these projects until the 2009-10 fiscal year.

The Commission reviewed Department of Finance fiscal audits required for earlier bond measures, including Propositions 12, 13, 40 and 50, and found the results difficult to interpret.

While the Department of Finance found that bond acquired assets were "accurately accounted and reported in compliance with the bond acts, and in conformity with the accounting practices as prescribed by the State of California," it also concluded that "the control and accountability for bond funds could be strengthened and fiscal operations could be improved."[57]

In written material submitted to the Commission, the State Controller's Office highlighted inappropriate spending documented in the Department of Finance audits. An audit of Proposition 50 revealed that money from Proposition 50 was spent for the executive director of the Santa Monica Mountain Conservancy to have an exclusive airport "Red Carpet Club" membership, for other personal travel-related expenses and for additional expenses unrelated to the protection of coastal watersheds. The Santa Monica Mountain Conservancy also spent $150,000 from the bond to pay lawyers to defend a lawsuit filed by local residents. Another audit found that the California Coastal Conservancy bond funds were spent for lobbying and employee perks, such as transit subsidies and yoga and weight loss programs.[58]

In his written testimony to the Commission, Mike Chrisman, Secretary of the California Natural Resources Agency stated that immediately following the release of the findings, corrective measures were taken. "Funds were returned for all ineligible expenses, and operating procedures and organizational structures were modified to enhance independence and oversight of bond expenditures."[59] Although the bond money was returned, there are no statutes in place that would allow the state to impose a fine or a penalty for inappropriate spending. When asked whether or not the Natural Resources Agency had ever sought legislation that would impose a penalty for inappropriate use of bond money, a representative from the agency said that because the incidents were relatively minor, the agency did not deem it necessary to have an enforceable statute. Current bond law simply requires the money to be recovered.[60]

Legislature Must Play a Greater Role

The Legislature plays a key role in designing and appropriating bond funding for various programs, but it has not consistently provided oversight for bond-funded programs once these programs are underway. The Legislative Analyst's Office provided substantial recommendations on how the Legislature could expand and enhance its oversight of the programs and projects paid for by the 2006 bond package in its 2007 report, *Implementing the 2006 Bond Package: Increasing Effectiveness Through Legislative Oversight.*

It recommended the Legislature use committee hearings to review required annual reports from departments administering bond projects. The LAO also said that a key role for the Legislature in bond oversight is to ensure that departments communicate with each other when appropriate. It recommended holding hearings that cut across traditional program areas, requiring joint implementation plans as well as follow-up by verifying implementation progress.[61]

Existing law requires the lead state agency administering bond-funded programs to provide an annual report to the Legislature and the Department of Finance. The report must include:

- A list of all projects authorized to receive funds and their geographical location.
- The amount of money allocated to each project.
- The status of projects with authorized funding.[62]

It is not clear whether agencies consistently are providing these annual reports to the Legislature, particularly now that much of this information is or should be available on the bond accountability Web site.

One witness described the lack of legislative oversight as a huge missed opportunity. Members of the Legislature are appropriately focused on advancing legislation, however, some consideration should be given to oversight of existing programs. Most bond-funded programs require annual appropriations from the Legislature. With this power of the purse, the Legislature could play a more significant role in ensuring bond money is well spent.

Witnesses recommended establishing legislative committees dedicated to oversight of bond-funded programs. These committees could review the annual reports as well as any financial or performance audits of bond-funded programs. The legislative calendar might need to be changed to accommodate the time and the resources for effective oversight.

The Legislature also has the authority through the Joint Legislative Audit Committee to assign specific audits to the Bureau of State Audits. The Legislature could further tap the Bureau of State Audits to review specific bond-funded programs. The BSA already has statutory authority for reviewing the children's hospital bond programs and the housing bonds. The BSA also has indentified bond-funded programs as part of its assessment of high-risk issues facing the state and as such provided a 2009 report on bond administering agencies' compliance with the governor's executive order for expanded oversight and accountability. Additionally, the BSA conducts the annual Single Audit, required as a condition for California to receive billions in federal funds each year. As a result, the BSA will have a significant role in auditing the 2009 federal Recovery Act stimulus funds.

More Independent Oversight

In testimony to the Commission, representatives of the controller's office and the treasurer's office said that the expanded oversight required by the executive order was insufficient. They identified the following shortcomings:

- The government entities responsible for the administration of the bond programs oversee themselves.
- Departments implementing the bond programs might be hesitant to provide details of any program shortcoming or problem to the Department of Finance.
- The Department of Finance is not organizationally independent from the state agencies that are responsible for the bond programs.
- There is insufficient focus on mid-project oversight as the required audits are performed after projects have been authorized and completed, precluding possible mid-project corrections.

At the time the governor issued the executive order, the controller and the treasurer had proposed a Citizens' Bond Oversight Commission to provide independent oversight of the bond-funded programs. The Legislature was not receptive to the oversight commission, in part because of the cost, and in part because of the proposed membership of the commission. As a result, the proposal for a statewide Citizens' Bond Oversight Commission was abandoned.

The controller and treasurer backed legislation during the 2007-08 session, SB 784 (Torlakson), which would have added auditing staff to the Office of the State Controller to audit bond expenditures and would have shifted the task of Web-based reporting and tracking to the State Treasurer's Office.

The state controller already has constitutional authority to audit certain expenditures: "The Controller shall audit all claims against the state, and may audit the disbursement of any state money, for correctness, legality and for sufficient provisions of law for payment."[63]

SB 784 failed to pass in 2008, in part due to the cost associated with adding auditing staff. In written testimony to the Commission, the State Controller's Office indicated the cost to expand auditing staff is approximately $1 million, "a relatively insignificant cost in comparison with the $42.6 billion in bond expenditures to be disbursed." The money to pay for the expanded auditing staff would have come from the administrative portion of the bond measures, typically 5 percent of the bond money. The State Controller's Office asserts that its track record for audits, on average, result in cost savings of 13 times the cost required for the audit.[64]

More recent legislation, SB 503 (Kehoe) also would expand the auditing staff of the State Controller's Office and require the SCO to annually choose to audit one or more projects funded by the 2006 bond measures. The cost of the audits would be paid for from the 5 percent set aside from each bond measure for administrative purposes. As originally proposed, the bill would have added 10 dedicated auditors, enabling the State Controller's Office to audit up to 30 projects annually. Based on past performance, the State Controller's Office estimated cost savings of at least $15 million as a result of the audits, more than offsetting the costs of the audits. The bill was amended in June 2009 reducing the number of additional auditors to three.[65]

Witnesses told the Commission that existing branches of government must work in concert to ensure adequate oversight. They emphasized the importance of the enhanced accountability within the executive branch and the need for expanded oversight by the Legislature, but also saw the value and the necessity of outside, independent oversight. Some witnesses agreed with the proposal for an Independent Citizens Oversight Commission. However, in the current fiscal climate, a more prudent recommendation is to expand the auditing staff in the State Controller's Office and pay for this expansion with the portion of the bond money set aside for administration.

Transparency and Accountability on the Web

The governor's 2007 executive order also required the Department of Finance to establish a Web site where information on the progress of bond-funded programs would be readily accessible to the public. The Web site, www.bondaccountability.ca.gov, is appropriately a work in progress as information is added and updated as the bond programs are implemented and as money has been appropriated by the Legislature. The Department of Finance and the bond oversight entities were required to develop the bond accountability Web site quickly and with existing resources.

Although the Department of Finance is responsible for maintaining the Web site, the government entities administering the bond programs are responsible for providing the data. The Department of Finance provided basic guidelines and expectations to the administering entities, but the data available and the way it is presented on the pages linked to the bond accountability home page are as different as the departments responsible for the bonds. Some departments had fairly sophisticated Web sites before the governor's executive order while others had to build sites from scratch.

As a result, the level of detail and ease of use varies greatly by program area. Frequently, the bond accountability programs link to other departmental Web pages with additional details, such as information on specific grant programs.

Each of the five bond measures includes lists of each major program, the amount of money included in the bond, the amount of money committed for projects and the amount of money still available. As described previously, money "committed" for projects can mean one of several things: the amount appropriated, the amount proposed for appropriations or the amount committed to indentified projects to be funded in future years. This inconsistency makes it difficult to truly understand how much money actually has been spent and how much is still available.

Proposition 1B, the transportation bond, provides $19.9 billion for a limited number of programs. It is fairly easy to select from the 16 transportation programs listed on the bond accountability Web site and, for many of the programs, view a list or map of approved projects.

However, the Legislative Analyst's Office has found the "bond accountability Web site not very helpful" and has been critical of the Proposition 1B portion of the Web site in particular. In its 2009-10 Budget Analysis of transportation programs, the LAO found that "certain information that is essential to understanding the progress and status of Proposition 1B projects is missing from the bond Web site." While the descriptions of project recipients are more detailed in this bond program area than others, the Web site still lacked key indicators including project milestones and costs, an overall project status and a date when the Web site was last updated. According to the LAO, at one point, the bond accountability Web site included easy-to-read status indicators with a green checkmark for projects on schedule, a yellow diamond for projects with potential risks and a red "x" for projects with known cost or schedule changes. In July 2008, the indicators showed that all projects were on schedule and within cost. After discussions with Caltrans about certain projects that had known delays and cost increases, the indicators were removed from the Web site.[66]

The California Natural Resources Agency also makes use of status indicators for bond-funded programs. The bond accountability Web site for Proposition 1E, the bond enacted to pay for various flood control measures, had 15 projects listed with green checks indicating that the projects were on time, within budget and within scope. For other programs within Proposition 1E, the three-part accountability measures were listed, but projects had either not been awarded or the Web site had not been updated. At least half a dozen programs within Proposition 1E did not have any information posted – the three-part accountability measures simply stated "text pending."[67]

The Web site section devoted to Proposition 84 is a complicated labyrinth, and even after successful navigation, information on bond spending is not always readily available. Like the Proposition 1E site, some programs do not include the three-part accountability measures and others lack a listing of authorized projects. This is in part due to the complexity of the bond measure. The nine chapters from Proposition 84 link to dozens of individual programs, some more sophisticated than others. The California State Parks site not only lists the projects, but has a link to a geographic information system map.

Other links are less helpful. As of May 2009, some of the information on these links was not up-to-date. Although the main Web page for each bond measure lists the amount of money available and the amount committed, it is not always possible to tell how much money has been dedicated to individual programs.

Many programs had links to other Web pages, sometimes simply to the home page of the entity administering the bond program. Other links led to Web pages that had been updated, though they provided little information regarding the status of the bond program. For example, selecting the Urban Streams Restoration Program link led to a Department of Water Resources Web page with this information:

> *"Due to the State's fiscal crisis and the current freeze on bond funds, the application cycle for the California River Parkways and the Urban Streams Restoration Grant Programs has been delayed. However, the Natural Resources Agency and the Department of Water Resources are moving ahead with the initial review process and anticipate conducting site visits to projects under consideration during Summer/Fall 2009, contingent on the availability of grant funds."*[68]

Witnesses testifying before the Commission said that the Department of Finance Web site was cumbersome and difficult to navigate. An economist with significant expertise in government budgets said, "I should have a greater ability than the average person to wade through it and I find it difficult to impossible."[69]

A February 2009 review of the bond programs by the Bureau of State Audits (BSA) also found shortcomings with the Department of Finance bond accountability Web site. The BSA found that the Web site did not list all of the programs or projects funded, and not all projects included descriptions or the amount of money spent on each project, as required by the executive order.

Given the short time frame and the limited resources available to develop the Web site, the Department of Finance and the entities administering the bond programs did a commendable job for making the initial information for the bond programs accessible to the public. More than two years have passed, however, since the governor ordered the development of the Web site and more must be done to evolve the Web site into a more credible and user-friendly accountability tool.

The administration should turn the management of the bond accountability Web site over to an entity with a greater focus on and depth of experience with technology, such as the Office of the State Chief Information Officer (OCIO).

The Office of the State Chief Information Officer is well-suited to be the central repository for accountability and transparency for the state's bond-funded programs. A February 2009 Governor's Reorganization Plan to Consolidate Information Technology Functions proposed expanding the authority of the OCIO, moving the Department of Technology Services into the

Inconsistent Terms

Attempting to comprehend how much of the 2006 bond money has been spent and how much still is available based on the information provided on the state's bond accountability Web site is confounded by the various definitions used by bond-administering entities. The following terms can have different meanings for different departments:

Authorized – Voters have enacted a bond measure and authorized the state to implement projects and programs and eventually issue bonds to pay for the authorization.

Appropriated – In general, this term is used to indicate that the Legislature has enacted and the governor has signed a budget with an appropriation for a specific amount of money. The money is available to agencies and departments to award or to spend.

Allocated – The California Transportation Commission (CTC) uses this term to describe its process for setting aside a portion of the bond money for a particular project.

Committed – This term varies by department and is perhaps the most confusing. For the CTC, it is the same as allocated. For the State Allocation Board, it means that money has been set aside for specific school facility projects and will be awarded once a school district submits an approved architectural plan. If a school district fails to do this, the money then becomes available to be awarded to another school district.

Available – Money that has not been committed or allocated to a specific project is described as available. The money may or may not have been appropriated by the Legislature.

Issued – When a bond-funded project has been completed, the California State Treasurer sells or issues a bond.

Office of the State Chief Information Officer and consolidating contracts and services. The Little Hoover Commission reviewed the plan, as required by statute, and recommended the Legislature allow the plan to take effect. The plan implemented several prior Commission recommendations and made an important step in a multi-phase process toward a single point of accountability for the state's information technology systems. The Legislature followed the Commission's recommendation and let the reorganization plan take effect in May 2009.

As a result, the OCIO has been significantly empowered to lead state information technology projects and is quickly becoming the focal point for state accountability and transparency efforts. The OCIO recently was given responsibility for posting conflict of interest forms for all governor appointees on a Web site, www.reportingtransparency.ca.gov. On June 4, 2009, the governor issued an executive order requiring agencies and departments, with the assistance of the OCIO, to post all audits on the transparency Web site so that these audits would be readily available to the public.[70] The OCIO also is responsible for maintaining the California Recovery Web site for accountability and transparency on how the federal stimulus money is being spent.

On the Web site, www.recovery.ca.gov, State Chief Information Officer Teri Takai writes:

> *"When it comes to spending Recovery Act dollars, transparency is of the utmost importance. It is critical that Californians are able to see exactly where their federal stimulus dollars are going…Californians can now navigate to issue pages that will provide greater detail on where Recovery Act dollars will be spent in specific areas such as transportation, housing, education and health care. The issue pages will also have frequent updates to inform Californians when action has been taken and have an interactive map to show where funds are being spent geographically in the state."*

Californians also should be able to see exactly where their bond money is going. The standards and format that the OCIO implements for the Recovery Act Web site could be replicated for the state bond accountability Web site. The bond-administering agencies would still be required to provide the data, however, the OCIO – with its recent expansion in authority – is better suited than the Department of Finance for ensuring information is presented in a standardized and user-friendly format.

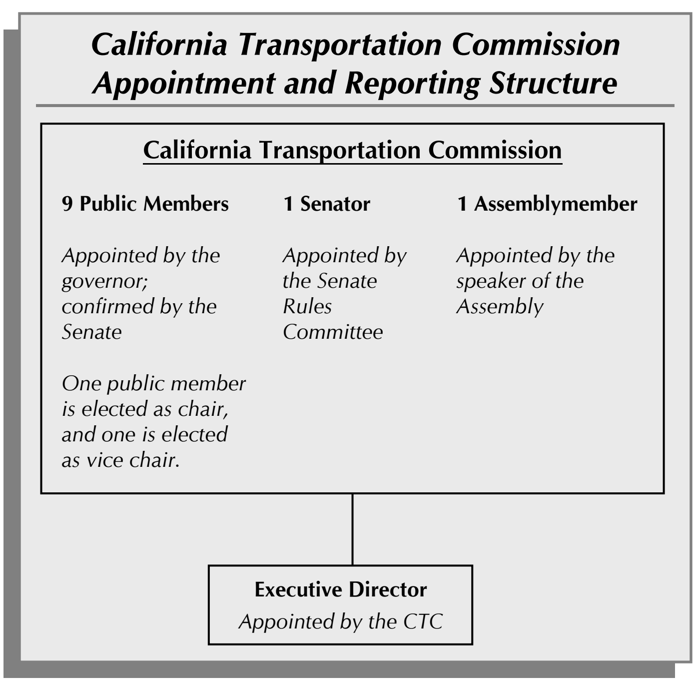
Good Models Exist

Certain bond-funded program areas benefit from public boards and commissions with decades of experience in grant programs for infrastructure. Witnesses at the Commission's public hearings referenced the California Transportation Commission (CTC) for transportation projects and the State Allocation Board (SAB) for school facility construction as potential models. Neither is completely divorced from the political process. However, several witnesses cited these two entities as models for bond allocation and accountability. All may not agree with the outcomes of the award processes of these entities, however, both have a well-defined, transparent process with opportunities for public input.

The California Transportation Commission

The California Transportation Commission (CTC) was created by the Legislature in 1978 as a result of a growing concern that the state lacked a single, unified transportation policy. It replaced four other boards. The independent, 11-member CTC oversees and coordinates the activities of the state's transportation sector. The CTC and Caltrans have decades of experience awarding transportation grants funded through both state and federal programs, although administering bond-funded programs is relatively new as transportation projects traditionally have not been funded by general obligation bonds.

Government transportation representatives said that for years, they have complied with federal accountability requirements which are more stringent than the state's requirements. Caltrans has a significant auditing staff with decades of experience auditing transportation spending. For follow-up accountability on Proposition 1B, Caltrans has contracted with the State Controller's Office for 12 independent auditors to enhance its own auditing capabilities and to provide an outside assessment.



At the October 2008 hearing, Caltrans and the California Transportation Commission officials described the transparency and accountability in place for the Proposition 1B programs and the process for awarding grants. Unlike some of the other bond program areas, the transportation funding process incorporates a robust state and local prioritization process, initiated from the bottom up. Local priorities are established through local and regional transportation plan development. Priorities for projects are established by city councils, county boards of supervisors and local and regional transit agencies. Local and regional transportation agencies develop regional transportation plans and based on these plans, proposals are submitted and considered for grant funding through the California Transportation Commission's public process. Before the CTC awards the Proposition 1B bond money to a local project, the local agencies must have taken initial steps – including right-of-way purchases and environmental impact studies, ensuring that all state bond-funded grant awards will quickly turn into construction projects.

The Legislature has the final say in making the appropriations for transportation projects and while it is not unknown for members of the Legislature to put pressure on the CTC for approval of various local and regional projects, the Legislature typically follows the recommendations of the CTC. State transportation officials said that the Legislature has been very involved in designing the structure of transportation programs and in addition to the 11 voting members, the CTC includes two active, ex-officio members of the Legislature, typically the Senate and Assembly transportation and housing committee chairs.

The State Allocation Board

The State Allocation Board (SAB) is responsible for awarding bond money from Proposition 1D and other K-12 educational facilities bonds. Originally established in 1947, the SAB was most recently transformed as part of an agreement between Governor Pete Wilson and the Legislature in a package of school reforms known as SB 50, authored by the late state Senator Leroy Greene. These reforms were approved by voters in November 1998 as part of school facilities bond initiative and significantly changed the basis for allocating state funds and the procedures used by the SAB in making allocation decisions.

The Commission reviewed the governance structure of the State Allocation Board in 2007 and though it recommended several reforms of the board's structure, including modifying and expanding the board membership and making it an independent entity, the Commission did not find weaknesses in the way it prioritizes and distributes bond money.

The board includes the director of the Department of Finance, the director of the Department of General Services, the State Superintendent of Public Instruction, three Senators, three Assemblymembers and one governor appointee. The board holds monthly public meetings to award bond money to school districts. The Office of Public School Construction, within the Department of General Services, provides staff to the board and oversees the implementation of bond-funded K-12 education programs.

K-12 school construction and modernization is determined at the local level by school districts. School districts must pass a local bond or find other local funding to provide the local match for the state bond money. Once local funding is established, districts submit applications for eligibility to the Office of Public School Construction. The State Allocation Board commits bond money to school districts based on their eligibility.

After a district verifies that they have their share of the project cost, their architectural plans and specifications have been approved by the State Architect and the site and plans have been approved by the California Department of Education, the district can apply for state funding. The entire process from design development and construction time to student occupancy typically takes between two and four years. As a result, the time between when voters enact a bond and school construction is complete is slower than other types of bond program areas.

Bond-funded transportation and school facility programs are easier to track than some of the state's other bond-funded programs and the outputs – successfully completed roads, highways and schools – are easy to document. Not all bond-funded program areas, however, have the benefit of such lengthy experience with accountability requirements or public grant-making boards, nor do they fund such tangible projects as highways and schools.

"Money in Search of a Mission"

It is more difficult to track and assess the effectiveness of bond programs in other parts of government. In the natural resources arena, the allocation authority and accountability is more diffuse than in transportation or school facility construction.

Between 1996 and 2006, voters enacted seven bonds authorizing more than $20 billion for various natural resource investments, the majority of which were to improve water quality and reliability, and more recently, flood protection. Despite this significant investment in improving water quality and reliability, it is not clear what gains have been made. And with the current severe budget shortfall, policy-makers in 2009 are once again discussing proposing another $10 billion or larger water bond for the next statewide election.

The natural resources bonds fund a myriad of projects – sometimes specifically identified in the bond measure and other times left up to the Legislature to determine. Proposition 84, a fairly prescriptive initiative passed in 2006, authorized spending in more than 60 programs across 19 departments.[71]

Additionally, the natural resources bonds often have been used to fund the planning and science programs that identify needs. The Commission was told that sometimes the bond measures appear to be "money in search of a mission."

Natural Resources Bonds 1996-2006

Year Enacted	Bond Title	Amount
Proposition 204 November 1996	Safe, Clean, Reliable Water Supply Act	$995 million
Proposition 12 March 2000	Safe Neighborhood Parks, Clean Water, Clean Air and Coastal Protection Bond Act	$2.1 billion
Proposition 13 March 2000	Safe Drinking Water, Clean Water, Watershed Protection, and Flood Protection Act	$1.97 billion
Proposition 40 March 2002	California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Act	$2.6 billion
Proposition 50 November 2002	Water Security, Clean Drinking Water, Coastal and Beach Protection Act	$3.44 billion
Proposition 1E	The Disaster Preparedness and Flood Protection Bond Act	$4.09 billion
Proposition 84	The Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Bond Act	$5.388 billion

Source: Legislative Analyst's Office. February 3, 2009. 2009-10 Budget Analysis Series: Resources. A Funding Framework for Natural Resources and Environmental Protection Programs.

Proposition 84, for example, provides $65 million for state water planning and design. The bond accountability Web sites lists four programs: Delta Vision Program, California Water Plan, Climate Change Program and Surface Storage Program.

The Delta Vision Program provided for the appointment of a Blue Ribbon Task Force to develop a plan for the Delta. Although most agree that solving the ongoing water issues in the Delta is a high priority, it may not be appropriate to fund a blue ribbon planning effort with bond proceeds. The Surface Storage Program will evaluate the five surface storage projects identified in the 2000 CALFED Bay-Delta Program Record of Decision.

Likewise, Proposition 84 money has been allocated to the Department of Water Resources for a five-year update of the California Water Plan, as required by statutory code. The water plan is important, but it is not clear that bonds are the most appropriate tool for financing what should be considered an ongoing operational expense, since the plan is required by statute to be updated every five years. The Climate Change Program allocates bond money to conduct detailed evaluations of projected climate change impacts on the state's water supply and flood control systems, another activity that will require ongoing updates.

Money from several resources bond measures has been used as part of the CALFED program to improve the Sacramento-San Joaquin Delta watershed, some $1.6 billion.[72] It is difficult to track how the money was spent, what outcomes were achieved and whether taxpayers will be paying for these expenditures long after the value has diminished. For example, the state has spent Proposition 50 bond money to purchase water as part of the Environmental Water Account program, the goal of which is to acquire water for endangered species protection and recovery in the Sacramento-San Joaquin Delta and to hold the water in reserve for when the endangered species need it most.

An August 2008 newspaper investigation revealed that the state paid nearly $100 million from bond proceeds to purchase water for the Environmental Water Account from a Kern County water bank. The water bank had purchased water from the state a few years earlier for about a sixth of the cost. The Environmental Water Account program was set up to slow water pumping out of the Delta to prevent the decline of special fish species. Despite spending billions to improve Delta water supplies and environment, California's largest estuary is facing an ecological collapse. Simultaneously, the stability of the state's water supply has not improved. Because much of this spending was financed with bond money, Californians will be repaying the borrowed money for years to come, with little to show for their investment.[73]

"In an ideal world, we would have the policy and then the funding to implement the policy."

Mindy McIntyre, Water Program Manager, Planning and Conservation League

A representative from the Planning and Conservation League told the Commission that water bond money was used to support the Environmental Water Account program and the Kern water bank, the first program to reduce exports through the Delta to preserve the fish and the second to expand Delta water exports. Mindy McIntyre, who served as the Planning and Conservation League's water program manager at the time she testified before the Commission, described policies at cross purposes. "If you're looking for the bond to be successful in both programs, you're setting yourself up for failure." She said that the programs did not have to work at cross purposes, but they ended up doing just that because the programs were not integrated well, even though both programs were set up within the same agency.[74]

In her testimony, Ms. McIntyre also suggested the need for sustainable funding for ongoing programs. For example, Proposition 1E allocated money to shore up eroded levees to provide flood protection in Northern California. However, dropping rocks on levees that were positioned as part of a plan to move sediment quickly during the Gold Rush era will not provide long-term protection. Ms. McIntyre testified that if the state wants better flood protection on a long-term basis, it needs a plan for flood management. Proposition 1E included money for a flood management plan, and according to Lester Snow, director of the Department of Water Resources, the flood plan for the Central Valley, for example, is scheduled to be completed in 2012, and money for specific projects in the valley will not be awarded until the plan is in place.[75]

Ms. McIntyre provided another example of the ineffective use of bond money with the Delta science program. After investing in numerous scientific studies, policy-makers still did not have the information to make policy decisions about the Delta. She said the studies produced a lot of good scientific information, however, because the state had no specific objectives for the program, program guidelines were not focused or set up to achieve results.

In testimony before the Commission, natural resources secretary Mike Chrisman and Department of Water Resources director Lester Snow suggested reviving the dormant California Water Commission to provide planning and bond allocation authority over the water bonds. Mr. Snow said that the administration was working with the Legislature on another water bond and that there was some consensus that the California Water Commission could be re-established and given the authority to oversee the allocation process for bond money authorized for water storage. The Commission would hold public hearings and develop rules to spend the bond money. Mr. Snow said that at a minimum, the commission should be revived to provide a mechanism to get public input and public review of water policy in California.

California Water Commission

The California Water Commission was created by the Legislature in 1957, at the same time lawmakers created the Department of Water Resources. As originally established, the purpose of the California Water Commission was to conduct an annual review of the progress of the construction of the State Water Project and report its findings to the Legislature. The commission also was directed to advise and make recommendations to the director of the Department of Water Resources on any matter under the director's jurisdiction. Additionally, all rules and regulations of the department, other than purely administrative rules, were to be presented to the commission and shall only become effective upon approval by the commission.

The commission is comprised of nine members appointed by the governor and confirmed by the Senate. Seven members must have experience with problems relating to the control, storage and beneficial use of water. Two members must have an interest in and knowledge of the environment.

Currently there are no members appointed to the commission.

Source: California Water Code, Section 150.

From the mid-1960s through the mid-1990s, the California Water Commission was very active on water issues in the state. Originally created to provide advice and guidance on the state water project, it evolved in the late 1970s to provide advice on much broader water issues. In the mid-1990s, it became much less active. Appointments were not made and it is now a non-functional entity.

With so many of the resource programs funded by bonds intertwined and interrelated – levees, flood control, habitat restoration – reviving the California Water Commission and reconstituting it as the California Natural Resources Commission could improve planning and transparency in the bond allocation process and bring greater accountability to the bond-funded natural resource programs. A California Natural Resources Commission could provide the strategic thinking on how and where to spend money and to set statewide priorities.

Recommendation 1: The Legislature and state government entities administering bond programs must improve oversight to ensure bond money is spent efficiently and effectively and as voters intended. Specifically:

- ❑ Both houses of the Legislature should establish a bond oversight committee to review performance and financial audits of bond-funded programs and the annual reports statutorily required of bond-administering agencies.
- ❑ The Legislature should require independent audits, conducted by a private accounting firm or entity independent from the executive branch – such as the State Controller's Office or the Bureau of State Audits – that are systematic and transparent. The audit should cover the performance of the bond project as well as the dollar amount spent. The independent audit should include: the cost to the state; the level of overall bond indebtedness; and additional overhead as well as hard costs. This should be funded from the portion of the bonds available for administrative purposes.
- ❑ Additionally, the governor should charge the Office of the State Chief Information Officer with streamlining and managing the bond accountability Web site and developing mandatory uniform standards for tracking bond expenditures and the outcomes of those expenditures. These uniform standards must include common definitions for allocations and fund commitment so the public can easily understand what bond money has been spent and what is still available.

Recommendation 2: The state should reconstitute the California Water Commission as the California Natural Resources Commission and charge it with prioritizing and overseeing bond-funded programs currently managed within the California Natural Resources Agency. Specifically, using a public process, the California Natural Resources Commission should:

- ❑ Develop an overarching plan for funding state natural resources programs.
- ❑ Address cross-cutting issues within the bond-funded programs to ensure all government entities work in concert and not at cross purposes.
- ❑ Allocate bond money authorized for natural resource projects and programs.

Improving Transparency and Clarity

The public has a pivotal role in authorizing the state to borrow money using general obligation bonds. Before any money can be borrowed, a majority of voters must approve the bond measure on a statewide ballot.

California has two methods for placing a general obligation bond on the statewide ballot, either through the legislative process or the initiative process. Of the five bond measures authorizing $43 billion in bonding capacity on the November 2006 ballot, four were placed on the ballot as a result of the legislative process and one as a result of the initiative process. Legislative bond measures require a two-thirds vote of the Legislature and the approval of the governor before they are placed on the ballot. Hearings are held as part of the legislative process, providing opportunities for public input and amendments so that the bond language can be honed before it reaches the ballot.

Bond measures placed on the ballot through the initiative process do not require public hearings or the approval of the Legislature and governor. The initiative process – for bond measures and other types of propositions – was established via an amendment to the California Constitution in 1911 to provide a direct role in government for the people. Ballot initiatives are submitted to the Attorney General for review and require a set number of voters' signatures in order to qualify for the ballot. Once an initiative measure is placed on the ballot, the Legislature must conduct an informational committee hearing at least 30 days prior to the election. There is no opportunity to amend the initiative.

Since 1911, more than 1,000 initiatives have been circulated, but less than a quarter of those have qualified for the ballot and of those, only a third were enacted by voters. The use of the initiative process has radically changed in the past few decades, however, particularly for initiatives that encumber public funds through bond debt. Between 1912 and 2000, of the more than 1,000 initiatives circulated, only 25 were bond measures. Of these, 12 qualified for the ballot and four were approved by voters.[76] In the past six years, between 2002 and 2008, voters enacted another five general obligation bond initiatives, totaling more than $13.5 billion in bonding capacity.[77]

> ***"Ballot box budgeting is out of control. There's a concern that people don't understand the budget…and that voters are making decisions haphazardly."***
>
> David O'Toole,
> State Controller's Office

Pay-to-Play

A major turning point in the successful use of the initiative process for bond measures occurred in 1988, after Gerald Meral, former executive director of the Planning and Conservation League, pioneered the use of "logrolling" as a method to get bond measures placed on the ballot and passed by voters. Through logrolling or "pay-to-play," as this practice also is commonly referred to, initiative proponents trade provisions in their proposed ballot measures for major financial support. Mr. Meral successfully used this strategy in 1988 with Proposition 70, the California Wildlife, Coastal and Park Land Conservation Act, in which voters authorized $776 million in bond money for wildlife habitat and coastal and park lands throughout California. Proposition 70 was the first park bond act to be placed on a ballot through the citizens' initiative process.[78]

Unfortunately, what reformists saw as an opportunity to put government in the hands of the people in the early twentieth century has now morphed into a process that favors special interests and others with access to lots of money. According to a 2008 report by the Center for Governmental Studies, the last time an initiative made it onto the ballot through a strictly grass roots process with volunteers collecting

Bond Initiatives

In more than 80 years, from 1912 until 2000, only four general obligation bond measures placed on the ballot through the initiative process were approved by voters, totaling approximately $5 billion in authorized bonding capacity:

- November 1914: *University of California Building Bond Act* – $1.8 million.
- November 1920: *Highway Bonds* – $40 million.
- June 1988: *Wildlife, Coastal and Park Land Conservation Bond Act* – $776 million.
- June 1990: *Rail Transportation Bond Act* – $1.99 billion.

In the past six years, between 2002 and 2008, voters enacted five general obligation bond initiatives, totaling approximately that $13.5 billion in authorized bonding capacity:

- November 2002: *Water Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002* – $3.44 billion.
- November 2004: *Children's Hospital Bond Act of 2004* – $750 million.
- November 2004: *California Stem Cell Research and Cures Act* – $3 billion.
- November 2006: *Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006* – $5.388 billion.
- November 2008: *Children's Hospital Bond Act of 2008* – $980 million.

Sources: California Secretary of State. "Ballot Measures." http://www.sos.ca.gov/elections/elections_j.htm. Web site accessed October 8, 2008. Also, Hastings Law Library, University of California, Hastings College of Law. "California Ballot Initiatives Database." http://holmes.uchastings.edu/cgi-bin/starfinder/0?path=calinits.txt&id=webber&pass=webber&OK=OK. Web site accessed October 8, 2008. Also, Hastings Law Library, University of California, Hastings College of Law. "California Ballot Propositions Database." http://holmes.uchastings.edu/cgi-bin/starfinder/0?path=calprop.txt&id=webber&pass=webber&OK=OK. Web site accessed October 8, 2008.

signatures was in 1982 when volunteers qualified Propositions 12 and 13, the first for water conservation and the second for a freeze on nuclear weapons.

Following Mr. Meral's 1988 precedent, ballot measure proponents found it much easier to identify a small number of large contributors to fund paid signature gathering drives, trading portions of the ballot measure for significant contributions.[79] As a result, many of the recent bond measures placed on the ballot through the initiative process, fund projects and programs that benefit the bond measure proponents. The eight non-profit children's hospitals that provided financial support for the two recent children's hospital bond acts, for example, will receive 80 percent of the bond proceeds. Due to the wording in the ballot, 12 hospitals serving a similar population, including two Shriners' hospitals and Cedar-Sinai Medical Center, do not qualify for bond money under the eligibility criteria of the two children's hospitals bond acts.[80]

Infrastructure Priorities Set at the Ballot Box

When voters enact bond measures for infrastructure projects, they effectively prioritize the programs and projects supported by those bond measures above all other potential options. As described previously, repayment of bonds is prioritized over all other state spending, except education. When bond measures are placed on the ballot, whether through the legislative process or the initiative process, voters do not have the opportunity to weigh infrastructure options as part of an overarching statewide infrastructure plan.

Because legislative bond measures require public hearings prior to placement on the ballot, a two-thirds vote of the legislature and approval by the governor, the process offers more opportunities to consider the infrastructure proposals in the context of statewide infrastructure needs and amend the measures than bond measures placed on the ballot through the initiative process. Given the state's lack of an overarching strategy for infrastructure spending, however, even through the legislative process, there is no assurance that only the highest priorities for bond measures will be placed on the ballot.

Outside the Context of the Overall State Budget

As more general obligation bond measures are enacted, the debt service on bonds consumes a larger portion of the General Fund. General obligation bond measures typically do not have a dedicated revenue source outside the General Fund. Ads promoting the bonds often tout that a measure can be implemented without new taxes. While these bond measures may not specifically require new taxes, they are not without cost. In the current budget climate, money to pay for a bond measure may displace money for another program that derives its funds from the General Fund. This type of budgeting at the ballot box is the equivalent of a consumer taking out a loan for a car or other major purchase, without considering the effect on other important household expenses, such as food or housing or considering the possibility of new revenue – such as taking on a second job – to pay for the new debt.

As voters approve more and more debt, consuming an increasing portion of the overall budget, they limit future budgetary choices. As described by one expert, "The higher the debt service ratio, the more that current voters and legislators are taking away from future voters and taxpayers, the ability to spend the money that they have the way they want."[81]

A recent example is the Children's Hospital Bond Act of 2008. Televisions ads depicted actress Jamie Lee Curtis leading a chorus of children. Ms. Curtis urged voters to support the bonds for the sake of the children and stated that this could be done with "no new taxes." Voters enacted the children's hospital bond with 55 percent in favor of the measure. Six months later with the state facing a nearly $24 billion budget deficit, Governor Schwarzenegger proposed eliminating the Healthy Families insurance program for needy children. Providing resources to expand non-profit children's hospital was important to voters, but it is not clear if, given a more comprehensive picture of how funding bond measures may require cuts in other programs, whether children's hospitals would have been voters' highest priority.

"Official voter information sources, including the ballot pamphlet and other state sponsored resources, fail to offer voters clear, concise, easily accessible information that will effectively equip them to make informed decisions about initiatives, which are often lengthy and complex."

Center for Governmental Studies

Some question how well voters understand this tradeoff. A May 2007 Public Policy Institute of California survey of residents found that nearly two-thirds of Californians "knew very little (43 percent) or nothing (21 percent) about how state bonds are paid for." Only 5 percent of Californians indicated that they knew "a lot" about the process.[82]

Bond Measures Lack Clarity on Projects and Programs

Additionally, it often is not clear what types of projects will be funded by bond measures. Voters have enacted five bond measures totaling more than $16 billion since 1996 that included the words "clean water," "clean drinking water" or "water quality" in the title.[83] Every ballot measure includes an official summary that highlights what types of projects a bond measure will fund, however, the details can be buried deep within the statutes that the measure proposes. The official summary language of Proposition 84, The Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Bond Act of 2006, for the ballot and the language summary on the Secretary of State Web site, for example, states the bond measure:

> "Funds projects relating to safe drinking water, water quality and supply, flood control, waterway and natural resource protection, water pollution and contamination control, state and local park improvements, public access to natural resources, and water conservation efforts. Provides funding for emergency drinking water, and exempts such expenditures from public contract and procurement requirements to ensure immediate action for public safety."

When voters said yes to clean water, it is not clear they knew they were voting to spend $100 million toward building aquariums and other similar facilities in various locations across the state, including potentially $5 million for a new aquarium in Fresno. The word "aquarium" does not show up until page 143 of the 192-page Official Voter Information Guide for the November 2006 election. Nor was it easily apparent that $2 million of the Proposition 84 money dedicated to the preservation of beaches, bays and coastal waters would be used to construct a replica of the historic ship San Salvador for the Maritime Museum Association of San Diego.[84]

Taking Steps to Ensure Voters Are Adequately Informed

Despite the problems with the state's initiative process, by some measures, California is ahead of much of the nation in terms of providing information to voters. In a report aimed at improving the initiative process in those states that use it, the National Conference of State Legislatures recommended, among other things, that "states should produce and distribute a voter information pamphlet containing information about each measure certified for the ballot." California is one of only 14 states that are required by statute to produce voter information pamphlets and one of 12 states that publish a fiscal impact statement in the official voter guide if a proposed initiative will have a monetary impact on the state's budget.[85]

California's official voter guide, produced by the Secretary of State's Office, is viewed as a trusted source for neutral, accurate information on the ballot initiatives. Current statute ensures that voters, at a minimum, are provided the following information in the official ballot pamphlet:

- A complete copy of each measure, including a title and summary prepared by the Attorney General.
- An impartial analysis prepared by the Legislative Analyst, that includes a description of the measure and a fiscal analysis.
- Arguments both for and against the measure, and rebuttals to each.[86]

Language in statute even emphasizes the importance of ensuring that the information is conveyed in a manner that is understandable to the average voter. The Legislative Analyst is directed to write the analysis "in clear and concise terms which will easily be understood by the average voter, and shall avoid the use of technical terms wherever possible."[87] Despite attempts to bolster reader comprehension, voters are still confused about the content of the ballot measures. Given that 66 percent of voters found the ballot wording for initiatives complicated and confusing[88], the question remains whether California voters are getting the right information in a format that makes sense.

Information on Bond Measures in the Ballot Pamphlet

When state bond measures are placed on the ballot, California law requires the Legislative Analyst to prepare a discussion of the state's current bonded indebtedness situation to be included in the voter information guide. This discussion includes:

- The amount of the state's current authorized and outstanding bonded indebtedness.
- The approximate percentage of the state's General Fund revenues which are required to service this indebtedness.
- The expected impact of the issuance of the bonds to be approved at the election on the General Fund.
- Additionally, when the bond allocates funds for specific programs, the Legislative Analyst must also describe the proportionate share of funds for each major program funded by the measure.

The Legislative Analyst's overview of the state's bond debt is currently located in the back of the voter information guide. It should be moved to a more conspicuous location in the front of the guide to emphasize the importance of voter's decisions on the overall state budget.

Source: California Elections Code. Section 9088.

Prior and Current Attempts to Improve Clarity for Voters

Attempts have been made to improve the initiative process over the past several decades, but none have been successful due to the difficulty in amending the California Constitution. The Legislature tried, but so far has been unsuccessful, to specifically limit the pay-to-play practice. In 1991, the Legislature passed and the governor signed a bill limiting pay-to-play, but a court later declared it invalid.[89]

"Voters are not sufficiently aware of the cost pressures certain ballot measures and initiatives create. Voters need to understand the fiscal impact of new ballot proposals in the context of the state's budget and General Fund."

AB 894 (Harkey). Bill Analysis.

Several bills proposed in 2009 would amend the constitution to require future bond measures to have a revenue source. To take effect, these legislative constitutional amendments must be proposed by a two-thirds vote of both houses and be submitted to the electorate for approval.[90] One measure, SCA 14 (Ducheny), would prohibit an initiative measure from being placed on the ballot unless the measure includes additional revenues that would meet or exceed the net increase in costs from the ballot measure. Two other measures, ACA 3 (Blakeslee) and ACA 5 (Calderon), would require bond measures to identify a revenue source or a program cut in order to be submitted to voters. Additionally, ACA 5 would require initiative measures that authorize the issuance of bonds to be approved by at least 55 percent of voters – currently, bonds can be authorized with the approval of a majority of voters.

Other bills introduced during the 2009-10 session aim to enhance voter information by requiring additional information to be included in the ballot pamphlet. AB 894 (Furutani) would require the Legislative Analyst to include additional information in the fiscal impact statement section of the voter information guide, including an estimate of the percentage of the General Fund that would be expended due to the measure's passage. Similarly, AB 1278 (Harkey) would require the Legislative Analyst to include additional information for each voter initiative that proposes the issuance of a state bond, such as the total amount of the proposed bond indebtedness; the total amount of interest paid over the term of the proposed bond; information informing voters that by approving the measure they are authorizing the state to incur debt; and, information informing voters whether tax revenue will be used to repay part or all of the proposed bond debt.

These reforms could diminish the unanticipated effects of bond measures on the state budget – either by changing the requirements for allowing a bond measure to be placed on the ballot or by providing additional information to more properly inform voters about the options on the ballot. Each of these measures likely will face tough opposition from stakeholders who have benefited from prior initiatives. However, it is essential that all steps are taken to provide voters with sufficient and relevant information to inform their decisions in the voting booth.

Improving Decision-Making Through Enhanced Disclosure

During the public hearing process, the Commission discussed opportunities for improving information available to voters on bond measures, specifically, requiring the state to establish standards or fundamental criteria for bond measures. The Commission discussed adding a simple pass/fail report card to the voter information guide that could show whether certain standards had been met. Ideally, the report card should answer the following questions using a combination of easy-to-understand text and graphics:

- Where will the money come from to pay for the bond measure?
- Is money left over from prior bond measures that could be used for these projects, and if so, how much?
- Do we know what we are buying – is there a specific list of projects to be funded or will lawmakers make those decisions once a measure passes?
- Is this a good long-term investment – will the proposed projects maintain value over the life of the bond debt?
- Has the bond measure been vetted with opportunities for public input?
- Would the measure provide money for infrastructure projects that have been identified as a priority?

As straightforward as this sounds, Mac Taylor, the Legislative Analyst cautioned that the report card would need to be carefully crafted to avoid the appearance of bias and to provide an opportunity to articulate subtle distinctions.[91] Even simple yes or no questions ultimately could be misleading. For example, in answering a question such as, does the bond measure identify a dedicated revenue source, a simple thumbs up or thumbs down answer might imply that all bond measures without revenue outside the General Fund are not a good idea, when in fact, an investment in an urgent need such as emergency levee repair might warrant the prioritization over other government spending.

Currently, the Secretary of State is authorized to include in the ballot pamphlet "tables of contents, indexes, art work, graphics and other material" that will improve the readability of the voter guide for the average voter without the need for additional legislation.[92] The

Legislative Analyst's Office is charged with providing an unbiased assessment and written analysis of ballot measures. The Secretary of State could include in the voter guide an easy-to-read chart or report card developed by the Legislative Analyst's Office that assists voters in more completely understanding the fiscal context of and potential tradeoffs that result from their decisions on the ballot.

If current trends continue and an increasing number of bonds continue to go before voters, it is essential that the state provide clear, easy-to-understand information to help voters decipher complex budgetary issues at the ballot box.

Recommendation 3: To improve transparency and clarity for voters, the state must establish fundamental criteria for ballot measures and these criteria should be evaluated and included as a simple and easy-to-understand report card in the voter guide for all bond measures placed on the ballot.

Bolstering Local Bond Oversight Commissions

While no independent bond oversight commission exists at the state level, thousands of Californians across the state participate on local bond oversight committees that act as watchdogs over K-12 school and community college facility construction.

Local bond oversight committees are mandatory for any bond measure that has been adopted by a 55 percent majority. The requirement for local school and community college districts to establish citizens' bond oversight committees was enacted as companion legislation to Proposition 39, which lowered the threshold required to pass local measures for K-12 and community college bonds to 55 percent from a two-thirds majority.[93]

Local education bond funds typically are matched with state education bond funds. At their best, local bond oversight committees keep a watchful eye on both state and local spending for school construction and renovations in communities all across California.

Since lowering the voting threshold in 2000, local bonds for educational facilities have had significantly higher passage rates. The lower threshold led to substantially more education facility bonds on local ballots, from approximately 26 ballot measures for each election prior to 2000 to a current average of 65 measures.[94] This change helped solve much needed and long-overdue improvements and construction of schools, pumping some $77 billion in local bond funding into K-12 and community college facility construction since 2000.[95]

Several experts told the Commission that the state should lower the voter threshold for other types of local bonds to expand opportunities for local governments to provide local solutions to necessary improvements in other infrastructure sectors, such as transportation, energy and water. Before considering this option, however, the state should bolster the effectiveness of the local oversight commissions charged with ensuring that taxpayer dollars are being spent as intended.

Membership of Citizens' Oversight Committees

Local citizens' oversight committees must include at least seven members who serve terms of two years. Members can serve a maximum of two consecutive terms. Membership requirements vary depending upon whether or not the committee is overseeing K-12 or community college facilities construction, but both types of committees must include:

- A person active in a business organization representing the business community within the district.
- An active member of a senior citizens' organization.
- An active member of a bona fide taxpayers' organization.
- Two members from the community at large.

School district oversight committees also must include:

- A parent or guardian of a student enrolled in the district.
- A parent or guardian of a student enrolled in the district who also is actively involved in a parent-teacher organization.

Community college district oversight committees also must include:

- A community college student active in an organized community college group, such as student government.
- An active member of an advisory council, foundation or other organization that supports a community college or the community college district.

Source: California Education Code, Section 15282.

The Role of Citizens' Oversight Committees

When a local bond for K-12 or community college school facilities is passed by a 55 percent majority, the governing board of the local school district or community college responsible for implementing the school construction must appoint an independent citizens' oversight committee. The purpose of the oversight committee is to actively review and report on the proper expenditure of taxpayers' money for school construction. Additionally, the committee advises the public as to whether a district has complied with the following requirements:

- Bond money is spent only for the construction, reconstruction, rehabilitation or replacement of school facilities, including the furnishing and equipping of school facilities or the acquisition or lease of property for school facilities.
- Bond money is not used for teacher or administrative salaries or other school operating expenses.

The oversight committee also has the authority to request and review copies of the annual, independent performance and financial audits and to inspect school facilities and grounds to ensure bond money has been spent as described in the bond measure. The oversight committee also has the authority to review deferred maintenance proposals and efforts by the local district to maximize bond revenues by implementing cost-saving measures.

School and community college districts are required to provide technical and administrative assistance to the oversight committee and bond funds can not be used to pay for this assistance. The oversight committee meetings are open to the public and the committee is required to issue a report annually.[96]

Local Oversight Committees Lack Independence

Local bond oversight committees can provide an invaluable service to their communities, but only when the members are truly independent. Sometimes, the committee appointees are merely extensions of local district management or representatives from businesses and organizations that stand to gain from inefficiencies in school construction. Such committees often provide merely a stamp of approval on the activities they are supposed to oversee.

"When bond oversight committee members are chosen by the entity they are supposed to oversee, they are much more likely to see their job as being a 'fig leaf' to cover the entity than to be an independent oversight force."

Michael Day, President, California League of Bond Oversight Committees.

To enhance the independence of the oversight committees, some communities include input from local civic groups as part of the oversight committee membership selection process. In the Sacramento City Unified School District, for example, two local groups, the Sacramento Metro Chamber of Commerce and Sacramento Area Congregations Together, a leadership consortium of 40 local organizations, review oversight committee applications and make recommendations to the district.

In some instances local bond oversight committee members simply are not aware of the potential scope of their duties. Bond oversight committees typically rely on their appointing authority to educate them on their oversight role and these authorities themselves may not fully understand the role of the oversight commission.

In the worst instances, the Commission heard that local school or community college districts sometimes thwart efforts of the oversight commissions by not properly educating members on their role and by limiting their ability to engage the public and report findings and recommendations by failing to provide the mandatory technical and administrative support or by not including meeting schedules or committee reports in district newsletters or on district Web sites.

Local Districts Fail to Conduct Mandatory Audits

In addition to requiring local bond oversight committees, Proposition 39 mandates that local districts conduct annual, independent financial and performance audits until all bond funds have been spent, to ensure that the bond funds have been used only for the purposes listed in the bond measure.

In many cases, school and community college districts do not conduct required performance audits using generally accepted government auditing standards, as required by Proposition 39. Experts have said that school districts have been particularly lax in conducting performance audits, which can shed light on opportunities for potential cost savings and ensure that funds are spent only on initiative-specified projects. While these audits are more costly to conduct than financial audits, millions of taxpayer dollars can be saved in the process.

Because bond oversight committees often receive little training, they sometimes cursorily approve less-than-adequate financial audits, not realizing they have the authority, as well as the responsibility to probe, intervene and ask for more information.

The president and co-founder of the California League of Bond Oversight Committees, Michael Day, told the Commission that local oversight committees often are not made aware of the important role they can play, the power that they have and the statutory code that guides their activities. Committee members generally are not well-trained. In testimony to the Commission, Mr. Day said that "they don't know what they are supposed to do, what they may do, what they may not do. Largely they receive their instructions from the organization they are supposed to oversee. Not conducive to good oversight."[97]

Mr. Day recommended mandatory independent training for all potential oversight committee members and suggested that the training system used by the California Grand Jurors Association could provide a model.

Overseeing the Oversight Committees

Californians have been rightly concerned that local bond money is not being spent efficiently and for the specific uses listed in the local bond measure on the ballot. Hundreds of oversight committees have been established since Proposition 39 was enacted, but information on how well these committees perform is sporadic. Although many local oversight commissions may be highly effective, Californians only hear about those commissions that fail to adequately do their jobs, often after a grand jury investigation reveals inappropriate or wasteful spending. As a result, Californians legitimately question just how much oversight these committees are conducting.

The grand jury in Solano County – prompted by citizens' complaints regarding the cost and progress of improvement projects in the River Delta Unified School District funded with bond proceeds enacted in 2004 – reviewed the district three times. The grand jury found safety and planning problems, fiscal irresponsibility and poor communication between the district and the citizens' oversight commission. It also found that the district failed to provide the bond oversight committee with the required performance and financial audits.[98]

One extreme case rose to the attention of a legislative member resulting in an audit by the State Controller's Office. In response to a citizen's complaint, the grand jury in San Joaquin County conducted an investigation and issued a report detailing a variety of problems with the bond fund spending and the oversight committee for San Joaquin Delta Community College District. The grand jury's findings prompted then-Senator Mike Machado to ask the State Controller's Office to review the college district's oversight mechanisms.

In a scathing audit of the district's use of local Measure L and state Proposition 1D funds, the State Controller's Office found that San Joaquin Delta College had spent more than $10 million of $72 million in bond proceeds expended through June 2008 on projects not identified as priorities in the bond measure, including a state-of-the-art athletic facilities at the college. The controller's auditors found that the college had spent $2.9 million on a track around the football field, one the school had described as being of the same quality as the track built for the 2008 Beijing Olympics. It also spent nearly $2 million improving parking for its softball facility.[99]

In a 2007 investigation of the implementation of a 2004 bond measure for the Cabrillo Community College District, the grand jury in Santa Cruz County found that there did not appear to be violations of the law or misappropriations of funds, but identified several areas for improvement, particularly regarding the independence of the oversight committee. The report found that the district appointed the minimum number of members to the committee and did not attempt to expand the membership to include members with relevant expertise for oversight. The district also created the by-laws for the committee and did not define a process for addressing concerns or issues raised by the committee. The grand jury also found shortcomings with the financial and performance audits.[100]

Opportunities for Improvement

The Commission was told that bolstering statutory requirements for local bond oversight committees could go a long way toward improving the critical oversight role these commissions potentially can play in ensuring that both state and local bond money for school facility construction is spent efficiently, effectively and as detailed in the bond measure. Local school and community college districts with a bond oversight committee should be required to provide information, including meeting schedules and links to reports produced by the local bond oversight committee on the home page of the district's Web site. The state must require a more robust selection process for committee members, such as requiring nominations from various community partners. Civic partners could nominate candidates while allowing the district to maintain veto power over the nominations.

To bolster such efforts, a Web site could be set up to provide educational materials for local bond oversight commissions using a fraction of the administrative portion of the most recent K-12 and community college bond funds. A DVD or Web-based training program, similar to the online ethics training course for government appointees, could be developed with assistance from the California League of Bond Oversight Committees, a non-profit organization that provides training to current committee members. Training should be mandatory for local bond oversight committee members. The state Web site could link to the training program, the statutory code and other useful documents. A Web portal could be established so committee members from across the state could communicate and provide information and support for each other, providing a forum for exchanging best practices.

The Office of the State Controller, in its audit of the San Joaquin Delta College's use of local Measure L and state Proposition 1D bond money made several general recommendations to the Legislature for improving local bond oversight:

- More clearly delineate the role and responsibility of the Citizens' Oversight Committee and provide greater independence from the colleges' governing body.
- More clearly define the purpose and objectives of the required annual financial and performance audits and specify that such

Saving Money With Standardized School Plans

Significant money could be saved statewide by establishing templates of architectural plans for school facilities. There are some limitations given the diversity of the state's geography and climate as well as seismic differences. Beyond natural limitations, there also is a tendency for local school districts to want the freedom to custom design schools to put an individual architectural stamp in their communities. Additionally, every person involved in a school project development cycle – the architects, engineers, contractors, construction managers – are inadvertently incentivized to increase project cost as each party earns more when project costs go up.

Senator Dave Cox introduced legislation in 2006 that would have directed the Office of the State Architect to procure designs for several model school plans that could be used free of charge by any district. The law would have withheld state matching funds for design costs for districts that did not use the model plans. Cost savings were estimated to range from 20 to 25 percent for each project; however, the bill did not make it beyond its first committee hearing.

State Architect David Thorman suggested other opportunities for cost savings, such as buying certain items, such as carpeting or air conditioning units in bulk. Despite the political resistance to architectural templates, lawmakers should actively pursue incentives for local districts to employ these and other cost-saving measures for local school facility construction.

Sources: SB 1605 (Cox) February 22, 2008. Also, Michael Day, President, California League of Bond Oversight Committee. October 23, 2009. Testimony to the Commission. Also, David F. Thorman, State Architect of California. May 11, 2009. Personal Communication.

audits be conducted in accordance with generally accepted government auditing standards.

- Impose appropriate sanctions, such as preclusion from adopting future bond measures under provisions of Proposition 39, when colleges fail to adhere to prescribed constitutional and statutory requirements, or those specified in the bond measures.[101]

Should the role of local bond oversight committees expand, implementing these recommendations broadly would be a good first step toward ensuring that the commissions work efficiently.

Recommendation 4: To improve local oversight of school and community college school facility construction projects passed under the reduced threshold established by Proposition 39, the state should bolster the capabilities of local bond oversight committees. Specifically, the state must:

- Require mandatory independent training for bond oversight committee members. The State Allocation Board and the California Community Colleges should develop and host a Web site with easy-to-access training materials and easy-to-understand descriptions of the roles and responsibilities of the local citizens' oversight committee members. The Web site should include a mandatory online training course.
- Require civic groups to nominate local committee members, allowing veto power for the school or community college district.
- Clearly delineate the role and responsibility of the local oversight committees and define the purpose and objectives of the annual financial and performance audits.
- Encourage county grand juries to review the annual financial and performance audits of expenditures from local school and community college bond measures.
- Impose sanctions for school and community college districts that fail to adhere to constitutional and statutory requirements of Proposition 39, such as preventing the district from adopting future bond measures under the reduced voter threshold.

Conclusion

California's agencies and departments have made strides to expand accountability and improve transparency of bond expenditures. More progress must be made.

It is imperative that Californians' bond money be spent efficiently and effectively. Debt service – the principal and interest owed on money borrowed through bonds – is the fastest growing part of the California budget. California's constitution gives repayment of bonds precedence over all other General Fund areas except education. Additionally, although Californians have made a significant investment in long-neglected infrastructure projects in the past few years, billions more will be required, further growing the state's debt burden.

Shortly after California voters approved the largest infrastructure investment ever – some $43 billion in November 2006 – Governor Schwarzenegger issued an executive order to improve bond oversight. The governor established a three-part accountability system requiring bond administering entities to develop a plan with performance standards before bond money could be spent; document progress of projects; and, audit projects once completed. The governor also required the Department of Finance to establish a Web site so the public could track how and where its money is being spent.

The Commission found that these were vital steps, but more could be done. Bond administering agencies have complied by developing the plans, although it is too early to tell whether the final audits will reveal any inappropriate spending, as only a small number of projects authorized in the 2006 bond acts are nearing completion stage.

By using a small amount of the bond administration money to pay for independent auditing capacity – through the State Controller's Office or the Bureau of State Audits – taxpayers could be assured that their money is spent wisely. But audits must be reviewed and acted upon, preferably by the Legislature, which appropriates bond money. The Commission urges both houses of the Legislature to establish bond oversight committees and hold hearings on the progress of bond-funded programs and demand departments comply with reporting requirements already established in statute.

The Commission commends the Department of Finance and the bond-administering agencies and departments for getting information on projects and expenditures on a Web site, but more could be done to make the site easier to navigate. While this study was underway, the Office of the State Chief Information Officer was expanded and directed to develop a Web site for government transparency and accountability of the federal stimulus money. The OCIO also should be given responsibility for the state bond Web site.

The Commission heard from officials from the California Transportation Commission and Caltrans who described the planning process at the local and regional levels and the robust public process at the state level for awarding money for transportation projects. The Commission was told repeatedly that the CTC model worked well and should be replicated in other areas.

Not all bond-funded programs, however, have the same level of transparency and accountability. The dozens of programs established through multiple resources bonds are harder to track and results are much more difficult to measure. A revived California Water Commission, reconstituted as the California Natural Resources Commission, could set priorities and provide accountability for natural resources bonds.

Beyond improving the oversight of bond expenditures, the Commission also found that more could be done to educate voters. When bond measures are placed on the ballot, voters cannot prioritize California's overarching infrastructure needs or evaluate the merits of the measure in the context of the overall budget. The Commission recommended enhancing the voter information guide by establishing fundamental criteria for ballot measures and then using these criteria to establish an easy-to-understand report card for voters to be included in the guide.

Finally, when voters agreed to reduce the threshold for approving local bonds for school and community college facilities, companion legislation was enacted requiring local commissions to ensure bond money for education facilities is spent as authorized. Although promising, the Commission was told that the state could take simple and inexpensive steps to bolster these oversight commissions to make them more effective. These steps include requiring more independent selection and training of committee members, more clearly delineating the role and responsibility of the committees and clarifying the purpose and objectives of annual financial and performance audits.

Californians have entrusted their government with billions in borrowing capacity. By following the recommendations in this study, the governor and the Legislature can ensure this money is well spent.

The Commission's Study Process

The Commission initiated this study to examine whether the state has adequate oversight mechanisms in place to ensure money from voter-authorized general obligation bonds is spent efficiently and effectively. The Commission's interest stems from the state's sizable bond package enacted in November 2006, which added $43 billion in bonding capacity for infrastructure investment.

In a related study, the Commission is evaluating infrastructure policy and finance options. In that study, due to be completed in the fall of 2009, the Commission is focusing on broader policy issues including how the state identifies, analyzes and prioritizes infrastructure projects; available funding sources and finance mechanisms; and, current and potential demand management practices.

This is the first time the Commission has conducted a general review of the oversight of bond programs. However, in a May 2002 study, *Rebuilding the Dream: Solving California's Affordable Housing Crisis*, the Commission noted that the state did not assess the effectiveness of three housing bonds passed between 1988 and 1990. The Commission's 2002 study was released prior to voters enacting a $2.1 billion housing bond in the November 2002 election. The Commission recommended that, if the housing bond passed, the Legislature should require a rigorous, independent evaluation of the effectiveness of the bond measure. Specifically, the Commission recommended the evaluation include an analysis of who received the funds, the impact of the funds on specific projects and on the statewide housing shortage, and provide policy-makers with guidance for the use of future housing bonds.

For this study, the Commission convened two public hearings in the fall of 2008. At the first hearing, held in September, the Commission heard from a representative from the Legislative Analyst's Office who presented an overview of bonds in California and explained the office's 2007 recommendations for improving legislative oversight of bonds. The Commission also heard from the State Treasurer and the deputy director of California State Controller's Office who shared recommendations for bond oversight. A representative from the California Department of Finance explained that office's role in bond oversight and other fiscal policy experts discussed what is still needed to improve oversight.

At the second hearing, held in October, the Commission heard about oversight mechanisms for natural resources bonds from the secretary of the California Natural Resources Agency and the director of the Department of Water Resources. The Commission also heard from representatives from the Planning and Conservation League and the Reason Foundation who discussed opportunities to improve bond oversight. The president of the California League of Bond Oversight Committees spoke about the challenges that face the local bond oversight committees and opportunities for the state to improve their effectiveness. Representatives from the Department of Transportation and the California Transportation Commission discussed oversight of transportation financing. Hearing witnesses are listed in Appendix A.

Commission staff received valuable feedback from a number of experts representing various components of California's infrastructure system. The Commission greatly benefited from the contributions of all who shared their expertise, but the findings and recommendations in this report are the Commission's own.

All written testimony submitted electronically for each of the hearings, and this report is available online at the Commission Web site, www.lhc.ca.gov.

Appendices & Notes

- ✓ ***Public Hearing Witnesses***
- ✓ ***2006 Bond Package***
- ✓ ***State of California Expenditures, General Fund, 1988-89 and 2008-09***
- ✓ ***Notes***

Appendix A

Public Hearing Witnesses

Public Hearing on Bond Oversight
September 25, 2008

Tim Gage, Co-Founder, Blue Sky Consulting Group and former Director, California Department of Finance

Fred Klass, Chief Operating Officer, California Department of Finance

Bill Lockyer, California State Treasurer

Dave O'Toole, Deputy Director, California State Controller's Office

David Vasché, Director of Economics, Revenues and Taxation, Legislative Analyst's Office

Public Hearing on Bond Oversight
October 23, 2008

Andre Boutros, Chief Delivery Officer, California Transportation Commission

Mike Chrisman, Secretary, California Natural Resources Agency

Michael Day, President, California League of Bond Oversight Committees, and former Chair, Sacramento City Unified School District Bond Oversight Committee

Ross Chittenden, Proposition 1B Program Manager, California Department of Transportation

Adrian Moore, Vice President of Research, Reason Foundation

Mindy McIntyre, Water Program Manager, Planning and Conservation League

Lester A. Snow, Director, California Department of Water Resources

Appendix B

2006 Bond Package

PROGRAM	ADMINISTERING AGENCY	AVAILABLE	COMMITTED	BALANCE
		(dollars in thousands)		
PROPOSITION 1B - TRANSPORTATION				
Corridor Mobility Improvement Account	CTC	$4,500,000	$4,489,707	$10,293
Route 99 Corridor Account	CTC	$1,000,000	$995,542	$4,458
Trade Corridors Improvement Fund	CTC	$2,000,000	$2,000,000	$0
State Transportation Improvement Program Augmentation	CTC	$2,000,000	$2,000,000	$0
State Highway Operations and Protection Program	CTC	$500,000	$500,000	$0
Traffic Light Synchronization	CTC	$250,000	$250,000	$0
State-Local Partnership Program Account	CTC	$1,000,000	$0	$1,000,000
Local Bridge Seismic Retrofit Account	CTC	$125,000	$125,000	$0
Highway-Railroad Crossing Safety Account	CTC	$250,000	$250,000	$0
Intercity Rail Improvement	Caltrans	$400,000	$400,000	$0
Public Transportation Modernization, Improvement and Service Enhancement Account	Caltrans	$3,600,000	$530,000	$3,070,000
Local Street and Road, Congestion Relief and Traffic Safety Account of 2006	DOF	$2,000,000	$998,791	$1,001,209
Goods Movement Emission Reduction Program	CalEPA, ARB	$1,000,000	$250,000	$750,000
School Bus Retrofit and Replacement Account	CalEPA, ARB	$200,000	$191,000	$9,000
Port, Harbor and Ferry Terminal Security Account	CalEMA	$100,000	$40,000	$60,000
Transit System Safety, Security & Disaster Response Account	CalEMA	$1,000,000	$100,000	$900,000
Total Proposition 1B		**$19,925,000**	**$13,120,040**[1]	**$6,804,960**
PROPOSITION 1C - HOUSING				
CalHome	HCD	$290,000	$138,686	$151,314
BEGIN Program	HCD	$125,000	$39,611	$85,389
CalHome Self-Help Housing Program	HCD	$10,000	$2,331	$7,669
California Homebuyers Down payment Assistance Program	CalHFA	$200,000	$48,709	$151,291
Affordable Housing Innovation	HCD	$100,000	$0	$100,000
Multifamily Housing Program	HCD	$345,000	$213,633	$131,367
Multifamily Housing - Supportive	HCD	$195,000	$82,020	$112,980
Homeless Youth Housing	HCD	$50,000	$21,403	$28,597
Serna Farmworker	HCD	$135,000	$55,315	$79,685
Emergency Housing Assistance	HCD	$50,000	$0	$50,000
Infill Infrastructure Grant Program	HCD	$790,000	$340,000	$450,000
Transit Oriented Development	HCD	$300,000	$145,000	$155,000
Housing - Related Parks Program	HCD	$200,000	$0	$200,000
CALReUSE Remediation Program[5]	CPCFA	$60,000	$53,854	$6,146
Statewide Costs[3]			$57,000	-$57,000
Administrative Costs[4]			$134,038	-$134,038
Total Proposition 1C		**$2,850,000**	**$1,331,600**[2]	**$1,518,400**

[1] These figures include a two percent reserve for bond administration fees.
[2] Funding has been awarded but may not have been disbursed. Legislative appropriation may be somewhat higher.
[3] Estimated costs charged by agencies other than the administering department, such as State Treasurer's Office and State Controller's Office, over the entire life of the bonds. These amounts are held in reserve to ensure their availability.
[4] Estimated costs incurred by HCD and CalHFA over the entire life of the bonds to provide the support to the bond programs that are expended from bond proceeds over the entire life of the bonds. These amounts are held in reserve to ensure their availability.
[5] Includes $5 million committed to HCD and CPCFA program costs, bond costs, administrative costs and contingencies.

ARB = Air Resources Board ***CalEMA*** = California Emergency Management Agency ***CalHFA*** = California Housing Finance Agency
Caltrans = California Department of Transportation ***CTC*** = California Transportation Commission ***DOF*** = Department of Finance
HCD = Housing and Community Development

PROGRAM	ADMINISTERING AGENCY	AVAILABLE	COMMITTED	BALANCE
		(dollars in thousands)		
PROPOSITION 1D - EDUCATION				
Kindergarten through Grade 12 (K-12)				
New Construction	SAB	$1,900,000	$1,195,177	$704,823
Modernization Projects	SAB	$3,300,000	$1,210,163	$2,089,837
Career Technical Education	SAB	$500,000	$417,162	$82,838
High Performance Schools	SAB	$100,000	$11,388	$88,612
Overcrowding Relief	SAB	$1,000,000	$98,981	$901,019
Charter Schools	SAB	$500,000	$462,458	$37,542
Joint Use	SAB	$29,000	$29,000	$0
Bond Administration[7]			$702	-$702
Statewide Costs[8]			$2,105	-$2,105
Total for K-12		**$7,329,000**	**$3,427,137**	**$3,901,863**
Higher Education				
University of California	UC	$890,000	$873,939	$16,061
California State University	CSU	$690,000	$614,662	$82,238
California Community Colleges	CCC	$1,507,000	$1,289,369	$217,631
Bond Administration (Community Colleges only)			$9,608	-$9,608
Statewide Costs[8]			$45,940	-$45,940
Total for Higher Education		**$3,087,000**	**$2,833,518**	**$260,382**
Total Proposition 1D		**$10,416,000**	**$6,260,655[6]**	**$4,162,245**
PROPOSITION 1E - RESOURCES				
State plan of flood control	DWR	$3,000,000	$1,623,554	$1,376,446
Flood control and flood prevention projects	DWR	$500,000	$61,753	$438,247
Flood protection corridors and bypasses	DWR	$290,000	$98,797	$191,203
Storm water flood management	DWR	$300,000	$150,000	$150,000
Statewide Bond Cost	DWR	$0	$143,150	-$143,150
Total Proposition 1E		**$4,090,000**	**$2,077,254[9]**	**$2,012,746**
PROPOSITION 84 - RESOURCES				
Safe Drinking Water and Water Quality Projects	DWR, DPH, SWRCB	$1,525,000	$617,801	$907,199
Flood Control	DWR	$800,000	$749,712	$50,288
Statewide Water Planning and Design	DWR	$65,000	$40,110	$24,890
Protection of Rivers, Lakes and Streams	CCC, DWR, F&G, Resources, SWRCB, Various	$928,000	$731,731	$196,269
Forest and Wildlife Conservation	WCB, Various	$450,000	$421,458	$28,542
Protection of Beaches, Bays and Coastal Waters	SCC, SWRCB, Various	$540,000	$408,824	$131,176
Parks and Nature Education Facilities	Parks	$500,000	$386,424	$113,576
Sustainable Communities and Climate Change Reduction	Parks, Various	$580,000	$222,619	$357,381
Total Proposition 84		**$5,388,000**	**$3,767,259[9]**	**$1,620,741**
TOTALS		**$42,669,000**	**$26,556,808**	**$16,119,092**

[6] Committed for K-12 means the funds have been allotted to projects based on an eligibility defined process, whereas for higher education it means the funds have been appropriated by the Legislature for specific projects.
[7] Costs incurred by the K-12 to provide support to the bond program.
[8] Costs incurred by agencies to administer and sell these bonds, and financing costs incurred before the bonds are sold.
[9] Committed means the amount appropriated, the amount proposed for appropriations or amount committed in out years.

CalEPA = California Environmental Protection Agency
CPCFA = California Pollution Control Financing Agency
DWR = Department of Water Resources
Resources = California Natural Resources Agency
SWRCB = State Water Resources Control Board
CCC = California Conservation Corps.
DPH = Department of Public Health
F&G = Department of Fish and Game
SAB = State Allocation Board
WCB = Wildlife Conservation Board
Parks = California State Parks
SCC = State Coastal Conservancy

Appendix C

State of California Expenditures, General Fund, 1988-89 and 2008-09

Sum of Amount		Fiscal Year	
LAO Section	**Department**	**1988-89**	**2008-09**
Criminal Justice	GO Bonds - Youth & Adult Corrections	$ 151,031	$ 186,328
	GO Bonds - Criminal Justice Total	151,031	186,328
	Not GO Debt Service - Criminal Justice Total	2,442,354	12,651,216
Criminal Justice Total		**2,593,385**	**12,837,544**
General Government	GO Bonds - Legislative, Judicial and Executive	0	13,936
	GO Bonds - Housing	-4,343	108,659
	GO Bonds - General Government	34,930	23,461
	GO Bonds - General Government Total	30,587	146,056
	Not GO Debt Service - General Government Total	2,585,948	3,918,045
General Government Total		**2,616,535**	**4,064,101**
Health	GO Bonds - Health	0	15,285
	GO Bonds - Health Total	0	15,285
	Not GO Debt Service - Health Total	5,888,824	18,778,447
Health Total		**5,888,824**	**18,793,732**
Higher Education	GO Bonds - Community Colleges	15,898	218,336
	GO Bonds - Higher Education	25,047	375,497
	GO Bonds - Higher Education Total	40,945	593,833
	Not GO Debt Service - Higher Education Total	5,377,247	9,340,603
Higher Education Total		**5,418,192**	**9,934,436**
K-12 Education	GO Bonds - K-12	90,072	2,211,433
	GO Bonds - K-12 Total	90,072	2,211,433
	Not GO Debt Service - K-12 Total	13,182,438	29,983,598
K-12 Education Total		**13,272,510**	**32,195,031**
Resources & Environmental Protection	GO Bonds - Resources	139,213	530,797
	GO Bonds - Environmental Protection	56,043	6,989
	GO Bonds - Resources & Environmental Protection Total	195,256	537,786
	Not GO Debt Service - Resources & Environmental Protection Total	518,082	1,559,762
Resources & Environmental Protection Total		**713,338**	**2,097,548**
Social Services	GO Bonds - Welfare	5,604	0
	GO Bonds - Social Services Total	5,604	0
	Not GO Debt Service - Social Services Total	5,388,306	10,008,801
Social Services Total		**5,393,910**	**10,008,801**
Transportation	GO Bonds - Transportation	0	1
	GO Bonds - Transportation Total	0	1
	Not GO Debt Service - Transportation Total	604	1,422,290
Transportation Total		**604**	**1,422,291**
	Grand Total GO Bonds	**513,495**	**3,690,722**
	Grand Total Not GO Debt Service	**35,383,803**	**87,662,762**
	Grand Total	**35,897,298**	**91,353,484**

Source: Legislative Analyst's Office. Historical Data. State of California Expenditures, 1984-85 to 2009-10. **(Updated June 2009)**. Accessed June 4, 2009. **http://www.lao.ca.gov/laoapp/LAOMenus/lao_menu_economics.aspx**.

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