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# **Rowland Unified School District**

## **Measure R**

## **Citizens' Bond Oversight Committee**

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## 2006 and 2012 Measure R

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- On June 6, 2006, voters passed Measure R pursuant to Proposition 39 authorizing the District to issue up to \$118,000,000 in general obligation bonds.
- In November 2012, voters passed Measure R authorizing the District to issue up to \$158,800,000 in general obligation bonds.
- The District's Board of Education ("Board") appointed the Measure R Citizens' Bond Oversight Committee ("CBOC") to oversee the expenditure of the 2006 and 2012 Measure R funds.

# Board Responsibility – General Powers

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- The Board may initiate and carry on any program, activity, or act in any manner which is not in conflict with, inconsistent with, or preempted by any law and which is not in conflict with the purposes for which school districts are established. (Ed. Code § 35160.)
- The Board may execute any powers delegated by law to it or to the District and shall discharge any duty imposed by law upon it or upon the District, and may delegate to an officer or employee of the District any of those powers or duties. (Ed. Code § 35161.)
- The Board, however, retains ultimate responsibility over the performance of those powers or duties so delegated. (Ed. Code § 35161.)

# Board Responsibility – School Facilities

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- Provide Facilities for the Education of Children.
  - Evaluate school facilities needs and determine when new facilities are needed.
  - Approve additions or alterations to existing buildings.
  - Select and acquire sites.

# Board Responsibility – Method of Financing

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- For a Proposition 39 bond measure:
  - Determine scope, locations, and schedule of projects and that bond proceeds would only be spent on appropriate types of projects. (Ed. Code § 15100.)
  - Provide a list of the specific school facilities project to be funded with bond proceeds. (Cal. Const., Art XIII A, § 1(b)(3)(B).)
    - The list should be specific enough that voters know what they are voting for. (*Foothill-De Anza Community College Dist. v. Emerich* (2007) 158 Cal.App.4th 11, 23-24.). However, certain generalities should be maintained to provide the District flexibility as the needs of the District vary.
  - Certify that the Board has evaluated safety, class size reduction, and information technology needs in developing the project list. (Cal. Const., Art. XIII A, § 1(b)(3)(B).)

## Board Responsibility – Appoint a CBOC

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- The Board must establish and appoint members to an independent citizens' bond oversight committee within 60 days of the date that the Board enters the election results on its minutes. (Ed. Code § 15278(a).)
- Must consist of a minimum of 7 members:
  - Each member must serve for a minimum of 2 years without compensation; and
  - Members cannot serve for more than 3 consecutive terms. (Ed. Code § 15282(a).)

# Board Responsibility – Appoint a CBOC

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- CBOC must include one member satisfying each category:
  - Active in a business organization;
  - Active in a bona fide taxpayers' organization;
  - Active in a senior citizens' organization;
  - Parent or guardian of a child enrolled in the District; and
  - Parent or guardian of a child enrolled in the District and active in a PTO or school site council. (Ed. Code § 15282(a).)
- If the statutorily-required categories are not satisfied, the District shall start the CBOC while it continues to diligently seek members to satisfy the categories.
- Board cannot appoint to the CBOC:
  - An employee or official of the District;
  - A vendor, contractor, or consultant of the District; and
  - Persons with conflicts of interest pursuant to Gov. Code §§ 1090 and 1125, *et seq.* (Ed. Code § 15282.)

# Board Responsibility – CBOC Bylaws

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- The Board may establish policies and regulations for the CBOC by adopting Bylaws.
- The Bylaws cannot contradict or provide more authority than applicable State statutes or District policies and regulations.
- The Bylaws may address the following:
  - CBOC's purpose and duties
  - Member selection, composition, terms, and replacement
  - Meeting rules and procedures
  - Frequency of meetings



# Board Responsibility – Implement Bond Program

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- Board shall perform the following:
  - Authorize the bond program budget, scope, schedule and locations. (Ed. Code § 15100.)
  - Approve the selection of architects, engineers and other consultants as needed.
  - Obtain all requisite approvals of the design of facilities improvement projects. (Ed. Code §§ 17267, 17268.)
  - Determine the method of payment for construction contracts. (Ed. Code § 17603.)
  - Authorize all contracts and all changes to contracts. (Ed. Code § 35200, Public Contract Code § 20111, 20118.4.)
  - Accept all completed projects.

# Board Responsibility – Implement Bond Program

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- Board shall ensure that the proceeds from the sale of bonds are used only for the purposes of the construction, reconstruction, rehabilitation, replacement, furnishing and equipping of school facilities, or the acquisition or lease of real property for school facilities, and not for any other purpose, including teacher and administrator salaries and other school operating expenses. (Cal. Const., Art. XIII A § 1(b)(3).)
- Board shall ensure that bond funds have been expended only on projects included in a list of the specific school facilities projects to be funded. (Cal. Const., Art. XIII A § 1(b)(3).)

# Board Responsibility – Implement Bond Program

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- Board shall conduct an annual, independent performance audit to ensure that the funds have been expended only on the specific projects listed. (Cal. Const., Art. XIII A § 1(b)(3)(C).)
- Board shall conduct an annual, independent financial audit of the proceeds from the sale of the bonds until all of the proceeds have been expended for the school facilities projects. (Cal. Const., Art. XIII A, Sec 1(b)(3)(D).)
- Board shall, without expending bond funds, provide the CBOC any necessary technical assistance, administrative assistance in furtherance of its purpose, and sufficient resources to publicize the committee's conclusions. (Ed. Code § 15280(a).)

# Staff Responsibilities - CBOC

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- Report to Board and CBOC.
- Provide administrative and technical assistance to the CBOC including:
  - Administrative and technical assistance for compliance with the Brown Act. (Gov. Code § 54950 *et seq.*; Ed. Code § 15280.)
  - Assistance with the preparation of regular reports on committee activities, with at least one report issued each year. (Ed. Code § 15280(b).)
  - Making all documents and minutes available on the District's Internet website. (Ed. Code § 15280(b).)

# Staff Responsibilities – Carry Out Bond Program

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- Under Board direction, select consultants for recommendation to the Board. (Gov. Code § 4529.10 *et seq.*)
- Recommend to the Board the budget, scope, schedule and locations of Bond program work.
- Oversee and assist in the design of bond program work to meet the District's needs.
- Oversee and implement the bidding and other procurement of construction projects. (Pub. Contract Code §§ 100-9203; 20101-20118.4; 22030-22355.)

# Staff Responsibilities – Carry Out Bond Program

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- Recommend to the Board the award of contracts to the low responsive, responsible bidder for each formally bid contract or the best value / qualified respondent for each lease-leaseback contract. (Pub. Contract Code § 20111; Ed. Code § 17406.)
- Oversee and implement the performance of bond-funded construction projects.
- Under Board direction, implement selection of financial and performance auditors. (Cal. Const., Art. XIII A, § 1(b)(3)(C) and (D).)

## Role of CBOC

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- Inform the public concerning the expenditure of bond revenues (Annual Report). (Ed. Code § 15278(b).)
- CBOC's role is to provide oversight on expenditures of Measure R funds.
  - Inform the public concerning expenditure of bond revenues. (Ed. Code § 15278(b).)
  - Actively review and report on the expenditure of taxpayers' money for school construction (annual report). (Ed. Code § 15278(b).)

# CBOC Responsibility – Permitted Activities

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- Receive and review copies of the annual, independent performance audit and financial audit (Ed. Code §§ 15278(c)(1)&(2)) at the same time they are submitted to the school district, no later than March 31 of each year. (Ed. Code § 15286.)
- The District shall provide the CBOC with any “responses to any and all findings, recommendations, and concerns” addressed in those audits. (Ed. Code § 15280(a)(2).)
- Receive and review copies of any deferred maintenance proposals, plans, or reports developed by the District. (Ed. Code § 15278(c)(4).)



# CBOC Responsibility – Permitted Activities

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- Review efforts by the District to maximize bond revenues by implementing cost-saving measures, including, but not limited to, all of the following:
  - Mechanisms designed to reduce the costs of professional fees.
  - Mechanisms designed to reduce the costs of site preparation.
  - Recommendations regarding the joint use of core facilities.
  - Mechanisms designed to reduce costs by incorporating efficiencies in school site design.
  - Recommendations regarding the use of cost-effective and efficient reusable facility plans. (Ed. Code § 15278(c)(5).)

# Role of CBOC

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- CBOC does not have the authority to perform duties that are the responsibility of the Board/District:
  - Participate in District's actual bond sale and issuance process.
  - Make decisions regarding the timing, terms, or structure of a bond issuance.
  - Select, or participate in the negotiation or bid process for contractor or consultants for bond projects.
  - Visit construction sites without prior permission of the Superintendent who reserves the right to determine frequency and timing of visits.
  - Contact District contractors or consultants without prior permission of the Superintendent.

# Conflicts of Interest – Ed. Code § 15282(b)

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- CBOC members are subject to conflicts of interest laws and rules, including:
  - Government Code section 1090 which prohibits a public officer or employee from being financially interested in any contract made by the officer or employee in his or her official capacity.
  - Government Code section 1125, *et seq.*, is the “local agency” statute that prohibits public officers from holding “incompatible offices.”

# CBOC Responsibility – Advise the Public (Annual Report)

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- CBOC must advise the public as to whether the District is in compliance with the following accountability requirements:
  - That the proceeds from the sale of bonds be used only for the purposes of the construction, reconstruction, rehabilitation, or replacement, furnishing and equipping of school facilities, or the acquisition or lease of real property for school facilities, and not for any other purpose, including teacher and administrator salaries and other school operating expenses.
  - This has been clarified by the California Attorney General in an advisory opinion. (Cal. A. G. Opinion; 87 Ops.Cal.Atty.Gen. 157 (2004).)

# CBOC Responsibility – Advise the Public (Annual Report)

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- The AG opinion noted that certain project administration costs, such as “monitoring contracts and project funding, overseeing construction progress, and performing overall project management and accounting that facilitates timely completion of the construction project” may be funded by Proposition 39 bond proceeds, unless “specifically prohibited under the phrase ‘teacher and administrator salaries and other school operating expenses.’” (*Ibid.*)
- “Proposition 39 ... does not bar use of the proceeds for the payment of salaries of school district employees performing oversight work on construction projects authorized by a voter approved bond measure.” (*Ibid.*)

# CBOC Responsibility – Advise the Public (Annual Report)

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- That the District has provided a list of the specific school facilities projects to be funded and certification that the Board has evaluated safety, class size reduction, and information technology needs in developing that list.
- That the Board has conducted an annual, independent performance audit to ensure that the funds have been expended only on the specific projects listed.
- That the Board has conducted an annual, independent financial audit of the proceeds from the sale of the bonds until all of those proceeds have been expended for the school facilities projects. (Cal. Const., Art. XIII A § 1(b)(3).)

# CBOC Meeting Requirements – Brown Act

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- CBOC must conduct all business and meetings in compliance with the Brown Act (Gov. Code § 54950 *et seq.*).
- Purpose of the Brown Act:
  - To keep the public informed of the actions, debates and views of locally elected representatives; and
  - To provide the procedural framework for local legislators to meet, debate, act and listen collectively to their constituents.

# CBOC Meeting Requirements – Brown Act

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- Meeting place must be within District boundaries, with limited exceptions. (Gov. Code § 54954.)
- Meeting place must be accessible to the public.
- Teleconferencing must be from publicly accessible location; at least quorum must be within District boundaries.
- Any person attending may videotape, unless disruptive.



# CBOC Responsibility – Reporting Requirements

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- The CBOC shall have the following reporting requirements:
  - Issue regular reports on the results of its activities (meeting minutes);
  - Issue a report at least once a year (annual report);
  - Make available on the District website the minutes of all CBOC proceedings, and all documents received and reports issued. (Ed. Code § 15280(b).)

# QUESTIONS



**Thank You**

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**Rowland Unified School District**

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