



CALIFORNIA schools

Quarterly Publication of the California School Boards Association | Spring 2012



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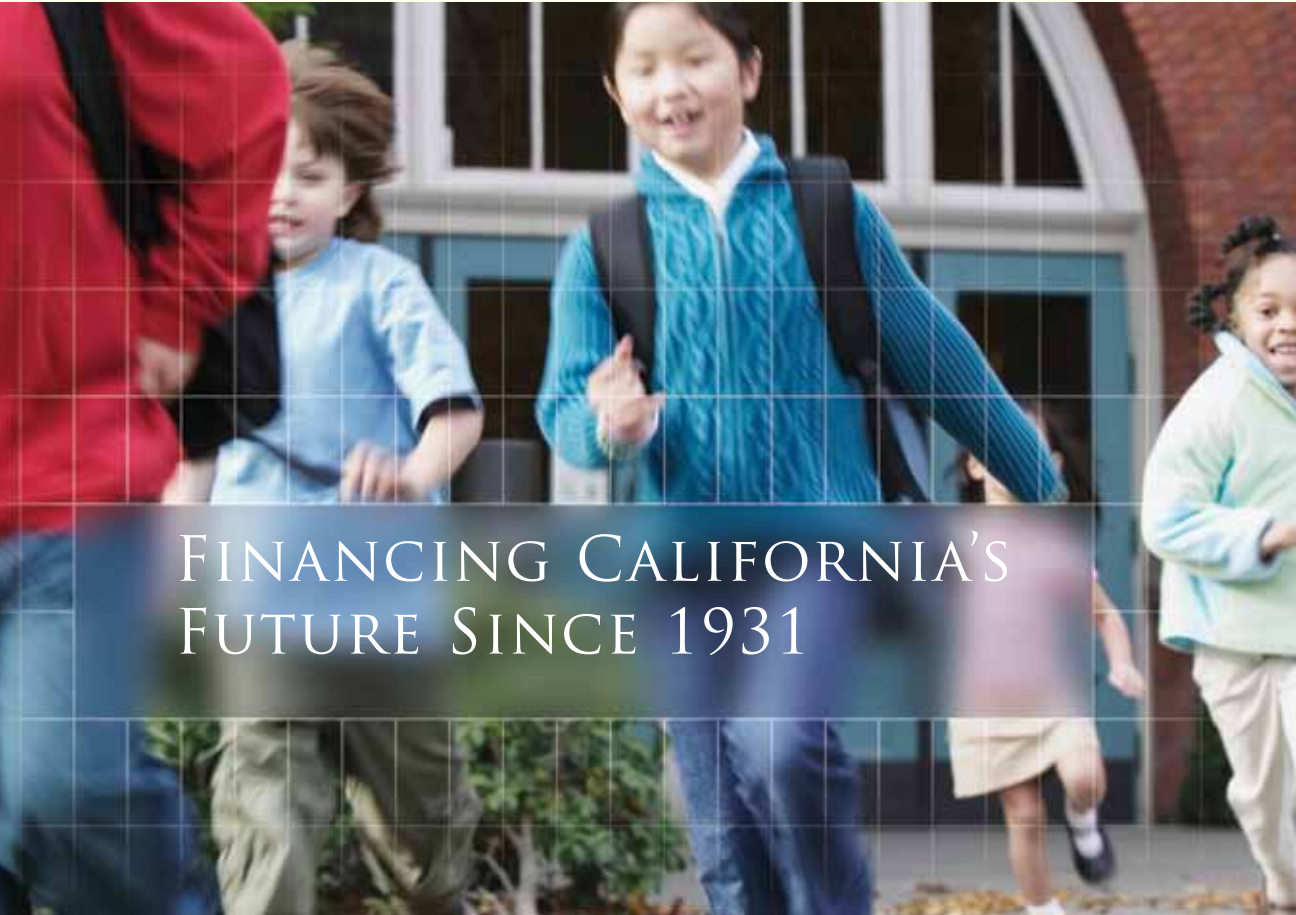


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The California School Boards Association envisions a state where the public schools are widely recognized as the foundation of a free and democratic society, where local citizen governing boards are fully vested with the means to advance the best interests of students and the public, and where the futures of all children are driven by their aspirations, not bounded by their circumstances.

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executive director's note
BY VERNON M. BILLY

The stakes for education are high in 2012

The stakes are high in 2012. The state has not fixed its structural deficit, it continues to manipulate Proposition 98, class sizes have steadily increased in many schools, and important student services are being reduced as certificated and classified ranks continue to dwindle. For many educators, the pressure, uncertainty and unprecedented divestment in education seem almost unbearable.

While we are clearly in difficult and uncertain times, school board members must not shrink from their responsibility to govern. It is our response to challenges like these that has historically defined us as a state and nation. Our schools have served as the great equalizer for generations and, at times, as the conscience of California and the country. And they continue to do so even today with the courageous actions of teachers, superintendents and governing boards.

The Santa Barbara County Office of Education's governing board is taking a stand. Its decision to unanimously approve a "Statement of Conscience" is similar to the nonviolent tactics employed by the greatest of our civil rights leaders. (You can read the statement in *California School News*: Just go to www.csba.org/CSNEasyLinks.aspx and look up the April issue.)

SBCOE's statement reminds us that all state legislative decisions at their core are derived from a moral position that ultimately defines who we are as a society—and our future. "We believe it is a moral imperative that those individuals who reaped the rewards from the state's earlier investment in education do all they can to ensure that comparable educational opportunities are available to young people today," the statement declares. I agree!

It was the great education expansion of the mid-20th century in California that developed the minds, educational institutions and businesses that propelled the state to one of the world's largest economies during this period, a position we continue to fight to keep to this day. Now, more than ever, an adequately funded education system is central to our regional, national and global economic competitiveness. Study after study has repeatedly shown that education can aid in reducing poverty and infant mortality, improve the health awareness of individuals and communities, and help create economic opportunity.

This, at the end of the day, is what we are fighting for and why the stakes are so high in 2012. Not just because schools simply cannot sustain more cuts, but because the very fabric of our society—and our students, and our economy—are hanging in the balance.

There is, perhaps, one last lifeline left to allow us to limp through the next decade and have an opportunity to move from good to great. As of this writing, at least two education funding initiatives appear to be headed to the November ballot. Molly Munger's "Our Children, Our Future" and the recently merged proposal from Gov. Jerry Brown and the California Federation of Teachers, "The Schools and Local Public Safety Protection Act of 2012," would provide voters with the opportunity to stave off more reductions in education funding.

Munger's broad-based tax proposal would provide approximately \$7 billion in new funding annually for the first four years and then \$10 billion per year for the remaining 12 years. The Brown/CFT proposal would impose an additional quarter-cent sales tax and raise income tax rates on individual taxpayers earning more than \$250,000, generating anywhere between \$6 billion and \$9 billion per year for seven years.

Both measures would provide limited-term funding for schools and result either in the new dollars not counting towards the Proposition 98 guarantee or the sanctioning of a prior \$2 billion manipulation of Proposition 98. Both of these scenarios are inconsistent with maintaining the integrity of the state's main vehicle for funding schools, but these are unprecedented times and the challenges facing schools will be even more difficult without voter approval of one of these measures. This is evident in the fact that even if the Brown/CFT measure is enacted, for example, many school districts still would have to cut millions of dollars from their budgets. The hemorrhaging will continue.

CSBA will throw its support behind one of these measures very soon (perhaps before this article goes to print), but we will also be refining our internal operations to support school districts and county offices of education no matter the outcome of the November elections. All this is in hopes of supporting you, our members, better. We have already taken significant steps to do so:

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- Last fall, CSBA's Board of Directors adopted an eight-point Blueprint developed by me and the senior staff that guides our efforts to one main priority: *creating enhanced member value*.
 - In January we implemented a reorganization that for the first time combines all our member (district) services into one department, under one leader, in order to provide more focused support.
 - We also established a new senior-level position that focuses on membership development and support.
- Supporting all of these changes and strengthening our efforts to meet our mission of "driving the public education agenda" is our new Policy and Programs Department, which houses our policy and foundation staff and

aligns their work in order to strengthen our advocacy and raise our policy influence at the state and national levels.

I have also directed our staff to begin looking at how we can align our internal work with school district calendars so that what we do provides greater support and guidance to districts and county offices in these difficult times.

As your association, we will be working hard to represent you and the schools that you govern. It's true, the stakes for education are high in 2012. CS

Vern M. Billy

CALIFORNIA schools

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editor's note
BY BRIAN TAYLOR

The ballot box issue

Locally elected governing boards represent the most fundamental element of a democratic society and are the basic embodiment of representative government. They must act in the best interests of the children in their communities on a broad range of school issues. They set the vision for the school district, establish structures, adopt policies and the budget, hire the superintendent, engage in advocacy on behalf of children and schools, and hold the system accountable.

Those words led off my first magazine feature for CSBA six years ago; the story, in the spring 2006 issue of *California Schools*, addressed the threat to elected school governance posed by mayoral attempts to take over the state's largest school district.

But those initial words weren't my own. They come from CSBA's Policy Platform, the document that our Delegate Assembly updates every two years to guide the association's work. The Policy Platform still retains those noble words today and, while we didn't plan it that way, they introduce *California Schools'* Spring 2012 issue as well as any would.

All three of our main feature articles deal with local elections in one form or another:

- In "Q&A: Governance" (page 17), staff writer Kristi Garrett interviews two CSBA governance consultants (and past presidents of the association), Leslie DeMersseman and Luan Burman Rivera, about the essential knowledge that new board members need. The information is especially useful for the 162 school board members who were newly elected last November, but it also serves as a refresher course for everyone on governance teams.
- "Hitting the Wall" (page 26), frequent freelancer Scott LaFee's contribution to this issue, looks at the dwindling amount of state funding available for school construction and modernization, as well as the obstacles school boards face in getting voter approval for local bond sales and parcel taxes.
- "Drawing the Lines" (page 38), by staff writer Carol Brydolf, examines a controversial aspect of the electoral process itself—whether local officials should be elected at large or in trustee areas whose boundaries are supposed to reflect demographic spheres of influence under the California Voting Rights Act. The issue provoked extended

discussion when CSBA's Delegate Assembly met in San Diego last fall, which prompted Carol to pursue her story.

"I hear a lot of fear in the room," Visalia Unified School District board member and CSBA Region 12 Delegate Donna Martin said then. The law's intent was good, but many people believe the way it was written encourages litigation against panels elected at large; many lawsuits have been filed, and many more threatened.

Debra Brown, a senior legislative advocate with CSBA who's worked on CVRA issues, offers this counsel in Carol's story: "Our advice to districts is: 'You need to deal with this.' At the very least, districts need to assess their voting patterns to see what the data show."

Voting patterns and data can also be studied for another ballot box issue: funding for school construction and modernization. "Hitting the Wall" gives a brief primer on the options: bond sales, facility districts and parcel taxes—all requiring voter approval—and developer fees.

The article's subtitle anticipates the rest of the story: School construction and modernization funds are hard to get—but not impossible. Scott's interviews with school governance team members, consultants, state officials and others offer advice on how to plan for facilities needs and obtain funding for them. More good news: Several of CSBA's District Services partners, Financial Services partners and Business Affiliates can also help. Check them out at www.csba.org/DistrictServices.aspx; www.csba.org/FinancialServices.aspx; and www.csba.org/bizzaffiliates.aspx.

Kristi's interview with Leslie and Luan allows those governance experts to speak directly to the reader—that's you—and CSBA Executive Director Vernon M. Billy does the same in his column on page 5. BoardWise answers readers' questions on page 9—and invites new questions at boardwise@csba.org. There's much more in this issue, of course: a courageous board grappling with rapid growth, a Perspective on after-school programs and physical fitness, and a Sacramento County Office of Education's "Class Act" that will tug at your heartstrings.

Check it all out for yourself—and thanks for reading! CS


Brian Taylor (btaylor@csba.org) is the managing editor of *California Schools*.



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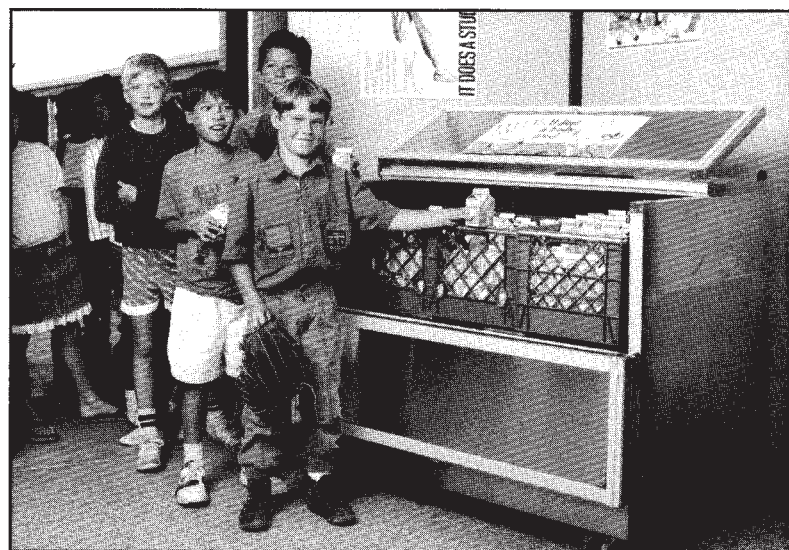
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BoardWise

GOVERNANCE TEAM MEMBERS WRITE IN

BoardWise is a forum for board members and superintendents across the state to share questions about governance and board-superintendent relations. Send your questions to boardwise@csba.org.

Dear BoardWise:

In May, our board will evaluate our superintendent. I have some experience in the business world with evaluating staff, but I have never done it as a member of a board. I think the superintendent is doing great, and I want the process to go well. Is there anything unique about evaluating the superintendent? Any helpful hints?

*Thanks,
Looking for Wisdom*

Dear Looking for Wisdom:

Your question is one that CSBA's governance consultants often encounter. The superintendent evaluation is one of the board's most important tasks and is directly connected to the board's responsibility for oversight and setting direction for the district. A high-quality evaluation process is at the core of the board's governance work, and its development and implementation should be guided by five overarching principles:

1. **Purpose:** In his book "Five Habits of High-Impact School Boards," Doug Eadie suggests that the purpose of the process is twofold: "to strengthen superintendent performance *and* the board-superintendent partnership." Note that both of these premises have implications for how the evaluation is conducted. Not only do you want to strengthen the performance of your superintendent by giving effective guidance and feedback, you also want to improve the board's relationship with the superintendent by the manner in which it is done.
2. **Collective authority:** One person evaluating one person is something with which many board members have experience. When five to seven board members must evaluate the superintendent as one collective, that usually requires more time and discussion to reach agreement.
3. **Clear process:** Because it's a collective work, it's important for there to be clarity among all members

of the governance team regarding the instrument, process and timeline that will be followed.

4. **Focus:** A superintendent's job is extensive, and evaluating all aspects of it would be daunting. Boards need to focus the evaluation on the most important areas of the district *this year*. In a sense, the superintendent's *goals* established by the governance team are a statement about how the board wants the superintendent to focus his/her time and energy.
5. **Clear expectations:** Perhaps the most difficult aspect of any evaluation process is developing clear and measurable goals at the outset, so that both the board and the superintendent have the same understanding about how performance will be assessed. As a general rule, effective processes focus on four key areas:
 - Long-range priorities: The annual goals should be aligned with long-range priorities.
 - Service to the board: The relationship between the superintendent and the board is critical to ensuring smooth and efficient governance and administration.
 - Key operational issues: Given the current fiscal meltdown, close monitoring and reporting of the approved budget might be something that boards want to carefully track.
 - Professional development goals: The board may want to encourage the superintendent to identify one more areas of interest for his/her professional growth that would contribute to the district's improvement goals.

If you haven't already done so, ask the board president or superintendent for the process and goals already in place this year. Go over them and if you have any questions, and ask for clarification.

Good luck!

BoardWise CS

BoardWise is written by CSBA's Governance Consulting Services and Policy Analysis staff: Babs Kavanaugh, Christopher Maricle, Leslie DeMersseman and Luan Burman Rivera. Find out more about Governance Consulting Services at www.csba.org/gcs.aspx.



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Kara Dukakis

perspective
BY KARA DUKAKIS, ILANA HORWITZ
AND REBECCA LONDON

Can after-school programs effect physical fitness outcomes?

The John W. Gardner Center for Youth and Their Communities at Stanford University recently completed a two-year project with community partners in Redwood City and the California School Boards Association that focused on the extent to which participation in community-run after-school programs is associated with youth physical fitness outcomes. The project was funded by the Robert Wood Johnson Foundation's *Salud America!* initiative, focused on increasing healthy behaviors and lowering rates of obesity among Latino youth, and used the JGC's Youth Data Archive, an integrated data system that includes administrative data from public and nonprofit agencies. This research occurred in tandem with the launch of a Redwood City-based community wellness initiative, which aligns with the federal *Let's Move!* campaign.

JGC's study linked individual-level data from the Redwood City School District and Sequoia Union High School District, the city of Redwood City, and other after-school providers to address the following questions:

- 1) What is the extent of participation in primarily fitness-focused and other types of after-school programs among different student groups?
- 2) What are the effects of participation on students' physical fitness pathways?

The study followed a cohort of fifth- and seventh-grade students and examined whether participating in after-school programs over two years increased the likelihood that a student was physically fit. Students were considered "physically fit" if they passed five of six components of the California Physical Fitness Test. The analysis included seven after-school program providers, including some with an explicit fitness focus and others without, as well as some that offered a combination of fitness and other enrichment activities. Findings support the notion that community-led, fitness-focused after-school programs can help students to maintain or improve their fitness levels:

- Two-thirds (64 percent) of students in fifth to seventh grades and half (49 percent) of students in seventh to ninth grades participated in at least one after-school program. Latino students and those who were physically unfit were less likely to participate in primarily fitness-focused programs, but these groups were almost equally likely to participate in other enrichment programs.
- After controlling for background characteristics, including initial fitness status, participation in primarily fitness-focused programs was associated with a 10 percent increase in the likelihood of being physically fit. Larger effects were found for students who participated in fitness programs in both years and those who were initially unfit, male and non-Latino. We did not find any effect of participating in other enrichment programs on fitness status.

This study relates to prior JGC work that used the same individual-level school data and demonstrated the link between physical fitness and academic achievement. Students who were consistently physically fit had higher California Standards Test scores than those who were consistently unfit, and these differences persisted over time.

Policy implications from both of these studies include:

- Better understand the problem: For example, encourage or require physical fitness testing for younger students and partner with agencies serving preschoolers to ensure coordinated efforts.
- Use existing resources as possible: For example, amend the California Department of Education's After School Education and Safety Program funding requirements to delineate the amount and types of physical activity that students engage in after school.

Continued on page 13

The authors are staff of the John W. Gardner Center for Youth and Their Communities at Stanford University: Kara Dukakis, *associate director*; Rebecca London, *Ph.D., senior researcher*; Ilana Horwitz, *policy analyst*.

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Perspective, continued from page 11

- Address equity issues: For example, work with youth sports leagues to hold practices on school sites and waive or reduce entrance fees for low-income kids.
- Provide additional outreach to students from typically underserved populations for participation in fitness programs.
- Use overlapping solutions to tackle both fitness and academic issues.

The John W. Gardner Center for Youth and Their Communities

The John W. Gardner Center partners with communities to develop leadership, conduct research and effect change to improve the lives of youth. The Center's unique approach encourages community partners to drive the process; bridges the gap between research, practice and policy; and ultimately seeks to produce actionable findings that inform both the community at hand and the broader field of youth development.

The *Salud America!* project is an example of JGC's work in the priority area of health and wellness. Another key area of concentration is community schools, which JGC supports through research and capacity building. Community schools are both a place and a set of partnerships between the school and other community resources; their integrated focus on academics, health and social services, youth and community development and community engagement aims to support student success, stronger families and healthier communities. The following examples highlight JGC's work in this area.

- **Early Childhood Education-Community Schools Linkages Project:** JGC's national community schools work includes the Early Childhood Education and Community Schools Linkages Project. The goal of JGC's study is to examine how three regions nationwide are working to demonstrate that community schools can be vehicles for creating smooth and effective transitions from ECE programs to early elementary grades. The study also seeks to understand what conditions appear to facilitate or hinder continuity between ECE and elementary grades.
- **Community School Resource Initiative:** JGC's Bay Area community schools work includes the Community School Resource Initiative. JGC provided emerging and developing community schools with training and resources about effective

practices and is continuing to engage the primary community school intermediaries in the Bay Area in a series of convenings. Through these convenings JGC facilitates a learning community in which participants share tools and ideas, better understand respective areas of expertise and collaborate on concrete projects.

- **Redwood City Community Schools Evaluation:** JGC's local work includes a partnership with the Redwood City School District and its five community schools. Over the last three years, JGC has conducted longitudinal research

focused on the effects of the community school approach. Findings indicate that family engagement is linked to improved student academic outcomes, particularly in math and for English language learners. This research was recently featured in a briefing and panel discussion at the Center for American Progress in Washington, D.C. JGC also facilitated the district's adoption of a logic model for its community schools using the Community Schools Evaluation Toolkit, which JGC created in partnership with the National Coalition for Community Schools. CS



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Explosive growth model

Newly unified Lammersville USD accommodates rapid rise in enrollment



How do you build a thriving unified school district on miles of rural farmland? It’s not easy, as the governance team of the Lammersville Unified School District in San Joaquin County will attest. The district is located in Mountain House at the base of the Altamont Pass, just northwest of Tracy. The ambitious master-planned community sprang up from almost nothing—what remained of a tiny agricultural settlement—just a decade ago, with the vision of becoming home to more than 40,000 residents within commuting distance of the San Francisco Bay area. The economic downturn tempered its progress a bit, but the town now has about 10,000 residents and continues to grow. From one original school of 300 students, the district suddenly faced the need to accommodate hundreds of new students each year. The current enrollment of more than 2,000 students represents a growth rate of 625 percent in eight years, requiring three new K-8 schools so far, with another in the pipeline. “We have had amazing changes in the last four years,” says Superintendent Dale Hansen. In coping with its growth, the district found an innovative way to plan for the future of, not just the school district, but the entire community. Seeing the need for a high school in Mountain House—secondary students now must travel about 10 miles to Tracy—the board of the elementary school district disbanded and on July 1, 2011, a newly elected unified board took its place. The change allowed the district to apply for state funding for construction of Mountain House High School, scheduled to begin this summer. “I found that it’s pretty unique for unification to happen without a high school,” says Hansen. “In working with the California Department of Education, the Office of Public School Construction and the different state agencies, we are setting the ground rules for this in the future. They haven’t had a unification of this nature in almost 20 years.”

While a couple of the new board members had served on the elementary board, three had never held elected office before. The area is also very diverse, with residents speaking any of 25 languages, says board President Matthew Balzarini. “It’s been such a transition,” he says, taking the small, rural elementary district and transforming it into a unified district with some of the highest scores in the county. The challenge now facing the Lammersville Unified board is to create a community from a sea of new homes. Besides the neighborhood schools, with a few parks sprinkled in, Mountain House still has no commercial or retail services to speak of. “The problem is, there are no after-school activities here as there is no recreation department,” says Balzarini. “It’s a challenge for us, with our budget, to make sure we have something to offer. We’re constantly wracking our brains.” “Right now it’s basically 3,500 homes, growing up to 12,000, without a sense of community,” laments Hansen. “I think the high school is going to be our sense of community.” The planned high school will have a theater and two gymnasiums that can be used for community events. And a joint venture with the local community college extension will allow high school students to take advanced classes. Other elementary districts isolated from a high school may want to consider unification, Hansen advises, saying, “I don’t know how many planned communities there are in California, but most of them are just a lot of homes with a few elementary schools.” While growing so quickly is definitely challenging, Hansen says, it’s a definite advantage to build new technologies into the blueprints instead of having to retrofit older facilities. “The last elementary we opened we set up a model classroom with interactive boards, dock cameras, all the tools for our teachers to deliver the curriculum,” he says. “It’s really nice to be able to do that.” But then, that’s what you might expect in a community where the homes come standard with electric car charging ports. The district is also one of the few statewide that has an active Facebook page, an idea Balzarini says he got at CSBA’s Annual Education Conference in San Diego last December. After getting community input and carefully weighing the pros and cons, the district’s social media page went live in January. “What Facebook allows us to do is push out information,” Hansen says. “It will alert you that the school district is sending out a site bulletin or a survey. “We think it’s very safe and it’s what our community is demanding. They’re very tech-oriented. We believe we can reach more community members and parents, and even future parents that way.” **CS**

—Kristi Garrett

Sacramento COE helps students MOVE toward a richer life

For many parents of children with severe movement disorders, a doctor’s pronouncement that “she’ll never walk” stifles hope. The prospect of a lifetime of carrying, feeding, bathing and toileting their child is often overwhelming and disheartening to these parents, who would give anything to see their child make friends and grow to happy adulthood. So any program that can help children with orthopedic disabilities increase their mobility and participate more fully in family life and school activities is a godsend to their parents, not to speak of the students themselves. In the 1980s, Kern County special education teacher Linda Bidabe noticed the longing in a student’s eyes as he sat in his wheelchair watching his classmates play. The boy’s immediate, enthusiastic physical response when Bidabe asked if he’d like to go play with them convinced her that she had to find a way to help him join the action. So she duct-taped together some old walkers, adding padding and support—even an old tire for a counterweight—and 9-year-old Tommy, for the first time, ran down the hall squealing with delight. The “mobility curriculum” Bidabe developed has now been adopted by schools in 25 countries and is translated into 13 languages. Movement Opportunities Via Education, or MOVE, makes learning to sit, stand, walk and perform other motor skills part of a student’s typical daily activities instead of leaving skill-building to a pull-out physical therapy program once a week. The approach gives students the opportunity to practice new skills thousands of times a year, promoting exponential improvement over traditional therapy programs. The Sacramento County Office of Education has five classrooms that have been designated by MOVE International as MOVE demonstration sites. These five classrooms are located at Prairie and Markofer Elementary Schools in the Elk Grove Unified School District and Dry Creek Elementary School and Northview Head Start in the Twin Rivers Unified School District. The success they’ve seen since introducing the program in 2007 won SCOE a Golden Bell award from CSBA in 2011. SCOE special education principal Sharon Holstege and occupational therapist Sheila Wolfe are passionate proponents of the MOVE curriculum, convinced that most students can make improvements in their mobility and socialization. “We never say ‘never.’ If a student is not able to do something,” Holstege says, “we say, ‘not yet.’ ” Wolfe is still overjoyed to recount the staff’s reaction when a teenage girl—who had always been overlooked in her wheelchair—stood up in her assistive walker and marched into the office to ask for the daily report using a recorded communication device. As the office personnel exclaimed “Nida’s talking!” the girl fairly beamed with excitement, Wolfe recalls, noting that she realized then that she needed to help the student prepare many, many more phrases to open up her new world of communication. “To me, it’s one of the things that gives families hope,” Holstege agrees. “The medical community is not always the most hopeful in terms of talking with our families. They paint a picture of gloom and doom sometimes: they’ll never be able to do this, they’ll never do that. If you have that vision, you don’t have much expectation for your students.” But MOVE’s proactive, motivational curriculum has produced

remarkable success over time with students who might otherwise have never been given the opportunity to show that they can make progress. One young boy came to the program in preschool, almost immobile in his wheelchair. His nerves were easily irritated by clothing, and he let teachers know he wasn’t happy about being pressed to move about in a modified walker known as a gait trainer. But with modest, realistic goals—sometimes measured in tiny increments, literally step by step—he began to walk upright; eventually he walked freely, without aid. “The therapist said he’s not going to walk, we’ll just monitor his equipment needs,” Holstege recalls. “But when they saw a video of his progress, doctors did medical interventions to straighten his legs. They would never have done that if he hadn’t demonstrated what he can do.” Parents use terms like “miracle” when describing what MOVE has done for their children. “There are people here who really care, and people who really believe that your child can succeed,” one mother told a local television channel that profiled the program. “I’ve seen children go from not being able to sit up by themselves to standing up, to crawling, to walking, to actually running.” Helping children become more active helps reduce respiratory illness and infections, improves cardiovascular fitness, and improves bone health. In fact, weight-bearing exercise has helped children avoid surgery for hip dislocation that can be caused by inactivity. Instilling these children with the capacity to move and reposition themselves also helps their parents and caregivers, who may be struggling with lifting and moving a growing child. Along with mobility, the program also promotes cognitive skills, communication and independence. Those unable to speak are taught to use communication devices to signal their desires and needs and perform tasks. The MOVE program suggests modifications and supports families as they make simple changes, such as helping one girl sit in a stool at the kitchen counter instead of away from the action in her wheelchair. Learning to feed herself and interact with the family was very empowering, Holstege says. And then there is the high school student who, upon learning to use a walker-like device, was able to walk the family’s dog with his grandfather for very first time. “That’s what it’s all about,” Holstege says. **CS**

—Kristi Garrett

| | |
|---------------|--|
| WHO: | Students with orthopedic disabilities |
| WHAT: | The Mobility Opportunities Via Education program; Sacramento County Office of Education |
| WHEN: | Since 2007; program originated by Linda Bidabe in Kern County in 1986 |
| WHERE: | Five model sites in Sacramento County |
| WHY: | To help people with disabilities acquire motor skills to enhance their access to a full life |
| MORE: | www.move-international.org |



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Q&A: Governance

BY KRISTI GARRETT



What new board members need to learn in their first 100 days

Running for your local school board is a tremendous commitment, but that's nothing compared with the learning curve that happens once you take the oath of office. To help new trustees get off to a good start, *California Schools* writer Kristi Garrett sat down with two of CSBA's governance consultants, Leslie DeMersseman and Luan Burman Rivera—both past CSBA presidents—to find out what their experience shows to be the most crucial skills for new board members.

What do new board members need to know about becoming an effective trustee?

LESLIE: To me, the hardest thing for new board members is recognizing that they have joined a body that has collective authority—that, as an individual, they have no authority. Anything that they would like to see happen, they have to work through with the rest of their board. All decisions are made by the collective body, not by individual trustees.

New board members, in particular, have a need to feel like they're doing something. Generally, people who are elected to school boards are doers and problem solvers; that is why they are inspired to run and why people elect them. So when people come to them—whether it's staff or a community member or whomever—with their problems, a new board member feels like they've got to do something about it; they want to fix things and they have no authority to do that. In

fact, they're probably stepping all over their board policies in trying to fix somebody's problem, because there is someone on staff who is responsible for resolving that issue.

So if a community member comes up to them in the grocery store, or perhaps a parent sees them on a campus and approaches them with a concern—what should a board member do with that?

LESLIE: Board members do have to be accessible to the community. They can't just say, 'I can't deal with that, I'm a board member and we don't do that. We have collective responsibility.' They've got to listen to be sure they understand, and they've got to try to be an empathetic listener. But then the board member needs to send the person back into the system at the most appropriate place.

So if it's a parent who's concerned about the teacher, then you ask them: 'Have you spoken to the teacher? It might be very helpful for you to go in and listen to the teacher or share the concern and hear what the teacher has to say. Then, if you're not happy, you should go to the principal.'

It's even more important with staff. By law, there are lines of authority and chains of command in school districts that the staff has to follow. A board member who gets into the middle of that—especially if they start taking sides among staff members—is violating somebody's rights. That can turn into a litigious issue.

LUAN: Also, when board members hear concerns out in the community, they need to let the superintendent know that there are issues brewing so the superintendent is informed and can respond appropriately.



Generally, people who are elected to school boards are doers and problem solvers; that is why they are inspired to run and why people elect them.

—Leslie DeMersseman

LESLIE: Yes, the superintendent can look into an issue, but it's not up to board members to do research and dig around trying to figure out what is going on. That is what they hire staff to do.

What does a new board member need to know about the Open Meeting Act, or the Brown Act?

LESLIE: I think probably the hardest thing is that, by law, they are not to engage with the public on any item that is not on the agenda. The point of the public comment period is for the public to give input on a subject that is not on the agenda. Sometimes, new board members in particular want to engage—have a dialogue—after the person has made their comment, to have a discussion with them.

LUAN: There's this tendency to feel uncomfortable because someone has come and shared with us, and now we can't respond to them? It just feels unnatural and weird to people.

But the point of the Brown Act is to protect the public's right to know. All of the board's work is done in public, except for closed session items.

The reason the board cannot discuss a topic that is raised in public comment is because that item was not on the agenda. Therefore, the rest of the community was not aware that that particular item would be discussed at the meeting. So if you discuss that topic, you are really violating the rights of the rest of your community.

The item might be placed on an agenda at a later date, or perhaps it is something that will be handled administratively. There are a number of ways to resolve issues, but items cannot be discussed that evening if they are not agendized.

Why is that important?

LUAN: Because if you start engaging a member of the public in a debate and deliberation about a topic, then you've elevated somebody to the board table who has not been elected. The board is conducting its meeting in public; it is not a community forum, it is not a town hall meeting. It is the board doing its work in public. The board is informed by public comment, but the deliberation takes place between the board members. The board is the elected authority that is entrusted with the responsibility to deliberate and make those decisions.

School finance is such a complex, convoluted body of knowledge, how can a new trustee begin to get up to speed?

LESLIE: I think one of the confusing things for a brand new board member—if they were elected in November—is that in December they will likely have to approve their district's audit at their very first meeting, and they're also required by law to approve the first interim financial report. So right off the bat, before they've had any background on that at all, they're taking those actions because of the legally required timelines.

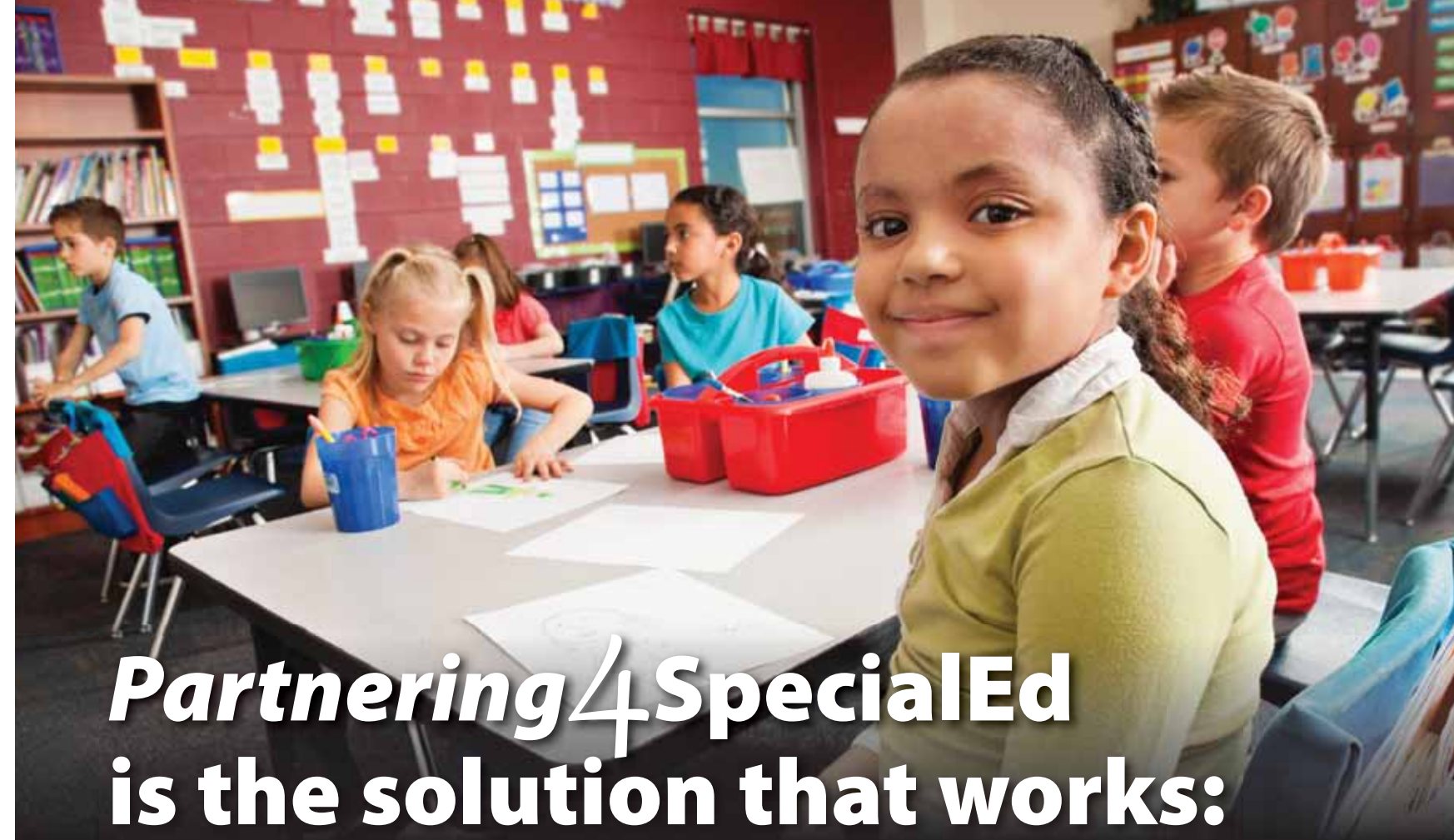
Top 10 things every new board member should learn to do

- 10 Think kids!
- 9 Work as a team and speak with one voice
- 8 Keep confidential matters confidential
- 7 Maintain the big picture view
- 6 Listen, learn and ask questions
- 5 Understand and stay within your role
- 4 Respect the past and work toward the future
- 3 Abide by the Brown Act
- 2 Accept that change takes time and planning
- 1 Think kids and advocate, advocate, advocate!

(Adapted from CSBA's New Board Member Orientation)

A great place to start learning about finance, then, is at their first CSBA Annual Conference, where they can attend the Orientation for

Continued on page 21



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Governance Q&A, continued from page 18



An orientation session is hugely important, but then new board members should also know that they can go back to the superintendent and ask their questions.
—Luan Burman Rivera

New Board Members, and in January there's the Institute for New and First-term Board Members that covers finance in greater detail.

LUAN: And of course there's an entire module on finance in the Masters in Governance curriculum.

LESLIE: And we always get some good information from the experts during our Forecast Webcast in January. So there's help to be had.

I think in the meantime, though, it's a perfectly good question to ask the superintendent: How can I as a new board member get up to speed? Do we have an orientation? If it's not offered, new board members need to ask to be oriented on finances, or curriculum, or facilities—whatever big things are happening in the district.

We really stress the importance of having a new board member orientation. My preference is that they do that as an entire board, with

the superintendent. Maybe it's about facilities or Program Improvement; ask 'How do I learn about all that? How do I know what that means?' They are learning a second language. And they should be strong enough, when somebody's using an acronym, to say 'would you help me remember what that means?'

LUAN: If the new board member does not understand the meaning of an acronym, then the odds are that members of the audience do not understand it either.

So are those orientations formal, noticed meetings?

LESLIE: Yes, everything is noticed. The only way they wouldn't be is if the meeting included less than a quorum and is not part of a serial meeting, where the same subject

is discussed with other board members in some combination that adds up to a quorum.

LUAN: An orientation session is hugely important, but then new board members should also know that they can go back to the superintendent and ask their questions. Perhaps the superintendent will recommend that they need to get more financial information, and therefore spend more time with the chief business official. Or if they want to know more about curriculum, they should see the person who is in charge of curriculum and instruction in the district. New board members should get an idea of who is in charge of these different programs and where they can get additional information.

So is the study session, or orientation session, a good way for a new board member to learn about the district's operations? Also, what do board members need to know about the students in their district?

LESLIE: They need to know what their student demographics are. They need to know how many schools they have. They need

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to know the names of the key people in the district, whether they're administrative staff, maintenance staff or principals, etc. Who are the board officers and what are their roles? How to reach the people you need to reach.



Whatever your interest is, you've got to try to make sure that there's fairness and equity through the policies you have in place.

—Leslie DeMersseman

And the preferred methods for doing that?

LUAN: Right.

LESLIE: I think there's another issue new board members need to be aware of. Maybe I ran for the board because I didn't think we were doing the best job we could for our GATE students. So the question to ask is, 'How can I bring up that interest?'

When I was on the board both of my kids were involved in drama. The head of the drama department and the band director put on a musical every year. Then they put on student productions and did competitions where they went out to other schools. It was really an award-winning program. They were putting in many, many more hours than any of our sports

how could I approach this so that it was looked at in comparison to other stipends? I didn't want to become the person who is advocating only for this one group. Bill suggested that I ask, 'What is our process for deciding what the stipend is for the various extracurricular activities that our staff is participating in? And how can we make sure that our stipends are fair and equitable for all of our extracurricular activities and for the staff participating in them?'

So it's getting at the policy level question. Whatever your interest is, you've got to try to make sure that there's fairness and equity through the policies you have in place.

LUAN: So it's balancing all of these different aspects of your decision making: Serving all the kids, working together as a team, responding to all your different constituent groups, and balancing in your own beliefs and values. Not losing those beliefs and values, but balancing them into all these other factors.

LESLIE: This is perfect for this conversation. Because the new board member has no idea ...

... Of how to balance their own beliefs and values—which is why they ran and maybe had a great deal to do with why they were elected—with the board's overall responsibilities?

LESLIE: Right, and with their legal responsibilities. Their own beliefs and values are not at the top of that list. But what's the most important thing you have to do? It's making sure that every child in the district has the very best opportunity that you can provide. That really is what our public education system is about.

Some of your consulting materials mention working as a team, speaking with one voice, and collective responsibility. Can you expand on what that means?

LESLIE: That's hard, the speaking with one voice. If I'm a new board member and that

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Training opportunities

Institute for New and First-term Board Members: This two-day seminar is held at locations throughout the state each spring. It is one of the best opportunities for newly elected and first-term trustees to learn about their unique role and responsibilities and sharpen their skills in effective governance, finance, human resources and student learning.

The Brown Act: What You Need to Know: Offered in conjunction with the Institute for New and First-term Board Members, this full-day workshop breaks down the complexities of the Ralph M. Brown Act to increase participants' knowledge of agendas, open meeting laws and use of closed sessions.

Links to the Institute, the Brown Act and other CSBA events—from complimentary webinars and webcasts, offered live as they occur and also archived for easy access anytime, to regional trainings located for easy access throughout the state—are available from CSBA's Training and Events page found at

www.csba.org/Events.aspx. And don't forget AEC—our Annual Education Conference and Trade Show, coming to San Francisco Nov. 29-Dec. 1. Information: aec.csba.org.

"The Brown Act: School Boards and Open Meeting Laws" This updated CSBA publication helps school board members understand the intent as well as the letter of laws governing deliberations and actions taken by school board members in board meetings. It's one of many publications and other products available from CSBA and other sources at the CSBA store: connect.csba.org/store.

Masters in Governance program: CSBA's pioneering governance leadership program that recognizes the necessity for the board and superintendent to work closely toward a common goal. The 60-hour program consists of nine modules which define the roles and responsibilities of school governance teams and provide tools that keep efforts focused on student learning. More information is available at www.csba.org/mig.aspx.

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evening I just lost a vote four to one and the media meets me out in the hall asking, 'What happened?' I could say, 'The rest of the board just doesn't get it. I'm voting like my constituency wants me to.'

LUAN: That's a really important point, because I've heard so many people say, 'My constituents want...' Well, who are your constituents? There are people who elected you, but once you're on the board, you're serving all of the children in your community. You're not serving a constituent group anymore. Making that shift is important.

LESLIE: And that principle also means standing behind the board's decision. Your responsibility is to deliberate at the board table, and then once the vote is taken, you stand behind that. You don't have to be the main cheerleader, but the answer to the reporter's question is: 'You know, we had a really good



So it's balancing all of these different aspects of your decision making: Serving all the kids, working together as a team, responding to all your different constituent groups, and balancing in your own beliefs and values. Not losing those beliefs and values, but balancing them into all these other factors.

—Luan Burman Rivera

discussion, I made my points as hard as I could, but the board voted and this is the direction we're going.' Because otherwise it throws the district into mass confusion.

I've also heard you say that maintaining confidentiality is an important thing for new board members to recognize.

LESLIE: They're going to hear things in closed session that cannot be shared. And there are only a few things that can be discussed in closed session.

LUAN: Basically, there are things that cannot be discussed in open session because it would be fiscally irresponsible to do so. In other words, if you're negotiating a contract with someone, you're not going to talk about that in open session because it could cost the taxpayers more money. So negotiating a contract, real estate transactions, any personnel issues, private things where privacy rights must be respected and due process followed—basically items protecting the rights of individuals—are all topics that must be discussed in closed session.

Continued on page 25



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*Formerly entitled *Protecting Our Children*.

Governance Q&A, continued from page 23



The big-picture view is to see that the district is well run, but not to run it. So it's putting in place what we want our kids to know and be able to do when they walk out of our doors.

—Leslie DeMersseman

LESLIE: Anything where there may be litigation. Now, this is the only part of the Brown Act that has teeth. Any person who violates the confidentiality of closed session, or executive session sometimes it's called, has actually committed a misdemeanor.

LUAN: There are serious legal consequences if any of that information leaks out. Board members cannot discuss these items with their spouses, their best friends or their cousins down the street. They really can't talk about those things with anyone else except the people in that room. And that's a hard one.

Another principle on the list is maintaining the big-picture view—is that regarding the students' welfare or what?

LESLIE: It's regarding everything. What we tell the board is, you're not the doers. You set up the big picture framework. You set up the policies;

you create the vision, what it is we want. The big picture view is to see that the district is well run, but not to run it. So it's putting in place what we want our kids to know and be able to do when they walk out of our doors. Then you say to the staff, 'How are you going to do that?' And then the staff does that. But it's not getting into that nitty-gritty, day-to-day stuff.

You've also talked about how new board members need to ask questions. How does understanding the history of the board and the district come into play?

LESLIE: Every two years during elections there's the potential of having people say and do awful things, and actually cause some damage. For one thing, you may not agree with the decisions that a prior board made. But once you are on a board for a while you understand why that decision was made. You weren't privy to all the information.

LUAN: I think what Leslie's saying is really important because I don't know how many times I've heard board members say, I really didn't agree with this, but now that I'm here and I understand why this decision was made, and it makes sense.

LESLIE: One of the things I love during a Good Beginnings workshop [from CSBA's Governance Consulting Services] is that by the time you're done you've got charts that go all the way around the room, and it's all about what they want for their kids. And all of a sudden everybody recognizes that, you know what, we've got a lot more in common than not. We may disagree about how we want to get there, but we're here for the right reasons. And if you understand that, you can get past some of that other stuff and you can have the better conversations.

What other questions should new board members ask?

LUAN: Questions like, how does something get to the agenda? What do I do if have questions before the board meeting? That's important information for them to have.

Continued on page 48

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HITTING THE WALL

by Scott LaFee

School construction and modernization funds are hard to get—
but not impossible

For decades, school construction and modernization in California has been a matter of basic necessity. A burgeoning population demanded the constant building and expansion of campuses.

Proof was in the numbers: Enrollment in California's public schools, kindergarten through high school, exceeds 6.2 million. That's 1.5 million more than Texas, 3.5 million more than either New York or Florida. It's equivalent to the entire population of Tennessee, the nation's 14th largest state, or the entire country of El Salvador.

CAlifornia students attend almost 1,000 school districts from San Ysidro to Crescent City, ranging in size from almost

700,000 students to fewer than 20, spending their days on nearly 10,000 individual campuses—more than \$80 billion in facilities.

By and large, the state’s voters have willingly paid for the construction needed to match past, present and projected enrollment growth. Between 1996 and 2006, for example, they approved almost \$100 billion in school construction bonds at the state and local level. Even in recent, tougher times, from January 2008 to December 2010, local voters OK’d 179 of 221 general obligation bonds, an 81 percent passage rate.

But the Great Recession may finally be exerting its full effect. In this case, past is not prologue, at least not for the foreseeable future. To fully understand why—and what districts and school boards can do—requires a little history and context.

After more than a decade of general success in passing bonds, the state hit a wall in 2010 when a proposal to put a \$6.1 billion construction and modernization bond on the ballot failed. Three-quarters of the funds would

have gone to K-12 schools. State legislators balked for several reasons: They didn’t want to add to the state’s debt service obligations in a time of severe deficits. Funding for a statewide bond campaign—estimated to be as much as \$9 million—was in doubt. And while early polling suggested a majority of voters would support a bond, the numbers weren’t deemed large enough to guarantee passage.

In the same year, voters passed 61 local bonds with a total value of \$5 billion, but they also rejected 22 other bonds totaling \$576 million. That’s a 75 percent approval rate—still good, and a testament to Californians’ commitment to growing the state’s education system—but it was still a significant decline from earlier levels.

More worrisome, though, is what lies ahead. The state’s school-age population continues to grow, albeit not as fast as in the past and more unevenly (many districts are experiencing decline while others grow), but the prospects for funding new school construction and modernization appear more clouded and confounding than ever.

“In the past, there’s been a pretty sizeable bond—\$7 [billion] to \$11 billion—passed by voters every couple of years,” says Jeffrey M. Vincent, deputy director of the Center for Cities

Investing in schools is an ongoing affair. You have to keep it up, just like owning a car.

*Jeffrey M. Vincent,
deputy director of the Center for Cities and Schools*

and Schools, a policy research institute at the University of California, Berkeley.

“The question going forward is whether we still have that kind of appetite. Investing in schools is an ongoing affair. You have to keep it up, just like owning a car. The state views construction funding as a shared responsibility with local districts, but because the process is essentially bond-driven, the state’s responsibility really only exists when there’s the political will to push through a bond. It remains to be seen if there will be a new bond any time soon.”

There is talk in Sacramento of putting a new statewide school construction measure on the November 2012 ballot, but no guarantees at the moment it will happen—for many of the same reasons that killed the proposed 2010 bond. Meanwhile, available monies from previously approved bonds are disappearing as the State Allocation Board, a group of government officials and appointees, continues to dispense funds to qualifying districts and



projects. Indeed, the SAB has made efforts to accelerate its funding process.

At this writing, just \$240 million remains of the \$6.7 billion approved by voters in 1998’s Proposition 1A. For Proposition 47, passed in 2002, there’s \$795 million left from the original \$11.4 billion bond. For Proposition 55, it’s \$1.2 billion out of \$10 billion approved in 2004. For Proposition 1D, it’s \$2.4 billion of \$7.3 billion passed in 2006.

Know me the money

For school districts and boards throughout California, the challenge is how to get a piece of this ever-shrinking pie—or how to bake their own solution in the form of a local bond or alternative revenue source.

In a nutshell, school districts have three primary sources for funding for facilities:

First and foremost are the general obligation bonds raised by the state and/or local governments and districts. These are monies based on taxes voters have agreed to impose upon themselves. Statewide bond measures require a simple majority—50 percent plus one—to pass.

Prior to 2001, local efforts needed two-thirds voter approval, which resulted in more than a 40 percent failure rate. But California voters passed Proposition 39 in 2000, which allowed for some school bonds to pass with just a 55 percent majority in exchange for greater accountability requirements and limits on the amount bonded, among other provisions. Local districts can opt for either the two-thirds or 55 percent approval requirement. Since then almost 40 percent of districts—in all but five counties—have passed at least one bond. Not surprisingly, districts using the 55 percent approval standard have been the most successful, with 83 percent of such bonds passing, generating \$51.5 billion in facility funds since 2000.

Second, districts can levy fees on developers of residential and commercial projects within their boundaries. These fees are premised on the idea that new construction (that is, new homes) means more students and associated costs for the home district. In order to impose the fees, school officials must substantiate the growth and show how new or increased fees will address it. Rates are determined by the district, and the resulting

income can only be used for facilities.

Third, there are “facility districts” created to resolve specific issues in specific areas. Perhaps the best known are Mello-Roos community facility districts, which must be approved by two-thirds of voters. Mello-Roos requires property owners in the targeted area to pay a special tax. Another form is the school facility improvement district, which creates funding through general

obligation bonds based on targeted property values within a district. Because they can be created with 55 percent voter approval, they tend to be more common than Mello-Roos.

Parcel taxes are sometimes used as a last-ditch remedy for funding (mostly because they require a two-thirds majority to pass). Between

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2001 and 2009, 132 school districts in the state floated parcel taxes, with 83 passing.

But the success ratio is deceptive, say experts. The vast majority of approved parcel tax proposals happened in small districts in wealthy areas. For districts with poor students, parcel tax proposals are more routinely rejected.

Case in point: The 2,600-student Piedmont Unified School District in the San Francisco Bay area has successfully passed seven parcel taxes in the past 25 years. Local homeowners pay more than \$2,000 in school parcel taxes annually. Conversely, the 694,000-student Los Angeles Unified School District, which encompasses scores of diverse communities, failed to pass a \$100 annual parcel tax in 2010.

The best days of parcel taxes may be behind us, in any event. Lately, voters seem generally disinclined to approve them; of 17 parcel tax elections held around the state in November 2010, just two met the two-thirds threshold requirement.

Are we having funds yet?

Once, in more golden times in the Golden State, the SAB funded projects on an as-requested basis, up to the bond total authorized by California voters. It did so by borrowing from the state's Pooled Money Investment Account, reimbursing it when new, regularly approved general obligation bonds were sold.

In 2008, however, that funding model changed. Spurred by the state's chronic budget crises and difficult economic times, the Pooled Money Investment Board stopped disbursing PMIA funds for capital projects, including school construction.

"Consequently, the SAB's ability to apportion, or reserve, funds is now limited to actual cash on hand from state bond sales," says Lisa Silverman, executive officer of SAB and the Office of Public School Construction, which implements and administers the state's School Facility Program.

The SAB continues to approve projects on a monthly basis, placing them on an unfunded list, Silverman reports. "As funds become available [from bond sales], projects with unfunded approvals are granted apportionments," she adds.

Originally, the apportionments were granted based on a process that allowed schools up to 18 months after approval to request funding. In 2010, the SAB changed regulations to speed access to funds. To qualify for fast-tracked funding, districts must certify that their projects will break ground within

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In the School Facility Program's October 2011 disbursement, the SAB apportioned \$923.8 million for 377 fast-tracked projects in 154 school

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CONSTRUCTION TOOLKIT

The following information resources are available free of charge online:

What Types of School Capital Projects Are Voters Willing to Support?

Ron Zimmer, et al.; Vanderbilt University, 2011

<http://bit.ly/GWdbeK>

The Complex and Multi-faceted Nature of School Construction Costs: Factors Affecting California

Jeffrey Vincent and Deborah McKoy; Center for Cities and Schools, University of California, Berkeley, 2008

<http://bit.ly/GXTbpN>

Schools of the Future Report

State Superintendent of Public Instruction Schools of the Future Advisory Team; California Department of Education, 2011

<http://1.usa.gov/GNoosu>

An overview of the State School Facility Programs

State Allocation Board, Office of School Construction, 2011

<http://bit.ly/GNrN9p>

PK-12 Public School Facility Infrastructure Fact Sheet

21st Century School Fund, 2011

<http://bit.ly/H1TRbz>

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districts across the state. But it also left unfunded a list of “shovel-ready” projects totaling \$676 million, with more projects regularly being added. Without a new bond, funding for new school construction is slated to run out in April; for modernization projects, in September.

“It’s difficult to predict when your project may get funded in today’s climate,” observes Joe Dixon, assistant superintendent of facilities and governmental relations for the 56,000-student Santa Ana Unified School District, in something of an understatement.

Dennis Dunston, director of facilities planning and program management for Total School Solutions, a consulting firm, was more blunt when asked about the funding situation: “The word that comes to mind is dismal.”

Construction reduction

Four elemental factors influence school construction costs: state regulations, local politics, prevailing practices and design standards, and regional market conditions.

The recessionary collapse of the housing market has hurt home builders, real estate agents and sellers—and school districts that can no longer afford bonds.

The value of a bond depends upon assessed property values. The greater the value of the real estate in a community, the greater the amount of money a district can raise.

In California these days, values are in decline. Most housing in the state is worth less (on paper at least) than it was just a few years ago. “Districts may have the authority to sell bonds

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for a certain amount, but they no longer have the assessed value to do it,” Dunston says. “As a result, projects get postponed or cancelled.”

There are associated impacts, as pointed out by Vincent at UC Berkeley’s Center for Cities and Schools: “The school construction system was built on a three-legged stool of funding from the state, local bonds and developer fees. It was a system that made sense, but now with little to no home construction, the third leg [developer fees] is gone.”

Equally concerning is whether voters have lost interest in supporting new bonds and school construction. Research on the subject is sparse, but a recent study at Vanderbilt University found that voters tended to prefer maintenance projects over new construction. The study’s authors speculate that voters consider the former as simply “maintaining” current spending levels while new construction projects mean additional, greater costs.

That’s not necessarily true, but the authors predict many districts will find it increasingly difficult to replace existing buildings with new facilities, however badly needed, if voters think current expenditures are sufficient. If that turns out to be the case, it suggests the importance and need for state and federal funding will only become more vital in coming years.

Size matters

As with most things, when it comes to school construction funding, districts have different needs and different hurdles to overcome. While eligibility for state support is not directly affected by the size and demographics of a particular district, according to Silverman at the SAB, there are real-world delineations in their respective challenges.

“Big districts tend to be stopped by politics or environmental issues,” says Tom Duffy, legislative director for the advocacy group Coalition for Adequate School Housing. “Small districts are stopped by finances.”

Or more precisely, a lack thereof. In the complex world of construction bonding, buying and building, it pays to be rich in funding and know-how.

To help ensure success, Silverman generally recommends that districts contact the state’s Office of Public School Construction early in their planning process for guidance on what funds are available and their eligibility requirements.

“It’s important that districts are familiar with the proper approval processes,” Silverman says.

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"The district may submit the funding application after the district has received approval by the California Department of Education and the Division of the State Architect of the proposed project and the project site, if applicable. In most cases, the district has determined its eligibility through an eligibility application before applying for funding. However, if the district hasn't established eligibility for the project previously, it may submit the eligibility package with the funding package."

If that sounds confusing, that's because it is.

"By and large, the more money that states contribute, the more accountability they demand and the more hoops that locals have to jump through," explains Vincent, at UC Berkeley. "Some of those hoops are well-meaning, but districts really vary in their ability to manage construction and process. It's a real problem, but the state understandably seeks to treat every district the same, more or less. It's not going to do anything for local districts who don't first try to help themselves."

Indeed, every expert contacted for this story said the primary reason school districts fail to achieve funding and completion of proposed

By and large, the more money that states contribute, the more accountability they demand and the more hoops that locals have to jump through.

Jeffrey M. Vincent,
deputy director of the Center for Cities and Schools

construction projects is a lack of adequate planning and effective follow-through.

"That's the biggest issue," sums up Dunston, at Total School Solutions. "Not planning in a timely manner, not actually knowing what you need and when you'll need it. A district's facilities master plan for new construction and modernization should look out at least 10 years. It should be updated annually. I've seen a lot of district master plans that were two or three years old and they needed to be revamped completely due to changes in enrollment, demographics and the economy."

But Dunston also concedes that this may be more easily said than done.

"Larger districts, suburban or urban, typically have an advantage. They are likely to have paid staff that keeps up with state regulations and laws, people whose jobs

specifically include updating master plans. Of course, these are often the people cut first when you have staff reductions due to budget cuts."

Smaller districts tend to come up short.

"They don't have experts on staff," Dunston continues. "They don't have the internal resources. Instead, they must rely on outside help, such as consultants. One problem is that they often don't know when they need to bring in a consultant. There's nobody around to advise when to act."

County offices of education have traditionally been a resource, sometimes providing the necessary experts and connections, but budgetary shortfalls have reduced COE services across the board.

One novel exception may be an ongoing experiment at the San Diego County Office of Education. After budget cuts effectively

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eliminated all of the office's facilities-related services in 2006, the facilities division reinvented and renamed itself as an "enterprise" activity, Mikal Nicholls, senior director of the Educational Facility Solutions Group, says it's nonprofit, self-sustaining and, as far as he knows, unique: "We're the only county office of education providing services this way. It's a risk-reward model. We survive on the funding we receive from districts paying for our services."

Like many of their commercial competitors, Nicholls says EFSG provides a spectrum of services, from technical consulting to turn-key work, taking a project from concept to completion. To do so, it maintains contracts with more than 70 firms that can provide everything from engineering and architectural advice to inspections.

Local districts can join the San Diego County EFSG for free—and potentially save money through project bundling with other districts involved in concurrent projects. According to Nicholls, his division's services are competitive, if not always cheapest.

"But one thing we do point to is trust. We're not here to make a profit on district projects. We're part of the county office of education,

A district's facilities master plan for new construction and modernization should look out at least 10 years.

Dennis Dunston, director of facilities planning and program management for Total School Solutions

which has been around forever," Nicholls explains. "People know us, and that's important, especially for smaller districts where resources and technical knowledge might be limited—where the superintendent, for example, might also be the principal and not really know much about construction bonds or building schools."

Building a future

Viewed dispassionately, there is no gilding the building scene. It will likely take years for California's economy to completely recover, particularly in terms of housing and real estate, which means school construction will also lag.

Population growth is no guarantee that a district will be able to build either, as Dixon, the facilities director at Santa Ana Unified, points out: "You still have to find the matching funds, officially close out previous projects, overcome political obstacles and hope that your assessed

valuation is sufficient."

Most observers say programs and proposals to repair, upgrade and modernize existing infrastructure will increasingly be the focus in most districts with facilities shortages. Some modernization will be necessary, of course, just to meet the upgraded technological needs of students learning in the 21st century, but also it might also be a smarter way to deal with the bottom line.

"I think you'll see more districts address longstanding problems of deferred maintenance. It's not as dramatic as building a new school, but it's cheaper," Vincent advises.

In the near future, at least, the need for new classrooms is likely to be resolved by an old solution, adds Duffy: "Nothing is more permanent in California than a portable school building." CS

Scott LaFee is a frequent contributor to *California Schools*.

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BY CAROL BRYDOLF

DRAWING THE LINES

Like it or loathe it, California's Voting Rights Act is a force to be reckoned with

California's groundbreaking Voting Rights Act has generated some pretty negative press in recent years. Writing recently in a Sacramento-area news weekly that's widely read in the Capitol, one commentator went so far as to ask whether the law wasn't more of a "fee-generator for lawyers" than an instrument for ensuring that underrepresented voters have a say in governing their cities, hospitals, counties, community colleges and schools.

An op-ed in the spring 2009 issue of CSBA's *California Schools* magazine by voting rights experts Marguerite Leoni and Chris Skinnell was equally harsh. "The act is no model of legal draftsmanship; its language is unclear and contradictory," lamented the pair, both attorneys.

Enacted in 2003, the law is designed to promote political representation of diverse communities. It approaches this goal by allowing plaintiffs to sue to get rid of “at-large” elections in which all voters in a given jurisdiction—a school district, say—cast ballots for every seat on a governing board. The law promotes “by-trustee-area” elections to subdivide municipalities, school districts or counties into “trustee areas,” giving minority voters a better chance of electing candidates of their choice. Candidates must live in the area they are competing to represent, and they are elected only by voters in that area, rather than by voters throughout the community as a whole.

The CVRA—not to be confused with the landmark federal Voting Rights Act of 1965—is based on the assumption that at-large elections often put “voters who are members of a race, color or language minority group” at a political disadvantage, making it difficult or impossible for them to elect the candidates they prefer because they are consistently outvoted by voters elsewhere in the jurisdiction.

In a letter to then-Gov. Gray Davis, who signed the CVRA into law in 2002, civil rights attorney Steve Reyes explained why the law is so important.

“Although California has already become a majority-minority state, Latino political representation has not kept pace with the staggering growth of the Latino community,” Reyes wrote. “This stark disparity underscores the continued need for measures, legislative or otherwise, to help governing bodies of local government better reflect the communities they serve.”

The issue of voting rights is emotionally charged, dealing as it does with changing demographics, racial politics and election systems. This would be a potent mix in the best of times, but with school district and other public agency budgets pushed to the limit, it’s especially volatile now.

Thanks to generous provisions in the law—which expands upon rights conferred in federal legislation and was written in close consultation with some of the attorneys who have dedicated themselves to enforcing it—a handful of school districts have found themselves on the losing end of costly legal challenges.

“This is the most aggressive voting rights law in the country,” says political consultant Paul Mitchell, president of Redistricting Partners, a company that has helped a number of public agencies comply with the voting rights law and is hard at work on a redistricting project for the Los Angeles Unified School District. “It’s much easier to bring a case and much easier to prove a case and collect damages.”

“Clearly the intent is to empower minority voters,” he adds. “But the law is written in such a way that makes it very easy to sue a district.”

More than 90 percent of California’s school districts elect governing boards using at-large systems, so the law has significant implications for public schools.

There’s been plenty of grumbling about what some consider the law’s more extreme provisions, and apprehension about the expense and potential impacts of changing election rules. To determine whether they risk violating the law, most districts that use at-large election systems will need to hire expert help to analyze

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Paul Mitchell, president of Redistricting Partners

voting records and demographic data. They’ll need to draw trustee-area boundaries if the numbers show evidence of what the law calls “racially polarized voting” and hold public hearings on any potential election rule changes. In addition, local educational agencies need to either get a waiver from the State Board of Education to change electoral systems or—after submitting their maps to their respective County Committee on School District Organization for approval—put the matter before voters.

‘IT’S A GOOD THING’

But a growing number of school districts are tackling these difficult issues head on—many of them ably assisted by their respective county offices of education. These CVRA pioneers say a district can comply with the act without losing local autonomy or breaking the bank. In the process, of course, these LEAs are taking steps toward accomplishing the law’s mission: ensuring that all members of California’s increasingly diverse communities have a voice.

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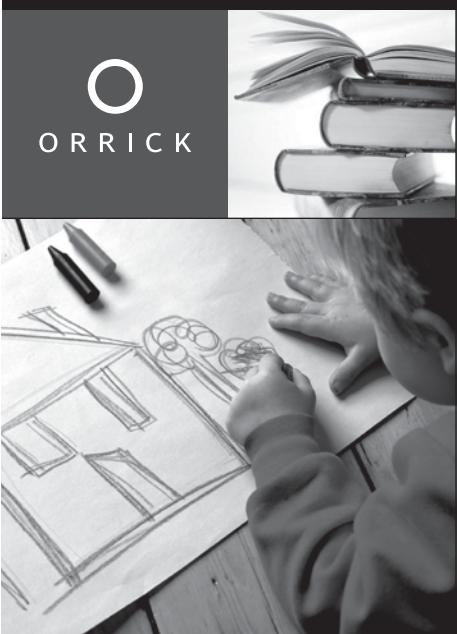


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Drawing the lines, continued from page 40

"Here in Tulare County, a lot of public agencies have gone to a different way of electing school boards, community college and hospital boards and city councils," says Donna Martin, a board member in the 27,400-student Visalia Unified School District and member of CSBA's Delegate Assembly. "We saw that agencies were being sued; we hired a demographer, and we appointed a committee. We held public hearings. It wasn't that big a deal. It's a good thing to do to ensure that everyone is represented."

Last November Martin was elected to her third term in the district's first by-trustee-area election. She says she liked running in a smaller geographic region. "I did more walking and had more face-to-face contact than in any previous campaign," she says. "I still feel that I represent the interests of the district as a whole, but I was able to get to know my particular area."

Visalia voters also elected the district's first Latina trustee—a development Martin welcomed after having served as the sole woman on the board for eight years.

It's no secret that California's population is becoming increasingly diverse. Supporters of the CVRA say the law can help correct any perceived conflict between the composition of the governing boards that oversee the schools and the voting-age population of the communities they serve. Students of Hispanic descent are already the largest subgroup in the state's K-12 public school population, but the vast majority of school board members are white.

Experts familiar with the law say that the recent release of 2010 U.S. Census figures—

and the required redistricting studies that accompany the release of these data every decade—makes this an especially opportune time for LEAs to examine local voting patterns and demographics to determine whether their election rules are legal under the law.

The Lawyers' Committee for Civil Rights of the San Francisco Bay Area, which has brought or consulted on all the cases filed under the voting rights act so far, has sent so-called "demand" letters to dozens of school districts in recent years warning of future legal action unless these jurisdictions got rid of their at-large election systems.

"Counsel for plaintiffs will contend that the meter on attorneys' fees starts ticking when the district receives the letter, and the costs can run up pretty fast," says Peter Fagen, founding partner of Fagen, Friedman & Fulfrost, a firm that advises public agencies on CVRA compliance.

Jessica Pfisterer, legal fellow with the Lawyers' Committee's California Voting Rights Institute, has little sympathy for districts that are complaining about paying big legal fees to attorneys who represent potentially disenfranchised voters. The Lawyers' Committee did not request attorney fee awards from a number of school districts in Fresno and San Diego counties that responded quickly to demand letters—agreeing to either change their election rules or to study whether their at-large election systems are putting minority voters at a political disadvantage.

"If they are asking for time to do a study just as a stalling tactic, that's a different situation," Pfisterer says.

When we get calls from community members asking for help, it's because some residents feel they can never get anyone elected to the board because they constitute only 35 percent or 40 percent of the overall voting population.

Jessica Pfisterer, legal fellow with the Lawyers' Committee's California Voting Rights Institute

It's inaccurate, she adds, for critics to argue that greedy attorneys are taking advantage of cash-strapped districts.

"The law has been on the books for years," she says. "When we get calls from community members asking for help, it's because some residents feel they can never get anyone elected to the board because they constitute only 35 percent or 40 percent of the overall voting population."

'ONLY SAFE HARBOR'

It's clear that districts and other public agencies risk paying a hefty price for not taking demand letters seriously. Attorneys for three Latino voters in the Madera Unified School District asked the court to order the district and Madera County Board of Education to pay them \$1.7 million in legal fees, even though the district agreed to change its election system within six weeks of receiving a demand letter from the Lawyers' Committee. Earlier this year, the California 5th District Court of Appeal

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affirmed a lower court decision that eliminated the county as a plaintiff and reduced the fee award to \$162,500.

“It was never about the money,” says Carlos Uranga, a plaintiff in the Madera case who had run twice unsuccessfully for a school board seat under the old at-large election system. “We were asking for a seat at the table. It was about giving people the opportunity to participate in the process and perhaps elect a Hispanic candidate.”

The process of convincing the board to change its election system was emotional and at times the debate “got ugly,” Uranga says. “People accused us of getting some hot-shot lawyers who were taking money away from the Madera Unified School District,” he says. “We had to educate people about the benefits of the law.”

In the district’s first by-trustee-area election, three Latino candidates won seats on the seven-member board. The district also recently hired a Latino superintendent.

“I am overjoyed to find that in this case the system worked,” Uranga says.

The city of Modesto, which unsuccessfully challenged the law in court, eventually agreed to eliminate its at-large system. The legal battle cost the city nearly \$5 million in legal fees to plaintiffs and their own attorneys.

“We’ve been trying to work proactively with districts,” says Grant Herndon, general counsel with Schools Legal Services, a consortium of the 47 districts in Kern County and more than a dozen LEAs in neighboring counties. “At the moment, the only safe harbor is to change to a by-trustee-area method for electing the governing board,” he says.

After spending many hours in board meetings and public hearings in districts

Our advice to districts is: ‘You need to deal with this.’ At the very least, districts need to assess their voting patterns to see what the data show.

Debra Brown, a senior legislative advocate with CSBA

throughout the region, Herndon says he has been very impressed by the thoughtful nature of trustee discussions about the pros and cons of eliminating at-large election systems. “Board members have carefully weighed the potential benefits and complexities of the issue,” he says, “and while doing so, they have acted as careful stewards of public funds.”

CSBA has conducted two statewide surveys to assess how districts are responding to the law as part of a larger campaign to tailor association services to members’ needs. In 2009, CSBA sponsored legislation that would have established an alternative process for resolving voter complaints that would have been less expensive than going to court. The bill died in committee.

“We’ve been working on this for almost three years,” says Debra Brown, a senior legislative advocate with CSBA. “We’ve found that county offices of education have become quite involved. It’s great when they can provide support. Our advice to districts is: ‘You need to deal with this.’ At the very least, districts need to assess their voting patterns to see what the data show.”

The San Diego County Office of Education has been especially aggressive, both in educating the 41 districts under its jurisdiction about the law and in providing expert help with

the mechanics of analyzing the numbers. It allocated about \$120,000 to provide basic legal and demographic advice to help get districts started on detailed statistical studies and gave districts access to a countywide demographic database to help draw new boundaries.

“We wanted to protect them from potential litigation if they had issues and work with them collaboratively throughout the whole process,” says Lora Duzyk, San Diego’s assistant superintendent for business services. “We paid for some of the initial analysis on the front end, but districts paid for the rest of the work.”

The Vista Unified School District, with an enrollment of 23,000 students—more than half of them Latino—was one of the first in San Diego to finalize an election rule change. Last year a divided board approved the switch to trustee-area districts in a region that has a significant Latino population but no Latino board members. The first board election under the new rules will take place in November.

The district opted to seek a waiver from the State Board of Education to allow the change to trustee-area elections—the strategy chosen by most of the LEAs that have made the switch thus far. The law permits public agencies to seek an SBE waiver rather than putting the matter before voters. If local voters reject a proposed move to trustee-area elections, a public agency can still be sued successfully if its at-large election system is found to violate the CVRA.

“I think it would have been hard to argue that we were representative of the community,” says Vista trustee Steve Lilly, who was board president when the board voted to eliminate its at-large

Continued on page 46



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system. “A number of people were against making the change. But I understand that if we want to control our own destiny, we needed to do this ourselves. Can we prove that increasing voter participation will mean better schools? I don’t think we can. But I do think if we believe in the democratic process and citizen governing boards, we need to have good community representation. My hope is that this sets the stage for the Latino voters to become more active.”

DELEGATE ASSEMBLY
ADDRESSES THE ISSUE

During a spirited discussion of the law at CSBA’s Delegate Assembly in San Diego last year, a number of delegates expressed dismay at the potential expense involved in drawing up redistricting plans. Despite reassurances from a number of delegates who were enthusiastic about the way trustee-area elections are working in their districts, some delegates said they were worried that moving to trustee areas could divide districts into competing regions—making it difficult for board members to act on behalf of all students in the district.

With the need to protect minority rights and the need to avoid expensive and divisive lawsuits, it’s time for California’s school boards and other bodies to move to a district-based system. The taxpayers don’t have the cash to fight for a potentially unfair system.

Paul Mitchell, president of Redistricting Partners

“One of the things I find most troubling about moving from an at-large system is that in some instances it’s already hard enough to get all members of a board to care about all students in the district,” says Larry Miles, a trustee from the San Juan Unified School District and delegate from CSBA’s Region 6. “District elections raise the specter that some trustees may feel they’ve got permission not to care about certain students.”

In an informal poll taken during the Assembly, most delegates said their districts still use at-large systems.

“I was a bit stunned to hear that so many boards weren’t doing anything,” says Visalia board member Martin, who invited delegates to call her if they needed reassurance about

complying with CVRA. “Most of us in Region 12 [Tulare and Kern counties] have been dealing with this. But I heard my colleagues worrying that it will cost too much to do a study. I thought ‘Really?’ Wouldn’t it be more prudent to take action now and avoid costly litigation?”

CSBA Region 20 Delegate Leslie Reynolds, a board member in the San Jose Unified School District, also urged her fellow board members to study CVRA compliance sooner rather than later and invited colleagues from districts that are considering moving to trustee-area elections to talk with her and others who have made the change.

“I hear a lot of fear in the room,” she said, during the December Delegate Assembly discussion. “In San Jose, with 33,000 students,

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As I See It: School Districts and the California Voting Rights Act

Marguerite Leoni and Chris Skinnell, California Schools magazine, Spring 2009
<http://bit.ly/fpKe5U>

California Voting Rights Act Revisited

Peter K. Fagen, Roy A. Combs and Tiffany M. Santos, Fagen Friedman & Fulfroest LLP
<http://bit.ly/AuOkS7>
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At-large Voting: Will Your Elections change?

Webinar by Peter K. Fagen, Fagen Friedman & Fulfroest LLP
<http://bit.ly/ytMaQq>

Protecting the Voice of the Voter

California Voting Rights Institute
<http://bit.ly/xjIFuA>

The California Voting Rights Act: New Rules and Risks for California Cities, Schools and Special Districts

National Demographics Corp.
<http://bit.ly/wGMIor>

California’s Voting Rights Act and the New Lawsuits

2011 guest column by former Assembly Member Rod Pacheco
<http://bit.ly/dE6MMn>

—Carol Brydolf

we’ve had trustee area elections for a while. We can help you with questions. It works for us.”

Former Assembly Member Rod Pacheco, honored as CSBA’s Freshman Legislator of the Year in 1997, sympathized with school board members who are reluctant to change electoral systems that they believe have worked effectively.

“There are benefits to having an at-large electoral system,” he wrote in a 2011 guest

column for the California City News blog.

“But with the need to protect minority rights and the need to avoid expensive and divisive lawsuits, it’s time for California’s school boards and other bodies to move to a district-based system. The taxpayers don’t have the cash to fight for a potentially unfair system.”CS

Carol Brydolf (cbrydolf@csba.org) is a staff writer for California Schools.

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You learn to be flexible when working with people. Because if you really want to make a difference for the children, that's a crucial skill.

—Luan Burman Rivera

LESLIE: Do we have a governance handbook, and what are the bylaws and protocols? Do we have agreements about how we work, and what are they? Can I talk about them? What if I don't like them?

LUAN: I like to encourage new board members to be patient with themselves. It's a huge job, there's so much to learn, and not to feel upset and frustrated. They won't know everything right away. There's a huge learning curve there.

As long as they're committed to doing the work, being prepared and learning the information as they go along, they should feel good about that and just be patient with themselves.

LESLIE: It really is a two-year process. The first year everything is new, and the second year you start having the "aha" moments.

That's why there's a whole board and not just one person.

LESLIE: Right.

LUAN: The other thing I would say is that I think learning to listen empathetically is really crucial. The reason there are five or seven people on your board is that all these different perspectives are brought to the table to provide the opportunity for good deliberations to occur. It affords the board the opportunity to come to a good, collective decision that is in the best interests of kids.

But you have to learn to really listen to each other. It's not good deliberation if I shut down as soon as Leslie starts to talk because Leslie and I ran against each other and I'm mad at her. You have to really learn to listen to everyone and take those perspectives in. You might have an

opinion about an issue, but you need to get to where you can listen to other people with an open mind and take in those opinions, as well.

LESLIE: The other thing that I've often said to new board members is that most of them have had multiple leadership responsibilities in their lives. Serving on a body with collective authority is unnatural. It's very hard work. For most people who serve on boards, it's just not natural.

LUAN: Other than being a parent, it was the biggest growth experience of my life.

LESLIE: Absolutely true.

It's a humbling experience?

LUAN: Humbling and a big growth experience, too, it's both. You really learn so much. You learn so much about education, about schools, but you also learn about working with people too. You learn to be flexible when working with people. Because if you really want to make a difference for the children, that's a crucial skill. CS

Kristi Garrett (kgarrett@csba.org) is a staff writer for *California Schools*.



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