

STATE OF ARIZONA

Joint Committee on Capital Review

STATE
SENATE

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HOUSE OF
REPRESENTATIVES

TOM BOONE
CHAIRMAN 2006
AMANDA AGUIRRE
ANDY BIGGS
JACK A. BROWN
PHIL LOPES
RUSSELL K. PEARCE
STEPHEN TULLY

**MINUTES OF THE MEETING
JOINT COMMITTEE ON CAPITAL REVIEW**

Thursday, July 27, 2006

The Chairman called the meeting to order at 1:45 p.m., Thursday, July 27, 2006 in House Hearing Room 4 and attendance was as follows:

Members:	Senator Burns, Vice-Chairman	Representative Boone, Chairman
	Senator Bee	Representative Biggs
	Senator Gould	Representative Brown
	Senator Johnson	Representative Lopes
		Representative Tully
Absent:	Senator Aboud	Representative A. Aguirre
	Senator L. Aguirre	Representative Pearce
	Senator Cannell	

Senator Burns moved the Committee approve the minutes of June 15, 2006, as presented. The motion carried.

COCHISE COMMUNITY COLLEGE DISTRICT – Review of General Obligation Bond Projects.

Ms. Amy Strauss, JLBC Staff, presented the review of the Cochise Community College District's proposed \$88 million General Obligation (GO) bond issuance. The district plans to hold a bond election in November 2006 for a total of \$88 million in bonds. This would be combined with approximately \$22 million from other sources for a total of \$110 million dollars in projects. This will be the Committee's fourth review of a Community College's GO bond issuance. Previously, the Committee favorably reviewed bond issuances from Maricopa, Yuma-LaPaz and Pinal Community Colleges with the provision that the district return prior to each actual bond issuance.

The district is planning 3 issuances. Each issuance will be over a 20 year period with an estimated interest rate of 5.5% in 2007, and 6% for the 2009 and 2011 issuances. Total interest payments will equal \$64 million with total debt service at \$152 million.

Attachment 1 of the JLBC recommendation memo provides a summary of new and renovated projects that will be funded by proceeds from the bonds as well as other funds. The projects will add approximately 131,000 square feet to the district with an estimated average cost per square foot of \$271 for new projects. This is comparable to Pinal and Yuma-LaPaz costs per square foot associated with bond issuances. After adding the new space, Cochise will have approximately 67 square feet per Full-Time Student Equivalent (FTSE) which is lower in comparison to Pinal's projection of 224 square feet per FTSE and 123 square feet per FTSE at Yuma-LaPaz. Debt service is paid from property taxes which will result in an increase of \$57 for every \$100,000 of house value.

There was no discussion on this item.

Senator Burns moved the Committee give a favorable review as recommended in option 2 by the JLBC Staff to the proposed \$87.8 million General Obligation bond issuance with the provision that the district return to the Committee for review prior to each actual bond issuance. The motion carried.

ARIZONA STATE SCHOOLS FOR THE DEAF AND THE BLIND – Review of Preliminary Cost Estimates and Procurement Method for Capital Projects.

Mr. Nick Klingerman, JLBC Staff, presented the Arizona State Schools for the Deaf and the Blind (ASDB) review of the Preliminary Cost Estimates and Procurement Method for Capital Projects. In the FY 2007 budget, ASDB received \$19 million for capital projects. The appropriation did not specify a list of projects to be funded, instead, it required that ASDB submit a preliminary expenditure plan for the projects and the procurement method for Committee review. The list of projects is listed on page 2 of the JLBC recommendation memo with an estimated cost and order of priority assigned to each project. Based on the preliminary cost estimates, the \$19 million would only be able to fund the first 3 projects on the list. However, since these costs are preliminary estimates, it is possible that the costs will change. ASDB has submitted 3 additional projects they would like to fund should the money from the \$19 million become available for the projects. This will not be the only time this project will be up for review by the Committee, since ASDB is required to submit the final cost estimate and scope for each project.

Mr. Lorenzo Martinez, JLBC Staff, added that another component of this item is to review the procurement method for these projects. ASDB is proposing to work with the Arizona Department of Administration (ADOA) and to use the Construction Manager at Risk (CMR) procurement method. Under this method, they will develop a list of the most qualified construction managers and negotiate a fee with the most qualified construction manager. The construction manager will then work with ASDB to develop a cost estimate of the design. When the design is complete, ASDB would then negotiate a guaranteed maximum price for the construction with that construction manager. An alternative method that would have a qualified list of contractors competitively bid for the project is not allowed under existing statute.

Chairman Tom Boone stated that he is a proponent of the qualified select bidders list method that is available to the K-12 school systems. He asked if there needs to be a change in statutory requirements to allow this method.

Mr. Martinez replied yes. The way the statutes are currently structured, developing a list of qualified bidders for the construction phase would not be allowed.

Representative Boone expressed his concern with not having competitive price bidding. He understands the CMR allows a contract with the general contractor that is the most qualified to do the job; however, he likes the qualified selected bidders lists approach because you can select a group of those qualified select contractors then have them do a actual competitive price bid on the entire project. He asked if the CMR is the recommendation of the agency and if they will do a competitive bidding on the subcontract.

Mr. Martinez replied that the statute for CMR requires that when selecting the construction manager, the construction managers are to submit their plan for how they would bid out subcontract work. The subcontracts are restricted to a bidding process based on 1) qualifications or 2) qualifications and price.

Representative Boone informed the Committee that he would like to consider the option of a 3rd party project managing firm to help oversee the project since the CMR method is recommended by the agency and the subcontractors will be bidding. Based upon his experience, when there is a qualified firm to oversee a project, it usually pays off in the end.

Senator Burns asked what the 3rd party accomplishes.

Representative Boone explained that an independent 3rd party would help review the proposals and help the state negotiate a guaranteed maximum price. Typically, the outside party is in the business on a regular basis and

knows what is happening in the industry. They can be an advantage in negotiations between the owner and the general contractor to ensure that the guaranteed maximum price is met.

Representative Phil Lopes asked what the difference in cost would be to the project based on the 3 options given in the JLBC recommendation memo.

Mr. Martinez stated that the 2nd option of having a 3rd party would typically be an additional 1% of the project cost. However, it is difficult to know what the cost differences would be between the CMR and the design-bid-build method because there are pros and cons to each method.

Representative Boone disagrees with the additional costs. He asked why the \$19 million could not be part of the budget so there would be not be additional costs.

Mr. Martinez replied that the 3rd party can help negotiate a better guaranteed maximum price that could offset the cost of the additional option.

Representative Lopes asked if the savings would be in our control.

Representative Boone replied that the \$19 million budget is the control and everything has to fit within that budget amount.

Representative Lopes stated that if 1% was built within the \$19 million, that amount difference could be used for construction.

Representative Boone replied that with his experience, the quality and savings in construction costs could be more than what would be paid for a good construction manager.

Mr. Hall Hoff, Superintendent, ASDB, said they would like to fund all 6 projects. The cost management will center on a conservative and functional building. Campus facilities will be shared to operate more efficiently with staff. The building will be flexible for specialized training. Some parts of the campus that will be vacated will be used to build and enhance preschool and elementary programs. There are urgencies with this project. Costs are going up approximately $\frac{3}{4}$ of a percent per month. They are looking to others to give guidance and support to help manage this size of a project. ADOA has already given considerable support. A master study done in 2000 helped them to pull together numbers along with the School Facilities Board (SFB) review in 2003. SFB does not provide funding, but they do provide consultant services. The estimates for the middle school and high school are approximately \$200 per square foot, which includes construction and contingency costs and fees. As the project continues, they will come back to the Committee and share the breakdown of the costs.

Representative Boone asked why the priority of the Health Center in Tucson is further down the list of projects if there are code violations.

Mr. Hoff replied that it is part of the top 4 projects and he is confident that the projects can be completed. The issues are that the restrooms are not ADA compliant. This building was originally designed as a campus hospital 60 years ago.

Representative Boone noted that \$200 per square foot seemed high and asked for an explanation.

Mr. Hoff acknowledged that it seemed high so they looked at the master study and talked with the architect. The architect gave the amount and it includes everything, although, it may be closer to \$175 to \$180. If the SFB guidelines were used, it would be closer to \$150 to \$155.

Representative Boone asked when ASDB intends on returning to the Committee with its breakdown to fund the projects.

Mr. Hoff said they would like permission to start at the conclusion of this review. They would need to enlist an architect to get the process started to get a hard cost. When the cost is available, they can return in approximately 6 months, by December or January. The project takes 18 to 24 months and they would like the building to be complete by 2008.

Senator Burns moved that the Committee give a favorable review as recommended in option 2 by the JLBC Staff to the preliminary cost estimates for the projects to be funded with the FY 2007 capital appropriation of \$19 million and to using the Construction Manager at Risk procurement method with competitive selection of subcontractors pursuant to A.R.S. § 41-2578, with the provision that ASDB contract with a 3rd party to assist with the project. The motion carried.

ARIZONA DEPARTMENT OF TRANSPORTATION – Review of FY 2007 Construction Budget Operating Expenditure Plan.

Mr. Lorenzo Martinez, JLBC Staff, presented the review of the Department of Transportation (ADOT) capital budget for Professional and Outside Services expenditures. In FY 2007 the department is allocating \$103.7 million for contracted services. These services include design and engineering type activities.

In addition, the statute that created the Statewide Transportation Acceleration Needs (STAN) Account requires regional entities that receive money to report expenditures each December. The recommendation includes a provision that ADOT also report on STAN Account activity by December 15.

He also noted the traffic congestion performance measures that reflect the most congested segments of the roads of Arizona have been submitted by ADOT.

Senator Karen Johnson expressed her concern with the Auditor General audit that reflects the excessive spending by ADOT on Profession and Outside Services.

Mr. Martinez said that the Auditor General did an audit of this component of the budget and they noted that the contracted services costs are higher compared to in-house staff of the department.

Representative Andy Biggs asked if the agency responded to the Auditor General report.

Representative Lopes asked why the results of the Auditor General report were not included in the review.

Mr. Richard Stavneak, JLBC Director, replied that the JLBC recommendation memo was released one day prior to the release of the Auditor General report.

Representative Biggs requested to postpone any action so that the Committee can review the Auditor General report.

Mr. Martinez replied that at its June 15 meeting, the Committee allowed ADOT to spend up to \$17.3 million to continue operations and required ADOT to return this meeting so that the agency could give more detail on the expenditure plan. Providing a review for a partial amount could be an option to consider so that the Auditor General report can be addressed.

Representative Boone asked for a sense of an appropriate amount to allow the agency to use so as not to hold up projects.

Mr. Martinez replied that the \$17.3 million was to allow 2 months of expenditures, so the amount would depend on the timetable in which the Committee would like to pursue.

In response to concerns of the Auditor General report, Mr. Terry Trost, Budget Director, ADOT, said that the report was part of the sunset review on the construction and maintenance portion of the agency operation. They agree with the elements of the Auditor General and will do their best to correct those elements. The FTE's have

remained constant and as stated in the report, there is a salary competition issue in the marketplace with the ability to maintain and attract experienced and talented engineering staff. This review is part of their spending plan so they may not spend the full \$103 million.

Representative Boone asked if a large part of the increase for contract services has been due to not being able to hire staff.

Mr. Trost replied that yes there is limited availability in hiring staff. The current salary schedule is at a competitive disadvantage in the marketplace.

Senator Johnson asked for a dollar estimate in which the agency can work with for the next 2 months, if it is different from the \$17.3 million.

Mr. Trost replied that they are concerned with the \$17.3 million, which is a reason for requesting to be on the Committee agenda. They would prefer to have the favorable review of \$103 million because of the funding of the scheduled projects could be effected if the amounts go lower.

Senator Johnson expressed her concern with proceeding and does not want a favorable recommendation of the full amount until the report is looked at by everyone on the Committee. If the Committee approves \$17 million every 2 months, it will add up to the \$103 million that is being requested.

Representative Biggs commented that the level of use of outside consultants is difficult to maintain. He would like the Committee to hold off on taking action.

Mr. Trost replied that when the pay plan was initiated in 2001, the turnover rate dropped from 12.5% to 6%. It recovered and had gone back up to 8% partly due to market improvement. Retaining employees helps the department. In regard to the \$17 million, their concern is their ability to deliver on projects.

Representative Biggs asked if the \$103 million was front-loaded and would cause harm to projects.

Mr. Trost said that it has to be front-loaded to the extent that the current year of a 5-year construction project along with other projects 3-years out where 25% of that project will be in the current year.

Representative Biggs said that if projects are front-loaded for projects, it should be known how much will be spent. He asked what amount would normally be used on projects per month.

Mr. Trost replied that he does not know that amount and could get the information.

Representative Lopes asked if a response to the Auditor General report has been prepared.

Mr. Trost replied that the response has been generated and the department agreed with all points of their findings.

Representative Lopes asked if there were practical implications to the projects if there is no action until the department returns to the Committee versus giving at favorable review to the \$17.3 million.

Mr. Trost replied that if the \$17.3 million is intended to cover August expenses with any left-over trickling a couple of weeks beyond, they would not be able to do anything if the money were to run out before the Committee's next appropriation approval. If there were a project that was scheduled to start and there was not enough money to hire the consultant to do the work, they would not be able to start that particular project.

Representative Lopes said that he understands the concern about Professional and Outside Services, however, it would be inadvisable to not review.

Representative Biggs stated that the Committee needs to act and review the Auditor General report and see how the department responds. He suggested that the department be provided with a 2 month allocation of \$17.3 million and have them return in 30 days.

Representative Boone asked if the ADOT would feel comfortable with \$34.6 million so as not to hold up projects.

Mr. Trost replied that they are not comfortable, but will look at their data and come back if they need more.

Representative Biggs said that if the annual budget is \$103 million, and the Committee approves \$34.6 million, it would be difficult to use all the money before the issue is resolved by the next meeting.

Senator Johnson concurs with Representative Biggs as long as the total does not exceed the \$103 million.

Representative Tully added that the department should advise the Committee if there is a threat of any delay in a project before the next meeting occurs.

Representative Boone clarified the motion by Representative Biggs to give a favorable review of \$34.6 million for Professional and Outside Services expenditures through October. Also, adopt the traffic congestion performance measures.

Representative Biggs moved the motion as clarified by Representative Boone. The motion carried.

ARIZONA DEPARTMENT OF TRANSPORTATION – Review of FY 2007 Building Renewal Allocation Plan.

Mr. Lorenzo Martinez presented the review of ADOT's FY 2007 Building Renewal Allocation Plan. JLBC Staff recommends a favorable review of the plan with the provision that ADOT report back on any allocations from the contingency amounts and they report on any new projects not shown in this plan prior to implementation, as well as reallocations beyond \$100,000. ADOT received a total of \$3.6 million for Building Renewal from the State Highway Fund that would fund 142 projects. Additionally, ADOT received \$75,800 from the State Aviation Fund that would fund 1 project at the Grand Canyon Airport. A table in the JLBC memo displays the project categories as well as higher dollar projects in the building renewal plan.

Senator Gould asked how many and why Energy Star rated thermostats will be replaced as stated in Category 4 - Major Building Systems.

Mr. Trost said that he can provide the detailed information in writing after the meeting.

Senator Burns moved the Committee give a favorable review as recommended by JLBC Staff to the FY 2007 Building Renewal Allocation Plan with the following provisions:

- *ADOT report to JLBC Staff any allocations for FY 2007 projects from the \$143,600 contingency amount. JLBC Staff will report to the Committee on significant allocations, typically those above \$50,000.*
- *ADOT submit any new projects for Committee review prior to implementing.*
- *ADOT submit any project reallocations above \$100,000 for Committee review.*

The motion carried.

ARIZONA DEPARTMENT OF ADMINISTRATION – Review of FY 2006 Building Renewal Reallocation.

Mr. Tyler Palmer, JLBC Staff, presented the review of the Arizona Department of Administration (ADOA) FY 2006 Building Renewal Reallocation Plan. The FY 2006 plan had a provision that any reallocation of money between projects above \$50,000 be reported to the Committee. ADOA has reported \$422,200 of unused money that is available from completed projects. They are requesting to reallocate the money to 2 on-going projects that are still unfinished from last year.

There was no discussion on this item.

Senator Burns moved the Committee give a favorable review as recommended by JLBC Staff to reallocate \$422,200 from unused FY 2006 Building Renewal amounts for the following items:

- \$225,000 for water leaks at the 15 S. 15th Avenue, Capitol Center Building
- \$185,000 for chillers at the 1600 W. Monroe, Department of Revenue Building
- \$12,200 for project contingencies

The motion carried.

ARIZONA DEPARTMENT OF ADMINISTRATION – Review of FY 2007 Building Renewal Allocation Plan.

Mr. Tyler Palmer, JLBC Staff, presented the review of FY 2007 Building Renewal Allocation Plan. He provided the Committee with a revised table from page 2 of the JLBC recommendation memo. The FY 2007 Building Renewal Allocation Plan included \$3,849,200 from the General Fund (GF) and \$3.4 million from Capital Outlay Stabilization Fund (COSF). The current request is to allocate monies to the projects as indicated in the table.

There as no discussion on this item.

Senator Burns moved the Committee give a favorable review as recommended by JLBC Staff for \$3,849,200 of the General Fund FY 2007 Building Renewal Allocation Plan and \$3,400,000 of the COSF FY 2007 Building Renewal Allocation Plan with the following provisions:

- ADOA submit for Committee review any reallocation above \$100,000 between the individual projects.
- ADOA report to JLBC Staff any allocations for FY 2007 emergency projects or unallocated projects. JLBC Staff will report to the Committee on significant allocations, typically those above \$50,000.

The motion carried.

ARIZONA DEPARTMENT OF ADMINISTRATION – Review of Energy Conservation Project.

Mr. Tyler Palmer, JLBC Staff, presented the review of ADOA's Energy Conservation Project. This project would take \$521,200 from the Utilities Special Line Item and allocate it to 3 types of projects: 1) lighting retrofit and controls; 2) HVAC lockouts; and 3) vending misers. The department estimates an energy usage reduction savings of \$300,200 during FY 2007. In working with APS, it is estimated that conservation project rebates would generate \$212,300.

Senator Burns asked what method is used to evaluate the savings on the projects.

Mr. Roger Berna, General Manager of Construction Services, ADOA, replied that Sempra Energy previously did a larger performance contract to do an audit on the buildings and determine areas of savings. The calculations were then reviewed by the department and determined to be accurate and conservative. The savings will probably be higher than projected, especially if the APS rates increase.

Senator Johnson asked what types of savings vending machine misers could have.

Mr. Berna replied that the misers optimizes the control compressors and turns off the light. In response to Senator Gould, this is proven technology. There are sample devices installed in the Capitol and various other buildings.

Senator Gould asked if the usage was monitored after installation.

Mr. Berna said that savings are small with low costs with about a 1 to 2 year payback. They only chose quick payback projects.

Senator Burns moved the Committee give a favorable review as recommended by JLBC Staff to the use of \$521,200 from the department's utility budget for energy conservation projects. The motion carried.

ARIZONA DEPARTMENT OF WATER RESOURCES – Review of City of Williams Dam Repair Project.

Mr. Matt Busby, JLBC Staff, presented the request by the Department of Water Resources (DWR) to review the City of Williams Dam Repair Project. In June 2005, the City of Williams Dam was ranked the #1 priority unsafe dam in Arizona. The Legislature appropriated \$1.5 million to DWR to repair the dam. In addition, local in-kind contributions will be used toward the project. The City of Williams put the project to competitive bid with the \$1.5 million cost estimate being the lowest bid.

Senator Gould asked who owns the dam.

Mr. Busby replied that the City of Williams owns the dam.

Representative Boone asked if the city is contributing to the cost of the project.

Mr. Darrell Jordan, Manager, Office of Water Engineering, replied that \$136,000 does include real and in-kind money. The city hired its own engineer and contracted with TCB consulting firm. They are also responsible for minor over-runs

Senator Burns moved the Committee give a favorable review as recommended by JLBC Staff to the City of Williams Dam Repair project. The motion carried.

Without objection the Committee meeting adjourned at 3:00 p.m.

Respectfully submitted:

Yvette Medina, Secretary

Lorenzo Martinez, Assistant Director

Representative Tom Boone, Chairman