Governor's Energy Office

What is known today as the Governor's Energy Office (GEO) has existed since 1977, when it was first designated the Governor's Office of Energy Conservation. In 1999, under the Owens administration, the name was changed to the Governor's Office of Energy Management and Conservation. It took its current name soon after Bill Ritter became governor in 2007.

Every state (and territory) has a similar organization, generically known as its State Energy Office (SEO). Just like every other government operation where two or more bureaucrats are doing the same job in different states, an organization called the National Association of State Energy Officials (NASEO) is devoted to representing state energy offices.[1]

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The GEO's stated mission goes back to the days of the Carter administration, reflecting the former president's stated goal of "lessening our dependence on foreign crude oil." Among SEOs something akin to an orthodoxy presumes that lessening our dependence on foreign crude oil means increasing reliance on alternative energy and energy efficiency. Alternative energy in this case means electrical generation from wind turbines and solar cells, fuel from biomass, and hydro-electric generation without the use of large dams. NASEO and its staff are powerful, effective advocates and lobbyists for these programs.

Some smaller degree of attention is given to fuel cells and other forms of generation. SEOs generally do not expend effort on nuclear power or other forms of energy that do not comport with a generally accepted "environmentalist" view of the world. Paradoxically, the SEOs' intent to reduce dependence on foreign crude oil does not lead to a determination to increase domestic oil production. Outside-the-box thinking is discouraged and seldom rewarded with the mother's milk from Washington: grant money. Most SEO directors and much of their staff are well-schooled (or are expected to become so) on issues relating to the power grid, its workings and its problems.

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In 1983 SEOs nationwide received a huge financial infusion when significant funds were distributed to the states as a result of alleged oil company violations of the federal oil price controls in place from 1973 to 1981.[2] These funds are known as Petroleum Violation Escrow (PVE) funds, or oil-overcharge funds. An expanded history of this program can be found in the 1999 document, ***State Energy Program Operations Manual***:

> The PVE funds or oil-overcharge funds … support a variety of energy-related programs in the States. Each State determines how it wishes to allocate the funds across eligible programs. The States may use these funds and the interest earned to finance SEP (State Energy Plan) activities. In that case, PVE funds allocated to SEP are treated as appropriated funds and are subject to program requirements. PVE funds are not subject to the matching requirement or the 20% limitation on equipment purchases under the program.[3]

Although historical records of the final disbursement to each state are difficult to obtain, Colorado's initial allocation was likely around $37 million plus significant "dividend and interest checks" that continued to roll into the office later to support operational costs. In total, Colorado received $70.5 million.[4] All 50 states and the territories received proportional shares of the largesse based on a formula understood only by a few, but one which resulted in huge piles of cash to California and other populous states.

The significance of this fund and the ensuing cash stream to Colorado was that the money came into the state without passing through the state legislature, much less the Joint Budget Committee. Oversight came from federal bureaucrats, who looked for key words and expressed goals that supported the original intent of the program. Generally, if projects contained the words "energy efficiency" or "renewable energy," they were approved. The original fund was drawn down over the years for the various projects supported by the office and to run the office administration. When federal grants were offered (including the SEP, which was the overall base grant for operating the office) that required matching grants from the states, the states were allowed to use PVE funds as their stake in the grant. Only about $2.5 million remains of Colorado's original fund balance.[5] In the future, therefore, the GEO will need to approach the state legislature for any significant federal requirement of matching funds. Colorado was a reasonable steward of those funds, being one of the last states to (nearly) exhaust their PVE funds. Other states long ago sought other sources for energy office funding.

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The GEO is not connected to any State Department and operates off-budget. The legislature has little say in the flow of dollars into the Office's programs, nor any say in how the funds are disbursed. The system is led, during normal economic circumstances, to contribute matching funds in order to obtain large amounts of federal funding for "green" initiatives. The Office is headed by an appointee of the Governor who, along with his entire staff, can be dismissed by the Governor under the same rules that hold for other non-classified agency directors appointed at the policy level.[6] The appointee generally has been a person with significant political experience and connections; the current Division Head is former state representative and former Joint Budget Committee member Thomas Plant.

Budget and Finance

In order to achieve some degree of transparency and accountability, the legislature should direct the Office's books and budget be open and available. There is a paucity of information on the finances associated with the GEO's operations. The overall budget request is buried under "OIT, GEO, and Other Gov. Offices."[7] Expenditures are difficult, if not impossible, to monitor.

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Now that PVE funds are no longer available as State matching funds for new grants, support of this office may require the Colorado legislature to find sources from the General Fund. Excerpts from a presentation to the Joint Budget Committee, titled ***Energy Efficiency and Renewable Energy Resource Development Initiatives,*** covered the considerations for funding:

> A number of programs administered by the GEO are now funded from sources that have the potential to vary considerably from year to year, including limited gaming revenue, severance tax earnings, and onetime federal funds.
>
> The Clean Energy Fund receives the remaining portion of moneys from the Limited Gaming Fund after all other transfers are completed. The ongoing recession, job losses, and other economic factors have caused gaming revenue to see

its worst decline since Colorado limited gaming began in 1991 … . decreasing (16.5) percent (over) FY 2007-(09). Furthermore, in instances where General Fund revenue is found to be insufficient to meet appropriations, the General Fund receives an additional amount of gaming revenue that would otherwise be transferred to programs supported by the Limited Gaming Fund. When this occurs, as it did in FY 2009-10, no moneys are transferred to the Clean Energy Fund for programs administered by the GEO.[8]

Moneys from the Operational Account of the Severance Tax Trust Fund are … . continuously appropriated to the GEO to provide home energy efficiency improvements for low-income households … .*[Editor's note: In 2010, the legislature eliminated the transfer for both FY 2010-11 and FY 2011-12 budget years with the passage of House Bill 1319]*.

The Public School Energy Efficiency Fund, used to support energy efficiency projects in public schools across the State, receives moneys generated from interest earned on the accelerated collection of oil and gas severance taxes. In FY 2009-10, total severance tax revenue is projected to drop to $54.9 million, a decrease of 83.7 percent from FY 2008-09.

> The GEO received $143.7 million in one-time revenue via the American Recovery and Reinvestment Act of 2009 (ARRA) for investment in weatherization, energy efficiency and conservation, and other state energy programs."[9]

The total, then, for matching funds during the current budget year will be about $50,000. The State must contribute a 10 percent match for the SEP grant for weatherization retrofits. The State will appropriate funds from the PVE account balance to cover this amount.

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The legislature should revisit the need to continue operating this Office as an independent agency. It is an excellent candidate to free up state matching funds for other uses, or to use funds for administration to support other, on-budget Departments. If the federal government regulations regarding SEOs require a separate agency, Colorado could seek a waiver to allow distribution of programs to other, existing executive branch agencies. Poverty assistance funds might be handled directly by the Department of Human Services and any remaining energy programs transferred to the Department of Local Affairs. Weatherization programs initially were run from the latter Department. Consolidation will not eliminate the disbursement of all the funds now paying for staff at the Governor's Energy Office, because state employees still would administer the projects. It likely would help, however, to cover some of the overhead positions such as accounting, purchasing and the Department Heads' staffs, freeing up General Fund money for direct program expenditures. Terminating this office would also improve governance, as programs will once again be brought into the normal budgeting oversight by the legislature, rather than leave $140 million off-budget.

Acknowledgements

Rick Grice was the author of this section. He served as the Executive Director of what was then the Governor's Office of Energy Management & Conservation from December 1998 until the summer of 2004.

Clark M. Bolser assisted by identifying the type of personnel position that the Executive Director is designated. Mr. Bolser is the Legislative Liaison with the Department of Personnel and Administration.

Kevin Neimond of the Joint Budget Committee staff answered questions about the amount of annual matching funds and the amount of PVE funds left.

Endnotes

[1] Information on the organization can be found at its web site, http://www.NASEO.org.

[2] In response to oil supply restrictions implemented by foreign suppliers, specifically the Organization of Petroleum Exporting Countries (OPEC), the federal government regulated oil prices from 1973-1981 to prevent "price gouging" by domestic crude oil producers and to ensure "fair" allocation of oil resources. The U.S. Department of Energy was charged with identifying violations, recovering overcharges and obtaining restitution for states and other parties for alleged overcharges. Oil overcharge funds, also known as Petroleum Violation Escrow (PVE) funds, came from fines paid by oil companies that were found to have violated federal oil price caps in place from 1973-1981. To date, more than $4 billion in PVE funds have been made available to states.

[3] A current version can be found at http://www.nrel.gov/docs/fy03osti/32982.pdf.

[4] FY 2010-11 Staff Budget Briefing for the Office of the Governor. Prepared by Kevin Neimond, Joint Budget Committee Staff, November 19, 2009.

[5] We recognize the assistance of Kevin Neimond in locating this information.

[6] Classified senior executives fall under the procedures of the Personnel System that convey property rights to the job, and mandate an appeals process within the system. Merit system employees are protected by strict rules which prevent hiring and firing for political purposes.

[7] The budget request can be found in Table Attachments to Governor Ritter's November 6, 2009 Letter. http://www.colorado.gov/cs/Satellite?blobcol=urldata&blobheader=application%2Fpdf&blobkey=id&blobtable=MungoBlobs&blobwhere=1251602243662&ssbinary=true.

[8] Future transfer of limited gaming moneys to the Clean Energy Fund was subsequently eliminated for use in the FY 2010-11 budget with the passage of House Bill 1339 in the 2010 session.

[9] FY 2010-11 Staff Budget Briefing for the Office of the Governor. Prepared by Kevin Neimond, Joint Budget Committee Staff, November 19, 2009.