

March 5, 2013

The Honorable Mark Leno, Chair  
Joint Legislative Budget Committee  
1020 N Street, Room 553  
Sacramento, CA 95814  
Attn: Peggy Collins, Principal Consultant

Dear Senator Leno:

Pursuant to the request set forth in the *Supplemental Report of the 2008 Budget Act, 2008-09 Fiscal Year*, item 1760-001-3082, the Department of General Services is submitting the School Facilities Emergency Repair Program report.

In keeping with our commitment to encourage conservation, we have posted this report to our website. The report can be viewed at <http://www.dgs.ca.gov/ola/home/2013Reports.aspx>. The report is entitled *School Facilities Emergency Repair Program*.

If you wish to receive a printed copy of this report, please contact Barbara Kampmeinert, Policy Manager, Office of Public School Construction, Department of General Services at (916) 375-4732.

Sincerely,



Fred Klass  
Director

cc: See attached distribution list  
Barbara Kampmeinert, Policy Manager, Office of Public School Construction,  
Department of General Services

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**ORIGINAL LETTER TO EACH OF THE FOLLOWING:**

The Honorable Mark Leno, Chair **(Hand carry 2 copies)**  
Joint Legislative Budget Committee  
1020 N Street, Room 553  
Sacramento, CA 95814  
Attn: Peggy Collins, Principal Consultant  
**(Electronic copy of report & letter to Peggy.Collins@sen.ca.gov)**

The Honorable Mark Leno, Chair  
Senate Budget & Fiscal Review Committee  
State Capitol, Room 5019  
Sacramento, CA 95814  
Attn: Brady Van Engelen, Consultant

The Honorable Kevin deLeon, Chair (Attn: Bob Franzoia, Director)  
Senate Appropriations Committee  
State Capitol, Room 2206  
Sacramento, CA 95814

The Honorable Bob Blumenfield, Chair  
Assembly Budget Committee  
State Capitol, Room 6026  
Sacramento, CA 95814  
Attn: Christian Griffith, Chief Consultant

The Honorable Mike Gatto, Chair  
Assembly Appropriations Committee  
State Capitol, Room 2114  
Sacramento, CA 95814  
Attn: Geoff Long, Director

Mr. Mac Taylor **(Hand carry)**  
Legislative Analyst  
925 L Street, Suite 1000, B-29  
Sacramento, CA 95814  
**(Electronic copy of report & letter to Tina.McGee@lao.ca.gov  
and Myisha.Haynes@lao.ca.gov)**

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**COPY OF JLBC NOTIFICATION TO EACH OF THE FOLLOWING:**

The Honorable Bob Blumenfield, Vice Chair  
Joint Legislative Budget Committee  
State Capitol, Room 6026  
Sacramento, CA 95814

The Honorable Bill Emmerson, Vice Chair  
Senate Budget & Fiscal Review Committee  
State Capitol, Room 5082  
Sacramento, CA 95814

The Honorable Jeff Gorell, Vice Chair  
Assembly Budget Committee  
State Capitol, Room 6031  
Sacramento, CA 95814

The Honorable Mimi Walters, Vice Chair  
Senate Appropriations Committee  
State Capitol, Room 3086  
Sacramento, CA 95814  
Attn: Doug Yoakam, Minority Director

The Honorable Diane Harkey, Vice Chair  
Assembly Appropriations Committee  
State Capitol, Room 6027  
Sacramento, CA 95814

Gareth Elliott, Secretary–Legislative Affairs  
Office of the Governor  
State Capitol, First Floor, E-15  
Sacramento, CA 95814

Richard Woonacott, Deputy Secretary, Legislation  
State and Consumer Services Agency  
915 Capitol Mall, Room 200, C-14  
Sacramento, CA 95814

Karen Finn, Program Budget Manager **(electronic copy only)**  
Department of Finance  
915 L Street, A-15  
Sacramento, CA 95814  
**Karen.Finn@dof.ca.gov**

Craig Cornett, Fiscal Consultant  
Office of the Senate President pro Tem  
State Capitol, Room 412  
Sacramento, CA 95814

Chris Woods, Budget Director  
Assembly Speaker's Office  
State Capitol, Room 219  
Sacramento, CA 95814

Seren Taylor, Fiscal Director  
Senate Minority Fiscal Office  
1020 N Street, Room 234  
Sacramento, CA 95814

Eric Swanson, Director  
Assembly Minority Fiscal Office  
State Capitol, Room 6027  
Sacramento, CA 95814

Esteban Almanza, Chief Deputy Director **(electronic copy only)**  
Department of General Services  
707 Third Street, 8<sup>th</sup> Floor, Z-1  
West Sacramento, CA 95605

Bo Nishimura, Deputy Director–Legislative Affairs  
Department of General Services  
707 Third Street, 8<sup>th</sup> Floor, Z-1  
West Sacramento, CA 95605

Ray Gibson, Budget and Planning Officer  
Office of Fiscal Services  
Department of General Services  
707 Third Street, 9<sup>th</sup> Floor, Z-1  
West Sacramento, CA 95605

Becky Granroth, Budget and Planning Officer  
Office of Fiscal Services  
Department of General Services  
707 Third Street, 9<sup>th</sup> Floor, Z-1  
West Sacramento, CA 95605

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Office of Legislative Counsel **(HARD COPY OF REPORT)**  
Attention: Indexing Division  
925 L Street, Suite 1150, B-30  
Sacramento, CA 95814  
**(Electronic copy of report & letter to Jim.Lasky@lc.ca.gov)**

Originating Office **REVISED 2/5/13**

*Report on the*

# **School Facilities Emergency Repair Program**

*Report to the Joint Legislative Budget Committee*

**State of California**  
Edmund G. Brown, Jr., Governor

**State and Consumer Services Agency**  
Anna M. Caballero, Secretary

**Department of General Services**  
Fred Klass, Director

**Office of Public School Construction/State Allocation Board**  
Lisa Silverman, Executive Officer

*Prepared by the*

**Office of Public School Construction**  
707 3<sup>rd</sup> Street  
West Sacramento, CA 95605  
916.376.1771 Tel  
916.376.5332 Fax  
[www.dgs.ca.gov/opsc](http://www.dgs.ca.gov/opsc)

## OVERVIEW

Pursuant to the request set forth in the *Supplemental Report of the 2008 Budget Act, 2008-09 Fiscal Year*, item 1760-001-3082, this report is to update the Joint Legislative Budget Committee and appropriate fiscal and policy committees of the Legislature on:

- The progress in distributing to schools the \$800 million provided by the Legislature for the School Facilities Emergency Repair Program (ERP).
- A staffing plan explaining how the Department of General Services (DGS) proposes to utilize ERP staff when the program has fulfilled its duties.

## ABOUT THE STATE ALLOCATION BOARD AND THE OFFICE OF PUBLIC SCHOOL CONSTRUCTION

### *State Allocation Board*

The State Allocation Board (SAB) is the policy level body responsible for determining the allocation of state resources (proceeds from general obligation bond issues and other designated state funds) used for the new construction and modernization of public school facilities. The SAB is also charged with the responsibility for the administration of the ERP, the State Relocatable Classroom Program, and the Deferred Maintenance Program. The SAB consists of the Director of Finance (the traditional chair), the Director of the DGS, the Superintendent of Public Instruction, three members of the Senate, three members of the Assembly, and one member appointed by the Governor.

### *Office of Public School Construction*

The Office of Public School Construction (OPSC), on behalf of the DGS, implements and administers the School Facilities Program (SFP) and other programs of the SAB. The OPSC is responsible for ensuring that funds are disbursed properly and in accordance with statute, regulations and decisions made by the SAB. It is also incumbent upon the OPSC staff to prepare, for SAB review and approval, regulations and procedures which carry out the mandates of the SAB. OPSC staff also works with school districts to assist them throughout the application process.

# THE EMERGENCY REPAIR PROGRAM

## *Background*

The ERP stemmed from the settlement of a class action lawsuit filed by the American Civil Liberties Union (ACLU) in May of 2000, known as *Williams v. State of California*. The lawsuit claimed that the state had failed in its duty to provide students in the lowest performing schools with equal educational opportunity. The plaintiffs believed that the state, and state educational agencies, did not provide equal access to instructional materials, safe and clean facilities, and qualified teachers to public school students.

The case was settled in August 2004 in what is now known as the *Williams* settlement. In the settlement, the state allocated nearly \$1 billion back to the school districts, including \$800 million for a program to address critical repairs for facilities for schools in the lowest three ranks (deciles) of academic performance. The funds for the repair of facilities are distributed through the ERP by the SAB.

From 2004-2006, the ERP was a reimbursement program, which required districts to complete emergency repair projects on their own before applying for state funds. According to a 2007 study by the ACLU (*Williams v. California: The Statewide Impact of Two Years of Implementation*), “some site and district administrators expressed reluctance to start emergency repair projects because they were uncertain about whether they would be reimbursed and did not have the funds to pay for them otherwise.”

The districts’ concerns were addressed when the School Facilities Emergency Repair Account bill was passed. Chapter 704, Statutes of 2006, Goldberg (Assembly Bill 607) provided that the Emergency Repair Account in the State Treasury would be available to fund grants. The ERP became a grant program with the beginning of the fiscal year on July 2, 2007, allowing eligible schools to receive funds before conducting the needed repairs.

## *Progress in Distributing Funds*

Because of the high participation rate for the ERP, applications have been received requesting funds beyond the settlement amount. Therefore, as of December 17, 2010, the OPSC stopped accepting new applications for the program. The processing of the applications received prior to that date will continue until the total amount specified in the *Williams* settlement is distributed.

The terms of the *Williams* settlement specify that one-half of the funds in the Proposition 98 Reversion Account, but no less than \$100 million, would be made available annually until the \$800 million for facilities was allocated. This would have provided the total settlement amount to the ERP by the 2012-13 fiscal year. As of the date of this report, however, \$338 million has been provided for these projects. The following chart shows the allocations proposed by the Governor and the final budget allocations for the ERP for the last nine years:

Budget Year	Proposed ERP Allocation (In Millions)	ERP Allocation (In Millions)
2004-05	N/A	\$5
2005-06	\$100	\$196
2006-07	\$107	\$137
2007-08	\$100	(\$50)
2008-09	\$100	\$50
2009-10	\$0	\$0
2010-11	\$51	\$0
2011-12	\$0	\$0
2012-13	\$12.3	\$0
2013-14	\$9.7	TBD
<b>Total</b>	<b>\$480</b>	<b>\$338</b>

Applications have been processed in anticipation of settlement authority funds in future budget acts. Those applications are approved by the SAB and placed on an *Unfunded* list. The projects on the *Unfunded* list will eventually be funded, once cash becomes available. There is also a *Pending* list for projects beyond the settlement amount that will only be funded if sufficient project savings are returned to the ERP.

The following chart summarizes the status of the applications for the ERP:

	Funded (Received funds)	Unfunded (Approved but no funds received)	Beyond Settlement Authority
<b>Districts</b>	221	105	174
<b>Sites</b>	1,083	694	813
<b>Total</b>	\$338,504,389	\$458,957,130	\$341,771,253

### **Staffing Plan**

Applications to exhaust the total amount of settlement authority have already been processed to the *Unfunded* list; therefore, workload in the ERP has been diminished. Remaining workload is minimal. Staff previously in the ERP funded positions were re-directed to other positions within the SFP.