

# ADVISORY ACTIONS

**ISSUE NO. 02**

For SAB meetings held on  
February 28 and March 28, 2007

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## opsc reminders

### State Allocation Board Meetings\*

- » April 25, 2007
- » May 23, 2007
- » June 27, 2007

### Implementation Committee Meetings\*

- » May 4, 2007
- » June 1, 2007

### Interest Earned Report (Form SAB 180)

- » Due quarterly (March 31, June 30, September 30 and December 31) from each county for all districts that earned interest from the Leroy F. Greene Lease-Purchase Program.

### Charter School Facilities

- » Application submittals due by: June 5, 2007

### Deferred Maintenance Program (DMP)

- » Applications submitted by: June 30, 2007
- » Targeted SAB date: December 2007

### SFP Joint-Use Program

- » Applications submitted by: May 31, 2007
- » Targeted SAB date: July 25, 2007

### Annual Unused Sites Reporting

- » Certification of Unused Sites (Form SAB 423) due June 30, 2007
- » Modification of Unused Site Status (Form SAB 424) for each site with a modification due June 30, 2007

### Reports Due On September 1, 2007

- » Community School Facilities Report (Form SAB 406C)
- » Expelled Pupils Facilities Report (Form SAB 406E)

### California Basic Education Data System (CBEDS) Updates

- » Due by November 1, 2007 with New Construction Application submittals.

\* For the latest meeting dates, times and locations, check the OPSC Web site.



from the desk of Lori Morgan,  
Acting Executive Officer

Effective January 31st, I have been appointed Acting Executive Officer. Many of you may know me well as I have been with the Office of Public School Construction (OPSC) for 22 years. Since the summer of 2005, I have served as the OPSC's Deputy Executive Officer. Prior to that assignment, I served in various management capacities. In addition, I was co-chair of the State Allocation Board Implementation Committee where I represented the OPSC on the forefront of policy and regulation development. I bring to this new position the benefits of up front, hands on experience as well as a rich history of being customer focused and solution oriented. It has been an honor to devote a full career to the service of California's children and public school districts. I assure you that, as was with my predecessor—Ms. Luisa Park, our accountability, credibility, efficiency and service will remain paramount as we carry out our mission. I look forward to working with all of you to meet your school district's facilities goals.

The progressive measures in promoting green schools, career technical education, and relieving overcrowded schools are but a few of the new funding opportunities that were made available through Proposition 1D. The regulations for the Overcrowding Relief Grant were approved at the February 2007 State Allocation Board (SAB) meeting. These regulations are expected to be approved by the Office of Administrative Law in Summer 2007. The status of the regulations for the implementation of most of the remaining Proposition 1D programs is contained within the Assembly Bill 127/Proposition 1D insert in these *Advisory Actions*.

In the month of March and April we scheduled several Proposition 1D workshops in cooperation with the California Department of Education to educate all stakeholders on the new funding opportunities and how to take advantage of these funding opportunities for qualifying school facility projects. If you are interested in attending a workshop, please refer to the schedule which is available in this issue.

I look forward to working with you as I serve as Acting Executive Officer.

## School Facilities Needs Assessment Grant Program Update

By Melissa Ley, OPSC Project Manager

On February 28, 2007, a report was presented to the State Allocation Board regarding the progress made by Local Educational Agencies (LEAs) in completing and submitting Needs Assessment Reports and Expenditure Reports required by the Williams Settlement for eligible schools. The timelines to submit these required reports to the Office of Public School Construction (OPSC) have passed. The Needs Assessment Reports were due to OPSC by January 1, 2006 and the Expenditure Reports (Form SAB 61-02) were due by January 1, 2007. However only twenty-six percent of the required Form SAB 61-02 that were due by the LEA's incurred have been submitted at this time.

LEAs that received School Facilities Needs Assessment Grant Program funds are required to report all expenditures made with the Needs Assessment Grant funds on a districtwide basis. Based on this, only one Form SAB 61-02 is required for each LEA with an eligible school(s). If after completing the assessment there were funds remaining, the regulations allow LEAs to use those funds to complete any necessary repairs identified in the assessment. Any funds not expended or encumbered by an external contract by January 1, 2007, must be reported as savings and returned to the State. Please be aware that any interest that occurred on this residual must also be returned to the State.

If your LEA has not yet submitted its Form SAB 61-02, the OPSC encourages you to submit it as soon as possible to ensure compliance with laws and regulations. The Form SAB 61-02 is located on the OPSC Web site at [www.opsc.ca.gov](http://www.opsc.ca.gov). If your district needs assistance in completing and submitting its Form SAB 61-02, contact Rick Asbell, Fiscal Supervisor at 916.322.0196.

## Bond Accountability: The Executive Order

By Joel Ryan, OPSC Auditor

On January 24, 2007, Governor Arnold Schwarzenegger signed Executive Order S-02-07 which imparts onto all State departments, including the OPSC, the obligation to provide:

*“Accountability [that] consists of both ensuring that bond expenditures contribute to long-lasting, meaningful improvements to critical infrastructure, and providing the public with readily accessible information about how the bonds they approved and are paying for are being spent.”*

The Executive Order also requires that each State department “establish and document a three part accountability structure.” With these directives in mind, the OPSC would like to communicate to school districts and other interested parties how current and future projects funded by Proposition 1D will be affected.

The Executive Order requires a “three part accountability structure” from all State departments administering programs affected by Proposition 1D. The OPSC’s “three part accountability structure” will be made available to the school districts and public soon. The three parts of the accountability structure are the front-end, in-progress, and follow-up accountability. One aspect of this new “three part accountability structure” is to ensure that state law and regulation continue to be fully complied with by the OPSC and school districts at all three stages of a project. The first stage involves the project’s application review and determining if a school district met the eligibility requirements. The middle stage involves our review of the various building phases of a project, this includes if a project has met the time limit on fund release, substantial progress, and annual expenditure reports. The last stage of a project’s is the close-out audit performed by OPSC. Initially, not much will change about the high-standard of accountability that the OPSC currently provides, but that stakeholders will have a more user friendly way to access our accountability practices reconfigured into the three part structure. In the near future, the OPSC will be providing as a key element of bond accountability more outcome and performance measures, such as documenting the size of the core facilities built, the number and size of the classrooms built, whether the classrooms built are permanent, modular, or relocatable, the type of construction, etc.

Finally, it is our hope that with the reconfigured reporting, transparency, and accountability in place, as provided in the Governor’s Executive Order, that all interested stakeholders (taxpayers, school districts, investors, State departments, etc.) will benefit. Further, it is anticipated that the increased bond accountability information will help to justify future school bonds.

## Savings Audits

By Julie Ennis, OPSC Audit Supervisor

The Office of Public School Construction (OPSC) would like to take this opportunity to give school districts a friendly reminder and helpful hints to assure a successful savings audit.

Districts are subject to a savings audit and are required to document and track the use of savings from project to project. Savings usage is documented and reported by the district on the last page of the Detailed Listing of Project Expenditures Worksheet. The district should clearly indicate the specific project that savings was applied to. This is an auditable function and the OPSC will need to determine how districts have made expenditures using savings on their projects. It is recommended that the school district establish a separate fund to properly track their savings usage and provide appropriate savings documentation to the OPSC when a savings audit occur.

### For projects funded *with* financial hardship assistance:

- » The district’s and State’s portion of savings (if the district contributes some portion of funds to the project) must be used to reduce the financial hardship grant of the SFP project that generated the savings and the savings must be returned to the State; or
- » The district’s and State’s portion of savings must be used to reduce the financial hardship grant of a future financial hardship project. In this case, the district must report the expenditures annually, from the date of project closeout, using the Detailed Listing of Project Expenditure–Savings (located on the OPSC Web site by choosing “SAB Forms”, and then “Expenditure Worksheet - Excel worksheet”). The district will have three years from the date savings was determined through the SFP expenditure audit to apply the savings to reduce the financial hardship contribution on a future project, or the district must reimburse the State any unapplied savings, including interest accrued.

### For projects funded *without* financial hardship assistance:

- » The district’s portion of savings may be used on other high priority capital facility needs of the district. This may include, but is not limited to, using the savings as a district match on another SFP project.
- » The State’s portion of savings may be used on other high priority capital facility needs of the district. If using the State’s portion of savings as a district match on another SFP project, that project must be of like-kind. For instance, savings from a new construction SFP project may only be used as a district match on another new construction SFP project and savings from a modernization SFP project may only be used as a district match on another modernization SFP project.

We hope you find this information useful in establishing practices that will create a favorable outcome for your savings audit.

# Let Us Welcome and Introduce to You

By Mary Lou Bailey, OPSC Administrative Staff

## Recent Appointees to the State Allocation Board:



**Senator Joe Simitian**, representing the 11th Senate District serving 13 cities in San Mateo, Santa Clara and Santa Cruz counties, is an attorney, businessman and city planner. Some of his public service over the years includes: Assemblymember—California State Assembly, County Supervisor—Santa Clara County, Mayor—City of Palo Alto, President—Palo Alto School Board, President—Santa Clara County School Boards’ Association and President—Friends of the Children’s Theatre.



**Assemblymember Gene Mullin**, representing the 19th Assembly District serving the San Mateo Area has served on the SAB on an interim basis, was recently permanently appointed to the Board. He is the Chairman of the Assembly Committee on Education. He received the California County Boards of Education 2003 Legislator of the Year award. Assemblymember Mullin’s career in the 19th Assembly District began at South San Francisco High School, where he taught government and coached basketball for 32 years. His awards in education include San Mateo County Teacher of the Year in 1991 and the California Teachers Association’s 1996 State Teacher of the Year in Politics.



**Assemblymember Jean Fuller**, representing the 32nd Assembly District serving the Kern County/Bakersfield Area, has been an educator in California since the early 1970s. The American Association of School Administrators (AASA) named her California Superintendent of the Year for the 2004/2005 academic year. Assemblymember Fuller also earned national recognition for school improvement in 1998 when she was awarded the AASA Leadership for Learning Award.



**Assemblymember Kevin de León**, representing the 45th Assembly District serving portions of Los Angeles and surrounding areas, has been an advocate for increased funding for “high-priority schools” in low-income neighborhoods, more school construction, and health insurance for children. As Senior Associate for the National Education Association in Washington, D.C., Assemblymember de León coordinated a team that fought schemes to take funds from public schools in the form of taxpayer-funded vouchers.

## New Staff at the Office of Public School Construction:

### Fiscal Services:



**Jean Liu** is our new Accounting Supervisor. Jean brings to OPSC financial expertise from her past six years work experience with the Department of Forestry, Department of Health Services, and the Department of General Services headquarters.



**Michael Kwan** rejoined the OPSC after a another job hiatus and is an auditor conducting SFP close-out expenditure audits on school construction projects. Previously, Michael worked for the Accounting Team at OPSC for three years.



**Veronica Kaldani** is an auditor conducting SFP final close-out expenditure audits for school districts, including Corning Union Elementary, El Centro Elementary, Grant Joint Union High, and Los Angeles Unified.



**Gabriel Koponen** is an auditor conducting SFP final close-out expenditure audits on school construction projects. He currently is working on projects in Riverside, Fresno, Marin, Santa Clara, San Bernardino and Stanislaus counties.



**Randy LaBorde** recently transferred from Program Services to Fiscal Services working as an auditor for the Special Projects Team. For the past seven years Randy worked in Program Services as a Project Manager for Santa Barbara and Ventura counties.



**Marianne Wong** is an auditor conducting SFP close-out audits projects for San Diego, Glendale and Dublin Unified School Districts.

### Program Services:



**Brigitte Baul** is the new Project Manager Supervisor for Region 2 which includes the following counties: Alameda, Calaveras, Madera, Marin, Mariposa, Merced, Placer, San Bernardino, San Francisco, Santa Clara, Stanislaus, Sutter, Tulare and Tuolumne. Brigitte also manages a portion of the ERP projects.



**Amy Howard** is a Project Manager working with the Emergency Repair Program, reviewing files for San Diego County.



**Travis Williams** is a Project Manager currently assisting in the processing of San Diego County Emergency Repair Program applications.



**Fae Fong** is a Project Manager working with Orange, Riverside and Yolo counties for New Construction eligibility, Modernization and the Emergency Repair Program.



**Stephanie Pedone** is a Project Manager assigned to Contra Costa, Nevada, Santa Barbara, Ventura and Yuba, counties.



**Casey Holman** is a Project Manager assigned to Real Estate Review, New Construction, Modernization and Emergency Repair for Del Norte, Fresno, Imperial, Los Angeles, Napa and Sonoma counties.



**Adrian Felseghi** works for the Application Review Team, where his duties include application intake and other application-related assignments.



**Anetria Martin** is a Project Manager training in the School Facilities Program, and is currently working on Tulare County Emergency Repair Program projects.



**Cecil Dyer** works for the Plan Verification Team where he reviews plans, specifications and Site Development Worksheets for Additional Grants for schools throughout the State.



**Deah Johnson** transferred to Program Services from our Executive area. She is now a Project Manager assigned to Unused Sites and the Joint-Use Programs.

## Update on the State Relocatable Classroom Program Phase-Out Plan

By Liz Cheyne, OPSC Project Manager

In June of 2006, the Office of Public School Construction (OPSC) began the first cycle of the Phase-Out Plan by mailing letters to districts who were leasing State Relocatable buildings that were at least age 20 years and older. The Phase-Out Plan allowed districts the option to continue their lease, return, or purchase the relocatable buildings.

The first phase-out cycle included 140 districts representing nearly 2,000 buildings that were available to be purchased. To date, we have processed requests for the purchase of 1,850 buildings. The remaining relocatable buildings are being processed and we anticipate that the first cycle will be completed in the coming months. By April 2007, the OPSC will be initiating the second cycle of the Phase-Out Plan. This includes 2,153 of the State Relocatable buildings that were built between 1992 and 1998.

At the February 28, 2007 State Allocation Board meeting, the Board approved the incorporation of relocatable facilities from the Childcare, Latchkey and Preschool Programs into the Phase-Out Program. This will allow the OPSC to sell these buildings to the current lessees. Currently, there are 578 relocatable facilities in the three programs, ranging from ten to twenty-two years of age. Additionally, school districts/agencies will be required to certify to the condition of the relocatable buildings prior to the sale.

Should the current lessees not wish to purchase these relocatable buildings, the OPSC will create a waiting list and will offer these buildings to other districts. Many of these buildings include restrooms, sinks, and some kitchen facilities. If you are interested in being on the waiting list, please complete the Form SAB 25-46 and mail it to the Office of Public School Construction, Relocatable Classroom Program, 1130 K Street, Suite 400, Sacramento, CA 95814. However, there is no guarantee that these buildings will be available for purchase to other districts.

Please contact either Liz Cheyne at 916.323.2636 or Freda Stathopoulos at 916.322.5766 if you have any questions regarding the sale of these Childcare, Preschool or Latchkey relocatable buildings.

## New School Dedications and Groundbreakings

By Darlene J. Newman, OPSC Project Manager

The Office of Public School Construction would like to congratulate the following districts for their recent accomplishments for school dedications and groundbreakings:

SCHOOL DISTRICT	COUNTY	PROJECT	DEDICATION
Oxnard Elementary	Ventura	Cesar Chavez	October 2006
Los Angeles Unified	Los Angeles	15th Street Elementary (Addition)	November 2006
Los Angeles Unified	Los Angeles	Arleta High	November 2006
Los Angeles Unified	Los Angeles	Central LA New Learning Center #1 (Ambassador)	November 2006
Los Angeles Unified	Los Angeles	Panorama High	November 2006
Los Angeles Unified	Los Angeles	4th Street Primary Center	December 2006
Los Angeles Unified	Los Angeles	Vine Elementary (Addition)	December 2006
San Bernardino Unified	San Bernardino	Juanita Blakely Jones Elementary	December 2006
Los Angeles Unified	Los Angeles	Valley Region Hesby	January 2007
Los Angeles Unified	Los Angeles	Commonwealth Elementary	February 2007
Coachella Valley Unified	Riverside	Coral Mountain Academy	March 2007

SCHOOL DISTRICT	COUNTY	PROJECT	GROUNDBREAKING
Los Angeles Unified	Los Angeles	East Valley Area New High School #1A	December 2006
Los Angeles Unified	Los Angeles	East Los Angeles Area New High School #1	February 2007
Los Angeles Unified	Los Angeles	Huntington Drive Elementary (Addition)	February 2007
Coachella Valley Unified	Riverside	Bobby G. Duke Middle	February 2007
Desert Sands Unified	Riverside	High School #4	February 2007

Did you know that you can highlight your district's new school dedications and groundbreaking ceremonies in the *Advisory Actions* newsletter? To have your event highlighted, please notify the Office of Public School Construction, include all information as referenced in the table above, and please include the related School Facility Program application number. Submit this information to the Office of Public School Construction, Attention: New School Dedications and Groundbreakings.

## Critically Overcrowded Schools Program Update

By Jessica Love, OPSC Project Manager

Time is running out to convert your Critically Overcrowded Schools (COS) projects to Final Apportionments!

The COS Program provided for a Preliminary Apportionment or "reservation of funds" to qualifying school projects for up to four years prior to converting the project and requesting funding under the provisions of the School Facility Program (SFP). This timeframe was intended to provide districts additional time and the ability to secure a site. The OPSC reserved almost \$1.7 billion in funding from Proposition 47 through the initial application filing period in 2002/2003. The Proposition 55 Bond Act reserved almost \$1.9 billion for Preliminary Apportionments filed in 2004.

For each COS project, a district must convert or "request to be converted" within four years of the State Allocation Board approval of the Preliminary Apportionment, unless they have received a one-year extension. All of the requirements for conversion can be found in SFP Regulation Section 1859.147. The timelines for conversion are August 27, 2007 for the 2002/2003 filing period, and October 27, 2008 for the 2004 filing period.

## Update On Grant Adequacy

By Karen Sims, Policy and Specials Analyst

A report was presented at the March 2007 State Allocation Board (SAB) meeting providing the status of the ongoing study of the new construction funding and its adequacy to build new schools in California. As directed by the SAB, an ad hoc committee (Committee) was formed to study mainly two issues: (1) the equity of the School Facility Program (SFP) new construction base grant to the prior allowances provided under the Lease-Purchase Program (LPP) when the State converted the program in 1998; and, (2) if the grants that are sufficient to build a complete new school today's climate. The Committee concluded that the new construction base grant was deficient at the time of the conversion and one of the theories for the deficiency was that the allowances for general site development costs were not included. As a result, regulations to provide an additional grant for general site development were approved by the SAB and Office of Administrative Law.

As stated in the report, the Committee is still endeavoring to determine if the grants are sufficient to build new schools today. The main question is adequacy of the grant to build "complete school" that is subjective from one school district to another. The issue of the adequacy of the new construction grants is complex and several factors must be taken into consideration. The main factor obstructing a comprehensive answer is an ongoing effort to reach agreement on what constitutes a complete school. Currently a definition for a complete school does not exist. The SAB requested the assistance of the Superintendent of Public Instruction to define a complete school and the California Department of Education has indicated that they have already begun this task. Once there is a definition of a complete school, school districts can provide information on the projects that meet the definition and an analysis can be completed on the actual costs to complete the project compared to what was provided by the State.

In completing the analysis, the entire funding model will be taken into consideration and not just the new construction base grant. Several adjustments to the full funding model have been made in the last several years including the addition of the general site development grant, changes to the calculation for the geographic and urban/security excessive cost hardship grant, the source for the yearly adjustment for the Construction Cost Index, and the increase to the base grant as provided for in Assembly Bill (AB) 127, Chapter 35, Statutes of 2006 (Perata/Nunez). Changes to the base grant may have caused the various adjustments to be overfunded because they were established as a percentage of a particular base pupil grant funding amount.

The Office of Public School Construction (OPSC), with input from the Committee, must also determine the methodology to be used to determine the adjustment of the per-pupil base grant on an annual basis beginning January 1, 2008, as required by AB 127. One methodology being proposed to accomplish this would be to determine the change in construction costs (on a price per square foot basis) from one year to the next based on data collected from each year. However, it is also the concern of the OPSC that there is a misconception that continuing to increase the grant will fix the issue of grant adequacy when other factors also come into play, for example: an inundation of public works projects and a limited number of contractors who have limited bonding capacity to bid these projects, high worker's compensation costs, changes in the building code requirements, inspection requirements, county/city imposed offsite improvements and school district's local control regarding the type and size of facilities actually constructed.

The report also addressed possible solutions to address the concerns regarding the continuing issue of grant adequacy. This includes examining alternative funding methodologies such as a grant provided on a dollar per square foot basis, based on the type of facility constructed. Once the grant adequacy study has been concluded, the Committee will be presenting a complete report on its findings at a future SAB meeting.

## Update on Labor Compliance Program Grant Adequacy

By Lea Longero, OPSC Auditor

The Office of Public School Construction Staff presented a report to the State Allocation Board (SAB) at the March 2007 meeting concerning Labor Compliance Program (LCP) grant adequacy. The report is a follow-up to the report that was presented to the SAB at the March 2006 meeting. Due to lack of data a year ago, the sample size used for the March 2006 report was inadequate to make an accurate determination of grant adequacy; therefore, staff was requested by the SAB to present a report in March 2007 that would capture an additional year of data.

As of the January 2007 SAB meeting, the SAB has provided LCP funding to 3,342 projects. Of the should be LCP funded projects, 245 projects were closed as of February 2007. Staff used the sample size of 245 projects to compare the actual reported LCP expenditures to the LCP grant (includes the State, financial hardship, and district share) to determine LCP grant adequacy. Staff concluded that the sample size continues to be limited as the vast majority of the LCP-funded projects are not yet due for audit. Although the quantity of project data is relatively limited, the trends and patterns appear to support the conclusion that the full LCP grant is in excess of the districts' actual costs. After considering the issue, the SAB has requested staff to bring back regulatory recommendations that will adjust the LCP grant.

Please remember to report LCP expenditures on the Detailed Listing of Project Expenditures worksheets. The expenditure worksheets have been modified to specifically capture the LCP amount spent on the project. The worksheets are located at <http://www.documents.dgs.ca.gov/opsc/Forms/Worksheets/ExpenditureWrksht.xls>.

Should you have any questions regarding LCP reporting requirements, please contact the OPSC Audit Team at 916.327.1431.

## Critically Overcrowded Schools Program Update... *from page 4*

If needed, districts may request a one-year extension to convert the project prior to the four-year timeline. To request an extension, the district must submit the following:

- » Request in writing for an extension.
- » Annual Substantial Progress Report.
- » Evidence that the California Department of Education has made contingent or final approval of the proposed site.
- » Evidence that the final plans and specifications have been submitted to the Division of the State Architect for review.
- » "Other evidence": the district must supply a narrative explaining what substantial progress has been made toward the project, and why they have not been able to meet the requirements of the program. This narrative will be presented to the State Allocation Board for their approval.

If you have further questions about COS applications, please contact your Project Manager.

AS OF MARCH 28, 2007

## Proposition Funds Put to Work

PROGRAM	BOND ALLOCATION	APPORTIONED	RELEASED/CONTRACTED
<b>PROPOSITION 1D</b>			
New Construction	\$ 1,900,000,000	\$ 0	\$ 0
Modernization	3,300,000,000	362,720,273	83,809,427
Career Technical Education	500,000,000	0	0
High Performance Schools	100,000,000	0	0
Overcrowding Relief	1,000,000,000	0	0
Charter School	500,000,000	0	0
Joint Use	29,000,000	0	0
<b>Total Proposition 1D</b>	<b>\$ 7,329,000,000</b>	<b>\$ 362,720,273</b>	<b>\$ 83,809,427</b>
<b>PROPOSITION 55</b>			
New Construction	\$ 4,960,000,000	\$ 3,418,873,347	\$ 2,761,679,130
Modernization	2,250,000,000	2,220,645,973	2,034,466,745
Charter School	300,000,000	262,786,721	20,767,741
Critically Overcrowded Schools	2,440,000,000	1,883,411,940	0
Joint Use	65,547,233	50,000,000	24,655,492
<b>Total Proposition 55</b>	<b>\$ 10,015,547,233</b>	<b>\$ 7,835,717,981</b>	<b>\$ 4,841,569,108</b>
<b>PROPOSITION 47</b>			
New Construction	\$ 6,250,000,000	\$ 6,154,436,455	\$ 6,123,819,046
Modernization	3,300,000,000	3,287,290,791	3,284,827,805
Charter School	100,000,000	68,399,792	0
Critically Overcrowded Schools	1,700,000,000	1,630,144,746	77,486,544
Joint Use	50,000,000	49,869,397	43,862,866
<b>Total Proposition 47</b>	<b>\$ 11,400,000,000</b>	<b>\$ 11,190,141,181</b>	<b>\$ 9,529,996,261</b>
<b>Grand Total</b>	<b>\$ 28,744,547,233</b>	<b>\$ 19,388,579,435</b>	<b>\$ 14,455,374,796</b>

AS OF MARCH 28, 2007

## Status of Funds

PROGRAM	BALANCE AVAILABLE MILLIONS OF DOLLARS
<b>PROPOSITION 1D</b>	
New Construction	\$ 1,898.0
Modernization	2,937.2
Career Technical Education	500.0
High Performance Schools	100.0
Overcrowding Relief	1,000.0
Charter School	500.0
Joint Use	29.0
<b>Total Proposition 1D</b>	<b>\$ 6,964.2</b>
<b>PROPOSITION 55</b>	
New Construction	\$ 1,748.2
Energy	1.9
Small High School	20.0
Modernization	21.8
Energy	0.0
Small High School	5.0
Critically Overcrowded Schools	
15% COS Unrestricted Fund	287.6
Charter School	14.1
DTSC/Relocation	13.1
Hazardous Material	2.6
Joint Use	1.2
<b>Total Proposition 55</b>	<b>\$ 2,326.8</b>
<b>PROPOSITION 47</b>	
New Construction	\$ 5.6
Energy	0.6
Charter School	29.1
Modernization	12.6
Energy	0.0
Critically Overcrowded Schools	
Reserved	69.8
Joint Use	0.1
<b>Total Proposition 47</b>	<b>\$ 117.8</b>
<b>Grand Total – Propositions 1D, 55 and 47</b>	<b>\$ 9,197.5</b>



The following regulation amendments were approved at the March 28, 2007 State Allocation Board meeting.

## Emergency Repair Program Regulations Amendment

By Masha Lutsuk, OPSC Project Management Supervisor

At the March 28, 2007 meeting, the State Allocation Board (SAB) approved the regulatory amendment for setting the level of eligible application filing fees for Emergency Repair Program (ERP) projects. This amendment was a result of staff's concern regarding the disproportionate amount of fees charged by vendors for application filing services. The proposed amendment was discussed at the SAB Implementation Committee meeting on March 2, 2007. Please refer to the Implementation Committee meeting insert for a summary of that discussion.

The regulatory amendment approved by the SAB allows for application filing fees to be reimbursed as part of the district's funding request up to an amount equal to two percent of the total eligible project cost or \$5,000, whichever is less. The two percent funding limitation applies to expenditures for the following services performed by an outside vendor:

- » identifying repairs that have already been completed that qualify for ERP reimbursement,
- » reviewing the project costs to eliminate ineligible expenditures,
- » gathering supporting documentation,
- » preparing and filing applications with the Office of Public School Construction (OPSC), and
- » assisting the district with responding to the OPSC 15 and 4-Day Letters.

On the other hand, the following eligible project costs are not subject to the funding limitation described above:

- » inspection of components to verify qualifying emergency repairs (e.g. hiring a plumber to test and validate a leak in the gas line when a gas odor is present),
- » preparation of cost estimates,
- » inspection, and
- » testing.

In order to ensure that the district receives funding for the full amount of eligible costs, districts utilizing outside consultants are encouraged to submit an itemized list of consultant's services and fees to help the OPSC determine the eligible costs. The SAB recognizes that some school districts may choose to reimburse consultants in the amount greater than two percent of total project cost. However, the SAB approved the allowance limit as a reasonable amount of assistance that districts could use towards paying the consultant fees while providing the least impact on the funds available for mitigating emergency conditions at eligible schools.

In approving this regulation change, the OPSC will apply the funding limit provision to existing applications, including those that are currently pending funding approval. Furthermore, the SAB requested that the OPSC report on the progress of ERP application submittals in six months after the approval by the Office of Administrative Law of the emergency regulations implementing the ERP grant provisions.

## Implementation of Senate Bill 1415: Regulations on the Use of Proceeds from the Sale of Surplus Property

By Randy LaBorde, OPSC Auditor

At the March 28, 2007 meeting, the SAB approved regulations on the use of proceeds from the sale of surplus property. These new regulations are a result of Senate Bill (SB) 1415 [Chapter 810, Statutes of 2006 (Scott)] which became law on January 1, 2007. The proposed regulations were discussed at the SAB Implementation Committee meeting on March 2, 2007. Please refer to the Implementation Committee meeting insert for a summary of that discussion.

Prior to the recent change to Education Code Section 17462, site sale proceeds could only be used for capital outlay or major building maintenance needs not recurring within a five year period of time. The only exception to this restriction on the use of site sale proceeds was if the SAB and the local school district's governing board agreed the school district had no capital outlay or major facility maintenance needs that could be taken care of with local funds for the next five years. In this case, the site sale proceeds could be deposited in the district's General Fund. However, the law also included a consequence for this type of action. The district would be prohibited from participation in any State funded facility programs for a period of five years.

SB 1415 extends this lock-out period from five years to ten years for a district to file applications for school funding following the sale or lease of surplus property. It also limits the authority of a school district to use proceeds from the sale of surplus property for any General Fund purpose. The site sale proceeds deposited in the General Fund can only be used for "one-time expenditures". One-time expenditures are defined in regulation as costs paid by the general funds of a school district that are nonrecurring in nature and do not commit the school district to incur costs in the future, and are exclusive of Ongoing Expenditures. "Ongoing Expenditures" are defined as costs paid by the general or special funds of a school district in support of employee salaries, benefits and other costs that are associated with ongoing and sustained operations and services.

At the SAB meeting, a question was raised by a board member on whether or not the funds would be considered a one-time expenditure if they were used to assist with the fiscal solvency of a district's health or retirement program. The question will be asked of the Attorney General's Office and reported back to the SAB.

If you have any questions on the use of site sale proceeds, please contact Randy LaBorde, OPSC Auditor, at 916.322.9449.

To view additional information regarding these regulatory amendments, please view the OPSC Web site at [www.opsc.dgs.ca.gov](http://www.opsc.dgs.ca.gov).

For any of your questions, please contact your OPSC Project Manager.



## IMPLEMENTATION OF ASSEMBLY BILL 127/PROPOSITION 1D

By Chris DeLong, OPSC Policy Manager

This is the fifth issue of the Office of Public School Construction's (OPSC) supplemental insert providing an update on the implementation of Assembly Bill (AB) 127 and Proposition 1D.

Most of the grant and program provisions in Proposition 1D have been presented and discussed at length at one or more meetings of the State Allocation Board (SAB) Implementation Committee (Committee). The Overcrowding Relief Grant (ORG) discussions concluded at the February 2, 2007 Committee meeting, and the regulations for the ORG were presented and approved by the SAB at its February 2007 meeting. For detailed information on the ORG, please refer to the article that follows.

The Seismic Mitigation Program contained in Proposition 1D is the sole remaining program to be implemented. It is anticipated that discussions will resume on this topic at the Committee later this spring.

The following chart depicts the major changes included in Proposition 1D that resulted in new or revised regulations, the date the SAB approved (or is anticipated to approve) the regulations, and the date the regulations are anticipated to be approved by the Office of Administrative Law (OAL):

PROVISION	SAB APPROVAL OF THE IMPLEMENTING REGULATIONS	OAL ANTICIPATED APPROVAL
High Performance Incentive Grants	September 27, 2006	Spring 2007
Small High School Program	September 27, 2006	Spring 2007
Charter School Facilities Program	September 27, 2006	Spring 2007
New Construction Grant Increase	September 27, 2006	Spring 2007
Career Technical Education Facilities Program <sup>1</sup>	January 24, 2007	May 2007
Overcrowding Relief Grant	February 28, 2007	Summer 2007
Seismic Mitigation	Anticipated to be Summer 2007	Fall 2007

<sup>1</sup> Statute provides the regulations to be submitted on an emergency basis

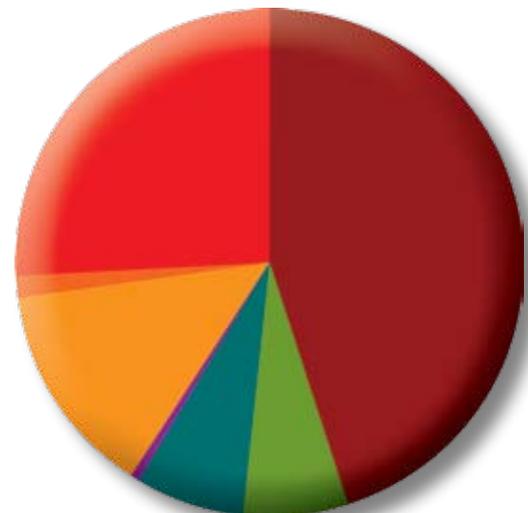
If you would like additional details regarding a particular program/provision, the Committee Issue Papers, SAB reports, and draft regulations (as applicable) can be located on the OPSC Web site at [www.opsc.dgs.ca.gov](http://www.opsc.dgs.ca.gov). In addition, please refer to past editions of the *Advisory Actions*.

The OPSC and California Department of Education (CDE) conducted workshops on the Career Technical Education Facilities Program and Overcrowding Relief Grant throughout the State. The date, location, and time for the remaining workshop is as follows:

AREA	DATE	LOCATION	TIME
Oroville Area (CTEFP Workshop Only)	Monday, April 30, 2007	Butte County Office of Education – Board Room 1859 Bird Street, Oroville, CA 95965	9:30 a.m. to noon

## K–12 FUNDING PROVIDED BY PROPOSITION 1D

LEGEND	PROGRAM	FUNDING PROPOSAL
	New Construction*	\$ 1,900,000,000†
	Modernization*	3,300,000,000
	Charter Schools	500,000,000
	Career Technical Education	500,000,000
	Joint Use Projects	29,000,000
	Overcrowding Relief	1,000,000,000
	High Performance Schools	100,000,000
<b>TOTAL</b>		<b>\$ 7,329,000,000</b>



\* No more than \$200,000,000 of the sum of the appropriations for new construction and modernization shall be used to fund the smaller learning communities and small high schools.  
† Up to 10.5 percent shall be available for purposes of seismic repair, reconstruction, or replacement, pursuant to Education Code Section 17075.10.

## OVERCROWDING RELIEF GRANT PROGRAM

By Melissa Ley, OPSC Project Manager

At the February 28, 2007 meeting, the SAB approved the implementing regulations for the Overcrowding Relief Grant (ORG). The ORG was established by AB 127, Chapter 35, Statutes of 2006 (Perata/Nunez). This program provides for \$1 billion for eligible overcrowded school sites. The purpose of the program is to relieve overcrowding by reducing the number of portable classrooms on overcrowded sites and replacing them with permanent classrooms to create additional open space.

A school site is considered eligible for the ORG if the pupil population density is equal to or greater than 175 percent of the CDE recommended site density based on 2005–2006 enrollment. The statute requires that the calculation to determine the density take into consideration (1) multistory construction and new construction projects apportioned by the board and (2) Critically Overcrowded School Program projects. In order to determine if a school site is eligible, districts will need to complete and submit the Overcrowding Relief Grant Eligibility Determination form to the CDE for each school site. The form will also determine the maximum ORG site specific pupil eligibility.

ORG site specific pupil eligibility is the maximum number of grants that can be requested for each school site and is determined by the *lesser* of the following:

- 1) The number of pupils removed from the density calculation that would reduce the density at the site to 150 percent of the CDE recommended population density.

Or

- 2) The number of pupils housed in portable classrooms at the site with the exception of pupils housed in portables used for purposes of the Class Size Reduction Program.

Or

- 3) The number of portables being replaced in the project. Districts must build a number of permanent classrooms equivalent to the number of portable classrooms it will be replacing. For example, if the district is replacing 10 (K–6) portables at School A, they may request up to 250 K–6 pupil grants [ $10 \times 25$  (State loading standard) = 250], as long as it does not exceed the criteria described in 1 and 2 above.

In addition to a site specific pupil eligibility, each district will also have a district-wide (or high school attendance area/super high school attendance area, as applicable, depending on the district's new construction eligibility baseline filing basis) eligibility bank which limits the number of grants that can be requested district-wide. The Overcrowding Relief Grant District-Wide Eligibility Determination (Form SAB 50-11) will be utilized to determine the ORG district-wide eligibility. This eligibility is calculated by taking the number of portables that were included in the initial new construction baseline determination (as identified in part on Line 1 of Part III of the Form SAB 50-02) and multiplying by the applicable State loading standard, i.e. K-6: 25, 7-12: 27, non-severe: 13, and severe: 9.

The ORG funding must be used to build permanent classrooms that replace portable classrooms. The funding may be used for purposes described in Education Code Section 17072.35 with the exception of the construction, acquisition or transportation of portable classrooms. Funding will be provided utilizing the SFP new construction per pupil grant amount in effect at the time the application is funded by the SAB. Applicable additional and excessive cost hardship grants will also be provided. In addition, site acquisition is allowable to construct permanent classrooms at new school sites or additions to existing sites.

SFP new construction eligibility is not required for this program, as there will be no increase to a district's classroom capacity. Districts will be required to remove the replaced portables from the eligible school site and from K-12 classroom use within six months of the date of occupancy of the replacement permanent classrooms. The portables may be utilized at non-eligible sites for non-K-12 classroom use, such as storage, pre-school, or adult education purposes.

Once the regulations have been approved by the OAL, districts will be required to complete the following items to request ORG funding:

- 1) Submit the Form SAB 50-11 to the OPSC.
- 2) Submit the Overcrowding Relief Grant Eligibility Determination to the CDE for each school site.
- 3) Obtain all necessary approvals of the plans and specifications for each project.
- 4) Submit the Form SAB 50-04 to the OPSC with all supporting documentation (see the General Information section on the Form SAB 50-04 for more information) for each project, and for any additional acreage required.

Applications will be funded based on highest density in each of three funding cycles as follows:

APPLICATION FILING DEADLINE	ANTICIPATED SAB ALLOCATION MONTH	ALLOCATION
January 31, 2008	July 2008	\$500,000,000
July 31, 2008	January 2009	\$300,000,000
January 30, 2009	July 2009	\$200,000,000

Any remaining funds from each funding cycle will be transferred to the next funding cycle. If funds are available after the third funding cycle then a fourth will occur. If an application is not funded due to low density and insufficient funds and additional funding cycles remain, a district may request that its application remain with the OPSC for consideration in the next funding cycle.

If you have any questions regarding the ORG program, please contact your CDE Representative and OPSC Project Manager.

STATE ALLOCATION BOARD

# Implementation Committee

MAVONNE GARRITY, ASSISTANT EXECUTIVE OFFICER, STATE ALLOCATION BOARD



Following is a summary of the main issues that were discussed at the February 2 and March 2, 2007 meetings of the Implementation Committee

## OVERCROWDING RELIEF GRANT PROGRAM

By Melissa Ley, OPSC Project Manager

The Overcrowding Relief Grant (ORG) was established by Assembly Bill (AB) 127, Chapter 35, Statutes of 2006 (Perata/Nunez). This program provides \$1 billion for eligible overcrowded school sites. The purpose of the program is to relieve overcrowding by reducing the number of portable classrooms on overcrowded sites and replacing them with permanent classrooms to create additional open space.

The Office of Public School Construction (OPSC) began presentations of the ORG at the September 7, 2006 Implementation Committee (Committee) meeting and continued discussions at subsequent meetings. At the last meeting on February 2, 2007, the majority of the discussion focused on the financial hardship review criteria for ORG projects. Later in the meeting, a California Department of Education (CDE) representative presented the updated Overcrowding Relief Grant Eligibility Determination form.

Staff stated the draft regulations would be presented at the February 2007 SAB meeting for adoption. Please refer to the "Assembly Bill 127/Proposition 1D" insert in this edition of the *Advisory Actions* for a detailed explanation of the regulations approved by the State Allocation Board (SAB) at its February 28, 2007 meeting.

## ASSEMBLY BILL 2947: Special Education Program Transfers

By Jessica Love, OPSC Project Manager

At the February Committee meeting, AB 2947 [(Chapter 35, Statutes of 2006 (Goldberg))] was introduced for discussion. This new law provides that the existing school building capacity calculation used to determine new construction eligibility must be adjusted when there is a transfer of special education programs between a school district and a County Office of Education (COE).

The law ensures that the School Facility Program (SFP) new construction baseline eligibility is adjusted for special education pupil enrollment and facilities when districts and COEs transfer special education programs. When the title to the facilities is relinquished, the enrollment and building capacity is decreased for the grantor of facilities and increased for the grantee.

Additionally, districts may be required to remit monies back to the State if they received facilities from a COE that was originally constructed with financial hardship assistance from the State. If the facilities being transferred were occupied more than ten years prior to the transfer, repayment of the initial financial hardship assistance provided is not required by the statute.

The Committee meeting discussions included an overview of the new construction baseline eligibility calculation. Staff also proposed a revision to the SFP regulations

and the Enrollment Projection (Form SAB 50-01), as well as some clean-up regulations to clarify current SFP regulations and forms.

The main topics of discussion were regarding the monies due back to the State, specifically the following:

- » The possibility of using a depreciated value of the building when determining the amount of repayment required to the State, as opposed to the amount of the financial hardship funding originally provided for the project.
- » The timeline that districts will follow when repaying the amount(s) due to the State, and whether they will be allowed more than a standard sixty days for repayment.
- » The possibility of remitting pupil grants in lieu of dollars when repayment is due to the State.
- » The method of proration that the State will use when calculating the amount due from the transfer of each facilities.

Staff agreed to consider the above concerns and questions shared in the meeting discussions and present another item, including draft SFP regulations and the Form SAB 50-01, at the next Committee meeting.

At the March meeting, Committee discussions included a brief overview of (1) the bill's provisions, (2) Staff's proposed revisions to SFP regulations, (3) the Enrollment Projection (Form SAB 50-01), and (4) clean-up regulations to clarify current SFP Regulations and forms. The following topics were discussed at length:

- » The calculation of the amount owed to the State – the use of a prorated funding methodology based on time elapsed from construction when determining the amount of repayment required by the State versus using a proportionate amount of the financial hardship funding that was originally provided for the project (based on the square footage being transferred).
- » Consideration for transfers of special education programs and the related facilities that occurred prior to the effective date of the law, January 1, 2007. Some districts would benefit from the ability to adjust their eligibility based on past actions. However, some districts felt there would be excess pressure from the COEs to transfer special education programs.
- » Snapshot of when the district qualified for financial hardship to determine whether a grantee must remit funds to the State. Some suggestions were to determine (1) the Financial Hardship status of districts at the time of the initial construction of the facilities, (2) at the time of the transfer of facilities, and/or (3) at the time of the request for the adjustments due to the transfer.

The following topics were clarified:

- » Repayment of the funds to the State would be 60 days. However, the district may request a longer repayment period, up to five years.
- » The district will not have the option of remitting pupil grants in lieu of dollars.

» The method of proration that the State will use, when calculating the possible amount due from each transfer of facilities, will be based on the square footage of the facilities being transferred, compared to the square footage built in the original project.

Staff agreed to review the above concerns and questions shared in the meeting discussions and present another item, including draft SFP regulations and the Form SAB 50-01, at the next Committee meeting.

## EMERGENCY REPAIR PROGRAM: Discussion on Eligible Grants for Administrative and Application Filing Fees

By Masha Lutsuk, OPSC Project Management Supervisor

In January 2007, the SAB adopted changes to the Emergency Repair Program (ERP) that were required by the passage of AB 607, Chapter 704, Statutes of 2006 (Goldberg). In addition, the Board approved several changes aimed at improving the ERP and streamlining the application submittal and funding processes. However, the Board did not approve the proposal to deny ERP funding for administrative and application filing fees in response to concerns raised at the meeting. The SAB requested the OPSC to discontinue providing funding for these costs until further review and discussion of the issue by the Committee.

The OPSC staff presented a proposal at the March 2nd, 2007 Committee meeting that would limit the amount of funding provided for administrative fees to two percent of the eligible project costs or \$5,000, whichever is less. As a part of the explanation for the cap, staff stated that the OPSC has received applications requesting an excessive amount for application filing fees.

Audience members stated that consultants provide services beyond filling out of the application forms; however, their fees may not be itemized. Staff clarified that some of these additional services provided would be considered eligible expenditures beyond the cap for administrative costs. The type of fees that are proposed to be capped was explained. A committee member suggested consultants begin to itemize their services and fees when seeking ERP funding.

Further discussion at the meeting focused on the amount of the proposed allowance and alternative proposals such as a five percent cap in lieu of two percent.

Additionally, a concern was raised regarding the Board's decision to discontinue providing administrative and application filing fees until the subject was further discussed at a future Committee meeting. Staff stated the OPSC would work with districts that were declined these fees since the January 2007 SAB meeting decision. The OPSC will seek resolution to this issue and guidance from the SAB on addressing the previously denied reimbursement requests for application filing fees.

Staff stated the draft regulation would be presented at the March 28, 2007 SAB meeting for adoption. Please refer to the "Regulations Update" insert in this edition of the *Advisory Actions* for a detailed explanation of the regulations approved by the SAB at its March 28, 2007 meeting.

## SENATE BILL 1415: Proceeds from the Sale of Surplus Property

By Randy LaBorde, OPSC Auditor

SB 1415 was introduced and discussed for the first time at this Committee meeting. SB 1415 modifies Education Code Section 17462 to extend the lock-out period for school districts to file applications for funding, following the sale or lease of surplus property, from five years to ten years with regards to the district's anticipated need for additional sites, building construction, and major deferred maintenance requirements. It also limits the authority of a school district to use proceeds from the sale of surplus property for any General Fund purpose. It establishes the following requirements for the use of proceeds, when deposited in the General Fund, from the sale or lease with the option to purchase of school district property:

- » Provides that the site sale proceeds be used for "One-time Expenditures."
- » Prohibits the use of site sale proceeds for "Ongoing Expenditures."

Definitions were provided by Staff, however the CDE proposed an alternative definition for "one-time expenditures" and "ongoing expenditures" citing that the Education Code referenced in the proposed definition in the issue paper was scheduled to sunset on January 1, 2010. The OPSC agreed to review the alternative definitions and stated it appeared to capture the same essence as originally proposed.

The OPSC stated that the proposed regulations would be presented to the next available SAB meeting for adoption. Please refer to the "Regulations Update" insert in this edition of the *Advisory Actions* for a detailed explanation of the regulations approved by the SAB at its March 28, 2007 meeting.

## WATCH FOR...

Future items of discussion include:

- » Labor Compliance Program (LCP) Grants  
*Discussion on regulatory amendments to adjust the grant and to provide the grant to school districts that voluntarily initiate and enforce an LCP.*
- » AB 127 – Chapter 35, Statutes of 2006 (Nunez & Perata)  
*Discussion on the seismic mitigation provisions of the bill.*
- » AB 607 – Chapter 704, Statutes of 2006 (Goldberg)  
*Discussion on the permanent standard for good repair.*

## THE NEXT MEETING...

The next Implementation Committee meeting is scheduled for Friday, May 4, 2007 from 9:30 a.m. to 3:30 p.m. at the Legislative Office Building, 1020 N Street, Room 100, in Sacramento.