

ADVISORY ACTIONS

ISSUE NO. 03

For SAB meetings held on
April 25, 2007

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opsc reminders

State Allocation Board Meetings*

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

Implementation Committee Meetings*

- » June 1, 2007
- » July 6, 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

Critically Overcrowded Schools

- » Final Conversion Application Submittals for Projects Apportioned in August 2003 due by:.....August 27, 2007
- » Final Conversion Application Submittals for Projects Apportioned in October 2004 due by:.....October 27, 2007

Deferred Maintenance Program (DMP)

- » Application submittals due 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 Application submittals.

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



from the desk of Lori Morgan, Acting Executive Officer

Great news to share! As we are all aware, Proposition 1D created several new grants and programs in the School Facility Program and provided more school facility funding opportunities for California public school districts and charter schools. These additional opportunities required the Office of Public School Construction (OPSC) to develop and create regulations in order for the new programs to be implemented. We are pleased to share that regulations for the following four grants/programs are nearing final approval at the Office of Administrative Law (OAL):

- » *High Performance Schools Incentive Grant (New Grant)*
- » *Charter Schools Facilities Program (Changes to the Existing Program)*
- » *Small High School Program (Changes to the Existing Program)*
- » *Career Technical Education Facilities Program (New Program)*

It is anticipated that the regulations for these programs will be approved by the OAL in May. At that time, districts will have the ability to apply for these new funding opportunities.

More News...

In January 2007, the Governor released Executive Order S-02-07 that included specific language directing State offices that award bond money toward even more bond accountability. Here is an excerpt from the order:

"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."

For many years, the OPSC has provided transparency and critical information on the use of State General Obligation Bond dollars for school construction on our Web site. This Executive Order solidifies the OPSC's practice of full disclosure and public access to information on the public school construction bond dollars. To provide further information on our accountability, the Office of the Governor and the OPSC, as well as the other agencies with jurisdiction over the Infrastructure Bonds, are in the process of developing a new Web site with the Department of Finance. The Web site is anticipated to be online in the Summer of 2007 and will provide links to the Web sites of all of the State departments involved in the Governor's Strategic Growth Plan, including departments involved in the administration of Proposition 1D school bond dollars. It is my hope that the benefits of this new Web site will go beyond meeting the requirements of the Executive Order and will be an additional means to assist all stakeholders in staying informed and seeing the positive outcomes of statewide school construction projects. To read further details on the Executive Order, please view the Office of the Governor's Web site at www.gov.ca.gov.

Annual Reporting of Unused Sites

By Deah Johnson, OPSC Project Manager

In May 2007, the Office of Public School Construction (OPSC) will mail all districts the annual Certification of Unused Sites (Form SAB 423). Districts are required to report annually, any district-owned site that is not being used for school construction or for school purposes (see Education Code Sections 17219 through 17224) to the State Allocation Board (SAB) by using Form SAB 423. All unused sites must be reported immediately, if they are not currently being used as a school site.

School district unused sites are subject to a fee when the sites are not being used within five years for elementary school districts or a unified school district (grades K–8) and seven years for high school districts or unified school districts (grades 7–12) from the date of acquisition or non-use. If the district's unused site is within the five to seven year window, the district is still required to report it as an unused site. In addition, if the SAB has deemed a school site exempt, the exemption continues to exist only if the district recertifies annually and in those cases the fees would be waived. It is very important that all districts verify the information on the Form SAB 423, before returning it to the OPSC, *even if the district has no unused sites*.

If a district needs to change the status of sites previously reported on the Form SAB 423, such as a new unused site, sale of a district-owned site or a request to have the fees waived or reduced, the district must complete a Modification of Unused Sites Status (Form SAB 424) for each unused site where a modification has taken place. The Form SAB 424 can be found on the OPSC Web site at www.opsc.dgs.ca.gov.

Please note that both the Form SAB 423 and Form SAB 424 must be returned to the OPSC no later than June 30, 2007.

Should you have any questions, please contact Deah Johnson, Project Manager, at deah.johnson@dgs.ca.gov or 916.322.5562.

IMPORTANT REMINDER!

Annual Deferred Maintenance Submittals

By Bill Johnstone, OPSC Project Manager

The final filing date to submit a new or revised Deferred Maintenance Program Five-Year Plan (Form SAB 40-20) to the Office of Public School Construction (OPSC) is June 30, 2007. To assist you in completing your plan, please refer to the *Deferred Maintenance Program Handbook* and the instructions on Form SAB 40-20 that are available on the OPSC's Web site at www.opsc.dgs.ca.gov. It is important to note that districts are required to use the most current version of the Form SAB 40-20 (Rev. 01/05), and if a district intends to file an Extreme Hardship Funding Application (Form SAB 40-22), a revised Form SAB 40-20 must be included with the complete extreme hardship application package.

Deferred Maintenance Extreme Hardship applications are due no later than June 30, 2007, in order to be considered for funding. It is anticipated that this funding, as well as the basic apportionment, will be allocated at the State Allocation Board meeting in December 2007. For application submittal requirements, please refer to the *Deferred Maintenance Program Handbook*.

Should you have any questions or need additional information, please contact Bill Johnstone, Project Manager, at 916.323.8176 or Jan Moss, Project Manager at 916.327.0569.

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 dedications and groundbreaking ceremonies.

SCHOOL DISTRICT	COUNTY	PROJECT	DEDICATION
Los Angeles Unified	Los Angeles	Mount Washington Elementary	April 2007
Merced City	Merced	Tenaya Middle	April 2007

SCHOOL DISTRICT	COUNTY	PROJECT	GROUND BREAKING
Coachella Valley Unified	Riverside	New Sea View Elementary	April 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 submit all information that is included in the table above and the related School Facility Program application number to the Office of Public School Construction, Attention: *New School Dedications and Groundbreakings*.

AB 1465 Small High School Program Update

By Brian LaPask, OPSC Program Supervisor

The Small High School Program, created under Assembly Bill 1465, Chapter 894, Statutes of 2004, has increased available funding (up to \$200 million) for the purposes of constructing new small high schools or reconfiguring existing high schools into two or more smaller high schools. A "Small High School," for purposes of this program is defined as a high school with an enrollment of 500 pupils or less. As an incentive for school districts to participate in this pilot program and build new small high schools, approved projects will be funded at a 60/40 State and local matching share, rather than the 50/50 State and local matching share currently used under the regular School Facility Program. The reconfiguration grant for the modernization program will be treated as a separate apportionment and will not require a local matching share.

Studies conducted in existing small high schools have shown that there are many benefits to smaller school environments, such as:

- » decreased truancy and dropout rates;
- » more parental involvement;
- » students experiencing a greater sense of belonging;
- » fewer disciplinary problems;
- » decreases in crime and violence;

- » less alcohol and drug-related incidents;
- » increased attendance; and,
- » a general increase in the academic success of the pupils in attendance.

To date, there has not been a high level of activity in this program. In an effort to encourage more districts to apply for Small High School Program funding, the California Department of Education (CDE) recently extended the Academic Reform Strategy submittal deadline to September 7, 2007. Additionally, the school district must have their Academic Reform Strategy approved by the CDE prior to applying for funding with the OPSC.

The OPSC is currently accepting new construction and modernization applications for the Small High School Program through September 30, 2007. It is anticipated that eligible projects will be apportioned at the December 2007 State Allocation Board meeting, as the program will sunset on January 1, 2008.

For more information regarding the Small High School Program, please visit the OPSC Web site at <http://www.opsc.dgs.ca.gov> or contact either Brian LaPask, Program Supervisor at 916.327.0298 or Janna Shaffer, Project Manager at 916.445.4471.

AS OF APRIL 25, 2007

Proposition Funds Put to Work

PROGRAM	BOND ALLOCATION	APPORTIONED	RELEASED/CONTRACTED
PROPOSITION 1D			
New Construction	\$ 1,900,000,000	\$ 0	\$ 0
Modernization	3,300,000,000	386,273,501	107,601,698
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
Total Proposition 1D	\$ 7,329,000,000	\$ 386,273,501	\$ 107,601,698

PROGRAM	BOND ALLOCATION	APPORTIONED	RELEASED/CONTRACTED
PROPOSITION 55			
New Construction	\$ 4,960,000,000	\$ 3,629,796,851	\$ 2,904,720,640
Modernization	2,250,000,000	2,220,645,973	2,038,040,592
Charter School	300,000,000	262,786,721	21,445,845
Critically Overcrowded Schools	2,440,000,000	1,883,411,940	0
Joint Use*	65,547,233	64,371,678	25,871,760
Total Proposition 55	\$ 10,015,547,233	\$ 8,061,013,163	\$ 4,990,078,837

*Includes \$15,547,233 transferred into this category.

PROGRAM	BOND ALLOCATION	APPORTIONED	RELEASED/CONTRACTED
PROPOSITION 47			
New Construction	\$ 6,250,000,000	\$ 6,152,826,712	\$ 6,126,155,770
Modernization	3,300,000,000	3,287,247,332	3,284,787,546
Charter School	100,000,000	57,105,424	0
Critically Overcrowded Schools	1,700,000,000	1,619,965,875	77,486,544
Joint Use	50,000,000	49,869,397	43,862,866
Total Proposition 47	\$ 11,400,000,000	\$ 11,167,014,740	\$ 9,532,292,726
Grand Total	\$ 28,744,547,233	\$ 19,614,301,404	\$ 14,629,973,261

AS OF APRIL 25, 2007

Status of Funds

PROGRAM	BALANCE AVAILABLE MILLIONS OF DOLLARS
PROPOSITION 1D	
New Construction	\$ 1,896.0
Modernization	2,913.6
Career Technical Education	500.0
High Performance Schools	100.0
Overcrowding Relief	1,000.0
Charter School	500.0
Joint Use	29.0
Total Proposition 1D	\$ 6,938.6

PROGRAM	BALANCE AVAILABLE MILLIONS OF DOLLARS
PROPOSITION 55	
New Construction	\$ 1,554.5
Energy	0.0
Small High School	20.0
Modernization	5.4
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
Total Proposition 55	\$ 1,903.5

PROGRAM	BALANCE AVAILABLE MILLIONS OF DOLLARS
PROPOSITION 47	
New Construction	\$ 7.2
Energy	0.6
Charter School	40.4
Modernization	12.6
Energy	0.0
Critically Overcrowded Schools	
Reserved	80.0
Joint Use	0.1
Total Proposition 47	\$ 140.9

Grand Total – Propositions 1D, 55 and 47 \$ 8,983.0



The following regulation amendments were approved at the April 25, 2007 State Allocation Board meeting.

Assembly Bill 2947: Special Education Program Transfers

By Jessica Love, OPSC Project Manager

At the April 25, 2007 meeting, the State Allocation Board (SAB) approved changes to the School Facility Program (SFP) regulations, including changes to the Enrollment Certification/Projection (Form SAB 50-01). These changes result from the passage of Assembly Bill (AB) 2947 (Chapter 35, Statutes of 2006 - Goldberg). When a county office of education (COE) or a school district relinquishes title of facilities associated with a Special Education Local Plan Area (SELPA), this bill allows for the following: 1) the adjustment of school building capacity for qualifying districts and COEs, 2) the adjustment of projected enrollment for qualifying districts and COEs, and 3) the compensation to the State when there is a title and facilities transfer, when applicable.

Prior to the recent code change, there was no mechanism for decreasing the classroom capacity of the district when titles to certain facilities were being relinquished. In addition, before the change, the transfer of the pupils and facilities resulting from the transaction created an artificial decrease in the relinquishing district's eligibility projection.

The following changes were made to the SFP regulations:

School building capacity adjustments:

- » AB 2947 will require the existing school building capacity to be reduced by the number of pupils that were housed in facilities to which the grantor relinquished title, as the result of a transfer of a special education program between a school district and a COE or SELPA, if applicable.
- » If title to the facilities is not relinquished, there is no authority to adjust either entities' school building capacity.
- » For purposes of this bill, title includes any lease interest of five years or greater.

Projected enrollment adjustments:

- » In the case of a COE transferring title of facilities, the enrollment calculation of Special Day Class (SDC) pupils receiving special education services is adjusted in the enrollment reporting period in which the transfer occurs and the three previous school years.

Adjustment timeframes:

- » The transfer of a special education program and the title to the facilities is a local decision between a COE and a school district. Title transfers occurring *prior* to January 1, 2007, do not require an adjustment to capacity and enrollment; however, districts have the option of requesting the adjustments, as long as any required remittance is submitted to the State.
- » For title transfers occurring *after* January 1, 2007, the Office of Public School Construction (OPSC) is required to make adjustments to the districts' capacity and enrollment pursuant to the law.
- » In order to discourage continual shifting of eligibility between COEs and school districts, the OPSC will limit title transfer adjustments to not more than once in every five year period for each facility.

Funds remitted to the State:

- » Additionally, AB 2947 requires that if a transfer of title to special education program facilities constructed with State funds occurs within 10 years after the initial occupancy of the facility, the grantee(s) shall remit to the State "a proportionate share of any financial hardship assistance" provided for the project, if applicable.
- » If the grantee had a SAB-approved Financial Hardship status at either the time of the title transfer or the time of the adjustment request, there will be no remittance to the State.
- » If the grantee did not have Financial Hardship status at either of the above times, the State will determine the amount of money owed based on prorating the State funding initially apportioned to the project by the square footage of facilities transferred, less any site acquisition for the project (unless the title transfer includes land acquisition).
- » In order to ensure compliance with all relevant laws when transferring a project and/or facilities between a district and COE, the grantor and grantee will be required to send a letter, signed by a valid representative from each party, to the OPSC at the time of the facilities transfer. The certifications on the letter are to ensure that the facility maintenance is continued and interactions between special education pupils and other pupils are maximized based on the location of the facilities. The details to be included in the letter are stated on the Form SAB 50-01.
- » When the OPSC receives a letter indicating a transfer of facilities, an item will be presented to the SAB providing notification of the transfer, any appropriate eligibility adjustments and the amount of remittance to the State, if any. Any funds due to the State must be remitted within 60-days or over a period of up to five years (if requested by the district).

In addition to changes required by the passage of AB 2947, the proposed regulation amendments contain a few non-substantive changes for purposes of correction and clarification. These changes are as follows:

- » **Section 1859.43(b)(1):** The language delineating the calculation for the SDC enrollment projection will be corrected to correspond with current practice.
- » **Section 1859.51(p):** Language will be added for an adjustment to be available to Critically Overcrowded School Preliminary Apportionments funded in 2004.
- » **Form SAB 50-01:** The instructions will clarify which SDC pupils are to be reported on that form, to correspond to which pupils are reported to the California Department of Education and housed by the district.

The SAB requested Staff to report back in six months after the approval of these regulations by OAL on the level of program and facility transfer activity occurring after January 1, 2007, as a result of these amended regulations.

Charter School Facilities Program Regulation Changes

By Barbara Kampmeiner, OPSC Project Manager

At the April 25, 2007 meeting, the State Allocation Board (SAB) meeting approved regulation changes for the Charter School Facilities Program (CSFP) to specify allowable uses of funds returned to the program due to rescinded projects and to change the way projects are funded upon conversion from a Preliminary Apportionment to a Final Apportionment.

The CSFP was established in 2002 and with the \$100 million made available from Proposition 47 only six projects received preliminary apportionments. As a result of the limited program impact, legislative changes were made to the program so that the \$300 million made available from Proposition 55 would fund more projects. These changes included strict caps on project size and total project costs at the time the preliminary apportionments were awarded. It soon became apparent that the limited funding available per project made it difficult to construct schools. Recent legislation again modified the CSFP that removed the caps for preliminary apportionments awarded under Proposition 1D.

Over the course of the past year, four Preliminary Apportionments (with a total value of \$37,981,745) have come before the SAB to be rescinded. Current regulations did not address the use of funding made available from these types of rescissions. A meeting was held in March 2007 to which all recipients of a Preliminary Apportionment under either Proposition 47 or Proposition 55 and representatives from the major charter school organizations were invited. At this meeting, the OPSC proposed changes to the regulations that would result in the rescinded funds being used primarily to assist those who had received an apportionment under the restrictions of Proposition 55. This suggestion received the support of the vast majority of those in attendance, as this was identified as the area with the most need.

Summary of Changes

» Removal of Regulations Categorizing Funds for Either Site Acquisition or Construction

The regulations for those who received a Preliminary Apportionment under Proposition 55 have two categories of funding identified, site acquisition and construction. Excess costs in one category cannot be used to cover shortfalls in the other. The revised regulations remove this distinction and allow the funds to be used for any eligible project costs, at the discretion of the charter school.

» Use of Rescinded Funds

Of the rescinded funds available, \$12,000,000 will remain for cost increases for those that received a Preliminary Apportionment under Proposition 47. The remaining \$30,658,406 would be available, on a proportionate basis, for cost increases at the time of final conversion for those projects apportioned under Proposition 55.

» Use of Funds from the Hazardous Material/Waste Removal Fund and the DTSC/Relocation Fund

In order to meet the immediate need for more construction funding, the \$15,689,237 set aside in the Hazardous Material/Waste Removal Fund and the DTSC/Relocation Fund will be made available for disbursement to Proposition 55 recipients using the same methodology as the rescinded amounts.

» Unrestricted Charter School Fund Use

It is possible that additional preliminary apportionments funded through either Proposition 47 or Proposition 55 will be rescinded. The funds from Proposition 55 projects rescinded after April 25, 2007 will first be used to replenish the Hazardous Material/Waste Removal Fund and the DTSC/Relocation Fund. Once those funds have been replenished to the original levels, additional rescinded amounts would go into the Unrestricted Charter School Fund. The Unrestricted Charter School Fund would be available to recipients of Proposition 55 apportionments at the time of Final Conversion on a first come, first served basis. In the event that there are no additional funds in the Unrestricted Charter School Fund when a project converts, the additional amounts will be placed on an unfunded list.

The changes summarized above are reflected in the amended regulations adopted by the SAB on April 25, 2007. Inclusion of funds due to these regulations will still result in the Final Apportionment being limited to eligible costs, as would any project under the SFP. The intent of these changes is to encourage the successful conversion of CSFP projects awarded under Proposition 55. For more details on the changes, please see the Proposed Regulations Section on the OPSC Web site.



STATE ALLOCATION BOARD

Implementation Committee

MAVONNE GARRITY, ASSISTANT EXECUTIVE OFFICER, STATE ALLOCATION BOARD

Assembly Bill (AB) 2947: Special Education Program Transfers

By Jessica Love, OPSC Project Manager

Assembly Bill 2947 [(Chapter 35, Statutes of 2006 (Goldberg)] was discussed at the February, March and April Committee meetings. This bill provides that the School Facility Program (SFP) new construction baseline is adjusted for special education pupil enrollment and facilities when districts and a county office of education (COE) transfer special education programs between each other. When 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 funds back to the State if they received facilities from a COE that was originally constructed with financial hardship assistance from the State *and* the facilities being transferred were occupied less than ten years prior to the transfer.

The April Committee meeting included more in-depth discussions on previous issues, as well as a presentation of the updated SFP regulations and the Enrollment Certification/Projection (Form SAB 50-01). The main topics of discussion were regarding the funds due back to the State and the allowance of the adjustments to be done for transfers prior to the enactment of the bill. Specifically, the following issues were discussed:

- » **Retroactivity:** For transfers of special education programs and facilities made prior to the effective date of the law, January 1, 2007, adjustments would be at the district's and COE's request. 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. Districts and COEs have the choice on whether or not to transfer special education programs and facilities between each other after the effective date of the law, however, if both consent to do so, adjustments would be required.
- » **Proration:** This discussion centered on 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). Based on the language in the law, the Office of Public School Construction (OPSC) recommends that remittance be a proportionate amount of the initial Financial Hardship funding.
- » **Financial Hardship status:** When the OPSC determines whether a grantee must remit funds to the State, staff will consider the Financial Hardship status of district

(1) at the time of the transfer of facilities, and/or (2) at the time of the request for the adjustments due to the transfer.

- » **Repayment timelines:** The timeline that districts will follow when repaying the amount(s) due to the State will be sixty days, or up to 5 years (upon request).
- » **Certifications made:** There was discussion on which certifications are necessary for the receiving district to make when acquiring a transferred building. Clarification will be made on the Form SAB 50-01.

Staff agreed to consider the above concerns and questions shared in the meeting when presenting the item at the next State Allocation Board (SAB) meeting. Staff stated the draft regulations would be presented at the April 25, 2007 SAB meeting for adoption. Please refer to the Regulations Insert in this edition of the Advisory Actions for a detailed explanation of the regulations approved by the SAB at its April 25, 2007 meeting.

Update...

The following item was discussed at the May 4, 2007 Implementation Committee meeting:

» **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 a LCP. Please view the OPSC Web site for further information.

The Next Meeting...

The next Implementation Committee meeting is scheduled for Friday, June 1, 2007, from 9:30 a.m. to 3:30 p.m. at the Legislative Office Building, 1020 N Street, Room 100, in Sacramento.