

# ADVISORY ACTIONS

**ISSUE NO. 04**

For SAB meeting held on  
May 23, 2007

## Inside

- » The High Performance Schools Incentive Grant..... 2
- » New School Dedications and Groundbreakings ..... 3
- » Do You Need More Money for Accessibility and Fire Code Compliance for Your Modernization Project? ..... 3
- » Proposition Funds Put to Work ..... 4
- » Status of Funds..... 4
- » Regulations Update .....Insert
- » Implementation Committee .....Insert

## opsc reminders

### State Allocation Board Meetings\*

- » June 27, 2007
- » July 25, 2007
- » August 22, 2007

### Implementation Committee Meetings\*

- » July 6, 2007
- » August 3, 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.

### 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

### 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

I am always delighted to provide updates on the successful progression of the various programs resulting from the passage of Proposition 1D. These updates exemplify the results of our collaboration in the timely and efficient implementation of yet another large bond package to meet the needs of California's future and educational infrastructure.

I am pleased to announce that portions of the Proposition 1D regulatory package, specifically the changes to the Charter School Facility Program and Small High School Program, were approved by the Office of Administrative Law (OAL) on May 17, 2007. The OAL, however, was unable to approve the High Performance Schools Incentive Grant or the Adjustment to the New Construction Grant regulations. Accordingly, the Office of Public School Construction (OPSC) withdrew these proposed regulations and is planning to re-submit in the near future. Another regulatory change that was approved by the OAL, on April 30, 2007, pertains to the Joint-Use Program. Please review the Regulations Insert in this edition of the Advisory Actions for more information on these regulations.

I am also pleased to inform you that the second phase of the State Relocatable Classroom Program phase-out has begun. On May 2, 2007, letters were mailed to districts that have State relocatable buildings that were constructed between 1992 and 1998. The districts that were notified will have 60 calendar days from the date of the letter to respond to the OPSC on whether the district will purchase, continue to lease, or return the building(s).

Finally, I am excited to share some news regarding a new method on how you can be notified of the latest news and developments in regards to our programs, including the Advisory Action newsletter. The OPSC is in the process of developing an online subscription that will allow the subscriber to receive instant electronic messages in your in-box once new information is posted to the OPSC Web site. A link will be provided in the notification that will direct you to the new information with just a click of the mouse. This will allow you to obtain the most current information as soon as it is available. Please look for this new feature in the coming months.

## The High Performance Schools Incentive Grant

By Janna Shaffer, OPSC Project Manager

At the September 2006 State Allocation Board (SAB) meeting, the Board approved regulations providing an additional percentage increase to the base grant based on a High Performance Rating Criteria (HPRC). The proposed increase in the grant is intended to cover upfront costs of designing, purchasing, and constructing high performance measures in schools. At this same Board, Global Green, USA proposed additional incentives above and beyond that which would be provided by the High Performance Schools Incentive Grant.

At the request of the Board, Staff presented a supplemental report at the May 23, 2007 SAB meeting regarding the high performance schools incentive grant proposal made by Global Green, USA as well as additional information on Enhanced Commissioning and the California Climate Action Registry. Additionally, this report was accepted by the Board.

Global Green, USA proposed an additional incentive grant of \$50,000 above the approved funding for each of following seven specific high performance criteria:

1. Superior indoor air quality
2. Superior day lighting
3. Excellent acoustical performance
4. Renewable energy installation
5. Enhanced commissioning
6. Edible gardens
7. Participation in the California Climate Action Registry (CCAR)

Conceivably, a district could meet all seven high performance criteria and receive an additional \$350,000 in incentive grants. Global Green, USA contends the incentive would cover some of the cost of items that may impact at least two of the three following criteria: 1) improved student performance; 2) reduction in long-term operating costs; and 3) enhanced environmental benefits.

The Office of Public School Construction (OPSC) had formed a high performance work group, which discussed the Global Green, USA incentives. After much discussion, the group believed that adding the \$50,000 supplemental increase would provide funding above and beyond the costs that are already covered

under the current incentive grant. In the meantime, the OPSC and Division of the State Architect (DSA) will monitor data received from districts requesting the high performance schools incentive grant and institute changes if it is determined that the funds are insufficient to adequately fund high performance costs.

Enhanced Commissioning is an extension of Fundamental Commissioning, which is in essence a "Constructability Review" to ensure the building and project's energy related systems are installed and calibrated to perform as intended. Typically, Enhanced Commissioning will include preparation of building operations manuals and occupant training, not performed in the Fundamental Commissioning, within ten months after substantial completion.

The California Climate Action Registry is a non-profit voluntary registry for reporting greenhouse gas (GHG) emissions. The purpose of the Registry is to help companies and organizations with operations in the State to establish GHG emissions baselines against which any future GHG emission reduction requirement may be applied. Participants agree to register the GHG emissions for all operations in California and are encouraged to report nationwide.

While the OPSC supports these concepts and encourages their use, Staff does not believe additional financial incentives are warranted. The cost would be either covered in the high performance schools incentive grant already adopted by the SAB, or would be deemed operational costs that should not receive facility funding. The OPSC has been working with the Global Green, USA, Department of Health Services and California Energy Commission to include links on the OPSC website to raise school district awareness of these enhanced environmental benefits.

If you would like to discuss how the High Performance Schools Incentive Grant could enhance the environmental benefits for your district, please contact your OPSC Project Manager. Additionally, you may review the High Performance Schools Incentive Grant Regulations, or visit the links that have been provided by our high performance partners by going to <http://www.opsc.dgs.ca.gov>.

---

## 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	GROUNDBREAKING
Los Angeles Unified	Los Angeles	Banning High School - Athletic Facilities Upgrade	May 2007
Los Angeles Unified	Los Angeles	Narbonne High School - Athletic Field Improvement	May 2007
Los Angeles Unified	Los Angeles	Ramona Opportunity High School	June 2007
Hemet Unified	Riverside	Rancho Viejo Middle School	June 2007
Los Angeles Unified	Los Angeles	Hammel Elementary School (Future Esteban Torres High School)	June 2007
Los Angeles Unified	Los Angeles	East Los Angeles High School #2 (Future Esteban Torres High School)	June 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*.

## Do You Need More Money for Accessibility and Fire Code Compliance for Your Modernization Project?

By Karen Sims, OPSC Project Manager

Proposed regulation changes to the access compliance/fire code excessive cost hardship grant were approved at the August 2006 State Allocation Board meeting. The proposed regulations were subsequently submitted to the Office of Administrative Law (OAL) for approval and are in effect as of April 25, 2007.

The changes to the regulations provide a school district with the option of either requesting a three percent increase to its modernization base grant, or requesting 60 percent of the verified hard construction costs of the minimum work necessary to receive plan approval from the Division of the State Architect (DSA), for access compliance/fire code requirements. Whether the district is requesting three percent of the base grant or 60 percent of the verified hard construction costs for access compliance/fire code requirements, when submitting plans to the DSA for approval, the school district or architect must submit a checklist (a template is available on the OPSC Web site) detailing the access compliance/fire

code work that is in the plans. The DSA will review the listing and verify the reported work included in the project that is the minimum work necessary to receive approval from the Access Compliance Unit (ACU) and Fire Life Safety (FLS) Unit of the DSA. Both units at the DSA will sign the listing. This listing must then be submitted with your complete SFP modernization grant request to the OPSC. If the district is not requesting an excessive cost hardship grant for access compliance/fire code requirements, the checklist does not need to be completed and submitted with the modernization funding application.

For more detailed information on how the grant is determined, please read the article titled, "Modernization Grant for Accessibility and Fire Code Requirements" in the New Funding Opportunities brochure located on the OPSC Web site at [www.documents.dgs.ca.gov/opsc/Publications/Other/New\\_Funding.pdf](http://www.documents.dgs.ca.gov/opsc/Publications/Other/New_Funding.pdf). If you have further questions, please contact your OPSC Project Manager.

AS OF MAY 23, 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	404,477,439	144,179,260
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>\$ 404,477,439</b>	<b>\$ 144,179,260</b>

PROGRAM	BOND ALLOCATION	APPORTIONED	RELEASED/CONTRACTED
<b>PROPOSITION 55</b>			
New Construction	\$ 4,960,000,000	\$ 3,756,874,449	\$ 3,148,135,776
Modernization	2,250,000,000	2,219,482,055	2,084,590,452
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	65,547,233	27,700,457
<b>Total Proposition 55</b>	<b>\$ 10,015,547,233</b>	<b>\$ 8,188,102,398</b>	<b>\$ 5,281,872,530</b>

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

PROGRAM	BOND ALLOCATION	APPORTIONED	RELEASED/CONTRACTED
<b>PROPOSITION 47</b>			
New Construction	\$ 6,250,000,000	\$ 6,145,266,400	\$ 6,126,155,770
Modernization	3,300,000,000	3,287,153,759	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
<b>Total Proposition 47</b>	<b>\$ 11,400,000,000</b>	<b>\$ 11,159,360,855</b>	<b>\$ 9,538,615,350</b>

**Grand Total** \$ 28,744,547,233 \$ 19,751,940,692 \$ 14,964,667,140

AS OF MAY 23, 2007

## Status of Funds

PROGRAM	BALANCE AVAILABLE MILLIONS OF DOLLARS
<b>PROPOSITION 1D</b>	
New Construction	\$ 1,895.0
Modernization	2,895.4
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>\$ 6,919.4</b>

PROGRAM	BALANCE AVAILABLE MILLIONS OF DOLLARS
<b>PROPOSITION 55</b>	
New Construction	\$ 1,427.9
Energy	0.0
Small High School	20.0
Modernization	5.6
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	0.0
<b>Total Proposition 55</b>	<b>\$ 1,775.9</b>

PROGRAM	BALANCE AVAILABLE MILLIONS OF DOLLARS
<b>PROPOSITION 47</b>	
New Construction	\$ 18.8
Energy	0.6
Charter School	40.4
Modernization	8.7
Energy	0.0
Critically Overcrowded Schools	
Reserved	80.0
Joint Use	0.1
<b>Total Proposition 47</b>	<b>\$ 148.6</b>

**Grand Total – Propositions 1D, 55 and 47** \$ 8,843.9



STATE ALLOCATION BOARD

# Regulations Update

Typically, emergency regulatory tracts take approximately 30–45 days to become an effective emergency regulation after they are approved by the State Allocation Board (SAB) and prior to filing with the Office of Administrative Law. Non-emergency regulatory tracts take 120–180 days from the date the SAB approves the agenda item until the regulation(s) become effective.

The following regulatory updates were provided at the May 23, 2007 State Allocation Board meeting.

## Proposition 1D Regulations Update

By Katrina Valentine, OPSC Project Management Supervisor

Portions of the Proposition 1D regulatory package, specifically the changes to the Charter School Facility Program and Small High School Program, were approved by the Office of Administrative Law (OAL) on May 17, 2007. The OAL, however, was unable to approve the High Performance Schools Incentive Grant due to an undefined eligibility criteria referenced in the regulation that is outside of the purview of the Office of Public School Construction (OPSC). Therefore, this regulation was withdrawn by the OPSC. The OPSC will coordinate with the appropriate agencies to ensure that the High Performance criteria are presented in a public format, which will enable Staff to re-file these regulations.

Additionally, the OAL was also unable to approve the Adjustment to the New Construction Grant regulation because a referenced worksheet had not yet been presented to and approved by the State Allocation Board (SAB). The Staff withdrew this proposed regulation. In order to re-submit this regulation, the OPSC is in the process of finalizing the project information worksheet and will present it for the Board's approval at a future meeting.

For more detailed information on these grants and programs, please read the New Funding Opportunities brochure located on the OPSC Web site at [www.documents.dgs.ca.gov/opsc/Publications/Other/New\\_Funding.pdf](http://www.documents.dgs.ca.gov/opsc/Publications/Other/New_Funding.pdf). If you have further questions, please contact your OPSC Project Manager.

## Joint-Use Program Regulation Changes

By Brian LaPask, OPSC Project Management Supervisor

Another regulatory change that was approved by the OAL, on April 30, 2007, is a change to the Joint-Use Program. In the past, an elementary school that housed 7–8 grade level students and had an adequate multi-purpose facility was not eligible to apply for a Joint-Use gymnasium. As the educational program needs have changed for these types of elementary school campuses, qualifying elementary schools may now apply and be considered for a Joint-Use gymnasium project.

If you have any questions regarding filing a joint-use application, please contact your OPSC Project Manager.

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.



STATE ALLOCATION BOARD

# Implementation Committee

MAVONNE GARRITY, ASSISTANT EXECUTIVE OFFICER, STATE ALLOCATION BOARD

## Labor Compliance Grant Augmentation

By Steve Paul, OPSC Project Management Supervisor

At the May 4 Implementation Committee meeting, Staff presented to the Committee Members a discussion item that explored whether districts that voluntarily initiate and enforce a Labor Compliance Program (LCP) on new construction and modernization projects should be entitled to a LCP grant augmentation if their project is funded under Proposition 1D.

Labor Code Section 1771.7 requires school districts that use funds derived from either the Kindergarten-University Public Education Facilities Bond Act of 2002 or 2004 (Propositions 47 and 55, respectively) to initiate and enforce a LCP. However, school districts with projects apportioned from the Kindergarten-University Public Education Facilities Bond Act of 2006 (Proposition 1D) are not required to comply with this law. As a result, at the February 2007 State Allocation Board (SAB) meeting, the Board asked Staff to research if a district voluntarily implements a LCP on a project, although the program is no longer mandated by statute, if it is permissible for the SAB to continue to provide the grant for the purpose of reimbursing the district for the costs of initiating and enforcing a LCP.

Staff reported the Legal Counsel's (Counsel) March 2007 opinion to the SAB that suggested that while the Labor Code, Section 1771.7(a) requires school districts to initiate and enforce a LCP on those projects funded under Propositions 47 and 55 and not Proposition 1D, subsection (e) of the statute was sufficiently broad enough that it could be read to authorize the SAB to continue to provide the LCP grant for those districts that voluntarily initiate and enforce a LCP. Staff further advised that Counsel cited the legislative intent of Labor Code, Section 1771.7 was to ensure that every school district in the State pay the prevailing rate of per diem wages to workers employed on public works projects undertaken by districts. As a result, the Legislature provided the Board with the ability to increase the State's share of increased costs to accommodate labor compliance programs. Since labor compliance programs may continue to be voluntarily implemented by school districts, the Board is simply furthering the legislative intent of Labor Code, Section 1771.7 by providing the grant augmentation to ensure the prevailing wage rates are paid on public works projects.

A member of the audience involved in the Proposition 1D bond discussions questioned SAB Legal Counsel's opinion stating that the SAB Legal Counsel's basis for opining that the SAB can provide the LCP grant on a voluntary basis is hinged on the legislative intent of Assembly Bill 1506 which added Labor Code 1771.7. However, it was this audience member's belief that the legislative intent of Proposition 1D was more recent and therefore more germane to the issue as the Legislature chose not to require the initiation and enforcement of a LCP for projects apportioned with these bond funds. The same member of the audience also called attention to the fact that existing law provides a SFP project is eligible for an increase in the per-pupil grant if the project is funded out of either Propositions 47 or 55, and the Notice to Proceed is issued on or after April 1, 2003. Projects funded out of Proposition 1D do not meet this first condition and, thus, are not eligible. Staff stated that further clarification from Counsel would be sought regarding the audience member's concern.

At the same Implementation Committee meeting, Staff also introduced a proposed reduction to the new construction and modernization LCP grant. This recommendation was based on a LCP grant analysis which found that districts had under spent new construction and modernization LCP apportionments by 40.9 percent and 63.7 per-

cent, respectively. For new construction projects, the proposed reduction was limited to those districts with projects with a total project cost, less site acquisition costs, of \$1 million dollars or less as Staff believed there is sufficient data to justify the reduction. Under current regulations, a district receives a LCP apportionment of \$16,000 for any project where the cost is \$1 million dollars or less, less site acquisition costs. So a district with a project that will cost \$1 million dollars and a district with a project that will cost \$50,000 will both receive a \$16,000 LCP grant. Under the proposed regulations, districts will receive a LCP apportionment of 0.65 percent of the total project cost, less site acquisition cost, for those projects less than \$1 million dollars. Staff recommended this change based on data which indicates district's on average are only spending 16.1 percent of the LCP grant for projects within this cost range. If a project exceeds one million dollars, no changes were recommended as there was insufficient data to defend an adjustment to the existing LCP grant.

For modernization projects, Staff proposed a 25 percent reduction in the LCP grant for all projects regardless of the total project costs. While the data supports an even further reduction in the LCP apportionment for some of the projects audited, Staff believed a 25 percent reduction is reasonable at this time until more data can be gathered over the next year.

Members of the Committee and audience expressed concern with Staff's recommendations. Many cited that the data pool was too small to justify any adjustment to the LCP grant. While the data used for this analysis represented 7.3 percent of all projects apportioned with LCP funds, the 245 projects represented 100 percent of all projects audited. Some audience members also cited that it is common for districts to not report or under-report LCP expenditures explaining that with larger projects it was difficult for the district to identify LCP costs, especially if force account labor was used. Others cited that multiple projects are often bid together as a means of economies of scale, therefore making it difficult to extract accurate LCP costs as the common practice was to take the LCP costs and divide them equally amongst the contracted projects.

Staff advised they would take all comments into consideration for the final analysis. Staff also stated that the draft regulations would be presented at the May SAB meeting for further discussion and adoption. However, this item was postponed for the June 2007 SAB meeting.

### UPDATE...

The following item was discussed at the June 1, 2007 Implementation Committee meeting:

- » Permanent Evaluation Instrument  
Discussion on the proposed school facility inspection and evaluation instrument including the rating criteria for determining the conditions of schools as required by Chapter 704, Statutes of 2006 (Assembly Bill 607 – Goldberg)

### THE NEXT MEETING...

The next Implementation Committee meeting is scheduled for:

- » Friday, July 6, 2007 from 9:30 a.m. to 3:30 p.m. at the Legislative Office Building, 1020 N Street, Room 100, in Sacramento.