

## INITIAL STATEMENT OF REASONS

### **Section 1859.90.2. Priority Funding Round Process.**

#### **Specific Purpose of the Regulation**

To expand the types of projects eligible to participate in priority funding rounds. Priority funding rounds re-prioritize the funding of apportionments to school districts with “construction-ready” school facility projects that can submit their fund release requests within a short period of time.

Specifically, to allow Charter School Facility Program (CSFP) projects to apply for advance release of design and site acquisition funds, and to allow Critically Overcrowded School (COS) Facilities Program projects to apply for advance release of environmental hardship site acquisition funds. Also, to clarify the document filing process and timelines in order for school districts and charter schools to participate.

#### **Need for the Regulation**

The proposed emergency regulatory amendments are needed to help carry out the Legislative intent that school projects be funded through the CSFP and COS Programs as set forth in:

- Assembly Bill (AB) 14, Chapter 935, Statutes of 2002;
- Senate Bill (SB) 15, Chapter 587, Statutes of 2004;
- AB 127, Chapter 35, Statutes of 2006; and
- AB 16, Chapter 33, Statutes of 2002.

Introductory Paragraph, First Sentence: It was necessary to add “charter schools” to the projects eligible to participate in priority funding rounds in order that they be allowed to advance their projects through that process so that equity is maintained throughout the School Facility Program. It was necessary to add “or an advance release of funds from a Preliminary Apportionment or Preliminary Charter School Apportionment” in order to expand the types of funds that can be apportioned through priority funding rounds to benefit COS and CSFP projects, respectively.

Introductory Paragraph, Third Sentence: It was necessary to add “and charter schools” to the entities that must be given advance public notice of a SAB meeting by which a priority funding round would be established.

Introductory Paragraph, New Fifth Sentence: It was necessary to add that requests to participate in priority funding rounds, in order to be valid, must be physically received by the OPSC by the 30th calendar day, for the purpose of ascertaining a definitive number of participants without waiting additional days and sorting through incoming mail checking postmarks.

Introductory Paragraph, Seventh (formerly sixth) Sentence:

- It was necessary to add “or charter school” to the participants that must submit the Form SAB 50-05, Fund Release Authorization, because priority funding round participants must submit this Form in order to request the release of State bond funds.
- It was necessary to eliminate “within 90 calendar days” and add “within a specified time period” so that the phrase can refer to both the existing 90 calendar day timeline to submit fund release requests for advance release of design funds, as well as a new 180-

calendar day timeline to submit the fund release request for advance site acquisition funds from a Preliminary Charter School Apportionment.

- It was necessary after the word Apportionment to add “or approved advance release of funds request, pursuant to (a)(2) or (b)(2) of this section” in order to differentiate the two timelines (90-calendar day and 180-calendar day) when requesting advance fund releases for COS and CSFP projects.

Introductory Paragraph, Eighth (formerly seventh) Sentence: It was necessary to eliminate “90 calendar day” to “appropriate” time limit so that the words can refer to both the existing 90 calendar day timeline to submit fund release requests, as well as the new 180-calendar day timeline to submit the fund release request for advance site acquisition funds from a Preliminary Charter School Apportionment.

New subsection (a):

- It was necessary to number this paragraph as “(a)” because it describes a 90-calendar day period for submittal of fund release requests, thereby distinguishing it from the new subsection (b) added below to describe projects for which 180 calendar days is the time period to submit fund release requests.
- It was necessary after the word Apportionment to add “approved advance release of design funds from a Preliminary Charter School Apportionment, or approved advance release of environmental hardship site acquisition funds from a Preliminary Apportionment,” in order to expand the types of funds that can be apportioned through priority funding rounds to benefit CSFP and COS projects, respectively.
- It was necessary to add “or charter school” to the priority funding round participants that must submit a written statement agreeing to specified conditions because priority funding round participants must do so under this subsection in order to participate in the priority funding rounds.
- It was necessary to change “district representative” to “representative” in order to broaden its application to both school district and charter school representatives for the document filing criteria of this subsection.

Subsection “(a)” Renumbered as “(1)”: It was necessary to renumber the existing subsection “(a)” to “(1)” because it is part of a newly-designated subsection “(a).” It was necessary after the word Apportionment to add “or to receive an approved advance release of funds” in order to expand the types of funds that can be apportioned through priority funding rounds to benefit COS and CSFP projects.

Subsection “(b)” Renumbered as “(2)”: It was necessary to renumber the existing subsection “(b)” to “(2)” because it is part of a newly-designated subsection “(a).” It was necessary to eliminate “the” to an “a” because it refers to a timeline to submit fund release requests which is no longer the only timeline for submitting fund release requests.

Subsection “(c)” Renumbered as “(3)”: It was necessary to renumber the existing subsection “(c)” to “(3)” because it is part of a newly-designated subsection “(a).” It was necessary after the word Apportionment to add “or approved advance release of funds request” in order to expand the types of funds that will be rescinded for failing to meet a 90-calendar day time limit to submit the Form SAB 50-05 and have it physically received by the OPSC.

Subsection “(d)” Renumbered as “(4)”: It was necessary to renumber the existing subsection “(d)” to “(4)” because it is part of a newly-designated subsection “(a).” It was necessary to add the prefatory clause “For those receiving an Apportionment,” in order to distinguish that this criterion reminds the participants that the timeline to request the release of funds is not 18 months but 90 days. It was

necessary to add “or charter school” in order to apply this acknowledgement criteria to charter schools participating in the priority funding rounds. It was also necessary to make a non-substantive grammatical change to the word that no longer begins the sentence.

New Subsection “(b)”:

- It was necessary to add this new subsection in order to authorize projects under the CSFP to apply for advance release of site acquisition funds from a Preliminary Charter School Apportionment, subject to a new timeline of 180 calendar days for school districts and charter schools to file their request for fund release, Form SAB 50-05. The reason for the 180 calendar day timeline is that the site acquisition process for charter schools reasonably requires longer than the existing 90-calendar day timeline, due to site selection, appraisal, California Department of Education approval, environmental approval, funding process, financial soundness review and approval, and signing Charter School Agreements.
- It was necessary to add new qualifying criteria (b)(1) through (b)(4) for applicants for this type of advance site acquisition funding in order to correspond to the qualifying criteria (a)(1) through (a)(4) for the types of funding subject to the 90-calendar day timeline, and to apply specific timelines and document submittal requirements that are applied uniformly and are verifiable and enforceable through signed documents from participants acknowledging these criteria. Specifically, applicants must submit a written statement signed by an authorized representative within the 30-calendar day filing period that:
  - (1) requests to convert the advance release of funds to an approved advance release of funds,
  - (2) concurs with the 180 calendar day timeline to submit the fund release request,
  - (3) acknowledges the participant’s requirement to submit a valid, signed Form SAB 50-05 to be physically received by the OPSC within the 180 calendar day time limit, and failure to do so will result in the rescission of the approved advance release of funds request without further Board action, and
  - (4) acknowledges that the participant must provide evidence of entering into the Charter School Agreements within 90 calendar days of the approval of the advance release of funds request, and failure to do so will result in the rescission of the approval without further Board action.

Last Paragraph: It was necessary after the word apportionment to add “or approved advance release of funds request” in order to expand the types of funds that are subject to rescission as set forth in this Section. It was necessary to add “or charter school” in order to apply the criteria in the event of rescission to charter schools participating in the priority funding rounds.

#### **Technical Documents Relied Upon:**

The State Allocation Board’s Action Item, dated February 23, 2011, entitled “Timeline Options for Charter School Facilities Program Advance Fund Release Requests.”

#### **Alternatives to the Proposed Regulatory Action that would be as Effective and Less Burdensome to Private Persons**

The SAB finds that no alternatives it has considered would be more effective in carrying out the purpose of the proposed regulation or would be as effective and less burdensome to affected private persons than the proposed regulation.

### **Alternatives to the Proposed Regulatory Action that would Lessen any Adverse Economic Impact on Small Business**

The SAB has determined that the proposed regulation does not affect small businesses.

### **Finding of Significant Adverse Economic Impact on Businesses**

The SAB has determined that the adoption of the regulation will not affect businesses, including small businesses, because they are not required to comply with or enforce the regulation, nor will they be disadvantaged by the regulation.

### **Impact on Local Agencies or School Districts**

The SAB has determined that the proposed regulation does not impose a mandate or a mandate requiring reimbursement by the State pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code. It will not require local agencies, school districts, or charter schools to incur additional costs in order to comply with the proposed regulation.