

INITIAL STATEMENT OF REASONS
SCHOOL FACILITY PROGRAM REGULATIONS

Section 1859.70.4. Available Funding for High Performance.

Specific Purpose of the Regulation

To delineate the process by which returning High Performance Incentive (HPI) grants will be distributed.

Need for the Regulation

Third paragraph: It was necessary to delete this language as it is no longer applicable because of the new language in the following paragraph.

Last paragraph: It was necessary to set forth this language as Senate Bill (SB) 869 allows the State Allocation Board (SAB) to determine, on or after January 1, 2015, the percentage of the returning HPI grant funds that will be distributed to the New Construction and Modernization Accounts in order to fund projects. This new process delineates which projects will receive priority funding first in the distribution of returning bond authority (health and safety projects, and includes financial hardship projects) and proceeds to set forth the percentage of remaining funds to be allocated to new construction and modernization non-health and safety projects.

Section 1859.93. Modernization Project Funding Order.

Specific Purpose of the Regulation

To set forth the new funding order for modernization applications.

Need for the Regulation

Introductory paragraph: It was necessary to set forth the new funding order for health and safety projects [rehabilitation projects] and non-health and safety modernization projects as SB 869 allows the SAB to determine, on or after January 1, 2015, the percentage of the returning HPI grant funds and Career Technical Education Facilities Program (CTEFP) bond authority that will be distributed to the New Construction and Modernization Accounts in order to fund these projects.

Second paragraph: It was necessary to delete this language as it is no longer applicable because of the new language in the paragraph above it.

Section 1859.93.1. New Construction Project Funding Order.

Specific Purpose of the Regulation

To set forth the new funding order for new construction applications.

Need for the Regulation

Introductory sentence: It was necessary to delete some language and add new language in this sentence to distinguish between the old funding order and the new funding order.

Subsections (a) and (b): It was necessary to set forth the new funding order for health and safety projects [facility hardship projects] and non-health and safety new construction projects as SB 869 allows the SAB to determine, on or after January 1, 2015, the percentage of the returning HPI grant funds and CTEFP bond authority that will be distributed to the New Construction and Modernization Accounts in order to fund these projects. In addition to Subsection (a), it was necessary to differentiate between facility hardship projects and Seismic Mitigation Program (SMP) projects because although both types of projects are identified in Regulation Section 1859.82, SMP projects are funded from an entirely different account, pursuant to Education Code Section 101012(a)(1).

Subsections (c), (d), and (e): It was necessary to update the lettering of these subsections because of new Subsections (a) and (b). These changes will improve readability of the SFP Regulations, will maintain the integrity of the SFP Regulations, and are considered non-substantive in nature.

Section 1859.190. General.

Specific Purpose of the Regulation

To delineate the process by which returning CTEFP bond authority will be distributed.

Need for the Regulation

Fifth paragraph: It was necessary to delete this language as it is no longer applicable because of the new language in the following paragraph.

Last paragraph: It was necessary to set forth this language as SB 869 allows the SAB to determine, on or after January 1, 2015, the percentage of the returning CTEFP bond authority that will be distributed to the New Construction and Modernization Accounts in order to fund projects. This new process delineates which projects will receive priority funding first in the distribution of returning bond authority (health and safety projects, and includes financial hardship projects) and proceeds to set forth the percentage of remaining funds to be allocated to new construction and modernization non-health and safety projects.

Anticipated Benefits and Economic Impact of the Proposed Regulations

The proposed regulatory amendments benefit school districts and the State of California by redirecting returning HPI grants and CTEFP bond authority to Facility Hardship projects (health and safety projects and includes rehabilitation projects). These regulatory amendments benefit school districts in that health and safety projects (includes financial hardship projects) are prioritized to receive funds first, and once these projects have been addressed, non-health and safety projects are next in line for funding. These proposed regulations could also address the 182 projects on the Unfunded List (Lack of Authority) totaling approximately \$375 million by providing unfunded approvals for placement on the Unfunded List (Lack of AB 55 Loans). Further, the State of California benefits from these regulations as they assist in increasing the State's infrastructure investment resulting in a positive impact to the State's economy as well as

to help support job creation. These regulations will have a positive impact to various business, manufacturing, and construction-related industries such as architecture, engineering, trades (carpenters, masons, electricians, roofers, etc.), and municipalities.

The proposed regulatory amendments help carry out the Legislative intent of SB 869, Chapter 39, Statutes of 2014. Therefore, the proposed regulatory amendments are determined to be consistent and compatible with existing State laws and regulations. Proceeding with the implementation of these regulatory amendments will have a positive impact on public health and safety, on the State's economy, and help to support job creation.

DOCUMENTS RELIED UPON AND STATEMENTS REGARDING THE RULEMAKING

Technical Documents Relied Upon:

The SAB's Action Item, dated April 15, 2015, entitled "Implementation of Senate Bill 869 Proposed Regulations."

Alternatives to the Proposed Regulatory Actions 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 regulations or would be as effective and less burdensome to affected private persons than the proposed regulations or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Alternatives to the Proposed Regulatory Actions that would Lessen any Adverse Economic Impact on Small Business

The SAB has determined that the proposed regulations will not have a negative impact on small businesses.

Finding of Significant Adverse Economic Impact on Businesses

The SAB has determined that the adoption of the proposed regulations will not negatively affect businesses/small businesses because they are not required to directly comply with or enforce the regulations, nor will they be disadvantaged by the regulations. In fact, the demand on the manufacturing and construction-related industries could potentially stimulate the creation of small businesses in these areas.

Impact on Local Agencies or School Districts

The SAB has determined that the proposed regulations do 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 or school districts to incur additional costs in order to comply with the proposed regulations.

ECONOMIC IMPACT ASSESSMENT OF REGULATIONS
“Implementation of Senate Bill 869 Proposed Regulations”

Proposed State Allocation Board Regulations

The State Allocation Board (SAB), at its April 15, 2015 meeting, adopted regulatory amendments to the School Facility Program (SFP) Regulations that would allocate returning High Performance Incentive (HPI) grants and Career Technical Education Facilities Program (CTEFP) bond authority to the SFP, as a result of Senate Bill (SB) 869, Chapter 39, Statutes of 2014.

Background and Problem Being Resolved

The statute stipulates that the SAB shall determine, on or after January 1, 2015, the percentage by which returning HPI grants and CTEFP bond authority will be distributed to the New Construction and Modernization Accounts. The proposed regulations also address the prioritization of Facility Hardship applications (health and safety projects and includes rehabilitation projects) in determining the distribution of returning bond authority. The proposed regulatory amendments specify the process by which any returning HPI grants and CTEFP projects shall first be allocated to Facility Hardship projects (health and safety projects and includes rehabilitation projects) in order of receipt. The process also delineates that should all of the Facility Hardship projects be funded, or if there are no Facility Hardship projects to fund, the returning funds will be divided on a 50/50 basis between the SFP New Construction and Modernization Accounts to fund new construction and modernization projects in order of receipt. These proposed regulations could also address some of the 182 projects on the Unfunded List (Lack of Authority) totaling approximately \$375 million by providing unfunded approvals for placement on the Unfunded List (Lack of AB 55 Loans). These proposed regulatory amendments continue to promote the stimulation of the economy and support the creation of jobs.

Description of Regulations to Implement Law

The Leroy F. Greene School Facilities Act of 1998 established, through Senate Bill 50, Chapter 407, Statutes of 1998, the SFP. The SFP provides a per-pupil grant amount to qualifying school districts for purposes of constructing school facilities and modernizing existing school facilities. The SAB adopted regulations to implement the Leroy F. Greene School Facilities Act of 1998, which were approved by the Office of Administrative Law and filed with the Secretary of State on October 8, 1999.

The proposed regulatory amendments help carry out the Legislative intent of SB 869, Chapter 39, Statutes of 2014, and are summarized as follows:

Existing Regulation Section 1859.70.4 sets aside \$100 million and sets forth criteria for school districts for the costs of design and materials in new construction and modernization projects that save energy and water, maximize natural lighting and indoor air quality, use recycled and low-toxin materials, use better acoustics to promote learning, and apply other high performance improvements. The proposed regulatory amendments: 1) delete new language that is no longer applicable to this Section; and 2) sets forth how remaining HPI bond authority will be distributed to new construction and modernization health and safety projects, non-health and safety projects, and includes financial hardship projects.

Existing Regulation Section 1859.93 sets forth a specified funding order for modernization projects. The proposed regulatory amendments: 1) delete language that is no longer applicable to this Section; and 2) specify the new funding order for health and safety projects [rehabilitation projects] and non-health and safety modernization projects.

Existing Regulation Section 1859.93.1 sets forth a specified funding order for new construction projects. The proposed regulatory amendments: 1) delete language that is no longer applicable to this Section; and 2) specify the new funding order for health and safety projects [facility hardship projects] and non-health and safety new construction projects; and 3) make minor lettering changes due to the addition of the new regulatory language, which are considered non-substantive changes.

Existing Regulation Section 1859.190 sets forth general filing submittal instructions and specifies that CTEFP modernization projects do not affect the Modernization Eligibility of that facility pursuant to Regulation Section 1859.60. The proposed regulatory amendments: 1) delete new language that is no longer applicable to this Section; and 2) sets forth how remaining CTEFP bond authority will be distributed to new construction and modernization health and safety projects, non-health and safety projects, and includes financial hardship projects.

Anticipated Benefits of the Proposed Regulations

The proposed regulatory amendments benefit school districts and the State of California by redirecting returning HPI grants and CTEFP bond authority to Facility Hardship projects (health and safety projects and includes rehabilitation projects). These regulatory amendments benefit school districts in that health and safety projects (including financial hardship projects) are prioritized to receive funds first and once these projects have been addressed, non-health and safety projects are next in line for funding. As stated above, there are 182 projects on the Unfunded List (Lack of Authority) totaling approximately \$375 million that could receive funding. In addition, the State of California benefits from these regulations as they assist in increasing the State's infrastructure investment resulting in a positive impact to the State's economy as well as help to support job creation. These regulations will have a positive impact to various business, manufacturing, and construction-related industries such as architecture, engineering, trades (carpenters, masons, electricians, roofers, etc.), and municipalities.

The proposed regulatory amendments help carry out the Legislative intent of SB 869, Chapter 39, Statutes of 2014. Therefore, the proposed regulatory amendments are determined to be consistent and compatible with existing State laws and regulations. Proceeding with the implementation of these regulatory amendments will have a positive impact on public health and safety, on the State's economy, and help to support job creation.

Statutory Authority and Implementation

Education Code Section 17070.35. (a) In addition to all other powers and duties as are granted to the board by this chapter, other statutes, or the California Constitution, the board shall do all of the following: (1) Adopt rules and regulations, pursuant to the rulemaking provisions of the Administrative Procedure Act, Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, for the administration of this chapter.

Government Code Section 15503. Whenever the board is required to make allocations or apportionments under this part, it shall prescribe rules and regulations for the administration of, and not inconsistent with, the act making the appropriation of funds to be allocated or apportioned. The board shall require the procedure, forms, and the submission of any information it may deem necessary or appropriate. Unless otherwise provided in the appropriation act, the board may require that applications for allocations or apportionments be submitted to it for approval.

Impact to California Businesses and Jobs

There is a positive economic impact to California businesses assigned to these regulatory amendments. With HPI grants and CTEFP bond authority returning to the SFP, specifically the New Construction and Modernization categories, the funds/bond authority will be used to make apportionments for school construction projects, which include health and safety projects and could address the 182 projects on the Unfunded List (Lack of Authority) totaling approximately \$375 million by providing unfunded approvals for placement on the Unfunded List (Lack of AB 55 Loans). Once the funds have been released, school districts can begin construction, which means they have entered into contracts and work can begin. These regulations affect various business, manufacturing, and construction-related industries such as architecture, engineering, trades and municipalities, which continue to promote the stimulation of the economy and help to support job creation.

Therefore, the proposed regulations will have a positive impact on the creation of jobs, the creation of new businesses, and the expansion of businesses in California. It is not anticipated that the proposed regulations will result in the elimination of existing businesses or jobs within California.

Benefits to Public Health and Welfare, Worker's Safety, and the State's Environment

- There is a health and safety impact assigned to these regulatory amendments. Health and safety projects are considered priority projects by the SAB and have been included in determining the distribution of returning bond authority. This means that when funds become available for apportionment, these projects are first in line to receive the funding.
- There are continued benefits to the health and welfare of California residents and worker safety. School districts utilize construction and trades employees to work on school construction projects and although these proposed regulations do not directly impact worker's safety, existing law provides for the availability of a skilled labor force and encourages improved health and safety of construction and trades employees through proper apprenticeship and training. Further, public health and safety is enhanced because a properly paid and trained workforce will build school construction projects that are higher quality, structurally code-compliant and safer for use by pupils, staff, and other occupants on the site.
- These regulations will have a positive impact to various business, manufacturing, and construction-related industries such as architecture, engineering, trades (carpenters, masons, electricians, roofers, etc.), and municipalities, and support the creation of an unspecified number of jobs.
- There is no impact to the State's environment from the proposed regulations.