

INITIAL STATEMENT OF REASONS

Section 1859.2. Definitions.

Specific Purpose of the Regulation

To provide the meaning of an additional specific term that is essential to these regulations.

Need for the Regulation

It was necessary to define the term “inactive apportionment” to prevent school district project apportionments from expiring. By defining this term, it is understood that the statutory requirements for State Allocation Board (SAB)-approved apportionments are suspended until such time State financing becomes available.

Section 1859.90. Fund Release Process.

Specific Purpose of the Regulation

To specify when the Office of Public School Construction (OPSC) will be able to release State bond funds during the State’s financial crisis.

Need for the Regulation

It was necessary to set forth when the OPSC will release State bond funds during this unprecedented time. Under normal circumstances, the State Allocation Board (SAB) apportions State bond funds to school districts and those school districts submit the Form SAB 50-05, which is a request to release State bond funds for the construction or modernization of their school facility projects, to the OPSC. The OPSC utilizes cash from the Pooled Money Investment Account (PMIA) to release State funds for school construction projects that have been approved by the SAB. On December 17, 2008, the Pooled Money Investment Board (PMIB) took action to temporarily halt disbursing cash from the State’s PMIA for capital projects, including school construction projects, because of the State’s financial situation. When the State Treasurer’s Office (STO) sells bonds, the STO notifies the OPSC how much money is available to fund school construction projects.

Section 1859.96. Inactive Apportionments Under a State of California Fiscal Crisis.

Specific Purpose of the Regulation

To set forth criteria for the suspension of the 18-month time limit for school districts to request the release of State funds for SAB-approved apportionments, upon SAB approval of an “inactive apportionment” for the project.

Need for the Regulation

Education Code Section 17076.10(d) specifies that if a school district has received an apportionment but has not met the criteria to have State funds released within 18 months, the apportionment will be rescinded. Because the members of the PMIB were forced by fiduciary responsibility to take the December 17, 2008 action temporarily freezing infrastructure bond funds for public works projects (including school construction projects), the 18-month time limit clock on SAB-approved apportionments continued to tick. The SAB felt strongly that action on the Board's part was necessary to help alleviate school district project apportionments from expiring.

DOCUMENTS RELIED UPON AND STATEMENTS REGARDING THE RULEMAKING

Technical Documents Relied Upon

The State Allocation Board's Action item, dated January 14, 2009, entitled "School Facility Program Financial Crisis Emergency 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.

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

The SAB has determined that the proposed regulations do not affect small businesses.

Finding of Significant Adverse Economic Impact on Businesses

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

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.