

## FINAL STATEMENT OF REASONS

Title 2. Administration  
Division 2. Financial Operations  
Chapter 3. Department of General Services  
Subchapter 4. Office of Public School Construction  
Group 1. State Allocation Board  
Subgroup 5.5. Regulations relating to the Leroy F. Greene School Facilities Act of 1998

### Section 1859.129. Time Limit on Apportionment.

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

To help protect school districts from having their apportionments expire under the School Facility Program (SFP) Joint-Use Program during the State's current fiscal crisis. The SFP Joint-Use Program requires school districts to file Division of the State Architect (DSA) and California Department of Education (CDE) approved plans within 12 months of State Allocation Board (SAB) approval or the projects are automatically rescinded. These emergency regulations will allow the SAB to suspend this deadline by up to 12 months.

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

New subsection (b)(1)(A): Adding this subsection was necessary in response to the action of the Pooled Money Investment Board (PMIB), on December 17, 2008, to temporarily halt disbursing funds from the State's Pooled Money Investment Account for capital projects, including the construction of public schools. The PMIB action places school districts with Joint-Use Program apportionments approved by the SAB before December 17, 2008 in jeopardy of not meeting the time limits to submit approved construction plans to the OPSC. The proposed emergency amendment ensures that school districts can continue to meet statutory and regulatory requirements during this interruption of State bond funding.

The proposed amendment authorizes the SAB to determine that there is a fiscal emergency or crisis, and find that a project has an "Inactive Apportionment," and that the district's ability to submit completed plans to the DSA has been impacted, and that the district will no longer be able to meet the approval requirement in Education Code Section 17077.45(c), and thereby the SAB may suspend the 12-month time limit for submittal of the DSA and CDE approved plans and specifications for a period not to exceed 12 months. Twelve months was deemed a reasonable but not excessive period to suspend the submittal time limit, and was sufficient to accommodate a recent slowdown in DSA review times, and assured that commitments of State bond funds remained limited and manageable. The proposed amendment will sunset on January 1, 2010, in order to assure that its application is limited solely to the current fiscal crisis.

### Section 1859.197. Fund Release Process.

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

To help protect school districts from having their apportionments/reservations of funds expire under the Career Technical Education Facilities Program (CTEFP) during the State's current fiscal crisis. The CTEFP requires school districts with projects approved as reservations of funds to file DSA and CDE approved plans within 12 months of SAB approval or the projects are automatically rescinded. These emergency regulations will allow the SAB to extend this deadline by up to 12 months.

## **Need for the Regulation**

New subsection (e): Adding this subsection was necessary in response to the action of the PMIB on December 17, 2008 to temporarily halt disbursing funds from the State's Pooled Money Investment Account for capital projects, including the construction of public schools. The PMIB action places school districts with CTEFP apportionments/reservations of funds approved by the SAB before December 17, 2008 in jeopardy of not meeting the time limits to submit approved construction plans to the OPSC. The proposed emergency amendment ensures that school districts can continue to meet statutory and regulatory requirements during this interruption of State bond funding.

The proposed amendment authorizes the SAB to determine that there is a fiscal emergency or crisis and grant up to a 12-month extension of the period for districts with apportionments/reservations of funds to submit their approved construction plans to the OPSC. Twelve months was deemed a reasonable but not excessive period to extend the submittal time limit, and was sufficient to accommodate a recent slowdown in DSA review times, and assured that commitments of State bond funds remained limited and manageable. The proposed amendment will sunset on January 1, 2010, in order to assure that its application is limited solely to the current fiscal crisis.

## **SUMMARY OF PUBLIC COMMENTS AT FEBRUARY 25, 2009 MEETING AND RESPONSE**

### **Mr. Tom Duffy, representing the Coalition for Adequate School Housing (C.A.S.H.) Organization**

Mr. Duffy requested that a certain phrase be removed from the proposed amending language so that the regulatory amendments will apply to all projects. He said that this phrase in the proposed language inadvertently created an unnecessary distinction if the plans and specifications for a project had already been submitted to the Division of the State Architect (DSA); this created a risk of those projects being excluded from the amendments if the DSA did not finish its reviews quickly enough for school districts to meet their required timelines.

### **Mr. David Thorman, the State Architect**

Mr. Thorman stated that he has contacted his four regional managers and that the DSA would not cause delays in the reviews of these plans and specifications.

The SAB thanked Mr. Duffy and Mr. Thorman, approved the proposed regulations as revised to address Mr. Duffy's concerns, and read the revisions into the record:

- From Section 1859.129(b)(1)(A) the Board deleted the text: "only if the district has not submitted all required plans and specifications to the DSA 30 days prior to the conclusion of the". In its place the Board added the words "beyond the".
- From Section 1859.197(e), the Board deleted the text: "only if the district has not submitted all required plans and specifications to the DSA 30 days prior to the conclusion of these time periods".

## **DOCUMENTS RELIED UPON AND STATEMENTS REGARDING THE RULEMAKING**

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

The State Allocation Board's Action Item, dated February 25, 2009, entitled "Career Technical Education Facilities and Joint-Use School Facility Program Financial Crisis Emergency Regulations."

### **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 regulations or would be as effective and less burdensome to affected private persons than the proposed regulations.

### **Alternatives to the Proposed Regulatory Action 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.