

REPORT OF THE EXECUTIVE OFFICER  
State Allocation Board Meeting, May 27, 2009

DISTRIBUTION OF REMAINING PROPOSITION 1D AND 47 CHARTER SCHOOL FUNDS

PURPOSE OF REPORT

To present a recommendation for disbursing the remaining funds in the Unrestricted Charter School Fund for Propositions 1D and 47 Charter School Facility Accounts.

BACKGROUND

The Charter School Facilities Program (CSFP) has apportioned approximately \$900 million from Propositions 47, 55, and 1D. Funds that return to the program through project rescissions or from those projects with final apportionment amounts less than the amount reserved are available for other purposes within the CSFP. In addition, un-apportioned funds remain in the Proposition 1D account. At the January 2009 State Allocation Board (SAB) meeting, the SAB directed Staff to provide options for allocating the remaining funds in the Proposition 1D account.

AUTHORITY

Education Code Section 17078.58(d) states that when a preliminary apportionment under this article is converted to a final apportionment, any funds not needed for the final apportionment shall remain in the 2002, 2004, or 2006 Charter School Facilities Account for use by the Board for any purpose related to charter school facilities pursuant to this article.

STAFF COMMENTS

At the time of the January 2009 SAB meeting, approximately \$24.9 million was available in the Proposition 1D account. Pending the outcome of the request for Proposition 1D funding from Aspire Public Schools, which is also being presented at today's meeting, this figure could change to approximately \$4.8 million. In addition to those funds, conversion applications and rescissions for those applicants funded out of the Proposition 47 funds were finalized in October of 2008. As a result, \$46.1 million was returned to the Proposition 47 account, and Staff has verified that it is now available for use.

- Funds available if the Aspire Public Schools request is approved: approximately \$50.9 million
- Funds available if the Aspire Public Schools request is denied: approximately \$71 million

There is also the potential for an undetermined amount to be returned to the Unrestricted Charter School Fund in the Proposition 55 Charter School Facility Account when all the remaining preliminary apportionments have either converted or rescinded. The timeframe for the availability of the funds in the Proposition 55 account is uncertain as the School Facility Program (SFP) Regulations approved by the SAB at the January 2009 meeting will re-classify all Charter School Preliminary Apportionments that have not converted or rescinded as "Inactive Preliminary Apportionments." Furthermore, these projects were granted a one year extension until February 23, 2010 at the March 2009 SAB meeting.

The Office of Public School Construction (OPSC) held a meeting with members of the charter school community on April 2, 2009 to discuss potential uses for the remaining CSFP funds. Additionally, this item was presented at the April 3, 2009 Implementation Committee meeting. Several potential options were discussed and are summarized here for the Board's consideration.

## OPTIONS

### 1. New filing round remaining open eight months after the initial awards.

Create an entirely new application filing period from July 1, 2009 through September 28, 2009, open to all applicants meeting the program criteria that would follow the current requirements and regulations. The round would utilize available funds from both the Proposition 47 and 1D accounts to fund projects on a newly created funding list. After the initial preliminary apportionments are made, do not return those applications that do not receive an award. Declare that the funding round remain open for eight months following the preliminary apportionment approval date (regardless of whether it is an unfunded or funded preliminary apportionment). If the funds remaining in any of the Unrestricted accounts become available within eight months of the preliminary apportionment approval date, use those funds to continue funding projects down the funding list after a renewed financial soundness determination has been made.

Pro:

- This option is equitable to all charter schools, including those that did not or could not apply under previous filing rounds.
- The use of current requirements and regulations will enable the filing round to occur quickly.
- Keeping the item open for a limited term balances the desire for an unfunded list with the need to apply the funding system using data that is reasonably current.
- Keeping the item open for a limited term potentially allows for the re-distribution of any remaining Proposition 55 funds without the need for an additional filing period.

Con:

- Those that applied but did not receive an apportionment under the Proposition 1D funding round will need to submit a new application and compete again.
- Using current requirements and regulations does not allow for any program changes that applicants may desire.

### 2. New filing round with an unfunded list.

Create an entirely new application filing period open to all applicants meeting the program criteria that would follow the current requirements and regulations. The round would utilize available funds from both the Proposition 47 and 1D accounts to fund projects on a newly created list. Establish an unfunded list for those applications that do not receive funding in anticipation of a future bond, or other funds returning to the program.

Pro:

- Some feel that an unfunded list would reduce the amount of work necessary for applicants as only one application would be submitted.

Con:

- The concept of an unfunded list in this program presents unique challenges due to the funding system outlined in statute. Use of an unfunded list would require either that the data used to calculate preference points be frozen in time or refreshed on a regular basis. In order to maintain equity for all charter school applicants, most likely the data would need to be refreshed on a regular basis.
  - Freezing the data collection time point may disadvantage applicants if information available in the future would have led to higher preference points.
  - If the data collection points were frozen, it would be difficult to incorporate new applicants into an unfunded list, as those applicants may be unable to use the same data collection time points.
  - Refreshing the data would be as extensive as submitting a new application. Given that there is no projection of if or when additional funds would become available, applicants could end up submitting multiple updates. If there is no unfunded list, the applicants would only need to submit an application one additional time when the next funding round occurs.

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*Con* (cont.)

- Reliance on a future bond is uncertain and if passed could include statutory changes that fundamentally alter the CSFP. The past three bonds and the corresponding statute governing the CSFP under each bond made major changes to the program. Applications kept on an unfunded list may not correspond with new criteria, or options resulting from a change in the statute.
- Using current requirements and regulations does not allow for any program changes that applicants may desire.

3. Continuance of funding using original proposition 1D list.

Continue funding down the Proposition 1D list from the May 2008 preliminary apportionment item using either the existing or a revised funding priority order using updated data for the funding system.

Pro:

- Those in favor felt that this would be the simplest and quickest method for disbursing the limited amount of funds.
- This would not require additional applications to be submitted or processed.

Con:

- The OPSC and some participants thought this too exclusionary as the remaining funds should be equally accessible to all charter schools, including those who could not or did not apply in 2007.
- If a revised funding order is desired, applicants would need to update the information on the application, which would be similar to filing a new application.

4. No action pending the resolution of Proposition 55 funds and/or future bonds.

Take no action pending the final resolution of Proposition 55 funds and/or any future bond funds that would augment a future funding round.

Pro:

- A larger funding pool would enhance the chances of more projects being funded, particularly given the relatively small amount of funds existing in the Proposition 1D and 47 accounts.
- Waiting for a future bond may allow time to discuss and make program changes that applicants may desire.

Con:

- The timeframe for a funding round using Proposition 55 funds and/or future bond funds is uncertain and both the OPSC and many audience members did not feel it in the best interest of the State to withhold the currently available funds for an indefinite period of time.

RECOMMENDATION

Staff recommends Option 1.