

District challenges SAB's formula for 'material inaccuracy' fines

By Tom Chorneau

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The state oversight panel governing school construction is set this week to consider changing a long-standing formula for assessing penalties on districts found to have falsely certified funding eligibility.

The so-called "material inaccuracy" penalty has traditionally been based on the entire amount of funding that a district received improperly. But an appeal by the San Joaquin County Office of Education has called on the board to consider limiting the sanction to just the amount of interest earned during the period of ineligibility.

An audit presented to the State Allocation Board in November concluded that eight school projects in San Joaquin County had received funding before district officials had secured construction contracts for at least 50 percent of the work – as required under state law.

The board put off assessing penalties to review the current formula and the merits of the proposal offered by San Joaquin.

The staff recommendation is to continue with the existing system, which would result in a penalty to the district of \$257,652. Under the alternative scenario offered by the district, the penalty would be just \$1,439.

The material inaccuracy sanction was put into place to prevent districts from taking advantage of other districts by assessing state funds before they are actually ready to begin building.

The sanction is authorized by legislation approved in 2000, which requires school districts to repay funds received as the result of a false, self-certification of eligibility. The bill, SB 2066, was authored by Jack O'Connell – then state senator and the former State Superintendent of Public Instruction and now Chief Education Officer at SI&A, corporate host of Cabinet Report.

It also authorizes the SAB to prohibit a school district from self-certifying certain project information for up to five years if a district provides a material inaccuracy.

The law applies to false certifications of eligibility or related funding application information submitted by school districts, architects or other design professionals. Liability is not limited to any intent or specific knowledge on the part of a district.

To better illustrate the issue coming before the board Wednesday, staff at the Office of Public School Construction highlighted the terms surrounding just one of the eight disputed projects.

The project, called Kettleman Community, was provided by the state slightly more than \$2.3 million in 2003 based on the premature certification provided by the county.

Records show that it took the county 146 days to come into compliance. Thus, based on the state's existing policy, the county should be penalized \$39,418 – based on the daily interest rate the state was paying on the underlying bond debt over that period of time.

According to a staff report, the county has argued that the "additional funding received" should be defined as only the amount of interest earned by the County Office during the premature fund release period.

In the case of Kettleman, the base should be limited to \$8,080 and thus, the penalty should be also limited to just \$138.