

**STATE ALLOCATION BOARD**

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**Date:** June 26, 2006

**To:** Interested Parties

**Subject:** **NOTICE OF THE STATE ALLOCATION BOARD  
IMPLEMENTATION COMMITTEE MEETING**

Notice is hereby provided that the State Allocation Board Implementation Committee will hold a meeting on Friday, July 7, 2006 (9:30 a.m. – 3:30 p.m.) in the Legislative Office Building located at 1020 "N" Street, Room 100, Sacramento, CA.

The Implementation Committee's proposed agenda is as follows:

1. Convene Meeting.
2. Implementation of Chapter 35, Statutes of 2006 (Assembly Bill 127 – Nunez/Perata).

There will be discussion on the increase to the new construction per-unhoused-pupil grant, Charter School Facilities Program, Small High School Program, and Energy Conservation.

Any interested person may present public testimony or comments at this meeting regarding the issues scheduled for discussion. Any public input regarding unscheduled issues should be presented in writing, which may then be scheduled for a future meeting. For additional information, please contact Ms. Deah Johnson at (916) 445-3377.

A handwritten signature in cursive script that reads "Mavonne Garrity".

MAVONNE GARRITY, Chairperson  
State Allocation Board Implementation Committee

MG:lm

STATE ALLOCATION BOARD  
IMPLEMENTATION COMMITTEE

Pending Items List  
July 7, 2006

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A. Future Items

- Supplemental Funding for Accessibility Requirements on Modernization Projects  
*Discussion on proposed changes to the grant provided under Regulation Section 1859.83(f) regarding the excessive cost hardship grant for handicap access and fire code requirements.*
- Chapter 35, Statutes of 2006 (Assembly Bill 127-Nunez and Perata)  
*Discussion on the Career Technical Education Program, Overcrowding Relief Grant, and Seismic Mitigation.*
- Site Sale Proceeds  
*Discussion on proposed regulatory amendments regarding proceeds from the sale of a site funded in whole or part with State funds.*

B. Suspended Items

- Alternative Education Loading Standards and Funding  
*Discussion on the loading standards and adequacy of the funding provided for continuation high, community day, and county community day schools under the School Facility Program.*

STATE ALLOCATION BOARD  
IMPLEMENTATION COMMITTEE  
JULY 7, 2006

SMALL HIGH SCHOOL PROGRAM FUNDING

PURPOSE OF REPORT

To discuss the additional \$200 million in funding for the Small High School Program made available pursuant to Assembly Bill (AB) 127, Chapter 35, Statutes of 2006 (Nunez and Perata) and to present proposed amendments to the program.

BACKGROUND

Assembly Bill 1465, Chapter 894, Statutes of 2004 (Chan) created a pilot program within the School Facilities Program that provides districts access to \$20 million for the purpose of constructing new small high schools and \$5 million for the reconfiguration of existing high schools into two or more smaller high schools that would foster academic achievement and success in a small high school environment. A "Small High School," for the purpose of AB 1465, is defined as a high school with an enrollment of 500 pupils or less.

The Small High School Program commenced on January 1, 2006 and remains in effect until January 1, 2008. The new construction small high school applications will be accepted until September 2006 with the possibility of funding in either December 2006 or January 2007. The modernization applications for reconfiguration of an existing high school will be accepted on a continuing basis until September 30, 2007, or until all modernization funds have been exhausted.

For the purposes of new construction funding, this program provided a 20 percent increase to the New Construction per-pupil grant and changes the State and Local matching share from 50/50 to 60/40, respectively.

Statute requires the Board to conduct an evaluation on the cost of new construction and the modernization of high schools, and the California Department of Education (CDE) shall conduct an evaluation that focuses on pupil outcomes, including, but not limited to, academic achievement, and college attendance rates.

• **New Construction Criteria**

- District must have a minimum of 500 high school pupil grants of new construction eligibility under the SFP at the time of application submittal.
- Project must be a part of a district academic reform strategy (ARS) which has been reviewed and scored by the (CDE).
- The small high school must be constructed on a stand alone site with no existing facilities.

- Districts qualifying for Financial Hardship Status must have current approval at the time of submittal.
  - A new high school cannot have an enrollment of more than 500 pupils and may not exceed the housing capacity of 500 pupils.
- **Modernization Criteria**
    - District must have modernization eligibility available at the existing site and the reconfiguration must be a part of a modernization project.
    - Existing site must be a high school.
    - Current enrollment of the existing site must be at least 1,000 pupils.
    - The reconfiguration must result in at least two new small schools of 500 pupils or less.
    - The district must obtain a new County District School Code for any new sites created by the reconfiguration.

## PROPOSALS

- AB 127 allocates \$200 million for the new construction and reconfiguration of small high schools (see attached bill text). Since statute does not explicitly state how much of these funds shall be made available to new construction and modernization, Staff proposes that funds be allocated at the same 80/20 ratio as were the funds allocated under AB 1465. Therefore, \$160 million will be made available to new construction and \$40 million will be made available to modernization.
- The 20 percent increase to the per-pupil grant will be funded from these funds in the same manner as the pilot program when it was initially developed.
- After the application filing period has passed, should new construction small high school funds remain, the SAB will be allowed to utilize any remaining funds for the purposes of reconfiguration if necessary, and vice versa.
- Should AB 127 be implemented with the passage of the November 2006 Bond, the new construction application submittal date requirements will have already expired. Staff proposes that that an additional funding cycle be implemented to insure all prospective applicants have an equal opportunity to have their ARS reviewed and scored by the CDE and receive full funding on their applications. Staff, therefore, proposes to provide a second round of funding for new construction in 2007 by requiring the following:
  - Districts must submit their ARS to the CDE no later than February 1, 2007.
  - CDE shall provide the Office of Public School Construction applicant scores by April 1, 2007.
  - Districts will be required to submit their new construction applications for small high school no later than September 30, 2007, to ensure funding at either the December 2007.

- Modernization Reconfiguration applications will continue to be accepted on a continuous basis until September 30, 2007.
- Based on the number of ARS submitted to the CDE thus far, the OPSC expects no more than three small high school new construction applications will be submitted on or before September 30, 2006. In an effort to generate more interest and greater participation in the program, Staff believes it may be necessary to modify the existing pilot program. Regulation Section 1859.93.2, (c), *New Construction Adjusted Grant for the Small High School Program* requires “The Small High School must be constructed on a stand alone site with no existing facilities.” While the intent of this program was to create self-contained small high schools, many districts have cited that the inclusion of core facilities renders the feasibility of such construction as cost prohibitive. Therefore, Staff would like to propose the following options for consideration.
  - Districts would still be required to build stand alone small high schools on new sites; however, if the small high school is located adjacent to an existing high school which includes core facilities, students from the small high school should be allowed to use those core facilities.
  - Shared core facilities would include only multipurpose rooms, gymnasiums and libraries.
  - Districts should not be allowed to share administration and toilet area.
  - The Small High School would not be entitled to the New School Excessive Cost Hardship Request.
  - Two small high schools could be built on separate but adjacent sites and both schools would be allowed to share the core facilities of the other to include multipurpose rooms, gymnasiums and libraries.
  - As discussed at previous Implementation Committee Meetings, districts would not be allowed to carve out a section of an existing high school and declare that site as their new small high school.

### RECOMMENDATION

Accept the proposed amendments. Regulations will be presented at a future Implementation Committee meeting.

**AB 127 PROPOSED CHANGES**

Section	Current Practice	Proposed Change	Justification for Change
Article 1. 101012	Currently, Education Code Section 17072.10 provides \$20 million for new construction of small high schools and \$5 million for the reconfiguration of small high schools	Amended legislation provides for funding in the amount of \$200 million. The funds will be allocated at an 80/20 ratio with \$160 million for new construction and 40 million for modernization.	As required by legislation - AB 127

## Bill Text

### CHAPTER 2. Kindergarten Through 12th Grade

#### Article 1. Kindergarten Through 12th Grade School Facilities Program Provisions

101010. The proceeds of bonds issued and sold pursuant to Article 2 (commencing with Section 101020) shall be deposited in the 2006 State School Facilities Fund established in the State Treasury under subdivision (d) of Section 17070.40 and shall be allocated by the State Allocation Board pursuant to this chapter.

101011. All moneys deposited in the 2006 State School Facilities Fund for the purposes of this chapter shall be available to provide aid to school districts, county superintendents of schools, and county boards of education of the state in accordance with the Leroy F. Greene School Facilities Act of 1998 (Chapter 12.5 (commencing with Section 17070.10) of Part 10), as set forth in Section 101012, to provide funds to repay any money advanced or loaned to the 2006 State School Facilities Fund under any act of the Legislature, together with interest provided for in that act, and to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code.

**101012. (a)** The proceeds from the sale of bonds, issued and sold for the purposes of this chapter, shall be allocated in accordance with the following schedule:

(1) The amount of one billion nine hundred million dollars (\$1,900,000,000) for new construction of school facilities of applicant school districts under Chapter 12.5 (commencing with Section 17070.10) of Part 10. Of the amount allocated under this paragraph, up to 10.5 percent shall be available for purposes of seismic repair, reconstruction, or replacement, pursuant to Section 17075.10.

(2) The amount of five hundred million dollars (\$500,000,000) shall be available for providing school facilities to charter schools pursuant to Article 12 (commencing with Section 17078.52) of Chapter 12.5 of Part 10.

(3) The amount of three billion three hundred million dollars (\$3,300,000,000) for the modernization of school facilities pursuant to Chapter 12.5 (commencing with Section 17070.10) of Part 10.

(4) The amount of five hundred million dollars (\$500,000,000) for the purposes set forth in Article 13 (commencing with Section 17078.70) of Chapter 12.5 of Part 10, relating to facilities for career technical education programs.

(5) Of the amounts allocated under paragraphs (1) and (3), up to two hundred million dollars (\$200,000,000) for the purposes set forth in Chapter 894 of the Statutes of 2004, relating to incentives for the creation of smaller learning communities and small high schools.

(6) The amount of twenty-nine million dollars (\$29,000,000) for the purposes set forth in Article 10.6 (commencing with Section 17077.40) of Chapter 12.5 of Part 10, relating to joint use projects.

(7) The amount of one billion dollars (\$1,000,000,000) shall be available for providing new construction funding to severely overcrowded schoolsites pursuant to Article 14 (commencing with Section 17079) of Chapter 12.5 of Part 10.

(8) The amount of one hundred million dollars (\$100,000,000) for incentive grants to promote the use of designs and materials in new construction and modernization projects that include the attributes of high-performance schools, including, but not limited to, the elements set forth in Section 17070.96, pursuant to regulations adopted by the State Allocation Board.

(b) School districts may use funds allocated pursuant to paragraph (3) of subdivision (a) only for one or more of the following purposes in accordance with Chapter 12.5 (commencing with Section 17070.10) of Part 10:

(1) The purchase and installation of air-conditioning equipment and insulation materials, and related costs.

(2) Construction projects or the purchase of furniture or equipment designed to increase school security or playground safety.

(3) The identification, assessment, or abatement in school facilities of hazardous asbestos.

(4) Project funding for high-priority roof replacement projects.

(5) Any other modernization of facilities pursuant to Chapter 12.5 (commencing with Section 17070.10) of Part 10.

(c) Funds allocated pursuant to paragraph (1) of subdivision (a) may also be utilized to provide new construction grants for eligible applicant county boards of education under Chapter 12.5 (commencing with Section 17070.10) of Part 10 for funding classrooms for severely handicapped pupils, or for funding classrooms for county community school pupils.

(d) (1) The Legislature may amend this section to adjust the funding amounts specified in paragraphs (1) to (8), inclusive, of subdivision (a), only by either of the following methods:

(A) By a statute, passed in each house of the Legislature by rollcall vote entered in the respective journals, by not less than two-thirds of the membership in each house concurring, if the statute is consistent with, and furthers the purposes of, this chapter.

(B) By a statute that becomes effective only when approved by the voters.

(2) Amendments pursuant to this subdivision may adjust the amounts to be expended pursuant to paragraphs (1) to (8), inclusive, of subdivision (a), but may not increase or decrease the total amount to be expended pursuant to that subdivision.

(e) Funds available pursuant to this section may be used for acquisition of school facilities authorized pursuant to Section 17280.5.

STATE ALLOCATION BOARD  
 IMPLEMENTATION COMMITTEE MEETING  
 July 7, 2006

AB127 - INCREASE TO THE NEW CONSTRUCTION  
 BASE GRANT

PURPOSE OF REPORT

To implement Education Code (EC) Section 17072.11, added pursuant to Assembly Bill 127, Chapter 35, Statutes of 2006 (AB 127), which provides an adjustment to the New Construction Base Grant.

BACKGROUND

The State Allocation Board (SAB), under the School Facility Program (SFP), provides funding in the form of a per pupil base grant, to build and modernize schools in California. Pursuant to California EC Section 17072.10, the per pupil base grant for new construction is \$5200 for elementary, \$5500 for middle, and \$7200 for high school pupils. This amount is then increased annually by the current Class B Construction Cost Index (CCI) every January. AB 127 adds a new education code section which provides for an increase to the per pupil base grant.

AUTHORITY

AB 127, Section 3 adds EC Section 17072.11 to the California EC. This statute provides for an increase to the per pupil base grant of seven percent for elementary and middle school projects and four percent for high school projects beginning July 1, 2006 until January 1, 2008. It also requires that an analysis of the relationship between the per-pupil base grant and the actual per-pupil cost of new school construction be completed. Beginning January 1, 2008, the statute directs the SAB to annually increase the grant amount by up to six percent, or reduce the grant amount by an amount determined based on an analysis of the current costs to build a school.

DISCUSSION

*Grant Increase*

EC Section 17072.11 will require the "per-unhoused-pupil grant eligibility" as determined under subdivision (a) of Section 17072.10 to be increased by seven percent for elementary and middle school pupils, and four percent for high school pupils. EC Section 17072.10(b) requires the SAB to adjust the "per pupil base grant amount" annually by the current CCI. Therefore, the per pupil base grant will be increased by the allotted percentage and then the current CCI should be applied. This will provide the following per-pupil base grant:

NEW CONSTRUCTION GRANT				
Grade Level	1998 Per Pupil Base Grant	Adjusted 1998 Per Pupil Base Grant w/ Increase	CURRENT 2006 Per Pupil Base Grant	ADJUSTED 2006 Per Pupil Base Grant Increase
Elementary	\$5,200	\$5,564	\$7,082	\$7,567
Middle	\$5,500	\$5,885	\$7,490	\$8,004
High	\$7,200	\$7,488	\$9,805	\$10,184

*Analysis of the Per Pupil Base Grant*

Starting January 1, 2008, the SAB has the authority to annually increase the per pupil base grant amount by up to six percent, or reduce the per pupil base grant amount by an amount determined based on an analysis of the current costs to build a school. The increases/decreases will be determined by an analysis of the correlating costs of building new schools versus the total grant that is currently provided in law (including general site), taking into account the adjustment for the current CCI. For example, let's say that the analysis conducted determines that a fifteen percent increase to the per pupil base grant is warranted but the SAB only has the authority to increase the per pupil base grant by six percent. But then let's say that the CCI increases the per pupil base grant by five percent; therefore, the district technically will be receiving an eleven percent increase to the per pupil base grant amount instead of just a six percent increase. It is important to note that while the analysis may be capturing current, up-to-date data on building costs, the CCI increase represents the previous year's construction costs.

In order to capture the most current costs to construct schools, Staff is proposing to make changes to the *Fund Release Authorization* (Form SAB 50-05) and the *Expenditure Report* (Form SAB 50-06). These changes would include, but not be limited to, gathering information regarding contract amounts, bid information, addendums, type of buildings being constructed, square footage, etc...

By providing this information, Staff would be able to see what is actually being constructed. For example, if a multi-purpose room is built for a project that will house 1000 pupils, is the multi-purpose room being constructed for 1000 students or 1500 students and thereby exceeding the minimum essential facility? Another example would be whether the project is using stucco or brickwork. All these factors take into account the total cost of a project.

By capturing this information at the fund release and again during the audit, it will give the SAB and Staff the most updated information on the current market and how much it is costing school districts to build facilities. In addition, by making this a requirement of all districts that receive new construction funding will ensure that an adequate sample is received for the analysis instead of conducting a survey where responses may only be received by a select few.

#### RECOMMENDATIONS

1. Increase the per pupil base grant amount by seven percent for elementary and middle school pupils and four percent for high school pupils per EC 17072.11(a) and (b).
2. Propose regulation changes that allow the SAB to annually increase the per pupil base grant amount up to six percent or reduce the base grant amount by an amount based on the analysis of current costs to build schools, if the law needs clarification.
3. Propose form changes to capture the project cost information and current cost information in order to allow the SAB to provide the appropriate increase or decrease to the per pupil base grant amount.

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SEC. 6. Section 17078.52 of the Education Code is amended to read:

17078.52. (a) There is hereby established the Charter Schools Facilities Program to provide funding to qualifying entities for the purpose of establishing school facilities for charter school pupils.

(b) (1) The 2002 Charter School Facilities Account is hereby established within the 2002 State School Facilities Fund established pursuant to subdivision (b) of Section 17070.40. The proceeds of bonds, as set forth in subparagraph (A) of paragraph (1) of subdivision (a) of Section 100620, shall be deposited into the 2002 Charter School Facilities Account for the purposes of this article. Notwithstanding Section 13340 of the Government Code, funds deposited into the account are hereby continuously appropriated for the purposes of this article.

(2) The 2004 Charter School Facilities Account is hereby established within the 2004 State School Facilities Fund established pursuant to subdivision (c) of Section 17070.40. The proceeds of bonds, as set forth in subparagraph (A) of paragraph (1) of subdivision (a) of Section 100820, if approved by the voters, shall be deposited into the 2004 Charter School Facilities Account for the purposes of this article. Notwithstanding Section 13340 of the Government Code, funds deposited into the account are hereby continuously appropriated for the purposes of this article.

(3) The 2006 Charter School Facilities Account is hereby established within the 2006 State School Facilities Fund established pursuant to subdivision (d) of Section 17070.40. The proceeds of bonds, as set forth in paragraph (2) of subdivision (a) of Section 101012, if approved by the voters, shall be deposited into the 2006 Charter School Facilities Account for the purposes of this article. Notwithstanding Section 13340 of the Government Code, funds deposited into the account are hereby continuously appropriated for the purposes of this article.

(c) As used in this article, the following terms have the following meanings:

(1) "Authority" means the California School Finance Authority established pursuant to Section 17172.

(2) "Account" means the pertinent account established under subdivision (b).

(3) "Preliminary apportionment" means an apportionment made for eligible applicants under this article in advance of full compliance with all of the application requirements otherwise required for an apportionment pursuant to this chapter. The process for making preliminary apportionments under this article shall be substantially identical to the process established for critically overcrowded schools pursuant to Sections 17078.22 to 17078.30, inclusive.

(4) "Financially sound" means a charter school that has demonstrated, over a period of time determined by the authority, but not less than 24 months immediately preceding the submission of the application, that it has operated as a financially capable concern in California, as measured by criteria established by the authority. A charter school that cannot demonstrate that it has been a financially capable concern for at least 24 months immediately preceding the submission of the application, due solely to not having operated as a charter school for at least 24 months, may meet this 24-month requirement if the charter school is managed by staff who have at least 24 months of documented experience, as measured by criteria

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established by the authority and the charter school has an educational plan, financial resources, facilities expertise, management expertise, and has been a financially capable concern for at least 24 months, as established by the authority.

(d) The board shall, from time to time, transfer funds within the account to the California School Finance Authority Fund for the purposes of this article pursuant to the request of the authority as set forth in this article.

SEC. 7. Section 17078.53 of the Education Code is amended to read:

17078.53. (a) The initial preliminary applications for projects to be funded pursuant to this article shall be submitted to the board by March 31, 2003. Thereafter, the board may establish subsequent application periods as needed.

(b) Preliminary applications may be submitted by eligible applicants as set forth in this article by either of the following:

(1) A school district on behalf of a charter school that is physically located within the geographical jurisdiction of the school district.

(2) A charter school on its own behalf if the charter school has notified both the superintendent and the governing board of the school district in which it is physically located of its intent to do so in writing at least 30 days prior to submission of the preliminary application.

(c) A preliminary application shall demonstrate either of the following:

(1) That a charter petition for the school for which the application is submitted has been granted by the appropriate chartering entity prior to the application deadline determined by the board.

(2) That an already existing charter has been amended to include the school for which the application is submitted and approved by the appropriate chartering entity prior to the deadline determined by the board.

(d) A preliminary application shall include either of the following:

(1) For a preliminary application submitted pursuant to paragraph (1) of subdivision (b), the number of unhoused pupils determined pursuant to Article 3 (commencing with Section 17071.75) that will be housed by the project for which the preliminary application has been submitted.

(2) For a preliminary application submitted pursuant to paragraph (2) of subdivision (b), a certification from the governing board of the district within which the charter school is physically located of the number of unhoused pupils for that district determined pursuant to Article 3 (commencing with Section 17071.75) that will be housed by the project for which the preliminary application has been submitted.

(e) Prior to submitting a preliminary application, the school district and charter school shall consider existing school district facilities in accordance with Section 47614.

(f) The board, after consideration of the recommendations of the authority regarding whether a charter school is financially sound, shall approve the preliminary application and shall make the preliminary apportionment for funding pursuant to this article.

(g) (1) The board shall establish a process to ensure that pupil attendance in a charter school that is physically located within the

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geographical jurisdiction of a school district is counted as per-pupil eligibility for that school district and to ensure that the same per-pupil attendance is not so counted for any other school district or other applicant under this chapter.

(2) (A) Except as provided pursuant to subparagraph (B) and notwithstanding subdivision (b) of Section 17071.75, the number of pupils for which facilities are provided under this article shall not be included in the sum determined under subdivision (b) of Section 17071.75.

(B) The number of unhoused pupils determined pursuant to subdivision (d) that will be housed by the project for which a preliminary application has been submitted shall be included in the sum determined under subdivision (b) of Section 17071.75.

(h) The board shall establish a process to be used for release of funds for approved projects pursuant to this article. Notwithstanding Section 17072.30, the board may provide for the release of planning and site acquisition funds prior to the approval of the project by the Department of General Services pursuant to the Field Act, as defined in Section 17281.

SEC. 8. Section 17078.54 of the Education Code is amended to read:

17078.54. (a) An eligible project under this article shall include funding, as permitted by this chapter, for new construction or rehabilitation of a school facility for charter school pupils, as set forth in this article. A project may include, but is not limited to, the cost of retrofitting an existing building for charter school purposes, purchasing a building, or retrofitting a building that has been purchased by the charter school, if those costs have not been previously funded under this chapter, but may not exceed the amounts set forth in subdivision (b). Existing school buildings made available by a school district that will be rehabilitated for the purposes of this article are not subject to Article 6 (commencing with Section 17073.10). An allocation of funds shall not be made for a school facility that is less than 15 years old.

(b) The maximum amount of the funding pursuant to this article shall be determined by calculating the charter school's per-pupil grant amount plus other allowable costs as set forth in this chapter. Funding shall be provided by the authority for new facility construction or rehabilitation as set forth in Section 17078.58.

(c) To be funded under this article, a project shall comply with all of the following:

(1) It shall meet all the requirements regarding public school construction, plan approvals, toxic substance review, site selection, and site approval, as would any noncharter school project of a school district under this chapter, including, but not limited to, regulations adopted by the State Architect pursuant to Section 17280.5 relating to the retrofitting of existing buildings, as applicable.

(2) Notwithstanding any provision of law to the contrary, including, but not limited to paragraph (1), the board, after consulting with the relevant regulatory agencies, shall, to the extent feasible, adopt regulations establishing a process for projects to be subject to a streamlined method for obtaining regulatory approvals for all requirements described in paragraph (1), except for the requirements of the Field Act as defined in Section 17281 which shall be complied with in the same manner as any other project under this chapter.

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(3) The board shall fund only new construction to be physically located within the geographical jurisdiction of a school district.

(d) Facilities funded pursuant to this article shall have a 50 percent local share matching obligation that may be paid by the applicant through lease payments in lieu of the matching share, or as otherwise set forth in this article, including, but not limited to, Section 17078.58.

(e) The authority may charge its administrative costs against the respective 2002, 2004, or 2006 Charter School Facilities Account, which shall be subject to the approval of the Department of Finance and which may not exceed 2.5 percent of the account.

SEC. 9. Section 17078.56 of the Education Code is amended to read:

17078.56. (a) The board, in consultation with the authority, shall approve projects pursuant to this article as otherwise set forth in this chapter, and shall make preliminary apportionments only to financially sound applicants in accordance with all of the following criteria:

(1) The board shall seek to ensure that, when considered as a whole, the applications approved pursuant to this article are fairly representative of the various geographical regions of the state.

(2) The board shall seek to ensure that, when considered as a whole, the applications approved pursuant to this article are fairly representative of urban, rural, and suburban regions of the state.

(3) The board shall seek to ensure that, when considered as a whole, the applications approved pursuant to this article are fairly representative of large, medium, and small charter schools throughout the state.

(4) The board shall seek to ensure that, when considered as a whole, the applications approved pursuant to this article are fairly representative of the various grade levels of pupils served by charter school applicants throughout the state.

(b) While ensuring that the requirements of subdivision (a) are met when considering all approved projects under this article as a whole, the board shall, within each factor of the criteria set forth in subdivision (a), give a preference to charter schools in overcrowded school districts, charter schools in low-income areas, charter schools operated by not-for-profit entities, and charter schools that utilize existing school district facilities.

SEC. 10. Section 17078.58 of the Education Code is amended to read:

17078.58. (a) Funding granted pursuant to this article may not exceed 100 percent of the total allowable project costs as determined by calculating double the per-pupil grant eligibility as set forth in Section 17072.10, and subdivision (e) of Section 17078.53, plus 100 percent of all other allowable construction project costs, as appropriate to the project, that would otherwise be available to school district projects as set forth in this chapter. Funding granted for the purposes of rehabilitating buildings under Section 17078.54 shall be limited to the costs necessary to comply with subdivision (c) of Section 17078.54, and shall not exceed the maximum costs that would otherwise be allowable for a new construction project funded under this article.

(b) The local share equivalent shall be collected in the form of lease payments or otherwise as set forth in this article.

(c) Lease payments in lieu of local share payments, and any other local share payments made pursuant to this article, shall be made to

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the board for deposit into the respective 2002, 2004, or 2006 Charter School Facilities Account. Funds deposited into the account pursuant to this section may be used by the board only for a purpose related to charter school facilities pursuant to this article.

(d) 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.

## ATTACHMENT A

### **Assembly Bill No. 127**

#### CHAPTER 35

An act to amend Sections 17070.40, 17072.35, 17075.10, 17078.52, 17078.53, 17078.54, 17078.56, 17078.58, 17261, and 81130.3 of, to add Sections 17070.96, 17072.11, and 81052 to, to add Article 13 (commencing with Section 17078.70) and Article 14 (commencing with Section 17079) to Chapter 12.5 of Part 10 of, and to add Part 69 (commencing with Section 101000) to, the Education Code, to amend Section 65997 of the Government Code, to amend Section 4 of Chapter 421 of the Statutes of 2001, and to amend Section 4 of Chapter 637 of the Statutes of 2002, relating to education facilities, by providing the funds necessary therefor through an election for the issuance and sale of bonds of the State of California and for the handling and disposition of those funds, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 20, 2006. Filed with Secretary of State May 20, 2006.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 127, Nunez. Education facilities: Kindergarten-University Public Education Facilities Bond Act of 2006.

(1) Existing law, the California Constitution, prohibits the Legislature from creating a debt or liability that singly or in the aggregate with any previous debts or liabilities exceeds the sum of \$300,000, except by an act that (a) authorizes the debt for a single object or work specified in the act, (b) has been passed by a  $\frac{2}{3}$  vote of all the members elected to each house of the Legislature, (c) has been submitted to the people at a statewide general or primary election, and (d) has received a majority of all the votes cast for and against it at that election.

Existing law, the Leroy F. Greene School Facilities Act of 1998, requires the State Allocation Board to allocate to applicant school districts, prescribed per-unhoused-pupil state funding for construction and modernization of school facilities, including hardship funding, and supplemental funding for site development and acquisition.

This bill would enact the Kindergarten-University Public Education Facilities Bond Act of 2006 to authorize \$10,416,000,000 of state general obligation bonds to provide aid to school districts, county superintendents of schools, county boards of education, the California Community Colleges, the University of California, the Hastings College of the Law, and the California State University to construct and modernize education facilities.

The bond act would become operative only if approved by the voters at the November 7, 2006, statewide general election, and would provide for its submission to the voters at that election.

The bill would also submit to the voters for approval an authorization to use the proceeds of any bond act, approved on or before January 1, 2006, that are designated for joint-use facilities to be used for other related school facilities projects.

(2) This bill would specify that certain provisions of the bill shall become operative only if the Kindergarten-University Public Education Facilities Bond Act of 2006 is approved by the voters at the November 7, 2006, statewide general election.

(3) The bill would make conforming, technical changes in related provisions of existing law.

(4) The bill would declare that it is to take effect immediately as an urgency statute.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 17070.40 of the Education Code is amended to  
2 read:  
3 17070.40. (a) (1) A fund is hereby established in the State Treasury to  
4 be known as the 1998 State School Facilities Fund. All money in the fund,  
5 including any money deposited in that fund from any source whatsoever,  
6 and notwithstanding Section 13340 of the Government Code, is hereby  
7 continuously appropriated without regard to fiscal years for expenditure  
8 pursuant to this chapter.  
9 (2) The board may apportion funds to school districts for the purposes  
10 of this chapter from funds transferred to the 1998 State School Facilities  
11 Fund from any source.  
12 (3) The board may make apportionments in amounts not exceeding  
13 those funds on deposit in the 1998 State School Facilities Fund, and any  
14 amount of bonds authorized by the committee, but not yet sold by the  
15 Treasurer.  
16 (4) The board may make disbursements pursuant to any apportionment  
17 made from any funds in the 1998 State School Facilities Fund, irrespective  
18 of whether there exists at the time of the disbursement an amount in the  
19 1998 State School Facilities Fund sufficient to permit payment in full of  
20 all apportionments previously made. However, no disbursement shall be  
21 made from any funds required by law to be transferred to the General  
22 Fund.  
23 (b) (1) A fund is hereby established in the State Treasury to be known  
24 as the 2002 State School Facilities Fund. All money in the fund, including  
25 any money deposited in that fund from any source whatsoever, and  
26 notwithstanding Section 13340 of the Government Code, is hereby  
27 continuously appropriated without regard to fiscal years for expenditure  
28 pursuant to this chapter.

29 (2) The board may apportion funds to school districts for the purposes  
30 of this chapter from funds transferred to the 2002 State School Facilities  
31 Fund from any source.

32 (3) The board may make apportionments in amounts not exceeding  
33 those funds on deposit in the 2002 State School Facilities Fund, and any  
34 amount of bonds authorized by the committee, but not yet sold by the  
35 Treasurer.

36 (4) The board may make disbursements pursuant to any apportionment  
37 made from any funds in the 2002 State School Facilities Fund, irrespective  
38 of whether there exists at the time of the disbursement an amount in the  
39 2002 State School Facilities Fund sufficient to permit payment in full of  
40 all apportionments previously made. However, no disbursement shall be  
41 made from any funds required by law to be transferred to the General  
42 Fund.

43 (c) (1) A fund is hereby established in the State Treasury to be known  
44 as the 2004 State School Facilities Fund. All money in the fund, including  
45 any money deposited in that fund from any source whatsoever, and  
46 notwithstanding Section 13340 of the Government Code, is hereby  
47 continuously appropriated without regard to fiscal years for expenditure  
48 pursuant to this chapter.

49 (2) The board may apportion funds to school districts for the purposes  
50 of this chapter from funds transferred to the 2004 State School Facilities  
51 Fund from any source.

52 (3) The board may make apportionments in amounts not exceeding  
53 those funds on deposit in the 2004 State School Facilities Fund, and any  
54 amount of bonds authorized by the committee, but not yet sold by the  
55 Treasurer.

56 (4) The board may make disbursements pursuant to any apportionment  
57 made from any funds in the 2004 State School Facilities Fund, irrespective  
58 of whether there exists at the time of the disbursement an amount in the  
59 2004 State School Facilities Fund sufficient to permit payment in full of  
60 all apportionments previously made. However, no disbursement shall be  
61 made from any funds required by law to be transferred to the General  
62 Fund.

63 (d) (1) A fund is hereby established in the State Treasury, to be known  
64 as the 2006 State School Facilities Fund. All money in the fund, including  
65 any money deposited in that fund from any source whatsoever, and  
66 notwithstanding Section 13340 of the Government Code, is hereby  
67 continuously appropriated without regard to fiscal years for expenditure  
68 pursuant to this chapter.

69 (2) The board may apportion funds to school districts for the purposes  
70 of this chapter from funds transferred to the 2006 State School Facilities  
71 Fund from any source.

72 (3) The board may make apportionments in amounts not exceeding  
73 those funds on deposit in the 2006 State School Facilities Fund, and any  
74 amount of bonds authorized by the committee, but not yet sold by the  
75 Treasurer.

76 (4) The board may make disbursements pursuant to any apportionment  
77 made from any funds in the 2006 State School Facilities Fund, irrespective  
78 of whether there exists at the time of the disbursement an amount in the  
79 2006 State School Facilities Fund sufficient to permit payment in full of  
80 all apportionments previously made. However, no disbursement shall be  
81 made from any funds required by law to be transferred to the General  
82 Fund.

83 SEC. 2. Section 17070.96 is added to the Education Code, to read:  
84 17070.96. As part of its application for funding under this chapter, a  
85 school district shall certify that it has considered the feasibility of using  
86 designs and materials for the construction or modernization project that  
87 promote the efficient use of energy and water, the maximum use of natural  
88 lighting and indoor air quality, the use of recycled materials and materials  
89 that emit a minimum of toxic substances, the use of acoustics conducive to  
90 teaching and learning, and other characteristics of high performance  
91 schools.

92 SEC. 3. Section 17072.11 is added to the Education Code, to read:  
93 17072.11. (a) All of the following shall apply on and after July 1,  
94 2006, until January 1, 2008:

95 (1) The per-unhoused-pupil grant eligibility determined under  
96 paragraphs (1) and (2) of subdivision (a) of Section 17072.10 shall be  
97 increased by 7 percent.

98 (2) The per-unhoused-pupil grant eligibility determined under  
99 paragraph (3) of subdivision (a) of Section 17072.10 shall be increased by  
100 4 percent.

101 (3) The board shall conduct an analysis of the relationship between the  
102 per-unhoused-pupil grant eligibility determined under this article and the  
103 per-pupil cost of new school construction for elementary, middle, and high  
104 school pupils.

105 (b) On or after January 1, 2008, the board shall increase or decrease the  
106 per-unhoused-pupil grant eligibility by amounts it deems necessary to  
107 cause the grants to correspond to costs of new school construction,  
108 provided that the increase in any fiscal year pursuant to this section shall  
109 not exceed 6 percent.

110 SEC. 4. Section 17072.35 of the Education Code is amended to read:  
111 17072.35. A grant for new construction may be used for any and all  
112 costs necessary to adequately house new pupils in any approved project,  
113 and those costs may only include the cost of design, engineering, testing,  
114 inspection, plan checking, construction management, site acquisition and  
115 development, evaluation and response action costs relating to hazardous  
116 substances at a new or existing schoolsite, demolition, construction,  
117 acquisition and installation of portable classrooms, landscaping, necessary  
118 utility costs, utility connections and other fees, equipment including  
119 telecommunication equipment to increase school security, furnishings, and  
120 the upgrading of electrical systems or the wiring or cabling of classrooms  
121 in order to accommodate educational technology. A grant for new  
122 construction may also be used to acquire an existing government or

123 privately owned building, or a privately financed school building, and for  
124 the necessary costs of converting the government or privately owned  
125 building for public school use. A grant for new construction may also be  
126 used for the costs of designs and materials that promote the efficient use of  
127 energy and water, the maximum use of natural lighting and indoor air  
128 quality, the use of recycled materials and materials that emit a minimum of  
129 toxic substances, the use of acoustics conducive to teaching and learning,  
130 and other characteristics of high performance schools.

131 SEC. 5. Section 17075.10 of the Education Code is amended to read:

132 17075.10. (a) A school district may apply for hardship assistance in  
133 cases of extraordinary circumstances. Extraordinary circumstances may  
134 include, but are not limited to, the need to repair, reconstruct, or replace  
135 the most vulnerable school facilities that are a Category 2 building, as  
136 defined in the report submitted pursuant to Section 17317, determined by  
137 the department to pose an unacceptable risk of injury to its occupants in  
138 the event of a seismic event.

139 (b) A school district applying for hardship state funding under this  
140 article shall comply with either paragraph (1) or (2).

141 (1) Demonstrate both of the following:

142 (A) That due to extreme financial, disaster-related, or other hardship the  
143 school district has unmet need for pupil housing.

144 (B) That the school district is not financially capable of providing the  
145 matching funds otherwise required for state participation, that the district  
146 has made all reasonable efforts to impose all levels of local debt capacity  
147 and development fees, and that the school district is, therefore, unable to  
148 participate in the program pursuant to this chapter except as set forth in  
149 this article.

150 (2) Demonstrate that due to unusual circumstances that are beyond the  
151 control of the district, excessive costs need to be incurred in the  
152 construction of school facilities. Funds for the purpose of seismic  
153 mitigation work or facility replacement pursuant to this section shall be  
154 allocated by the board on a 50 percent state share basis from any funds  
155 reserved for that purpose in any bond approved by the voters after January  
156 1, 2006. If the board determines that the seismic mitigation work of a  
157 school building would require funding that is greater than 50 percent of the  
158 funds required to construct a new facility, the school district shall be  
159 eligible for funding to construct a new facility under this chapter.

160 (c) The board shall review the increased costs that may be uniquely  
161 associated with urban construction and shall adjust the per-pupil grant for  
162 new construction or modernization hardship applications as necessary to  
163 accommodate those costs. The board shall adopt regulations setting forth  
164 the standards, methodology, and a schedule of allowable adjustments, for  
165 the urban adjustment factor established pursuant to this subdivision.

166 SEC. 6. Section 17078.52 of the Education Code is amended to read:

167 17078.52. (a) There is hereby established the Charter Schools  
168 Facilities Program to provide funding to qualifying entities for the purpose  
169 of establishing school facilities for charter school pupils.

170 (b) (1) The 2002 Charter School Facilities Account is hereby  
171 established within the 2002 State School Facilities Fund established  
172 pursuant to subdivision (b) of Section 17070.40. The proceeds of bonds, as  
173 set forth in subparagraph (A) of paragraph (1) of subdivision (a) of Section  
174 100620, shall be deposited into the 2002 Charter School Facilities Account  
175 for the purposes of this article. Notwithstanding Section 13340 of the  
176 Government Code, funds deposited into the account are hereby  
177 continuously appropriated for the purposes of this article.

178 (2) The 2004 Charter School Facilities Account is hereby established  
179 within the 2004 State School Facilities Fund established pursuant to  
180 subdivision (c) of Section 17070.40. The proceeds of bonds, as set forth in  
181 subparagraph (A) of paragraph (1) of subdivision (a) of Section 100820, if  
182 approved by the voters, shall be deposited into the 2004 Charter School  
183 Facilities Account for the purposes of this article. Notwithstanding Section  
184 13340 of the Government Code, funds deposited into the account are  
185 hereby continuously appropriated for the purposes of this article.

186 (3) The 2006 Charter School Facilities Account is hereby established  
187 within the 2006 State School Facilities Fund established pursuant to  
188 subdivision (d) of Section 17070.40. The proceeds of bonds, as set forth in  
189 paragraph (2) of subdivision (a) of Section 101012, if approved by the  
190 voters, shall be deposited into the 2006 Charter School Facilities Account  
191 for the purposes of this article. Notwithstanding Section 13340 of the  
192 Government Code, funds deposited into the account are hereby  
193 continuously appropriated for the purposes of this article.

194 (c) As used in this article, the following terms have the following  
195 meanings:

196 (1) "Authority" means the California School Finance Authority  
197 established pursuant to Section 17172.

198 (2) "Account" means the pertinent account established under  
199 subdivision (b).

200 (3) "Preliminary apportionment" means an apportionment made for  
201 eligible applicants under this article in advance of full compliance with all  
202 of the application requirements otherwise required for an apportionment  
203 pursuant to this chapter. The process for making preliminary  
204 apportionments under this article shall be substantially identical to the  
205 process established for critically overcrowded schools pursuant to Sections  
206 17078.22 to 17078.30, inclusive.

207 (4) "Financially sound" means a charter school that has demonstrated,  
208 over a period of time determined by the authority, but not less than 24  
209 months immediately preceding the submission of the application, that it  
210 has operated as a financially capable concern in California, as measured by  
211 criteria established by the authority. A charter school that cannot  
212 demonstrate that it has been a financially capable concern for at least 24  
213 months immediately preceding the submission of the application, due  
214 solely to not having operated as a charter school for at least 24 months,  
215 may meet this 24-month requirement if the charter school is managed by  
216 staff who have at least 24 months of documented experience, as measured

217 by criteria established by the authority and the charter school has an  
218 educational plan, financial resources, facilities expertise, management  
219 expertise, and has been a financially capable concern for at least 24  
220 months, as established by the authority.

221 (d) The board shall, from time to time, transfer funds within the account  
222 to the California School Finance Authority Fund for the purposes of this  
223 article pursuant to the request of the authority as set forth in this article  
224 SEC. 7. Section 17078.53 of the Education Code is amended to read:  
225 17078.53. (a) The initial preliminary applications for projects to be  
226 funded pursuant to this article shall be submitted to the board by March  
227 31, 2003. Thereafter, the board may establish subsequent application  
228 periods as needed.

229 (b) Preliminary applications may be submitted by eligible applicants as  
230 set forth in this article by either of the following:

231 (1) A school district on behalf of a charter school that is physically  
232 located within the geographical jurisdiction of the school district.

233 (2) A charter school on its own behalf if the charter school has notified  
234 both the superintendent and the governing board of the school district in  
235 which it is physically located of its intent to do so in writing at least 30  
236 days prior to submission of the preliminary application.

237 (c) A preliminary application shall demonstrate either of the following:

238 (1) That a charter petition for the school for which the application is  
239 submitted has been granted by the appropriate chartering entity prior to the  
240 application deadline determined by the board.

241 (2) That an already existing charter has been amended to include the  
242 school for which the application is submitted and approved by the  
243 appropriate chartering entity prior to the deadline determined by the board.

244 (d) A preliminary application shall include either of the following:

245 (1) For a preliminary application submitted pursuant to paragraph (1) of  
246 subdivision (b), the number of unhoused pupils determined pursuant to  
247 Article 3 (commencing with Section 17071.75) that will be housed by the  
248 project for which the preliminary application has been submitted.

249 (2) For a preliminary application submitted pursuant to paragraph (2) of  
250 subdivision (b), a certification from the governing board of the district  
251 within which the charter school is physically located of the number of  
252 unhoused pupils for that district determined pursuant to Article 3  
253 (commencing with Section 17071.75) that will be housed by the project  
254 for which the preliminary application has been submitted.

255 (e) Prior to submitting a preliminary application, the school district and  
256 charter school shall consider existing school district facilities in  
257 accordance with Section 47614.

258 (f) The board, after consideration of the recommendations of the  
259 authority regarding whether a charter school is financially sound, shall  
260 approve the preliminary application and shall make the preliminary  
261 apportionment for funding pursuant to this article.

262 (g) (1) The board shall establish a process to ensure that pupil  
263 attendance in a charter school that is physically located within the

264 geographical jurisdiction of a school district is counted as per-pupil  
265 eligibility for that school district and to ensure that the same per-pupil  
266 attendance is not so counted for any other school district or other applicant  
267 under this chapter.

268 (2) (A) Except as provided pursuant to subparagraph (B) and  
269 notwithstanding subdivision (b) of Section 17071.75, the number of pupils  
270 for which facilities are provided under this article shall not be included in  
271 the sum determined under subdivision (b) of Section 17071.75.

272 (B) The number of unhoused pupils determined pursuant to subdivision  
273 (d) that will be housed by the project for which a preliminary application  
274 has been submitted shall be included in the sum determined under  
275 subdivision (b) of Section 17071.75.

276 (h) The board shall establish a process to be used for release of funds  
277 for approved projects pursuant to this article. Notwithstanding Section  
278 17072.30, the board may provide for the release of planning and site  
279 acquisition funds prior to the approval of the project by the Department of  
280 General Services pursuant to the Field Act, as defined in Section 17281.  
281 SEC. 8. Section 17078.54 of the Education Code is amended to read:

282 17078.54. (a) An eligible project under this article shall include  
283 funding, as permitted by this chapter, for new construction or  
284 rehabilitation of a school facility for charter school pupils, as set forth in  
285 this article. A project may include, but is not limited to, the cost of  
286 retrofitting an existing building for charter school purposes, purchasing a  
287 building, or retrofitting a building that has been purchased by the charter  
288 school, if those costs have not been previously funded under this chapter,  
289 but may not exceed the amounts set forth in subdivision (b). Existing  
290 school buildings made available by a school district that will be  
291 rehabilitated for the purposes of this article are not subject to Article 6  
292 (commencing with Section 17073.10). An allocation of funds shall not be  
293 made for a school facility that is less than 15 years old.

294 (b) The maximum amount of the funding pursuant to this article shall  
295 be determined by calculating the charter school's per-pupil grant amount  
296 plus other allowable costs as set forth in this chapter. Funding shall be  
297 provided by the authority for new facility construction or rehabilitation as  
298 set forth in Section 17078.58.

299 (c) To be funded under this article, a project shall comply with all of the  
300 following:

301 (1) It shall meet all the requirements regarding public school  
302 construction, plan approvals, toxic substance review, site selection, and  
303 site approval, as would any noncharter school project of a school district  
304 under this chapter, including, but not limited to, regulations adopted by the  
305 State Architect pursuant to Section 17280.5 relating to the retrofitting of  
306 existing buildings, as applicable.

307 (2) Notwithstanding any provision of law to the contrary, including, but  
308 not limited to paragraph (1), the board, after consulting with the relevant  
309 regulatory agencies, shall, to the extent feasible, adopt regulations  
310 establishing a process for projects to be subject to a streamlined method

311 for obtaining regulatory approvals for all requirements described in  
312 paragraph (1), except for the requirements of the Field Act as defined in  
313 Section 17281 which shall be complied with in the same manner as any  
314 other project under this chapter.

315 (3) The board shall fund only new construction to be physically located  
316 within the geographical jurisdiction of a school district.

317 (d) Facilities funded pursuant to this article shall have a 50 percent  
318 local share matching obligation that may be paid by the applicant through  
319 lease payments in lieu of the matching share, or as otherwise set forth in  
320 this article, including, but not limited to, Section 17078.58.

321 (e) The authority may charge its administrative costs against the  
322 respective 2002, 2004, or 2006 Charter School Facilities Account, which  
323 shall be subject to the approval of the Department of Finance and which  
324 may not exceed 2.5 percent of the account.

325 SEC. 9. Section 17078.56 of the Education Code is amended to read:  
326 17078.56. (a) The board, in consultation with the authority, shall  
327 approve projects pursuant to this article as otherwise set forth in this  
328 chapter, and shall make preliminary apportionments only to financially  
329 sound applicants in accordance with all of the following criteria:

330 (1) The board shall seek to ensure that, when considered as a whole, the  
331 applications approved pursuant to this article are fairly representative of  
332 the various geographical regions of the state.

333 (2) The board shall seek to ensure that, when considered as a whole, the  
334 applications approved pursuant to this article are fairly representative of  
335 urban, rural, and suburban regions of the state.

336 (3) The board shall seek to ensure that, when considered as a whole, the  
337 applications approved pursuant to this article are fairly representative of  
338 large, medium, and small charter schools throughout the state.

339 (4) The board shall seek to ensure that, when considered as a whole, the  
340 applications approved pursuant to this article are fairly representative of  
341 the various grade levels of pupils served by charter school applicants  
342 throughout the state.

343 (b) While ensuring that the requirements of subdivision (a) are met  
344 when considering all approved projects under this article as a whole, the  
345 board shall, within each factor of the criteria set forth in subdivision (a),  
346 give a preference to charter schools in overcrowded school districts,  
347 charter schools in low-income areas, charter schools operated by  
348 not-for-profit entities, and charter schools that utilize existing school  
349 district facilities.

350 SEC. 10. Section 17078.58 of the Education Code is amended to read:  
351 17078.58. (a) Funding granted pursuant to this article may not exceed  
352 100 percent of the total allowable project costs as determined by  
353 calculating double the per-pupil grant eligibility as set forth in Section  
354 17072.10, and subdivision (e) of Section 17078.53, plus 100 percent of all  
355 other allowable construction project costs, as appropriate to the project,  
356 that would otherwise be available to school district projects as set forth in  
357 this chapter. Funding granted for the purposes of rehabilitating buildings

358 under Section 17078.54 shall be limited to the costs necessary to comply  
359 with subdivision (c) of Section 17078.54, and shall not exceed the  
360 maximum costs that would otherwise be allowable for a new construction  
361 project funded under this article.

362 (b) The local share equivalent shall be collected in the form of lease  
363 payments or otherwise as set forth in this article.

364 (c) Lease payments in lieu of local share payments, and any other local  
365 share payments made pursuant to this article, shall be made to the board  
366 for deposit into the respective 2002, 2004, or 2006 Charter School  
367 Facilities Account. Funds deposited into the account pursuant to this  
368 section may be used by the board only for a purpose related to charter  
369 school facilities pursuant to this article.

370 (d) When a preliminary apportionment under this article is converted to  
371 a final apportionment, any funds not needed for the final apportionment  
372 shall remain in the 2002, 2004, or 2006 Charter School Facilities Account  
373 for use by the board for any purpose related to charter school facilities  
374 pursuant to this article.

375 SEC. 11. Article 13 (commencing with Section 17078.70) is added to  
376 Chapter 12.5 of Part 10 of the Education Code, to read:

377 Article 13. Career Technical Education Facilities Program

378 17078.70. (a) For the purposes of this article, “reconfiguration” means  
379 any modification of a structure of any age that will enhance the  
380 educational opportunities for pupils in existing middle and high schools in  
381 order to provide them with the skills and knowledge necessary for  
382 high-demand technical careers.

383 (b) “Reconfiguration” may include limited new construction necessary  
384 to accommodate the reconfiguration.

385 17078.72. (a) The Career Technical Education Facilities Program is  
386 hereby established to provide funding to qualifying local educational  
387 agencies for the purpose of constructing new facilities or reconfiguring  
388 existing facilities, including, but not limited to, purchasing equipment with  
389 an average useful life expectancy of at least 10 years, to enhance  
390 educational opportunities for pupils in existing high schools in order to  
391 provide them with the skills and knowledge necessary for the high-demand  
392 technical careers of today and tomorrow.

393 (b) The State Department of Education, in cooperation with the  
394 Chancellor’s Office of the Community Colleges, the Labor and Workforce  
395 Development Agency, and industry groups, shall develop criteria and pupil  
396 outcome measures to evaluate the program. The criteria shall ensure  
397 equity, program relevance to industry needs, and articulation with more  
398 advanced coursework at the partnering community colleges or private  
399 institutions.

400 (c) The program shall be based on grant applications administered by  
401 the board.

402 (d) Grants shall be allocated on a per-square-foot basis for the  
403 applicable type of construction proposed or deemed necessary by the  
404 board consistent with the approved application for the project.

405 (e) New construction grants shall not exceed three million dollars  
406 (\$3,000,000) per project per schoolsite, inclusive of equipment, and shall  
407 only be allocated to comprehensive high schools that have an active Career  
408 Technical Advisory Committee pursuant to Section 8070, in either of the  
409 following methods:

410 (1) For a stand-alone project on a per-square-foot basis for the  
411 applicable type of construction proposed, based on the criteria established  
412 pursuant to subdivision (b), consistent with the approved application for  
413 the project.

414 (2) For new school projects, as a supplement to the per pupil allocation  
415 pursuant to Section 17072.10. The supplement is intended to cover excess  
416 costs uniquely related to the facilities required to provide the career  
417 technical education program or programs.

418 (f) Modernization grants shall not exceed one million five hundred  
419 thousand dollars (\$1,500,000) per project per schoolsite, inclusive of  
420 equipment and may be awarded to comprehensive high schools or joint  
421 power authorities currently operating career technical education programs  
422 that have an active Career Technical Advisory Committee pursuant to  
423 Section 8070 for the purpose of reconfiguration. For comprehensive high  
424 schools, the grant shall be supplemental to the per pupil allocation  
425 pursuant to Section 17074.10. The supplement is intended to cover excess  
426 costs uniquely related to the facilities required to provide the career  
427 technical education program or programs.

428 (g) (1) A school district shall contribute from local resources a dollar  
429 amount that is equal to the amount of the grant of state funds awarded  
430 under subdivisions (d), (e), and (f). The local contribution may be  
431 provided by private industry groups, the school district, or a joint powers  
432 authority.

433 (2) A school district shall not be required to demonstrate that it has  
434 unhouseed pupils or that a permanent school building is more than 25 years  
435 old in order to receive a grant under the program.

436 (h) The program shall allow the local contribution to be paid over time  
437 should sufficient local funds not be immediately available. The board may  
438 provide for a repayment schedule consistent with subparagraphs (C) and  
439 (D) of paragraph (1) of subdivision (a) of Section 17078.57. The board  
440 shall not waive the local contribution on the basis of financial hardship or  
441 on any other basis.

442 (i) Applications shall meet the criteria developed under subdivision (b)  
443 and shall require all of the following:

444 (1) A clear and comprehensive Career Technical Education plan for  
445 each course of study applicable to the instructional space.

446 (2) Projections of pupil enrollment.

447 (3) Identification of feeder schools, industry partners, and community  
448 colleges or other postsecondary schools participating in the development,  
449 articulation, and review of the educational program.  
450 (4) Evidence of approval of the plan by the entities listed in paragraph  
451 (3).  
452 (5) The method by which accountability for pupil enrollments and  
453 outcomes will be maintained. Outcomes shall include, but are not limited  
454 to, certificate completion, the successful entry of pupil to employment in  
455 the applicable industry, and successful transition to post-secondary  
456 institutions for work in the applicable industry or other areas of study.  
457 (6) Evidence of coordination with all feeder schools, middle schools,  
458 and high schools within the area to ensure that the project and programs  
459 complement career technical education offerings in the area.  
460 (7) Evidence that upon completion of the project the local educational  
461 agency will meet all of its obligations under Section 51228 relating to  
462 career technical education.  
463 (j) Applications shall give weight to the number of pupils expected to  
464 attend, the cost per pupil, financial participation by industry partners in the  
465 construction and equipping of the facility, commitment to accountability  
466 for outcomes and participation, the strength and relevance of the  
467 educational plans to the needs of industry for qualified technical  
468 employees applicable to the economic development needs of the region in  
469 which the project will be located, and coordination and articulation with  
470 feeder schools, other high schools, and community colleges.  
471 (k) The Office of Public School Construction shall develop and the  
472 board shall approve regulations to implement this article on or before April  
473 19, 2007, and the board may promulgate those regulations first on an  
474 emergency basis, which shall be effective for no more than 12 months,  
475 after which any permanent regulations shall be promulgated in accordance  
476 with the Administrative Procedure Act (Chapter 3.5 (commencing with  
477 Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).  
478 SEC. 12. Article 14 (commencing with Section 17079) is added to  
479 Chapter 12.5 of Part 10 of the Education Code, to read:

480 Article 14. Overcrowding Relief Grants

481 17079. (a) For purposes of this article, an eligible school is a school  
482 for which the schoolsite pupil population density is equal to or greater than  
483 175 percent of the schoolsite pupil population density recommended by  
484 the Superintendent as of January 1, 2006, adjusted by the following  
485 factors:  
486 (1) The density calculation shall be reduced to take into account the  
487 additional pupil capacity created by multistory construction.  
488 (2) The schoolsite pupil population density shall be reduced to take into  
489 account approved new construction projects, including projects approved  
490 pursuant to Article 11 (commencing with Section 17078.10).

491 (b) The board shall adopt regulations to determine the adjustments set  
492 forth in paragraphs (1) and (2) of subdivision (a).  
493 17079.10. (a) For purposes of this article, an eligible pupil is a pupil  
494 who is housed in a portable classroom, except portable classrooms used  
495 for purposes of the Class Size Reduction Program set forth in Chapter 6.10  
496 (commencing with Section 52120) of Part 28, at an eligible school.  
497 (b) The board shall apportion an overcrowding relief grant to districts  
498 on behalf of each eligible pupil equal to the appropriate  
499 per-unhoused-pupil grant amount pursuant to Section 17072.10. The  
500 number of overcrowding relief grants apportioned shall be subject to the  
501 following limitations:  
502 (1) The number of grants apportioned on behalf of an eligible school  
503 shall not exceed the number of pupils whose removal from the pupil  
504 density calculation would reduce the density of the eligible schoolsite to  
505 150 percent of the schoolsite pupil population density recommended by  
506 the Superintendent as of January 1, 2006.  
507 (2) A district shall not receive more grants than the number of pupils  
508 housed in portable classrooms that were included in the initial new  
509 construction eligibility determination of the district pursuant to Article 3  
510 (commencing with Section 17071.75).  
511 17079.20. (a) The board shall require that applications for funding  
512 pursuant to this article be used for an equivalent number of permanent new  
513 school construction classrooms to replace the portable classrooms upon  
514 which the determination of the number of eligible pupils is based. The  
515 board shall also require the application to describe how the project will  
516 relieve overcrowding at the eligible school.  
517 (b) The board shall create a list of projects eligible for funding and shall  
518 approve applications semiannually on a schedule determined by the board.  
519 (c) The board shall require that applicant school districts comply with  
520 all of the same conditions otherwise required for new construction funding  
521 pursuant to this chapter with the exception of subdivision (b) of Section  
522 17071.75.  
523 (d) The board shall not apportion funds for a project pursuant to this  
524 article any portion of which involves the construction, acquisition, or  
525 transportation of portable classrooms for any school in the school district.  
526 (e) In the event the funding available to the board for purposes of this  
527 article is less than the amount necessary to fund all eligible applications,  
528 the board shall prioritize and fund the projects on the basis of the pupil  
529 density of the eligible schools.  
530 17079.30. (a) The board shall require both of the following as  
531 conditions for receiving funding pursuant to this article:  
532 (1) Within six months after the date of initial occupancy of the  
533 permanent school facilities constructed pursuant to this article, the school  
534 district shall remove from the eligible school, and remove from service as  
535 classrooms in the district, the portable classrooms used for determining the  
536 number of eligible pupils.

537 (2) The new school construction funding provided pursuant to this  
538 article shall result in a reduction in the total number of portable classrooms  
539 in the school district.

540 (b) This section does not preclude the school district from using the  
541 portable classrooms removed from eligible schools for child care or  
542 preschool programs, if those portable classrooms are not located at an  
543 eligible school.

544 (c) This section does not apply to eligible schools operating on double  
545 session schedules in an elementary school district in a county of the  
546 second class, as set forth in Section 28023 of the Government Code.

547 SEC. 13. Section 17261 of the Education Code is amended to read:  
548 17261. The State Allocation Board shall obtain construction plans for  
549 school buildings appropriate for school districts in various climates and  
550 geographical conditions of the state. The plans shall be composed of plans  
551 designed to meet the needs of school districts requiring school buildings of  
552 various sizes. The plans may include landscape suggestions. The plans  
553 may include designs that promote the efficient use of energy and water, the  
554 maximum use of natural lighting and indoor air quality, the use of recycled  
555 materials and materials that emit a minimum of toxic substances, the use  
556 of acoustics conducive to teaching and learning, and other characteristics  
557 of high performance schools.

558 SEC. 14. Section 81052 is added to the Education Code, to read:  
559 81052. Each school building constructed, reconstructed, modified, or  
560 expanded after July 1, 2006, on a community college campus shall be built  
561 according to the Field Act, as defined in Section 81130.3, or according to  
562 the California Building Standards Code, as adopted by the California  
563 Building Standards Commission.

564 SEC. 15. Section 81130.3 of the Education Code is amended to read:  
565 81130.3. This article, together with Article 3 (commencing with  
566 Section 17280) and Article 6 (commencing with Section 17365) of  
567 Chapter 3 of Part 10.5 and Article 3 (commencing with Section 81050),  
568 shall be known and may be cited as the "Field Act."

569 SEC. 16. Part 69 (commencing with Section 101000) is added to the  
570 Education Code, to read:

571 PART 69. KINDERGARTEN-UNIVERSITY PUBLIC EDUCATION  
572 FACILITIES BOND ACT OF 2006

573 Chapter 1. General

574 101000. This part shall be known and may be cited as the  
575 Kindergarten-University Public Education Facilities Bond Act of 2006.  
576 101001. The incorporation of, or reference to, any provision of  
577 California statutory law in this part includes all acts amendatory thereof  
578 and supplementary thereto.

579 101002. (a) Bonds in the total amount of ten billion four hundred  
580 sixteen million dollars (\$10,416,000,000), not including the amount of any  
581 refunding bonds issued in accordance with Sections 101030, 101039, and  
582 101059, or so much thereof as is necessary, may be issued and sold to  
583 provide a fund to be used for carrying out the purposes expressed in this  
584 part and to reimburse the General Obligation Bond Expense Revolving  
585 Fund pursuant to Section 16724.5 of the Government Code. The bonds,  
586 when sold, shall be and constitute a valid and binding obligation of the  
587 State of California, and the full faith and credit of the State of California is  
588 hereby pledged for the punctual payment of the principal of, and interest  
589 on, the bonds as the principal and interest become due and payable.  
590 (b) Pursuant to this section, the Treasurer shall sell the bonds  
591 authorized by the State School Building Finance Committee established by  
592 Section 15909 or the Higher Education Facilities Finance Committee  
593 established pursuant to Section 67353, as the case may be, at any different  
594 times necessary to service expenditures required by the apportionments.

595 Chapter 2. Kindergarten Through 12th Grade

596 Article 1. Kindergarten Through 12th Grade School Facilities Program  
597 Provisions

598 101010. The proceeds of bonds issued and sold pursuant to Article 2  
599 (commencing with Section 101020) shall be deposited in the 2006 State  
600 School Facilities Fund established in the State Treasury under subdivision  
601 (d) of Section 17070.40 and shall be allocated by the State Allocation  
602 Board pursuant to this chapter.

603 101011. All moneys deposited in the 2006 State School Facilities Fund  
604 for the purposes of this chapter shall be available to provide aid to school  
605 districts, county superintendents of schools, and county boards of  
606 education of the state in accordance with the Leroy F. Greene School  
607 Facilities Act of 1998 (Chapter 12.5 (commencing with Section 17070.10)  
608 of Part 10), as set forth in Section 101012, to provide funds to repay any  
609 money advanced or loaned to the 2006 State School Facilities Fund under  
610 any act of the Legislature, together with interest provided for in that act,  
611 and to reimburse the General Obligation Bond Expense Revolving Fund  
612 pursuant to Section 16724.5 of the Government Code.

613 101012. (a) The proceeds from the sale of bonds, issued and sold for  
614 the purposes of this chapter, shall be allocated in accordance with the  
615 following schedule:

616 (1) The amount of one billion nine hundred million dollars  
617 (\$1,900,000,000) for new construction of school facilities of applicant  
618 school districts under Chapter 12.5 (commencing with Section 17070.10)  
619 of Part 10. Of the amount allocated under this paragraph, up to 10.5  
620 percent shall be available for purposes of seismic repair, reconstruction, or  
621 replacement, pursuant to Section 17075.10.

622 (2) The amount of five hundred million dollars (\$500,000,000) shall be  
623 available for providing school facilities to charter schools pursuant to  
624 Article 12 (commencing with Section 17078.52) of Chapter 12.5 of Part  
625 10.

626 (3) The amount of three billion three hundred million dollars  
627 (\$3,300,000,000) for the modernization of school facilities pursuant to  
628 Chapter 12.5 (commencing with Section 17070.10) of Part 10.

629 (4) The amount of five hundred million dollars (\$500,000,000) for the  
630 purposes set forth in Article 13 (commencing with Section 17078.70) of  
631 Chapter 12.5 of Part 10, relating to facilities for career technical education  
632 programs.

633 (5) Of the amounts allocated under paragraphs (1) and (3), up to two  
634 hundred million dollars (\$200,000,000) for the purposes set forth in  
635 Chapter 894 of the Statutes of 2004, relating to incentives for the creation  
636 of smaller learning communities and small high schools.

637 (6) The amount of twenty-nine million dollars (\$29,000,000) for the  
638 purposes set forth in Article 10.6 (commencing with Section 17077.40) of  
639 Chapter 12.5 of Part 10, relating to joint use projects.

640 (7) The amount of one billion dollars (\$1,000,000,000) shall be  
641 available for providing new construction funding to severely overcrowded  
642 schoolsites pursuant to Article 14 (commencing with Section 17079) of  
643 Chapter 12.5 of Part 10.

644 (8) The amount of one hundred million dollars (\$100,000,000) for  
645 incentive grants to promote the use of designs and materials in new  
646 construction and modernization projects that include the attributes of  
647 high-performance schools, including, but not limited to, the elements set  
648 forth in Section 17070.96, pursuant to regulations adopted by the State  
649 Allocation Board.

650 (b) School districts may use funds allocated pursuant to paragraph (3)  
651 of subdivision (a) only for one or more of the following purposes in  
652 accordance with Chapter 12.5 (commencing with Section 17070.10) of  
653 Part 10:

654 (1) The purchase and installation of air-conditioning equipment and  
655 insulation materials, and related costs.

656 (2) Construction projects or the purchase of furniture or equipment  
657 designed to increase school security or playground safety.

658 (3) The identification, assessment, or abatement in school facilities of  
659 hazardous asbestos.

660 (4) Project funding for high-priority roof replacement projects.

661 (5) Any other modernization of facilities pursuant to Chapter 12.5  
662 (commencing with Section 17070.10) of Part 10.

663 (c) Funds allocated pursuant to paragraph (1) of subdivision (a) may  
664 also be utilized to provide new construction grants for eligible applicant  
665 county boards of education under Chapter 12.5 (commencing with Section  
666 17070.10) of Part 10 for funding classrooms for severely handicapped  
667 pupils, or for funding classrooms for county community school pupils.

668 (d) (1) The Legislature may amend this section to adjust the funding  
669 amounts specified in paragraphs (1) to (8), inclusive, of subdivision (a),  
670 only by either of the following methods:  
671 (A) By a statute, passed in each house of the Legislature by rollcall vote  
672 entered in the respective journals, by not less than two-thirds of the  
673 membership in each house concurring, if the statute is consistent with, and  
674 furthers the purposes of, this chapter.  
675 (B) By a statute that becomes effective only when approved by the  
676 voters.  
677 (2) Amendments pursuant to this subdivision may adjust the amounts to  
678 be expended pursuant to paragraphs (1) to (8), inclusive, of subdivision  
679 (a), but may not increase or decrease the total amount to be expended  
680 pursuant to that subdivision.  
681 (e) Funds available pursuant to this section may be used for acquisition  
682 of school facilities authorized pursuant to Section 17280.5.

683 Article 2. Kindergarten Through 12th Grade School Facilities Fiscal  
684 Provisions

685 101020. (a) Of the total amount of bonds authorized to be issued and  
686 sold pursuant to Chapter 1 (commencing with Section 101000), bonds in  
687 the amount of seven billion three hundred twenty-nine million dollars  
688 (\$7,329,000,000) not including the amount of any refunding bonds issued  
689 in accordance with Section 101030, or so much thereof as is necessary,  
690 may be issued and sold to provide a fund to be used for carrying out the  
691 purposes expressed in this chapter and to reimburse the General Obligation  
692 Bond Expense Revolving Fund pursuant to Section 16724.5 of the  
693 Government Code. The bonds, when sold, shall be and constitute a valid  
694 and binding obligation of the State of California, and the full faith and  
695 credit of the State of California is hereby pledged for the punctual payment  
696 of the principal of, and interest on, the bonds as the principal and interest  
697 become due and payable.  
698 (b) Pursuant to this section, the Treasurer shall sell the bonds  
699 authorized by the State School Building Finance Committee established  
700 pursuant to Section 15909 at any different times necessary to service  
701 expenditures required by the apportionments.  
702 101021. The State School Building Finance Committee, established by  
703 Section 15909 and composed of the Governor, the Controller, the  
704 Treasurer, the Director of Finance, and the Superintendent, or their  
705 designated representatives, all of whom shall serve thereon without  
706 compensation, and a majority of whom shall constitute a quorum, is  
707 continued in existence for the purpose of this chapter. The Treasurer shall  
708 serve as chairperson of the committee. Two Members of the Senate  
709 appointed by the Senate Committee on Rules, and two Members of the  
710 Assembly appointed by the Speaker of the Assembly, shall meet with and  
711 provide advice to the committee to the extent that the advisory

712 participation is not incompatible with their respective positions as  
713 Members of the Legislature. For the purposes of this chapter, the Members  
714 of the Legislature shall constitute an interim investigating committee on  
715 the subject of this chapter and, as that committee, shall have the powers  
716 granted to, and duties imposed upon, those committees by the Joint Rules  
717 of the Senate and the Assembly. The Director of Finance shall provide  
718 assistance to the committee as it may require. The Attorney General of the  
719 state is the legal adviser of the committee.

720 101022. (a) The bonds authorized by this chapter shall be prepared,  
721 executed, issued, sold, paid, and redeemed as provided in the State General  
722 Obligation Bond Law (Chapter 4 (commencing with Section 16720) of  
723 Part 3 of Division 4 of Title 2 of the Government Code), and all of the  
724 provisions of that law, except Section 16727 of the Government Code to  
725 the extent that it conflicts with this part, apply to the bonds and to this  
726 chapter and are hereby incorporated into this chapter as though set forth in  
727 full within this chapter.

728 (b) For purposes of the State General Obligation Bond Law, the State  
729 Allocation Board is designated the “board” for purposes of administering  
730 the 2006 State School Facilities Fund.

731 101023. (a) Upon request of the State Allocation Board, the State  
732 School Building Finance Committee shall determine whether or not it is  
733 necessary or desirable to issue bonds authorized pursuant to this chapter in  
734 order to fund the apportionments and, if so, the amount of bonds to be  
735 issued and sold. Successive issues of bonds may be authorized and sold to  
736 fund those apportionments progressively, and it is not necessary that all of  
737 the bonds authorized to be issued be sold at any one time.

738 (b) A request of the State Allocation Board pursuant to subdivision (a)  
739 shall be supported by a statement of the apportionments made and to be  
740 made for the purposes described in Sections 101011 and 101012.

741 101024. There shall be collected each year and in the same manner and  
742 at the same time as other state revenue is collected, in addition to the  
743 ordinary revenues of the state, a sum in an amount required to pay the  
744 principal of, and interest on, the bonds each year. It is the duty of all  
745 officers charged by law with any duty in regard to the collection of the  
746 revenue to do and perform each and every act that is necessary to collect  
747 that additional sum.

748 101025. Notwithstanding Section 13340 of the Government Code,  
749 there is hereby appropriated from the General Fund in the State Treasury,  
750 for the purposes of this chapter, an amount that will equal the total of the  
751 following:

752 (a) The sum annually necessary to pay the principal of, and interest on,  
753 bonds issued and sold pursuant to this chapter, as the principal and interest  
754 become due and payable.

755 (b) The sum necessary to carry out Section 101028, appropriated  
756 without regard to fiscal years.

757 101026. The State Allocation Board may request the Pooled Money  
758 Investment Board to make a loan from the Pooled Money Investment

759 Account or any other approved form of interim financing, in accordance  
760 with Section 16312 of the Government Code, for the purpose of carrying  
761 out this chapter. The amount of the request shall not exceed the amount of  
762 the unsold bonds that the committee, by resolution, has authorized to be  
763 sold for the purpose of carrying out this chapter. The board shall execute  
764 any documents required by the Pooled Money Investment Board to obtain  
765 and repay the loan. Any amounts loaned shall be deposited in the fund to  
766 be allocated by the board in accordance with this chapter.

767 101027. Notwithstanding any other provision of this chapter, or of the  
768 State General Obligation Bond Law, if the Treasurer sells bonds pursuant  
769 to this chapter that include a bond counsel opinion to the effect that the  
770 interest on the bonds is excluded from gross income for federal tax  
771 purposes, subject to designated conditions, the Treasurer may maintain  
772 separate accounts for the investment of bond proceeds and for the  
773 investment earnings on those proceeds. The Treasurer may use or direct  
774 the use of those proceeds or earnings to pay any rebate, penalty, or other  
775 payment required under federal law or take any other action with respect  
776 to the investment and use of those bond proceeds required or desirable  
777 under federal law to maintain the tax-exempt status of those bonds and to  
778 obtain any other advantage under federal law on behalf of the funds of this  
779 state.

780 101028. For the purposes of carrying out this chapter, the Director of  
781 Finance may authorize the withdrawal from the General Fund of an  
782 amount not to exceed the amount of the unsold bonds that have been  
783 authorized by the State School Building Finance Committee to be sold for  
784 the purpose of carrying out this chapter. Any amounts withdrawn shall be  
785 deposited in the 2006 State School Facilities Fund consistent with this  
786 chapter. Any money made available under this section shall be returned to  
787 the General Fund, plus an amount equal to the interest that the money  
788 would have earned in the Pooled Money Investment Account, from  
789 proceeds received from the sale of bonds for the purpose of carrying out  
790 this chapter.

791 101029. All money deposited in the 2006 State School Facilities Fund,  
792 that is derived from premium and accrued interest on bonds sold shall be  
793 reserved in the fund and shall be available for transfer to the General Fund  
794 as a credit to expenditures for bond interest.

795 101030. The bonds may be refunded in accordance with Article 6  
796 (commencing with Section 16780) of Chapter 4 of Part 3 of Division 4 of  
797 Title 2 of the Government Code, which is a part of the State General  
798 Obligation Bond Law. Approval by the voters of the state for the issuance  
799 of the bonds described in this chapter includes the approval of the issuance  
800 of any bonds issued to refund any bonds originally issued under this  
801 chapter or any previously issued refunding bonds.

802 101031. The Legislature hereby finds and declares that, inasmuch as  
803 the proceeds from the sale of bonds authorized by this chapter are not  
804 "proceeds of taxes" as that term is used in Article XIII B of the California

805 Constitution, the disbursement of these proceeds is not subject to the  
806 limitations imposed by that article.

807 Chapter 3. California Community College Facilities

808 Article 1. General

809 101032. (a) The 2006 California Community College Capital Outlay  
810 Bond Fund is hereby established in the State Treasury for deposit of funds  
811 from the proceeds of bonds issued and sold for the purposes of this  
812 chapter.

813 (b) The Higher Education Facilities Finance Committee established  
814 pursuant to Section 67353 is hereby authorized to create a debt or debts,  
815 liability or liabilities, of the State of California pursuant to this chapter for  
816 the purpose of providing funds to aid the California Community Colleges.

817 Article 2. California Community College Program Provisions

818 101033. (a) From the proceeds of bonds issued and sold pursuant to  
819 Article 3 (commencing with Section 101034), the sum of one billion five  
820 hundred seven million dollars (\$1,507,000,000) shall be deposited in the  
821 2006 California Community College Capital Outlay Bond Fund for the  
822 purposes of this article. When appropriated, these funds shall be available  
823 for expenditure for the purposes of this article.

824 (b) The purposes of this article include assisting in meeting the capital  
825 outlay financing needs of the California Community Colleges.

826 (c) Proceeds from the sale of bonds issued and sold for the purposes of  
827 this article may be used to fund construction on existing campuses,  
828 including the construction of buildings and the acquisition of related  
829 fixtures, construction of facilities that may be used by more than one  
830 segment of public higher education (intersegmental), the renovation and  
831 reconstruction of facilities, site acquisition, the equipping of new,  
832 renovated, or reconstructed facilities, which equipment shall have an  
833 average useful life of 10 years; and to provide funds for the payment of  
834 preconstruction costs, including, but not limited to, preliminary plans and  
835 working drawings for facilities of the California Community Colleges.

836 Article 3. California Community College Fiscal Provisions

837 101034. (a) Of the total amount of bonds authorized to be issued and  
838 sold pursuant to Chapter 1 (commencing with Section 101000), bonds in  
839 the total amount of one billion five hundred seven million dollars  
840 (\$1,507,000,000), not including the amount of any refunding bonds issued  
841 in accordance with Section 101039, or so much thereof as is necessary,  
842 may be issued and sold to provide a fund to be used for carrying out the  
843 purposes expressed in this chapter and to reimburse the General Obligation

844 Bond Expense Revolving Fund pursuant to Section 16724.5 of the  
845 Government Code. The bonds, when sold, shall be and constitute a valid  
846 and binding obligation of the State of California, and the full faith and  
847 credit of the State of California is hereby pledged for the punctual payment  
848 of the principal of, and interest on, the bonds as the principal and interest  
849 become due and payable.

850 (b) It is the intent of the Legislature that the California Community  
851 Colleges annually consider, as part of their annual capital outlay planning  
852 process, the inclusion of facilities that may be used by more than one  
853 segment of public higher education (intersegmental), and, that on or before  
854 May 15th of each year, those entities report their findings to the budget  
855 committees of each house of the Legislature.

856 (c) Pursuant to this section, the Treasurer shall sell the bonds authorized  
857 by the Higher Education Facilities Finance Committee established  
858 pursuant to Section 67353 at any different times necessary to service  
859 expenditures required by the apportionments.

860 101034.5. (a) The bonds authorized by this chapter shall be prepared,  
861 executed, issued, sold, paid, and redeemed as provided in the State General  
862 Obligation Bond Law (Chapter 4 (commencing with Section 16720) of  
863 Part 3 of Division 4 of Title 2 of the Government Code), and all of the  
864 provisions of that law, except Section 16727 of the Government Code to  
865 the extent that it conflicts with this part, apply to the bonds and to this  
866 chapter and are hereby incorporated into this chapter as though set forth in  
867 full within this chapter.

868 (b) For the purposes of the State General Obligation Bond Law, each  
869 state agency administering an appropriation of the 2006 Community  
870 College Capital Outlay Bond Fund is designated as the “board” for  
871 projects funded pursuant to this chapter.

872 (c) The proceeds of the bonds issued and sold pursuant to this chapter  
873 shall be available for the purpose of funding aid to the California  
874 Community Colleges for the construction on existing or new campuses,  
875 and their respective off-campus centers and joint use and intersegmental  
876 facilities, as set forth in this chapter.

877 101035. The Higher Education Facilities Finance Committee  
878 established pursuant to Section 67353 shall authorize the issuance of  
879 bonds under this chapter only to the extent necessary to fund the  
880 apportionments for the purposes described in this chapter that are  
881 expressly authorized by the Legislature in the annual Budget Act. Pursuant  
882 to that legislative direction, the committee shall determine whether or not  
883 it is necessary or desirable to issue bonds authorized pursuant to this  
884 chapter in order to carry out the purposes described in this chapter and, if  
885 so, the amount of bonds to be issued and sold. Successive issues of bonds  
886 may be authorized and sold to carry out those actions progressively, and it  
887 is not necessary that all of the bonds authorized to be issued be sold at any  
888 one time.

889 101035.5. There shall be collected each year and in the same manner  
890 and at the same time as other state revenue is collected, in addition to the

891 ordinary revenues of the state, a sum in an amount required to pay the  
892 principal of, and interest on, the bonds each year. It is the duty of all  
893 officers charged by law with any duty in regard to the collection of the  
894 revenue to do and perform each and every act which is necessary to collect  
895 that additional sum.

896 101036. Notwithstanding Section 13340 of the Government Code,  
897 there is hereby appropriated from the General Fund in the State Treasury,  
898 for the purposes of this chapter, an amount that will equal the total of the  
899 following:

900 (a) The sum annually necessary to pay the principal of, and interest on,  
901 bonds issued and sold pursuant to this chapter, as the principal and interest  
902 become due and payable.

903 (b) The sum necessary to carry out Section 101037.5, appropriated  
904 without regard to fiscal years.

905 101036.5. The board, as defined in subdivision (b) of Section  
906 101034.5, may request the Pooled Money Investment Board to make a  
907 loan from the Pooled Money Investment Account or any other approved  
908 form of interim financing, in accordance with Section 16312 of the  
909 Government Code, for the purpose of carrying out this chapter. The  
910 amount of the request shall not exceed the amount of the unsold bonds that  
911 the committee, by resolution, has authorized to be sold for the purpose of  
912 carrying out this chapter. The board, as defined in subdivision (b) of  
913 Section 101034.5, shall execute any documents required by the Pooled  
914 Money Investment Board to obtain and repay the loan. Any amounts  
915 loaned shall be deposited in the fund to be allocated by the board in  
916 accordance with this chapter.

917 101037. Notwithstanding any other provision of this chapter, or of the  
918 State General Obligation Bond Law, if the Treasurer sells bonds pursuant  
919 to this chapter that include a bond counsel opinion to the effect that the  
920 interest on the bonds is excluded from gross income for federal tax  
921 purposes, subject to designated conditions, the Treasurer may maintain  
922 separate accounts for the investment of bond proceeds and for the  
923 investment earnings on those proceeds. The Treasurer may use or direct  
924 the use of those proceeds or earnings to pay any rebate, penalty, or other  
925 payment required under federal law or take any other action with respect  
926 to the investment and use of those bond proceeds required or desirable  
927 under federal law to maintain the tax-exempt status of those bonds and to  
928 obtain any other advantage under federal law on behalf of the funds of this  
929 state.

930 101037.5. (a) For the purposes of carrying out this chapter, the  
931 Director of Finance may authorize the withdrawal from the General Fund  
932 of an amount not to exceed the amount of the unsold bonds that have been  
933 authorized by the Higher Education Facilities Finance Committee to be  
934 sold for the purpose of carrying out this chapter. Any amounts withdrawn  
935 shall be deposited in the 2006 California Community College Capital  
936 Outlay Bond Fund consistent with this chapter. Any money made available  
937 under this section shall be returned to the General Fund, plus an amount

938 equal to the interest that the money would have earned in the Pooled  
939 Money Investment Account, from proceeds received from the sale of  
940 bonds for the purpose of carrying out this chapter.  
941 (b) Any request forwarded to the Legislature and the Department of  
942 Finance for funds from this bond issue for expenditure for the purposes  
943 described in this chapter by the California Community Colleges shall be  
944 accompanied by the five-year capital outlay plan that reflects the needs  
945 and priorities of the community college system and is prioritized on a  
946 statewide basis. Requests shall include a schedule that prioritizes the  
947 seismic retrofitting needed to significantly reduce, in the judgment of the  
948 particular college, seismic hazards in buildings identified as high priority  
949 by the college.  
950 101038. All money deposited in the 2006 California Community  
951 College Capital Outlay Bond Fund that is derived from premium and  
952 accrued interest on bonds sold shall be reserved in the fund and shall be  
953 available for transfer to the General Fund as a credit to expenditures for  
954 bond interest.  
955 101039. The bonds may be refunded in accordance with Article 6  
956 (commencing with Section 16780) of Chapter 4 of Part 3 of Division 4 of  
957 Title 2 of the Government Code, which is a part of the State General  
958 Obligation Bond Law. Approval by the voters of the state for the issuance  
959 of the bonds described in this chapter includes the approval of the issuance  
960 of any bonds issued to refund any bonds originally issued under this  
961 chapter or any previously issued refunding bonds.  
962 101039.5. The Legislature hereby finds and declares that, inasmuch as  
963 the proceeds from the sale of bonds authorized by this chapter are not  
964 "proceeds of taxes" as that term is used in Article XIII B of the California  
965 Constitution, the disbursement of these proceeds is not subject to the  
966 limitations imposed by that article.

967 Chapter 4. University Facilities

968 Article 1. General

969 101040. (a) The system of public universities in this state includes the  
970 University of California, the Hastings College of the Law, and the  
971 California State University, and their respective off-campus centers.  
972 (b) The 2006 University Capital Outlay Bond Fund is hereby  
973 established in the State Treasury for deposit of funds from the proceeds of  
974 bonds issued and sold for the purposes of this chapter.  
975 (c) The Higher Education Facilities Finance Committee established  
976 pursuant to Section 67353 is hereby authorized to create a debt or debts,  
977 liability or liabilities, of the State of California pursuant to this chapter for  
978 the purpose of providing funds to aid the University of California, the  
979 Hastings College of the Law, and the California State University.

980 Article 2. Program Provisions Applicable to the University of  
981 California and the Hastings College of the Law

982 101041. (a) From the proceeds of bonds issued and sold pursuant to  
983 Article 4 (commencing with Section 101050), the sum of eight hundred  
984 ninety million dollars (\$890,000,000) shall be deposited in the 2006  
985 University Capital Outlay Bond Fund for the purposes of this article.  
986 When appropriated, these funds shall be available for expenditure for the  
987 purposes of this article.

988 (b) The purposes of this article include assisting in meeting the capital  
989 outlay financing needs of the University of California and the Hastings  
990 College of the Law.

991 (c) Of the amount made available under subdivision (a), the amount of  
992 two hundred million dollars (\$200,000,000) shall be used for capital  
993 improvements that expand and enhance medical education programs with  
994 an emphasis on telemedicine aimed at developing high-tech approaches to  
995 health care.

996 (d) Proceeds from the sale of bonds issued and sold for the purposes of  
997 this article may be used to fund construction on existing campuses,  
998 including the construction of buildings and the acquisition of related  
999 fixtures, construction of facilities that may be used by more than one  
1000 segment of public higher education (intersegmental), the renovation and  
1001 reconstruction of facilities, site acquisition, the equipping of new,  
1002 renovated, or reconstructed facilities, which equipment shall have an  
1003 average useful life of 10 years; and to provide funds for the payment of  
1004 preconstruction costs, including, but not limited to, preliminary plans and  
1005 working drawings for facilities of the University of California and the  
1006 Hastings College of the Law.

1007 Article 3. Program Provisions Applicable to the California State  
1008 University

1009 101042. (a) From the proceeds of bonds issued and sold pursuant to  
1010 Article 4 (commencing with Section 101050), the sum of six hundred  
1011 ninety million dollars (\$690,000,000) shall be deposited in the 2006  
1012 University Capital Outlay Bond Fund for the purposes of this article.  
1013 When appropriated, these funds shall be available for expenditure for the  
1014 purposes of this article.

1015 (b) The purposes of this article include assisting in meeting the capital  
1016 outlay financing needs of the California State University.

1017 (c) Proceeds from the sale of bonds issued and sold for the purposes of  
1018 this article may be used to fund construction on existing campuses,  
1019 including the construction of buildings and the acquisition of related  
1020 fixtures, construction of facilities that may be used by more than one  
1021 segment of public higher education (intersegmental), the renovation and  
1022 reconstruction of facilities, site acquisition, the equipping of new,

1023 renovated, or reconstructed facilities, which equipment shall have an  
1024 average useful life of 10 years; and to provide funds for the payment of  
1025 preconstruction costs, including, but not limited to, preliminary plans and  
1026 working drawings for facilities of the California State University.

1027 Article 4. University Fiscal Provisions

1028 101050. (a) Of the total amount of bonds authorized to be issued and  
1029 sold pursuant to Chapter 1 (commencing with Section 101000), bonds in  
1030 the amount of one billion five hundred eighty million dollars  
1031 (\$1,580,000,000), not including the amount of any refunding bonds issued  
1032 in accordance with Section 101059, or so much thereof as is necessary,  
1033 may be issued and sold to provide a fund to be used for carrying out the  
1034 purposes expressed in this chapter and to reimburse the General Obligation  
1035 Bond Expense Revolving Fund pursuant to Section 16724.5 of the  
1036 Government Code. The bonds, when sold, shall be and constitute a valid  
1037 and binding obligation of the State of California, and the full faith and  
1038 credit of the State of California is hereby pledged for the punctual payment  
1039 of the principal of, and interest on, the bonds as the principal and interest  
1040 become due and payable.

1041 (b) It is the intent of the Legislature that the University of California  
1042 and the California State University annually consider, as part of their  
1043 annual capital outlay planning process, the inclusion of facilities that may  
1044 be used by more than one segment of public higher education  
1045 (intersegmental), and, that on or before May 15th of each year, those  
1046 entities report their findings to the budget committees of each house of the  
1047 Legislature.

1048 (c) Pursuant to this section, the Treasurer shall sell the bonds authorized  
1049 by the Higher Education Facilities Finance Committee established  
1050 pursuant to Section 67353 at any different times necessary to service  
1051 expenditures required by the apportionments.

1052 101051. (a) The bonds authorized by this chapter shall be prepared,  
1053 executed, issued, sold, paid, and redeemed as provided in the State General  
1054 Obligation Bond Law (Chapter 4 (commencing with Section 16720) of  
1055 Part 3 of Division 4 of Title 2 of the Government Code), and all of the  
1056 provisions of that law, except Section 16727 of the Government Code to  
1057 the extent that it conflicts with this part, apply to the bonds and to this  
1058 chapter and are hereby incorporated into this chapter as though set forth in  
1059 full within this chapter.

1060 (b) For the purposes of the State General Obligation Bond Law, each  
1061 state agency administering an appropriation of the 2006 University Capital  
1062 Outlay Bond Fund is designated as the "board" for projects funded  
1063 pursuant to this chapter.

1064 (c) The proceeds of the bonds issued and sold pursuant to this chapter  
1065 shall be available for the purpose of funding aid to the University of  
1066 California, the Hastings College of the Law, and the California State

1067 University, for the construction on existing or new campuses, and their  
1068 respective off-campus centers and joint use and intersegmental facilities,  
1069 as set forth in this chapter.

1070 101052. The Higher Education Facilities Finance Committee  
1071 established pursuant to Section 67353 shall authorize the issuance of  
1072 bonds under this chapter only to the extent necessary to fund the  
1073 apportionments for the purposes described in this chapter that are  
1074 expressly authorized by the Legislature in the annual Budget Act. Pursuant  
1075 to that legislative direction, the committee shall determine whether or not  
1076 it is necessary or desirable to issue bonds authorized pursuant to this  
1077 chapter in order to carry out the purposes described in this chapter and, if  
1078 so, the amount of bonds to be issued and sold. Successive issues of bonds  
1079 may be authorized and sold to carry out those actions progressively, and it  
1080 is not necessary that all of the bonds authorized to be issued be sold at any  
1081 one time.

1082 101053. There shall be collected each year and in the same manner and  
1083 at the same time as other state revenue is collected, in addition to the  
1084 ordinary revenues of the state, a sum in an amount required to pay the  
1085 principal of, and interest on, the bonds each year. It is the duty of all  
1086 officers charged by law with any duty in regard to the collection of the  
1087 revenue to do and perform each and every act which is necessary to collect  
1088 that additional sum.

1089 101054. Notwithstanding Section 13340 of the Government Code,  
1090 there is hereby appropriated from the General Fund in the State Treasury,  
1091 for the purposes of this chapter, an amount that will equal the total of the  
1092 following:

1093 (a) The sum annually necessary to pay the principal of, and interest on,  
1094 bonds issued and sold pursuant to this chapter, as the principal and interest  
1095 become due and payable.

1096 (b) The sum necessary to carry out Section 101057, appropriated  
1097 without regard to fiscal years.

1098 101055. The board, as defined in subdivision (b) of Section 101051,  
1099 may request the Pooled Money Investment Board to make a loan from the  
1100 Pooled Money Investment Account or any other approved form of interim  
1101 financing, in accordance with Section 16312 of the Government Code, for  
1102 the purpose of carrying out this chapter. The amount of the request shall  
1103 not exceed the amount of the unsold bonds that the committee, by  
1104 resolution, has authorized to be sold for the purpose of carrying out this  
1105 chapter. The board, as defined in subdivision (b) of Section 101051, shall  
1106 execute any documents required by the Pooled Money Investment Board  
1107 to obtain and repay the loan. Any amounts loaned shall be deposited in the  
1108 fund to be allocated by the board in accordance with this chapter.

1109 101056. Notwithstanding any other provision of this chapter, or of the  
1110 State General Obligation Bond Law, if the Treasurer sells bonds pursuant  
1111 to this chapter that include a bond counsel opinion to the effect that the  
1112 interest on the bonds is excluded from gross income for federal tax  
1113 purposes, subject to designated conditions, the Treasurer may maintain

1114 separate accounts for the investment of bond proceeds and for the  
1115 investment earnings on those proceeds. The Treasurer may use or direct  
1116 the use of those proceeds or earnings to pay any rebate, penalty, or other  
1117 payment required under federal law or take any other action with respect  
1118 to the investment and use of those bond proceeds required or desirable  
1119 under federal law to maintain the tax-exempt status of those bonds and to  
1120 obtain any other advantage under federal law on behalf of the funds of this  
1121 state.

1122 101057. (a) For the purposes of carrying out this chapter, the Director  
1123 of Finance may authorize the withdrawal from the General Fund of an  
1124 amount not to exceed the amount of the unsold bonds that have been  
1125 authorized by the Higher Education Facilities Finance Committee to be  
1126 sold for the purpose of carrying out this chapter. Any amounts withdrawn  
1127 shall be deposited in the 2006 University Capital Outlay Bond Fund  
1128 consistent with this chapter. Any money made available under this section  
1129 shall be returned to the General Fund, plus an amount equal to the interest  
1130 that the money would have earned in the Pooled Money Investment  
1131 Account, from proceeds received from the sale of bonds for the purpose of  
1132 carrying out this chapter.

1133 (b) Any request forwarded to the Legislature and the Department of  
1134 Finance for funds from this bond issue for expenditure for the purposes  
1135 described in this chapter by the University of California, the Hastings  
1136 College of the Law, or the California State University shall be  
1137 accompanied by the five-year capital outlay plan. Requests forwarded by a  
1138 university or college shall include a schedule that prioritizes the seismic  
1139 retrofitting needed to significantly reduce, in the judgment of the particular  
1140 university or college, seismic hazards in buildings identified as high  
1141 priority by the university or college.

1142 101058. All money deposited in the 2006 University Capital Outlay  
1143 Bond Fund that is derived from premium and accrued interest on bonds  
1144 sold shall be reserved in the fund and shall be available for transfer to the  
1145 General Fund as a credit to expenditures for bond interest.

1146 101059. The bonds may be refunded in accordance with Article 6  
1147 (commencing with Section 16780) of Chapter 4 of Part 3 of Division 4 of  
1148 Title 2 of the Government Code, which is a part of the State General  
1149 Obligation Bond Law. Approval by the voters of the state for the issuance  
1150 of the bonds described in this chapter includes the approval of the issuance  
1151 of any bonds issued to refund any bonds originally issued under this  
1152 chapter or any previously issued refunding bonds.

1153 101060. The Legislature hereby finds and declares that, inasmuch as  
1154 the proceeds from the sale of bonds authorized by this chapter are not  
1155 "proceeds of taxes" as that term is used in Article XIII B of the California  
1156 Constitution, the disbursement of these proceeds is not subject to the  
1157 limitations imposed by that article.

1158 SEC. 17. Section 65997 of the Government Code is amended to read:  
1159 65997. (a) The following provisions shall be the exclusive methods of  
1160 mitigating environmental effects related to the adequacy of school

1161 facilities when considering the approval or the establishment of conditions  
1162 for the approval of a development project, as defined in Section 17620 of  
1163 the Education Code, pursuant to Division 13 (commencing with Section  
1164 21000) of the Public Resources Code:

1165 (1) Chapter 12 (commencing with Section 17000) of, or Chapter 12.5  
1166 (commencing with Section 17070.10) of, Part 10 of the Education Code.  
1167 (2) Chapter 14 (commencing with Section 17085) of Part 10 of the  
1168 Education Code.  
1169 (3) Chapter 18 (commencing with Section 17170) of Part 10 of the  
1170 Education Code.  
1171 (4) Article 2.5 (commencing with Section 17430) of Chapter 4 of Part  
1172 10.5 of the Education Code.  
1173 (5) Section 17620 of the Education Code.  
1174 (6) Chapter 2.5 (commencing with Section 53311) of Division 2 of  
1175 Title 5.  
1176 (7) Chapter 4.7 (commencing with Section 65970) of Division 1 of  
1177 Title 7.

1178 (b) A public agency may not, pursuant to Division 13 (commencing  
1179 with Section 21000) of the Public Resources Code or Division 2  
1180 (commencing with Section 66410) of this code, deny approval of a project  
1181 on the basis of the adequacy of school facilities.

1182 (c) (1) This section shall become operative on or after any statewide  
1183 election in 2012, if a statewide general obligation bond measure submitted  
1184 for voter approval in 2012 or thereafter that includes bond issuance  
1185 authority to fund construction of kindergarten and grades 1 to 12,  
1186 inclusive, public school facilities is submitted to the voters and fails to be  
1187 approved.

1188 (2) (A) This section shall become inoperative if subsequent to the  
1189 failure of a general obligation bond measure described in paragraph (1) a  
1190 statewide general bond measure as described in paragraph (1) is approved  
1191 by the voters.

1192 (B) Thereafter, this section shall become operative if a statewide  
1193 general obligation bond measure submitted for voter approval that includes  
1194 bond issuance authority to fund construction of kindergarten and grades 1  
1195 to 12, inclusive, public school facilities is submitted to the voters and fails  
1196 to be approved and shall become inoperative if subsequent to the failure of  
1197 the general obligation bond measure a statewide bond measure as  
1198 described in this subparagraph is approved by the voters.

1199 (d) Notwithstanding any other provision of law, a public agency may  
1200 deny or refuse to approve a legislative act involving, but not limited to, the  
1201 planning, use, or development of real property, on the basis that school  
1202 facilities are inadequate, except that a public agency may not require the  
1203 payment or satisfaction of a fee, charge, dedication, or other financial  
1204 requirement in excess of that levied or imposed pursuant to Section 65995  
1205 and, if applicable, any amounts specified in Sections 65995.5 or 65995.7.  
1206 SEC. 18. Section 4 of Chapter 421 of the Statutes of 2001 is amended  
1207 to read:

1208 Sec. 4. This act shall remain in effect only until January 1, 2010, and as  
1209 of that date is repealed, unless a later enacted statute, that is enacted before  
1210 January 1, 2010, deletes or extends that date.

1211 SEC. 19. Section 4 of Chapter 637 of the Statutes of 2002 is amended  
1212 to read:

1213 Sec. 4. This act shall remain in effect only until January 1, 2011, and as  
1214 of that date is repealed, unless a later enacted statute, that is enacted before  
1215 January 1, 2011, deletes or extends that date.

1216 SEC. 20. (a) Up to twenty-one million dollars (\$21,000,000) of any  
1217 funds that are required to be made available for rehabilitation or  
1218 construction of joint-use facilities for public schools and that result or are  
1219 derived from the sale of bonds issued on or before January 1, 2006, shall  
1220 be transferred to the State Allocation Board and may be apportioned by  
1221 that board for the purposes of Article 10.6 (commencing with Section  
1222 17077.40) of Chapter 12.5 of Part 10 of the Education Code.

1223 (b) Any funds remaining after the transfer required under subdivision  
1224 (a) that conform to the description set forth in that subdivision shall be  
1225 transferred to the State Allocation Board and may be apportioned by that  
1226 board for any of the purposes of Chapter 12.5 (commencing with Section  
1227 17070.10) of Part 10 of the Education Code.

1228 SEC. 21. The Secretary of State shall submit Sections 16 and 20 of this  
1229 act to the voters at the November 7, 2006, statewide general election.

1230 SEC. 22. Notwithstanding any other provision of law, with respect to  
1231 the Kindergarten-University Public Education Facilities Bond Act of 2006,  
1232 as set forth in Section 16 of this act, all ballots of the November 7, 2006,  
1233 statewide general election shall have printed thereon and in a square  
1234 thereof, exclusively the words: "Kindergarten-University Public Education  
1235 Facilities Bond Act of 2006" and in the same square under those words,  
1236 the following in 8-point type:

1237 "This ten billion four hundred sixteen million dollar (\$10,416,000,000)  
1238 bond issue will provide needed funding to relieve public school  
1239 overcrowding and to repair older schools. It will improve earthquake  
1240 safety and fund vocational educational facilities in public schools. Bond  
1241 funds must be spent according to strict accountability measures. Funds will  
1242 also be used to repair and upgrade existing public college and university  
1243 buildings and to build new classrooms to accommodate the growing  
1244 student enrollment in the California Community Colleges, the University  
1245 of California, and the California State University."

1246 Opposite the square, there shall be left spaces in which the voters may  
1247 place a cross in the manner required by law to indicate whether they vote  
1248 for or against the act.

1249 SEC. 23. Notwithstanding Sections 13247 and 13281 of the Elections  
1250 Code, the language in Section 22 shall be the only language included in  
1251 the ballot label for the condensed statement of the ballot title, and the  
1252 Attorney General shall not supplement, subtract from, or revise that  
1253 language, except that the Attorney General may include the financial  
1254 impact summary prepared pursuant to Section 9087 of the Elections Code

1255 and Section 88003 of the Government Code. The ballot label is the  
1256 condensed statement of the ballot title and the financial impact summary.  
1257 SEC. 24. The provisions of this act are severable. If any provision of  
1258 this act or its application is held invalid, that invalidity shall not affect  
1259 other provisions or applications that can be given effect without the invalid  
1260 provision or application.  
1261 SEC. 25. Sections 1 to 15, inclusive, and Sections 18 and 19 of this act  
1262 shall become operative only if the voters approve the  
1263 Kindergarten-University Public Education Facilities Bond Act of 2006, as  
1264 set forth in Section 16 of this act.  
1265 SEC. 26. This act is an urgency statute necessary for the immediate  
1266 preservation of the public peace, health, or safety within the meaning of  
1267 Article IV of the Constitution and shall go into immediate effect. The facts  
1268 constituting the necessity are:  
1269 In order to ensure, at the earliest possible time, that the electorate is  
1270 provided with the opportunity to vote on the financing of necessary  
1271 educational facilities at the November 7, 2006, statewide general election,  
1272 including related statutory changes, it is necessary that this act take effect  
1273 immediately.

STATE ALLOCATION BOARD  
IMPLEMENTATION COMMITTEE  
JULY 7, 2006

HIGH PERFORMANCE SCHOOL GRANT

PURPOSE OF REPORT

To discuss the implementation of an additional grant for High Performance Schools.

BACKGROUND

Propositions 47 and 55 provides an additional grant for Energy Efficiency. This grant is determined by the percentage of energy efficiency that exceeds Title 24. The funding provided for energy efficiency will be exhausted shortly and will leave districts that have designed energy efficient plans without this additional grant. Assembly Bill (AB) 127, Chapter 35, Statutes of 2006 (Nunez and Perata) provides additional new construction and modernization incentives in the amount of \$100 million for the designs and materials that promote the efficient use of energy and water, natural lighting and indoor air quality and recycled materials. This high performance grant would replace the existing energy efficiency grant when the funding for energy is exhausted. See Attachment A for pertinent text in the law.

PROPOSALS AND DISCUSSION

- The OPSC will add a self certification to page 8 of the *Application for Funding* (Form SAB 50-04) that the district has considered the feasibility of using designs and materials for the construction or modernization project that promotes the efficient use of energy and water, maximum use of natural light and indoor air quality, the use of recycled materials and material that emit a minimum of toxic substances, the use of acoustics conducive to teaching and learning and the other characteristics of high performance schools.
- The High Performance Rating Criteria (HPRC) (Attachment B) will be used to evaluate the costs of design and materials that promote the efficient use of energy and water, the maximum use of natural lighting and indoor air quality, the use of recycle materials and materials that emit a minimum of toxic substance, the other use of acoustics conducive to teaching and learning, and other characteristics of high performance schools.

New Construction

- The High Performance Grant will be administered when the point rating meets or exceeds 28 points. The percentage of increase to the base grant will be determined by utilizing the High Performance School Grant Allowance for New Construction.
  - The chart will identify the grant percentage increase commensurate with the level of high performance achieved. (Chart not available for this IMP meeting.)

- The minimum percentage of increase to the new construction base grant will be on an incremental basis ranging from one percent to a maximum of five percent, achievable for those projects scoring 60 or above.
- A new construction project must achieve the minimum score of 28 and obtain points in each of the six categories on the HPRC for new construction. Those six categories are:
  - Site
  - Water
  - Energy
  - Materials
  - Indoor Environmental Quality
  - District Resolutions

Addition to a Site and Modernization

- Any project that is either an addition to an existing site or a modernization would receive the modernization percentage. The percentage of increase to the base grant would be determined by utilizing the High Performance School Grant Allowance for Modernization.
  - The chart will identify the grant percentage increase commensurate with the level of high performance achieved. (Chart not available for this IMP meeting.)
  - The minimum percentage of increase to the modernization base grant will be on an incremental basis ranging from one percent to a maximum of five percent, achievable for those projects scoring 48 points or above.
  - A modernization project must achieve a minimum score of 28 and obtain points in each of the six categories on the HPRC for modernization. Those six categories are:
    - Site
    - Water
    - Energy
    - Materials
    - Indoor Environmental Quality
    - District Resolutions

- The percentage of high performance would be determined using a whole building approach.

Review Process

- The Division of State Architect (DSA) will oversee the review of plan designs and report the high performance rating on DSA's e-tracker.

- The OPSC will process the district's funding application and award the High Performance School Grant allowance based on the points rating.

#### Miscellaneous

- The \$100 million would remain in one fund and would not be divided into separate amounts for modernization and new construction.
- The High Performance School Grant allowance would be apportioned by the OPSC based on the date order receipt of the SAB Form 50-04.
- Should funding for the High Performance School Grant Allowance be exhausted, the district would have the option to receive funding without this additional grant or the district could withdraw the entire project and resubmit for funding should additional funds become available.
- If a project qualifies for both high performance and energy efficiency, the district may only request funding from one.

#### RECOMMENDATION

Prepare regulatory language to be presented at the next available Implementation Committee meeting.

**ATTACHMENT A**

**ASSEMBLY BILL 127**

**17070.96.** As part of its application for funding under this chapter, a school district shall certify that it has considered the feasibility of using designs and materials for the construction or modernization project that promote the efficient use of energy and water, the maximum use of natural lighting and indoor air quality, the use of recycled materials and materials that emit a minimum of toxic substances, the use of acoustics conducive to teaching and learning, and other characteristics of high performance schools.

**17072.35.** ... A grant for new construction may also be used for the costs of designs and materials that promote the efficient use of energy and water, the maximum use of natural lighting and indoor air quality, the use of recycled materials and materials that emit a minimum of toxic substances, the use of acoustics conducive to teaching and learning, and other characteristics of high performance schools.

**SEC. 13.** Section 17261 of the Education Code is amended to read:

17261. The State Allocation Board shall obtain construction plans for school buildings appropriate for school districts in various climates and geographical conditions of the state. The plans shall be composed of plans designed to meet the needs of school districts requiring school buildings of various sizes. The plans may include landscape suggestions. *The plans may include designs that promote the efficient use of energy and water, the maximum use of natural lighting and indoor air quality, the use of recycled materials and materials that emit a minimum of toxic substances, the use of acoustics conducive to teaching and learning, and other characteristics of high performance schools.*

**Article 1.** Kindergarten through 12th Grade School Facilities Program Provisions

**(8)** The amount of one hundred million dollars (\$100,000,000) for incentive grants to promote the use of designs and materials in new construction and modernization projects that include the attributes of high-performance schools, including, but not limited to, the elements set forth in Section 17070.96, pursuant to regulations adopted by the State Allocation Board.

**ATTACHMENT A (cont.)  
AB 127 PROPOSED CHANGES**

Section	Current Practice	Proposed Change	Justification for Change
<p align="center">CERTIFICATION 17070.96</p>	<p>SAB Form 50-04 has a certification on page 8 of 8, that states the increased costs for the energy efficiency components exceeds the amount of funding otherwise available to the district.</p>	<p>Legislation requires that the district shall certify that it has considered the feasibility of using designs and materials for the construction and modernization, use of natural lighting and indoor air quality, the use of recycled materials and material that emit a minimum of toxic substances, the use of acoustics conducive to teaching and learning and other characteristics of high performance schools.</p>	<p>As required by legislation – AB 127</p>
<p align="center">RATING 17072.35</p>	<p>Energy Efficiency Grant for modernization and new construction is determined by the percentage of increase in energy efficiency over Title 24.</p>	<p>A grant for new construction may also be used for the costs of designs and materials that promote the efficient use of energy and water...and other characteristics of high performance schools.</p> <p>The grant for High Performance Schools shall be determined by the High Performance Rating Criteria which includes energy and the elements used in a high performance school. The minimum point rating must meet or exceed 28 points.</p>	<p>As required by legislation – AB 127</p>
<p align="center">REVIEW Section 13.17261</p>	<p>The Department of State Architects (DSA) determines and certifies the percentage of increase energy over Title 24.</p>	<p>The State Allocation Board shall obtain construction plans for school buildings...include efficient use of energy and water ...and other characteristics of high performance schools.</p> <p>The DSA will determine and certify the increase in high performance from the High Performance Rating Criteria.</p>	<p>As required by legislation – AB 127</p>
<p align="center">FUNDING Article 1(8)</p>	<p>Education Code Section 100620(e) set aside \$20 million for energy conservation adjustments. \$14.2 million is for new construction funding and \$5.8 million for modernization funding. The percentage of increase to the base grant is based upon a sliding scale which gives a 1 to 5 percent increase to the base grant.</p>	<p>The amount of \$100 million for incentive grants to promote the use of designs and material in new construction and modernization projects that include the attributes of high performance schools.</p> <p>The district will receive a percentage of increase to the base grant from one to five percent based on a sliding scale.</p>	<p>As required by legislation - AB 127</p>

# High Performance Rating Criteria New Construction

## Minimum Range of Credits

<i>Category Name</i>	<i>2001 Criteria<sup>1</sup> Category Rating Credits</i>		<i>2006 Criteria<sup>2</sup> Category Rating Credits</i>	
	<i>Low</i>	<i>High</i>	<i>Low</i>	<i>High</i>
Site	1	3	1	3
Water	1	3	1	3
Energy	9	11	8	10
Materials	5	7	5	7
Indoor Environmental Quality	6	8	6	8
District Resolution	2	4	1	3
<b>Range of Credits needed to qualify for the minimum grant.</b>	24	36	22	34
<b>Minimum Credit Points</b>	28		28	

1. With 2005 Energy Code Standards
2. With 2005 Energy Code Standards

# High Performance Rating Criteria Addition and/or Modernization Construction

## Minimum Range of Credits

<i>Category Name</i>	<i>2001 Criteria<sup>1</sup> Category Rating Credits</i>		<i>2006 Criteria<sup>2</sup> Category Rating Credits</i>	
	<i>Low</i>	<i>High</i>	<i>Low</i>	<i>High</i>
Site	0	2	0	2
Water	1	3	1	3
Energy	9	11	8	10
Materials	5	7	5	7
Indoor Environmental Quality	6	8	6	8
District Resolution	0	2	1	3
<b>Range of Credits</b>	21	33	21	33
<b>Range of Credits needed to qualify for the minimum grant.</b>	28		28	

1. With 2005 Energy Code Standards
2. With 2005 Energy Code Standards

STATE ALLOCATION BOARD  
IMPLEMENTATION COMMITTEE MEETING  
July 7, 2006

CHARTER SCHOOL FACILITY PROGRAM  
REGULATION AMENDMENTS

**Background:**

The Charter School Facility Program (CSFP), created through Assembly Bill (AB) 14, allowed for the allocation of \$100 million to provide facilities to charter schools. On July 2, 2003 the State Allocation Board (SAB) made the first Preliminary Apportionments for the program to six charter schools. Subsequently, Senate Bill (SB) 15 was passed to make revisions to the CSFP in order to maximize the number of projects funded with the additional \$300 million made available with the passage of Proposition 55. At the February 23, 2005 SAB meeting, Preliminary Apportionments were made for 28 more projects, exhausting the additional \$300 million. After each allocation, the SAB and the California School Finance Authority (CSFA) presented a joint report to the legislature detailing the implementation of the program, a description of the projects funded, and recommendations for statutory change. AB 127 makes modifications to the CSFP should the voters approve an additional \$500 million as part of the bond package that will be presented in November 2006. The actual text of AB 127 is provided on Attachment A.

**Eligibility and Adjustments for CSFP Projects:**

AB127 changes the way in which eligibility is adjusted for the construction of the charter school projects, based on the number of the district's un-housed students the project will house. To this effect, a district must demonstrate that un-housed students exist, in the form of new construction eligibility at the grade level served by the proposed project, for at least the number of pupils requested on the preliminary application. In addition, projects previously funded under Education Code Chapter 12.5 are ineligible to apply for this round of CSFP funding.

The CSFP regulations will be amended to include the following methods that will be used to determine the necessary new construction eligibility adjustments required under the CSFP:

- For districts applying on behalf of a charter school, the new construction eligibility for the district will be reduced by the number of pupil grants requested on the Preliminary Apportionment application.
- For charter schools applying independently of the district, the governing board of the district where the project will be physically located will certify to the number of the District's un-housed pupils that the charter school project Preliminary Apportionment will provide housing for. The district's new construction eligibility will be reduced by the number of pupils on the certification.

**Eligibility and Adjustments for CSFP Projects (Continued):**

- The certification should be signed by a school board member and submitted as a part of the Preliminary Apportionment application. Prior to submitting the certification the school board must have discussed the issue at a regularly scheduled, publicly held board meeting. The item must be presented as an action item and the supporting documentation used to generate the number of District un-housed pupils included in the project certified to must have been presented to the public as part of the agenda or public notice. The OPSC will also require the submittal of the board resolution, the supporting documentation and the meeting minutes related to the determination of the number of housed pupils.
  
- The district must submit the certification, board resolution and supporting minutes to the charter school or the OPSC within 60 days from the date the charter school notifies the district of its intent to apply to the CSFP. The charter school’s notification to the school district should include a request for the certification and a request that the district update its enrollment for the current school year by completing an Enrollment Certification/Projection (Form SAB 50-01). If the charter school does not request the certification in its notification to the district resulting in the district being unable to provide the requested information within the specified time period, the Preliminary Apportionment application will be returned to the charter school as incomplete.

**Rehabilitation:**

AB127 adds to the CSFP an option for districts to submit an application for the rehabilitation of existing district facilities for charter school purposes.

- For purposes of the CSFP, “Charter School Facility Program Rehabilitation” is considered substantially identical to the definition of modernization, with the exception that the facilities to be rehabilitated need only be 15 years of age and not previously built or modernized with SFP funds, regardless of permanent or portable designation.
  
- Pursuant to EC 17078.54(b), if the application is for a rehabilitation project it must be submitted by the District on behalf of a charter school.
  
- Funding will be calculated based on a square footage dollar amount. The square footage dollar amounts will be generated by using the per square foot amount as calculated in SFP Regulation Section 1859.82(a) for toilet and other facilities. These amounts are adjusted annually based on the construction cost index. The amounts specified for 2006 are \$236 for toilet facilities and \$130 for other facilities. (See Attachment B)

### **Rehabilitation (Continued):**

- In compliance with EC 17078.54(b) and EC 17078.58(a), the base grant amount of funding provided will be capped based upon the new construction funding amounts that would be generated by the pupil capacity of the project. For example, if the rehabilitation project is for four K-6 classrooms (pupil capacity of 100) the amount of base grant funding would be a maximum of the elementary pupil grant multiplied by 100, plus all other allowable construction costs.
- To avoid duplication of funding with the modernization program the following approach will be used:
  1. For school sites that have not yet established modernization eligibility the age of any buildings rehabilitated under the CSFP will be based on the date the rehabilitation funds were approved under the CSFP conversion application. The OPSC will track this information and verify it for modernization eligibility applications not yet submitted.
  2. For school sites that have established eligibility but have not received modernization funds under the SFP for all of the facilities on the site, the OPSC will adjust the modernization eligibility to exclude the buildings to be rehabilitated under the CSFP. The eligibility will be adjusted by either the square footage or the pupil capacity of the project, depending on how the eligibility for the site was established.
  3. For school sites that have generated eligibility from all facilities on site, and have received funding for all of the eligibility, the site will not be eligible for CSFP Rehabilitation funds, regardless of whether the facilities generating the eligibility actually received the benefit of the funding.
- Unlike SFP Modernization, CSFP Rehabilitation projects will be funded on a 50/50 matching basis, with the lease option available as it would be for CSFP New Construction projects.
- The Deferred Maintenance Program Regulation Sections 1866.4 and 1866.13 will be amended to include CSFP Rehabilitation projects to avoid duplication of state funding.

### **Preference Points for Using an Existing District Facility:**

AB127 directs the Board to give preference to projects that utilize existing facilities. Existing law gives preference to charter schools in overcrowded school districts, charter schools in low income areas and charter schools operated by not-for-profit entities. The CSFP regulations will be revised to add a new category of preference points for "Existing Facilities" that will be worth 40 preference points. This will bring the total possible number of preference points to 140.

**Existing Facility Consideration (under Proposition 39):**

AB127 requires that the district and charter school consider existing district facilities under EC Section 47614, prior to submitting an application for a Preliminary Apportionment. To insure that this requirement is met, a certification will be added to the Form SAB 50-09 stating:

*“Prior to submitting this application the charter school and school district have considered existing school district facilities in accordance with Education Code Section 47614.”*

**Removal of Funding, Site Acreage, and Eligibility Caps:**

- AB127 deletes EC Section 17078.56(c) relating to the project caps that were put in place with SB15. CSFP projects that are funded under the new law will not be subject to funding caps. These applications will be eligible to request all additional grants afforded to typical SFP funding applications. This will require the reinstatement of the inflator factor, to account for future CCI increases.
- The Hazardous Materials and DTSC/Relocation funding pools will only apply to those CSFP projects that received preliminary apportionments in February of 2005.
- As AB127 also removes the cap on the site acreage, there will no longer be the requirement that the charter project can purchase a site up to 50% of the maximum site size for a traditional school.

**Fund Release – Tri-party agreements must be signed:**

The Form SAB 50-05 will be modified so that for advance release of site funds and fund release for the final apportionments, the charter/district must indicate that the MOU, Funding agreement and User agreements have been executed. The OPSC will not release funds prior to these documents being executed. This change will apply to all projects funded under the CSFP, regardless of filing period or bond fund source. This requirement was deemed appropriate by legal counsel on 6/14/06, in order to protect the use of the bond funds.

**Savings**

The Regulations will be amended to include a section identifying that CSFP projects do not generate savings, and money left over cannot be used to pay any of the local matching share obligation.

**Notification to the School District:**

Existing law (EC 17078.53(c)(2)) requires that for a charter school applying independently, the charter school notify the school district of its intent to apply to the CSFP in writing, at least 30 days prior to submitting an application. To facilitate the processing of the applications, the CSFP regulations will be amended to include that the charter school must provide the OPSC with verification that it has notified the district of its intent to apply to the CSFP, in writing, at least 30 days prior to the submittal of the Preliminary Apportionment application. This verification will include a copy of the notification letter and proof of the date sent or received by the district.

**Project Description:**

As part of a complete application submittal, the charter/district will be required to submit a narrative describing the project they intend to build. This will not be an additional form and the format will not be dictated by OPSC, so long as the narrative description includes the number of classrooms, the grade level of pupils that will be served, the intended opening date of the school, a general idea of where the project will be located and if the project will be permanent or portable construction. This narrative will assist the district/charter and the OPSC to ensure that the 50-09 request is in keeping with the project that is desired.

**Definition of General Location for Median Cost Determination**

The definition of “Charter School General Location” used when determining the median cost of land will be changed from “a three mile radius from the present or proposed location of the Charter School project as identified in the Chartering Agreement” to “*a minimum of a one mile radius to a maximum of a three mile radius from the present or proposed location of the Charter School project as identified in the Chartering Agreement*”. Experience in past funding rounds showed that the three mile radius was too large to be of practical use in making this calculation for some charter schools.

**Free and Reduced Lunch Methodology Clarification**

To facilitate the processing of the CSFP applications, the definition of “Low-income” in the SFP Regulations will be amended to read:

“...shall be the percentage of pupils to be deemed eligible for free/reduced lunch as identified in the most recent Free and Reduced Price Meals data on file at the CDE. The data on file with CDE shall be determined to be the information collected in the month of October, and any amendments to the information for that time period that have been received and approved by the CDE.”

**Preference Points Tie Breaker Methodology:**

- Previous experience by the OPSC with the first two rounds of CSFP funding revealed that it is possible to have ties in preference points. This can make it difficult to establish a funding order in the case when the program is oversubscribed. Prior to the second round of funding, the preference point calculations were modified to attempt to lessen the number of ties. However, when many projects are submitted in the same district, the preference points may still be the same, as was the case with the second round of funding. Date received was used as a tie breaker, but it is possible for multiple applications to have the same received date. The OPSC is receptive to suggestions from the members of the implementation committee relating to tie breakers for applications received on the same date.
- Rounding of preference points will be done to whole numbers using traditional rounding (5 and above, round up).

ATTACHMENT A (Cont'd)

CHARTER SCHOOL FACILITY PROGRAM  
REGULATION AMENDMENTS

Section	Current Practice	Proposed Change	Justification for Change
GENERAL 1859.160 17078.54(a) and (b)	Currently, Charter School apportionments are for new construction projects only.	Amended legislation provides for funding to be used not only for new construction, but also for the purchase and retrofit of existing buildings. In addition, charter school may use the funds provided to rehabilitate an existing school building made available by the school district if the building is 15 years old. (Regulatory Action)	As required by legislation - AB 127
PRELIMINARY APPORTIONMENT ELIGIBILITY CRITERIA 1859.162 17078.53 (d)(1)	n/a	For Districts applying on behalf of a Charter School, the Preliminary Apportionment application shall contain the number of unhoused pupils in the form of a pupil grant request.	As required by legislation - AB 127
PRELIMINARY APPORTIONMENT ELIGIBILITY CRITERIA 1859.162 17078.53(d)(2)	n/a	In addition to the pupil grant request, Charter Schools applying independently must provide a certification from the District indicating the number of the District's unhoused pupils the project will house.	As required by legislation - AB 127
PRELIMINARY APPORTIONMENT ELIGIBILITY CRITERIA 1859.162 17078.53(g)(2)	n/a	For Districts applying on behalf of a Charter School, the District's new construction eligibility will be adjusted by the number of pupil grants requested.	As required by legislation - AB 127
PRELIMINARY APPORTIONMENT ELIGIBILITY CRITERIA 1859.162 17078.53(g)(2)	n/a	For a Charter School applying independently, the District's new construction eligibility will be adjusted by the number of the District's unhoused pupils that will be housed by the project, as certified to by the District.	As required by legislation - AB 127
PRELIMINARY APPORTIONMENT ELIGIBILITY CRITERIA 1859.162 17078.53(e)	Currently only Proposition 39 language has this requirement.	Amended legislation that requires that the school district and the charter school consider existing school district facilities prior to submitting a preliminary application for funding. (Amend applications to reflect required certification.)	As required by legislation - AB 127

ATTACHMENT A (Cont'd)

CHARTER SCHOOL FACILITY PROGRAM  
REGULATION AMENDMENTS

Section	Current Practice	Proposed Change	Justification for Change
<p>PROJECTING NON-SPECIAL DAY CLASS ENROLLMENT</p> <p>1859.162(a) 17078.53(d) 17078.54(c)</p>	<p>District has new construction eligibility for proposed project.</p>	<p>School District in which Charter School is physically located must have eligibility for at least the number of pupils being housed in the project.</p>	<p>As required by legislation - AB 127</p>
<p>PRELIMINARY CHARTER SCHOOL APPORTIONMENT DETERMINATION</p> <p>1859.163.1 17078.56</p>	<p>The caps limit the number of pupil grants that can be requested, the amount of acreage allowed for site acquisition and the total project construction cost as a whole.</p>	<p>Amended legislation that eliminates the funding caps for projects required under current law in order to maximize the number of projects that may be approved for funding. (Regulatory Action)</p>	<p>As required by legislation - AB 127</p>
<p>PRELIMINARY CHARTER SCHOOL APPORTIONMENT DETERMINATION</p> <p>1859.163.1 17078.58</p>	<p>Rehabilitation is currently not an option for Charter Schools.</p>	<p>Amended legislation that limits the allowance for rehabilitation to a maximum of the costs for a new construction project. (Regulatory Action)</p>	<p>As required by legislation - AB 127</p>
<p>ESTABLISHMENT OF FUNDS FOR RELOCATION/DTSC FEE AND HAZARDOUS MATERIAL/WASTE REMOVAL</p> <p>1859.163.3</p>	<p>Projects receiving funding under Proposition 55 access the funding for DTSC, Relo and HazMat on a first come, first served basis through use of the funding set aside pools.</p>	<p>Amend the regulations to specify that the DTSC/Relocation and Hazardous Material/Waste Removal pools apply only to those projects apportioned under Proposition 55. The projects funded under the new bond will include these costs as a typical part of the funding application. (Regulatory Action)</p>	<p>As required by legislation - AB 127</p>

ATTACHMENT A (Cont'd)

CHARTER SCHOOL FACILITY PROGRAM  
REGULATION AMENDMENTS

Section	Current Practice	Proposed Change	Justification for Change
CALCULATION OF PREFERENCE POINTS 1859.164.1 17078.56(b)	Existing law gives preference to Charter Schools in overcrowded school districts, low income areas and those operated by not-for-profit.	The CSFP regulations will be revised to add a new category of preference points for "Existing Facilities" that will be worth 40 preference points.	As required by legislation - AB 127
FINAL CHARTER SCHOOL APPORTIONMENT 1859.167 17078.52 (b)(3)	n/a	Incorporate the language for the unrestricted Fund to include the 2006 Charter School Facilities Account.	As required by legislation - AB 127
DEFINITIONS "CHARTER SCHOOL FACILITY ACCOUNT" Reg Section 1859.2	The fund for new construction Charter School projects authorized by Sections 100620(a)(1)(A) and 100820(a)(1)(A)	The fund for new construction Charter School projects authorized by Sections 100620(a)(1)(A), 100820(a)(1)(A) and 101012(a)(2)	As required by legislation - AB 127
DEFINITIONS "CHARTER SCHOOL GENERAL LOCATION" Reg Section 1859.2	A three mile radius from the present or proposed location of the Charter School project as identified in the chartering agreement.	From a minimum of one up to three mile radius from the present or proposed location of the Charter School project as identified in the chartering agreement.	Experience in past funding rounds showed that the three mile radius was too large to be of practical use in making this calculation for some charter schools.
DEFINITIONS "CHARTER SCHOOL REHABILITATION" Reg Section 1859.2	n/a	Any modification of a permanent structure that is at least 15 years old that will enhance the ability of the structure to achieve educational purposes.	As required by legislation - AB 127

ATTACHMENT A (Cont'd)

CHARTER SCHOOL FACILITY PROGRAM  
REGULATION AMENDMENTS

Section	Current Practice	Proposed Change	Justification for Change
DEFINITIONS "UNRESTRICTED CHARTER SCHOOL FUND" Reg Section 1859.2	The funds in the 2002 (or 2004, as appropriate) Charter School Facility Account not approved for Preliminary Charter School Apportionment(s).	The funds in the 2002, 2004 (or 2006, as appropriate) Charter School Facility Account not approved for Preliminary Charter School Apportionment(s).	As required by legislation - AB 127
DEFINITIONS "LOW-INCOME" Reg Section 1859.2	The percentage of pupils deemed to be eligible for free/reduced lunch as identified in the Free and Reduced Price Meals data on file at the CDE.	The percentage of pupils deemed to be eligible for free/reduced lunch as identified in the most recent Free and Reduced Price Meals data on file at the CDE. The data on file at CDE shall be determined to be the information collected in the month of October, and any amendments to the information to that time period that have been received and approved by the CDE.	To clarify the methodology used.
CALCULATION OF PREFERENCE POINTS 1859.164.1	For overcrowding percentages the ratio of eligibility to enrollment shall be rounded up.	For overcrowding percentages the ratio of eligibility to enrollment shall be rounded traditionally (5 and above, round up).	For consistency with other SFP regulations.
DEFERRED MAINTENANCE Reg Section 1866.4 and 1866.13	Federal Renovation Program and SFP Modernization Program work must be separated from work paid for with Deferred Maintenance funds.	Require that Charter School Rehabilitation projects are also kept separate from Deferred Maintenance.	To avoid duplication of State funding.
FUND RELEASE/TRI- PARTY AGREEMENT	None	Require that prior to fund release, the charter school must certify that the MOU, Funding Agreement and User Agreement have been executed. (Regulatory Action)	To protect bond funds.

ATTACHMENT A (Cont'd)

CHARTER SCHOOL FACILITY PROGRAM  
REGULATION AMENDMENTS

Section	Current Practice	Proposed Change	Justification for Change
PROJECT SAVINGS	For CSFP specifically there is no current practice.	Require that any funds not utilized for the project be returned to the State and not kept as savings, or used to pay part of the local matching share.	Charter Schools do not necessarily have additional facility projects for which the funds would be used, in addition with the limited amount of funding available it is reasonable to require that extra funds be returned for the potential use by other applicants.
NOTIFICATION TO THE SCHOOL DISTRICT Form SAB 50-09	Current practice requires that the charter school notify the school district in writing, of its intent to apply 30 days prior to submitting an application.	Require that the charter school supply to the OPSC verification of the notification letter and proof of the date sent.	To facilitate the processing of applications.
PROJECT DESCRIPTION	None	Require that the charter school provide a narrative description of the proposed project as part of a complete application submittal.	To facilitate the processing of applications.