

STATE ALLOCATION BOARD1130 K Street, Suite 400
Sacramento, CA 95814**IMPLEMENTATION COMMITTEE MINUTES**

August 18, 2006

Legislative Office Building
Sacramento, CA**Members Present**

Mavonne Garrity, SAB	William Savidge, CASH
Kathy Hicks, OPSC	Dennis Dunston, CEFPI
Michael O'Neill, CDE (alternate for Fred Yeager)	Margaret Brown, CASBO
Chad Rohrs, DOF	Gary Gibbs, CBIA
Constantine Baranoff, SSD	William Cornelison, CCSESA
Mark DeMan, LAUSD	Debra Pearson, SSDA
Richard Conrad, DSA	

Members AbsentJay Hansen, SBCTC
Brian Wiese, AIA

The items for discussion were presented in the following order: Career Technical Education Program, Seismic Mitigation, and Charter School Facility Program.

CAREER TECHNICAL EDUCATION FACILITIES PROGRAM

This item was introduced by Mavonne Garrity and presented by the Office of Public School Construction (OPSC) staff members Kelly Long and Candace Ly. Ms. Garrity also introduced California Department of Education (CDE) staff involved in the development of the program.

Assembly Bill (AB) 127 establishes the Career Technical Education Facilities Program (CTEFP) and provides up to \$500 million for the program. The CTEFP is intended to provide funding for the construction or reconfiguration of facilities for career technical education. Staff presented a synopsis of the proposed program framework. Staff acknowledged that the presentation was not considered a finished product and that the intent was to solicit Committee and audience input. Additionally, Staff identified several minor revisions to the item based on comments that were received by the OPSC. It was further noted that the presentation focused largely on the facility funding aspect and there was ongoing discussion between OPSC and CDE regarding the integration of the facility and educational components of the program.

Mr. Pat Ainsworth of CDE was invited by Ms. Garrity to address the Committee regarding the role of CDE relative to the CTEFP. Mr. Ainsworth provided an overview of the content standards that CDE has developed for career technical education, and discussed the various industry sectors and associated career pathways. He further discussed the benefits of career technical education and acknowledged the funding challenges facing districts, as well as the ability to keep pace with rapidly emerging industries.

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CAREER TECHNICAL EDUCATION FACILITIES PROGRAM (cont.)

Staff discussed a revision to the CTEFP item regarding displacement of facilities while modernizing or reconfiguring a building. The OPSC recognized that it may be appropriate to decrease the number of classrooms in a facility and this would be considered acceptable. However, displacement of Minimum Essential Facilities without replacing them still remained unacceptable under the CTEFP. Staff clarified that modernization eligibility may be prorated at a facility if the entire area was not included in a CTEFP project.

Staff reiterated that modernization under CTEFP would be treated the same as a typical School Facilities Program (SFP) modernization project - there would be no adjustment of new construction eligibility for facilities removed during modernization, but any classrooms added by the project would be counted towards a district's available capacity. Additionally, a district's modernization eligibility would be adjusted for facilities modernized under the CTEFP even if SFP modernization funds were not used.

The Committee and audience were resistant to lose any eligibility, considering this a strong disincentive to participate in the CTEFP. The comment was made that the eligibility impact may force districts to choose other buildings than they had originally planned to utilize. A committee member's position was in agreement with the OPSC regarding new building dates for calculation of modernization eligibility.

Staff indicated that CTEFP grants would be adjusted annually according to the Construction Cost Index, similar to other SFP grant amounts.

Several questions were raised about costs that may be associated with a CTEFP project, particularly access compliance costs which may be required by the Division of the State Architect (DSA). Staff observed that if work was required and directly attributable to the project, it would likely be considered eligible, but the expenditures would still be subject to the funding caps. Mr. Chris Walker, a CTEFP advocate in the audience, did not want to see CTEFP funds going to non-career technical education expenses.

The ability to provide a preliminary funding option was suggested. Members of the Committee and audience were particularly concerned about the requirement to have DSA approved plans at the time an application was submitted. Other possibilities, such as accepting preliminary plans, or requiring DSA approval within 12 months of apportionment, were suggested. The final plan requirement would necessitate substantial expenditures by the district with no guarantee of funding and Committee members observed that this may disadvantage less-affluent districts. Staff noted that preliminary funding as an option was not specifically addressed in law, however, OPSC would examine the possibility of preliminary apportionments. Staff also noted that equitable funding for districts is required under the law and may be addressed in the funding selection process, which is yet to be established. It was later suggested by a Committee member that the required CDE approval of the career technical education plan for applicant districts could potentially be used as "pre-approval" for district planning.

The application timing for CTEFP, with regard to facility occupancy, would be treated the same as other SFP applications.

A Committee member inquired about facilities operated by comprehensive high schools, but not necessarily located on the school site (i.e. agricultural facilities, other off-site centers, Regional Occupational Programs). Staff recognized that there are many potential off-site locations, some of

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CAREER TECHNICAL EDUCATION FACILITIES PROGRAM (cont.)

which may be available for CTEFP funding, but more information may be required before making a definitive statement regarding funding.

The question of CTEFP funding for middle schools was raised, as they are mentioned in the legislation. It is Staff's belief that the intent of the language was to capture comprehensive high schools that operate at the 7-12 grade levels, not to fund middle school programs. It was noted the middle schools are not mentioned elsewhere as entities eligible to receive funding.

It was noted that a county office of education (COE) may not be eligible for CTEFP funding, as they do not typically operate comprehensive high schools. This was viewed as exclusionary and a disincentive for a COE to participate in CTEFP in any manner. The Chair acknowledged this possibility, but stated that integration of career technical education at comprehensive high schools was central to the drafting of the legislation. It was also noted that a COE may be able to participate as an school district partner.

The impact of the CTEFP on 60% commensurate test for other SFP projects was questioned. In some instance, the CTEFP project may be exclusively related to purchase of equipment. It was suggested that the OPSC include CTEFP funding for equipment in the 60% calculation or disregard the calculation in its entirety.

Mr. Walker presented a concern about CTEFP funds going towards performing arts centers and the like, stating this was not the intent of the legislation. It was noted by CDE representatives that there will be an review conducted to ensure the project has relevance to existing career paths.

The district's matching contribution and repayment was discussed. Questions were raised about what entities could receive the loan, if interest had to be paid, and the length of the repayment periods. Additionally, there was concern the CTEFP funds would be rapidly diminished if being used for the grant and the matching shares.

There was discussion of JPA and Career Technical Advisory Committee (CTAC) requirements to participate in the CTEFP. The question of whether the JPA and CTAC must be in existence at the time of legislation approval, or at time of application submittal, in order to apply for CTEFP funds requires further discussion.

Staff ended the discussion by stating that a refined item for discussion will be presented at a future Committee meeting.

SEISMIC MITIGATION

The topic was presented by Katrina Valentine from the OPSC and Richard Conrad from the Division of the State Architect (DSA).

AB 127 provides up to \$199.5 million for seismic mitigation of the most vulnerable school facilities that are a Category 2 building that pose an unacceptable risk of injury to its occupants in the event of a seismic occurrence. AB 127 provides amendments to Education Code Section 17075.10 and the Facility Hardship Program.

In order to develop comprehensive criteria for the most vulnerable Category 2 buildings, the DSA informed the Committee that they intend to survey a list of experts in seismic evaluation of buildings and to assist the DSA with:

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SEISMIC MITIGATION (cont.)

- Determining which of the Category 2 structural systems are the most vulnerable and pose the highest risk.
- Determining the minimum level of horizontal acceleration response of buildings with short periods of vibration (i.e. – a 10% chance of being exceeded in 50 years) that must be exceeded at the location of the building in order for the building to qualify for funding.
- Determining a methodology for evaluating the actual strength of the building relative to the possible lateral loads it must resist (demand/capacity ratio). Then establish the value that must be exceeded in order for the building to qualify for funding.
- Determining the best methodology for analyzing the demand/capacity ratio of the building.

The DSA stated that they would contact the seismic experts the following week to begin the surveys.

During the discussion, Committee members expressed concern regarding the cost of preparing reports to determine if districts qualify for seismic funding, and requested that Staff take into consideration the cost of preparing the reports that will be required and whether these costs could be reimbursed by the State. The DSA stated that the districts should be able to initially determine whether or not they meet the criteria with little or no cost to the districts, prior to having to conduct costly reports. In addition, Staff addressed this issue by informing the Committee that costs incurred as part of this analysis would be considered an eligible expense in a complete funding application.

Another issue that required clarification was the difference between the 50 percent requirement for the DSA and the 50 percent requirement for the OPSC. Staff addressed this issue by indicating the regulations require a school district that is requesting replacement facilities to submit a cost benefit analysis that indicates the cost to remain in a facility and mitigate the problem is at least 50 percent of the current replacement cost of that facility as defined in regulations. If the project qualifies for a replacement facility, then the school district would be eligible for funding as a new construction project and the funding would be in accordance with the square footage amounts provided in regulation. If the cost to remain in a facility is less than 50 percent of the current replacement cost, then the project would qualify for a rehabilitation modernization grant based on 60 percent of the amount of the cost estimate (the grant for seismic rehabilitation would be 50 percent). Staff clarified that the cost estimate should include only the costs associated with the minimum work necessary to bring the building up to the codes in place at the time of original construction, plus any additional costs associated with work that is required by the DSA to make the building safe.

The 50 percent requirement for the DSA is in reference to Title 24 requirements (Section 4-309(c)) that stipulate that if the cost of the reconstruction, alteration or addition project exceeds 50 percent of the replacement value of the existing building, then the existing building shall be retrofitted as required to conform to Title 24. From this clarification, the audience indicated that most seismic mitigation projects would automatically qualify for replacement facilities because Title 24 requirements would be triggered, thus elevating the cost of the project.

There was discussion on whether a school district could use the actual replacement cost of the building instead of the current replacement cost as defined in regulation in order to determine if a facility should be rehabilitated or replaced, since some districts may want to rehabilitate a building instead of replace it. Staff stated that historically if a project qualified for replacement facilities but the school district requested to rehabilitate the existing facility rather than replace it, the State Allocation Board has allowed the school district to rehabilitate the facility. However, the maximum funding provided could not exceed the replacement value, and no additional funds would be provided if the rehabilitation exceeded that amount.

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SEISMIC MITIGATION (cont.)

Staff ended the discussion and stated that the issue would be brought back to the Committee at a future Committee meeting.

CHARTER SCHOOL FACILITY PROGRAM

This item was introduced by Mavonne Garrity and presented by OPSC staff member Barbara Kampmeindert.

Staff explained that it was necessary to bring back some issues to the Implementation Committee for clarification in regard to the charter school portion of AB 127. The first was in regard to the requirement that school districts certify to the number of district unhoused students that would be housed by a charter school project. The school district would be required to certify and provide supporting documentation when a charter submitted an application independently and when a school district submitted on behalf of a charter school. The information would be used as a reference and as justification to fund the charter school project.

Comments included the need for OPSC to consult the CDE on an upcoming regulation change in regard to charter school enrollment projections. Staff agreed to look into the CDE proposed changes as CDE representatives present at the meeting were unaware of such changes.

Committee members also expressed concern with the difficulty that responsible school boards would have with making a certification. Staff explained that, if the school district did not complete the certification, that the charter school application would not be returned and that the information contained in a school board certification would be considered factual.

Under the rehabilitation component of the new legislation, Staff clarified two outstanding issues. The first was how a building's age would be determined which would be by the date of the last Lease Purchase Program modernization apportionment or, for buildings that had not previously been modernized, by the date of the Division of the State Architect approval plus 12 months. The second issue was in regard to rehabilitating core and subsidiary facilities. Staff explained that subsidiary facilities could be rehabilitated, but the project must also contain classrooms.

The last topic was in regard to preference points given to charter school applications. Ms. Lori Morgan, OPSC Deputy Executive Officer, clarified that the total for the preference points should have read "190" in the Committee's agenda packet. Staff explained that the new legislation gives preference to existing facilities, but based on concerns that the non-profit category was not given sufficient weight, the non-profit points were increased. Also, since it would be possible to build a new project in an overcrowded district without relieving overcrowding, the overcrowding points calculation would be a two step process based on the number of the district's unhoused students that were contained in a school board's certification. Staff gave examples of the proposed overcrowding calculations and concluded that projects that truly relieved overcrowding would receive more points.

After concern was expressed over the lower number of overcrowding points in comparison to points given for existing facilities, Staff and Committee members confirmed that the new legislation demonstrated a preference for existing facilities over the other preference categories. It was agreed that the concern would appear in the recommendation to the State Allocation Board (SAB). Staff then explained the matrix used in determining the priority of projects funded including the use of all the other criteria listed in the law. It was agreed that the matrix process would appear in the regulations.

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CHARTER SCHOOL FACILITY PROGRAM (cont.)

It was suggested that a Proposition 39 required agreement be necessary as a part of an independent charter school application in order to satisfy the new legislation's requirement that the charter and school district consider existing facilities. Staff agreed to look into the sequencing and whether that requirement would be feasible. A CDE representative explained the lack of relationship between the Proposition 39 requirement and the language in AB 127.

It was suggested that charters would be penalized by not receiving overcrowding points in overcrowded districts that certified to zero unhoused students that would be housed in a charter school project.

Staff agreed to have regulations and forms ready by the September 8, 2006 Implementation Committee meeting. Ms. Garrity stated that they would go to the September SAB meeting.

The meeting was then adjourned.