STATE OF CALIFORNIA Arnold Schwarzenegger, *Governor*

**STATE ALLOCATION BOARD**
1130 K Street, Suite 400
Sacramento, CA 95814
http://www.dgs.ca.gov/opsc

**Date:** December 19, 2003

**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 Thursday, January 8, 2004 (9:30 am - 3:30 pm) at 1020 N Street (Legislative Office Building) in conference room 100 (Sacramento, CA).

The Implementation Committee's proposed agenda is as follows:

1. Convene Meeting

2. Lease Lease-Back
   *Review of previous discussions, including the September item to the SAB, and presentation of OPSC position on the use of EC 17406.*

3. Hazardous Waste Removal Costs (AB 1008)
   *Discussion of the audit adjustment to the new construction grant for additional hazardous waste removal costs.*

4. SFP Joint Use Program (SB 15)
   *Discussion of revisions to Type I-II, building reconfiguration and partner contribution for the SFP Joint Use Program.*

5. Charter Schools Facilities Program (SB 15)
   *Discussion of eligibility determination, per-pupil project caps, site acreage limitations and other Charter program issues.*

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 Portia Jacobson at (916) 445-3159.

BRUCE B. HANCOCK
Chairperson

BBH:LM:mc

**STATE ALLOCATION BOARD**
**IMPLEMENTATION COMMITTEE**
**January 8, 2004**

# CHARTER SCHOOL FACILITY PROGRAM REGULATION AMENDMENTS

## Background:

The Charter School Facility Program, 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. After the allocation, the SAB and the California School Finance Authority (CSFA) presented a joint report to the Legislature detailing the implementation of the program, description of the projects funded, and recommendations for statutory change. Senate Bill (SB) 15 (Alpert) contains some of the recommendations as well as other changes to the program.

## Total Project Funding Cap:

All projects will be subject to a pupil grant cap and a total project-funding cap (TPFC). The TPFC will only be applied to those items of the full grant that have been identified as "construction" costs; site cost will be excluded from the TPFC. An applicant that qualifies for and requests the urban or multi-story allowance will have a higher TPFC than those that do not. The following chart illustrates by project grade level the pupil grant cap and TPFC:

| | Pupil Grant Cap | Total Project Cap for Non-Urban/Multi-story projects | Total Project Cap for Urban/Multi-story projects |
|---|---|---|---|
| K-6 | 350 | $5,000,000 | $6,600,000 |
| 7-8 | 450 | $7,000,000 | $9,000,000 |
| 9-12 or K-12 inclusive | 600 | $10,000,000 | $12,900,000 |

If the OPSC receives a preliminary application that exceeds the TPFC, the applicant will have the option of reducing the pupil grants requested or exclude any additional grant requests (if any) to correspond with the maximum amount allowed. This process will also be used at final apportionment.

*Preliminary Apportionment Determination*
The amount of funding provided to an applicant at the preliminary apportionment will be the maximum amount of funding provided, unless at the time of final apportionment the applicant qualifies for either relocation/DTSC costs or hazardous material clean-up costs. In that case, the applicant may then draw funds from the established pools. **In addition, this proposal does not contain an allowance for an inflator factor for either the costs identified as "construction" or site.**

To determine the funding for the project, the preliminary apportionment would be divided into "construction "costs and site acquisition costs, as shown below:

| PRELIMINARY APPORTIONMENT DETERMINATION | |
|---|---|
| *Construction Costs (Full Grant)*<br>**Subject To The Cap** | *Site Acquisition Costs*<br>**Exclusive Of Cap** |
| • Base Grant – 2003/Prop 47 Level<br>• Multi-level Construction<br>• Site Development<br>• Small Size Project<br>• Urban Allowance<br>• Geographic Percentage Factor<br>• Labor Compliance Program Grant (Subject to the reapproval of the SFP regulations) | • Site purchase<br>• Other Site Costs (appraisal, escrow, survey, site testing, CDE review/approvals and preparation of POESA and PEA)<br><br>Pools<br>(access at Final Apportionment)<br>• Hazardous Material Clean-up<br>• Relocation and DTSC fees |

The following allowances will be excluded from the Preliminary and Final Apportionment determination and the Form SAB 50-04 will be modified accordingly:

- New School Grant
- Project Assistance
- Energy Efficiency

*Site Purchase and Acreage Limits*
The maximum amount of acreage that may be requested for a charter school project at the time of preliminary **and** final apportionment is limited to 50 percent or less of the CDE recommended site size for a traditional school. This is determined at the preliminary apportionment by multiplying the number of pupils in the project by .00875 for K-6, .0105 for 7-8, and .01236 for 9-12. An applicant may request a higher acreage amount at the time of final apportionment, provided it is less than 50 percent of the CDE recommended site size. The maximum cost for site acquisition (site purchase and other) will be established at preliminary apportionment.

*Methodology for Creating Funding Set Asides*
At this point, without being able to forecast the type or number of applications that will be submitted for the upcoming filing period, it would be difficult to determine a dollar figure to set aside from the $300 million to create a pool for hazardous material and another for relocation costs. Any figure proposed would be a best guess. Therefore, we propose the following methodology to create the two separate pools of funds.

*Hazardous Material Clean-up Funding*
Applicants would still be required to indicate on the preliminary application if they anticipate needing toxic funding for the project; however, the funding would not be part of the preliminary apportionment.

*Process:*

1. The site purchase value of all projects that requested hazardous material clean up would be totaled.
2. The above total would be multiplied by 10 percent.
3. The product would provide the dollar value to set aside from the $300 million.

Relocation/DTSC Funding

1. The site purchase value of all projects that requested relocation/DTSC funding would be totaled.
2. The above total would be multiplied by 15 percent.
3. The product would provide the dollar value to set aside from the $300 million.

## Final Apportionment Determination

Again, the amount of funding set aside at the preliminary apportionment for site and "construction" costs is the maximum amount that may be provided at the final apportionment. Each category is separate and will not be combined into one maximum amount. The number of pupil grants requested at the time of final apportionment may not exceed the preliminary apportionment request.

At the time of final apportionment it should be known if the project will need to access funding from either the hazardous material clean-up pool or relocation/DTSC pool. Any funding provided will be up to the amount available in pool, if the request exceeds the remaining funds in either pool, any remaining amount will be placed on an unfunded list by SAB approval date.

Unused preliminary apportionments and lease payments (2004 bond funds only) will be deposited into the 2004 Charter School Facilities Account. The SAB will use any funds in the account to first fund projects on the unfunded list. If there are no projects on the unfunded list, the SAB may open a new filing period to provide preliminary apportionments to another round of applicants.

The following examples better illustrate the processes that will occur at the time of final apportionment:

**Sample 1**
(Qualifies for Urban and Multilevel Grants)

| **Preliminary Apportionment** | **Final Apportionment** |
|---|---|
| Type of Project: Elementary (K-6) | Type of Project: Elementary (K-6) |
| Pupils Assigned: 350 | Pupils Assigned: 300 |
| Proposed Acres: 1 | Proposed Acres: 0.8 |
| Recommended Site Size: 3.1 | Recommended Site Size: 2.7 |
| Total Project Cost: $6,600,000 | Total Project Cost: $6,000,000 |
| Total site acquisition: $1,400,000 | Total site acquisition: $2,000,000 |

In the event that an applicant's total project cost at the time of final apportionment is less than the preliminary apportionment, the excess amount will be returned to the Charter School Facility Account (2004). If the total site acquisition is greater at the final apportionment than the preliminary apportionment, **the project may not transfer excess funds from construction cost to site acquisition and vice versa.**

**Sample 2**

| **Preliminary Apportionment** | **Final Apportionment** |
|---|---|
| Type of Project: Middle School (7-8) | Type of Project Middle School (7-8) |
| Pupils Assigned: 400 | Pupils Assigned: 400 |
| Proposed Acres: 4.2 | Proposed Acres: 4.2 |
| Recommended Site Size: 4.2 | Recommended Site Size: 4.2 |
| Total Project Cost: $6,000,000 | Total Project Cost: $7,000,000 |
| Total site acquisition: $2,000,000 | Total site acquisition: $2,000,000 |

If an applicant receives a preliminary apportionment that is less than the final apportionment amount, **the project will not be able to exceed the preliminary apportionment amount even though the project did not reach the cap at the preliminary apportionment.**

**Sample 3**
(Qualifies for Urban and Multilevel Grants)

| **Final Apportionment Request** | **Available funds in pools** |
|---|---|
| Type of Project: High School (9-12) | |
| Pupils Assigned: 600 | |
| Proposed Acres: 2.4 | |
| Recommended Site Size: 7.4 | |
| Total Project Cost: $12,000,000 | |
| Total site acquisition: $3,000,000 | |
| Relocation: $600,000 | Relocation: $400,000 |
| Hazardous Materials: $800,000 | Hazardous Materials: $500,000 |

If a project's relocation or hazardous material cost request exceeds the available balance in either pool, then the remaining balance not apportioned will be placed on an unfunded list. In this case, the project would receive $400,000 for relocation and $500,000 for hazardous material while the remaining balance of $200,000 and $300,000, respectively, would be placed on an unfunded list. Proceeds from lease payments or excessive preliminary apportionment amounts will be used to fund any amounts on the unfunded list based on SAB approval date.

# Attachment B

## Summary of Revised Charter School Facility Program Regulations
SAB Implementation Committee, January 8, 2004

| Section | Current Practice | Proposed Change | Justification for Change |
|---|---|---|---|
| DEFINITIONS "CHARTER SCHOOL GENERAL LOCATION" Reg Section 1859.2 | In determining a median cost for site acquisition, the general location was based on the Critically Overcrowded Schools (COS) Program using source schools. | Create new definition "Charter School General Location" to mean a three-mile radius from the present or proposed location of the Charter School project as identified on the application. | The Charter School program differs from the COS that it does not use source schools. This definition will define the area to be used for the median cost calculation and provide a more accurate assessment of the real estate transactions in and around the proposed general location. |
| DEFINITIONS "FINANCIALLY SOUND" Reg Section 1859.2 | n/a | Add reference to California School Finance Authority (CSFA) regulations. | Clarification language to properly reference both sets of regulations. |
| DEFINITIONS "LARGE CHARTER SCHOOL" Reg Section 1859.2 | A school in which enrollment is greater that 351. | A school in which the enrollment is greater than 351. | Based on the previous round of applications submitted there was not enough of a distinction between the large, medium and small charter schools. We have increased the ranges to allow for more variance. |
| DEFINITIONS "MEDIUM CHARTER SCHOOL" Reg Section 1859.2 | A school in which enrollment is between 101 to 350. | A school in which enrollment is between 176-350. | Based on the previous round of applications submitted there was not enough of a distinction between the large, medium and small charter schools. We have increased the ranges to allow for more variance. |
| DEFINITIONS "REGION 2" Reg Section 1859.2 | Tulare county is in Region 3. | Move Tulare county into Region 2. | Tulare was inadvertently left in Region 3 when the distribution was originally done and demographically should have been placed in Region 2 from the onset of the program. |
| DEFINITIONS "SMALL CHARTER SCHOOL" Reg Section 1859.2 | A school in which enrollment is not more than 100. | A school in which enrollment is mot more than 175. | Based on the previous round of applications submitted there was not enough of a distinction between the large, medium and small charter schools. We have increased the ranges to allow for more variance. |
| PRELIMINARY APPORTIONMENT ELIGIBILILTY CRITERIA Reg Section 1859.162 | n/a | New legislation requires that prior to the end of the filing period that the applicant must have a charter approved or a material revision to their existing charter approved for that specific school in which they are applying. Prior to the submission of the Preliminary Charter School Application that the above must be in place. This will be incorporated into the Preliminary Charter School Application form and the applicant will be required to report the date of the charter approval or of the material revision. | As required by legislation – SB 15 |

| Section | Current Practice | Proposed Change | Justification for Change |
|---|---|---|---|
| PRELIMINARY CHARTER SCHOOL APPORTIONMENT DETERMINATION Reg Section 1859.163.1 | The preliminary apportionment calculation originally referenced the calculation used in the critically overcrowded program. | The preliminary apportionment calculation has been incorporated into the charter school section of the regulations and will be modified accordingly based on the outcome of total project cost discussion. | Clarification and ability to modify certain areas of the calculations which are specific to the charter school program. |
| PRELIMINARY CHARTER SCHOOL APPORTIONMENT DETERMINATION "SMALL SIZE PROJECT" Reg Section 1859.163.1 (e) | This allowance is called the Small New School Allowance and is provided if the project meets the requirements of Section 1859.83(c). | Change to allow the charter school to request a small size project, which is a project that will house no more than 200 pupils, as provided in 1859.83(b). | The basis for this change is because the New School Allowance was intended for projects that were going to be built in phases, but needed funding to provide the core facilities up front. When subsequent applications come in to add classrooms, the grant is offset. Due to the nature of the charter school program we don't envision this happening and feel that the small size project is more applicable. |
| PRELIMINARY CHARTER SCHOOL APPORTIONMENT DETERMINATION "USEABLE ACRES" Reg Section 1859.163.1(f)(2) | In the last round, useable acreage was determined by using CDE recommended site size as established for the COS program. | Per the new legislation, CDE has provided new numbers which are exactly half of what is used in the COS program in order to limit the amount of acreage for which each applicant can apply. | As required by legislation – SB15 |
| PREMILINARY CHARTER SCHOOL APPORTIONMENT SITE ACQUISITION VALUE Reg Section 1859.163.2 (3)(b) | Costs for hazardous material clean up are automatically calculated in the site acquisition costs and are provided at 150% of the appraisal or median cost. | Edits will be made to the form to allow the applicant to include a lesser amount for toxic remediation. | Cases may exist where an applicant knows that they will not need the 150% amount for clean up. |
| CALCULATON OF PREFERENCE POINTS Reg Section 1859.164.1 (a) and (b) | n/a | We have adjusted the low-income scales and the overcrowded scales to add more ranges. | This adjustment was done to allow for more variance and to avoid having projects end up with the same preference points. |
| PRELIMINARY CHARTER SCHOOL APPORTIONMENT FUND RELEASE Reg Section 1859.164.2 | n/a | Regulations have been written to allow for advanced release of funds for separate design equal to 40 percent of the total project cost and/or an advance fund release for site acquisition. | As required in legislation – SB 15 |

| Section | Current Practice | Proposed Change | Justification for Change |
|---|---|---|---|
| FINAL CHARTER SCHOOL APPORTIONMENT Reg Section 1859.167 | n/a | Incorporate the language for the unrestricted Fund to include the 2004 Charter School Facilities Account. | As required by legislation – SB 15 |
| FINAL CHARTER SCHOOL APPORTIONMENT Reg Section 1859.167 | n/a | Any funds deposited back into the Unrestricted Fund in the 2002 Charter School Facilities Account or for Preliminary Charter School Applications received from February 2003 to Aril 1, 2003 that were not funded due to insufficient funds shall be used by the Board for other Charter School facility projects. | Per SAB Action on July 2, 2003 and SB 15. |
| FINAL CHARTER SCHOOL APPORTIONMENT Reg Section 1859.167 | n/a | Any funds deposited back into the Unrestricted Fund in the 2004 Charter School Facilities Account shall be used by the Board for other Charter School facility projects. | As required by legislation – SB 15 |

DRAFT

# ATTACHMENT C

**PROPOSED AMENDMENTS TO THE**
**CHARTER SCHOOL FACILITY PROGRAM**
**SB 15 AND OTHER REGULATORY AMENDMENTS**
State Allocation Board Implementation Committee Meeting, January 8, 2004

Section 1859.2. Definitions.

For the purpose of these regulations, the terms set forth below shall have the following meanings, subject to the provisions of the act:

…

"Authority" shall have the meaning set forth in Education Code Section 17078.52(c)(1).

…

"Charter School" shall mean a school established pursuant to Education Code, Title 2, Division 4, Part 26.8, Section 47600, et seq.

…

"Charter School General Location" shall mean a three mile radius from the present or proposed location of the Charter School project as identified in the chartering agreement.

…

"Classroom-Based Instruction" shall have the meaning set forth in Education Code Section 47612.5(e)(1).

…

"Final Charter School Apportionment" shall mean a Preliminary Charter School Apportionment that has been converted to a Final Charter School Apportionment in accordance with Section 1859.165.

…

"Financially Sound" shall have the meaning set forth in Education Code Section 17078.52~~(c)~~ (d)(4) and Title 4, California Business Regulations commencing with Section 10152, et al.

…

"Form SAB 50-09" means the *Application for Charter School Preliminary Apportionment*, Form SAB 50-09 (New 01/03), which is incorporated by reference.

…

"Large Charter School" shall be defined as a school in which the enrollment is greater than 351 pupils, based on the latest available CBEDS report or if a CBEDS report is unavailable, the registration list for the Charter School may be used.

…

"Low-income" shall be 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. ~~those charter schools in which a percentage of the pupils receive free or reduced meals according to the CDE.~~

…

"Medium Charter School" shall be defined as a school with an enrollment of ~~101~~ 176 pupils to 350 pupils, based on the latest available CBEDS report or if a CBEDS report is unavailable, the registration list for the Charter School may be used.

…

"Non-profit entity" means an entity that is organized and operated for purposes of not making a profit under the provisions of the federal Internal Revenue Code Section 501(c)(3), or is organized as/operated by a nonprofit public benefit corporation, pursuant to State Corporations Code, Title 1, Division 2, Part 2, Section 5110, et seq.

…

"Overcrowded School District" for purposes of determining preference points is any district that demonstrates eligibility in excess of two percent of their unhoused pupils.

….

"Preliminary Charter School Application" means a district filing on behalf of a charter school or the charter school submitting directly on Form SAB 50-09, including all supporting documents as identified in the General Instructions Section of that Form submitted to the OPSC and the OPSC has accepted the application for processing.

"Preliminary Charter School Apportionment" means an apportionment made pursuant to Education Code Section 17078.52(c)(3).

….

"Region One" shall consist of the following counties: Alpine, Amador, Butte, Colusa, Contra Costa, Del Norte, El Dorado, Glenn, Humboldt, Lake, Lassen, Marin, Mendocino, Modoc, Napa, Nevada, Placer, Plumas, Sacramento, San Joaquin, Shasta, Sierra, Siskiyou, Solano, Sonoma, Sutter, Tehama, Trinity, Yolo, and Yuba.

"Region Two" shall consist of the following counties: Alameda, Calaveras, Fresno, Inyo, Kern, Kings, Madera, Mariposa, Merced, Mono, Monterey, San Benito, San Francisco, San Mateo, Santa Clara, Santa Cruz, Stanislaus, Tulare, and Tuolumne.

"Region Three" shall consist of the following counties: Los Angeles, San Bernardino, San Luis Obispo, Santa Barbara, ~~Tulare~~, and Ventura.

"Region Four" shall consist of the following counties: Imperial, Orange, Riverside, and San Diego.

…

"Rural Area" shall be a school with a locale code of six, seven or eight as classified by the National Center for Education Statistics (NCES).

…

"Small Charter School" shall be defined as a school with an enrollment of not more than ~~100~~ 175 pupils, based on the latest available CBEDS report or if a CBEDS report is unavailable, the registration list for the Charter School may be used.

…

"Suburban Area" shall be a school with a locale code of either two, three, four, or five as classified by the NCES.

…

"Urban Area" shall be as a school with a locale code of one as classified by the NCES.

…

Note: Authority cited: Sections 17070.35 and 17078.64, Education Code.

Reference: Sections 17009.5, 17017.6, 17017.7, 17021, 17047, 17050, 17051, 17070.15, 17070.51(a), 17070.71, 17070.77, 17071.10, 17071.25, 17071.30, 17071.33, 17071.35, 17071.40, 17071.76, 17072.10, 17072.12, 17072.18, 17072.33, 17073.25, 17074.10, 17075.10, 17075.15, 17077.40, 17077.42, 17077.45, 17078.52, 17078.56, 17280, and 56026, Education Code. Section 53311, Government Code and Section 1771.5, Labor Code.

## Article 14. Charter School Facilities Program

Section 1859.160. General.

A Charter School seeking a Preliminary Charter School Apportionment pursuant to the provisions of Education Code Sections 17078.50 through 17078.64 for new construction shall complete and file a Form SAB 50-09.

After the Board has approved a Preliminary Charter School Apportionment for a Preliminary Charter School Application submitted pursuant to this section, a charter school seeking an advance release of funds for site acquisition pursuant to Section 1859.164.2 (a) or (b), shall be required to submit an additional Form SAB 50-09, to the OPSC, to determine eligible site acquisition costs. A Charter School seeking an advance release of funds for design, engineering, and other pre-construction project costs pursuant to Section 1859.164.2 (a), shall not be required to submit an additional Preliminary Charter School Application.

Note: Authority cited: Sections 17070.35 and 17078.64, Education Code.

Reference: Sections 17078.52 and 17078.53, Education Code.

Section 1859.161. Preliminary Charter School Application Submittals.

A Charter School seeking a Preliminary Charter School Apportionment shall complete and submit Form SAB 50-09 between February 2003 and March 31, 2003, or during a period of 120 calendar days beginning 10 days after an election authorizing additional funding.

The Board may establish additional application filing periods as needed.

Note: Authority cited: Sections 17070.35 and 17078.64, Education Code.

Reference: Section 17078.53, Education Code.

Section 1859.162. Preliminary Apportionment Eligibility Criteria.

A Charter School may apply for a Preliminary Charter School Apportionment by submittal of Form SAB 50-09 if all of the following conditions are met: ~~the district in which the Charter School is physically located has SFP new construction eligibility pursuant to Education Code Section 17071.75 and Section 1859.50 at the grade level of project being proposed in the Charter School application.~~

(a) the district in which the Charter School is physically located has SFP new construction eligibility pursuant to Education Code Section 17071.75 and Section 1859.50 at the grade level(s) being proposed in the Preliminary Charter School Application; and,
(b) prior to submission of the Preliminary Charter School Application the requirements of EC Section 17078.53(d) are met.

Note: Authority cited: Sections 17070.35 and 17078.64, Education Code.

Reference: Sections 17071.75, 17078.52 and 17078.53, Education Code.

Section 1859.163. Approval of Applications for Preliminary Charter School Apportionments.

Prior to approving a Preliminary Charter School Apportionment, the Board will require a certification from the Authority that the Charter School is Financially Sound. ~~The calculation of the Preliminary Charter School Apportionment shall be determined using the criteria established in Section 1859.145 and 1859.145.1~~. In providing a Preliminary Charter School Apportionment, the Board shall use the funding criteria established in Section 1859.164. The apportionment provided by the Board may be 100 percent of the total project cost dependent upon the method of Charter School's contribution as determined by the Authority.

Note: Authority cited: Sections 17070.35 and 17078.64, Education Code.

Reference: Sections 17078.52 and 17078.53, Education Code.

Section 1859.163.1. Preliminary Charter School Apportionment Determination.
***Note: Section will be modified further based on total project cost.***
The Preliminary Charter School Apportionment shall be equal to the sum of the following:
(a) The amounts shown below for each pupil included in a Preliminary Charter School Application:
(1) $5,226.82 for each elementary school pupil.
(2) $5,533.65 for each middle school pupil.
(3) $7,225.94 for each high school pupil.
(4) $16,653.06 for each pupil that is a Severely Disabled Individual with Exceptional Needs.

(5) $11,137.37 for each pupil that is a Non-Severely Disabled Individual with Exceptional Needs.
(b) An amount equal to 12 percent of the amount determined in (a) for multilevel construction, if requested by the district.
(c) An amount equal to one-half of the site acquisition value determined in Section 1859.163.2.
(d) An amount for site development cost determined, at the option of the district, by one of the following:
(1) One-half of the Site Development Cost for the specific site as authorized by Section 1859.76.
(2) One-half of the Site Development Cost as authorized by Section 1859.76 using historical information in the Charter School General Location. Historical information that may be considered to determine this estimated cost may include prior SFP projects of the district or other districts in the Charter School General Location.
(3) $70,000 multiplied by the proposed acres requested on the Form SAB 50-09.
(e) If the Preliminary Application request is for a small project that will house no more than 200 pupils, an amount pursuant to 1859.83(b)(1) or (b)(2), as appropriate.
(f) An amount due to urban location, security requirements and impacted site equal to 15 percent of the amount determined in (a) for a site that is 60 percent of the CDE recommended site size plus 1.166 percent for each percentage decrease in the CDE recommended site size below 60 percent when the following criteria are met:
(1) The Charter School has requested an increase for multilevel construction pursuant to (b) above.
(2) The Useable Acres of the existing and/or proposed site are 60 percent or less of the CDE recommended site size for Charter Schools determined by multiplying the sum of the pupil grants requested on Form SAB 50-09, and the current CBEDS enrollment on the site (if applicable) by .01775 for elementary school pupils, .021 for middle school pupils and .02472 for high school pupils. For purposes of this calculation, assign Severely Disabled Individuals with Exceptional Needs and Non-Severely Disabled Individuals with Exceptional Needs pupil grants requested on Form SAB 50-09, as either elementary, middle or high school pupils based on the type of project selected by the district on Form SAB 50-09.
(3) The value of the property as determined in Section 1859.163.2(a) is at least $750,000 per Useable Acre. This criterion does not apply to an application for an addition to an existing school site.
(g) An amount for the geographic location of the proposed project equal to the sum of the amounts determined in (a), (b), (d)(3), (e) and (f) multiplied by the indicated percentage factor in the Geographic Percentage Chart shown in Section 1859.83(a).

The amounts shown in (a) shall be adjusted in a manner prescribed in Section 1859.71.

Note: Authority cited: Sections 17070.35 and 17075.15, Education Code.

Reference: Sections 17075.10, 17078.10 and 17078.24, Education Code.

Section 1859.163.2. Preliminary Charter School Apportionment Site Acquisition Value.

If the Preliminary Charter School Application includes a request for site acquisition funding, the preliminary value of the proposed site shall be the sum of the following:
(a) The value of the property determined by one of the following:
(1) By an appraisal or a preliminary appraisal of the property made no more than six months prior to the date the Preliminary Charter School Application was submitted to the OPSC, using the guidelines outlined in Section 1859.74.1. The preliminary appraisal may be made without access to the property.

(2) The Median Cost of an acre of land in the Charter School General Location using historical information in the Charter School General Location multiplied by the number of proposed useable acres requested on Form SAB 50-09. Historical information that may be considered to determine land cost shall include prior real-estate sales consummated and documented by the county recorder or pending real-estate sales documented by a title insurance company's escrow instructions. For purposes of historical information include all real-estate sales consummated and documented by the county recorder for a minimum of six months and a maximum of up to two years prior to the date the Preliminary Charter School Application was submitted to the OPSC.

(b) An amount for the estimated relocation cost and the estimated DTSC costs for review, approval and oversight of the POESA and the PEA as determined by one of the following:

(1) 21 percent of the value determined in (a).

(2) The sum of the following:

(A) The approved relocation expenses for the specific site to be acquired that conform to Title 25, California Code of Regulations, Section 6000, et. seq.

(B) The DTSC cost for review, approval, and oversight of the POSEA and the PEA for the specific site to be acquired.

(3) The estimated relocation cost and the estimated DTSC costs for review, approval and oversight of the POESA and the PEA using historical information in the General Location. Historical information that may be considered to determine these estimated costs may include prior real-estate acquisitions of the district or other districts in the Charter School General Location.

(c) Four percent of the amount determined in (a), but not less than $50,000. This amount shall provide an allowance of any appraisal, escrow, survey, site testing, CDE review/approvals and preparation of the POESA and the PEA.

(d) For allowable costs of hazardous material/waste removal and remediation costs, up to one-half times the value of the property determined in either (a)(1) or (a)(2), above.

Note: Authority cited: Sections 17070.35 and 17075.15, Education Code.

Reference: Sections 17072.13, 17078.10 and 17078.24, Education Code.

Section 1859.164.1. Calculation of Preference Points.

Preference points will be calculated for all Preliminary Charter School Applications. An application shall receive preference points based on the total of (a), (b), and (c), up to a maximum of 100 points, as follows:

(a) Low Income: Up to 40 points based on the percentage of pupils at the Charter School or school district where the Charter School is or will be located that receive/free reduced lunch, whichever is higher. ~~if a percentage of pupils at the Charter School receive free/reduced lunch. If the proposed project is to construct a new campus for a Financially Sound Charter School using proposed pupils, the determination for free/reduced lunch will be the higher of the percentage of pupils at the existing Charter School or the percentage for the district where the Charter School is physically located.~~ Use the following sliding scale to determine the number of preference points:

| Percentage Receiving Free/Reduced Lunch | Preference Points Assigned |
|---|---|
| 5–15% | 4 |
| 16-30% | 8 |
| 31-39% | 12 |
| 40-47% | 16 |
| 48-55% | 20 |
| 56-64% | 24 |
| 65-73% | 28 |

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|---|---|
| 74-82% | 32 |
| 83-~~91~~ 92% | 36 |
| ~~92-100%~~ 93 | ~~40~~ 36.5 |
| 94 | 37 |
| 95 | 37.5 |
| 96 | 38 |
| 97 | 38.5 |
| 98 | 39 |
| 99 | 39.5 |
| 100 | 40 |

(b) Overcrowded School District: Up to 40 points if the school district where the Charter School is physically located is determined to be overcrowded by dividing the remaining New Construction Eligibility (prior to the reduction from this application) by the district's current enrollment (round up) and multiplying the product by 100. Use the following sliding scale to determine the number of preference points:

| ~~Percentage Overcrowded~~ | ~~Preference Points Assigned~~ |
|---|---|
| ~~2-5%~~ | ~~4~~ |
| ~~6-9%~~ | ~~8~~ |
| ~~10-13%~~ | ~~12~~ |
| ~~14-17%~~ | ~~16~~ |
| ~~18-21%~~ | ~~20~~ |
| ~~22-27%~~ | ~~24~~ |
| ~~28-34 %~~ | ~~28~~ |
| ~~35-41%~~ | ~~32~~ |
| ~~42-50%~~ | ~~36~~ |
| ~~51% and above~~ | ~~40~~ |

| Percentage Overcrowded | Preference Points Assigned |
|---|---|
| 2-9% | 4 |
| 10-13% | 8 |
| 14-16% | 12 |
| 17-19% | 16 |
| 20-22% | 20 |
| 23-25% | 24 |
| 26-33 % | 28 |
| 34-41% | 32 |
| 42-49% | 36 |
| 50% and above | 40 |

(c) Non-Profit Entity: If the entity operating the Charter School meets the definition of a Non-Profit Entity, the project will receive 20 preference points.

Note: Authority cited: Sections 17070.35 and 17078.64, Education Code.

Reference: Section 17078.56, Education Code.

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Section 1859.164.2 Preliminary Charter School Apportionment Fund Release.

A Charter School may request an advance release of funds from a Preliminary Charter School Apportionment that was funded from the 2004 Charter School Facilities Account, for either of the following:

(a) A separate advance release of funds for design equal to 20 percent of the amount determined in Section 1859.163.1(a), (b), (d), (e), (f), and (g).

(b) A separate advance release of funds for site acquisition for an amount, not to exceed the Preliminary Charter School Apportionment, for site acquisition pursuant to Section 1859.81.1(a), (b) or (c) after submittal of a Form SAB 50-09 pursuant to Section 1859.160.

Qualified Charter Schools may request a separate advance release of funds for the design and for the site acquisition for the same project. A Charter School seeking an advance release of funds pursuant to (a) and/or (b) must have been deemed and maintained financial sound status from the Authority. The OPSC will release State funds included in a Preliminary Charter School Apportionment pursuant to (a) or (b) to the Charter School after submittal of the Form SAB 50-05. The OPSC shall not release funds in excess of the Preliminary Apportionment. State funds released from a Preliminary Charter School Apportionment pursuant to this Section shall be subject to the provisions in Section 1859.166. Once the Charter School Preliminary Apportionment is converted to a Final Charter School Apportionment pursuant to Section 1859.167, the Charter School may request a release of the remaining funds as prescribed in Section 1859.90.

Note: Authority cited: 17070.35 and 17078.64, Education Code

Reference: 17078.53, Education Code

Section 1859.167. Final Charter School Apportionment.

The amount of the Final Charter School Apportionment will be based on the provisions of any amended or new regulations that are effective at the time the Form SAB 50-04, for the Final Charter School Apportionment is submitted and accepted for processing by the OPSC. Prior to the Board providing a Final Charter School Apportionment, the Charter School will need to have a current Financial Soundness certification from the Authority. The Board shall convert the amounts determined below from the Preliminary Charter School Apportionment to the Final Charter School Apportionment:

(a) If the Final Charter School Apportionment request is equal to or less than the Preliminary Charter School Apportionment, the Final Charter School Apportionment shall be funded entirely. The difference in the Final Charter School Apportionment and the Preliminary Charter School Apportionment shall be transferred to the Unrestricted Fund in the 2002 (or 2004, as appropriate) Charter School Facilities Account. The Final Charter School Apportionment shall become the full and final apportionment for the project.

(b) If the Final Charter School Apportionment request is greater than the Preliminary Charter School Apportionment, the Board shall convert the Preliminary Charter School Apportionment to a Final Charter School Apportionment by either of the following:

(1) If the balance in the Unrestricted Fund in the 2002 (or 2004, as appropriate) Charter School Facilities Account is greater than the difference in the Final Charter School Apportionment and the Preliminary Charter School Apportionment, fund the Final Charter School Apportionment entirely. The Final Charter School Apportionment shall become the full and final apportionment for the project.

(2) If the balance in the Unrestricted Fund in the 2002 (or 2004, as appropriate) Charter School Facilities Account is less than the difference in the Final Charter School Apportionment and the Preliminary Charter School Apportionment, fund the Final Charter School Apportionment using any remaining balance in the Unrestricted Fund in the 2002 (or 2004, as appropriate) Charter School Facilities Account. The Final Charter School Apportionment shall become the full and final apportionment for the project.

Any funds deposited into the Unrestricted Fund in the 2002 Charter School Facilities Account pursuant to ~~this~~ Subsection (a), and not used under (b)(1), ~~or~~ (b)(2), or for Preliminary Charter School Applications received from February 2003 to April 1, 2003 presented to the Board but were not funded due to insufficient funds, shall be used by the Board for other Charter School facility projects.

Any funds deposited into the Unrestricted Fund in the 2004 Charter School Facilities Account pursuant to Subsection (a), and not used under (b)(1) or (b)(2), shall be used by the Board for other Charter School facility projects.

Note: Authority cited: Sections 17070.35 and 17078.64, Education Code.

Reference: Section 17078.52, Education Code.

Section 1859.168. Preliminary Charter School Apportionment Matching Share Requirement.

~~Once a Preliminary Charter School Apportionment is converted to a Final Charter School Apportionment~~, ~~t~~The Charter School will be subject to the matching share requirements in Section 1859.77.1 and Education Code Section 17078.54(d) that may be paid through lease payments authorized by the Authority in lieu of the matching share. All lease payments shall be paid to the Board to be redeposited to the Charter School Facilities Unrestricted Account for purposes of this Article.

Note: Authority cited: Sections 17070.35 and 17078.64, Education Code.

Reference: Section 17078.54, Education Code.

Section 1859.169. Eligible Expenditures.

Expenditures made with the Final Charter School Apportionment must comply with Education Code Section 17072.35 and 17078.54(a). Expenditures for construction are eligible only if the construction contract was entered into on or after September 27, 2002.

Note: Authority cited: Sections 17070.35 and 17078.64, Education Code.

Reference: Sections 17078.52, Education Code.

Section 1859.170. Additional Program Reporting Requirements.

A Charter School filing a Form SAB 50-09 on its own behalf pursuant to this Article shall comply with the reporting requirements of Sections 1859.100, 1859.101, 1859.102, and 1859.106.

Note: Authority cited: Sections 17070.35 and 17078.64, Education Code.

Reference: Section 17078.54, Education Code.

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Section 1859.171. Use of Facility.

Once a Charter School is no longer occupying the facility constructed with funds derived through a Final Charter School Apportionment, the school district where the Charter School is physically located can either:

(a) Elect to take possession of the facility and pay the balance of the local matching share. The District may qualify for a waiver of repayment if it can meet all the following:

(1) Demonstrate that at the time the Form SAB 50-04 was submitted for Final Charter School Apportionment, the district would have qualified for financial hardship, pursuant to Section 1859.81; and,

(2) Certify to the Board that it will comply with the requirements of Education Code Section 17078.62(b)(4)(B).

(b) If the school district chooses not to take possession of the facility, it shall dispose of the facilities in the manner applicable to the disposal of surplus school sites pursuant to Education Code Sections 17455 through 17484. The proceeds from the sale shall be used to pay off the remaining loan balance, if any.

Note: Authority cited: Sections 17070.35 and 17078.64, Education Code.

Reference: Section 17078.62, Education Code.

State Allocation Board
Implementation Committee
January 8, 2004

# ADJUSTMENT TO THE NEW CONSTRUCTION GRANT FOR HAZARDOUS WASTE REMOVAL

## BACKGROUND

Assembly Bill (AB) 1008 adds Section 17072.14 to the Education Code (EC), and allows for an adjustment to a new construction grant *"if, as a result of additional requirements imposed by the Department of Toxic Substances Control (DTSC), the actual amount paid by a school district for allowable costs of hazardous materials evaluation and removal…exceeds the amount of the (previous) grant apportionment for those purposes."*

EC Section 17072.14 stipulates that the total adjusted apportionment for hazardous waste removal may not exceed the amount currently permitted in accordance with EC Section 17072.13 (the provision for the 150 percent cost cap for toxic site acquisition/clean-up).

## DISCUSSION

EC Section 17072.14 allows that the adjustment of the new construction grant be based upon the difference in the initial apportionment for hazardous waste materials evaluation and removal and the *actual amount paid* for those purposes due to additional DTSC requirements. Consequently, its implementation would occur during the audit process.

Staff recognizes that "additional DTSC requirements" could be imposed as a result of various scenarios, including:

- New DTSC regulations or changes to existing DTSC regulations.
- The discovery of hazardous waste materials at a school site previously determined to be clean.
- An increase in the magnitude and associated costs of the hazardous waste cleanup originally projected for the school site.

It is staff's intent to ensure that the State grant for allowable hazardous waste removal costs associated with all new construction - for new sites, existing sites, and leased sites - may be adjusted at the time the project is audited if additional DTSC requirements occurred during the course of the project, even if the district had not previously requested these costs on its School Facility Program (SFP) funding application.

The SFP regulations currently provide the basic mechanism by which to adjust the new construction grant for hazardous waste removal. Staff is proposing minor amendments to the SFP regulations for Section 1859.106, *Program Accountability Expenditure Audit* as shown on the Attachment.

# ATTACHMENT A

ADJUSTMENT TO THE NEW CONSTRUCTION GRANT
FOR HAZARDOUS WASTE REMOVAL
State Allocation Board Implementation Committee Meeting, January 8, 2004

Section 1859.106. Program Accountability Expenditure Audit.

The projects will be audited to assure that the expenditures incurred by the district were made in accordance with the provisions of Education Code Section 17072.35 for new construction projects, Section 1859.120 for Joint-Use Projects, Section 1859.140 for Critically Overcrowded School projects, Section 1859.160 for Charter School projects, ~~and~~ Education Code Section 17074.25 and Section 1859.79.2 for modernization projects, and Education Code Section 17072.14 for projects with additional hazardous waste removal costs required by the DTSC. The audit will also assure that the district complied with all ~~site acquisition~~ guidelines as provided in Sections 1859.74, 1859.74.1, 1859.74.2, 1859.74.4, 1859.75 and 1859.75.1 and all hazardous waste removal guidelines as provided in Sections 1859.74.2, 1859.74.3, 1859.74.4 , 1859.75.1 and 1859.81.1.

An adjustment in the SFP grant will be made for the following:

(a) The difference in the value of the site and the hazardous waste removal costs originally ~~that were~~ used to determine the New Construction Additional Grant for Hazardous Waste Removal and the actual amount paid by the district for the site, the relocation cost, the DTSC fees, and the allowable costs for hazardous waste ~~materials~~ removal.

(b) For 50 percent of any insurance proceeds collectable by the district for displaced facilities and 50 percent of the net proceeds available from the disposition of displaced facilities pursuant to Section 1859.82(a) or (b).

(c) The difference in the hazardous waste removal costs originally ~~that was~~ used to determine the New Construction Additional Grant for Hazardous Waste Removal on an Existing Site and the actual amount paid by the district for the DTSC fees and the allowable costs for hazardous waste ~~materials~~ removal.

(d) The difference in the hazardous waste removal costs originally used to determine the New Construction Additional Grant for Hazardous Waste Removal for Leased Sites and the actual amount paid by the district for the DTSC fees and allowable costs for hazardous waste removal.

(e) The amount paid by the district for the DTSC fees and allowable costs for hazardous waste removal, if no New Construction Additional Grant for Hazardous Waste Removal was originally requested.

When the OPSC receives the final expenditure report from the district on Form SAB 50-06, an audit of the expenditures by the OPSC shall commence within two years of the report. If the district is not notified by the OPSC within the two-year period that an audit will be made, there will be no audit of the project by the OPSC and the expenditures reported by the district shall be deemed appropriate. If the district has been notified that an audit of the expenditures will be made by the OPSC, the OPSC shall complete the audit within six months of the notification, unless additional information requested from the district has not been received.

Districts shall be required to maintain all appropriate records that support all district certifications and expenditures for all costs associated with SFP, Charter School, and Joint-Use projects for a period of not less than four years from the date the notice of completion is filed for the project in order to allow other agencies, including, without limitation, the Bureau of State Audits and the State Controller to perform their audit responsibilities.

The district is responsible to substantiate expenditures from the Joint-Use Partner(s) financial contribution pursuant to Section 1859.127 and from other local sources.

Should the OPSC conduct an audit of the district certifications or the expenditures for the project and make a finding that some or all of the expenditures were not made in accordance with the provisions of Education Code Section 17072.35 for new construction projects, Section 1859.120 for Joint-Use Projects, Section 1859.140 for Critically Overcrowded School projects, Section 1859.160 for Charter School projects, ~~and~~ Education Code Section 17074.25 and Section 1859.79.2 for modernization projects, and Education Code Section 17072.14 for projects with additional costs imposed by the DTSC, the OPSC shall recommend to the Board that the apportionment be adjusted based on the audit findings. Upon adoption of the audit findings by the Board, the district must submit a warrant for any amount identified as being owed within 60 days of the Board action. If this does not occur, the OPSC shall initiate collection procedures from the School Fund Apportionment as outlined in Education Code Section 17076.10(c).

Should the CDE make a finding that a project did not meet the standards that were adopted by the CDE pursuant to Education Code Section 17251 (b) and (c) when the district had self-certified that the project met those standards pursuant to Education Code Section 17070.50 (b), the Board may request that the CDE make a recommendation that the apportionment for the project be adjusted based on the CDE finding. Any adjustment in the apportionment shall be based on the percentage of space in the project that the CDE determined did not meet those standards. Upon adoption of the finding by the Board, the district must submit a warrant for any amount identified as being owed within 60 days of the Board action. If this does not occur, the OPSC shall initiate collection procedures from the School Fund Apportionment as outlined in Education Code Section 17076.10 (c).

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17070.35, 17070.50, 17072.14, 17072.18, 17072.35, 17074.25, 17076.10, 17077.40, 17078.52 and 17251, Education Code.

State Allocation Board Implementation Committee
January 8, 2004

# CHANGES TO THE JOINT-USE PROGRAM (SB 15)

At the December 5, 2003 State Allocation Board (SAB) Implementation Committee meeting, changes to the School Facility Program (SFP) Joint-Use Program based on Senate Bill 15 were discussed. Listed below are the significant issues that were discussed at the meeting:

*Alterations to Types*

Staff explained that the previous Type I and Type II have been combined into a new Type I. A facility to provide for pupil academic achievement will no longer be acceptable under the new Type I under the new law. The new Type II allows for the construction of a new joint-use facility or the reconfiguration of existing school buildings to provide certain minimum essential facilities (MEF) under a grandfathering provision. In order to qualify under the grandfathering provisions, plans and specifications must be accepted by the Division of the State Architect by January 1, 2004.

*Reconfigure Defined and Proposed Implementation*

Staff presented various examples of reconfiguration scenarios, and defined the parameters in which it can occur. The OPSC staff met with its legal counsel and has determined that Joint-Use funds may be used for reconfiguration, as well as, any necessary replacement of displaced classrooms or other MEF. For purposes of SFP Joint Use Program, "reconfiguration" means remodeling an existing school building within its current confines and/or the expansion of the square footage of the existing building and any necessary replacement of displaced classrooms or other MEF. The replacement of classrooms or MEF must be part of the plans submitted in support of the Joint-Use Application, must occur concurrently and can not be part of a SFP application for new construction.

*Joint-Use Partner Contribution*

The Committee was advised that the state and local contribution to a joint-use project remains 50/50; however, the joint-use partner contribution has been reduced to a minimum of 25 percent. In addition, the District can opt to pay the full 50 percent local share of eligible costs if the District has passed a bond, which specifies that the monies are to be used specifically for the purposes of the joint-use project. It was clarified that matching share for financial hardship districts will not be provided by the State.

*Application Submittals and Apportionments*

A question came up as to how projects would be transitioned between current and new regulations. Since Joint-Use applications are funded on a yearly cycle, the regulations have been modified to clarify that all applications received in the funding cycle will be approved under the regulations in effect at the time of the SAB approval.

Attached is the final draft of the proposed regulations.

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# ATTACHMENT A

PROPOSED AMENDMENTS TO THE SFP JOINT-USE PROGRAM
SB 15 AND OTHER REGULATORY AMENDMENTS
State Allocation Board Implementation Committee Meeting, January 8, 2004

Section 1859.2. Definitions.

"Reconfigure" for the purposes of the joint use program means remodeling an existing school building within its current confines and/or the expansion of the square footage of the existing building and any necessary replacement of displaced classrooms or other minimum essential facilities.

~~"Type III Joint-Use Project" means a project that meets the criteria of Education Code Section 17077.40(b)(3).~~

Section 1859.73.1. New Construction Additional Grant for Project Assistance.

Excluding Joint-Use Projects, the Board shall provide, in addition to any other funding authorized by these Regulations, $3,750 for Small School Districts for the cost necessary for project assistance.

For Type ~~III~~ II Joint-Use Projects, not part of a qualifying SFP Modernization project, the Board shall provide, in addition to any other funding authorized by these Regulations, $3,750 for Small School Districts for the cost necessary for project assistance.

The amount(s) shown will be adjusted annually based on the change in the Class B Construction Cost Index as approved by the Board each January. The base Class B Construction Cost Index shall be 1.37 and the first adjustment shall be January 2001.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17072.10, Education Code.

Section 1859.81. Financial Hardship.

Except for Joint-Use Projects, a ~~A~~ district is eligible for financial hardship to fund all or a portion of its matching share requirement after demonstrating both of the following:

(a) The district is financially unable to provide all necessary matching funds for an eligible project. To determine this, an analysis shall be made of the district's financial records by the OPSC including data and records maintained by the CDE and the County Office of Education. The analysis shall consist of a review of the district's latest Independent Audit regarding funds available from all capital facility accounts, including, but not limited to, developer fees, funds generated from capital facility certificates of participation, federal grants, redevelopment funds, sale proceeds from surplus property, the appraised value of facilities approved for replacement pursuant to Section 1859.82, bond funds either encumbered, unencumbered or authorized but unsold, and savings from other SFP projects. All funds thus identified that have not been expended or encumbered by a contractual agreement for a specific capital outlay purpose prior to the initial request for financial hardship status shall be deemed available as a matching contribution.

After the initial request for financial hardship status is granted, no further encumbrances will be approved by the OPSC and all prospective revenue made available to the district's capital facility accounts shall be deemed available as matching contribution on the subsequent financial hardship review, with the exception of:

(1) Approved interim housing expenditures.
(2) Funding to pay for previously recognized multi-year encumbrances approved at the initial financial hardship approval.

(3) Funding that is transferred into a Special Reserve Fund and is used for the express purpose of the Federal Renovation Program when the amount expended out of that fund does not exceed the maximum Federal Renovation Grant amount.
(4) All other capital facility funding for a period of three years when no subsequent financial hardship request is made during this period. The three-year period begins with the date of the most recent financial hardship new construction or modernization adjusted grant funding apportionment.

The financial hardship analysis is subject to approval by the Board.

(b) From the funds deemed available as a matching contribution, the district may retain $19,776 per classroom in each enrollment reporting period for the cost to provide interim housing for the currently unhoused pupils of the district. The amount shown shall be adjusted annually in the manner prescribed in Section 1859.71. The number of classrooms needed for interim housing for the currently unhoused pupils shall be the sum of the positive numbers determined in (b)(7) as follows:
(1) Determine the current enrollment of the district by grade level as shown on the latest Form SAB 50-01.
(2) Determine the New Construction Grants apportioned by grade level for all SFP projects and LPP funded under the provisions of Sections 1859.12 or 1859.13 where the district has submitted Form SAB 50-06 indicating that the project is 100 percent complete.
(1) Subtract (b)(2) from (b)(1).
(2) Determine the number of classrooms by grade level reported in Part 1, Line 8 on Form SAB 50-02.
(3) Multiply the classrooms determined in (b)(4) by 25 for K-6, 27 for 7-12, 13 for Non-Severe and 9 for Severe.
(4) Subtract the product determined in (b)(5) from the difference determined in (b)(3) by grade level.
(5) Divide the difference by grade level determined in (b)(6) by 25 for K-6, 27 for 7-12, 13 for Non-Severe and 9 for Severe and round up to the nearest whole number.

From the funds deemed available as a matching contribution, the district may also retain $19,776 per portable toilet unit in each reporting period for the cost to provide necessary interim toilet facilities for the currently unhoused pupils of the district. The amount shown shall be adjusted annually in the manner prescribed in Section 1859.71. The number of toilet facilities needed for interim housing shall be the sum of the positive numbers determined in (b)(7) divided by eight rounded up to the nearest whole number.

If the district's available funds, as determined by the OPSC analysis less costs for interim housing, is less than its matching share, the district will be deemed to have met the requirements of this Subsection.

(c) The district has made all reasonable efforts to fund its matching share of the project by demonstrating it is levying the developer fee justified under law or an alternative revenue source equal to or greater than the developer fee otherwise justified under law at the time of request for hardship and the district meets at least one of the following:
(1) The current outstanding bonded indebtedness of the district, at the time of request for financial hardship status, is at least 60 percent of the district's total bonding capacity. Outstanding bonded indebtedness includes that part of general obligation bonds, Mello-Roos Bonds, School Facility Improvement District Bonds and certificates of participation which the district is paying a debt service that was issued for capital outlay school facility purposes.
(2) The district had a successful registered voter bond election for at least the maximum amount allowed under Proposition 39 within the previous two years from the date of request for financial hardship status. The proceeds from the bond election that represent the maximum amount allowed under the provisions of Proposition 39 must be used to fund the district's matching share requirement for SFP project(s).
(3) It is a County Superintendent of Schools.
(4) The district's total bonding capacity at the time of the request for financial hardship status is $5 million or less.
(5) Other evidence of reasonable effort as approved by the SAB.

If the district's request for financial hardship status is denied by the Board, the district may be deemed eligible for rental payments of $2,000 per year per classroom under the Emergency School Classroom Law of 1979 for a two year period when relocatable classroom buildings are available and the district provides financial documentation that it is unable to afford the full rental amount and any other information satisfactory to the Board that the rental reduction is necessary. The number of classrooms eligible for the $2,000 rental payments shall be the sum of the numbers determined in (c)(5)(B) as follows:

(A) Determine the number of pupils by grade level that the district requested a New Construction Grant on the Form SAB 50-04 that were denied financial hardship status.

(B) Divide the number by grade level determined in (c)(5)(A) by 25 for K-6, 27 for 7-12, 13 for Non-Severe and 9 for Severe and round up to the nearest whole number.

If the district meets the financial hardship requirements in this Section, the amount of financial hardship is equal to the district's matching share less funds deemed available in (a).

Once a district has been notified by the OPSC that it meets the requirements of financial hardship in this Section, the district may file Form SAB 50-04 under the provisions of financial hardship anytime within a period of 180 calendar days from the date of the OPSC notification.

If the district does not submit Form SAB 50-04 under the provisions of financial hardship within 180 calendar days of the OPSC notification of approval of financial hardship status, the district must re-qualify for financial hardship status under the provisions of this Section by submittal of a new request for financial hardship status.

If the district submits Form SAB 50-04 within 180 calendar days of the OPSC notification of approval of financial hardship and the project(s) has been included on an unfunded list for more than 180 calendar days, a review of the district's funds pursuant to (a) will be made to determine if additional district funds are available to fund the district's matching share of the project(s).

Financial hardship approval status by the OPSC for a separate design and/or site apportionment does not apply to any subsequent funding for the project(s).

Note: Authority cited: Sections 17070.35 and 17075.15, Education Code.

Reference: Sections 17075.10 and 17075.15, Education Code.

Section 1859.83. Excessive Cost Hardship Grant.

In addition to any other funding authorized by these Regulations, a district is eligible for funding as a result of unusual circumstances that created excessive project costs beyond the control of the district. The Excessive Cost Hardship Grant shall be based on any of the following:

(a) Excessive Cost due to Geographic Location.
A district with a project that is located in a geographic area designated in the Geographic Percentage Chart below is eligible for the sum of the Excessive Cost Hardship Grant(s) determined by multiplying the indicated percentage factor shown in the Geographic Percentage Chart below by each of the following amounts:

(1) The New Construction Grant and the Modernization Grant.

(2) The funding provided by Sections 1859.71.2, 1859.71.3, 1859.72, 1859.73, 1859.73.2, 1859.78.4, 1859.78.5, 1859.82(a) and (b), 1859.83(b), (c), (d) and (f) and 1859.125(a).

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GEOGRAPHIC PERCENTAGE CHART

| COUNTY | % FACTOR | DESCRIPTION |
|---|---|---|
| Alpine | 5 | The entire county. |
| Amador, Eastern Part | 5 | All of Amador County except the portion lying west of a line drawn five miles east of, and paralleling State Highway 49. |
| Butte, Eastern Part | 5 | All of Butte County except that portion lying west of a line drawn ten miles east of, and paralleling State Highway 99. |
| Calaveras, Eastern Part | 5 | All of Calaveras County except that portion lying west of State Highway 49. |
| Del Norte | 5 | The entire county. |
| El Dorado, Eastern Part | 15 | That portion lying east of a north-south line drawn 25 miles west of the Nevada State Line and north to the county line and south to State Highway 88. |
| El Dorado | 5 | El Dorado County except the eastern part and the following areas:<br>• West of a line drawn six miles east of and paralleling State Highway 49.<br>• Within five miles of either side of U.S. highway 50 from the western county line to a point on the eastern limit of the community of Pollock Pines.<br>• West of a line drawn three miles easterly from and paralleling a certain county road described as the Pleasant Valley Road which connects the community of Aukum with Diamond Springs and with the city of Plymouth. |
| Fresno, Eastern Part | 5 | All of Fresno County lying east of a line drawn ten miles east of, and paralleling the west boundary of the Sierra National Forest. |
| Glenn, Western Part | 5 | All of Glenn County except that portion lying east of a line drawn ten miles west of, and paralleling Interstate Highway 5. |
| Humboldt, Redwood Highway | 5 | That portion of Humboldt County situated within five miles of the Redwood Highway (U.S. 101) except for that portion situated within ten miles of the Redwood Highway from the northern boundary of the community of Trinidad to the southern boundary of the community of Rio Dell. |
| Humboldt, State Highway 299 and Vicinity | 5 | That portion of Humboldt County situated within five miles of State Highway 299 and State route 96, except for those portions situated within ten miles of the Redwood Highway (U.S. 101) from the northern boundary of the community of Trinidad to the southern boundary of the community of Rio Dell. |
| Humboldt, Southeastern Part | 15 | That portion of Humboldt county adjacent to or east of, the road between Harris to Blocksburg to a point ten miles north of Blocksburg. |
| Humboldt, Residual Area | 10 | All areas of Humboldt County not classified in other cost groups except for that portion situated within ten miles of the Redwood Highway from the northern boundary of the community of Trinidad to the southern boundary of the community of Rio Dell. |
| Imperial | 5 | The entire county. |
| Inyo, Southeastern Part | 20 | That portion of Inyo County situated east of the western boundary of the Death Valley National Monument from the northern boundary of said national monument to the southern boundary of the county. |
| Inyo, Residual Area | 5 | All of Inyo County except the southeastern part described above. |
| Kern, Eastern Part | 5 | That portion of Kern County lying east of a north-south line drawn through the eastern boundary of the town of Tehachapi. |

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| COUNTY | % FACTOR | DESCRIPTION |
|---|---|---|
| Lake | 5 | The entire county. |
| Lassen, Southern Part | 10 | That portion of Lassen County lying south of an east-west line drawn through a point ten miles north of Susanville. |
| Lassen, Northern Part | 15 | All of Lassen County except the southern part described above. |
| Los Angeles, Santa Catalina Island only | * | The entire Santa Catalina Island. |
| Madera, Central Part | 5 | That portion of Madera County lying between a line drawn ten miles west of, and paralleling the western boundary of the Sierra National Forest and a line drawn ten miles east of and paralleling the western boundary of the Sierra National Forest. |
| Madera, Eastern Part | 5 | All of Madera County except the western part and the central part described above. |
| Mariposa, Eastern Part | 5 | All of Mariposa County except that portion lying west of:<br>• A line drawn five miles east of, and paralleling State Highway 49 from the northern county line to Mormon's Bar; and<br>• A line drawn ten miles west of, and paralleling the western boundary of the Sierra National Forest from a point due east of Mormon's Bar to the southern county line. |
| Mendocino, Fort Bragg Area | 10 | Those portions of Mendocino County lying west of the Southern Redwood Highway Area, and south of the Ten Mile River. |
| Mendocino, Northern Redwood Highway Area | 5 | That portion of Mendocino County situated within five airline miles of the Redwood Highway (U.S. 101) from a point ten miles north of the Willits City Hall to the northern boundary of the county. |
| Mendocino, Residual Area | 10 | Those portions of Mendocino County not otherwise classified except that portion situated within ten airline miles of the Redwood Highway (U.S. 101) from a point ten miles north of the Willits City Hall to the southern boundary of the county. (Comprises the Northeastern part of the county and the coastal strip in the northwestern part). |
| Modoc | 15 | The entire county. |
| Mono | 20 | The entire county. |
| Monterey, Southern Part | 5 | All Monterey County except that portion lying north of an east-west line beginning on the coast two miles south of the City of Carmel and extending due east to the eastern boundary of the county. |
| Nevada | 5 | That portion of Nevada County not included in the Eastern Part. |
| Nevada, Eastern Part | 15 | That portion lying east of a north-south line drawn 25 miles west of the Nevada State Line and north to the county line and south to the county line. |
| Placer, Eastern Part | 15 | That portion lying east of a north-south line drawn 25 miles west of the Nevada State Line and north to the county line and south to the county line. |
| Placer, Northeastern Part | 5 | All of Placer County except the Eastern Part and the following:<br>• Within five miles of either side of State Highway 65 from the southern boundary of the county and the northern limit of the community of Lincoln.<br>• Five miles either side of Interstate 80 from the southern boundary of the county and the northern limit of the community of Penryn.<br>• West of a line drawn five miles east of, and paralleling State Highway 49.<br>• Within five miles of either side of Interstate 80 between the northern limit of the community of Penryn and the northern limit of the community of Colfax. |

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| COUNTY | % FACTOR | DESCRIPTION |
|---|---|---|
| Plumas | 5 | The entire county. |
| Riverside, Eastern Part | 20 | That portion lying east of a north-south line drawn 50 miles west of the Arizona State Line and north to the county line and south to the county line. |
| Riverside, Central Part | 5 | That portion of Riverside County lying east of a north-south line drawn through the intersection of Interstate 10 and Fields Road extending from the southern county line of Riverside County, north to the southern county line of San Bernardino County to the Eastern Part of the County. |
| San Benito, Southern Part | 5 | All of San Benito County except that portion lying north of an east-west line drawn across the county from a point two miles south of the community of Paicines. |
| San Bernardino, Northeastern Part | 5 | That portion of San Bernardino County lying north and east of an east-west line drawn two miles north of Oro Grande, extending from the western boundary of the county to its intersection with the northerly extension of, and thence along a line drawn through the following points: A point five miles east of Victorville, the eastern edge of the communities of Running Springs and Camp Angelus then due south to the San Bernardino County line. |
| San Bernardino, Eastern Part | 20 | That portion lying east of a north-south line drawn 150 miles west of the Arizona State Line and north to the county line and south to the county line. |
| San Diego, Northeastern Part | 10 | That portion of San Diego County lying east of a north-south line drawn ten miles east of the community of Julian, said line extending from the northern boundary of the county to its intersection with an east-west line extending from the eastern boundary of the county to its intersection with the aforesaid north-south line, said east-west line being at its closest point, three miles due north of the community of Mount Laguna. |
| San Mateo, Southwestern Part | 5 | That portion of San Mateo County lying more than two miles westerly from the nearest point on Skyline Boulevard and south of an east-west line drawn through a point two miles north of the community of Montara. |
| Santa Cruz, Northwestern Part | 5 | That portion of the Santa Cruz County lying northerly and westerly from a line drawn from a point one mile north of Swanton on the coast through a point one mile north of Brookdale and situated more than two miles from the nearest point on the eastern boundary of the county. |
| Shasta, except Valley Area | 5 | All of Shasta County except that portion lying south of Shasta Lake and situated within ten miles of Interstate Highway 5. |
| Sierra | 5 | The entire county. |
| Siskiyou, Central Part | 15 | That portion of Siskiyou County situated within ten miles of U.S. Highway 97 from Grass Lake to the Oregon State Line. |
| Siskiyou, Salmon River | 25 | All of the drainage area of the Salmon River (including the North and South Forks) except that portion situated within the Somes Bar Area described below. |
| Siskiyou, Somes Bar Area | 20 | Those portions of the drainage areas of the Salmon and Klamath Rivers located within the boundaries of the Junction Elementary School District. |
| Siskiyou, Western Part | 15 | That portion of Siskiyou County lying westerly from a line drawn ten miles west of and parallel to Interstate 5, except the Somes Bar and Salmon River areas described above. |
| Siskiyou, Yreka and Residual Area | 5 | All of Siskiyou County except the Salmon River, Somes Bar and Western areas described above. |
| Sonoma, Northwestern | 5 | That portion of Sonoma County enclosed by a line following the northern boundary of the county from the Pacific Ocean to a point 15 miles inland, thence southerly to |

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| COUNTY | % FACTOR | DESCRIPTION |
|---|---|---|
| Part | | a point two miles west of the community of Los Lomas, thence southerly to a point on the coast two miles south of the community of Fort Ross, thence northerly along the coast line to the northern boundary of the county. |
| Tehama, Residual Area | 5 | All of Tehama County except those portions situated within ten miles west of Interstate Highway 5 from the north county line to the southern county line; within ten miles east of Interstate Highway 5 from the north county line southward to a point east of Red Bluff, thence within ten miles east of and paralleling State Highway 99 southward to the county line. |
| Trinity, Residual Area | 15 | All of Trinity County except the State Highway 299 area described below. |
| Trinity, State Highway 299 | 10 | That portion of Trinity County situated within five miles of State Highway 299. |
| Tulare, Eastern Part | 5 | That portion of Tulare County lying east of a north-south line drawn through the western limits of the community of Silver City. |
| Tuolumne, Eastern Part | 5 | All of Tuolumne County except that portion lying west of State Highway 49. |
| Yuba, Northeastern Part | 5 | All of Yuba County except that portion lying west of a line drawn ten miles east of, and paralleling State Highway 65 and that portion lying south of a line drawn three miles north of, and paralleling State Highway 20. |

*As specifically approved by the Board.

(b) Excessive Cost for Projects that House No More than 200 Pupils (Small Size Projects).

(1) Excluding Joint-Use Projects, if the project will house less than 101 pupils, the district is eligible for an Excessive Cost Hardship Grant equal to 12 percent of the funding provided by the New Construction Grant or 12 percent of the funding provided by the Modernization Grant.

(2) Excluding Joint-Use Projects, if the project will house between 101 and 200 pupils, the district is eligible for an Excessive Cost Hardship Grant equal to four percent of the funding provided by the New Construction Grant or four percent of the funding provided by the Modernization Grant.

(3) A Type I Joint-Use Project and a Type II, part of a qualifying SFP Modernization project, Joint-Use Project is eligible for an Excessive Cost Hardship Grant equal to:

(A) 12 percent of the funding provided by Section 1859.125(a) if the ~~Q~~qualifying SFP New Construction or Modernization ~~P~~project pursuant to Section 1859.123 or 1859.123.1 will house less than 101 pupils.

(B) Four percent of the funding provided by Section 1859.125(a) if the ~~Q~~qualifying SFP New Construction or Modernization ~~P~~project pursuant to Section 1859.123 or 1859.123.1 will house between 101 and 200 pupils.

(4) A Type ~~III~~ II Joint-Use Project, not part of a qualifying SFP Modernization project, is eligible for an Excessive Cost Hardship Grant equal to eight percent of the funding provided by Section 1859.125(a).

(c) Excessive Cost to Construct a New School Project.

If the project is for a new elementary, middle or high school on a site with no existing school facilities the district is eligible for a New Construction Excessive Cost Hardship Grant equal to the difference in the amount provided by the New Construction Grant and the amount shown below, based on the number of classrooms, including classrooms used for Individuals with Exceptional Needs, in the project:

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| Class-rooms in project | Elementary School | Middle School | High School |
|---|---|---|---|
| 1 | $160,000 | $674,000 | $1,466,000 |
| 2 | $377,000 | $756,000 | $1,525,000 |
| 3 | $566,000 | $840,000 | $1,885,000 |
| 4 | $717,000 | $932,000 | $2,205,000 |
| 5 | $842,000 | $1,028,000 | $2,428,000 |
| 6 | $1,021,000 | $1,125,000 | $2,651,000 |
| 7 | $1,202,000 | $1,222,000 | $2,874,000 |
| 8 | $1,341,000 | $1,328,000 | $3,046,000 |
| 9 | $1,341,000 | $1,440,000 | $3,184,000 |
| 10 | $1,577,000 | $1,553,000 | $3,321,000 |
| 11 | $1,577,000 | $1,666,000 | $3,459,000 |
| 12 | $1,660,000 | | $3,585,000 |
| 13 | | | $3,709,000 |
| 14 | | | $3,833,000 |
| 15 | | | $3,958,000 |
| 16 | | | $4,082,000 |
| 17 | | | $4,207,000 |
| 18 | | | $4,331,000 |
| 19 | | | $4,455,000 |
| 20 | | | $4,580,000 |
| 21 | | | $4,704,000 |
| 22 | | | $4,828,000 |

The amounts shown above will be adjusted annually in the manner prescribed in Section 1859.71.

Any Excessive Cost Hardship Grant provided under this subsection for a new school project shall be offset against future New Construction Grant funds provided for that same school. The amount of the offset shall be determined by dividing the additional New Construction Grant pupil request by the difference in the New Construction Grant pupil request when the initial Excessive Cost Hardship Grant was made and 325 for an elementary school, 324 for a middle school, and 621 for a high school project and multiplying the quotient by the Excessive Cost Hardship Grant funds provided under this subsection for that project.

(d) Excessive Cost Due to Urban Location, Security Requirements and Impacted Site.

(1) Excluding Joint-Use Projects, the district is eligible for an Excessive Cost Hardship Grant if the district had a project that was previously approved by the DSA, and prior to January 22, 2003, has received SAB approval for a time extension for substantial progress and if the useable site acreage for the project is:

(A) at least 50 percent but less than 75 percent of the site size recommended by the CDE for the master planned project capacity. The New Construction Excessive Cost Hardship Grant is equal to eight percent of the New Construction Grant and eight percent of the funding authorized by Sections 1859.73.2 and 1859.83(b) and (c).

(B) at least 30 percent but less than 50 percent of the site size recommended by the CDE for the master planned project capacity. The New Construction Excessive Cost Hardship Grant is equal to 15 percent of the New Construction Grant and 15 percent of the funding authorized by Sections 1859.73.2 and 1859.83(b) and (c).

(C) less than 30 percent of the site size recommended by the CDE for the master planned project capacity. The New Construction Excessive Cost Hardship Grant is equal to 50 percent of the New Construction Grant and 50 percent of the funding authorized by Sections 1859.73.2 and 1859.83(b) and (c).

(D) less than 30 percent of the site size recommended by the CDE for the master planned project capacity.

(2) Excluding Joint-Use Projects, the district is eligible for an Excessive Cost Hardship Grant if all of the following conditions are met, as applicable:

(A) the Useable Acres of the site for the project are 60 percent or less of the CDE recommended site size based on:

1. the current CBEDS Report at the existing site, if any, at the time of the CDE final plan approval for the project, if any, plus the greater of the Net School Building Capacity of the final new construction project plans submitted to the DSA as calculated in Education Code Section 17071.25(a)(2) or the pupil grants requested in the COS or Charter School project. The Useable Acres will include the existing site that is being utilized for this project plus any additional acreage to be acquired as a part of the Application.
2. the current CBEDS Report at the site at the time of the CDE final plan approval for the modernization project.

(B) at least 60 percent of the classrooms in the construction plans are in multistory facilities for any type of new construction project.

(C) the value of the site being acquired for a new construction project on a new site is at least $750,000 per Useable Acre.

(3) If the criteria in (d)(2) are met, the Excessive Cost Hardship Grant:

(A) for new construction is equal to 15 percent of the New Construction Grant and 15 percent of the funding authorized by Sections 1859.73.2 and 1859.83(b) and (c) for a project with a site that is 60 percent of the CDE recommended site size plus 1.166 percent for each percentage decrease in the CDE recommended site size below 60 percent. In no event shall the amount provided in this subsection for a new construction project on a new site exceed 50 percent of the cost avoided with the purchase of a site smaller than the CDE recommended site size for the number of the pupil grants requested in the Application determined as follows:

1. The current estimated value of the project site as determined in Section 1859.74.6(a)(1).
2. Divide the amount in (A)1. by the number of Useable Acres.
3. Multiply the quotient in (A)2. by the number of Useable Acres recommended by CDE for the number of pupils described in Section 1859.83(d)(2)(A)1.
4. Subtract the value in (A)1. from the product in (A)3.
5. Multiply the difference in (A)4. above by 50 percent.

(B) for modernization is equal to 15 percent of the Modernization Grant and 15 percent of the funding authorized by Section 1859.83(b) for a project with a site that is 60 percent of the CDE recommended site size plus 0.333 percent for each percentage decrease of the CDE recommended site size below 60 percent.

(4) For Joint-Use Projects, the district is eligible for an Excessive Cost Hardship Grant if:

(A) the Type I ~~or II~~ Joint-Use Project's ~~Q~~qualifying SFP New Construction ~~P~~project pursuant to Section 1859.123 qualifies for an Excessive Cost Hardship Grant under Section 1859.83(d)(2) and (3)(A).

(B) The Type II Joint-Use Project's qualifying SFP Modernization project pursuant to Section 1859.123.1 qualifies for an Excessive Cost Hardship Grant under Section 1859.83(d)(2) and (3)(B).

~~(B)~~ (C)The Useable Acres at the existing school site where the Type ~~III~~ II Joint-Use Project, not part of a qualifying SFP Modernization project, is to be constructed are 60 percent or less of the CDE recommended site size based on the existing enrollment at the site.

(5) If the criteria in (d)(4)(A) or (C) are met, the Joint-Use Project Excessive Cost Hardship Grant is equal to 15 percent of the funding provided by Section 1859.125(a) for a project with a site that is 60 percent of the CDE recommended site size plus 1.166 percent for each percentage decrease in the CDE recommended site size below 60 percent. For a Type I ~~or II~~ Joint-Use Project when the ~~Q~~qualifying SFP New Construction ~~P~~project involves new construction on a new site, in no event shall the amount provided in this subsection exceed 50 percent of the cost avoided with the purchase of a site smaller than the CDE recommended site size for the ~~Q~~qualifying SFP New Construction ~~P~~project pursuant to Section 1859.123 as calculated in Section 1859.83(d)(3)(A).

(6) If the criteria in (d)(4)(B) are met, the Joint-Use Project Excessive Cost Hardship Grant is equal to 15 percent of the funding provided by Section 1859.125(a) for a project with a site that is 60 percent of the CDE recommended site size plus 0.333 percent for each percentage decrease in the CDE recommended site size below 60 percent.

(e) Excessive Cost for rehabilitation of facilities the Board has determined are a health and safety risk to the pupils pursuant to Section 1859.82 (a) (1) and the cost/benefit analysis to mitigate the problem and remain in the facility is less than 50 percent of the Current Replacement Cost of the facility. If the district qualifies, the district is eligible for funding of rehabilitation costs as a modernization project. If the Approved Application is received on or before April 29, 2002, the grant amount provided is 80 percent of the amount of the cost estimate required in Section 1859.82 (a) (1) that has been reviewed by the OPSC and approved by the Board. If the Approved Application is received after April 29, 2002, the grant amount provided is 60 percent of the amount of the cost estimate required in Section 1859.82(a) (1) that has been reviewed by the OPSC and approved by the Board. The district may be eligible for the funding provided to initiate and enforce a LCP as prescribed in Section 1859.78.1.

(f) Excessive cost due to handicapped access and fire code requirements:

(1) The district is eligible for a Modernization Excessive Cost Hardship Grant equal to three percent of the Modernization Grant for handicapped access and fire code requirements.

(2) The district is eligible for a Modernization Excessive Cost Hardship Grant of:

(A) $80,000 for each new two-stop elevator required to be included in the project by the DSA if the Approved Application was received on or before April 29, 2002.

(B) $60,000 for each new two-stop elevator required to be included in the project by the DSA if the Approved Application is received after April 29, 2002.

The amounts shown in (A) and (B) above shall be adjusted annually in the manner prescribed in Section 1859.78.

(3) The district is eligible for a Modernization Excessive Cost Hardship Grant of:

(A) $14,400 for each additional stop of the new elevator required in (2) above if the Approved Application was received on or before April 29, 2002.

(B) $10,800 for each additional stop of the new elevator required in (2) above if the Approved Application was received after April 29, 2002.

The amounts shown in (A) and (B) above shall be adjusted annually in the manner prescribed in Section 1859.78.

Note: Authority cited: Sections 17070.35 and 17075.15, Education Code.

Reference: Sections 17074.15, 17074.16, 17075.10, 17075.15, 17077.40, 17077.42 and 17077.45, Education Code.

## Article 10. Fund Release and Priority Points

### Section 1859.90. Fund Release Process.

With the exception of an apportionment made pursuant to Sections 1859.81.1(c) or 1859.81.2, the OPSC will release State funds that have been apportioned by the Board to the district after submittal, by the district, of the Form SAB 50-05. With the exception of an apportionment made for a Type ~~III~~ II Joint-Use Project, not part of a qualifying SFP Modernization project, pursuant to Article 12 of these Regulations, a district must submit the Form SAB 50-05, within 18 months of the Apportionment of the SFP grant for the project or the entire New Construction Adjusted Grant, Modernization Adjusted Grant or Type I or II, part of a qualifying SFP Modernization project, Joint-Use Project apportionment shall be rescinded without further Board action, and the pupils housed in the project, if applicable, will be added back to the district's baseline eligibility. The district may refile a new application for the project subject to district eligibility and priority funding at the time of resubmittal.

If the apportionment was made for a Type ~~III~~ II Joint-Use Project, not part of a qualifying SFP Modernization project, pursuant to Article 12 of these Regulations, the district must submit Form SAB 50-05 within 18 months of the date the plans and specifications for the Joint-Use Project that have been approved by the DSA and the CDE are submitted to the OPSC or the apportionment shall be rescinded without further Board action.

The OPSC will release State funds that have been apportioned by the Board pursuant to Section 1859.81.1(c) to the district within 30 calendar days of the apportionment.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17072.12, 17072.30, 17074.15, 17076.10, 17077.40, 17077.42 and 17077.45, Education Code.

## Article 12. Joint-Use Project Grant Determination

### Section 1859.120. General (Joint-Use Project Funding).

A district seeking Joint-Use Project funding pursuant to the provisions of Education Code Section 17077.40, shall complete and file Form SAB 50-07.

If the Joint-Use Project will serve more than one grade configuration or the Joint-Use Project will serve multiple public school sites, the Joint-Use Project eligibility and funding will be determined based on the highest grade level served by the facility.

Note: Authority cited: Sections 17070.35 and 17075.15, Education Code.

Reference: Section 17077.40, Education Code.

### Section 1859.121. Joint-Use Project Application Submittals and Apportionments.

The Board shall accept Approved Applications for Joint-Use Funding on a yearly basis as follows:

(a) For any funding made available for this purpose by May 31, 2003, applications will be accepted from November 5, 2002 through May 31, 2003. The Board will apportion the funding made available by May 31, 2003 at the July 2003 Board meeting.

(b) For any additional funding that is made available for this purpose beginning June 1, 2003 and thereafter, the Board will accept applications from June 1 of the prior calendar year through May 31 of the current calendar year for any funding made available for this purpose by May 31 of each year. The Board will apportion the funding made available by May 31 of each year at the following July Board meeting based on the SFP regulations in effect at that time.

Note: Authority cited: Sections 17070.35 and 17075.15, Education Code.

Reference: Sections 17077.40, 17077.42 and 17077.45, Education Code.

### Section 1859.122. Type I Joint-Use Program Eligibility Criteria.

A district requesting funding for a Type I Joint-Use Project may submit Form SAB 50-07 to the OPSC if all the following criteria are met:

(a) The plans and specifications for the Type I Joint-Use Project are included in the plans and specifications for a new school or an addition to an existing public school for which the district has requested SFP new construction funding.

(b) The Type I Joint-Use Project will be located on the same site where the SFP new construction project is located.

(c) The Type I Joint-Use Project will ~~provide facilities to be used~~ increase the square footage and/or Extra Cost for ~~any of the following:~~ any of the following proposed facilities included in the SFP new construction project:

(1) ~~To improve pupil Academic Achievement.~~ A multipurpose room.

(2) ~~To provide Teacher Education.~~ A gymnasium.

(3) A Childcare facility.

(4) A library.
(5) A Teacher Education facility.
(d) At least one of the Joint-Use Partner(s) is an institution of Higher Education, a governmental agency, or a non-profit organization. Other Joint-Use Partner(s) may be a county office of education or another district provided the funds contributed by those agencies pursuant to Section 1859.127 are not otherwise available for other SFP projects.
(e) The district has entered into a Joint-Use Agreement that meets the criteria in Education Code Section 17077.42.
(f) The district has joint-use square footage eligibility pursuant to Section 1859.124(a). or has demonstrated that it will incur Extra Cost pursuant to Section 1859.125.1.
(g) The construction contract for the Type I Joint-Use Project was not executed prior to April 29, 2002.
(h) The plans and specifications for the Type I Joint-Use Project have been approved by the DSA.
(i) The plans for the Type I Joint-Use project have been approved by the CDE.

Note: Authority cited: Sections 17070.35 and 17075.15, Education Code.

Reference: Sections 17077.40, 17077.42 and 17077.45, Education Code.

Section 1859.122.1. Type II Joint-Use Program Eligibility Criteria.

A district requesting funding for a Type II Joint-Use Project may submit an Form 50-07 to the OPSC if all the following criteria are met:
(a) If the Joint-Use Project proposes to Reconfigure an existing school building, then the plans and specifications for the Type II Joint-Use Project are may be included in the plans and specifications for a new school or an addition modernization to an existing public school for which the district has requested SFP new construction modernization funding. If the Joint-Use Project will be part of a qualifying SFP Modernization project, then the Type II Joint-Use Project will be located on the same site where the SFP modernization project is located and the site does not have the type of facility for which the Joint-Use Funding is requested or the facility is Inadequate.
(b) The Type II Joint-Use Project will be located on the same site where the SFP new construction project is located. If the Joint-Use Project proposes to construct new school buildings, then the project will be located on an existing school site that does not have the type of facility for which the Joint-Use Funding is requested or the facility is Inadequate.
(c) The Type II Joint-Use Project will increase the square footage and/or Extra Cost of any of the following proposed facilities included in the SFP new construction project: The Type II Joint-Use Project will either Reconfigure an existing school building or construct new school buildings, and will provide facilities to be used for any of the following:
(1) A multipurpose room.
(2) A gymnasium.
(3) A childcare facility.
(4) A library.
(5) A Teacher Education facility.
(d) At least one of the Joint-Use Partner(s) is a governmental agency, an institution of Higher Education or a Non-Profit Organization. The Joint-Use Partner(s) may be a county office of education or another district provided the funds contributed by those agencies pursuant to Section 1859.127 are not otherwise available for other SFP projects.
(e) The district has entered into a Joint-Use Agreement that meets the criteria in Education Code Section 17077.42.
(f) The district has demonstrated it has joint-use square footage eligibility pursuant to Section 1859.124(b) or that it will incur Extra Cost pursuant to Section 1859.125.1.
(g) The construction contract for the Type II Joint-Use Project was not executed prior to April 29, 2002.

(h) The plans and specifications for the Type II Joint-Use Project, to reconfigure existing school buildings as part of a qualifying SFP project, have been approved by the DSA and the CDE.
(i) The Preliminary Plans for the Type II Joint-Use Project, to either reconfigure existing school buildings, construct new school buildings, or both, have been approved by the CDE.

Reconfiguring an existing school building must not reduce the district's capacity or displace another minimum essential facility. In any case involving the replacement of capacity or a minimum essential facility due to the reconfiguration of an existing building, the replacement must be part of the plans submitted in support of the Joint-Use Application, must occur concurrently, and cannot be part of a SFP Application for new construction.

Note: Authority cited: Sections 17070.35 and 17075.15, Education Code.

Reference: Sections 17077.40, 17077.42 and 17077.45, Education Code.

Section 1859.122.2. ~~Type III Joint-Use Program Eligibility Criteria.~~ Additional Type II Joint-Use Program Eligibility Criteria for Pupil Academic Achievement.

A district requesting funding for a Type ~~III~~ II Joint-Use Project that will Reconfigure existing school buildings, construct new school buildings, or both to provide for pupil Academic Achievement may submit ~~a~~ Form 50-07 to the OPSC if ~~all~~ the ~~following~~ criteria in sections 1859.122.1(a), 1859.122.1(b), 1859.122.1(d), 1859.122.1(e), 1859.122.1(f), and 1859.122.1(g) 1859.122.1(h), and 1859.122.1(i) are met and the plans and specifications were accepted by the DSA for review and approval prior to January 1, 2004.

~~(a) The Type III Joint-Use Project will be located at an existing public school that does not have the type of facility for which the Joint-Use Funding is requested or the facility is Inadequate.~~
~~(b) The Type III Joint-Use Project will provide facilities to be used for any of the following:~~
~~(1) To improve pupil Academic Achievement.~~
~~(2) To provide Teacher Education.~~
~~(3) A multipurpose room.~~
~~(4) A gymnasium.~~
~~(5) A library.~~
~~(6) A childcare facility.~~
~~(c) At least one of the Joint-Use Partner(s) is:~~
~~(1) An institution of Higher Education if the Type III Joint-Use Project will provide facilities that improve pupil Academic Achievement or provide Teacher Education.~~
~~(2) A governmental agency, an institution of Higher Education or a Non-Profit Organization if the Type III Joint-Use Project will provide facilities to be used as a multipurpose room, a gymnasium, a library or a childcare facility. The Joint-Use Partner(s) may be a county office of education or another district provided the funds contributed by those agencies pursuant to Section 1859.127 are not otherwise available for other SFP projects.~~
~~(d) The district has entered into a Joint-Use Agreement that meets the criteria in Education code Section 17077.42.~~
~~(e) The district has joint-use square footage eligibility pursuant to Section 1859.124(c).~~
~~(f) The construction contract for the Type III Joint-Use Project was not executed prior to April 29, 2002.~~
~~(g) The Preliminary Plans for the Type III Joint-Use Project have been approved by the CDE.~~

~~If the Joint-Use Project will serve more than one grade configuration or the Joint-Use Project will serve multiple public school sites, the Joint-Use Project eligibility and funding will be determined based on the highest grade level served by the facility.~~

Reconfiguring an existing school building must not reduce the district's capacity or displace another minimum essential facility. In any case involving the replacement of capacity or a minimum essential facility due to the reconfiguration of an existing building, the replacement must be part of the plans submitted in support of the Joint-Use Application, must occur concurrently, and cannot be part of a SFP Application for new construction.

Note: Authority cited: Sections 17070.35 and 17075.15, Education Code.

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Reference: Sections 17077.40, 17077.42 and 17077.45, Education Code.

Section 1859.123. Qualifying SFP New Construction Project.

For purposes of meeting the requirements in Section~~s~~ 1859.122(a) ~~or 1859.122.1(a)~~, the district may combine the plans and specifications of its Joint-Use Project with any of the following new construction applications:

(a) A new construction funding request that is submitted at the same time as the Joint-Use Project application.

(b) An Approved Application for new construction funding that has not yet received an approval (i.e., not yet on the Unfunded List) if all the following criteria are met:

(1) The plans and specifications for the Joint-Use Project were not included in the original DSA approved plans and specifications for the Approved Application for new construction funding.

(2) The original DSA approved plans and specifications for the Approved Application for new construction funding are modified to incorporate the plans and specifications for the Joint-Use Project.

(3) The district has withdrawn the Approved Application for new construction funding pursuant to Section 1859.107 for the benefit of adding a Joint-Use Project.

(4) A revised new construction funding application and the Joint-Use Project application are resubmitted to the OPSC at the same time.

(c) An Approved Application for new construction funding that has been approved, but has not received a full apportionment (i.e., currently on the Unfunded List) or has been fully funded, if all the following criteria are met:

(1) The plans and specifications for the Joint-Use Project were included in the original DSA approved plans and specifications for the Approved Application for new construction funding.

(2) The contract for the construction of the Joint-Use Project was not executed prior to April 29, 2002.

(3) The district entered into a joint-use agreement prior to the approval of the Approved Application for new construction funding that meets or will be amended to meet the criteria of Education Code Section 17077.42 and:

~~(A) If the request is for a Type I Joint-Use Project, at least one of the Joint-Use Partner(s) is an institution of Higher Education.~~

~~(B) If the request is for a Type II Joint-Use Project, at least one of the Joint-Use Partner(s) is a governmental agency, an institution of Higher Education or a Non-Profit Organization.~~

(4) The Joint-Use Project application is submitted separately. There is no requirement that the Approved Application for new construction be withdrawn from the Unfunded List.

Note: Authority cited: Sections 17070.35 and 17075.15, Education Code.

Reference: Sections 17077.40, 17077.42 and 17077.45, Education Code.

Section 1859.123.1 Qualifying SFP Modernization Project.

For purposes of meeting the requirements in Sections 1859.122.1(a) or 1859.122.2, the district may combine the plans and specifications of its Joint-Use Project with any of the following modernization applications:

(a) A modernization funding request that is submitted at the same time as the Joint-Use Project application.

(b) An Approved Application for modernization funding that has not yet received an approval (i.e., not yet on the Unfunded List) if all the following criteria are met:

(1) The plans and specifications for the Joint-Use Project were not included in the original DSA approved plans and specifications for the Approved Application for modernization funding.

(2) The original DSA approved plans and specifications for the Approved Application for modernization funding are modified to incorporate the plans and specifications for the Joint-Use Project.

(3) The district has withdrawn the Approved Application for modernization funding pursuant to Section 1859.107 for the benefit of adding a Joint-Use Project.

(4) A revised modernization funding application and the Joint-Use Project application are resubmitted to the OPSC at the same time.

(c) An Approved Application for modernization funding that has been approved, but has not received a full apportionment (i.e., currently on the Unfunded List) or has been fully funded, if all the following criteria are met:
(1) The plans and specifications for the Joint-Use Project were included in the original DSA approved plans and specifications for the Approved Application for modernization funding.
(2) The contract for the construction of the Joint-Use Project was not executed prior to April 29, 2002.
(3) The district entered into a joint-use agreement prior to the approval of the Approved Application for modernization funding that meets or will be amended to meet the criteria of Education Code Section 17077.42 and:
(4) The Joint-Use Project application is submitted separately. There is no requirement that the Approved Application for modernization be withdrawn from the Unfunded List.

Note: Authority cited: Sections 17070.35 and 17075.15, Education Code.

Reference: Sections 17077.40, 17077.42 and 17077.45, Education Code.

Section 1859.124. Joint-Use Project Square Footage Eligibility.

With the exception of funding requests for Extra Cost of a Type ~~II~~ I Joint-Use Project, the district must have square footage eligibility in order to submit an application for Joint-Use Project funding. Depending on the type of Joint-Use Project, the square footage eligibility is calculated as follows:
~~(a) If the funding request is for a Type I Joint-Use Project, the square footage eligibility is the amount determined in the Square Footage Chart shown in Section 1859.124.1.~~
~~(b)~~ (a) If the funding request is for a Type ~~II~~ I Joint-Use Project, the square footage eligibility is calculated as follows:
(1) Determine the total square footage of the joint-use facility for which Joint-Use Project funding is requested.
(2) Determine the square footage for the type of joint-use facility for which Joint-Use Project funding is requested in the Square Footage Chart shown in Section 1859.124.1.
(3) Determine the square footage eligibility by subtracting the amount determined in ~~(b)~~(a)(2) from the amount determined in ~~(b)~~(a)(1). If a negative number results, the square footage eligibility is zero.
~~(c)~~ (b) If the funding request is for a Type ~~III~~ II Joint-Use Project, the square footage eligibility is calculated as follows:
(1) Determine the total square footage of any existing like-kind joint-use facilities at the same site where the Joint-Use Project facility will be located.
(2) Determine the square footage for the type of joint-use facility for which Joint-Use Project funding is requested in the Square Footage Chart shown in Section 1859.124.1.
(3) Multiply the amount in ~~(c)~~(b)(2) by 60 percent.
(4) If the amount determined in ~~(c)~~(b)(1) is greater than the amount determined in ~~(c)~~(b)(3), the square footage eligibility is zero. If the amount determined in ~~(c)~~(b)(1) is equal to or less than the amount determined in ~~(c)~~(b)(3), the square footage eligibility is the amount determined in ~~(c)~~(b)(2).

Note: Authority cited: Sections 17070.35 and 17075.15, Education Code.

Reference: Sections 17077.40, 17077.42 and 17077.45, Education Code.

Section 1859.124.1. Square Footage Facility Chart.

Use the Chart below to determine square footage for purposes of Section 1859.124. The three columns to the left of the Chart indicate the facility types that may be funded under a Type I~~,~~ or Type II ~~or Type III~~ Joint-Use Project.

DRAFT

| CHART OF SQUARE FOOTAGES (In Square Feet) | | | | | | |
|---|---|---|---|---|---|---|
| **Type I** | **Type II** | **~~Type III~~** | **Facility Type** | **Elementary School** K-6, K-8 | **Middle School** 7-8 or 6-8 (on Separate Campus) | **High School** 7-12 or 9-12 (on Separate Campus) |
| X | X | ~~X~~ | Multi-purpose Room (includes food service) | 5.3 per pupil Minimum 4,000 | 5.3 per pupil Minimum 5,000 | 6.3 per pupil Minimum 8,200 |
| X | X | ~~X~~ | Gymnasium (includes shower/locker) | 12.9 per pupil* Minimum 6,828* Maximum 16,000* | 12.9 per pupil Minimum 6,828 Maximum 16,000 | 15.3 per pupil Minimum 8,380 Maximum 18,000 |
| X | X | ~~X~~ | Library | 2.3 per pupil plus 600 | 3.3 per pupil plus 600 | 4.3 per pupil plus 600 |
| X | X | ~~X~~ | Teacher Education** ~~or Pupil Academic Achievement**~~ | 39 per pupil or as approved by CDE | | |
| | X | | Pupil Academic Achievement*** | 39 per pupil or as approved by CDE | | |
| X | X | ~~X~~ | Childcare | 60 per child - Minimum 1,440 | | |

*Available only if there is no multipurpose room or the existing multipurpose room is inadequate on the campus and the Joint-Use Agreement includes gymnasium space rather than a multipurpose room.
** Subject to the CDE approval.
*** Subject to the CDE approval. Plans and specifications must accepted by the DSA for review and approval prior to January 1, 2004.

(a) If the Joint Use Project requests funding for a multi-purpose room, gymnasium or library, multiply the amounts shown for the type of facility proposed in the Joint-Use Project by either (1) or (2) below:
(1) If the funding request is for a Type ~~II~~ I Joint-Use Project, the sum of the latest CBEDS enrollment at the site and the number of pupil grants requested in the ~~Q~~qualifying SFP New Construction ~~P~~project pursuant to Section 1859.123.
(2) If the funding is for a Type ~~III~~ II Joint-Use Project, the latest CBEDS enrollment at the site.
(b) If the Joint Use Project requests funding for Teacher Education or Pupil Academic Achievement, multiply the amounts shown, or the amounts approved by the CDE, by the number of pupils that will receive specialized training for teacher education and/or academic achievement.
(c) If the Joint Use Project requests funding for a childcare facility, multiply the amounts shown by the number of children that will receive services.

Note: Authority cited: Sections 17070.35 and 17075.15, Education Code.

Reference: Sections 17077.40, 17077.42 and 17077.45, Education Code.

Section 1859.125. Joint-Use Project Grant Determination Based on Square Footage.

If the funding request is to construct square footage, the Joint-Use Grant is the lesser of the amount determined in (a) or (b):
(a) The sum of the amounts determined below:
(1) $173.30 for the Toilet Facilities in the Joint-Use Project as calculated in (a)(1)(B) below:
(A) Divide the eligible square footage of the Joint Use Project as determined in Section 1859.124 by the total square footage of the joint-use facility.

(B) Multiply the quotient determined in (a)(1)(A) by the Toilet Facilities in the joint-use facility.
(2) $96.30 for non-Toilet Facilities in the Joint-Use Project as calculated in (a)(2)(B) below.
(A) Divide the eligible square footage of the Joint Use Project as determined in Section 1859.124 by the total square footage of the joint-use facility.
(B) Multiply the quotient determined in (a)(2)(A) by the non-Toilet Facilities in the joint-use facility.
(3) 50 percent of site development work that meets the following criteria:
(A) It is necessary and applicable to the Joint-Use Project.
(B) It meets the requirements for service site development or utility costs as outlined in Section 1859.76(a) and/or (c). Off-site development work is not allowed as part of a Joint-Use Project; however, if off-site development work is necessary pursuant to Section 1859.76(b) for ~~either~~ a Type I ~~or II~~ Joint-Use Project, the district may request the eligible off-site work under the ~~Q~~qualifying SFP New Construction ~~P~~project pursuant to Section 1859.123.
(C) It is considered excessive site development costs and not eligible for funding under the ~~Q~~qualifying SFP New Construction or Modernization ~~P~~project pursuant to Section 1859.123 or 1859.123.1.
(b) $1 million if the Joint-Use Project will be located on a school site that is or will be serving Elementary School Pupil(s). $1.5 million if the Joint-Use Project will be located on a school site that is or will be serving Middle School Pupil(s). $2 million if the Joint-Use Project will be located on a school site that is or will be serving High School Pupils.

If the district is requesting funding for site development work applicable to the Joint-Use Project, the district must submit a detailed cost estimate and appropriate DSA approved plans, with the Form SAB 50-07. The cost estimate must include appropriate justification documents that indicate the work is necessary to complete the Joint-Use Project and conform to the requirements of Section 1859.76.

Utility service(s) cost shall be prorated, if necessary, for any excess capacity not needed to service the Joint-Use Project.

The dollar amounts shown in (a) are adjusted in a manner prescribed in Section 1859.71 and are eligible for Excessive Cost Hardship Grant(s) pursuant to Section 1859.83 (a), (b) and (d). The district may be eligible for the funding provided to initiate and enforce a LCP as prescribed in Section 1859.71.4.

The Joint-Use Grant amounts provided in this Section and Section 1859.125.1, if applicable, shall be deemed the full and final apportionment for the application. Any costs incurred by the district beyond the Joint-Use Grant amount and the Joint-Use Partner(s) and district financial contribution pursuant to Section 1859.127, shall be the responsibility of the district and/or the Joint-Use Partner(s).

Note: Authority cited: Sections 17070.35 and 17075.15, Education Code.

Reference: Sections 17077.40, 17077.42 and 17077.45, Education Code.

Section 1859.125.1. Additional Type ~~II~~ I Joint-Use Project Extra Cost Grant.

In addition to the square footage Joint-Use Grant provided in Section 1859.125, a Type ~~II~~ I Joint-Use Project may receive funding for Extra Cost equal to the lesser of (a) or (b):
(a) An amount determined by subtracting (a)(2) from (a)(1):
(1) The sum of the following:
(A) 50 percent of the estimated cost to construct the Joint-Use Project.
(B) 50 percent of site development work that meets the following criteria:
1. It is necessary and applicable to the Joint-Use Project.
2. It meets the requirements of Section 1859.76(a) and/or (c).
3. It is considered excessive site development costs and not eligible for funding under the ~~Q~~qualifying SFP New Construction ~~P~~project pursuant to Section 1859.123.

4. The district did not receive funding for the site development work under Section 1859.125.
(2) The sum of the following:
(A) $173.30 for the Toilet Facilities in the Joint-Use Project.
(B) $96.30 for the non-Toilet Facilities in the Joint-Use Project.
(b) An amount determined by subtracting (b)(2) from (b)(1):
(1) $1 million if the Joint-Use Project will be located on a school site that is or will be serving Elementary School Pupil(s). $1.5 million if the Joint-Use Project will be located on a school site that is or will be serving Middle School Pupil(s). $2 million if the Joint-Use Project will be located on a school site that is or will be serving High School Pupils.
(2) The Joint-Use Grant amount determined in Section 1859.125 based on square footage, if applicable.

If the district is requesting funding for site development work applicable to the Joint-Use Project, the district must submit a detailed cost estimate and appropriate DSA approved plans with the Form SAB 50-07. The cost estimate must include appropriate justification documents that indicate the work is necessary to complete the Joint-Use Project and conform to the requirements in Section 1859.76.

Utility service(s) cost shall be prorated, if necessary, for any excess capacity not needed to service the Joint-Use Project.

The amounts shown in (a) are adjusted in a manner prescribed in Section 1859.71. The district may be eligible for the funding provided to initiate and enforce a LCP as prescribed in Section 1859.71.4.

The Joint-Use Grant amount provided in this Section and Section 1859.125, if applicable, shall be deemed the full and final apportionment for the application. Any costs incurred by the district beyond the Joint-Use Grant amount and the Joint-Use Partner(s) <u>and district</u> financial contribution pursuant to Section 1859.127, shall be the responsibility of the district and/or the Joint-Use Partner(s).

Note: Authority cited: Sections 17070.35 and 17075.15, Education Code.

Reference: Sections 17077.40, 17077.42 and 17077.45, Education Code.

Section 1859.126. Joint-Use Project Funding Priority and Funding Availability.

In each application acceptance period, the Board shall fund eligible Joint-Use Projects as follows:
(a) Type I Joint-Use Projects in the following order:
(1) By date order received for the applications the districts have designated as first funding priority.
(2) By date order received for the applications the districts have designated as second funding priority and so on until all Type I Joint-Use Project applications have been apportioned.
(b) Type II Joint-Use Projects in the following order:
(1) By date order received for the applications the districts have designated as first funding priority.
(2) By date order received for the applications the districts have designated as second funding priority and so on until all Type II Joint-Use Project applications have been apportioned.
~~(c) Type III Joint-Use Projects in the following order:~~
~~(1) By date order received for the applications the districts have designated as first funding priority.~~
~~(2) By date order received for the applications the districts have designated as second funding priority and so on until all Type III Joint-Use Project applications have been apportioned.~~

If a Joint-Use Project cannot be fully apportioned because of the funding available, the district may either accept the available funding as the full and final apportionment for the project or refuse funding. If funding is refused, the application will be returned to the district and the Board shall consider funding the next project eligible for an apportionment based on the above funding priority mechanism.

Any Joint-Use Project not considered for an apportionment because of the above funding priority mechanism shall be returned to the district. A district may resubmit a returned Joint-Use Project application during the subsequent application acceptance period identified in Section 1859.121(b), if the application meets the eligibility criteria at the time of re-submittal.

Any funds not apportioned in the application acceptance period identified in Section 1859.121(a) or any Joint-Use Project funds returned due to projects being rescinded or reduced to cost incurred shall be made available for apportionment in the application acceptance period identified in Section 1859.121(b).

Note: Authority cited: Sections 17070.35 and 17075.15, Education Code.

Reference: Sections 17077.40, 17077.42 and 17077.45, Education Code.

Section 1859.127. Joint-Use Partner(s) Financial Contribution.

~~The Joint-Use Partner(s) is required to make~~ A financial contribution towards the cost of the Joint-Use Project equal to the state funding provided by these Regulations is required. ~~Any funding provided by the Joint-Use Partner(s) cannot be funds that would otherwise be available to the district.~~ The contribution made by the Joint-Use Partner(s) shall be no less than 25 percent of eligible project costs. The remaining local contribution may come from any other district source that would not otherwise be available to the State Allocation Board. If the school district has passed a local bond which specifies that such funds are to be used for the Joint-Use Project, then the school district may opt to provide up to the full 50 percent local share of eligible costs. Any funding provided by the Joint-Use Partner(s) cannot be funds that would otherwise be available to the district.

Note: Authority cited: Sections 17070.35 and 17075.15, Education Code.

Reference: Sections 17077.40, 17077.42 and 17077.45, Education Code.

Section 1859.129. Time Limit on Apportionment.

(a) If the district received an apportionment for a Type I Joint-Use Project or a Type II, part of a qualifying SFP Modernization project, Joint-Use Project, the district is subject to the time limit on the apportionment as outlined in Education Code Section 17076.10.
(b) If the district received an apportionment for a Type ~~III~~ II Joint-Use Project, not part of a qualifying SFP Modernization project, the district:
(1) Has one year from the date of that apportionment to submit the plans and specifications to the OPSC for the Joint-Use Project that have been approved by the DSA and the CDE (plans only), otherwise the apportionment will be rescinded without further Board action.
(2) Has 18 months from the date the DSA and CDE approved plans were submitted to the OPSC to submit a completed Form SAB 50-05 or the apportionment will be rescinded without further Board action.
(3) Is subject to substantial progress time limit on the apportionment as outlined in Subdivision (b) of Education Code Section 17076.10.

Note: Authority cited: Sections 17070.35 and 17075.15, Education Code.

Reference: Sections 17076.10, 17077.40, 17077.42 and 17077.45, Education Code.

Section 1859.130. Eligible Joint-Use Project Expenditures.

Joint-Use Project Grants shall be expended as set forth in Education Code Section 17072.35 with the exception of site acquisition, including lease of land. When a new site is necessary for a Type I ~~or II~~ Joint-Use Project, the district may request site acquisition costs under the ~~Q~~qualifying SFP New Construction ~~P~~project pursuant to Section 1859.123.

Note: Authority cited: Sections 17070.35 and 17075.15, Education Code.

Reference: Sections 17077.40, 17077.42 and 17077.45, Education Code.

**State Allocation Board Implementation Committee**
**January 8, 2004**

# Lease Lease-Back Agreements
# (Education Code Section 17406)

## Purpose

To discuss the use of lease lease-back agreements (LLB) for project delivery of facilities funded through the School Facility Program (SFP).

## Summary

The use of Education Code Section 17406 as a project delivery method for public school construction projects is growing. Increasingly, districts are interpreting this code section to allow the award of a public works project without competitive bid. Some districts do institute a competitive selection process voluntarily, but many do not. Districts maintain that this alternative is often superior to the standard low-bid procedure generally required by the Public Contracts Code.

The contractual arrangements by which projects are constructed using state bond funding is governed by law and is not generally subject to State Allocation Board regulation or oversight. However, the integrity of the use of general obligation bonds allocated by the SAB must be above reproach. An interpretation of law that would potentially allow billions of dollars of public works projects funded with state bonds to be contracted through a 'sole-source' mechanism should be closely examined. That is the primary purpose of this report.

## Background

Education Code (EC) Sections 17400 through 17425 provide a method for financing school construction. Within that financing method, Education Code (EC) Section 17406 provides a mechanism whereby a district may let district real property to a development entity without competitive bidding if the developer will construct a school facility on the property for the use of the school district. An increasing number of districts are using this approach to construct new facilities and modernize existing facilities without competitive bid. Generally, the districts then request State funding for the purpose of buying out the lease and acquiring the facility.

To date, neither the State Allocation Board (SAB) nor Office of Public School Construction (OPSC) has taken a position on when the use of lease arrangements under EC Section 17406 is appropriate or when the exemption from competitive bidding is valid. It has been the belief and the practice of the OPSC that the obligation to determine the appropriate and legitimate use of any contract delivery method permitted in law rests with the school district. The OPSC has focused instead on providing guidance to those districts that elect to use lease, lease-back agreements to insure that there is no conflict with SFP law and regulations or with statutes relating to the use of the state general obligation bonds.

## Description

Over a period of several years, the OPSC responded to a few individual school district questions on issues related to the use of EC 17406. These responses were intended to guide the districts as to how to structure their agreements so as to avoid conflicts with SFP laws and regulations. Consistent with general OPSC practice, the appropriateness of the use of EC 17406 was not addressed. Without the knowledge of the OPSC, the responses were widely disseminated among school districts and their legal advisors as the OPSC "policy" on lease, lease-back project delivery methods.

As a result of a rapidly increasing number of inquires regarding EC Section 17406, the OPSC became aware that the use of lease, lease-back agreements was growing. For the first time, the OPSC also became aware that such agreements were now in common use on modernization projects, something that had never been previously discussed with the office. Although staff continued to take the position that it was the district's responsibility to determine when it was appropriate and legal to use EC Section 17406 as a project delivery method, staff also became concerned that there was no official SAB position or regulation on any aspect of the issue. To address that, staff began discussions on the use of EC Section 17406 at the Board's Implementation Committee. The discussions were designed as a fact-finding effort to learn about the use of lease lease-back agreements and to develop regulations to solidify the policy statements made over several years of correspondence.

Following four separate Implementation Committee meetings, the OPSC presented proposed changes to the State Allocation Board's regulations concerning the interface of lease, lease-back agreements and the SFP. Again, the regulations focused on largely technical issues and not on when the use of EC 17406 was appropriate. However, the presentation, made in September 2003, did include a report to the SAB regarding the use of lease, lease-back agreements as a delivery method for projects funded under the SFP. It was apparent that this delivery method was being used or considered by a significant number of districts. The OPSC wished to inform the Board that projects constructed using the lease, lease-back method were being presented routinely for funding on consent calendars.

When the item was presented to the SAB, some members expressed concerns about the effect that widespread use of EC Section 17406 might have on the Public Contract Code (PCC) competitive bidding requirements. The SAB declined to take action on the recommended regulation changes and asked that staff prepare further information relating to the issue for consideration at a future meeting.

## The Current Use of EC Section 17406

In broad terms there are currently two types of lease, lease-back arrangements being used to construct state funded projects:

1. The project is financed by the developer/contractor team and the district pays a yearly lease to use the facility. The district makes no other payments to the developer, who carries the outstanding cost of the project. The lease, by law, may be up to 40 years in length. It may include an agreement to terminate the lease at any time.

2. The project is paid in full by the district with state or local funds, or a combination of both. In this case a "lease agreement" may exist, but it is designed to be terminated at the end of the construction. The lease payments, if any, are made during the course of construction and at the completion of the project. They are essentially progress payments as would be found on a traditional construction contract in that they constitute the entire cost of the construction project.

Staff believes that agreements structured as in situation #1 when competitively bid, constitute the intended use of Article 2 and of EC 17406 in particular.

However, staff believes that the vast majority of projects, which received or will receive School Facility Program funding were done under the second scenario. These projects are not financed by the developer/contractor team even for a short period. The projects are paid in full by the district using state and local funds. Since there is no legitimate lease, staff does not believe that Article 2 has any relevance. Please see further discussion in this report.

**The Growing Use of Lease, Lease-Back Agreements**

At the September meeting, the SAB asked staff to quantify the number of projects which have used lease lease-back agreements to deliver projects. This information is not reported to OPSC as a part of the application or funding process. Although it may be a matter of discussion in the closeout audit of an individual project, it is not captured and recorded in a way that would allow a count of the projects. For future reference, the Board may wish to capture this information by modifying the fund release certification received from applicant districts.

The San Diego County Office of Education did survey districts within that county, and as a courtesy, provided Staff with the results. They found that in the last 6 years, 35 to 40 projects were done with lease lease-back. The county estimates that approximately 25% were modernization projects. The County comprises about 10% of the K-12 population.

**Arguments in Favor of the Lease, Lease-Back Delivery Method**

School districts which have used the lease lease-back project delivery method cite the following as reasons for selecting it over the traditional design, bid, and build approach:

- Guaranteed price
  The district is able to negotiate a fixed price for the lease and, if necessary, the purchase price of the project. Unanticipated costs are the responsibility of the contractor / developer, not the school district.
- Team approach
  Districts have expressed the opinion that lease, lease-back allows a team approach to the construction of school facilities. The district, developer and contractor all have an interest in a project completed on time and in budget.
- Known contractor
  Contractors can be selected on the basis of their record of success, recommendations from previous clients and financial strength.
- No experienced staff at district.

Many districts do not have experience with large construction projects. The responsibility for co-ordination of the project, obtaining required approvals, and project scheduling become the contractor / developers, who have demonstrated experience in similar school construction projects.

- Value engineering opportunities
- Contractors and subcontractors come from other industries. Contractors not normally interested in participating in the 'low bid' process may be willing to participate in negotiated contracts as permitted in the lease, lease-back process. This brings new and highly qualified contractors into the school construction arena.

All of the benefits ascribed to the lease, lease-back process are contingent on one thing; avoiding competitive bidding. Many, perhaps most, school district administrators and facility managers consider the competitive bidding process as required under the Public Contracts Code to be problematic. They assert that the process leaves them with little control over the selection of the contractor for the project and places them in financial jeopardy if the contractor selected is unwilling or unable to perform the construction as planned. The lease, lease-back process allows the district to select the contractor / developer based on criteria other than cost.

## Concerns About the Use of the Lease, Lease-Back Delivery Method

While advocates of the use of EC Section 17406 argue that it is less cumbersome than the competitive bidding process and that it allows a team approach to the development of the project, it is important to keep in mind the reasons that competitive bid requirements were added to the Public Contracts Code. The intent was not to make it harder to complete public works projects, but to ensure that State funds were being used in an efficient and cost-effective manner. The goal of the Legislature in enacting the code was[1]:

1. To ensure full compliance with competitive bidding statutes as a means of protecting the public from misuse of public funds, and;
2. To provide all qualified bidders with a fair opportunity to enter the bidding process, thereby stimulating competition in a manner conducive to sound fiscal practices, and;
3. To eliminate favoritism, fraud, and corruption in the awarding of public contracts.

The interpretation and growing use of EC Section 17406 means that significant numbers of projects and significant sums of public funding are not being subjected to the checks and balances of the competitive bid process. Recent interpretations made by some interested in furthering the use of EC Section 17406 are so broad as to make the public contract competitive bid requirements moot, effectively eliminating competitive bidding requirements on all new construction and modernization public school projects whether funded locally or in conjunction with the State program.

In addition to the lack of checks and balances on the selection of contractors, there may be other reasons to proceed cautiously when using lease lease-back arrangements which do not provide a long term financing mechanism for the project.

[1] Public Contracts Code, Section 100

Primary among these is summarized in the Supreme Court majority opinion in The City of Los Angeles v. Offner where the following was stated:

> *"It has been held generally in the numerous cases that have come before this court involving leases and agreements containing options to purchase that if the lease or other agreement is entered into in good faith and creates no immediate indebtedness for the aggregate installments therein provided for but, on the contrary, confines liability to each installment as it falls due and each year's payment is for the consideration actually furnished that year, no violence is done to the constitutional provision. If, however, the instrument creates a full and complete liability upon its execution, or if its designation as a 'lease' is a subterfuge and is actually a sales contract in which the 'rentals' are installment payments on the purchase price for the aggregate of which and immediate and present indebtedness or liability exceeding the constitutional limitation arises against the public entity, the contract is void."*(underlining added)

It appears to the Office of Public School Construction that some of the following circumstances do not exist in all lease lease-back contracts presented for SFP funding and therefore may be in violation of the principle set forth in Offner.

- The lease must be entered into in 'good faith.' Presumably that means that both parties to the agreement intend that a lease arrangement will exist and will be implemented.
- The lease arrangement may not be a subterfuge. Many districts openly admit that they are using lease lease-back contracts for the perceived benefits listed earlier which are only available if there is no competitive bid requirement.
- The agreement may not create an immediate indebtedness beyond each yearly installment. Some agreements require 'pre-lease' or 'rental' in one form or another which amount to the full cost of the facility. It appears that an immediate indebtedness has been created by the agreement.
- The District must own the site on which the project will be constructed. Under EC 17402, the district owns the site if it holds title, has an option to purchase, or is acquiring the site through eminent domain. An arrangement whereby the option to purchase the site is with the developing entity could be construed as a subterfuge to avoid EC 17407. That section allows lease lease-back on property owned by others, but specifically requires competitive bidding of the agreement.

It is possible then that the school construction contract, using a lease agreement that does not meet the standard of the Offner decision, may be invalid, raising the question of the appropriateness of the state funding apportionment.

## The Purpose of EC Section 17406

Education Code Section 17406 reads in part as follows:

> *17406. (a) Notwithstanding Section 17417, the governing board of a school district, without advertising for bids, may let, for a minimum rental of one dollar ($1) a year, to any person, firm, or corporation any real property that belongs to the district if the instrument by which such property is let requires the lessee therein to construct on the demised premises, or provide for the construction*

> *thereon of, a building or buildings for the use of the school district during the term thereof, and provides that title to that building shall vest in the school district at the expiration of that term. The instrument may provide for the means or methods by which that title shall vest in the school district prior to the expiration of that term, and shall contain such other terms and conditions as the governing board may deem to be in the best interest of the school district.*
> (The entire section may be seen in Attachment C.)

Advocates of the use of lease, lease-back agreements argue that the only requirement in EC Section 17406 is that the district owns the property to be developed and that the property be 'let' to the developer for at least $1 per year. Under this circumstance the district is then relieved from the normal PCC competitive bid requirement for the entire construction project. At this point some advocates maintain that a lease, lease-back arrangement is required for the actual buildings, while others believe a simple construction contract is all that is required.

It is the opinion of staff and SAB counsel that either interpretation expands the meaning of EC 17406 beyond its simple intent and ignores other requirements in the same article regarding competitive bid requirements for leases (EC 17417). There is no disagreement that EC 17406 is clear in allowing districts to lease a district owned site to a person, firm or corporation when the lessee agrees to construct buildings for the use of the school district. However, the exemption from public bidding allowed in this section applies only to the property lease from the district to the developer. It does not address how the contract for the construction of the buildings is procured nor does it provide an exemption to competitive bidding for that contract.

If the building to be constructed on the property let to the developer using EC 17406 is to be leased to the district, Staff believes the provisions of EC 17417 *Resolution of governing board declaring intention to enter into lease or agreement; opening and accepting bids*, must be followed. That section specifies that the governing board of a school district …

> *"…shall adopt a resolution declaring its intention to enter into a lease or agreement pursuant to this article…The resolution shall fix a time … at which sealed proposals to enter a lease or agreement with the school district will be received from any person, firm, or corporation, and considered by the governing board…At the time and place fixed in the resolution for the meeting of the governing body, all sealed proposals which have been received shall, in public session, be opened, examined, and declared by the board. Of the proposals submitted which conform to all terms and conditions specified in the resolution of intention to enter a lease or agreement and which are made by responsible bidders, <u>the proposal which calls for the lowest rental shall be finally accepted</u>, or the board shall reject all bids." (underline added.) (The entire section may be found in Attachment C)*

Nothing in EC 17406 provides an exemption from this requirement or, when applicable, from the PCC requirements. Instead, EC 17406 provides exactly what it states: a simple manner to transfer district property without competitive bid to a developer who has been previously selected by competitive bid to construct a building for the use of the district.

## Using EC 17400 et al. As a Financing Mechanism

Education Code Sections 17400 et al., including EC 17406, make up Article 2 of Chapter 4 of Part 10.5 of the Education Code, entitled *Leasing Property*. It describes the requirements imposed on school districts considering the acquisition of school facilities through lease agreements. As confirmed by the Appeals Court ruling in Morgan Hill USD v. Amaroso, the article is about financing. In that case the court stated that, "The Education Code creates the following method for financing school construction." The court then went on to describe EC Sections 39300 through 39325, which are now renumbered as 17400 through 17425. Thus EC 17400 through 17425 is a method of financing school construction in which EC 17406 addresses the mechanism by which the school district can let the property where the construction will take place. Staff believes that virtually none of the projects currently using lease, lease-back arrangements actually have financing provided by the developer. If a "lease agreement" other than the site lease exists at all, it serves no significant purpose other than as a construction contract. The full cost of the project is borne by the district using the normal funds it has available for capital projects. Normal progress payments are made to the contractor through the course of construction, and the project is completely paid for by the district at the project completion. The projects are in every regard typical public works projects, except that they have not been competitively bid.

Since no financing exists in the lease lease-back agreement (or there is no lease agreement at all), the use of Article 2 appears to be inappropriate.

## Competitive Selection Processes

As noted elsewhere in this Report, current interpretations of EC 17406 hold that competitive bidding is not required. However, some districts do use a competitive selection process. While not a 'low bid' selection, the competitive mechanism may include open participation and consideration of cost among other factors.

There are several reasons to have a selection process, even when the district believes that it is not specifically required.

- Helps ensure a competitive cost for the project.
- Allows the district to select the most qualified firm to design and construct the project, based on experience, financial capability, and other factors.
- Provides a public process open to review.
- Allows open participation.

While Staff believes that a low bid requirement already exists for leases, it is clear that school districts do not agree in every case. The legislature may wish to consider the option of requiring a competitive selection process rather than a competitive bid process. To that end, several selection processes already in use follow.

- With the permission of the authors, descriptions of the processes used by the Los Angles Unified School District, the Building Industry Association and recommendations developed by Best Best and Krieger, LLP are attached to this item for reference and comparison (Attachments A-1, A-2, A-3 respectively).

- Legislation governing the use of design build processes (EC Section 17250.25(c)) provides two options for selection of the design / build team: lowest responsible bid or 'best value' selection of prequalified candidates based on a weighted scoring method. The best value method gives the school district flexibility in awarding a project based on factors other than price. The required selection criteria are price, technical expertise, life cycle costs, skilled labor force, and safety record. In addition, the district may consider design approach, project approach, project features, schedule, value engineering and warranty. This process can be time consuming and, in the opinion of some, is fraught with protest opportunities; however, it does provide an open process which assists the district in finding a qualified construction team at a competitive price while also keeping public safeguards in place.

**Lease Lease-Back Arrangements in SFP Projects.**

Regardless of debates about the appropriate use of EC Section 17406 or about whether competitive selection processes should be used, districts are currently using lease lease-back agreements to construction SFP new construction and modernization projects. Amendments to the Board's regulations are needed to advise on several issues as follows:

- The District must have title to the site on which the project will be constructed at the time that the apportionment is approved by the SAB.
- The lease agreement must contain the following provisions or information:
    - The value of the lease.
    - A provision that the title to the improvements on the site shall vest with the District upon completion of the project.
    - A provision that the lease agreement shall terminate within 180 days of the filing of a notice of completion or occupancy of the project by the District, whichever occurs first.
- State bond funds may not be used to make lease or rental payments (EC 17070.71 (c))

These requirements were put into proposed regulations and presented to the SAB at the September 2003 meeting. The proposals may be seen in Attachment B.

**Conclusion**

1. The regulations in Attachment B should be adopted by the State Allocation Board at the earliest opportunity to provide needed guidelines to districts.
2. The State Allocation Board may wish to consider if the current and widespread interpretation that EC Section 17406 exempts projects from competitive selection or bidding processes is appropriate for projects funded from state bonds.

3. State policy makers may wish to investigate the claims by school districts that public agencies need better tools to deliver quality public facilities on time and in budget while also maintaining protections on the use public funds.

4. Legislation should be considered to address the proper use of EC Section 17406 and to clarify, if necessary, the relationship of that section to the entire article on leases in EC Section 17400 through 17425.

**Attachment A-1**

# Los Angeles Unified School District
# Facilities Services Division
# POLICY GUIDELINE

**Facilities Contracts Policy**

## For
## Lease Lease-Back

Original Issue Date:
February 14, 2003

# Los Angeles Unified School District
# Facilities Services Division
# POLICY GUIDELINE

## LEASE LEASE-BACK POLICY

Policy:

Pursuant to California Education Code 17406, the District is authorized to enter into lease with a developer wherein District leases its owned land to a developer for a nominal fee while the developer constructs school facilities. At the completion of the lease term, the title to the facility shall vest in the District. The code section explicitly allows for the selection of the developer without advertising for bid.

While the Code explicitly states that no advertisement for bid is necessary to conduct acquisition under Section 17406, it shall be the policy of Facilities Services Division to conduct a full and open competition *(see Policy CT-OO1)* whenever possible in acquiring and constructing school facilities under Section 17406. A full and open competition results in the best value to the District.

Therefore, any acquisition and construction of facilities under California Code Section 17406 shall be conducted with full and open competition whenever possible using Request for Qualification and or Request for Proposal with a fair selection process based on advertised criteria. The final selection of a developer will be based on the best value provided to the District.

# INTEROFFICE CORRESPONDENCE

Los Angeles Unified School District

**TO:** Members, Facilities Committee
Roy Romer

**DATE:** March 12, 2003

**FROM:** Sam Yoshida
Director, Facilities Contracts

**SUBJECT:** **EDUCATION CODE SECTION 17406 POLICY FOR NEW SCHOOL CONSTRUCTION**

## Background

Pursuant to California Education Code Section 17406, the District is authorized to enter into a lease agreement with a developer wherein a District leases its owned land to a developer for a nominal fee while the developer constructs District facilities. At the expiration of the lease term, or earlier as provided in the contract document, title to the facilities shall vest in the District.

## Decision to Pursue 17406 Procedures

The authority to pursue any District facilities acquisitions through 17406 Procedures shall rest with the Chief Facilities Executive, subject to approval by the School Board. It is the responsibility of the subordinate facilities managers to brief the Chief Facilities Executive with pertinent facts and rationale for recommending the use of California Education Code Section 17406 and to receive his concurrence and the approval of the School Board prior to engaging in any further activities relating to the acquisition.

Any recommendation to utilize the 17406 Procedures shall include the benefits that can be achieved through use of the method as compared to other contracting methods. Any recommendation and briefing shall be documented and remain as part of the contract file.

## Contracting Officer

17406 Procedures shall be through the competitive proposal process, and as such the Chief Facilities Executive shall act as the Contracting Officer (CO). Even though Education Code 17406 does not specifically require competition, it should be noted that the District intends to employ full and open competition for 17406 Procedures whenever possible.

The CO shall be the contracting authority in entering into and concluding the discussions with the proposers and determining the successful proposer. The CO shall approve the Acquisition Plan, which is the strategy that will guide the team through the contracting process. Throughout the competitive proposal process, the CO must be kept informed. The CO shall be the authority to approve the Acquisition Plan, appoint the Acquisition Team and Selection Panel, approve the negotiation memorandum, and approve and execute the final contract.

## Acquisition Team

When authorized by the CO to proceed with the 17406 Procedures, the subordinate facilities managers shall recommend appointment of the Acquisition Team including technical, legal and contracts team members to develop an Acquisition Plan, Request for Proposal (RFP), schedule, and perform other pre-contract functions.

## Acquisition Plan

When approval to pursue 17406 Procedures has been obtained, the Acquisition Team shall prepare an Acquisition Plan. The Acquisition Plan provides the strategy for the 17406 Procedures.

At a minimum, the Acquisition Plan shall address recommendations for:

- RFP selection criteria
- Project-specific adaptation of the District's standard 17406 Procedures contracts
- selection of panel members, including any nonvoting advisors
- description of the evaluation process to establish the competitive range, and
- general "best value" (cost and schedule, etc.) objectives for the procurement.

Upon approval of the Acquisition Plan by the CO, the Acquisition Team will proceed with the procurement process, keeping the CO apprised of the progress.

## Request for Proposal

The Acquisition Team shall develop an RFP that reflects Project-specific scope requirements as well as the following standard set of information: (a) description of the Project, (b) authority under which the solicitation will be issued, (c) the selection criteria, (d) form of response, and (e) other pertinent facts regarding the response to be provided.

## Advertisement

Prior to issuance of the RFP, the Acquisition Team shall advertise in national and or local media the District's intention to contract for the Project through 17406 Procedures, together with pertinent information that will inform the construction and project-development community.

## Contract Documents

The contract documents that set forth the requirements of the lease, construction of the facilities, fee structure, and pertinent terms and conditions for the Project have been jointly developed by the Office of General Counsel and outside legal counsel.

The Acquisition Team, including legal counsel, shall develop the Project-specific contract documents.

## Other Requirements for Contract Documents

There are a number of additional requirements that must be considered in the 17406 Procedures contract documents. They are (a) application of the Project Stabilization Agreement; (b) requirement that the District shall supply inspectors approved by the State of California Division of State Architect (DSA) to inspect the on-going construction work; (c) applicability of Prevailing Wage Rates pursuant to California Labor Code Section 39321; (d) approval of any construction design by the DSA; (e) surety bonds; (f) insurance; and (g) indemnification. These requirements are matters of policy, and the senior management of the Facilities Services Division must be consulted prior to excluding any of the requirements from the contract documents.

## Selection Criteria

Generally, the following selection criteria will be used:

1. Fee structures, which may be Guaranteed Maximum Price (GMP) with savings distribution plan. GMP is the cap that provides cost control for the District, and the

**Selection Criteria – cont'd**

savings distribution plan insures that the District can share in any savings that the proposer may achieve. Incentives such as early completion or exceeding pre- established safety standard can also be used to increase the value provided to the District. Identification of the GMP depends on whether the Project design is sufficiently complete to estimate the cost and the price. Therefore, in some cases the GMP may not be identified at the time of award of the contract. The Acquisition Team may identify other fee structures for consideration by the Contracting Officer.

2. Schedule control system that will enhance the likelihood of timely completion of the project.

3. Design, if required to be completed by the proposer, must also be considered. Experience and ability of the designer, past relationship with the proposer, and any presentation of proposed design scheme may be considered by the Selection Panel.

4. Qualification, experience and financial capability of the development team is a factor to be considered. The experience and qualifications of the construction contractor member of the team shall be a factor to be considered.

5. Plan for utilization of Local Small Business Enterprises (LSBE) must be included as a selection criterion. The minimum LSBE participation goal is 25%, and incentives should be given for higher participation

**Selection Panel**

The Selection Panel, which mayor may not be the same members as the Acquisition Team, will be District employees who have knowledge of design and construction and also include an employee versed in construction contracting processes. Non-voting advisors to the Selection Panel may be made up of non-employees.

**Negotiation Process**

The Selection Panel shall meet and review the proposals by comparing them to the established selection criteria, considering and analyzing the proposals, determining the competitive range based on the analysis, and reporting back to the CO with a recommended competitive range. Once the competitive range is approved by the CO. the Selection Panel shall negotiate with each proposer in the competitive range to achieve, the best value for the District. Once the negotiation is completed, the Selection Panel shall ask for the Best and Final Offer from the proposers and shall recommend the proposer who brings the best value to the District. The recommendation shall be in a form of a negotiation memorandum addressed to the CO and shall discuss pertinent and salient points of negotiation that have taken place with each of the proposers and how the panel settled on the best value recommendation.

**Award of Contract**

When the CO is satisfied that the best value recommendation has been made, he shall - " approve the memorandum of negotiation and have the Facilities Contracts Office finalize the contract documents for execution by the successful proposer, subject to legal concurrence. When the proposer-executed contract documents are returned, they shall be forwarded to the office of Director, Facilities Contracts for review, and then to the Chief Facilities Executive for execution after approval by the School Board.

cc: Members. Board of Education

| | | |
|---|---|---|
| D. Mullinax | J. McConnel1 | R. Sheehan |
| J. Mehula | J. Crain | R. Rasmussen |

**Attachment A-2**

**Draft**
**LEASE LEASE-BACK- BID PROCESS**
***Office of Public School Construction***
**November 24,2003**

1. Protect public from misuse of funds (note: SB 50 is a "grant" program, which protects State and transfers responsibility and liability to District).
2. Provide all qualified bidders with fair opportunity to enter the bidding process, thereby stimulating competition in a manner conducive to sound fiscal practices.
3. Eliminate favoritism, fraud and corruption.

**Pre-Selection of Contractors**

A. Selection process begins only after: (1) the District has retained an Architect of Record who has prepared complete Construction Drawings and Education Specifications; (2) the Construction Drawings and Education Specifications have been approved by the Department of State Architect, California Department of Education and District Governing Board of Education, (3) Site has been approved by the California Department of Education; (4) legal counsel has been retained to review the Request for Qualifications and Request for Proposals; and, (5) the District must have an approved Labor Compliance Program.

B. District and Architect shall select qualified contractors to bid on the Project. This pre-selection process shall be based on each contractor responding to a Request for Qualifications from the District and Architect. The District and Architect shall qualify contractors to bid based on, but not limited to, the following criteria:
   1. Previous successful school projects, especially successful modernization or construction projects located within the district and other Lease Lease Back projects (i.e.contractor is active locally and uses local labor force).
   2. History of contractor to deliver school on time and on budget (reasonable pricing), including history of extra work authorizations/change orders.
   3. Site visits to the contractor's active sites.
   4. 4. Understanding of the Labor Compliance Program and ability to meet prevailing wage requirements.
   5. Interviews with Contractor references.
   6. Current workload and ability to retain the necessary labor force and technical expertise to build a quality school that meets the plan specifications.
   7. Ability to Finance the project, bonding capacity. ability to meet insurance requirements and comments on warranty service and follow-up services.
   8. Technical expertise, including resumes of management team, quality of workmanship standards, history on performance and completion of previous projects, interaction with architects and districts.
   9. Acceptable safety record.

**Bid Process**

A. Once the contractors are pre-selected, the Architect holds a Pre-Bid Meeting to discuss the project. The Bid Package, which includes the Plans and Specifications and proposed Lease Arrangements, are presented to each bidder. Discussions are held in relationship to the project site, schedules, the bid dates and time, Labor Compliance, the contract/lease arrangements, bonding and insurance, roles of the District, Architect, Construction Manager, etc. and any other issues that need discussion.

B. The bidding process begins with the contractors requesting clarifications on issues through a submittal of a Request for Additional Information to the Architect who responds to all bidders in writing.

C. The bids are due by a specific date and time in a predetermined location. The District and the Architect receives the bids and reviews them for completeness of proposal including, but not limited to, the following: (I) Bid Amount; (2) Proposed Lease Lease-Back Agreement; (3) Contractors License Numbers; (4) List of applicable subcontractors and background information on each subcontractor; (5) List of applicable consultants that might be used on the project and background information on each consultant ( e.g. soils" civil, landscape); (6) Non Collusion Statement; (7) Bonding; (8) Designation of Subcontractors list; (9) Certification of Bidder and Qualifications; (10) Designation of Sureties; (11) List of Owners (reference list); (12) Worker's Compensation Certificate; (14) General Liability Insurance and amounts; (14) Tax Payer I.D. Certification; (15) DVBE Certification; (15) time frame/schedule; and, (16) Acknowledgement of Addendum and other relevant information as determined by each district.

D. The Architect and District then proceed to set up Post Bid Interviews to discuss the bid and project. The Post Bid Interview includes, but is not limited to, the following: (1) discussion of the Lease Lease-Back Agreement; (2) discussion on schedules; (3) value engineering; (4) workmanship; (5) site preparedness; (6) site management; (7) bid package components; (8) subcontractors; (9) lead time orders; (10) interaction with other subcontractors; (11) implementation of the Labor Compliance Program; (12) and the Districts and Architects role.

**Award Contract**

After evaluation of the proposals, the District and Architect awards the Lease Lease-Back Contract to the best negotiated bid based on: (1) contractor's ability to meet all the aforementioned criteria; (2) consideration of the "lowest responsible bid"; (3) qualitative *r* assessment ("best value") of the contractor to deliver the best quality school on time and on budget; and, (4) consideration of the best Lease Lease-Back Agreement.

Attachment A-3

**BEST BEST & KRIEGER LLP**
A CALIFORNIA LIMITED LIABILITY PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS
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November 19,2003

*VIA F A CSIMILE* & *U.S. MAIL*

State Allocation Board
Implementation Committee
c/o Bruce B. Hancock
1130 K Street, Suite 400 Sacramento, CA 95814

Re: Suggested Procedures for Lease-Lease Back Projects Dear Mr. Hancock:

Dear Mr. Hancock:

As we discussed at the SAB Implementation Committee meeting earlier this month, below please find a brief summary of the process we recommend to our school district clients that use the provisions of Education Code section 17406 as their chosen construction method.

## I. SELECTION OF LEASE-LEASE BACK ENTITY

### A. NOTICE

As you are aware, Education Code section 17406 authorizes school districts (each, a "District"), without advertising for bids, to enter into a construction agreement and lease with an entity (a "Lease I.ease-Back entity") for the construction of school facilities. \\'hile a District may use the provisions of Section 17406 without advertising for bids, we believe that it is beneficial for a District to select a Lease-Lease Back entity pursuant to an RFQ process and commonly make this recommendation to our District clients. Under this process a District would select a Lease-Lease Back entity on the basis of demonstrated competence for similar construction r projects and on the professional qualifications necessary for the satisfactory performance of the Project. (See, Gov. Code § 4526.) There are no hard and fast rules with regard to providing notice for a public agency RFQ. However, the Public Contract Code, which sets forth the State's requirements for notice of school district construction projects, provides that notice to contractors must be published "once a week for two weeks." (Pub. Contract Code § 20112.)

This published notice must be made in "some newspaper of general circulation published in the district, or if there is no such paper, then in some newspaper of general circulation, circulated in the county. " (Id.) We typically recommend that the notice requirements applicable to construction projects be utilized by

a District to notify potential Lease-Lease Back entities of the District's upcoming Project and its RFQ. Accordingly, the District may publish notice of the issuance of its RFQ in a newspaper of general circulation published within the District's boundaries. If there is no such paper, the District may publish the notice in some newspaper of general circulation published within the County. This notice should be published once a week for two successive weeks.

### B. RFQ REVIEW PANEL

Selection of professionals pursuant to an RFQ process can vary greatly from public agency to public agency. Based on our public agency experience, we suggest to our clients that a District's review panel for the selection of a Lease-Lease Back entity should consist of the following:

- 3 or 5 reviewers (we find that it is best to have an odd number of review panel members).
- At least one of the reviewers should not work for the District. For example, we find that it is beneficial to have a colleague from another public agency sit on the District's review panel. This provides an outsider's perspective.

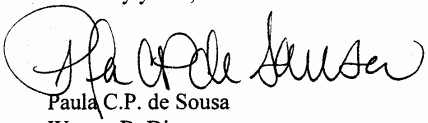
## II. SELECTION OF SUBCONTRACTORS

While nothing requires the selected Lease-Lease Back entity to select subcontractors pursuant to a competitive bidding process, we recommend to our clients that a District require the selected Lease-Lease Back entity, by contract, to select subcontractors through some form of competition. This is due to the fact that the District will be financing the projects with public funds.

There are several variations of language included in Lease-Lease Back contracts regarding competitive selection of subcontractors. Some require that the Lease-Lease Back entity select subcontractors by receiving competitive quotes, while others require strict compliance with the Public Contract Code, unless certain specified circumstances are presented.

Please let us know if you have any questions regarding the above information.

Sincerely yours,



Paula C.P. de Sousa
Warren B. Diven
of BEST BEST & KRIEGER LLP

PDS:seb

## ATTACHMENT B

Potential Regulatory Amendments
Implementation of Lease Lease-Back Regulations
State Allocation Board Implementation Committee Meeting, January 8, 2004

1859.23 SFP Application for Funding of Projects Leased Under the Provisions of Education Code Section 17406.

A district may receive funds for facilities that have been constructed or modernized, or will be constructed or modernized, under a lease agreement pursuant to Education Code 17406 provided that the district has title to the site and all of the following are met:

~~a) The project costs are financed by the developer of the district owned site.~~

a) The lease agreement creates no immediate indebtedness for the aggregate installments and confines the district's liability to each annual installment as it falls due.

~~c) The lease agreement was signed at a time when state funding was not available for the project.~~

b) The lease agreement contains or will contain a purchase option that, when exercised, shall terminate the lease.

c) The title of all improvements shall vest with the district no later than 180 days after either receiving an adjusted grant apportionment from the Board or filing of the last notice of completion for the project, whichever is later.

d) State bonds funds including the district's local matching share required pursuant to Section 1859.77.1 or 1859.79 shall not be used for lease or rental payments on the project.

e) All requirements of Chapter 12.5 have been met including but not limited to compliance with SFP Regulation Section 1859.70 and Labor Code Section 1771.7.

# ATTACHMENT C

CALIFORNIA CODES
**EDUCATION CODE**
Section 17070.71

17070.71. (a) Notwithstanding subdivision (a) of Section 17070.70, new construction or modernization funded pursuant to this chapter may be upon real property leased to the applicant school district if all of the following conditions are met:

(1) The property is leased from another governmental entity.

(2) The term of the lease is for at least 40 years after approval of the project under this chapter, or the school district has a lease for at least 25 years on federal property. The board may authorize a lesser term, of not less than 30 years only if the board finds that granting an exception to this requirement would be in the state's best interest.

(b) The applicant school district, and the facility on leased land, if any, shall comply with all laws pertaining to the construction, reconstruction, or alteration of, or addition to, school sites and school buildings.

(c) Lease costs are not eligible project or site acquisition costs under this chapter.

CALIFORNIA CODES
**EDUCATION CODE Part 10.5, Chapter 4, Article 2**
SECTION **17400**-17429

**17400**. (a) Any school district may enter into leases and agreements relating to real property and buildings to be used by the district pursuant to this article.

(b) As used in this article, "building" includes each of the following:

(1) One or more buildings located or to be located on one or more sites.

(2) The remodeling of any building located on a site to be leased pursuant to this article.

(3) Onsite and offsite facilities, utilities or improvements which the governing board determines are necessary for the proper operation or function of the school facilities to be leased.

(4) The permanent improvement of school grounds.

(c) As used in this article, "site" includes one or more sites, and also may include any building or buildings located or to be located on a site.

17401. As used in this article "lease or agreement" shall include a lease-purchase agreement.

17402. Before the governing board of a school district enters into a lease or agreement pursuant to this article, it shall have available a site upon which a building to be used by the district may be constructed and shall have complied with the provisions of law relating to the selection and approval of sites, and it shall have prepared and shall have adopted plans and specifications for the building that have been approved pursuant to Sections 17280 to 17316, inclusive. A district has a site available for the purposes of this section under any of the following conditions:

(a) If it owns a site or if it has an option on a site that allows the school district or the designee of the district to purchase the site. Any school district may acquire and pay for an option containing such a provision.

(b) If it is acquiring a site by eminent domain proceedings and pursuant to Chapter 6 (commencing with Section 1255.010) of Title 7 of Part 3 of the **Code** of Civil Procedure, the district has obtained an order for possession of the site, and the entire amount deposited with the court as the probable amount of compensation for the taking has been withdrawn.

(c) In the case of a district qualifying under Section 17410, if it is leasing a site from a governmental agency pursuant to a lease having an original term of 35 years or more or having an option to renew that, if exercised, would extend the term to at least 35 years.

17403. The term of any lease or agreement entered into by a school district pursuant to this article shall not exceed 40 years.

17404. Sections 17455 to 17480, inclusive, shall not apply to leases made pursuant to this article.

17405. Any lease or agreement shall be subject to the following requirements:

(a) A building or structure that is to be used for school purposes shall be subject to the provisions of Article 3 (commencing with Section 17280) and Article 6 (commencing with Section 17365). A building or facility used by a school district under a lease or lease-purchase agreement into which neither pupils nor teachers are required to enter or that would be excluded from the definition of "school building," as contained in Section 17368, shall not be considered to be a "school building" within the meaning of Section 17283.

(b) Subdivision (a) shall not apply to trailer coaches used for classrooms or laboratories if the trailer coaches conform to the requirements of Part 2 (commencing with Section 18000) of Division 13 of the Health and Safety **Code**, and the rules and regulations promulgated thereunder concerning mobilehomes, are not expanded or fitted together with other sections to form one unit greater than 24 feet in width, are used for special educational purposes, and are used by not more than 12 pupils at a time, except that the trailer coaches may be used by not more than 20 pupils at a time for driver training purposes.

(c) The site on which a leased relocatable structure is located shall be owned by the school district, or shall be under the control of the school district pursuant to a lease or a permit.

"Relocatable structure" is any structure that is designed to be relocated.

(d) For purposes of interconnection of fire alarms, buildings leased for 24 months or less shall be subject to Section 809 of the Uniform Building **Code** until applicable regulations proposed by the State Fire Marshal are adopted as part of Title 24 of the California **Code** of Regulations.

(e) Notwithstanding any other provision of law, this section shall become operative on September 30, 1997.

17406. (a) Notwithstanding Section 17417, the governing board of a school district, without advertising for bids, may let, for a minimum rental of one dollar ($1) a year, to any person, firm, or corporation any real property that belongs to the district if the instrument by which such property is let requires the lessee therein to construct on the demised premises, or provide for the construction thereon of, a building or buildings for the use of the school district during the term thereof, and provides that title to that building shall vest in the school district at the expiration of that term.

The instrument may provide for the means or methods by which that title shall vest in the school district prior to the expiration of that term, and shall contain such other terms and conditions as the governing board may deem to be in the best interest of the school district.

(b) Any rental of property that complies with subdivision (a) shall be deemed to have thereby required the payment of adequate consideration for purposes of Section 6 of Article XVI of the California Constitution.

17407. The governing board of any school district may enter into an agreement with any person, firm, or corporation under which that person, firm, or corporation shall construct, or provide for the construction of, a building to be used by the district upon a designated site and lease the building and site to the district. The instrument shall provide that the title to the building and site shall vest in the district at the expiration of the lease, and may provide the means or method by which the title to the building and site shall vest in the district prior to the expiration of the lease, and shall contain such other terms and conditions as the governing board of the district deems to be in the best interest of the district.

The agreement entered into shall be with the lowest responsible bidder who shall give the security that any board requires. The board may reject all bids. For the purpose of securing bids the board shall publish at least once a week for two weeks in some newspaper of general circulation published in the district, or if there is no paper, then in some paper of general circulation circulated in the county, a notice calling for bids, stating the proposed terms of the agreement and the time and place where bids will be opened.

17408. The governing board of a school district shall call and hold an election, pursuant to Section 17409 or 17412, before or after entering a lease or agreement, as the case may be, except that if the lease or agreement does not effect an increase in the existing applicable maximum tax rate of the district, the election requirements of this section shall not apply.

17409. Before entering into a lease or agreement pursuant to this article, the governing board of the district shall call, hold, and conduct an election in the manner provided in Section 42202, except that the ballot used in the election shall contain substantially the words: "Shall the governing board of the ____ District purchase (a site, sites) prepare plans and specifications, (the reference to the site or sites and plans and specifications shall not be included if, prior to calling the election, the governing board of the district has acquired a site or sites or proposes to lease a site or sites and has prepared plans and specifications) and lease (a site and, sites and) (a building, buildings) to be constructed for use by the school district (designating the location of the site or sites on which the building or buildings will be constructed and generally describing the building or buildings), and, for such purposes, shall the maximum tax rate of the district be increased by not to exceed ____, such increase to be in effect in the ____ District for the years 19_ to __, be authorized and the amount of such increase used solely and exclusively for such purposes?"

17410. (a) If, at an election held pursuant to Section 17409, or the predecessor to that section, a majority of the electors voting on the proposition voted "Yes," the governing board may call an election pursuant to this section.

Before entering into one or more leases or agreements pursuant to this section and this article, the governing board of the district shall call, hold, and conduct an election in the manner provided in Section 42202 of the **Education Code**, as it existed on December 31, 1979, except that the ballot used in the election shall contain substantially the words: "Shall the governing board of the ____ District purchase (a site, sites) prepare plans and specifications (the reference to the site or sites and plans and specifications shall not be included if, prior to calling the election, the governing board of the district has acquired a site or sites or proposes to lease a site or sites or has prepared plans and specifications) and lease (a site, sites) and (a building, buildings) to be constructed for use by the school district (designating the location of the site or sites on which the building or buildings will be constructed and generally describing the building or buildings) and for those purposes, shall the tax rate increase authorized on (the date of the original election), be used solely and exclusively for those purposes in addition to those approved by the majority of electors at the election held pursuant to Section 17409, or the predecessor to that section, on (the date of the original election)?"

If, at the election held pursuant to this section, a majority of the electors voting on the proposition vote "Yes," the governing board may proceed pursuant to this article to use that previously authorized tax increase for the purpose or purposes authorized under that election.

(b) It is the intent of the Legislature, in enacting this section, to permit the levy of a tax to the extent authorized at an election held pursuant to Section 17409, or the predecessor to that section, as modified to permit the proceeds of that tax to be expended for the purposes authorized at the election held pursuant to subdivision(a).

17411. The governing board of the district, if the district proposes at an election held pursuant to Section 17409 to lease more than one building, may include in the ballot measure used in the election a statement that the district reserves the right to lease less than all of the proposed buildings designated in the ballot measure. If such a statement is included in the ballot measure, the governing board may at any time thereafter determine to not lease one or more of the buildings included in the ballot measure, and such determination shall not breach any obligation of the district to the voters of the district.

17412. An election held pursuant to Section 17409 or Section 17413 shall be held in conjunction with either a statewide primary or general election, or an election date specified in Section 2500 of the Elections **Code**.

17413. In lieu of calling an election pursuant to Section 17409, the governing board of a school district may call an election pursuant to this section. Within 10 days after the governing board has opened the proposals pursuant to Section 17417 or has adopted a resolution pursuant to Section 17418 it may accept a proposal, if proceeding under Section 17417, and execute the lease or agreement, and immediately thereafter call an election pursuant to this section.

The governing board of the district shall call, hold, and conduct an election in the manner provided in Section 42202, except that the ballot used in the election shall contain substantially the words: "Shall the governing board of the ____ District lease (a site (sites) and) a building (buildings) to be constructed for use by the school district (designating the location of the site or sites on which the building or buildings will be constructed, and generally describing the building or buildings and the cost thereof), and, for such purposes, shall the maximum tax rate of the district be increased by not to exceed ____, such increase to be in effect in the ____ District for the years 19__ to ____, be authorized and the amount of such increase used solely and exclusively for such purposes?"

17414. If, at the election held pursuant to Section 17409 or Section 17413, a majority of the electors voting on the proposition vote "Yes," the governing board may proceed pursuant to this article.

17415. Whenever the electors of a school district, at an election held pursuant to Section 17409 or 17413, have approved an increase in the maximum tax rate of the district for the purpose of enabling the district to enter into a lease or agreement for a site or building, or both, and before the lease or agreement is entered into, or during the term of the lease or agreement, territory is taken from the district and annexed to or included in another district by any means, the acquiring district shall automatically assume and shall pay to the district from which the territory is transferred a proportionate share of any remaining payments due under the lease or agreement, as the payments become due, for so long as the lease or agreement runs.

The acquiring district's proportionate share shall be in the ratio which the total assessed valuation of taxable property in the transferred territory bore to the total assessed valuation of taxable property in the whole district from which the territory is transferred for the year immediately preceding the date on which the transfer became effective for all purposes.

This section shall be applicable only with respect to transfers of school district territory which become effective for all purposes after the effective date of enactment of this section, and shall be applicable whether the election under Section 17409 or 17413 occurred prior to or after the effective date of this section.

17416. (a) Unless the time allowed for the governing board to enter into the lease agreement is extended pursuant to subdivision (b), if the governing board of the district fails to enter into a lease pursuant to this article within three years after an election, held pursuant to Section 17409, at which a majority of the votes cast favors the proposition submitted, the authorization for an increase in the maximum tax rate shall become void.

(b) If litigation is filed challenging in any way the election held pursuant to Section 17409 or the competitive bidding proceedings or contract for the construction of the building to be used by the district; compliance with the California Environmental Quality Act; or the validity of or the proceedings for the issuance of any bonds, notes, warrants, or other evidences of indebtedness of a nonprofit corporation to be sold to finance construction of the building, the authorization for an increase in the maximum tax rate shall not become void because of the failure of the governing board to enter into a lease pursuant to this article until three years after the date upon which this subdivision becomes effective.

This subdivision shall apply only to school districts which had an average daily attendance of 65,000 or more in the 1975-76 fiscal year.

17417. After the governing board of a school district has complied with Section 17402, it shall, in a regular open meeting, adopt a resolution declaring its intention to enter into a lease or agreement pursuant to this article. The resolution shall describe, in any manner to identify it, the available site upon which the building to be used by the district shall be constructed, shall generally describe the building to be constructed and state that the building shall be constructed pursuant to the plans and specifications adopted by the governing board therefor, shall, if that is the case, state the minimum yearly rental at which the governing board will lease real property belonging to the district upon which the building is to be constructed, and shall state the maximum number of years for which the school district will lease the building or site and building, as the case may be, and shall state that the proposals submitted therefor shall designate the amount of rental, which shall be annual, semiannual, or monthly, to be paid by the school district for the use of the building, or building and site, as the case may be. The resolution shall fix a time, not less than three weeks thereafter for a public meeting of the governing board to be held at its regular place of meeting, at which sealed proposals to enter a lease or agreement with the school district will be received from any person, firm, or corporation, and considered by the governing board. Notice thereof shall be given in the manner provided in Section 17469.

At the time and place fixed in the resolution for the meeting of the governing body, all sealed proposals which have been received shall, in public session, be opened, examined, and declared by the board. Of the proposals submitted which conform to all terms and conditions specified in the resolution of intention to enter a lease or agreement and which are made by responsible bidders, the proposal which calls for the lowest rental shall be finally accepted, or the board shall reject all bids. The board is not required to accept a proposal, or else reject all bids, on the same day as that in which the proposals are opened.

17418. (a) As an alternative to obtaining sealed proposals as required by Sections 17407 and 17417, the governing board may, in a public meeting, adopt a resolution declaring its intention to enter into a lease or agreement pursuant to this article with a nonprofit public benefit corporation organized under the Nonprofit Public Benefit Corporation Law (Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations **Code**) if the articles of incorporation or bylaws of the nonprofit public benefit corporation provide both of the following:

(1) That no person shall be eligible to serve as a member or director of the corporation except a person initially approved by resolution of the governing board of the school district.

(2) That no part of the net earnings of the corporation shall inure to the benefit of any member, private shareholder, individual, person, firm or corporation excepting only the school district.

(b) The resolution adopted by the governing board shall do all of the following:

(1) Describe, in a manner to identify it, the available site upon which the building to be used by the district shall be constructed.

(2) Generally describe the building to be constructed and state that the building shall be constructed pursuant to the plans and specifications adopted by the governing board therefor.

(3) If that is the case, state the minimum yearly rental at which the governing board will lease real property belonging to the district upon which the building is to be constructed.

(4) State the maximum number of years for which the school district will lease the building, or building and site, as the case may be.

(c) Any building constructed by a nonprofit public benefit corporation pursuant to a lease or agreement entered into pursuant to this section shall be constructed under a contract awarded to the lowest responsible bidder pursuant to Article 42 (commencing with Section 20670) of Part 3 of Division 2 of the Public Contract **Code**. Section 17424 applies to the contract.

17419. Any bonds, notes, warrants, or other evidences of indebtedness to be issued by a nonprofit corporation to finance the construction of a building pursuant to a lease or agreement entered into pursuant to Section 17418 shall be sold pursuant to Chapter 10 (commencing with Section 5800) of Division 6 of Title 1 of the Government **Code**.

17420. All bonds, notes, warrants or other evidences of indebtedness referred to in Section 17419 and the interest thereon, and all bonds, notes, warrants, or other evidences of indebtedness issued to refinance any bonds, notes, warrants, or other evidences of indebtedness referred to in Section 17419 and the interest thereon, are exempt from all taxation in the state other than inheritance, gift and franchise taxes.

17421. Any building constructed for the use of a school district pursuant to this article is subject to Sections 17280 to 17313, inclusive.

17422. For the purposes of Sections 15102 and 15106 and Chapter 6 (commencing with Section 16000) of Part 10, 50 percent of any remaining payments for use of the building or site and building which would become due from the district under any leases and agreements entered into by the district pursuant to this article, if the leases and agreements were to run their full term, shall be considered outstanding bonded indebtedness.

17423. No district shall enter into any lease or agreement pursuant to this article if at the time 50 percent of any remaining rental payments for use of the building or site and building which would become due from the district pursuant to this article, including the lease or agreement to be entered into, if the leases and agreements were to run their full term, plus the total amount of district bonded indebtedness outstanding at the time, shall exceed 7.5 percent for elementary school districts and high school districts and 12.5 percent for unified school districts of the taxable property of the district as shown by the last equalized assessment of the county or counties in which the district is located. For the purpose of this section, the taxable property of the district shall be determined upon the basis that the district's assessed value has not been reduced by the exemption of the assessed value of business inventories in the district or reduced by the homeowners' property tax exemption.

17424. The governing board of the school district shall obtain the general prevailing rate of per diem wages from the Director of the Department of Industrial Relations for each craft, classification or type of workman needed for the construction of the building and shall specify in the resolution and in the notice, required by Section 17417, or in the resolution required by Section 17418 and in the lease or agreement made pursuant to this article, what the general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work in the locality is for each craft, classification or type of workmen needed for the construction of the building. The holidays upon which such rate shall be paid need not be specified by the governing board, but shall be all holidays recognized in the collective bargaining agreement applicable to the particular craft, classification or type of workmen employed on the project.

Any agreement or lease entered into pursuant to this article shall require that such general prevailing rates will be paid. It shall also require that work performed by any workman employed upon the project in excess of eight hours during any one calendar day shall be permitted only upon compensation for all hours worked in excess of eight hours per day at not less than 11/2 times the basic rate of pay. There may also be included in leases or agreements entered into pursuant to this article any other requirements with respect to matters related to the subject of this section which the governing board deems necessary or desirable.

17425. The provisions of this article prevail over any provisions of law which conflict therewith.

17426. All acts and proceedings taken prior to the effective date of the enactment of this section, by or on behalf of any district under this article, or under color of this article, for the authorization of an increase in the maximum tax rate of the district and for the leasing of a building or buildings for the purposes of the district are hereby confirmed, ratified, validated, and declared legally effective. This shall include all acts and proceedings of the governing board of the district and of any person, public officer, board, or agency, heretofore done or taken upon the question of the authorization of the tax rate increase or the leasing. Whenever an election has been called and held prior to the effective date of the enactment of this section, for the purpose of submitting to the voters of any district the question of an increase in the maximum tax rate of the district and for the leasing of a building or buildings for the purposes of the district, the election and all proceedings attendant thereon are hereby confirmed, ratified, validated, and declared to be legally effective for all purposes, and the tax rate increase, if authorized by the required vote and in accordance with the proceedings heretofore taken, shall be a legal and valid authorization, in accordance with its terms, and any tax heretofore or hereafter levied pursuant to that authorization shall be legal and valid. The foregoing provisions of this section shall operate to supply any legislative authorization that may be necessary to validate the acts and proceedings heretofore taken which the Legislature could have supplied or provided for in this article. The foregoing provisions of this section shall be limited to the validation of acts and proceedings to the extent to which the same can be effectuated under the California and United States Constitutions.

The foregoing provisions of this section shall not operate to confirm, ratify, validate, or legalize any act, proceeding, or other matter the legality of which is being contested or inquired into in any legal proceeding now pending and undetermined or which may be pending and undetermined during the period of 30 days from and after the effective date of this section, and shall not operate to confirm, ratify, validate, or legalize any act, proceeding, or other matter which has heretofore been determined in any legal proceeding to be illegal, void, or ineffective.

In any school district in which an election was called and held prior to the effective date of this section in which the voters of the district authorized an increase in the maximum tax rate of the district and the leasing of a building or buildings for the purposes of the district, the law in effect at the date of the school district election shall govern the terms of the lease, the terms of the sale of related bonds, notes, and warrants, and the school district's maximum bonded indebtedness, and Section 17423 shall not be applicable to the school district's entry into any lease or agreement authorized at an election called and held prior to the effective date of this section.

17427. The State Allocation Board shall consider community school pupils housed in leased facilities that do not conform to the requirements of Part 2 (commencing with Section 2-101), Part 3(commencing with Section 3-089-1), Part 4 (commencing with Section4-403), and Part 5 (commencing with Section 5-102), of Title 24 of the California **Code** of Regulations as unhoused for the purposes of determining priority for the leasing of portable classrooms pursuant to Chapter 14 (commencing with Section 17085) of Part 10.

17428. The governing board of a school district may lease property in an adjoining school district for garage, warehouse, or otherutility purposes or may purchase property in an adjoining schooldistrict for those purposes and may dispose of the property in thesame manner as property within the boundary of the district ispurchased and disposed of.

The power of eminent domain shall not be applicable and the acquisitions by purchase shall be subject to the approval of the governing board of the school district in which the property is located.

17429. (a) This section shall apply only to a school district in which the electorate authorizes an increase in the maximum tax rate of the district pursuant to this article for the lease of one or more schools, and there exists at the time of the election on a site owned by the district a school facility not owned by the district meeting all of the requirements of Article 3 (commencing with Section 17280) of this chapter, which site and school facility are designated and described in the ballot proposition approved by the voters.

(b) Notwithstanding any other law, a school district may lease from a California nonprofit corporation an existing school and may pay rentals therefor from funds derived from the increase in the maximum tax rate approved by the voters at an election. The purchase price of the school paid by the nonprofit corporation to the owners of the school shall not exceed the actual audited cost of construction thereof including actual interest paid on money borrowed to finance such construction. Prior to the purchase of the school by the nonprofit corporation, an independent certified public accountant shall be retained by the school district to verify the actual cost of construction and any interest paid to finance the construction, and the nonprofit corporation may conclusively rely upon any certificate or opinion setting forth the actual cost of construction and the interest prepared by the independent certified public accountant.

(c) A school district, the electorate of which, prior to the effective date of this section, authorized an increase in the maximum tax rate in the manner, for the purposes, and under the circumstances specified in subdivision (a), may avail itself of the authority afforded by subdivision (b).

**STATE ALLOCATION BOARD**
1130 K Street, Suite 400
Sacramento, CA 95814
http://www.dgs.ca.gov/opsc

**Date:** January 23, 2004

**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, February 6, 2004 (9:30 am - 3:30 pm) at 1020 N Street (Legislative Office Building) in Conference Room 100 (Sacramento, CA).

The Implementation Committee's proposed agenda is as follows:

1. Convene Meeting

2. Clean School Restrooms (SB 892 Murray)
   *Discussion of the complaint process relating to the sufficiency and availability of restroom facilities in all K-12 public schools.*

3. Hazardous Waste Removal Costs (AB 1008 Dutton)
   *Discussion of the audit adjustment to the new construction grant for additional hazardous waste removal costs.*

4. SFP New Construction Additional Grant for Energy Efficiency
   *Discussion of proposed regulatory amendments relating to the new construction additional grants for energy efficiency.*

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 Portia Jacobson at (916) 445-3159.

BRUCE B. HANCOCK
Chairperson

BBH:LM:pj

**State Allocation Board**
**Implementation Committee**
**February 6, 2004**

# CLEAN SCHOOL RESTROOMS
# (SB 892 Murray)

## BACKGROUND

Senate Bill (SB) 892, chaptered on October 12, 2003, added Section 35292.5 to the Education Code (EC). With an effective date of January 1, 2004, EC Section 35292.5 contains the following requirements relating to the sufficiency and availability of restroom facilities in all public and private schools:

- Every restroom must be maintained and cleaned regularly, fully operational, and stocked at all times with toilet paper, soap, and paper towels or functional hand dryers.
- All school restrooms must be open during school hours when pupils are not in classes, and a sufficient number of restrooms must be kept open during school hours when pupils are in classes (except as required for pupil safety or as necessary to repair the facility).

SB 892 requires the State Allocation Board (SAB) to determine a district's compliance with EC Section 35292.5, and directs the SAB to make a school district ineligible for state matching funds for deferred maintenance projects if, after receiving a reasonable opportunity to fix the problem and a 30-day notice of violation, the restroom facilities remain in violation of the law. In order to fulfill its responsibility to administer the law and comply with the law's effective date of January 1, 2004, the Office of Public School Construction (OPSC) was obligated to expedite the mechanism by which complaints could be received and processed.

In response to numerous media contacts, the Department of General Services issued a press release on January 9, 2004. The press release provided a summary of SB 892, described the SAB's role in the law's implementation, and announced the establishment of the toll-free *California Public School Restroom Complaint Hotline* (1-866-869-5063).

## DISCUSSION

To comply with SB 892, the OPSC undertook proactive measures to ensure that the public was given an accurate account of the provisions and limitations of the OPSC's role pursuant to the law. In order to enable the SAB to make the determination of compliance as required by SB 892, the hotline provided a mechanism for concerned parties to file complaints about the condition of public school restrooms. The OPSC continues to define its proposed processes to address complaints and violation determinations and welcomes input from the Committee and audience.

For purposes of discussion, staff has provided a flow chart of the proposed process on Attachment A, and the proposed timelines for the actual withholding of deferred maintenance funds are provided on Attachment B. The proposed forms are shown on Attachment C. The text of SB 892 is provided on Attachment D.

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1130 K Street, Suite 400
Sacramento, CA 95814
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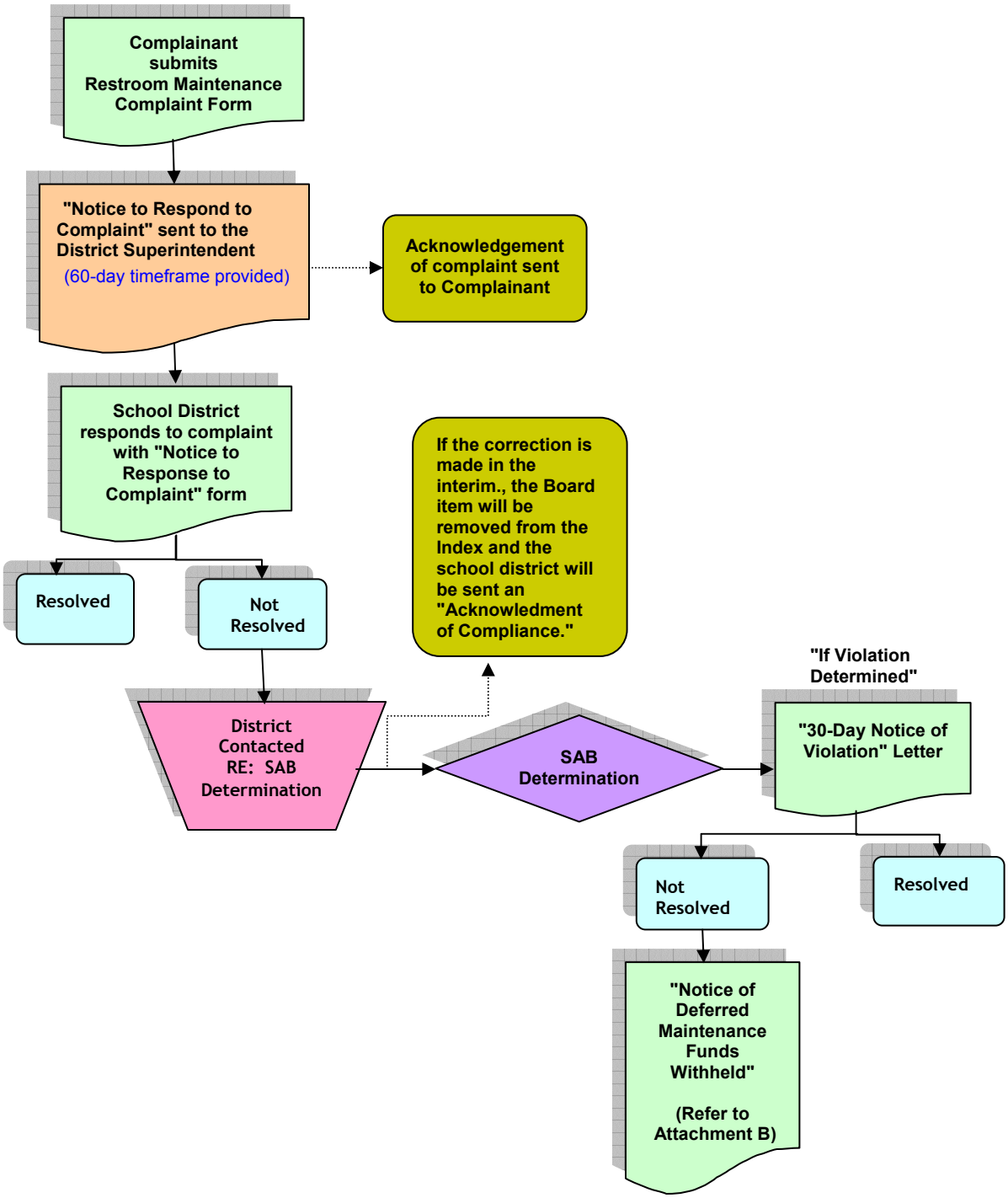
BRUCE B. HANCOCK
Chairperson

BBH:LM:pj

# ATTACHMENT A

## *School Restroom Maintenance*

### *Senate Bill 892*

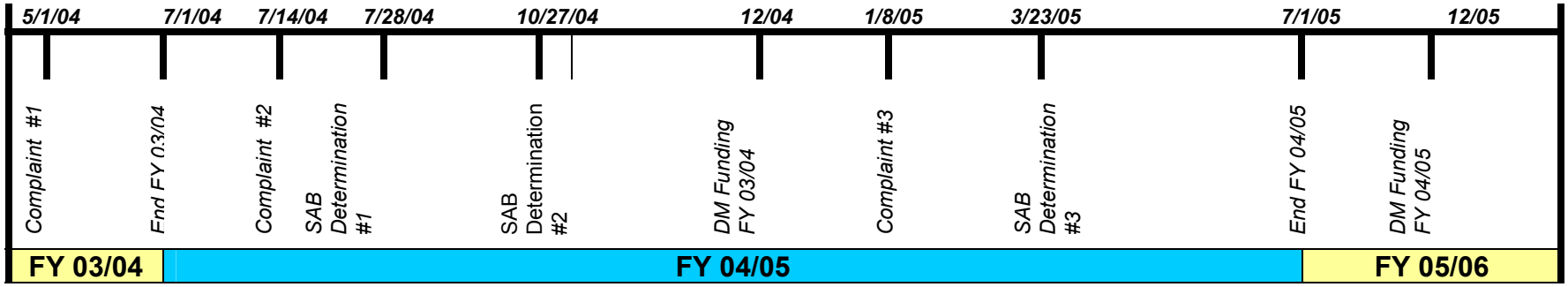


**ATTACHMENT B**

SB 892 – School Restroom Maintenance
Proposed Withholding of Deferred Maintenance (DM) Funds

SB 892 directs the State Allocation Board (SAB) to make a school district ineligible for state matching funds for deferred maintenance projects, if the district is determined to be in violation of the law. Prior to presenting its recommended proposal to the SAB regarding when the DM funds should be withheld, staff is soliciting suggestions and provides two options to begin the discussion as follows:

- **OPTION I** - *DM funds withheld for the same fiscal year of Board determination.*
- **OPTION II** - *DM funds withheld from the next available DM funding cycle following the Board's determination.*




**OPTION I** - *DM funds withheld for the same fiscal year of Board determination*

Example: If three SAB determinations were made during FY 04/05, the funds were withheld at the Annual DM Funding for FY 04/05 (which occurs in December 2005). Multiple SAB determinations within a given fiscal year results in one withholding of DM funding item.

**OPTION II** - *DM funds withheld from the next available DM funding cycle following the Board's determination.*

Example: If three SAB determinations were made during FY 04/05, the funds were withheld for SAB determinations #1 and #2 at the DM Funding for 03/04. Funds were withheld for SAB determinations #3 at the DM Funding for 04/05. Multiple SAB determinations within the same fiscal year could result in the withholding of DM funds for two consecutive years.

# ATTACHMENT C

STATE OF CALIFORNIA

## RESTROOM MAINTENANCE COMPLAINT

EDUCATION CODE SECTION 35292.5

SAB 892 NEW (01/04)

STATE ALLOCATION BOARD
OFFICE OF PUBLIC SCHOOL CONSTRUCTION



### General Information

As of January 1, 2004, Section 35292.5 was added to the Education Code and contains the following requirements relating to the sufficiency and availability of restroom facilities in all public schools:

- Every restroom must be maintained and cleaned regularly, fully operational, and stocked at all times with toilet paper, soap, and paper towels or functional hand dryers.
- Schools must keep all restrooms open during school hours when pupils are not in classes, and must keep a sufficient number of restrooms open during school hours when pupils are in classes (except as required for pupil safety or as necessary to repair the facility).
- Any school district that operates a public school that is in violation of this section, as determined by the State Allocation Board, is ineligible for state deferred maintenance fund matching apportionments.

This form is used to report complaints for inadequate conditions in public school restroom facilities. If the complaint involves multiple restrooms, **please use a separate form for each restroom**.

### Specific Instructions

| Form Cell | Instructions |
|---|---|
| School District | Enter name of school district of school where complaint is located. |
| County | Enter name of county where school district is located. |
| Name of school | Enter name of school site where complaint is located. |
| School site address | Enter street address, city and zip code of school site where complaint is located. |
| Location of restroom facility | Name specific physical location of restroom in the complaint; use landmarks, such as "boys/girls on east side of gymnasium" for reference. |
| Type of complaint | Check the box next to all complaint codes that apply to the complaint being reported. |
| Please explain your observations in detail | Provide details to further explain the type of complaints that are checked in the "type of complaint" form cell. |

**NOTE**: Please complete all requested information in order for the Office of Public School Construction to address your concerns in a timely manner.

STATE OF CALIFORNIA

# RESTROOM MAINTENANCE COMPLAINT

SCHOOL FACILITY PROGRAM

SAB 892 (NEW 01/04)

STATE ALLOCATION BOARD
OFFICE OF PUBLIC SCHOOL CONSTRUCTION



**TO BE PROCESSED THIS FORM MUST BE COMPLETED IN ITS ENTIRETY**

| SCHOOL DISTRICT | COUNTY |
|---|---|
| NAME OF SCHOOL SITE | SCHOOL SITE ADDRESS (STREET, CITY, ZIP CODE) |

LOCATION OF RESTROOM FACILITY (I.E., NORTH END OF CAMPUS NEAR GYM, CAFETERIA RESTROOM, ETC.)

## EXAMPLES OF DEFICIENCIES OBSERVED (PLEASE CHECK ALL THAT APPLY):

**Plumbing, Equipment and Supplies (hand soap, paper towels, etc.)**

- ☐ P-100 Toilet damaged/missing
- ☐ P-101 Toilet leaking/clogged
- ☐ P-102 Lavatory Sink damaged/missing
- ☐ P-103 Faucets or Pipes damaged/leaking
- ☐ P-104 Floor drains clogged
- ☐ P-105 Lavatory Sink clogged
- ☐ E-100 Electric Hand Dryers damaged/missing
- ☐ E-101 Lavatory Stall Doors and/or Locks missing/inoperable
- ☐ E-102 Paper Towel Dispenser missing/inoperable
- ☐ E-103 Toilet Paper Dispenser missing/inoperable
- ☐ E-104 Soap Dispensers missing/inoperable
- ☐ S-100 Soap Dispensers consistently empty
- ☐ S-101 Paper towel dispensers consistently empty
- ☐ S-102 Toilet paper missing/unusable on a consistent basis

**Condition of Restroom/Miscellaneous**

- ☐ C-100 Floors unclean on a consistent basis
- ☐ C-101 Walls/Ceilings unclean on a consistent basis
- ☐ C-102 Trash Receptacles not emptied consistently
- ☐ C-103 Toilets/Urinals unclean/unusable on a consistent basis
- ☐ C-104 Restroom Facility closed for an extended period
- ☐ M-100 Miscellaneous—Summarize below

## OBSERVATIONS/MISCELLANEOUS COMMENTS (PLEASE EXPLAIN IN DETAIL):

| COMPLAINANT (PRINT NAME) | TELEPHONE |
|---|---|
| SIGNATURE OF COMPLAINANT | DATE |

PLEASE MAIL/FAX COMPLETED FORM TO: **Office of Public School Construction**
**1130 K Street, Suite 400**
**Sacramento, CA 95814**
**FAX: 916.445.5526**

# RESPONSE TO RESTROOM MAINTENANCE COMPLAINT

EDUCATION CODE SECTION 35292.5

SAB 892R NEW (01/04)



## General Information

As of January 1, 2004, Section 35292.5 was added to the Education Code (EC) and contains the following requirements relating to the sufficiency and availability of restroom facilities in all public schools:

- Every restroom must be maintained and cleaned regularly, fully operational, and stocked at all times with toilet paper, soap, and paper towels or functional hand dryers.
- Schools must keep all restrooms open during school hours when pupils are not in classes, and must keep a sufficient number of restrooms open during school hours when pupils are in classes (except as required for pupil safety or as necessary to repair the facility).
- Any school district that operates a public school that is in violation of this section, as determined by the State Allocation Board, is ineligible for state deferred maintenance fund matching apportionments.

This form is used to respond to complaints received by the Office of Public School Construction on the *Restroom Maintenance Complaint*, Form SAB 892. Failure to respond to complaints may result in the school district being ineligible for state deferred maintenance fund matching apportionments pursuant to EC Section 17584.

## Specific Instructions

| Form Cell | Instructions |
|---|---|
| School District | Enter name of school district of school where complaint was located. |
| County | Name of county where school district is located. |
| 5-Digit District Code | California Department of Education assigned district code number. |
| School site where deficiency observed | Enter name of school campus where complaint was located. |
| Location of restroom facility | Name specific physical location of restroom in the complaint, use landmarks, such as "boys/girls on east side of gymnasium" for reference. |
| Complaint Code(s) | Enter complaint code number from the chart provided. Codes have a one letter prefix with a three number code attached. |
| Comments | Describe in detail how the complaint was addressed and/or repaired. |
| Date Corrected | Enter date corrective action took place. |

# RESPONSE TO RESTROOM MAINTENANCE COMPLAINT

EDUCATION CODE SECTION 35292.5

SAB 892R NEW (01/04)



| SCHOOL DISTRICT | COUNTY | 5-DIGIT DISTRICT CODE | COMPLAINT NUMBER |
|---|---|---|---|
| SCHOOL SITE WHERE DEFICIENCY OBSERVED | LOCATION OF RESTROOM FACILITY (i.e. Boys/Girls at north end of campus near gym, Cafeteria restroom, etc.) | | |

This form shall indicate that corrective action has been taken to comply with Education Code Section 35292.5 as requested in the Office of Public School Construction letter dated _____.

| COMPLAINT CODE(S) | COMMENTS (Please explain how complaint was addressed) | DATE CORRECTED |
|---|---|---|
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |

**COMPLAINT CODES:**

| Plumbing and Equipment Supplies/Products (hand soap, paper towels, etc.) | | Condition of Restroom/Miscellaneous |
|---|---|---|
| **P-100** Toilet damaged/missing | **E-102** Paper Towel Dispenser missing/ inoperable | **C-100** Floors unclean on a consistent basis |
| **P-101** Toilet leaking/clogged | **E-103** Toilet Paper Dispenser missing/ inoperable | **C-101** Walls/Ceilings unclean on a consistent basis |
| **P-102** Lavatory Sink damaged/missing | **E-104** Soap Dispensers missing/inoperable | **C-102** Trash Receptacles not emptied consistently |
| **P-103** Faucets or Pipes damaged/missing | **S-100** Soap Dispensers consistently empty | **C-103** Toilets/Urinals unclean/unusable on a consistent basis |
| **P-104** Floor drains clogged | **S-101** Paper Towel Dispensers consistently empty | **C-104** Restroom Facility closed for an extended period |
| **P-105** Lavatory Sink clogged | **S-102** Toilet paper missing/unusable on a consistent basis | **M-100** **Miscellaneous** – Summarize above |
| **E-100** Electric Hand Dryers missing/inoperable | | |
| **E-101** Lavatory Stall Doors and/or Locks missing/inoperable | | |

I _____, District Superintendent for the above named school district, certify that the above restroom deficiency has been corrected and that the information provided on the form is true and correct. I further understand that school restroom facilities should be maintained in compliance with the requirements set forth in Education Code (EC) Section 35292.5. Failure to comply with EC Section 35292.5 shall result in the withholding of deferred maintenance apportionments due to the school district under EC Section 17584.

| SIGNATURE OF DISTRICT SUPERINTENDENT | DATE |
|---|---|
| ✍ | |

**ATTACHMENT D**

## Senate Bill No. 892

CHAPTER 909

An act to add Section 35292.5 to the Education Code, relating to schools.

[Approved by Governor October 12, 2003. Filed with Secretary of State October 12, 2003.]

LEGISLATIVE COUNSEL'S DIGEST

SB 892, Murray. School restrooms.

Existing law exempts public and private schools from provisions relating to the sufficiency of public facility restrooms, and provides for the maintenance and repair of public school facilities by school districts.

This bill would, with certain exceptions, require every public and private school to have restroom facilities that are open as prescribed during school hours, and at all times to keep every restroom maintained and cleaned regularly, fully operational, and stocked with soap and paper supplies.

This bill would make a school district ineligible for prescribed state school facilities deferred maintenance matching funding if, after a 30-day notice period and a reasonable opportunity to cure the violation, a public school it operates remains in violation of this bill.

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

SECTION 1. Section 35292.5 is added to the Education Code, to read:

35292.5. (a) Every public and private school maintaining any combination of classes from kindergarten to grade 12, inclusive, shall comply with all of the following:

(1) Every restroom shall at all times be maintained and cleaned regularly, fully operational and stocked at all times with toilet paper, soap, and paper towels or functional hand dryers.

(2) The school shall keep all restrooms open during school hours when pupils are not in classes, and shall keep a sufficient number of restrooms open during school hours when pupils are in classes.

(b) Notwithstanding subdivision (a), a school may temporarily close any restroom as necessary for pupil safety or as necessary to repair the facility.

(c) Any school district that operates a public school that is in violation of this section as determined by the State Allocation Board, is ineligible

for state deferred maintenance fund matching apportionments pursuant to Section 17584 if the school district has not corrected the violation within 30 days after receipt of a written notice of the violation from the board. Prior to determining that the school district is ineligible, the board shall provide the school district with a reasonable opportunity to cure the violation. The board shall notify the Superintendent of Public Instruction regarding a school district found to be in violation of this section. The Superintendent of Public Instruction shall notify the Controller to withhold apportionments otherwise due the school district under Section 17584.

SEC. 2. It is the intent of the Legislature that a school employee who performs maintenance or repair functions related to restroom facilities that are subject to Section 35292.5 of the Education Code not be subject to discipline if the employee performs his or her responsibilities as required by his or her employer.

SEC. 3. The Legislature finds and declares that, as regards public schools, a principal purpose of this act is to clarify the preexisting requirements of Section 17576 of the Education Code by specifying the minimum requirements necessary to provide sufficient patent flush water closets for the use of pupils in a manner that is consistent with those requirements that apply to other public and private persons or agencies pursuant to Section 118505 of the Health and Safety Code. Because the local mandate established pursuant to Section 17576, which was enacted on January 1, 1948, was enacted prior to January 1, 1975, no reimbursement is required under this act pursuant to Section 6 of Article XIII B of the California Constitution.

**State Allocation Board**
**Implementation Committee**
**February 6, 2004**

# HAZARDOUS WASTE REMOVAL COSTS
# (AB 1008 Dutton)

## BACKGROUND

Assembly Bill (AB) 1008 adds Section 17072.14 to the Education Code (EC), and allows "…adjustments to a new construction grant if, as a result of additional requirements imposed by the Department of Toxic Substances Control (DTSC), the actual amount paid by a school district for allowable costs of hazardous materials evaluation and removal exceeds the amount of the grant apportionment for those purposes."

EC Section 17072.14 requires that the total adjusted apportionment for hazardous waste removal "may not exceed the amount permitted pursuant to EC Section 17072.13" (the provision for the 150 percent cost cap for toxic site acquisition/clean-up).

## DISCUSSION

*Reimbursement Timelines*

Since the law stipulates that the "actual amount paid" for hazardous waste removal be known, the adjustment would occur during audit. Prior to the final expenditure audit, the allowable costs of hazardous waste removal can be included in the apportionments at various stages of the project up to and including the time of the adjusted grant. With the proposed amendment to SFP regulations pursuant to AB 1008, the district may be able to receive a post-apportionment reimbursement for hazardous waste removal costs before the project's final expenditure audit by requesting a one-time early site audit. The table below includes this additional opportunity, and identifies the various stages during the course of a project when compensation for costs associated with hazardous waste removal can occur.

| ***Project Stage*** | ***New Construction - Financial Hardship*** | ***New Construction*** |
|---|---|---|
| Site or Site/Design | ✓ | |
| Environmental Hardship Request | ✓ | ✓ |
| Adjusted Grant | ✓ | ✓ |
| One-Time Early Site Audit | ✓ | ✓ |
| Final Expenditure Audit | ✓ | ✓ |

✓ = Opportunity to receive funding for hazardous waste removal costs.

Beyond the timelines identified in the table, there are no further provisions for additional adjustments to the new construction grant.

As indicated at the January Implementation Committee meeting, staff recognizes that "additional DTSC requirements" could be imposed as a result of various scenarios, including:

- New DTSC regulations or changes to existing DTSC regulations.
- The discovery of hazardous waste materials at a school site previously determined to be clean.
- An increase in the magnitude and associated costs of the hazardous waste cleanup originally projected for the school site.

As stated previously, it is staff's intent to ensure that the State grant for allowable hazardous waste removal costs associated with all new construction - for new sites, existing sites, and leased sites - may be adjusted at the time the project is audited if additional DTSC requirements occurred during the course of the project, even if the district had not previously requested these costs on its SFP funding application.

*Adjustment Provisions*

Section 1859.106, *Program Accountability Expenditure Audit*, currently provides the basic mechanism by which to adjust the new construction grant for hazardous waste removal for projects that previously requested costs for hazardous waste removal costs. Staff is proposing minor adjustments to clarify that this adjustment can occur on a new, leased, or existing site.

Current regulations do not allow an adjustment for hazardous waste removal costs for projects, which have not previously requested the additional grant for "Hazardous Waste Removal/Response Action" on the application for funding. AB 1008 allows an adjustment for hazardous waste removal costs for any new construction project, thereby providing the means to expand upon current regulations to include even those projects, which had not previously requested an additional grant for those purposes. Projects are audited according to the SFP guidelines and regulations in effect at the time the application for funding is received. To benefit from the adjustment pursuant to AB 1008, these projects would have to be received after the date the amended regulations are approved by the Office of Administrative Law.

RECOMMENDATION

Present the proposed regulatory amendments to the State Allocation Board as shown on Attachment A.

# ATTACHMENT A

Section 1859.106. Program Accountability Expenditure Audit.

The projects will be audited to assure that the expenditures incurred by the district were made in accordance with the provisions of Education Code Section 17072.35 for new construction projects, Section 1859.120 for Joint-Use Projects, Section 1859.140 for Critically Overcrowded School projects, Section 1859.160 for Charter School projects, and Education Code Section 17074.25 and Section 1859.79.2 for modernization projects. The audit will also assure that the district complied with all site acquisition guidelines as provided in Education Code Sections 17072.13 and 17072.14 and Sections 1859.74, 1859.74.1, 1859.74.2, 1859.74.3, 1859.74.4, 1859.75 and 1859.75.1.

An adjustment in the SFP grant will be made for the following:

(a) The difference in the value of the site, relocation costs, DTSC fees, and ~~the~~ hazardous waste/materials removal costs that were used to determine the New Construction Additional Grant, and the actual amount paid by the district for the site, ~~the~~ relocation costs, ~~the~~ DTSC fees, and ~~the costs for~~ hazardous waste/materials removal costs, even if the hazardous waste/materials removal costs were not originally requested.

(b) For 50 percent of any insurance proceeds collectable by the district for displaced facilities and 50 percent of the net proceeds available from the disposition of displaced facilities pursuant to Section 1859.82(a) or (b).

~~(c) The difference in the hazardous waste removal costs that was used to determine the New Construction Additional Grant for Hazardous Waste Removal on an Existing Site and the actual amount paid by the district for the allowable cost for hazardous waste removal.~~

When the OPSC receives the final expenditure report from the district on Form SAB 50-06, an audit of the expenditures by the OPSC shall commence within two years of the report. If the district is not notified by the OPSC within the two-year period that an audit will be made, there will be no audit of the project by the OPSC and the expenditures reported by the district shall be deemed appropriate. If the district has been notified that an audit of the expenditures will be made by the OPSC, the OPSC shall complete the audit within six months of the notification, unless additional information requested from the district has not been received.

Districts shall be required to maintain all appropriate records that support all district certifications and expenditures for all costs associated with SFP, Charter School, and Joint-Use projects for a period of not less than four years from the date the notice of completion is filed for the project in order to allow other agencies, including, without limitation, the Bureau of State Audits and the State Controller to perform their audit responsibilities.

The district is responsible to substantiate expenditures from the Joint-Use Partner(s) financial contribution pursuant to Section 1859.127 and from other local sources.

Should the OPSC conduct an audit of the district certifications or the expenditures for the project and make a finding that some or all of the expenditures were not made in accordance with the provisions of Education Code Section 17072.35 for new construction projects, Section 1859.120 for Joint-Use Projects, Section 1859.140 for Critically Overcrowded School projects, Section 1859.160 for Charter School projects, ~~and~~ Education Code Section 17074.25 and Section 1859.79.2 for modernization projects, and Education Code Sections 17072.13 and 17072.14 for projects with additional costs imposed by the DTSC, the OPSC shall recommend to the Board that the apportionment be adjusted based on the audit findings. Upon adoption of the audit findings by the Board, the district must submit a warrant for any amount identified as being owed within 60 days of the Board action. If this does not occur, the OPSC shall initiate collection procedures from the School Fund Apportionment as outlined in Education Code Section 17076.10(c).

Should the CDE make a finding that a project did not meet the standards that were adopted by the CDE pursuant to Education Code Section 17251 (b) and (c) when the district had self-certified that the project met those standards pursuant to Education Code Section 17070.50 (b), the Board may request that the CDE make a recommendation that the apportionment for the project be adjusted based on the CDE finding. Any adjustment in the apportionment shall

be based on the percentage of space in the project that the CDE determined did not meet those standards. Upon adoption of the finding by the Board, the district must submit a warrant for any amount identified as being owed within 60 days of the Board action. If this does not occur, the OPSC shall initiate collection procedures from the School Fund Apportionment as outlined in Education Code Section 17076.10 (c).

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17070.35, 17070.50, 17072.18, 17072.35, 17074.25, 17076.10, 17077.40, 17078.52, 17072.13, 17072.14 and 17251, Education Code.

**ATTACHMENT B**

## Assembly Bill No. 1008

CHAPTER 570

An act to add Section 17072.14 to the Education Code, relating to public schools.

[Approved by Governor September 28, 2003. Filed with Secretary of State September 29, 2003.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1008, Dutton. Public school facilities funding: hazardous materials evaluation and removal.

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, including prescribed amounts for hazardous materials evaluation and response action for new construction projects.

This bill would authorize the board, within those limits, to adjust the grant amount for new construction projects if, due to increased requirements, the actual cost and associated fees paid by a school district for allowable hazardous materials evaluation and removal exceeds the grant apportionment.

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

SECTION 1. Section 17072.14 is added to the Education Code, to read:

17072.14. Notwithstanding Section 17070.63, the board may allow adjustments to a new construction grant if, as a result of additional requirements imposed by the Department of Toxic Substances Control, the actual amount paid by a school district for allowable costs of hazardous materials evaluation and removal, including associated fees, exceeds the amount of the grant apportionment for those purposes. The combined amount of the initial apportionment for these purposes and the adjustment pursuant to this section may not exceed the amount permitted pursuant to Section 17072.13.

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**State Allocation Board**
**Implementation Committee**
**February 6, 2004**

# CHANGES TO THE SCHOOL FACILITY PROGRAM (SFP) ADDITIONAL GRANT FOR ENERGY EFFICIENCY

## BACKGROUND

Assembly Bill 16 created an additional grant adjustment to cover the increased costs for the design and construction of project components associated with school facility energy efficiency. From Proposition 47 funds, $14.2 million was reserved for new construction projects that exceed non-residential energy efficiency standards by at least 15 percent, and $5.8 million was reserved for modernization projects that exceed non-residential energy efficiency standards by at least 10 percent. To date, there have been minimal requests for the funds available for energy efficiency. At the December 2003 meeting of the State Allocation Board (SAB), the funds earmarked for modernization energy funding were temporarily moved back into the general modernization fund. As of the January 2004 SAB meeting, $13.3 million remains in the new construction fund.

The Board requested that the Office of Public School Construction (OPSC) report on the means that would ensure greater utilization of energy funds for future projects and remove potential obstacles in the energy program. The OPSC initiated a task force to find ways to improve the process and increase participation in the program. The task force consisted of participants from the Legislature, the OPSC, and the Division of the State Architect (DSA), the California Energy Commission, and stakeholders.

## DISCUSSION

As a result of the task force discussions, the DSA eased the requirement a project must meet in order to qualify for additional energy funds. Initially, in order for a project to be eligible, every building within the project was required to surpass the energy threshold. The amended requirement determines a project's eligibility for the energy grant by calculating the weighted average of the energy savings for all buildings in the project.

Additionally, the OPSC is proposing to change the formulas that calculate the SFP energy grants. The proposed formulas create grant calculations based on a more closely stepped gradual scale that more precisely accommodates smaller incremental increases in the project's energy efficiency scores. This allows a project to be more appropriately compensated according to its level of energy efficiency. Please refer to the examples on the Energy Grant Calculator on Attachment A. Proposed amendments to the SFP regulations that reflect these proposed formula changes are shown on Attachment B. Excerpts from the law that authorized the energy grants are provided on Attachment C.

## RECOMMENDATION

Present the proposed regulatory amendments to the State Allocation Board.

# ATTACHMENT A

## ENERGY GRANT CALCULATOR EXAMPLES

**NEW CONSTRUCTION**

| % Energy Efficiency | Grant Multiplier | $ Proposed Regs | $ Current Regs |
|---|---|---|---|
| The percentage by which the project exceeds Title 24 energy efficiency standards | The number by which the New Construction Grant is multiplied to calculate the Additional Grant for Energy Efficiency | The per pupil amount of the Additional Grant for Energy Efficiency (for elementary school, 2004 base grant $6040) | |
| 15 | 0.01 | $60.40 | $60.40 |
| 15.1 | 0.0104 | $62.82 | $60.40 |
| 15.2 | 0.0108 | $65.23 | $60.40 |
| 15.3 | 0.0112 | $67.65 | $60.40 |
| 15.4 | 0.0116 | $70.06 | $60.40 |
| 15.5 | 0.012 | $72.48 | $60.40 |
| 15.6 | 0.0124 | $74.90 | $60.40 |
| 15.7 | 0.0128 | $77.31 | $60.40 |
| 15.8 | 0.0132 | $79.73 | $60.40 |
| 15.9 | 0.0136 | $82.14 | $60.40 |
| 16 | 0.014 | $84.56 | $84.56 |
| 16.1 | 0.0144 | $86.98 | $84.56 |
| 16.2 | 0.0148 | $89.39 | $84.56 |
| [... to 25% ] | [… to 0.05] | [… to $302. 00] | [… to $302. 00] |

**MODERNIZATION**

| % Energy Efficiency | Grant Multiplier | $ Proposed Regs | $ Current Regs |
|---|---|---|---|
| The percentage by which the project exceeds Title 24 energy efficiency standards | The number by which the Modernization Grant is multiplied to calculate the Additional Grant for Energy Efficiency | The per pupil amount of the Additional Grant for Energy Efficiency (for elementary school, 2004 base grant $2609) | |
| 10 | 0.01 | $26.09 | $26.09 |
| 10.1 | 0.011 | $28.70 | $26.09 |
| 10.2 | 0.012 | $31.31 | $26.09 |
| 10.3 | 0.013 | $33.92 | $26.09 |
| 10.4 | 0.014 | $36.53 | $26.09 |
| 10.5 | 0.015 | $39.14 | $26.09 |
| 10.6 | 0.016 | $41.74 | $26.09 |
| 10.7 | 0.017 | $44.35 | $26.09 |
| 10.8 | 0.018 | $46.96 | $26.09 |
| 10.9 | 0.019 | $49.57 | $26.09 |
| 11 | 0.02 | $52.18 | $52.18 |
| 11.1 | 0.021 | $54.79 | $52.18 |
| 11.2 | 0.022 | $57.40 | $52.18 |
| [... to 14% ] | [… to 0.05] | [… to $130.45] | [… to $130.45] |

# ATTACHMENT B

Section 1859.71.3. New Construction Additional Grant for Energy Efficiency.

(a) In addition to any other funding authorized by these Regulations, the Board shall provide the grant amounts identified in (b) if all the following are met:

(1) The project includes energy efficiency components that conform to Subdivision (b) of Education Code Section 17077.35.

(2) The ~~proposed facilities~~ average energy efficiency score of all the buildings in the project, as determined by Energy Pro 3.1 or a similar computer program approved by the CEC, exceeds the nonresidential building energy efficiency standards specified in Part 6 of Title 24 of the California Code of Regulations by at least 15 percent ~~as determined by EnergyPro 3.1 or a similar computer program approved by the CEC~~.

(3) The DSA has reviewed the proposed project and concurs with the percentage of energy efficiency that exceeds the nonresidential building energy efficiency standards specified in Part 6 of Title 24 of the California Code of Regulations.

(4) No portion of the project will be funded with funds made available from the Renewable Energy Program administered by the CEC.

(5) There are funds remaining in the Energy Efficiency Fund as prescribed in Section 1859.70.1 to apportion some or the entire additional grant provided in (b).

(b) An amount equal to the lesser of the following:

(1) The New Construction Grant multiplied by~~:~~ one percent if the percentage of energy efficiency is 15 percent, or by one percent plus 0.04 percent for each 0.1 percent increment of increased energy efficiency up to 25 percent. The multiplier may not exceed five percent.

~~(A) One percent if the percentage of energy efficiency as concurred by the DSA in (a)(3) is at least 15 percent but less than 17.5 percent.~~

~~(B) Two percent if the percentage of energy efficiency as concurred by the DSA in (a)(3) is at least 17.5 percent but less than 20 percent.~~

~~(C) Three percent if the percentage of energy efficiency as concurred by the DSA in (a)(3) is at least 20 percent but less than 22.5 percent.~~

~~(D) Four percent if the percentage of energy efficiency as concurred by the DSA in (a)(3) is at least 22.5 percent but less than 25 percent.~~

~~(E) Five percent if the percentage of energy efficiency as concurred by the DSA in (a)(3) is at least 25 percent.~~

(2) The funds available in the Energy Efficiency Account set aside for this Section.

If there are no funds remaining in the Energy Efficiency Account or the funds remaining in the Energy Efficiency Account are insufficient to fully fund the additional grant authorized in (b)(1), the district may either withdraw its application and resubmit it when additional funds are available in the Energy Efficiency Account or continue with the new construction project and accept a full and final apportionment without the additional grant authorized by (b)(1) or the lesser apportionment authorized by (b)(2).

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17077.35, Education Code.

Section 1859.78.5. Modernization Additional Grant for Energy Efficiency.

(a) In addition to any other funding authorized by these Regulations, the Board shall provide the grant amounts identified in (b) if all the following are met:

(1) The project includes energy efficiency components that conform to Subdivision (b) of Education Code Section 17077.35.

(2) The ~~proposed facilities~~ average energy efficiency score of all the buildings in the project, as determined by Energy Pro 3.1 or a similar computer program approved by the CEC, exceeds the nonresidential building energy efficiency standards specified in Part 6 of Title 24 of the California Code of Regulations by at least 10 percent ~~as determined by EnergyPro 3.1 or a similar computer program approved by the CEC~~.

(3) The DSA has reviewed the proposed project and concurs with the percentage of energy efficiency that exceeds the nonresidential building energy efficiency standards specified in Part 6 of Title 24 of the California Code of Regulations.

(4) No portion of the project will be funded with funds made available from the Renewable Energy Program administered by the CEC.

(5) There are funds remaining in the Energy Efficiency Fund as prescribed in Section 1859.70.1 to apportion some or the entire additional grant provided in (b).

(b) An amount equal to the lesser of (b)(1) or (b)(2):

(1) The Modernization Grant multiplied by~~:~~ one percent if the percentage of energy efficiency is 10 percent, or by one percent plus 0.1 percent for each 0.1 percent increment of increased energy efficiency up to 14 percent. The multiplier may not exceed five percent.

~~(A) One percent if the percentage of energy efficiency as concurred by the DSA in (a)(3) is at least 10 percent but less than 11 percent.~~

~~(B) Two percent if the percentage of energy efficiency as concurred by the DSA in (a)(3) is at least 11 percent but less than 12 percent.~~

~~(C) Three percent if the percentage of energy efficiency as concurred by the DSA in (a)(3) is at least 12 percent but less than 13 percent.~~

~~(D) Four percent if the percentage of energy efficiency as concurred by the DSA in (a)(3) is at least 13 percent but less than 14 percent.~~

~~(E) Five percent if the percentage of energy efficiency as concurred by the DSA in (a)(3) is at least 14 percent.~~

(2) The remaining funds available in the Energy Efficiency Account set aside for this Section.

If there are no funds remaining in the Energy Efficiency Account or the funds remaining in the Energy Efficiency Account are insufficient to fully fund the additional grant authorized in (b)(1), the district may either withdraw its application and resubmit it when additional funds are available in the Energy Efficiency Account or continue with the modernization project and accept a full and final apportionment without the additional grant authorized by (b)(1) or the lesser apportionment authorized by (b)(2).

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17077.35, Education Code.

# ATTACHMENT C

CALIFORNIA CODES
**EDUCATION CODE**

**17077.35.**

... (c) In order to be eligible for the grant adjustment pursuant to this section, the building proposed for the project, including the energy-efficiency and renewable energy measures utilized pursuant to this section, shall exceed the nonresidential building energy-efficiency standards specified in Part 6 (commencing with Section 100) of Title 24 of the California **Code** of Regulations by an amount not less than 15 percent for new construction projects and not less than 10 percent for modernization projects, and shall be shown to provide sufficient energy savings to return the cost of the initial investment in the project over a period not to exceed seven years. The applicant shall certify that the cost for the project exceeds the amount of funding otherwise available to the applicant under this chapter.

(d) The board shall provide an applicant for a new construction or modernization project with a grant adjustment to provide an increase not to exceed 5 percent of its state grants authorized by Sections 17072.10 and 17074.10 for the state's share of costs associated with design and other plan components related to school facility energy efficiency as set forth in this article.

**100620.** (2002 State Bonds)

(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:

... (e) From the total amounts set forth in paragraphs (1) to (6), inclusive, of subdivision (a), a total of no more than twenty million dollars ($20,000,000) shall be used for the costs of energy conservation adjustments authorized pursuant to Section 17077.35.

**100820.** (Potential 2004 State Bonds)

(a) The proceeds from the sale of bonds, issued and sold for the purposes of this chapter, as specified in subdivision (a) of Section 100810 shall be allocated in accordance with the following schedule:

... (e) From the total amounts set forth in paragraphs (1) to (6), inclusive, of subdivision (a), a total of no more than twenty million dollars ($20,000,000) shall be used for the costs of energy conservation adjustments authorized pursuant to Section 17077.35.

STATE OF CALIFORNIA ARNOLD SCHWARZENEGGER, *Governor*

**STATE ALLOCATION BOARD**
1130 K Street, Suite 400
Sacramento, CA 95814
http://www.dgs.ca.gov/opsc

**Date:** February 20, 2004

**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, March 5, 2004 (9:30 am - 3:30 pm) at 1500 Capitol Ave. (East End Complex) in Conference Rooms 72.149B & 72.151A (Sacramento, CA).

The Implementation Committee's proposed agenda is as follows:

1. Convene Meeting

2. Clean School Restrooms (SB 892 Murray)
   *Discussion of the complaint process relating to the sufficiency and availability of restroom facilities in all K-12 public schools.*

3. New Construction Additional Grant for Replaced Facilities (AB 1631 Salinas)
   *Discussion of the revisions to the eligibility criteria for the supplemental grant to replace a single-story with a multi-story structure on the same site.*

4. Continuation High, Community Day and County Community Schools
   *Discussion of funding methods for these alternative education schools.*

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 Portia Jacobson at (916) 445-3159.

BRUCE B. HANCOCK
Chairperson

BBH:LM:pj

STATE ALLOCATION BOARD
IMPLEMENTATION COMMITTEE
March 5, 2004

# CLEAN SCHOOL RESTROOMS
# (SB 892 Murray)

## BACKGROUND

Senate Bill (SB) 892, chaptered on October 12, 2003, added Section 35292.5 to the Education Code (EC). With an effective date of January 1, 2004, EC Section 35292.5 contains requirements relating to the sufficiency and availability of restroom facilities in all public and private schools.

SB 892 requires the State Allocation Board (SAB) to determine a district's compliance with EC Section 35292.5, and directs the SAB to withhold state matching funds for deferred maintenance (DM) projects if, after receiving a reasonable opportunity to fix the problem and a 30-day notice of violation, the restroom facilities remain in violation of the law. In order to fulfill its responsibility to administer the law and comply with the law's effective date of January 1, 2004, the Office of Public School Construction (OPSC) expedited the development of a mechanism by which complaints could be received and processed.

## DISCUSSION

This item is continued from the February 6, 2004 meeting of the Implementation Committee. In February, staff presented its proposed process for addressing restroom maintenance complaints. At that time, staff presented copies of the complaint and response forms, a flow chart illustrating the proposed complaint process, and timeline options for the withholding of deferred maintenance funds. Included with this item are the following attachments:

- Attachment A – Proposed Revised Complaint form
- Attachment B - Text of SB 892
- Attachment C - Complaint Process Flow Chart

*Resolution at the Local Level*
To address concerns voiced at the last meeting, staff amended the complaint form to include the following statement to encourage local resolution:

> "Correction of your complaint in a timely manner is important. You are free to file your complaint with the OPSC. In addition, communicating your observations at the local level may serve to further expedite the complaint's resolution. You are encouraged to share the details of restroom deficiencies with the school's principal and your school district."

While exploring the feasibility of integrating local and OPSC processes, staff discovered that not all school districts have a formal complaint mechanism in place, and found little consistency in existing processes. Districts are encouraged to inform their constituents about existing local complaint processes that could be used to resolve restroom maintenance issues. The OPSC's role is to provide the public with a standardized, universally accessible process for complaint response.

*Anonymous Complaints*
The complaint form requests the identification of the complainant. However, there are some individuals who are reluctant to include their name on the complaint forms. Staff contends anonymity should not preclude a complaint from consideration.

A strong precedent has been set by state and local agencies with regard to the acceptance of anonymous complaints. Examples of governmental agencies and programs that accept anonymous complaints include the Department of Social Services, the State Whistleblower Program, and Adult Protective Services. In these programs, the complainant is provided anonymity, and allegations made by these individuals are considered legitimate until further investigation provides contrary evidence.

To invalidate complaints on the basis of anonymity diminishes an individual's lawful right to privacy and discourages the submittal of otherwise valid complaints. Each district maintains its right to defend any complaints. Ultimately, the SAB will consider the weight of the evidence before making any determination.

*Complaint Notification*
Since the penalty for unresolved complaints is severe and affects the entire district, the complaint notification letter is directed to the District Superintendent, with a copy to the SFP District Representative. When appropriate, the district would distribute information on the complaint form to site-specific personnel.

*Screening/Prevention of Frivolous Complaints*
The current process requires that the complaint form be submitted in writing, and therefore filters many frivolous complaints. Additionally, the complaint form has been revised to include a complainant certification on the signature line. (Please refer to Attachment A.)

To raise the complainant's awareness about the serious consequences associated with filing a complaint, and of the severity of the penalty imposed by law, the complaint form instructions now provide the following information regarding the use and importance of the DM funds subject to withholding.

> "Deferred maintenance apportionments provide State funds to assist school districts with expenditures for major repair or replacement of existing school building components. Typically this includes roofing, plumbing, heating, air conditioning, electrical systems, interior/exterior painting, floor systems, etc."

*Deficiency Codes/Descriptions*
The complaint form provides descriptions and corresponding codes for various restroom deficiencies. The descriptions were derived from the specific maintenance requirements defined in SB 892. The inclusion of specific descriptions helps to ensure that complaints are confined within law's parameters. The codes serve to simplify the complaint response and tracking processes.

*Complainant Notification*
The proposed OPSC process includes a letter of acknowledgement to the complainant, which indicates that the complaint has been received and the school district has been notified. The complainant will also be notified as to the outcome of the complaint.

*Prorating DM Funding*
The provisions of SB 892 are such that a district's entire basic DM funds could be withheld due to a single violation at one school in the district. Staff conferred with SAB legal counsel regarding the language specific to the withholding process in order to determine whether the DM withholding could be prorated proportionate to the number of schools within the district that are found to be in violation. Legal counsel opined that:

- SB 892 contemplates a district's eligibility to receive matching apportionments pursuant to Education Code (EC) Section 17584.
- There is nothing in SB 892 or current law that authorizes the Board to withhold only a portion of the DM apportionment.

*Proposed Timeline for DM Funds Withholding*
The withholding of DM funds is district-specific. Regardless of the quantity, type, or location of a district's complaints, unresolved complaints that occur within the same fiscal year will be presented concurrently to the August SAB preceding the [December] DM Annual Funding. The exception would be made for complaints filed too late in the fiscal year to allow for SAB processing timelines and a reasonable opportunity for correction. These complaints, if unresolved, would go to the Board in August of the *following* year.

If the Board makes a determination of violation, the district will receive a 30-Day Notice referencing all complaints used as a basis for that determination. The district would have 30 days to correct the violations referenced on the notice. If the violations remain uncorrected after 30 days, the district would not receive its DM apportionment at the DM Annual funding.

Presentation to the August SAB would provide sufficient time for the 30-day notifications required by law, and would enable DM staff to identify those districts who will not receive their DM apportionment at the December Board.

For purposes of discussion, the following example illustrates history of XYZ School District's restroom maintenance complaints, and the consequences associated with the district's unresolved complaints, including the ultimate withholding of DM funds.

**EXAMPLE:**

Various complaints are received for the XYZ School District during the 04/05 Fiscal Year [July 1, 2004 - June 30, 2005], as follows:

| | Complaints Received | Corrected within 60 days | Unresolved Complaints |
|---|---|---|---|
| **Fiscal Year 04/05** All unresolved complaints received during this period will go to August 2005 SAB. | *Jul 04* | | **0** |
| | *Aug 04* | | |
| | *Sep 04* | | |
| | *Oct 04* | | **0** |
| | *Nov 04* | | |
| | *Dec 04* | | |
| | *Jan 05* | | **1** |
| | *Feb 05* | | |
| | *Mar 05* | | |
| | *Apr 05* | | **1** |
| | *May 05* | | |
| | *Jun 05* | | ***** |
| | | **Total** | **2** |

- Following the expiration of their respective correction timeframes, the two unresolved complaints would be presented as informational items to the Board, and would remain on the list until they are resolved.
- If the complaints are not corrected by the August SAB, the Board will determine whether the District is in violation of SB 892.
- If the Board determines the District is in violation, the District would receive a 30-Day Notice of Violation.
- If the violation is not resolved within 30 days, the District's DM basic apportionment would be withheld from the next available DM funding cycle following the Board's determination [December 2005].
- * By August 2005, this complaint may not be able to meet SAB processing timelines and may not have received the reasonable opportunity for correction allowed by law. This complaint, if unresolved, could go to the August 2006 SAB.

**ATTACHMENT A**

Complaint Form

**ATTACHMENT B**

## Senate Bill No. 892

CHAPTER 909

An act to add Section 35292.5 to the Education Code, relating to schools.

[Approved by Governor October 12, 2003. Filed with Secretary of State October 12, 2003.]

LEGISLATIVE COUNSEL'S DIGEST

SB 892, Murray. School restrooms.

Existing law exempts public and private schools from provisions relating to the sufficiency of public facility restrooms, and provides for the maintenance and repair of public school facilities by school districts.

This bill would, with certain exceptions, require every public and private school to have restroom facilities that are open as prescribed during school hours, and at all times to keep every restroom maintained and cleaned regularly, fully operational, and stocked with soap and paper supplies.

This bill would make a school district ineligible for prescribed state school facilities deferred maintenance matching funding if, after a 30-day notice period and a reasonable opportunity to cure the violation, a public school it operates remains in violation of this bill.

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

SECTION 1. Section 35292.5 is added to the Education Code, to read:

35292.5. (a) Every public and private school maintaining any combination of classes from kindergarten to grade 12, inclusive, shall comply with all of the following:

(1) Every restroom shall at all times be maintained and cleaned regularly, fully operational and stocked at all times with toilet paper, soap, and paper towels or functional hand dryers.

(2) The school shall keep all restrooms open during school hours when pupils are not in classes, and shall keep a sufficient number of restrooms open during school hours when pupils are in classes.

(b) Notwithstanding subdivision (a), a school may temporarily close any restroom as necessary for pupil safety or as necessary to repair the facility.

(c) Any school district that operates a public school that is in violation of this section as determined by the State Allocation Board, is ineligible

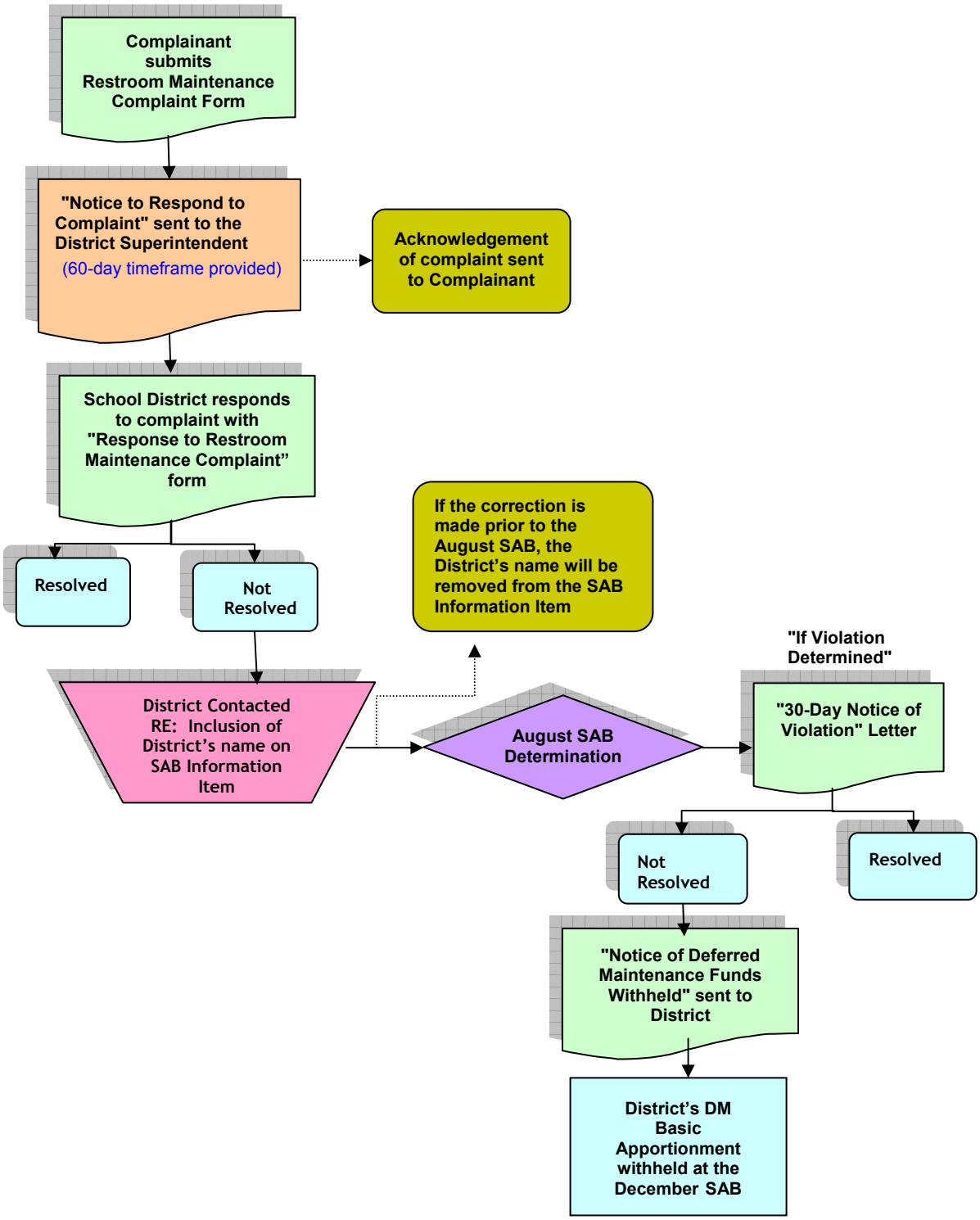
for state deferred maintenance fund matching apportionments pursuant to Section 17584 if the school district has not corrected the violation within 30 days after receipt of a written notice of the violation from the board. Prior to determining that the school district is ineligible, the board shall provide the school district with a reasonable opportunity to cure the violation. The board shall notify the Superintendent of Public Instruction regarding a school district found to be in violation of this section. The Superintendent of Public Instruction shall notify the Controller to withhold apportionments otherwise due the school district under Section 17584.

SEC. 2. It is the intent of the Legislature that a school employee who performs maintenance or repair functions related to restroom facilities that are subject to Section 35292.5 of the Education Code not be subject to discipline if the employee performs his or her responsibilities as required by his or her employer.

SEC. 3. The Legislature finds and declares that, as regards public schools, a principal purpose of this act is to clarify the preexisting requirements of Section 17576 of the Education Code by specifying the minimum requirements necessary to provide sufficient patent flush water closets for the use of pupils in a manner that is consistent with those requirements that apply to other public and private persons or agencies pursuant to Section 118505 of the Health and Safety Code. Because the local mandate established pursuant to Section 17576, which was enacted on January 1, 1948, was enacted prior to January 1, 1975, no reimbursement is required under this act pursuant to Section 6 of Article XIII B of the California Constitution.

# ATTACHMENT C

## *Senate Bill 892*
## *Complaint Process Flow Chart*



# RESTROOM MAINTENANCE COMPLAINT

EDUCATION CODE SECTION 35292.5

SAB 892 (REV 02/04)



## GENERAL INFORMATION

As of January 1, 2004, Section 35292.5 was added to the Education Code and contains the following requirements relating to the sufficiency and availability of restroom facilities in all public schools:

- Every restroom must be maintained and cleaned regularly, fully operational, and stocked at all times with toilet paper, soap, and paper towels or functional hand dryers.
- Schools must keep all restrooms open during school hours when pupils are not in classes, and must keep a sufficient number of restrooms open during school hours when pupils are in classes (except as required for pupil safety or as necessary to repair the facility).
- Any school district that operates a public school that is in violation of this section, as determined by the State Allocation Board, is ineligible for state deferred maintenance fund matching apportionments.

Deferred maintenance apportionments provide State funds to assist school districts with expenditures for major repair or replacement of existing school building components. Typically this includes roofing, plumbing, heating, air conditioning, electrical systems, interior/exterior painting, floor systems, etc.

This form is used to report complaints for inadequate conditions in public school restroom facilities. If the complaint involves multiple restrooms, *please use a separate form for each restroom.*

## SPECIFIC INSTRUCTIONS

Please complete all requested information in order for the Office of Public School Construction to address your concerns in a timely manner.

## PART I

### School District

Enter name of school district of school where complaint is located.

### County

Enter name of county where school district is located.

### Name of School

Enter name of school site where complaint is located.

### School Site Address

Enter street address, city and ZIP code of school site where complaint is located.

### Location of Restroom Facility

Name specific physical location of restroom in the complaint; use landmarks, such as "boys/girls on east side of gymnasium" for reference.

## PART II

Correction of your complaint in a timely manner is important. You are free to file your complaint with the OPSC. In addition, communicating your observations at the local level may serve to further expedite the complaint's resolution. You are encouraged to share the details of restroom deficiencies with the school's principal and your school district.

## PART III

### Type of Complaint

Check the box next to all complaint codes that apply to the complaint being reported.

### Observations

Provide details to further explain the type of complaints that are checked in the "Type of Complaint" form cell.

### Miscellaneous

Select this category to describe maintenance related issues not covered in other complaint categories.

## PART IV

The information provided will enable the OPSC to keep you informed of the complaint's progress.

### Complainant

Print your name.

### Telephone

Please provide your telephone number.

### Address

Please provide your mailing address.

### Signature of Complainant

Sign your name here.

### Date

Please enter the date the form is submitted.

After completing the form, please submit the form by mail or FAX to the address or FAX number shown.

## PLEASE READ INSTRUCTIONS BEFORE COMPLETING FORM.

## PART I

| SCHOOL DISTRICT (IF KNOWN) | COUNTY |
|---|---|
| NAME OF SCHOOL | SCHOOL SITE ADDRESS (STREET, CITY, ZIP CODE) |

LOCATION OF RESTROOM FACILITY (I.E., BOYS/GIRLS RESTROOM AT NORTH END OF CAMPUS NEAR GYM, CAFETERIA RESTROOM, ETC.)

## PART II

**Have you attempted to resolve this complaint at the local level?** ☐ Yes ☐ No

## PART III

### TYPE OF COMPLAINT (PLEASE CHECK ALL THAT APPLY):

**Plumbing, Equipment and Supplies (hand soap, paper towels, etc.)**

- ☐ **P-100** Toilet damaged/missing
- ☐ **P-101** Toilet leaking/clogged
- ☐ **P-102** Lavatory Sink damaged/missing
- ☐ **P-103** Faucets or Pipes damaged/leaking
- ☐ **P-104** Floor Drains clogged
- ☐ **P-105** Lavatory Sink clogged
- ☐ **E-100** Electric Hand Dryers damaged/missing
- ☐ **E-101** Lavatory Stall Doors and/or Locks missing/inoperable
- ☐ **E-102** Paper Towel Dispenser missing/inoperable
- ☐ **E-103** Toilet Paper Dispenser missing/inoperable
- ☐ **E-104** Soap Dispensers missing/inoperable
- ☐ **E-105** Trash Receptacle missing
- ☐ **S-100** Soap Dispensers **consistently** empty
- ☐ **S-101** Paper Towel Dispensers **consistently** empty
- ☐ **S-102** Toilet Paper missing/unusable on a **consistent** basis

**Condition of Restroom/Miscellaneous**

- ☐ **C-100** Floors unclean on a **consistent** basis
- ☐ **C-101** Walls/Ceilings unclean on a **consistent** basis
- ☐ **C-102** Trash Receptacles not emptied **consistently**
- ☐ **C-103** Toilets/Urinals unclean/unusable on a **consistent** basis
- ☐ **C-104** Restroom Facility closed for an extended period
- ☐ **M-100** Miscellaneous—Related to Maintenance. Please summarize under Observations below.

### OBSERVATIONS (PLEASE EXPLAIN IN DETAIL):

## PART IV

I, _____ ,certify that the above statements are true and correct.

| COMPLAINANT (PRINT NAME) | TELEPHONE |
|---|---|
| ADDRESS (NUMBER, STREET, CITY, ZIP CODE) | DATE |
| | |

PLEASE MAIL/FAX COMPLETED FORM TO: **Office of Public School Construction**
**1130 K Street, Suite 400**
**Sacramento, CA 95814**
**FAX: 916.445.5526**

**FOR INTERNAL USE ONLY**

COMPLAINT NO.

STATE ALLOCATION BOARD
IMPLEMENTATION COMMITTEE
March 5, 2004

NEW CONSTRUCTION
ADDITIONAL GRANT FOR REPLACED FACILITIES
(AB 1631 Salinas)

## BACKGROUND

Assembly Bill (AB) 1631 modified Education Code (EC) Section 17071.46(a) to clarify the criteria components used in determining the supplemental grant for a single-story structure being demolished and replaced by a multi-story building on the same site. The intent of this legislation was to provide clarity for application requirements and promote greater participation, without affecting the funding calculations.

## DISCUSSION

Changes to the EC necessitate modifications to the School Facility Program (SFP) Regulations to remove the Multitrack Year-Round Education (MTYRE) requirement and to clarify the criteria to be used in the cost benefit analysis. The criteria components take into account the multi-level replacement expenses and the method for estimating site acquisition cost savings.

### *MTYRE:*

The MTYRE requirement will be removed in regulation and in related documents.

### *Multi-story Replacement Expenses:*

Change replacement expenses to include the cost of demolition of the single-story building and the construction expenses for the replacement multi-story structure. (See Attachment A)

### *Site Acquisition Costs Savings:*

Site acquisition costs savings are to be verified by a cost benefit analysis. The cost benefit analysis must compare the multi-story project costs **to** the new site project costs for the number of pupils housed in the additional classrooms resulting from the multi-story project. The cost benefit analysis must base its site acquisition costs upon actual previous site acquisitions and associated costs for a site housing an equivalent number of pupils.

A district that does not have a project meeting the above requirement must submit the following:

1. A signed and dated certification indicating the district did not have prior projects meeting the actual previous site acquisition requirements.

2. A cost benefit analysis which has calculated the price per acre of land for the new school site by one of the following methods:

   - A preliminary or complete appraisal made or updated within six months from the application submittal date for an alternative site of equivalent size in the General Location of the proposed project.

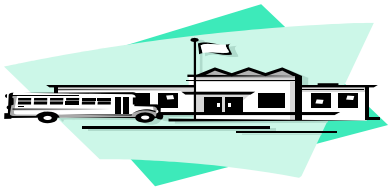
     - A preliminary letter from the CDE indicating that the alternate site would be approvable for school purposes.

   - The median cost of an acre of land in the General Location of the alternate location for the project using historical information in the General Location multiplied by the number of proposed usable acres as calculated by CDE's recommended site size. (Regulation Section 1859.145(f)(2)).

# ATTACHMENT A

## MULTI-STORY REPLACEMENT COST BENEFIT ANALYSIS

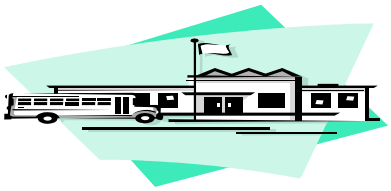
### ASSEMBLY BILL 801

**DEMOLITION COST** + **SINGLE LEVEL REPLACEMENT COST** <  **~~COST OF NEW FACILITY~~ + THE PRICE OF LAND (INCLUDING RELOCATION COSTS)**

Per AB 801 & Regulation 1859.73.2

Replacement expenses are determined by all demolition costs and the total square feet in the *single story* replacement area only.

### ASSEMBLY BILL 1631

**DEMOLITION COST** + **MULTI-STORY REPLACEMENT COST** <  **COST OF NEW FACILITY + THE PRICE OF LAND (INCLUDING RELOCATION COSTS)**

Per AB 1631

Replacement expenses are determined by the total demolition costs and the total square feet in the entire *multi-story* replacement area.

# ATTACHMENT B

## PROPOSED CHANGES TO THE SFP REGULATIONS

Section 1859.73.2. New Construction Additional Grant for Replaced Facilities.

(a) In addition to any other funding authorized by these Regulations, the Board shall provide funding for the amount(s) in (b) below for the replacement cost of ~~one~~single-story buildings that are demolished at a school in order to increase pupil capacity of that school if all the following conditions are met:

~~(1) The school must be on MTYRE at the time the Approved Application is accepted.~~

~~(2)~~(1) The site size as determined by the CDE for the existing capacity of the school is less than 75 percent of the recommended CDE site size.

~~(3)~~(2) The pupil capacity of the school must be increased by at least the greater of (A) or (B) below:

(A) Twenty percent of the existing pupil capacity (before replacement) of the school. Existing pupil capacity shall be determined by multiplying classrooms intended for grades kindergarten through six by 25, classrooms intended for grades seven through 12 by 27, classrooms intended for Non-Severely Disabled Individuals with Exceptional Needs by 13 and classrooms intended for Severely Disabled Individuals with Exceptional Needs by nine. Classrooms shall not include any classrooms reduced from the Gross Classroom Inventory pursuant to Section 1859.32.

(B) 200 pupils.

~~(4)~~(3) The sum of (A) and (B) below is less than the amount determined in (E) below:

(A) Determine the estimated cost of demolition of the ~~one~~single-story buildings to be replaced. The cost estimate shall be subject to review by the OPSC for conformance with the Saylor Current Cost Publication.

(B) Multiply the total square footage of the proposed multistory replacement buildings ~~to be replaced~~ by the Current Replacement Cost.

(C) Multiply the New Construction Grants requested in box 2a. of the Form SAB 50-04 by .01775 for K-6, .021 for 7-8 and .02472 for 9-12. For purposes of this calculation, assign Severely Disabled Individuals with Exceptional Needs and Non-Severely Disabled Individuals with Exceptional Needs pupil grants requested on Form SAB 50-04 as either K-6, 7-8 or 9-12 based on the type of project selected by the district on Form SAB 50-04.

(D) Determine the average ~~appraised~~ value of land per acre~~, including relocation costs, within the attendance boundaries of the school~~. ~~The appraisal must be consistent with Section 1859.74.1.~~

1. Previous actual site acquisition costs for a site of equivalent size and housing an equivalent number of pupils within the district's boundaries.

2. Applicant districts with no projects meeting the requirements in 1. above are required to submit a written certification to the OPSC stating such, and must use one of the following calculation methods:

a. A complete appraisal or a preliminary appraisal of property in the General Location of the proposed project made or updated within six months from the Approved Application submittal date to the OPSC, using the guidelines outlined in Section 1859.74.1. The preliminary appraisal may be made without access to the property.

b. The Median Cost of an acre of land in the General Location of the proposed project using historical information from the General Location. Historical information that may be considered to determine land cost shall include prior real-estate sales consummated and documented by the county recorder or pending real-estate sales documented by a title insurance company's escrow instructions. For purposes of historical information, include all real-estate sales consummated and documented by the county recorder for a minimum of six months and a maximum of up to two years prior to the date the Approved Application was submitted to the OPSC. Relocation expenses, for this method, will be calculated based upon OPSC historical data.

(E) Multiply the sums of the products determined in (C) above by the average ~~appraised~~ value of land per acre determined in (D) above.

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~~(5)~~(4) The CDE has determined that the replacement of the ~~one~~single-story buildings on the existing site with multi~~level~~story building(s) would be the best available alternative and will not create a school with an inappropriate number of pupils in relation to the size of the site.

~~(6)~~(5) The ~~one~~single-story buildings to be replaced on the existing site may not be leased facilities.

~~(7)~~(6) With the exception of portables acquired with Class Size Reduction funds, the ~~one~~single-story buildings to be replaced on the site may not have been funded for either new construction or modernization funds from ~~Proposition 1A~~ State bond funds within the past five years from the date the Approved Application is accepted.

(b) If the criteria in (a) are met, the additional funding is determined by multiplying $173.30 per square foot for Toilet Facilities and by $96.30 per square foot for all other facilities included in the ~~one~~single-story buildings to be replaced adjusted for the following:

(1) The amounts shall be adjusted annually in the manner prescribed in Section 1859.71.

(2) The amounts shall be increased by the percentage authorized in Section 1859.73 if the replacement area will be multi~~level~~story building(s).

The district is eligible for site development in accordance with Section 1859.76 including the demolition of the replacement structures as part of the SFP project.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17071.46 and 17074.56, Education Code.

Section 1859.145.1. Preliminary Apportionment Site Acquisition Value.

If the Preliminary Application includes a request for site acquisition funding, the preliminary value of the proposed site shall be the sum of the following:

(a) The value of the property determined by one of the following:

(1) By an appraisal or a preliminary appraisal of the property made no more than six months prior to the date the Preliminary Application or Preliminary Charter School Application was submitted to the OPSC, using the guidelines outlined in Section 1859.74.1. The preliminary appraisal may be made without access to the property. The acreage identified in the appraisal or the preliminary appraisal may not exceed the proposed useable acreage requested on Form SAB 50-08 or Form SAB 50-09, as appropriate.

(2) The Median Cost of an acre of land in the General Location of the proposed project using historical information in the General Location multiplied by the number of proposed useable acres requested on Form SAB 50-08 or Form SAB 50-09, as appropriate. Historical information that may be considered to determine land cost may include prior real-estate sales consummated and documented by the county recorder or pending real-estate sales documented by a title insurance company's escrow instructions. For purposes of historical information, include all real-estate sales consummated and documented by the county recorder for a ~~period~~ minimum of six months and a maximum of up to two years prior to the date the Preliminary Application was submitted to the OPSC.

(b) An amount for the estimated relocation cost and the estimated DTSC costs for review, approval and oversight of the POESA and the PEA as determined by one of the following:

(1) 21 percent of the value determined in (a).

(2) The sum of the following:

(A) The approved relocation expenses for the specific site to be acquired that conform to Title 25, California Code of Regulations, Section 6000, et. seq.

(B) The DTSC cost for review, approval, and oversight of the POSEA and the PEA for the specific site to be acquired.

(3) The estimated relocation cost and the estimated DTSC costs for review, approval and oversight of the POESA and the PEA using historical information in the General Location. Historical information that may be considered to determine these estimated costs may include prior real-estate acquisitions of the district or other districts in the General Location.

DRAFT

(c) Four percent of the amount determined in (a), but not less than $50,000. This amount shall provide an allowance of any appraisal, escrow, survey, site testing, CDE review/approvals and preparation of the POESA and the PEA.

(d) For allowable costs of hazardous material/waste removal and remediation costs, one-half times the value of the property determined in either (a)(1) or (a)(2), above.

Note: Authority cited: Sections 17070.35 and 17075.15, Education Code.

Reference: Sections 17072.13, 17078.10 and 17078.24, Education Code.

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# ATTACHMENT C

## Assembly Bill No. 1631

CHAPTER 904

An act to amend Section 17071.46 of the Education Code, relating to public schools.

[Approved by Governor October 12, 2003. Filed with Secretary of State October 12, 2003.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1631, Salinas. School facilities funding: replacement buildings.

Existing law, the Leroy F. Greene School Facilities Act of 1998, requires the State Allocation Board to provide a supplemental grant for 50% of the replacement cost of a single-story building if a school district proposes to demolish the building and replace it with a multistory building on the same site, if certain conditions are met, including, but not limited to, a condition that the school is operating on a multitrack year-round education schedule.

This bill would delete the condition relating to a school operating on a multitrack year-round education schedule from the requirements to qualify for the supplemental grant and would provide a method for estimating site acquisition costs savings.

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

SECTION 1. Section 17071.46 of the Education Code is amended to read:

17071.46. (a) If an applicant school district proposes to demolish a single-story building and replace it with a multistory building on the same site, the State Allocation Board shall provide a supplemental grant for 50 percent of the replacement cost of the single-story building to be demolished, if all of the following conditions are met:

(1) The cost of the demolition and construction of a new multistory building on the same site is less than the total cost of providing a new school facility, including land, on a new site for the additional number of pupils housed as a result of the multistory replacement building on the existing site, as determined by the State Allocation Board. For purposes of this subdivision, the method of estimating the site acquisition costs savings shall be based on previous actual site sizes and acquisition costs in the district for equivalent numbers of pupils, or as otherwise determined by the board if actual site acquisition comparisons are not available for the district.

(2) The school district will maximize the increase in pupil capacity on the site when it builds the multistory replacement building, subject to the limits imposed on it pursuant to paragraph (3).

(3) The State Department of Education has determined that the demolition of an existing single-story building and replacement with a multistory building at the site is the best available alternative and will not create a school with an

inappropriate number of pupils in relation to the size of the site, as determined by the State Department of Education.

(b) The State Allocation Board shall establish additional requirements it deems necessary to ensure that the economic interests of the state and the educational interests of the children of the state are protected.

# Assembly Bill No. 801

CHAPTER 458

FILED WITH SECRETARY OF STATE SEPTEMBER 18, 2000
APPROVED BY GOVERNOR SEPTEMBER 15, 2000
PASSED THE ASSEMBLY AUGUST 30, 2000
PASSED THE SENATE AUGUST 29, 2000
AMENDED IN SENATE AUGUST 25, 2000
AMENDED IN SENATE JULY 6, 2000
AMENDED IN SENATE JUNE 21, 2000
AMENDED IN ASSEMBLY JANUARY 3, 2000
AMENDED IN ASSEMBLY APRIL 28, 1999
AMENDED IN ASSEMBLY APRIL 5, 1999

INTRODUCED BY Assembly Member Cardenas

FEBRUARY 24, 1999

An act to add Section 17071.46 to the Education Code, relating to school facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 801, Cardenas. School facilities.

Existing law, the Leroy F. Greene School Facilities Act of 1998, establishes the 1998 State School Facilities Fund from which the State Allocation Board may apportion funds to school districts for certain purposes, including new construction. Existing law requires each school district that elects to participate in the new construction program under the act to submit to the State Allocation Board a one-time report of existing school building capacity, pursuant to a prescribed calculation.

This bill would adjust the calculation when an applicant school district proposes to demolish a single story building and replace it with a multistory building on the same site, if specified conditions are met.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 17071.46 is added to the Education Code, to read:

17071.46. (a) When an applicant school district proposes to demolish a single story building and replace it with a multistory building on the same site, the State Allocation Board shall provide a supplemental grant for 50 percent of the replacement cost of the single story building to be demolished, if all of the following conditions are met:

(1) The school at which the building demolition and replacement is to occur is operating on a multitrack year-round education schedule.

(2) The cost of the demolition and replacement is less than the total cost of providing a new school facility, including land, on a new site for the additional

number of pupils housed as a result of the replacement building, as determined by the State Allocation Board.

(3) The school district will maximize the increase in pupil capacity on the site when it builds the replacement building, subject to the limits imposed on it pursuant to paragraph (5) of subdivision (a).

(4) The State Department of Education has determined that the demolition of an existing single story building and replacement with a multistory building at the site is the best available alternative and will not create a school with an inappropriate number of pupils in relation to the size of the site, as determined by the State Department of Education.

(b) The State Allocation Board shall establish additional requirements it deems necessary to ensure that the economic interests of the state and the educational interests of the children of the state are protected.

# Copy of EC Section 17071.46 as modified by AB 1631

**17071.46**. (a) If an applicant school district proposes to demolish a single-story building and replace it with a multistory building on the same site, the State Allocation Board shall provide a supplemental grant for 50 percent of the replacement cost of the single-story building to be demolished, if all of the following conditions are met:
***

(1) The cost of the demolition and *** construction of a new multistory building on the same site is less than the total cost of providing a new school facility, including land, on a new site for the additional number of pupils housed as a result of the multistory replacement building on the existing site, as determined by the State Allocation Board. For purposes of this subdivision, the method of estimating the site acquisition costs savings shall be based on previous actual site sizes and acquisition costs in the district for equivalent numbers of pupils, or as otherwise determined by the board if actual site acquisition comparisons are not available for the district.

(2) The school district will maximize the increase in pupil capacity on the site when it builds the multistory replacement building, subject to the limits imposed on it pursuant to paragraph (3).

(3) The State Department of Education has determined that the demolition of an existing single-story building and replacement with a multistory building at the site is the best available alternative and will not create a school with an inappropriate number of pupils in relation to the size of the site, as determined by the State Department of Education.

(b) The State Allocation Board shall establish additional requirements it deems necessary to ensure that the economic interests of the state and the educational interests of the children of the state are protected.

STATE ALLOCATION BOARD
IMPLEMENTATION COMMITTEE
March 5, 2004

# CONTINUATION HIGH, COMMUNITY DAY, AND COUNTY COMMUNITY SCHOOLS

## BACKGROUND

Assembly Bill (AB) 695, Chapter 858, Statutes of 1999, required a study be conducted by the Department of General Services (DGS), in conjunction with the California Department of Education (CDE), the Department of Finance (DOF), and the Legislative Analyst's Office (LAO), to review the classroom loading and method of funding the construction and modernization of school facilities for community day, county community, county community day, and continuation high school pupils; commonly referred to as alternative education schools. In March 2003, the results of the study required by AB 695 were released by DGS and distributed by the Office of Public School Construction (OPSC) to all State Allocation Board members and school districts in a report entitled the *Review of the Funding Methods for Continuation High, Community Day and County Community Schools*. The report called for modifications to be considered for the School Facility Program Regulations.

## DISCUSSION

The report recommended the State Allocation Board (SAB) consider changing the classroom loading standard for alternative education schools to 18 pupils per classroom at all grade levels, and that the SAB should consider developing a new school allowance for alternative education schools. The funding proposal was developed in coordination with the reduction of the loading standard proposal. These recommendations were discussed in detail at SAB Implementation Committee meetings in April, May, July and August of 2003, and the Committee concurred with the recommendations. When these recommendations were presented to the SAB, concerns on the loading standards were raised and subsequently a thorough review of this matter is planned.

However, in order to meet the immediate and distinctive facility needs of these alternative education school pupils, changes to the funding method of alternative education schools are still needed. Since the loading standard shall not be altered at the present time, the alternative education new school grant proposal has been revised to provide funding at a level in alignment with the current classroom loading capacity of 25 pupils for elementary school and 27 pupils for middle and high schools. This proposal is based on the minimum essential facility (MEF) chart below, which was prepared with the assistance of the CDE, and used as the basis of the previously discussed alternative education new school grant. As before, the new school grant also provides funding for up to 1,030 square feet per classroom.

MINIMUM ESSENTIAL FACILITY CHART

| | Column 1 | Column 2 | Column 3 |
|---|---|---|---|
| Support Facility | Project contains 1 or 2 classrooms | Project(s) contains 3 to 10 classrooms | Project(s) contains 11 or more classrooms |
| Multipurpose Facility or Gymnasium (includes food service) | 2,500 sq. ft. | 6.3 sq. ft. per pupil minimum 4,000 sq. ft. | 6.3 sq. ft. per pupil minimum 7,200 sq. ft. |
| | Column 1 (cont'd) | Column 2 (cont'd) | Column 3 (cont'd) |
| Toilet | 5 sq. ft. per pupil minimum 300 sq. ft. | 5 sq. ft. per pupil minimum 300 sq. ft. | 5 sq. ft. per pupil minimum 300 sq. ft. |
| School Administration | 1,000 sq. ft. Combined Total | 4 sq. ft. per pupil minimum 800 sq. ft. | 4 sq. ft. per pupil plus 800 sq. ft. |
| Counseling offices, small group areas, and/or conference rooms | | 1,000 sq. ft. | 1,000 sq. ft. |
| Library/Media Space | | 4.3 sq. ft. per pupil plus 600 sq. ft. | 4.3 sq. ft. per pupil plus 600 sq. ft. |

The proposal continues to include:

- Additional funding as the district files additional applications for the same site with an offset provision to account for previous funding received for support facilities.
- A grandfathering provision for those projects for which the final plans and specifications for the project were accepted by the Department of State Architect prior to the date of SAB approval of the proposed regulations.
- Revisions to the regulations to accommodate the following alternative education support facilities for existing schools:
    - Multipurpose or Gymnasium
    - Library
    - Counseling Offices and/or Conference Rooms

As discussed above, the alternative education new school grant proposed here is derived from the same MEF chart as the previous proposal. However, the new proposed amounts are typically greater than as recommended for the classrooms loaded at 18 in order to provide sufficient funding for the additional support facility square footage needed under the current classroom loading capacity (see Attachment A). The amounts shown reflect the 1998 grant amounts. However, the 2004 grant amounts have also been included (see Attachment B).

## AUTHORITY

Education Code Section (ECS) 17071.25(a)(2)(C), amended by AB 695, authorizes the SAB to "adopt regulations establishing assumed capacity standards after consideration of the recommendations developed by the Director of General Services" for alternative education schools. The law further states that "teaching station assumed capacity adjustments pursuant to these regulations for continuation high school, community day school, county community school and county community day school…shall be approved by the Director of Finance prior to implementation." Education Code Section 17072.17, established pursuant to AB 695, directed the DGS, in conjunction with the CDE, the DOF, and the LAO, "to review the method of funding the construction and modernization of school facilities" for alternative education schools, and to "recommend modifications" as deemed appropriate.

RECOMMENDATIONS

1. Amend Regulation Sections as provided on Attachment C.
2. Since these costs are newly implemented, staff recommends reviewing these grants in approximately one year.

ATTACHMENT A

ALTERNATIVE EDUCATION SCHOOLS
SUPPORT FACILITY FUNDING

| ALTERNATIVE EDUCATION<br>NEW SCHOOL GRANT PROPOSAL COMPARISON | | |
|---|---|---|
| Classrooms | 1998 Additional Grant<br>New School Allowance<br>for loading at 18 | 1998 Additional Grant<br>New School Allowance<br>for loading at 25 and 27 |
| 1 | $ 434,700 | $ 434,700 |
| 2 | $ 527,400 | $ 527,400 |
| 3 | $ 902,070 | $ 921,960 |
| 4 | $ 1,007,100 | $ 1,037,250 |
| 5 | $ 1,114,830 | $ 1,152,540 |
| 6 | $ 1,222,650 | $ 1,267,830 |
| 7 | $ 1,330,380 | $ 1,383,120 |
| 8 | $ 1,438,200 | $ 1,504,170 |
| 9 | $ 1,545,930 | $ 1,629,180 |
| 10 | $ 1,653,660 | $ 1,754,190 |
| 11 | $ 2,120,760 | $ 2,239,290 |
| 12 | $ 2,234,970 | $ 2,364,300 |
| 13 | $ 2,349,270 | $ 2,489,310 |
| 14 | $ 2,463,480 | $ 2,614,320 |
| 15 | $ 2,577,690 | $ 2,739,330 |
| 16 | $ 2,691,990 | $ 2,864,340 |
| 17 | $ 2,806,200 | $ 2,989,350 |
| 18 | $ 2,920,500 | $ 3,114,360 |
| 19 | $ 3,034,710 | $ 3,239,370 |
| 20 | $ 3,148,920 | $ 3,364,380 |
| 21 | $ 3,263,220 | $ 3,489,480 |
| 22 | $ 3,377,460 | $ 3,614,490 |
| 23 | $ 3,491,730 | $ 3,739,500 |
| 24 | $ 3,605,940 | $ 3,864,510 |
| 25 | $ 3,720,150 | $ 3,989,520 |
| 26 | $ 3,834,450 | $ 4,114,530 |
| 27 | $ 3,948,660 | $ 4,239,540 |

ATTACHMENT B

ALTERNATIVE EDUCATION SCHOOLS
SUPPORT FACILITY FUNDING

| ALTERNATIVE EDUCATION NEW SCHOOL GRANT | | |
|---|---|---|
| Classrooms | 1998 Additional Grant New School Allowance | Additional Grant New School Allowance Effective 1-1-04 |
| 1 | $ 434,700 | $ 504,921 |
| 2 | $ 527,400 | $ 612,595 |
| 3 | $ 921,960 | $ 1,070,892 |
| 4 | $ 1,037,250 | $ 1,204,806 |
| 5 | $ 1,152,540 | $ 1,338,720 |
| 6 | $ 1,267,830 | $ 1,472,634 |
| 7 | $ 1,383,120 | $ 1,606,547 |
| 8 | $ 1,504,170 | $ 1,747,151 |
| 9 | $ 1,629,180 | $ 1,892,355 |
| 10 | $ 1,754,190 | $ 2,037,559 |
| 11 | $ 2,239,290 | $ 2,601,022 |
| 12 | $ 2,364,300 | $ 2,746,225 |
| 13 | $ 2,489,310 | $ 2,891,429 |
| 14 | $ 2,614,320 | $ 3,036,633 |
| 15 | $ 2,739,330 | $ 3,181,836 |
| 16 | $ 2,864,340 | $ 3,327,041 |
| 17 | $ 2,989,350 | $ 3,472,245 |
| 18 | $ 3,114,360 | $ 3,617,449 |
| 19 | $ 3,239,370 | $ 3,762,653 |
| 20 | $ 3,364,380 | $ 3,907,856 |
| 21 | $ 3,489,480 | $ 4,053,165 |
| 22 | $ 3,614,490 | $ 4,198,369 |
| 23 | $ 3,739,500 | $ 4,343,574 |
| 24 | $ 3,864,510 | $ 4,488,777 |
| 25 | $ 3,989,520 | $ 4,633,979 |
| 26 | $ 4,114,530 | $ 4,779,185 |
| 27 | $ 4,239,540 | $ 4,924,388 |

ATTACHMENT C

ALTERNATIVE EDUCATION SCHOOLS
SUPPORT FACILITY FUNDING

Section 1859.2. Definitions.

For the purpose of these regulations, the terms set forth below shall have the following meanings, subject to the provisions of the Act:
"Academic Achievement" means to improve one's ability to engage in academic endeavors and to accomplish study
in core curriculum areas such as reading, writing, mathematics, fine arts, science, vocational education, technology, history or social science.
"Act" means the Leroy F. Greene School Facilities Act of 1998.
"Adjacent" means the HSAAs that will make up the Super HSAA are adjoining, touching, or share a common geographical boundary.
"Alternative District Owned Site" means a district owned site that is deemed available for the project by the California Department of Education.
"Alternative Education " means community day, county community, county community day, and continuation high schools.
"Application" means a request pursuant to the Act to receive an eligibility determination and/or funding for a school project.
"Apportionment" shall have the meaning set forth in Education Code Section 17070.15(a).
…

Section 1859.33. Classroom Identification and Determination of Existing School Building Capacity.

The district shall identify by grade level, based on its most typical use for grades K-6, 7-8 or 9-12, or non-severe or severe Special Day Class education, each classroom included in the classroom inventory determined pursuant to Section 1859.31 and not excluded pursuant to Section 1859.32. These classrooms shall be reported on the Form SAB 50-02.

Section 1859.35. Calculation of Existing School Building Capacity.

The district's existing school building capacity shall be determined by totaling the amount calculated in (a) with the amount determined in (b) or (c), whichever is the greater:

(a) With the exception of classrooms for Special Day Class pupils for which the multiplier is indicated on the Form SAB 50-02, multiply the number of available classrooms in the district, the HSAA or the Super HSAA by the following: 25 for each K-6 classroom and 27 for each 7-12 classroom. Available classrooms shall be determined by the reduction of classrooms identified in Section 1859.32 from the gross classroom inventory prepared pursuant to Section 1859.31 and the inclusion of portable classrooms as provided pursuant to Education Code Section 17071.30 (a) or (b).
(b) Multiply the K-6 pupil capacity of the elementary district, the unified district, the HSAA or the Super HSAA in a unified district as determined by the results of the calculations in (a) at the time of the initial determination of eligibility by six percent. When the elementary or unified district meets the Substantial Enrollment Requirement (SER) or qualifies for a waiver of the SER authorized by Education Code Sections 17017.6 and 17017.7(c), the amount reported in (b) shall be zero. For High School Districts, the amount reported in (b) shall be zero.
(c) A number equal to the number of pupils provided operational grants as indicated in the current report of operational grants made by the CDE pursuant to Education Code Section 42268, less the number of pupils at a school on the MTYRE calendar that has a density of at least 200 or more pupils per acre when the district has at least 40 percent of its enrollment on MTYRE as of the date of determination of the existing school building capacity of the district.

Section 1859.77.3. Use of New Construction Grant Funds for Projects Accepted by the DSA after January 22, 2003.

New Construction Grant funds and any other funds provided by these Regulations shall be expended as set forth in Education Code Section 17072.35; and may also be utilized for the cost incurred by the district for the development and implementation of remedial action plan approved by the DTSC pursuant to Education Code Section 17213; and for the costs incurred by the district directly or through a contract with a third party provider for the initiation and enforcement of a labor compliance program pursuant to Labor Code Section 1771.7.

Authorization for use of New Construction Grants for which the final plans and specifications for the project were accepted by the DSA after January 22, 2003 may be requested as follows:

(a) A district may request new construction grants that exceed the capacity of the project based on loading standards pursuant to Education Code Section 17071.25(a)(2) and any loading standards adopted by the SAB by these regulations if the project is to construct a multipurpose, gymnasium and/or library<u>, or for an Alternative Education school to construct a multipurpose/gymnasium, library, counseling offices, and/or conference rooms</u>, at an existing site that does not have an existing or adequate facility of the type being requested when all of the following is met:

(1) The district must adopt a school board resolution that has been discussed at a public hearing at a regularly scheduled meeting of the district's governing board on a date preceding the application filing that includes the following:

(A) An acknowledgement that funds for the purposes of housing the excess pupils are being diverted to another project.

(B) An acknowledgement that the State has satisfied its obligation, pursuant to Section 1859.50, to house the pupils receiving grants in the project.

(C) A plan outlined in the resolution that identifies how the district has housed or will house the pupils receiving grants in the project in school buildings as defined in Education Code Section 17368. The plan must certify one of the following methods:

1. The district will construct or acquire facilities for housing the pupils with funding not otherwise available to the SFP as a district match within five years of project approval by the SAB, and the district must identify the source of the funds; or
2. The district will utilize higher district loading standards providing the loading standards are within the approved district's teacher contract and do not exceed 33:1 per classroom.

(2) The existing school site was not constructed under the SFP.

(3) The proposed project includes no more than eight classrooms.

(4) Grants requests, above 100 percent of the number of pupils to be housed, based on Special Day Class pupil eligibility are only permitted under this subsection (a) when building a Special Day Class facility.

(5) For purposes of this section to determine if an existing facility is inadequate, the existing square footage is less than 60 percent of the square footage necessary for the current CBEDS for the site plus the Net School Building Capacity of the proposed project as calculated pursuant to Section 1859.82(b)<u>, with the exception of Alternative Education schools refer to the following:</u>

| ALTERNATIVE EDUCATION | | | |
|---|---|---|---|
| Support Facility | Existing Site Plus Proposed Project Contain 1 or 2 Classrooms | Existing Site Plus Proposed Project Contain 3 to 10 Classrooms * | Existing Site Plus Proposed Project Contain 11 or More Classrooms* |
| Multipurpose Facility or Gymnasium (includes food service) | 2,500 sq. ft. | 6.3 sq. ft. per pupil minimum 4,000 sq. ft. | 6.3 sq. ft. per pupil minimum 7,200 sq. ft., maximum of 18, 000 sq. ft. |
| Counseling Offices, and/or Conference Rooms | 1,000 sq. ft. Combined Total | 1,000 sq. ft. | 1,000 sq. ft. |
| Library/Media Space | | 4.3 sq. ft. per pupil plus 600 sq. ft. | 4.3 sq. ft. per pupil plus 600 sq. ft. |

*The proposed project cannot include more than eight classrooms.

(6) The maximum excess pupil amount being requested for this type of use of grants request, is calculated by the following:

(A) Multiply the current CBEDS for the site plus the Net School Building Capacity for the proposed project by the square footage for the type of facility being requested, pursuant to Section 1859.82(b), with the exception of Alternative Education schools refer to subsection (5) above.

(B) Multiply the product in (a)(6)(A) above by the per square foot grant amount for multipurpose, gymnasium or library facilities pursuant to Section 1859.82(b); utilize the same per square foot grant amount for the Alternative Education school facilities.

(C) Divide the product in (a)(6)(B) above by the New Construction Grant amount for the project grade level, rounded up to the nearest whole number.

(b) A district may request new construction grant eligibility determined at a different grade level than the proposed project that does not exceed the capacity of the project, unless the project includes a request as indicated in Section 1859.77.3(a), based on loading standards pursuant to Education Code Section 17071.25(a)(2) and any loading standards adopted by the SAB by these regulations when all of the following is met:

(1) The district must adopt a school board resolution that has been discussed at a public hearing at a regularly scheduled meeting of the district's governing board on a date preceding the application filing that include the following:

(A) An acknowledgement that funds for the purposes of housing the excess pupils are being diverted to another project.

(B) An acknowledgement that the State has satisfied its obligation, pursuant to Section 1859.50, to house the pupils receiving grants in the project.

(C) A plan outlined in the resolution that identifies how the district has housed or will house the pupils receiving grants in the project in school buildings as defined in Education Code Section 17368. The plan must certify one of the following methods:

1. The district will construct or acquire facilities for housing the pupils with funding not otherwise available to the SFP as a district match within five years of project approval by the SAB, and the district must identify the source of the funds; or
2. The district will utilize higher district loading standards providing the loading standards are within the approved district's teacher contract and do not exceed 33:1 per classroom; or
3. The pupils requested from a different grade level will be housed in classrooms at an existing school in the district which will have its grade level changed, to the grade level requested, at the completion of the proposed SFP project.

(2) Only New Construction Grant eligibility for grades Kindergarten through 12 can be requested pursuant to this subsection (b), and the district must use its New Construction Grant eligibility, pursuant to subsection (b), in the following order:

(A) At the grade level of the proposed project, if available.
(B) At the lowest grade level other than the proposed project, if available.
(C) At the next highest grade level other than the proposed project.
(c) A district may request new construction eligibility based on the SFP Regulation Section 1859.77.2 or 1859.77.3, as appropriate, in place as of the date of a local bond election provided that clear language was included in the local bond that specifically identified the proposed project, and provided that the project meets all laws and regulations of the SFP.

If a district wishes to amend its Approved Application to include or increase its use of grants request after the submittal to the OPSC, the district must request in writing that the Approved Application be withdrawn and removed from the OPSC workload list. The resubmitted application will receive a new processing date by the OPSC.

The New Construction Grant amount provided shall be determined based on the grant amount provided in Education Code Section 17072.10 for the grade level that generated the eligibility and any New Construction Additional Grant or New Construction Excessive Cost Hardship Grant the district qualifies for as provided by these regulations.

Section 1859.82. Facility Hardship.

A district is eligible for facility hardship funding to replace or construct new classrooms and related facilities if the district demonstrates there is an unmet need for pupil housing or the condition of the facilities, or the lack of facilities, is a threat to the health and safety of the pupils. A facility hardship is available for:
(a) New classrooms and/or subsidiary facilities (corridors, toilets, kitchens and other non-classroom space) or replacement facilities if either (1) or (2) are met:
(1) The facilities are needed to ensure the health and safety of the pupils if the district can demonstrate to the satisfaction of the Board that the health and safety of the pupils is at risk. Factors to be considered by the Board shall include the close proximity to a major freeway, airport, electrical facility, high power transmission lines, dam, pipeline, industrial facility, adverse air quality emission or other health and safety risks, including structural deficiencies required by the Division of the State Architect to be repaired, traffic safety or because the pupils reside in remote areas of the district and transportation to existing facilities is not possible or poses a health and safety risk.

If the request is for replacement facilities, a cost/benefit analysis must be prepared by the district and submitted to the OPSC that indicates the total costs to remain in the classroom or related facility and mitigate the problem is at least 50 percent of the Current Replacement Cost of the classroom or related facility. The cost/benefit analysis may include applicable site development costs as outlined in Section 1859.76. If the cost to remain in the classroom or related facility is less than 50 percent of the Current Replacement Cost, the district may qualify for a Modernization Excessive Cost Hardship Grant for rehabilitation costs pursuant to Section 1859.83 (e).

If the request is for replacement facilities that included structural deficiencies, the cost/benefit analysis must also include a report from a licensed design professional identifying the minimum work necessary to obtain Division of the State Architect approval. The report must contain a detailed cost estimate of the repairs. The report and cost estimate shall be subject to review by the OPSC for conformance with the Saylor Current Construction Cost Publication and, at the OPSC's discretion, the Division of the State Architect.
(2) The classroom or related facility was lost or destroyed as a result of a disaster such as fire, flood or earthquake and the district has demonstrated satisfactorily to the Board that the classroom or related facility was uninsurable or the cost for insurance was prohibitive.

If the district qualifies for a new or replacement school pursuant to either (1) or (2) above, the district is eligible for a New Construction Grant as a new construction project for the lesser of the pupils housed in the replaced facility based on loading standards pursuant to Education Code Section 17071.25(a)(2) or the latest CBEDS enrollment at the site.

If the district qualifies for replacement facilities on the same site pursuant to either (1) or (2) above, the district is eligible for funding as a new construction project. Replacement facilities shall be allowed in accordance with the square footage amounts provided in the chart in Section (b) below. If the facility eligible for replacement is not shown in the chart in Section (b) below, the replacement facility shall be limited to the square footage replaced. The grant amount provided shall be $173.30 per square foot for Toilet Facilities and $96.30 per square foot for all other facilities. Additional funding may be
provided for applicable site development costs pursuant to Section 1859.76, New Construction Excessive Cost Hardship Grant(s) pursuant to Section 1859.83(a), (b) or (d), therapy room pursuant to Section 1859.72, multilevel construction pursuant to Section 1859.73 and project assistance pursuant to Section 1859.73.1. The amounts shown will be adjusted annually in the manner prescribed in Section 1859.71.

Any grants provided pursuant to either (1) or (2) above will be reduced for any space deemed available by the Board in the district, the HSAA or Super HSAA that could be used to house some or all of the displaced pupils, fifty percent of any insurance proceeds collectable by the district for the displaced facilities and fifty percent of the net proceeds available from the disposition of any displaced facilities.

(b) A multi-purpose room, toilet, gymnasium, school administration or library/media center, facility that meets all the following:
(1) The facility was lost or destroyed as a result of a disaster, including but not limited to fire, flood or earthquake.
(2) The facility is no longer useable for school purposes as recommended by the California Department of Education and approved by the Board.
(3) The district has demonstrated satisfactorily to the Board that the facility was uninsurable or the cost of insurance was prohibitive.

If the district qualifies, the district is eligible for funding as a new construction project. The funding amount provided shall be $96.30 per square foot for library/media center, school administration, gymnasium and multi-purpose facilities, and/or $173.30 per square foot for Toilet Facilities. A New Construction Additional Grant may be provided for applicable site development costs pursuant to Section 1859.76, New Construction Excessive Cost Hardship Grant(s) pursuant to Section 1859.83(a) and (d), therapy room pursuant to Section 1859.72, multilevel construction pursuant to Section 1859.73 and project assistance pursuant to Section 1859.73.1. The amounts shown will be adjusted annually in the manner prescribed in Section 1859.71.

Any grants provided pursuant to (b) above, shall be reduced by fifty percent of any insurance proceeds collectable by the district for the displaced facilities and fifty percent of the net proceeds available from the disposition of any displaced facilities.

The square footage provided, after accounting for all useable facilities on the site, shall not exceed the following:

| *Facility* | *Elementary School Pupils* | *Middle School Pupils* | *High School Pupils* |
|---|---|---|---|
| Multi-Purpose (includes food service) | 5.3 sq. ft. per pupil minimum 4,000 sq. ft. | 5.3 sq. ft. per pupil minimum 5,000 sq. ft. | 6.3 sq. ft. per pupil minimum 8,200 sq. ft. |
| | | | |
| Toilet | 3 sq. ft. per pupil minimum 300 sq. ft. | 4 sq. ft. per pupil minimum 300 sq. ft. | 5 sq. ft. per pupil minimum 300 sq. ft. |
| | | | |
| Gymnasium (includes shower/locker) | N/A | 12.9 sq. ft. per pupil minimum 6,828 sq. ft. maximum 16,000 sq. ft. | 15.3 sq. ft. per pupil minimum 8,380 sq. ft. maximum 18,000 sq. ft. |
| | | | |
| School Administration | 3 sq. ft. per pupil minimum 600 sq. ft. | 3 sq. ft. per pupil minimum 600 sq. ft. | 4 sq. ft. per pupil minimum 800 sq. ft. |
| | | | |
| Library/Media Center | 2.3 sq. ft. per pupil plus 600 sq. ft. | 3.3 sq. ft. per pupil plus 600 sq. ft. | 4.3 sq. ft. per pupil plus 600 sq. ft. |

Any facilities eligible for facility hardship not shown in the above chart <u>or for Alternative Education facilities not provided in Section 1859.77.3(A)(5)</u> shall be eligible for replacement square footage equal to the facilities replaced. <u>For an Alternative Education school eligible for a facility hardship, utilize the square footage provided in Section 1859.77.3(A)(5), with the exception of toilet and administration where the chart above shall be utilized.</u>

A district may request a determination of eligibility for facility hardship funding in advance of project funding.

(c) A district seeking replaced facilities as a result of either (a) or (b) above must submit Form SAB 50-04 for the replaced facilities:
(1) Within 18 months if the replacement facilities will be located on the same site.
(2) Within 24 months if the replacement facilities will be located on a replacement site.

If an Approved Application for the replaced facility is not accepted within the time periods identified in (c)(1) or (c)(2) above, the Board shall re-review the criteria submitted by the district for replacement of the facility prior to apportionment of the replaced facility.

Section 1859.83. Excessive Cost Hardship Grant.
…
(c) Excessive Cost to Construct a New School Project.
<u>(1) With the exception of Alternative Education schools for which the final plans and specifications for the project were accepted by the DSA on or after March 24, 2004, i</u>If the project is for a new elementary, middle or high school on a site with no existing school facilities the district is eligible for a New Construction Excessive Cost Hardship Grant equal to the difference in the amount provided by the New Construction Grant and the amount shown below, based on the number of classrooms, including classrooms used for Individuals with Exceptional Needs, in the project:

| Class-rooms in project | Elementary School | Middle School | High School |
|---|---|---|---|
| 1 | $160,000 | $674,000 | $1,466,000 |
| 2 | $377,000 | $756,000 | $1,525,000 |
| 3 | $566,000 | $840,000 | $1,885,000 |
| 4 | $717,000 | $932,000 | $2,205,000 |
| 5 | $842,000 | $1,028,000 | $2,428,000 |
| 6 | $1,021,000 | $1,125,000 | $2,651,000 |
| 7 | $1,202,000 | $1,222,000 | $2,874,000 |
| 8 | $1,341,000 | $1,328,000 | $3,046,000 |
| 9 | $1,341,000 | $1,440,000 | $3,184,000 |
| 10 | $1,577,000 | $1,553,000 | $3,321,000 |
| 11 | $1,577,000 | $1,666,000 | $3,459,000 |
| 12 | $1,660,000 | | $3,585,000 |
| 13 | | | $3,709,000 |
| 14 | | | $3,833,000 |
| 15 | | | $3,958,000 |
| 16 | | | $4,082,000 |
| 17 | | | $4,207,000 |
| 18 | | | $4,331,000 |
| 19 | | | $4,455,000 |
| 20 | | | $4,580,000 |
| 21 | | | $4,704,000 |
| 22 | | | $4,828,000 |

The amounts shown above will be adjusted annually in the manner prescribed in Section 1859.71.

Any Excessive Cost Hardship Grant provided under this subsection for a new school project shall be offset against future New Construction Grant funds provided for that same school. The amount of the offset shall be determined by dividing the additional New Construction Grant pupil request by the difference in the New Construction Grant pupil request when the initial Excessive Cost Hardship Grant was made and 325 for an elementary school, 324 for a middle school, and 621 for a high school project and multiplying the quotient by the Excessive Cost Hardship Grant funds provided under this subsection for that project.

(2) Excessive Cost Hardship Grants for Alternative Education schools for which the plans and specifications for the project were accepted by the DSA on or after March 24, 2004, or, in lieu of Section 1859.83(c)(1), for Alternative Education schools for which the plans and specifications for the project were accepted by the DSA prior to March 24, 2004, may be requested as follows:

(A) If the project is for an Alternative Education school on a site with no existing school facilities, the district is eligible for a New Construction Excessive Cost Hardship Grant equal to the difference in the amount provided by the New Construction Grant and the amount shown below, based on the grade level and the number of classrooms in the project:

| Classrooms | Alternative Education New School Allowance |
|---|---|
| 1 | $ 434,700 |
| 2 | $ 527,400 |
| 3 | $ 921,960 |
| 4 | $ 1,037,250 |
| 5 | $ 1,152,540 |
| 6 | $ 1,267,830 |
| 7 | $ 1,383,120 |
| 8 | $ 1,504,170 |
| 9 | $ 1,629,180 |
| 10 | $ 1,754,190 |
| 11 | $ 2,239,290 |
| 12 | $ 2,364,300 |
| 13 | $ 2,489,310 |
| 14 | $ 2,614,320 |
| 15 | $ 2,739,330 |
| 16 | $ 2,864,340 |
| 17 | $ 2,989,350 |
| 18 | $ 3,114,360 |

| Classrooms | Alternative Education New School Allowance |
|---|---|
| 19 | $ 3,239,370 |
| 20 | $ 3,364,380 |
| 21 | $ 3,489,480 |
| 22 | $ 3,614,490 |
| 23 | $ 3,739,500 |
| 24 | $ 3,864,510 |
| 25 | $ 3,989,520 |
| 26 | $ 4,114,530 |
| 27 | $ 4,239,540 |

The amounts shown will be adjusted annually in the manner prescribed in Section 1859.71.

(B) If the project is for additional classroom(s) to an existing Alternative Education school, constructed under the provision of 1859.83(c)(2), the district is eligible for a New Construction Excessive Cost Hardship Grant calculated as follows:

1. Determine the amount as shown in the chart above in Section 1859.83(c)(2)(A) for the total combined number of classrooms in the current project and for all previous projects at the same site. In the first occurrence when the total number of classrooms exceeds 27, the amount shown for 27 classrooms shall be used.
2. Subtract the sum of the amount previously apportioned for the New Construction Grant and the funding provided pursuant to Section 1859.83(c)(2) for the sum of the number of classrooms for all previous projects at the same site (exclude the classrooms in the current project) from (B)1.
3. Subtract the New Construction Grant for the current project from the result in (B)2.

…

**STATE ALLOCATION BOARD**
1130 K Street, Suite 400
Sacramento, CA 95814
http://www.dgs.ca.gov/opsc

**Date:** March 19, 2004

**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 Thursday, April 1, 2004 (9:30 am - 3:30 pm) at 1020 N Street, (Legislative Office Building) in Conference Room 100, (Sacramento, CA).

The Implementation Committee's proposed agenda is as follows:

1. Convene Meeting

2. Clean School Restrooms (SB 892 Murray and AB 1124 Nunez)
   *Discussion of the complaint process relating to the sufficiency and availability of restroom facilities in all K-12 public schools, and presentation of the proposed amendments to the Deferred Maintenance Program regulations, as well as certifications pursuant to AB 1124.*

3. School Facility Program Modernization (SB 15 Alpert and AB 1244 Chu)
   *Discussion of proposed regulatory amendments to permit an additional apportionment for the modernization of permanent facilities every 25 years or portable facilities every 20 years.*

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 Portia Jacobson at (916) 445-3159.

BRUCE B. HANCOCK
Chairperson

BBH:LM:pj

**STATE ALLOCATION BOARD**
1130 K Street, Suite 400
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# State Allocation Board
# IMPLEMENTATION COMMITTEE
# PENDING ITEMS LIST

April 1, 2004

## A. FUTURE ITEMS

- Increased Capacity for Replaced Facilities; SFP Regulation Section 1859.73.2
- SFP Enrollment Augmentation; Dwelling Units
- Conversion of Commercial Buildings into Schools

## B. SUSPENDED ITEMS

- None

STATE ALLOCATION BOARD
IMPLEMENTATION COMMITTEE
April 1, 2004

# CLEAN SCHOOL RESTROOMS
# (SB 892 Murray)

## BACKGROUND

Senate Bill (SB) 892, chaptered on October 12, 2003, added Section 35292.5 to the Education Code (EC). With an effective date of January 1, 2004, EC Section 35292.5 contains requirements relating to the sufficiency and availability of restroom facilities in all public and private schools.

SB 892 requires the State Allocation Board (SAB) to determine a district's compliance with EC Section 35292.5, and directs the SAB to deem the district ineligible for state matching funds for deferred maintenance (DM) projects if, after receiving a reasonable opportunity to fix the problem and a 30-day notice of violation, the restroom facilities remain in violation of the law. In order to fulfill its responsibility to administer the law and comply with the law's effective date of January 1, 2004, the Office of Public School Construction (OPSC) expedited the development of a mechanism by which complaints could be received and processed.

## DISCUSSION

The internal and public processes for complaint response and district notification were discussed at the February 6, 2004 and March 5, 2004 meetings of the Implementation Committee. At those meetings, staff presented its proposed processes for addressing restroom maintenance complaints, and presented copies of the complaint and response forms, a flow chart illustrating the proposed complaint process, and timeline options for the withholding of deferred maintenance funds. Based upon discussions from those meetings, staff has implemented numerous revisions to the OPSC complaint process. Staff and the committee agreed to reassess the OPSC complaint processes in approximately 9-12 months. This meeting will serve as a forum in which to discuss:

- Proposed complaint process revisions to further encourage local level resolution.
- Proposed amendments to the DM regulations that would implement the bill's requirements.

### *Local Level Resolution*

The OPSC is concerned with maintaining its role as a public service entity and its ability to provide the public with a standardized, universally accessible process for complaint response. However, there is general consensus from staff and the committee that complaints are handled more expeditiously at the local level. As such, staff is currently working on final revisions to the OPSC Web site and complaint form in order to further encourage complainants to first communicate the complaints to local complaint response resources.

Included in Part II Directions and on Web site

*Since correction of your complaint in a timely manner is very important, you are encouraged to share the details of restroom deficiencies with the school's principal, your school district, and your school board. You are free to file your complaint with the OPSC. However, first communicating your complaint at the local level may serve to further expedite the complaint's resolution.*

*Local Level Resolution (cont.)*

Included on top of Complaint form and on Web site:

*School districts found to be in violation of EC Section 35292.5 are ineligible for State deferred maintenance apportionments. Deferred maintenance apportionments provide State matching funds to assist school districts with expenditures for major repair or replacement of existing school building components, including roofing, plumbing, heating, air conditioning, electrical systems, interior/ exterior painting and floor systems.*

*Amendments to DM Regulations*

Regulation Section 1866.4.2 Calculation of Basic Grant and Apportionment of Basic Grant is amended to explain that an item will be presented to the SAB once per fiscal year to determine if districts are in violation of EC 35292.5. Districts who do not correct a violation within the 30 day notice period will not receive their basic grant, and the funds will be distributed to the other eligible districts.

Regulation Section 1866.5.2 Determination of Extreme Hardship Grant Amount and District Contribution is amended to explain that a district with an extreme hardship project, who has had their basic grant deemed ineligible pursuant to SB 892, will be responsible to contribute an amount equal to the district and state share (or two times the maximum basic grant).

Staff has prepared the following:

- √ Proposed regulatory changes to implement the bill's requirements as shown on Attachment A.
- √ A copy of the law text as shown on Attachment B.
- √ A reference copy of the Complaint Process Flow Chart as shown on Attachment C.

*Other Issues*

AB 1124, chaptered on September 12, 2003, added EC Sections 17070.755 and 17584.3. This bill requires a priority for the use of restricted maintenance and deferred maintenance funds to be used to ensure facilities (not limited to restrooms) are functional and meet local hygiene standards. A copy of the bill is shown on Attachment D.

The *Application for Funding,* Form SAB 50-04, will be amended to include an additional certification that covers the provisions of AB 1124 as follows:

*The district has made a priority of the funds in the restricted maintenance account, established pursuant to EC Section 17070.75, to ensure that facilities are functional and meet local hygiene standards.*

The *Certification of* Deposits, Form SAB 40-21, will be amended to include an additional certification that covers the provisions of AB 1124 as follows:

*The district has made a priority of the deferred maintenance basic grant, appropriated pursuant to EC Section 17584, to ensure that facilities are functional and meet local hygiene standards.*

RECOMMENDATION

Finalize the discussions and proceed with the regulatory changes for presentation to the State Allocation Board.

# ATTACHMENT A

Title 2. Administration
Division 2. Financial Operations
Chapter 3. Department of General Services
Subchapter 4. Office of Public School Construction
Group 1. State Allocation Board
Subgroup 12. State School Deferred Maintenance

## Article 1. Definitions

Amend Section 1866. Definitions.

(a) In connection with the administration of the provisions of California Education Code (EC) Sections 17582 through 17588 and 17591 through 17592.5, inclusive, of Article 1, Chapter 4, Part 10.5, Division 1, Title 1, and for the purpose of these regulations, the terms set forth below shall have the following meanings:
"The Act" means EC Sections 17582 through 17588 and 17591 through 17592.5, above.
"Board" means the State Allocation Board.
"Complete Application" means a district has submitted with the application, all documents to the Office of Public School Construction (OPSC) that are required as identified in the General Information Section of the ~~*Extreme Hardship Funding Application,*~~ Form SAB 40-22 ~~(New 04/02)~~ and the OPSC has accepted and completed a preliminary approval review.
"Critical Project" shall have the meaning set forth in Section 1866.5.
"Deferred Maintenance" means the repair or replacement work performed on school facility components that is not performed on an annual or on-going basis but planned for the future and part of the ~~*Five Year Plan,*~~ Form SAB 40-20 ~~(New 04/02)~~.
"District or Applicant School District" shall mean an entity identified in Section 1866.1(a).
"Division of the State Architect" means the State office within the Department of General Services that reviews school building plans and specifications for structural, fire safety, and access compliance.
"Extreme Hardship Grant" means a grant provided by the State to complete the critical project, as provided by EC Section 17587 and Regulation Section 1866.5.2.
"Financial Test" shall have the meaning set forth in Section 1866.5(a).
"Five Year Plan" shall have the meaning set forth in Section 1866.4.
"Form SAB 40-20" means the *Five Year Plan*, Form SAB 40-20 (New 04/02), which is incorporated by reference.
"Form SAB 40-21" means the *Certification Of Deposits*, Form SAB 40-21 (New 04/02), which is incorporated by reference.
"Form SAB 40-22" means the *Extreme Hardship Funding Application*, Form SAC 40-22 (New 04/02), which is incorporated by reference.
"Form SAB 40-23" means the *Fund Release Authorization*, Form SAB 40-23 (New 04/02), which is incorporated by reference.
"Form SAB 40-24" means the *Expenditure Report*, Form SAB 40-24 (New 04/02), which is incorporated by reference.
"Matching Funds" means an amount of funds the district deposits into the "district deferred maintenance fund" to receive either a maximum or prorated basic grant.
"Maximum Basic Grant" means an amount of State funds apportioned by the Board for purposes of the ~~*Five Year Plan,*~~ Form SAB 40-20 ~~(New 04/02)~~. This amount is based on the formula specified in EC Section 17584(b).
"Prorated Basic Grant" means the prorated amount of the maximum basic grant apportioned by the Board due to insufficient funding for the Deferred Maintenance Program (DMP).
"Office of Public School Construction (OPSC)" means the State office within the Department of General Services that assists the Board as necessary and administers the DMP.
"OPSC Deferred Maintenance Extreme Hardship Workload List" means a list of extreme hardship funding applications authorized by EC Section 17587 for which the district has submitted all necessary application documents to the OPSC that are required to be submitted as identified in the General Information Section of the ~~*Extreme Hardship Funding Application,*~~ Form SAB 40-22 ~~(New 04/02)~~ but not yet included on the DMP Extreme Hardship Unfunded List.
"OPSC Extreme Hardship Unfunded List" means a information list of unfunded critical projects awaiting an Extreme Hardship Grant under the provisions of the DMP.
"OPSC Modernization Workload List" means a list of School Facility Program (SFP) modernization projects for which the district has submitted all necessary application documents to the OPSC that are required to be submitted as

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identified in the General Information Section of Form SAB 50-01, *Enrollment Certification/Project,* (Revised 07/01); Form SAB 50-02, *Existing School Building Capacity,* (Revised 07/01); Form SAB 50-03, *Eligibility Determination,* (Revised 07/01); and Form SAB 50-04, *Application for Funding,* (Revised 09/01), under the SFP.

"Repair" means the work necessary to restore deteriorated or damaged building systems such as plumbing, heating, air conditioning, electrical, roofing, flooring, and wall systems. The exterior and interior painting of school buildings, asphalt paving, the inspection, sampling and analysis of building materials to determine the presence of asbestos-containing materials, the encapsulation or removal of asbestos-containing materials or such other items as may be approved by the Board, to such condition that the school buildings may be effectively utilized for their designated purposes.

"Replacement" means the work necessary to replace those school building systems itemized in "Repair" above, which are either worn out or obsolete to the extent that they no longer effectively perform their functions.

"Routine Maintenance" means the school facility component work performed on an annual or on-going basis each year to keep building facilities in proper operating condition.

"School Facility Program (SFP)" means the Leroy F. Green School Facilities Act of 1998.

"SFP Modernization Unfunded List" means an information list of unfunded modernization projects approved under the provisions of the SFP.

"Total Estimated Cost" means an estimated cost of the critical project on which the extreme hardship grant is calculated.

Note: Authority cited: Section 15503, Government Code.

Reference: Sections 17582-17592.5, Education Code.

## Article 2. Eligibility to Receive DMP Grants

Amend Section 1866.1. Prerequisites to Receiving a Basic or Extreme Hardship Grant.

The prerequisites to receiving a grant, as provided by the Act and these regulations, include the following:

(a) Operate as one of the following:

(1) A public elementary, unified, or high school district that serves any combination of kindergarten through twelfth grade pupils; or

(2) A County Superintendent of Schools (CSS) that serves any combination of kindergarten through twelfth grade pupils; or

(3) A regional occupational center identified in EC Section 17592.5; and

(b) That the governing board of an applicant school district has established a restricted fund to be known as the "district deferred maintenance fund" for the specific purposes as specified in EC Section 17582(a) and these regulations; and

(c) That the applicant school district has a Board approved ~~*Five Year Plan,*~~ Form SAB 40-20 ~~(New 04/02)~~ complying with Section 1866.4, which includes the fiscal year of funding.

Note: Authority cited: Section 15503, Government Code.

Reference: Sections 17582, 17584, 17587, 17591, 17592.5, Education Code.

## Article 3. DMP Application Procedure

Amend Section 1866.2. DMP Application for Basic Grant.

An eligible district seeking funding for a DMP Basic Grant shall complete and file with the OPSC, the ~~*Five Year Plan,*~~ Form SAB 40-20 ~~(New 04/02)~~, which is incorporated by reference.

Note: Authority cited: Section 15503, Government Code.

Reference: Section 17591, Education Code.

Amend Section 1866.3. DMP Application for Extreme Hardship Grant.

An eligible district seeking funding for a DMP extreme hardship grant shall complete and file with the OPSC, the ~~*Extreme Hardship Funding Application,*~~ Form SAB 40-22 ~~(New 04/02), which is incorporated by reference~~.

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Note: Authority cited: Section 15503, Government Code.

Reference: Section 17587, Education Code.

## Article 4. Basic Grant Request and Apportionment

### Amend Section 1866.4. Five Year Plan Requirements.

EC Section 17591 establishes the need of filing with the Board a five year plan for deferred maintenance needs of the district. The ~~*Five Year Plan,*~~ Form SAB 40-20, ~~(New 04/02)~~ is a summary of proposed projects the district plans on completing annually over the next five fiscal years using the basic grant. The fiscal year the plan commences is determined by the fiscal year in which it was filed. New and revised plans are accepted on a continuous basis for the current fiscal year up to the last working day in June. Revisions are not accepted for prior fiscal years.

(a) Under the following circumstances, a revised plan would need to be submitted to the OPSC:
(1) The plan has expired.
(2) Work will be performed that is not listed on the plan or at a school not listed on the plan.
(3) If work listed on the plan was performed using an SFP modernization or Federal Renovation Program (FRP) grant, pursuant to Section 1866.13.
(b) A district submitting a new plan or revising a plan under (a) above must be able to certify that the plans and proposals for expenditures of funds, listed on the ~~*Five Year Plan,*~~ Form SAB 40-20 ~~(New 04/02)~~ submitted to the OPSC, were discussed at a public hearing at a regularly scheduled meeting with the district's governing board, pursuant to EC Section 17584.1(a).

Note: Authority cited: Section 15503, Government Code.

Reference: Sections 17582, 17584.1, 17591, Education Code.

### Amend Section 1866.4.1. Permissible Use of the DMP Basic Grant.

The district may include on its ~~*Five Year Plan,*~~ Form SAB 40-20 ~~(New 04/02)~~ a repair or replacement project, provided it meets all the following criteria:
(a) Conforms to the deferred maintenance activities authorized in EC Section 17582(a) or these regulations, which has approached or exceeded its normal life expectancy or has a history of continued repairs indicating a shortened life expectancy, and;
(b) Performed at a district owned facility, which is used for school purposes. A district that is currently leasing relocatables from the State Relocatable Classroom Program may include deferred maintenance work on the ~~*Five Year Plan,*~~ Form SAB 40-20 ~~(New 04/02)~~ for these facilities.
(c) Facilities owned by a CSS or leased facilities that are required to be maintained by the CSS, which it is authorized to use pursuant to Article 3 commencing with EC Section 17280, Chapter 3, may be included on the ~~*Five Year Plan,*~~ Form SAB 40-20 ~~(New 04/02)~~.

Note: Authority cited: Section 15503, Government Code.

Reference: Sections 17280, 17582 and 17591, Education Code.

### Amend Section 1866.4.2. Calculation of Basic Grant and Apportionment of Basic Grant.

After ~~July 1~~ December 1 of each ~~fiscal~~ year, the Board shall apportion to districts a DMP basic grant for the preceding fiscal year ~~DMP~~. A maximum basic grant is calculated as stated for each of the following:
(a) School districts and regional occupational centers using the formula set forth in EC Section 17584(b).
(b) CSSs who meet the provisions of EC Sections 17584, 17591 and, if applicable, 17585, an amount equal to one dollar ($1.00) for each one dollar ($1.00) of local funds up to a maximum of one-half percent of the total general funds and adult education funds budgeted by the CSSs for the fiscal year, exclusive of any amounts budgeted for capital outlay,

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debt service or revenues that are passed through to other local educational agencies, to the extent of funds legally available pursuant to EC Section 17080.

If sufficient State funding is not available, the Board shall apportion to all districts except those that are receiving a basic grant with an extreme hardship grant, a prorated amount of the maximum. This amount is known as the prorated basic grant.

After July 1 each fiscal year but prior to the annual basic grant apportionment, any district with an unresolved complaint, pursuant to EC 35292.5, will be presented to the Board. If the Board determines that a violation has occurred, the district will receive a 30 day notice to correct the violation. Districts who fail to correct the violation within 30 days of the date of the written notice shall be deemed ineligible for the basic grant and the funds may be distributed to other eligible districts.

Note: Authority cited: Section 15503, Government Code.

Reference: Sections 2553 and 17584, Education Code.

Amend Section 1866.4.3. District Deposit of Matching Share.

To receive the basic grant pursuant to Section 1866.4.2, districts are required to deposit a matching share into their District Deferred Maintenance Fund established pursuant to EC Section 17582(a). The State will match this amount dollar-for-dollar not to exceed the basic grant apportioned by the Board. The district's deposit must be a cash contribution from any non-restricted fund, unmatched carryover pursuant to Section 1866.4.4, or from the district's restricted Ongoing and Major Maintenance Account.

If the district has established an Ongoing and Major Maintenance Account under the provisions of EC Section 17070.75(b)(1), any annual deposits in excess of 2 ½ percent into that fund may be used towards the district's matching share. Districts may either:

(a) Report the excess amount in the Ongoing and Major Maintenance Account being used towards the match on the ~~*Certification of Deposits,*~~ Form SAB 40-21 ~~(New 04/02), which is incorporated by reference~~. These funds are not available for eligible deferred maintenance projects listed on the ~~*Five Year Plan,*~~ Form SAB 40-20 ~~(New 04/02)~~, until transferred into the District Deferred Maintenance Fund.

(b) Transfer the excess funds from the Ongoing and Major Maintenance Account to the District Deferred Maintenance Fund and report the total dollar matching share on the ~~*Certification of Deposits,*~~ Form SAB 40-21 ~~(New 04/02)~~. These funds are available to the district to perform work on the ~~*Five Year Plan,*~~ Form SAB 40-20 ~~(New 04/02)~~.

Note: Authority cited: Section 15503, Government Code.

Reference: Sections 17070.75, 17582, and 17584, Education Code.

Amend Section 1866.4.4. Carryover of Unmatched State Funds.

Any funds deposited and not matched by the State can be carried over to the next fiscal year. A district can apply unexpended, unmatched balances past the next fiscal year under the provisions of EC Section 17583, and then reaffirm by specific action of the district's governing board the encumbrance of such funds for deferred maintenance purposes.

Carryover that has been reported on the ~~*Certification of Deposits,*~~ Form SAB 40-21 ~~(New 04/02)~~ is considered matched and therefore cannot be applied as carryover in subsequent fiscal years.

Note: Authority cited: Section 15503, Government Code.

Reference: Sections 17582 and 17583, Education Code.

Section 1866.4.5. County Superintendents of Schools Funding Limitations.

Note: Authority cited: Section 15503, Government Code.

Reference: Sections 2553, 39618-39619.2 and 39620, Education Code; and Sections 15502-15503, Government Code.

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Amend Section 1866.4.6. Release of State Funds.

The CSSs shall report the district's deposit on the ~~*Certification of Deposits,*~~ Form SAB 40-21 ~~(New 04/02)~~. The Form is due to the OPSC no later than 60 days after the maximum or prorated basic grant is apportioned by the Board. Any ~~*Certification of Deposits*~~, Form SAB 40-21 ~~(New 04/02)~~, received after 60 days will be brought to the Board on a case-by-case basis to determine if the funds will be released.

Note: Authority cited: Section 15503, Government Code.

Reference: Sections 17584, Education Code.

Section 1866.4.7. Failure to Deposit Matching Funds.

A total deposit less than the maximum amount will require the district to comply with the reporting requirements of EC Section 17584.1. The OPSC will present to the Board in March reports received annually and request that any unmatched apportionments be adjusted to reflect actual amount of funds deposited.

Note: Authority cited: Section 15503, Government Code.

Reference: Sections 17584 and 17584.1, Education Code.

Article 5. Extreme Hardship Grant Application and Apportionment

Amend Section 1866.5. Eligibility Requirements.

A district may be eligible for an extreme hardship grant, provided the district demonstrates to the Board that there is a critical project on the ~~*Five Year Plan,*~~ Form SAB 40-20 ~~(New 04/02)~~, which meets all the following criteria:

(a) Financial Test

(1) The total estimated cost of the critical project is greater than two times the district's maximum basic grant.

(b) Health and Safety Test

(1) The project if not completed in one year could result in serious damage to the remainder of the facility or would result in a serious hazard to the health and safety of the pupils attending the facility.

An extreme hardship grant is available to repair or replace an existing school building component, authorized by EC Section 17582 or these regulations, located within existing district owned classrooms and/or subsidiary facilities (corridors, toilets, kitchens and other non-classroom space located on a school site), if the district can demonstrate to the satisfaction of the Board that the health and safety of the pupils is at risk.

Note: Authority cited: Section 15503, Government Code.

Reference: Sections 17582, 17587, and 17588, Education Code.

Amend Section 1866.5.1. Application Submittals.

(a) For the OPSC to deem an application complete, a district requesting an extreme hardship grant shall submit to the OPSC the ~~an~~ ~~*Extreme Hardship Funding Application,*~~ Form SAB 40-22 ~~(New 04/02)~~, along with all documents requested in the General Information Section of the Form. Additional documentation identifying how the request meets the requirements of EC Section 17587 may be required.

(b) More than one ~~*Extreme Hardship Funding Application,*~~ Form SAB 40-22 ~~(New 04/02)~~, may be submitted by a district in a fiscal year provided each project meets the eligibility requirements set forth in Section 1866.5. The OPSC will present projects to the Board in the order of date received. Complete applications are accepted on a continuous basis; those received prior to the last working day in June are ensured consideration for funding by the Board in the next funding cycle.

(c) The district shall submit a detailed cost estimate supporting the construction costs and any justification documents that will support the work with the ~~*Extreme Hardship Funding Application,*~~ Form SAB 40-22 ~~(New 04/02)~~. If the extreme hardship grant request contains work on relocatable facilities, a cost/benefit analysis must be prepared by the district and submitted to the OPSC that indicates the total cost to remain and mitigate the problem is less than 50 percent of the current replacement cost of the facility. The Board will approve reasonable and appropriate funds to mitigate the

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conditions, which makes the project qualify as a hardship under EC Section 17587, if the costs are consistent with the Saylor Current Construction Costs.

Note: Authority cited: Section 15503, Government Code.

Reference: Section 17587, Education Code.

Amend Section 1866.5.2. Determination of Extreme Hardship Grant Amount and District Contribution.

(a) An extreme hardship grant for the first critical project in any given fiscal year for a district with a maximum Basic Grant and State matching share that is less than $1,000,000, shall be determined by either of the following:
(1) For a total project cost that is less than $1,000,000, the extreme hardship grant will be determined by taking the total project cost less the district's maximum basic grant, less the State's matching share.
(2) For a total project cost that exceeds $1,000,000, the extreme hardship grant will be determined by taking $1,000,000 less the district's maximum basic grant, less the State's matching share. The total of that amount plus 50 percent of any project costs above $1,000,000 will be the State's hardship contribution. The district's contribution will be 50 percent of the remaining excess above $1,000,000 and the district's maximum basic grant.
(b) An extreme hardship grant for the first critical project in any given fiscal year for a district with a maximum basic grant and State matching share that exceeds $1,000,000, shall be determined by the following:
(1) From the total project cost deduct the district's maximum Basic Grant and State matching share. The remaining amount will be divided in half between the district and the State.
The district shall be required to contribute the maximum basic grant and State's matching share at the time the Board apportions funding for the project.
(c) An extreme hardship grant for each additional hardship project beyond one in any given fiscal year shall be determined by dividing the total project cost in half. A cash contribution of 50 percent will be required from the district.
(d) A district with only one school may include other major repair or replacement work deemed essential for basic utilization and functioning of the school, without being subject to subsection (c).

<u>If a district with an extreme hardship project is deemed ineligible to receive the Maximum Basic Grant, pursuant to EC 35292.5 and Section 1866.4.2, the district shall be required to contribute an amount equal to both the State's and district's matching share of the Maximum Basic Grant at the time the Board apportions funding for the extreme hardship project.</u>

If a district receives an unfunded approval pursuant to Section 1866.5.3, the extreme hardship grant will be an estimate based on the current maximum basic grant and state matching share and will be re-calculated using the maximum basic grant and state matching share at the time of funding by the Board.

Note: Authority cited: Section 15503, Government Code and Section 17588, Education Code.

Reference: Sections 17587 and 17588, Education Code.

Section 1866.5.3. Project Priorities Due to Insufficient State Funds.

(a) When funds are not available, project requests that meet the criteria for funding are presented to the Board on a continuous basis throughout the fiscal year and are included on an unfunded list based on the date the complete critical hardship application was received by the OPSC.
(b) The Board shall utilize the following prioritized list to apportion extreme hardship grants for critical projects when funds become available:

| Priority Description | Priority No. |
|---|---|
| A project that meets the requirements of (c) below. | 1 |
| All other eligible projects as defined in EC Section 17582(a) or these regulations. | 2 |

(c) At the time the complete application is filed with the OPSC, a district requesting Priority One status shall submit a resolution passed by the district's governing board that includes the following:

(1) Describe in detail the health and safety or structural problems present that preclude the pupils from remaining in the facility and the proposed action by the district's governing board.
(2) Identify the facility or facilities on the school site that will be affected by the closure and the dates of closure.
(3) Identify how the board plans on housing the pupils until the facility can be re-opened.

An assessment will be made by the OPSC and the Board to determine if the critical project meets the Priority One requirements.

(d) When funds become available, the requests included on the OPSC Extreme Hardship Unfunded List will receive funding in the following order, provided the project still meets Section 1866.5(a):
(1) Increases, if the original request has already received an apportionment.
(2) Priority One Projects.
(3) All other eligible projects as defined in EC Section 17582(a) or these regulations.

Within each category, projects will be funded in the order the project was placed on the unfunded list. Projects that do not receive funding will remain on the unfunded list for a future funding cycle.

(e) The Board may make exceptions to the priorities on a case-by-case basis for the benefit of the pupils affected.
(f) The Board shall maintain a sufficient reserve for unexpected emergencies and on-going cost increases.

Note: Authority cited: Section 15503, Government Code.

Reference: Sections 17587 and 17588, Education Code.

Section 1866.5.4. Reimbursement.

(a) Reimbursement of eligible architect/engineering expenditures will be allowed up to five months prior to the date that the hardship project is accepted for processing by the OPSC.
(b) After written determination by the OPSC that the project is approvable, reimbursement of eligible construction expenditures will be allowed. If a district incurs construction costs prior to that date, all construction expenditures for the project will not be reimbursed.
(c) In the case where a project meets the criteria of priority one hardship pursuant to Section 1866.5.3(c), districts can contact the OPSC to request an expedited determination of the eligibility of the hardship project. The OPSC will respond within five working days. If OPSC does not respond within five working days, the project will be deemed approvable for eligible construction expenditures.

Note: Authority cited: Section 15503, Government Code.

Reference: Section 17587, Education Code.

Section 1866.5.5. Permissible Uses of Extreme Hardship Grant Funds.

The extreme hardship grant shall be used for the critical project approved by the Board and only expenditures relating to the minimum work necessary to mitigate the problem shall be recognized as eligible project costs. Architect or engineer's fees up to 12 percent of the construction costs will be deemed eligible as well as reasonable testing, inspection, and plan checking fees. The grant may not be used for any of the following:

(a) Construction costs incurred prior to the OPSC determining that the project is approvable, except for costs associated with temporary measures necessary to immediately mitigate the problem.
(b) Expenditures required by local mandate that are not prescribed in State law.
(c) Asbestos abatement, sampling, testing necessary as a result of a SFP modernization project or a Federal Renovation Program project.
(d) Non-owned facilities.

Note: Authority cited: Section 15503, Government Code.

Reference: Section 17587, Education Code.

Section 1866.5.6. Ongoing Project Cost Increase.

A district may request an increase in funding for ongoing project costs under either one of the following conditions:

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(a) The additional construction costs are a result of the lowest bidder exceeding the cost of the work approved by the Board for the extreme hardship grant. The OPSC may request that the project be re-bid prior to processing the increase for funding.
(b) Additional related work is encountered within the scope of the work originally approved by the Board for the extreme hardship grant.

Any Board approved increase to the extreme hardship grant will be subject to the requirements of Section 1866.5.2.

Note: Authority cited: Section 15503, Government Code.

Reference: Sections 17587 and 17588, Education Code.

Amend Section 1866.5.7. Release of State Funds.

The OPSC will release State funds that have been apportioned by the Board to the district after submittal by the district of the ~~*Fund Release Authorization,*~~ Form SAB 40-23 ~~(New 04/02), which is incorporated by reference~~, and supporting documentation requested in the General Instruction Section of the form. A district must submit the ~~*Fund Release Authorization,*~~ Form SAB 40-23 ~~(New 04/02)~~, within one year of the apportionment of the extreme hardship grant for the project. After reviewing the submittal, the OPSC may request to the Board, based on the supporting documentation, that the extreme hardship grant be adjusted to reflect the actual project costs.

Should the district only provide documentation to support the release of funding for a portion of the project, the OPSC shall prorate the fund release based on the supporting documentation.

Note: Authority cited: Section 15503, Government Code.

Reference: Section 17587, Education Code.

Amend Section 1866.5.8. Progress Report and Time Limit on Extreme Hardship Grant Apportionment.

Within one year of the extreme hardship grant apportionment by the Board the district shall:
(a) Complete the critical project; and
(b) Submit the ~~*Fund Release Authorization,*~~ Form SAB 40-23 ~~(New 04/02)~~ and supporting documentation pursuant to Section 1866.5.7.
(c) If (b) above has not been met within six months of Board apportionment, the district is required to submit a progress report in the form of a narrative to the OPSC. The report shall contain a timeline of the project showing the progress that has been made and how the district plans on completing the project by the one year deadline. Should the district not meet the one year deadline, the entire extreme hardship grant shall be presented to the Board for rescission and, if applicable, the portion of the Basic Grant the district received due to the extreme hardship grant funding unless the district submits a request for time extension.
(d) The Board may approve a time extension for the project based on the following:
(1) A provision for a six-month time extension if the district has completed the plans and they have been submitted to the DSA for approval.
(2) A provision for a six-month time extension when the plans are DSA approved and the project is currently out to bid.
(3) A provision for up to a nine-month time extension when the district can demonstrate to the Board that circumstances exists beyond the district's control.

Note: Authority cited: Section 15503, Government Code.

Reference: Sections 17587 and 17588, Education Code.

Section 1866.5.9. Exemptions to District Contribution.

Monitoring costs required by a public agency relating to the removal of an underground toxic tank that cannot be funded by any other source, shall be exempted from a project's total cost for the purpose of determining the district contribution as required in Section 1866.5.2(a)(2) or (b)(1).

Note: Authority cited: Section 15503, Government Code.

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Reference: Section 17587, Education Code.

Section 1866.6. Method of Payment to School District.

Note: Authority cited: Section 15503, Government Code.

Reference: Section 39618-39621, Education Code.

Article 6. Miscellaneous

Section 1866.7. Control of Expenditures.

EC Section 17582(c) provides that the governing board of each school district shall have complete control over the apportioned funds and the earnings of funds once deposited in the district deferred maintenance fund, provided that no funds deposited in the district deferred maintenance fund pursuant to EC Section 17584(a) or (b) may be expended by the governing board for any purpose except those specified in EC Section 17582(a).

Note: Authority cited: Section 15503, Government Code.

Reference: Section 17582, Education Code.

Section 1866.8. Expenditures by Districts Subject to Public Contract Code.

Any expenditures by a district from the proceeds of an apportionment made for the purposes set forth in EC Sections 17582 and 17587 must comply with all laws, specifically the Public Contract Code (PCC) and the California Code of Regulations (Title 24). An "emergency" contract must be awarded under the provisions of the PCC Section 20113.

Note: Authority cited: Section 15503, Government Code.

Reference: Sections 17582, 17584, and 17587, Education Code.

Amend Section 1866.9. Program Reporting Requirements.

A district receiving funds in accordance with Section 1866.5.2 shall submit an expenditure report from the district on the ~~*Expenditure Report,*~~ Form SAB 40-24 ~~(New 04/02), which is incorporated by reference~~. The expenditure report shall be due no later than two years from the date any funds were released.

Note: Authority cited: Section 15503, Government Code.

Reference: Section 17587, Education Code.

Amend Section 1866.9.1. Expenditure Audit.

When the district has received funds pursuant to Section 1866.5.2**,** the project will be audited to assure that the expenditures incurred by the district were made in accordance with the provisions of EC Section 17582(a), 17587, and Section 1866.5.5.

When the OPSC receives the final expenditure report from the district on the ~~*Expenditure Report,*~~ Form SAB 40-24 ~~(New 04/02)~~, an audit of the expenditures by the OPSC shall commence within one year of the report for all extreme hardship grant apportionments made by the Board after these regulations become effective. The OPSC shall complete the audit within six months, unless additional information requested by the district has not been received.

The district shall be required to maintain all appropriate records that support all district certifications and expenditures for all costs associated with the extreme hardship grant for a period of not less than four years from the date the notice of

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completion is filed for the project in order to allow other agencies, including, without limitation, the Bureau of State Audits and the State Controller to perform their audit responsibilities.

Note: Authority cited: Section 15503, Government Code.

Reference: Section 17587, Education Code.

Section 1866.10. Limitation of State Responsibility.

In making an apportionment, neither the State nor any department or agency thereof, shall be required to assume any responsibility not otherwise imposed upon it by law.

Note: Authority cited: Section 15503, Government Code.

Reference: Sections 17582-17592.5, Education Code.

Section 1866.11. Payment and Performance Bonds.

Note: Authority cited: Section 15503, Government Code.

Reference: Sections 39618-39621, Education Code.

Section 1866.12. Earned Interest on DMP Grants.

Earned interest on State funds received in accordance with the Act shall be treated as follows:

(a) One half of any interest earned on DMP grant funds provided pursuant to Section 1866.4.2 may be applied towards the district match in any given fiscal year.
(b) All interest earned on DMP grant funds provided pursuant to Section 1866.5 shall be applied to eligible project costs for the project pursuant to Section 1866.5.5 or returned to the State.

Note: Authority cited: Section 15503, Government Code.

Reference: Sections 17582, 17584, and 17587, Education Code.

Amend Section 1866.13. Duplication of Applications.

If the district's application for an extreme hardship grant involves proposed work also included in a SFP modernization project currently included on the SFP Modernization Unfunded List or the OPSC Modernization Workload List, the district must certify that, after reducing the work to be funded with the extreme hardship grant from the SFP modernization project, the cost estimate for the remaining work in the modernization project is at least 60 percent of the total SFP grant amount provided by the state and the district's matching share. The cost estimate may not include planning, tests, inspection or furniture or equipment. If the district cannot make this certification, the SFP modernization project must be withdrawn prior to the release of any extreme hardship grants to the district.

If the district's application for FRP grants or SFP modernization grants involve work currently included on the district's ~~*Five Year Plan,*~~ Form SAB 40-20, ~~(New 04/02)~~ pursuant to Education Code Section 17591, the district must eliminate the projects that will be funded with the FRP grants or SFP modernization grants from the Form prior to the release of any FRP grants or SFP modernization grants to the district.

Note: Authority cited: Section 15503, Government Code.

Reference: Sections 17582, 17587 and 17591, Education Code.

Amend Section 1866.14. Amending and Withdrawal of Extreme Hardship Funding Applications.

The district may not amend the ~~an *Extreme Hardship Funding Application,*~~ Form SAB 40-22, ~~(New 04/02)~~ submitted to the OPSC that has not received Board approval to increase the scope of work. At the option of the district, the funding application may be withdrawn and resubmitted to include the additional work. The district must request that the application

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be withdrawn and removed from the OPSC Deferred Maintenance Extreme Hardship Workload List. The resubmitted application will receive a new processing date by the OPSC.

Note: Authority cited: Section 15503, Government Code.

Reference: Section 17587, Education Code.

ATTACHMENT B

## Senate Bill No. 892

CHAPTER 909

An act to add Section 35292.5 to the Education Code, relating to schools.

[Approved by Governor October 12, 2003. Filed with Secretary of State October 12, 2003.]

LEGISLATIVE COUNSEL'S DIGEST

SB 892, Murray. School restrooms.

Existing law exempts public and private schools from provisions relating to the sufficiency of public facility restrooms, and provides for the maintenance and repair of public school facilities by school districts.

This bill would, with certain exceptions, require every public and private school to have restroom facilities that are open as prescribed during school hours, and at all times to keep every restroom maintained and cleaned regularly, fully operational, and stocked with soap and paper supplies.

This bill would make a school district ineligible for prescribed state school facilities deferred maintenance matching funding if, after a 30-day notice period and a reasonable opportunity to cure the violation, a public school it operates remains in violation of this bill.

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

SECTION 1. Section 35292.5 is added to the Education Code, to read:

35292.5. (a) Every public and private school maintaining any combination of classes from kindergarten to grade 12, inclusive, shall comply with all of the following:

(1) Every restroom shall at all times be maintained and cleaned regularly, fully operational and stocked at all times with toilet paper, soap, and paper towels or functional hand dryers.

(2) The school shall keep all restrooms open during school hours when pupils are not in classes, and shall keep a sufficient number of restrooms open during school hours when pupils are in classes.

(b) Notwithstanding subdivision (a), a school may temporarily close any restroom as necessary for pupil safety or as necessary to repair the facility.

(c) Any school district that operates a public school that is in violation of this section as determined by the State Allocation Board, is ineligible

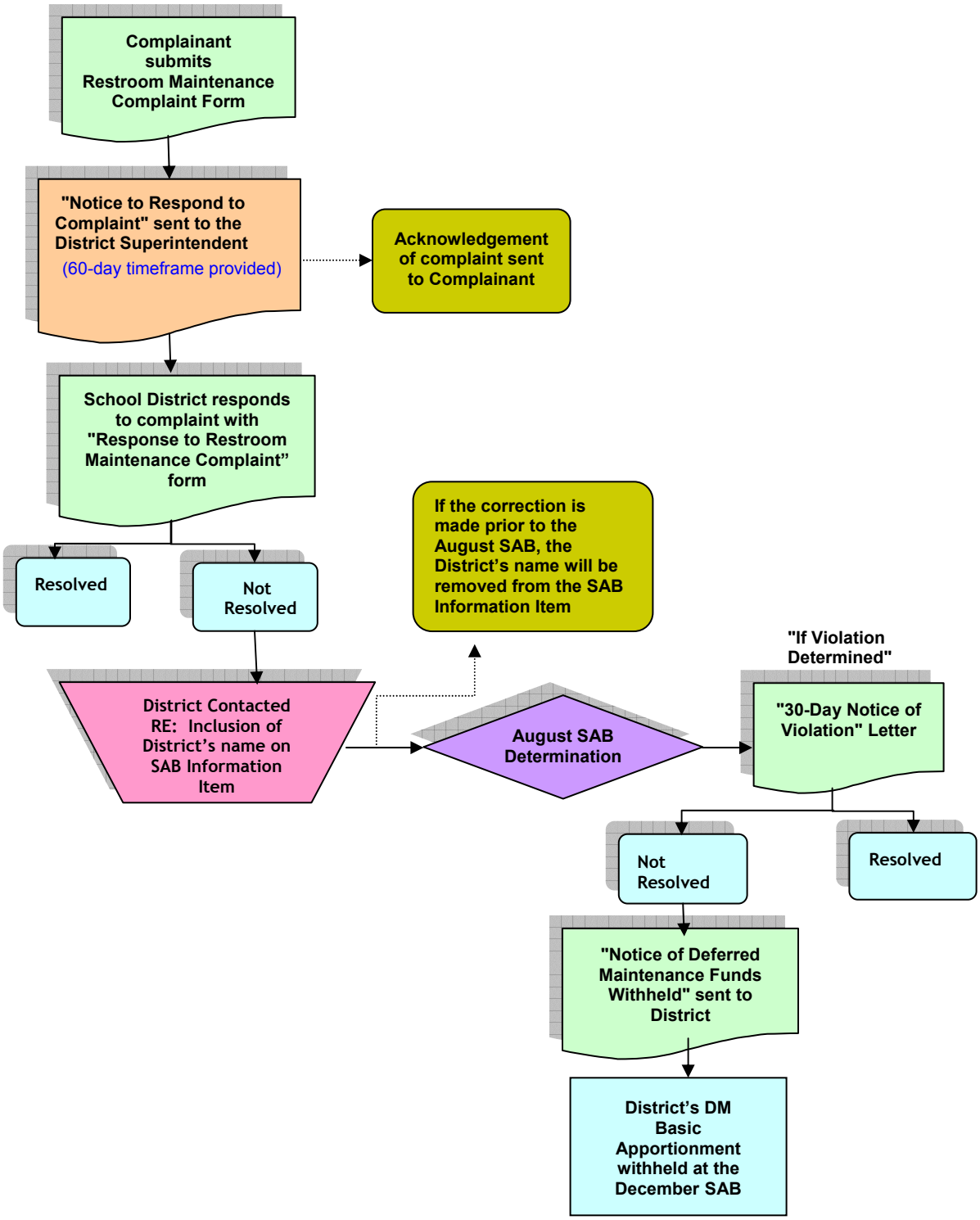
for state deferred maintenance fund matching apportionments pursuant to Section 17584 if the school district has not corrected the violation within 30 days after receipt of a written notice of the violation from the board. Prior to determining that the school district is ineligible, the board shall provide the school district with a reasonable opportunity to cure the violation. The board shall notify the Superintendent of Public Instruction regarding a school district found to be in violation of this section. The Superintendent of Public Instruction shall notify the Controller to withhold apportionments otherwise due the school district under Section 17584.

SEC. 2. It is the intent of the Legislature that a school employee who performs maintenance or repair functions related to restroom facilities that are subject to Section 35292.5 of the Education Code not be subject to discipline if the employee performs his or her responsibilities as required by his or her employer.

SEC. 3. The Legislature finds and declares that, as regards public schools, a principal purpose of this act is to clarify the preexisting requirements of Section 17576 of the Education Code by specifying the minimum requirements necessary to provide sufficient patent flush water closets for the use of pupils in a manner that is consistent with those requirements that apply to other public and private persons or agencies pursuant to Section 118505 of the Health and Safety Code. Because the local mandate established pursuant to Section 17576, which was enacted on January 1, 1948, was enacted prior to January 1, 1975, no reimbursement is required under this act pursuant to Section 6 of Article XIII B of the California Constitution.

**ATTACHMENT C**

*Senate Bill 892*
*Complaint Process Flow Chart*



ATTACHMENT D

## Assembly Bill No. 1124

## CHAPTER 358

An act to add Sections 17070.755 and 17584.3 to the Education Code, relating to public schools.

[Approved by Governor September 11, 2003. Filed with Secretary of State September 12, 2003.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1124, Nunez. School facilities maintenance and repair.

(1) 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.

Existing law requires the board to require a participating school to keep state-funded facilities in good repair, to establish a restricted facilities maintenance account within the school district's general fund, and to deposit an amount equal to 3% of the school district's general fund into the fund for maintenance of the facility pursuant to a prescribed priority.

This bill would require that a priority for the use of that maintenance funding be to ensure that facilities, including, but not limited to, restroom facilities for pupils, are functional and that they meet local hygiene standards generally applicable to public facilities.

(2) Existing law authorizes a school district to establish a restricted fund known as the "district deferred maintenance account" for the purpose of major repair or replacement of school facilities systems.

Existing law requires the State Allocation Board to allocate, within prescribed limits, matching state funding from the State School Deferred Maintenance Fund to applicant school districts for this purpose.

This bill would require that a priority for use of the state funds be to ensure that facilities, including, but not limited to, restroom facilities for pupils, are functional and that they meet local hygiene standards generally applicable to public facilities.

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

SECTION 1. Section 17070.755 is added to the Education Code, immediately following Section 17070.75, to read:

17070.755. A priority for the use of funds in the restricted account established pursuant to Section 17070.75, shall be to ensure that facilities, including, but not limited to, restroom facilities for pupils, are functional and that they meet local hygiene standards generally applicable to public facilities.

SEC. 2. Section 17584.3 is added to the Education Code, to read:

17584.3. (a) A priority for use of funds appropriated pursuant to Section 17584 shall be to ensure that facilities, including, but not limited to, restroom facilities for pupils, are functional and that they meet local hygiene standards generally applicable to public facilities.

(b) This section does not authorize the use of funds apportioned pursuant to Section 17584 for regular operational and maintenance costs of restrooms and other facilities. The funds apportioned pursuant to Section 17584 may only be used for the deferred maintenance of those facilities consistent with subdivision (a) of Section 17582.

## GENERAL INFORMATION

This form is used by the School District to calculate the district's eligibility for new construction and modernization funding under the School Facility Program (SFP). The business address entered on the application should be the location that the school district wishes the Office of Public School Construction (OPSC) to mail all correspondence regarding this application.

### Part I

Complete to designate or change the authorized district representative and/or alternate. Should this be the case, complete the school district information, identify the district representative(s) in Part I and complete the district certification information at the bottom of the form, including the date the district's governing board took appropriate action.

### Part II

Complete for new construction baseline eligibility determination. This part is also used to request an adjustment to an approved new construction baseline eligibility as a result of subdivisions (f), (k) and (l) of Section 1859.51 due to either errors or omissions of information submitted by the district when it requested the initial baseline eligibility, because of a reorganization election that has changed the classroom inventory of the district or to change the classroom inventory that was reported at the time the district requested its initial determination of existing school building capacity as a result of special day class loading. The following documentation is necessary to determine new construction baseline eligibility and must be submitted with this form:

- A completed Form SAB 50-01 based on the latest enrollment data.
- A completed Form SAB 50-02.

### Part III

Complete for modernization baseline eligibility determination at a specific site. Districts must be able to provide a drawing of the site where eligibility for modernization is generated with its request for an eligibility determination. The drawing must identify all permanent and portable classrooms on the site and their ages. If the district intends to use the square footage method in Option B, the drawings must also identify the square footage of all facilities on the site. Part III is also used to request an adjustment to the approved baseline eligibility at a specific site ~~as a result~~ of subdivisions (c), (d), (e) ~~and~~ (g) and (i) of Section 1859.78.8~~61~~ due to either an increase in enrollment, additional facilities becoming at least 20/25 years old, facilities becoming eligible for an additional modernization apportionment, for permanent school buildings every 25 years after the date of its previous apportionment or for portable classrooms every 20 years after the date of its previous apportionment, because of errors or omissions of information submitted by the district when it requested the initial baseline eligibility for the site or to change the classroom inventory that was reported at the time the district requested its initial determination of existing school building capacity as a result of special day class loading. The following documentation is necessary (if not previously submitted to the OPSC) to determine modernization baseline eligibility and must be submitted with this form (as appropriate):

- Site diagram of school where modernization funding is requested. The diagram must indicate the ages and number of all permanent and portable classrooms on the site in accordance with the gross classroom inventory as provided by Section 1859.31.
- If the modernization eligibility will be determined by Option B, the site drawings must also include square footage and/or dimensions of all buildings on the site.

If modernization funding is requested for permanent or portable classrooms previously modernized with State funds, and qualifies for an additional apportionment pursuant to Section 1859.78.8, for purposes of establishing the beginning of the 25/20 year, it shall begin on the date of its previous modernization apportionment.

It is not necessary to complete Part III if the district is only requesting funding for new construction and it is not necessary to complete Part II if the district is only requesting funding for modernization.

A district may request that eligibility for new construction or modernization be reviewed and approved by the Board pursuant to Section 1859.20 prior to submitting Form SAB 50-04 to the Board.

For a list of the documents that must be submitted in order for the OPSC to deem an eligibility request for new construction or modernization complete and ready for OPSC processing, consult the OPSC Web site at www.opsc.dgs.ca.gov.

## SPECIFIC INSTRUCTIONS

### Part I – District Representative Information

Enter the name(s) of district employee(s) that can act on behalf of the district's board. A consultant who is on contract with the district to communicate with the OPSC on behalf of the district's board may be listed. The designee of the Superintendent of Public Instruction shall file modernization applications on behalf of the California Schools for the Deaf and Blind.

### Part II – New Construction Eligibility Determination

Indicate if this request is for a new or adjusted eligibility determination. Enter the district-wide information unless filing on a High School Attendance Area (HSAA) or Super HSAA basis. The enrollment projection and the existing school building capacity data are obtained from information reported and determined on the Form SAB 50-01 and the Form SAB 50-02. Once the OPSC has verified the information provided on these forms, it will automatically be transferred to this form to determine the district's eligibility for new construction. The district may manually enter the information from these forms and compute its eligibility; however, it may be adjusted by the OPSC based on verification of Form SAB 50-01 and Form SAB 50-02.

1. Enter the five year projected enrollment as shown in Part G of Form SAB 50-01 for grades K–6, 7–8, 9–12 and for the total of non-severe and severe special day class (SDC) projected enrollment.
2. Enter the amounts on Form SAB 50-02, Part III, line 5 for grades K–6, 7–8, 9–12, non-severe and severe.
3. New construction eligibility (i.e., the "baseline eligibility") is determined by subtracting the existing school building capacity (line 2) from the projected five year enrollment (line 1). Report negative numbers in brackets.

Adjustments to the district's new construction baseline eligibility will be made by the OPSC pursuant to Section 1859.51. Contact your project manager at the OPSC for the adjusted baseline eligibility for future request for new construction grants.

### Part III – Modernization Eligibility Determination

Modernization eligibility is calculated based on information at a specific site when modernization SFP grants are requested within the district. Therefore, completion of Form SAB 50-01 and Form SAB 50-02 are not needed to determine eligibility for modernization funding. Since the eligibility is site specific, the district must submit a separate Form SAB 50-03 for each site for which it is requesting modernization funding. Indicate if this request is for new baseline eligibility determination or for an adjustment to an approved baseline eligibility as a result of Section 1859.61.

The district may use one of two options to calculate its modernization eligibility at a specific site within the district. The district may select only one option. To assure timely processing of the application, districts must provide a drawing of the site (if not previously submitted to the OPSC) where modernization funds are generated with the eligibility request to the OPSC. The drawing must identify all permanent and portable classrooms and their ages on the site. If the square footage of Option B is selected, the drawings must also identify the square footages of all facilities on the site. ~~In item 1, enter the school site name from the California Public School Directory published by the California Department of Education.~~ For purposes of determining the age of the building for modernization funding, the 25/20 year period shall begin 12 months after the plans for the building were approved by the Division of the State Architect (DSA); or in the case of permanent or portable classrooms previously modernized with State funds, which are eligible for an additional apportionment, the 25/20 year period shall begin on the date of its previous modernization apportionment. Any drawing that includes classrooms eligible for an additional apportionment pursuant to Section 1859.78.8 should specify both the date the classroom's plans were originally approved by the DSA and the date of its previous modernization apportionment.

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1. Enter the school site name from the California Public School Directory published by the California Department of Education.

Option A

2. Enter the number of permanent classrooms by grade level at the school site that would have been included in the Gross Classroom Inventory pursuant to Section 1859.31 that are at least 25 years old ~~that were not previously modernized with Lease-Purchase Program (LPP) State funds. I~~and include any permanent classrooms not previously reported ~~as~~that have become at least 25 years old. If the school is a 6–8 middle school only, then report all classrooms at the 7–8 grade level. If this request is to adjust the classrooms reported for non-severe or severe pupil loading, the total classrooms reported must be equal to the classrooms reported at the time of the district request for initial modernization baseline eligibility. In no event may the number of classrooms reported for non-severe or severe pupils exceed the number of classrooms needed to house non-severe and severe pupils as reported on line 6 using loading standards of 13 for non-severe and 9 for severe classrooms. For purposes of the California Schools for the Deaf and Blind, the loading standard for these severe pupils shall be 9.
3. Enter the total number of portable classrooms by grade level at the school site that would have been included in the Gross Classroom Inventory pursuant to Section 1859.31 that are at least 20 years old ~~that were not previously modernized with LPP State funds. I~~and include any portable classrooms not previously reported ~~as~~that have become at least 20 years old. If the school is a 6-8 middle school only, then report all classrooms at the 7–8 grade level. If this request is to adjust the classrooms reported for non-severe or severe pupil loading, the total classrooms reported must be equal to the classrooms reported at the time of the district request for initial modernization baseline eligibility. In no event may the number of classrooms reported for non-severe or severe pupils exceed the number of classrooms needed to house non-severe and severe pupils as reported on line 6 using loading standards of 13 for non-severe and 9 for severe classrooms.
4. Add lines 2 and 3 by the grades shown.
5. Multiply line 4 by 25 for K–6, 27 for 7–8 and 9–12, 13 for non-severe and 9 for severe.
6. Enter the latest California Basic Educational Data Systems (CBEDS) enrollment for the school site identified as it would have been reported utilizing the criteria in Parts A, B and C of Form SAB 50-01. Report continuation high pupils as 9–12. If the school is a 6–8 middle school only, report 6th graders as 7–8.
7. Modernization eligibility (i.e., the baseline eligibility) is the lesser of each column of lines 5 or 6.

Option B

2. Enter the total number of permanent classrooms at the school site that would have been included in the Gross Classroom Inventory pursuant to Section 1859.31 or all permanent square footage at the site that is at least 25 years old ~~that was not previously modernized under the LPP, the SFP or with Proposition 1A funds~~.
3. Enter the total number of portable classrooms at the school site that would have been included in the Gross Classroom Inventory pursuant to Section 1859.31 or all portable square footage at the site that is at least 20 years old pursuant to Section 1859.60~~that was not previously modernized under the LPP, the SFP or with Proposition 1A funds~~.
4. Add lines 2 and 3.
5. Enter the remaining number of permanent and portable classrooms at the school site that would have been included in the Gross Classroom Inventory pursuant to Section 1859.31 or all remaining permanent or portable space that is under 25/20 years old.
6. Add lines 4 and 5.
7. Determine the percentage of space on the site that is at least 25/20 years old by dividing line 4 by line 6. Round to four decimal places.
8. Enter the latest CBEDS enrollment for each grade group at the school site identified as it would have been reported utilizing the criteria in Parts A, B and C of Form SAB 50-01. Report continuation high pupils as 9–12. If the school is a 6–8 middle school only, report 6th graders as 7–8.
9. Modernization eligibility (i.e., the baseline eligibility) is determined by multiplying line 7 by each grade group reported in line 8. Round up.

~~If this request is only to report increases in enrollment at the site for purposes of increasing eligibility, report only the CBEDS enrollment in either Option A or B.~~

Adjustments to the District's modernization baseline eligibility will be made pursuant to Section 1859.61. These adjustments will automatically be made by the OPSC. Contact your project manager at the OPSC for the adjusted baseline eligibility for future requests for modernization grants at the specific site.

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| SCHOOL DISTRICT | FIVE-DIGIT DISTRICT CODE NUMBER (SEE CALIFORNIA PUBLIC SCHOOL DIRECTORY) |
|---|---|
| BUSINESS ADDRESS | HIGH SCHOOL ATTENDANCE AREA (HSAA) OR SUPER HSAA (IF APPLICABLE) |
| CITY/COUNTY | |

**Part I – District Representative Information**

The following individual(s) have been designated as district representative(s) by school board minutes or the designee of the Superintendent of Public Instruction:

| DISTRICT REPRESENTATIVE | TELEPHONE NUMBER | E-MAIL ADDRESS |
|---|---|---|
| DISTRICT REPRESENTATIVE | TELEPHONE NUMBER | E-MAIL ADDRESS |

| **Part II – New Construction Eligibility Determination** ☐ NEW ☐ ADJUSTED | K–6 | 7–8 | 9–12 | Non-Severe | Severe |
|---|---|---|---|---|---|
| 1. Projected Enrollment (Part G, Form SAB 50-01) | | | | | |
| 2. Existing School Building Capacity (Part III, Line 5 of Form SAB 50-02) | | | | | |
| 3. New Construction Baseline Eligibility (Line 1 minus Line 2) | | | | | |

**Part III – Modernization Eligibility Determination** ☐ NEW ☐ ADJUSTED

1. School Name

| **Option A** | K–6 | 7–8 | 9–12 | Non-Severe | Severe |
|---|---|---|---|---|---|
| 2. Permanent classrooms at least 25 years old | | | | | |
| 3. Portable classrooms at least 20 years old | | | | | |
| 4. Total (Lines 2 and 3) | | | | | |
| 5. Multiply Line 4 by: 25 for K–6, 27 for 7–8 and 9–12, 13 for Non-Severe and 9 for Severe | | | | | |
| 6. CBEDS enrollment at school | | | | | |
| 7. Modernization Eligibility (lesser of each column of Lines 5 or 6) | | | | | |

| **Option B** | | | | | |
|---|---|---|---|---|---|
| 2. Permanent space at least 25 years old (report by classroom or square footage) | | | | | |
| 3. Portable space at least 20 years old | | | | | |
| 4. Total (Lines 2 and 3) | | | | | |
| 5. Remaining permanent and portable space (report by classroom or square footage) | | | | | |
| 6. Total (Lines 4 and 5) | | | | | |
| 7. Percentage (divide Line 4 by Line 6) | | | | | |
| | K–6 | K–6 | K–6 | Non-Severe | Severe |
| 8. CBEDS enrollment at school | | | | | |
| 9. Modernization Eligibility (multiply Line 7 by each grade group reported on Line 8) | | | | | |

I certify, as the District Representative, that the information reported on this form is true and correct and that:

- I am designated as an authorized district representative by the governing board of the district or the designee of the Superintendent of Public Instruction; and,
- A resolution or other appropriate documentation supporting this application under Chapter 12.5, Part 10, Division 1, commencing with Section 17070.10, et seq., of the Education Code was adopted by the School District's Governing Board or the designee of the Superintendent of Public Instruction on _____, _____; and,
- This form is an exact duplicate (verbatim) of the form provided by Office of Public School Construction. In the event a conflict should exist, then the language in the OPSC form will prevail.

| SIGNATURE OF DISTRICT REPRESENTATIVE | DATE |
|---|---|

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## GENERAL INFORMATION

Once the Board has determined or adjusted the district's eligibility for either new construction or modernization funding, on Form SAB 50-03 the district may file an application for funding by use of this form. If the district has a pending reorganization election that will result in the loss of eligibility for the proposed project, the district may not file an application for funding until the Board has adjusted the district's new construction baseline eligibility as required in Section 1859.51. This may be accomplished by completion of Form SAB 50-01, Form SAB 50-02 and Form SAB 50-03.

For purposes of Education Code Section 17073.25, the California Department of Education (CDE) is permitted to file modernization applications on behalf of the California Schools for the Deaf and Blind.

Requests for funding may be made as follows:

A separate apportionment for site acquisition for a new construction project for environmental hardship pursuant to Section 1859.75.1. For purposes of this apportionment, the following documents must be submitted with this form (as appropriate):

- Form 50-01, Form SAB 50-02 and Form SAB 50-03 (if not previously submitted).
- Contingent site approval letter from the CDE.
- Preliminary appraisal of property.
- Approval letter from the Department of Toxic Substances Control.

A separate apportionment for site acquisition and/or design costs for a new construction project pursuant to Section 1859.81.1. This apportionment is available only to districts that meet the financial hardship criteria in Section 1859.81. Districts may apply for a separate apportionment for the design and for site acquisition on the same project. For purposes of this apportionment, the following documents must be submitted with this form (as appropriate):

- Form SAB 50-01, Form SAB 50-02, and Form SAB 50-03 (if not previously submitted).
- Contingent site approval letter from the CDE (site apportionment only).
- Preliminary appraisal of property (site apportionment only).

A separate apportionment for district-owned site acquisition cost pursuant to Section 1859.81.2. For purposes of this apportionment, the following documents must be submitted with this form (as appropriate);

- Form SAB 50-01, Form 50-02, and Form SAB 50-03 (if not previously submitted).
- Site approval letter from the CDE.
- Appraisal of district-owned site.
- Cost benefit analysis as prescribed in Section 1859.74.6 or a copy of the Board finding that the non-school function on the district-owned site must be relocated.

A separate apportionment for design cost for a modernization project pursuant to Section 1859.81.1. This apportionment is available only to districts that meet the financial hardship criteria in Section 1859.81. For purposes of this apportionment, the Form SAB 50-03 must accompany this form (if not previously submitted)

A New Construction Adjusted Grant pursuant to Section 1859.70. If the funding request includes site acquisition, the proposed site must either be owned by the district, in escrow, or the district has filed condemnation proceedings and received an order of possession of the site. For purposes of this apportionment, the following documents must be submitted with this form (as appropriate):

- Form SAB 50-01, Form SAB 50-02 and Form SAB 50-03 (if not previously submitted).
- Site/plan approval letter from the CDE.
- Appraisal of property if requesting site acquisition funds.
- Plans and specifications (P&S) for the project that were approved by the DSA. Submittal of plans may be on CD-ROM or "Zip Drive" readable in AutoCAD 14. The specifications may be provided on a diskette that is IBM compatible.
- Cost estimate of proposed site development, if requesting site development funding.
- School board resolution if requesting more grants than the capacity of the project or to use grant eligibility at another grade level. Refer to Section 1859.77.2.
- If the site apportionment is requested pursuant to Regulation Section 1859.74.5, a cost benefit analysis as prescribed in Regulation Section 1859.74.6 or a copy of the Board finding that the non-school function on the district-owned site must be relocated.

Modernization Adjusted Grant pursuant to Section 1859.70. For purposes of this apportionment, the following documents must be submitted with this form (as appropriate):

- Form SAB 50-03 (if not previously submitted).
- P&S for the project that were approved by the DSA.
- DSA approval letter for elevator to meet handicapped compliance, if funding is requested.
- Plan approval letter from the CDE.
- Districtwide enrollment data on Form SAB 50-01 when requesting project assistance (if not previously submitted).

Prior to acceptance of an application for funding that includes a financial hardship request, the district must have its financial hardship status "pre-approved" by the Office of Public School Construction (OPSC). To apply for a financial hardship "pre-approval", consult the OPSC Web site at www.opsc.dgs.ca.gov.

If the district is requesting New Construction funding after the initial baseline eligibility was approved by the Board and the district's current CBEDS enrollment reporting year is later than the enrollment reporting year used to determine the district's baseline eligibility or adjusted eligibility, the district must complete a new Form SAB 50-01 based on the current year CBEDS enrollment data, and submit it to the OPSC with this form. A small district with 2,500 or less enrollment as defined in Section 1859.2 will not have its eligibility reduced for a period of three years from the date the district's baseline eligibility was approved by the Board as a result of reduction in projected enrollment.

For a list of the documents that must be submitted in order for the OPSC to deem a funding request for new construction or modernization complete and ready for OPSC processing, consult the OPSC Web site at www.opsc.dgs.ca.gov.

For purposes of completing this form for a Final Charter School Apportionment, a charter school shall be treated as a school district.

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## SPECIFIC INSTRUCTIONS

The district must assign a Project Tracking Number (PTN) to this project. The same PTN is used by the OPSC, the DSA and the CDE for all project applications submitted to those agencies to track a particular project through the entire state application review process. If the district has already assigned a PTN to this project by prior submittal of the P&S to either the DSA or the CDE for approval, use that PTN for this application submittal. If no PTN has been previously assigned for this project, a PTN may be obtained from the OPSC Web site at www.opsc.dgs.ca.gov "PT Number Generator."

### 1. Type of Application

Check the appropriate box that indicates the type of School Facility Program (SFP) grant the district is requesting for purposes of new construction, modernization, a separate design and/or site apportionment, site apportionment as an environmental hardship or New Construction (Final Apportionment). If the application is for the modernization of school facilities and includes facilities that are eligible for an additional apportionment pursuant to Section 1859.78.8, include a site diagram with this application that specifies the age of each classroom facility eligible for modernization. The diagram should also indicate the date of its original DSA plan approval and the date the classroom facility received its prior modernization apportionment, if known include the project modernization number on the diagram. If the application is for modernization of a California School for the Deaf or Blind, the CDE shall check the box identified as Modernization of California Schools for the Deaf/Blind. If the request is for a separate design apportionment, the CDE shall check the appropriate box. If the eligibility for this project was established as a result of the need for new or replacement facilities pursuant to Section 1859.82 (a) and (b), or rehabilitation pursuant to Section 1859.83 (e), check the appropriate box.

If this request is for an addition to an existing site and advance funding for the evaluation and RA costs, check the appropriate box and refer to Section 1859.74.4.

If this request is to convert a Preliminary Apportionment or a Preliminary Charter School Apportionment to a Final Apportionment, check the New Construction (Final Apportionment or Final Charter School Apportionment) box.

If the district is requesting a separate site and/or design apportionment, complete boxes 2a, 3, 4, the site acquisition data in box 5 (d and e), and boxes 12, 13, 14, 15 and 18 only.

**2. Type of Project**

a. Select the type of project that best represents this application request and enter the number of pupils assigned to the project for each grade group. Include pupils to be housed in a new or replacement school authorized by Section 1859.82 (a). The amount entered cannot exceed the district's baseline eligibility determined on Form SAB 50-03 and will be the basis for the amount of the new construction or modernization grants provided for the project.

If this request is for a Final Apportionment, the pupils assigned to the project must be at least 75 percent, but not more than 100 percent, of the pupils that received the Preliminary Apportionment. Refer to Section 1859.147.

b. Check the box if the project is eligible for funding for 50 year or older permanent buildings and report, at the option of the district:
   - The total number of classrooms or the total square footage building area to be modernized as part of the project. Refer to Section 1859.78.6(b)(1)(A) or (b)(2)(A).
   - The total number of permanent classrooms or the total permanent square footage building area to be modernized as part of the project that is at least 50 years old. Refer to Section 1859.78.6(b)(1)(B) or (b)(2)(B).

c. Indicate if this request is for funding of a 6–8 school.

d. Check the box(es) if the district requests and the project qualifies for additional funding for fire code requirements authorized in Sections 1859.71.2 or 1859.78.4.

e. Check the applicable box if the district is requesting additional pupil grants assigned to the project that exceed the capacity of the project or if the pupils assigned represent eligibility determined at another grade level and check the appropriate box to indicate under which regulation the district is applying. The pupil capacity of the project may be determined by multiplying the classrooms reported in box 3 by 25 for K–6; 27 for 7–8, 9–12 grades; 13 for non-severe and 9 for severe.

f. If the request is for replacement facilities pursuant to Section 1859.82 (a) or (b) on the same site, check the facility hardship box.

**3. Number of Classrooms**

Enter the:

- Number of classrooms as shown on the plans and specifications (P&S). If there was demolition at the site, report the net increase in the number of classrooms showing in the P&S.
- Master plan site size, as recommended by the California Department of Education.
- Existing Useable Acres already owned at that location (if any).
- Proposed Useable Acres that was/will be purchased as part of the application (if any).

**4. Financial Hardship Request**

Check the box if the district is requesting financial hardship assistance because it is unable to meet its matching share requirement. Refer to Section 1859.81 for eligibility criteria. Districts requesting financial assistance must have received a pre-approval for financial hardship status by the OPSC. Consult the OPSC Web site at www.opsc.dgs.ca.gov for details and necessary documentation needed in order to determine eligibility.

**5. New Construction Additional Grant Request**

Check the appropriate box(es) if the district requests an augmentation to the new construction grant for "additional" grants for the items listed or for replacement facilities pursuant to Section 1859.82 (a) and (b). Refer to Sections 1859.72 through 1859.76 and 1859.82 (a) and (b) for eligibility criteria. Enter the:

a. Therapy area in square feet as provided in Section 1859.72.

b. Multilevel classrooms in the P&S pursuant to Section 1859.73.

c. Check the box if the district is requesting project assistance pursuant to Section 1859.73.1. If the district has not submitted a request for new construction baseline eligibility on a district-wide basis, it must submit a current Form SAB 50-01 based on district-wide enrollment data with this form.

d. Indicate the site scenario that best represents the project request. If no RA is required, refer to Section 1859.74. If a RA is required on a site that is not leased or an addition to an existing site, refer to Section 1859.74.2. If RAs are required on a leased site or an addition to an existing site, refer to Sections 1859.74.3 or 1859.74.4, respectively. The limitation of 50 percent may be exceeded when unforeseen circumstances exist, the CDE determines that the site is the best available site, and substantiation that the costs are the minimum required to complete the evaluation and RA.

(1) Enter 50 percent of the actual cost.

(2) Enter 50 percent of the appraised value of the site. If the request is made pursuant to Regulation Section 1859.74.5, enter 50 percent of the appraised value.

(3) Enter 50 percent of the allowable relocation cost.

(4) Enter two percent of the lesser of the actual cost or appraised value of the site (minimum $25,000).

(5) Enter 50 percent of the Department of Toxic Substances Control (DTSC) fee for review and approval of the phase one environmental site assessment and preliminary endangerment assessment reports. Refer to Sections 1859.74, 1859.74.1, 1859.74.5, 1859.75, 1859.75.1 and 1859.81.1.

A project that received site acquisition funds under the Lease-Purchase Program (LPP) as a priority two project is not eligible for site acquisition funds under the SFP. A district-owned site acquired with LPP, SFP or Proposition 1A funds is not eligible for funding under Regulation Section 1859.74.5.

e. Enter 50 percent of the amount allowable for hazardous materials/waste removal and/or remediation for the site acquired pursuant to Sections 1859.74.2, 1859.74.3, 1859.74.4, 1859.75.1 or 1859.81.1. If an RA is required, check the box.

f. Enter 50 percent of eligible service-site development, off-site development including pedestrian safety paths and utilities costs allowed pursuant to Section 1859.76. Attach cost estimates of the proposed site development work which shall be supported and justified in the P&S. All cost estimates shall reflect 100 percent of the proposed work.

g. If the district is requesting replacement facilities on the same site, enter the square footage requested as provided in Section 1859.82 (a) or (b).

h. Enter the square feet of eligible replacement area as provided by Section 1859.73.2.

i. If the district is requesting an Additional Grant for Energy Efficiency pursuant to Section 1859.71.3, enter the percentage of energy efficiency that exceeds Title 24 requirements as prescribed in Section 1859.71.3 (a)(3).

**6. Modernization Additional Grant Request**

a. Check the box if the district is requesting project assistance allowance pursuant to Section 1859.78.2. If the district has not submitted a request for new construction baseline eligibility on a district-wide basis, it must submit a current Form SAB 50-01 based on district-wide enrollment data with this form.

b. If the district is requesting an Additional Grant for Energy Efficiency pursuant to Section 1859.78.5, enter the percentage of energy efficiently that exceeds Title 24 requirements as prescribed in Section 1859.78.5 (a)(3).

c. Check the box if the district requests an additional grant for site development utility cost necessary for the modernization of 50 years or older permanent building(s). Enter 60 percent of the eligible costs allowable pursuant to Section 1859.78.7(a).

**7. Excessive Cost Hardship Request**

Check the appropriate box to request an augmentation to the New Construction or Modernization Grants for an excessive cost hardship for the items listed. Refer to Section 1859.83 for eligibility criteria. Requests for excessive cost grants for a new two-stop elevator(s) and for additional stops in a modernization project are allowed only if required by the Division of the State Architect (DSA). Attach copy of the DSA letter that requires that the elevator(s) be included in the project for handicapped access compliance.

If the request is for rehabilitation mitigation, report 80 percent or 60 percent (as appropriate) of health/safety rehabilitation mitigation cost for a modernization project as authorized by Section 1859.83 (e).

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**8. Project Priority Funding Order**

Enter the priority order of this project in relation to other new construction applications submitted by the district on the same date. If applications are not received on the same date, the OPSC will assign a higher district priority to the application received first. Check the box(es) if the project meets the criteria outlined in Section 1859.92(c)(3),(4) and (6), as appropriate. This information is needed for purposes of priority points.

**9. Prior Approval Under the LPP**

If the project the district is requesting SFP grants for received a Phase P, S, or C approval under the LPP, report the application number of that project, regardless if the project actually received funding or was included on an "unfunded" list. Failure to report this information may delay the processing of the application by the OPSC.

**10. Prior Apportionment Under the SFP**

If the project received a separate apportionment under the SFP for either site and/or design, or site environmental hardship, enter the application number of the project. Failure to report this information may delay the processing of the application by the OPSC.

**11. Preliminary Apportionment to a Final Apportionment**

a. If this request is to convert a Preliminary Apportionment to a Final Apportionment, enter the application number of the Preliminary Apportionment. Failure to report this information may delay the processing of the application by the OPSC.
b. If this request is to convert a Preliminary Charter School Apportionment to a Final Charter School Apportionment, enter the application number of the Preliminary Charter School Apportionment. Failure to report this information may delay the processing of the application by the OPSC.

**12. Alternative Developer Fee**

The district must report certain alternative fees collected pursuant to Government Code Section 65995.7, as of the date of application submittal to the OPSC. Refer to Section 1859.77 for details. Districts are advised that the OPSC may perform an audit of the developer fees collected prior to application approval by the Board.

**13. Adjustment to Baseline Eligibility**

Complete only for new construction projects.

Pursuant to Section 1859.51 certain adjustments to the district's new construction baseline eligibility must be made each time a district submits Form SAB 50-04, to the OPSC for SFP grants. These adjustments are made automatically by the OPSC based on information reported by the district on this form.

a. Report all additional classroom(s) provided after the district submitted its request for determination of its new construction baseline eligibility for the grades shown, with the exception of a classroom that is/was:
   - A trailer and transportable/towed on its own wheels and axles.
   - Excluded pursuant to Education Code Section 17071.30.
   - Under contract for lease, lease-purchase, or construction prior to January 1, 2000.
   - Under contract for lease, lease-purchase, or construction no more than 180 days before submittal of this form to the OPSC.
   - Included in a SFP project where the district has funded a portion of the project beyond its required district contribution and the pupil capacity of the classroom does not exceed 150 percent of the number of pupils receiving a new construction grant (rounded up) for the SFP project.
   - Acquired with joint-use funds pursuant to Education Code Sections 17052 or 17077.40.
b. If the eligibility for this project was determined on a high school attendance area (HSAA) or Super HSAA pursuant to Section 1859.41, enter the number of pupils by grade level type that were included in the latest report by the CDE pursuant to Education Code Section 42268 that received operational grants in that HSAA or Super HSAA.

**14. Pending Reorganization Election**

Complete only for new construction projects. Indicate if there is a pending reorganization election that will result in a loss of eligibility for this project. If the answer is "yes", the district must complete Form SAB 50-01, Form SAB 50-02 and Form SAB 50-03, to adjust the district's new construction baseline eligibility as a result of the reorganization and submit them with this form.

**15. Joint-Use Facility/Lease Property**

Check the box if:

a. the facilities to be constructed/modernized as part of this project will be for joint use by other governmental agencies.
b. the new construction or modernization grants will be used for facilities located or to be located on leased property.

**16. Architect of Record or Licensed Architect Certification**

The architect of record or the licensed architect must complete this section.

**17. Architect of Record or Design Professional Certification**

The architect of record or the appropriate design professional must complete this section.

**18. Certification**

The district representative must complete this section.

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The school district named below applies to the State Allocation Board via the Office of Public School Construction for a grant under the provisions of Chapter 12.5, Part 10, Division 1, commencing with Section 17070.10, et seq., of the Education Code and the Regulations thereto.

| SCHOOL DISTRICT | | APPLICATION NUMBER |
|---|---|---|
| SCHOOL NAME | | PROJECT TRACKING NUMBER |
| COUNTY | DISTRICT REPRESENTATIVE'S E-MAIL ADDRESS | HIGH SCHOOL ATTENDANCE AREA (HSAA) OR SUPER HSAA (IF APPLICABLE) |

**1. Type of Application—Check Only One**

- ☐ New Construction
- ☐ New Construction (Final Apportionment)
- ☐ New Construction (Final Charter School Apportionment)
- ☐ Modernization
- ☐ Modernization of California Schools for Deaf/Blind

**Separate Apportionment**

- ☐ Site Only—New Construction [Section 1859.81.1]
- ☐ Site Only (District owned)—New Construction [Section 1859.81.2]
- ☐ Site Only—Environmental Hardship [Section 1859.75.1]
- ☐ Design Only—New Construction [Section 1859.81.1]
- ☐ Design Only—Modernization
- ☐ Design Only—Modernization of California Schools for Deaf/Blind
- ☐ Facility Hardship [Section 1859.82(a)]
- ☐ Facility Hardship [Section 1859.82(b)]
- ☐ Rehabilitation [Section 1859.83(e)]
- ☐ Advance Funding for Evaluation and RA

**2. Type of Project**

a. ☐ Elementary School
☐ Middle School
☐ High School

**Pupils Assigned:**
K–6: _____
7–8: _____
9–12: _____
Non-Severe: _____
Severe: _____

b. ☐ 50 years or older building funding (Modernization only)
Total Classrooms/Square Footage: _____
Classroom/Square Footage at least 50 years old: _____

c. Is this a 6–8 school? ☐ Yes ☐ No
If you answered yes, how many K–6 pupils reported above are sixth graders? _____

d. ☐ Automatic Fire Detection/Alarm System
☐ Automatic Sprinkler System

e. Is this a use of grant request pursuant to Section 1859.77.2? ☐ Yes ☐ No
Is this request pursuant to Section 1859.77.2(c)? ☐ Yes ☐ No
If yes, enter date of successful bond election: _____
Is this a use of grant request pursuant to Section 1859.77.3? ☐ Yes ☐ No
Is this request pursuant to Section 1859.77.3(c)? ☐ Yes ☐ No
If yes, enter date of successful bond election: _____

f. ☐ Facility Hardship (no pupils assigned)

**3. Number of Classrooms:** _____
Master Plan Acreage Site Size (Useable): _____
Existing Acres (Useable): _____
Proposed Acres (Useable): _____

**4. ☐ Financial Hardship Request—Must Have Pre-Approval by OPSC**

**5. New Construction Additional Grant Request—New Construction Only**

a. Therapy: Toilets (sq. ft.) _____
Other (sq. ft.) _____

b. Multilevel Construction (CRS): _____

c. ☐ Project Assistance

d. Site Acquisition:
☐ Leased Site
☐ Additional Acreage to Existing Site
☐ Addition to Existing Site
(1) 50 percent Actual Cost: $ _____
(2) 50 percent Appraised Value: $ _____
(3) 50 percent Relocation Cost: $ _____
(4) 2 percent (min. $25,000): $ _____
(5) 50 percent DTSC Fee: $ _____

e. 50 percent hazardous waste removal: $ _____
☐ Response Action (RA)

f. Site Development
☐ 50 percent Service-Site: $ _____
☐ 50 percent Off-Site: $ _____
☐ 50 percent Utilities: $ _____

g. Facility Hardship Section 1859.82(a) or (b)
☐ Toilet (sq. ft.): _____
☐ Other (sq. ft.): _____

h. Replacement area
☐ Toilet (sq. ft.): _____
☐ Other (sq. ft.): _____

i. ☐ Energy Efficiency: _____%

**6. Modernization Additional Grant Request—Modernization Only**

a. ☐ Project Assistance

b. ☐ Energy Efficiency: _____%

c. ☐ Site Development—60 percent utilities: $ _____

**7. Excessive Cost Hardship Request**
**New Construction Only**

- ☐ Geographic Percent Factor: _____%
- ☐ New School Project
- ☐ Small Size Project
- ☐ Urban/Security/Impacted Site;
  If a new site, $ _____ per Useable Acre [Section 1859.83(d)(2)(C)]

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**7. Excessive Cost Hardship Request—continued**
**Modernization Only**

- ☐ Rehabilitation/Mitigation [Section 1859.83(e)]: $ _____
- ☐ Geographic Percent Factor: _____%
- ☐ Handicapped Access/Fire Code (3 percent)
- ☐ Number of 2-Stop Elevators: _____
- ☐ Number of Additional Stops: _____
- ☐ Small Size Project
- ☐ Urban/Security/Impacted site

**8. Project Priority Funding Order—New Construction Only**
Priority order of this application in relation to other new construction applications submitted by the district at the same time: # _____

Project meets:
- ☐ Density requirement pursuant to Section 1859.92(c)(3).
- ☐ Stock plans requirement pursuant to Section 1859.92(c)(4).
- ☐ Energy efficiency requirement pursuant to Section 1859.92(c)(6).

**9. Prior Approval Under the LPP**
New Construction: 22/ _____
Modernization: 77/ _____

**10. Prior Apportionment Under the SFP**
Site/Design—New Construction: 50/ _____
Design—Modernization: 57/ _____

**11. Preliminary Apportionment to Final Apportionment**
a. Preliminary Apportionment Application Number: # _____
b. Preliminary Charter School Apportionment Application Number: # _____

**12. Alternative Developer Fee—New Construction Only**
Alternative developer fee collected and reportable pursuant to Regulation Section 1859.77: $ _____

**13. Adjustment to Baseline Eligibility—New Construction Only**
a. Additional Classroom(s) provided:
K–6: _____
7–8: _____
9–12: _____
Non-Severe: _____
Severe: _____

b. Operational Grant (HSAA) only:
K–6: _____
7–8: _____
9–12: _____
Non-Severe: _____
Severe: _____

**14. Pending Reorganization Election—New Construction Only** ☐ Yes ☐ No

**15. Joint-Use Facility/Leased Property**
a. ☐ Joint-Use Facility
b. ☐ Leased Property

**16. Architect of Record or Licensed Architect Certification**
I certify as the architect of record for the project or as a licensed architect that:

- The P&S for this project were submitted to the OPSC by electronic medium (i.e., CD-ROM, zip disk or diskette) or as an alternative, if the request is for a modernization Grant, the P&S were submitted in hard copy to the OPSC.
- Any portion of the P&S requiring review and approval by the Division of the State Architect (DSA) were approved by the DSA on _____ (enter DSA approval date). (If the P&S were not approved by the DSA enter N/A.)
- Any portion of the P&S not requiring review and approval by the DSA meets the requirements of the California Code of Regulations, Title 24, including any handicapped access and fire code requirements.
- If the request is for a Modernization Grant, the P&S include the demolition of more classrooms than those to be constructed in the project, the difference is _____ classroom(s). (Indicate N/A if there are none.)
- If the request is for a Modernization Grant, the P&S include the construction of more classrooms than those to be demolished in the project, the difference is _____ classroom(s). (Indicate N/A if there are none.)

ARCHITECT OF RECORD OR LICENSED ARCHITECT (PRINT NAME)

SIGNATURE | DATE

**17. Architect of Record or Design Professional Certification**
I certify as the architect of record for the project or the appropriate design professional, that:

- If the request is for a New Construction Grant, I have developed a cost estimate of the proposed project which indicates that the estimated construction cost of the work in the P&S including deferred items (if any) relating to the proposed project, is at least 60 percent of the total grant amount provided by the State and the district's matching share, less site acquisition costs. This cost estimate does not include site acquisition, planning, tests, inspection, or furniture and equipment and is available at the district for review by the OPSC.
- If the request is for a Modernization Grant, I have developed a cost estimate of the proposed project which indicates that the estimated construction cost of the work in the P&S, including deferred items and interim housing (if any) relating to the proposed project, is at least 60 percent of the total grant amount provided by the State and the district's matching share. This cost estimate does not include planning, tests, inspection or furniture and equipment and is available at the district for review by the OPSC.

ARCHITECT OF RECORD OR DESIGN PROFESSIONAL (PRINT NAME)

SIGNATURE | DATE

**18. Certification**
I certify, as the District Representative, that the information reported on this form ,with the exception of items 16 and 17, is true and correct and that:

I am an authorized representative of the district as authorized by the governing board of the district; and,

- A resolution or other appropriate documentation supporting this application under Chapter 12.5, Part 10, Division 1, commencing with Section 17070.10, et. seq., of the Education Code was adopted by the school district's governing board or the designee of the Superintendent of Public Instruction on, _____; and,

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- The district has established a "Restricted Maintenance Account" for exclusive purpose of providing ongoing and major maintenance of school buildings and has developed an ongoing and major maintenance plan that complies with and is implemented under the provisions of Education Code Section 17070.75 and 17070.77 (refer to Sections 1859.100 through 1859.102); and,
- The district has considered the feasibility of the joint use of land and facilities with other governmental agencies in order to minimize school facility costs; and,
- The district will comply with all laws pertaining to the construction or modernization of its school building; and,
- ~~Facilities to be modernized have not been previously modernized with Lease-Purchase Program, Proposition 1A Funds or School Facility Program state funds~~If this funding request is for the modernization of portable classrooms eligible for an additional apportionment pursuant to Education Code Section 17073.15, the district certifies that (check the applicable box below):
  - ☐ 1. The state modernization funds will be used to replace the portable classrooms and permanently remove the displaced portables from the classroom use within six months of the filing of the Notice of Completion for the project; or,
  - ☐ 2. It has provided acceptable documentation to the Office of Public School Construction which indicates that modernizing the portable classrooms eligible for an additional apportionment is better use of public resources than the replacement of these facilities; and,
- All contracts entered on or after November 4, 1998 for the service of any architect structural engineer or other design professional for any work under the project have been obtained pursuant to a competitive process that is consistent with the requirements of Chapter 10 (commencing with Section 4525) of Division 5, of Title 1, of the Government Code; and,
- If this request is for new construction funding, the district has received approval of the site and the plans from the CDE. Plan approval is not required if request is for separate design apportionment; and,
- If this request is for modernization funding, the district has received approval of the plans for the project from the CDE. Plan approval is not required if request is for separate design apportionment; and,
- The district has or will comply with the Public Contract Code regarding all laws governing the use of force account labor; and,
- This district has or will comply with Education Code Section 17076.11 regarding at least a 3 percent expenditure goal for disabled veteran business enterprises; and,
- The district matching funds required pursuant to Sections 1859.77.1 or 1859.79 has either been expended by the district, deposited in the County School Facility Fund or will be expended by the district prior to the notice of completion for the project; and,
- The district has received the necessary approval of the plans and specifications from the Division of the State Architect unless the request is for a separate site and/or design apportionment; and,
- If the district is requesting site acquisition funds as part of this application, the district has complied with Sections 1859.74 through 1859.75.1 as appropriate; and,
- With the exception of an apportionment made pursuant to Section 1859.75.1, the district understands that the lack of substantial progress toward increasing the pupil capacity or renovation of its facilities within 18 months of receipt of any funding shall be cause for the rescission of the unexpended funds (refer to Section 1859.105); and,
- If the apportionment for this project was made pursuant to Section 1859.75.1, the district understands that the lack of substantial progress toward increasing the pupil capacity or renovation of its facilities within 12 months of receipt of any funding shall be cause for the rescission of the unexpended funds (refer to Section 1859.105.1); and,
- The district understands that funds not released within 18 months of apportionment shall be rescinded and the application shall be denied (refer to Section 1859.90); and,
- The statements set forth in this application and supporting documents are true and correct to the best of my knowledge and belief; and,
- All school facilities purchased or newly constructed under the project for use by pupils who are individuals with exceptional needs, as defined in Education Code Section 56026, shall be designed and located on the school site so as to maximize interaction between those individuals with exceptional needs and other pupils as appropriate to the needs of both; and,
- This form is an exact duplicate (verbatim) of the form provided by the OPSC. In the event a conflict should exist, the language in the OPSC form will prevail; and,
- The district understands that some or all of the State funding for the project must be returned to the State as a result of an audit pursuant to Sections 1859.105, 1859.105.1,1859.106; and,
- The district has complied with the provisions of Sections 1859.76 and 1859.79.2 and that the portion of the project funded by the State does not contain work specifically prohibited in those Sections; and,
- If the SFP grants will be used for the construction or modernization of school facilities on leased land, the district has entered into a lease agreement for the leased property that meets the requirements of Section 1859.22; and,
- If the application contains a "Use of New Construction Grant" request, the district has adopted a school board resolution and housing plan at a public hearing at a regularly scheduled meeting of the governing board on _____ as specified in Sections 1859.77.2, or 1859.77.3, as appropriate. The district's approved housing plan is as indicated (check all that apply):
  - ☐ 1. The district will construct or acquire facilities for housing the pupils with funding not otherwise available to the SFP as a district match within five years of project approval by the SAB and the district must identify the source of the funds. [Applicable for Sections 1859.77.2(a) and (b) and 1859.77.3(a) and (b)]
  - ☐ 2. The district will utilize higher district loading standards providing the loading standards are within the approved district's teacher contract and do not exceed 33:1 per classroom. [Applicable for Sections 1859.77.2(a) and (b) and 1859.77.3(a) and (b)]
  - ☐ 3. The pupils requested from a different grade level will be housed in classrooms at an existing school in the district which will have its grade level changed, to the grade level requested, at the completion of the proposed SFP project. [Applicable for Sections 1859.77.2(b) and 1859.77.3(b)]
- If the district requested additional funding for fire code requirements pursuant to Sections 1859.71.2 or 1859.78.4, the district will include the automatic fire detection/alarm system and/or automatic sprinkler system in the project prior to completion of the project; and
- If this request is for a Large New Construction Project or a Large Modernization Project, the district has consulted with the career technical advisory committee established pursuant to Education Code Section 8070 and it has considered the need for vocational and career technical facilities to adequately meet its program needs in accordance with Education Code Sections 51224, 51225.3(b) and 52336.1; and
- If the district is requesting an Additional Grant for Energy Efficiency pursuant to Sections 1859.71.3 or 1859.78.5, the increased costs for the energy efficiency components in the project exceeds the amount of funding otherwise available to the district.

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| SIGNATURE OF DISTRICT REPRESENTATIVE | DATE |
|---|---|
| | |

STATE ALLOCATION BOARD
IMPLEMENTATION COMMITTEE
April 1, 2004

# SCHOOL FACILITY PROGRAM MODERNIZATION

## BACKGROUND

The School Facility Program (SFP) currently provides modernization funding for permanent school buildings that are more than 25 years old or portable classrooms that are at least 20 years, as long as the facility has not been previously modernized with State funds. With the passage of Assembly Bill (AB) 1244, Chapter 572, Statutes 2003 and Senate Bill (SB) 15, Chapter 587, Statutes of 2003, school facilities will be eligible to receive an additional apportionment for the modernization of permanent school buildings every 25 years, or portable classrooms every 20 years, after the date of the previous State apportionment. Additionally, the bills specify the manner in which the modernization funds will be applied to portable classrooms that are eligible for a second modernization.

## DISCUSSION

The passage of AB 1244 and SB 15 necessitates modifications to the SFP Regulations to allow school districts to become eligible to receive additional modernization funding. The amendments would clarify either the age of a classroom or the school building square footage for the purposes of determining modernization eligibility. Furthermore, this proposal clarifies the adjustments to the SFP gross classroom inventory for permanent classrooms leased for less than five years.

For purposes of discussion, staff has prepared the following:

- √ A summary of the proposed regulatory changes as shown on Attachment A.
- √ Proposed regulatory changes as shown on Attachment B.
- √ Draft form changes as shown on Attachment C.
- √ A sample illustration as shown on Attachment D.
- √ A copy of the law text as shown on Attachment E.

### *Accommodation of Previous Lease-Purchase Program (LPP) Projects*

Currently, a district cannot revise its SFP modernization eligibility option after submitting a funding application. Previous LPP projects could have included the modernization of other school buildings, such as a multi-purpose room, gym, or library. Provisions must be made for calculating modernization eligibility adjustments for those districts that established SFP eligibility under Option A of the *Eligibility Determination* (Form SAB 50-03), which is based on the number of eligible classrooms at a school site and excludes other school buildings. When districts apply for a second modernization of the support facilities after it also modernized its classrooms under the SFP, it would be necessary for districts to use Option B, based on square footage, for the purposes of calculating modernization eligibility adjustments. Staff's proposal accommodates this scenario.

(Continued on the Next Page)

*Portable Classrooms*

*Certification*

The law requires a school district to use the second modernization funds to replace the portable classroom, and certify that the existing eligible portable classroom will be removed from any classroom use. Staff recommends this certification be incorporated with the certifications specified on the *Application for Funding* (Form SAB 50-04). The certification would specify that portable classrooms will be removed within six months of the filing of the Notice of Completion for the project.

*Documentation Options*

The law includes accommodations for the second modernization of the portable if the district can document that modernizing the portable classroom is a better use of public resources.

*Option A* - The school board discuss in a public forum at a regularly scheduled meeting the cost benefit analysis and merits of whether modernizing the portable classroom is a better use of public resources. If the school board approves the second modernization, a copy of the minutes must be included with the Form SAB 50-04.

*Option B* - The school board discuss in a public forum at a regularly scheduled meeting the cost benefit analysis and merits of whether modernizing the portable classroom is a better use of public resources. If the school board approves the second modernization, the district representative indicates appropriately on the certifications specified on the Form SAB 50-04. A copy of the minutes could be requested at the project audit closeout.

*Option C* - The district submits a cost benefit analysis including data on the expectancy of the building's utilization prepared and signed by a licensed design professional for review by the OPSC Plan Verification Team and presented for before the State Allocation Board (SAB) for approval.

RECOMMENDATION

Finalize the discussions and proceed with the regulatory changes for presentation to the SAB.

# Attachment A

## Summary of Second Round Modernization
## SAB Implementation Committee, April 1, 2004

| *Section* | *Current Practice* | *Proposed Change* | *Justification for Change* |
|---|---|---|---|
| **Calculation to Determine Modernization Baseline Eligibility** ***Reg Section 1859.60(a)*** | Eligibility determination may be made by identifying all classrooms on a site that is at least 25/20 years old (permanent/portable) and not previously modernized with State funds. | Would *permit* classrooms *previously modernized with State funds to be eligible* for modernization funding. | Required by legislation - SB 15 and AB 1244 |
| **Calculation to Determine Modernization Baseline Eligibility** ***Reg Section 1859.60(b)*** | Eligibility determination may be made by identifying all square footage on a site that is at least 25/20 years old (permanent/ portable) and not previously modernized with State funds. | Would *permit* all square footage at the school site *previously modernized with State funds to be eligible* for modernization funding. | Required by legislation - SB 15 and AB 1244 |
| **Calculation to Determine Modernization Baseline Eligibility** ***Reg Section 1859.60*** | N/A | The age of the classroom or square footage shall commence 12 months after the plans for the building were approved by the DSA; or in the case permanent or portable classrooms were previously modernized with State funds, the 25/20 year period *shall begin on the date of its previous modernization apportionment.* | Defines the specific time used to determine the start of the 25/20 year timeframe for either classrooms or square footage at a site. |
| **Adjustment to the Modernization Baseline Eligibility** ***Reg Section 1859.61(i)*** | N/A | *Increases the modernization baseline for facilities previously modernized with State funds*, which qualify for an additional modernization apportionment *pursuant to Section 1859.78.8.* | Required by legislation - SB 15 and AB 1244 |
| **Modernization Grant for 50 year or Older Permanent Buildings** ***Reg Section 1859.78.6*** | For the purposes of determining the age of the building, the 25/20 year and the 50 year period shall begin 12 months after the original plans for the construction of the building were approved by the DSA. | For the purposes of determining the age of the building, the 25/20 year and the 50 year period shall begin 12 months after the original plans for the construction of the building were approved by the DSA *or in the case of permanent or portable classrooms previously modernized with State funds, the 25/20 year period shall begin on the date of its previous modernization apportionment.* | Required by legislation - SB 15 and AB 1244 |

| Section | Current Practice | Proposed Change | Justification for Change |
|---|---|---|---|
| **Modernization Grant for Facilities Previously Modernized with State Funds** ***Reg Section 1859.78.8*** | N/A | Provides an *additional apportionment for school facilities previously modernized with State funds* as provided by Education Code 17074.10(a) and Section 1859.78.3. | Required by legislation - SB 15 and AB 1244 |
| **Use of Modernization Grant Funds** ***Reg Section 1859.79.2*** | Modernization Grant funds shall be expended as set forth in Education Code 17074.25 and may also be utilized for other purposes as set forth in Education Code 100420(c). | N/A | Deletes this line duplicated in the opening paragraph of the same section. |
| **Use of Modernization Grant Funds** ***Reg Section 1859.79.2*** | N/A | Language expanded in the regulations to state that Modernization Grant funds may be used on any school facilities on the site, *with the exception of portable classroom facilities eligible for an additional apportionment pursuant to Education Code Sections 17073.15 and 17074.10(f) and as defined in Section 1859.78.8.* | Required by legislation - SB 15 and AB 1244 |
| | | | |
| **Other Issue** | | | |
| **Adjustments to Gross Classroom Inventory** ***Reg Section 1859.32(k)*** | After the gross classroom inventory has been prepared pursuant to Section 1859.31, it will be reduced by any classroom that is a permanent space and leased for less than five years. | After the gross classroom inventory has been prepared pursuant to Section 1859.31, it will be reduced by any classroom that is a permanent space and leased *for a cumulative duration of five years or less.* | Reflects the original intent of this exclusion. Clarifies the regulations. Multiple one year leases to reduce the district's classroom capacity is not permitted. This will not effect districts that plan to remove leased portables within the five years. |
| **Adjustments to the New Construction Baseline Eligibility** ***Reg Section 1859.51(i)(5)*** | N/A | The baseline eligibility for new construction determined on the form SAB 50-03 will be reduced by the number of pupils housed, based on loading standards pursuant to Ed. Code Section 17071.25(a)(2)(A), in any classroom provided after the baseline eligibility was determined by the Board. There is an exception for those pupils housed or to be housed in a classroom *where the classroom was leased for a cumulative duration of five years or less.* | Same as above |

## Attachment B

Amend Section 1859.2. Definitions.

…

"Approved Application(s)" means a district has submitted the application and all documents to the Office of Public School Construction that are required to be submitted with the application as identified in the General Information Section of Forms SAB 50-01, *Enrollment Certification/Projection*, (Revised 01/03); SAB 50-02, *Existing School Building Capacity*, (Revised 09/02); SAB 50-03, *Eligibility Determination*, (Revised 0~~1~~4/0~~3~~4); and SAB 50-04, *Application for Funding*, (Revised 04/0~~3~~4), as appropriate, and the Office of Public School Construction has completed and accepted a preliminary approval review pursuant to Education Code Section 17072.25(a).

…

"Form SAB 50-04" means the *Application For Funding*, Form SAB 50-04 (Revised 04/0~~3~~4), which is incorporated by reference.

…

"Modernization Grant" means the funding provided pursuant to Education Code Section 17074.10(a) and Sections 1859.78, 1859.78.3, ~~and~~ 1859.78.6, and 1859.78.8

Note: Authority cited: Sections 17070.35 and 17078.64, Education Code.

Reference: Sections 17009.5, 17017.6, 17017.7, 17021, 17047, 17050, 17051, 17070.15, 17070.51(a), 17070.71, 17070.77, 17071.10, 17071.25, 17071.30, 17071.33, 17071.35, 17071.40, 17071.76, 17072.10, 17072.12, 17072.18, 17072.33, 17073.25, 17074.10, 17075.10, 17075.15, 17077.40, 17077.42, 17077.45, 17078.52, 17078.56, 17280, and 56026, Education Code. Section 53311, Government Code.

Amend Section 1859.32. Adjustments to Gross Classroom Inventory.

After the gross classroom inventory has been prepared pursuant to Section 1859.31, it will be reduced by the following. Any classrooms:

(a) abandoned and approved for replacement as a hardship under the provisions of the LPP;
(b) at a school operated on a year-round schedule that has been used continuously for at least 50 percent of the time for preschool programs in the five years preceding the receipt of the application for determination of eligibility;
(c) included in any new construction LPP project that has not received a Phase C apportionment;
(d) that is portable and owned or leased by the district for 20 years or more that was approved for abandonment in a LPP project and the plans for the project had DSA approval prior to November 4, 1998;
(e) that is a trailer and is transported/towed on its own wheels and axles;
(f) used exclusively for regional occupational centers, regional occupational programs, child care, preschool and/or Adult Education Programs, and was built or acquired with funds specifically available for those purposes;
(g) of less than 700 interior square feet;
(h) originally built for instructional use, but converted to one of the following:
(1) used continuously for school administration for at least five years prior to the submittal of the application to the OPSC for determination of eligibility.
(2) used continuously for central or main district administration for at least five years prior to the submittal of the application to the OPSC for determination of eligibility.
(3) used for school library purposes during the previous school year.
(i) owned but leased to another district.
(j) any portable classroom excluded by Education Code Section 17071.30
(k) that is permanent space and leased ~~for less than five years~~ for a cumulative duration of five years or less.
(l) any permanent classroom contained in a project for which the construction contract was signed between August 27, 1998 and November 18, 1998 and for which the district did not have full project eligibility under the LPP.
(m) that was acquired with joint-use funds specifically available for that purpose.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17052, 17071.25, 17071.30 and 17077.40, Education Code.

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Amend Section 1859.51. Adjustments to the New Construction Baseline Eligibility.

The baseline eligibility for new construction determined on the Form SAB 50-03, will be adjusted as follows:

(a) Reduced by the number of pupils provided grants in a new construction SFP project and by the number of pupils that received a Preliminary Apportionment pursuant to Section 1859.140 or a Preliminary Charter School Apportionment pursuant to Section 1859.160.

(b) Reduced by the number of pupils housed, based on the loading standards pursuant to Education Code Section 17071.25(a)(2)(A), in a new construction LPP project funded under the provisions of the LPP pursuant to Sections 1859.12 or 1859.13.

(c) Reduced by the number of pupils housed in additional classrooms constructed or purchased based on the loading standards, pursuant to Education Code Section 17071.25(a)(2)(A), in a modernization SFP project.

(d) Adjusted as a result of the audit findings made pursuant to Sections 1859.90 and 1859.105.

(e) Increased/decreased by changes in projected enrollment in subsequent enrollment reporting years for all districts except decreases as provided in (j) below.

(f) Adjusted as a result of errors or omissions by the district or by the OPSC.

(g) Adjusted as a result of amendments to these Regulations that affect the eligibility.

(h) Increased by the number of pupils eligible for grants pursuant to Section 1859.82 (a).

(i) Reduced by the number of pupils housed, based on loading standards pursuant to Education Code Section 17071.25(a)(2)(A), in any classroom provided after the baseline eligibility was determined by the Board with the exception of those pupils housed or to be housed in a classroom:

(1) That is a trailer and transportable/towed on its own wheels and axles.

(2) Of less than 700 interior square feet.

(3) Excluded pursuant to Education Code Section 17071.30(a).

(4) Where the contract for the lease, lease-purchase, purchase, or construction of the classroom was made prior to January 1, 2000

(5) Where the classroom was leased for a cumulative duration of five years or less.

(6) Where the contract for the lease,lease-purchase, purchase, or construction was made no more than 180 days before the Approved Application date for funding of the classrooms included in the contract.

(7) That is included in a SFP project where the district has funded a portion of the project beyond its required district contribution and the pupil capacity of the classroom does not exceed 150 percent of the number of pupils receiving a new construction grant (rounded up) for the SFP project.

(8) That was acquired with joint-use funds specifically available for that purpose.

(j) For small school districts, decreased:

(1) By any reduction in projected enrollment beginning in the enrollment-reporting year that follows a three year period beginning when the district's baseline eligibility was determined by the Board. The reduction shall be determined by any decrease between the current projected enrollment and the projected enrollment used when the district's baseline eligibility was determined by the Board pursuant to Section 1859.50 or adjusted by a subsequent operational grant report after that date.

(2) By any increase in the number of pupils included in the latest operational grant report made by the CDE pursuant to Education Code Section 42268 beginning three years after the district's baseline eligibility was determined by the Board pursuant to Section 1859.50. The reduction in eligibility shall be determined by the number of pupils included in the latest operational grant report that exceed the number of pupils included in the operational grant report in effect when the district's baseline eligibility was determined by the Board pursuant to Section 1859.50 or adjusted by a subsequent operational grant report after that date.

(k) Adjusted for any change in classroom inventory as a result of a reorganization election.

(j) For classroom loading standards adopted by the Board for non-severely disabled individuals with exceptional needs and severely disabled individuals with exceptional needs.

(m) As directed by the Board due to a finding of a Material Inaccuracy pursuant to Regulation Section 1859.104.1.

(n) Increased by the number of pupils that received a Preliminary Apportionment that was rescinded pursuant to Section 1859.148 or a Preliminary Charter School Apportionment that was rescinded pursuant to Section 1859.166.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17052, 17070.51, 17071.25, 17071.75, 17071.76, 17072.20 and 17077.40, Education Code.

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Article 7. Modernization Eligibility Determination

Amend Section 1859.60. Calculation to Determine Modernization Baseline Eligibility.

The district shall calculate its modernization eligibility for each school site with the ~~by~~ completion of the Form SAB 50-03. The eligibility determination may be made by either identifying all classrooms on the site pursuant to (a) or by the identification of all square footage on the site pursuant to (b), as follows:

(a) Identify all classrooms at the school site that would have been included in the Gross Classroom Inventory pursuant to Section 1859.31 that are:

(1) Permanent and at least 25 years old ~~and not previously modernized with State funds~~.

(2) Portable and at least 20 years old ~~and not previously modernized with State funds~~.

(3) The remaining classrooms not reported in (1) or (2) above.

(b) Identify all square footage at the school site that is:

(1) Permanent area and at least 25 years old ~~and not previously modernized with State funds~~.

(2) Portable classroom area and at least 20 years old ~~and not previously modernized with State funds~~.

(3) The remaining square footage on the site not reported in (1) or (2) above.

The age of the classroom or square footage shall ~~be based on the date the district submitted the application for an eligibility determination to the OPSC.~~ begin 12 months after the plans for the building were approved by the DSA; or in the case permanent or portable classrooms were previously modernized with State funds, the 25/20 year period shall begin on the date of its previous modernization apportionment. For the purpose of identifying square footage at a school site, include the total enclosed exterior square footage of the school buildings. For multilevel buildings, include the square footage at each level.

Enrollment at the school shall be the latest CBEDS report for K-6, 7-8 and 9-12 pupils. If the school is closed at the time of application for eligibility determination for modernization, and the district intends to reopen it and use it as a school for at least the next five years, the enrollment may be estimated based on district demographic data.

The calculated eligibility determined on the Form SAB 50-03, shall be referred to as the modernization baseline eligibility for the specific school site.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17073.15, 17073.20 and 17074.10, Education Code.

Amend Section 1859.61. Adjustments to the Modernization Baseline Eligibility.

The baseline eligibility for modernization as provided in Section 1859.60 for a specific site will be adjusted as follows:

(a) Reduced by the number of pupils provided grants in a modernization SFP project at the specific site.

(b) Reduced by the number of pupils housed, based on the loading standards pursuant to Education Code Section 17071.25(a)(2), in a modernization LPP project funded under the LPP pursuant to Sections 1859.14 and 1859.15.

(c) Increased by changes in projected enrollment in subsequent enrollment reporting years.

(d) Increased for additional facilities not previously modernized with State funds, that become 25 years old, if permanent, or 20 years old, if portable or as a result of audit findings made pursuant to Sections and 1859.90 1859.105.

(e) Adjusted as a result of errors or omissions by the district or by the OPSC.

(f) Adjusted as a result of amendments to these Subgroup 5.5 Regulations that affect the eligibility.

(g) For classroom loading standards adopted by the Board for non-severely disabled individuals with exceptional needs and severely disabled individuals with exceptional needs.

(h) As directed by the Board due to a finding of a Material Inaccuracy pursuant to Regulation Section 1859.104.1.

(i) Increased for facilities previously modernized with State funds, which qualify for an additional modernization apportionment pursuant to Section 1859.78.8.

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Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17070.51, 17071.25, 17072.15, ~~and~~ 17072.20, 17073.15, and 17074.10 Education Code.

Adopt Section 1859.78.8. Modernization Grant for Facilities Previously Modernized with State Funds.

The Board shall provide an additional apportionment provided by Education Code 17074.10(a) and Section 1859.78.3, for facilities previously modernized with State funds as follows:

(a) An additional apportionment will be provided for the modernization of a permanent school building every 25 years following the date of its previous State modernization apportionment.

(b) In the case of portable classrooms, an additional apportionment will be permitted every 20 years after the date of its previous state modernization apportionment provided all of the following are met:.

(1) Modernization funding provided for the portable classrooms shall be restricted to the replacement of the portable classrooms.

(2) The school district must certify that the portable classrooms will be removed from any classroom use unless acceptable documentation is provided by the district indicating that the modernization of the portable classrooms is a better use of public resources.

The capacity and eligibility of the school district will not be adjusted for the replacement of the portable classroom pursuant to Education Section 17074.10(f) and 17073.15.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17074.10, and 17073.15 Education Code.

Amend Section 1859.79.2. Use of Modernization Grant Funds.

The Modernization Grant plus any other funds provided by these Regulations shall be expended as set forth in Education Code Sections 17074.25, 17074.10(f) and 17070.15(f) and may also be utilized for other purposes as set forth in Education Code Section 100420 (c). Modernization funding may also be used for the costs incurred by the district directly or through a contract with a third party provider for the initiation and enforcement of a LCP. Modernization funding, with the exception of savings, is limited to expenditure on the specific site where the modernization grant eligibility was generated. The grant may not be used for the following:

(a) New building area with the exception of the following:

(1) Replacement building area of like kind. Additional classrooms constructed within the replacement area will reduce the new construction baseline eligibility for the district.

(2) Building area required by the federal American with Disabilities Act (ADA) or by the Division of the State Architect's (DSA) handicapped access requirements.

(b) New site development items with the exception of:

(1) Replacement, repair or additions to existing site development.

(2) Site development items required by the federal ADA Act or by the DSA's handicapped access requirements.

(c) the evaluation and removal of hazardous or solid waste and/or hazardous substances when the Department of Toxic Substance Control has determined that the site contains dangerous levels of a hazardous substance, hazardous waste, or both that exceed ten percent of the combined adjusted grant and the district matching share for the project.

(d) Leased facilities not owned by another district or a county superintendent.

~~Modernization Grant funds shall be expended as set forth in Education Code Section 17074.25 and may also be utilized for other purposes as set forth in Education Code Section 100420(c).~~

Modernization Grant funds may be used on any school facilities on the site, with the exception of portable classroom facilities eligible for an additional apportionment pursuant to Education Code Sections 17073.15 and 17074.10(f) and as defined in Section 1859.78.8. If the classroom facilities on the site include areas that are currently ineligible for modernization, it will not disqualify those facilities from future modernization funding.

Note: Authority cited: Section 17070.35, Education Code.

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Reference: Sections 17070.15, 17074.25 and 100420(c), Education Code.

Amend Section 1859.78.6. Modernization Grant for 50 Year or Older Permanent Buildings.

(a) In lieu of the funding provided by Subdivision (a) of Education Code Section 17074.10 and Section 1859.78.3, the Board shall provide the amounts shown below for each pupil housed in permanent school buildings that are 50 years or older as follows:
(1) $3,120 for each elementary pupil.
(2) $3,300 for each middle school pupil.
(3) $4,320 for each high school pupil.
(4) $9,944 for each pupil that is a Severely Disabled Individual with Exceptional Needs.
(5) $6,650 for each pupil that is a Non-Severely Disabled Individual with Exceptional Needs.
(b) If the application includes the modernization of permanent buildings both over and under 50 years old, the number of pupils housed in 50 years or older permanent buildings, for purposes of (a) above, shall be determined by either of the following, at the district's option:
(1) A percentage of permanent classrooms in the application that are 50 years or older to the total classrooms in the application determined as follows:
(A) Calculate the total number of classroom(s) to be modernized as part of the project that were included in the Gross Classroom Inventory pursuant to Section 1859.31 and were not previously modernized under the LPP, the SFP or with Proposition 1A funds.
(B) Calculate the total number of permanent classrooms to be modernized as part of the project that are at least 50 years old.
(C) Divide the classrooms calculated in (b)(1)(B) by the total classrooms calculated in (b)(1)(A). Round up to the nearest one tenth of one percent.
(D) Multiply the percentage determined in (b)(1)(C) by the number of pupils assigned to the project on Form SAB 50-04, for each grade group. Round up.
(2) A percentage of the permanent building area Square Footage in the application that is 50 years or older to the total Square Footage in the application determined as follows:
(A) Calculate the total Square Footage building area to be modernized as part of the project that was included in the Gross Classroom Inventory pursuant to Section 1859.31 and was not previously modernized under the LPP, the SFP or with Proposition 1A funds.
(B) Calculate the total permanent Square Footage of building area to be modernized as apart of the project that is at least 50 years old.
(C) Divide the Square Footage of building area calculated in (b)(2)(B) by the total Square Footage of building area calculated in (b)(2)(A). Round up to the nearest one tenth of one percent.
(D) Multiply the percentage determined in (b)(2)(C) by the number of pupils assigned to the project on Form SAB 50-04, for each grade group. Round up.

The amounts shown shall be adjusted annually in the manner prescribed in Section 1859.78. The grant is eligible for any modernization grant augmentation for which the project is otherwise eligible under the law and regulations.

For purposes of determining the age of the building, the 20 year, 25 year and the 50 year period shall begin 12 months after the original plans for the construction of the building were approved by the DSA <u>or in the case of permanent or portable classrooms previously modernized with State funds, the 25/20 year period shall begin on the date of its previous modernization apportionment</u>.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17074.26, Education Code.

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## Attachment C

Please refer to Forms SAB 50-03 and 50-04 emailed separately in PDF format.

## Attachment D

# SAMPLE SECOND ROUND MODERNIZATION PROJECTS

## Example #1

### Middle America Elementary

Permanent
Built 1970
14 CR

Permanent
Built 1955
10 CR

Permanent
Built 1960
7 CR

**Baseline - 1000 pupils**

| Application | Pupils Requested | Project Apportionment |
|---|---|---|
| #1 | -250 | 1998 |
| #2 | -175 | 1999 |
| #3 | -350 | 2000 |

| Application | Pupils Returned | Year Reinstated |
|---|---|---|
| #1 | +250 | 2023 |
| #2 | +175 | 2024 |
| #3 | +350 | 2025 |

## Example #2

### Central California Elementary

Permanent
Built 1965
6 CR

Permanent
Built 1980
3 CR

Permanent
Built 1955
SQ. FT.

Portable
Built 1985
1 CR

**Baseline - 250 pupils**

| Application | Pupils Requested | Project Apportionment |
|---|---|---|
| #1 | LPP | 1985 |
| #2 | -150 | 2000 |
| #3 | -75 | 2002 |
| #4 | -25 | 2003 |

| Application | Pupils Returned | Year Reinstated |
|---|---|---|
| #1 | X | 2010 |
| #2 | +150 | 2025 |
| #3 | +75 | 2027 |
| #4 | +25 | 2023 |

**Attachment E**

## Assembly Bill No. 1244

CHAPTER 572

An act to amend Sections 17073.15, 17073.20, and 17074.10 of the Education Code, relating to school facilities.

[Approved by Governor September 28, 2003. Filed with Secretary of State September 29, 2003.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1244, Chu. School facilities funding: modernization.

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.

Existing law makes eligible for state funding a permanent school building that is more than 25 years old, or a portable classroom that is at least 20 years old, and that prior to November 4, 1998, had not been previously modernized with state funding.

This bill would delete the eligibility requirement that a school building not have been previously modernized with state funding and would allow an additional apportionment to be made for the modernization of permanent school buildings every 25 years following the date of the previous apportionment and, in the case of portable classrooms, every 20 years after the date of the previous apportionment. The bill would require the board to require a school district to use the modernization funds it receives for a portable classroom that is eligible for a second modernization to replace the portable classroom and to certify that the existing eligible portable classroom will be removed from any classroom use unless the district is able to document that modernizing the portable classroom is a better use of public resources. The bill would prohibit the capacity and eligibility of the school district from being adjusted for replacing the portable classroom.

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

SECTION 1. Section 17073.15 of the Education Code is amended to read:

17073.15. A school district is eligible to receive an apportionment for the modernization of a permanent school building that is more than 25 years old or a portable classroom that is at least 20 years old. A school

district is eligible to receive an additional apportionment for the modernization of a permanent school building every 25 years after the date of the previous apportionment or a portable classroom every 20 years after the date of the previous apportionment.

SEC. 2. Section 17073.20 of the Education Code is amended to read:

17073.20. Funding may be approved for the modernization of any permanent school building that is more than 25 years old, or, any portable classroom that is more than 20 years old, as described in Section 17071.30.

SEC. 3. Section 17074.10 of the Education Code is amended to read:

17074.10. (a) The board shall determine the total funding eligibility of a school district for modernization funding by multiplying the following amounts by each pupil of that grade level housed in permanent school buildings that satisfy the requirements of Section 17073.15:

(1) Two thousand two hundred forty-six dollars ($2,246) for each elementary pupil.

(2) Two thousand three hundred seventy-six dollars ($2,376) for each middle school pupil.

(3) Three thousand one hundred ten dollars ($3,110) for each high school pupil.

(b) The board shall annually adjust the factors set forth in subdivision (a) according to the adjustment for inflation set forth in the statewide cost index for class B construction, as determined by the board.

(c) The board may adopt regulations to be effective until July 1, 2000, that adjust the amounts identified in this section for qualifying individuals with exceptional needs, as defined in Section 56026. The regulations shall be amended after July 1, 2000, in consideration of the recommendations provided pursuant to Section 17072.15.

(d) It is the intent of the Legislature that the amounts provided pursuant to this article for school modernization not include funding for administrative and overhead costs.

(e) For a school district having an enrollment of 2,500 or less for the prior fiscal year, the board may approve a supplemental apportionment of up to two thousand five hundred dollars ($2,500) for any modernization project assistance. The amount of the supplemental apportionment shall be adjusted in 2001 and every year thereafter by an amount equal to the percentage adjustment for class B construction.

(f) For a portable classroom that is eligible for a second modernization, the board shall require the school district to use the modernization funds to replace the portable classroom and to certify that

the existing eligible portable classroom will be removed from any classroom use unless a district is able to document that modernizing the portable classroom is a better use of public resources. The capacity and eligibility of the school district may not be adjusted for replacing a portable classroom pursuant to this subdivision and Section 17073.15.

Note: SB 15, Chapter 587, Statutes of 2003, Section 1, 2 and 3 read the same as above in AB 1244.

**STATE ALLOCATION BOARD**
1130 K Street, Suite 400
Sacramento, CA 95814
http://www.dgs.ca.gov/opsc

**Date:** May 21, 2004

**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, June 4, 2004 (9:30 am - 3:30 pm) at 1500 Capitol Avenue (East End Complex) in Conference Rooms 72.149B and 72.151A (Sacramento, CA).

The Implementation Committee's proposed agenda is as follows:

1. Convene Meeting

2. Critically Overcrowded Schools Program
   *Discussion of alternatives for final COS Program eligibility requirements for existing projects.*

3. School Facility Program Modernization (SB 15 Alpert and AB 1244 Chu)
   *Discussion of proposed regulatory amendments to permit an additional apportionment for the modernization of permanent facilities every 25 years or portable facilities every 20 years.*

4. 50 Year Old Modernization
   *Discussion of proposed amendments to Regulation Section 1859.78.6 which provides additional funding for the modernization of permanent buildings at least 50 years old. The amendments would address changes in the way the grant is calculated and applied.*

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 Christine Sanchez at (916) 322-0328.

BRUCE B. HANCOCK
Chairperson

BBH:LM:cs

**STATE ALLOCATION BOARD**
1130 K Street, Suite 400
Sacramento, CA 95814
http://www.dgs.ca.gov/opsc

State Allocation Board
IMPLEMENTATION COMMITTEE
**PENDING ITEMS LIST**

June 4, 2004

A. FUTURE ITEMS

- Increased Capacity for Replaced Facilities; SFP Regulation Section 1859.73.2
- SFP Enrollment Augmentation; Dwelling Units
- Conversion of Commercial Buildings into Schools
- Transferring Special Education Programs
- Project Rescission

B. SUSPENDED ITEMS

- None

State Allocation Board
Implementation Committee
June 4, 2004

# CRITICALLY OVERCOWDED SCHOOL FACILITIES PROGRAM

## BACKGROUND

At the April 28, 2004 State Allocation Board (SAB) meeting, the Board requested that staff examine district concerns with the Critically Overcrowded School (COS) Facilities Program and the requirement that, in order for the projects to be converted to a School Facility Program (SFP) final apportionment, the district have sufficient SFP new construction eligibility to justify the project at the time of conversion. The Board requested that staff examine feasible alternatives to address these district concerns and report back at a future meeting.

## PROGRAM SUMMARY

Assembly Bill 16, Statutes of 2002, established the COS program in order to relieve overcrowding in qualifying school districts. Through the COS program, districts have the ability to secure a reservation of funds prior to having all of the necessary State agencies approvals. The program is designed to set these funds aside for qualified districts so funding is secured while the districts proceed with the prolonged site selection, hazardous clean-up and subsequent agency approval process typically necessary for schools in critically overcrowded areas. Qualified districts then have four to five years to meet all requirements of the SFP; this includes receiving all State approvals needed for a complete funding application for new construction. When the project converts to its final apportionment, the district must still have SFP eligibility to support the new construction application. This requirement was discussed and agreed upon by the conference committee and legislature as a term for the approval of the creation of the COS program.

Additionally, when districts apply for the COS program, at least 75 percent of the pupils in the project must be from one or more overcrowded schools located nearby. The regulations provide that in order for the project to be converted to a SFP final apportionment, the district must have enough SFP new construction eligibility to justify at least 75 percent of the pupils in the project. In circumstances when the district's SFP eligibility has decreased to less than 75 percent, the district may use any SFP eligibility justified. The final apportionment application would need to reflect the appropriate number of pupils as justified in the district's SFP eligibility.

## DISCUSSION

The purpose of this item is to facilitate meaningful discussion and solicit feasible suggestions to address concerns regarding this program. The primary district concern raised is that a district with COS projects will be unable to submit a final apportionment request that meets all current SFP new construction requirements at that time, due to either a decrease in eligibility or bussing of pupils from one high school attendance area to another.

The Office of Public School Construction recognizes the need to provide relief for pupils at critically overcrowded schools through the construction of additional classrooms and/or schools. Staff welcomes this discussion to provide an equitable solution to the concerns that have been raised. Staff, with the assistance of the Committee, will look at the potential obstacles to the program and ways to overcome them considering the original intent of legislation for the COS program.

POSSIBLE OPTIONS

Options have been suggested for alternate methods of re-justifying eligibility for the COS program at the time of conversion, such as:

1. Modify the un-housed pupil eligibility justification, at the time of conversion, for the pupils requested in the project. Possibilities may include:

    - Basing the un-housed pupil eligibility for the COS project on the current year enrollment data, rather than the standard 5-year projection; or,
    - Limiting the number of years forecasted to a 3 year projection; or,
    - Changing the number of previous years being included in the projection; or,
    - Using residence data for school district enrolled pupils within the general location area.

2. Establish a "needs" justification criterion for certain time periods. If projected SFP eligibility significantly decreases, in essence create an SFP eligibility lock for the first two years with a supplemental justification system. The criterion could include a verification progression similar to the following: If the project converted prior to the second annual reporting date, conduct a re-justification of the Source School Qualifying Pupil (QP) eligibility served by the project and verify these pupils are "un-housed" through confirmation the Source School(s) operate on a multitrack year-round educational program. If a district converts a project after the two years following the Preliminary Apportionment utilize the current criteria; re-check the SFP new construction projected enrollment but not the Source School QP eligibility.

3. Not require SFP new construction eligibility at the time of conversion.

4. Leave the program as is; maintain established eligibility calculations and COS conversion criteria pursuant to existing Education Code.

RECOMMENDATION

To be developed with the assistance of the Committee.

# EDUCATION CODE
# SECTION 17078.10-17078.30

17078.10. (a) There is hereby established the Critically Overcrowded School Facilities Program to be administered by the board.

(b) For the purposes of this article, "preliminary application" means an application for a preliminary apportionment pursuant to this article.

(c) For the purposes of this article, "preliminary apportionment" means an apportionment made for eligible applicants with critically overcrowded schools in advance of full compliance with all of the application requirements otherwise required for an apportionment pursuant to this chapter.

(d) For the purposes of this article, "final apportionment" has the same meaning as "apportionment" as set forth in subdivision (a) of Section 17070.15.

(e) There is hereby established the 2002 Critically Overcrowded School Facilities Account within the 2002 State School Facilities Fund, and the 2004 Critically Overcrowded School Facilities Account within the 2004 State School Facilities Fund, for the purposes of this article. Funds reserved for the purposes of this article shall be placed in those accounts, as appropriate, and shall be available exclusively for projects eligible under this article until the funds are made available for other purposes of this chapter pursuant to Section 17078.30.

17078.15. (a) Unless this article expressly provides otherwise, the provisions contained in the other articles of this chapter shall apply with equal force to a project funded under this article. This article shall control over the provisions of this chapter contained in other articles only to the extent that this article expressly conflicts with those provisions.

(b) This article shall apply only to a project that is otherwise eligible under this chapter and that meets both of the following criteria:

(1) The project meets the criteria set forth in Section 17078.18.

(2) The project is to be funded from the proceeds of state bonds approved by the voters at the November 5, 2002, statewide general election, or the 2004 direct primary election or the 2004 statewide general election, as the case may be, that were expressly reserved in the bond act or acts for the purposes set forth in this article.

(c) The state share of project costs and the state per-unhoused-pupil new construction apportionments for programs eligible under this article shall be equal to the share and amounts otherwise provided by the board pursuant to this chapter, including, but not limited to, any applicable adjustments or supplements otherwise authorized pursuant to this chapter.

(d) A school district that elects to utilize per-unhoused-pupil eligibility pursuant to this chapter to support a project pursuant to this article, shall not simultaneously utilize that same eligibility to support any other application pursuant to this chapter.

17078.18. Projects funded under this article shall meet all of the following criteria:

(a) The project is a new construction project to build new pupil capacity to relieve overcrowding.

(b) The proposed school facility shall be located in the proposed general location, as set forth in Section 17078.22, of the school or schools that have the conditions and pupils that establish the eligibility pursuant to this article as set forth in subdivision (c).

(c) At least 75 percent of the projected pupil occupancy of the project facilities shall come from a source school or source schools that have a site pupil population density greater than 115 pupils per acre in grades kindergarten to six, inclusive, or a site pupil population density greater than 90 pupils per acre in grades seven to 12, inclusive, as determined by the Superintendent of Public Instruction using enrollment data from the California Basic Educational Data System for the 2001-02 school year. For source schools with grades that include a combination of kindergarten to six, inclusive, and seven to 12, inclusive, the controlling source schoolsite pupil population density shall be the one applicable to the grade levels in which the majority of the pupils are enrolled at the source school.

17078.20. (a) The board shall disseminate information to school districts regarding the availability of funding pursuant to this article and the appropriate deadlines for applications.

(b) Applicants for funding pursuant to this article shall submit preliminary applications to the board.

(c) The preliminary applications shall be submitted by May 1, 2003, for projects to be funded with the proceeds of bonds approved by the voters at the November 5, 2002, statewide general election.

(d) Preliminary applications shall be accepted by the board during the period between 60 days before and 120 days after, the 2004 direct primary election, or the 2004 statewide general election, as appropriate for projects to be funded with the proceeds of bonds approved by the voters at the 2004 direct primary election, or the 2004 statewide general election, as appropriate.

(e) If funds are insufficient to fully fund all of the preliminary applicants, the board shall apportion first to those projects that would house pupils from source schools with the highest pupil density levels relative to the State Department of Education standards.

17078.22. (a) The preliminary applications shall do all of the following:

(1) Establish per-unhoused-pupil eligibility as set forth in Article 3 (commencing with Section 17071.75).

(2) Identify the unhoused pupil population that the proposed project will serve by determining the number of pupils to be served and the likely source school or schools from which the pupils population will be drawn.

(3) Identify the proposed general location of the needed new facilities pursuant to any of the following:

(A) Within that portion of the attendance area from which one or more elementary schools that would be a source of the per-pupil eligibility for the proposed facility draws its enrollment, or within a one-mile radius of a source school, or within a one-mile radius of any one of the source schools if there are more than one, whichever is greater.

(B) Within the attendance area of a high school, middle school, or junior high school that would be a source of the per-pupil eligibility for the proposed facility or within a three-mile radius of a source school, or within a three-mile radius of any one of the source schools if there are more than one, whichever is greater.

(4) Estimate the total facility cost on a per-pupil basis and estimate the total site acquisition and development costs pursuant to the regulations adopted pursuant to subdivision (c) of Section 17078.24.

(b) The State Department of Education may grant a variance from the distance maximums set forth in paragraph (3) of subdivision (a) if the school district demonstrates to the satisfaction of the department that the variance is necessary in order to adequately provide facilities for the identified source school pupils.

17078.24. (a) On the basis of the preliminary application and upon confirmation by the board of the applicant's eligibility, the board shall in a timely manner make a preliminary apportionment for applicants under this article exclusively from funds reserved expressly for the purposes of this article.

(b) Preliminary apportionments for site development and acquisition included in the preliminary application pursuant to subdivision (a) of Section 17078.22 shall be based either on the preliminary appraisal, if available, or on the median costs of appropriately sized parcels within the qualifying area, as determined by the board.

(c) Preliminary apportionments shall include the total estimated state costs of the project, including, but not limited to, site acquisition and development costs related to evaluations and elimination of hazardous materials, an inflation factor, any applicable excess cost allowances, and hardship costs, if any. The board shall adopt regulations establishing standards and methods for setting these costs and for making related estimates.

17078.25. (a) Within the maximum time period set forth in Section 17078.30, the applicant shall have a period of up to four years from the date of the preliminary apportionment in which to complete the application for final apportionment.

(b) The applicant may request a single one-year extension of the period set forth in subdivision (a). The board shall grant the request for the single one-year extension if it determines that the applicant has made substantial progress towards completing the requirements for filing an application for final apportionment. The board may grant only one one-year extension for the project and may only grant the extension if granting the extension would not, in total, cause the project to exceed the maximum time period set forth in Section 17078.30.

(c) The board shall adopt regulations setting forth standards for determining the existence of substantial progress within the meaning of subdivision (b).

(d) The governing board of a school district shall report annually to the State Allocation Board regarding the progress made toward completing the requirements for filing an application for final apportionment, and shall annually hold, at a regularly scheduled meeting of the governing board, a public hearing pursuant to the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of

Division 2 of Title 5 of the Government Code) to discuss, and to receive public comment regarding, the report.

(e) In its first annual report the governing board of the school district shall certify that the State Department of Education has determined in writing that there is at least one approvable site within the proposed general location of the proposed facility identified pursuant to paragraph (3) of subdivision (a) of Section 17078.22, or within the variance location authorized pursuant to subdivision (b) of Section 17078.22.

(f) If the applicant for the one-year extension pursuant to subdivision (b) has not made substantial progress to complete the application process within the allotted time period, the preliminary apportionment shall be rescinded and shall be utilized by the board for funding of other projects that have received a preliminary apportionment pursuant to this article, or at the expiration of the maximum time allowed pursuant to Section 17078.30, the board shall use the funds for any other new construction purpose of this chapter.

17078.27. (a) Upon completion of the preliminary process authorized pursuant to this article, and when a preliminary applicant has complied with the conditions set forth in this chapter for a final apportionment, including, but not limited to, Section 17070.50, the board shall adjust the preliminary apportionment as set forth in subdivision (b) and as necessary to reflect the current eligible grant amounts for final apportionments pursuant to this chapter consistent with regulations adopted pursuant to subdivision (c) of Section 17078.24. The board shall then convert the adjusted preliminary apportionment to a final apportionment and proceed to completion of the project in the same manner as for any project funded under provisions of this chapter other than this article.

(b) The board may adjust for cost increases only if uncommitted funds reserved expressly for the purposes of this article remain available for those purposes.

17078.30. (a) (1) A portion of the funds reserved for the purposes set forth in this article from the proceeds of state bonds approved by the voters at the November 5, 2002, statewide general election that are not included in a preliminary apportionment for an application that is received by the deadline specified in subdivision (c) of Section 17078.20 shall thereafter be available to the board for apportionment for any new construction purpose under any other article of this chapter.

(2) The amount of funds that shall be made available to the board for purposes other than this article, pursuant to this subdivision, shall be calculated as follows:

(A) Add the total amount preliminarily apportioned to 15 percent of that amount.

(B) Take the number calculated pursuant to subparagraph (A) and subtract that number from the amount originally reserved for the purposes of this article.

(C) The number calculated pursuant to subparagraph (B) shall thereafter be available to the board for any new construction purpose under any other article of this chapter.

(3) All funds reserved for the purposes set forth in this article from the proceeds of state bonds approved by the voters at the November 5, 2002, statewide general election pursuant to a preliminary apportionment that are not included within a final

apportionment within the timeframes permitted by Section 17078.25 shall thereafter be available to the board for apportionment for any new construction purpose under any other article of this chapter.

(b) (1) A portion of the funds reserved for the purposes set forth in this article from the proceeds of state bonds approved by the voters at the 2004 direct primary election, or the 2004 statewide general election, as appropriate, that are not included in a preliminary apportionment for an application that is received by the deadline specified in subdivision (d) of Section 17078.20 shall thereafter be available to the board for apportionment for any new construction purpose under any other article of this chapter.

(2) The amount of funds that shall be made available to the board for purposes other than this article, pursuant to this subdivision, shall be calculated as follows:

(A) Add the total amount preliminarily apportioned to 15 percent of that amount.

(B) Take the number calculated pursuant to subparagraph (A) and subtract that number from the amount originally reserved for the purposes of this article.

(C) The number calculated pursuant to subparagraph (B) shall thereafter be available to the board for any new construction purpose under any other article of this chapter.

(3) All funds reserved for the purposes set forth in this article from the proceeds of state bonds approved by the voters at the 2004 direct primary election, or the 2004 statewide general election, as appropriate, pursuant to a preliminary apportionment that are not included within a final apportionment within the timeframes permitted by Section 17078.25 shall thereafter be available to the board for apportionment for any new construction purpose under any other article of this chapter.

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STATE ALLOCATION BOARD
IMPLEMENTATION COMMITTEE
June 4, 2004

# SCHOOL FACILITY PROGRAM MODERNIZATION

## BACKGROUND

Assembly Bill (AB) 1244, Chapter 572, Statutes 2003 and Senate Bill (SB) 15, Chapter 587, Statutes of 2003, enables districts to receive an additional apportionment for the modernization of permanent school buildings every 25 years, or portable classrooms every 20 years, after the date of the previous State apportionment. For a portable classroom that is eligible for a second modernization, the bill requires the school district to use the modernization funds to replace the portable classroom and to certify that the existing portable classroom will be removed from any classroom use. An exception is provided for school districts that are able to document that modernizing the portable classroom is a better use of public resources. The replacement of the portable classroom(s) will not affect the capacity and eligibility of the school district and may not be adjusted.

## DISCUSSION

This item is continued from the April 1, 2004 Implementation Committee meeting. Staff presented proposed changes to the School Facility Program (SFP) modernization regulations, the *Eligibility Determination Form* (SAB 50-03) and the *Application for Funding* (SAB 50-04) to incorporate the provisions set forth in the bills. Staff also presented changes to the regulations to incorporate minor clarifications to the regulatory text. However, Committee members and participants requested staff to return with:

- Minor regulatory changes
- Expansion of acceptable means to document the modernization of portables
- Further examples that illustrate second round modernization and eligibility determination

For purposes of discussion, staff has prepared the following:

- √ Proposed regulatory changes as shown on Attachment A.
- √ Draft form changes to Form SAB 50-03 and Form SAB 50-04 as shown on Attachment B.
- √ Samples of eligibility adjustments as shown on Attachments C1 – C3.
- √ A copy of the law text as shown on Attachment D.

*"A Better Use of Public Resources"*

At the previous Implementation Committee meeting, participants suggested various ways to substantiate the modernization of a portable classroom rather than its replacement. One suggestion was to consider utilizing a self certification in lieu of the submission of documentation. This method, however, does not conform to the requirement under the law that a district must be able to document that modernizing the portable is a better use of public resources.

Staff recognizes the uniqueness of all districts and has therefore, expanded acceptable documentation to include suggestions made at the previous meeting. The new proposal thus allows districts to choose from a variety of methods that include, but are not limited to:

- A cost benefit analysis prepared by a licensed design professional.
- A narrative that provides the rationale to substantiate the modernization of the portable classroom(s) rather its replacement, which could include copies of maintenance records, photos, etc.
- A copy of the school board minutes that indicates that the board and community have discussed and agreed that modernization of portable classrooms eligible for an additional apportionment pursuant to Regulation Section 1859.78.8 would be a better use of public resources.
- Other evidence satisfactory to the State Allocation Board (SAB).

The guidelines for acceptable documentation will be included in both the "SFP Application Submittal Guidelines" and "SFP Guidebook" located on the OPSC Web site.

*Modernization Eligibility Determination*
Based on comments received by audience members and further research by staff, examples (see Attachments C1 – C3) were developed to illustrate several points pertaining to AB 1244 and SB 15. The examples will detail how to accommodate for Lease Purchase Program projects previously modernized and show how core facilities and classrooms come of age at different points in time.

Additionally, the examples will highlight the necessity to switch options for the purpose of incorporating non-classroom space to gain modernization eligibility. Without this mechanism for change, districts that originally selected Option A would not be able to receive additional apportionments as provided by AB 1244 and SB 15.

Finally, the examples will show that districts will not receive a funding advantage if they switched options regardless if they had submitted a funding application. Each option is capped, either by classroom capacity or by pupils, thus a school site can not gain more eligibility than they would otherwise be eligible for. In other words, regardless of the number of times that a district switches options, in no event will the district's baseline eligibility exceed the enrollment at the site. Therefore, the OPSC is proposing that districts be given the opportunity to eligibility switch options, at any time as appropriate.

<u>RECOMMENDATION</u>

Proceed with the regulatory changes for presentation to the SAB.

## Attachment A

Amend Section 1859.2. Definitions.

…

"Approved Application(s)" means a district has submitted the application and all documents to the Office of Public School Construction that are required to be submitted with the application as identified in the General Information Section of Forms SAB 50-01, *Enrollment Certification/Projection*, (Revised 01/03); SAB 50-02, *Existing School Building Capacity*, (Revised 09/02); SAB 50-03, *Eligibility Determination*, (Revised 0~~1~~6/0~~3~~4); and SAB 50-04, *Application for Funding*, (Revised 06/0~~3~~4), as appropriate, and the Office of Public School Construction has completed and accepted a preliminary approval review pursuant to Education Code Section 17072.25(a).

…

"Form SAB 50-04" means the *Application For Funding*, Form SAB 50-04 (Revised 06/0~~3~~4), which is incorporated by reference.

…

"Modernization Grant" means the funding provided pursuant to Education Code Section 17074.10(a) and Sections 1859.78, 1859.78.3, ~~and~~ 1859.78.6, and 1859.78.8

Note: Authority cited: Sections 17070.35 and 17078.64, Education Code.

Reference: Sections 17009.5, 17017.6, 17017.7, 17021, 17047, 17050, 17051, 17070.15, 17070.51(a), 17070.71, 17070.77, 17071.10, 17071.25, 17071.30, 17071.33, 17071.35, 17071.40, 17071.76, 17072.10, 17072.12, 17072.18, 17072.33, 17073.25, 17074.10, 17075.10, 17075.15, 17077.40, 17077.42, 17077.45, 17078.52, 17078.56, 17280, and 56026, Education Code. Section 53311, Government Code.

Amend Section 1859.32. Adjustments to Gross Classroom Inventory.

After the gross classroom inventory has been prepared pursuant to Section 1859.31, it will be reduced by the following. Any classrooms:

(a) abandoned and approved for replacement as a hardship under the provisions of the LPP;
(b) at a school operated on a year-round schedule that has been used continuously for at least 50 percent of the time for preschool programs in the five years preceding the receipt of the application for determination of eligibility;
(c) included in any new construction LPP project that has not received a Phase C apportionment;
(d) that is portable and owned or leased by the district for 20 years or more that was approved for abandonment in a LPP project and the plans for the project had DSA approval prior to November 4, 1998;
(e) that is a trailer and is transported/towed on its own wheels and axles;
(f) used exclusively for regional occupational centers, regional occupational programs, child care, preschool and/or Adult Education Programs, and was built or acquired with funds specifically available for those purposes;
(g) of less than 700 interior square feet;
(h) originally built for instructional use, but converted to one of the following:
(1) used continuously for school administration for at least five years prior to the submittal of the application to the OPSC for determination of eligibility.
(2) used continuously for central or main district administration for at least five years prior to the submittal of the application to the OPSC for determination of eligibility.
(3) used for school library purposes during the previous school year.
(i) owned but leased to another district.
(j) any portable classroom excluded by Education Code Section 17071.30
(k) that is permanent space and leased ~~for less than five years~~ for a cumulative duration of five years or less.
(l) any permanent classroom contained in a project for which the construction contract was signed between August 27, 1998 and November 18, 1998 and for which the district did not have full project eligibility under the LPP.
(m) that was acquired with joint-use funds specifically available for that purpose.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17052, 17071.25, 17071.30 and 17077.40, Education Code.

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Amend Section 1859.51. Adjustments to the New Construction Baseline Eligibility.

The baseline eligibility for new construction determined on the Form SAB 50-03, will be adjusted as follows:

(a) Reduced by the number of pupils provided grants in a new construction SFP project and by the number of pupils that received a Preliminary Apportionment pursuant to Section 1859.140 or a Preliminary Charter School Apportionment pursuant to Section 1859.160.

(b) Reduced by the number of pupils housed, based on the loading standards pursuant to Education Code Section 17071.25(a)(2)(A), in a new construction LPP project funded under the provisions of the LPP pursuant to Sections 1859.12 or 1859.13.

(c) Reduced by the number of pupils housed in additional classrooms constructed or purchased based on the loading standards, pursuant to Education Code Section 17071.25(a)(2)(A), in a modernization SFP project.

(d) Adjusted as a result of the audit findings made pursuant to Sections 1859.90 and 1859.105.

(e) Increased/decreased by changes in projected enrollment in subsequent enrollment reporting years for all districts except decreases as provided in (j) below.

(f) Adjusted as a result of errors or omissions by the district or by the OPSC.

(g) Adjusted as a result of amendments to these Regulations that affect the eligibility.

(h) Increased by the number of pupils eligible for grants pursuant to Section 1859.82 (a).

(i) Reduced by the number of pupils housed, based on loading standards pursuant to Education Code Section 17071.25(a)(2)(A), in any classroom provided after the baseline eligibility was determined by the Board with the exception of those pupils housed or to be housed in a classroom:

(1) That is a trailer and transportable/towed on its own wheels and axles.

(2) Of less than 700 interior square feet.

(3) Excluded pursuant to Education Code Section 17071.30(a).

(4) Where the contract for the lease, lease-purchase, purchase, or construction of the classroom was made prior to January 1, 2000

(5) Where the classroom was leased for a cumulative duration of five years or less.

(6) Where the contract for the lease,lease-purchase, purchase, or construction was made no more than 180 days before the Approved Application date for funding of the classrooms included in the contract.

(7) That is included in a SFP project where the district has funded a portion of the project beyond its required district contribution and the pupil capacity of the classroom does not exceed 150 percent of the number of pupils receiving a new construction grant (rounded up) for the SFP project.

(8) That was acquired with joint-use funds specifically available for that purpose.

(j) For small school districts, decreased:

(1) By any reduction in projected enrollment beginning in the enrollment-reporting year that follows a three year period beginning when the district's baseline eligibility was determined by the Board. The reduction shall be determined by any decrease between the current projected enrollment and the projected enrollment used when the district's baseline eligibility was determined by the Board pursuant to Section 1859.50 or adjusted by a subsequent operational grant report after that date.

(2) By any increase in the number of pupils included in the latest operational grant report made by the CDE pursuant to Education Code Section 42268 beginning three years after the district's baseline eligibility was determined by the Board pursuant to Section 1859.50. The reduction in eligibility shall be determined by the number of pupils included in the latest operational grant report that exceed the number of pupils included in the operational grant report in effect when the district's baseline eligibility was determined by the Board pursuant to Section 1859.50 or adjusted by a subsequent operational grant report after that date.

(k) Adjusted for any change in classroom inventory as a result of a reorganization election.

(j) For classroom loading standards adopted by the Board for non-severely disabled individuals with exceptional needs and severely disabled individuals with exceptional needs.

(m) As directed by the Board due to a finding of a Material Inaccuracy pursuant to Regulation Section 1859.104.1.

(n) Increased by the number of pupils that received a Preliminary Apportionment that was rescinded pursuant to Section 1859.148 or a Preliminary Charter School Apportionment that was rescinded pursuant to Section 1859.166.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17052, 17070.51, 17071.25, 17071.75, 17071.76, 17072.20 and 17077.40, Education Code.

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Article 7. Modernization Eligibility Determination

Amend Section 1859.60. Calculation to Determine Modernization Baseline Eligibility.

The district shall calculate its modernization eligibility for each school site with the ~~by~~ completion of the Form SAB 50-03. The eligibility determination may be made by either identifying all classrooms on the site pursuant to (a) or by the identification of all square footage on the site pursuant to (b), as follows:

(a) Identify all classrooms at the school site that would have been included in the Gross Classroom Inventory pursuant to Section 1859.31 that are:

(1) Permanent and at least 25 years old ~~and not previously modernized with State funds~~.

(2) Portable and at least 20 years old ~~and not previously modernized with State funds~~.

(3) The remaining classrooms not reported in (1) or (2) above.

(b) Identify all square footage at the school site that is:

(1) Permanent area and at least 25 years old ~~and not previously modernized with State funds~~.

(2) Portable classroom area and at least 20 years old ~~and not previously modernized with State funds~~.

(3) The remaining square footage on the site not reported in (1) or (2) above.

The age of the classroom or square footage shall ~~be based on the date the district submitted the application for an eligibility determination to the OPSC.~~ begin 12 months after the plans for the building were approved by the DSA; or in the case permanent or portable classrooms that were previously modernized with State funds, the 25/20 year period shall begin on the date of its previous modernization apportionment. For the purpose of identifying square footage at a school site, include the total enclosed exterior square footage of the school buildings. For multilevel buildings, include the square footage at each level.

Enrollment at the school shall be the latest CBEDS report for K-6, 7-8 and 9-12 pupils. If the school is closed at the time of application for eligibility determination for modernization, and the district intends to reopen it and use it as a school for at least the next five years, the enrollment may be estimated based on district demographic data.

The calculated eligibility determined on the Form SAB 50-03, shall be referred to as the modernization baseline eligibility for the specific school site.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17073.15, 17073.20 and 17074.10, Education Code.

Amend Section 1859.61. Adjustments to the Modernization Baseline Eligibility.

The baseline eligibility for modernization as provided in Section 1859.60 for a specific site will be adjusted as follows:

(a) Reduced by the number of pupils provided grants in a modernization SFP project at the specific site.

(b) Reduced by the number of pupils housed, based on the loading standards pursuant to Education Code Section 17071.25(a)(2), in a modernization LPP project funded under the LPP pursuant to Sections 1859.14 and 1859.15.

(c) Increased by changes in projected enrollment in subsequent enrollment reporting years.

(d) Increased for additional facilities not previously modernized with State funds, that become 25 years old, if permanent, or 20 years old, if portable or as a result of audit findings made pursuant to Sections and 1859.90 1859.105.

(e) Adjusted as a result of errors or omissions by the district or by the OPSC.

(f) Adjusted as a result of amendments to these Subgroup 5.5 Regulations that affect the eligibility.

(g) For classroom loading standards adopted by the Board for non-severely disabled individuals with exceptional needs and severely disabled individuals with exceptional needs.

(h) As directed by the Board due to a finding of a Material Inaccuracy pursuant to Regulation Section 1859.104.1.

(i) Increased for facilities previously modernized with State funds, which qualify for an additional modernization apportionment pursuant to Section 1859.78.8.

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Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17070.51, 17071.25, 17072.15, ~~and~~ 17072.20, 17073.15, and 17074.10 Education Code.

Amend Section 1859.78.6. Modernization Grant for 50 Year or Older Permanent Buildings.

(a) In lieu of the funding provided by Subdivision (a) of Education Code Section 17074.10 and Section 1859.78.3, the Board shall provide the amounts shown below for each pupil housed in permanent school buildings that are 50 years or older as follows:
(1) $3,120 for each elementary pupil.
(2) $3,300 for each middle school pupil.
(3) $4,320 for each high school pupil.
(4) $9,944 for each pupil that is a Severely Disabled Individual with Exceptional Needs.
(5) $6,650 for each pupil that is a Non-Severely Disabled Individual with Exceptional Needs.
(b) If the application includes the modernization of permanent buildings both over and under 50 years old, the number of pupils housed in 50 years or older permanent buildings, for purposes of (a) above, shall be determined by either of the following, at the district's option:
(1) A percentage of permanent classrooms in the application that are 50 years or older to the total classrooms in the application determined as follows:
(A) Calculate the total number of classroom(s) to be modernized as part of the project that were included in the Gross Classroom Inventory pursuant to Section 1859.31 and were not previously modernized under the LPP, the SFP or with Proposition 1A funds.
(B) Calculate the total number of permanent classrooms to be modernized as part of the project that are at least 50 years old.
(C) Divide the classrooms calculated in (b)(1)(B) by the total classrooms calculated in (b)(1)(A). Round up to the nearest one tenth of one percent.
(D) Multiply the percentage determined in (b)(1)(C) by the number of pupils assigned to the project on Form SAB 50-04, for each grade group. Round up.
(2) A percentage of the permanent building area Square Footage in the application that is 50 years or older to the total Square Footage in the application determined as follows:
(A) Calculate the total Square Footage building area to be modernized as part of the project that was included in the Gross Classroom Inventory pursuant to Section 1859.31 and was not previously modernized under the LPP, the SFP or with Proposition 1A funds.
(B) Calculate the total permanent Square Footage of building area to be modernized as apart of the project that is at least 50 years old.
(C) Divide the Square Footage of building area calculated in (b)(2)(B) by the total Square Footage of building area calculated in (b)(2)(A). Round up to the nearest one tenth of one percent.
(D) Multiply the percentage determined in (b)(2)(C) by the number of pupils assigned to the project on Form SAB 50-04, for each grade group. Round up.

The amounts shown shall be adjusted annually in the manner prescribed in Section 1859.78. The grant is eligible for any modernization grant augmentation for which the project is otherwise eligible under the law and regulations.

For purposes of determining the age of the building, the 20 year, 25 year and the 50 year period shall begin 12 months after the original plans for the construction of the building were approved by the DSA or in the case of permanent or portable classrooms previously modernized with State funds, the 25/20 year period shall begin on the date of its previous modernization apportionment.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17074.26, Education Code.

Adopt Section 1859.78.8. Modernization Grant for Facilities Previously Modernized with State Funds.

The Board shall provide an additional apportionment provided by Education Code 17074.10(a) and Section 1859.78.3, for facilities previously modernized with State funds as follows:

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(a) An additional apportionment will be provided for the modernization of a permanent school building every 25 years following the date of its previous State modernization apportionment.
(b) In the case of portable classrooms, an additional apportionment will be permitted every 20 years after the date of its previous state modernization apportionment provided the modernization funds will be used to replace the portable classroom(s) and the school district must certify that the portable classrooms will be removed from any classroom use unless acceptable documentation is provided by the district indicating that the modernization of the portable classrooms is a better use of public resources.

If the previous SFP modernization apportionment includes both permanent and portable facilities, the number of pupil grants that will be added to the site's baseline eligibility shall be determined by the percentage of permanent or portable facilities identified on the Form SAB 50-03 that generated the initial eligibility.

The capacity and eligibility of the school district will not be adjusted for the replacement of the portable classroom pursuant to Education Section 17074.10(f) and 17073.15.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17074.10, and 17073.15 Education Code.

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Amend Section 1859.79.2. Use of Modernization Grant Funds.

The Modernization Grant plus any other funds provided by these Regulations shall be expended as set forth in Education Code Sections 17074.25, 17074.10(f) and 17070.15(f) and may also be utilized for other purposes as set forth in Education Code Section 100420 (c). Modernization funding may also be used for the costs incurred by the district directly or through a contract with a third party provider for the initiation and enforcement of a LCP. Modernization funding, with the exception of savings, is limited to expenditure on the specific site where the modernization grant eligibility was generated. The grant may not be used for the following:
(a) New building area with the exception of the following:
(1) Replacement building area of like kind. Additional classrooms constructed within the replacement area will reduce the new construction baseline eligibility for the district.
(2) Building area required by the federal American with Disabilities Act (ADA) or by the Division of the State Architect's (DSA) handicapped access requirements.
(b) New site development items with the exception of:
(1) Replacement, repair or additions to existing site development.
(2) Site development items required by the federal ADA Act or by the DSA's handicapped access requirements.
(c) the evaluation and removal of hazardous or solid waste and/or hazardous substances when the Department of Toxic Substance Control has determined that the site contains dangerous levels of a hazardous substance, hazardous waste, or both that exceed ten percent of the combined adjusted grant and the district matching share for the project.
(d) Leased facilities not owned by another district or a county superintendent.

~~Modernization Grant funds shall be expended as set forth in Education Code Section 17074.25 and may also be utilized for other purposes as set forth in Education Code Section 100420(c).~~

Modernization Grant funds may be used on any school facilities on the site, with the exception of portable classroom facilities eligible for an additional apportionment pursuant to Education Code Sections 17073.15 and 17074.10(f) and as defined in Section 1859.78.8. If the classroom facilities on the site include areas that are currently ineligible for modernization, it will not disqualify those facilities from future modernization funding.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17070.15, 17074.25 and 100420(c), Education Code.

## Attachment B

Please refer to Forms SAB 50-03 and 50-04 emailed separately in PDF format.

**ATTACHMENT C-1**

**EXAMPLE 1**

| SCHOOL NAME: **Anytown High School** | *Year #1* | *Year #2* | *Year #3* | *Year #22* | *Year #27* |
|---|---|---|---|---|---|
| **OPTION A** | **K-6** | **K-6** | **K-6** | **K-6** | **K-6** |
| 2. Permanent classrooms at least 25 years old | 0 | 30 | 30 | 30 | 30 |
| 3. Portable classrooms at least 20 years old | 0 | 0 | 0 | 0 | 0 |
| 4. Total (lines 2 and 3) | 0 | 30 | 30 | 30 | 30 |
| 5. Multiply line 4 by: 25 for K-6, 27 for 7-8 and 9-12; 13 for non-severe and 9 for severe | 0 | 810 | 810 | 810 | 810 |
| 6. CBEDS enrollment at school | 900 | 900 | 900 | 900 | 900 |
| 7. Modernization eligibility (lesser of totals of line 5 or 6) | **0** | **810** | **810** | **810** | **810** |

| **OPTION B** | **K-6** | **K-6** | **K-6** | **K-6** | **K-6** |
|---|---|---|---|---|---|
| 2. Permanent classrooms at least 25 years old (report by classroom or square footage) | 0 | 28,800 | 33,000 | 33,000 | 33,000 |
| 3. Portable space at least 20 years old (report by classroom or square footage) | 2,000 | 2,000 | 2,000 | 2,000 | 2,000 |
| 4. total (lines 2 and 3) | 2,000 | 30,800 | 35,000 | 35,000 | 35,000 |
| 5. Remaining permanent and portable space (report by classroom or square footage) | 33,000 | 4,200 | 0 | 0 | 0 |
| 6. total (lines 4 and 5) | 35,000 | 35,000 | 35,000 | 35,000 | 35,000 |
| 7. Percentage (divide line by Line 6) | 6% | 88% | 100% | 100% | 100% |
| 8. CBEDS enrollment at school site | 900 | 900 | 900 | 900 | 900 |
| 9. Modernization eligibility (multiply line 7 by each grade group on line 8) | **52** | **792** | **900** | **900** | **900** |

RESULTING ELIGIBILITY CHANGES:

| | | | | | |
|---|---|---|---|---|---|
| Current Eligibility . . . . . | 0 | 52 | 310 | 400 | 450 |
| Eligibility Adjustment . . . . . | +52 | +758 | +90 | +0 | +0 |
| Net Eligibility . . . . . | **52** | **810** | **400** | **400** | **450** |
| Project . . . . . | | -500 | | +50 | +450 |
| Remaining Eligibility . . . . . | **52** | **310** | **400** | **450** | **900** |

## ATTACHMENT C-2

### EXAMPLE 2

SCHOOL NAME:

**Anytown High School**

| **OPTION A** | *Year #1* | *Year #2* | *Year #3* | *Year #27* |
|---|---|---|---|---|
| | **K-6** | **K-6** | **K-6** | **K-6** |
| 2. Permanent classrooms at least 25 years old | 25 | 35 | 40 | 40 |
| 3. Portable classrooms at least 20 years old | 0 | 0 | 0 | 0 |
| 4. Total (lines 2 and 3) | 25 | 35 | 40 | 40 |
| 5. Multiply line 4 by: 25 for K-6, 27 for 7-8 and 9-12; 13 for non-severe and 9 for severe | 625 | 875 | 1000 | 1000 |
| 6. CBEDS enrollment at school | 900 | 900 | 900 | 900 |
| 7. Modernization eligibility (lesser of totals of line 5 or 6) | **625** | **875** | **900** | **900** |

**OPTION B**

| | **K-6** | **K-6** | **K-6** | **K-6** |
|---|---|---|---|---|
| 2. Permanent classrooms at least 25 years old (report by classroom or square footage) | 24000 | 33600 | 44000 | 44000 |
| 3. Portable space at least 20 years old (report by classroom or square footage) | 0 | 0 | 0 | 0 |
| 4. total (lines 2 and 3) | 24000 | 33600 | 44000 | 44000 |
| 5. Remaining permanent and portable space (report by classroom or square footage) | 20000 | 10400 | 0 | 0 |
| 6. total (lines 4 and 5) | 44000 | 44000 | 44000 | 44000 |
| 7. Percentage (divide line by Line 6) | 55% | 76% | 100% | 100% |
| 8. CBEDS enrollment at school site | 900 | 900 | 900 | 900 |
| 9. Modernization eligibility (multiply line 7 by each grade group on line 8) | **491** | **688** | **900** | **900** |

RESULTING ELIGIBILITY CHANGES:

| | | | | |
|---|---|---|---|---|
| Current Eligibility . . . . . | 0 | 625 | 0 | 25 |
| Eligibility Adjustment . . . . . | +625 | +250 | +25 | 0 |
| Net Eligibility . . . . . | **625** | **875** | **25** | **25** |
| Project . . . . . | | -875 | | +875 |
| Remaining Eligibility . . . . . | **625** | **0** | **25** | **900** |

A district's baseline eligibility is 125 (K-6) pupils. The pupil grants were generated by three permanent classrooms and two portable classrooms, as identified on the Form SAB 50-03. The district filed a modernization funding application for a site using 100 (K-6) pupil grants in 2000. The modernization project calls for the installation of a new HVAC system to be installed. How many pupils will be returned to the site's baseline eligibility? When will the pupils be added back?

Classrooms on Site:

| | | |
|---|---|---|
| | 3 | Permanent CR |
| + | 2 | Portable CR |
| | 5 | Total CR |

Portable Classrooms:

2 ÷ 5 = .40%

.40% x 100 pupil grants = 40 pupil grants will be added back in **20 years**

Permanent Classrooms:

3 ÷ 5 = .60%

.60% x 100 pupil grants = 60 pupil grants will be added back in **25 years**

**Attachment D**

## Assembly Bill No. 1244

CHAPTER 572

An act to amend Sections 17073.15, 17073.20, and 17074.10 of the Education Code, relating to school facilities.

[Approved by Governor September 28, 2003. Filed with Secretary of State September 29, 2003.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1244, Chu. School facilities funding: modernization.

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.

Existing law makes eligible for state funding a permanent school building that is more than 25 years old, or a portable classroom that is at least 20 years old, and that prior to November 4, 1998, had not been previously modernized with state funding.

This bill would delete the eligibility requirement that a school building not have been previously modernized with state funding and would allow an additional apportionment to be made for the modernization of permanent school buildings every 25 years following the date of the previous apportionment and, in the case of portable classrooms, every 20 years after the date of the previous apportionment. The bill would require the board to require a school district to use the modernization funds it receives for a portable classroom that is eligible for a second modernization to replace the portable classroom and to certify that the existing eligible portable classroom will be removed from any classroom use unless the district is able to document that modernizing the portable classroom is a better use of public resources. The bill would prohibit the capacity and eligibility of the school district from being adjusted for replacing the portable classroom.

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

SECTION 1. Section 17073.15 of the Education Code is amended to read:

17073.15. A school district is eligible to receive an apportionment for the modernization of a permanent school building that is more than 25 years old or a portable classroom that is at least 20 years old. A school

district is eligible to receive an additional apportionment for the modernization of a permanent school building every 25 years after the date of the previous apportionment or a portable classroom every 20 years after the date of the previous apportionment.

SEC. 2. Section 17073.20 of the Education Code is amended to read:

17073.20. Funding may be approved for the modernization of any permanent school building that is more than 25 years old, or, any portable classroom that is more than 20 years old, as described in Section 17071.30.

SEC. 3. Section 17074.10 of the Education Code is amended to read:

17074.10. (a) The board shall determine the total funding eligibility of a school district for modernization funding by multiplying the following amounts by each pupil of that grade level housed in permanent school buildings that satisfy the requirements of Section 17073.15:

(1) Two thousand two hundred forty-six dollars ($2,246) for each elementary pupil.

(2) Two thousand three hundred seventy-six dollars ($2,376) for each middle school pupil.

(3) Three thousand one hundred ten dollars ($3,110) for each high school pupil.

(b) The board shall annually adjust the factors set forth in subdivision (a) according to the adjustment for inflation set forth in the statewide cost index for class B construction, as determined by the board.

(c) The board may adopt regulations to be effective until July 1, 2000, that adjust the amounts identified in this section for qualifying individuals with exceptional needs, as defined in Section 56026. The regulations shall be amended after July 1, 2000, in consideration of the recommendations provided pursuant to Section 17072.15.

(d) It is the intent of the Legislature that the amounts provided pursuant to this article for school modernization not include funding for administrative and overhead costs.

(e) For a school district having an enrollment of 2,500 or less for the prior fiscal year, the board may approve a supplemental apportionment of up to two thousand five hundred dollars ($2,500) for any modernization project assistance. The amount of the supplemental apportionment shall be adjusted in 2001 and every year thereafter by an amount equal to the percentage adjustment for class B construction.

(f) For a portable classroom that is eligible for a second modernization, the board shall require the school district to use the modernization funds to replace the portable classroom and to certify that

the existing eligible portable classroom will be removed from any classroom use unless a district is able to document that modernizing the portable classroom is a better use of public resources. The capacity and eligibility of the school district may not be adjusted for replacing a portable classroom pursuant to this subdivision and Section 17073.15.

Note: SB 15, Chapter 587, Statutes of 2003, Section 1, 2 and 3 read the same as above in AB 1244.

STATE ALLOCATION BOARD
IMPLEMENTATION COMMITTEE
June 4, 2004

# 50 YEAR OLD MODERNIZATION FUNDING

## ISSUE

Regulatory amendments are needed to clarify the appropriate classroom/square footage data that districts should report on the *Application for Funding* to determine the 50 year old modernization grants.

## BACKGROUND

Education Code 17074.26 was enacted to provide additional funding for permanent buildings that are at least 50 years old based upon the higher costs associated with modernizing older buildings. Section 1859.78.6 of the School Facility Program (SFP) regulations provides the means in which the 50 year old grants are determined, which is based on the ratio of the total number of eligible school buildings in a given project.

## DISCUSSION

The State Allocation Board (SAB) began the actual funding of 50 year old modernization grants in March 2003. As staff began to receive an increasing number of requests for this type of funding, it became apparent that several districts were misinterpreting the appropriate classroom/square footage project data to report on the *Application for Funding.* As a result, staff reviewed the current regulations and has determined that amendments are necessary to provide clarity. Staff's recommendations do not modify the grant determination methodology.

The current regulations, including the *Application for Funding*, require the completion of the number of classrooms/square footage (total and at least 50 year old) to be modernized as part of the project and application. Districts have interpreted this to mean reporting data based on the work shown in the construction plans that accompany the funding application rather than the eligible modernization project at the site. This misinterpretation is problematic because after the SFP modernization eligibility is determined for the of-age buildings on a specific site, districts are afforded the flexibility to use their eligibility "bank" for work on any building on the site, regardless of its age. This practice has been in place since the SFP's inception, and staff continues to support this practice.

Clarification to the form and regulation is required so districts can report the appropriate data to determine the eligible site-based ratio for permanent buildings at least 50 years old. Accordingly, staff proposes to take the regulatory amendments as shown on Attachments A and B.

### *Use of Modernization Grants for 50 Year or Older Permanent Buildings*

Once the percentage ratio as described above is determined, that ratio is applied to the district's most current modernization eligibility determination on Form SAB 50-03 (determined by either the classroom count or square footage).

***Current Modernization Pupil Grants X % of 50 Year Old Eligibility = # of 50 Year Old Pupil Grants***

The product represents the maximum number of modernization pupil grants for 50 year or older permanent buildings assigned to the school site and is merely a "subset" of the site's eligibility. In other words, the number of "50 year old pupil grants" is *not* added to the site's modernization baseline eligibility.

*Use of Modernization Grants for 50 Year or Older Permanent Buildings* (cont.)

Districts have the option of requesting the number of “50 year old pupil grants” as it deems appropriate on its funding application(s) provided that at no time shall the cumulative total number, provided for all funding applications for a given site under Section 1859.78.6(a), exceed the number of eligible “50 year old pupil grants” established by the ratio as shown above.

RECOMMENDATION

Present to the SAB the proposed regulation amendments as shown on Attachments A and B.

# ATTACHMENT A

Section 1859.78.6. Modernization Grant for 50 Year or Older Permanent Buildings.

(a) In lieu of the funding provided by Subdivision (a) of Education Code Section 17074.10 and Section 1859.78.3, the Board shall provide the amounts shown below for each pupil housed in permanent school buildings that are 50 years or older as follows:

(1) $3,120 for each elementary pupil.
(2) $3,300 for each middle school pupil.
(3) $4,320 for each high school pupil.
(4) $9,944 for each pupil that is a Severely Disabled Individual with Exceptional Needs.
(5) $6,650 for each pupil that is a Non-Severely Disabled Individual with Exceptional Needs.

(b) If the ~~application~~ school site includes the modernization of permanent buildings both over and under 50 years old, the number of pupils housed in 50 years or older permanent buildings, for purposes of (a) above, shall be determined by either of the following, at the district's option:

(1) A percentage of permanent classrooms ~~in the application~~ that are 50 years or older to the total number of classrooms eligible for Modernization at the site ~~in the application~~ determined as follows:

(A) Calculate the total number of classrooms ~~(s) to be modernized~~ ~~as part of the project~~ eligible for Modernization at the site that were included in the Gross Classroom Inventory pursuant to Section 1859.31 ~~and were not previously modernized under the LPP, the SFP or with Proposition 1A funds .~~

(B) Calculate the total number of permanent classrooms ~~to be modernized~~ ~~as part of the project~~ that are at least 50 years old and were not previously modernized with state funds.

(C) Divide the classrooms calculated in (b)(1)(B) by the total classrooms calculated in (b)(1)(A). Round up to the nearest one tenth of one percent.

(D) Multiply the percentage determined in (b)(1)(C) by the total ~~number of pupils~~ ~~assigned to the project~~ modernization eligibility as determined in Option A or B on the Form SAB ~~50-04~~ 50-03, for each grade group. Round up~~.~~, or;

(2) A percentage of the permanent building area Square Footage ~~in the application~~ that is 50 years or older to the total Square Footage eligible for Modernization at the site ~~in the application~~ determined as follows:

(A) Calculate the total Square Footage building area eligible for Modernization at the site ~~to be modernized~~ ~~as part of the project~~ ~~that was included in the Gross Classroom Inventory pursuant to Section 1859.31 and was~~ ~~not previously modernized~~ ~~under the LPP, the SFP or with Proposition 1A funds~~.

(B) Calculate the total permanent Square Footage of building area ~~to be modernized~~ ~~as apart of the project~~ that is at least 50 years old and was not previously modernized with state funds.

(C) Divide the Square Footage of building area calculated in (b)(2)(B) by the total Square Footage of building area calculated in (b)(2)(A). Round up to the nearest one tenth of one percent.

(D) Multiply the percentage determined in (b)(2)(C) by the ~~number of pupils~~ ~~assigned to the project~~ total modernization eligibility as determined in Option A or B on the Form SAB ~~50-04~~ 50-03, for each grade group. Round up.

The amounts shown shall be adjusted annually in the manner prescribed in Section 1859.78. The grant is eligible for any modernization grant augmentation for which the project is otherwise eligible under the law and regulations.

For purposes of determining the age of the building, the 20 year, 25 year and the 50 year period shall begin 12 months after the original plans for the construction of the building were approved by the DSA.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17074.26, Education Code.

ATTACHMENT B

Excerpt from *Application for Funding*, Form SAB 50-04 – Proposed Revisions

…

## SPECIFIC INSTRUCTIONS

The district must assign a Project Tracking Number (PTN) to this project. The same PTN is used by the OPSC, the DSA and the CDE for all project applications submitted to those agencies to track a particular project through the entire state application review process. If the district has already assigned a PTN to this project by prior submittal of the P&S to either the DSA or the CDE for approval, use that PTN for this application submittal. If no PTN has been previously assigned for this project, a PTN may be obtained from the OPSC Web site at www.opsc.dgs.ca.gov "PT Number Generator."

1. Check the appropriate box that indicates the type of School Facility Program (SFP) grant the district is requesting for purposes of new construction, modernization, a separate design and/or site apportionment, site apportionment as an environmental hardship or New Construction (Final Apportionment). If the application is for modernization of a California School for the Deaf or Blind, the CDE shall check the box identified as Modernization of California Schools for the Deaf/Blind. If the request is for a separate design apportionment, the CDE shall check the appropriate box. If the eligibility for this project was established as a result of the need for new or replacement facilities pursuant to Section 1859.82 (a) and (b), or rehabilitation pursuant to Section 1859.83 (e), check the appropriate box.

   If this request is for an addition to an existing site and advance funding for the evaluation and RA costs, check the appropriate box and refer to Section 1859.74.4.

   If this request is to convert a Preliminary Apportionment or a Preliminary Charter School Apportionment to a Final Apportionment, check the New Construction (Final Apportionment or Final Charter School Apportionment) box.

   If the district is requesting a separate site and/or design apportionment, complete boxes 2a, 3, 4, the site acquisition data in box 5 (d and e), and boxes 12, 13, 14, 15 and 18 only.

2. a. Select the type of project that best represents this application request and enter the number of pupils assigned to the project for each grade group. Include pupils to be housed in a new or replacement school authorized by Section 1859.82 (a). The amount entered cannot exceed the district's baseline eligibility determined on Form SAB 50-03 and will be the basis for the amount of the new construction or modernization grants provided for the project.

   If this request is for a Final Apportionment, the pupils assigned to the project must be at least 75 percent, but not more than 100 percent, of the pupils that received the Preliminary Apportionment. Refer to Section 1859.147.

   b. Check the box if the project is eligible for funding for 50 year or older permanent buildings and report, at the option of the district:

   - The total number of eligible classrooms or the total eligible square footage building area ~~to be modernized as part of the project~~ at the site. Refer to Section 1859.78.6(b)(1)(A) or (b)(2)(A).

   - The total number of permanent classrooms or the total permanent square footage building area ~~to be modernized as part of the project~~ that is at least 50 years old and not been previously modernized with state funds. Refer to Section 1859.78.6(b)(1)(B) or (b)(2)(B).

   - Enter the greater percentage as calculated under Regulation Section 1859.78.6(b)(1)(C) or Regulation Section 1859.78.6(b)(2)(C).

- Enter the number of 50 year or older permanent buildings pupil grants assigned to the project for each grade group. The number of pupils entered cannot exceed the cumulative number of 50 year or older permanent buildings pupil grants requested for all modernization funding applications for the site as determined by using the percentage factor above.

c. Indicate if this request is for funding of a 6–8 school.

d. Check the box(es) if the district requests and the project qualifies for additional funding for fire code requirements authorized in Sections 1859.71.2 or 1859.78.4.

e. Check the applicable box if the district is requesting additional pupil grants assigned to the project that exceed the capacity of the project or if the pupils assigned represent eligibility determined at another grade level and check the appropriate box to indicate under which regulation the district is applying. The pupil capacity of the project may be determined by multiplying the classrooms reported in box 3 by 25 for K-6; 27 for 7-8, 9-12 grades; 13 for non-severe and 9 for severe.

f. If the request is for replacement facilities pursuant to Section 1859.82 (a) or (b) on the same site, check the facility hardship box.

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## Excerpt from Page 4 of Form SAB 50-04

**2. Type of Project**

a. Elementary School Middle School High School

Pupils Assigned:

K–6 _____ 7–8 _____ 9–12 _____

Non-Severe _____ Severe _____

b. 50 ~~y~~Years or ~~o~~Older ~~b~~Building ~~f~~Funding (Modernization ~~o~~Only)

o Total Eligible Classrooms/Square Footage _____

o Classroom/Square Footage at ~~l~~Least 50 ~~y~~Years ~~o~~Old _____

o Ratio of 50 Year Old Classrooms/Square Footage _____%

50 Year or Older Permanent Buildings Pupil Grants Assigned:

K–6 _____ 7–8 _____ 9–12 _____

Non-Severe _____ Severe _____

**STATE ALLOCATION BOARD**
1130 K Street, Suite 400
Sacramento, CA 95814
http://www.dgs.ca.gov/opsc

**Date:** June 25, 2004

**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 9, 2004 (9:30 am - 3:30 pm) at 1500 Capitol Avenue (East End Complex) in Conference Rooms 72.149B and 72.151A (Sacramento, CA).

The Implementation Committee's proposed agenda is as follows:

1. Convene Meeting

2. Bidding Climate Report
   *Presentation of the Bidding Climate Report and determine the best approach for addressing the items outlined in the report.*

3. Enrollment Projection Augmentation and Student Yield Factor
   *Discussion of the appropriate time limit for the reporting of dwelling units and other clarifying language on the Enrollment Certification/Projection form and discussion of consistent criteria used for Student Yield Factor studies.*

4. Purchase and Conversion of Non-Conforming Buildings for School Use
   *Discussion to determine the need for regulatory amendments related to the funding of projects involving the purchase retrofit of buildings for school use.*

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 Liz Yokoyama at (916) 322-7627.

BRUCE B. HANCOCK
Chairperson

BBH:LM:ly

IMPLEMENTATION COMMITTEE

# Pending Items List

## July 9, 2004

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## A. Future Items

- Increased Capacity for Replaced Facilities, SFP Regulation Section 1859.73.2

- Classroom Inventory Adjustments for Educational Program and Facility Transfers

- SFP – Project Rescission

## B. Suspended Items

- None

STATE ALLOCATION BOARD
IMPLEMENTATION COMMITTEE
July 9, 2004

# BIDDING CLIMATE REPORT

## PURPOSE

To discuss the Bidding Climate report presented at the June 2004 State Allocation Board (SAB) meeting and begin addressing the items outlined in the report.

## BACKGROUND

School districts and design professionals engaged in the construction and modernization of facilities funded through the School Facility Program report significant difficulties in receiving competitive bids on projects. At the April 2004 SAB meeting, the Board requested staff to look into a number of issues and outline what the Office of Public School Construction could do administratively to help districts deal with the high bid climate.

In response, the attached Bidding Climate Report was presented to the SAB at its June 2004 meeting. The SAB requested staff and the Implementation Committee to discuss possible means of addressing the items outlined in the report, and to report back at a future SAB meeting.

## DISCUSSION

After presentation of the entire report, staff wishes to discuss the following:

- Methodology for addressing the items outlined in the report.
- Class B Construction Cost Index utilized for the SFP.

Please refer to Page Two of the Bidding Climate Report.

REPORT OF THE EXECUTIVE OFFICER
State Allocation Board Meeting, June 23, 2004

# BIDDING CLIMATE REPORT

## PURPOSE OF REPORT

To report on the impact the bidding climate has had on the school construction industry.

## DESCRIPTION

At the April 2004 State Allocation Board (SAB) meeting, the Board asked the Office of Public School Construction (OPSC) to look into a number of issues and requested the OPSC outline what the OPSC could do administratively to help districts deal with the high bid climate. Specifically, the following topics needed to be addressed:

- Construction Cost Index
- 18-month time limit on fund release
- Per pupil base grant

## EXECUTIVE SUMMARY

School districts and design professionals engaged in the construction and modernization of facilities funded through the School Facility Program (SFP) report significant difficulties in receiving competitive bids on projects. Evidence of recently bid projects exceeding project budgets by unacceptable amounts has been provided to Staff. A review of five construction cost indexes published by three different private firms indicates that there has been an increase in construction costs statewide from 2 percent to 4.4 percent since the first of the year. As substantial as these increases are, they do not reflect the increases reported by school districts and project architects. The discrepancy appears to be primarily attributable to increased profit margins resulting from market inundation. New construction appears to have become a primary support of the California economy. Although possibly a short term issue, the current bid climate is having an effect on the ability of some districts to successfully bid school construction projects.

The requirement that all projects bid within 18 months of receipt of an apportionment has been met successfully on the overwhelming majority of SFP projects. Of the 4,700 projects that have been apportioned under the SFP since 1999, less than 100 have not met the 18-month requirement. However, some school districts report that in order to meet the timeline, they have been forced to accept bids in excess of the budget. The OPSC strongly supports the retention of the 18-month requirement; however, Staff concedes that in some recent projects under the current bid climate, it may have been met at a premium cost.

The issue of the adequacy of the grants is too large to be addressed in this brief report. School district organizations are looking into the matter, and the OPSC and SAB have representatives in those discussions.

The complete “Bidding Climate Report” with supporting charts is included as an Attachment to this report.

## CONSIDERATIONS

The SAB administers the SFP under statute which prescribes the amount of the per pupil grant that can be apportioned to qualified school districts. The SAB has very limited latitude to address the problems and issues associated with an overheated construction climate and the corresponding loss of competitive bidding. Most of the possible ‘solutions’ that might have a substantial effect on the current situation must be accomplished through legislation. Given that some of the market issues may change in the next twelve months, it may be that legislative change in some instances would be too late and possibly unwarranted.

(Continued on Page Two)

CONSIDERATIONS (cont.)

The OPSC has identified a number of possible approaches to mitigate the current bid climate situation. Except as may be reflected in comments in "The Bidding Climate Report", Staff makes no recommendations as to the merit of particular ideas.

1. Create an additional grant for technology which includes computers, wiring and equipment to support computers and additional power to operate computers. Allow this grant to be used for installing Electronic Monitoring Systems into schools (regulatory change).

2. Provide an additional eligible category of site development costs similar to the general site funding provided in the Lease Purchase Program (regulatory change).

3. Change the Class B Index currently used by the SAB. Consider using the Marshall and Swift index for the eight California cities only (regulatory change).

4. Modify existing law that requires an annual adjustment to the per-pupil grant utilizing the Class B Index to allow for a more frequent (semi-annually, quarterly or monthly) adjustment of the Index (requires legislative remedy).

5. Adjust the State apportionment according to the construction cost index in effect as of the date of the bid opening (requires legislative remedy).

6. Modify existing law to allow for the SFP per pupil grant to be reviewed every five to ten years and allow the SAB to reestablish the base grant based upon current Title 24 code requirements (requires legislative remedy).

7. Limit the amount of funding made available in a specific period of time through staggered apportionments (regulatory change).

**ATTACHMENT C**
State Allocation Board Meeting, June 23, 2004

REPORT SOURCES

The OPSC relied primarily on information gathered from architects, design professionals and various trade publications and information gathered from the administration of the State school building programs. The following is a complete listing of the sources used:

- Funds Released by Month from Proposition 1A and 47 (Funds released from March 1999 through May 2004)

- Comparison of CCI Indices
  This chart compares various Marshall & Swift Indices with the Engineer's News Report and Lee Saylor Index from January 2004 through May 2004 – Attachment A

- Comparison of CCI Indices
  This chart compares various Marshall & Swift Indices with the Engineer's News Report and Lee Saylor Index from January 1999 through January 2004 - Attachment B

The following resources are not included in this report, however, were used as additional references:

- Lee Saylor Index
  A summary report prepared by the Sierra West Group, Construction Consultants for Saylor Publications, Inc showing an average one-year increase in labor, material and subcontracting costs**.**

- School Facility Program Projects for New Construction/Modernization approved under Propositions 1A, 47 and 55.

- Marshall and Swift Class B Building Indexes for 10 Western States, 8 California Cities, and San Francisco/Los Angeles

- California Department of Finance, *California Economic Indicators* (January/February 2004)

- Interviews with Architects and Design professionals
  The OPSC staff conducted interviews relating to issues that impact the current construction climate.

BIDDING CLIMATE

The bidding climate is comprised of many different factors that control the price of materials used in manufacturing; the number of contractors, inflation, labor costs and the State's economy to name a few. Many of these are factors that cannot be controlled by the SAB and are dictated by the market through supply and demand.

There has been concern expressed over whether the nearly $18 billion in funding allocated by the SAB since 1999 has had a strong adverse effect on the bidding climate. With billions of dollars of State funding released, are there enough qualified contractors to meet the demand for building/modernizing of schools? The SAB at its meeting in December 2002 allocated nearly $5.4 billion which represented 1,931 new construction and modernization projects ready for construction. Although a large number of these projects which had been on waiting lists for as much as two years had already been bid, many more went to bid in the months immediately following the apportionments. These projects may have taken much of the available material and labor supply. Districts that followed that initial surge by bidding projects during the latter part of 2003 and into 2004 have seen a subsequent rise in the costs of various materials, especially lumber, concrete and steel.

The bonding requirement for public works contracts and the special nature of the Field Act keep most small contractors and subcontractors out of the competition for school projects. Additionally, prevailing wage and other reporting and contracting requirements of public works projects may keep some intermediate and large contractors from competing in the school construction market, especially when the general construction market is hot. At the same time that large amounts of school construction funds were flowing into the economy, new home construction was booming in California. It remains strong in 2004. Contractors that build new homes and commercial projects use many of the same subcontractors for their work as they do for school projects. Thus, activity in the non-school construction market may have had an additional effect on the already active school construction arena.

The disparate increases in the bids that districts have reported to the OPSC are believed to be caused by a mixture of limited contractors and the anticipated increase in the price of materials. Both of these factors in turn produce a domino effect for contractors and suppliers to inflate estimates so that when these projects are ready to be constructed, the contractors have accounted for the increase in materials. Based upon these assumptions, the OPSC believes the State funding allocated to districts from the December 2002 SAB meeting, combined with a very active California construction market, may have caused pockets of high bids where the market may have been flooded and the availability of contractors may be limited. The OPSC believes that this will be short-lived as the amount of funding being allocated has leveled off; however, in the future, it may be advisable to stagger apportionments when faced with funding requests for large numbers of projects.

Comments/Interviews

While conducting interviews with architects and design professionals, the OPSC received information that included both written and verbal comments regarding the difficulty of obtaining a sufficient number of responsive bidders or receiving competitive pricing on specific projects. These individuals argued that the 18-month time requirement to request a fund release is too restrictive and should be extended. Many stated that bids for school projects were in excess of the architect's estimate and with the requirement of the 18-month timeframe to request a fund release, districts are forced to accept these high bids. The OPSC does not collect and track bid information and while these comments albeit may reflect issues in some areas in the State, they do not consider other factors. These factors include but are not limited to whether the project was designed within the State/district apportionment, if significant modifications were made to the plans and specifications or if the architect's original cost estimate reflected current costs of labor/materials.

Construction Cost Index

The SAB is statutorily required to use a Class B Building index and to adjust the basic per-pupil grant that is the foundation for the apportionments made under the SFP on an annual basis. In its analysis, the OPSC examined several different Class B Building construction cost indices for the last five months in 2004 (see Attachment A) and for the last five years from 1999 to 2004 (see Attachment B). Our findings are summarized below with a brief description of the indices' methodology.

***Marshall & Swift Company***

The Marshall & Swift (M&S) Company produces a regular cost index (concrete and steel construction) designed to adjust base costs to current market conditions. The M&S Construction cost index tracks 12 kinds of materials from a minimum of two to five suppliers. If the costs are the same after two sources, the M&S uses the average of two similar costs. If costs vary, up to five suppliers are tracked, plus sales tax. Six trades are tracked; common labor, electricians, bricklayers, carpenters, structural iron workers and plumbers.

***Marshall & Swift Company – Based on 10 Western States***
5 Month Accumulative Inflation: 1.99 Percent
5 Year Accumulative Inflation: 15.3 Percent

The SAB/OPSC currently uses a M&S Class B Building Index that represents the 10 western states to adjust certain program-related costs. This includes states such as Idaho and Montana and might not represent the costs associated with the California market.

***Marshall & Swift Company – Based on 8 California Cities***
5 Month Accumulative Inflation: Not Available
5 Year Accumulative Inflation: 15.9 Percent

The OPSC reviewed an additional index produced by the M&S for the Class B Building Index for eight cities in California.

***Marshall & Swift Company – Based on San Francisco and Los Angeles, California***
5 Month Accumulative Inflation: Not Available
5 Year Accumulative Inflation: 18.0 Percent

The M&S also produces a Class B Building Index based on costs in the Los Angeles and San Francisco areas only, that the OPSC reviewed as part of this report.

***Lee Saylor Index (LSI) – California***
5 Month Accumulative Inflation: 2.89 Percent
5 Year Accumulative Inflation: 19.6 Percent

This index is prepared by the Sierra West Group, Construction Consultants for Saylor Publications, Inc. showing an average one-year increase in labor, material and subcontracting costs. The LSI Cost Indices represent material and labor including subcontractor's prices which includes 23 selected materials and 21 basic in-place materials used by subcontractors. Nine trades are tracked; carpenters, bricklayers, ironworkers, laborers, painters, engineers, plasterers, plumbers, electricians and teamsters. The index is composed of 64 percent labor and 46 percent material and is based upon data from California cities.

***Engineering News-Record/California Construction Cost Index - San Francisco and Los Angeles***
5 Month Accumulative Inflation: 4.38 Percent
5 Year Accumulative Inflation: 5.4 Percent

The Engineering News-Record (ENR) obtains their inflation rate for the United States from the M&S as well as the average change for the 95 cities in the United States. The ENR's building cost index tracks monthly three types of material; structural steel, Portland cement, and 2X4 lumber using spot pricing collected from a single source in each city. The average of 20-city wage-fringe labor rates for three trades are tracked; bricklayers, carpenters, and structural iron workers. This index is used by the Department of General Services, Real Estate Services Division and the other State agencies.

The OPSC reviewed the Class B Building indices from January 2004 to May 2004 and there has been a steady rise in the index with an accumulated increase that varies from nearly two percent to just over four percent. These indices reflect a rise in construction costs which may be due to the rise in concrete and steel and light frame construction (see Attachment A). However, this rise does not reflect the increase reported to the SAB and the OPSC.

Although there is an increase in materials and labor as indicated from several indices reviewed, it is not commensurate with the high bids that districts are experiencing. The highest accumulative index, the LSI, is 19.6 percent which would be an average of 3.8 percent increase per year (see Attachment B).

18-MONTH TIME LIMIT ON FUND RELEASE

The 18-month requirement for a fund release was set forth in Senate Bill 50 which was created in August 1998. It was a new requirement as compared to the previous State school building program, the Lease-Purchase Program (LPP). This requirement requires districts to certify that they have a contract ready for construction within 18 months of the apportionment date. The SFP grant is processed for release when the district submits a Form SAB 50-05, *Fund Release Authorization.* When signing this form, the district is certifying that it has entered into a binding contract(s) for at least 50 percent of the construction included in the plans applicable to the State funded project, and has issued the Notice to Proceed for that contract.

During the OPSC interviews with architects, they indicated that the 18-month time requirement to request a fund release is too restrictive and should be extended. It is argued that extending the 18-month requirement will give districts more flexibility in timing bids to minimize the flooding of the market, and to anticipate rising costs in labor and materials. Furthermore, if a bid came in too high or there was a lack of bidders to ensure competitive pricing, the additional time would allow the district to time its bid and avoid bidding during the spring and summer months when school construction demand is at its highest. Also, this additional time would allow the architect to perform value engineering if necessary to evaluate the cost of the project and redesign the project. Although these considerations have merit, the intent of the SFP was to have the district and its architect design and have a project ready to be built as soon as the SAB allocated the funding. The SFP requires that new construction or modernization plans be Division of the State Architect (DSA) approved and all site selection and any site cleanup measures be performed prior to funding to enable districts to bid the project immediately after the SAB apportionment. Therefore, the 18-month timeframe should provide adequate time for a district to bid the SAB approved project.

The vast majority of projects which received new construction and modernization funding from the inception of the SFP have submitted their fund release authorization form to the OPSC as identified by the total number of funds remaining to be released to districts. Since the beginning of the SFP in 1999 through May 2004, the OPSC has released nearly $14.4 billion under the SFP which represents 4,695 new construction and modernization projects. A report ran by the OPSC indicates that the average number of days between the date of SAB apportionment and the submittal date of the

fund release authorization form since 1999 was 101 days for new construction and 163 days for modernization. This represents approximately three to six months which further indicates that the majority of the projects that have been apportioned have contracts in place. In reviewing this data at face value, it could indicate that there is no unusually strong reaction to the large amount of bond funding that has been apportioned by the SAB. The projects appear to be proceeding without undue delay.

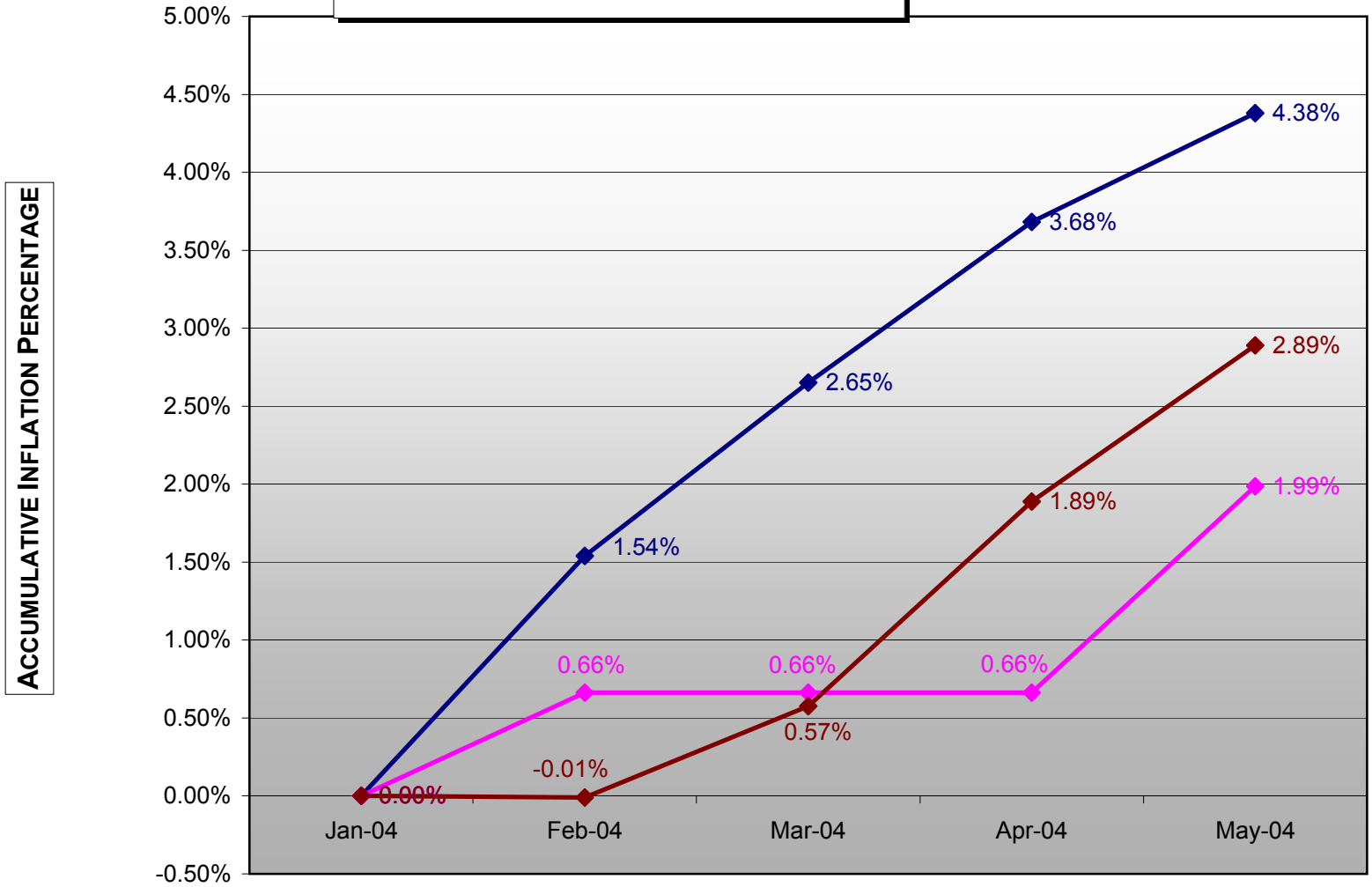
Furthermore, the construction cost index that is in effect at the time the apportionment is made to adjust for inflation becomes ineffective the longer it takes a project to be bid. Extending the 18-month timeline only exacerbates the problem of competitive bidding. Therefore, the OPSC does not recommend a change to the 18-month requirement for fund release. The OPSC believes that the intent of a set timeframe for fund release was to ensure that the construction of schools and the modernization of facilities were realized. In addition, the 18-month timeframe is a fundamental reason for the success of the SFP. Based upon the above reasons, the OPSC does not believe any changes to the 18-month time limit to request funding is necessary.

SFP PER PUPIL BASE GRANT

An examination of the adequacy of the per pupil grant specified in law is beyond the scope of this Report. The original grant amount was developed from information on the apportionments made to 100 projects of various grade levels in the LPP. School district groups are looking into the matter of the adequacy of the per pupil grant. Representatives of the OPSC, SAB and California Department of Education have been invited to participate.

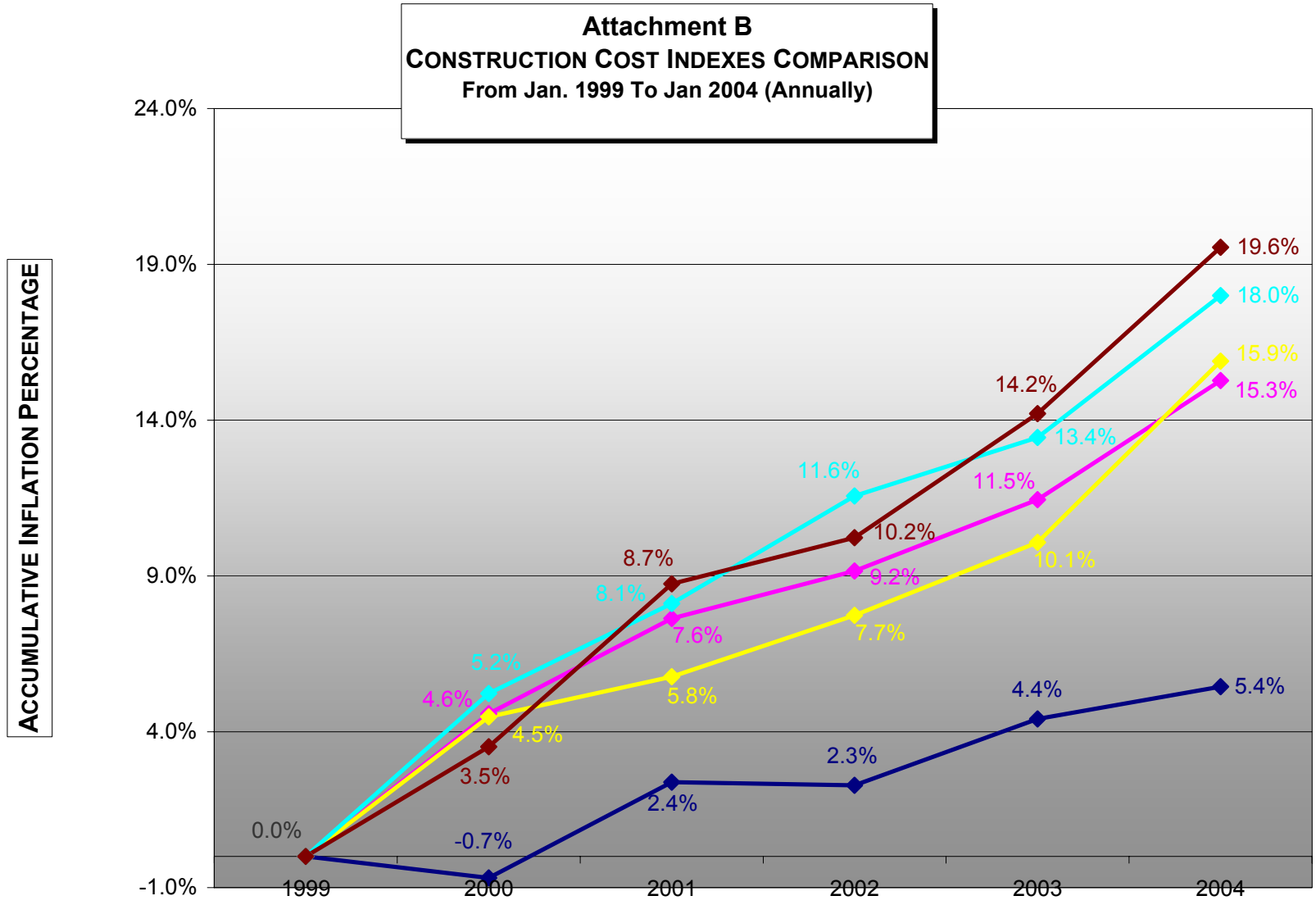
The grant, along with amounts for site development and site acquisition, make up the total funding that may be apportioned to a project. Staff does recommend further review of the funding made available through SAB regulation for the purposes of site development to ensure that all appropriate costs are included.

## Attachment A
## CONSTRUCTION COST INDEXES COMPARISON
### From Jan. 2004 To May 2004




| | Jan-04 | Feb-04 | Mar-04 | Apr-04 | May-04 |
|---|---|---|---|---|---|
| ENR/BCI ACCUM. % S.F. & L.A. | 0.00% | 1.54% | 2.65% | 3.68% | 4.38% |
| M&S ACCUM. % 10 W. STATES CLASS B | 0.00% | 0.66% | 0.66% | 0.66% | 1.99% |
| LSI CI % CALIFORNIA | 0.00% | -0.01% | 0.57% | 1.89% | 2.89% |

Data for "M&S CCI % 8 CAL. CITIES CLASS B" and "M&S CCI % S.F. & L.A. CLASS B" is not available.




| | Jan-99 | Jan-00 | Jan-01 | Jan-02 | Jan-03 | Jan-04 |
|---|---|---|---|---|---|---|
| ENR/BCI % S.F. & L.A. | 0.0% | -0.7% | 2.4% | 2.3% | 4.4% | 5.4% |
| M&S CCI % 10 W. STATES CLASS B | 0.0% | 4.6% | 7.6% | 9.2% | 11.5% | 15.3% |
| M&S CCI % 8 CAL. CITIES CLASS B | 0.0% | 4.5% | 5.8% | 7.7% | 10.1% | 15.9% |
| M&S CCI % S.F. & L.A. CLASS B | 0.0% | 5.2% | 8.1% | 11.6% | 13.4% | 18.0% |
| LSI CI % CALIFORNIA | 0.0% | 3.5% | 8.7% | 10.2% | 14.2% | 19.6% |

**State Allocation Board Implementation Committee**
**July 9, 2004**

# Dwelling Unit and Student Yield Factor Augmentations

## PURPOSE

To discuss the point in time in which dwelling units are no longer eligible to be reported on the *Enrollment Certification/Projection* (Form SAB 50-01) and to clarify regulatory language. Additionally, Staff will clarify the Student Yield Factor report guidelines when requesting a higher yield factor than the statewide averages to ensure continuity throughout the State.

The attachments provided are listed below:

- Attachment A – Suggested End Points for Reporting Dwelling Units – Pros/Cons
- Attachment B – Form SAB 50-01
- Attachment C – Regulatory Clarifications
- Attachment D – Government Code relating to the Student Yield Factor

## DWELLING UNIT BACKGROUND

From the inception of the School Facility Program (SFP), school districts have been able to augment the five-year projection based on the number of pupils that will reside in dwelling units included in approved and valid tentative subdivision maps. The purpose of this augmentation is to allow school districts time to plan for the pupils that will be enrolled in their school district. The augmentation allows school districts to use eligibility today to plan for pupils needs in the future. Any request to include dwelling units on the Form SAB 50-01 required district certification that the local planning commission or approval authority has approved the tentative subdivision maps. This certification also is required to state that the tentative subdivision maps used to support the request are available at the district for Office of Public School Construction (OPSC) verification.

## DWELLING UNIT AUTHORITY

The Education Code Section (ECS) 17071.75 (a) states that the "board may supplement the cohort survival enrollment projection by the number of the unhoused pupils that are anticipated as a result of dwelling units proposed pursuant to approved and valid tentative subdivision maps."

## DWELLING UNIT DISCUSSION

Education Code Section 17071.75(a) does specify the point in time when the tentative tract map can be counted, but it does not specify a point in time when a final tract map can no longer be counted. The OPSC has conducted numerous reviews throughout the State and there are different opinions as to when a school district should stop reporting dwelling units. Currently, the OPSC requires districts to stop reporting dwelling units at the time permits are being pulled. However, some districts feel this is too restrictive and that dwelling units should be counted until the date of occupancy.

For purposes of discussion, Staff has determined the following points to be considered based on discussions with various districts throughout the State:

→ The point in time permits are pulled
→ The point in time permits are pulled, plus 6 months
→ The point in time the dwelling unit is occupied.
→ A chart identifying some of the Pros/Cons on Attachment A

***Permits are Pulled***

Currently, the OPSC has been using the date permits are pulled as an ending point to report dwelling units. The basis for this decision can be found in Education Code Section 17071.75(a) which states a school district can report "…dwelling units **proposed** pursuant to approved and valid tentative subdivision maps". The OPSC has interpreted the word "proposed" to mean a subdivision that has not yet been built. Thus, the OPSC has permitted school districts to report dwelling units up until the point permits have been pulled on that subdivision. Since construction can not begin until permits are pulled, Staff feels this is a consistent stopping point that can be used throughout the State.

***Permits are Pulled, Plus Six Months***

This option would allow districts to report dwelling units six months beyond the date the permit is pulled for construction. For districts that are encountering fast growing developments, subdivisions may receive final approval and pull permits before the district can submit the next years update. Therefore, allowing a school district an additional six months to capture those dwelling units may more accurately help a district plan for future growth.

***Date of Occupancy***

This option would allow a school district to report dwelling units until the date of occupancy and maintain their current eligibility until the pupils are reported in the enrollment. This would eliminate any possibility of a time gap in which a district may lose eligibility due to the inability to report a dwelling unit. In order to utilize this opportunity, a clear definition would have to be established as to what constitutes the date of occupancy that would be consistent throughout the State. As this is not yet defined, it is difficult to assess the availability of a uniform and auditable document for districts and Staff. Assuming a clear definition is established, what would be the availability for districts to gain the necessary documentation to substantiate the dwelling units requested?

STUDENT YIELD FACTOR BACKGROUND

Another aspect of calculating the five year projection involves multiplying the statewide student yield factor by the number of dwelling units to be constructed within the district boundaries. Districts have two student yield factor options; the statewide averages or a district may request a student yield factor above the statewide average if the submitted study justifies a higher yield. The statewide average student yield factors are as follows:

- Elementary School District — 0.5 students per dwelling unit
- High School District — 0.2 students per dwelling unit
- Unified School District — 0.7 students per dwelling unit

When a district submits it's own student yield factor report, the OPSC will review these reports on a case-by-case basis. Districts submit studies that often lack details necessary to determine

the scope of the study, the source of the data, the period of time, or the type of units considered. The information provided may be inconsistent with other districts' thus creating inequitable projected enrollment comparisons.

## STUDENT YIELD FACTOR DISCUSSION

When requesting a higher student yield factor, districts should be reporting the student yield factor determined utilizing the following methodology: "…project the number of un-housed elementary, middle, and high school pupils generated by new residential units, in each category of pupils enrolled in the district. This projection of un-housed pupils shall be based on the historical student generation rates of new residential units constructed during the previous five years that are of a similar type of unit to those anticipated to be constructed … in which the school district is located..." If all districts requesting a student yield factor that is higher than the statewide averages, and use the same methodology to calculate the higher yield factor, then the resulting enrollment projections would be more equitable from district to district.

**ATTACHMENT A**

Suggested Stop Points for Reporting Dwelling Units – Pros/Cons

| | PROS | CONS |
|---|---|---|
| **Permits Pulled** | 1. Ability to substantiate information<br>2. Consistent with current practice<br>3. Still provides an incentive for early planning | 1. Creates a gap of time between permits pulled and actual enrollment<br>2. Possible loss of eligibility due to time gap<br>3. Disadvantage in fast paced developments |
| | | |
| **Permits Pulled, Plus Six Months** | 1. Ability to substantiate information<br>2. Manages a fast paced development<br>3. Maintain current level of eligibility | 1. Assumes continual economic progress<br>2. Possibility of double reporting<br>3. Disincentive for early planning |
| | | |
| **Occupancy Date** | 1. Manages a fast paced development<br>2. Maintains a current level of eligibility | 1. Assumes continual economic progress<br>2. More likely to encounter double reporting<br>3. Difficulty in tracking information?<br>4. What is the definition of date of occupancy?<br>5. Disincentive for early planning |

## GENERAL INFORMATION

To determine a district's initial eligibility for new construction funding under the School Facility Program, the district must provide enrollment information for the current and previous three years on this form. After the initial submittal, this form need only be resubmitted when the district requests additional new construction funding in a new enrollment year or as a result of a reorganization election that affects either the district's enrollment or existing school building capacity.

The following documentation must be submitted with this form (as appropriate):

- Specific enrollment data for district's with current enrollment that is less than 300 if the district is requesting an enrollment projection based on five-year average enrollment data (refer to Part A).
- A copy of the study supporting student yield factors if the district is requesting an augmentation of it's enrollment projection due to pupils residing in new dwelling units and it is not using the State yield factors (refer to Part F).

A high school district, unified school district, or county superintendent of schools may file on a high school attendance area (HSAA) basis or Super HSAAs as provided under Education Code Section 17071.76 and Section 1859.41. In that case, the enrollment used on this form is the current and three previous years enrollment in the HSAA or Super HSAA.

This form is not used for modernization funding applications.

**PART A. ENROLLMENT DATA**—(to be completed by school districts or the county superintendent of schools)

The information needed to complete this form is based on the latest California Basic Education Data Systems ~~(CBEDS)~~ that is available approximately October 15th of each year. Applications filed on or after November 1st must include the current school year enrollment. Report the current year and the three prior years K–12 enrollment. High school districts report the unduplicated enrollment data for grades served by the district and all feeder elementary school grades for the current year and the previous three years.

As an option, school districts with less than 300 current enrollment may report the previous five year average for any grade level for any year when the enrollment for that grade level has decreased by more than 50 percent from the previous year. If this option is used, the district must identify each grade level where this option is used on Form SAB 50-01 and attach the appropriate enrollment documentation to support this request.

County superintendents report the enrollment for community school students as reported in April prior to the latest CBEDS report.

The enrollment data must include all off-track and on-track students attending multi-track year round schools, students living outside the district's boundaries but attending schools in the district, students receiving Classroom-Based Instruction in Charter Schools located within the district boundaries and are enrolled in the same grade levels or type served by the district regardless if the district chartered the school, students attending magnet schools, community school students, and students attending independent study.

Do not include students living in the district's boundaries but attending other districts, students attending regional occupational programs, students attending preschool programs, other students not generally considered K–12 students including adult education students, students receiving Classroom-Based Instruction in Charter Schools located within the district boundaries but are enrolled in grade levels or type not served by the district, students living inside district boundaries but are receiving Classroom-Based Instruction in Charter Schools located outside the district boundaries, students receiving Nonclassroom-Based Instruction, juvenile court/court school students, special day class pupils, or continuation high school pupils.

**PART B. PUPILS ATTENDING SCHOOLS CHARTERED BY ANOTHER DISTRICT**

Of the data reported in Part A of this form, indicate the aggregate pupil enrollment attending schools chartered by another district which are located within your district boundaries for the current year and the three prior years. If the district is reporting pupils attending schools chartered by another district for the current year, then the district must submit a separate letter with the following information:

- The total Charter School enrollment listed by each of the K–12 grade levels reported for the current year.
- A list of the other school district(s) that chartered school(s) within your boundaries. Include the Charter School name(s) and total school enrollment.

For the previous years, report the total enrollment for pupils attending schools chartered by another district, if known. If the information is not available, enter N/A. In this case, the OPSC will adjust the previous years' enrollment data based on a prorated basis of the rate of growth or decline of the previous years' enrollment.

Enter 0 if there are no pupils attending schools chartered by another district within your district boundaries for the current or previous years.

**PART C. CONTINUATION HIGH SCHOOL**—(to be completed by school districts only)

Report the continuation high school enrollment for the current year and the three previous years. For purposes of projecting the enrollment, these pupils will be added to the enrollment data in Part A.

**PART D. SPECIAL DAY CLASS PUPILS**—(to be completed by school districts or the county superintendent of schools)

Report the pupils attending the special day classes as shown and reported to the California Department of Education in December prior to the latest CBEDS report. Use pupil descriptions as provided in Section 1859.2 for Non-Severely Disabled Individual with Exceptional Needs and Severely Disabled Individual with Exceptional Needs.

**PART E. SPECIAL DAY CLASS ENROLLMENT**—(to be completed by county superintendent of schools only)

Report the total of special day class pupils in all categories for the three previous years.

DRAFT

**PART F. NEW DWELLING UNITS**—(to be completed by school districts only)

The district may augment the enrollment projection based on the number of pupils that ~~will reside in dwelling units included in an approved subdivision map or valid tentative subdivision map. The district must certify as part of this form that the local planning commission or approval authority has approved the tentative subdivision map that is currently valid (i.e., the approval from the planning commission or approval authority has not expired) and the district has identified the dwelling units in that subdivision map to be constructed. All proposed dwelling units in that subdivision may be used to augment the district's enrollment projection. Report those dwelling units in Part E. Any request for augmentation of the district's enrollment projection must be made by separate letter from the district with this form. The district must certify as part of this form that the approved or valid tentative subdivision map(s) used to support this request are available at the district for OPSC verification.~~are anticipated as a result of proposed dwelling units included in approved and valid tentative or final subdivision maps. The district must provide the approval dates of the maps by the local planning commission or approval authority; the number of dwelling units to be built in the subdivision (the number of dwelling units approved less any permits pulled for construction within each subdivision); and one of the following:

- An approved and valid tentative or final subdivision map with the local planning commission or approval authority stamp located on the map, or
- An approved and valid tentative or final subdivision map with supporting documentation, or
- A spreadsheet or the OPSC dwelling unit worksheet listing all of the subdivisions reported on the Form SAB 50-01 with supporting documentation. If the district wishes to utilize this option, please note that when the district representative signs the Form SAB 50-01, he/she is certifying that the tract maps are on file at the district office and available for OPSC review if requested.

Supporting documentation is defined as one of the following:

- Local planning commission or approval authority meeting minutes detailing the approval of the map. If the approval was given an extension, please provide the most current meeting minutes indicating the approval of the extension request. Dwelling units contained in expired maps may not be reported on the Form SAB 50-01, or
- A letter from the local planning commission or approval authority indicating that the tract map is approved and valid as of the signature date of the Form SAB 50-01, or
- Any other reasonable documentation from the local planning commission or approval authority that indicates the tract map is approved and currently valid.

Report the determined number of dwelling units in Part F.

**PART G. YIELD FACTOR**—(to be completed by school districts only)

Report the district's student yield factors as defined in Section 1859.2, if different than the statewide average student yield factor. The statewide average student yield factors are as follows:

- Elementary School District..... 0.5 students per dwelling unit
- High School District..... 0.2 students per dwelling unit
- Unified School District..... 0.7 students per dwelling unit

Should the district wish to use its own student yield factors, a copy of the district's study that justifies the student yield factors must be submitted with this form.

**PART H. FIVE YEAR PROJECTED ENROLLMENT**—Used for School Facility Program. To be completed by the Office of Public School Construction (OPSC).

**PART I. ONE YEAR PROJECTED ENROLLMENT**—Used for State Relocatable Program. To be completed by the OPSC. Do not manually complete Parts H or I.

Complete this form manually, sign, date, and submit to the OPSC for computations. A completed copy of this form with the enrollment projections will be returned to the district.

The methodology for calculating the district's projected enrollment is outlined in Sections 1859.42 and 1859.43.

DRAFT

# ENROLLMENT CERTIFICATION/PROJECTION

SCHOOL FACILITY PROGRAM

SAB 50-01 (REV ~~01/03~~08/04)



| SCHOOL DISTRICT | FIVE DIGIT DISTRICT CODE NUMBER (SEE CALIFORNIA PUBLIC SCHOOL DIRECTORY) |
|---|---|
| COUNTY | HIGH SCHOOL ATTENDANCE AREA (HSAA) OR SUPER HSAA (IF APPLICABLE) |

**PART A. ENROLLMENT DATA**—(Districts or County Superintendent of Schools)

| Grade | 3rd Previous | 2nd Previous | Previous | Current |
|---|---|---|---|---|
| | / | / | / | / |
| K | | | | |
| 1 | | | | |
| 2 | | | | |
| 3 | | | | |
| 4 | | | | |
| 5 | | | | |
| 6 | | | | |
| 7 | | | | |
| 8 | | | | |
| 9 | | | | |
| 10 | | | | |
| 11 | | | | |
| 12 | | | | |
| Total | | | | |

**PART B. PUPILS ATTENDING SCHOOLS CHARTERED BY ANOTHER DISTRICT**

| 3rd Previous | 2nd Previous | Previous | Current |
|---|---|---|---|
| | | | |

**PART C. CONTINUATION HIGH SCHOOL**—(Districts only)

| Grade | 3rd Previous | 2nd Previous | Previous | Current |
|---|---|---|---|---|
| | / | / | / | / |
| 9 | | | | |
| 10 | | | | |
| 11 | | | | |
| 12 | | | | |

**PART D. SPECIAL DAY CLASS PUPILS**—(Districts or County Superintendent of Schools)

| | Elementary | | Secondary | | | Elementary | | Secondary | |
|---|---|---|---|---|---|---|---|---|---|
| | Non-Severe | Severe | Non-Severe | Severe | | Non-Severe | Severe | Non-Severe | Severe |
| MR | | | | | OI | | | | |
| HH | | | | | OHI | | | | |
| DEAF | | | | | SLD | | | | |
| HI | | | | | DB | | | | |
| SLI | | | | | MH | | | | |
| VI | | | | | AUT | | | | |
| SED | | | | | TBI | | | | |
| | | | | | TOTAL | | | | |

**PART E. SPECIAL DAY CLASS ENROLLMENT**—(County Superintendent of Schools only)

| 3rd Previous | 2nd Previous | Previous |
|---|---|---|
| | | |

**PART F. NUMBER OF NEW DWELLING UNITS**

**PART G. DISTRICT STUDENT YIELD FACTOR**

**PART H. FIVE YEAR PROJECTED ENROLLMENT—School Facility Program Projections**

(Except Special Day Class pupils only)

| K–6 | 7–8 | 9–12 | Total |
|---|---|---|---|
| | | | |

**Projections—Special Day Class Pupils Only**

| | Elementary | | Secondary | | | Elementary | | Secondary | |
|---|---|---|---|---|---|---|---|---|---|
| | Non-Severe | Severe | Non-Severe | Severe | | Non-Severe | Severe | Non-Severe | Severe |
| MR | | | | | OI | | | | |
| HH | | | | | OHI | | | | |
| DEAF | | | | | SLD | | | | |
| HI | | | | | DB | | | | |
| SLI | | | | | MH | | | | |
| VI | | | | | AUT | | | | |
| SED | | | | | TBI | | | | |
| | | | | | TOTAL | | | | |

**PART I. ONE YEAR PROJECTED ENROLLMENT—State Relocatable Program Projections**

(Except Special Day Class pupils only)

| K–6 | 7–8 | 9–12 | Total |
|---|---|---|---|
| | | | |

**Projections—Special Day Class Pupils Only**

| | Elementary | | Secondary | | | Elementary | | Secondary | |
|---|---|---|---|---|---|---|---|---|---|
| | Non-Severe | Severe | Non-Severe | Severe | | Non-Severe | Severe | Non-Severe | Severe |
| MR | | | | | OI | | | | |
| HH | | | | | OHI | | | | |
| DEAF | | | | | SLD | | | | |
| HI | | | | | DB | | | | |
| SLI | | | | | MH | | | | |
| VI | | | | | AUT | | | | |
| SED | | | | | TBI | | | | |
| | | | | | TOTAL | | | | |

*I certify, as the District Representative, that the information reported on this form is true and correct and that:*

- *I am designated as an authorized district representative by the governing board of the district.*
- *If the district is requesting an augmentation in the enrollment projection pursuant to Section 1859.42 (b), the local planning commission or approval authority has approved the tentative subdivision map used for augmentation of the enrollment and the district has identified dwelling units in that map to be contracted. All subdivision maps used for augmentation of enrollment are available at the district for review by the OPSC.*
- *This form is an exact duplicate (verbatim) of the form provided by Office of Public School Construction. In the event a conflict should exist, then the language in the OPSC form will prevail.*

| SIGBATURE OF DISTRICT REPRESENTATIVE | DATE |
|---|---|
| | |

# ATTACHMENT C

Article 5. Enrollment Projections

Section 1859.42. Projecting Non-Special Day Class Enrollment.

The district enrollment, as reported on the Form SAB 50-01, shall be used to calculate the district's projected enrollment other than Special Day Class enrollment. The OPSC shall use the following methodology to determine the districts projected enrollment:

(a) All projected enrollment with the exception of Special Day Class enrollment shall be calculated pursuant to the cohort survival enrollment projection system which is described as follows:

(1) For all grades, determine the numerical change in enrollment between the current grade and the next lower grade in the previous year; determine the numerical change in enrollment between the previous year grade and the next lower grade in the second previous year; determine the numerical change in enrollment between the second previous year grade and the next lower grade in the third previous year. Determine the numerical change of kindergarten enrollment on the second previous and third previous year respectively.

(2) Compute the annual change in enrollment as explained in (1) for each grade. The annual change shall then be weighted by multiplying the most recent annual change in enrollment by three, the next most recent annual change by two, and the earliest annual change by one, and dividing the sum of the annual weighted changes for each grade by six. The result shall be the average annual change.

(3) Progress the latest reported enrollment through the five-year projection period, modifying the grade progression each year by the average annual change for each grade as computed in (2).

(b) The enrollment projection will be augmented based on the number of pupils as reported by the district on Form SAB 50-01, that will reside in dwelling units included in an approved ~~subdivision map or~~ <u>and</u> valid tentative <u>or final</u> subdivision map that exceed the number of pupils projected as a result of the cohort survival method for that <u>tentative or final</u> subdivision map. The augmentation shall be as follows:

(1) Progress the current enrollment as reported on Form SAB 50-01, for one year for each grade level. For kindergarten, the progressed current enrollment shall be the same as the reported current enrollment.

(2) Subtract the current enrollment progressed one year for each grade level from the one-year projection of enrollment for each grade level as determined in (a). If the computation results in a negative number, the number shall be deemed zero.

(3) Divide the current enrollment progressed one year for each grade level by the sum of the current enrollment progressed one year in all grade levels.

(4) Multiply the number of housing units in the <u>approved and valid tentative or final</u> subdivision <u>maps</u> by the pupil yield factor provided on the Form SAB 50-01.

(5) Multiply the number of pupils determined in (4) by the percentages determined in (3) for each grade.

(6) Subtract five times the value determined in (2) from the value determined in (5). If the computation results in a negative number, the number shall be deemed zero.

(7) Add the value in (6) to the fifth year of projected enrollment as computed in (a) to establish the augmented projection of enrollment.

(c) The projected enrollment of a HSAA or Super HSAA shall be computed in the same manner as that set forth in this section, except that the enrollment used in such computation shall be that of the HSAA or Super HSAA rather than the entire district. Augmentation as provided in (b) of this Section may include only dwelling units located in the HSAA or Super HSAA.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17071.75 and 17071.76, Education Code.

# ATTACHMENT D

## STUDENT YIELD FACTOR REPORTING

## Government Code Section 65995.6

**65995.6**. (a) The school facilities needs analysis required by paragraph (2) of subdivision (b) of Section 65995.5 shall be conducted by the governing board of a school district to determine the need for new school facilities for unhoused pupils that are attributable to projected enrollment growth from the development of new residential units over the next five years. The school facilities needs analysis shall project the number of unhoused elementary, middle, and high school pupils generated by new residential units, in each category of pupils enrolled in the district. This projection of unhoused pupils shall be based on the historical student generation rates of new residential units constructed during the previous five years that are of a similar type of unit to those anticipated to be constructed either in the school district or the city or county in which the school district is located, and relevant planning agency information, such as multiphased development projects, that may modify the historical figures. For purposes of this paragraph, "type" means a single family detached, single family attached, or multifamily unit. The existing school building capacity shall be calculated pursuant to Article 2 (commencing with Section 17071.10) of Chapter 12.5 of Part 10 of the Education Code. The existing school building capacity shall be recalculated by the school district as part of any revision of the needs analysis pursuant to subdivision (e) of this section. If a district meets the requirements of paragraph (3) of subdivision (b) of Section 65995.5 by having a substantial enrollment on a multitrack year-round schedule, the determination of whether the district has school building capacity area shall reflect the additional capacity created by the multitrack year-round schedule.
(b) When determining the funds necessary to meet its facility needs, the governing board shall do each of the following:

(1) Identify and consider any surplus property owned by the district that can be used as a schoolsite or that is available for sale to finance school facilities.
(2) Identify and consider the extent to which projected enrollment growth may be accommodated by excess capacity in existing facilities.
(3) Identify and consider local sources other than fees, charges, dedications, or other requirements imposed on residential construction available to finance the construction or reconstruction of school facilities needed to accommodate any growth in enrollment attributable to the construction of new residential units.

(c) The governing board shall adopt the school facility needs analysis by resolution at a public hearing. The school facilities needs analysis may not be adopted until the school facilities needs analysis in its final form has been made available to the public for a period of not less than 30 days during which time the school facilities needs analysis shall be provided to the local agency responsible for land use planning for its review and comment. Prior to the adoption of the school facilities needs analysis, the public shall have the opportunity to review and comment on the school facilities needs analysis and the governing board shall respond to written comments it receives regarding the school facilities needs analysis.
(d) Notice of the time and place of the hearing, including the location and procedure for viewing or requesting a copy of the proposed school facilities needs analysis and any proposed revision of the school facilities needs analysis, shall be published in at least one newspaper of general circulation within the jurisdiction of the school district that is conducting the hearing no less than 30 days prior to the hearing. If there is no paper of general circulation, the notice shall be posted in at least three conspicuous public places within the jurisdiction of the school district not less than 30 days prior to the hearing. In addition to these notice requirements, the governing board shall mail a copy of the school facilities needs analysis and any proposed revision to the school facilities needs analysis not less than 30 days prior to the hearing to any person who has made a written request if the written request was made 45 days prior to the hearing. The governing board may charge a fee reasonably related to the cost of providing these materials to those persons who request the school facilities needs analysis or revision.
(e) The school facilities needs analysis may be revised at any time in the same manner, and the revision is subject to the same conditions and requirements, applicable to the adoption of the school facilities needs analysis.

(f) A fee, charge, dedication, or other requirement in an amount authorized by this section or Section 65995.7, shall be adopted by a resolution of the governing board as part of the adoption or revision of the school facilities needs analysis and may not be effective for more than one year. Notwithstanding subdivision (a) of Section 17621 of the Education Code, or any other provision of law, the fee, charge, dedication, or other requirement authorized by the resolution shall take effect immediately after the adoption of the resolution.
(g) Division 13 (commencing with Section 21000) of the Public Resources Code may not apply to the preparation, adoption, or update of the school facilities needs analysis, or adoption of the resolution specified in this section.
(h) Notice and hearing requirements other than those provided in this section may not be applicable to the adoption or revision of a school facilities needs analysis or the resolutions adopted pursuant to this section.

STATE ALLOCATION BOARD
IMPLEMENTATION COMMITTEE
July 9, 2004

# PURCHASE AND CONVERSION OF NON-CONFORMING BUILDINGS FOR SCHOOL USE

## PURPOSE

To seek input from districts and design professionals regarding the costs of purchasing and retrofitting non-conforming buildings for school use; and to discuss possible funding options within the provisions of the School Facility Program (SFP).

## BACKGROUND

The OPSC has been asked to look into the feasibility of funding for projects involving purchase and retrofit of existing buildings. Although the Education Code provides for such projects, districts claim that, while site acquisition funding applies to the cost of the land only, the base grant amount is insufficient to pay for the purchase and retrofit of the building(s). Districts also contend that retrofitting a non-conforming building may be a more cost-effective approach as compared to the traditional method of purchasing, demolishing and building a-new. The OPSC is seeking input on the issue and any possible real-life examples that may support districts' concern.

## AUTHORITY

The Education Code Section (ECS) 17072.35 states that "a grant for new construction may also be used to acquire an existing government or privately owned building, or a privately financed school building, and for the necessary costs of converting the government or privately owned building for public school use."

## DISCUSSION

### *Insufficient Number of Projects*

Based on our knowledge, there are only two examples of completed conversion projects that include the purchase of the existing school by Bakersfield City Elementary School District and a conversion of a commercial building into a school by Pomona Unified School District. The OPSC has been approached by only a few districts that have contemplated conversion projects; this is not a rampant issue. In the absence of real-life examples, the OPSC is looking for information from districts on what are the circumstances that would prompt a school district to consider retrofitting a building in lieu of demolishing it.

### *Cost of a Conversion Project*

The new construction grant for a project is determined by the number of pupils to be housed in a project and available pupil grants in the district's new construction eligibility. The new construction base grant pays the soft and hard costs of new buildings while site development and property acquisition costs are provided for with additional allowances. For a conversion project, in which a purchased building is retained for school use rather than demolished, the new construction base grant applies to the cost of the building as well as the required retrofit. The funding amount determined by the eligible pupil grants may be insufficient to fund the purchase and retrofit of existing buildings. The options below provide for some possible solutions.

Option 1: Supplemental Grant

Provide a mechanism for recognizing the cost savings of the conversion project. This may be done by performing a cost-benefit analysis comparing the costs of purchasing and retrofitting versus the costs of demolition and rebuilding. Once the cost deferential is determined, this amount can be added to the eligible base grant via a new supplemental grant to the extent that the total State share of the project cost would not exceed what school district would have ordinarily realized under the SFP. The challenge in this approach is to determine the best method of identifying and verifying the cost savings.

Option 2: Adjusted Site Acquisition Amount.

In cases when the cost-benefit analysis indicates a savings to the State as compared to the cost of demolishing and re-building, include a portion of the building acquisition cost in the site acquisition funding amount to ensure equitable funding for a project. Staff believes this is permissible considering building values are commonly included in the site acquisition cost in traditional demolition-new construction scenarios. The basic premises of this option are as follows:

- Consider for a conversion project under current Regulations, the entire cost of the building must be covered by the base grant.
- This proposal will provide that the cost of the building, absent the retrofit costs, will be covered by the base grant.
- Under circumstances when the retrofit costs are equal or greater than the cost of the building, none of the building cost will be required to be covered by the base grant and the site acquisition apportionment will cover the building and land costs.

The challenge presented by this option is to determine what portion of the building cost may be included in the site acquisition amount. Staff suggests that the unusable building value, as explained in detail in the attachment, be included in the site acquisition funding amount. The concept of the unusable value is derived from the fact that the purchase price of the building should be fairly close to its fair market value, defined as the most probable price for which the property will sell in a competitive market. However, a school district cannot use the building in its current state due to the requirement of the Field Act. Thus the value of the building to the district has to take into account the cost of retrofit. Therefore, the useable value is the cost to buy the building minus the cost to retrofit, leaving the remaining portion of the value as "unusable." This unusable portion of the value is then eligible for site acquisition funding.

Funding for a conversion project that includes funding of an existing building within the site acquisition grant should never exceed the amount of funding that could be otherwise apportioned for a traditional demolition-new construction SFP project. In addition, a conversion project must meet the 60 percent commensurate test and ensure that the pupil grants reduced from new construction baseline eligibility are equal to the capacity of the project.

RECOMMENDATION

Overall, there is insufficient data on the issue to recommend any changes to the Regulations at this time. Staff suggests discussing with districts the ability to purchase and convert buildings for school use and the funding available under the School Facility Program (SFP) for such projects.

ATTACHMENT

*Calculation:*

Assume that appraised value of the property equals its Purchase Price (PP) and provides a separate cost analysis for land-only value and building-only value.

**Step 1:**

| |
|---|
| Value of Building (B)<br>- Cost to Retrofit (R)<br>Useable Building Value (V)<br>*If negative, use zero* |
| (The useable building Value must be covered by base grant.) |

**Step 2**:

| |
|---|
| Value of Building (B)<br>- Useable Building Value (V)<br>Unusable Building Value (U) |
| (This equals the compensation for required retrofit) |

**Step 3:**

| |
|---|
| Pure Land Costs (L)<br>+ Unusable Building Cost (U)<br>Site Acquisition Grant (S) |
| (This is the adjusted site acquisition cost that accounts for retrofit cost in-lieu of demolition) |

**Step 4: State Project Cost Comparison**

| Conversion Project | Traditional Demolition-New Construction Project |
|---|---|
| Cost of **Project X** is the sum of:<br>• Land Cost + Unusable Value<br>• Base Grant (G)<br>• Incidental Site Development | Cost of **Project Y** is the sum of:<br>• Land Cost + Entire Building Value *which equals the purchase price (PP)*<br>• Base Grant<br>• Site Development including demolition |

A cost analysis must demonstrate that the cost of Project X is equal to or lesser than the cost of Project Y in order for a school district to qualify for funding as project X, i.e. presents savings for the State or demonstrates no additional costs. Districts may utilize this funding option to the extent it does not exceed a traditional demolition-new construction project.

Examples:
Below is a summary of hypothetical examples for discussion purposes only.

**Example 1**: Assume the following costs (in millions) for District A:

PP: $ 8
L: $ 4
B: $ 4
R: $ 4
G: $ 5

Step 1: B - R = V $4 – $4 = $0 *useable building value*
Step 2: B – V = U $4 – $0 = $4 *unusable building value*
Step 3: L + U = S $4 + $4 = $8 *Site Acquisition Grant*
Step 4: Conduct a cost comparison and ensure that the amount provided never exceeds the cost of the traditional approach of purchasing, demolishing and rebuilding.

| District's Cost | Conversion per Current Regulations | Conversion Per Proposed Calculation | Traditional Demolition – New Construction Project |
|---|---|---|---|
| $ 8 Purchase Price<br>$ 4 Retrofit<br>$ 1 Some Site Dev. | $ 4 Land only<br>$ 5 Base Grant<br>$ 1 Some Site Dev. | $ 8 Site Acquisition<br>$ 5 Base Grant<br>$ 1 Some Site Dev. | $ 8 Site Acquisition<br>$ 5 Base Grant<br>$ 2 Site Dev. w/Demolition |
| **$13 total** | **$10 total** | **$14 total** | **$15 total** |

**Example 2**: Assume the following costs (in millions) for District B:

PP: $ 6
L: $ 4
B: $ 2
R: $ 6
G: $ 5

Step 1: B - R = V $2 – $6 = $0 *useable building value*
Step 2: B – V = U $2 – $0 = $2 *unusable building value*
Step 3: L + U = S $4 + $2 = $6 *Site Acquisition Grant*
Step 4: Conduct a cost comparison and ensure that the amount provided never exceeds the cost of the traditional approach of purchasing, demolishing and rebuilding.

| District's Cost | Conversion per Current Regulations | Conversion Per Proposed Calculation | Traditional Demolition – New Construction Project |
|---|---|---|---|
| $ 6 Purchase Price<br>$ 6 Retrofit<br>$ 1 Some Site Dev. | $ 4 Land only<br>$ 5 Base Grant<br>$ 1 Some Site Dev. | $ 6 Site Acquisition<br>$ 5 Base Grant<br>$ 1 Some Site Dev. | $ 6 Site Acquisition<br>$ 5 Base Grant<br>$ 2 Site Dev. w/Demolition |
| **$13 total** | **$10 total** | **$12 total** | **$13 total** |

**Example 3**: Assume the following costs (in millions) for District C:

PP: $10
L: $ 4
B: $ 6
R: $ 2
G: $ 5

Step 1: B - R = V $6 – $2 = $4 *useable building value*
Step 2: B – V = U $6 – $4 = $2 *unusable building value*
Step 3: L + U = S $4 + $2 = $6 *Site Acquisition Grant*
Step 4: Conduct a cost comparison and ensure that the amount provided never exceeds the cost of the traditional approach of purchasing, demolishing and rebuilding.

| District's Cost | Conversion per Current Regulations | Conversion Per Proposed Calculation | Traditional Demolition – New Construction Project |
|---|---|---|---|
| $10 Purchase Price<br>$ 2 Retrofit<br>$ 1 Some Site Dev. | $ 4 Land only<br>$ 5 Base Grant<br>$ 1 Some Site Dev. | $ 6 Site Acquisition<br>$ 5 Base Grant<br>$ 1 Some Site Dev. | $10 Site Acquisition<br>$ 5 Base Grant<br>$ 2 Site Dev. w/Demolition |
| **$13 total** | **$10 total** | **$12 total** | **$17 total** |

**STATE ALLOCATION BOARD**
1130 K Street, Suite 400
Sacramento, CA 95814
http://www.dgs.ca.gov/opsc

**Date:** July 23, 2004

**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 Thursday, August 5, 2004 (10:00 am - 3:30 pm) at the Legislative Office Building, 1020 N Street, Room 100, Sacramento.

The Implementation Committee's proposed agenda is as follows:

1. Convene Meeting

2. Bidding Climate Report
   *Discussion of the following topics and its impacts on the high bidding climate:*
   - *Possible creation of an additional grant for technology.*
   - *Possible additional category for site development costs.*
   - *Evaluation and consideration of the type of Class B Index used for the School Facility Program.*

3. Enrollment Projection Augmentation and Student Yield Factor
   *Further discussion of the appropriate time limit for reporting dwelling units and other clarifying language on the Enrollment Certification/Projection form and discussion of a consistent criteria used for Student Yield Factor studies.*

4. Purchase and Conversion of Non-Conforming Buildings for School Use
   *Further discussion to determine the need for regulatory amendments related to the funding of projects involving the purchase retrofit of buildings for school use.*

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 Christine Sanchez at (916) 322-0328.

BRUCE B. HANCOCK
Chairperson

BBH:LM:cs

STATE ALLOCATION BOARD

IMPLEMENTATION COMMITTEE

# Pending Items List
# August 5, 2004

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## A. Future Items

- Increased Capacity for Replaced Facilities, SFP Regulation Section 1859.73.2

- Classroom Inventory Adjustments for Educational Program and Facility Transfers

- SFP – Project Rescission

## B. Suspended Items

- None

STATE ALLOCATION BOARD
IMPLEMENTATION COMMITTEE
August 5, 2004

# BIDDING CLIMATE REPORT

## PURPOSE

To continue discussing the Bidding Climate report presented at the June 2004 State Allocation Board (SAB) meeting and to provide a status on the considerations stated in the previous Implementation Committee item.

## BACKGROUND

School districts and design professionals engaged in the construction and modernization of facilities funded through the School Facility Program (SFP) report significant difficulties in receiving competitive bids on projects. At the April 2004 SAB meeting, the Board requested Staff to look into a number of issues and outline what the Office of Public School Construction (OPSC) could do administratively to help districts deal with the high bid climate.

In response, the attached Bidding Climate Report was presented to the SAB at its June 2004 meeting. The SAB requested Staff and the Implementation Committee to discuss possible means of addressing the items outlined in the report, and to report back at a future SAB meeting. The Committee began discussion at their July 9, 2004 meeting.

## AUTHORITY

Education Code Section 17072.10 (b) states, "The board shall annually adjust the per-unhoused-pupil apportionment to reflect construction cost changes, as set forth in the statewide cost index for class B construction as determined by the board."

## DISCUSSION

At the previous Committee meeting, Staff introduced the report and opened up the floor for discussion. Various inquiries were made regarding construction cost index, grant adequacy, etc. The OPSC realizes that there are no straightforward answers to the issue. Staff is researching all considerations and inquiries for continued discussion at future Implementation Committee meetings. In addition, many of the considerations require legislation and will take time for any possible changes to occur. Currently Staff is focusing on the Construction Cost Index. This discussion includes the following:

- Changing the current Class B Index
- Modifying existing law to adjust the Index more frequently
- Adjusting the State apportionment based on bid opening date

Currently, the SFP uses the Marshall & Swift Class B based on 10 Western States. Regulatory changes would be required for the SAB to use the Lee Saylor Index or the Engineering & News Record Index. For this item, Staff has reviewed the Marshall & Swift Class B based on 8 California Cities and the Marshall & Swift Class B based on San Francisco and Los Angeles, California. While the OPSC believes that the San Francisco and Los Angeles Index does not accurately portray the entire State, we have determined that the 8 California Cities Index better

reflects the construction costs in California (see Attachments 1 and 2). The eight cities used for the index include the following:

- Bakersfield
- Eureka
- Fresno
- Los Angeles
- Riverside
- Sacramento
- San Diego
- San Francisco

The OPSC acknowledges that the Regulation Section 1859.2 states a definition for Class B Construction Cost Index, which refers to "Western area"; however, Staff believes this term can be interpreted to signify the 8 California Cities Index.

Adjusting the Index on a more frequent basis or modifying the State apportionment based on the bid opening date would require legislation. As previously discussed at the July Committee meeting, the bidding climate may change in the next 12 months making any legislative change unwarranted. Staff is in the process of creating a survey to better understand individual districts' issues to gain further insight on the problems and how better to address them.

RECOMMENDATION

Staff recommends using the Marshall & Swift Class B based on 8 California Cities for the January 2005 index adjustment. While the current index is based on 10 Western States, Staff believes that it is more appropriate to use an index based on locations in which SFP funding will potentially occur.

## 2004 SFP Grant Comparison Chart for Marshall & Swift, Class B Indexes

**Index Multiplier Applied to Each Year Starting with 1998 Grant Amounts**

| | | | 10 Western States | 8 California Cities* | SF and LA |
|---|---|---|---|---|---|
| New Construction | Per Pupil Grant | Elementary | $ 6,040 | $ 6,144 | $ 6,186 |
| | | Middle | 6,388 | 6,498 | 6,543 |
| | | High | 8,363 | 8,507 | 8,565 |
| | | Non-severe | 12,875 | 13,096 | 13,185 |
| | | Severe | 19,251 | 19,583 | 19,742 |
| | Auto Alarm/Detection | Elementary | 31 | 32 | 32 |
| | | Middle | 40 | 40 | 41 |
| | | High | 30 | 31 | 30 |
| | | Non-severe | 62 | 63 | 64 |
| | | Severe | 93 | 96 | 96 |
| | Automatic Fire Sprinklers | Elementary | 97 | 99 | 99 |
| | | Middle | 116 | 117 | 118 |
| | | High | 131 | 133 | 134 |
| | | Non-severe | 213 | 216 | 217 |
| | | Severe | 317 | 324 | 326 |
| | Critically Overcrowded Schools | Elementary | 6,071 | 6,176 | 6,218 |
| | | Middle | 6,427 | 6,541 | 6,582 |
| | | High | 8,394 | 8,539 | 8,596 |
| | | Non-severe | 12,937 | 13,161 | 13,249 |
| | | Severe | 19,343 | 19,679 | 19,812 |
| Modernization | Per Pupil Grant | Elementary | 2,609 | 2,654 | 2,671 |
| | | Middle | 2,760 | 2,808 | 2,826 |
| | | High | 3,613 | 3,676 | 3,700 |
| | | Non-severe | 5,562 | 5,658 | 5,695 |
| | | Severe | 8,313 | 8,459 | 8,515 |
| | Auto Alarm/Detection | Elementary | 122 | 123 | 126 |
| | | Middle | 151 | 154 | 155 |
| | | High | 148 | 152 | 151 |
| | | Non-severe | 260 | 265 | 267 |
| | | Severe | 389 | 396 | 399 |
| | 50 Years Old Grant | Elementary | 3,624 | 3,687 | 3,710 |
| | | Middle | 3,833 | 3,900 | 3,926 |
| | | High | 5,018 | 5,104 | 5,140 |
| | | Non-severe | 7,724 | 7,859 | 7,912 |
| | | Severe | 11,551 | 11,750 | 11,830 |

*Bakersfield, Eureka, Fresno, Los Angeles, Riverside, Sacramento, San Diego, and San Francisco

## 04 SFP Grant Comparison Chart for Marshall & Swift, Class B Index

**Using 2004 CCI Multiplier Applied to 2003 Grant Amounts**

| | | | 10 Western States | 8 California | SF and LA |
|---|---|---|---|---|---|
| New Construction | Per Pupil Grant | Elementary | $ 6,040 | $ 6,149 | $ 6,075 |
| | | Middle | 6,388 | 6,504 | 6,425 |
| | | High | 8,363 | 8,514 | 8,411 |
| | | Non-severe | 12,875 | 13,108 | 12,949 |
| | | Severe | 19,251 | 19,599 | 19,362 |
| | Auto Alarm/Detection | Elementary | 31 | 32 | 31 |
| | | Middle | 40 | 41 | 41 |
| | | High | 30 | 31 | 30 |
| | | Non-severe | 62 | 63 | 62 |
| | | Severe | 93 | 95 | 94 |
| | Automatic Fire Sprinklers | Elementary | 97 | 99 | 98 |
| | | Middle | 116 | 118 | 117 |
| | | High | 131 | 134 | 132 |
| | | Non-severe | 213 | 217 | 214 |
| | | Severe | 317 | 323 | 319 |
| | Critically Overcrowded Schools | Elementary | 6,071 | 6,181 | 6,106 |
| | | Middle | 6,427 | 6,543 | 6,464 |
| | | High | 8,394 | 8,545 | 8,442 |
| | | Non-severe | 12,937 | 13,171 | 13,012 |
| | | Severe | 19,343 | 19,692 | 19,455 |
| | | | | | |
| Modernization | Per Pupil Grant | Elementary | 2,609 | 2,656 | 2,624 |
| | | Middle | 2,760 | 2,810 | 2,776 |
| | | High | 3,613 | 3,679 | 3,634 |
| | | Non-severe | 5,562 | 5,662 | 5,594 |
| | | Severe | 8,313 | 8,463 | 8,361 |
| | Auto Alarm/Detection | Elementary | 122 | 124 | 123 |
| | | Middle | 151 | 154 | 152 |
| | | High | 148 | 151 | 149 |
| | | Non-severe | 260 | 264 | 261 |
| | | Severe | 389 | 396 | 391 |
| | 50 Years Old Grant | Elementary | 3,624 | 3,689 | 3,645 |
| | | Middle | 3,833 | 3,902 | 3,855 |
| | | High | 5,018 | 5,109 | 5,047 |
| | | Non-severe | 7,724 | 7,864 | 7,769 |
| | | Severe | 11,551 | 11,760 | 11,618 |

REPORT OF THE EXECUTIVE OFFICER
State Allocation Board Meeting, June 23, 2004

# BIDDING CLIMATE REPORT

## PURPOSE OF REPORT

To report on the impact the bidding climate has had on the school construction industry.

## DESCRIPTION

At the April 2004 State Allocation Board (SAB) meeting, the Board asked the Office of Public School Construction (OPSC) to look into a number of issues and requested the OPSC outline what the OPSC could do administratively to help districts deal with the high bid climate. Specifically, the following topics needed to be addressed:

- Construction Cost Index
- 18-month time limit on fund release
- Per pupil base grant

## EXECUTIVE SUMMARY

School districts and design professionals engaged in the construction and modernization of facilities funded through the School Facility Program (SFP) report significant difficulties in receiving competitive bids on projects. Evidence of recently bid projects exceeding project budgets by unacceptable amounts has been provided to Staff. A review of five construction cost indexes published by three different private firms indicates that there has been an increase in construction costs statewide from 2 percent to 4.4 percent since the first of the year. As substantial as these increases are, they do not reflect the increases reported by school districts and project architects. The discrepancy appears to be primarily attributable to increased profit margins resulting from market inundation. New construction appears to have become a primary support of the California economy. Although possibly a short term issue, the current bid climate is having an effect on the ability of some districts to successfully bid school construction projects.

The requirement that all projects bid within 18 months of receipt of an apportionment has been met successfully on the overwhelming majority of SFP projects. Of the 4,700 projects that have been apportioned under the SFP since 1999, less than 100 have not met the 18-month requirement. However, some school districts report that in order to meet the timeline, they have been forced to accept bids in excess of the budget. The OPSC strongly supports the retention of the 18-month requirement; however, Staff concedes that in some recent projects under the current bid climate, it may have been met at a premium cost.

The issue of the adequacy of the grants is too large to be addressed in this brief report. School district organizations are looking into the matter, and the OPSC and SAB have representatives in those discussions.

The complete “Bidding Climate Report” with supporting charts is included as an Attachment to this report.

## CONSIDERATIONS

The SAB administers the SFP under statute which prescribes the amount of the per pupil grant that can be apportioned to qualified school districts. The SAB has very limited latitude to address the problems and issues associated with an overheated construction climate and the corresponding loss of competitive bidding. Most of the possible ‘solutions’ that might have a substantial effect on the current situation must be accomplished through legislation. Given that some of the market issues may change in the next twelve months, it may be that legislative change in some instances would be too late and possibly unwarranted.

(Continued on Page Two)

CONSIDERATIONS (cont.)

The OPSC has identified a number of possible approaches to mitigate the current bid climate situation. Except as may be reflected in comments in "The Bidding Climate Report", Staff makes no recommendations as to the merit of particular ideas.

1. Create an additional grant for technology which includes computers, wiring and equipment to support computers and additional power to operate computers. Allow this grant to be used for installing Electronic Monitoring Systems into schools (regulatory change).

2. Provide an additional eligible category of site development costs similar to the general site funding provided in the Lease Purchase Program (regulatory change).

3. Change the Class B Index currently used by the SAB. Consider using the Marshall and Swift index for the eight California cities only (regulatory change).

4. Modify existing law that requires an annual adjustment to the per-pupil grant utilizing the Class B Index to allow for a more frequent (semi-annually, quarterly or monthly) adjustment of the Index (requires legislative remedy).

5. Adjust the State apportionment according to the construction cost index in effect as of the date of the bid opening (requires legislative remedy).

6. Modify existing law to allow for the SFP per pupil grant to be reviewed every five to ten years and allow the SAB to reestablish the base grant based upon current Title 24 code requirements (requires legislative remedy).

7. Limit the amount of funding made available in a specific period of time through staggered apportionments (regulatory change).

**ATTACHMENT C**
State Allocation Board Meeting, June 23, 2004

REPORT SOURCES

The OPSC relied primarily on information gathered from architects, design professionals and various trade publications and information gathered from the administration of the State school building programs. The following is a complete listing of the sources used:

- Funds Released by Month from Proposition 1A and 47 (Funds released from March 1999 through May 2004)

- Comparison of CCI Indices
  This chart compares various Marshall & Swift Indices with the Engineer's News Report and Lee Saylor Index from January 2004 through May 2004 – Attachment A

- Comparison of CCI Indices
  This chart compares various Marshall & Swift Indices with the Engineer's News Report and Lee Saylor Index from January 1999 through January 2004 - Attachment B

The following resources are not included in this report, however, were used as additional references:

- Lee Saylor Index
  A summary report prepared by the Sierra West Group, Construction Consultants for Saylor Publications, Inc showing an average one-year increase in labor, material and subcontracting costs**.**

- School Facility Program Projects for New Construction/Modernization approved under Propositions 1A, 47 and 55.

- Marshall and Swift Class B Building Indexes for 10 Western States, 8 California Cities, and San Francisco/Los Angeles

- California Department of Finance, *California Economic Indicators* (January/February 2004)

- Interviews with Architects and Design professionals
  The OPSC staff conducted interviews relating to issues that impact the current construction climate.

BIDDING CLIMATE

The bidding climate is comprised of many different factors that control the price of materials used in manufacturing; the number of contractors, inflation, labor costs and the State's economy to name a few. Many of these are factors that cannot be controlled by the SAB and are dictated by the market through supply and demand.

There has been concern expressed over whether the nearly $18 billion in funding allocated by the SAB since 1999 has had a strong adverse effect on the bidding climate. With billions of dollars of State funding released, are there enough qualified contractors to meet the demand for building/modernizing of schools? The SAB at its meeting in December 2002 allocated nearly $5.4 billion which represented 1,931 new construction and modernization projects ready for construction. Although a large number of these projects which had been on waiting lists for as much as two years had already been bid, many more went to bid in the months immediately following the apportionments. These projects may have taken much of the available material and labor supply. Districts that followed that initial surge by bidding projects during the latter part of 2003 and into 2004 have seen a subsequent rise in the costs of various materials, especially lumber, concrete and steel.

The bonding requirement for public works contracts and the special nature of the Field Act keep most small contractors and subcontractors out of the competition for school projects. Additionally, prevailing wage and other reporting and contracting requirements of public works projects may keep some intermediate and large contractors from competing in the school construction market, especially when the general construction market is hot. At the same time that large amounts of school construction funds were flowing into the economy, new home construction was booming in California. It remains strong in 2004. Contractors that build new homes and commercial projects use many of the same subcontractors for their work as they do for school projects. Thus, activity in the non-school construction market may have had an additional effect on the already active school construction arena.

The disparate increases in the bids that districts have reported to the OPSC are believed to be caused by a mixture of limited contractors and the anticipated increase in the price of materials. Both of these factors in turn produce a domino effect for contractors and suppliers to inflate estimates so that when these projects are ready to be constructed, the contractors have accounted for the increase in materials. Based upon these assumptions, the OPSC believes the State funding allocated to districts from the December 2002 SAB meeting, combined with a very active California construction market, may have caused pockets of high bids where the market may have been flooded and the availability of contractors may be limited. The OPSC believes that this will be short-lived as the amount of funding being allocated has leveled off; however, in the future, it may be advisable to stagger apportionments when faced with funding requests for large numbers of projects.

Comments/Interviews

While conducting interviews with architects and design professionals, the OPSC received information that included both written and verbal comments regarding the difficulty of obtaining a sufficient number of responsive bidders or receiving competitive pricing on specific projects. These individuals argued that the 18-month time requirement to request a fund release is too restrictive and should be extended. Many stated that bids for school projects were in excess of the architect's estimate and with the requirement of the 18-month timeframe to request a fund release, districts are forced to accept these high bids. The OPSC does not collect and track bid information and while these comments albeit may reflect issues in some areas in the State, they do not consider other factors. These factors include but are not limited to whether the project was designed within the State/district apportionment, if significant modifications were made to the plans and specifications or if the architect's original cost estimate reflected current costs of labor/materials.

Construction Cost Index

The SAB is statutorily required to use a Class B Building index and to adjust the basic per-pupil grant that is the foundation for the apportionments made under the SFP on an annual basis. In its analysis, the OPSC examined several different Class B Building construction cost indices for the last five months in 2004 (see Attachment A) and for the last five years from 1999 to 2004 (see Attachment B). Our findings are summarized below with a brief description of the indices' methodology.

***Marshall & Swift Company***

The Marshall & Swift (M&S) Company produces a regular cost index (concrete and steel construction) designed to adjust base costs to current market conditions. The M&S Construction cost index tracks 12 kinds of materials from a minimum of two to five suppliers. If the costs are the same after two sources, the M&S uses the average of two similar costs. If costs vary, up to five suppliers are tracked, plus sales tax. Six trades are tracked; common labor, electricians, bricklayers, carpenters, structural iron workers and plumbers.

***Marshall & Swift Company – Based on 10 Western States***
5 Month Accumulative Inflation: 1.99 Percent
5 Year Accumulative Inflation: 15.3 Percent

The SAB/OPSC currently uses a M&S Class B Building Index that represents the 10 western states to adjust certain program-related costs. This includes states such as Idaho and Montana and might not represent the costs associated with the California market.

***Marshall & Swift Company – Based on 8 California Cities***
5 Month Accumulative Inflation: Not Available
5 Year Accumulative Inflation: 15.9 Percent

The OPSC reviewed an additional index produced by the M&S for the Class B Building Index for eight cities in California.

***Marshall & Swift Company – Based on San Francisco and Los Angeles, California***
5 Month Accumulative Inflation: Not Available
5 Year Accumulative Inflation: 18.0 Percent

The M&S also produces a Class B Building Index based on costs in the Los Angeles and San Francisco areas only, that the OPSC reviewed as part of this report.

***Lee Saylor Index (LSI) – California***
5 Month Accumulative Inflation: 2.89 Percent
5 Year Accumulative Inflation: 19.6 Percent

This index is prepared by the Sierra West Group, Construction Consultants for Saylor Publications, Inc. showing an average one-year increase in labor, material and subcontracting costs. The LSI Cost Indices represent material and labor including subcontractor's prices which includes 23 selected materials and 21 basic in-place materials used by subcontractors. Nine trades are tracked; carpenters, bricklayers, ironworkers, laborers, painters, engineers, plasterers, plumbers, electricians and teamsters. The index is composed of 64 percent labor and 46 percent material and is based upon data from California cities.

***Engineering News-Record/California ~~Construction~~ Building Cost Index - San Francisco and Los Angeles***
5 Month Accumulative Inflation: 4.38 Percent
5 Year Accumulative Inflation: 5.4 Percent

The Engineering News-Record (ENR) obtains their inflation rate for the United States from the M&S as well as the average change for the 95 cities in the United States. The ENR's building cost index tracks monthly three types of material; structural steel, Portland cement, and 2X4 lumber using spot pricing collected from a single source in each city. The average of 20-city wage-fringe labor rates for three trades are tracked; bricklayers, carpenters, and structural iron workers. This index is used by the Department of General Services, Real Estate Services Division and the other State agencies.

The OPSC reviewed the Class B Building indices from January 2004 to May 2004 and there has been a steady rise in the index with an accumulated increase that varies from nearly two percent to just over four percent. These indices reflect a rise in construction costs which may be due to the rise in concrete and steel and light frame construction (see Attachment A). However, this rise does not reflect the increase reported to the SAB and the OPSC.

Although there is an increase in materials and labor as indicated from several indices reviewed, it is not commensurate with the high bids that districts are experiencing. The highest accumulative index, the LSI, is 19.6 percent which would be an average of 3.8 percent increase per year (see Attachment B).

18-MONTH TIME LIMIT ON FUND RELEASE

The 18-month requirement for a fund release was set forth in Senate Bill 50 which was created in August 1998. It was a new requirement as compared to the previous State school building program, the Lease-Purchase Program (LPP). This requirement requires districts to certify that they have a contract ready for construction within 18 months of the apportionment date. The SFP grant is processed for release when the district submits a Form SAB 50-05, *Fund Release Authorization.* When signing this form, the district is certifying that it has entered into a binding contract(s) for at least 50 percent of the construction included in the plans applicable to the State funded project, and has issued the Notice to Proceed for that contract.

During the OPSC interviews with architects, they indicated that the 18-month time requirement to request a fund release is too restrictive and should be extended. It is argued that extending the 18-month requirement will give districts more flexibility in timing bids to minimize the flooding of the market, and to anticipate rising costs in labor and materials. Furthermore, if a bid came in too high or there was a lack of bidders to ensure competitive pricing, the additional time would allow the district to time its bid and avoid bidding during the spring and summer months when school construction demand is at its highest. Also, this additional time would allow the architect to perform value engineering if necessary to evaluate the cost of the project and redesign the project. Although these considerations have merit, the intent of the SFP was to have the district and its architect design and have a project ready to be built as soon as the SAB allocated the funding. The SFP requires that new construction or modernization plans be Division of the State Architect (DSA) approved and all site selection and any site cleanup measures be performed prior to funding to enable districts to bid the project immediately after the SAB apportionment. Therefore, the 18-month timeframe should provide adequate time for a district to bid the SAB approved project.

The vast majority of projects which received new construction and modernization funding from the inception of the SFP have submitted their fund release authorization form to the OPSC as identified by the total number of funds remaining to be released to districts. Since the beginning of the SFP in 1999 through May 2004, the OPSC has released nearly $14.4 billion under the SFP which represents 4,695 new construction and modernization projects. A report ran by the OPSC indicates that the average number of days between the date of SAB apportionment and the submittal date of the

fund release authorization form since 1999 was 101 days for new construction and 163 days for modernization. This represents approximately three to six months which further indicates that the majority of the projects that have been apportioned have contracts in place. In reviewing this data at face value, it could indicate that there is no unusually strong reaction to the large amount of bond funding that has been apportioned by the SAB. The projects appear to be proceeding without undue delay.

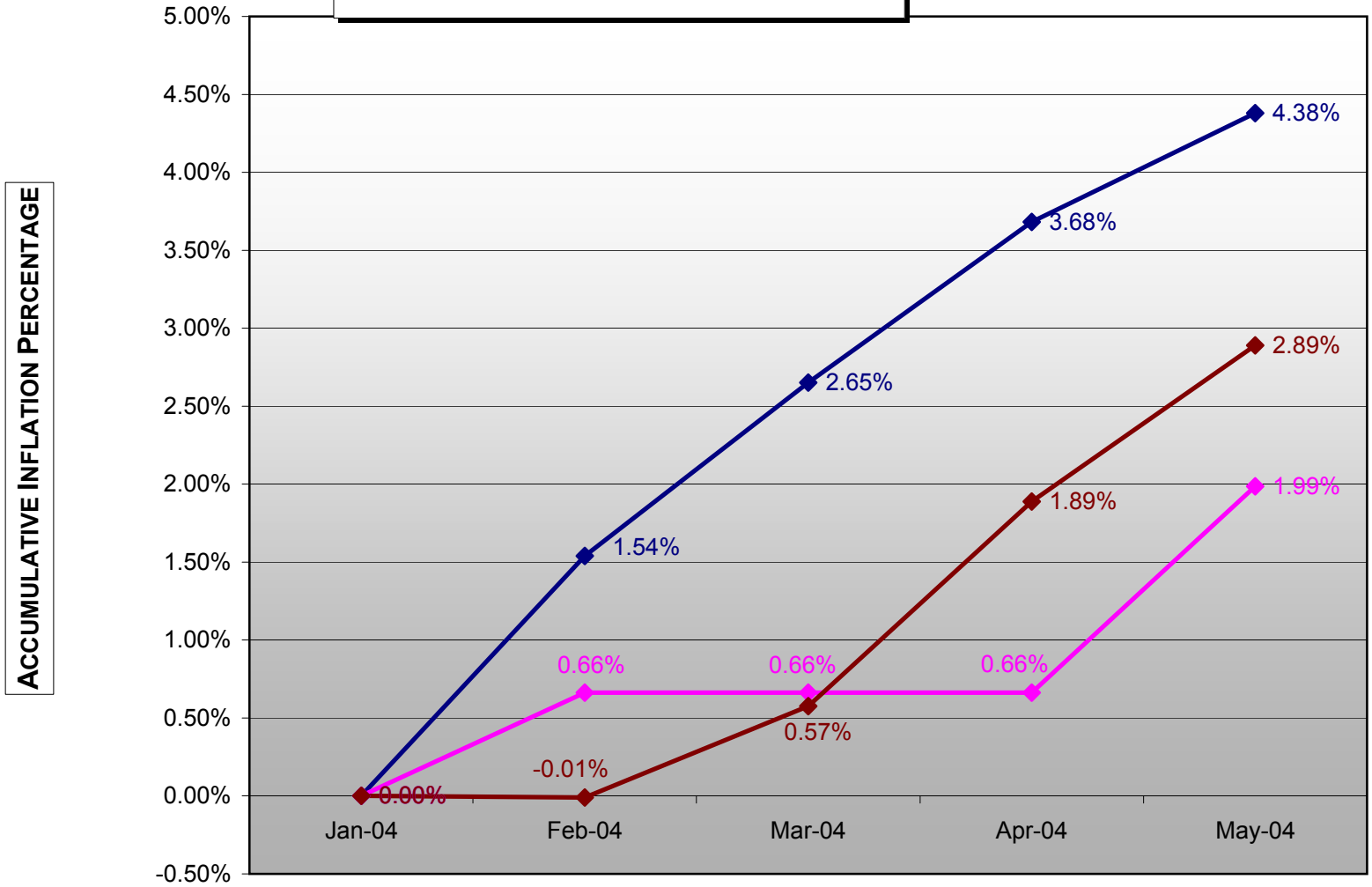
Furthermore, the construction cost index that is in effect at the time the apportionment is made to adjust for inflation becomes ineffective the longer it takes a project to be bid. Extending the 18-month timeline only exacerbates the problem of competitive bidding. Therefore, the OPSC does not recommend a change to the 18-month requirement for fund release. The OPSC believes that the intent of a set timeframe for fund release was to ensure that the construction of schools and the modernization of facilities were realized. In addition, the 18-month timeframe is a fundamental reason for the success of the SFP. Based upon the above reasons, the OPSC does not believe any changes to the 18-month time limit to request funding is necessary.

SFP PER PUPIL BASE GRANT

An examination of the adequacy of the per pupil grant specified in law is beyond the scope of this Report. The original grant amount was developed from information on the apportionments made to 100 projects of various grade levels in the LPP. School district groups are looking into the matter of the adequacy of the per pupil grant. Representatives of the OPSC, SAB and California Department of Education have been invited to participate.

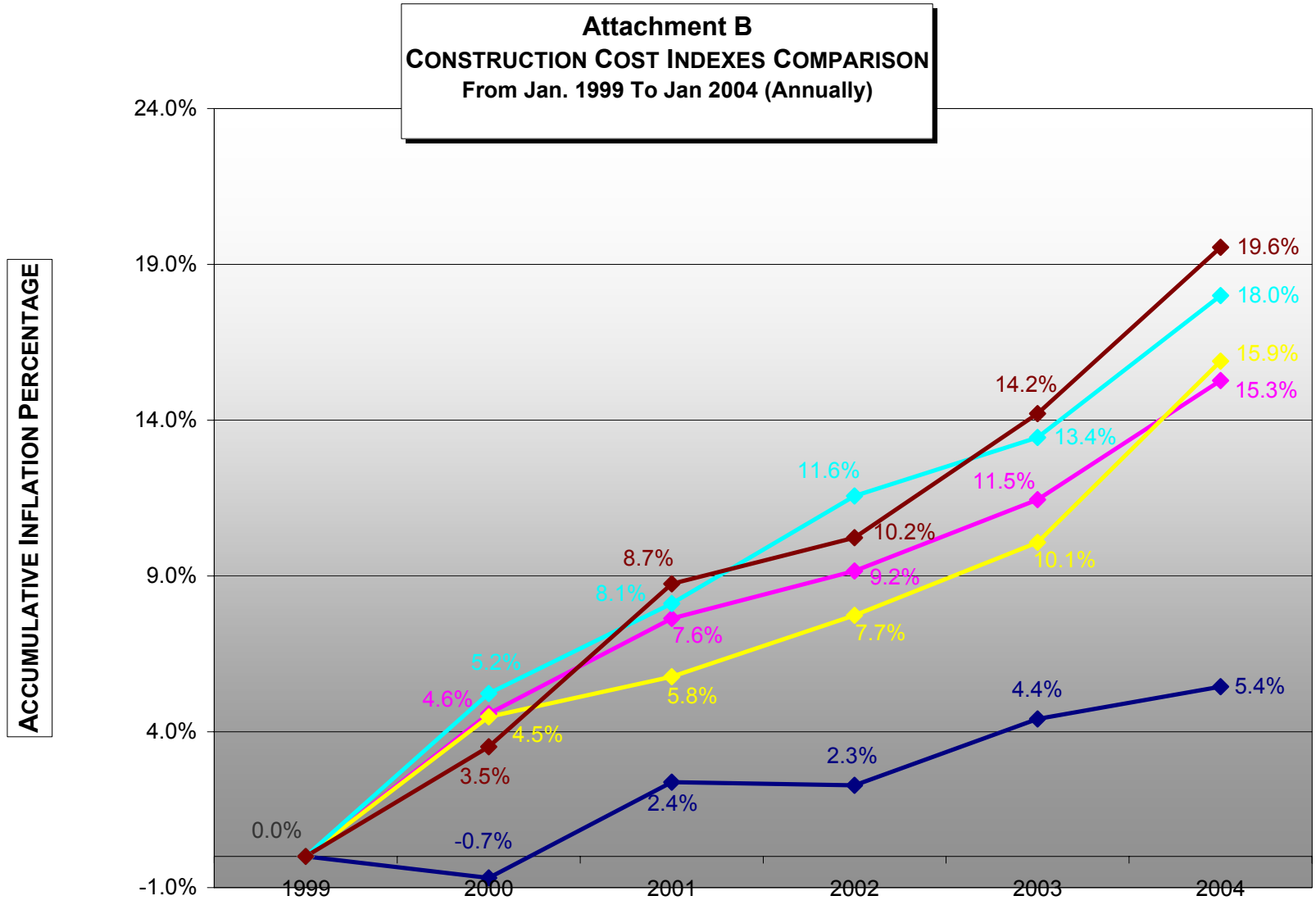
The grant, along with amounts for site development and site acquisition, make up the total funding that may be apportioned to a project. Staff does recommend further review of the funding made available through SAB regulation for the purposes of site development to ensure that all appropriate costs are included.

## Attachment A
## CONSTRUCTION COST INDEXES COMPARISON
### From Jan. 2004 To May 2004




| | Jan-04 | Feb-04 | Mar-04 | Apr-04 | May-04 |
|---|---|---|---|---|---|
| ENR/BCI ACCUM. % S.F. & L.A. | 0.00% | 1.54% | 2.65% | 3.68% | 4.38% |
| M&S ACCUM. % 10 W. STATES CLASS B | 0.00% | 0.66% | 0.66% | 0.66% | 1.99% |
| LSI CI % CALIFORNIA | 0.00% | -0.01% | 0.57% | 1.89% | 2.89% |

Data for "M&S CCI % 8 CAL. CITIES CLASS B" and "M&S CCI % S.F. & L.A. CLASS B" is not available.




| | Jan-99 | Jan-00 | Jan-01 | Jan-02 | Jan-03 | Jan-04 |
|---|---|---|---|---|---|---|
| ENR/BCI % S.F. & L.A. | 0.0% | -0.7% | 2.4% | 2.3% | 4.4% | 5.4% |
| M&S CCI % 10 W. STATES CLASS B | 0.0% | 4.6% | 7.6% | 9.2% | 11.5% | 15.3% |
| M&S CCI % 8 CAL. CITIES CLASS B | 0.0% | 4.5% | 5.8% | 7.7% | 10.1% | 15.9% |
| M&S CCI % S.F. & L.A. CLASS B | 0.0% | 5.2% | 8.1% | 11.6% | 13.4% | 18.0% |
| LSI CI % CALIFORNIA | 0.0% | 3.5% | 8.7% | 10.2% | 14.2% | 19.6% |

# State Allocation Board Implementation Committee
# August 5, 2004

## Dwelling Unit and Student Yield Factor Augmentations

PURPOSE

To continue the discussion regarding the point in time in which dwelling units are no longer eligible to be reported on the *Enrollment Certification/Projection* (Form SAB 50-01). To provide clarifying language pertaining to the dwelling unit and student yield factor augmentations.

The attachments provided are listed below:

- Attachment A – Form SAB 50-01
- Attachment B – Regulatory Clarifications
- Attachment C – Relevant Government Code Sections
- Attachment D – Cohort Survival Method Calculation Analysis

DWELLING UNIT BACKGROUND

From the inception of the School Facility Program (SFP), school districts have been able to augment the five-year projection based on the number of pupils that will reside in dwelling units included in approved and valid tentative and final subdivision maps. The purpose of this augmentation is to allow school districts time to plan for the pupils that will be enrolled in their school district. The augmentation allows school districts to use eligibility today to plan for pupils' needs in the future. Any request to include dwelling units on the Form SAB 50-01 (see Attachment A) requires district certification that the local planning commission or approval authority has approved the tentative and final subdivision maps. This certification also is required to state that the tentative and final subdivision maps used to support the request are available at the district for Office of Public School Construction (OPSC) verification.

The OPSC conducted educational workshops throughout the State to clarify what an approved and valid tentative and final subdivision map is, the necessary supporting documentation for proper reporting and the process of including dwelling units on the Form SAB 50-01. A common theme among districts who attended the workshops was the lack of communication between the planning authority and the school district and how this relationship impacted their ability to track dwelling units accurately and in a timely manner. The OPSC strongly recommended that school districts begin developing a relationship with their planning authority and become involved with the residential development activity within their boundaries. To assist districts in properly reporting their dwelling unit augmentation, OPSC has developed a dwelling unit brochure that addresses the new submittal requirements, as well as, frequently asked questions.

INQUIRIES FROM THE JULY 9, 2004 IMPLEMENTATION COMMITTEE MEETING

*California Basic Educational Data Systems (CBEDS) Enrollment*

At the previous Committee meeting, Committee and audience members brought forth questions and concerns regarding the information Staff presented. One of the questions raised was regarding why the OPSC requires districts to report updated CBEDS enrollment data by November 1st of each year, when the CBEDS are not certified by the California Department of Education (CDE) until some time between January and March of the following year.

Current regulations require districts to report their enrollment data to the OPSC utilizing the same enrollment data that is reported to the CDE on approximately October 15th of each year. Thus, the OPSC requires a school district to report the number of seats filled at the beginning of each enrollment year. If the district prefers to wait until the CBEDS data is certified by the CDE before submitting to the OPSC, then the district can elect to do so. However, if the district submits a funding application prior to the CBEDS data being certified, the district will be required to submit an updated Form SAB 50-01 using the same data reported to CDE on or about the 15th of October. The purpose of collecting this information at the beginning of the enrollment year is to assess the needs of the district. Additionally, the purpose behind changing the reporting date from "*on or about the 15th of October*" to *"on or after November 1st* " is to identify a clear and definite date by which districts are required to report updated enrollment data.

*Dwelling Units Resulting From Infill Projects*

Another comment brought forth by audience members was regarding the inclusion of "infill" projects. Education Code 17071.75 allows school districts to augment the 5-year enrollment projection for pupils that are anticipated as a result of dwelling units proposed pursuant to approved and valid tentative and final subdivision maps. Government Code Section 66426 (see Attachment C) defines a tentative and final subdivision map as containing five or more dwelling units.

The intent behind the dwelling unit augmentation is to account for unusual circumstances when there is reason to believe that enrollment growth resulting from new home construction will result in substantially higher enrollment than the average annual growth experienced in the past four years. As defined above, a single dwelling unit lot or parcel otherwise known as an in-fill project, does not contain 5 or more dwelling units. Therefore, these lots are not permitted to be included with the dwelling unit totals. However, these single lots are in effect taken into account as part of the normal enrollment growth trend and as such, are included in the cohort survival method 5-year enrollment projection.

DWELLING UNIT DISCUSSION

At the previous meeting, Staff presented a list of various stopping point options for reporting dwelling units as follows:

→ The point in time permits are pulled
→ The point in time permits are pulled, plus 6 months
→ The point in time the dwelling unit is occupied.

Staff has taken into account the numerous comments and suggestions made by Committee and audience members at the last meeting and have expanded the list to include two more options:

→ The point in time permits are pulled, plus 12 months
→ The point in time permits are pulled, plus 18 months

Staff recognizes that the date of occupancy is a viable option considering this information should be readily available at the County Recorder's Office. However, Staff has received numerous comments that it is difficult for some districts to collect the occupancy data for many reasons including, but not limited to, time, money and the availability of information. To ensure uniformity across the State, Staff is recommending **permits pulled, plus 12 months** as the stopping point for reporting dwelling units. This approach will address concerns by smaller school districts and will provide the OPSC with a tangible audit trail for the number of reported dwelling units.

STUDENT YIELD FACTOR BACKGROUND

Another aspect of calculating the five year projection involves multiplying the statewide student yield factor by the number of dwelling units to be constructed within the district boundaries. Districts have two student yield factor options; the statewide averages or a district may request a student yield factor above the statewide average if the submitted study justifies a higher yield. The statewide average student yield factors are as follows:

- Elementary School District — 0.5 students per dwelling unit
- High School District — 0.2 students per dwelling unit
- Unified School District — 0.7 students per dwelling unit

When a district submits its own student yield factor report, the OPSC will review these reports on a case-by-case basis. Districts submit studies that often lack details necessary to determine the scope of the study, the source of the data, the period of time, or the type of units considered. The information provided may be inconsistent with other districts' thus creating inequitable projected enrollment comparisons. At the previous Committee meeting, Staff proposed specific language to be added to the *School Facility Program Guidebook* that will clarify the basis of a district's Student Yield Factor Report (see below).

INQUIRIES FROM THE JULY 9, 2004 IMPLEMENTATION COMMITTEE MEETING

*Student Yield Factor Study – From Five to Two Years*

During the meeting a suggestion was made to change the Student Yield Factor study from five years to two years. Staff has reviewed this suggestion as a possible consideration; however, Staff concluded that a two year period is not a sufficient amount of time to determine trends in a District's housing developments. The time frame cited in the Government Code Section 65995.6 of five years represents a reasonable period of time to obtain the relevant historical data.

*Student Yield Factor Study – Number of Studies*

Audience members posed a question specifically related to the number of studies that need to be presented to the OPSC. The study should be based on the actual data from the previous five years consisting of the number of dwelling units located within the district's boundaries. The data involved in the study would be generated by new residential units, as well as the exact number of pupils generated from each new dwelling unit. The student yield factor determined for each type of housing should be combined to complete one study.

*Statewide Student Yield Factor and Cohort Survival Projection Method Study*

A concern was raised by Committee members regarding the accuracy of the statewide average student yield factors, and whether its use results in an inaccurate enrollment projection. The OPSC has recently completed an in-depth study of the cohort survival method (Attachment D), which specifically focuses on the five-year enrollment projection compared to the actual enrollment data. The study used data reported on the Form SAB 50-01 from 5 years ago and compared the 5-year projection then to today's actual enrollment data. The districts used in this study were a combination of small, medium, and large sized districts, as well as districts located in the north, south, and central regions of the State. The results of the study indicate that the statewide average student yield factors provide an accurate projection.

*Cohort Survival Projection Method Study Findings*

In the first grouping of districts titled "NO DU's Reported and CBEDS ONLY" the 5-year projection on average matches the actual enrollment as reported on the Form SAB 50-01. The analysis shows that the projection does not exactly match the actual enrollment for every district each year, but on average, the projection does in fact calculate an enrollment projection very close to the actual number, in fact slightly higher. For those districts with the enrollment greater than the 5-year projection, they have the ability to augment the enrollment by providing dwelling units and a student yield factor study that justifies a yield greater than the statewide average. This report can be submitted to the OPSC and could augment the 5-year enrollment to more accurately project the true enrollment.

The second grouping titled "USING DU's AND STATEWIDE SYF" consists of districts that chose to report dwelling units to be constructed in their district boundaries and also used the statewide student yield factors. Districts in this category, on average, projected an even higher enrollment than what was actually reported by an average of 3.1 percent. These districts can also augment the enrollment by providing a student yield factor study that justifies a yield greater than the statewide average, where warranted, to better represent the actual enrollment. Additionally, some of the variances among districts in the study can be attributed to the number of dwelling units being reported.

When a school district reports both dwelling units and a higher student yield factor than the statewide average, as is the case in the third grouping, the 5-year enrollment projection is again higher than the actual enrollment. In this grouping, the majority of the districts reported a higher student yield factor which projected an increase of 6.3 percent in enrollment, on average, compared to what was actually reported 5 years later.

Based on this data, the OPSC believes the cohort survival method does in fact provide a fair and accurate projection that does enable a school district to properly plan for growth in their district. Furthermore, the statewide average student yield factors used as part of the cohort survival method appears to mirror the true enrollment growth as represented in the first grouping. Therefore, the evidence does not suggest that a change in policy is necessary at this time.

STUDENT YIELD FACTOR DISCUSSION

When requesting a higher student yield factor, districts should report the student yield factor determined utilizing the following methodology:

> "…project the number of un-housed elementary, middle, and high school pupils generated by new residential units, in each category of pupils enrolled in the district. This projection of un-housed pupils shall be based on the historical student generation rates of new residential units constructed during the previous five years that are of a similar type of unit to those anticipated to be constructed … in which the school district is located..."

If all districts use the same methodology to calculate the higher yield factor, then the resulting enrollment projections would be more equitable from district to district. The SFP guidebook will be updated to include this clarification language.

# ENROLLMENT CERTIFICATION/PROJECTION

SCHOOL FACILITY PROGRAM

SAB 50-01 (REV ~~01/03~~08/04)



## GENERAL INFORMATION

To determine a district's initial eligibility for new construction funding under the School Facility Program, the district must provide enrollment information for the current and previous three years on this form. After the initial submittal, this form need only be resubmitted when the district requests additional new construction funding in a new enrollment year or as a result of a reorganization election that affects either the district's enrollment or existing school building capacity.

The following documentation must be submitted with this form (as appropriate):

- Specific enrollment data for district's with current enrollment that is less than 300 if the district is requesting an enrollment projection based on five-year average enrollment data (refer to Part A).
- A copy of the study supporting student yield factors if the district is requesting an augmentation of it's enrollment projection due to pupils residing in new dwelling units and it is not using the State yield factors (refer to Part F).

A high school district, unified school district, or county superintendent of schools may file on a high school attendance area (HSAA) basis or Super HSAAs as provided under Education Code Section 17071.76 and Section 1859.41. In that case, the enrollment used on this form is the current and three previous years enrollment in the HSAA or Super HSAA.

This form is not used for modernization funding applications.

**PART A. ENROLLMENT DATA**—(to be completed by school districts or the county superintendent of schools)

The information needed to complete this form is based on the latest California Basic Education Data Systems ~~(CBEDS)~~ that is available approximately October 15th of each year. Applications filed on or after November 1st must include the current school year enrollment. Report the current year and the three prior years K–12 enrollment. High school districts report the unduplicated enrollment data for grades served by the district and all feeder elementary school grades for the current year and the previous three years.

As an option, school districts with less than 300 current enrollment may report the previous five year average for any grade level for any year when the enrollment for that grade level has decreased by more than 50 percent from the previous year. If this option is used, the district must identify each grade level where this option is used on Form SAB 50-01 and attach the appropriate enrollment documentation to support this request.

County superintendents report the enrollment for community school students as reported in April prior to the latest CBEDS report.

The enrollment data must include all off-track and on-track students attending multi-track year round schools, students living outside the district's boundaries but attending schools in the district, students receiving Classroom-Based Instruction in Charter Schools located within the district boundaries and are enrolled in the same grade levels or type served by the district regardless if the district chartered the school, students attending magnet schools, community school students, and students attending independent study.

Do not include students living in the district's boundaries but attending other districts, students attending regional occupational programs, students attending preschool programs, other students not generally considered K–12 students including adult education students, students receiving Classroom-Based Instruction in Charter Schools located within the district boundaries but are enrolled in grade levels or type not served by the district, students living inside district boundaries but are receiving Classroom-Based Instruction in Charter Schools located outside the district boundaries, students receiving Nonclassroom-Based Instruction, juvenile court/court school students, special day class pupils, or continuation high school pupils.

**PART B. PUPILS ATTENDING SCHOOLS CHARTERED BY ANOTHER DISTRICT**

Of the data reported in Part A of this form, indicate the aggregate pupil enrollment attending schools chartered by another district which are located within your district boundaries for the current year and the three prior years. If the district is reporting pupils attending schools chartered by another district for the current year, then the district must submit a separate letter with the following information:

- The total Charter School enrollment listed by each of the K–12 grade levels reported for the current year.
- A list of the other school district(s) that chartered school(s) within your boundaries. Include the Charter School name(s) and total school enrollment.

For the previous years, report the total enrollment for pupils attending schools chartered by another district, if known. If the information is not available, enter N/A. In this case, the OPSC will adjust the previous years' enrollment data based on a prorated basis of the rate of growth or decline of the previous years' enrollment.

Enter 0 if there are no pupils attending schools chartered by another district within your district boundaries for the current or previous years.

**PART C. CONTINUATION HIGH SCHOOL**—(to be completed by school districts only)

Report the continuation high school enrollment for the current year and the three previous years. For purposes of projecting the enrollment, these pupils will be added to the enrollment data in Part A.

**PART D. SPECIAL DAY CLASS PUPILS**—(to be completed by school districts or the county superintendent of schools)

Report the pupils attending the special day classes as shown and reported to the California Department of Education in December prior to the latest CBEDS report. Use pupil descriptions as provided in Section 1859.2 for Non-Severely Disabled Individual with Exceptional Needs and Severely Disabled Individual with Exceptional Needs.

**PART E. SPECIAL DAY CLASS ENROLLMENT**—(to be completed by county superintendent of schools only)

Report the total of special day class pupils in all categories for the three previous years.

DRAFT

**PART F. NEW DWELLING UNITS**—(to be completed by school districts only)

The district may augment the enrollment projection based on the number of pupils that ~~will reside in dwelling units included in an approved subdivision map or valid tentative subdivision map. The district must certify as part of this form that the local planning commission or approval authority has approved the tentative subdivision map that is currently valid (i.e., the approval from the planning commission or approval authority has not expired) and the district has identified the dwelling units in that subdivision map to be constructed. All proposed dwelling units in that subdivision may be used to augment the district's enrollment projection. Report those dwelling units in Part E. Any request for augmentation of the district's enrollment projection must be made by separate letter from the district with this form. The district must certify as part of this form that the approved or valid tentative subdivision map(s) used to support this request are available at the district for OPSC verification.~~are anticipated as a result of proposed dwelling units included in approved and valid tentative or final subdivision maps. The district must provide the approval dates of the maps by the local planning commission or approval authority; the number of dwelling units to be built in the subdivision (the number of dwelling units approved less any permits pulled for construction within each subdivision); and one of the following:

- An approved and valid tentative or final subdivision map with the local planning commission or approval authority stamp located on the map, or
- An approved and valid tentative or final subdivision map with supporting documentation, or
- A spreadsheet or the OPSC dwelling unit worksheet ~~listing all of the subdivisions~~ reported on the Form SAB 50-01 with supporting documentation. If the district wishes to utilize this option, please note that when the district representative signs the Form SAB 50-01, he/she is certifying that the tract maps are on file at the district office and available for OPSC review if requested.

Supporting documentation is defined as one of the following:

- Local planning commission or approval authority meeting minutes detailing the approval of the map. If the approval was given an extension, please provide the most current meeting minutes indicating the approval of the extension request. Dwelling units contained in expired maps may not be reported on the Form SAB 50-01, or
- A letter from the local planning commission or approval authority indicating that the tract map is approved and valid as of the signature date of the Form SAB 50-01, or
- Any other reasonable documentation from the local planning commission or approval authority that indicates the tract map is approved and currently valid.

Report the determined number of dwelling units in Part F.

**PART G. YIELD FACTOR**—(to be completed by school districts only)

Report the district's student yield factors as defined in Section 1859.2, if different than the statewide average student yield factor. The statewide average student yield factors are as follows:

- Elementary School District..... 0.5 students per dwelling unit
- High School District..... 0.2 students per dwelling unit
- Unified School District..... 0.7 students per dwelling unit

Should the district wish to use its own student yield factors, a copy of the district's study that justifies the student yield factors must be submitted with this form.

**PART H. FIVE YEAR PROJECTED ENROLLMENT**—Used for School Facility Program. To be completed by the Office of Public School Construction (OPSC).

**PART I. ONE YEAR PROJECTED ENROLLMENT**—Used for State Relocatable Program. To be completed by the OPSC. Do not manually complete Parts H or I.

Complete this form manually, sign, date, and submit to the OPSC for computations. A completed copy of this form with the enrollment projections will be returned to the district.

The methodology for calculating the district's projected enrollment is outlined in Sections 1859.42 and 1859.43.

DRAFT

# ENROLLMENT CERTIFICATION/PROJECTION

SCHOOL FACILITY PROGRAM

SAB 50-01 (REV ~~01/03~~08/04)



| SCHOOL DISTRICT | FIVE DIGIT DISTRICT CODE NUMBER (SEE CALIFORNIA PUBLIC SCHOOL DIRECTORY) |
|---|---|
| COUNTY | HIGH SCHOOL ATTENDANCE AREA (HSAA) OR SUPER HSAA (IF APPLICABLE) |

**PART A. ENROLLMENT DATA**—(Districts or County Superintendent of Schools)

| Grade | 3rd Previous | 2nd Previous | Previous | Current |
|---|---|---|---|---|
| | / | / | / | / |
| K | | | | |
| 1 | | | | |
| 2 | | | | |
| 3 | | | | |
| 4 | | | | |
| 5 | | | | |
| 6 | | | | |
| 7 | | | | |
| 8 | | | | |
| 9 | | | | |
| 10 | | | | |
| 11 | | | | |
| 12 | | | | |
| Total | | | | |

**PART B. PUPILS ATTENDING SCHOOLS CHARTERED BY ANOTHER DISTRICT**

| 3rd Previous | 2nd Previous | Previous | Current |
|---|---|---|---|
| | | | |

**PART C. CONTINUATION HIGH SCHOOL**—(Districts only)

| Grade | 3rd Previous | 2nd Previous | Previous | Current |
|---|---|---|---|---|
| | / | / | / | / |
| 9 | | | | |
| 10 | | | | |
| 11 | | | | |
| 12 | | | | |

**PART D. SPECIAL DAY CLASS PUPILS**—(Districts or County Superintendent of Schools)

| | Elementary | | Secondary | | | Elementary | | Secondary | |
|---|---|---|---|---|---|---|---|---|---|
| | Non-Severe | Severe | Non-Severe | Severe | | Non-Severe | Severe | Non-Severe | Severe |
| MR | | | | | OI | | | | |
| HH | | | | | OHI | | | | |
| DEAF | | | | | SLD | | | | |
| HI | | | | | DB | | | | |
| SLI | | | | | MH | | | | |
| VI | | | | | AUT | | | | |
| SED | | | | | TBI | | | | |
| | | | | | TOTAL | | | | |

**PART E. SPECIAL DAY CLASS ENROLLMENT**—(County Superintendent of Schools only)

| 3rd Previous | 2nd Previous | Previous |
|---|---|---|
| | | |

**PART F. NUMBER OF NEW DWELLING UNITS**

**PART G. DISTRICT STUDENT YIELD FACTOR**

**PART H. FIVE YEAR PROJECTED ENROLLMENT—School Facility Program Projections**
(Except Special Day Class pupils only)

| K–6 | 7–8 | 9–12 | Total |
|---|---|---|---|
| | | | |

**Projections—Special Day Class Pupils Only**

| | Elementary | | Secondary | | | Elementary | | Secondary | |
|---|---|---|---|---|---|---|---|---|---|
| | Non-Severe | Severe | Non-Severe | Severe | | Non-Severe | Severe | Non-Severe | Severe |
| MR | | | | | OI | | | | |
| HH | | | | | OHI | | | | |
| DEAF | | | | | SLD | | | | |
| HI | | | | | DB | | | | |
| SLI | | | | | MH | | | | |
| VI | | | | | AUT | | | | |
| SED | | | | | TBI | | | | |
| | | | | | TOTAL | | | | |

**PART I. ONE YEAR PROJECTED ENROLLMENT—State Relocatable Program Projections**
(Except Special Day Class pupils only)

| K–6 | 7–8 | 9–12 | Total |
|---|---|---|---|
| | | | |

**Projections—Special Day Class Pupils Only**

| | Elementary | | Secondary | | | Elementary | | Secondary | |
|---|---|---|---|---|---|---|---|---|---|
| | Non-Severe | Severe | Non-Severe | Severe | | Non-Severe | Severe | Non-Severe | Severe |
| MR | | | | | OI | | | | |
| HH | | | | | OHI | | | | |
| DEAF | | | | | SLD | | | | |
| HI | | | | | DB | | | | |
| SLI | | | | | MH | | | | |
| VI | | | | | AUT | | | | |
| SED | | | | | TBI | | | | |
| | | | | | TOTAL | | | | |

*I certify, as the District Representative, that the information reported on this form is true and correct and that:*

- *I am designated as an authorized district representative by the governing board of the district.*
- *If the district is requesting an augmentation in the enrollment projection pursuant to Section 1859.42 (b), the local planning commission or approval authority has approved the tentative subdivision map used for augmentation of the enrollment and the district has identified dwelling units in that map to be contracted. All subdivision maps used for augmentation of enrollment are available at the district for review by the OPSC.*
- *This form is an exact duplicate (verbatim) of the form provided by Office of Public School Construction. In the event a conflict should exist, then the language in the OPSC form will prevail.*

| SIGBATURE OF DISTRICT REPRESENTATIVE | DATE |
|---|---|
| | |

# ATTACHMENT B

Article 5. Enrollment Projections

Section 1859.42. Projecting Non-Special Day Class Enrollment.

The district enrollment, as reported on the Form SAB 50-01, shall be used to calculate the district's projected enrollment other than Special Day Class enrollment. The OPSC shall use the following methodology to determine the districts projected enrollment:

(a) All projected enrollment with the exception of Special Day Class enrollment shall be calculated pursuant to the cohort survival enrollment projection system which is described as follows:

(1) For all grades, determine the numerical change in enrollment between the current grade and the next lower grade in the previous year; determine the numerical change in enrollment between the previous year grade and the next lower grade in the second previous year; determine the numerical change in enrollment between the second previous year grade and the next lower grade in the third previous year. Determine the numerical change of kindergarten enrollment on the second previous and third previous year respectively.

(2) Compute the annual change in enrollment as explained in (1) for each grade. The annual change shall then be weighted by multiplying the most recent annual change in enrollment by three, the next most recent annual change by two, and the earliest annual change by one, and dividing the sum of the annual weighted changes for each grade by six. The result shall be the average annual change.

(3) Progress the latest reported enrollment through the five-year projection period, modifying the grade progression each year by the average annual change for each grade as computed in (2).

(b) The enrollment projection will be augmented based on the number of pupils as reported by the district on Form SAB 50-01, that will reside in dwelling units included in an approved ~~subdivision map or~~ <u>and</u> valid tentative <u>or final</u> subdivision map that exceed the number of pupils projected as a result of the cohort survival method for that <u>tentative or final</u> subdivision map. The augmentation shall be as follows:

(1) Progress the current enrollment as reported on Form SAB 50-01, for one year for each grade level. For kindergarten, the progressed current enrollment shall be the same as the reported current enrollment.

(2) Subtract the current enrollment progressed one year for each grade level from the one-year projection of enrollment for each grade level as determined in (a). If the computation results in a negative number, the number shall be deemed zero.

(3) Divide the current enrollment progressed one year for each grade level by the sum of the current enrollment progressed one year in all grade levels.

(4) Multiply the number of housing units in the <u>approved and valid tentative or final</u> subdivision <u>maps</u> by the pupil yield factor provided on the Form SAB 50-01.

(5) Multiply the number of pupils determined in (4) by the percentages determined in (3) for each grade.

(6) Subtract five times the value determined in (2) from the value determined in (5). If the computation results in a negative number, the number shall be deemed zero.

(7) Add the value in (6) to the fifth year of projected enrollment as computed in (a) to establish the augmented projection of enrollment.

(c) The projected enrollment of a HSAA or Super HSAA shall be computed in the same manner as that set forth in this section, except that the enrollment used in such computation shall be that of the HSAA or Super HSAA rather than the entire district. Augmentation as provided in (b) of this Section may include only dwelling units located in the HSAA or Super HSAA.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17071.75 and 17071.76, Education Code.

# ATTACHMENT C

## RELEVANT GOVERNMENT CODE SECTIONS

### Student Yield Factor Reporting

### Government Code Section 65995.6

**65995.6**. (a) The school facilities needs analysis required by paragraph (2) of subdivision (b) of Section 65995.5 shall be conducted by the governing board of a school district to determine the need for new school facilities for unhoused pupils that are attributable to projected enrollment growth from the development of new residential units over the next five years. The school facilities needs analysis shall project the number of unhoused elementary, middle, and high school pupils generated by new residential units, in each category of pupils enrolled in the district. This projection of unhoused pupils shall be based on the historical student generation rates of new residential units constructed during the previous five years that are of a similar type of unit to those anticipated to be constructed either in the school district or the city or county in which the school district is located, and relevant planning agency information, such as multiphased development projects, that may modify the historical figures. For purposes of this paragraph, "type" means a single family detached, single family attached, or multifamily unit. The existing school building capacity shall be calculated pursuant to Article 2 (commencing with Section 17071.10) of Chapter 12.5 of Part 10 of the Education Code. The existing school building capacity shall be recalculated by the school district as part of any revision of the needs analysis pursuant to subdivision (e) of this section. If a district meets the requirements of paragraph (3) of subdivision (b) of Section 65995.5 by having a substantial enrollment on a multitrack year-round schedule, the determination of whether the district has school building capacity area shall reflect the additional capacity created by the multitrack year-round schedule.
(b) When determining the funds necessary to meet its facility needs, the governing board shall do each of the following:

(1) Identify and consider any surplus property owned by the district that can be used as a schoolsite or that is available for sale to finance school facilities.
(2) Identify and consider the extent to which projected enrollment growth may be accommodated by excess capacity in existing facilities.
(3) Identify and consider local sources other than fees, charges, dedications, or other requirements imposed on residential construction available to finance the construction or reconstruction of school facilities needed to accommodate any growth in enrollment attributable to the construction of new residential units.

(c) The governing board shall adopt the school facility needs analysis by resolution at a public hearing. The school facilities needs analysis may not be adopted until the school facilities needs analysis in its final form has been made available to the public for a period of not less than 30 days during which time the school facilities needs analysis shall be provided to the local agency responsible for land use planning for its review and comment. Prior to the adoption of the school facilities needs analysis, the public shall have the opportunity to review and comment on the school facilities needs analysis and the governing board shall respond to written comments it receives regarding the school facilities needs analysis.
(d) Notice of the time and place of the hearing, including the location and procedure for viewing or requesting a copy of the proposed school facilities needs analysis and any proposed revision of the school facilities needs analysis, shall be published in at least one newspaper of general circulation within the jurisdiction of the school district that is conducting the hearing no less than 30 days prior to the hearing. If there is no paper of general circulation, the notice shall be posted in at least three conspicuous public places within the jurisdiction of the school district not less than 30 days prior to the hearing. In addition to these notice requirements, the governing board shall mail a copy of the school facilities needs analysis and any proposed revision to the school facilities needs analysis not less than 30 days prior to the hearing to any person who has made a written request if the written request was made 45 days prior to the hearing. The governing board may charge a fee reasonably related to the cost of providing these materials to those persons who request the school facilities needs analysis or revision.
(e) The school facilities needs analysis may be revised at any time in the same manner, and the revision is subject to the same conditions and requirements, applicable to the adoption of the school facilities needs analysis.

(f) A fee, charge, dedication, or other requirement in an amount authorized by this section or Section 65995.7, shall be adopted by a resolution of the governing board as part of the adoption or revision of the school facilities needs analysis and may not be effective for more than one year. Notwithstanding subdivision (a) of Section 17621 of the Education Code, or any other provision of law, the fee, charge, dedication, or other requirement authorized by the resolution shall take effect immediately after the adoption of the resolution.
(g) Division 13 (commencing with Section 21000) of the Public Resources Code may not apply to the preparation, adoption, or update of the school facilities needs analysis, or adoption of the resolution specified in this section.
(h) Notice and hearing requirements other than those provided in this section may not be applicable to the adoption or revision of a school facilities needs analysis or the resolutions adopted pursuant to this section.

## Tentative and Final Subdivision Maps

## Government Code Section 66425-66426

66425. The necessity for tentative, final and parcel maps shall be governed by the provisions of this chapter.

**66426**. A tentative and final map shall be required for all subdivisions creating five or more parcels, five or more condominiums as defined in Section 783 of the Civil **Code**, a community apartment project containing five or more parcels, or for the conversion of a dwelling to a stock cooperative containing five or more dwelling units, except where any one of the following occurs:
(a) The land before division contains less than five acres, each parcel created by the division abuts upon a maintained public street or highway, and no dedications or improvements are required by the legislative body.
(b) Each parcel created by the division has a gross area of 20 acres or more and has an approved access to a maintained public street or highway.
(c) The land consists of a parcel or parcels of land having approved access to a public street or highway, which comprises part of a tract of land zoned for industrial or commercial development, and which has the approval of the governing body as to street alignments and widths.
(d) Each parcel created by the division has a gross area of not less than 40 acres or is not less than a quarter of a quarter section.
(e) The land being subdivided is solely for the creation of an environmental subdivision pursuant to Section 66418.2.
(f) A parcel map shall be required for those subdivisions described in subdivisions (a), (b), (c), (d), and (e).

| SUMMARY OF COHORT SURVIVAL CALCULATION ANALYSIS | | Small | Medium | Large | North | Central | South | Projection for 03/04 (Zero DUs) | Percent Difference | Projection for 03/04 (DUs & SYF) | Percent Difference | Actual Enroll. for 03/04 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| N0 DU's Reported - CBEDS ONLY | District A | | | X | | | X | 18,875 | -4.8% | 18,875 | -4.8% | 19,827 |
| | District B | | | X | | | X | 23,417 | 6.7% | 23,417 | 6.7% | 21,948 |
| | District C | | | X | | | X | 17,114 | 7.9% | 17,114 | 7.9% | 15,866 |
| | District D | X | | | | X | | 4,003 | -6.7% | 4,003 | -6.7% | 4,292 |
| | District E | X | | | | | X | 254 | 30.3% | 254 | 30.3% | 195 |
| | District F | | X | | | | X | 7,216 | -1.6% | 7,216 | -1.6% | 7,333 |
| | District G | | | X | X | | | 55,643 | -2.7% | 55,643 | -2.7% | 57,197 |
| | District H | X | | | X | | | 4,425 | 1.9% | 4,425 | 1.9% | 4,342 |
| | District I | | X | | | X | | 8,472 | -6.6% | 8,472 | -6.6% | 9,071 |
| | District M | X | | | | X | | 265 | 16.2% | 265 | 16.2% | 228 |
| | District N | X | | | X | | | 1,937 | 3.2% | 1,937 | 3.2% | 1,877 |
| | District O | | X | | | | X | 9,548 | 4.0% | 9,548 | 4.0% | 9,184 |
| | District P | X | | | | | X | 5,154 | -1.5% | 5,154 | -1.5% | 5,235 |
| | District Q | X | | | X | | | 4,665 | -3.0% | 4,665 | -3.0% | 4,807 |
| | District R | | X | | | | X | 7,620 | 6.1% | 7,620 | 6.1% | 7,181 |
| | District S | | | X | | | X | 42,702 | 1.6% | 42,702 | 1.6% | 42,039 |
| | District T | | | X | | | X | 17,322 | 6.1% | 17,322 | 6.1% | 16,330 |
| | District U | X | | | | X | | 510 | -18.0% | 510 | -18.0% | 622 |
| | District V | | X | | | | X | 11,748 | 14.4% | 11,748 | 14.4% | 10,268 |
| | | | | | | | | 12,678 | 1.3% | 12,678 | 1.3% | 12,518 |
| USING DU's and STATEWIDE SYF | District W | X | | | X | | | 5,644 | -5.1% | 6,722 | 13.0% | 5,949 |
| | District X | X | | | | X | | 2,410 | -15.9% | 2,687 | -6.2% | 2,864 |
| | District Y | | | X | | X | | 32,953 | -4.7% | 35,017 | 1.2% | 34,588 |
| | District Z | | X | | X | | | 4,959 | -29.2% | 6,706 | -4.3% | 7,008 |
| | District AA | X | | | X | | | 4,072 | -16.4% | 6,880 | 41.3% | 4,870 |
| | District BB | X | | | X | | | 1,135 | 20.2% | 1,166 | 23.5% | 944 |
| | District CC | | X | | | X | | 13,529 | 3.3% | 13,639 | 4.1% | 13,098 |
| | District DD | X | | | | | X | 831 | -46.7% | 973 | -37.5% | 1,558 |
| | District EE | | X | | | | X | 7,011 | -3.6% | 7,016 | -3.5% | 7,273 |
| | District FF | X | | | | X | | 2,460 | 13.5% | 2,467 | 13.8% | 2,168 |
| | District GG | | | X | | | X | 12,605 | -19.4% | 13,670 | -12.6% | 15,640 |
| | District HH | X | | | | X | | 3,354 | 3.1% | 3,625 | 11.4% | 3,253 |
| | District II | | | X | | X | | 20,319 | 3.2% | 21,176 | 7.6% | 19,689 |
| | District JJ | | | X | | | X | 27,767 | 11.4% | 28,851 | 15.7% | 24,934 |
| | District KK | | | X | | | X | 19,669 | -4.4% | 20,093 | -2.4% | 20,584 |
| | District LL | | X | | X | | | 7,909 | -14.5% | 8,070 | -12.7% | 9,246 |
| | District MM | | X | | | | X | 5,282 | -27.4% | 5,360 | -26.3% | 7,273 |
| | District NN | | | X | | | X | 12,948 | -14.2% | 19,001 | 25.9% | 15,090 |
| | District OO | | X | | | X | | 5,842 | -3.9% | 6,048 | -0.6% | 6,082 |
| | District PP | | X | | | X | | 5,762 | -25.4% | 6,772 | -12.3% | 7,720 |
| | District QQ | | X | | | X | | 7,707 | -14.0% | 8,230 | -8.1% | 8,959 |
| | District RR | X | | | X | | | 4,309 | -8.0% | 4,392 | -6.3% | 4,685 |
| | District BBB | X | | | | | X | 3,637 | -27.4% | 5,999 | 19.7% | 5,013 |
| | District CCC | | | X | | | X | 27,378 | 2.7% | 28,584 | 7.2% | 26,662 |
| | District DDD | | | X | | | X | 24,092 | -3.4% | 24,761 | -0.8% | 24,951 |
| | District EEE | | X | | X | | | 6,390 | -27.6% | 9,886 | 12.0% | 8,830 |
| | | | | | | | | 10,384 | -6.6% | 11,454 | 3.1% | 11,113 |
| DU's and DISTRICT SYF | District SS | | | X | | | X | 37,554 | -9.3% | 38,945 | -5.9% | 41,382 |
| | District TT | | X | | | | X | 7,302 | -6.6% | 10,195 | 30.5% | 7,814 |
| | District UU | | | X | | | X | 35,162 | 1.1% | 35,709 | 2.6% | 34,792 |
| | District VV | | X | | | X | | 9,560 | 4.5% | 10,139 | 10.8% | 9,148 |
| | District WW | | X | | | | X | 6,512 | -2.4% | 7,391 | 10.8% | 6,672 |
| | District XX | X | | | | X | | 3,360 | -23.8% | 4,071 | -7.6% | 4,407 |
| | District YY | | | X | | | X | 34,801 | 6.5% | 36,406 | 11.4% | 32,679 |
| | District ZZ | | | X | X | | | 21,445 | -2.5% | 26,452 | 20.3% | 21,988 |
| | District AAA | | X | | | | X | 12,005 | -4.6% | 12,934 | 2.7% | 12,590 |
| | | | | | | | | 18,633 | -2.2% | 20,249 | 6.3% | 19,052 |
| | | 18 | 18 | 18 | 12 | 15 | 27 | | | | | |

| | |
|---|---|
| **TOTAL DISTRICTS:** | **54** |
| **Small** (0-6,000 pupils) | **18** |
| **Medium** (6,001-15,000 | **18** |
| **Large** (15,001+ pupils) | **18** |
| **North** (north of Stanislaus) | **12** |
| **Central** | **15** |
| **South** (south of Kern) | **27** |

**For "Percent Difference":**

~ Positive percentage = the projection > enrollment. (the 50-01 is over-projecting)

~ Negative percentage = the projection < enrollment. (the 50-01 is under-projecting)

| | Projection for 03/04 | Percent Difference | Actual Enroll. for 03/04 |
|---|---|---|---|
| **Small:** | 3,344 | 5.0% | 3,184 |
| **Medium:** | 9,436 | 9.8% | 8,597 |
| **Large:** | 27,985 | 3.3% | 27,101 |
| **North:** | 11,302 | 2.9% | 10,979 |
| **Central:** | 8,475 | 0.7% | 8,413 |
| **South:** | 16,921 | 3.8% | 16,308 |

## Overall conclusion:

Using data from 54 school districts throughout the State encompassing Northern, Central and Southern regions and from districts ranging in size from 200 to 55,000 pupils, the OPSC compared information provided on the Form SAB 50-01 and the actual enrollment. The statewide average 5-year enrollment projection using zero dwelling units and the statewide student yield factor was 13,898 pupils. The average actual statewide enrollment at the end of the 5 year period culminating in the 03/04 school year was 14,228 - a net **difference of -2.314%.** (Actual enrollment was higher than the projection by an average of 330 pupils.)

Using the dwelling units and student yield factor figures reported on the Form SAB 50-01 application and using the same set of sample districts, the statewide average 5-year enrollment projection was 14,794. Comparing the actual enrollment at the end of the 5 year period resulted in a net **difference of +3.978%**. (The enrollment projection over-predicted what the actual enrollment would be when factored with dwelling units.) These figures provide evidence that the cohort survival method does an accurate job of estimating the 5-year enrollment projection.

| | Projection for 03/04 (Zero DUs) | Percent Difference | Projection for 03/04 DU's & SYF) | Percent Difference | Actual Enroll. for 03/04 |
|---|---|---|---|---|---|
| **Statewide average ~** | 13,898 | -2.314% | 14,794 | 3.978% | 14,228 |

STATE ALLOCATION BOARD
IMPLEMENTATION COMMITTEE
August 5, 2004

# PURCHASE AND CONVERSION OF NON-CONFORMING BUILDINGS FOR SCHOOL USE

## PURPOSE

To seek input from districts and design professionals regarding the costs of purchasing and retrofitting non-conforming buildings for school use; and to discuss possible funding options within the provisions of the School Facility Program (SFP).

## BACKGROUND

The OPSC has been asked to look into the feasibility of funding for projects involving purchase and retrofit of existing buildings. Although the Education Code provides for such projects, districts claim that, while site acquisition funding applies to the cost of the land only, the base grant amount is insufficient to pay for the purchase and retrofit of the building(s). Districts also contend that retrofitting a non-conforming building may be a more cost-effective approach as compared to the traditional method of purchasing, demolishing and building a-new. The OPSC is seeking input on the issue and any possible real-life examples that may support districts' concern.

## AUTHORITY

The Education Code Section (ECS) 17072.35 states that "a grant for new construction may also be used to acquire an existing government or privately owned building, or a privately financed school building, and for the necessary costs of converting the government or privately owned building for public school use."

## DISCUSSION

### *Eligibility for Retrofit Costs*

The above excerpt from the Education Code provides for funding of retrofit costs for government or privately owned buildings only. Privately financed school buildings that are already in compliance with the Field Act (i.e., developer built schools, etc.) are not eligible for additional retrofit costs under the authority supporting this proposal. In order to qualify for a definition of a "school building," the structure must be already in compliance with Title 24 of the California Code of Regulations. For purposes of the following discussion, the options presented apply to government or privately owned buildings only.

### *Insufficient Number of Projects*

Based on our knowledge, there are only two examples of completed conversion projects that include the purchase of the existing school by Bakersfield City Elementary School District and a conversion of a commercial building into a school by Pomona Unified School District. The OPSC has been approached by only a few districts that have contemplated conversion projects; this is not a rampant issue. In the absence of real-life examples, the OPSC is looking for information from districts on what are the circumstances that would prompt a school district to consider retrofitting a building in lieu of demolishing it.

*Cost of a Conversion Project*

The new construction grant for a project is determined by the number of pupils to be housed in a project and available pupil grants in the district's new construction eligibility. The new construction base grant pays the soft and hard costs of new buildings while site development and property acquisition costs are provided for with additional allowances. For a conversion project, in which a purchased building is retained for school use rather than demolished, the new construction base grant applies to the cost of the building as well as the required retrofit. The funding amount determined by the eligible pupil grants may be insufficient to fund the purchase and retrofit of existing buildings. The options below provide for some possible solutions.

Option 1: Supplemental Grant

Provide a mechanism for recognizing the cost savings of the conversion project. This may be done by performing a cost-benefit analysis comparing the costs of purchasing and retrofitting versus the costs of demolition and rebuilding. Once the cost deferential is determined, this amount can be added to the eligible base grant via a new supplemental grant to the extent that the total State share of the project cost would not exceed what school district would have ordinarily realized under the SFP. The challenge in this approach is to determine the best method of identifying and verifying the cost savings.

Option 2: Adjusted Site Acquisition Amount

In cases when the cost-benefit analysis indicates a savings to the State as compared to the cost of demolishing and re-building, include a portion of the building acquisition cost in the site acquisition funding amount to ensure equitable funding for a project. Staff believes this is permissible considering building values are commonly included in the site acquisition cost in traditional demolition-new construction scenarios. The basic premises of this option are as follows:

- Consider for a conversion project under current Regulations, the entire cost of the building must be covered by the base grant.
- This proposal will provide that the cost of the building, absent the retrofit costs, will be covered by the base grant.
- Under circumstances when the retrofit costs are equal or greater than the cost of the building, none of the building cost will be required to be covered by the base grant and the site acquisition apportionment will cover the building and land costs.

The challenge presented by this option is to determine what portion of the building cost may be included in the site acquisition amount. Staff suggests that the unusable building value, as explained in detail in the attachment, be included in the site acquisition funding amount. The concept of the unusable value is derived from the fact that the purchase price of the building should be fairly close to its fair market value, defined as the most probable price for which the property will sell in a competitive market. However, a school district cannot use the building in its current state due to the requirement of the Field Act. Thus the value of the building to the district has to take into account the cost of retrofit. Therefore, the useable value is the cost to buy the building minus the cost to retrofit, leaving the remaining portion of the value as "unusable." This unusable portion of the value is then eligible for site acquisition funding.

Funding for a conversion project that includes funding of an existing building within the site acquisition grant should never exceed the amount of funding that could be otherwise apportioned for a traditional demolition-new construction SFP project. In addition, a conversion project must meet the 60 percent commensurate test and ensure that the pupil grants reduced from new construction baseline eligibility are equal to the capacity of the project.

Option 3: Review of Projects on Case-By-Case Basis

The OPSC anticipates a small number of projects requesting funding for building retrofit. Projects of this kind may involve special circumstances that justify or require building retrofit in place of traditional demolition and re-building. Although the Education Code provides that such projects are eligible for funding, the calculation of eligible funding amounts may require special considerations. Thus, case-by-case review may be justified.

The OPSC proposes developing regulations that would enable school districts to submit an appeal request if the potential project funding is insufficient. This proposal would require a Board approval for additional funding in cases when a school district may purchase a building which value exceeds a predetermined threshold as a percentage of the base grant.

As part of the appeal, districts should provide an appraisal that values the land and improvements separately. In addition, a cost benefit analysis must be provided that compares the cost of the retrofit project to the cost of an alternative project. Districts must also certify that retrofitted buildings will be “in like new” condition upon completion of the work.

In reviewing the request, the OPSC may consider increasing the site acquisition apportionment beyond the land value, modifying the 60 percent commensurate requirement and any other modifications that are deemed justifiable. In addition, the pupil grants requested for the project must represent the capacity of the project. Reviewing projects on a case-by-case basis may include Staff’s administrative use of Option Two to determine the appropriate site acquisition apportionment.

RECOMMENDATION

Overall, there is insufficient data on the issue to recommend any major changes to the Regulations at this time. Staff suggests continuing discussions regarding the ability to purchase and convert buildings for school use and the funding available under the School Facility Program (SFP) for such projects. Based on initial discussions, Option Three, as described above, appears to be the best alternative. Thus Staff will continue to develop it further.

ATTACHMENT
Illustration of Option Two

*Calculation:*

Assume that appraised value of the property equals its Purchase Price (PP) and provides a separate cost analysis for land-only value and building-only value.

**Step 1:**

| |
|---|
| Value of Building (B)<br>- Cost to Retrofit (R)<br>Useable Building Value (V)<br>*If negative, use zero* |
| (The useable building Value must be covered by base grant.) |

**Step 2**:

| |
|---|
| Value of Building (B)<br>- Useable Building Value (V)<br>Unusable Building Value (U) |
| (This equals the compensation for required retrofit) |

**Step 3:**

| |
|---|
| Pure Land Costs (L)<br>+ Unusable Building Cost (U)<br>Site Acquisition Grant (S) |
| (This is the adjusted site acquisition cost that accounts for retrofit cost in-lieu of demolition) |

**Step 4: State Project Cost Comparison**

| Conversion Project | Traditional Demolition-New Construction Project |
|---|---|
| Cost of **Project X** is the sum of:<br>• Land Cost + Unusable Value<br>• Base Grant (G)<br>• Incidental Site Development | Cost of **Project Y** is the sum of:<br>• Land Cost + Entire Building Value *which equals the purchase price (PP)*<br>• Base Grant<br>• Site Development including demolition |

A cost analysis must demonstrate that the cost of Project X is equal to or lesser than the cost of Project Y in order for a school district to qualify for funding as project X, i.e. presents savings for the State or demonstrates no additional costs. Districts may utilize this funding option to the extent it does not exceed a traditional demolition-new construction project.

Examples:
Below is a summary of hypothetical examples for discussion purposes only.

**Example 1**: Assume the following costs (in millions) for District A:

PP: $ 8
L: $ 4
B: $ 4
R: $ 4
G: $ 5

Step 1: B - R = V $4 – $4 = $0 *useable building value*
Step 2: B – V = U $4 – $0 = $4 *unusable building value*
Step 3: L + U = S $4 + $4 = $8 *Site Acquisition Grant*
Step 4: Conduct a cost comparison and ensure that the amount provided never exceeds the cost of the traditional approach of purchasing, demolishing and rebuilding.

| District's Cost | Conversion per Current Regulations | Conversion Per Proposed Calculation | Traditional Demolition – New Construction Project |
|---|---|---|---|
| $ 8 Purchase Price<br>$ 4 Retrofit<br>$ 1 Some Site Dev. | $ 4 Land only<br>$ 5 Base Grant<br>$ 1 Some Site Dev. | $ 8 Site Acquisition<br>$ 5 Base Grant<br>$ 1 Some Site Dev. | $ 8 Site Acquisition<br>$ 5 Base Grant<br>$ 2 Site Dev. w/Demolition |
| **$13 total** | **$10 total** | **$14 total** | **$15 total** |

In this example, it appears that the district is achieving project savings. However, project savings are allowable under current SFP regulations, for non-Financial Hardship districts, as long as the project expenditures are in compliance with the 60 percent commensurate requirement.

**Example 2**: Assume the following costs (in millions) for District B:

PP: $ 6
L: $ 4
B: $ 2
R: $ 6
G: $ 5

Step 1: B - R = V $2 – $6 = $0 *useable building value*
Step 2: B – V = U $2 – $0 = $2 *unusable building value*
Step 3: L + U = S $4 + $2 = $6 *Site Acquisition Grant*
Step 4: Conduct a cost comparison and ensure that the amount provided never exceeds the cost of the traditional approach of purchasing, demolishing and rebuilding.

| District's Cost | Conversion per Current Regulations | Conversion Per Proposed Calculation | Traditional Demolition – New Construction Project |
|---|---|---|---|
| $ 6 Purchase Price<br>$ 6 Retrofit<br>$ 1 Some Site Dev. | $ 4 Land only<br>$ 5 Base Grant<br>$ 1 Some Site Dev. | $ 6 Site Acquisition<br>$ 5 Base Grant<br>$ 1 Some Site Dev. | $ 6 Site Acquisition<br>$ 5 Base Grant<br>$ 2 Site Dev. w/Demolition |
| **$13 total** | **$10 total** | **$12 total** | **$13 total** |

**Example 3**: Assume the following costs (in millions) for District C:

PP: $10
L: $ 4
B: $ 6
R: $ 2
G: $ 5

Step 1: B - R = V $6 – $2 = $4 *useable building value*
Step 2: B – V = U $6 – $4 = $2 *unusable building value*
Step 3: L + U = S $4 + $2 = $6 *Site Acquisition Grant*
Step 4: Conduct a cost comparison and ensure that the amount provided never exceeds the cost of the traditional approach of purchasing, demolishing and rebuilding.

| District's Cost | Conversion per Current Regulations | Conversion Per Proposed Calculation | Traditional Demolition – New Construction Project |
|---|---|---|---|
| $10 Purchase Price<br>$ 2 Retrofit<br>$ 1 Some Site Dev. | $ 4 Land only<br>$ 5 Base Grant<br>$ 1 Some Site Dev. | $ 6 Site Acquisition<br>$ 5 Base Grant<br>$ 1 Some Site Dev. | $10 Site Acquisition<br>$ 5 Base Grant<br>$ 2 Site Dev. w/Demolition |
| **$13 total** | **$10 total** | **$12 total** | **$17 total** |

The district should consider the amount of a higher local match that it would have to provide if it chose to demolish a useable building.

**STATE ALLOCATION BOARD**
1130 K Street, Suite 400
Sacramento, CA 95814
http://www.dgs.ca.gov/opsc

**Date:** August 20, 2004

**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 Thursday, September 2, 2004 (9:30 am - 3:30 pm) at the Legislative Office Building, 1020 N Street, Room 100, Sacramento.

The Implementation Committee's proposed agenda is as follows:

1. Convene Meeting

2. Bidding Climate Report
   *Discussion of the following topics and its impacts on the high bidding climate:*
   - *Further review of regulations to modify Class B Index used for the School Facility Program.*
   - *Possible creation of an additional grant for technology.*
   - *Possible additional category for site development costs.*

3. Enrollment Projection Augmentation and Student Yield Factor
   - *Continued discussion of the appropriate time limit for reporting dwelling units and other clarifying language required on the Enrollment Certification/Projection form.*
   - *Discussion of a consistent criteria used for Student Yield Factor studies.*

4. Purchase and Conversion of Non-Conforming Buildings for School Use
   *Review amendments to determine the need for regulatory amendments related to the funding of projects involving the purchase and retrofit of buildings for school use.*

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 Christine Sanchez at (916) 322-0328.

BRUCE B. HANCOCK
Chairperson

BBH:LM:cs

STATE ALLOCATION BOARD

IMPLEMENTATION COMMITTEE

# Pending Items List
# September 2, 2004

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## A. Future Items

- Increased Capacity for Replaced Facilities, SFP Regulation Section 1859.73.2

- Classroom Inventory Adjustments for Educational Program and Facility Transfers

- SFP – Project Rescission

- Follow-up to 180-Day Regulation: *District Funded Facilities Included in Existing School Building Capacity (approved at the May 26, 2004 State Allocation Board)*

## B. Suspended Items

- None

STATE ALLOCATION BOARD
IMPLEMENTATION COMMITTEE
September 2, 2004

# BIDDING CLIMATE REPORT

## PURPOSE

To change existing language in the School Facility Program (SFP) Regulation Section 1859.2 definition of "Class B Construction Cost Index."

## BACKGROUND

The June 23, 2004 Bidding Climate Report provided various types of cost construction indices. As a result of this report Staff reviewed the comparisons of each Class B building construction cost indices and determined that the index more aligned to construction cost in California is the Marshall and Swift, 8 California Cities Index rather than the 10 Western States index. The current index allowed for in regulation represents the 10 Western States (AZ, CA, CO, ID, MT, NM, NV, OR, UT, WA).

## AUTHORITY

SFP Regulation Section 1859.2 Definitions, "Class B Construction Cost Index is a construction factor index that is provided monthly by Marshall's and Swift, for the Western area, for structure made of reinforced concrete or steel frames, concrete floors, and roofs accepted by the Board. "

## DISCUSSION

*8 California Cities Index*

At the August 5, 2004 Implementation Committee meeting, Staff recommended changing the definition listed for Class B Index (see Attachment 1) of the SFP regulations. At this Committee meeting it was determined that the 8 California Cities Index (Bakersfield, Eureka, Fresno, Los Angeles, Riverside, Sacramento, San Diego, and San Francisco) more appropriately reflects the construction costs in California.

The OPSC had intended on processing the construction cost index change to the 8 California Cities Index administratively. As a result of further discussion with Committee members, the OPSC understands that the regulation/construction cost index change may impact developer fees (i.e. offsite improvements). Therefore, the OPSC will submit this change through the formal regulatory process to allow further discussion.

*Subcontractor Cost Index*

Although the Committee agreed to change the current construction cost index to the 8 California Cities Index, the audience members requested the Office of Public School Construction (OPSC) to explore possibly using a subcontractor cost index. Staff contacted the Sierra West Group to obtain data regarding the Lee Saylor Subcontractor Cost Index (LSSCI). While at first the index appeared to have some merit, a thorough analysis revealed that the LSSCI was not a comparable index as it includes "21 Basic In-Place Materials" versus raw materials and labor. Additionally, some of the materials included in the LSSCI are inconsistent with building a school. Typical school building materials, such as metal stud framing, are not included. Furthermore, the LSSCI is not considered a Class B index and therefore would require legislative change.

*Other Considerations*

The OPSC recognizes that this is not the overall solution for bid climate issue. Other considerations mentioned at the meeting require legislation and will take time for any possible changes to occur. Staff will be continuing to research the bid climate issue and our findings will be presented at future Implementation Committee meetings. In addition, Staff is exploring creating a survey to better understand individual districts' issues to gain further insight on the problems and how better to address them.

RECOMMENDATION

Change the Marshall & Swift Class B to the 8 California Cities Index for the January 2005 construction cost index adjustment. Staff believes that it is more appropriate to use an index based on locations in which SFP funding will potentially occur.

ATTACHMENT 1

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

Article 1. General Provisions and Definitions

…
Section 1859.2. Definitions.

For the purpose of these regulations, the terms set forth below shall have the following meanings, subject to the provisions of the Act:

"Academic Achievement" means to improve one's ability to engage in academic endeavors and to accomplish study in core curriculum areas such as reading, writing, mathematics, fine arts, science, vocational education, technology, history or social science.
"Act" means the Leroy F. Greene School Facilities Act of 1998.

**...**

"Class B Construction Cost Index" is a construction factor index that is provided monthly by Marshall and Swift, for the ~~Western area~~, 8 California Cities for structures made of reinforced concrete or steel frames, concrete floors, and roofs, and accepted and used by the Board.

**...**

REPORT OF THE EXECUTIVE OFFICER
State Allocation Board Meeting, June 23, 2004

# BIDDING CLIMATE REPORT

## PURPOSE OF REPORT

To report on the impact the bidding climate has had on the school construction industry.

## DESCRIPTION

At the April 2004 State Allocation Board (SAB) meeting, the Board asked the Office of Public School Construction (OPSC) to look into a number of issues and requested the OPSC outline what the OPSC could do administratively to help districts deal with the high bid climate. Specifically, the following topics needed to be addressed:

- Construction Cost Index
- 18-month time limit on fund release
- Per pupil base grant

## EXECUTIVE SUMMARY

School districts and design professionals engaged in the construction and modernization of facilities funded through the School Facility Program (SFP) report significant difficulties in receiving competitive bids on projects. Evidence of recently bid projects exceeding project budgets by unacceptable amounts has been provided to Staff. A review of five construction cost indexes published by three different private firms indicates that there has been an increase in construction costs statewide from 2 percent to 4.4 percent since the first of the year. As substantial as these increases are, they do not reflect the increases reported by school districts and project architects. The discrepancy appears to be primarily attributable to increased profit margins resulting from market inundation. New construction appears to have become a primary support of the California economy. Although possibly a short term issue, the current bid climate is having an effect on the ability of some districts to successfully bid school construction projects.

The requirement that all projects bid within 18 months of receipt of an apportionment has been met successfully on the overwhelming majority of SFP projects. Of the 4,700 projects that have been apportioned under the SFP since 1999, less than 100 have not met the 18-month requirement. However, some school districts report that in order to meet the timeline, they have been forced to accept bids in excess of the budget. The OPSC strongly supports the retention of the 18-month requirement; however, Staff concedes that in some recent projects under the current bid climate, it may have been met at a premium cost.

The issue of the adequacy of the grants is too large to be addressed in this brief report. School district organizations are looking into the matter, and the OPSC and SAB have representatives in those discussions.

The complete “Bidding Climate Report” with supporting charts is included as an Attachment to this report.

## CONSIDERATIONS

The SAB administers the SFP under statute which prescribes the amount of the per pupil grant that can be apportioned to qualified school districts. The SAB has very limited latitude to address the problems and issues associated with an overheated construction climate and the corresponding loss of competitive bidding. Most of the possible ‘solutions’ that might have a substantial effect on the current situation must be accomplished through legislation. Given that some of the market issues may change in the next twelve months, it may be that legislative change in some instances would be too late and possibly unwarranted.

(Continued on Page Two)

CONSIDERATIONS (cont.)

The OPSC has identified a number of possible approaches to mitigate the current bid climate situation. Except as may be reflected in comments in "The Bidding Climate Report", Staff makes no recommendations as to the merit of particular ideas.

1. Create an additional grant for technology which includes computers, wiring and equipment to support computers and additional power to operate computers. Allow this grant to be used for installing Electronic Monitoring Systems into schools (regulatory change).

2. Provide an additional eligible category of site development costs similar to the general site funding provided in the Lease Purchase Program (regulatory change).

3. Change the Class B Index currently used by the SAB. Consider using the Marshall and Swift index for the eight California cities only (regulatory change).

4. Modify existing law that requires an annual adjustment to the per-pupil grant utilizing the Class B Index to allow for a more frequent (semi-annually, quarterly or monthly) adjustment of the Index (requires legislative remedy).

5. Adjust the State apportionment according to the construction cost index in effect as of the date of the bid opening (requires legislative remedy).

6. Modify existing law to allow for the SFP per pupil grant to be reviewed every five to ten years and allow the SAB to reestablish the base grant based upon current Title 24 code requirements (requires legislative remedy).

7. Limit the amount of funding made available in a specific period of time through staggered apportionments (regulatory change).

**ATTACHMENT C**
State Allocation Board Meeting, June 23, 2004

REPORT SOURCES

The OPSC relied primarily on information gathered from architects, design professionals and various trade publications and information gathered from the administration of the State school building programs. The following is a complete listing of the sources used:

- Funds Released by Month from Proposition 1A and 47 (Funds released from March 1999 through May 2004)

- Comparison of CCI Indices
  This chart compares various Marshall & Swift Indices with the Engineer's News Report and Lee Saylor Index from January 2004 through May 2004 – Attachment A

- Comparison of CCI Indices
  This chart compares various Marshall & Swift Indices with the Engineer's News Report and Lee Saylor Index from January 1999 through January 2004 - Attachment B

The following resources are not included in this report, however, were used as additional references:

- Lee Saylor Index
  A summary report prepared by the Sierra West Group, Construction Consultants for Saylor Publications, Inc showing an average one-year increase in labor, material and subcontracting costs**.**

- School Facility Program Projects for New Construction/Modernization approved under Propositions 1A, 47 and 55.

- Marshall and Swift Class B Building Indexes for 10 Western States, 8 California Cities, and San Francisco/Los Angeles

- California Department of Finance, *California Economic Indicators* (January/February 2004)

- Interviews with Architects and Design professionals
  The OPSC staff conducted interviews relating to issues that impact the current construction climate.

BIDDING CLIMATE

The bidding climate is comprised of many different factors that control the price of materials used in manufacturing; the number of contractors, inflation, labor costs and the State's economy to name a few. Many of these are factors that cannot be controlled by the SAB and are dictated by the market through supply and demand.

There has been concern expressed over whether the nearly $18 billion in funding allocated by the SAB since 1999 has had a strong adverse effect on the bidding climate. With billions of dollars of State funding released, are there enough qualified contractors to meet the demand for building/modernizing of schools? The SAB at its meeting in December 2002 allocated nearly $5.4 billion which represented 1,931 new construction and modernization projects ready for construction. Although a large number of these projects which had been on waiting lists for as much as two years had already been bid, many more went to bid in the months immediately following the apportionments. These projects may have taken much of the available material and labor supply. Districts that followed that initial surge by bidding projects during the latter part of 2003 and into 2004 have seen a subsequent rise in the costs of various materials, especially lumber, concrete and steel.

The bonding requirement for public works contracts and the special nature of the Field Act keep most small contractors and subcontractors out of the competition for school projects. Additionally, prevailing wage and other reporting and contracting requirements of public works projects may keep some intermediate and large contractors from competing in the school construction market, especially when the general construction market is hot. At the same time that large amounts of school construction funds were flowing into the economy, new home construction was booming in California. It remains strong in 2004. Contractors that build new homes and commercial projects use many of the same subcontractors for their work as they do for school projects. Thus, activity in the non-school construction market may have had an additional effect on the already active school construction arena.

The disparate increases in the bids that districts have reported to the OPSC are believed to be caused by a mixture of limited contractors and the anticipated increase in the price of materials. Both of these factors in turn produce a domino effect for contractors and suppliers to inflate estimates so that when these projects are ready to be constructed, the contractors have accounted for the increase in materials. Based upon these assumptions, the OPSC believes the State funding allocated to districts from the December 2002 SAB meeting, combined with a very active California construction market, may have caused pockets of high bids where the market may have been flooded and the availability of contractors may be limited. The OPSC believes that this will be short-lived as the amount of funding being allocated has leveled off; however, in the future, it may be advisable to stagger apportionments when faced with funding requests for large numbers of projects.

Comments/Interviews

While conducting interviews with architects and design professionals, the OPSC received information that included both written and verbal comments regarding the difficulty of obtaining a sufficient number of responsive bidders or receiving competitive pricing on specific projects. These individuals argued that the 18-month time requirement to request a fund release is too restrictive and should be extended. Many stated that bids for school projects were in excess of the architect's estimate and with the requirement of the 18-month timeframe to request a fund release, districts are forced to accept these high bids. The OPSC does not collect and track bid information and while these comments albeit may reflect issues in some areas in the State, they do not consider other factors. These factors include but are not limited to whether the project was designed within the State/district apportionment, if significant modifications were made to the plans and specifications or if the architect's original cost estimate reflected current costs of labor/materials.

Construction Cost Index

The SAB is statutorily required to use a Class B Building index and to adjust the basic per-pupil grant that is the foundation for the apportionments made under the SFP on an annual basis. In its analysis, the OPSC examined several different Class B Building construction cost indices for the last five months in 2004 (see Attachment A) and for the last five years from 1999 to 2004 (see Attachment B). Our findings are summarized below with a brief description of the indices' methodology.

***Marshall & Swift Company***

The Marshall & Swift (M&S) Company produces a regular cost index (concrete and steel construction) designed to adjust base costs to current market conditions. The M&S Construction cost index tracks 12 kinds of materials from a minimum of two to five suppliers. If the costs are the same after two sources, the M&S uses the average of two similar costs. If costs vary, up to five suppliers are tracked, plus sales tax. Six trades are tracked; common labor, electricians, bricklayers, carpenters, structural iron workers and plumbers.

***Marshall & Swift Company – Based on 10 Western States***
5 Month Accumulative Inflation: 1.99 Percent
5 Year Accumulative Inflation: 15.3 Percent

The SAB/OPSC currently uses a M&S Class B Building Index that represents the 10 western states to adjust certain program-related costs. This includes states such as Idaho and Montana and might not represent the costs associated with the California market.

***Marshall & Swift Company – Based on 8 California Cities***
5 Month Accumulative Inflation: Not Available
5 Year Accumulative Inflation: 15.9 Percent

The OPSC reviewed an additional index produced by the M&S for the Class B Building Index for eight cities in California.

***Marshall & Swift Company – Based on San Francisco and Los Angeles, California***
5 Month Accumulative Inflation: Not Available
5 Year Accumulative Inflation: 18.0 Percent

The M&S also produces a Class B Building Index based on costs in the Los Angeles and San Francisco areas only, that the OPSC reviewed as part of this report.

***Lee Saylor Index (LSI) – California***
5 Month Accumulative Inflation: 2.89 Percent
5 Year Accumulative Inflation: 19.6 Percent

This index is prepared by the Sierra West Group, Construction Consultants for Saylor Publications, Inc. showing an average one-year increase in labor, material and subcontracting costs. The LSI Cost Indices represent material and labor including subcontractor's prices which includes 23 selected materials and 21 basic in-place materials used by subcontractors. Nine trades are tracked; carpenters, bricklayers, ironworkers, laborers, painters, engineers, plasterers, plumbers, electricians and teamsters. The index is composed of 64 percent labor and 46 percent material and is based upon data from California cities.

***Engineering News-Record/California ~~Construction~~ Building Cost Index - San Francisco and Los Angeles***
5 Month Accumulative Inflation: 4.38 Percent
5 Year Accumulative Inflation: 5.4 Percent

The Engineering News-Record (ENR) obtains their inflation rate for the United States from the M&S as well as the average change for the 95 cities in the United States. The ENR's building cost index tracks monthly three types of material; structural steel, Portland cement, and 2X4 lumber using spot pricing collected from a single source in each city. The average of 20-city wage-fringe labor rates for three trades are tracked; bricklayers, carpenters, and structural iron workers. This index is used by the Department of General Services, Real Estate Services Division and the other State agencies.

The OPSC reviewed the Class B Building indices from January 2004 to May 2004 and there has been a steady rise in the index with an accumulated increase that varies from nearly two percent to just over four percent. These indices reflect a rise in construction costs which may be due to the rise in concrete and steel and light frame construction (see Attachment A). However, this rise does not reflect the increase reported to the SAB and the OPSC.

Although there is an increase in materials and labor as indicated from several indices reviewed, it is not commensurate with the high bids that districts are experiencing. The highest accumulative index, the LSI, is 19.6 percent which would be an average of 3.8 percent increase per year (see Attachment B).

18-MONTH TIME LIMIT ON FUND RELEASE

The 18-month requirement for a fund release was set forth in Senate Bill 50 which was created in August 1998. It was a new requirement as compared to the previous State school building program, the Lease-Purchase Program (LPP). This requirement requires districts to certify that they have a contract ready for construction within 18 months of the apportionment date. The SFP grant is processed for release when the district submits a Form SAB 50-05, *Fund Release Authorization.* When signing this form, the district is certifying that it has entered into a binding contract(s) for at least 50 percent of the construction included in the plans applicable to the State funded project, and has issued the Notice to Proceed for that contract.

During the OPSC interviews with architects, they indicated that the 18-month time requirement to request a fund release is too restrictive and should be extended. It is argued that extending the 18-month requirement will give districts more flexibility in timing bids to minimize the flooding of the market, and to anticipate rising costs in labor and materials. Furthermore, if a bid came in too high or there was a lack of bidders to ensure competitive pricing, the additional time would allow the district to time its bid and avoid bidding during the spring and summer months when school construction demand is at its highest. Also, this additional time would allow the architect to perform value engineering if necessary to evaluate the cost of the project and redesign the project. Although these considerations have merit, the intent of the SFP was to have the district and its architect design and have a project ready to be built as soon as the SAB allocated the funding. The SFP requires that new construction or modernization plans be Division of the State Architect (DSA) approved and all site selection and any site cleanup measures be performed prior to funding to enable districts to bid the project immediately after the SAB apportionment. Therefore, the 18-month timeframe should provide adequate time for a district to bid the SAB approved project.

The vast majority of projects which received new construction and modernization funding from the inception of the SFP have submitted their fund release authorization form to the OPSC as identified by the total number of funds remaining to be released to districts. Since the beginning of the SFP in 1999 through May 2004, the OPSC has released nearly $14.4 billion under the SFP which represents 4,695 new construction and modernization projects. A report ran by the OPSC indicates that the average number of days between the date of SAB apportionment and the submittal date of the

fund release authorization form since 1999 was 101 days for new construction and 163 days for modernization. This represents approximately three to six months which further indicates that the majority of the projects that have been apportioned have contracts in place. In reviewing this data at face value, it could indicate that there is no unusually strong reaction to the large amount of bond funding that has been apportioned by the SAB. The projects appear to be proceeding without undue delay.

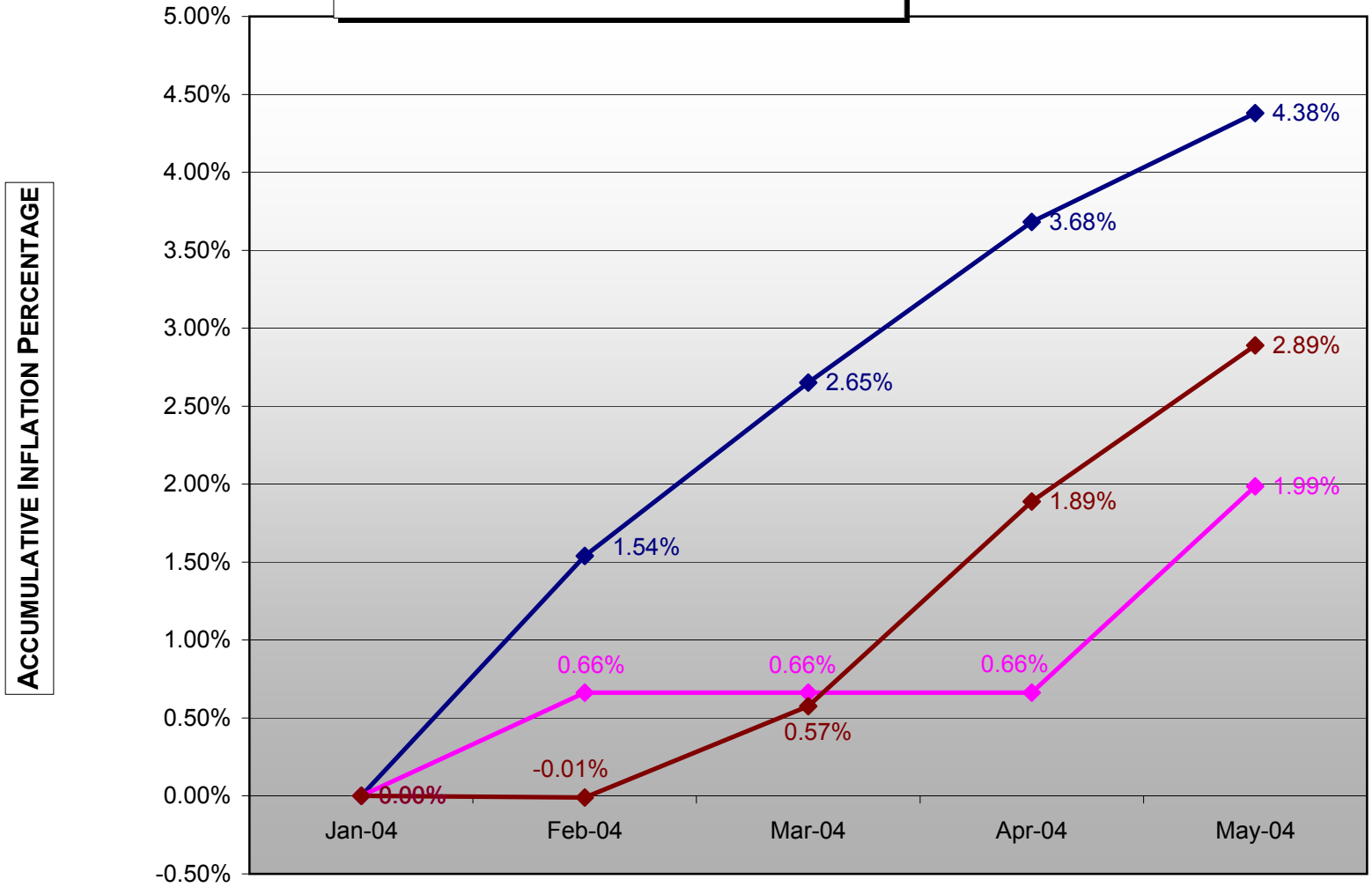
Furthermore, the construction cost index that is in effect at the time the apportionment is made to adjust for inflation becomes ineffective the longer it takes a project to be bid. Extending the 18-month timeline only exacerbates the problem of competitive bidding. Therefore, the OPSC does not recommend a change to the 18-month requirement for fund release. The OPSC believes that the intent of a set timeframe for fund release was to ensure that the construction of schools and the modernization of facilities were realized. In addition, the 18-month timeframe is a fundamental reason for the success of the SFP. Based upon the above reasons, the OPSC does not believe any changes to the 18-month time limit to request funding is necessary.

SFP PER PUPIL BASE GRANT

An examination of the adequacy of the per pupil grant specified in law is beyond the scope of this Report. The original grant amount was developed from information on the apportionments made to 100 projects of various grade levels in the LPP. School district groups are looking into the matter of the adequacy of the per pupil grant. Representatives of the OPSC, SAB and California Department of Education have been invited to participate.

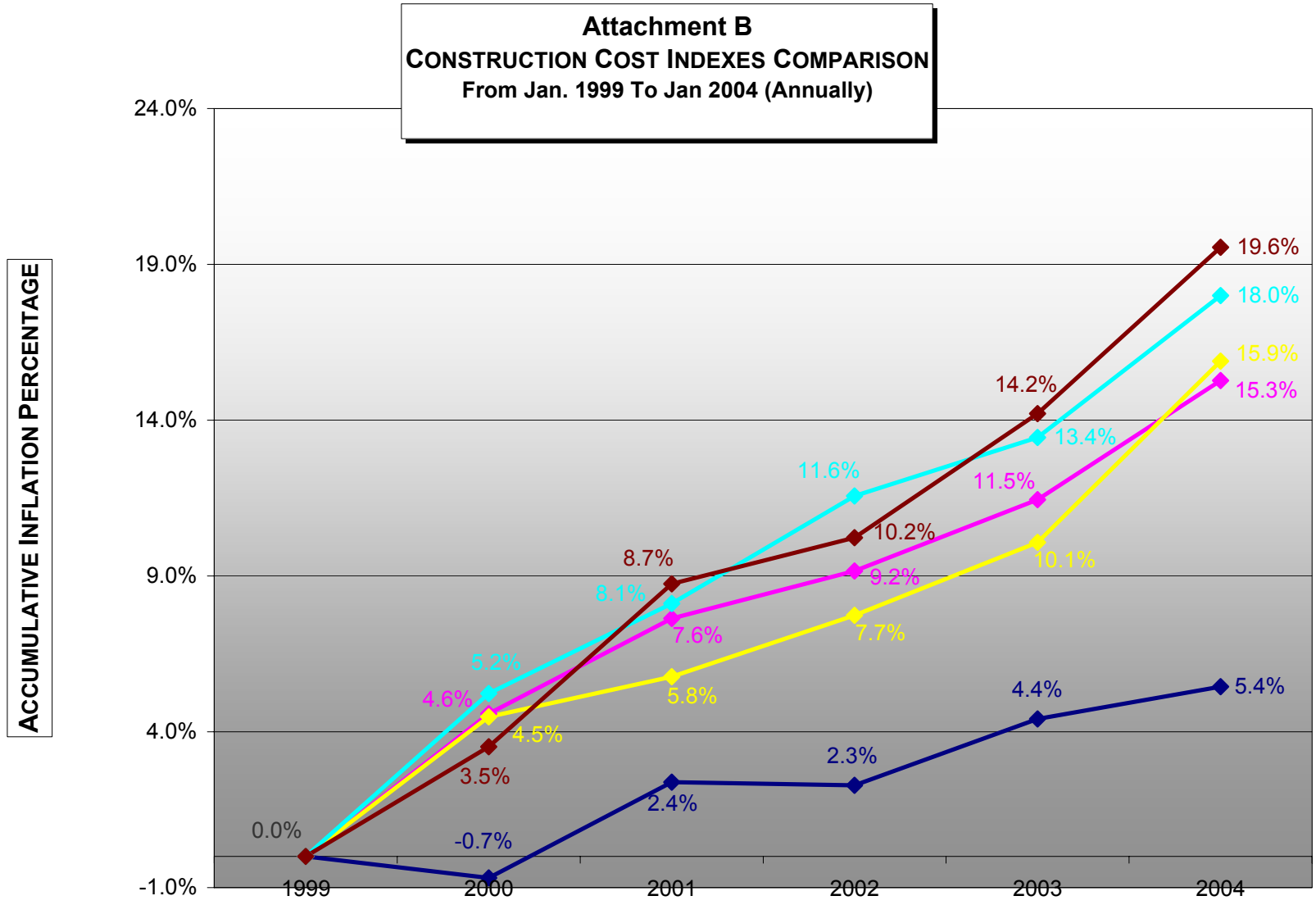
The grant, along with amounts for site development and site acquisition, make up the total funding that may be apportioned to a project. Staff does recommend further review of the funding made available through SAB regulation for the purposes of site development to ensure that all appropriate costs are included.

## Attachment A
## CONSTRUCTION COST INDEXES COMPARISON
### From Jan. 2004 To May 2004




| | Jan-04 | Feb-04 | Mar-04 | Apr-04 | May-04 |
|---|---|---|---|---|---|
| ENR/BCI ACCUM. % S.F. & L.A. | 0.00% | 1.54% | 2.65% | 3.68% | 4.38% |
| M&S ACCUM. % 10 W. STATES CLASS B | 0.00% | 0.66% | 0.66% | 0.66% | 1.99% |
| LSI CI % CALIFORNIA | 0.00% | -0.01% | 0.57% | 1.89% | 2.89% |

Data for "M&S CCI % 8 CAL. CITIES CLASS B" and "M&S CCI % S.F. & L.A. CLASS B" is not available.




| | Jan-99 | Jan-00 | Jan-01 | Jan-02 | Jan-03 | Jan-04 |
|---|---|---|---|---|---|---|
| ENR/BCI % S.F. & L.A. | 0.0% | -0.7% | 2.4% | 2.3% | 4.4% | 5.4% |
| M&S CCI % 10 W. STATES CLASS B | 0.0% | 4.6% | 7.6% | 9.2% | 11.5% | 15.3% |
| M&S CCI % 8 CAL. CITIES CLASS B | 0.0% | 4.5% | 5.8% | 7.7% | 10.1% | 15.9% |
| M&S CCI % S.F. & L.A. CLASS B | 0.0% | 5.2% | 8.1% | 11.6% | 13.4% | 18.0% |
| LSI CI % CALIFORNIA | 0.0% | 3.5% | 8.7% | 10.2% | 14.2% | 19.6% |

**STATE ALLOCATION BOARD**
**IMPLEMENTATION COMMITTEE**
**September 2, 2004**

# Dwelling Unit and Student Yield Factor Augmentations

## PURPOSE

1. To present regulatory language that clarifies the stopping point in allowing dwelling unit augmentations.
2. To provide information pertaining to the Cohort Survival Method Calculation Analysis.

## DWELLING UNIT BACKGROUND

From the inception of the School Facility Program (SFP), school districts have been able to augment the five-year projection based on the number of pupils that will reside in dwelling units included in approved and valid tentative and final subdivision maps. The purpose of this augmentation is to allow school districts time to plan for the pupils that will be enrolled in their school district. The augmentation allows school districts to use eligibility today to plan for pupils' needs in the future. Any request to include dwelling units on the Form SAB 50-01 (see Attachment A) requires district certification that the local planning commission or approval authority has approved the tentative and final subdivision maps. This certification also is required to state that the tentative and final subdivision maps used to support the request are available at the district for Office of Public School Construction (OPSC) verification.

The OPSC conducted educational workshops throughout the State to clarify what an approved and valid tentative and final subdivision map is, the necessary supporting documentation for proper reporting and the process of including dwelling units on the Form SAB 50-01. A common theme among districts who attended the workshops was the lack of communication between the planning authority and the school district and how this relationship impacted their ability to track dwelling units accurately and in a timely manner. The OPSC strongly recommended that school districts begin developing a relationship with their planning authority and become involved with the residential development activity within their boundaries. To assist districts in properly reporting their dwelling unit augmentation, OPSC has developed a dwelling unit brochure that addresses the new submittal requirements, as well as, frequently asked questions.

## DWELLING UNIT DISCUSSION

At the previous meeting, Staff presented two additional stopping point options for reporting dwelling units as follows:

→ The point in time permits are pulled, plus 12 months
→ The point in time permits are pulled, plus 18 months

During the first presentation, Staff presented the date of occupancy as a stopping point option. The option has been reconsidered by Staff based on comments from Committee and audience members who indicate that the date of occupancy is a viable option because the information should be readily available at the County Recorder's Office. While Staff has received numerous comments that it is difficult for some districts to collect the occupancy data, Staff would like to recommend giving districts an option. To ensure districts have the ability to request dwelling unit augmentations through a method in which they are able to provide appropriate documentation, Staff is recommending that districts have two options for the stopping point when reporting dwelling units:

→ The point in time permits are pulled, plus 6 months
→ The point in time the dwelling unit is occupied.

Districts would be required to pick one option for all tract map submittals and supply supporting documentation to justify their request. This means a district would use either the date of occupancy <u>or</u> permits pulled, plus six months as the stopping point for <u>all</u> of the tract maps. (Please Note: Districts may select the alternate option the following submittal year if desired.) This approach will address concerns by smaller school districts and will provide the OPSC with a tangible audit trail for the number of reported dwelling units.

## INQUIRIES FROM THE AUGUST 5, 2004 IMPLEMENTATION COMMITTEE MEETING

*Dwelling Unit Reporting - Starting Point*

Committee Members were concerned that the discussion focused primarily on addressing the "back-end" of the dwelling unit reporting issue and neglected to address what was being reported on the "front-end". The basis for this discussion was the lack of a time limitation on how long a district can continue to report a tract map. A suggestion was brought up to restrict the age of a map to five years old prior to the submittal of the Form SAB 50-03. This would correspond to the period of time used to calculate the Student Yield Factor report. Since the Student Yield Factor and the dwelling units are tied together when augmenting the enrollment projection, it would stand to reason the time period for reporting each should be parallel. Staff will continue to look into issues regarding front-end time limits on counting tentative tract maps.

*Cohort Survival Projection Method Study Findings*

Audience members requested Staff look into identifying rural, suburban and urban areas in the study. In doing so, Staff has added 21 additional school districts to the original study (Attachments D). In all, Staff has reviewed 75 school districts throughout the State, which represents more than 25 percent of the school districts that established eligibility during the first year of the Program.

The overall findings of the second study (Attachment E) show very little change from the original study. There was a slight increase in the statewide overall enrollment projection which is over-predicting enrollment when compared to the actual enrollment. The statewide enrollment projection in the second study is over-predicting enrollment by 4.6%, which is a .7% increase from the original study.

As the study shows, the majority of school districts reviewed were from suburban areas with only a small number of districts coming from rural or urban areas. While urban and suburban school districts fall under the same statewide enrollment projection trend of over-prediction, rural school districts show a different trend. In this study, rural school districts are under-predicting by an average of 11.5 percent*. However, with the two options of reporting dwelling units until the date of occupancy or until permits are pulled, plus six months, rural area school districts will now have a better opportunity to retain eligibility for planning purposes.

* Please Note: The number of rural school districts identified in this study represent only a small portion of all of the rural school districts in the State and may not accurately represent the enrollment projection for all rural area school districts.

## RECOMMENDATION

Staff recommends a regulatory change that allows districts two options:

→ The point in time permits are pulled, plus 6 months
→ The point in time the dwelling unit is occupied.

# ENROLLMENT CERTIFICATION/PROJECTION

SCHOOL FACILITY PROGRAM

SAB 50-01 (REV ~~01/03~~09/04)



## GENERAL INFORMATION

To determine a district's initial eligibility for new construction funding under the School Facility Program, the district must provide enrollment information for the current and previous three years on this form. After the initial submittal, this form need only be resubmitted when the district requests additional new construction funding in a new enrollment year or as a result of a reorganization election that affects either the district's enrollment or existing school building capacity.

The following documentation must be submitted with this form (as appropriate):

- Specific enrollment data for district's with current enrollment that is less than 300 if the district is requesting an enrollment projection based on five-year average enrollment data (refer to Part A).
- A copy of the study supporting student yield factors if the district is requesting an augmentation of it's enrollment projection due to pupils residing in new dwelling units and it is not using the State yield factors (refer to Part F).

A high school district, unified school district, or county superintendent of schools may file on a high school attendance area (HSAA) basis or Super HSAAs as provided under Education Code Section 17071.76 and Section 1859.41. In that case, the enrollment used on this form is the current and three previous years enrollment in the HSAA or Super HSAA.

This form is not used for modernization funding applications.

**PART A. ENROLLMENT DATA**—(to be completed by school districts or the county superintendent of schools)

The information needed to complete this form is based on the latest California Basic Education Data Systems ~~(CBEDS)~~ that is available approximately October 15th of each year. Applications filed on or after November 1st must include the current school year enrollment. Report the current year and the three prior years K–12 enrollment. High school districts report the unduplicated enrollment data for grades served by the district and all feeder elementary school grades for the current year and the previous three years.

As an option, school districts with less than 300 current enrollment may report the previous five year average for any grade level for any year when the enrollment for that grade level has decreased by more than 50 percent from the previous year. If this option is used, the district must identify each grade level where this option is used on Form SAB 50-01 and attach the appropriate enrollment documentation to support this request.

County superintendents report the enrollment for community school students as reported in April prior to the latest CBEDS report.

The enrollment data must include all off-track and on-track students attending multi-track year round schools, students living outside the district's boundaries but attending schools in the district, students receiving Classroom-Based Instruction in Charter Schools located within the district boundaries and are enrolled in the same grade levels or type served by the district regardless if the district chartered the school, students attending magnet schools, community school students, and students attending independent study.

Do not include students living in the district's boundaries but attending other districts, students attending regional occupational programs, students attending preschool programs, other students not generally considered K–12 students including adult education students, students receiving Classroom-Based Instruction in Charter Schools located within the district boundaries but are enrolled in grade levels or type not served by the district, students living inside district boundaries but are receiving Classroom-Based Instruction in Charter Schools located outside the district boundaries, students receiving Nonclassroom-Based Instruction, juvenile court/court school students, special day class pupils, or continuation high school pupils.

**PART B. PUPILS ATTENDING SCHOOLS CHARTERED BY ANOTHER DISTRICT**

Of the data reported in Part A of this form, indicate the aggregate pupil enrollment attending schools chartered by another district which are located within your district boundaries for the current year and the three prior years. If the district is reporting pupils attending schools chartered by another district for the current year, then the district must submit a separate letter with the following information:

- The total Charter School enrollment listed by each of the K–12 grade levels reported for the current year.
- A list of the other school district(s) that chartered school(s) within your boundaries. Include the Charter School name(s) and total school enrollment.

For the previous years, report the total enrollment for pupils attending schools chartered by another district, if known. If the information is not available, enter N/A. In this case, the OPSC will adjust the previous years' enrollment data based on a prorated basis of the rate of growth or decline of the previous years' enrollment.

Enter 0 if there are no pupils attending schools chartered by another district within your district boundaries for the current or previous years.

**PART C. CONTINUATION HIGH SCHOOL**—(to be completed by school districts only)

Report the continuation high school enrollment for the current year and the three previous years. For purposes of projecting the enrollment, these pupils will be added to the enrollment data in Part A.

**PART D. SPECIAL DAY CLASS PUPILS**—(to be completed by school districts or the county superintendent of schools)

Report the pupils attending the special day classes as shown and reported to the California Department of Education in December prior to the latest CBEDS report. Use pupil descriptions as provided in Section 1859.2 for Non-Severely Disabled Individual with Exceptional Needs and Severely Disabled Individual with Exceptional Needs.

**PART E. SPECIAL DAY CLASS ENROLLMENT**—(to be completed by county superintendent of schools only)

Report the total of special day class pupils in all categories for the three previous years.

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**PART F. NEW DWELLING UNITS**—(to be completed by school districts only)

The district may augment the enrollment projection based on the number of pupils that ~~will reside in dwelling units included in an approved subdivision map or valid tentative subdivision map. The district must certify as part of this form that the local planning commission or approval authority has approved the tentative subdivision map that is currently valid (i.e., the approval from the planning commission or approval authority has not expired) and the district has identified the dwelling units in that subdivision map to be constructed. All proposed dwelling units in that subdivision may be used to augment the district's enrollment projection. Report those dwelling units in Part E. Any request for augmentation of the district's enrollment projection must be made by separate letter from the district with this form. The district must certify as part of this form that the approved or valid tentative subdivision map(s) used to support this request are available at the district for OPSC verification.~~are anticipated as a result of proposed dwelling units included in approved and valid tentative or final subdivision maps.

The district must provide all of the following:

- The approval dates of the maps by the local planning commission or approval authority; and,
- The number of dwelling units to be built within each subdivision excluding all dwelling units that have either 1) been occupied; or, 2) had construction permits pulled that are six months or older from the date the permit was pulled. (Please Note: A district must select only one option—the date of occupancy or permits pulled, plus six months—as the point in time to stop reporting dwelling units for all tracts being submitted. A district may select the alternate option the following submittal year if desired.); and,
- One of the following:
  1. An approved and valid tentative or final subdivision map with the local planning commission or approval authority stamp located on the map, or
  2. An approved and valid tentative or final subdivision map with supporting documentation, or
  3. A spreadsheet or the OPSC dwelling unit worksheet listing all of the subdivisions reported on the Form SAB 50-01 with supporting documentation. If the district wishes to utilize this option, please note that when the district representative signs the Form SAB 50-01, he/she is certifying that the tract maps are on file at the district office and available for OPSC review if requested.

Supporting documentation is defined as one of the following:

- Local planning commission or approval authority meeting minutes detailing the approval of the map. If the approval was given an extension, please provide the most current meeting minutes indicating the approval of the extension request. Dwelling units contained in expired maps may not be reported on the Form SAB 50-01, or
- A letter from the local planning commission or approval authority indicating that the tract map is approved and valid as of the signature date of the Form SAB 50-01, or
- Any other reasonable documentation from the local planning commission or approval authority that indicates the tract map is approved and currently valid.

Report the determined number of dwelling units in Part F.

**PART G. YIELD FACTOR**—(to be completed by school districts only)

Report the district's student yield factors as defined in Section 1859.2, if different than the statewide average student yield factor. The statewide average student yield factors are as follows:

- Elementary School District..... 0.5 students per dwelling unit
- High School District..... 0.2 students per dwelling unit
- Unified School District..... 0.7 students per dwelling unit

Should the district wish to use its own student yield factors, a copy of the district's study that justifies the student yield factors must be submitted with this form.

**PART H. FIVE YEAR PROJECTED ENROLLMENT**—Used for School Facility Program. To be completed by the Office of Public School Construction (OPSC).

**PART I. ONE YEAR PROJECTED ENROLLMENT**—Used for State Relocatable Program. To be completed by the OPSC. Do not manually complete Parts H or I.

Complete this form manually, sign, date, and submit to the OPSC for computations. A completed copy of this form with the enrollment projections will be returned to the district.

The methodology for calculating the district's projected enrollment is outlined in Sections 1859.42 and 1859.43.

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# ENROLLMENT CERTIFICATION/PROJECTION

SCHOOL FACILITY PROGRAM

SAB 50-01 (REV ~~01/03~~09/04)



| SCHOOL DISTRICT | FIVE DIGIT DISTRICT CODE NUMBER (SEE CALIFORNIA PUBLIC SCHOOL DIRECTORY) |
|---|---|
| COUNTY | HIGH SCHOOL ATTENDANCE AREA (HSAA) OR SUPER HSAA (IF APPLICABLE) |

**PART A. ENROLLMENT DATA**—(Districts or County Superintendent of Schools)

| Grade | 3rd Previous | 2nd Previous | Previous | Current |
|---|---|---|---|---|
| | / | / | / | / |
| K | | | | |
| 1 | | | | |
| 2 | | | | |
| 3 | | | | |
| 4 | | | | |
| 5 | | | | |
| 6 | | | | |
| 7 | | | | |
| 8 | | | | |
| 9 | | | | |
| 10 | | | | |
| 11 | | | | |
| 12 | | | | |
| Total | | | | |

**PART B. PUPILS ATTENDING SCHOOLS CHARTERED BY ANOTHER DISTRICT**

| 3rd Previous | 2nd Previous | Previous | Current |
|---|---|---|---|
| | | | |

**PART C. CONTINUATION HIGH SCHOOL**—(Districts only)

| Grade | 3rd Previous | 2nd Previous | Previous | Current |
|---|---|---|---|---|
| | / | / | / | / |
| 9 | | | | |
| 10 | | | | |
| 11 | | | | |
| 12 | | | | |

**PART D. SPECIAL DAY CLASS PUPILS**—(Districts or County Superintendent of Schools)

| | Elementary | | Secondary | | | Elementary | | Secondary | |
|---|---|---|---|---|---|---|---|---|---|
| | Non-Severe | Severe | Non-Severe | Severe | | Non-Severe | Severe | Non-Severe | Severe |
| MR | | | | | OI | | | | |
| HH | | | | | OHI | | | | |
| DEAF | | | | | SLD | | | | |
| HI | | | | | DB | | | | |
| SLI | | | | | MH | | | | |
| VI | | | | | AUT | | | | |
| SED | | | | | TBI | | | | |
| | | | | | TOTAL | | | | |

**PART E. SPECIAL DAY CLASS ENROLLMENT**—(County Superintendent of Schools only)

| 3rd Previous | 2nd Previous | Previous |
|---|---|---|
| | | |

**PART F. NUMBER OF NEW DWELLING UNITS**

**PART G. DISTRICT STUDENT YIELD FACTOR**

**PART H. FIVE YEAR PROJECTED ENROLLMENT—School Facility Program Projections**
(Except Special Day Class pupils only)

| K–6 | 7–8 | 9–12 | Total |
|---|---|---|---|
| | | | |

**Projections—Special Day Class Pupils Only**

| | Elementary | | Secondary | | | Elementary | | Secondary | |
|---|---|---|---|---|---|---|---|---|---|
| | Non-Severe | Severe | Non-Severe | Severe | | Non-Severe | Severe | Non-Severe | Severe |
| MR | | | | | OI | | | | |
| HH | | | | | OHI | | | | |
| DEAF | | | | | SLD | | | | |
| HI | | | | | DB | | | | |
| SLI | | | | | MH | | | | |
| VI | | | | | AUT | | | | |
| SED | | | | | TBI | | | | |
| | | | | | TOTAL | | | | |

**PART I. ONE YEAR PROJECTED ENROLLMENT—State Relocatable Program Projections**
(Except Special Day Class pupils only)

| K–6 | 7–8 | 9–12 | Total |
|---|---|---|---|
| | | | |

**Projections—Special Day Class Pupils Only**

| | Elementary | | Secondary | | | Elementary | | Secondary | |
|---|---|---|---|---|---|---|---|---|---|
| | Non-Severe | Severe | Non-Severe | Severe | | Non-Severe | Severe | Non-Severe | Severe |
| MR | | | | | OI | | | | |
| HH | | | | | OHI | | | | |
| DEAF | | | | | SLD | | | | |
| HI | | | | | DB | | | | |
| SLI | | | | | MH | | | | |
| VI | | | | | AUT | | | | |
| SED | | | | | TBI | | | | |
| | | | | | TOTAL | | | | |

*I certify, as the District Representative, that the information reported on this form is true and correct and that:*

- *I am designated as an authorized district representative by the governing board of the district.*
- *If the district is requesting an augmentation in the enrollment projection pursuant to Section 1859.42 (b), the local planning commission or approval authority has approved the tentative subdivision map used for augmentation of the enrollment and the district has identified dwelling units in that map to be contracted. All subdivision maps used for augmentation of enrollment are available at the district for review by the OPSC.*
- *This form is an exact duplicate (verbatim) of the form provided by Office of Public School Construction. In the event a conflict should exist, then the language in the OPSC form will prevail.*

| SIGBATURE OF DISTRICT REPRESENTATIVE | DATE |
|---|---|
| | |

# ATTACHMENT B

Article 5. Enrollment Projections

Section 1859.42. Projecting Non-Special Day Class Enrollment.

The district enrollment, as reported on the Form SAB 50-01, shall be used to calculate the district's projected enrollment other than Special Day Class enrollment. The OPSC shall use the following methodology to determine the districts projected enrollment:

(a) All projected enrollment with the exception of Special Day Class enrollment shall be calculated pursuant to the cohort survival enrollment projection system which is described as follows:

(1) For all grades, determine the numerical change in enrollment between the current grade and the next lower grade in the previous year; determine the numerical change in enrollment between the previous year grade and the next lower grade in the second previous year; determine the numerical change in enrollment between the second previous year grade and the next lower grade in the third previous year. Determine the numerical change of kindergarten enrollment on the second previous and third previous year respectively.

(2) Compute the annual change in enrollment as explained in (1) for each grade. The annual change shall then be weighted by multiplying the most recent annual change in enrollment by three, the next most recent annual change by two, and the earliest annual change by one, and dividing the sum of the annual weighted changes for each grade by six. The result shall be the average annual change.

(3) Progress the latest reported enrollment through the five-year projection period, modifying the grade progression each year by the average annual change for each grade as computed in (2).

(b) The enrollment projection will be augmented based on the number of pupils as reported by the district on Form SAB 50-01, that will reside in dwelling units included in an approved ~~subdivision map or~~ <u>and</u> valid tentative <u>or final</u> subdivision map that exceed the number of pupils projected as a result of the cohort survival method for that <u>tentative or final</u> subdivision map. The augmentation shall be as follows:

(1) Progress the current enrollment as reported on Form SAB 50-01, for one year for each grade level. For kindergarten, the progressed current enrollment shall be the same as the reported current enrollment.

(2) Subtract the current enrollment progressed one year for each grade level from the one-year projection of enrollment for each grade level as determined in (a). If the computation results in a negative number, the number shall be deemed zero.

(3) Divide the current enrollment progressed one year for each grade level by the sum of the current enrollment progressed one year in all grade levels.

(4) Multiply the number of housing units in the <u>approved and valid tentative or final</u> subdivision <u>maps</u> by the pupil yield factor provided on the Form SAB 50-01.

(5) Multiply the number of pupils determined in (4) by the percentages determined in (3) for each grade.

(6) Subtract five times the value determined in (2) from the value determined in (5). If the computation results in a negative number, the number shall be deemed zero.

(7) Add the value in (6) to the fifth year of projected enrollment as computed in (a) to establish the augmented projection of enrollment.

(c) The projected enrollment of a HSAA or Super HSAA shall be computed in the same manner as that set forth in this section, except that the enrollment used in such computation shall be that of the HSAA or Super HSAA rather than the entire district. Augmentation as provided in (b) of this Section may include only dwelling units located in the HSAA or Super HSAA.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17071.75 and 17071.76, Education Code.

# ATTACHMENT C

## RELEVANT GOVERNMENT CODE SECTIONS

### Student Yield Factor Reporting

### Government Code Section 65995.6

**65995.6**. (a) The school facilities needs analysis required by paragraph (2) of subdivision (b) of Section 65995.5 shall be conducted by the governing board of a school district to determine the need for new school facilities for unhoused pupils that are attributable to projected enrollment growth from the development of new residential units over the next five years. The school facilities needs analysis shall project the number of unhoused elementary, middle, and high school pupils generated by new residential units, in each category of pupils enrolled in the district. This projection of unhoused pupils shall be based on the historical student generation rates of new residential units constructed during the previous five years that are of a similar type of unit to those anticipated to be constructed either in the school district or the city or county in which the school district is located, and relevant planning agency information, such as multiphased development projects, that may modify the historical figures. For purposes of this paragraph, "type" means a single family detached, single family attached, or multifamily unit. The existing school building capacity shall be calculated pursuant to Article 2 (commencing with Section 17071.10) of Chapter 12.5 of Part 10 of the Education Code. The existing school building capacity shall be recalculated by the school district as part of any revision of the needs analysis pursuant to subdivision (e) of this section. If a district meets the requirements of paragraph (3) of subdivision (b) of Section 65995.5 by having a substantial enrollment on a multitrack year-round schedule, the determination of whether the district has school building capacity area shall reflect the additional capacity created by the multitrack year-round schedule.
(b) When determining the funds necessary to meet its facility needs, the governing board shall do each of the following:

(1) Identify and consider any surplus property owned by the district that can be used as a schoolsite or that is available for sale to finance school facilities.
(2) Identify and consider the extent to which projected enrollment growth may be accommodated by excess capacity in existing facilities.
(3) Identify and consider local sources other than fees, charges, dedications, or other requirements imposed on residential construction available to finance the construction or reconstruction of school facilities needed to accommodate any growth in enrollment attributable to the construction of new residential units.

(c) The governing board shall adopt the school facility needs analysis by resolution at a public hearing. The school facilities needs analysis may not be adopted until the school facilities needs analysis in its final form has been made available to the public for a period of not less than 30 days during which time the school facilities needs analysis shall be provided to the local agency responsible for land use planning for its review and comment. Prior to the adoption of the school facilities needs analysis, the public shall have the opportunity to review and comment on the school facilities needs analysis and the governing board shall respond to written comments it receives regarding the school facilities needs analysis.
(d) Notice of the time and place of the hearing, including the location and procedure for viewing or requesting a copy of the proposed school facilities needs analysis and any proposed revision of the school facilities needs analysis, shall be published in at least one newspaper of general circulation within the jurisdiction of the school district that is conducting the hearing no less than 30 days prior to the hearing. If there is no paper of general circulation, the notice shall be posted in at least three conspicuous public places within the jurisdiction of the school district not less than 30 days prior to the hearing. In addition to these notice requirements, the governing board shall mail a copy of the school facilities needs analysis and any proposed revision to the school facilities needs analysis not less than 30 days prior to the hearing to any person who has made a written request if the written request was made 45 days prior to the hearing. The governing board may charge a fee reasonably related to the cost of providing these materials to those persons who request the school facilities needs analysis or revision.
(e) The school facilities needs analysis may be revised at any time in the same manner, and the revision is subject to the same conditions and requirements, applicable to the adoption of the school facilities needs analysis.

(f) A fee, charge, dedication, or other requirement in an amount authorized by this section or Section 65995.7, shall be adopted by a resolution of the governing board as part of the adoption or revision of the school facilities needs analysis and may not be effective for more than one year. Notwithstanding subdivision (a) of Section 17621 of the Education Code, or any other provision of law, the fee, charge, dedication, or other requirement authorized by the resolution shall take effect immediately after the adoption of the resolution.
(g) Division 13 (commencing with Section 21000) of the Public Resources Code may not apply to the preparation, adoption, or update of the school facilities needs analysis, or adoption of the resolution specified in this section.
(h) Notice and hearing requirements other than those provided in this section may not be applicable to the adoption or revision of a school facilities needs analysis or the resolutions adopted pursuant to this section.

## Tentative and Final Subdivision Maps

## Government Code Section 66425-66426

66425. The necessity for tentative, final and parcel maps shall be governed by the provisions of this chapter.

**66426**. A tentative and final map shall be required for all subdivisions creating five or more parcels, five or more condominiums as defined in Section 783 of the Civil **Code**, a community apartment project containing five or more parcels, or for the conversion of a dwelling to a stock cooperative containing five or more dwelling units, except where any one of the following occurs:
(a) The land before division contains less than five acres, each parcel created by the division abuts upon a maintained public street or highway, and no dedications or improvements are required by the legislative body.
(b) Each parcel created by the division has a gross area of 20 acres or more and has an approved access to a maintained public street or highway.
(c) The land consists of a parcel or parcels of land having approved access to a public street or highway, which comprises part of a tract of land zoned for industrial or commercial development, and which has the approval of the governing body as to street alignments and widths.
(d) Each parcel created by the division has a gross area of not less than 40 acres or is not less than a quarter of a quarter section.
(e) The land being subdivided is solely for the creation of an environmental subdivision pursuant to Section 66418.2.
(f) A parcel map shall be required for those subdivisions described in subdivisions (a), (b), (c), (d), and (e).

ATTACHMENT D

| SUMMARY OF COHORT SURVIVAL CALCULATION ANALYSIS | | Small | Medium | Large | North | Central | South | Projection for 03/04 (Zero DUs) | Percent Difference | Projection for 03/04 (DUs & SYF) | Percent Difference | Actual Enroll. for 03/04 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| N0 DU's Reported - CBEDS ONLY | District A | | | X | | | X | 18,875 | -4.8% | 18,875 | -4.8% | 19,827 |
| | District B | | | X | | | X | 23,417 | 6.7% | 23,417 | 6.7% | 21,948 |
| | District C | | | X | | | X | 17,114 | 7.9% | 17,114 | 7.9% | 15,866 |
| | District D | X | | | | X | | 4,003 | -6.7% | 4,003 | -6.7% | 4,292 |
| | District E | X | | | | | X | 254 | 30.3% | 254 | 30.3% | 195 |
| | District F | | X | | | | X | 7,216 | -1.6% | 7,216 | -1.6% | 7,333 |
| | District G | | | X | X | | | 55,643 | -2.7% | 55,643 | -2.7% | 57,197 |
| | District H | X | | | X | | | 4,425 | 1.9% | 4,425 | 1.9% | 4,342 |
| | District I | | X | | | X | | 8,472 | -6.6% | 8,472 | -6.6% | 9,071 |
| | District M | X | | | | X | | 265 | 16.2% | 265 | 16.2% | 228 |
| | District N | X | | | X | | | 1,937 | 3.2% | 1,937 | 3.2% | 1,877 |
| | District O | | X | | | | X | 9,548 | 4.0% | 9,548 | 4.0% | 9,184 |
| | District P | X | | | | | X | 5,154 | -1.5% | 5,154 | -1.5% | 5,235 |
| | District Q | X | | | X | | | 4,665 | -3.0% | 4,665 | -3.0% | 4,807 |
| | District R | | X | | | | X | 7,620 | 6.1% | 7,620 | 6.1% | 7,181 |
| | District S | | | X | | | X | 42,702 | 1.6% | 42,702 | 1.6% | 42,039 |
| | District T | | | X | | | X | 17,322 | 6.1% | 17,322 | 6.1% | 16,330 |
| | District U | X | | | | X | | 510 | -18.0% | 510 | -18.0% | 622 |
| | District V | | X | | | | X | 11,748 | 14.4% | 11,748 | 14.4% | 10,268 |
| | | | | | | | | 12,678 | 1.3% | 12,678 | 1.3% | 12,518 |
| USING DU's and STATEWIDE SYF | District W | X | | | X | | | 5,644 | -5.1% | 6,722 | 13.0% | 5,949 |
| | District X | X | | | | X | | 2,410 | -15.9% | 2,687 | -6.2% | 2,864 |
| | District Y | | | X | | X | | 32,953 | -4.7% | 35,017 | 1.2% | 34,588 |
| | District Z | | X | | X | | | 4,959 | -29.2% | 6,706 | -4.3% | 7,008 |
| | District AA | X | | | X | | | 4,072 | -16.4% | 6,880 | 41.3% | 4,870 |
| | District BB | X | | | X | | | 1,135 | 20.2% | 1,166 | 23.5% | 944 |
| | District CC | | X | | | X | | 13,529 | 3.3% | 13,639 | 4.1% | 13,098 |
| | District DD | X | | | | | X | 831 | -46.7% | 973 | -37.5% | 1,558 |
| | District EE | | X | | | | X | 7,011 | -3.6% | 7,016 | -3.5% | 7,273 |
| | District FF | X | | | | X | | 2,460 | 13.5% | 2,467 | 13.8% | 2,168 |
| | District GG | | | X | | | X | 12,605 | -19.4% | 13,670 | -12.6% | 15,640 |
| | District HH | X | | | | X | | 3,354 | 3.1% | 3,625 | 11.4% | 3,253 |
| | District II | | | X | | X | | 20,319 | 3.2% | 21,176 | 7.6% | 19,689 |
| | District JJ | | | X | | | X | 27,767 | 11.4% | 28,851 | 15.7% | 24,934 |
| | District KK | | | X | | | X | 19,669 | -4.4% | 20,093 | -2.4% | 20,584 |
| | District LL | | X | | X | | | 7,909 | -14.5% | 8,070 | -12.7% | 9,246 |
| | District MM | | X | | | | X | 5,282 | -27.4% | 5,360 | -26.3% | 7,273 |
| | District NN | | | X | | | X | 12,948 | -14.2% | 19,001 | 25.9% | 15,090 |
| | District OO | | X | | | X | | 5,842 | -3.9% | 6,048 | -0.6% | 6,082 |
| | District PP | | X | | | X | | 5,762 | -25.4% | 6,772 | -12.3% | 7,720 |
| | District QQ | | X | | | X | | 7,707 | -14.0% | 8,230 | -8.1% | 8,959 |
| | District RR | X | | | X | | | 4,309 | -8.0% | 4,392 | -6.3% | 4,685 |
| | District BBB | X | | | | | X | 3,637 | -27.4% | 5,999 | 19.7% | 5,013 |
| | District CCC | | | X | | | X | 27,378 | 2.7% | 28,584 | 7.2% | 26,662 |
| | District DDD | | | X | | | X | 24,092 | -3.4% | 24,761 | -0.8% | 24,951 |
| | District EEE | | X | | X | | | 6,390 | -27.6% | 9,886 | 12.0% | 8,830 |
| | | | | | | | | 10,384 | -6.6% | 11,454 | 3.1% | 11,113 |
| DU's and DISTRICT SYF | District SS | | | X | | | X | 37,554 | -9.3% | 38,945 | -5.9% | 41,382 |
| | District TT | | X | | | | X | 7,302 | -6.6% | 10,195 | 30.5% | 7,814 |
| | District UU | | | X | | | X | 35,162 | 1.1% | 35,709 | 2.6% | 34,792 |
| | District VV | | X | | | X | | 9,560 | 4.5% | 10,139 | 10.8% | 9,148 |
| | District WW | | X | | | | X | 6,512 | -2.4% | 7,391 | 10.8% | 6,672 |
| | District XX | X | | | | X | | 3,360 | -23.8% | 4,071 | -7.6% | 4,407 |
| | District YY | | | X | | | X | 34,801 | 6.5% | 36,406 | 11.4% | 32,679 |
| | District ZZ | | | X | X | | | 21,445 | -2.5% | 26,452 | 20.3% | 21,988 |
| | District AAA | | X | | | | X | 12,005 | -4.6% | 12,934 | 2.7% | 12,590 |
| | | | | | | | | 18,633 | -2.2% | 20,249 | 6.3% | 19,052 |
| | | 18 | 18 | 18 | 12 | 15 | 27 | | | | | |

| | |
|---|---|
| **TOTAL DISTRICTS:** | **54** |
| **Small** (0-6,000 pupils) | **18** |
| **Medium** (6,001-15,000 | **18** |
| **Large** (15,001+ pupils) | **18** |
| **North** (north of Stanislaus) | **12** |
| **Central** | **15** |
| **South** (south of Kern) | **27** |

**For "Percent Difference":**

~ Positive percentage = the projection > enrollment. (the 50-01 is over-projecting)

~ Negative percentage = the projection < enrollment. (the 50-01 is under-projecting)

| | Projection for 03/04 | Percent Difference | Actual Enroll. for 03/04 |
|---|---|---|---|
| **Small:** | 3,344 | 5.0% | 3,184 |
| **Medium:** | 9,436 | 9.8% | 8,597 |
| **Large:** | 27,985 | 3.3% | 27,101 |
| **North:** | 11,302 | 2.9% | 10,979 |
| **Central:** | 8,475 | 0.7% | 8,413 |
| **South:** | 16,921 | 3.8% | 16,308 |

## Overall conclusion:

Using data from 54 school districts throughout the State encompassing Northern, Central and Southern regions and from districts ranging in size from 200 to 55,000 pupils, the OPSC compared information provided on the Form SAB 50-01 and the actual enrollment. The statewide average 5-year enrollment projection using zero dwelling units and the statewide student yield factor was 13,898 pupils. The average actual statewide enrollment at the end of the 5 year period culminating in the 03/04 school year was 14,228 - a net **difference of -2.314%.** (Actual enrollment was higher than the projection by an average of 330 pupils.)

Using the dwelling units and student yield factor figures reported on the Form SAB 50-01 application and using the same set of sample districts, the statewide average 5-year enrollment projection was 14,794. Comparing the actual enrollment at the end of the 5 year period resulted in a net **difference of +3.978%**. (The enrollment projection over-predicted what the actual enrollment would be when factored with dwelling units.) These figures provide evidence that the cohort survival method does an accurate job of estimating the 5-year enrollment projection.

| | Projection for 03/04 (Zero DUs) | Percent Difference | Projection for 03/04 DU's & SYF) | Percent Difference | Actual Enroll. for 03/04 |
|---|---|---|---|---|---|
| **Statewide average ~** | 13,898 | -2.314% | 14,794 | 3.978% | 14,228 |

## ATTACHMENT E

| | SUMMARY OF COHORT SURVIVAL CALCULATION ANALYSIS | Small | Medium | Large | North | Central | South | Rural | Suburban | Urban | Projection for 03/04 (Zero DUs) | Percent Difference | Projection for 03/04 (DUs & SYF) | Percent Difference | Actual Enroll. for 03/04 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| N0 DU's Reported - CBEDS ONLY | District A | | | X | | | X | | | X | 18,875 | -4.8% | 18,875 | -4.8% | 19,827 |
| | District B | | | X | | | X | | | X | 23,417 | 6.7% | 23,417 | 6.7% | 21,948 |
| | District C | | | X | | | X | | X | | 17,114 | 7.9% | 17,114 | 7.9% | 15,866 |
| | District D | X | | | | X | | | X | | 4,003 | -6.7% | 4,003 | -6.7% | 4,292 |
| | District E | X | | | | | X | | X | | 254 | 30.3% | 254 | 30.3% | 195 |
| | District F | | X | | | | X | | X | | 7,216 | -1.6% | 7,216 | -1.6% | 7,333 |
| | District G | | | X | X | | | | X | | 55,643 | -2.7% | 55,643 | -2.7% | 57,197 |
| | District H | X | | | X | | | | X | | 4,425 | 1.9% | 4,425 | 1.9% | 4,342 |
| | District I | | X | | | X | | | X | | 8,472 | -6.6% | 8,472 | -6.6% | 9,071 |
| | District M | X | | | | X | | X | | | 265 | 16.2% | 265 | 16.2% | 228 |
| | District N | X | | | X | | | | X | | 1,937 | 3.2% | 1,937 | 3.2% | 1,877 |
| | District O | | X | | | | X | | X | | 9,548 | 4.0% | 9,548 | 4.0% | 9,184 |
| | District P | X | | | | | X | | X | | 5,154 | -1.5% | 5,154 | -1.5% | 5,235 |
| | District Q | X | | | X | | | | X | | 4,665 | -3.0% | 4,665 | -3.0% | 4,807 |
| | District R | | X | | | | X | | X | | 7,620 | 6.1% | 7,620 | 6.1% | 7,181 |
| | District S | | | X | | | X | | | X | 42,702 | 1.6% | 42,702 | 1.6% | 42,039 |
| | District T | | | X | | | X | | | X | 17,322 | 6.1% | 17,322 | 6.1% | 16,330 |
| | District U | X | | | | X | | X | | | 510 | -18.0% | 510 | -18.0% | 622 |
| | District V | | X | | | | X | | X | | 11,748 | 14.4% | 11,748 | 14.4% | 10,268 |
| | District 1 | X | | | | X | | | X | | 5,783 | 7.2% | 5,783 | 7.2% | 5,396 |
| | District 2 | X | | | | | X | | | X | 3,000 | -14.3% | 3,000 | -14.3% | 3,500 |
| | District 3 | | X | | | | X | | X | | 8,876 | -8.9% | 8,876 | -8.9% | 9,742 |
| | District 4 | X | | | X | | | X | | | 1,657 | -16.0% | 1,657 | -16.0% | 1,973 |
| | District 5 | | X | | | | X | | X | | 9,723 | -15.9% | 9,723 | -15.9% | 11,557 |
| | District 6 | | | X | | | X | | X | | 40,852 | -7.2% | 40,852 | -7.2% | 43,998 |
| | District 7 | | X | | | | X | | X | | 11,347 | -19.2% | 11,347 | -19.2% | 14,048 |
| | District 8 | | X | | | | X | | X | | 8,357 | -14.8% | 8,357 | -14.8% | 9,805 |
| | District 9 | X | | | | X | | X | | | 106 | 76.7% | 106 | 76.7% | 60 |
| | District 10 | | X | | | | X | | X | | 7,620 | 6.1% | 7,620 | 6.1% | 7,181 |
| | District 11 | | | X | | | X | | X | | 39,887 | 12.2% | 39,887 | 12.2% | 35,550 |
| | | | | | | | | | | | 12,603 | -0.7% | 12,603 | -0.7% | 12,688 |
| USING DU's and STATEWIDE SYF | District W | X | | | X | | | | X | | 5,644 | -5.1% | 6,722 | 13.0% | 5,949 |
| | District X | X | | | | X | | | X | | 2,410 | -15.9% | 2,687 | -6.2% | 2,864 |
| | District Y | | | X | | X | | | X | | 32,953 | -4.7% | 35,017 | 1.2% | 34,588 |
| | District Z | | X | | X | | | | X | | 4,959 | -29.2% | 6,706 | -4.3% | 7,008 |
| | District AA | X | | | X | | | | X | | 4,072 | -16.4% | 6,880 | 41.3% | 4,870 |
| | District BB | X | | | X | | | X | | | 1,135 | 20.2% | 1,166 | 23.5% | 944 |
| | District CC | | X | | | X | | | | X | 13,529 | 3.3% | 13,639 | 4.1% | 13,098 |
| | District DD | X | | | | | X | X | | | 831 | -46.7% | 973 | -37.5% | 1,558 |
| | District EE | | X | | | | X | | X | | 7,011 | -3.6% | 7,016 | -3.5% | 7,273 |
| | District FF | X | | | | X | | | X | | 2,460 | 13.5% | 2,467 | 13.8% | 2,168 |
| | District GG | | | X | | | X | | X | | 12,605 | -19.4% | 13,670 | -12.6% | 15,640 |
| | District HH | X | | | | X | | | X | | 3,354 | 3.1% | 3,625 | 11.4% | 3,253 |
| | District II | | | X | | X | | | X | | 20,319 | 3.2% | 21,176 | 7.6% | 19,689 |
| | District JJ | | | X | | | X | | X | | 27,767 | 11.4% | 28,851 | 15.7% | 24,934 |
| | District KK | | | X | | | X | | X | | 19,669 | -4.4% | 20,093 | -2.4% | 20,584 |
| | District LL | | X | | X | | | | X | | 7,909 | -14.5% | 8,070 | -12.7% | 9,246 |
| | District MM | | X | | | | X | | X | | 5,282 | -27.4% | 5,360 | -26.3% | 7,273 |
| | District NN | | | X | | | X | | X | | 12,948 | -14.2% | 19,001 | 25.9% | 15,090 |
| | District OO | | X | | | X | | | X | | 5,842 | -3.9% | 6,048 | -0.6% | 6,082 |

## ATTACHMENT E

| | SUMMARY OF COHORT SURVIVAL CALCULATION ANALYSIS | Small | Medium | Large | North | Central | South | Rural | Suburban | Urban | Projection for 03/04 (Zero DUs) | Percent Difference | Projection for 03/04 (DUs & SYF) | Percent Difference | Actual Enroll. for 03/04 |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| USING DU's and STATEWIDE SYF | District PP | | X | | | X | | | X | | 5,762 | -25.4% | 6,772 | -12.3% | 7,720 |
| | District QQ | | X | | | X | | | X | | 7,707 | -14.0% | 8,230 | -8.1% | 8,959 |
| | District RR | X | | | X | | | | X | | 4,309 | -8.0% | 4,392 | -6.3% | 4,685 |
| | District BBB | X | | | | | X | | X | | 3,637 | -27.4% | 5,999 | 19.7% | 5,013 |
| | District CCC | | | X | | | X | | X | | 27,378 | 2.7% | 28,584 | 7.2% | 26,662 |
| | District DDD | | | X | | | X | | X | | 24,092 | -3.4% | 24,761 | -0.8% | 24,951 |
| | District EEE | | X | | X | | | | | X | 6,390 | -27.6% | 9,886 | 12.0% | 8,830 |
| | District 12 | X | | | X | | | | X | | 1,428 | -0.5% | 2,088 | 45.5% | 1,435 |
| | District 13 | | X | | | | X | | X | | 9,339 | -2.9% | 10,064 | 4.7% | 9,615 |
| | District 14 | | | X | | | X | | X | | 17,185 | -12.7% | 18,263 | -7.3% | 19,693 |
| | District 15 | | X | | | | X | | X | | 9,367 | -7.2% | 11,232 | 11.2% | 10,098 |
| | District 16 | X | | | X | | | | X | | 3,143 | -21.8% | 9,408 | 134.0% | 4,020 |
| | District 17 | X | | | | | X | | X | | 503 | -21.2% | 639 | 0.2% | 638 |
| | District 18 | X | | | | X | | X | | | 1,093 | -14.4% | 1,220 | -4.5% | 1,277 |
| | District 19 | | | X | | | X | | X | | 16,889 | -15.4% | 16,924 | -15.3% | 19,970 |
| | | | | | | | | | | | 9,674 | -7.5% | 10,813 | 3.4% | 10,461 |
| DU's and DISTRICT SYF | District SS | | | X | | | X | | X | | 37,554 | -9.3% | 38,945 | -5.9% | 41,382 |
| | District TT | | X | | | | X | | X | | 7,302 | -6.6% | 10,195 | 30.5% | 7,814 |
| | District UU | | | X | | | X | | X | | 35,162 | 1.1% | 35,709 | 2.6% | 34,792 |
| | District VV | | X | | | X | | | X | | 9,560 | 4.5% | 10,139 | 10.8% | 9,148 |
| | District WW | | X | | | | X | | X | | 6,512 | -2.4% | 7,391 | 10.8% | 6,672 |
| | District XX | X | | | | X | | | X | | 3,360 | -23.8% | 4,071 | -7.6% | 4,407 |
| | District YY | | | X | | | X | | X | | 34,801 | 6.5% | 36,406 | 11.4% | 32,679 |
| | District ZZ | | | X | X | | | | X | | 21,445 | -2.5% | 26,452 | 20.3% | 21,988 |
| | District AAA | | X | | | | X | | X | | 12,005 | -4.6% | 12,934 | 2.7% | 12,590 |
| | District 20 | X | | | | X | | | X | | 2,269 | -10.1% | 2,364 | -6.3% | 2,523 |
| | District 21 | | | X | | | X | | X | | 16,943 | -14.1% | 26,762 | 35.7% | 19,723 |
| | | | | | | | | | | | 16,992 | -3.5% | 19,215 | 9.1% | 17,611 |
| | | 27 | 25 | 23 | 15 | 19 | 41 | 7 | 61 | 7 | | | | | |
| | Statewide Average ~ | | | | | | | | | | 13,090 | -3.7% | 14,210 | 4.6% | 13,587 |

| | |
|---|---|
| **TOTAL** | **75** |
| **Small** (0-6,000 pupils) | **27** |
| **Medium** (6,001-15,000 | **25** |
| **Large** (15,001+ pupils) | **23** |
| | |
| **North** (north of | **15** |
| **Central** | **19** |
| **South** (south of Kern) | **41** |
| | |
| **Rural** | **7** |
| **Suburban** | **61** |
| **Urban** | **7** |

**For "Percent Difference":**

**Positive percentage** = the projection > enrollment.
(The 50-01 is over-projecting.)
**Negative percentage** = the projection < enrollment.
(The 50-01 is under-projecting.)

| | Projection for 03/04 (Incl. DU & SYF) | Percent Difference | Actual Enroll. for 03/04 |
|---|---|---|---|
| **Small** | 3,202 | 10.6% | 2,894 |
| **Medium** | 8,968 | -1.1% | 9,072 |
| **Large** | 28,105 | 3.4% | 27,179 |
| **North** | 10,006 | 7.8% | 9,278 |
| **Central** | 7,189 | 0.9% | 7,127 |
| **South** | 16,351 | 2.3% | 15,986 |
| **Rural** | 842 | -11.6% | 952 |
| **Suburban** | 13,481 | 3.1% | 13,079 |
| **Urban** | 18,406 | 2.6% | 17,939 |

STATE ALLOCATION BOARD
IMPLEMENTATION COMMITTEE
September 2, 2004

# PURCHASE AND CONVERSION OF NON-CONFORMING BUILDINGS FOR SCHOOL USE

## PURPOSE

To outline a proposal for a case-by-case review of projects that request SFP funding for purchase and retrofit of non-conforming buildings for school use.

## BACKGROUND

The Office of Public School Construction (OPSC) has been asked to look into the feasibility of funding for projects involving purchase and retrofit of existing buildings. Although the Education Code provides for such projects, districts claim that while site acquisition funding applies to the cost of the land only, the base grant amount is insufficient to pay for the purchase and retrofit of the building(s). Districts also contend that retrofitting a non-conforming building may be a more cost-effective approach as compared to the traditional method of purchasing, demolishing and building a-new. After the initial discussions and consideration of small number of projects anticipated, it was determined that case-by-case project review via an appeal would be most feasible.

## AUTHORITY

The Education Code Section (ECS) 17072.35 states that "a grant for new construction may also be used to acquire an existing government or privately owned building, or a privately financed school building, and for the necessary costs of converting the government or privately owned building for public school use."

## DISCUSSION

*Explanation of Current Policy*

Traditionally, new construction projects that involve land acquisition with existing improvements are eligible for SFP funding as follows:

- Site acquisition additional grant provides funding for the cost of the site which includes land and any existing buildings.
- The site development additional grant provides funding for demolition of existing structures.
- The per pupil base grant provides funding for new school facilities to be constructed on the site.

The OPSC requires school districts to separate its land acquisition cost from the value of existing improvements if they are to be used for school purposes. The base grant sets the budget for classroom construction. Thus, existing buildings that are not demolished become ineligible for site acquisition funding. The base grant must be sufficient to cover the cost of purchase and retrofit of the building. Providing funding for the building as part of site acquisition and the base grant would mean potential double-funding for the classrooms.

*Proposal*

The OPSC proposes developing regulations that would enable school districts to submit an appeal request if the potential project funding under the current policy is insufficient. This proposal would require a Board approval for additional funding.

The district may request a conceptual approval from the SAB prior to the submittal of a complete funding application. If the district chooses not to request a conceptual approval and the SAB does not approve any funding increases for the project, the district may withdraw its application and resubmit at a later date with revised Division of State Architect approved plans for a traditional demolition/rebuilding project.

To qualify for higher funding consideration, the project proposal must comply with all of the following requirements:

1. Districts must be able to certify that retrofitted buildings will be "in like new" condition upon completion of the work.
2. The number of pupil grants requested for the project must be commensurate with the number of classrooms to be provided.
3. The project must meet the 60 percent commensurate test. The district must show that it plans to spend at least 60 percent of the total project cost, less site acquisition, on eligible retrofit and construction work.
4. The school district must submit a *School District Appeal Request* (Form SAB 189) with all of the following as applicable:
   a. When a district opts for building retrofit, it must provide a detailed cost estimate of the proposed project including any new construction work in the project.
   b. A district should also provide an appraisal that values the land and improvements separately. The appraisal must be performed utilizing the cost approach, which is defined by the American Institute of Real Estate Appraisers as the "set of procedures in which an appraiser derives a value indication by estimating the current cost to reproduce or replace the existing structure, deducting for all accrued depreciation in the property and adding the estimated land value."
   c. A school district should provide the purchase price information if it is available at the time of conceptual approval request.
   d. A draft copy of the *Application for Funding* (Form SAB 50-04) which provides an estimate of pupil grants to be requested based on the number of classrooms to be constructed in the project.

If a school district submits the necessary documentation and substantiates the need for additional funding, the Board may approve site acquisition funding up to the full value of the site (including a portion of or the entire value of improvements; i.e., the building) in addition to the eligible base grant funding. In order to determine the amount of additional funding for site acquisition beyond land value, the OPSC will utilize the calculation involving the useable value of the building and the amount of retrofit required as shown on the attachment. Prorating of the building value will be applied in cases when only a portion of the acquired building will be utilized for school purposes.

The maximum funding provided will not exceed the full value of the site including the full value of the building and the eligible base grant funding based on the number of classrooms in the project. In cases where additional funding to warranted, the base grant funding will remain unchanged at the level established by the number of classrooms in the project, and the building costs will be funded in totality by either the site acquisition apportionment or in some cases, proportionately between the site acquisition apportionment and the base grant.

RECOMMENDATION

Staff suggests implementation of the proposal into a new regulation to be presented at the next Implementation Committee meeting.

ATTACHMENT

*Calculation:*

Assume that appraised value of the property equals its Purchase Price (PP) and provides a separate cost analysis for land-only value and building-only value.

**Step 1:**

| |
|---|
| Value of Building (B)<br>- Cost to Retrofit (R)<br>Useable Building Value (V)<br>*If negative, use zero* |
| (The useable building Value must be covered by base grant.) |

**Step 2**:

| |
|---|
| Value of Building (B)<br>- Useable Building Value (V)<br>Unusable Building Value (U) |
| (This equals the compensation for required retrofit) |

**Step 3:**

| |
|---|
| Pure Land Costs (L)<br>+ Unusable Building Cost (U)<br>Site Acquisition Grant (S) |
| (This is the adjusted site acquisition cost that accounts for retrofit cost in-lieu of demolition) |

Examples:
Below is a summary of hypothetical examples for discussion purposes only.

**Example 1**: Assume the following costs (in millions) for District A:

PP: $ 8
L: $ 4
B: $ 4
R: $ 4
G: $ 5

Step 1: B - R = V $4 – $4 = $0 *useable building value*
Step 2: B – V = U $4 – $0 = $4 *unusable building value*
Step 3: L + U = S $4 + $4 = $8 *Site Acquisition Grant*

| District's Cost | Conversion per Current Regulations | Conversion Per Proposed Calculation | Traditional Demolition – New Construction Project |
|---|---|---|---|
| $ 8 Purchase Price<br>$ 4 Retrofit<br>$ 1 Some Site Dev. | $ 4 Land only<br>$ 5 Base Grant<br>$ 1 Some Site Dev. | $ 8 Site Acquisition<br>$ 5 Base Grant<br>$ 1 Some Site Dev. | $ 8 Site Acquisition<br>$ 5 Base Grant<br>$ 2 Site Dev. w/Demolition |
| **$13 total** | **$10 total** | **$14 total** | **$15 total** |

**Example 2**: Assume the following costs (in millions) for District B:

| | | | | |
|---|---|---|---|---|
| PP: | $ 6 | Step 1: B - R = V | $2 – $6 = $0 | *useable building value* |
| L: | $ 4 | Step 2: B – V = U | $2 – $0 = $2 | *unusable building value* |
| B: | $ 2 | Step 3: L + U = S | $4 + $2 = $6 | *Site Acquisition Grant* |
| R: | $ 6 | | | |
| G: | $ 5 | | | |

| District's Cost | Conversion per Current Regulations | Conversion Per Proposed Calculation | Traditional Demolition – New Construction Project |
|---|---|---|---|
| $ 6 Purchase Price<br>$ 6 Retrofit<br>$ 1 Some Site Dev. | $ 4 Land only<br>$ 5 Base Grant<br>$ 1 Some Site Dev. | $ 6 Site Acquisition<br>$ 5 Base Grant<br>$ 1 Some Site Dev. | $ 6 Site Acquisition<br>$ 5 Base Grant<br>$ 2 Site Dev. w/Demolition |
| **$13 total** | **$10 total** | **$12 total** | **$13 total** |

**Example 3**: Assume the following costs (in millions) for District C:

| | | | | |
|---|---|---|---|---|
| PP: | $10 | Step 1: B - R = V | $6 – $2 = $4 | *useable building value* |
| L: | $ 4 | Step 2: B – V = U | $6 – $4 = $2 | *unusable building value* |
| B: | $ 6 | Step 3: L + U = S | $4 + $2 = $6 | *Site Acquisition Grant* |
| R: | $ 2 | | | |
| G: | $ 5 | | | |

| District's Cost | Conversion per Current Regulations | Conversion Per Proposed Calculation | Traditional Demolition – New Construction Project |
|---|---|---|---|
| $10 Purchase Price<br>$ 2 Retrofit<br>$ 1 Some Site Dev. | $ 4 Land only<br>$ 5 Base Grant<br>$ 1 Some Site Dev. | $ 6 Site Acquisition<br>$ 5 Base Grant<br>$ 1 Some Site Dev. | $10 Site Acquisition<br>$ 5 Base Grant<br>$ 2 Site Dev. w/Demolition |
| **$13 total** | **$10 total** | **$12 total** | **$17 total** |

**STATE ALLOCATION BOARD**
1130 K Street, Suite 400
Sacramento, CA 95814
http://www.dgs.ca.gov/opsc

**Date:** September 17, 2004

**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, October 1, 2004 (9:30 am - 3:30 pm) at the East End Complex, 1500 Capitol Avenue, Rooms 72.149B & 72.151A, Sacramento.

The Implementation Committee's proposed agenda is as follows:

1. Convene Meeting

2. Bidding Climate Report
   Present information on project cost increases due to code change requirements especially relating to the Americans with Disabilities Act and technology advancements.

3. Williams Settlement Legislation
   Discussion Items:
   - Senate Bill 6 (Alpert) School Facility Needs Assessment Grant Program and Emergency Repair Account
   - Senate Bill 550 (Vasconcellos) School Facility Standards

   Informational Items:
   - Assembly Bill 1550 (Daucher) Concept 6 Program
   - Assembly Bill 2727 (Daucher) and Senate Bill 550 (Vasconcellos) Uniform Complaint Process for School Districts

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 Christine Sanchez at (916) 322-0328.

BRUCE B. HANCOCK
Chairperson

BBH:LM:cs

**STATE ALLOCATION BOARD**
1130 K Street, Suite 400
Sacramento, CA 95814
http://www.dgs.ca.gov/opsc

**Date:** October 22, 2004

**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, November 5, 2004 (9:30 am - 3:30 pm) at the East End Complex, 1500 Capitol Avenue, Rooms 72.149B & 72.151A, Sacramento.

The Implementation Committee's proposed agenda is as follows:

1. Convene Meeting

2. Bidding Climate Report
   Present information on project cost increases due to code change requirements especially relating to the Americans with Disabilities Act and technology advancements.

3. Williams Settlement Legislation
   Discussion Items:
   - Senate Bill 6 (Alpert) School Facility Needs Assessment Grant Program and Emergency Repair Account
   - Senate Bill 550 (Vasconcellos) School Facility Standards

   Informational Items:
   - Assembly Bill 1550 (Daucher) Concept 6 Program
   - Assembly Bill 2727 (Daucher) and Senate Bill 550 (Vasconcellos) Uniform Complaint Process for School Districts

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 Christine Sanchez at (916) 322-0328.

BRUCE B. HANCOCK
Chairperson

BBH:LM:cs

STATE ALLOCATION BOARD

IMPLEMENTATION COMMITTEE

# Pending Items List
# November 5, 2004

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## A. Future Items

- SFP – Project Rescission
- Follow-up to 180-Day Regulation: *District Funded Facilities Included in Existing School Building Capacity (approved at the May 26, 2004 State Allocation Board)*

## B. Suspended Items

- None

STATE ALLOCATION BOARD
IMPLEMENTATION COMMITTEE
November 5, 2004

# WILLIAMS SETTLEMENT - SENATE BILL 6

## PURPOSE

To present proposed regulations for the implementation of Senate Bill (SB) 6, Chapter 899, Statutes of 2004 (Alpert).

## BACKGROUND

SB 6 was created as part of the settlement agreement in the case of *Williams v. State of California*. The objectives of SB 6 are to identify the current conditions of the facilities (Needs Assessment) and to provide funding for the Emergency Repairs Program (ERP).

## DISCUSSION

### *SCHOOL FACILITIES NEEDS ASSESSMENT GRANT PROGRAM*

The legislature provides $25 million for the schools districts with eligible school sites to perform a one-time needs assessment. Each site will be allocated a minimum of $7500 or $10 per pupil. Important dates for the program are:

| | |
|---|---|
| 01/26/2005 | SAB adopts regulations |
| 02/23/2005 | SAB apportions funds |
| 04/29/2005 | Districts submit preliminary needs assessment reports to OPSC |
| 06/30/2005 | SAB/OPSC submit preliminary needs assessment report to the Governor and Legislature |
| 01/01/2006 | Districts submit final needs assessment to OPSC |

Regulation Sections 1859.310 through 1859.318, as shown on the Attachment, provide details on the apportionment of funding, qualifications of inspectors, program reporting requirements and eligible expenditures. The proposed regulations also include the *School Facilities Needs Assessment,* Form SAB 61-01 and the *School Facilities Needs Assessment Grant Program Expenditure Report,* Form SAB 61-02. The Form SAB 61-01 will be available as a Web-based form to be submitted on-line. The Attachment includes a version of the Form SAB 61-01 that illustrates the process for completing the on-line submittal and provides examples of the type of data to be collected.

### *SCHOOL FACILITIES EMERGENCY REPAIR PROGRAM*

This bill provides for reimbursement of costs of emergency repairs at eligible school sites to mitigate any conditions of facilities that pose a threat to the health and safety of pupils or staff. Beginning with 2005/2006 Fiscal Year, funds will be made available annually to the School Facilities Emergency Repair Account in the amount of 50 percent of the unappropriated Proposition 98 Reversion Account or $100,000,000, whichever is greater, until $800 million has been appropriated. Key dates are:

| | |
|---|---|
| 01/26/2005 | SAB adopts regulations |
| 06/30/2008 | SAB/OPSC reports to the Governor and Legislature on ERP fund expenditures |

Regulation Sections 1859.320 through 1859.328, as shown on the attachment, outline the eligibility requirements for allocation of ERP funds. The regulations include the proposed *Emergency Repair Program Application for Reimbursement and Expenditure Report*, Form SAB 61-03.

DRAFT

**ATTACHMENT**

TITLE 2. CALIFORNIA ADMINISTRATIVE CODE
DIVISION 2. FINANCIAL OPERATIONS
CHAPTER 3. DEPARTMENT OF GENERAL SERVICES
SUBCHAPTER 4. OFFICE OF PUBLIC SCHOOL CONSTRUCTION
SUBGROUP 5.7. RELATING TO SCHOOL FACILITIES NEEDS ASSESSMENT AND EMERGENCY REPAIR PROGRAM

## Article 1. General Provisions and Definitions

### Section 1859.300. Purpose.

These regulations implement the School Facilities Needs Assessment Grant Program and the Emergency Repair Program.

Note: Authority Cited: Section 17592.73, Education Code.

Reference: Sections 17592.70 and 17592.71, Education Code.

### Section 1859.301. Director of General Services.

The Director of General Services, or the Director's legal designee, shall perform all acts necessary to carry out the provisions of these regulations except such functions as are reserved to the Board and to other agencies by law or by Sections 1859.300 through 1859.328, inclusive. These acts to be performed include, but are not limited to, entering into contracts to administer the regulations.

Note: Authority Cited: Section 17592.73, Education Code.

Reference: Section 17070.20, Education Code.

### Section 1859.302. Definitions.

For the purposes of these regulations, the terms set forth below shall have the following meanings, subject to the provisions of the Act:
"Act" means California Education Code (EC) Sections 17592.70 through 17592.73, inclusive, and 41207.5.
"Apportionment" means an allocation of funds by the Board for eligible School Facilities Needs Assessment Grant Program and Emergency Repair Program expenditures.
"Accepted Application(s)" means a district has submitted the application and all documents to the Office of Public School Construction that are required to be submitted with the application as identified in the General Information Section of the Form SAB 61-03, *Application For Reimbursement and Expenditure Report*, (New 01/05), as appropriate, and the Office of Public School Construction has accepted the application.
"Basic Apportionment" means the annual calculation of Deferred Maintenance Program funding pursuant to EC Section 17584(b).
"Board" means the State Allocation Board as established by Section 15490 of the Government Code.
"Built" means students were enrolled at the site during the enrollment reporting year as evidenced by the October 1999 CBEDS Report.
"CBEDS Report" means the enrollment information provided through the California Basic Educational Data System (CBEDS) by the school district to the California Department of Education.

"Cosmetic Repairs" means repairs that enhance the physical environment of the school and are not directly related to the mitigation of a health or safety hazard.
"Deferred Maintenance Program (DMP)" means the state deferred maintenance funding authorized by the EC Sections 17582 through 17588, inclusive.
"District Representative" means a member of the school district staff or other agent authorized to serve as District Representative to execute and file an application with the Board on behalf of the district and/or act as liaison between the Board and the district.
"Emergency Facilities Needs" shall have the meaning set forth in EC Section 17592.72(c)(1).
"Emergency Repair Program (ERP)" means the repair program implemented under the Act, Senate Bill 6, Chapter 899, Statutes of 2004.
"Emergency Repair Program Grant" means an Apportionment provided by the State to reimburse the district for the district's share of eligible costs, pursuant to EC Section 17592.72(c)(1) and Regulation Sections 1859.323 and 1859.323.1.
"Expended" means work has been completed, or services rendered, and a warrant has been issued for payment.
"Form SAB 61-01" means the *School Facilities Needs Assessment Report*, Form SAB 61-01 (New 01/05), which is incorporated by reference.
"Form SAB 61-02" means the *School Facilities Needs Assessment Expenditure Report,* Form SAB 61-02 (New 01/05), which is incorporated by reference.
"Form SAB 61-03" means the *Application For Reimbursement and Expenditure Report*, Form SAB 61-03 (New 01/05), which is incorporated by reference.
"Interim Evaluation Instrument" means the evaluation tool developed pursuant to EC Section 17002(d)(2).
"Like-Kind Material/System" means a building material or system that is substantially identical in function to the existing building material or system to be replaced.
"Needs Assessment" means the review of the facilities conducted pursuant to the Section 1859.315(b), the Form SAB 61-01 and EC Section 17592.70.
"Needs Assessment Grant" means the funding provided pursuant to EC Section 17592.70(c) and Sections 1859.312 and 1859.313.
"Nonessential Repairs" means repairs that are not directly related to the mitigation of a health or safety hazard.
"Office of Public School Construction (OPSC)" means the State office within the Department of General Services that assists the Board as necessary and administers the School Facilities Needs Assessment Grant Program and the Emergency Repair Program.
"Pupil" means a student enrolled in any grade Kindergarten through grade twelve.
"Ready for Apportionment" means a review of an Accepted Application has been completed by the OPSC and it has been determined that it meets all requirements of law for an apportionment, and the OPSC will recommend approval to the Board.
"Routine Restricted Maintenance Account" means the account into which funds are deposited by school districts pursuant to EC Section 17070.75.
"School Facilities Emergency Repair Account" means the account established pursuant to EC Section 17592.71(a).
"School Facilities Needs Assessment Program" means the one-time assessment implemented under the Act, Senate Bill 6, Chapter 899, Statutes of 2004.
"School Facility Program (SFP)" means the Leroy F. Greene School Facility Act of 1998, commencing with EC Section 17070.10.
"Section" means a section in these Subgroup 5.7 regulations.
"Unfunded List" means an information list of unfunded projects eligible pursuant to Sections 1859.320 through 1859.328, inclusive, and EC Section 17592.72.

"Web-Based Needs Assessment" means the on-line Form SAB 61-01 provided by the OPSC and available on the OPSC Website www.opsc.dgs.ca.gov for the purpose of submitting the Needs Assessment data electronically.

Note: Authority Cited: Section 17592.73, Education Code.

Reference: Sections 17592.70, 17592.71, 17592.72 and 17592.73, Education Code.

## Article 2. School Facilities Needs Assessment Grant Program

### Section 1859.310. General.

A school site that qualifies for the School Facilities Needs Assessment Grant Program according to the provisions of EC Section 17592.70(b) shall be allocated funds by the Board in order to conduct a one-time comprehensive school facilities needs assessment. A school district that receives funds under this Article shall be required to complete and submit a Web-Based Needs Assessment to the OPSC for each school site meeting the provisions of Section 1859.311.

Note: Authority Cited: Section 17592.73, Education Code.

Reference: Section 17592.70, Education Code.

### Section 1859.311. Eligibility Criteria.

A school district that has a school site meeting all of the following is eligible for the School Facilities Needs Assessment Grant Program:

(a) The school was identified on the list published by the California Department of Education pursuant to EC Section 17592.70(b).
(b) The school was Built prior to January 1, 2000.
(c) The school site is publicly owned, including the buildings and the land it occupies.
(d) The Pupils receive Classroom-Based Instruction at the school site.

Note: Authority Cited: Section 17592.73, Education Code.

Reference: Section 17592.70, Education Code.

### Section 1859.312. Apportionment of Funds.

The Board shall allocate ten dollars ($10) per Pupil enrollment, according to the 2003 CBEDS Report, for each school site identified by Section 1859.311. A minimum allocation of seven thousand five hundred dollars ($7,500) shall be made for each eligible school site. Once an apportionment has been made by the Board, funds will be released by OPSC to the school district with jurisdiction over the eligible school site along with requirements for the money to be spent at the eligible school site(s) in accordance with Section 1859.313.

Note: Authority Cited: Section 17592.73, Education Code

Reference: Section 17592.70, Education Code.

Section 1859.313. Use of Needs Assessment Grant Funds.

The district shall only use the Needs Assessment Grant funds for the following:

(a) Unbudgeted administrative or third party costs incurred as a result of performing the Needs Assessment.

(b) Repairs identified in Part V of the Form SAB 61-01 at any eligible school site in the district where a Needs Assessment has been completed.

Note: Authority Cited: Section 17592.73, Education Code.

Reference: Section 17592.70, Education Code.

Section 1859.314. Qualifications of the Inspector.

The person(s) performing the Needs Assessment must satisfy both (a) and (b), below:

(a)The person(s) must:

(1) Have in-depth knowledge, with a minimum of three years of experience, in facilities construction, operation, and maintenance, including experience with cost estimation and building systems life cycle analysis; and,

(2) Personally perform the on-site assessment of the school site(s).

(b) To ensure independence, the person(s) must be a non-interested third party, which include any the following:

(1) Staff from another district;

(2) Staff from the county office of education;

(3) A private entity specializing in school facilities; or

(4) For districts with multiple independent or autonomous facilities divisions, the facility person from one division may perform the Needs Assessment for a school site under the jurisdiction of another facilities division.

Note: Authority Cited: Section 17592.73, Education Code.

Reference: Section 17592.73, Education Code.

Section 1859.315. Program Reporting Requirements.

A school district that receives a School Facilities Needs Assessment Grant pursuant to Section 1859.311 shall:

(a) Complete and submit a progress report in narrative form for each applicable site that identifies the following information by April 29, 2005, if the Needs Assessment has not been completed pursuant to subsection (b), below:

(1) Name, title, and contact information of person(s) meeting Section 1859.314 that have been assigned to perform the Web-Based Needs Assessment.

(2) The section(s) of the Needs Assessment performed to date.

(3) Necessary repairs identified to date.

(b) Complete a Web-Based Needs Assessment for each applicable site and submit to the OPSC by January 1, 2006.

(c) Complete Form SAB 61-02 to report all expenditures made with Needs Assessment Grant funds on a district-wide basis and submit to the OPSC by September 1, 2006.

Note: Authority Cited: 17592.73, Education Code.

Reference: 17592.70, 17592.73, Education Code.

Section 1859.316. Needs Assessment Grant Expenditures and Audit.

The projects shall be subject to audit to ensure that expenditures incurred by the district were made in accordance with the provisions of Sections 1859.313 and 1859.314. Any funds not Expended on the Needs Assessment or eligible repairs at the time of submittal of the Form SAB 61-02 shall be returned to the OPSC.

After the OPSC receives the expenditure report from the district on the Form SAB 61-02 and the district is notified of an impending Needs Assessment audit, an audit of the expenditures by the OPSC shall commence within six months. The OPSC shall complete the audit within six months of the notification unless additional information requested from the district has not been received.

Should the OPSC conduct an audit of the expenditures and information, which may include certifications, for expenditures made pursuant to Section 1859.311 and make a finding that some or all of the expenditures were not made in accordance with the provisions of the Education Code Section 17592.70(d), the OPSC shall recommend to the Board that the Apportionment be adjusted based on the audit findings. Upon adoption of the audit findings by the Board, the district must submit a warrant for any amount identified as being owed within 30 days of the Board action. If this does not occur, the OPSC shall initiate collection procedures.

Note: Authority Cited: Section 17592.73, Education Code.

Reference: Section 17592.70, Education Code.

Section 1859.317. Duplication of Needs Assessment Grant Expenditures.

If the district's expenditures for the Needs Assessment Grant involve proposed work also included in a SFP or Deferred Maintenance Program (DMP) project, the district must ensure all of the following:
(a) Emergency Repair Program Grant funds are used to supplement, not supplant, funds already available for maintenance of school facilities.
(b) No work or expenditures are duplicated.
(c) After eliminating the work to be funded with the Needs Assessment Grant from the SFP or DMP project, the remaining work continues to meet the SFP or DMP requirements.

Note: Authority Cited: Section 17592.73, Education Code.

Reference: 17592.73, Education Code.

Section 1859.318. Remaining Needs Assessment Grant Funds.

Any funds unapportioned or returned to the OPSC pursuant to Section 1859.316 shall be transferred into the School Facilities Emergency Repair Account.

Note: Authority Cited: Section 17592.73.

Reference: Education Code Section 41207.5.

## Article 3. Emergency Repair Program

### Section 1859.320. General.

A district seeking an Emergency Repair Program Grant for reimbursement of a project meeting the provisions of EC Section 17592.72(c)(1), shall complete and file a Form SAB 61-03. Each application may consist of the repair or replacement of only one building component or system and any work directly related to that repair or replacement..

Note: Authority Cited: Section 17592.73, Education Code.

Reference: Section 17592.72, Education Code.

### Section 1859.321. Eligibility Requirements.

A school district that has a school site meeting all of the following is eligible to submit a Form SAB 61-03:

(a) The school was identified on the list published by the California Department of Education pursuant to EC Section 17592.70(b).
(b) The school was Built prior to January 1, 2000.
(c) The school site is a publicly owned, including the facility and the land it occupies.
(d) The pupils receive Classroom-Based Instruction at the school site.

Note: Authority Cited: Section 17592.73, Education Code.

Reference: Sections 17592.70 and 17592.72, Education Code

### Section 1859.322. Emergency Repair Program Project Funding Order.

The Board shall fund ERP applications in the order of receipt of an Accepted Application as follows:

(a) If sufficient funding is available to provide funding to all applications presented that month, all applications will receive a full and final apportionment of the eligible costs.
(b) If funding is insufficient in any given month:
(1) Apportionments will be provided to each application on a prorated basis with the balance placed on the Unfunded List, unless the proration will result in funding less than 25 percent of the eligible project costs. The proration shall be determined by dividing the total funds available by the total eligible costs of all applications Ready for Apportionment.
(2) If the proration, as determined in (1) above, will be less than 25 percent of the eligible project costs, the Board shall provide funding at 100 percent of the eligible project costs based on date order received until funds are no longer available and the remaining applications shall be placed on the Unfunded List.
(3) The Board will continue to accept and process applications for the purpose of developing an Unfunded List based on the order of receipt of the Accepted Application for funding.

When funds become available, projects on the Unfunded List will be apportioned in order of receipt. Once an Apportionment has been made by the Board, funds will be released by the OPSC.

Once eight hundred million dollars ($800,000,000) have been apportioned by the Board: any applications that have received a prorated Apportionment will be deemed a full and final Apportionment, any applications remaining fully unfunded on the Unfunded List will be returned to the district, and the Unfunded List shall be dissolved.

Note: Authority Cited: Section 17592.73, Education Code.

Reference: Sections 17592.71, Education Code.

Section 1859.323. Eligible Project Costs.

Reimbursement will be provided to meet the district share of the repair costs of essential Emergency Facilities Needs as specified in Education Code Section 17592.72(c)(1). Reimbursement of eligible projects costs shall be limited to the minimum work required to mitigate the health and/or safety hazard. Replacement is permitted only if it is more cost-effective to replace rather than repair a component or system that poses a health or safety threat to pupils or staff while at school. Replacement of a school facility component shall be limited to the use of a Like-Kind Material/System except in the following circumstances and as supported by a cost/benefit analysis:

(a) The work in the project proposes to use an alternative building material or system that performs the same function as a no longer available building material or system; or
(b) The work in the project proposes to use an alternative building material or system which is requested by the district and is less costly than a Like-Kind Material/System replacement.

If the request is for replacement components or systems, a cost/benefit analysis must be prepared by the district and submitted with the Form SAB 61-03 to the OPSC that indicates the total costs to mitigate the problem is at least 75 percent of the current replacement cost of the component or system. If the cost to repair the component or structure is less than 75 percent of the current replacement cost, only costs to repair the component or structure are reimburseable.

If the request is for alternative replacement components or systems pursuant to (a) or (b) above, the cost/benefit analysis must also indicate that the alternative building material or system is less than 75 percent of the cost of replacement with a Like-Kind Material/System.

If the request is for replacement components or systems that included structural deficiencies, the cost/benefit analysis must also include a report from a licensed design professional identifying the minimum work necessary to obtain Division of the State Architect approval. The report must contain a detailed cost estimate of the repairs. The report and cost estimate shall be subject to review by the OPSC for conformance with the Saylor Current Construction Cost Publication and, at the OPSC's discretion, the Division of the State Architect.

Note: Authority Cited: Section 17592.73, Education Code.

Reference: Section 17592.72, Education Code.

Section 1859.323.1. Ineligible Expenditures.

An Emergency Repair Program Grant may not be used for any of the following:
(a) New square footage, components, or building systems that did not previously exist.
(b) Nonessential Repairs.
(c) Cosmetic Repairs.
(d) Land acquisition.
(e) Furniture and equipment.
(f) Salaries of district employees.
(g) Items covered under warranty or by insurance.
(h) Costs normally borne by others including, but not limited to, public utility companies.

Note: Authority Cited: Section 17592.73, Education Code.

Reference: Section 17592.72, Education Code.

Section 1859.324. Reimbursement.

An Emergency Repair Program Grant may be used to reimburse districts for eligible costs, as defined by Section 1859.323, that meet all of the following provisions:

(a) Contracts for services or work were entered into on or after September 29, 2004; and,
(b) Expended on or after September 29, 2004; and,
(c) Expended prior to the submittal of the Form SAB 61-03.

Note: Authority Cited: Section 17592.73, Education Code.

Reference: Section 17592.72, Education Code.

Section 1859.325. School Facility Due Diligence.

To ensure that the district is exercising due diligence in the administration of its facility accounts and is using an Emergency Repair Program Apportionment to supplement existing funding requirements prescribed in statute for school facilities, the OPSC will conduct a review of the following district accounts:

(a) Routine Restricted Maintenance Account, established pursuant to EC Section 17070.75(b)(2) to ensure that the district deposited and Expended the required funding level for the fiscal year prior to Apportionment.
(b) Deferred Maintenance Account, established pursuant to EC Section 17582, to ensure that the district deposited and Expended an amount equal to the Basic Apportionment provided by the Board prior to the Apportionment for the Emergency Repair Program.

In the event that the Board finds that a district is failing to exercise due diligence or supplantation has occurred, the Board shall notify the county superintendent of schools in which the school district is located and may deny future funding under these regulations.

Note: Authority Cited: Section 17592.73, Education Code.

Reference: Section 17592.72, Education Code.

Section 1859.326. Emergency Repair Program Application Expenditures and Audit.

The projects shall be subject to audit to ensure that the expenditures incurred by the district were made in accordance with the provisions of Sections 1859.323 through 1859.325, inclusive.

After a final Apportionment has been made, and the OPSC notifies the district of an impending ERP audit of the expenditures reported on the Form SAB 61-03, an audit by the OPSC shall commence within six months of the report. The OPSC shall complete the audit within six months of the notification unless additional information requested from the district has not been received.

Should the OPSC conduct an audit of the expenditures and information provided by the district, which may include certifications, for the project and make a finding that some or all of the expenditures were not made in accordance with the provisions of the Education Code Section 17592.72(c) and Regulations Sections 1859.323 through 1859.325, inclusive, the OPSC shall recommend to the Board that the apportionment be adjusted based on the audit findings. Upon adoption of the audit findings by the Board, the district must submit a warrant for any amount identified as being owed within 30 days of the Board action. If this does not occur, the OPSC shall initiate collection procedures.

Note: Authority Cited: Section 17592.73, Education Code.

Reference: Sections 17592.72 and 17592.73, Education Code.

Section 1859.327. Duplication of Emergency Repair Program Expenditures.

If the district's expenditures for the Emergency Repair Program Grant involve proposed work also included in a SFP or Deferred Maintenance Program (DMP) project, the district must ensure all of the following:
(a) Emergency Repair Program Grant funds are used to supplement, not supplant, funds already available for maintenance of school facilities.
(b) No work or expenditures are duplicated.
(c) After eliminating the work to be funded with the Emergency Repair Program Grant from the SFP or DMP project, the remaining work continues to meet the SFP or DMP requirements.
Note: Authority Cited: Section 17592.73, Education Code.

Reference: Section 17592.72, Education Code.

Section 1859.328. Withdrawal and Amendment of Applications.

In the event a district has omitted expenditures from the Form SAB 61-03 at the time of submittal and the project has not received an Apportionment from the Board, the district may withdraw its application and resubmit a revised Form SAB 61-03. The resubmitted application will receive a new processing date by the OPSC. If the Board has already provided an Apportionment for the project, the district will not be able to receive additional funding for the project and the Apportionment provided by the Board will be considered full and final.

Note: Authority Cited: Section 17592.73, Education Code.

Reference: Sections 17592.72 and 17592.73, Education Code.

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## GENERAL INFORMATION

This Form is to be used to perform a one-time school site needs assessment for all eligible schools as defined by Section 1859.311.

The Form shall be completed and submitted to the OPSC via the internet with a certification document which requires an original signature to be mailed to the OPSC. Both submittals must be received by the OPSC no later than January 1, 2006. Districts that have completed the assessment and submitted it to the OPSC via the Web Based Needs Assessment program are required to print out the certification page and mail it to the OPSC along with a site diagram of the school identifying all buildings on the site.

The person(s) completing the assessment and signing the certification portion of the form must possess the necessary qualifications as described in the Regulation Section 1859.314.

## SPECIFIC INSTRUCTIONS

### Part I.

Needs Assessment Identification Number. This number is assigned to each school site that is required to submit the School Facility Needs Assessment. The number is generated by the OPSC at the time of the Needs Assessment Grant apportionment and is provided by the on-line Form automatically once the district selects the school site to be assessed from the list provided.

Section A. Complete this section in its entirety. The information regarding the district and site codes may be obtained on the California Department of Education's website at http://www.cde.ca.gov/re/sd/.

Section B. Indicate any additional participants that provided input for the needs assessment preparation.

Section C. Complete this section as follows:

a. No input required. Information in this field is automatically provided using the CDE database.
b. Indicate the site size measured in Useable Acres as defined by the School Facility Program Regulation Section 1859.2.
c. No input required. Represents pupil density utilizing data from the fields above.
d. Indicate if this site operates on a multitrack year-round calendar, and, if so, what type.
e. Indicate what type of facility is used for pupil dining which is not designated for classroom instruction.

### Part II. Facility Inventory

List each building separately. Use the "Add Building" button to enter the information for additional buildings on site.

a. Enter the building identification number/letter as indicated on the site map to be submitted to the OPSC with the Certification page of the Form. Identify only those buildings on site that house children and staff as part of the regular school curriculum.
b. Indicate whether the building is of permanent or portable construction.
c. Indicate the total interior square footage of the building.
d. Indicate the year of original construction.
e. Indicate the year of the last building modernization including projects funded with any funding sources.
f. Select the type of facility from the drop-down menu provided. If the needed selection is not available, use the "other" category and provide the facility type in the blank field. If there is more than one type of facility housed in the same building, click the "Add Facilities to Building" button and select from the new drop-down menu.
g. When indicating "Classrooms" option in part *f*, enter the number of classrooms by grade level.

The on-line system will provide summary of the following elements:

- The age and number of portable classrooms at the school
- The pupil capacity of the site measured by multiplying the number of classrooms by the appropriate State loading standard

**Part III. Useful Life of Major Building Systems**

Use this section to identify useful life remaining of all major building systems for each building identified in Part II of the Form.

a. Select from the drop-down box the building to be inspected.
b. Select from the drop-down box a type of system to be inspected.
c. Select from the drop-down box the appropriate sub-system. If there is no applicable sub-system listed in the drop-down box, use the option “other” and type in the description of the sub-system in the box provided.
d. Select from the drop-down box the appropriate element or material to be inspected. If there is no applicable selection listed in the drop-down box, use the option “other” and type in the description of the element or material in the box provided.
e. Enter the number of years representing the useful life remaining of each component. Negative number of years indicates that the component has exceeded its useful life.

**Part IV. Five-Year Costs to Maintain Functionality**

**Part A**. Complete this section by estimating costs for each of the five years to maintain functionality of each building to provide health, safety, and suitable learning environment. Once all worksheets are completed with detailed costs, the “summary” function may be used to generate a summary of costs by building and year, which will constitute Part B of the Form.

**Part B**. This is a summary page generated from the detailed listing of five-year maintenance costs identified in Part A. No manual input is necessary.

**Part V. Necessary Repairs**

Use this form to identify the necessary repairs at the school site including any health and safety items. Use the “Add New Item” button to add as many repair items as necessary. The dollar values assigned to the costs of the repairs are to be included in the district’s first year cost estimate to maintain functionality of the facilities in Part IV of the form.

**Part VI. Certification**

Complete, print, sign and mail the certification portion of the Form to the OPSC at the following address:

Office of Public School Construction
1130 K Street, Suite 400
Sacramento, CA 95814

Attach a site diagram of the school identifying all buildings on the site.

*Refer to EXCEL VERSION OF NEEDS ASSESSMENT*

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STATE OF CALIFORNIA

# SCHOOL FACILITIES NEEDS ASSESSMENT GRANT PROGRAM
# DISTRICT EXPENDITURE REPORT

SAB 61-02 (NEW 01/05)

STATE ALLOCATION BOARD

OFFICE OF PUBLIC SCHOOL CONSTRUCTION



| SCHOOL DISTRICT | CDS CODE |
|---|---|
| BUSINESS ADDRESS | |
| COUNTY | |

| PREPARER'S NAME (TYPED) | PREPARER'S TITLE (TYPED) | TELEPHONE NUMBER/E-MAIL ADDRESS |
|---|---|---|
| DISTRICT REPRESENTATIVE NAME (TYPED) | DISTRICT REPRESENTATIVE TITLE (TYPED) | TELEPHONE NUMBER/E-MAIL ADDRESS |

INSTRUCTIONS – (*refer to Title 2, California Code of Regulation Sections 1859.300 through 1859.318)*

1. Enter the amount of State apportionment received pursuant to Section 1859.312.
2. Enter the amount of interest earned on State funds.
3. Enter the total amount of State funds spent to complete the Form SAB 61-01. Provide a listing of expenditures on the Form SAB 61-02A to be completed by the district and attach.
4. Enter the total amount of State funds spent for repairs identified in Part V of the Form SAB 61-01. Provide a listing by district of each expenditure on the SAB 61-02A and attach.

*Contact the Office of Public School Construction for the Form SAB 61-02A to assist the district in reporting the district expenditures or download the form at the OPSC Web site at www.opsc.dgs.ca.gov. Additional information may be requested to complete the audit.*

*This form is due by September 1, 2006.*

*Submit to:*

*Department of General Services*
*Office of Public School Construction*
*Attn: Needs Assessment Audits*
*1130 K Street, Suite 400*
*Sacramento, CA 95814*

| DESCRIPTION | AMOUNT |
|---|---|
| 1. STATE FUNDS | |
| 2. INTEREST EARNED | |
| 3. EXPENDITURES FOR PERFORMING NEEDS ASSESSMENT | |
| 4. EXPENDITURES FOR REPAIRS IDENTIFIED ON NEEDS ASSESSMENT | |
| 5. REMAINING FUNDS | |

*I certify, as the District Representative, that the information reported on this form is true and correct and that:*

- *I am designated as an authorized district representative by the governing board of the district; and,*
- *Under penalty of perjury, under the laws of the State of California, the foregoing statements are true and correct, and that the Public Contract Code was adhered to in the use of these grant funds; and,*
- *This form is an exact duplicate (verbatim) of the form provided by the Office of Public School Construction. In the event a conflict should exist, then the language in the OPSC form will prevail.*

| SIGNATURE OF DISTRICT REPRESENTATIVE | DATE |
|---|---|
| | |

DRAFT

## GENERAL INFORMATION

A district may use this form to apply for reimbursement of Emergency Facilities Needs repairs at eligible school sites as defined by Section 1859.311. For purposes of this Apportionment the following documentation must be submitted with this form:

PART A

- Division of the State Architect (DSA) approved specifications and plans (if applicable)
- Documentation substantiating the health and/or safety threat may include:
  - Photos showing the condition of the project prior to the repair work being performed
  - Items identified on the School Site Conditions Evaluation performed by the County Office of Education
  - Copies of complaints made by parents, students, or staff referencing the problem
- A cost/benefit analysis prepared pursuant to Section 1859.323 (if applicable)

PART B

- Copy of all construction contracts and schedule of values
- Copy of all change orders (if applicable)
- Copy of all purchase orders or purchase agreements (if applicable)
- Copy of architect agreement and schedule of fees

The closeout audit will be performed after the final Apportionment is made by the Board in accordance with Regulation Section 1859.326. For audit purposes, additional documentation may be requested at a later date.

## SPECIFIC INSTRUCTIONS

PART A. PROJECT INFORMATION

**1. Type of Heath and Safety Project**
Check the appropriate box to indicate if the district had to repair or replace the building system or component to mitigate the health and/or safety threat.

**2. Type of Building System**
Check the box indicating the type of system the application is addressing. The district may check only one building system project per application. Multiple applications may be submitted per school site.

**3. Type of Facility**
Check the box(es) that identify the location(s) where the repair work was performed.

**4. Statement of Condition**
Provide a concise statement of the conditions which pose the threat to the health and/or safety of the students and staff at the school site.

**5. Description of Work/Scope of Project**
Provide a detailed narrative of the repairs that were required to mitigate the threat to the health and/or safety of students and staff.

**6. Project Costs**
Provide a breakdown of project cost information based on the district's actual expenditures. The total should match the total amount of expenditures listed in Part B of the Form. This must include only costs directly related to and necessary for the eligible project.

**SPECIFIC INSTRUCTIONS (cont.)**

PART B EXPENDITURE REPORT
List the total expenditures for the project.

**1. Planning**
ARCHITECT/ENGINEERING FEES: Enter the fees as negotiated in the Architect's agreement to design and engineer the construction project.
DSA FEES: Enter the fees as determined by the DSA as required by law.
INSPECTIONS: Enter the amount paid for inspection services provided.
OTHER COSTS: Enter any other planning costs.

**2. Construction**
MAIN CONSTRUCTION: Enter the amount paid to the main building contractor.
CONSTRUCTION MANAGEMENT: Enter the amount paid to the construction manager of the project to supervise the building construction.
DEMOLITION: Enter any costs associated with the demolition of existing buildings in preparation for construction.
OTHER CONSTRUCTION: Enter any construction costs not included in the main construction contract.
INTERIM HOUSING: Enter the amount paid for interim housing units to house students during building modernization.
HAZARDOUS WASTE REMOVAL: Enter the costs to remove hazardous material from the school site including Department of Toxic Substances Control (DTSC) fees, CDE fees, Preliminary Endangerment Assessment costs, Phase One Environmental Site Assessment costs, and the Response/Removal Action Plan costs as required by DTSC.

| SCHOOL DISTRICT | APPLICATION NUMBER |
|---|---|
| SCHOOL NAME | FIVE-DIGIT DISTRICT CODE (SEE CALIFORNIA PUBLIC SCHOOL DIRECTORY) |
| COUNTY | SEVEN-DIGIT SITE CODE (SEE CALIFORNIA PUBLIC SCHOOL DIRECTORY) |

## Part A. Project Information

1. TYPE OF HEALTH AND SAFETY PROJECT (check one):
   - ☐ Repair
   - ☐ Replacement
2. TYPE OF BUILDING SYSTEM (check one):
   - ☐ Sewer
   - ☐ Water
   - ☐ Gas
   - ☐ Electrical
   - ☐ HVAC
   - ☐ Fire/Life Safety
   - ☐ Other
3. TYPE OF FACILITY (check all that apply):
   - ☐ Classrooms/Instructional
   - ☐ Counseling Area
   - ☐ Administrative Space
   - ☐ Dining Space
   - ☐ Library
   - ☐ Gymnasium
   - ☐ Multipurpose
   - ☐ Accessibility
   - ☐ Restrooms
   - ☐ Subsidiary Facilities

4. STATEMENT OF CONDITION:

5. DESCRIPTION OF WORK/SCOPE OF PROJECT:

| 6. PROJECT COSTS: | $ |
|---|---|
| I. Planning Cost | $ |
| II. Repair/Replacement Cost | $ |
| III. Testing | $ |
| IV. Inspection | $ |
| **Total Project Cost** | $ |

## PART B. Expenditure Report

| TOTAL EXPENDITURES FOR THE PROJECT: | $ |
|---|---|

### 1. Planning

| School Site: | School District: | County: | Application Number: |
|---|---|---|---|
| | | | |

| DATE | PAYEE | WARRANT NUMBER | ARCHITECT/ ENGINEERING/ CONSULTING FEES | DSA FEES | INSPECTIONS | OTHER COSTS | DESCRIPTION/PURPOSE |
|---|---|---|---|---|---|---|---|
| | | | | | | | |
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| | | | | | | | |
| | | | $ | $ | $ | $ | |

## 2. Construction

| School Site: | School District: | County: | Application Number: |
|---|---|---|---|
| | | | |

| DATE | PAYEE | WARRANT NUMBER | MAIN CONSTRUCTION | CONSTRUCTION MANAGEMENT | DEMOLITION | OTHER CONSTRUCTION | INTERIM HOUSING | HAZARDOUS WASTE REMOVAL | DESCRIPTION/PURPOSE |
|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | | |
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| | | | | | | | | | |
| | | | $ | $ | $ | $ | $ | $ | |

## Certifications:

I certify, as the District Representative, that the information reported on this form is true and correct and that:

- I am designated as an authorized representative by the governing board of the school district;
- The repairs in this project were necessary to mitigate conditions that posed a threat to the health and safety of pupils or staff while at school;
- The district has complied with all laws pertaining to the repair of its school facilities;
- The district has complied with the Public Contract Code;
- The district has satisfied the supplement, not supplant requirement by expending funds in its Routine Restricted Maintenance Account and Deferred Maintenance Program Account;
- The contracts for services or work in this project were not entered into prior to September 29, 2004;
- The district understands that expenditures occurring after the submittal of this application are ineligible for reimbursement;
- The grant amount provided by the SAB shall be deemed full and final apportionment;
- The district understands that some or all of the ERP funding for the project may be returned to the SAB as a result of an Audit pursuant to Regulation Section 1859.326;
- The district did not receive funding from any other source for the work requested in this application;
- The district has obtained the Division of State Architect's approval of the plans and specifications, if required;
- This Form is an exact duplicate (verbatim) of the form provided by the Office of Public School Construction. In the event a conflict should exist, then the language in the OPSC form will prevail; and,

| I certify under penalty of perjury under the laws of the State of California that the statements in this application and supporting documents are true and correct. | |
|---|---|
| PRINT NAME OF DISTRICT REPRESENTATIVE | TITLE |
| SIGNATURE | DATE |

Needs Assessment Identification Number

**DRAFT**

## Part I.

### Section A.

| | |
|---|---|
| District Name: | |
| 5-digit district code: | |
| Site Name: | |
| 9-digit site code: | |
| Inspection by: | |
| Title: | |
| Telephone Number: | |
| E-mail Address: | |
| Date & Time Completed: | |
| Weather Conditions: | |

### Section B. Additional Participants:

| Name: | Title/Representative of: | Telephone Number: |
|---|---|---|
| | | |
| | | |
| | | |

### Section C.

| | |
|---|---|
| a. 2003 CBEDS: | *** |
| b. Site Size: | |
| c. Site Density: | *** pupils per acre |
| d. MTYRE: | *select Yes or No* |
| Type of MTYRE: | *drop down: Concept 6, etc.* |
| e. Lunch Facility: | *drop down: auditorium, lunch shelter, gymnasium, multipurpose, other* |

## Part II - Facility Inventory

| a. Building ID | b. Construction Type* | c. Building Square | d. Year of Construction | e. Year of Modernization | f. Facility Type** | g. Number of Classrooms | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | K-6 | 7-8 | 9-12 | Non-Severe | Severe |
| A | Permanent | 25,000 | 1956 | 1986 | Classrooms | | 5 | 15 | | |
| | | | | | Library | | | | | |
| | | | | | Nurse's Office | | | | | |
| B | Permanent | 40,000 | 1956 | 1986 | Classrooms | | | 10 | | |
| | | | | | Multi-purpose | | | | | |
| | | | | | Counselling | | | | | |
| C | Permanent | 30,000 | 1956 | n/a | Admin | | | | | |
| | | | | | Classrooms | | 7 | | | |
| | | | | | | | | | | |
| D | Portable | 1,920 | 1989 | 1989 | Classrooms | | | | 2 | |
| | | | | | | | | | | |
| | | | | | | | | | | |
| E | Permanent | 20,000 | 1980 | n/a | Gym | | | | | |
| | | | | | | | | | | |
| | | | | | | | | | | |

**a drop-down box will be provided for each building with 2 selections available*

EXAMPLE

***A drop-down box will be provided for each building to include as many types of facilities as needed, i.e. it is possible to have a building that contains more than one type of facility (classrooms and a library in one building, for example)*

**Add Building**

**Add Facility to Building**

| Portable Classrooms Summary | |
|---|---|
| Age | Number |
| 1989 | 2 |
| TOTAL | 2 |

| Pupil Capacity | K-6 | 7-8 | 9-12 | Non-Severe | Severe |
|---|---|---|---|---|---|
| | 0 | 324 | 675 | 26 | 0 |
| TOTAL | 1025 | | | | |

## Part III - Useful Life of Major Building Systems

| a. Building | b. System | c. Sub-system* | d. Elements/ Materials** | e. Useful Life Remaining (years) |
|---|---|---|---|---|
| A | Structural | Roofing | Composition Shingles | -5 |
| A | Structural | Siding | Plywood | -10 |
| A | Structural | Flooring | Sheet Vinyl | -12 |
| A | Mechanical | HVAC | Central Type (Central Boiler - Hydronic Heating/Cooling Tower) | 2 |
| A | Plumbing | Sewer | Cast Iron | 1 |
| A | Electrical | Building Transformer | Dry Type | 2 |
| A | Fire & Life Safety | Auto. Sprinkler System | Other | 3 |
| B | Structural | Roofing | Membrane Roofing - Single-ply | 12 |
| B | Mechanical | HVAC | Split System | 8 |

**The inspector will be able to select from the list of appropriate sub-systems or use the option "other" to type in a name of a sub-system that is not available in the drop-down box.*

***The inspector will be able to select from the list of appropriate elements or materials and/or use the option "other" to type in a name of an element or material that is not available in the drop-down box.*

**Add an Item**

EXAMPLE

## Part IV - Five-Year Costs to Maintain Functionality

### A. Cost Detail

**COST ESTIMATE FOR BUILDING** [ ]

*(A drop down box will be provided with the selection of builidngs identified in Part II.)*

| | YEAR 1 | YEAR 2 | YEAR 3 | YEAR 4 | YEAR 5 | Total Estimate |
|---|---|---|---|---|---|---|
| Roofing | | | | | | $ - |
| Siding | | | | | | $ - |
| Flooring | | | | | | $ - |
| Painting | | | | | | $ - |
| Potable/Drinking Water | | | | | | $ - |
| Sewer | | | | | | $ - |
| Water Heater | | | | | | $ - |
| HVAC/HV | | | | | | $ - |
| Electrical | | | | | | $ - |
| Lighting | | | | | | $ - |
| Gas | | | | | | $ - |
| Fire & Life Safety | | | | | | $ - |
| Security | | | | | | $ - |
| Accessibility | | | | | | $ - |
| Other | | | | | | $ - |
| Total Cost Estimate | $ - | $ - | $ - | $ - | $ - | $ - |

**Add Cost Estimate for Another Building** **Summary**

***The cost estimate information would be automatically compiled and summarized in Part IV -B.***

### B. Cost Summary

| BUILDING | YEAR 1 | YEAR 2 | YEAR 3 | YEAR 4 | YEAR 5 | TOTAL |
|---|---|---|---|---|---|---|
| | $ | $ | $ | $ | $ | $ |
| | $ | $ | $ | $ | $ | $ |
| | $ | $ | $ | $ | $ | $ |
| | $ | $ | $ | $ | $ | $ |
| | $ | $ | $ | $ | $ | $ |
| | $ | $ | $ | $ | $ | $ |
| TOTAL | $ | $ | $ | $ | $ | $ |

*The building description in Part II, Facility Inventory, provides the detail on facilities housed in each building, such as classrooms, admin. space, etc. The data assembled in the OPSC internal database may be queried to generate cost information for certain facility type, such as classrooms (cumulative of all buildings on site.)*

## Part V - Necessary Repairs

| Repair Item Number | Building System | Location | Description of the Deficiency | Description of the Repair | Estimate of the Repair |
|---|---|---|---|---|---|
| 1 | Interior Construction | Classrooms 8, 10, 12 | Broken glass windows | Install new window | $ 1,480.00 |
| 2 | Plumbing system | Girls Restroom, Bldg A, 2nd Floor | Cracked and leaky toilet | Replace existing toilet | $ 450.00 |
| TOTAL | | | | | $ 1,930.00 |

Add New Item

EXAMPLE

## Part VI - Certification

Needs Assessment Identification Number

| | | |
|---|---|---|
| SCHOOL DISTRICT: | | COUNTY: |
| SCHOOL NAME: | | CDS CODE: |
| SCHOOL ADDRESS: | | |
| COMPLETED BY: | TITLE: | |
| REPRESENTATIVE OF: | | |
| PHONE NUMBER: | E-MAIL ADDRESS: | |

PLEASE SUBMIT A SITE DIAGRAM IDENTIFYING ALL BUILDINGS ON SITE.

I, _____, certify that I possess the necessary qualifications as specified in the Regulation Section 1859.314. I made the above findings during my review of this school site on _____ at _____ am/pm. I certify that the information provided above is true and correct.

| SIGNATURE | DATE |
|---|---|
| | |

I certify, as the District Representative, that the information reported on this form is true and correct and that:

- I am designated as an authorized District Representative by the governing board of the district or the designee of the Superintendent of Public Instruction;
- The individual named above has demonstrated to me that he/she possesses the necessary qualifications as specified in the Regulation Section 1859.314.
- The information provided herein is true and correct and was presented at a regularly scheduled school district board meeting on _____.

| SIGNATURE | DATE |
|---|---|
| | |

| SAVE | EDIT | PRINT REPORT | SUBMIT | PRINT CERTIFICATION |
|---|---|---|---|---|

Printed on _____

Submitted on_____

STATE ALLOCATION BOARD
IMPLEMENTATION COMMITTEE
November 5, 2004

# WILLIAMS SETTLEMENT - SENATE BILL 550

## PURPOSE

To implement the provisions of Senate Bill (SB) 550, Chapter 900, Statutes of 2004 (Vasconcellos), impacting the Office of Public School Construction (OPSC).

## BACKGROUND

SB 550 was created as a part of the settlement agreement in the case of *Williams v. State of California.*

## DISCUSSION

The following two parts of SB 550 impact the OPSC:

***INTERIM EVALUATION INSTRUMENT (IEI)***
The OPSC is required to develop a tool (the IEI) to measure whether a facility is in "good repair" as defined by clean, safe, and functional, pursuant to Education Code Section 17002(d). In addition, SB 550 requires the OPSC to report and make recommendations to the Governor and Legislature, regarding options for state standards by December 31, 2005. This may involve reviewing the effectiveness of the IEI and further considerations of other options for state standards.

***FACILITIES INSPECTION SYSTEM***
Beginning with the 2005/2006 Fiscal Year, school districts shall establish a school facilities inspection system as a condition of participation in the School Facility Program or the receipt of funding for the Deferred Maintenance Program. The purpose of the inspection system is to ensure that schools are kept in good repair. To meet this requirement, school districts will be required to certify that an inspection system has been established. The OPSC will include a certification to the following forms:

- *Application for Funding,* (Form SAB 50-04)
- *Application for Joint-Use Funding,* (Form SAB 50-07)
- *Application for Charter School Preliminary Apportionment,* (Form SAB 50-09)
- *Deferred Maintenance Five Year Plan,* (Form SAB 40-20)

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**INTERIM EVALUATION INSTRUMENT**
**SCHOOL FACILITY CONDITIONS EVALUATION**
**SENATE BILL 550**

| | |
|---|---|
| | |
| **School Site Information** | |
| School District: | |
| County: | |
| School Site: | |
| **Evaluator Information** | |
| County Office of Education: | Date and Time of Review: |
| | |
| Name(s): | Title: |
| 1. | 1. |
| 2. | 2. |
| 3. | 3. |

## GENERAL INFORMATION

Subdivision (c)(2)(A) of Education Code Section (ECS) 1240 requires County Offices of Education (COE) to annually visit and describe the state of the schools in the county of his or her office that are ranked in deciles 1 to 3, inclusive, of the 2003 base Academic Performance Index (The Superintendent of Public Instruction will publish a list of these schools, pursuant to subdivision (b) of ESC 17592.70. **See www.cde.ca.gov./** ). Further, subsection (ii) of subdivision (c)(2)(E) of ECS 1240, County Offices of Education are required to evaluate school facilities to determine whether the condition of a facility poses an emergency or urgent threat to the health or safety of pupils or staff. This tool is intended to assist County Offices of Education in performing that evaluation.

Subdivision (d) (1) of ECS 17002 requires the Office of Public School Construction (OPSC) to develop an interim evaluation instrument to determine whether a facility is in “good repair”, or maintained in a manner that assures that facilities are clean, safe and functional. This tool is also intended to assist in that determination, as well.

The following sections describe the different parts of the evaluation tool. When completing each part, include the building number and/or classroom number that was evaluated. This number should correspond to the school's site map, which should be consistent with the site map used for the school facilities needs assessment conducted pursuant to ECS 17592.70.

**PARTS A-H.** Subdivision (c)(1) of ECS 17592.72 defines "emergency facilities needs" projects; Parts A-H (pages 3 and 4) of this evaluation form address those types of facility repairs. Check the appropriate box that indicates the “yes” or “no” answer to each question. Note that in Parts A-H, a "yes" response indicates a deficiency and page 5 of this form may be used to comment/elaborate on

the deficiency. If a deficiency is identified in Parts A-H, the school district may be eligible for reimbursement for the cost of repairs (see *Emergency Repair Program* Regulation Section 1859.320, et. seq., for more details).

**PARTS I-L.** OPSC has identified other facility conditions that are indicative of a facility that is in "good repair" or maintained in a manner that assures that the facility is clean, safe, and functional, pursuant to ECS 17002. These conditions are contained in Parts I-L (pages 6) of this form. Check the appropriate box that indicates the “yes” or “no” answer to each question. Note that in Parts I-L, a "no" response indicates a deficiency and page 7 of this form may be used to comment/elaborate on the deficiency.

**PART M.** Complete and sign the certifications (page 8).

*Refer to EXCEL VERSION OF Facility Evaluation Form (IEI)*

## M. CERTIFICATIONS:

| | |
|---|---|
| I, _____, am employed by the _____ County Office of Education, and certify under penalty of perjury under the laws of the State of California that the information contained herein is true and correct to the best of my knowledge and the above findings were made during my review of this school site on _____ at _____ a.m./p.m. | |
| PRINT NAME | TITLE |
| SIGNATURE | DATE |

| | |
|---|---|
| I certify that I am employed by _____ School District and that I accompanied the County Office of Education representative on _____at _____a.m./p.m. during the school site review. In signing this certification I do not necessarily agree with the findings of the evaluator. | |
| PRINT NAME | TITLE |
| SIGNATURE | DATE |

## Senate Bill 550 School Facility Conditions Evaluation Form

**DRAFT**

| Part | Building/Classroom Number | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| **A.** | **Gas Leaks** | | | | | | | | | |
| | There is evidence of gas leaks (e.g., odor, broken pipes). | Yes | | | | | | | | |
| | | No | | | | | | | | |
| **B.** | **MECHANICAL AND EMERGENCY SYSTEMS** | | | | | | | | | |
| | There is evidence of problems with the heating, ventilation, or air conditioning systems as applicable (e.g., heating or A/C not working, poor ventilation). | Yes | | | | | | | | |
| | | No | | | | | | | | |
| | There is evidence that fire sprinklers are not in working order (e.g., missing or damaged sprinkler heads). | Yes | | | | | | | | |
| | | No | | | | | | | | |
| | There is evidence that emergency systems are not functioning properly (e.g., emergency alarms not functional, fire extinguishers missing or out-of-date). | Yes | | | | | | | | |
| | | No | | | | | | | | |
| **C.** | **POWER FAILURE** | | | | | | | | | |
| | There is evidence that a portion of school has a power failure. | Yes | | | | | | | | |
| | | No | | | | | | | | |
| **D.** | **SEWER** | | | | | | | | | |
| | There is evidence of a major sewer line stoppage (e.g., flooding, odor, or obvious signs on school grounds). | Yes | | | | | | | | |
| | | No | | | | | | | | |

**NOTE:** To make comments about a building/room, place an asterisk at the end of the room/building number and write comments at end of form.

# Senate Bill 550 School Facility Conditions Evaluation Form

| Part | Building/Classroom Number | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|

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## E. PEST/VERMIN INFESTATION

| | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| There is evidence of major pest or vermin infestation (e.g., holes in the walls, floors, or ceilings, rodent droppings, odor). | Yes | | | | | | | | |
| | No | | | | | | | | |

## F. WINDOWS/DOORS/GATES (Interior and Exterior)

| | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| There is evidence of conditions that pose a security risk (e.g., broken or missing exterior doors, windows, or gates, holes in perimeter fencing, locks and other security hardware missing or not functioning properly). | Yes | | | | | | | | |
| | No | | | | | | | | |

## G. HAZARDOUS MATERIALS (Interior and Exterior)

| | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| There appears to be evidence of hazardous materials previously undiscovered by school personnel that pose an immediate threat to pupils or staff (e.g., peeling lead based paint, damaged tiles or other circumstances that may indicate asbestos exposure, indication of toxic mold, inadequate storage of hazardous chemicals or flammable materials.) | Yes | | | | | | | | |
| | No | | | | | | | | |

## H. STRUCTURAL DAMAGE

| | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| There appears to be evidence of structural damage that has created or has a potential to create hazardous or uninhabitable conditions (e.g., severe cracks, sagging or sloping ceilings or floors, missing posts or beams, dry rot/mold in structural components). | Yes | | | | | | | | |
| | No | | | | | | | | |

**NOTE:** To make comments about a building/room, place an asterisk at the end of the room/building number and write comments at end of form.

# Senate Bill 550 School Facility Conditions Evaluation Form

## DESCRIBE ANY PROBLEMS OR DEFICIENCIES IDENTIFIED DURING THE SITE INSPECTION
## Parts A-H

| Building or Classroom Number | Part | Comments |
|---|---|---|
| | | |
| | | |
| | | |
| | | |

# Senate Bill 550 School Facility Conditions Evaluation Form

| Part | Building/Classroom Number | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|

## I. INTERIOR SURFACES (Walls, Floors, and Ceilings)

| | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| Interior surfaces appear to be safe, functional, and clean (e.g., no hazards from torn carpet, missing floor or ceiling tiles, tears or holes in walls or floors, water damage, or accumulated refuse). | Yes | | | | | | | | |
| | No | | | | | | | | |

## J. DRINKING FOUNTAINS (Inside and Outside)

| | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| Drinking fountains appear to be accessible and functioning as intended (e.g., adequate water pressure, no leaks or evidence of moss or mold, clear and good tasting water). | Yes | | | | | | | | |
| | No | | | | | | | | |

## K. ELECTRICAL (Interior and Exterior)

| | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| There are no apparent electrical hazards (e.g., no exposed electrical wiring, outlets, switch plates, junction boxes, and fixtures are covered and working properly, electrical equipment is properly covered or guarded). | Yes | | | | | | | | |
| | No | | | | | | | | |
| Lighting appears to be adequate and working properly (e.g., not flickering). | Yes | | | | | | | | |
| | No | | | | | | | | |

## L. RESTROOMS

| | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| Restrooms appear to be accessible during school hours, clean, functional and in compliance with SB 892 (ECS 35292.5) | Yes | | | | | | | | |
| | No | | | | | | | | |

# Senate Bill 550 School Facility Conditions Evaluation Form

## DESCRIBE ANY PROBLEMS OR DEFICIENCIES IDENTIFIED DURING THE SITE INSPECTION
## Parts I-L

| Building or Classroom Number | Part | Comments |
|---|---|---|
| | | |
| | | |
| | | |
| | | |

STATE ALLOCATION BOARD
IMPLEMENTATION COMMITTEE
November 5, 2004

# WILLIAMS SETTLEMENT – ASSEMBLY BILL 1550

## PURPOSE

To report on the components of Assembly Bill (AB) 1550, Chapter 901, Statutes of 2004 (Daucher), impacting the State Allocation Board (SAB) and Office of Public School Construction (OPSC).

## BACKGROUND

AB 1550 was created as a part of the settlement agreement in the case of *Williams v. State of California*. AB 1550, requires the OPSC to provide guidance to the California Department of Education (CDE) and State Board of Education (SBE) in an effort to eliminate the Concept 6 school schedule for districts by July 1, 2012.

## DISCUSSION

The following Attachment outlines the specific code sections that may potentially impact the SAB and OPSC. It does not appear that regulations will need to be adopted by the SAB to implement the law. Rather the SAB/OPSC will act as a resource to CDE and SBE in providing technical assistance to eliminate the Concept 6 school calendar.

# ATTACHMENT

Assembly Bill 1550

(Daucher)

Concept 6 Class Scheduling

| EDUCATION CODE SECTION | DESCRIPTION | REGULATORY ACTION | DISCUSSION/ ACTION ITEMS |
|---|---|---|---|
| 37683(a) | Requires CDE to consult with OPSC in considering whether a district has identified adequate sources of funding in their comprehensive action plan (CAP), which outlines steps to be off of Concept 6 calendar by July 1, 2012. | No | • Will need to provide assistance to CDE sometime after January 1, 2005<br>• Our analysis will help CDE make recommendations to the State Board of Education (SBE) on approval of CAP. |
| 37688 (a) and (b) | Requires SAB to provide an analysis and opinion to the SBE prior to public hearing, if a district has either failed to make substantial progress or develop specific school building plan. The SAB shall render its opinion based upon a written analysis as to the cause of the failure and the remedies proposed to be undertaken prepared by OPSC. | No | • May need to provide written analysis and opinion after July 31, 2008 if a school district fails to make substantial progress or develop specific building plan. |
| 37688(d)(1) | If the SBE determines that the failure of a district to achieve substantial progress is due to circumstances beyond the control of the district, the remedial plan adopted by the SBE may provide for technical assistance to the district from OPSC. | No | • This determination would be as a result of outcome from public hearing.<br>• OPSC required to work with district, provide outreach as to funding options, assistance, etc. |
| 37689(b)(1) | If SBE determines that the failure of a district to achieve substantial progress or develop specific school building plan is not due to circumstances beyond the district's control, the SBE will hold another public hearing to determine if direct oversight of the district's facilities construction program is needed. Direct oversight by the state board shall consist of assigning a monitor to the district. In selecting a monitor, the SBE shall consult with the OPSC. | No | • After July 31, 2009 may need to help select monitor. |
| 37689(b)(5) | The district is required to implement the recommendations of the monitor. In a dispute between the monitor and district, SBE will determine in consultation with OPSC, if the district lacks good cause for failing to implement the recommendations. | No | • After July 31, 2009 may need to make findings on recommendations of monitor. |
| 37692 | On or before July 1, 2008, CDE, in consultation with OPSC, shall conduct a survey to determine whether the school districts operating Concept 6 programs will phase out the program by the 2009-10 fiscal year. Present results to Assembly and Senate Committees on Education, and DOF. | No | • Will need to assist in surveying of school districts and presenting findings to appropriate parties. |

STATE ALLOCATION BOARD
IMPLEMENTATION COMMITTEE
November 5, 2004

# WILLIAMS SETTLEMENT – ASSEMBLY BILL 2727 and SENATE BILL 550

## PURPOSE

To report on the components of the uniform complaint process established in Assembly Bill (AB) 2727, Chapter 903 (Daucher), and Senate Bill (SB) 550, Chapter 900, Statutes of 2004 (Vasconcellos), in relation to school facilities.

## BACKGROUND

AB 2727 and SB 550 were created as a part of the settlement agreement in the case of *Williams v. State of California*. Both pieces of legislation implement a uniform complaint process to be instituted at the local level for students, parents, or teachers to use as a means to address several items, including the conditions of school facilities.

## DISCUSSION

Although, the uniform complaint process does not directly impact the SAB or OPSC, the information provided on the Attachment is meant to advise districts of these new requirements and to assist in complying with the legislation.

## ADDITIONAL RESOURCES

California Department of Education, School Accountability Division, Uniform Compliant Process
www.cde.ca.gov

# ATTACHMENT

Assembly Bill 2727 and Senate Bill 550

(Daucher and Vasconcellos)

Uniform Compliant Process (School Facilities)

| EDUCATION CODE SECTION | DESCRIPTION | SAB REGULATORY ACTION | DISCUSSION/ ACTION ITEMS |
|---|---|---|---|
| 35186(a) | A district shall use the uniform complaint process to help identify and resolve any deficiencies related to emergency or urgent facility conditions that pose a threat to the health and safety of pupils or staff. | No | None |
| 35186(c) | A complainant not satisfied with the resolution proposed by the principal or district superintendent designee for a complaint involving the condition of a facility that poses an emergency or urgent threat as defined in EC Section 17592.72(c)(1) has the right to file an appeal with the California Department of Education (CDE). CDE will then provide a written report to the State Board of Education (SBE) describing the complaint and a proposed remedy. | No | • Repairs of health and safety may qualify as a project under the Emergency Repair Program (SB 6). |
| 35186(f) | Identifies appropriate subjects of complaints and requires a notice to be posted in each classroom in each school in the district notifying parents and guardians of specific standards, including that school facilities must be clean, safe, and maintained in good repair. | No | None |
| 35186(g) | Requires a school district to implement this bill on or before January 1, 2005. | No | None |

**STATE ALLOCATION BOARD**
1130 K Street, Suite 400
Sacramento, CA 95814
http://www.dgs.ca.gov/opsc

**Date:** November 19, 2004

**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, December 3, 2004 (9:30 am - 3:30 pm) at the East End Complex, 1500 Capitol Avenue, Rooms 72.149B & 72.151A, Sacramento.

The Implementation Committee's proposed agenda is as follows:

1. Convene Meeting

2. 2005 Implementation Committee Meeting Calendar

3. Williams Settlement Legislation
   Discussion Items:
   - Senate Bill 6 (Alpert) School Facility Needs Assessment Grant Program and Emergency Repair Account
   - Senate Bill 550 (Vasconcellos) School Facility Standards

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 Christine Sanchez at (916) 322-0328.

BRUCE B. HANCOCK
Chairperson

BBH:LM:cs

STATE ALLOCATION BOARD

IMPLEMENTATION COMMITTEE

# Pending Items List
# December 3, 2004

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## A. Future Items

- SFP – Project Rescission
- Follow-up to 180-Day Regulation: *District Funded Facilities Included in Existing School Building Capacity (approved at the May 26, 2004 State Allocation Board)*

## B. Suspended Items

- None

State Allocation Board
Implementation Committee
December 3, 2004

## 2005 IMPLEMENTATION COMMITTEE MEETING DATES

The dates listed below are the proposed meeting dates for the Implementation Committee meetings for the 2005 year. The 12 monthly calendars for are provided for your reference.

Proposed Meeting Dates:

- January 7, 2005
- February 4, 2005
- March 4, 2005
- April 1, 2005
- May 6, 2005
- June 3, 2005
- July 1, 2005
- August 5, 2005
- September 2, 2005
- October 7, 2005
- November 4, 2005
- December 2, 2005

# January

| *Sun* | *Mon* | *Tue* | *Wed* | *Thu* | *Fri* | *Sat* |
|---|---|---|---|---|---|---|
| | | | | | | **1** |
| **2** | **3** | **4** | **5** | **6** | **7**<br>**Proposed IMP Committee** | **8** |
| **9** | **10** | **11** | **12** | **13** | **14** | **15** |
| **16** | **17** | **18** | **19** | **20** | **21** | **22** |
| **23** | **24** | **25**<br>CASH Workshop (Sacramento) | **26**<br>**SAB** | **27** | **28**<br>CASH Workshop (Ontario) | **29** |
| **30** | **31** | | | | | |

**2005**

# February

| *Sun* | *Mon* | *Tue* | *Wed* | *Thu* | *Fri* | *Sat* |
|---|---|---|---|---|---|---|
| | | **1** | **2** | **3** | **4**<br>**Proposed IMP Committee** | **5** |
| **6** | **7** | **8** | **9** | **10** | **11** | **12** |
| **13** | **14** | **15** | **16** | **17** | **18** | **19** |
| **20** | **21** | **22** | **23**<br>**SAB** | **24** | **25** | **26** |
| **27** | **28**<br>CASH Annual Conference (Sacramento) | | | | | |
| | | | | | | |

**2005**

# March

| *Sun* | *Mon* | *Tue* | *Wed* | *Thu* | *Fri* | *Sat* |
|---|---|---|---|---|---|---|
| | | **1**<br>CASH Annual Conference (Sacramento) | **2**<br>CASH Annual Conference (Sacramento) | **3**<br>CASH Annual Conference (Sacramento) | **4**<br>**Proposed IMP Committee** | **5** |
| **6** | **7** | **8** | **9** | **10** | **11** | **12** |
| **13** | **14** | **15** | **16** | **17** | **18** | **19** |
| **20** | **21** | **22**<br>CASH Workshop (Sacramento) | **23**<br>**SAB** | **24** | **25**<br>CASH Workshop (Ontario) | **26** |
| **27** | **28** | **29** | **30** | **31** | | |
| | | | | | | |

**2005**

# April

| Sun | Mon | Tue | Wed | Thu | Fri | Sat |
|---|---|---|---|---|---|---|
| | | | | | **1**<br>**Proposed IMP Committee** | **2** |
| **3** | **4** | **5** | **6** | **7** | **8** | **9** |
| **10** | **11** | **12** | **13** | **14** | **15** | **16** |
| **17** | **18** | **19** | **20** | **21** | **22** | **23** |
| **24** | **25** | **26**<br>CASH Workshop (Sacramento) | **27**<br>**SAB** | **28** | **29**<br>CASH Workshop (Ontario) | **30** |
| | | | | | | |

**2005**

# May

| *Sun* | *Mon* | *Tue* | *Wed* | *Thu* | *Fri* | *Sat* |
|---|---|---|---|---|---|---|
| **1** | **2** | **3** | **4** | **5** | **6**<br>**Proposed IMP Committee** | **7** |
| **8** | **9** | **10**<br>CASH Spring Conference (San Diego) | **11**<br>CASH Spring Conference (San Diego) | **12**<br>CASH Spring Conference (San Diego) | **13** | **14** |
| **15** | **16** | **17** | **18** | **19** | **20** | **21** |
| **22** | **23** | **24** | **25**<br>**SAB** | **26** | **27** | **28** |
| **29** | **30** | **31** | | | | |
| | | | | | | |

**2005**

# June

| Sun | Mon | Tue | Wed | Thu | Fri | Sat |
|---|---|---|---|---|---|---|
| | | | **1** | **2** | **3**<br>**Proposed IMP Committee** | **4** |
| **5** | **6** | **7** | **8** | **9** | **10** | **11** |
| **12** | **13** | **14** | **15** | **16** | **17** | **18** |
| **19** | **20** | **21**<br>CASH Workshop (Sacramento) | **22**<br>**SAB** | **23** | **24**<br>CASH Workshop (Ontario) | **25** |
| **26** | **27** | **28** | **29** | **30** | | |
| | | | | | | |

**2005**

# July

| Sun | Mon | Tue | Wed | Thu | Fri | Sat |
|---|---|---|---|---|---|---|
| | | | | | **1**<br>**Proposed IMP Committee** | **2** |
| **3** | **4** | **5** | **6** | **7** | **8** | **9** |
| **10** | **11** | **12** | **13** | **14** | **15** | **16** |
| **17** | **18** | **19** | **20** | **21** | **22** | **23** |
| **24** | **25** | **26**<br>CASH Workshop (Sacramento) | **27**<br>**SAB** | **28** | **29**<br>CASH Workshop (Ontario) | **30** |
| **31** | | | | | | |

**2005**

# August

| *Sun* | *Mon* | *Tue* | *Wed* | *Thu* | *Fri* | *Sat* |
|---|---|---|---|---|---|---|
| | **1** | **2** | **3** | **4** | **5**<br>**Proposed IMP Committee** | **6** |
| **7** | **8** | **9** | **10** | **11** | **12** | **13** |
| **14** | **15** | **16** | **17** | **18** | **19** | **20** |
| **21** | **22** | **23**<br>CASH Workshop (Sacramento) | **24**<br>**SAB** | **25** | **26**<br>CASH Workshop (Ontario) | **27** |
| **28** | **29** | **30** | **31** | | | |
| | | | | | | |

**2005**

# September

| Sun | Mon | Tue | Wed | Thu | Fri | Sat |
|---|---|---|---|---|---|---|
| | | | | 1 | 2<br>**Proposed IMP Committee** | 3 |
| 4 | 5 | 6 | 7 | 8 | 9 | 10 |
| 11 | 12 | 13 | 14 | 15 | 16 | 17 |
| 18 | 19 | 20 | 21 | 22 | 23 | 24 |
| 25 | 26 | 27<br>CASH Workshop (Sacramento) | 28<br>**SAB** | 29 | 30<br>CASH Workshop (Ontario) | |
| | | | | | | |

**2005**

# October

| *Sun* | *Mon* | *Tue* | *Wed* | *Thu* | *Fri* | *Sat* |
|---|---|---|---|---|---|---|
| | | | | | | **1** |
| **2** | **3** | **4** | **5** | **6** | **7**<br>**Proposed IMP Committee** | **8** |
| **9** | **10** | **11** | **12** | **13** | **14** | **15** |
| **16** | **17** | **18** | **19** | **20** | **21** | **22** |
| **23** | **24** | **25** | **26**<br>**SAB** | **27** | **28** | **29** |
| **30** | **31** | | | | | |

**2005**

# November

| Sun | Mon | Tue | Wed | Thu | Fri | Sat |
|---|---|---|---|---|---|---|
| | | 1 | 2 | 3 | 4<br>**Proposed IMP Committee** | 5 |
| 6 | 7 | 8 | 9 | 10 | 11 | 12 |
| 13 | 14 | 15 | 16 | 17 | 18 | 19 |
| 20 | 21 | 22 | 23<br>**SAB** | 24 | 25 | 26 |
| 27 | 28 | 29 | 30 | | | |
| | | | | | | |

**2005**

# December

| Sun | Mon | Tue | Wed | Thu | Fri | Sat |
|---|---|---|---|---|---|---|
| | | | | 1 | 2<br>**Proposed IMP Committee** | 3 |
| 4 | 5 | 6 | 7 | 8<br>**Tentative SAB** | 9 | 10 |
| 11 | 12 | 13 | 14 | 15 | 16 | 17 |
| 18 | 19 | 20 | 21 | 22 | 23 | 24 |
| 25 | 26 | 27 | 28 | 29 | 30 | 31 |
| | | | | | | |

**2005**

STATE ALLOCATION BOARD
IMPLEMENTATION COMMITTEE
December 3, 2004

# WILLIAMS SETTLEMENT - SENATE BILL 6

## PURPOSE

To present proposed regulations for the implementation of Senate Bill (SB) 6, Chapter 899, Statutes of 2004 (Alpert).

## BACKGROUND

SB 6 was created as part of the settlement agreement in the case of *Williams v. State of California*. The objectives of SB 6 are to identify the current conditions of the facilities (School Facilities Needs Assessment Grant Program) and to provide funding for the Emergency Repair Program.

## DISCUSSION

The OPSC has had an opportunity to look into the concerns expressed by the Implementation Committee members and members of the audience from the November 5th meeting. The final number of eligible schools has not been determined. Until such a time, Regulation Section 1859.311 and 1859.321 remain unchanged. The following information is provided in response to discussion and feedback:

*School Facilities Needs Assessment Grant Program Regulations* (Refer to Attachment A)

- The qualifications of the inspector (Section 1859.314) have been modified. The qualifications apply to either the person(s) performing or supervising the assessment.
- In response to requests for a more streamlined process for reporting the progress made on the Needs Assessment, the report is now a web-based document as described in Section 1859.315. The proposed text for the Web-Based Progress Report Survey can be found in the Attachment B.
- Sections 1859.317 and 1859.318 have been modified in order to provide more clarity to the “supplement, not supplant” requirements of the statute.

*School Facilities Needs Assessment Grant Program Forms* (Refer to Attachment C)

- The instructions of the Form SAB 61-01 have been revised to define the date of construction and building square footage.
- Additional space has been provided to allow for information on multiple inspectors.
- Discussions continue regarding the feasibility of districts interfacing their existing facility inspection systems with the OPSC needs assessment database.

*Emergency Repair Program* (Refer to Attachment A)

- Section 1859.323.1(f) has been modified to clarify the circumstance where force account labor costs are permissible.
- Section 1859.324(a) was modified to clarify contract requirements.
- Section 1859.328 has been added and Sections 1859.325 and 1859.327 have been modified in order to provide more clarity to the “supplement, not supplant” requirements of the statute.

# ATTACHMENT A

DRAFT

TITLE 2. CALIFORNIA ADMINISTRATIVE CODE
DIVISION 2. FINANCIAL OPERATIONS
CHAPTER 3. DEPARTMENT OF GENERAL SERVICES
SUBCHAPTER 4. OFFICE OF PUBLIC SCHOOL CONSTRUCTION
SUBGROUP 5.7. RELATING TO SCHOOL FACILITIES NEEDS ASSESSMENT AND EMERGENCY REPAIR PROGRAM

## Article 1. General Provisions and Definitions

### Section 1859.300. Purpose.

These regulations implement the School Facilities Needs Assessment Grant Program and the Emergency Repair Program.

Note: Authority Cited: Section 17592.73, Education Code.

Reference: Sections 17592.70 and 17592.71, Education Code.

### Section 1859.301. Director of General Services.

The Director of General Services, or the Director's legal designee, shall perform all acts necessary to carry out the provisions of these regulations except such functions as are reserved to the Board and to other agencies by law or by Sections 1859.300 through 1859.328, inclusive. These acts to be performed include, but are not limited to, entering into contracts to administer the regulations.

Note: Authority Cited: Section 17592.73, Education Code.

Reference: Section 17070.20, Education Code.

### Section 1859.302. Definitions.

For the purposes of these regulations, the terms set forth below shall have the following meanings, subject to the provisions of the Act:
"Act" means California Education Code (EC) Sections 17592.70 through 17592.73, inclusive, and 41207.5.
"Apportionment" means an allocation of funds by the Board for eligible School Facilities Needs Assessment Grant Program and Emergency Repair Program expenditures.
"Accepted Application(s)" means a district has submitted the application and all documents to the Office of Public School Construction that are required to be submitted with the application as identified in the General Information Section of the Form SAB 61-03, *Application For Reimbursement and Expenditure Report*, (New 01/05), as appropriate, and the Office of Public School Construction has accepted the application.
"Board" means the State Allocation Board as established by Section 15490 of the Government Code.
"CBEDS Report" means the enrollment information provided through the California Basic Educational Data System (CBEDS) by the school district to the California Department of Education.
"Cosmetic Repairs" means repairs that enhance the physical environment of the school and are not directly related to the mitigation of a health or safety hazard.
"Deferred Maintenance Program (DMP)" means the state deferred maintenance funding authorized by the EC Sections 17582 through 17588, inclusive.

"District Representative" means a member of the school district staff or other agent authorized to serve as District Representative to execute and file an application with the Board on behalf of the district and/or act as liaison between the Board and the district.
"Emergency Facilities Needs" shall have the meaning set forth in EC Section 17592.72(c)(1).
"Emergency Repair Program (ERP)" means the repair program implemented under the Act, Senate Bill 6, Chapter 899, Statutes of 2004.
"Emergency Repair Program Grant" means an Apportionment provided by the State to reimburse the district for the district's share of eligible costs, pursuant to EC Section 17592.72(c)(1) and Regulation Sections 1859.323 and 1859.323.1.
"Expended" means work has been completed, or services rendered, and a warrant has been issued for payment.
"Form SAB 61-01" means the *School Facilities Needs Assessment Report*, Form SAB 61-01 (New 01/05), which is incorporated by reference.
"Form SAB 61-02" means the *School Facilities Needs Assessment Expenditure Report*, Form SAB 61-02 (New 01/05), which is incorporated by reference.
"Form SAB 61-03" means the *Application For Reimbursement and Expenditure Report*, Form SAB 61-03 (New 01/05), which is incorporated by reference.
"Interim Evaluation Instrument" means the evaluation tool developed pursuant to EC Section 17002(d)(2).
"Like-Kind Material/System" means a building material or system that is substantially identical in function to the existing building material or system to be replaced.
"Needs Assessment" means the review of the facilities conducted pursuant to the Section 1859.315(b), the Form SAB 61-01 and EC Section 17592.70.
"Needs Assessment Grant" means the funding provided pursuant to EC Section 17592.70(c) and Sections 1859.312 and 1859.313.
"Nonessential Repairs" means repairs that are not directly related to the mitigation of a health or safety hazard.
"Office of Public School Construction (OPSC)" means the State office within the Department of General Services that assists the Board as necessary and administers the School Facilities Needs Assessment Grant Program and the Emergency Repair Program.
"Pupil" means a student enrolled in any grade Kindergarten through grade twelve including individuals with exceptional needs meeting the provisions of EC Section 56026.
"Ready for Apportionment" means a review of an Accepted Application has been completed by the OPSC and it has been determined that it meets all requirements of law for an apportionment, and the OPSC will recommend approval to the Board.
"Routine Restricted Maintenance Account" means the account into which funds are deposited by school districts pursuant to EC Section 17070.75.
"School Facilities Emergency Repair Account" means the account established pursuant to EC Section 17592.71(a).
"School Facilities Needs Assessment Program" means the one-time assessment implemented under the Act, Senate Bill 6, Chapter 899, Statutes of 2004.
"School Facility Program (SFP)" means the Leroy F. Greene School Facility Act of 1998, commencing with EC Section 17070.10.
"Section" means a section in these Subgroup 5.7 regulations.
"Unfunded List" means an information list of unfunded projects eligible pursuant to Sections 1859.320 through 1859.328, inclusive, and EC Section 17592.72.
"Web-Based Progress Report Survey" means the on-line form provided by the OPSC and available on the OPSC Website for the purpose of submitting a report on the progress made toward completing the Needs Assessment.
"Web-Based Needs Assessment" means the on-line Form SAB 61-01 provided by the OPSC and available on the OPSC Website www.opsc.dgs.ca.gov for the purpose of submitting the Needs Assessment data electronically.

Note: Authority Cited: Section 17592.73, Education Code.

Reference: Sections 17592.70, 17592.71, 17592.72 and 17592.73, Education Code.

## Article 2. School Facilities Needs Assessment Grant Program

### Section 1859.310. General.

A school site that qualifies for the School Facilities Needs Assessment Grant Program according to the provisions of EC Section 17592.70(b) shall be allocated funds by the Board in order to conduct a one-time comprehensive school facilities needs assessment. A school district that receives funds under this Article shall be required to complete and submit a Web-Based Needs Assessment to the OPSC for each school site meeting the provisions of Section 1859.311.

Note: Authority Cited: Section 17592.73, Education Code.

Reference: Section 17592.70, Education Code.

### Section 1859.311. Eligible Schools.

**Please note: this section is still under review and requires further consideration.**

A school district that has a school site meeting all of the following is eligible for the School Facilities Needs Assessment Grant Program:
(a) The school was identified on the list published by the California Department of Education pursuant to EC Section 17592.70(b).
(b) The school was newly constructed prior to January 1, 2000 as measured by adding 12 calendar months to the date of the Division of State Architect building plan approval for the original school buildings on the campus.

Note: Authority Cited: Section 17592.73, Education Code.

Reference: Section 17592.70, Education Code.

### Section 1859.312. Apportionment of Funds.

The Board shall allocate ten dollars ($10) per Pupil enrollment, according to the 2003 CBEDS Report, for each school site identified by Section 1859.311. A minimum allocation of seven thousand five hundred dollars ($7,500) shall be made for each eligible school site. Once an apportionment has been made by the Board, funds will be released by OPSC to the school district with jurisdiction over the eligible school site along with requirements for the money to be spent at the eligible school site(s) in accordance with Section 1859.313.

Note: Authority Cited: Section 17592.73, Education Code

Reference: Section 17592.70, Education Code.

### Section 1859.313. Use of Needs Assessment Grant Funds.

The district shall only use the Needs Assessment Grant funds for the following:
(a) Unbudgeted administrative or third party costs incurred as a result of performing the Needs Assessment.
(b) Repairs identified in Part V of the Form SAB 61-01 at any eligible school site in the district where a Needs Assessment has been completed.

Note: Authority Cited: Section 17592.73, Education Code.

Reference: Section 17592.70, Education Code.

Section 1859.314. Qualifications of the Inspector.

**Please note: this section is still under review and requires further consideration.**

The Needs Assessment must be prepared in accordance with all of the following:
(a) The person(s) performing or supervising the Needs Assessment must have in-depth knowledge, with a minimum of three years of experience, in facilities construction, operation, and maintenance, including experience with cost estimation and building systems life cycle analysis in reference to his/her applicable area of expertise; and,
(b) The individual(s) conducting the assessment must personally perform the assessment on the school site(s).
(c) The individual(s) must be an independent third party, which include any the following:
(1) Staff from another district;
(2) Staff from the county office of education;
(3) A private entity specializing in school facilities; or
(4) For districts with multiple independent or autonomous facilities districts, the facility person from one district may perform the Needs Assessment for a school site under the jurisdiction of another facility district.

Note: Authority Cited: Section 17592.73, Education Code.

Reference: Section 17592.73, Education Code.

Section 1859.315. Program Reporting Requirements.

A school district that receives a School Facilities Needs Assessment Grant pursuant to Section 1859.311 shall:
(a) Complete a Web-Based Progress Report Survey and submit to the OPSC by April 29, 2005. Each school district shall submit one survey unless the Needs Assessment for all eligible schoolsites have been completed pursuant to subsection (b), below:
(b) Complete a Web-Based Needs Assessment for each applicable site and submit to the OPSC by January 1, 2006.
(c) Complete Form SAB 61-02 to report all expenditures made with Needs Assessment Grant funds on a district-wide basis and submit to the OPSC by September 1, 2006.

Note: Authority Cited: 17592.73, Education Code.

Reference: 17592.70, 17592.73, Education Code.

Section 1859.316. Needs Assessment Grant Expenditures and Audit.

The projects shall be subject to audit to ensure that expenditures incurred by the district were made in accordance with the provisions of Sections 1859.313 and 1859.314. Any funds not Expended on the Needs Assessment or eligible repairs at the time of submittal of the Form SAB 61-02 shall be returned to the OPSC.

After the OPSC receives the expenditure report from the district on the Form SAB 61-02 and the district is notified of an impending Needs Assessment audit, an audit of the expenditures by the OPSC shall commence within six months. The OPSC shall complete the audit within six months of the notification unless additional information requested from the district has not been received.

Should the OPSC conduct an audit of the expenditures and information, which may include certifications, for expenditures made pursuant to Section 1859.310 and make a finding that some or all of the expenditures were not made in accordance with the provisions of the Education Code Section 17592.70(d), the OPSC shall recommend to the Board that the Apportionment be adjusted based on the audit findings. Upon adoption of the audit findings by the Board, the district must submit a warrant for any amount identified as being owed within 30 days of the Board action. If this does not occur, the OPSC shall initiate collection procedures.

Note: Authority Cited: Section 17592.73, Education Code.

Reference: Section 17592.70, Education Code.

Section 1859.317. Duplication of Needs Assessment Grant Expenditures.

If the district's expenditures for the Needs Assessment Grant involve proposed work also included in a SFP or Deferred Maintenance Program (DMP) project, the district must ensure all of the following:
(a) No work or expenditures are duplicated.
(b) After eliminating the work to be funded with the Needs Assessment Grant from the SFP or DMP project, the remaining work continues to meet the SFP or DMP requirements.

Note: Authority Cited: Section 17592.73, Education Code.

Reference: 17592.73, Education Code.

Section 1859.318. Supplement, Not Supplant, Needs Assessment Grant Funds.

**Please note: this section is still under review and requires further consideration.**

Needs Assessment Grant funds remaining after the completion of the Needs Assessment must be used for repairs authorized in Section 1859.313(b) and must be used to supplement, not supplant, funds already available for the maintenance of school facilities. In compliance with this requirement, funds from all of the following sources must have first been Expended, encumbered or obligated for other maintenance needs as of the date warrants were issued for those repairs:
(a) Routine Restricted Maintenance Account;
(b) Deferred Maintenance Account;
(c) Any other maintenance budgets.

Evidence of Expended, encumbered or obligated include, but are not limited to, the following documentation: signed contracts for services, work or materials, purchase orders, and school board meeting minutes approving the dedication of funds for future maintenance projects.

Note: Authority Cited: Section 17592.73, Education Code.

Reference: 17592.73, Education Code.

Section 1859.319. Remaining Needs Assessment Grant Funds.

Any funds unapportioned or returned to the OPSC pursuant to Section 1859.316 shall be transferred into the School Facilities Emergency Repair Account.

Note: Authority Cited: Section 17592.73.

Reference: Education Code Section 41207.5.

## Article 3. Emergency Repair Program

### Section 1859.320. General.

A district seeking an Emergency Repair Program Grant for reimbursement of cost for repairs or replacement of existing structural components or building systems that posed a health and safety threat to the pupils or staff while at school, as defined by EC Section 17592.72(c)(1), shall complete and file a Form SAB 61-03. Each application may consist of the repair or replacement of only one building component or system and any work directly related to that repair or replacement..

Note: Authority Cited: Section 17592.73, Education Code.

Reference: Section 17592.72, Education Code.

### Section 1859.321. Eligible Schools.

**Please note: this section is still under review and requires further consideration.**

A school district that has a school site meeting all of the following is eligible to submit a Form SAB 61-03:
(a) The school was identified on the list published by the California Department of Education pursuant to EC Section 17592.70(b).
(b) The school was newly constructed prior to January 1, 2000 as measured by adding 12 calendar months to the date of the Division of State Architect building plan approval for the original school buildings on the campus.

### Section 1859.322. Emergency Repair Program Project Funding Order.

The Board shall fund ERP applications on a monthly basis in the order of receipt of an Accepted Application as follows:
(a) If sufficient funding is available to provide funding to all applications presented that month, all applications will receive a full and final apportionment of the eligible costs.
(b) If funding is insufficient in any given month:
(1) Apportionments will be provided to each application on a prorated basis with the balance placed on the Unfunded List, unless the proration will result in funding less than 25 percent of the eligible project costs. The proration shall be determined by dividing the total funds available by the total eligible costs of all applications Ready for Apportionment.
(2) If the proration, as determined in (1) above, will be less than 25 percent of the eligible project costs, the Board shall provide funding at 100 percent of the eligible project costs based on date order received until funds are no longer available and the remaining applications shall be placed on the Unfunded List.
(3) The Board will continue to accept and process applications for the purpose of developing an Unfunded List based on the order of receipt of the Accepted Application.

When funds become available, projects on the Unfunded List will be apportioned in order date of receipt. After an Apportionment has been made by the Board, funds will be released by the OPSC.

Once eight hundred million dollars ($800,000,000) have been apportioned by the Board: any applications that have received a prorated Apportionment will be deemed a full and final Apportionment, any

applications remaining fully unfunded on the Unfunded List will be returned to the district, and the Unfunded List shall be dissolved.

Note: Authority Cited: Section 17592.73, Education Code.

Reference: Sections 17592.71, Education Code.

Section 1859.323. Eligible Project Costs.

Reimbursement will be provided to meet the district share of the repair costs of essential Emergency Facilities Needs as defined in Education Code Section 17592.72(c)(1). Reimbursement of eligible projects costs shall be limited to the minimum work required on existing structural components or building systems to mitigate the health and/or safety hazard. Replacement is permitted only if it is more cost-effective to replace rather than repair a structural component or building system that poses a health or safety threat to pupils or staff while at school. Replacement of a structural component or building system shall be limited to the use of a Like-Kind Material/System except in the following circumstances and as supported by a cost comparison:
(a) The work in the project proposes to use an alternative building material or system that performs the same function as a no longer available building material or system; or
(b) The work in the project proposes to use an alternative building material or system which is requested by the district and is less costly than a Like-Kind Material/System replacement.

If the request is for replacement components or systems, a cost comparison must be prepared by the district and submitted with the Form SAB 61-03 to the OPSC that indicates the total system. If the cost to repair the component or system is less than 75 percent of the current replacement cost, only costs to repair the component or system are reimburseable.

If the request is for alternative replacement components or systems pursuant to (a) or (b) above, the cost comparison must also indicate that the alternative building material or system is less than 75 percent of the cost of replacement with a Like-Kind Material/System.

If the request is for replacement components or systems that included structural deficiencies, the cost comparison must also include a report from a licensed design professional identifying the minimum work necessary to obtain Division of the State Architect approval. The report must contain a detailed cost estimate of the repairs. The report and cost estimate shall be subject to review by the OPSC for conformance with the Saylor Current Construction Cost Publication and, at the OPSC's discretion, the Division of the State Architect.

Note: Authority Cited: Section 17592.73, Education Code.

Reference: Section 17592.72, Education Code.

Section 1859.323.1. Ineligible Expenditures.

**Please note: this section is still under review and requires further consideration.**

An Emergency Repair Program Grant may not be used for any of the following:
(a) New square footage, components, or building systems that did not previously exist.
(b) Nonessential Repairs.
(c) Cosmetic Repairs.
(d) Land acquisition.
(e) Furniture and equipment.
(f) Salaries of district employees except when permitted pursuant to Public Contract Code Section 20114.

(g) Items covered under warranty or by insurance.
(h) Costs normally borne by others including, but not limited to, public utility companies.

Note: Authority Cited: Section 17592.73, Education Code.

Reference: Section 17592.72, Education Code.

Section 1859.324. Reimbursement.

An Emergency Repair Program Grant shall be used to reimburse districts for eligible costs, as defined by Section 1859.323, that meet all of the following provisions:
(a) If contracts for services or work were signed for the project, contracts must have been entered into on or after September 29, 2004;
(b) Expended on or after September 29, 2004;
(c) Expended prior to the submittal of the Form SAB 61-03.

Note: Authority Cited: Section 17592.73, Education Code.

Reference: Section 17592.72, Education Code.

Section 1859.325. School Facility Due Diligence.

To ensure that the district is exercising due diligence in the administration of its facility accounts and is using an Emergency Repair Program Apportionment to supplement existing funding requirements prescribed in statute for school facilities, the OPSC may conduct a review of the district's maintenance accounts pursuant to the provisions of Section 1859.328.

In the event that the Board finds that a district is failing to exercise due diligence or supplanting has occurred, the Board shall notify the county superintendent of schools in which the school district is located and may deny future funding under these regulations.

Note: Authority Cited: Section 17592.73, Education Code.

Reference: Section 17592.72, Education Code.

Section 1859.326. Emergency Repair Program Application Expenditures and Audit.

The projects shall be subject to audit to ensure that the expenditures incurred by the district were made in accordance with the provisions of Sections 1859.323 through 1859.325, inclusive.

After a final Apportionment has been made, and the OPSC notifies the district of an impending ERP audit of the expenditures reported on the Form SAB 61-03, an audit by the OPSC shall commence within six months. The OPSC shall complete the audit within six months of the notification unless additional information requested from the district has not been received.

Should the OPSC conduct an audit of the expenditures and information provided by the district, which may include certifications, for the project and make a finding that some or all of the expenditures were not made in accordance with the provisions of the Education Code Section 17592.72(c) and Regulations Sections 1859.323 through 1859.325, inclusive, the OPSC shall recommend to the Board that the apportionment be adjusted based on the audit findings. Upon adoption of the audit findings by the Board, the district must submit a warrant for any amount identified as being owed within 30 days of the Board action. If this does not occur, the OPSC shall initiate collection procedures.

Note: Authority Cited: Section 17592.73, Education Code.

Reference: Sections 17592.72 and 17592.73, Education Code.

Section 1859.327. Duplication of Emergency Repair Program Expenditures.

If the district's expenditures for the Emergency Repair Program Grant involve proposed work also included in a SFP or Deferred Maintenance Program (DMP) project, the district must ensure all of the following:
(a) No work or expenditures are duplicated.
(b) After eliminating the work to be funded with the Emergency Repair Program Grant from the SFP or DMP project, the remaining work continues to meet the SFP or DMP requirements.
Note: Authority Cited: Section 17592.73, Education Code.

Reference: Section 17592.72, Education Code.

Section 1859.328. Supplement, Not Supplant, Emergency Repair Program Grant Funds.

Emergency Repair Program Grant funds must be used to supplement, not supplant, funds already available for the maintenance of school facilities. In compliance with this requirement, the district must have first Expended, encumbered or obligated funds from all of the following sources for maintenance needs other than the Emergency Repair Program project as of the date warrants were issued for the project:
(a) Routine Restricted Maintenance Account;
(b) Deferred Maintenance Account;
(c) Any other maintenance budgets.

Evidence of Expended, encumbered or obligated include, but are not limited to, the following documentation: signed contracts for services, work or materials, purchase orders, and school board meeting minutes approving the dedication of funds for future maintenance projects.

On the Form SAB 61-03 the district must reduce the request for reimbursement of an ERP project by the amount of any available maintenance funds determined in (a) through (c) above.

Section 1859.329. Withdrawal and Amendment of Applications.

In the event a district has omitted expenditures from the Form SAB 61-03 at the time of submittal and the project has not received an Apportionment from the Board, the district may withdraw its application and resubmit a revised Form SAB 61-03. The resubmitted application will receive a new processing date by the OPSC. If the Board has already provided an Apportionment for the project, the district will not be able to receive additional funding for the project and the Apportionment provided by the Board will be considered full and final.

Note: Authority Cited: Section 17592.73, Education Code.

Reference: Sections 17592.72 and 17592.73, Education Code.

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# ATTACHMENT B

School Facilities Needs Assessment Grant Program

## Progress Report Survey

A school district or county office of education with jurisdiction over schools required to complete the School Facility Needs Assessment, pursuant to the provisions of Senate Bill 6 (Chapter 899, Statutes 2004) shall complete **one** survey and **submit it electronically to the OPSC by April 29, 2005.**

| | |
|---|---|
| School District/COE: | |
| Five-Digit District/COE Number: | |
| County: | |
| Name of the Person Completing this Survey: | |
| Telephone Number: | |
| E-mail Address: | |
| Number of Schools Eligible for the School Facilities Needs Assessment Grant Program: | |

Please answer the following questions:

1. Have any of the required assessments been completed and submitted to the OPSC? ☐YES ☐NO

1A. If "yes," for how many schools? _____

2. Has the School District/COE designated an individual(s) to perform the assessment(s) at any of the eligible schools? ☐YES ☐NO

2A. If "yes," for how many schools? _____

3. Has the designated individual(s) begun conducting the assessment(s) at any of the eligible schools? ☐YES ☐NO

3A. If "yes," for how many schools? _____

4. Provide an estimated date for the submittal of the completed assessment(s) for all the schools under your jurisdiction. _____

# ATTACHMENT C

## Senate Bill 6 Forms

- *School Facilities Needs Assessment Grant Program,* Form SAB 61-01
- *School Facilities Needs Assessment Grant Program – District Expenditure Report,* Form SAB 61-02
- *School Facilities Needs Assessment Grant Program - Detailed Listing Of District Expenditures,* Worksheet SAB 61-02A
- *Application for Reimbursement and Expenditure Report, Emergency Repair Program,* Form SAB 61-03

**Attachment C1**

- Major Building Systems Available in a Web-Based Needs Assessment

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## GENERAL INFORMATION

This Form is to be used to perform a one-time school site Needs Assessment for each eligible school as defined by Regulation Section 1859.311.

The Form shall be completed and submitted to the OPSC via the internet with a certification document which requires an original signature to be mailed to the OPSC. Both submittals must be received by the OPSC no later than January 1, 2006.

## SPECIFIC INSTRUCTIONS

### Part I.

Needs Assessment Identification Number. This number is assigned to each school site that is required to submit the School Facility Needs Assessment. The number will be generated by the OPSC at the time of the Needs Assessment Grant Apportionment and is provided by the on-line Form automatically.

Section A. Complete the school site address field.

Section B. Indicate the name and contact information for each person that participated in the completion of the assessment.

Section C. Complete this section as follows:

a. No input required. Information in this field is automatically provided using the CDE database.
b. Indicate the existing site size measured in Useable Acres as defined by School Facility Program Regulation Section 1859.2.
c. No input required. Represents pupil density utilizing data from the fields above.
d. Indicate if this site operates on a multitrack year-round calendar, and, if so, what type.
e. Indicate what type of facility is used for pupil dining which is not designated for classroom instruction.

### Part II. Facility Inventory

List each building separately. Use the “Add Building” button to enter the information for additional buildings on site.

a. Enter the building identification number/letter as indicated on the site map to be submitted to the OPSC with the certification page of the Form. Identify all buildings on the site that house children and staff as part of the regular school curriculum.
b. Indicate whether the building is of permanent or portable construction. For a definition of portable classroom please refer to Education Code Section 17070.15(j).
c. Indicate the total enclosed exterior square footage of the building. For multilevel buildings, include the square footage at each level.
d. Indicate the year of original construction as determined by adding 12 months to the Division of State Architect’s approval of the building plans.
e. Indicate the year of the last building modernization project regardless of the modernization project funding source.
f. Select the type of facility from the drop-down menu provided. If there is more than one type of facility housed in the same building, click the “Add Facilities to Building” button and select from the new drop-down menu.
g. When indicating “Classrooms” option in f, enter the number of classrooms by grade level.

The on-line system will provide a summary of the following elements:

- The age and number of portable classrooms at the school.
- The pupil capacity of the site measured by multiplying the number of classrooms by the appropriate State loading standard.

**Part III. Useful Life of Major Building Systems**

Use this section to identify useful life remaining of all major building systems for each building identified in Part II of the Form.

a. Select from the drop-down box the building inspected. The "Multiple Buildings" and the "Campus-Wide" options in the drop down menu should only be utilized when a single building system is located in more than one building or throughout the entire campus.
b. Select from the drop-down box a type of building system inspected.
c. Select from the drop-down box a type of a sub-system inspected.
d. Select from the drop-down box the appropriate element or material inspected. If there is no applicable selection listed in the drop-down box, use the option "other."
e. Enter the number of years representing the useful life remaining of each component. Negative number of years indicates that the component has exceeded its useful life.

**Part IV. Five-Year Costs to Maintain Functionality**

**Part A**. Complete this section by estimating costs for each of the five years to maintain functionality of each building to provide healthy, safe, and suitable learning environment. When choosing the building from the Cost Estimate For Building drop down menu, the "Multiple Buildings" and the "Campus-Wide" options should only be utilized when a single building component is located in more than one building or throughout the entire campus. Once all worksheets are completed with detailed costs, the "summary" function may be used to generate a summary of costs by building and year, which will constitute Part B of this section.
**Part B**. This is a summary page generated from the detailed listing of five-year maintenance costs identified in Part A. No manual input is necessary.

**Part V. Necessary Repairs**

Use this form to identify the necessary repairs at the school site including any health and safety items. Use the "Add New Item" button to add as many repair items as necessary. Use the drop down box to select from the type of building components (same list of items as identified in Part IV) or use the option "other" to identify the repair. Repair cost estimates should include all related project costs. The dollar values assigned to the costs of the repairs are to be included in the district's first year cost estimate to maintain functionality of the facilities in Part IV of the Form.

**Part VI. Certification**
Complete, print, and sign the certification portion of the Form. Mail the completed certification and a site diagram of the school identifying all buildings on the site to the OPSC at the following address:

Office of Public School Construction
1130 K Street, Suite 400
Sacramento, CA 95814

*Refer to EXCEL VERSION OF NEEDS ASSESSMENT*

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STATE OF CALIFORNIA

# SCHOOL FACILITIES NEEDS ASSESSMENT GRANT PROGRAM
# DISTRICT EXPENDITURE REPORT

SAB 61-02 (NEW 01/05)

STATE ALLOCATION BOARD

OFFICE OF PUBLIC SCHOOL CONSTRUCTION



| SCHOOL DISTRICT | FIVE-DIGIT DISTRICT CODE NUMBER |
|---|---|
| | |

| BUSINESS ADDRESS |
|---|
| |

| COUNTY |
|---|
| |

| PREPARER'S NAME (TYPED) | PREPARER'S TITLE (TYPED) | TELEPHONE NUMBER/E-MAIL ADDRESS |
|---|---|---|
| | | |
| DISTRICT REPRESENTATIVE NAME (TYPED) | DISTRICT REPRESENTATIVE TITLE (TYPED) | TELEPHONE NUMBER/E-MAIL ADDRESS |
| | | |

INSTRUCTIONS – (*refer to Title 2, California Code of Regulation Sections 1859.300 through 1859.318)*

1. Enter the amount of State apportionment received pursuant to Section 1859.312.
2. Enter the amount of interest earned on State funds.
3. Enter the total amount of State funds spent to complete the Form SAB 61-01. Provide a listing of expenditures on the Form SAB 61-02A to be completed by the district and attach.
4. Enter the total amount of State funds spent for repairs identified in Part V of the Form SAB 61-01. Provide a listing by district of each expenditure on the SAB 61-02A and attach.

*Contact the Office of Public School Construction for the Form SAB 61-02A to assist the district in reporting the district expenditures or download the form at the OPSC Web site at www.opsc.dgs.ca.gov. Additional information may be requested to complete the audit.*

*This form is due by September 1, 2006.*

*Submit to:*

*Department of General Services*
*Office of Public School Construction*
*Attn: Needs Assessment Audits*
*1130 K Street, Suite 400*
*Sacramento, CA 95814*

| DESCRIPTION | AMOUNT |
|---|---|
| 1. STATE FUNDS | |
| 2. INTEREST EARNED | |
| 3. EXPENDITURES FOR PERFORMING NEEDS ASSESSMENT | |
| 4. EXPENDITURES FOR REPAIRS IDENTIFIED ON NEEDS ASSESSMENT | |
| 5. REMAINING FUNDS | |

*I certify, as the District Representative, that the information reported on this form is true and correct and that:*

- *I am designated as an authorized district representative by the governing board of the district; and,*
- *Under penalty of perjury, under the laws of the State of California, the foregoing statements are true and correct, and that the Public Contract Code was adhered to in the use of these grant funds; and,*
- *This form is an exact duplicate (verbatim) of the form provided by the Office of Public School Construction. In the event a conflict should exist, then the language in the OPSC form will prevail.*

| SIGNATURE OF DISTRICT REPRESENTATIVE | DATE |
|---|---|
| | |

*Refer to EXCEL VERSION OF Detailed Listing of District Expenditures*

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## GENERAL INFORMATION

A district may use this form to apply for reimbursement of Emergency Facilities Needs repairs at eligible school sites as defined by Section 1859.311. For purposes of this Apportionment the following documentation must be submitted with this Form:

PART A

- Documentation substantiating the health and/or safety threat which may include but not limited to the following:
  - Photos showing the condition of the project prior to the repair work being performed
  - Items identified on the Interim Evaluation Instrument as a health and safety hazard
  - Copies of complaints made by parents, students, or staff referencing the problem
- A cost comparison prepared pursuant to Section 1859.323 (if applicable)
- Division of the State Architect (DSA) approved specifications and plans (if applicable)

PART B

- Copy of all construction contracts and schedule of values
- Copy of all change orders (if applicable)
- Copy of all purchase orders or purchase agreements (if applicable)
- Copy of architect agreement and schedule of fees

The closeout audit will be performed after the final Apportionment is made by the Board in accordance with Regulation Section 1859.326. For audit purposes, additional documentation may be requested at a later date.

## SPECIFIC INSTRUCTIONS

PART A. PROJECT INFORMATION

**1. Type of Heath and Safety Project**
Check the appropriate box to indicate if the district had to repair or replace the building system or component to mitigate the health and/or safety threat.
**2. Type of Project**
Check the box indicating the type of building system or structural component the application is addressing. The district may check only one building system or structural component project per application. Multiple applications may be submitted per school site.
**3. Type of Facility**
Check the box(es) that identify the location(s) where the repair work was performed.
**4. Statement of Condition**
Provide a concise statement of the conditions which posed a threat to the health and/or safety of the students and staff at the school site.
**5. Description of Work/Scope of Project**
Provide a detailed narrative of the repairs that were required to mitigate the threat to the health and/or safety of students and staff.
**6. Project Costs**
Provide a breakdown of eligible project cost information based on the district's actual expenditures. The total should match the total amount of expenditures listed in Part B of the Form. This must include only costs directly related to and necessary for the eligible project as defined by Sections 1859.323 and 1859.323.1. Indicate the district maintenance funds available for the project in accordance with Section 1859.328.

**SPECIFIC INSTRUCTIONS (cont.)**

PART B EXPENDITURE REPORT
List the total expenditures for the project.

**1. Planning**
ARCHITECT/ENGINEERING FEES: Enter the fees as negotiated in the Architect's agreement to design and engineer the construction project.
DSA FEES: Enter the fees as determined by the DSA as required by law.
INSPECTIONS: Enter the amount paid for inspection services provided.
OTHER COSTS: Enter any other planning costs.

**2. Construction**
MAIN CONSTRUCTION: Enter the amount paid to the main building contractor.
CONSTRUCTION MANAGEMENT: Enter the amount paid to the construction manager of the project to supervise the building construction.
DEMOLITION: Enter any costs associated with the demolition of existing buildings in preparation for construction.
OTHER CONSTRUCTION: Enter any construction costs not included in the main construction contract.
INTERIM HOUSING: Enter the amount paid for interim housing units to house students during building modernization.
HAZARDOUS WASTE REMOVAL: Enter the costs to remove hazardous material from the school site including Department of Toxic Substances Control (DTSC) fees, CDE fees, Preliminary Endangerment Assessment costs, Phase One Environmental Site Assessment costs, and the Response/Removal Action Plan costs as required by DTSC.

| SCHOOL DISTRICT | APPLICATION NUMBER |
|---|---|
| SCHOOL NAME | FIVE-DIGIT DISTRICT CODE (SEE CALIFORNIA PUBLIC SCHOOL DIRECTORY) |
| COUNTY | SEVEN-DIGIT SITE CODE (SEE CALIFORNIA PUBLIC SCHOOL DIRECTORY) |

## Part A. Project Information

1. TYPE OF HEALTH AND SAFETY PROJECT (check one):
   - ☐ Repair
   - ☐ Replacement
2. TYPE OF PROJECT (check one):
   - ☐ Sewer
   - ☐ Water
   - ☐ Gas
   - ☐ Electrical
   - ☐ HVAC
   - ☐ Fire/Life Safety
   - ☐ Other
3. TYPE OF FACILITY (check all that apply):
   - ☐ Classrooms/Instructional
   - ☐ Counseling Area
   - ☐ Administrative Space
   - ☐ Dining Space
   - ☐ Library
   - ☐ Gymnasium
   - ☐ Multipurpose
   - ☐ Accessibility
   - ☐ Restrooms
   - ☐ Subsidiary Facilities

4. STATEMENT OF CONDITION:

5. DESCRIPTION OF WORK/SCOPE OF PROJECT:

| | |
|---|---|
| 6. PROJECT COSTS: | $ |
| I. Planning Cost | $ |
| II. Repair/Replacement Cost | $ |
| III. Testing | $ |
| IV. Inspection | $ |
| V. SUBTOTAL | $ |
| VI. Available Maintenance Funds | $ |
| **VII. TOTAL Project Reimbursement (V minus VI)** | **$** |

## PART B. Expenditure Report

| TOTAL EXPENDITURES FOR THE PROJECT: | $ |
|---|---|

### 1. Planning

| School Site: | School District: | County: | Application Number: |
|---|---|---|---|
| | | | |

| DATE | PAYEE | WARRANT NUMBER | ARCHITECT/ ENGINEERING/ CONSULTING FEES | DSA FEES | INSPECTIONS | OTHER COSTS | DESCRIPTION/PURPOSE |
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## 2. Construction

| School Site: | School District: | County: | Application Number: |
|---|---|---|---|
| | | | |

| DATE | PAYEE | WARRANT NUMBER | MAIN CONSTRUCTION | CONSTRUCTION MANAGEMENT | DEMOLITION | OTHER CONSTRUCTION | INTERIM HOUSING | HAZARDOUS WASTE REMOVAL | DESCRIPTION/PURPOSE |
|---|---|---|---|---|---|---|---|---|---|
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## Certifications:

I certify, as the District Representative, that the information reported on this form is true and correct and that:

- I am designated as an authorized representative by the governing board of the school district;
- The repairs in this project were necessary to mitigate conditions that posed a threat to the health and safety of pupils or staff while at school;
- The district has complied with all laws pertaining to the repair of its school facilities;
- The district has complied with the Public Contract Code;
- The district has satisfied the supplement, not supplant requirement as defined in Section 1859.328.
- The contracts for services or work in this project were not entered into prior to September 29, 2004;
- The district understands that expenditures occurring after the submittal of this application are ineligible for reimbursement;
- The grant amount provided by the SAB shall be deemed full and final apportionment;
- The district understands that some or all of the ERP funding for the project may be returned to the SAB as a result of an Audit pursuant to Regulation Section 1859.326;
- The district has obtained the Division of State Architect's approval of the plans and specifications, if required;
- This Form is an exact duplicate (verbatim) of the form provided by the Office of Public School Construction. In the event a conflict should exist, then the language in the OPSC form will prevail; and,

| I certify under penalty of perjury under the laws of the State of California that the statements in this application and supporting documents are true and correct. | |
|---|---|
| PRINT NAME OF DISTRICT REPRESENTATIVE | TITLE |
| SIGNATURE | DATE |

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# ATTACHMENT C1

MAJOR BUILDING SYSTEMS AVAILABLE IN A WEB-BASED NEEDS ASSESSMENT

Form SAB 61-01, School Facilities Needs Assessment Grant Program
Section III. Useful Life of Major Building Systems.

*The following table summarizes the types of building systems, sub-systems and corresponding elements and materials that will be available to select in Part III of the web-based Form SAB 61-01. The inspector(s) will be required to estimate useful life remaining of all the components identified in the table below.*

| Building System | Sub-System | Elements/Materials |
|---|---|---|
| Structural | Roofing | Membrane Roofing (Built-Up) |
| | | Membrane Roofing (Roll Roofing) |
| | | Membrane Roofing (Single-Ply Roofing) |
| | | Membrane Roofing (Elastomeric Roofing) |
| | | Composition Shingles Roofing |
| | | Sheet Metal Roofing |
| | | Foam Roofing |
| | | Other |
| | Siding | Plywood Siding |
| | | Hardboard Siding |
| | | Wood Board Siding |
| | | Other |
| | Flooring | Carpet Flooring |
| | | Resilient Flooring (VCT) |
| | | Resilient Flooring (Sheet Vinyl) |
| | | Wood Flooring |
| | | Other |
| Plumbing | Potable / Drinking Water | Galvanized Steel Pipe |
| | | Copper pipe |
| | | Other |
| | Sewer | Cast Iron |
| | | Other |
| | Water Heater | Gas Fired Water Heater |
| | | Electric Water Heater |
| | | Other |

| Building System | Sub-System | Elements/Materials |
|---|---|---|
| Mechanical | Heating Ventilation and Air Conditioning (HVAC) | Central Type (Central Boiler - Hydronic Heating / Cooling Tower) |
| | | Central Type (Central Boiler - Hydronic Heating/ DX Cooling) |
| | | Multi Zone package roof top unit (Gas Heat/ DX Cool) |
| | | Multi Zone package roof top unit (Electric Heat/ DX Cool)Single Zone package roof top unit (Gas Heat/ DX Cool) |
| | | Single Zone package roof top unit (Electric Heat/ DX Cool) |
| | | Split system (Furnace heat/ Condensing unit cool) |
| | | Other |
| | Heating and Ventilation (HV) | Central Boiler Hydronic Heating with unit heaters |
| | | Central Boiler Hydronic Heating with radiant under floor piping |
| | | Furnace (gas fired) |
| | | Unit Heaters – Electrical |
| | | Unit Heaters - Gas |
| | | Other |
| | Ventilation | Exhaust fans |
| | | Other |
| Electrical Equipment | Lighting | Conduit and Wire |
| | | Fixtures |
| | | Flood Lighting |
| | | Other |
| | Power Feed Wiring | Bus Duct |
| | | Capacitor |
| | | Power Feed Wiring Mains |
| | | Switchboards |
| | | Switch Units |
| | | Other |
| | Building Transformer | Dry Type |
| | | Other |
| Fire & Life Safety | Automatic Fire Sprinkler Systems | Wet Type |
| | | Dry Type |
| | | Other |
| | Fire Pumps | Diesel Generator |
| | | Other |

STATE ALLOCATION BOARD
IMPLEMENTATION COMMITTEE
December 3, 2004

# WILLIAMS SETTLEMENT – SENATE BILL 550

## PURPOSE

To implement the provisions of Senate Bill (SB) 550, Chapter 900, Statutes of 2004 (Vasconcellos), impacting the Office of Public School Construction (OPSC).

## BACKGROUND

SB 550 was created as a part of the settlement agreement in the case of *Williams v. the State of California.* There are two parts of SB 550 which impact the OPSC, the school facilities inspection system and the Interim Evaluation Instrument (IEI).

## **DISCUSSION**

On November 5, 2004 an item was presented to the Implementation Committee regarding SB 550. The following is a summary of the concerns discussed at the meeting:

INTERIM EVALUATION INSTRUMENT
Audience members from various parties had differing opinions on the interpretation of EC Section 1240 (c)(2)(E) or who is to use the IEI and for what purpose. Since OPSC is not charged with determining who is to use the IEI, Staff has directly quoted the specific language from the EC in the General Information Section of the form in order to generalize the use of the tool.

In addition, there was discussion regarding the certification section of the IEI (Part M). Some audience members were concerned that the second certification placed additional responsibility on the individual who accompanied the evaluator. This certification has been deleted from the form and in its place; a line has been added to the heading section of the form to capture the individual's name. In addition, the first certification or the evaluator's certification, in Part M, has been simplified.

Finally there was discussion on the checklist items in the document (Parts A-L). OPSC has incorporated some of the suggestions, such as eliminating the word "toxic" in Part G.

DRAFT

# INTERIM EVALUATION INSTRUMENT

## SCHOOL FACILITY CONDITIONS EVALUATION
## SENATE BILL 550

| | | |
|---|---|---|
| | | |
| **School Site Information** | | |
| School District/County Office of Education: | | |
| County: | | |
| School Site: | | |
| Name of individual who accompanied the Evaluator (if applicable): | | |
| Date and Time of Review: | | |
| | | |
| **Evaluator(s) Information** | | |
| Name(s): | Title: | Represents: |
| 1. | | |
| 2. | | |
| 3. | | |

**GENERAL INFORMATION**

Education Code (EC) Section 17002(d)(1) requires the Office of Public School Construction to develop an interim evaluation instrument to determine whether a facility is in "good repair", or maintained in a manner that assures that facilities are clean, safe and functional. This tool is intended to assist in that determination.

EC Section 1240(c) requires county superintendents to annually visit the schools in the county of his or her office that are ranked in deciles 1 to 3, inclusive, of the 2003 base Academic Performance Index (The California Department of Education published a list of these schools, pursuant to EC Section 17592.70(b) on the department's Web site at **www.cde.ca.gov**.) Further, EC Section 1240(c)(2)(E), states that "the priority objective of the visits made shall be to determine the status of the condition of a facility that poses an emergency or urgent threat to the health or safety of pupils or staff as defined in district policy, or as defined by EC Section 17592.72 (c) and the accuracy of data reported on the school accountability report card with the respect to the safety, cleanliness, and adequacy of school facilities, including good repair as required by EC Sections 17014, 17032.5, 17070.75, and 17089." This tool is also intended to assist county offices of education in performing these functions.

The following sections describe the different parts of the evaluation tool. When completing each part, include the building number and/or classroom number that was evaluated. This number should correspond to the school's current fire drill site map.

**PARTS A-H.** EC Section 17592.72(c) defines "emergency facilities needs"; Parts A-H (pages 3 and 4) of this evaluation form address those types of facility repairs. Check the appropriate box that indicates the “yes” or “no” answer to each question. Note that in Parts A-H, a "yes" response indicates a deficiency and page 5 of this form may be used to comment/elaborate on the deficiency. If a deficiency is identified in Parts A-H, the school district may be eligible for reimbursement for the cost of repairs (see *Emergency Repair Program* Regulation Section 1859.320, et. seq., for more details).

**PARTS I-L.** Other facility conditions have been identified that are indicative of a facility that is in "good repair" or maintained in a manner that assures that the facility is clean, safe, and functional, pursuant to EC Section 17002. These conditions are contained in Parts I-L (page 6) of this form. Check the appropriate box that indicates the “yes” or “no” answer to each question. Note that in Parts I-L, a "no" response indicates a deficiency and page 7 of this form may be used to comment/elaborate on the deficiency.

**PART M.** Complete and sign the certification (page 8).

*Refer to EXCEL VERSION OF Facility Evaluation Form (IEI)*

## M. CERTIFICATION:

| | |
|---|---|
| I, _____, am a representative of _____, and certify that the information contained herein is true and correct to the best of my knowledge and the above findings were made during my review of this school site on _____ at _____ a.m./p.m. | |
| PRINT NAME | TITLE |
| SIGNATURE | DATE |
| TELEPHONE NUMBER | EMAIL ADDRESS |

Needs Assessment Identification Number

# Part I.

## Section A. District/School Information

| | |
|---|---|
| District Name: | |
| County: | |
| Site Name: | |
| CDS code: | |
| School Address | |

## Section B. Inspector(s) Information:

| Name: | Title | Representative of: | Area of Expertise: | Address: | Telephone Number: | E-mail Address |
|---|---|---|---|---|---|---|
| | | | | | | |
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## Section C. School Enrollment Information.

| | |
|---|---|
| a. 2003 CBEDS: | *** |
| b. Existing Site Size: | |
| c. Site Density: | *** pupils per acre |
| d. MTYRE: | *select Yes or No* |
| Type of MTYRE: | *drop down: Concept 6, etc.* |
| e. Lunch Facility: | *drop down: auditorium, lunch shelter, gymnasium, multipurpose, other* |

**Add Additional Participants**

## Part II - Facility Inventory

| a. Building ID | b. Construction Type* | c. Bldg Square Footage | d. Year of Construction | e. Year of Modernization | f. Facility Type** | g. Number of Classrooms | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | K-6 | 7-8 | 9-12 | Non-Severe | Severe |
| A | Permanent | 25,000 | 1956 | 1986 | Classrooms | | 5 | 15 | | |
| | | | | | Library | | | | | |
| | | | | | Nurse's Office | | | | | |
| B | Permanent | 40,000 | 1956 | 1986 | Classrooms | | | 10 | | |
| | | | | | Multi-purpose | | | | | |
| | | | | | Counselling | | | | | |
| C | Permanent | 30,000 | 1956 | n/a | Admin | | | | | |
| | | | | | Classrooms | | 7 | | | |
| | | | | | | | | | | |
| D | Portable | 1,920 | 1989 | 1989 | Classrooms | | | | 2 | |
| | | | | | | | | | | |
| | | | | | | | | | | |
| E | Permanent | 20,000 | 1980 | n/a | Gym | | | | | |
| | | | | | | | | | | |
| | | | | | | | | | | |

**a drop-down box will be provided for each building with 2 selections available*

EXAMPLE

***A drop-down box will be provided for each building to include as many types of facilities as needed, i.e. it is possible to have a building that contains more than one type of facility (classrooms and a library in one building, for example)*

**Add Building**

**Add Facility to Building**

| Portable Classrooms Summary | |
|---|---|
| Age | Number |
| 15 | 2 |
| TOTAL | 2 |

| Pupil Capacity | K-6 | 7-8 | 9-12 | Non-Severe | Severe |
|---|---|---|---|---|---|
| | 0 | 324 | 675 | 26 | 0 |
| TOTAL | 1025 | | | | |

## Part III - Useful Life of Major Building Systems

*(Refer to Attachment C1 for list of sub-systems to be evaluated)*

| a. Building | b. Building System* | c. Sub-System* | d. Elements/ Materials** | e. Useful Life Remaining (years) |
|---|---|---|---|---|
| A | Structural | Roofing | Composition Shingles | -5 |
| A | Structural | Siding | Plywood | -10 |
| A | Structural | Flooring | Sheet Vinyl | -12 |
| A | Mechanical | HVAC | Central Type (Central Boiler - Hydronic Heating/Cooling Tower) | 2 |
| A | Plumbing | Sewer | Cast Iron | 1 |
| A | Electrical | Building Transformer | Dry Type | 2 |
| A | Fire & Life Safety | Auto. Sprinkler System | Other | 3 |
| Campus-Wide | Structural | Roofing | Membrane Roofing - Single-ply | 12 |
| B | Mechanical | HVAC | Split System | 8 |

**The inspector will be able to select from the list of appropriate systems .*

**The inspector will be able to select from the list of appropriate sub-systems.*

***The inspector will be able to select from the list of appropriate elements or materials and/or use the option "other" if a specific element or material is not available in the drop-down box.*

**Add an Item**

EXAMPLE

## Part IV - Five-Year Costs to Maintain Functionality

### A. Cost Detail

**COST ESTIMATE FOR BUILDING** [ ] *(A drop down box will be provided with the selection of builidngs identified in Part II.)*

| | YEAR 1 | YEAR 2 | YEAR 3 | YEAR 4 | YEAR 5 | Total Estimate |
|---|---|---|---|---|---|---|
| Roofing | | | | | | $ - |
| Siding | | | | | | $ - |
| Flooring | | | | | | $ - |
| Painting | | | | | | $ - |
| Potable/Drinking Water | | | | | | $ - |
| Sewer | | | | | | $ - |
| Water Heater | | | | | | $ - |
| HVAC/HV | | | | | | $ - |
| Electrical | | | | | | $ - |
| Lighting | | | | | | $ - |
| Gas | | | | | | $ - |
| Fire & Life Safety | | | | | | $ - |
| Security | | | | | | $ - |
| Accessibility | | | | | | $ - |
| Other | | | | | | $ - |
| Total Cost Estimate | $ - | $ - | $ - | $ - | $ - | $ - |

**Summary**

***The cost estimate information would be automatically compiled and summarized in Part IV -B.***

### B. Cost Summary

| BUILDING | YEAR 1 | YEAR 2 | YEAR 3 | YEAR 4 | YEAR 5 | TOTAL |
|---|---|---|---|---|---|---|
| | $ | $ | $ | $ | $ | $ |
| | $ | $ | $ | $ | $ | $ |
| | $ | $ | $ | $ | $ | $ |
| | $ | $ | $ | $ | $ | $ |
| | $ | $ | $ | $ | $ | $ |
| | $ | $ | $ | $ | $ | $ |
| TOTAL | $ | $ | $ | $ | $ | $ |

*The building description in Part II, Facility Inventory, provides the detail on facilities housed in each building, such as classrooms, admin. space, etc. The data assembled in the OPSC internal database may be queried to generate cost information for certain facility type, such as classrooms (cumulative of all buildings on site.)*

## Part V - Necessary Repairs

| Repair Item Number | Building Components | Location* | Description of the Deficiency | Description of the Repair | Estimate of the Repair |
|---|---|---|---|---|---|
| 1 | Interior Construction | Building A | Broken glass windows | Install new window | $ 1,480.00 |
| 2 | Roofing | Campus-wide | Extensive areas of missing tiles | Install missing tiles where needed | $ 5,800.00 |
| 3 | Plumbing system | Bulding G | Cracked and leaky toilet | Replace existing toilet | $ 450.00 |
| **TOTAL** | | | | | $ 7,730.00 |

**A drop-down box will be provided to select from the list of buildings identified in Part II.*

**Add New Item**

EXAMPLE

## Part VI - Certification

Needs Assessment Identification Number

| | |
|---|---|
| SCHOOL DISTRICT: | COUNTY: |
| SCHOOL NAME: | CDS CODE: |
| SCHOOL ADDRESS: | |

Information on the individual submitting the Needs Assessment:

| | |
|---|---|
| NAME: | TITLE: |
| REPRESENTATIVE OF: | |
| PHONE NUMBER: | E-MAIL ADDRESS: |

PLEASE SUBMIT A SITE DIAGRAM IDENTIFYING ALL BUILDINGS ON THE SITE.

I certify, as the District Representative, that the information reported on this form is true and correct and that:

- I am designated as an authorized District Representative by the governing board of the district or the designee of the Superintendent of Public Instruction;
- The information reported in Part III, IV, V was provided by individual(s) and/or entities which have demonstrated to me that he/she/they/its employees possess(es) the necessary qualifications as specified in the Regulation Section 1859.314.

| SIGNATURE | DATE |
|---|---|
| | |

| SAVE | EDIT | PRINT REPORT | SUBMIT | PRINT CERTIFICATION |
|---|---|---|---|---|

Printed on _____

Submitted on_____

STATE OF CALIFORNIA

# SCHOOL FACILITIES NEEDS ASSESSMENT GRANT PROGRAM

DETAILED LISTING OF DISTRICT EXPENDITURES

SAB 61-02A

DRAFT

STATE ALLOCATION BOARD

OFFICE OF PUBLIC SCHOOL CONSTRUCTION



SCHOOL DISTRICT:

COUNTY:

**DISTRICT NEEDS ASSESSMENT EXPENDITURES**

*INSTRUCTIONS:*

Enter the date, the payee, the amount paid and the description/purpose.

| DATE | PAYEE | AMOUNT PAID | DESCRIPTION/PURPOSE |
|---|---|---|---|
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | **TOTAL** | 0.00 | |

**DISTRICT NEEDS ASSESSMENT REPAIR EXPENDITURES**

*INSTRUCTIONS:*

Enter the date, the needs assessment id number, the repair number, the amount paid and the description/purpose of the repair.

| DATE | NEEDS ASSESSMENT ID NUMBER | REPAIR NUMBER | AMOUNT PAID | DESCRIPTION/PURPOSE |
|---|---|---|---|---|
| | | | | |
| | | | | |
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| | | **TOTAL** | 0.00 | |

# Senate Bill 550 School Facility Conditions Evaluation Form

| Part | Building/Classroom Number | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| A. | **GAS LEAKS** | | | | | | | | | |
| | There is evidence of gas leaks (e.g., odor, broken pipes). | Yes | | | | | | | | |
| | | No | | | | | | | | |
| B. | **MECHANICAL AND EMERGENCY SYSTEMS** | | | | | | | | | |
| | There is evidence of problems with the heating, ventilation, or air conditioning systems as applicable (e.g., heating or A/C not working, poor ventilation). | Yes | | | | | | | | |
| | | No | | | | | | | | |
| | There is evidence that fire sprinklers are not in working order (e.g., missing or damaged sprinkler heads). | Yes | | | | | | | | |
| | | No | | | | | | | | |
| | There is evidence that emergency systems are not functioning properly (e.g., emergency alarms not functional, fire extinguishers missing or out-of-date). | Yes | | | | | | | | |
| | | No | | | | | | | | |
| C. | **POWER FAILURE** | | | | | | | | | |
| | There is evidence that a portion of the school has a power failure. | Yes | | | | | | | | |
| | | No | | | | | | | | |
| D. | **SEWER** | | | | | | | | | |
| | There is evidence of a major sewer line stoppage (e.g., flooding, odor, or obvious signs on school grounds). | Yes | | | | | | | | |
| | | No | | | | | | | | |

**NOTE:** To make comments about a building/room, place an asterisk at the end of the room/building number and write comments at end of form.

# Senate Bill 550 School Facility Conditions Evaluation Form

| Part | Building/Classroom Number | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|

## E. PEST/VERMIN INFESTATION

| | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| There is evidence of major pest or vermin infestation (e.g., holes in the walls, floors, or ceilings, rodent droppings, odor). | Yes | | | | | | | | |
| | No | | | | | | | | |

## F. WINDOWS/DOORS/GATES (Interior and Exterior)

| | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| There is evidence of conditions that pose a security risk (e.g., broken or missing exterior doors, windows, or gates, holes in perimeter fencing, locks and other security hardware missing or not functioning properly). | Yes | | | | | | | | |
| | No | | | | | | | | |

## G. HAZARDOUS MATERIALS (Interior and Exterior)

| | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| There appears to be evidence of hazardous materials previously undiscovered by school personnel that **may** pose an immediate threat to pupils or staff (e.g., peeling, chipping, or cracking paint, damaged tiles or other circumstances that may indicate asbestos exposure, indication of mold, inadequate storage of hazardous chemicals or flammable materials.) | Yes | | | | | | | | |
| | No | | | | | | | | |

## H. STRUCTURAL DAMAGE (Interior and Exterior)

| | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| There appears to be evidence of structural damage that has created or has a potential to create hazardous or uninhabitable conditions (e.g., severe cracks, sagging or sloping ceilings or floors, missing posts or beams, dry rot/mold in structural components). | Yes | | | | | | | | |
| | No | | | | | | | | |

**NOTE:** To make comments about a building/room, place an asterisk at the end of the room/building number and write comments at end of form.

# Senate Bill 550 School Facility Conditions Evaluation Form

## DESCRIBE ANY PROBLEMS OR DEFICIENCIES IDENTIFIED DURING THE SITE INSPECTION
## Parts A-H

| Building or Classroom Number | Part | Comments |
|---|---|---|
| | | |
| | | |
| | | |
| | | |

# Senate Bill 550 School Facility Conditions Evaluation Form

| Part | Building/Classroom Number | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|

## I. INTERIOR SURFACES (Walls, Floors, and Ceilings)

| | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| Interior surfaces appear to be safe, functional, and clean (e.g., no hazards from torn carpet, missing floor or ceiling tiles, tears or holes in walls or floors, water damage, or accumulated refuse). | Yes | | | | | | | | |
| | No | | | | | | | | |

## J. DRINKING FOUNTAINS (Inside and Outside)

| | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| Drinking fountains appear to be accessible and functioning as intended (e.g., adequate water pressure, no leaks or evidence of moss or mold, clear and tasteless). | Yes | | | | | | | | |
| | No | | | | | | | | |

## K. ELECTRICAL (Interior and Exterior)

| | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| There are no apparent electrical hazards (e.g., no exposed electrical wiring, outlets, switch plates, junction boxes, and fixtures are covered and working properly, electrical equipment is properly covered or guarded). | Yes | | | | | | | | |
| | No | | | | | | | | |
| Lighting appears to be adequate and working properly (e.g., not flickering). | Yes | | | | | | | | |
| | No | | | | | | | | |

## L. RESTROOMS

| | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| Restrooms appear to be accessible during school hours, clean, functional and in compliance with SB 892 (ECS 35292.5) | Yes | | | | | | | | |
| | No | | | | | | | | |

# Senate Bill 550 School Facility Conditions Evaluation Form

## DESCRIBE ANY PROBLEMS OR DEFICIENCIES IDENTIFIED DURING THE SITE INSPECTION
## Parts I-L

| Building or Classroom Number | Part | Comments |
|---|---|---|
| | | |
| | | |
| | | |
| | | |