



June 9, 2010

**REVISED**

TO: ALL SCHOOL DISTRICTS, COUNTY SUPERINTENDENTS OF SCHOOLS, AND  
OTHER INTERESTED PARTIES

TITLE 2. STATE ALLOCATION BOARD

NOTICE OF PROPOSED EMERGENCY REGULATORY ACTION

In accordance with Assembly Bill 1302, Chapter 713, Statutes of 2006, enclosed are proposed emergency regulations adopted by the State Allocation Board (SAB) at its meeting on May 26, 2010. These amendments to the School Facility Program (SFP) Regulations allow a one-time "Priority Funding Round" from May 27, 2010 through June 28, 2010 in order to re-prioritize apportionments for school construction projects with the capability of submitting fund requests within 90 days of the SAB's approval of the apportionment.

Applicant school districts may submit their requests to convert unfunded approvals to State apportionments on the condition that they can request their project funds within 90 days of the SAB's approval of their application. An applicant in the Priority Funding Round which fails to submit its Form SAB 50-05 requesting release of its project funds within 90 days of the SAB's approval of the apportionment shall have its project rescinded without further Board action ***(please refer to the regulatory text)***.

Attached to this Notice is the specific regulatory language of the proposed emergency action and the Finding of Emergency. You may also review the proposed regulatory language and Finding of Emergency on the Office of Public School Construction (OPSC) Web site at [www.opsc.dgs.ca.gov](http://www.opsc.dgs.ca.gov). The proposed emergency regulations would amend the SFP Regulations under the California Code of Regulations, Title 2, Chapter 3, Subchapter 4, Group 1, State Allocation Board, Subgroup 5.5, Regulations relating to the Leroy F. Greene School Facilities Act of 1998. ***This Notice was modified to reflect the correct regulatory text that the Board adopted at its May 26, 2010 meeting. Those changes are notated in italics.***

The emergency amendments would implement an alternative method of prioritizing State apportionments to projects that are capable of submitting a fund release request within a specified period of time once State bond funds have been apportioned. This approach is a one-time funding mechanism and will be monitored to ensure the goal is achieved. The purpose is to provide the remaining State bond funds from the last bond sale (\$408.3 million) to those projects that are "construction-ready," thereby helping to create jobs and stimulate the economy.

The OPSC, on behalf of the SAB, will be submitting these emergency regulations to the Office of Administrative Law (OAL) during the month of June 2010. The following is an overview of the proposed regulatory amendments.

INFORMATIVE DIGEST/POLICY OVERVIEW STATEMENT

The Leroy F. Greene School Facilities Act of 1998 established the SFP through Senate Bill 50, Chapter 407, Statutes of 1998. The SFP provides a per-pupil grant amount to qualifying school districts for purposes of constructing school facilities and modernizing existing school facilities.

The SAB adopted regulations to implement the Leroy F. Greene School Facilities Act of 1998, which were approved by the OAL and filed with the Secretary of State on October 8, 1999.

The State of California is in a time of severe financial crisis. The policies and regulations that are currently in place do not allow the SAB to take proactive steps to assist in the financial recovery of our State. The proposed emergency regulations will re-prioritize apportionments for school construction projects to those which can within 90 days request their project funds and begin the construction process, in order to immediately help stimulate the economy.

A summary of the proposed emergency regulatory amendments is as follows:

Existing Regulation Section 1859.90.1, "Local Bond Reimbursement Fund Releases," will be renumbered as 1859.90.2.

Proposed adoption of Regulation Section 1859.90.1, "Priority Funding Round Process," will establish a one-time priority funding round to distribute \$408.3 million to school districts who request an apportionment during a 30-day filing period beginning May 27, 2010 and ending June 28, 2010. For projects in the Priority Funding Round, school districts must submit the Form SAB 50-05, "Fund Release Authorization," within 90 days of the Board's approval of the apportionment; failure to make this submittal within 90 days will result in project rescission without further Board action. School districts wishing to participate must provide a written statement signed by an authorized district representative within the 30-day filing period that contains all of the following:

- Request to convert the unfunded approval to an apportionment;
- Concurrence with the 90-day time limit on fund release;
- Acknowledgement that failure to submit a valid Form SAB 50-05 within the 90-day time limit will result in the rescission of the apportionment without further Board action; and
- ~~Acknowledgement that the submission of a written request to participate in this priority funding round supersedes any previously granted project time limit certifications. Any certifications made by a school district that do not apply solely to the 18-month time limit will remain valid.~~
- *Acknowledgement that by participating in the priority funding round, the district is waiving its right to a standard 18 month timeline for fund release submittal.*

*For the purposes of this section, the word "rescinded" means that the project will be placed at the end of the Unfunded List with an unfunded approval date of November 2, 2010. The district will not be required to re-submit the application and no further application review will be required.*

Any funds not apportioned as of August 25, 2010 shall remain available for any other applicable SFP project apportionments by the Board. This regulation section shall become inoperative December 31, 2010.

Existing Regulation Section 1859.129 sets forth time limits on apportionments under the SFP Joint-Use Program for Type I and Type II Joint-Use projects. For Type II Joint-Use projects that are not part of a qualifying SFP Modernization project, the school district has 18 months from the date the Division of the State Architect (DSA) and California Department of Education (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. The proposed amendment specifies that if the district applies for an apportionment through the Priority Funding Round, the 18-month time limit for submittal of the Form SAB 50-05 will be reduced to no more than 90 days from the date the Board approves the apportionment.

Existing Regulation Section 1859.197 sets forth the criteria for fund releases under the Career Technical Education Facilities Program (CTEFP). For CTEFP projects with reserved funds pursuant to Section 1859.193(d), the school district 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. The proposed amendment

specifies that if the district applies for an apportionment through the Priority Funding Round, the 18-month time limit for submittal of the Form SAB 50-05 will be reduced to no more than 90 days from the date the Board approves the apportionment.

### SUBMISSION OF COMMENTS

Government Code Section 11346.1(a)(2) requires that, at least five working days prior to submission of the proposed emergency action to the OAL, the adopting agency provide a Notice of the Proposed Emergency Action to every person who has filed a request for notice of regulatory action with the agency. After submission of the proposed emergency to the OAL, the OAL shall allow interested persons five calendar days to submit comments on the proposed emergency regulations as set forth in Government Code Section 11349.6.

Any interested person may present statements, arguments or contentions, in writing, submitted via U.S. mail, e-mail or fax, relevant to the proposed emergency regulatory action. Written comments submitted via U.S. mail, e-mail or fax must be received at the OAL within five days after the SAB submits the emergency regulations to the OAL for review.

Please reference submitted comments as regarding "State Allocation Board – Priorities in Funding," addressed to:

Reference Attorney

Mailing Address: Office of Administrative Law  
300 Capitol Mall, Suite 1250  
Sacramento, CA 95814

E-mail Address: [staff@oal.ca.gov](mailto:staff@oal.ca.gov)

Fax No.: (916) 323-6826

For the status of the SAB submittal to the OAL for review, and the end of the five-day written submittal period, please consult the Web site of 1) the OAL at [www.oal.ca.gov](http://www.oal.ca.gov) under the heading "Emergency Regulations," and 2) the OPSC at [www.opsc.dgs.ca.gov](http://www.opsc.dgs.ca.gov) under the Tab "Regulations" and then click "Proposed Regulations."

Pursuant to Title I, Section 55, please send a copy of written comments regarding the proposed regulatory action, as well as requests for a copy of the proposed regulatory action, and questions concerning the substance of the proposed regulatory action, addressed to:

Robert Young, Regulations Coordinator

Mailing Address: Office of Public School Construction  
707 Third Street, Room 1-430  
West Sacramento, CA 95605

E-mail Address: [robert.young@dgs.ca.gov](mailto:robert.young@dgs.ca.gov)

Fax No.: (916) 376-5332

### AGENCY CONTACT PERSONS

General or substantive questions regarding this Notice of Proposed Regulatory Action may be directed to Robert Young at (916) 375-5939. If Mr. Young is unavailable, these questions may be directed to the backup contact person, Ms. Lisa Jones, Supervisor, Regulations Team, at (916) 376-1753.