



August 19, 2010

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 waive the requirement for SAB-approved Financial Hardship (FH) determinations of school district projects to be re-reviewed by the Office of Public School Construction (OPSC) if the approved SFP project remains on the "Unfunded List (Lack of AB 55 Loans)" for more than 180 days. These are projects that receive unfunded approvals due to the State's inability to provide AB 55 loans (inability to provide loans from the Pooled Money Investment Account).

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 OPSC Web site at 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.

The OPSC, on behalf of the SAB, will be submitting these emergency regulations to the Office of Administrative Law (OAL) during late August or early September 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 SAB, at its May 26, 2010 meeting, adopted emergency regulatory amendments to the SFP Regulations to waive the requirement for the OPSC to re-review the FH status of approved SFP projects which have remained on the Unfunded List for over 180 days due to the State's inability to provide AB 55 loans. This list is identified as the "Unfunded List (Lack of AB 55 Loans)," and the waiver applies to all projects added to this list since its creation on March 25, 2009. These regulations will sunset January 1, 2011.

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

Existing Regulation Section 1859.2 represents a set of defined words and terms used exclusively for these regulations. The proposed emergency amendments add the definition of “Unfunded List (Lack of AB 55 Loans),” meaning an information list of unfunded projects created due to the State’s inability to provide financing from the Pooled Money Investment Account (AB 55 loans) to fund school construction projects, as declared in the Department of Finance Budget Letter #33 issued on December 18, 2008. This Unfunded List is differentiated from any other unfunded list.

Existing Regulation Section 1859.81 permits school districts to qualify for FH status in order to receive additional State funding for school facility projects, upon meeting specific financial criteria. The proposed emergency amendments:

- designate as subsection “(e)” the existing criteria about FH reviews remaining valid for 180 days or having to re-establish FH status, and
- add new subsection “(f)” waiving the requirement for FH status to be re-reviewed if the project has been on the “Unfunded List (Lack of AB 55 Loans)” for more than 180 calendar days. Projects added to any other unfunded list shall be subject to the FH review detailed in Regulation Section 1859.81(e). This subsection (f) shall become inoperative January 1, 2011, at which time the Board will have the option to extend the SFP emergency regulations for another year or declare the State’s fiscal crisis is over.

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 action 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 – Financial Hardship Project Re-Reviews,” 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

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 under the heading “Emergency Regulations,” and 2) the OPSC at 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

Fax No.: (916) 376-5332

AGENCY CONTACT PERSONS

General or substantive questions regarding this Notice of Proposed Emergency 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.