

INITIAL STATEMENT OF REASONS

~~Section 1859.90.1.~~ Section 1859.90.2. Local Bond Reimbursement Fund Releases.

Specific Purpose of the Regulation

To renumber this section to maintain sequential numerical order.

Need for the Regulation

It was necessary to renumber this section in order for it to follow the adoption of the new Regulation Section 1859.90.1.

Section 1859.90.1. Priority Funding Round Process.

Specific Purpose of the Regulation

To adopt a new regulation section to establish a one-time priority funding round to distribute \$408.3 million to school districts that request to convert their unfunded project approvals to apportionments. To establish an application filing period and other criteria for participation in the priority funding round, as well as set forth a sunset date for this section.

Need for the Regulation

First Paragraph: It was necessary to establish a one-time priority funding round to distribute \$408.3 million to school districts that request an apportionment during a 30-day filing period beginning May 27, 2010 and ending June 28, 2010, in order to apportion the remaining State bond funds from bond sales to school facility projects that are construction-ready. The purpose is to create jobs and stimulate the economy in alignment with the Governor's directive.

It was necessary to provide for the contingency that some of the \$408.3 million would not be apportioned in the priority funding round by specifying that such remaining funds would remain available for any other School Facility Program (SFP) project apportionments approved by the State Allocation Board (SAB).

It was also necessary to establish a criterion that priority funding round participant school districts must submit the Form SAB 50-05, "Fund Release Authorization," within 90 days of the Board's approval of the apportionment. This is to assure that only the projects that are ready to proceed to construction receive the \$408.3 million in order to create jobs and stimulate the economy. Ninety days was considered reasonable time for submittal of the Form SAB 50-05 and it was mutually agreed upon by the SAB.

It was further necessary to provide for the contingency that a priority funding round participant might fail to submit the Form SAB 50-05, "Fund Release Authorization," within 90 days of the Board's approval of the apportionment. It was important to the SAB that such projects would be "rescinded" without further SAB action.

It was necessary to require a written submittal for priority funding round applicants in order to verify their acknowledgement and acceptance of essential requirements. School district applicants must provide a written statement signed by an authorized district representative within the 30-day filing period that contains all of the following:

- (a) Request to convert the unfunded approval to an apportionment;
- (b) Concurrence with the 90-day time limit on fund release;
- (c) 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
- (d) 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. Regarding this subsection (d), it was desired to clarify to school districts that participation in the priority funding round significantly shortens the period to submit their fund release request.

Second Paragraph: It was necessary to provide a reasonable and uniform process for projects “rescinded” from the priority funding round to return to unfunded approval status. The SAB decided that those rescinded projects would be placed at the end of the Unfunded List with an unfunded approval date of November 2, 2010, and that districts would not be required to re-submit the application and no further application review would be required.

Third Paragraph: It was necessary to establish a sunset date for the priority funding round because the dollars are limited and known and it is a one-time stimulus of State bond funds that are ready for apportionment. It was agreed upon that this regulation section would become inoperative December 31, 2010 because all funding determinations will have been accomplished.

Section 1859.129. Time Limit on Apportionment.

Specific Purpose of the Regulation

To clarify that for Type II Joint-Use Projects, not part of a qualifying SFP Modernization project, school district participants in the priority funding round will have their previous time limit for fund release submittal reduced to no more than 90 days from the date of the SAB apportionment.

Need for the Regulation

Subsection (b)(2): It was necessary to provide a concluding sentence that states that school district participants in the priority funding round, pursuant to Section 1859.90.1, will have their previous time limit for submittal of the Form SAB 50-05 fund release request reduced to no more than 90 days from the date of the SAB apportionment. This is consistent with Regulation Section 1859.90.1.

Section 1859.197. Fund Release Process.

Specific Purpose of the Regulation

To clarify that for Career Technical Education Facilities Program (CTEFP) projects, school district participants in the priority funding round will have their previous time limit for fund release submittal reduced to no more than 90 days from the date of the SAB apportionment.

Need for the Regulation

Subsection (b)(2): It was necessary to provide a concluding sentence that states that school district participants in the priority funding round, pursuant to Section 1859.90.1, will have their previous time limit for submittal of the Form SAB 50-05 fund release request reduced to no more than 90 days from the date of the SAB apportionment.

This is consistent with Regulation Section 1859.90.1.

Subsection (c)(2). It was necessary to make a grammatical correction by adding a period at the end of this sentence.

Technical Documents Relied Upon

The State Allocation Board's Action item, dated May 26, 2010, entitled "Priorities in School Construction Funding."

Alternatives to the Proposed Regulatory Action that would be as Effective and Less Burdensome to Private Persons

The SAB finds that no alternatives it has considered would be more effective in carrying out the purpose of the proposed regulations or would be as effective and less burdensome to affected private persons than the proposed regulation.

Alternatives to the Proposed Regulatory Action that would Lessen any Adverse Economic Impact on Small Business

The SAB has determined that the proposed regulations do not affect small businesses.

Finding of Significant Adverse Economic Impact on Businesses

The SAB has determined that the adoption of the regulations will not affect businesses, including small businesses, because they are not required to comply with or enforce the regulations, nor will they benefit from or be disadvantaged by the regulations.

Impact on Local Agencies or School Districts

The SAB has determined that the proposed regulations do not impose a mandate or a mandate requiring reimbursement by the State pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code. It will not require local agencies or school districts to incur additional costs in order to comply with the proposed regulations.