

INITIAL STATEMENT OF REASONS

Section 1859.96. Inactive Apportionments Under a State of California Fiscal Crisis.

Specific Purpose of the Regulation

To extend until January 1, 2011 the State Allocation Board's (SAB) authority to find school bond apportionments "inactive" under the School Facility Program (SFP) to help prevent them from expiring during the State's current fiscal crisis. The "inactive" finding by the SAB suspends the 18-month time limit for school districts to request the release of State funds for SAB-approved apportionments, helping to prevent the apportionments from expiring.

Need for the Regulation

This Section becomes inoperative on January 1, 2010. Because the State's fiscal crisis is continuing, it is necessary to extend the SAB's authority to help prevent SFP apportionments from expiring for an additional year, until "January 1, 2011."

Education Code Section 17076.10(d) specifies that if a school district has received an apportionment but has not met the criteria to have State funds released within 18 months, the apportionment will be rescinded.

The members of the Pooled Money Investment Board (PMIB) were forced by fiduciary responsibility on December 17, 2008 to temporarily freeze infrastructure bond funds for public works projects (including school construction projects), but the 18-month time limit clock on SAB-approved apportionments continued to tick. The SAB has acted to help alleviate school facility project apportionments from expiring, and it is necessary that this SAB authority continue.

In addition, the proposed one year extension of the SAB's authority is necessary so that the SAB can reinstate inactive apportionments when State financing again becomes available for bond-funded projects.

Section 1859.148.2. Inactive Preliminary Apportionments Under a State of California Fiscal Crisis.

Specific Purpose of the Regulation

To extend until January 1, 2011 the SAB's authority to find preliminary apportionments "inactive" during the State's current fiscal crisis, and to help prevent school bond preliminary apportionments under the Critically Overcrowded School Facilities Program (COS Program) from expiring during the State's current fiscal crisis.

Need for the Regulation

This Section allows the SAB to determine a State fiscal emergency or crisis exists for the purpose of finding preliminary apportionments under the COS Program to be "Inactive," but this Section becomes inoperative on January 1, 2010. Because the State's fiscal crisis is continuing, it is necessary to extend the SAB's authority to help prevent COS Program apportionments from expiring for an additional year, until "January 1, 2011."

The members of the PMIB were forced by fiduciary responsibility on December 17, 2008 to temporarily freeze infrastructure bond funds for public works projects (including school construction projects). However, school districts with previously approved preliminary apportionments (reservations of bond funding) were still required to convert to final apportionments within four years from the date of the preliminary apportionment plus a possible one-time one-year extension, as set forth in Education Code Section 17078.25(a) and (b).

The authority in this Section has permitted the SAB to find preliminary apportionments “inactive,” thereby suspending, as of December 17, 2008, the time period for the funding applicant to convert to a final apportionment, and helping to prevent the preliminary apportionments from expiring. It is necessary to extend this SAB authority for another year while the State’s fiscal crisis continues, to continue helping to alleviate COS Program apportionments from expiring.

Once the SAB finds that State bond funds are again available for these projects, the balance of this time period to convert to a final apportionment shall resume, as it existed on December 17, 2008. Therefore, the proposed one year extension of the SAB’s authority is also necessary so that the SAB can reinstate inactive preliminary apportionments when State financing again becomes available for bond-funded projects.

Section 1859.166.2. Inactive Preliminary Charter School Apportionments Under A State of California Fiscal Crisis.

Specific Purpose of the Regulation

To extend until January 1, 2011 the SAB’s authority to find preliminary apportionments “inactive” during the State’s current fiscal crisis, and to help prevent school bond preliminary apportionments under the Charter School Facilities Program (CSFP) from expiring during the State’s current fiscal crisis.

Need for the Regulation

This Section allows the SAB to determine a State fiscal emergency or crisis exists for the purpose of finding preliminary apportionments under the CSFP to be “Inactive,” but this Section and the SAB’s authority becomes inoperative on January 1, 2010. Because the State’s fiscal crisis is continuing, it is necessary to extend for an additional year the SAB’s authority to help prevent CSFP apportionments from expiring, until “January 1, 2011.”

The members of the PMIB were forced by fiduciary responsibility on December 17, 2008 to temporarily freeze infrastructure bond funds for public works projects (including school construction projects). However, school districts and charter schools with previously approved preliminary apportionments (reservations of bond funding) were still required to convert to final apportionments within four years from the date of the preliminary apportionment plus a possible one-time one-year extension, as set forth in Education Code Section 17078.25(a) and (b).

The authority in this Section has permitted the SAB to find such preliminary apportionments “inactive,” thereby suspending, as of December 17, 2008, the time period for the funding applicant to convert to a final apportionment, and helping to prevent the preliminary apportionment from expiring. It is necessary to extend this SAB authority for another year while

the State's fiscal crisis continues, to continue helping to alleviate CSFP apportionments from expiring.

Once the SAB finds that State bond funds are again available for these projects, the balance of this time period to convert to a final apportionment shall resume, as it existed on December 17, 2008. Therefore, the proposed one year extension of the SAB's authority is also necessary so that the SAB can reinstate inactive preliminary apportionments when State financing again becomes available for bond-funded projects.

Technical Documents Relied Upon:

The State Allocation Board's Action Item, dated September 23, 2009, entitled "Fiscal Crisis Regulations."

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 regulations.

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 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.