

## INITIAL STATEMENT OF REASONS

### **Section 1859.2. Definitions.**

#### **Specific Purpose of the Regulation**

To provide the meaning of specific words and terms that are essential to these regulations.

#### **Need for the Regulation**

It was necessary to change the revision date of Form SAB 50-05, *Fund Release Authorization*, to reflect a revision date of "06/12," in order that School Facility Program (SFP) applicants can identify and submit the current version of this Form. This is a non-substantive change and maintains consistency throughout the SFP Regulations.

### **Section 1859.90.2. Priority Funding Process.**

#### **Specific Purpose of the Regulation**

To improve the efficiency of the priority funding process by amending the priority funding filing periods and extending the length of time that priority funding requests remain valid. To allow sufficient review and processing time in advance of SAB meetings to approve State bond apportionments, and to extend the validity of participation requests so that State bond apportionments can be approved for projects at an additional three or four SAB meetings per year before the participation requests expire.

#### **Need for the Regulation**

It was necessary to improve the priority funding process because of its success in apportioning school bond funding to "construction-ready" school facility projects, thereby creating jobs and stimulating the economy, which is in alignment with the Governor's directive. Without the priority funding process, school districts with SAB approval for their school construction projects are permitted to wait for up to 18 months to submit their fund release requests, thus keeping bond funds idle and committed, delaying building startups, and preventing needed jobs to stimulate the economy.

The starting dates for the 30-calendar day filing period to request participation in the Priority Funding Process will change for 2013 and subsequent years as follows:

| <u>Current Regulations</u>       | <u>Amended Regulations</u>                        |
|----------------------------------|---|
| January 11, 2012 . . . . .       | No change   |
| July 11, 2012 . . . . .          | No change   |
| January 9, 2013 . . . . .        | No change   |
| 2nd Wed. of July each year . . . | 2nd Wed. of <del>July</del> <u>May</u> each year  |
| 2nd Wed. of Jan. each year . . . | 2nd Wed. of <del>Jan.</del> <u>Nov.</u> each year |

In addition, requests to participate in the Priority Funding Process will no longer become invalid at the start of the next 30-calendar day filing period. Starting in May 2013, requests to participate in the priority funding period will be valid from July 1 until December 31 of that year, and requests to participate in the November filing period will be valid from January 1 until June 30 in the following year. Further, the date adjustment to the priority funding filing periods

(May and November) coincides with the timing of bond sales by the State Treasurer's Office and therefore leads to the successful synchronization of the agencies involved in this process.

Unnumbered first paragraph, line 1: The word "who" is changed to "that" in describing districts and charter schools. This is a non-substantive change for the purpose of correcting grammar.

Unnumbered first paragraph, line 2: The words "pursuant to (a) or (b) below, as applicable," are added to distinguish between the existing categories of projects for which applicants may apply under this Section.

Unnumbered first paragraph, line 3: A comma is added after "Preliminary Charter School Apportionment." This is a non-substantive change for the purpose of improving punctuation.

Unnumbered first paragraph, lines 4 to 5: It was necessary to delete the words "each calendar year" and add "of 2012" because the priority funding 30-calendar day filing periods for 2013 and following years are being changed by these regulatory amendments.

Unnumbered first paragraph, line 5: It was necessary to delete "Certifications" because the term "Requests" is used by these regulatory amendments to describe requests to participate in the priority funding process, rather than the existing term "Certifications."

Unnumbered first paragraph, line 5: It was necessary to add the clause "Requests submitted during the filing periods described above" (years 2011 and 2012) in order to distinguish the requests in these years from the requests submitted during the filing periods in 2013 and each year thereafter. This is necessary because the regulatory amendments change the dates and length of validity for the requests submitted in 2013 and each year thereafter.

Unnumbered first paragraph, lines 6 to 7: It was necessary to add a new sentence clarifying that the first 30-calendar day filing period of 2013 begins on January 9, 2013, because this starting date is already specified in the existing text of this Section. It was necessary that this new sentence continue by setting forth that starting in May 2013 the 30-calendar day filing periods will begin on the second Wednesday of May (rather than July) and November (rather than January) of each calendar year because these regulatory amendments move the starting dates two months earlier than as specified in the existing text. This amendment is:

1. to allow sufficient review and processing time in advance of SAB meetings to approve State bond apportionments, and
2. to help the Office of Public School Construction (OPSC), on behalf of the SAB, to continue to comply with the Department of Finance (DOF) Budget Letter #10-09, which stipulates that cash need estimates be submitted to the DOF and the State Treasurer's Office twice a year prior to each spring and fall bond sale period.

Unnumbered first paragraph, lines 7 to 8: It was necessary to add a new sentence "Requests submitted during the filing period beginning with January 9, 2013 are valid until June 30, 2013." because one of the purposes of these regulatory amendments is to extend the validity of participation requests so that State bond apportionments can be approved for projects at an additional three or four SAB meetings per year before the participation requests expire. This filing period commences the change to participation requests remaining valid until June 30 and December 31, respectively, of 2013 and each year thereafter.

Unnumbered first paragraph, lines 8 to 9: It was necessary to add a new sentence "Requests submitted during a filing period beginning with the 2nd Wednesday of May are valid from July 1 until December 31 of that year." because one of the purposes of these regulatory amendments

is to extend the length of time that participation requests remain valid so that State bond apportionments can be approved for projects at an additional three or four SAB meetings per year before the participation requests expire. This extension of the length of time that requests to participate remain valid implements the SAB's approval in these regulatory amendments that participation requests will remain valid until June 30 and December 31, respectively, of 2013 and each year thereafter.

Unnumbered first paragraph, lines 9 to 11: It was necessary to add a new sentence "Requests submitted during a filing period beginning with the 2nd Wednesday in November are valid from January 1 until June 30 of the following year." because one of the purposes of these regulatory amendments is to extend the length of time that participation requests remain valid so that State bond apportionments can be approved for projects at an additional three or four SAB meetings per year before the participation requests expire. This extension of the length of time that requests to participate remain valid implements the SAB's approval in these regulatory amendments that participation requests will remain valid until June 30 and December 31, respectively, of 2013 and each year thereafter.

Unnumbered first paragraph, line 11: It was necessary to add the clarifying clause "of each filing period" for the purpose of emphasizing that this request submittal requirement applies to every filing period for the priority funding process.

Unnumbered second paragraph, line 1: The word "any" is changed to "the" in describing the priority funding process. This is a non-substantive change for the purpose of clarifying that there is only one priority funding process.

Unnumbered second paragraph, line 1: It was necessary to add the modifying clause "a valid, original signature copy of" in describing the submittal of Form SAB 50-05 in order for all applicants to meet the same reasonable submittal standard, and to eliminate time extensions for perfecting incomplete or invalid submittals, which in turn affords the OPSC sufficient time to review and process the submittals within the constraints of this bond funding process.

Unnumbered second paragraph, line 3: It was necessary to add the modifying clause "as applicable" in describing the requests for fund release under (a)(2) or (b)(2) of this Section. This is a non-substantive clarification to distinguish between the different types of funding under the two existing subsections.

Unnumbered third paragraph, line 2: The word "an" is changed to "a valid" in describing the submittal of Form SAB 50-05 in order for all applicants to meet the same reasonable submittal standard, and to eliminate time extensions for perfecting incomplete or invalid submittals, which in turn affords the OPSC sufficient time to review and process the submittals within the constraints of this bond funding process.

Unnumbered third paragraph, lines 2 to 3: The word "appropriate" is deleted and "pursuant to (a)(2) or (b)(2) of this section, as applicable," is added. This is a non-substantive clarification to distinguish between the different types of funding under the two existing subsections.

Subsection (a), line 3: It was necessary to add the clause "priority funding request in the form of a" for the purpose of better identifying and describing an applicant's request to participate in the priority funding process.

Subsection (a), line 6: A hyphen is added in “30-calendar day.” This is a non-substantive change for the purpose of correcting punctuation and for consistency with the other references to this term in this Section.

Subsection (a), line 6: The words “that contains” are changed to “, and shall contain” for the purpose of emphasizing the requirement to meet the listed criteria.

Subsection (a)(1), line 1: The word “Request” is changed to “Statement that the request is” in order to distinguish that this “Statement” is a component of the request to participate in the priority funding process.

Subsection (a)(2): This subsection is deleted because it is duplicative of the 90-calendar day submittal requirement described in the following subsection.

Subsection (a)(3): The subsection is renumbered (a)(2) because the preceding subsection was deleted. This is a non-substantive change for the purpose of maintaining the consistency and uniformity of the SFP Regulations.

Renumbered Subsection (a)(2), line 2: Words are deleted to shorten “within the 90 calendar day time limit” to “within 90 calendar days.” This is a non-substantive change for the purpose of providing concise text.

Renumbered Subsection (a)(2), line 2: The clause “of Apportionment or approved advance release of funds request” is added for the purpose of clarification because these are the descriptive words from subsection (a), line 1 that reinforce which types of funds are the subject of this subsection.

Renumbered Subsection (a)(2), line 3: The word “that” is inserted in the clause “and that failure to do so . . . .” This is a non-substantive change for the purpose of improving grammar.

Subsection (a)(4): The subsection is renumbered (a)(3) because a preceding subsection was deleted. This is a non-substantive change for the purpose of maintaining the consistency and uniformity of the SFP Regulations.

Renumbered Subsection (a)(3), line 2: The words “a standard” are changed to “the” in describing the 18 month timeline for fund release submittal. This is a non-substantive change for the purpose of providing concise text.

Renumbered Subsection (a)(3), lines 2 to 3: The modifying clause “described in Section 1859.90” is added for the purpose of clarifying the 18 month timeline for fund release submittal.

Subsection (b), line 2: It was necessary to add the clause “priority funding request in the form of a” for the purpose of better identifying and describing an applicant’s request to participate in the priority funding process.

Subsection (b), line 3: A hyphen is added in “30-calendar day.” This is a non-substantive change for the purpose of correcting punctuation and for consistency with the other references to this term in this Section.

Subsection (b), lines 3 to 4: The words “that contains” are changed to “, and shall contain” for the purpose of emphasizing the requirement to meet the listed criteria.

Subsection (b)(1), line 1: The word “Request” is changed to “Statement that the request is” in order to distinguish that this “Statement” is a component of the request to participate in the priority funding process.

Subsection (b)(2): This subsection is deleted because it is duplicative of the 180-calendar day submittal requirement described in the following subsection.

Subsection (b)(3): The subsection is renumbered (b)(2) because the preceding subsection was deleted. This is a non-substantive change for the purpose of maintaining the consistency and uniformity of the SFP Regulations.

Renumbered Subsection (b)(2), line 2: Words are deleted to shorten “within the 180 calendar day time limit” to “within 180 calendar days.” This is a non-substantive change for the purpose of providing concise text.

Renumbered Subsection (b)(2), line 2: The clause “of the approved advance release of funds request” is added for the purpose of clarification because these are the descriptive words from subsection (b), line 1 that reinforce which types of funds are the subject of this subsection.

Renumbered Subsection (b)(2), line 2: The word “that” is inserted in the clause “and that failure to do so . . . .” This is a non-substantive change for the purpose of improving grammar.

Subsection (b)(4): The subsection is renumbered (b)(3) because a preceding subsection was deleted. This is a non-substantive change for the purpose of maintaining the consistency and uniformity of the SFP Regulations.

Renumbered Subsection (b)(3), line 2: The word “that” is inserted in the clause “and that failure to do so . . . .” This is a non-substantive change for the purpose of improving grammar.

Unnumbered fourth paragraph, line 1: The word “30-day” is changed to “30-calendar day” for the purpose of correctly describing the length of the filing period to request participation in the priority funding process, as consistent with the existing regulatory text.

Unnumbered fourth paragraph, lines 4 to 5: The words “Request letters of projects” are shortened to “Requests” because these regulatory amendments consistently use this word to describe requests to participate in the priority funding process.

Unnumbered fourth paragraph, line 6: The acronym “OPSC” is inserted after the words Office of Public School Construction because it is an abbreviated reference. This is a non-substantive change which employs an accepted acronym and is reflected in the Definitions (Section 1859.2) of the SFP Regulations.

## **SCHOOL FACILITY PROGRAM FORM**

### **Fund Release Authorization, Form SAB 50-05 (Revised 12/14/06/12).**

#### **Specific Purpose of the Form**

To correct a numerical reference to a Section in the SFP Regulations.

## **Need for the Form**

Page 3, Certifications, bullet # 6: It was necessary to correct “Section 1859.90.1” to “Section 1859.90.3” because previously approved regulatory actions have added new Sections 1859.90.1 and 1859.90.2, causing this referenced Section to be renumbered as “1859.90.3.”

The SAB has the authority to administer the SFP under Education Code Section 17070.35 and Government Code Section 15503. The regulatory amendments are therefore consistent and compatible with State laws and regulations.

No reasonable alternatives were considered to the proposed regulatory amendments because they improve the efficiency of the priority funding process which has to date (through the SAB meeting on June 27, 2012) allowed the SAB to approve \$3.6 billion of State school bond apportionments for “construction-ready” projects, thereby helping to create and maintain construction industry-related jobs and to stimulate the State’s economy. Re-prioritizing SAB apportionments to “construction-ready” projects will ensure that school districts and charter schools quickly request their fund releases. These amendments were unanimously approved by the SAB at its meeting on June 27, 2012 with no opposing public comment.

The efficiencies of the proposed regulatory amendments will also help the OPSC to continue to comply with the DOF Budget Letter #10-09, which stipulates that cash need estimates be submitted to the DOF and the State Treasurer’s Office twice a year prior to each spring and fall bond sale period.

## **Technical Documents Relied Upon**

The State Allocation Board’s Action item, dated June 27, 2012, entitled “Priority Funding Process Regulatory Amendments.”

The Economic Impact Assessment prepared pursuant to Government Code Section 11346.3(b).

## **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, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

## **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 regulation, nor will they benefit from or be disadvantaged by the regulation.

### **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. They will not require local agencies, school districts or charter schools to incur additional costs in order to comply with the proposed regulations.