

May 31, 2013

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

TITLE 2. STATE ALLOCATION BOARD

NOTICE OF PROPOSED REGULATORY ACTION

THE STATE ALLOCATION BOARD PROPOSES TO AMEND REGULATION SECTIONS 1859.2, 1859.51, 1859.61, 1859.90.2, 1859.90.4, 1859.104, 1859.164.2, AND 1859.184.1, ALONG WITH ONE ASSOCIATED FORM, AND TO ADOPT REGULATION SECTION 1859.90.3, TITLE 2, CALIFORNIA CODE OF REGULATIONS, RELATING TO LEROY F. GREENE SCHOOL FACILITIES ACT OF 1998

FORM PROPOSED FOR AMENDMENT:

Fund Release Authorization, Form SAB 50-05, (Revised ~~40/42~~ 01/13), referenced in Regulation Section 1859.2

NOTICE IS HEREBY GIVEN that the State Allocation Board (SAB) proposes to amend and adopt the above-referenced Regulation Sections, and to amend the above-referenced associated form, contained in Title 2, California Code of Regulations (CCR). A public hearing is not scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Office of Public School Construction (OPSC) no later than 15 days prior to the close of the written comment period. Following the public hearing, if one is requested, or following the written comment period if no public hearing is requested, the OPSC, at its own motion or at the instance of any interested person, may adopt the proposal substantially as set forth above without further notice.

AUTHORITY AND REFERENCE CITATIONS

The SAB is proposing to amend/adopt the above-referenced regulation sections under the authority provided by Sections 17070.35, 17072.13, 17078.64, and 17079.30 of the Education Code. The proposal interprets and makes specific reference Sections 17070.63, 17072.12, 17072.30, 17072.35, 17074.16, 17076.10, 17077.40, 17077.42 and 17077.45 of the Education Code.

INFORMATIVE DIGEST/POLICY OVERVIEW STATEMENT

The Leroy F. Greene School Facilities Act of 1998 established, through Senate Bill 50, Chapter 407, Statutes of 1998, the School Facility Program (SFP). 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 Office of Administrative Law (OAL) and filed with the Secretary of State on October 8, 1999.

The SAB, at its January 23, 2013 meeting, adopted proposed regulatory amendments to the SFP Regulations to provide for the rescission of school bond funding for construction projects with unfunded approvals that twice choose not to participate in or not to request State apportionments through the Priority Funding process. Such rescinded bond authority will return to the respective SFP funding programs for the SAB to reallocate to other projects that are ready to move forward toward construction. This helps to carry out the Legislative intent that the school bonds build and modernize California classrooms, create jobs in construction-related trades and industries, and stimulate the State's economy. This is in direct alignment with the Governor's directive.

The trigger mechanism in the proposed emergency regulatory amendments is the second occurrence of a school district with a project on the list of unfunded approvals choosing not to participate in or not to request its State apportionment through the Priority Funding process.

Bond Funds Impacted

- Class Size Reduction Kindergarten-University Public Education Facilities Bond Act of 1998 (Proposition 1A),
- Kindergarten-University Public Education Facilities Bond Act of 2002 (Proposition 47),
- Kindergarten-University Public Education Facilities Bond Act of 2004 (Proposition 55),
- Kindergarten-University Public Education Facilities Bond Act of 2006 (Proposition 1D)

In the existing SFP Regulations, the next 30-day filing periods to participate in the Priority Funding process are:

- May 8, 2013 through June 6, 2013,
- November 13, 2013 through December 12, 2013, and
- May 14, 2014 through June 12, 2014

Since these regulations were approved as emergency regulations prior to May 8, 2013 and the next two filing periods will end on December 12, 2013, it can then be determined which school districts have twice chosen not to participate in or not to request State apportionments through the Priority Funding process, and how much bond authority will become available for reallocation to other participating SFP projects.

The proposed emergency regulatory amendments apply to the following SFP programs:

- New Construction
- Modernization,
- Facility Hardship (health and safety needs), and
- Facility Hardship rehabilitation (also health and safety needs).

Note: The proposed emergency regulatory amendments do not apply to projects in the:

- Charter School Facilities Program (CSFP) and
- Career Technical Education Facilities Program (CTEFP).

These two programs work on different timelines than standard New Construction and Modernization Programs, and the return of any bond funds from rescissions would not result in immediate reallocation of this authority.

Financial Impact

As of January 23, 2013 (for the above-noted categories of projects), there was \$839.5 million of bond authority reserved for a total 406 projects on the list of unfunded approvals. These projects were previously approved by the SAB without apportionments. There is \$269 million of the above \$839.5 million that represents the above projects having two or more times chosen not to participate in or not to request State apportionments through the Priority Funding process.

It is estimated that the proposed emergency regulatory amendments will return \$200 million to \$400 million of school bond authority to the respective SFP funding programs from projects that are choosing not to request apportionments. The SAB can then reallocate the funds to projects that are ready to move forward to construction. This estimate is based upon:

- The current \$269 million of bond authority already tied up in projects that have twice chosen not to participate in or not to request State apportionments through the Priority Funding process, and
- Since these emergency regulations are now in effect, two Priority Funding periods must occur which could result in more projects twice choosing not to participate in or not to request State apportionments through the Priority Funding process.

Attached to this Notice is the specific regulatory language of the proposed emergency action and amendments to Form SAB 50-05. You may also review the proposed regulatory language and Form on the OPSC Web site at www.dgs.ca.gov/opsc. Copies of the amended regulatory text and form will be mailed to any person requesting this information by using the OPSC contact information set forth below. 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.

Background and Problem Being Resolved

The proposed emergency regulatory amendments resolve the problem of bond authority being tied up in school district construction projects that have ceased moving forward for reasons such as declining enrollment, lack of funds for the local matching share, or other reasons. There is currently no incentive for school districts to voluntarily withdraw their projects from the Unfunded List (Lack of AB 55 Loans) because school district inaction keeps a project's place in line on this List. Therefore, school districts with approved projects could tie up bond authority indefinitely. The proposed emergency regulatory amendments meet the need for a fair mechanism to reallocate the remaining bond authority to school districts ready to move their projects forward to construction.

The proposed emergency regulations describe two ways for a school district to choose not to participate in or not to request its apportionment through the Priority Funding process:

- Not submit a priority funding request in the 30-day filing period, or
- Submit a priority funding request but fail to submit a valid Form SAB 50-05 to request the release of funds after the SAB approves an apportionment.

The second time that either of these occurs, the funding for the project would be rescinded without further SAB action. Rescission would occur either:

- At the end of the 30-day filing period if a request to participate is not submitted, or

- 90 days after the SAB approves an apportionment if the school district then fails to submit a valid Form SAB 50-05 requesting the release of funds.

Legislative History

Assembly Bill (AB) 16. The proposed emergency regulatory amendments will also help to apportion school construction projects under and fulfill the intent of AB 16, Chapter 33, Statutes of 2002 (Hertzberg), which includes the following benefits to be obtained from the Kindergarten-University Public Education Facilities Bond Acts of 2002 and 2004 (Propositions 47 and 55):

- funding for extreme financial, disaster-related, or other hardship pupil housing needs (Education Code (EC) Section 17075.10);
- funding for remedial health and safety projects (EC Section 17075.15);
- supplemental apportionments for small schools (EC Section 17074.10);
- cost adjustments for projects in densely populated urban areas (EC Section 17072.10);
- costs to modernize older school buildings (EC Section 17074.26).

Prioritization of Facility Hardship Projects. Funding is provided for Facility Hardship projects that replace or rehabilitate school facilities in critical cases where there is a serious risk to the health and safety of pupils. These health and safety projects will be the first to benefit from the proposed emergency regulations reallocating school bond authority to projects awaiting funding. This is because the SAB, at its August 4, 2010 meeting, approved placing Facility Hardship projects with unfunded approvals at the top of the cumulative Unfunded List (Lack of AB 55 Loans) at all times, with placement order determined first by SAB approval date and next by date order received.

AB 127. The proposed emergency regulations will help to apportion school construction projects under and fulfill the intent of AB 127, Chapter 35, Statutes of 2006 (Perata/Nunez). AB 127 provided new bond funding to relieve public school overcrowding and to repair older schools through Proposition 1D. AB 127 also made available up to \$100 million for projects that meet “high performance” rating criteria for components such as energy, water, natural lighting, air quality, use of recycled and low-toxin materials, and learning-enhancing acoustics for construction projects.

The State has relied upon the SFP as a means to provide an economic stimulus to construction-related trades and businesses while meeting the classroom needs of the K-12 student population. There has been \$3.96 billion apportioned by the SAB through the Priority Funding process for school construction projects from August 2010 through December 2012 for these vital purposes. However, without these emergency regulatory amendments, the SAB would not have a mechanism to rescind the bond authority tied up in a growing number of projects.

The following chart supports the SAB’s concern that in 2012 an increased percentage of projects on the Unfunded List (Lack of AB 55 Loans) did not participate in the Priority Funding process, thereby tying up reserved bond authority in projects that are not moving forward to construction:

Priority Funding Period Beginning	Total \$ Eligible for Priority Funding (in millions)	Total \$ Requesting to Participate (in millions)	Percent Participating and Requesting Apportionments
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April 2010	\$2,180.8	\$1,612.2	73.9 %
October 2010	\$2,595.8	\$1,983.8	76.4 %
July 2011	\$1,766.0	\$1,318.5	74.7 %
January 2012	\$1,289.2	\$710.1	55.1 %
July 2012	\$995.3	\$534.3	53.7 %

Anticipated Benefits of the Proposed Regulations

The proposed emergency regulations promote fairness and the State's general welfare by helping to reallocate an estimated \$200 million to \$400 million of school bond authority from school construction projects that are not participating in or not requesting State apportionments through the Priority Funding process, and reallocating that bond authority to other projects to carry out the Legislative intent of AB 16, AB 127, and Propositions 47 (2002), 55 (2004), and 1D (2006) by funding:

- extreme financial, disaster-related, or other hardship pupil housing needs;
- funding for remedial health and safety projects;
- supplemental apportionments for small schools;
- cost adjustments for projects in densely populated urban areas;
- costs to modernize older school buildings; and
- projects that meet "high performance" rating criteria for components such as energy, water, natural lighting, air quality, use of recycled and low-toxin materials, and learning-enhancing acoustics for construction projects.

The proposed emergency regulatory amendments are therefore determined to be consistent and compatible with existing State laws and regulations. Proceeding with the implementation of these regulatory amendments will have a positive impact on public health and safety at public K-12 schools by reallocating an estimated \$200 million to \$400 million in school bond authority from construction projects that have twice chosen not to participate in or not to request State apportionments through the Priority Funding process.

Reallocating the bond authority to SFP projects that are ready to move forward toward construction will benefit construction-related trades and businesses, stimulate the State's economy, and relieve school pupil housing needs for classrooms. The dollars associated with these emergency regulatory amendments will also benefit the school district communities by stimulating the local economies.

Summary of the proposed emergency regulatory amendments, adoption of a new regulation section, and amendments to an associated form, are as follows:

Existing Regulation Section 1859.2 represents a set of defined words and terms used exclusively for these regulations. The proposed emergency amendments change the definition of the Form SAB 50-05, *Fund Release Authorization*, by changing the revision date from "10/12" to "01/13."

Existing Regulation Section 1859.51 sets forth criteria for adjusting a school district's new construction baseline eligibility, including subsection (d) requiring an adjustment as a result of audit findings pursuant to specified regulation sections. The proposed amendments add new Regulation Section 1859.90.3 to the specified sections under which an audit could result in adjusting the new construction baseline eligibility.

Existing Regulation Section 1859.61 sets forth criteria for adjusting a school district's modernization baseline eligibility, including subsection (d) requiring an adjustment as a result of audit findings pursuant to specified regulation sections. The proposed amendments add new Regulation Section 1859.90.3 to the specified sections under which an audit could result in adjusting the modernization baseline eligibility.

Existing Regulation Section 1859.90.2 establishes the Priority Funding Process described in the following four paragraphs:

1. It authorizes the SAB to establish 30-calendar day request filing periods for school districts and charter schools to request apportionments of available school bond funds.
2. It includes projects under the CSFP that may apply for advance release of design funds from a Preliminary Charter School Apportionment. It includes projects under the Critically Overcrowded School (COS) Facilities Program that may apply for advance release of environmental hardship site acquisition funds. These applicants must provide a written statement signed by the authorized district representative within the 30-calendar day filing period that acknowledges specific requirements for participation and funding. Applicants must also submit the Form SAB 50-05, with an original signature, to be received by the OPSC within 90-calendar days of the SAB's approval of the apportionment.
3. Also included are projects under the CSFP that may apply for advance release of site acquisition funds from a Preliminary Charter School Apportionment. These projects are subject to a timeline of 180 calendar days to file Form SAB 50-05, with the specific requirement to provide a written statement signed by an authorized representative within the 30-calendar day filing period that acknowledges specific requirements for participation and funding.
4. Participants meeting the priority funding process requirements but for which an Apportionment cannot be provided shall retain their date order position on the Unfunded List (Lack of AB 55 Loans). Participants failing to meet required criteria have their apportionment or approved advance release of funds returned to unfunded approval status with a specified unfunded approval date.

The proposed emergency regulatory amendments to Regulation Section 1859.90.2 are described in the following five paragraphs:

1. The second and third introductory paragraphs are deleted for the purposes of restating them with clarifying language as new subsection (c) and (c)(1). The restated text includes:
 - In subsection (c), the deleted phrase "(D)uring the priority funding process" is restated with clarification to mean only those instances where an Apportionment or advance release of funds is approved by the SAB.
 - In subsection (c)(1), the phrase ". . . shall be rescinded without further Board action" is restated but with the added criteria set forth in new subsection (c)(2).
2. New subsection (c)(2) adds the additional consideration of new Regulation Section 1859.90.3(c) and (d) before determining whether an SFP project returns to the Unfunded List (Lack of AB 55 Loans) or is removed from that List without further Board action. (Proposed adoption of new Regulation Section 1859.90.3 is discussed below.)
3. The two unnumbered paragraphs at the end of Regulation Section 1859.90.2 are assigned letters "(d)" and "(e)," respectively. This is a non-substantive change for the purpose of improved readability.
4. In newly lettered subsection (d), the term "Unfunded List" is clarified to mean "Unfunded List (Lack of AB 55 Loans)" as defined in Regulation Section 1859.2, Definitions, of the SFP Regulations. The

name “Office of Public School Construction (OPSC)” is shortened to “OPSC” because this acronym is already identified in the Definitions section of the SFP Regulations. These are non-substantive changes for the purposes of improved readability and maintaining consistency in the SFP Regulations.

5. In newly lettered subsection (e), the word “after” is changed to “from” in determining a number of days following the apportionment date. This is a non-substantive change for the purpose of improved readability.

The proposed adoption of Regulation Section 1859.90.3 is described in the following seven paragraphs:

1. It would apply only to applications for:
 - New Construction
 - Modernization
 - Facility Hardship pursuant to Section 1859.82
 - Rehabilitation pursuant to Section 1859.83(e)
2. It would specifically exclude applications for the CSFP and the CTEFP.
3. It would provide for the rescission of an Apportionment and/or unfunded approval for SFP projects on the Unfunded List (Lack of AB 55 Loans) that twice choose not to participate in or not to request State apportionments through the Priority Funding process. Two ways are specified for a district to choose not to participate or not to request is apportionment:
 - Not participating in the 30-calendar day filing period for the Priority Funding process, or
 - Participating in the process and receiving an Apportionment but failing to submit a valid Form SAB 50-05 to request the release of funds.
4. The first occurrence of abstaining from participating in the 30-calendar day request filing period allows a project to keep its place on the Unfunded List (Lack of AB 55 Loans). The first occurrence of receiving a Priority Funding Apportionment but failing to submit a valid Form SAB 50-05 to request the release of funds would result in rescission of the Apportionment and the application returns to the Unfunded List (Lack of AB 55 Loans) with a new unfunded approval date that is 90 days from the date of Apportionment.
5. A subsequent occurrence of abstaining from participating in the 30-calendar day request filing period for the priority funding process or receiving a Priority Funding Apportionment but failing to submit a valid Form SAB 50-05 to request the release of funds shall mean that:
 - the application is removed from the Unfunded List (Lack of AB 55 Loans) without further Board action,
 - the bond authority associated with the Apportionment and/or unfunded approval returns to the appropriate SFP bond authority source for reallocation,
 - the application is returned to the applicant, and
 - the pupils assigned to the project would be added back to the district’s baseline eligibility for new construction or modernization, if applicable.
6. Education Code Section 17070.35 is added as the Authority citation.
7. Education Code Sections 17072.12, 17072.30, 17074.16 and 17076.10 are added as Reference citations.

Existing Regulation Section 1859.90.3 is renumbered as “1859.90.4” because of the adoption of new Regulation Section 1859.90.3 preceding it. This is a non-substantive change for the purpose of correct numbering and maintaining continuity in the SFP Regulations.

Existing Regulation Section 1859.104 sets forth document submittal requirements for school districts receiving funds under the Leroy F. Greene School Facilities Act of 1998. It also refers to the release of funds to school districts pursuant to Regulation Section 1859.90 titled “Fund Release Process.” The proposed amendments refer to an additional section in subsections (a)(1) and (b) in order for these reporting requirements to also apply to funding through the priority funding process.

Existing Regulation Section 1859.164.2 sets forth the Preliminary Charter School Apportionment fund release process, and refers to the release of funds pursuant to Regulation Section 1859.90 titled “Fund Release Process.” The proposed amendment refers to an additional section in the last sentence of the final paragraph in order for this process to also apply to funding through the priority funding process.

Existing Regulation Section 1859.184.1 sets forth the Overcrowding Relief Grant Program application process for school districts with Financial Hardship approval, and refers to project timelines in Regulation Section 1859.90 titled “Fund Release Process.” The proposed amendment refers to an additional section in the fifth line of the final paragraph in order for these timelines to also apply to the priority funding process.

Existing Form SAB 50-05, *Fund Release Authorization*, is the Form submitted by school districts and charter schools requesting the State to release their approved funding, provided the project has met specific criteria. The proposed amendments renumber “Section 1859.90.3” to “Section 1859.90.4” in one of the Certifications because of the proposed adoption of new Regulation Section 1859.90.3. In addition, the revision date of the Form changes from “10/12” to “01/13” so that applicants can identify and file the latest version of the Form. These are non-substantive changes for the purpose of providing correct references and maintaining consistency in the SFP Regulations.

Determination of Inconsistency or Incompatibility with Existing State Regulations:

The proposed emergency regulatory amendments resolve the problem of bond authority being tied up in school district construction projects that have ceased moving forward. There is currently no incentive for school districts to voluntarily withdraw their projects from the Unfunded List (Lack of AB 55 Loans) because school district inaction keeps a project’s place in line on this List. Therefore, school districts with approved projects could tie up bond authority indefinitely. The proposed emergency regulatory amendments meet the need for a fair mechanism to reallocate the remaining bond authority to school districts ready to move their projects forward to construction.

The State’s economy will be stimulated because school districts receiving an estimated \$200 million to \$400 million in bond authority will award their construction contracts. Such construction projects will create and maintain professional and trades jobs such as architects, engineers, surveyors, planners, equipment operators, installers of all types of building materials, framers, plumbers, roofers, electricians, installers of electronics, painters, finishers, landscapers, and administrators. Jobs are also created and sustained in manufacturing all building materials and components, including green technology and energy-saving components.

After conducting a review, the SAB has concluded that these are the only regulations on this subject area, and therefore, the proposed emergency regulations are neither inconsistent nor incompatible with existing State laws and regulations. The proposed emergency amendments are within the SAB’s authority to enact regulations for the SFP under Education Code Section 17070.35 and Government Code Section 15503.

IMPACT ON LOCAL AGENCIES OR SCHOOL DISTRICTS

The Executive Officer of the SAB has determined that the proposed emergency 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 school districts to incur additional costs in order to comply with the proposed emergency regulations.

DISCLOSURES REGARDING THE PROPOSED REGULATORY ACTION

The Executive Officer of the SAB has made the following initial determinations relative to the required statutory categories:

- The SAB has made an initial determination that there will be no significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.
- The SAB is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- There will be no non-discretionary costs or savings to local agencies.
- The proposed emergency regulations create no costs to school districts beyond those required by law, except for the required district contribution toward each project as stipulated in statute.
- There will be no costs or savings in federal funding to the State.
- The proposed regulations create no costs or savings to any state agency beyond those required by law.
- The SAB has made an initial determination that there will be no impact on housing costs.

RESULTS OF THE ECONOMIC IMPACT ANALYSIS

Proceeding with the implementation of these amendments will have a positive impact on California businesses, such as local businesses, manufacturing, “green” technology and construction industries (i.e., architects, engineers, trades and municipalities), along with maintaining or creating an unspecified number of jobs. This will result when school bond authority reserved for construction/modernization projects that are not moving forward is reallocated to projects that are ready to move forward to construction.

The State’s economy will be stimulated because school districts receiving an estimated \$200 million to \$400 million in bond authority will award their construction contracts. Such construction projects will create and maintain professional and trades jobs such as architects, engineers, surveyors, planners, equipment operators, installers of all types of building materials, framers, plumbers, roofers, electricians, installers of electronics, painters, finishers, landscapers, and administrators. Jobs are also created and sustained in manufacturing all building materials and components, including green technology and energy-saving components.

The State has relied upon the SFP as a means to provide an economic stimulus to construction-related trades and businesses while meeting the classroom needs of the K-12 student population. The SAB established the Priority Funding process in May 2010 and has held five Priority Funding periods (from August 2010 through December 2012), which apportioned a total of \$3.96 billion to projects on the list of unfunded approvals. The priority funding process re-prioritizes SFP apportionments for school construction projects that are “construction-ready.” Priority Funding apportionments are accomplished through authorized bond sales by the State Treasurer’s Office, the return of bond funds from rescinded projects, and/or other sources.

Under these emergency regulations, rescinded school bond authority will return to the respective SFP funding programs for the SAB to reallocate to other projects that are ready to move forward toward construction. This will carry out the Legislative intent to build and modernize classrooms, create jobs in construction-related trades and industries, and stimulate the State's economy. This is in direct alignment with the Governor's directive.

Benefits to Public Health and Welfare, and the State's Environment

- The proposed emergency regulations have a direct benefit upon public health and safety because the SAB elected to provide funding for Facility Hardship projects that replace or rehabilitate school facilities in critical cases where there is a serious risk to the health and safety of pupils. The action taken by the SAB, at its August 4, 2010 meeting, approved the placement of Facility Hardship projects with unfunded approvals at the top of the cumulative Unfunded List (Lack of AB 55 Loans) at all times, with placement order determined first by SAB approval date and next by date order received. This ensures the SAB's commitment to the health and safety of the students and public.
- The proposed emergency regulations promote fairness and the State's general welfare by helping to reallocate an estimated \$200 million to \$400 million of school bond authority from school construction projects that are not participating in or not requesting State apportionments through the Priority Funding process, and reallocating that bond authority to other projects to carry out the Legislative intent of AB 16, AB 27, and Propositions 47 (2002), 55 (2004), and 1D (2006) by funding:
 - extreme financial, disaster-related, or other hardship pupil housing needs;
 - funding for remedial health and safety projects;
 - supplemental apportionments for small schools;
 - cost adjustments for projects in densely populated urban areas;
 - costs to modernize older school buildings; and
 - projects that meet "high performance" rating criteria for components such as energy, water, natural lighting, air quality, use of recycled and low-toxin materials, and learning-enhancing acoustics for construction projects.
- The emergency regulations have a direct benefit to California businesses because once State bond funding has been released school districts are able to use the funds for construction projects; thus, expanding construction-related trades and businesses and stimulating the State's economy. These actions are in direct alignment with the Governor's directive. In addition, the dollars associated with these emergency regulatory amendments will benefit the school district communities by stimulating the local economies.
- There is no impact to the State's environment from the proposed emergency regulations.

The SAB finds the proposed emergency regulations fully consistent with the stated purposes and benefits of AB 16 and AB 127, including the decision to prioritize Facility Hardship projects.

EFFECT ON SMALL BUSINESSES

It has been determined that the amendments/adoption of the regulation sections will not affect small businesses in the ways identified in subsections (a)(1)–(4) of Section 4, Title 1, CCR. The regulations only apply to school districts and charter schools for purposes of funding school facility projects.

SUBMISSION OF COMMENTS, DOCUMENTS AND ADDITIONAL INFORMATION

Any interested person may present statements, arguments or contentions, in writing, submitted via U.S. mail, e-mail or fax, relevant to the proposed regulatory action. Written comments submitted via U.S. mail, e-mail or fax must be received at the OPSC no later than July 15, 2013, at 5:00 p.m. The express terms of the proposed regulations as well as the Initial Statement of Reasons are available to the public.

Written comments, submitted via U.S. mail, e-mail or fax, regarding the proposed regulatory action, requests for a copy of the proposed regulatory action or the Initial Statement of Reasons, and questions concerning the substance of the proposed regulatory action should be addressed to:

Lisa Jones, Regulations Coordinator

Mailing Address: Office of Public School Construction
707 Third Street, 9th Floor
West Sacramento, CA 95605

E-mail Address: lisa.jones@dgs.ca.gov

Fax No.: (916) 375-6721

AGENCY CONTACT PERSONS

General or substantive questions regarding this Notice of Proposed Regulatory Action may be directed to Ron Koepl at (916) 375-2032. If Mr. Koepl is unavailable, these questions may be directed to the backup contact person, Ms. Lisa Jones, Supervisor, Regulations Team, at (916) 376-1753.

ADOPTION OF REGULATIONS

Please note that, following the public comment period, the SAB may adopt the regulations substantially as proposed in this notice or with modifications, which are sufficiently related to the originally proposed text and notice of proposed regulatory activity. If modifications are made, the modified text with the changes clearly indicated will be made available to the public for at least 15 days prior to the date on which the SAB adopts the regulations.

The modified regulation(s) will be made available and provided to: all persons who testified at and who submitted written comments at the public hearing, all persons who submitted written comments during the public comment period, and all persons who requested notification from the agency of the availability of such changes. Requests for copies of any modified regulations should be addressed to the agency's regulations coordinator identified above. The SAB will accept written comments on the modified regulations during the 15-day period.

SUBSTANTIAL CHANGES WILL REQUIRE A NEW NOTICE

If, after receiving comments, the SAB intends to adopt the regulations with modifications not sufficiently related to the original text, the modified text will not be adopted without complying anew with the notice requirements of the Administrative Procedure Act.

RULEMAKING FILE

Pursuant to Government Code Section 11347.3, the SAB is maintaining a rulemaking file for the proposed regulatory action. The file currently contains:

1. A copy of the text of the regulations for which the adoption is proposed in ~~strikeout~~/underline.
2. A copy of this Notice.
3. A copy of the Initial Statement of Reasons for the proposed adoption.
4. The factual information upon which the SAB is relying in proposing the adoption.

As data and other factual information, studies, reports or written comments are received, they will be added to the rulemaking file. The file is available for public inspection at the OPSC during normal working hours. Items 1 through 3 are also available on the OPSC Internet Web site at: <http://www.dgs.ca.gov/opsc> under "Resources," then click on "Laws and Regulations," then click on "SFP Pending Regulatory Changes."

ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), the SAB must determine that no reasonable alternative it considered or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, the Final Statement of Reasons will be available and copies may be requested from the agency's regulations coordinator named in this notice or may be accessed on the Web site listed above.