

REPORT OF THE EXECUTIVE OFFICER
State Allocation Board Meeting, January 23, 2013

SCHOOL FACILITY PROGRAM REGULATORY AMENDMENTS

PURPOSE OF REPORT

To present proposed regulatory amendments to the School Facility Program (SFP) regulations to provide a mechanism for the State Allocation Board (Board) to rescind the unfunded approval for applications that do not participate in the priority funding process.

DESCRIPTION

At the October 24, 2012 meeting, Staff presented the Board options for advancing applications that are currently on the Unfunded List (Lack of AB 55 Loans). From here forward, this list will be referred to as the list of unfunded approvals. The options were focused on applications that have not participated in the last two or more priority funding request periods. The Board directed Staff to draft regulations that provide a mechanism to rescind the unfunded approval for certain applications that do not participate in the priority funding process.

The proposed amendments to the SFP Regulations in Attachment A provide a method for rescinding any new construction or modernization project for which a district bypasses more than one priority funding request period.

AUTHORITY

See Attachment B.

BACKGROUND

History of the Priority Funding Process

The Board established the priority funding process in May 2010 and has held five priority funding request periods to date. The purpose of the priority funding process is to expedite the apportionment and fund release process for construction-ready projects by reducing the time limit on fund release requests to 90 days. Previously, districts were allowed the statutory maximum of 18 months to request a fund release. For each priority funding round, Staff compiles a complete list of applications from districts that have elected to participate and are able to submit the fund release request within 90 days of apportionment. Once all of the requests to participate have been processed, the Board provides apportionments to projects on the list of unfunded approvals up to the amount of cash available. While the priority funding process has been very successful, not all applicants on the list of unfunded approvals have chosen to participate.

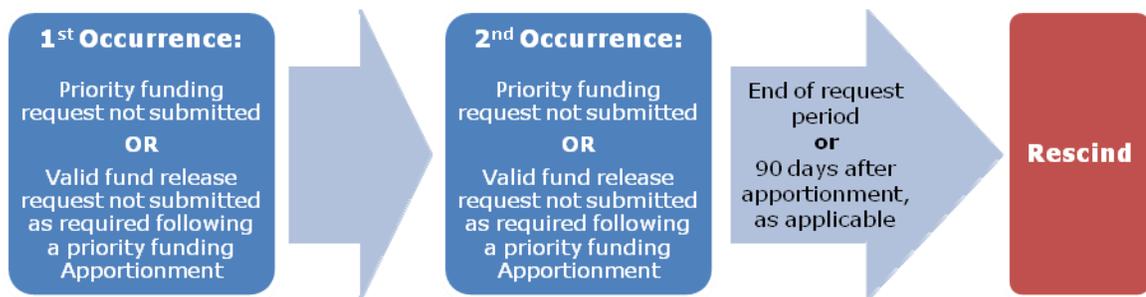
At the October 24, 2012 meeting, the Board discussed options to promote activity on the list of unfunded approvals. The Board approved a motion to develop regulations allowing school districts with new construction and modernization projects to pass on participating in the priority funding process one time, meaning either abstaining from submitting a request to participate in priority funding, or failing to submit a valid fund release request within 90 days after receiving a priority funding apportionment. The Board also specified that the new regulations would not apply to Career Technical Education Facilities Program (CTEFP) and Charter School Facilities Program (CSFP) applications.

STAFF ANALYSIS/STATEMENTS

Based on the direction provided by the Board, Staff has drafted proposed regulations to specify the number of times that a district can decline to participate in the priority funding process.

Proposed Regulatory Amendments

The proposed SFP regulatory amendments shown in Attachment A provide a method for rescinding new construction and modernization applications that have bypassed a priority funding request period or have failed to meet the 90-day fund release request deadline for a priority funding apportionment more than once. In essence, for a particular project, districts are only allowed to “pass” the priority funding process once by either bypassing a priority funding request period, or failing to meet the 90-day fund release request deadline for a priority funding apportionment. The next time a district “passes” the process, the project will be removed from the list of unfunded approvals and/or the priority funding apportionment will be rescinded, as applicable. The rescinded application will not be placed on the Unfunded List or Applications Received Beyond Bond Authority List. Instead, the application will be returned to the district. The district would need to submit a new application to be considered for placement on the Applications Received Beyond Bond Authority List. The following chart illustrates the process:



The proposed SFP regulatory amendments provide an alternative definition of the term *rescission* for projects from specified programs that “pass” on the priority funding process more than once. The amendments provide for a complete project rescission such that an application is returned to the district and bond authority previously allocated to a project is returned to its respective program for allocation to the next eligible SFP application. The applicable new construction or modernization eligibility is reinstated to the district’s baseline for applications that are rescinded.

The attached regulations are structured so that applications receiving an apportionment and that fail to meet the fund release request deadline are classified the same as applications that have bypassed a funding request period. If a district fails to meet the fund release requirement on a priority funding apportionment, it would be required to submit a priority funding request for each subsequent request period until an apportionment is awarded. Failure to submit a valid Form SAB 50-05 after an apportionment is awarded a second time would also result in the rescission of the apportionment and the unfunded approval. When the unfunded approval is rescinded, the application is removed from the list of unfunded approvals and returned to the district.

For the purposes of the regulation, counting the number of times a district “passes” on the priority funding process for a project would only start with the next priority funding request period that occurs after the regulations become effective. Failing to submit a valid fund release or not requesting to participate in a priority funding round before the effective date of the regulations would not be counted against an application.

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STAFF ANALYSIS/STATEMENTS (cont.)

Applicable Programs

At the October 24, 2012 meeting, the Board directed Staff to draft regulatory amendments that would apply to the new construction and modernization programs. The Board specifically excluded the CSFP and the CTEFP from the regulation amendments. These programs work on different timelines than standard new construction and modernization programs. Therefore, the proposed new SFP Regulation Section 1859.90.3 specifically states that it applies only to the SFP new construction, modernization, Facility Hardship and Facility Hardship rehabilitation programs, and excludes the CSFP and CTEFP.

RECOMMENDATIONS

1. Approve the regulatory amendments presented in Attachment A.
2. Authorize the Executive Officer to file the regulations on an emergency basis with the Office of Administrative Law.

BOARD ACTION

In considering this Item, the SAB approved the staff's recommendations, including the subsection modifications in Regulation Section 1859.90.2(c)(2). The language shall read ". . . Section 1859.90.3(c) as defined in Section 1859.90.3(d) . . ."

Section 1859.51. Adjustments to the New Construction Baseline Eligibility.

The baseline eligibility for new construction determined on the Form SAB 50-03, will be adjusted as follows:

- (a) Reduced by the number of pupils provided grants in a new construction SFP project and by the number of pupils that received a Preliminary Apportionment pursuant to Section 1859.140 or a Preliminary Charter School Apportionment pursuant to Section 1859.162.2.
- (b) Reduced by the number of pupils housed, based on the loading standards pursuant to Education Code Section 17071.25(a)(2)(A), in a new construction LPP project funded under the provisions of the LPP pursuant to Sections 1859.12 or 1859.13.
- (c) Reduced by the number of pupils housed in additional classrooms constructed or purchased based on the loading standards, pursuant to Education Code Section 17071.25(a)(2)(A), in a modernization SFP project.
- (d) Adjusted as a result of the audit findings made pursuant to Sections 1859.90, 1859.90.3 and 1859.105.

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Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17052, 17070.51, 17071.25, 17071.75, 17071.76, 17072.20, 17077.40, 17078.72, 17079.20, 42268, and 42270, Education Code.

Section 1859.61. Adjustments to the Modernization Baseline Eligibility.

The baseline eligibility for modernization as provided in Section 1859.60 for a specific site will be adjusted as follows:

- (a) Reduced by the number of pupils provided grants in a modernization SFP project or a CSFP Rehabilitation project at the specific site.
- (b) Reduced by the number of pupils housed, based on the loading standards pursuant to Education Code Section 17071.25(a)(2), in a modernization LPP project funded under the LPP pursuant to Sections 1859.14 and 1859.15.
- (c) Increased by changes in projected enrollment in subsequent enrollment reporting years.
- (d) Increased for additional facilities not previously modernized with State funds, that become 25 years old, if permanent, or 20 years old, if portable or as a result of audit findings made pursuant to Sections 1859.90, 1859.90.3, and 1859.105.

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Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17070.51, 17071.25, 17072.15, 17072.20, 17073.15, 17074.10, 17075.10 and 17079.30, Education Code.

Section 1859.90.2. Priority Funding Process.

The priority funding process allows the Board to distribute available funds to districts or charter schools that request, pursuant to (a) or (b) below, as applicable, an Apportionment or an advance release of funds from a Preliminary Apportionment or Preliminary Charter School Apportionment, during specific 30-calendar day filing periods beginning with July 27, 2011 and continuing with the 2nd Wednesday of January and the 2nd Wednesday of July of 2012. Requests submitted during the filing periods described above are valid until the next filing period begins. The specific 30-calendar day filing periods subsequent to 2012 begin with January 9, 2013 and continue with the 2nd Wednesday of May and the 2nd Wednesday of November, each calendar year. Requests submitted during the filing period beginning with January 9,

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2013 are valid until June 30, 2013. Requests submitted during a filing period beginning with the 2nd Wednesday of May are valid from July 1 until December 31 of that year. 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. Requests must be physically received by the OPSC by the 30th calendar day of each filing period to be considered valid.

~~During the priority funding process a district or charter school must submit a valid, original signature copy of the Form SAB 50-05 within a specified time period of the Apportionment or approved advance release of funds request, pursuant to (a)(2) or (b)(2) of this section, as applicable.~~

~~Projects receiving an apportionment as part of the priority funding process for which the OPSC does not physically receive a valid, original signature copy of the Form SAB 50-05 within the time limit pursuant to (a)(2) or (b)(2) of this section, as applicable, shall be rescinded without further Board action.~~

- (a) In order to be considered for an Apportionment, approved advance release of design funds from a Preliminary Charter School Apportionment, or approved advance release of environmental hardship site acquisition funds from a Preliminary Apportionment, the district or charter school must provide a priority funding request in the form of a written statement signed by an authorized representative that includes each of the project application numbers, and the type of apportionment request (e.g., Apportionment, separate apportionment for design or site acquisition), within the 30-calendar day filing period, and shall contain all of the following:
 - (1) Statement that the request is to convert the unfunded approval to an Apportionment or to receive an approved advance release of funds; and
 - (2) Acknowledgement that a valid, original signature Form SAB 50-05 must be submitted and physically received by the OPSC within 90 calendar days of Apportionment or approved advance release of funds request and that failure to do so will result in the rescission of the Apportionment or approved advance release of funds request without further Board action; and
 - (3) Acknowledgement that, if the district submits the Form SAB 50-05 on or after July 1, 2013 and is required to submit an LCP third party report, pursuant to Section 1859.97(b), the report will be submitted to the OPSC and the DIR at least 60 days prior to submitting the Form SAB 50-05; and
 - (4) For those receiving an Apportionment, acknowledgement that by participating in the priority funding process, the district or charter school is waiving its right to the 18 month timeline for fund release submittal described in Section 1859.90.
- (b) In order to be considered for an approved advance release of site acquisition funds from a Preliminary Charter School Apportionment, the district or charter school must provide a priority funding request in the form of a written statement signed by an authorized representative within the 30-calendar day filing period, and shall contain all of the following:
 - (1) Statement that the request is to convert the advance release of funds to an approved advance release of funds request; and,
 - (2) Acknowledgement that a valid, original signature Form SAB 50-05 must be submitted and physically received by the OPSC within 180 calendar days of the approved advance release of funds request and that failure to do so will result in the rescission of the approved advance release of funds request without further Board action; and
 - (3) Acknowledgement that it must provide evidence that it has entered into the Charter School Agreements within 90 calendar days of approval of the advance release of funds request and that failure to do so will result in the rescission of the approval without further Board action.
- (c) If a district or charter school receives an Apportionment or approved advance release of funds request through the priority funding process, the OPSC must receive a valid, original signature copy of the Form SAB 50-05 within the specified time period, pursuant to (a)(2) or (b)(2) as applicable. If the OPSC does not receive a valid, original signature copy of the Form SAB 50-05 within the time period:
 - (1) The priority funding Apportionment or approved advance release of funds request shall be rescinded without further Board action, and
 - (2) If the application is not subject to rescission pursuant to Section 1859.90.3(c) as defined in Section 1859.90.3(d), the application shall return to the Unfunded List (Lack of AB 55 Loans) with a new unfunded approval date that is 90 calendar days from the date of Apportionment or approval of the advance release of funds request.
- (d) In the event that the amount of requests received during a specific 30-calendar day filing period exceeds the funds available, the Board shall apportion based on the unfunded approval date and the application received date up to the available cash from each bond source. Projects that have requested to participate in the priority funding process for

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which an Apportionment cannot be provided shall retain their date order position on the Unfunded List (Lack of AB 55 Loans). Requests not converted to apportionments will not be returned to the district or kept by the ~~Office of Public School Construction (OPSC)~~.

- (e) For purposes of this section “rescinded” or “rescission” shall mean that the apportionment or approved advance release of funds request returns to unfunded approval status with a new unfunded approval date. The new unfunded approval date will be 90 calendar days ~~after~~from the apportionment date. The district or charter school will not be required to re-submit the application and no further application review will be required.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17072.12, 17072.30, 17074.16, 17076.10, 17077.40, 17077.42 and 17077.45, Education Code.

Section 1859.90.3. Participation in the Priority Funding Process.

This section applies only to applications for new construction, modernization, Facility Hardship pursuant to Section 1859.82 and rehabilitation pursuant to Section 1859.83(e), and specifically excludes applications for the Charter School Facilities and Career Technical Education Facilities Programs.

- (a) For each application on the Unfunded List (Lack of AB 55 Loans) for new construction, modernization, Facility Hardship pursuant to Section 1859.82 or rehabilitation pursuant to Section 1859.83(e), the occurrences of (1) or (2) below shall be limited after the effective date of this regulation section:
- (1) The district abstains from participating in a priority funding 30-calendar day filing period described in Section 1859.90.2 for the application on the Unfunded List (Lack of AB 55 Loans).
- (2) The application receives a priority funding Apportionment pursuant to Section 1859.90.2(a), and the district fails to meet the fund release requirements pursuant to Section 1859.90.2(c).
- (b) The first occurrence of (a)(1) or (a)(2) shall result in the following, as applicable:
- (1) If (a)(1) occurs, the application shall retain its place on the Unfunded List (Lack of AB 55 Loans).
- (2) If (a)(2) occurs, the priority funding Apportionment shall be rescinded and the application shall be returned to the Unfunded List (Lack of AB 55 Loans) pursuant to Section 1859.90.2(c)(2).
- (c) If subsection(b) has occurred, a subsequent occurrence of either (a)(1) or (a)(2) shall result in the rescission of the application’s Apportionment and/or unfunded approval, as applicable, and the removal of the application from the Unfunded List (Lack of AB 55 Loans) without further Board action. The application shall be returned to the applicant.
- (d) For purposes of subsection (c), “rescinded” or “rescission” of an unfunded approval shall mean that the bond authority associated with the Apportionment or unfunded approval, as applicable, returns to the appropriate School Facility Program bond authority source for reallocation. If applicable, the pupils housed in the project will be added back to the district’s baseline eligibility pursuant to Sections 1859.51(d) for new construction or 1859.61(d) for modernization.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17072.12, 17072.30, 17074.16 and 17076.10, Education Code.

Section 1859.90-3.4. Local Bond Reimbursement Fund Releases.

When a school district uses local bond funds to make eligible project expenditures authorized in the Leroy F. Greene Act and state school bonds funds are made available to reimburse the state’s share of those eligible project expenditures, the reimbursement funds shall be used as follows:

- (a) Toward retiring the local bonds; and/or
- (b) Toward uses permitted by the local bond, or
- (c) For any high priority capital outlay expenditure in the district as permitted in Education Code Section 17070.63(c).

The use of the reimbursement funds in accordance with this section shall be subject to oversight by the applicable county office of education pursuant to Education Code Section 1240.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17070.63 and 17072.35, Education Code

Section 1859.104. Program Reporting Requirements.

A district receiving funds in accordance with the Act shall submit the following:

- (a) An expenditure report from the district on the Form SAB 50-06. The program reporting requirements are as follows:
 - (1) The first expenditure report shall be due one year from the date that any funds were released to the district for the project pursuant to Section 1859.90 or 1859.90.2, or upon completion of the project, whichever occurs first. A project shall be deemed complete when either of the following occur:
 - (A) When the notice of completion for the project has been filed, all outstanding invoices, claims, change orders have been satisfied and the facility is currently in use by the district.
 - (B) Three years from the date of the final fund release for an elementary school project or four years from the date of the final fund release for a middle or high school project.
 - (2) The second and subsequent expenditure reports, if necessary, shall be due annually beginning one year from the first report, or upon completion of the project, whichever occurs first. The final expenditure report must be made no later than three years from the date of the final fund release for an elementary school project or four years from the date of the final fund release for a middle or high school project.
- (b) With the exception of projects that qualify for an apportionment pursuant to Section 1859.75.1, a progress report, in the form of a narrative from the district, shall be due 18 months from the date any funds were released to the district for the project pursuant to Section 1859.90 or 1859.90.2. The progress report shall include information regarding the progress the district has made towards substantial completion of the project. If the notice of completion has been filed within 18 months of the release of funds pursuant to Section 1859.90 or 1859.90.2, or the expenditure reports required in (a)(1) or (2) indicate that substantial progress (as defined in Section 1859.105) on the project has occurred, no progress report is required.

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Note: Authority cited: Sections 17070.35, 17072.13 and 17079.30, Education Code.

Reference: Sections 17070.35, 17070.99, 17072.12, 17072.13, 17076.10 and 17079.30, Education Code.

Section 1859.164.2. Preliminary Charter School Apportionment Fund Release.

A Charter School receiving a Preliminary Charter School Apportionment from the Board after July 2, 2003 may request an advance release of funds for either of the following:

- (a) A separate advance release of funds for design equal to 20 percent of the amount determined in Section 1859.163.1(a)(1) through (9) or Section 1859.163.5(a) through (g).
- (b) A separate advance release of funds for site acquisition once the requirements in Section 1859.81.1(a)(2) and (3) are met for an amount not to exceed the Preliminary Charter School Apportionment for site acquisition. The Board shall release to the Charter School an amount up to the Preliminary Charter School Apportionment determined in Section 1859.163.1(b).

Qualified Charter Schools may request a separate advance release of funds for the design and for the site acquisition for the same project. A Charter School seeking an advance release of funds pursuant to (a) and/or (b) must have been deemed and maintained financial soundness status from the Authority. Subject to the availability of financing provided by the Pooled Money Investment Board for bond-funded projects, the OPSC will release State funds included in a Preliminary Charter School Apportionment pursuant to (a) or (b) to the Charter School after submittal of the Form SAB 50-05. The OPSC shall not release funds in excess of the Preliminary Charter School Apportionment. State funds released from a Preliminary Charter School Apportionment pursuant to this Section shall be subject to the provisions in Section 1859.166. Once the Preliminary Charter School Apportionment is converted to a Final Charter School Apportionment pursuant to Section 1859.167, the Charter School may request a release of the remaining funds as prescribed in Section 1859.90 or 1859.90.2. Prior to the release of any funds, the Charter School Agreements must be executed.

Note: Authority cited: Sections 17070.35 and 17078.64, Education Code.

Reference: Sections 17078.53 and 17078.58, Education Code.

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Section 1859.184.1. Application Process for Districts with Financial Hardship Approval.

An approved application for districts that have received Financial Hardship approval shall be substantially identical to that of non-financial hardship districts, with the exception of those districts proposing projects that require the use of condemnation proceedings to acquire all or a portion of the site on which the project will be located. In this instance, the following conditions shall apply:

- (a) A complete application shall include:
 - (1) Documentation of Financial Hardship approval pursuant to Section 1859.81.
 - (2) All project related approvals and requirements that would otherwise apply to SFP projects with the exception of ownership pursuant to Section 1859.23 for those parcels being acquired through condemnation proceedings. A CDE site approval letter is required for all components of the site, including the area to be acquired through condemnation. The CDE Final Plan Approval letter must include the acreage to be acquired through condemnation. This subsection includes the submittal of DSA approved construction plans and related documents.
 - (3) A copy of the Resolution of Necessity for the initiation of condemnation proceedings.
 - (4) For any additional parcels that are being acquired without condemnation, documentation that demonstrates that the district has opened escrow, has ownership, or holds a lease meeting the requirements of Section 1859.22.
 - (5) An appraisal for the value of all properties being acquired as part of the application.
- (b) Site Acquisition Funding for Financial Hardship Overcrowding Relief Grant applications using condemnation shall be equal to the sum of:
 - (1) The lesser of the actual or appraised value for all parcels acquired through means other than condemnation, pursuant to Section 1859.74.
 - (2) The appraised value of the parcels being acquired through condemnation, multiplied by 1.15.
 - (3) Amounts for hazardous waste removal pursuant to Sections 1859.74.2, 1859.74.3 and/or 1859.74.4.
- (c) The Overcrowding Relief Grant projects meeting the criteria in subsection (a) above shall be able to request an advance fund release for site acquisition when condemnation proceedings are required for the acquisition of the site. The advance fund release shall be equal to the State share plus the Financial Hardship grant of only the amount determined in subsection (b).
- (d) Pursuant to Section 1859.103, grants for Overcrowding Relief Grant projects shall be limited to eligible expenditures, up to the State Apportionment for the project with the exception of the funds provided in subsection (b) above that are for site acquisition purposes only and cannot be transferred over to eligible construction related costs.

When making an apportionment for an Overcrowding Relief Grant project meeting the criteria in this section, the Board shall make a Final Apportionment for the total project cost. However, the fund release for the non-site acquisition project costs will not be accepted or processed until the district is able to produce the court order for prejudgment possession verifying the initial amount to be paid through condemnation proceedings. The project timelines for the project as a whole, as specified in law and outlined in Section 1859.90 or 1859.90.2, as applicable, remain in effect. The advance fund release for site acquisition can be requested at any time after the Final Apportionment is granted by the Board. The advance fund release for site acquisition is not subject to the requirements of Section 1859.81.1.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17079.20, Education Code.

GENERAL INFORMATION

(Refer to Title 2, California Code of Regulations, Sections 1859.90 and 1859.91)

After a School Facility Program (SFP) grant has been funded by the Board, the Office of Public School Construction (OPSC) will release the apportioned funds with the exception of design funds, to the appropriate county treasury once the district has completed and submitted this form to the OPSC. Design funds will automatically be released to the district within 30 days of the apportionment, with the exception of Preliminary Apportionments.

The following documents must be submitted with this form (as appropriate):

1. Signature page of the contract(s) that meets the requirement for a fund release (Part V and/or VII).
2. Notice(s) to Proceed.
3. For projects for which construction contracts were awarded prior to January 1, 2012, and that require a Labor Compliance Program (LCP) pursuant to Labor Code Section 1771.7:
 - All school district and/or third party provider Department of Industrial Relations approval letters (initial, extension(s) and/or final).
 - Third party contract(s).
 - A written finding that the district has initiated and enforced, or had contracted with a third party to initiate and enforce, an LCP pursuant to Section 1859.97(a).
 - If the district is submitting this form pursuant to Section 1859.90.2 on or after July 1, 2013, and if the district's LCP approval or contract date with an approved third party is subsequent to the construction contract date(s), the district must have submitted an LCP third party's report, pursuant to Section 1859.97(b), at least 60 days prior to submitting this form.
4. For all projects for which construction contracts are awarded on or after January 1, 2012:
 - Acknowledgement from the Department of Industrial Relations (DIR) of receipt of the district's notice. However, if the construction contract was awarded between January 1, 2012 and July 1, 2012, a copy of the Notice to DIR from the district with proof of mailing will be accepted in lieu of the DIR acknowledgement. The district understands that if it fails to meet the requirements in Labor Code Section 1771.3, it will be required to repay all state bond funds received including interest.
5. For new construction projects that complete Part V attach:
 - Accepted bid documents including additive/deductive alternates.

For the purposes of completing this form to obtain a fund release for a Final Charter School Apportionment, a charter school shall be treated as a school district.

For the purposes of completing this form to obtain a fund release for a Final Career Technical Education Facilities Apportionment, a joint powers authority shall be treated as a school district.

SPECIFIC INSTRUCTIONS

Part I. Preliminary Apportionment—Design Only

Check the boxes if the district has current financial hardship status pursuant to Section 1859.81 and is requesting release of Preliminary Apportionment funds for design, engineering, and other preconstruction project costs. Attach to this form the California Department of Education (CDE) Letter pursuant to Section 1859.149(a)(2).

Part II. Preliminary Charter School Apportionment

Check the boxes if the charter school is requesting a release of a Preliminary Charter School Apportionment for design and/or separate site apportionment pursuant to Section 1859.164.2. Attach to this form the Charter School Agreements.

Part III. Separate Site Apportionment

Check the box, for release of a separate site apportionment provided pursuant to Sections 1859.75.1 or 1859.81.1 or for release of Preliminary Apportionment site only acquisition pursuant to 1859.153(b) or (c).

Part IV. Overcrowding Relief Grant - Advance Site Funds

Check the boxes if the district is requesting an advance release of funds pursuant to Section 1859.184.1.

Part V. New Construction/Modernization/Charter School Rehabilitation

Check the box(es) for release of new construction, modernization or rehabilitation funds and enter the following:

- a. Date of written approval by the Division of the State Architect (DSA).
- b. Enter the percent of the construction the district has under binding contract(s).
- c. Issue date of the Notice to Proceed for the construction phase of the project(s); and,
- d. Award date(s) of the construction contract(s) entered into by the district for this project. (If the space provided is not sufficient for all applicable contract dates, please list all dates on a separate attachment to this form.)

For Final Charter School Apportionment attach to this form the Charter School Agreements if not previously submitted or if since revised.

Part VI. New Construction—Site Acquisition Only

Check the boxes if the district is requesting a separate release of site acquisition funds as part of a new construction project.

Part VII. Joint-Use Projects

Check the boxes if the district is requesting release of joint-use project funds.

Part VIII. Identify District and Joint-Use Partners' Funding Sources

Check the appropriate box(es) that identify the district funding sources that have or will be used for the district's share of the project.

Part IX. Career Technical Education Facilities Projects

Check the appropriate box(es) in Part VIII if the district is requesting a release of Career Technical Education Facilities funds.

Part X. Identify District's Construction Delivery Method

Check the appropriate box that identifies the construction delivery method that the district utilized for this project.

| | |
|-----------------|--|
| SCHOOL DISTRICT | APPLICATION NUMBER |
| SCHOOL NAME | FIVE-DIGIT DISTRICT CODE NUMBER (SEE CALIFORNIA PUBLIC SCHOOL DIRECTORY) |
| COUNTY | HIGH SCHOOL ATTENDANCE AREA (HSAA) (IF APPLICABLE) |

Part I. Preliminary Apportionment—Design Only

- The district certifies it has complied with Section 1859.149(a).
- The district certifies that its applicable matching share has either:
 - been deposited in the County School Facility Fund
 - has already been expended by the district for the project
 - will be expended by the district prior to the Notice of Completion for the project
- The district certifies that it currently has Financial Hardship status under the provisions of Section 1859.81.

- has already been expended by the district for the project
- will be expended by the district prior to the Notice of Completion for the project

Part II. Preliminary Charter School Apportionment

A. Design Only

Pursuant to Section 1859.164.2(a), must be able to check all boxes:

- The Charter School certifies that its applicable matching share has either:
 - been deposited in the County School Facility Fund
 - has already been expended by the Charter School for the project
 - will be expended by the Charter School prior to the Notice of Completion for the project
- The Charter School certifies it has current financial soundness status from the California School Finance Authority.
- The Charter School certifies it has entered into the Charter School Agreements pursuant to Section 1859.164.2.

B. Separate Site Apportionment

Pursuant to Section 1859.164.2(b), must be able to check all boxes:

- Release site acquisition funds. The Charter School certifies the funds are needed to place on deposit in order to secure the site acquisition.
- The Charter School certifies that its applicable matching share has either:
 - been deposited in the County School Facility Fund
 - has already been expended by the Charter School for the project
 - will be expended by the Charter School prior to the Notice of Completion for the project
- The Charter School certifies it has current financial soundness status from the California School Finance Authority.
- The Charter School certifies it has entered into the Charter School Agreements pursuant to Section 1859.164.2.

Part III. Separate Site Apportionment

- RA on additions to existing school sites pursuant to Section 1859.74.4.

Pursuant to Sections 1859.75.1 or 1859.81.1, district must be able to check both boxes:

- Release site acquisition funds. The district certifies the funds are needed to place on deposit in order to secure the site acquisition.
- The district certifies that its applicable matching share has either:
 - been deposited in the County School Facility Fund

Part IV. Overcrowding Relief Grant - Advance Site Funds

Pursuant to Section 1859.184.1, districts that have received Financial Hardship approval that are acquiring sites through condemnation must be able to check all boxes:

- Release site acquisition funds. The district certifies the funds are needed to place on deposit in order to secure the site acquisition.
- The district certifies that its applicable matching share has either:
 - been deposited in the County School Facility Fund
 - has already been expended by the district for the project
 - will be expended by the district prior to the Notice of Completion for the project
- The district certifies that it will produce an order of prejudgment possession once obtained from the court, and prior to any additional fund releases for the project.

Part V. New Construction/Modernization/Charter School Rehabilitation

District/Charter School must be able to check all boxes:

- The district certifies that its applicable matching share has either:
 - been deposited in the County School Facility Fund
 - has already been expended by the district for the project
 - will be expended by the district prior to the Notice of Completion for the project
- The district certifies it has entered into a binding contract(s) for ____ percent of the construction (must be at least 50 percent of the construction included in the plans and specifications applicable to the state funded project), which received written DSA approval on _____, and has issued the Notice(s) to Proceed on _____ for that contract(s) awarded on _____.
 (If the space provided is not sufficient for all applicable contract dates, please list all dates on a separate attachment to this form.)
- If the district certified compliance with Education Code Section 17070.955 on its Application for Funding (Form SAB 50-04) and if it was not previously sent with the Form SAB 50-04, then the district must submit written confirmation from the district's career technical advisory committee indicating that the need for vocational and career technical facilities is being adequately met within the district consistent with Education Code Sections 51224, 51225.3(b), 51228(b), and 52336.1.

The Charter School must also be able to check the following box:

- The Charter School certifies it has entered into the Charter School Agreements pursuant to Section 1859.164.2.

The amount of State funds released for new construction shall be 100 percent of the total SFP New Construction Adjusted Grant, less any site acquisition funds previously released in Part III.

The amount of State funds released for modernization shall be 100 percent of the SFP Modernization Adjusted Grant.

Part VI. New Construction—Site Acquisition Only

District must be able to check both boxes:

- The district certifies it has entered escrow for the site (attach copy of escrow instructions).
- The district certifies that its applicable matching share has either:
 - been deposited in the County School Facility Fund
 - has already been expended by the district for the project
 - will be expended by the district prior to the Notice of Completion for the project

The amount of State funds released shall be equal to the additional grant provided for site acquisition.

Part VII. Joint-Use Projects

- The district certifies that the Joint-Use Partners' financial contribution has either:
 - been received and deposited in the County School Facility Fund
 - has been received and expended by the district
 - will be received and expended by the district prior to the Notice of Completion for the project
- The district certifies it has entered into a binding contract(s) for _____ percent of the construction (must be at least 50 percent of the construction included in the plans and specifications applicable to the state funded project), and has issued the Notice to Proceed on _____ for that contract signed on _____.

The amount of State funds released for new construction shall be 100 percent of the Joint-Use Grant.

Part VIII. Identify District and Joint-Use Partners' Funding Sources

- Available bond funds such as general obligation, or Mello-Roos.
- Available developer fees, proceeds from the sale of surplus property, or federal grants.
- Other funds available (identify)
- Funds already expended by the district for the project.
- Funds already expended by the Joint-Use Partners for the project.
- Future revenue sources to be used for the project (identify)

Part IX. Career Technical Education Facilities Projects

- The district certifies that its applicable matching share has either:
 - been deposited in the County School Facility Fund
 - has already been expended by the district for the project
 - will be expended by the district prior to the Notice of Completion for the project
- If the district requested a loan for its matching share pursuant to Section 1859.194, the district certifies that it has entered into a loan agreement with the State.

Part X. Identify District's Construction Delivery Method

- Design-Bid-Build
- Design-Build
- Developer Built
- Lease Lease-Back
- Energy Performance Contract
- This project includes or will include piggyback contract(s), as defined in Section 1859.2
- Other: _____

I certify, as the District Representative, that the information reported on this form is true and correct and that:

- I am an authorized representative of the district as authorized by the governing board of the district; and
- The site where buildings will be modernized or rehabilitated must comply with Education Code Sections 17212, 17212.5, and 17213; and,
- The grant amount provided by the State, combined with local matching funds or the Joint-Use Partner's financial contribution, are sufficient to complete the school construction project, unless the request is for a separate site and/or design apportionment; and,
- The district has or will comply with the Public Contract Code regarding all laws governing the use of force account labor; and,
- This project for which the grant amount is provided complies with Education Code Sections 17070.50 and 17072.30; and,
- The district shall certify at the time of a fund release for the project that it complies with Section 1859.90.34.
- This form is an exact duplicate (verbatim) of the form provided by the Office of Public School Construction (OPSC). In the event a conflict should exist, then the language in the OPSC form will prevail; and,
- If required by Labor Code Section 1771.7, the district has initiated and enforced a LCP that has been approved by the DIR.
- If required by Labor Code Section 1771.3(a), the district will contract with the DIR for the required Prevailing Wage Monitoring and Enforcement, or the requirement is waived pursuant to Labor Code Section 1771.3(b). The district understands that if it fails to meet this requirement, it will be required to repay all state bond funds received including interest.

| | |
|--|------------------|
| SIGNATURE OF DISTRICT OR JPA REPRESENTATIVE | DATE |
| NAME OF DISTRICT OR JPA REPRESENTATIVE (PRINT) | TITLE |
| EMAIL ADDRESS | TELEPHONE NUMBER |

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AUTHORITY

Education Code (EC) Section 17072.20 states:

- (a) An applicant school district that has been determined by the board to meet the eligibility requirements for new construction funding set forth in Article 2 (commencing with Section 17071.10) or Article 3 (commencing with Section 17071.75) may submit at any time a request to the board for a project apportionment for all or a portion of the funding for which the school district is eligible.
- (b) The application shall include, but shall not be limited to, the school district's determination of the amount of state funding that the district is otherwise eligible for relating to site acquisition, site development, new construction, and hardship funding provided pursuant to Article 8 (commencing with Section 17075.10), if any. The amount shall be reduced by the amount of the alternative fee collected pursuant to subdivision (a) of Section 65995.7 of the Government Code if a reimbursement election or agreement pursuant to Section 65995.7 of the Government Code is not in effect.
- (c) The board shall verify and adjust, as necessary, and approve the district's application.

EC Section 17070.35 states:

- (a) In addition to all other powers and duties as are granted to the board by this chapter, other statutes, or the California Constitution, the board shall do all of the following:
 - (1) Adopt rules and regulations, pursuant to the rulemaking provisions of the Administrative Procedure Act, Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, for the administration of this chapter. However, the board shall have no authority to set the level of the fees of any architect, structural engineer, or other design professional on any project. The initial regulations adopted pursuant to this chapter shall be adopted as emergency regulations, and the circumstances related to the initial adoption are hereby deemed to constitute an emergency for this purpose. The initial regulations adopted pursuant to this chapter shall be adopted by November 4, 1998. If the initial regulations are not adopted by that date, the board shall report to the Legislature by that date, explaining the reasons for the delay.
 - (2) Establish and publish any procedures and policies in connection with the administration of this chapter as it deems necessary.
 - (3) Determine the eligibility of school districts to receive apportionments under this chapter.
 - (4) Apportion funds to eligible school districts under this chapter.
- (b) The board shall review and amend its regulations as necessary to adjust its administration of this chapter to conform with the act that amended this section to add this subdivision. Regulations adopted pursuant to this subdivision shall be adopted by November 5, 2002, and shall be adopted as emergency regulations in accordance with the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). The adoption of any emergency regulation pursuant to this subdivision filed with the Office of Administrative Law shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare. Notwithstanding subdivision (e) of Section 11346.1 of the Government Code, any emergency regulation adopted pursuant to this section shall remain in effect for no more than 365 days unless the board has complied with Sections 11346.2 to 11348, inclusive, of the Government Code.

EC Section 100410 (a) states:

Three billion three hundred fifty million dollars (\$3,350,000,000) of the proceeds of bonds issued and sold pursuant to this part shall be deposited in the 1998 State School Facilities Fund, which is established by Section 17070.40, and allocated by the State Allocation Board pursuant to this chapter. Before requesting the sale of bonds pursuant to Section 100432 for deposit in the State School Facilities Fund, the State Allocation Board shall request, pursuant to Section 100432, the sale of bonds sufficient to finance all projects for which application was made pursuant to the Leroy F. Greene State School Building Lease-

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Purchase Law of 1976 (Chapter 12 (commencing with Section 17000) of Part 10) and for which an application was approved for construction, but funding was not available, prior to November 4, 1998.”

EC Section 100620(a)(3) states:

The amount of two billion nine hundred million dollars (\$2,900,000,000) for new construction of school facilities pursuant to Chapter 12.5 (commencing with Section 17070.10) of Part 10 for those school districts that have filed an application with the Office of Public School Construction on or before February 1, 2002, including, but not limited to, hardship applications. If the amount made available for purposes of this paragraph is not needed and expended for the purposes of this paragraph, the State Allocation Board may allocate the remainder of these funds for purposes of paragraph (1).”

EC Section 100620(a)(4) states:

The amount of one billion nine hundred million dollars (\$1,900,000,000) for the modernization of school facilities pursuant to Chapter 12.5 (commencing with Section 17070.10) of Part 10, for those school districts that have filed an application with the Office of Public School Construction on or before February 1, 2002, including, but not limited to, hardship applications. If the amount made available for purposes of this paragraph is not needed and expended for the purposes of this paragraph, the State Allocation Board may allocate these funds for purposes of paragraph (2).”

EC Section 17009.5 states:

- (a) Except as set forth in Section 17052, on and after November 4, 1998, the board shall only approve and fund school facilities construction projects pursuant to Chapter 12.5 (commencing with Section 17070.10).
- (b) A school district with a first priority project that has received a construction approval by the Department of General Services, Division of the State Architect, or a joint-use project approval by the board, prior to November 4, 1998, for growth or modernization pursuant to this chapter shall receive funding pursuant to this chapter for all unfunded approved project costs as it would have received under this chapter, and the increased capacity assigned to the project shall be included in calculating the district's capacity pursuant to Chapter 12.5 (commencing with Section 17070.10). Funds received for projects described in this subdivision shall constitute the state's final and full contribution to these projects. The board shall not consider additional project funding except when otherwise authorized under Chapter 12.5 (commencing with Section 17070.10).
- (c) A school district with a second priority project that has received a construction approval by the Department of General Services, Division of the State Architect prior to November 4, 1998, for growth or modernization pursuant to this chapter shall elect to do either of the following:
 - (1) Withdraw the application under this chapter, submit an initial report and application pursuant to Chapter 12.5 (commencing with Section 17070.10), and receive per pupil allocations as set forth in Chapter 12.5 (commencing with Section 17070.10). If the district withdraws the application, any funds previously allocated under this chapter for the project shall be offset from the first grant to the district under Chapter 12.5 (commencing with Section 17070.10).
 - (2) Convert the second priority project approved under this chapter to a first priority status and receive funds in accordance with this chapter.
- (d) Notwithstanding priorities established pursuant to Chapter 12.5 (commencing with Section 17070.10), projects authorized for funding as set forth in this section shall be funded by the board pursuant to this chapter prior to funding other projects pursuant to Chapter 12.5 (commencing with Section 17070.10).
- (e) For purposes of funding priority for modernization grants under Chapter 12.5 (commencing with Section 17070.10), a district that applies under subdivision (b) or paragraph (1) of subdivision (c) shall retain its original project approval date.
- (f) Notwithstanding Section 17017.1, West Contra Costa Unified School District shall be eligible for state facilities funds beginning November 4, 1998.

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(g) The State Allocation Board shall adopt regulations to ensure that an appropriate offset is made from funds approved pursuant to this chapter, for funds awarded to school districts pursuant to Chapter 12 (commencing with Section 17000) prior to November 4, 1998.”

School Facility Program (SFP) Regulation Section 1859.2 states in part:

...

“Approved Application(s)” means a district has submitted the application and all documents to the Office of Public School Construction that are required to be submitted with the application as identified in the General Information Section of Forms SAB 50-01; SAB 50-02; SAB 50-03; and SAB 50-04, as specified in Section 1859.2.

...

“Unfunded List” means an information list of unfunded projects, with the exception of the unfunded list defined below as “Unfunded List (Lack of AB 55 Loans)”.

...

“Unfunded List (Lack of AB 55 Loans)” means an information list of unfunded projects that was created due to the State’s inability to provide interim 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.

SFP Regulation Section 1859.90 states:

With the exception of an apportionment made pursuant to Sections 1859.81.1(e) or 1859.81.2, or of an Inactive Apportionment subject to Section 1859.96, the OPSC will release State funds that the Board has apportioned to the district after submittal, by the district, of the Form SAB 50-05, subject to the availability of financing provided by the Pooled Money Investment Board for bond-funded projects. With the exception of an apportionment made for a Type II Joint-Use Project, not part of a qualifying SFP Modernization project, pursuant to Article 12 of these Regulations, a district must submit the Form SAB 50-05, within 18 months of the Apportionment of the SFP grant for the project or the entire New Construction Adjusted Grant, Modernization Adjusted Grant or Type I or II, part of a qualifying SFP Modernization project, Joint-Use Project apportionment shall be rescinded without further Board action, and the pupils housed in the project, if applicable, will be added back to the district’s baseline eligibility. The district may refile a new application for the project subject to district eligibility and priority funding at the time of resubmittal.

If the apportionment was made for a Type II Joint-Use Project, not part of a qualifying SFP Modernization project, pursuant to Article 12 of these Regulations, the district must submit Form SAB 50-05 within 18 months of the date the plans and specifications for the Joint-Use Project that have been approved by the DSA and the CDE are submitted to the OPSC or the apportionment shall be rescinded without further Board action.

Subject to the availability of financing provided by the Pooled Money Investment Board for bond-funded projects, the OPSC will release State funds that have been apportioned by the Board pursuant to Section 1859.81.1(e) to the district within 30 calendar days of the apportionment.

SFP Regulation Section 1859.90.2 states:

The priority funding process allows the Board to distribute available funds to districts or charter schools that request, pursuant to (a) or (b) below, as applicable, an Apportionment or an advance release of funds from a Preliminary Apportionment or Preliminary Charter School Apportionment, during specific 30-calendar day filing periods beginning with July 27, 2011 and continuing with the 2nd Wednesday of January and the 2nd Wednesday of July of 2012. Requests submitted during the filing periods described above are valid until the next filing period begins. The specific 30-calendar day filing periods subsequent to 2012 begin with January

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9, 2013 and continue with the 2nd Wednesday of May and the 2nd Wednesday of November, each calendar year. Requests submitted during the filing period beginning with January 9, 2013 are valid until June 30, 2013. Requests submitted during a filing period beginning with the 2nd Wednesday of May are valid from July 1 until December 31 of that year. 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. Requests must be physically received by the OPSC by the 30th calendar day of each filing period to be considered valid.

During the priority funding process a district or charter school must submit a valid, original signature copy of the Form SAB 50-05 within a specified time period of the Apportionment or approved advance release of funds request, pursuant to (a)(2) or (b)(2) of this section, as applicable.

Projects receiving an apportionment as part of the priority funding process for which the OPSC does not physically receive a valid, original signature copy of the Form SAB 50-05 within the time limit pursuant to (a)(2) or (b)(2) of this section, as applicable, shall be rescinded without further Board action.

(a) In order to be considered for an Apportionment, approved advance release of design funds from a Preliminary Charter School Apportionment, or approved advance release of environmental hardship site acquisition funds from a Preliminary Apportionment, the district or charter school must provide a priority funding request in the form of a written statement signed by an authorized representative that includes each of the project application numbers, and the type of apportionment request (e.g., Apportionment, separate apportionment for design or site acquisition), within the 30-calendar day filing period, and shall contain all of the following:

- (1) Statement that the request is to convert the unfunded approval to an Apportionment or to receive an approved advance release of funds; and
 - (2) Acknowledgement that a valid, original signature Form SAB 50-05 must be submitted and physically received by the OPSC within 90 calendar days of Apportionment or approved advance release of funds request and that failure to do so will result in the rescission of the Apportionment or approved advance release of funds request without further Board action; and
 - (3) Acknowledgement that, if the district submits the Form SAB 50-05 on or after July 1, 2013 and is required to submit an LCP third party report, pursuant to Section 1859.97(b), the report will be submitted to the OPSC and the DIR at least 60 days prior to submitting the Form SAB 50-05; and
 - (4) For those receiving an Apportionment, acknowledgement that by participating in the priority funding process, the district or charter school is waiving its right to the 18 month timeline for fund release submittal described in Section 1859.90.
- (b) In order to be considered for an approved advance release of site acquisition funds from a Preliminary Charter School Apportionment, the district or charter school must provide a priority funding request in the form of a written statement signed by an authorized representative within the 30-calendar day filing period, and shall contain all of the following:
- (1) Statement that the request is to convert the advance release of funds to an approved advance release of funds request; and,
 - (2) Acknowledgement that a valid, original signature Form SAB 50-05 must be submitted and physically received by the OPSC within 180 calendar days of the approved advance release of funds request and that failure to do so will result in the rescission of the approved advance release of funds request without further Board action; and
 - (3) Acknowledgement that it must provide evidence that it has entered into the Charter School Agreements within 90 calendar days of approval of the advance release of funds request and that failure to do so will result in the rescission of the approval without further Board action.

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In the event that the amount of requests received during a specific 30-calendar day filing period exceeds the funds available, the Board shall apportion based on the unfunded approval date and the application received date up to the available cash from each bond source. Projects that have requested to participate in the priority funding process for which an Apportionment cannot be provided shall retain their date order position on the Unfunded List. Requests not converted to apportionments will not be returned to the district or kept by the Office of Public School Construction (OPSC).

For purposes of this section “rescinded” or “rescission” shall mean that the apportionment or approved advance release of funds request returns to unfunded approval status with a new unfunded approval date. The new unfunded approval date will be 90 calendar days after the apportionment date. The district or charter school will not be required to re-submit the application and no further application review will be required.

SFP Regulation Section 1859.129(b)(2) states:

Has 18 months from the date the [Division of State Architect] DSA and [California Department of Education] CDE approved plans were submitted to the OPSC to submit a completed Form SAB 50-05 or the apportionment will be rescinded without further Board action. If the district is requesting an Apportionment pursuant to Section 1859.90.1 or 1859.90.2, the Board will require that this time limit be reduced to no more than 90 days from the date of the apportionment.”

SFP Regulation Section 1859.197 (b)(2) states:

Has 18 months from the date the CDE plan approval and DSA-approved plans and specifications, as needed, are submitted to the OPSC to submit a completed Form SAB 50-05 or the apportionment shall be rescinded without further Board action. If the district is requesting an apportionment pursuant to Section 1859.90.1 or 1859.90.2, the Board will require that this time limit be reduced to no more than 90 days from the date of the apportionment.