

**INITIAL STATEMENT OF REASONS**  
**SCHOOL FACILITY PROGRAM REGULATIONS**

**Section 1859.2. Definitions.**

**Specific Purpose of the Regulation**

To provide the meaning of specific terms that are essential to these regulations by revising the *Application for Funding*, (Form SAB 50-04), and changing the revision date of this Form.

**Need for the Regulation**

“Form SAB 50-04”: It was necessary to bring current the latest revision date for this Form from “10/14” to “02/15” for purposes of maintaining the continuity of the School Facility Program (SFP) Regulations and so that applicants can identify and file the most current version of the State Allocation Board (SAB) Form.

**Section 1859.70.4. Available Funding for High Performance.**

**Specific Purpose of the Regulation**

To set forth language that implements provisions contained in Senate Bill (SB) 869, Chapter 39, Statutes of 2014.

**Need for the Regulation**

Second and third paragraphs: It was necessary to add this language as SB 869 restricts the SAB’s ability to allocate HPI grant funds to projects on or after January 1, 2015. SB 869 also sets forth direction as to how much of the unallocated HPI funds shall be transferred to the New Construction and Modernization Accounts. Further, SB 869 allows the SAB to determine the percentage of the returning HPI grant funds [from rescissions and/or costs incurred] that will be distributed to the New Construction and Modernization Accounts.

**Section 1859.107. Amending and Withdrawal of Applications.**

**Specific Purpose of the Regulation**

To set forth language that implements provisions contained in SB 869, Chapter 39, Statutes of 2014.

**Need for the Regulation**

Fourth Paragraph: It was necessary to add this sentence as SB 869 restricts the SAB’s ability to allocate HPI grant funds to projects and from approving CTEFP projects on or after January 1, 2015.

**Section 1859.164.2. Preliminary Charter School Apportionment Fund Release.**

**Specific Purpose of the Regulation**

To specify additional references related to this regulation section.

**Need for the Regulation**

Subsection (a): It was necessary to correct and provide additional regulatory references to this subsection so that the Preliminary Charter School Apportionment amount and the amount for the Preliminary Apportionment for Rehabilitation projects include the necessary grants prior to funds being released. This will maintain integrity for the Charter School Facilities Program.

**Section 1859.190. General.**

**Specific Purpose of the Regulation**

To set forth language that implements provisions contained in SB 869, Chapter 39, Statutes of 2014.

**Need for the Regulation**

Fourth and fifth paragraphs: It was necessary to add this language as SB 869 restricts the SAB's ability from allocating CTEFP bond authority to projects on or after January 1, 2015. SB 869 sets forth direction as to how much of the unallocated CTEFP bond authority shall be transferred to the New Construction and Modernization Accounts. Further, SB 869 allows the SAB to determine the percentage of the returning CTEFP bond authority [from rescissions and/or costs incurred] that will be distributed to the New Construction and Modernization Accounts.

**Section 1859.195. Career Technical Education Facilities Project Apportionment.**

**Specific Purpose of the Regulation**

To set forth language that implements provisions contained in SB 869, Chapter 39, Statutes of 2014.

**Need for the Regulation**

Subsection (c): It was necessary to add this language because SB 869 restricts the SAB's ability to approve CTEFP projects on or after January 1, 2015.

**Section 1859.198. Time Limit on Apportionment and Substantial Progress.**

**Specific Purpose of the Regulation**

To set forth language that implements provisions contained in SB 869, Chapter 39, Statutes of 2014.

## **Need for the Regulation**

Second paragraph: It was necessary to add this language because SB 869 restricts the SAB's ability to approve CTEFP projects on or after January 1, 2015, and it allows the SAB to determine the percentage of the returning CTEFP bond authority [from rescissions and/or costs incurred] that will be distributed to the New Construction and Modernization Accounts.

## **SCHOOL FACILITY PROGRAM FORM**

### **Application for Funding, Form SAB 50-04 (Revised ~~10/14~~ 02/15).**

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

To set forth language that implements provisions contained in SB 869, Chapter 39, Statutes of 2014 and to bring current the latest revision date for this Form from "05/14" to "02/15."

#### **Need for the Form**

Form Heading, all pages: It was necessary to update the revision date of this Form SAB 50-04 from "05/14" to "02/15" for the consistency of the SAB's forms and regulations, and so that applicants to the School Facility Program can identify the latest version of the Form to file.

Page 4, Specific Instructions, column #1, #5.l. and #6.e.: It was necessary to add this language as SB 869 restricts the SAB's ability to allocate HPI grant funds to projects on or after January 1, 2015.

#### **Office of Administrative Law Regulations, Title 1, Section 20(c)(1)**

Because the State Allocation Board's School Facility Program Form [SAB 50-04] is frequently revised and is a rather lengthy document, it would be cumbersome, unduly expensive and otherwise impractical to publish the Form in the California Code of Regulations. Therefore, it is not necessary to publish the Form in the California Code of Regulations.

#### **Office of Administrative Law Regulations, Title 1, Section 20(c)(2)**

The State Allocation Board's School Facility Form [SAB 50-04] is available upon request and through our Web site, and continues to be made available upon request and through our Web site.

#### **Anticipated Benefits and Economic Impact of the Proposed Regulations**

The proposed regulatory amendments benefit school districts and the State of California by transferring HPI grants and CTEFP bond authority to the New Construction and Modernization categories to fund school construction projects, which include health and safety projects. These regulatory amendments benefit the State of California as they assist in increasing the State's infrastructure investment resulting in a positive impact to the State's economy and support job creation. In addition, these regulations will have a positive impact to various business, manufacturing, and construction-related industries such as architecture, engineering, trades (carpenters, masons, electricians, roofers, etc.), and municipalities.

The proposed regulatory amendments help carry out the Legislative intent of SB 869, Chapter 39, Statutes of 2014. Therefore, the proposed regulatory amendments are 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, on the State's economy, and support job creation.

## **DOCUMENTS RELIED UPON AND STATEMENTS REGARDING THE RULEMAKING**

### **Technical Documents Relied Upon:**

The SAB's Action Item, dated February 24, 2015, entitled "Implementation of Senate Bill 869 Proposed Regulations."

### **Alternatives to the Proposed Regulatory Actions that would be as Effective and Less Burdensome to Private Persons**

The SAB finds that no alternatives it has considered would be more effective in carrying out the purpose of the proposed regulations or would be as effective and less burdensome to affected private persons than the proposed regulations or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

### **Alternatives to the Proposed Regulatory Actions that would Lessen any Adverse Economic Impact on Small Business**

The SAB has determined that the proposed regulations will not have a negative impact on small businesses.

### **Finding of Significant Adverse Economic Impact on Businesses**

The SAB has determined that the adoption of the proposed regulations will not negatively affect businesses/small businesses because they are not required to directly comply with or enforce the regulations, nor will they be disadvantaged by the regulations. In fact, the demand on the manufacturing and construction-related industries could potentially stimulate the creation of small businesses in these areas.

### **Impact on Local Agencies or School Districts**

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

**ECONOMIC IMPACT ASSESSMENT OF REGULATIONS**  
***“Implementation of Senate Bill 869 Proposed Regulations”***

**Proposed State Allocation Board Regulations**

The State Allocation Board (SAB), at its February 24, 2015 meeting, adopted regulatory amendments to the School Facility Program (SFP) Regulations that would align the SFP regulations with changes to the High Performance Incentive (HPI) grants and Career Technical Education Facilities Program (CTEFP) as a result of Senate Bill (SB) 869, Chapter 39, Statutes of 2014.

**Background and Problem Being Resolved**

The proposed regulatory amendments remove the statutory authority for the SAB to make apportionments and/or approve HPI grants and CTEFP funding on or after January 1, 2015. It should be noted, however, that projects on the Unfunded List (Lack of AB 55 Loans) will retain the HPI and CTEFP bond authority as long as the SAB approved it on or before December 31, 2014.

SB 869, Chapter 39, Statutes of 2014, also provides that by January 1, 2015, the remaining or unallocated HPI [\$32,454,279] and CTEFP bond authority [\$650,113.53] will be transferred to the New Construction and Modernization categories on a 50/50 basis; 50 percent to the New Construction Account and 50 percent to the Modernization Account. In addition, the statute stipulates that for any HPI or CTEFP bond authority returning to these programs on or after January 1, 2015, the SAB shall determine the percentage of the rescinded amount to be used for New Construction and Modernization purposes [construction-ready projects]. The proposed regulatory amendments continue to promote the stimulation of the economy and support the creation of jobs.

**Description of Regulations to Implement Law**

The Leroy F. Greene School Facilities Act of 1998 established, through Senate Bill 50, Chapter 407, Statutes of 1998, the 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 and filed with the Secretary of State on October 8, 1999.

The proposed regulatory amendments help carry out the Legislative intent of SB 869, Chapter 39, Statutes of 2014, and are summarized as follows:

Existing Regulation Section 1859.2 represents a set of defined words and terms used exclusively for these regulations. The proposed regulatory amendments incorporate specific Education Code sections that implement the provisions contained in SB 869, which in turn, updates the revision date of the Form SAB 50-04.

Existing Regulation Section 1859.70.4 sets aside \$100 million and sets forth criteria for school districts for the costs of design and materials in new construction and modernization projects that save energy and water, maximize natural lighting and indoor air quality, use recycled and low-toxin materials, use better acoustics to promote learning, and apply other high performance improvements. The proposed regulatory amendments set forth enacting language that is consistent with the law (SB 869, Chapter 39, Statutes of 2014).

Existing Regulation Section 1859.107 provides for the withdrawal and resubmittal of applications in order to benefit from changes in the law or regulations. This Section also specifies how eligibility/funding applications will be processed based upon the date of submittal, specified funding adjustments, and criteria for the amendment, withdrawal, or resubmittal of eligibility/funding applications. The proposed regulatory amendment sets forth enacting language that is consistent with the law (SB 869, Chapter 39, Statutes of 2014).

Existing Regulation Section 1859.164.2 sets forth criteria for the release of funds to charter school applicants from Preliminary Charter School Apportionments. This Section also provides for the advance releases of funds for specified design costs and site acquisition costs for qualified charter schools that maintain financial soundness. The proposed amendments provide additional regulatory references that are necessary to maintain the accuracy of this Section.

Existing Regulation Section 1859.190 sets forth general filing submittal instructions and specifies that CTEFP modernization projects do not affect the Modernization Eligibility of that facility pursuant to Regulation Section 1859.60. The proposed regulatory amendments set forth enacting language that is consistent with the law (SB 869, Chapter 39, Statutes of 2014).

Existing Regulation Section 1859.195 delineates the specific dollar amounts to be apportioned and how those dollars will be distributed for the first and second six-month funding cycles for CTEFP applications. The proposed regulatory amendments set forth enacting language that is consistent with the law (SB 869, Chapter 39, Statutes of 2014).

Existing Regulation Section 1859.198 provides that applicants are subject to time limit on apportionment as outlined in Education Code and substantial progress requirements as specified in regulation. This Section also sets forth the use of returned funds to the CTEFP (from rescissions or reduced to costs incurred) to be made available for subsequent funding cycles. The proposed regulatory amendments set forth enacting language that is consistent with the law (SB 869, Chapter 39, Statutes of 2014).

Existing Form SAB 50-04, *Application for Funding*, is submitted by school districts to apply for state funding for new construction or modernization projects. The proposed regulatory amendments set forth enacting language that is consistent with the law (SB 869, Chapter 39, Statutes of 2014).

#### *Anticipated Benefits of the Proposed Regulations*

The proposed regulatory amendments benefit school districts and the State of California by transferring HPI grants and CTEFP bond authority to the New Construction and Modernization categories to fund school construction projects, which include health and safety projects. These regulatory amendments benefit the State of California as they assist in increasing the State's infrastructure investment resulting in a positive impact to the State's economy and support job creation. In addition, these regulations will have a positive impact to various business, manufacturing, and construction-related industries such as architecture, engineering, trades (carpenters, masons, electricians, roofers, etc.), and municipalities.

The proposed regulatory amendments help carry out the Legislative intent of SB 869, Chapter 39, Statutes of 2014. Therefore, the proposed regulatory amendments are 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, on the State's economy, and support job creation.

#### Statutory Authority and Implementation

Education Code Section 17070.35. (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.

Government Code Section 15503. Whenever the board is required to make allocations or apportionments under this part, it shall prescribe rules and regulations for the administration of, and not inconsistent with, the act making the appropriation of funds to be allocated or apportioned. The board shall require the procedure, forms, and the submission of any information it may deem necessary or appropriate. Unless otherwise provided in the appropriation act, the board may require that applications for allocations or apportionments be submitted to it for approval.

#### **Impact to California Businesses and Jobs**

There is a positive economic impact to California business assigned to these regulatory amendments. With HPI grants and CTEFP bond authority being transferred to the New Construction and Modernization categories, the funds/bond authority will be used to make apportionments for school construction projects, which include health and safety. Once the funds have been released, school districts can begin construction, which means they have entered into contracts and work can begin. These regulations affect various business, manufacturing, and construction-related industries such as architecture, engineering, trades and municipalities, which continue to promote the stimulation of the economy and support job creation.

Therefore, the proposed regulations will have a positive impact on the creation of jobs, the creation of new businesses, and the expansion of businesses in California. It is not anticipated that the proposed regulations will result in the elimination of existing businesses or jobs within California.

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

- There is a health and safety impact assigned to these regulatory amendments. Health and safety projects are considered priority projects by the SAB. This means that when funds become available for apportionment, these projects are first in line to receive the funding.
- There are continued benefits to the health and welfare of California residents and worker safety. School districts utilize construction and trades employees to work on school construction projects and although these proposed regulations do not directly impact worker's safety, existing law provides for the availability of a skilled labor force and encourages improved health and safety of construction and trades employees through proper apprenticeship and training.

- These regulations will have a positive impact to various business, manufacturing, and construction-related industries such as architecture, engineering, trades (carpenters, masons, electricians, roofers, etc.), and municipalities, and support the creation of an unspecified number of jobs.
- There is no impact to the State's environment from the proposed regulations.