

FINDING OF EMERGENCY

The State Allocation Board (SAB) finds that an emergency exists, and that the proposed regulations are necessary for immediate action to avoid serious harm to the public peace, health, safety, or general welfare.

Specific Facts Showing the Need for Immediate Action

The State Allocation Board (SAB), at its August 26, 2009 meeting, amended a School Facility Program (SFP) regulation section to promote broader participation by school districts in the Seismic Mitigation Program. This program was established by Assembly Bill 127, Chapter 35, Statutes of 2006 (Perata/Nunez), for seismic repair, reconstruction, or replacement of “the most vulnerable” school facilities. It became law on May 20, 2006 and was funded in the amount of \$199.5 million by Proposition 1D approved at the November 7, 2006 General Election.

The purpose of the program is to save lives and prevent damage in the most vulnerable school facilities during a seismic event. However, only one seismic mitigation project has been approved by the SAB representing State funds of \$3.7 million. In order to increase program applications and disburse the remaining \$195.8 million of State funding for this vital purpose, the SAB found it necessary to reduce the 1.70 g ground shaking threshold (short period spectral acceleration) to 1.68 g for program eligibility.

The Board also added four more building types as eligible for funding:

- Building types already eligible:
 - C1 . . . Concrete Moment Frame,
 - PC1A . . Precast/Tilt-up Concrete Shear Wall with Flexible Roof,
 - PC2 . . . Precast Concrete Frame and Roofs with Concrete Shear Walls, and
 - URM . . . Unreinforced Masonry Bearing Wall Buildings.

- Building types added:
 - C1B . . . Reinforced Concrete Cantilever Columns with Wood Roofs,
 - PC1 . . . Precast/Tilt-up Concrete Shear Wall with Concrete Floor and Roof Diaphragms,
 - PC2A . . Precast Concrete Frame without Concrete Shear Walls and with Rigid Floor and Roof Diaphragms, and
 - C3A . . . Concrete Frame with Infill Masonry Shear Walls and Flexible Floor and Roof Diaphragms.

The amendments increase the estimated number of potentially eligible school facilities from 25 to 48 totaling approximately \$167.2 million, but not exceeding the bond covenant of \$199.5 million authorized for the program. Many school districts are waiting for these regulations to be in place prior to submitting applications/structural engineering reports to the Division of the State Architect (DSA). The DSA has received 50 applications of which five applications/structural engineering reports have been approved as qualifying for the Seismic Mitigation Program funding. Failure to approve these regulations on an emergency basis will have a negative impact for those projects that are ready to receive State funding to begin the seismic retrofit work, and will not help stimulate the State’s economy by creating various jobs associated with the construction industry.

Authority and Reference Citations

Authority: Section 17070.35 of the Education Code and Section 53311 of the Government Code.

Reference: Section 17070.35 of the Education Code.

Informative Digest/Policy Overview Statement

Senate Bill 50, Chapter 407, Statutes of 1998, established the School Facility Program which streamlined funding processes, eliminated State oversight, and made school districts more accountable for their projects. The SAB adopted regulations to implement the Leroy F. Greene School Facilities Act of 1998, which were adopted by the Office of Administrative Law (OAL) and filed with the Secretary of State on October 8, 1999.

The Seismic Mitigation Program was established by Assembly Bill 127, Chapter 35, Statutes of 2006 (Perata/Nunez), which became law on May 20, 2006, and was funded in the amount of \$199.5 million for seismic repair, reconstruction, or replacement of “the most vulnerable” school facilities by Proposition 1D approved at the November 7, 2006 General Election. The SAB initially adopted regulations to implement the program which were approved by the OAL [File No. 2008-0318-02S] and filed with the Secretary of State, effective April 30, 2008.

The proposed amendments to SFP regulation sections are summarized as follows:

Existing Regulation Section 1859.2 represents a set of defined words and terms used exclusively for these regulations. The proposed amendments change the definition of “Most Vulnerable Category 2 Buildings” by reducing the ground shaking threshold (short period spectral acceleration) for program eligibility from 1.70 g to 1.68 g, and by adding four more building types as eligible for funding:

- C1B . . . Reinforced Concrete Cantilever Columns with Wood Roofs,
- PC1 . . . Precast/Tilt-up Concrete Shear Wall with Concrete Floor and Roof Diaphragms,
- PC2A . . . Precast Concrete Frame without Concrete Shear Walls and with Rigid Floor and Roof Diaphragms, and
- C3A . . . Concrete Frame with Infill Masonry Shear Walls and Flexible Floor and Roof Diaphragms.

Mandate 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 local agencies or school districts to incur additional costs in order to comply with the proposed emergency regulations.

Cost Estimate

The Executive Officer of the SAB has assessed the potential for significant adverse economic impact that might result from the proposed emergency regulatory action and it has been determined that:

- There will be no costs or savings to the State.
- There will be no non-discretionary costs or savings to local agencies.
- There will be no costs to school districts 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.