

REPORT OF THE EXECUTIVE OFFICER
State Allocation Board Meeting, March 25, 2009

CAREER TECHNICAL EDUCATION FACILITIES PROGRAM
FISCAL EMERGENCY EXTENSION REQUEST

PURPOSE OF REPORT

To present a request that the Board make a finding that a fiscal emergency exists and declare intent to consider extensions to Career Technical Education Facilities Program (CTEFP) projects once regulations are approved.

DESCRIPTION

The current financial crisis has impacted some school districts' ability to proceed with their current school facility related projects. As a result, some districts are unable to submit to the Office of Public School Construction (OPSC) approved construction plans for their School Facility Program (SFP) CTEFP projects within the required deadlines. Based on the regulations adopted at the February 25, 2009 Board meeting, many districts are seeking an extension to the required deadline. An extension would give districts adequate time to acquire the required documents required due to circumstances related to the current Statewide fiscal emergency.

AUTHORITY

Education Code Section 17070.35(a) states, "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. . . .
- (2) Establish and publish any procedures and policies in connection with the administration of this chapter as it deems necessary. . . ."

Government Code Section 15503 states, "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."

SFP Regulation Section 1859.197 (b) states that "If Career Technical Education Facilities funds were reserved for the applicant pursuant to Section 1859.193(d) of these Regulations, the applicant: (1) Has one year from the date of apportionment to submit the CDE plan approval and DSA-approved plans and specifications, as required, to the OPSC for the Career Technical Education Facilities Project, otherwise the apportionment shall be rescinded without further Board action."

Adopted Regulation Section 1859.197.(e) states, "In the event the Board determines there is a fiscal emergency or crisis on the part of the State of California, the Board may grant an extension not to exceed 12 months to the time period prescribed in (b)(1) and (c)(2) above and Section 1859.193(d). Regulation Section 1859.197(e) shall become inoperative January 1, 2010."

(Continued on Page Two)

STAFF COMMENTS

At the February 25, 2009 meeting, the Board adopted Regulation Section 1859.197.(e) which allows the Board to grant an extension of up to 12 months when there is a fiscal emergency on the part of the State of California for CTEFP projects. This regulation has not yet been approved by the Office of Administrative Law (OAL). Current regulations provide a 12-month period to applicants to submit the necessary approvals from the California Department of Education (CDE) and the Division of the State Architect (DSA) for projects apportioned as a reservation of funds. The Board approved 150 projects at the March 26, 2008 meeting with this 12-month period. If the necessary approvals are not submitted by March 26, 2009 these projects will be rescinded without further Board action.

The new regulation was adopted to provide additional time for school districts to obtain the necessary approvals from the CDE and DSA. Staff has received written requests for an extension on 79 CTEFP projects. If no extension is approved, the projects will be rescinded as of March 26, 2009 with no further Board action. The remaining 71 projects have already submitted the necessary approvals to the OPSC or intend to meet the current deadline.

In anticipation of the approval of the adopted regulations, Staff requests that the Board make a finding that a fiscal emergency exists on the part of the State of California. In addition, Staff requests that the Board declare intent to consider the extensions for CTEFP projects after the OAL approves the adopted Regulation Section 1859.197(e).

RECOMMENDATIONS

1. Make a finding that a fiscal emergency exists.
2. Declare intent to consider the time extensions requested for CTEFP projects when SFP Regulation Section 1859.197(e) is in effect.