

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

DEFERRED MAINTENANCE PROGRAM FUNDING OPTIONS

PURPOSE OF REPORT

To present policy options for funding the Deferred Maintenance Program (DMP).

BACKGROUND

The DMP provides annual funding to school districts for major repair or replacement of school building components. Funds are provided to districts for projects on districts' deferred maintenance five-year plans. The State Allocation Board (SAB) may also reserve up to ten percent of the DMP funds to fund extreme hardship projects. An extreme hardship exists when the SAB determines the existence of all of the following:

- Health and Safety Test: The district has a critical project on its Five Year Plan which, if not completed in one year could result in serious damage to the remainder of the facility or would compromise the health and safety of the pupils; and,
- Financial Test: The total estimated cost of the critical project is greater than two times the district's maximum basic grant.

The DMP is funded annually through the following:

- The Annual Budget Act;
- Excess repayments from the State School Building Aid Program (SSBAP);
- State School Site Utilization Fund;
- Unexpended DMP funds from the prior Fiscal Year (FY).

AUTHORITY

- EC Section 17584(c) requires the SAB to apportion specified funds for the DMP after December 1 of each FY.
- EC Section 17080 provides that the SAB shall direct the State Controller to transfer the excess repayments from SSBAP to either the DMP Fund or the Lease-Purchase Fund.
- EC Section 17224 provides that funds in the State School Site Utilization Fund that are not subject to be returned to a school district shall revert to the DMP Fund.
- EC Section 17584(a) specifies the calculation used by the Office of Public School Construction (OPSC) to determine the amount of funding for each school district.
- EC Section 17587 provides the SAB an option to reserve up to ten percent of the total DMP funds for extreme hardship projects and that the apportionments will be made at the same time as the basic apportionments.

RECENTLY ENACTED LEGISLATION

Chapter 12, Statutes of 2009, (SBX3 4 – Ducheny) does the following:

- Establishes a funding baseline for DMP through FY 2012/2013 using the 2008/2009 FY funding amounts;
- Provides a flexibility clause allowing districts to use the funding for "...any educational purpose" through 2013;
- Considers a Local Educational Agency (LEA) to be in compliance with all program and funding requirements for five years;
- Eliminates the reporting requirement for five years when LEA's do not meet their match, and;
- Reduces the amounts appropriated to the DMP for FY 2008/2009 and 2009/2010.
- Directs the Superintendent of Public Instruction to apportion DMP funding from FY 2009/2010 through 2012/2013.

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(Rev.2)

RECENTLY ENACTED LEGISLATION (cont.)

The provisions of this bill significantly impact the DMP. Specifically, the funding baseline would include additional amounts received by LEAs for Extreme Hardship projects which could result in the establishment of inequitable baselines.

See Example Below:

District	Basic Grant	Extreme Hardship	SBX3 4 Baseline, effective through 2013	5 Year Total
District A	\$30,000	\$0	\$30,000	\$150,000
District B	\$30,000	\$150,000	\$180,000	\$900,000

Further, districts have no obligation to expend Extreme Hardship funds on Extreme Hardship projects. The law, as amended, in essence, suspends Extreme Hardship projects for the next five years.

The Board may use the funds transferred from the Site Utilization Fund and the State Building Aid Program to fund Extreme Hardship projects; however, this does not typically generate a significant amount of revenue. The combined total of these funds for this year is \$2.9 million.

OPTIONS

The following options are presented for the Board's consideration:

- Option 1: Distribute 100 percent of the DMP funding proportionately to all participating school districts and provide no funding for Extreme Hardship projects.
- Option 2: Distribute 90 percent of the DMP funding proportionately to all participating school districts and provide 10 percent for Extreme Hardship projects distributed proportionately among 126 Extreme Hardship projects – funding these projects at 32 percent annually which equates to 160 percent of the project cost over five years.
- Option 2A: Distribute 93 percent of the DMP funding proportionately to all participating school districts and provide 7 percent for Extreme Hardship projects distributed at 20 percent of the cost of the project among 126 Extreme Hardship projects – funding these projects at 20 percent annually which equates to 100 percent of the project cost over five years.
- Option 2B: Materially like Option 2A – Provides 21 percent funding for Extreme Hardship projects each year for five years.
- Option 3: Distribute 90 percent of the DMP funding proportionately to all participating school districts and provide 10 percent for Extreme Hardship projects to fully fund as many Extreme Hardship projects as possible (approximately 40 projects) - funding these projects at 100 percent annually which equates to 500 percent of the project cost over five years.

In addition to the above options discussed at the March 11, 2009 SAB meeting, the Board requested Staff to explore the following options:

- Option 4: Distribute 90 percent of the DMP funding proportionately to all participating school districts, transfer the Extreme Hardship funds to another account to fund as many Extreme Hardship projects as possible (approximately 40 projects) at 100 percent.
- Option 5: Maintain the proportional distribution of the 90 percent DMP funding to participating school districts approved at the February 25th SAB and provide 10 percent for Extreme Hardship projects to fund as many Extreme Hardship projects as possible (approximately 40 projects) at 100 percent. Extreme Hardship funding would be subject to a conditional release to require districts to execute Extreme Hardship projects.

See Attachment A for a pro/con analysis of these options.

ATTACHMENT A
Deferred Maintenance Program – Options for Board Consideration
State Allocation Board Meeting, March 25, 2009

Actions taken at the February 25, 2009 State Allocation Board (SAB) meeting:

1. Directed the State Controller to transfer excess repayments of \$1,981,920 to the Deferred Maintenance Program Fund pursuant to Education Code Section 17080.
2. Approved the transfer of the unallocated carryover funds from last year of \$1,440,541 for allocation in the basic apportionment funding.
3. Approved and apportioned \$216,645,752 for the DMP Basic Grant. (The Basic Grant was calculated at 100 percent for the 41 districts with Extreme Hardship project. The Basic Grant was prorated at 68.27 percent for the remaining districts.)

Proposed options to be considered at the March 25, 2009 Board:

Option 1: Distribute 100 percent of the DMP funding proportionately to all participating school districts and provide no funding for Extreme Hardship projects.

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| Fiscal Impact | <ul style="list-style-type: none">• The DMP Basic Grants would be funded at 76 percent instead of the current 68 percent. |
| Pros | <ul style="list-style-type: none">• Establishes a more equitable baseline and funding amount for the next five years. Since the districts have no obligation to use the Extreme Hardship funds to repair the health and safety projects, this option eliminates the dedicated funding.• The vast majority of the school districts will get an increase to their basic DMP apportionment, which will be used to set their baseline, for the next five years. |
| Cons | <ul style="list-style-type: none">• Qualifying health and safety issues will not be addressed.• Qualifying facilities could become unusable.• 41 school districts will receive a decrease to their DMP apportionment that had been previously approved on February 25, 2009. |
| Future SAB Actions Required | <ul style="list-style-type: none">• Rescind allocation made for DMP Basic Grants.• Approve amended apportionment amount for the Basic Grant (approximately \$240 million). |

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Option 2: Distribute 90 percent of the DMP funding proportionately to all participating school districts and provide 10 percent for Extreme Hardship projects distributed proportionately among all 126 Extreme Hardship projects.

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| Fiscal Impact | <ul style="list-style-type: none"> • The DM Basic Grants would be funded at 68.5 percent and Extreme Hardship projects would be funded at 32 percent. • Baseline will be established at two separate levels: Those with Extreme Hardship projects and those without. |
| Pros | <ul style="list-style-type: none"> • All Extreme Hardship projects will get funding. • The vast majority of the school districts will get an increase to their basic DMP apportionment, which will be used to set their baseline, for the next five years. |
| Cons | <ul style="list-style-type: none"> • Districts have no obligation to use the Extreme Hardship funds to repair the health and safety projects. • Increases the 08/09 baseline for districts with Extreme Hardship projects – giving districts approximately 160 percent of the Extreme Hardship project cost over five years. |
| Future SAB Actions Required | <ul style="list-style-type: none"> • Rescind allocation approved for DMP basic grants at the February 25, 2009 SAB meeting. • Approve an adjusted DMP Basic Grant. • Approve Extreme Hardship project apportionments. • Declare the Extreme Hardship projects as fully funded and ineligible for future funding from DM or other School Facility Programs. |

Option 2A: Distribute 93 percent of the DMP funding proportionately to all participating school districts and provide 7 percent for Extreme Hardship projects distributed at 20 percent of the project cost among all 126 Extreme Hardship projects.

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| Fiscal Impact | <ul style="list-style-type: none"> • The DMP Basic Grants would be funded at 71 percent and Extreme Hardship projects would be funded at 20 percent. • Baseline will be established at two separate levels: Those with Extreme Hardship projects and those without. |
| Pros | <ul style="list-style-type: none"> • All Extreme Hardship projects will get funded at 100 percent over five years. • The vast majority of the school districts will get an increase to their basic DMP apportionment, which will be used to set their baseline for the next five years. |
| Cons | <ul style="list-style-type: none"> • Districts have no obligation to use the Extreme Hardship funds to repair the health and safety projects. • Increases the 08/09 baseline for districts with Extreme Hardship projects. |
| Future SAB Actions Required | <ul style="list-style-type: none"> • Rescind allocation approved for DMP Basic Grants at the February 25, 2009 SAB meeting. • Approve an adjusted DMP Basic Grant. • Approve Extreme Hardship project apportionments at 20 percent. • Declare the Extreme Hardship projects as fully funded and ineligible for future funding from DMP or other SFP programs. |

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Option 2B: Distribute 92.7 percent of the DMP funding proportionately to all participating school districts and provide 7.3 percent for Extreme Hardship projects distributed at 21 percent of the project cost among all 126 Extreme Hardship projects.

- Fiscal Impact**
- The DMP Basic Grants would be funded at 70.5 percent and Extreme Hardship projects would be funded at 21 percent.
 - Baseline will be established at two separate levels: Those with Extreme Hardship projects and those without.
- Pros**
- All Extreme Hardship projects will get funded at 105 percent over five years.
 - The vast majority of the school districts will get an increase to their basic DMP apportionment, which will be used to set their baseline for the next five years.
- Cons**
- Districts have no obligation to use the Extreme Hardship funds to repair the health and safety projects.
 - Increases the 08/09 baseline for districts with Extreme Hardship projects.
- Future SAB Actions Required**
- Rescind allocation approved for DMP Basic Grants at the February 25, 2009 SAB meeting.
 - Approve an adjusted DMP Basic Grant.
 - Approve Extreme Hardship project apportionments at 21 percent.
 - Declare the Extreme Hardship projects as fully funded and ineligible for future funding from DMP or other SFP programs.

Option 3: Distribute 90.4 percent of the DMP funding proportionately to all participating school districts and provide 9.6 percent for Extreme Hardship projects to fund as many Extreme Hardship projects as possible (approximately 40 projects) at 100 percent.

- Fiscal Impact**
- Baseline will be established at two separate levels: Those with Extreme Hardship projects and those without.
 - The DMP Basic Grants would be funded at 68.7 percent and Extreme Hardship projects would be funded at 500 percent over five years.
- Pros**
- Some Extreme Hardship projects get fully funded.
 - The vast majority of the school districts will get a slight increase to their basic DMP apportionment, which will be used to set their baseline, for the next five years.
- Cons**
- Districts have no obligation to use the Extreme Hardship funds to repair the health and safety projects.
 - Increases the 08/09 baseline for districts with Extreme Hardship projects – giving districts approximately 500 percent of the Extreme Hardship project cost over five years.
- Future SAB Actions Required**
- Rescind allocation approved for DMP Basic Grants at the February 25, 2009 SAB meeting.
 - Approve an adjusted DMP Basic Grant.
 - Approve approximately 40 Extreme Hardship projects.
 - Declare the Extreme Hardship projects as fully funded and ineligible for future funding from DMP or other SFP programs.

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Option 4: Distribute 90.4 percent of the DMP funding proportionately to all participating school districts, transfer the Extreme Hardship funds to another account to fund as many Extreme Hardship projects as possible (approximately 40 projects) at 100 percent.

- Fiscal Impact**
- Transferring the Extreme Hardship funds to another account would require an appropriation through legislation or the Budget Act.
- Pros**
- Some Extreme Hardship projects get fully funded.
 - The vast majority of the school districts will get a slight increase to their basic DMP apportionment, which will be used to set their baseline, for the next five years.
- Cons**
- Legislation is required to transfer funds and reapply existing rules to Extreme Hardship funding.
 - Funding is delayed to districts pending legislation.
 - Districts have no obligation to use the Extreme Hardship funds to repair the health and safety projects.
 - Absent successful legislation exempting from the baseline, Increases the 08/09 baseline for districts with Extreme Hardship projects – giving districts approximately 500 percent of the Extreme Hardship project cost over five years.
- Future SAB Actions Required**
- Rescind allocation approved for DMP Basic Grants at the February 25, 2009 SAB meeting.
 - Approve an adjusted DMP Basic Grant.
 - Approve approximately 40 Extreme Hardship projects.
 - Declare the Extreme Hardship projects as fully funded and ineligible for future funding from DMP or other SFP programs.
 - Withhold allocation contingent upon the enactment of legislation.

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Option 5: Maintain the proportional distribution of the 90 percent DMP funding to participating school districts approved at the February 25th SAB and provide 10 percent for Extreme Hardship projects to fund as many Extreme Hardship projects as possible (approximately 40 projects) at 100 percent. Extreme Hardship funding would be subject to a conditional release to require districts to execute Extreme Hardship projects.

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| Fiscal Impact | <ul style="list-style-type: none"> • Baseline will be established at two separate levels: Those with Extreme Hardship projects and those without. • The DMP Basic Grants would be funded at 68.27 percent and Extreme Hardship projects would be funded at 500 percent over five years. • Districts receiving Extreme Hardship funding would be asked to provide full matching funds. |
| Pros | <ul style="list-style-type: none"> • Some Extreme Hardship projects get fully funded. • Provides a reserve for increases to existing Extreme Hardship projects. |
| Cons | <ul style="list-style-type: none"> • SBX3 4 relieves districts of statutory and regulatory requirements – allowing districts to use the funding for "...any educational purpose." Conditional funding would be unenforceable. • Increases the 08/09 baseline for districts with Extreme Hardship projects – giving districts approximately 500 percent of the Extreme Hardship project cost over five years. |
| Future SAB Actions Required | <ul style="list-style-type: none"> • Approve the conditional funding for approximately 40 Extreme Hardship projects. • Declare the Extreme Hardship projects as fully funded and ineligible for future funding from DM or other SFP programs. |

Note:

- Options 1-4 assume that no reserve is retained to cover cost overruns pursuant to DMP Regulation 1866.5.3 (formerly \$1.8 million).
- Potential Legislative Remedy: For any option that includes Extreme Hardship funding, a legislative remedy, through an urgency statute, could be pursued to preserve the Extreme Hardship funding and the obligation to undertake Extreme Hardship projects.