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CALIFORNIA STATE ALLOCATION BOARD
PUBLIC MEETING

STATE CAPITOL
ROOM 112
SACRAMENTO, CALIFORNIA 95814

DATE: WEDNESDAY, DECEMBER 14, 2011
TIME: 2:03 P.M.

Reported By: Mary Clark Transcribing
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APPEARANCES

MEMBERS OF THE BOARD PRESENT:

PEDRO REYES, Chief Deputy Director, Policy, designated representative for Ana Matosantos, Director, Department of Finance

ESTEBAN ALMANZA, Chief Deputy Director, Department of General Services, designated representative for Fred Klass, Director, Department of General Services

KATHLEEN MOORE, Director, School Facilities Planning Division, California Department of Education, designated representative for Tom Torlakson, Superintendent of Public Instruction.

SENATOR ALAN LOWENTHAL

ASSEMBLY MEMBER JULIA BROWNLEY

ASSEMBLY MEMBER JOAN BUCHANAN

ASSEMBLY MEMBER CURT HAGMAN

REPRESENTATIVES OF THE STATE ALLOCATION BOARD PRESENT:

LISA SILVERMAN, Acting Executive Officer

REPRESENTATIVE OF THE DEPARTMENT OF GENERAL SERVICES, OFFICE OF LEGAL SERVICES PRESENT:

LANCE DAVIS, Staff Counsel

P R O C E E D I N G S

1
2
3 CHAIRPERSON REYES: Good afternoon. We do not
4 have a quorum. Senator Lowenthal is at another hearing
5 dealing with pepper spraying. Senator Hancock I don't
6 believe will be joining us. Ms. Brownley was arriving at
7 about 1:30. Nadya's not going to be joining us. So I was
8 promised a quorum so we can dole out a lot of cash, but
9 we'll need to hold off on that.

10 So why don't we go ahead and get started on stuff
11 that does not require a quorum and then we'll establish a
12 quorum when we have sufficient members to do so. Thank you.

13 MS. SILVERMAN: Yeah. We can start on the
14 Minutes.

15 CHAIRPERSON REYES: Thank you.

16 MS. SILVERMAN: Excuse me.

17 CHAIRPERSON REYES: You can't do that.

18 MS. SILVERMAN: Minutes require a vote. I
19 apologize. Let's start on the **Executive Officer's** --

20 ASSEMBLY MEMBER BUCHANAN: Do we not vote and add
21 on?

22 CHAIRPERSON REYES: Pardon?

23 ASSEMBLY MEMBER BUCHANAN: We can't vote and add
24 on? I guess not.

25 ASSEMBLY MEMBER HAGMAN: Not without a quorum.

1 CHAIRPERSON REYES: We don't have a quorum, so
2 technically we haven't -- and one announcement, we do want
3 to start with the Bagley-Keene presentation by the Attorney
4 General's office at 2:30, just kind of out of respect for
5 their time that they're going to be coming in. So that's
6 kind of the goal at this point.

7 So I'm sorry. Ms. Silverman.

8 MS. SILVERMAN: Yes. Tab 3, **Executive Officer's**
9 **Statement.** We have several things to share with you
10 tonight. We were pretty busy over the last few months and
11 definitely a nice way to end off the year.

12 We actually have an opportunity to provide
13 millions of dollars in project apportionments today and
14 we're happy to announce that.

15 So attached in your agenda in Tab 11, we are
16 presenting 377 projects worth \$923.8 million in state
17 funding and this was all due to the state bond sale on
18 October 19th of this year. And again the goal is obviously
19 to provide these apportionments to those projects on the
20 unfunded list, creating thousands of jobs and stimulating
21 the economy.

22 So what's really critical tonight is those
23 projects that are receiving apportionments today, please
24 realize that you must submit your fund release
25 authorizations and your certifications that you're going to

1 have your project ready to go in 90 days and that must be
2 hand delivered, physically received no later than close of
3 business on March 13th.

4 And for those districts that do not meet the
5 timeline in the certification, please realize that you'll be
6 placed on the bottom of the unfunded list. So again that's
7 a real critical point.

8 The next item I would like to share is going on
9 the certification information that we received over the
10 summer, we will be opening up a new realm of certifications
11 and that's coming up in January. So again alerting those
12 folks who did not come in this time or even didn't get cash
13 this time, please submit those certifications. That round
14 opens up on January 11th, which is Wednesday, and that will
15 be active until February 9th.

16 So again for those folks that didn't get awarded
17 projects, please resubmit your certifications. And that
18 will be good for six months.

19 The third item we'd like to share is the
20 overcrowded relief grant. We are providing unfunded
21 approvals for the eighth filing round and that represents 17
22 projects for over \$85 million and that would actually
23 replace 202 portables which is great news for those folks
24 and the community.

25 And with that, that leaves 328 million in bond

1 authority for future funding cycles and the ninth funding
2 cycle deadline is January 31st.

3 The third item -- actually fourth item I'd like to
4 share is the interactive project information worksheet
5 database.

6 Back in July, the Board was advised that staff is
7 developing some information or interactive tools that we
8 wanted to provide to the public and that information really
9 provides a synopsis to the public, the project information
10 worksheet data, information that we've been collecting.

11 That tool is actually online for OPSC's website
12 and also available on the Governor's bond accountability
13 website. And again it just -- actually distills down the
14 funding expenditure, the bond sources, and the types of
15 facilities that are being built.

16 And we also wanted to note that there are also
17 some high performance projects in the mix there as well.

18 We also are having some regulation change for the
19 Labor Compliance Grant Program -- excuse me -- Labor
20 Compliance Program and that's tucked away in Tab 12.

21 And again the purpose of the regulation change was
22 obviously we're planning to submit that on an emergency
23 basis to the Office of Administrative Law.

24 The proposed changes will implement SBX29 and
25 AB436 which require the Department of Industrial Relations

1 directly provide prevailing wage monitoring services for all
2 state public works projects. The only exceptions would
3 be -- for the statute are for those districts that enforce a
4 DIR approved internal program or for those school districts
5 that have their own qualified collective bargaining
6 agreement.

7 In addition to the DIR regulations, again those
8 regulations will become effective January 1st, 2012, and
9 therefore all state funded projects for which construction
10 awarded on or after January 1st, 2012, will be subject to
11 the new provisions of DIR regulations.

12 Get your attention to the following page is -- we
13 have two more items and going to wrap this up soon.

14 Upcoming new construction funding --

15 CHAIRPERSON REYES: On the labor compliance piece,
16 I just want to acknowledge that the work was done by a lot
17 of folks on the bill. Thank you. You guys at OPSC, folks
18 at DIR, and also the Attorney General office. Thank you,
19 everybody, and of course the folks out in the audience who
20 also participated on this. I think this is a lot of push
21 and pull. So thank you very much. Appreciate it.

22 MS. SILVERMAN: Staff appreciates that. We have
23 an upcoming New Construction Funding Subcommittee meeting
24 and actually that meeting is scheduled for Thursday,
25 January 12th, 2012. The location and the meeting time will

1 be determined and again the goal is to have discussion on
2 the new construction bond authority, what's left and
3 possible future funding.

4 The next item is the update on the solar energy
5 hearing. We had an informational hearing that we actually
6 held on December 5th.

7 The purpose of that hearing was to identify again
8 solar energy initiatives and energy efficiency opportunities
9 for school districts collectively.

10 We heard from school districts on some of the
11 outcomes that they're actually experiencing and also the
12 other sources of funding that's available. There was a
13 number of different agencies and private sectors that
14 actually presented information which is really useful.

15 And again the goal was the hearing identified a
16 great need for additional low-cost financing for schools and
17 technical assistance in this energy arena. So again we
18 understand there's tough times in most districts and even
19 states have limited resources and try to work together and
20 try to result in some long-term energy savings.

21 So again staff is actually happy to try to add
22 some additional information on our website, work
23 collectively with these other agencies in having future
24 outreach events.

25 And again that actually archived video is on our

1 website. So moving on --

2 CHAIRPERSON REYES: Okay. Well, that was your
3 tab, Executive Officer. Before we do that, is there any
4 comments from the public on anything? This is the --
5 where's Walrath. This is the beginning of the hearing. You
6 can come forward. Anything? Go ahead. Open mic.

7 MR. SMITH: Thank you, Mr. Reyes. Would this be
8 the time to talk about just briefly the --

9 MR. YOUNG: Name, please.

10 CHAIRPERSON REYES: Names for the record.

11 MR. SMITH: Of course. Of course. Jeremy Smith
12 on behalf of the State Building and Construction Trades
13 Council. I hope this is the time to talk about the
14 compliance monitoring and the issue you mentioned a few
15 minutes ago. Is this the right time for that?

16 CHAIRPERSON REYES: It's a public comment, so --

17 MR. SMITH: Great. Great. I wanted to echo --

18 CHAIRPERSON REYES: Well, we aren't going to be
19 taking action on anything. This is the **public comment** where
20 people can -- so you got three minutes to --

21 MR. SMITH: Right. Thank you. Thank you. I just
22 wanted to say a few words about the compliance monitoring
23 issue, AB436.

24 I want to echo your thanks to the staff and the
25 many people in the audience that have spent a lot of time

1 working on this issue over the last several months.

2 We wanted to make sure that the OPSC regulations
3 really highlight the options given to school districts under
4 the CMU. One option of that -- one option given to them is
5 the project labor agreement.

6 The language included in the description of that
7 issue and this packet we believe is a little unclear in the
8 sense that it talks about -- it doesn't use the vernacular
9 of a project labor agreement.

10 It talks about a collectively bargained agreement
11 which, you know, we can talk all day about the differences
12 between those two things. They're similar, but we want to
13 make sure that school districts understand that it's a
14 project labor agreement or a PLA that we're talking about in
15 the language and we want to make sure that's spelled out
16 very clearly and we would suggest using those words and that
17 acronym in there so they know that when they see the words
18 collectively bargained agreement it means that as well.

19 And further we believe that because the PLA option
20 gives school districts all the cover they need for being in
21 compliance with Labor Code sections that the benefits of the
22 PLA should be maybe spelled out a bit more so that it's very
23 clear that if they do a project labor agreement they are
24 going to be in compliance with the requirements of AB436
25 moving forward.

1 Because of the way school districts fund their
2 projects, which may include front loading the costs and then
3 seeking reimbursement, we want to make sure that school
4 districts know in the regulations that if they a project
5 labor agreement and they do front load the money they're
6 using to build something and then trying to get some bond
7 funds on the back end that if they do have a project labor
8 agreement, they will be covered just in case they didn't
9 have a Labor Compliance Program that was already approved.

10 So with those comments, I'll end. I just wanted
11 to again thank the staff at OPSC, this Board, for helping us
12 figure out how to implement AB436 in the best possible way.
13 Thanks.

14 CHAIRPERSON REYES: Thank you. Before we move
15 onto the next speaker, can we establish a quorum, please.

16 MS. JONES: Yes.

17 CHAIRPERSON REYES: Thank you, Ms. Brownley.

18 ASSEMBLY MEMBER BROWNLEY: Um-hmm.

19 MS. JONES: Senator Lowenthal.

20 Senator Hancock.

21 Senator Runner.

22 Assembly Member Brownley.

23 ASSEMBLY MEMBER BROWNLEY: Here.

24 MS. JONES: Assembly Member Buchanan.

25 ASSEMBLY MEMBER BUCHANAN: Here.

1 MS. JONES: Assembly Member Hagman.

2 ASSEMBLY MEMBER HAGMAN: Here.

3 MS. JONES: Esteban Almanza.

4 MR. ALMANZA: Here.

5 MS. JONES: Kathleen Moore.

6 MS. MOORE: Here.

7 CHAIRPERSON REYES: Nadya Dabby.

8 Pedro Reyes.

9 CHAIRPERSON REYES: Present. Okay.

10 MS. JONES: We have a quorum.

11 CHAIRPERSON REYES: Thank you. Okay. Next
12 speaker.

13 MS. SILVERMAN: We can go back to Tab 2, the
14 Minutes.

15 CHAIRPERSON REYES: We --

16 MS. SILVERMAN: Oh, I'm sorry.

17 CHAIRPERSON REYES: Now we go -- still is public
18 quorum. We're going to have to do something about the
19 public quorum because it's kind of odd to have people come
20 in and make comments about things that we're going to be
21 talking about later, but technically it's a public comment
22 time, so --

23 MS. HANNAH: This is -- I also wanted to make a
24 statement about labor compliance --

25 CHAIRPERSON REYES: Okay.

1 MS. HANNAH: -- compliance monitoring. My name's
2 Jenny Hannah. I'm with the Kern County Superintendent of
3 Schools. Good afternoon, members.

4 I just wanted to say that I'm a County Office with
5 a depth of experience with labor compliance and I understand
6 that program very well and I'm also grateful for a lot of
7 the work that's been done at the Implementation Committee
8 about the CMU process and some of the big gaps that were
9 discovered there in terms of how it will fold into the
10 funding program and how school districts will make
11 notification, those kinds of things that, you know,
12 obviously are very important to the process.

13 So what I would like to request is that a revisit
14 of how successful or -- or an ongoing program possibly in
15 three months with DIR coming back and giving a report to
16 this Board about how that folding together is working in
17 terms of the program.

18 I think it, you know, is complicated and it would
19 be a good thing to do.

20 CHAIRPERSON REYES: Okay. Thank you.

21 MS. HANNAH: Um-hmm.

22 CHAIRPERSON REYES: There's one more person.

23 MS. ALLEN: Thank you. Good afternoon. My name
24 is Cathy Allen. I'm with the San Juan Unified School
25 District here in the Sacramento area and I would like just

1 to put out there for consideration at a future date the
2 possibility of allowing school districts that do not
3 currently have a project labor agreement in place or an
4 in-house Labor Compliance Program in place the opportunity
5 to be able to establish one of those two programs to be able
6 to participate in the new CMU program in a different manner.

7 So I realize that's not in the works right now,
8 but I agree with Ms. Hannah that I think a relook or a
9 review of this down the road would be appropriate and maybe
10 at that time we could consider something like that.

11 CHAIRPERSON REYES: Okay.

12 MS. ALLEN: Thank you.

13 CHAIRPERSON REYES: Thank you. Anybody else,
14 public comment? Hearing none, we'll go ahead and move on
15 then. Can we have approval of the **Minutes**.

16 ASSEMBLY MEMBER HAGMAN: So move.

17 ASSEMBLY MEMBER BUCHANAN: Second.

18 CHAIRPERSON REYES: It's been moved, second. All
19 in favor.

20 (Ayes)

21 CHAIRPERSON REYES: Do we need to take roll call?
22 Without objection, everybody present voting aye. Thank you.

23 Then we go back to Tab 4. Is that right,
24 Ms. Silverman?

25 MS. SILVERMAN: Yes.

1 CHAIRPERSON REYES: Okay.

2 MS. SILVERMAN: Tab 4 is actually the **resolution**
3 of --

4 CHAIRPERSON REYES: We have the **Resolution for**
5 **Mr. Savidge.**

6 MS. SILVERMAN: -- Mr. Savidge.

7 ASSEMBLY MEMBER HAGMAN: So move.

8 ASSEMBLY MEMBER BUCHANAN: Second.

9 CHAIRPERSON REYES: It's been moved and second.
10 Without objection, it will deemed read. Congratulations,
11 Mr. Savidge.

12 MR. SAVIDGE: Thank you, sir.

13 CHAIRPERSON REYES: Okay.

14 MS. SILVERMAN: Tab 5 is **Consent.**

15 CHAIRPERSON REYES: Tab 5 is Consent and if I may,
16 we also, if it's okay with the rest of the Board, we would
17 like to include Tabs 13 through 16 in that approval. These
18 are noncontroversial items. They are action items. Any
19 Board member can pull any one of those, but they're pretty
20 clear-cut. Mr. Hagman.

21 ASSEMBLY MEMBER HAGMAN: Mr. Chair, just on
22 No. 14, I just had some questions. I definitely approve of
23 what we have in there, but what are we going to do with the
24 funds after we bring it back and how much.

25 So I don't know if we take that one separately and

1 I'll be happy to move for the balance.

2 CHAIRPERSON REYES: We can pull 14 and have a
3 conversation. That's fine. So 13, 15, and 16 included in
4 the Consent without objection.

5 ASSEMBLY MEMBER BROWNLEY: Without objection.

6 CHAIRPERSON REYES: Okay. So those have been
7 moved. Is there a second?

8 ASSEMBLY MEMBER BROWNLEY: Second.

9 CHAIRPERSON REYES: Second.

10 ASSEMBLY MEMBER HAGMAN: What about 17 and 18, you
11 didn't read those off. Those are going to be part of it;
12 right?

13 CHAIRPERSON REYES: Those are going to be part of
14 the conversation. We're still going to discuss those; all
15 right?

16 ASSEMBLY MEMBER HAGMAN: Oh, okay. So I'm sorry,
17 I'm sorry, I'm sorry. And Tab 18 as part of the Consent.
18 17 we'll need to talk. 18 is also part of the Consent.

19 ASSEMBLY MEMBER BUCHANAN: Okay.

20 CHAIRPERSON REYES: Okay? All right. Thank you.
21 Do you need to take the roll call? Also without objection,
22 unanimous of those present.

23 MS. JONES: Okay. Very good.

24 CHAIRPERSON REYES: All right. And keep the roll
25 open because I know that Senator Lowenthal would like to

1 come and vote on those items.

2 MS. JONES: Okay.

3 CHAIRPERSON REYES: Thank you. Okay. Tab 6.

4 MS. SILVERMAN: Tab 6 is your **updates on the funds**
5 **that we've been releasing** on a monthly basis and we've been
6 reporting out to this Board the amount of funds that have
7 been disbursed.

8 And so on page 185, we actually have a summation
9 of the bonds that have been released in the April 2009
10 category. We released this month \$3.3 million and that's at
11 the top of the page.

12 And the middle category is the October and
13 November 2009. We released 1.1 million and then the lower
14 category is November and December 2009. We didn't release
15 any funds in that particular category.

16 On page 186, on the top of the page, March 2010,
17 we actually did release in that category \$40.6 million. In
18 November 2010 in that particular bond category, \$2.4 million
19 in cash was released and as a result we actually added a new
20 chart which is we're not authorized to release cash just
21 yet, but hopefully show some activity soon.

22 We do reflect the money in that particular new
23 bond category. So want to highlight that.

24 And actually for the month on page 187, we did
25 release \$47.4 million.

1 On page 188, we have this nice bar graph that
2 we've been displaying over the last 18 months. The bar
3 graph did grow to reflect the new receipt of funds in that
4 category. The new chart shows that we have over
5 \$1.1 million -- \$1 billion -- I apologize -- in cash now
6 infused to the program and again those projects will be
7 allocated in 90 days.

8 So we'll show some activity over the next few
9 months.

10 And we have established on page 189 what we've
11 been tracking, those projects that had 18 months to perfect
12 on time limit on fund releases and we actually reported in
13 October that we had nearly over \$91 million -- and this is
14 one page 189.

15 We did reflect in October that we had actually
16 \$91 million. Projects had to come in at the end of October.
17 We actually did report that on page 107, there's projects
18 that didn't come in for perfection, and so with that,
19 there's about \$47 million in projects that didn't come in,
20 didn't move forward. So we will be providing those new cash
21 amounts available for a future funding round.

22 Staff wanted to make sure that we waited for all
23 the mail to come in in order to create some kind of cutoff
24 and those fund releases did come in and some didn't come in.

25 So again that chart has dropped off and next month

1 we'll actually add a new chart for the new projects that
2 have been apportioned. So you'll see a much taller line
3 being reflected next month for the new projects.

4 ASSEMBLY MEMBER HAGMAN: Can I ask a favor for
5 maybe the future too. Since we always look at this
6 progressively and what's coming up in the next few months
7 and for the last year, I knew that we had this
8 October/November time period where the bulk of the first
9 longer period of enactments were due to expire.

10 So we come back to this Board meeting and all that
11 data is now history --

12 MS. SILVERMAN: That -- right.

13 ASSEMBLY MEMBER HAGMAN: -- and I know maybe
14 somewhere else in the hundreds of charts and figures we
15 have, but it may be easy just to show the last month or two
16 on this chart to say, you know, our projection was -- like
17 for December we have 14 million. You know, the next month
18 when January comes out, we can have the December on there,
19 14 million, all 14- went out or 14- came back or whatever
20 the case may be, just to get a little history, you know,
21 review -- just keep looking forward.

22 And then we could say oh, we've got more money
23 coming in or we don't have more money going out, that type
24 of thing.

25 MS. SILVERMAN: Yeah, we could certainly do that.

1 ASSEMBLY MEMBER HAGMAN: Thank you.

2 CHAIRPERSON REYES: Okay. Ms. Moore has a
3 question.

4 MS. MOORE: Yes. I just wanted to ask on the
5 rescissions that we took action on in the Consent Calendar,
6 there's about 48 million --

7 MS. SILVERMAN: Um-hmm.

8 MS. MOORE: -- are you saying, Ms. Silverman, that
9 that will be going out to projects that are on the list --
10 this list that we are --

11 MS. SILVERMAN: This certification round?

12 MS. MOORE: The certification round or what's --

13 MS. SILVERMAN: Well, I think that's --

14 MS. MOORE: What's the anticipation on that?

15 MS. SILVERMAN: Well, the certifications actually
16 expire January 9th -- the certifications that we had opened
17 over the summer. So with that, we would have to establish a
18 new cert for those projects that come in for that next round
19 of cash.

20 So we have the 47 million that's -- that came in
21 rescissions and we can award projects once we receive new
22 certs.

23 MS. MOORE: And the new certs are due by March?

24 MS. SILVERMAN: The new certs open up -- we are
25 actually asking school districts if you want to compete in

1 the next funding round to submit -- start submitting your
2 certs after January 10th --

3 MS. MOORE: Um-hmm.

4 MS. SILVERMAN: -- for the new round and then we
5 can provide cash to projects.

6 MS. MOORE: But that round ends in March.

7 MR. MIRELES: It ends February 9th.

8 MS. SILVERMAN: 9th -- February -- right.

9 MS. MOORE: Because I would think that we would
10 want to be apportioning that -- or allocating that cash as
11 soon as possible and so our soonest point that we can
12 allocate the rescinded cash that we have here and
13 potentially the leftover that we are -- will be dealing with
14 today is February or March? Do we know?

15 MS. SILVERMAN: Yeah. It would be March.

16 MS. MOORE: It would be March.

17 MS. SILVERMAN: Um-hmm.

18 CHAIRPERSON REYES: Okay. Thank you.

19 MS. SILVERMAN: If no other questions, we can move
20 onto Status of Funds on Tab 7.

21 CHAIRPERSON REYES: Are there any comments from
22 the public on any of the items we've covered so far? Okay.
23 Thank you.

24 Before we go there, it's 2:25, but our guests from
25 the Attorney General's office is here, so can we just go

1 ahead and move forward with that, with the Bagley-Keene
2 training that Ms. Moore was kind enough to have identified
3 them in the past that is some presentation and thought it
4 would be of interest and benefit to the Board to get this
5 training from the Attorney General's office.

6 ASSEMBLY MEMBER BROWNLEY: Pedro, just to let you
7 know, I'm leaving at 3:30.

8 CHAIRPERSON REYES: Okay.

9 ASSEMBLY MEMBER BROWNLEY: Actually I have to
10 leave at like 3:15.

11 CHAIRPERSON REYES: Okay.

12 ASSEMBLY MEMBER BROWNLEY: So --

13 CHAIRPERSON REYES: Is there action items? We
14 need to do Tab 11, don't we. Yeah.

15 MS. SILVERMAN: Yeah, we can do -- yeah.

16 CHAIRPERSON REYES: Okay. One second. We're
17 going to go ahead and cover Tab 11 real quick. I apologize.
18 Yes. Let's go ahead and get -- go out of order so that we
19 make sure we -- I apologize for that.

20 Go ahead, Ms. Silverman.

21 MS. SILVERMAN: Yes. Tab 11 is -- it's kind of a
22 nice thing actually. We're presenting **apportionments**
23 tonight and we're excited about that.

24 As I shared with you earlier, we're presenting
25 \$923.8 million in funding for those SFP projects that have

1 been sitting on the unfunded list and again that represents
2 377 projects for 154 school districts.

3 If I can direct your attention to actual page 230.
4 On page 230 is a summary of the certifications that we
5 received from school districts on the unfunded list and that
6 actually accounted for \$1.3 billion in requests and that
7 represented over 495 school projects.

8 And we also wanted to summarize that there is
9 actually a carve-out out of the cash that we do receive for
10 charter schools. And on the top of page 231, we wanted to
11 break down --

12 CHAIRPERSON REYES: Mr. Almanza. Hold on.

13 MR. ALMANZA: I move for the staff recommendation,
14 approval.

15 ASSEMBLY MEMBER BUCHANAN: Second.

16 CHAIRPERSON REYES: It's been moved and second.
17 Do the Board members have any questions? Without -- any
18 public comment? Yes. Go ahead. Juan, would you be kind
19 enough to -- there we go.

20 MS. TOPP: Thank you, Mr. Chairman and members.
21 Moira Topp on behalf of California Charter Schools
22 Association. We are very supportive of this item. We
23 appreciate the Board's action in providing \$41 million for
24 charter schools site and design.

25 This is about \$50 million shy of what the Board's

1 action was to allocate or identify future proceeds in prior
2 Board actions this summer. The Board had acted, as you
3 remember, to provide \$90 million in future bond proceeds and
4 we do recognize that for whatever reason we're -- you know,
5 this is shy of that \$90 million.

6 But we would ask that as we move forward since we
7 don't know when the next bond sale really will be that we
8 work with you, with your staff within the coming months.

9 Ms. Moore, as you mentioned, there's additional
10 funds coming in. There might be a way to use those funds
11 earlier if we can identify those and make up the
12 difference -- that \$50 million difference with other funds.

13 So we would ask your indulgence in that and
14 appreciate your action today.

15 CHAIRPERSON REYES: Thank you. Mr. Hagman.

16 ASSEMBLY MEMBER HAGMAN: Thank you, Mr. Chair.

17 And that is actually one of the reasons why I was holding up
18 on No. 14. I was going to make the same point.

19 We have -- we do have a bond sale. We don't know
20 when the state's going to be in a position to do another
21 one. This is going to get a lot of projects going and I'm
22 wondering if we could maybe ask our staff to see if we get
23 these rescissions back from last month, the 40- whatever,
24 close to that, it's almost making the program whole -- but
25 if that would be acceptable to the Board to kind of direct

1 that back from that pot, can we do that (a) legally; (b) is
2 that something we could so direct.

3 CHAIRPERSON REYES: Certainly one of the
4 options --

5 ASSEMBLY MEMBER HAGMAN: Because you don't have to
6 go recertification process either.

7 CHAIRPERSON REYES: -- with the resources that are
8 coming in.

9 Ms. Buchanan.

10 ASSEMBLY MEMBER BUCHANAN: Yeah. When we
11 discussed this at the briefing, I think probably we're all
12 in consensus that we made that commitment and we need to
13 honor that commitment and I -- my understanding is part of
14 it ties up even in terms of which bonds you can access for
15 which types of projects.

16 And so I think rather than giving you a specific
17 directive, I would just suggest that you work with the
18 Charter Schools Association so as we move forward, whether
19 it's through, you know, what we have now or the next bond
20 sale, where you maybe work with the Treasurer to make sure
21 that we do all we can to live up to that commitment.

22 ASSEMBLY MEMBER HAGMAN: Because this has been put
23 off a couple times now. So it's imperative here that we
24 should be able to get there. Do you see anything out of
25 this bond sale or the proceeds coming back? What's your

1 sense -- not committing you to it right now, but just from
2 the numbers, what do you see that we could be doing --

3 MS. SILVERMAN: Well, there are actually a few
4 projects in December if they don't come in at the end of the
5 month. It is from a charter category, not related to a loan
6 component though.

7 So we could check those funds. If they don't --
8 the projects don't come in and perfect, we'll look at the
9 funds and see if it's the right sources of funds. And again
10 in the spirit of seeing that's the right sort of cash for
11 those next round of projects, we would definitely look into
12 that.

13 ASSEMBLY MEMBER HAGMAN: And the ones that we
14 rescinded this past month, the 40 plus?

15 MS. SILVERMAN: That wasn't in the right category.

16 ASSEMBLY MEMBER HAGMAN: It wasn't in the right
17 category.

18 MS. SILVERMAN: Right. But we'll go through our
19 funds and see if we can identify any other --

20 CHAIRPERSON REYES: So let's ask staff to go back
21 and look to see where we can come up with resources to
22 provide for that commitment that we -- the Board has
23 accepted; okay?

24 MS. SILVERMAN: We'd be happy to do that.

25 CHAIRPERSON REYES: Okay. So the motion was moved

1 and seconded. Without objection, it's unanimous from the
2 Board members present. And I don't hear objections, so yes.
3 Congratulations on the 924 million and change. Thank you.

4 Okay. Welcome. So for the record, if you'd
5 introduce yourselves, please.

6 MS. BILAVER: Hi. I'm Julia Bilaver with the
7 office of the Attorney General.

8 MR. PRIM: And I'm Ted Prim from the Attorney
9 General's office.

10 CHAIRPERSON REYES: Thank you. Welcome and we
11 look forward to hearing -- being educated on your issues --
12 **Bagley-Keene.**

13 MR. PRIM: Okay. I'm going to start by doing a
14 few things to try to set the Bagley-Keene Act in context and
15 I guess the first thing I'll say which probably won't
16 surprise you is that the Bagley-Keene Act is in many ways an
17 inefficient and frustrating way to do business.

18 And the requirements of the Act often make it
19 difficult for people to communicate in their natural
20 communication pattern which is as individuals what we want
21 to do is go and meet the other members of our body and find
22 out what their interests are and work with them to develop a
23 consensus and we like to do that in kind of a private space
24 that everybody can be candid with one another.

25 But if we understand the philosophy behind the

1 Bagley-Keene Act, then I hope that some of these
2 frustrations and inefficiencies will become clear in their
3 origin and that we'll understand that there's actually a
4 reason with a higher public purpose to it for these things.

5 So if you want to create a government organization
6 that is built on efficiency, then what you want to do is
7 have a department model style of government where you have a
8 pyramid structure and a decision maker at the top.

9 On the other hand, if you opt for a multi-member
10 body as your form of government, then what you're opting for
11 is a consensus building model instead of one that is built
12 on efficiency.

13 And in the consensus building model, we look for
14 people with different backgrounds, different viewpoints, and
15 different experiences to come together and develop a
16 consensus decision.

17 When the Bagley-Keene Act was adopted, there was
18 another value choice that was made and that was while the
19 body comes to its consensus, the public should also have a
20 seat at the table and be a part of the consensus building
21 process.

22 Now, consensus building means that there's debate
23 and deliberations and give and take and all of these things
24 take time. It's not an efficient process.

25 And so when we do this, if we're going to create a

1 place for the public, then things like public notice,
2 testimony, and access to records are the kinds of things
3 that then promote public participation in the process and
4 when we have closed meetings or when we have serial
5 communications amongst members that are out of the public
6 sight, then these things actually defeat public
7 participation.

8 So if you accept the premise for why we have
9 multi-member bodies to develop consensus and if you accept
10 the premise that while we develop consensus, the public
11 should have a seat at the table, then we hope that accepting
12 these premises will help you to embrace the process and to
13 understand the fact that even though the Bagley-Keene may be
14 inefficient and even though it may be frustrating at times
15 to have to do things in the artificial way that it requires
16 that there's a really good reason for that and that reason
17 is that we are able to do things openly and we are able to
18 involve the public in the process.

19 So we're going to come back and refer back to this
20 philosophical framework as we go through the rest of our
21 discussion today and I will now turn it over to Julia to
22 make a few comments.

23 MS. BILAVER: The Bagley-Keene open meeting
24 requirement applies to state bodies, but what is a state
25 body.

1 Under the Bagley-Keene Act there are five types of
2 state bodies. Of course the most recognizable state body is
3 a board or a commission that has been stated by statute, for
4 example, the State Allocation Board.

5 State bodies also include bodies created by
6 executive order of the Governor.

7 The Bagley-Keene Act also applies to smaller
8 bodies of state board -- state bodies such as a budget body,
9 subcommittees, task forces. These smaller bodies do not
10 necessarily exercise any authority. They must have at least
11 three persons, but the persons do not have to be members of
12 the state body. They could be nonmembers as well.

13 It can be either created by formal action of the
14 state body or by a member of the state body. Formal action
15 may take the form of express approval either by vote or
16 resolution or it can be a side ratification after an
17 advisory body has been created and is in existence.

18 A state body can also take the form of a smaller
19 delegated body of the state body, such as an executive
20 committee that acts with authority on behalf of a board in
21 between meetings.

22 Delegated bodies must have at least two members.
23 Therefore when a state body delegates authority to two
24 persons and each person has as much delegated authority as
25 the other to act on the board's behalf, the two persons

1 constitute a state body subject of the meeting requirements.

2 Finally, a state body can include a public or
3 private board or a commission in which a member of the state
4 body serves as a representative in his or her official
5 capacity and receives funding from the state body.

6 Now let's address meetings generally. What is a
7 meeting? A meeting for purposes of the Bagley-Keene Act is
8 a gathering of a majority or a quorum of the members of the
9 state body at the same time and place to hear, discuss, or
10 deliberate upon any idea that is within the subject matter
11 jurisdiction of the state body.

12 Your regulations provide that a quorum is six
13 members. Often you take action at your board meetings, but
14 a meeting can also occur when you're just receiving
15 information, such as right now when you're receiving
16 information from our office.

17 Meetings can be held by teleconference.
18 Teleconference meetings are subject to special requirements.
19 They must be noticed as a teleconference meeting. The
20 public must have access to all sites where there is a board
21 member participating by teleconference. This means a board
22 member cannot participate in a teleconference from a car or
23 from out of state.

24 A member of the state body must be present at each
25 site specified in the public notice. All votes at the

1 teleconference meeting must be taken by roll call.

2 There are exceptions to gatherings. There are
3 exceptions for some type of gatherings at which a quorum is
4 present. These are limited exceptions. These exceptions
5 include social gatherings, informational conferences open to
6 the public, open and noticed meetings of other state bodies.

7 These exceptions apply so long as the quorum of
8 the members aren't discussing agency business. There is
9 also an exception for open and noticed meetings of the
10 standing committees of a state body so long as the quorum
11 only observe at these meetings.

12 And I guess it's back to you.

13 MR. PRIM: Okay. So one of the more difficult
14 aspects of meetings is what we call serial meetings. Not
15 only does the Act cover the type of meeting we're in here
16 today where we all gather in one place and have a meeting
17 that's noticed, but it also covers a series of
18 communications, either directly or indirectly, by which a
19 quorum of the body discusses or deliberates or takes action
20 on a matter and these can happen typically in either a chain
21 or a wheel kind of format, the chain being that Member A
22 talks to Member B who talks to Member C who talks to
23 Member D, et cetera, or a wheel which would be Member A
24 talks to Member B and talks to Member C and -- A talks to C
25 and A talks to D.

1 Both of these kinds of situations are covered.

2 Face-to-face, email communications, telephone
3 calls, text messages, instant messaging, all these kinds of
4 ways of communicating through social media, all of these
5 cover and constitute a violation if a quorum of the body is
6 ultimately involved.

7 And again if we come back to the philosophy behind
8 the Bagley-Keene Act, we understand that because of the fact
9 that these kinds of communications ultimately deprive the
10 public of their opportunity to participate fully in the
11 process.

12 It becomes more complicated when you introduce the
13 fact of committees into the situation. We can look at this
14 body and we can say that we have a serial meeting in
15 violation when we have a quorum of the body involved.

16 Once we put subcommittees into it that are
17 smaller, you know, then it becomes an improper meeting when
18 we have a quorum of the subcommittee or committee involved.

19 And so there's a lot to kind of keep your eye on
20 to make sure that you don't stumble into a violation.

21 Now, a lot of times a rule of thumb that's adopted
22 by state counsel is to advise board members to stick to a
23 rule of two basically. Talk to -- outside of meetings, talk
24 to only one other person and as long as you're not dealing
25 with a three-person subcommittee, then you should be okay.

1 That's not a legal rule. It's a rule of thumb
2 that is used as a conservative means of trying to keep
3 members from inadvertently getting involved in violations.

4 So that's the basic test is this less than a
5 quorum concept of the body.

6 Now there is a specific exception out there also
7 which we refer to as the staff briefing exception. And that
8 one is designed to make sure that your staff can provide you
9 with information or answer basic questions in order to get
10 you ready for a meeting. It's not to become a subterfuge
11 for having a meeting in absentia. It's to get you prepared
12 for the meeting.

13 The limitations on that exception are two and
14 they're significant. The first is that the communications
15 are separate conversations with the members of the body. So
16 it's a one-on-one deal between staff and the member and
17 secondly, that there's not to be any cross pollination
18 between members. So the staff is not allowed to convey or
19 reveal the comments of one member to any of the other
20 members.

21 So it's a way of trying to answer basic questions
22 and provide basic information to get people ready for the
23 meeting. It's not to be there as a way of building
24 consensus or getting the purposes of a meeting accomplished.

25 So those are the basics of what is a meeting and

1 the different kinds of agencies. So the next thing I'm
2 going to turn to is the rights of the public because they
3 are substantial when it comes to the Bagley-Keene Open
4 Meeting Act.

5 And the first is that people basically are allowed
6 to attend meetings anonymously. You can't require that a
7 person identify themselves or register in order to attend a
8 meeting.

9 Now, sometimes in this 9/11 world that we live in,
10 we do have security requirements for admission into a
11 building and security personnel can get identifying
12 information if they need it, but then that information is
13 not to be passed along to the people conducting the meeting.

14 If you have a registration or a sign-up sheet,
15 then it needs to state clearly that signing up on that is
16 not a requirement for attending the meeting, but instead
17 it's a voluntary extra thing that people can do if they want
18 to receive information or be put on a mailing list or
19 something along those lines.

20 We would also suggest that the same policy would
21 apply to testimony and the Act doesn't specifically say
22 that, but if you can attend a meeting anonymously, we would
23 think that you should also be able to testify anonymously
24 and if people don't want to give their names, then you can
25 take that into account in assessing their testimony.

1 People who come to public meetings are allowed to
2 record them. The only exception of that is if the recording
3 would itself constitute a persistent disruption of the
4 meeting. Otherwise people are free to either photograph or
5 have video recordings, audio recordings, whatever.

6 When people testify, the requirements are that
7 they be able to testify either before or during the
8 consideration of agenda items. Our recommendation would be
9 that you set the context of the item and then allow the
10 public to testify on it and then allow the members of
11 deliberate on it.

12 You're also permitted but not required to allow
13 people to testify on anything under your jurisdiction even
14 if it's not on the agenda. The limitation there is that you
15 can't delve into it and resolve it at that time. You're
16 going to have to come back to a meeting or give direction to
17 a staff member to deal with it or whatever.

18 But the Act itself expressly permits agencies to
19 accept testimony on nonagenda items and we think the best
20 practice there, which I think most state agencies follow, is
21 to go ahead and put a public comment agenda item on your
22 agenda where people can specifically be invited to come
23 forward and talk about anything that's under the body's
24 jurisdiction if they have something they want to testify
25 about.

1 You can place reasonable limitations on testimony
2 if that is necessary. There are situations where there are
3 hundreds of people that may show up to testify on an idea
4 and so the bodies can take reasonable steps to limit the
5 amount of testimony, at that point try to get people to pick
6 a spokesperson, give that person more time to represent the
7 group, and things like that, but you're able to place some
8 limitations on in order to be able to actually manage your
9 meeting.

10 Acquiring records is another part of public
11 access. When the majority of a body receives records, then
12 the public is entitled to those records promptly upon
13 request. So it's not a requirement that when you give
14 records to a majority of the members of the body that you
15 immediately have to send it out to everybody, but you have
16 to make it available upon request.

17 Items that are to be considered at a meeting that
18 have been provided need to also be available at the meeting
19 and information that's provided to you by third persons at a
20 meeting needs to be made available as quickly as possible.

21 Internet posting: The law only requires that you
22 post your agenda. Again I think best practices say post
23 everything that you can in connection with the meeting. It
24 just is the most efficient way to get information out there
25 and provides the most public access.

1 The Public Records Act along with its exemptions
2 also applies to the records of a body with one exception.
3 The balancing test in Section 62.55 is not available to
4 multi-member bodies. It may be available to the staff, but
5 it's not available to the body itself.

6 And if staff seeks to use the balancing test and
7 it's an agency under the Governor's executive wing, then
8 policy is that you need to seek permission from the
9 Governor's legal affairs secretary before you can assert the
10 balancing test as an exemption to a request for records.

11 Julia, I think you had some more.

12 MS. BILAVER: I'm just going to briefly talk about
13 closed discussions. As a general rule, all items placed on
14 an agenda must be addressed in open session. However, the
15 Legislature has permitted exceptions to the general rule in
16 limited circumstances recognizing there are other
17 countervailing considerations, such as the protection of an
18 individual's right to privacy and the right of a board to
19 receive confidential legal advice during litigation.

20 The Courts have narrowly construed these closed
21 session exceptions. In order for a board to meet in closed
22 session, the closed session must be specifically authorized
23 by one of the provisions in the Act.

24 There are various narrow exceptions that are very
25 specific to state agencies, but there are two exceptions

1 that might affect the board.

2 The first exception is the personnel exception.
3 Under this exception, the hiring, performance evaluation,
4 disciplining, or termination of an employee may be discussed
5 in closed session. The employee must receive 24 hours'
6 notice and has the right to insist that the matter be heard
7 publicly.

8 The second exception is the pending litigation
9 exception. The board may meet in closed session to confer
10 with legal counsel regarding pending litigation when
11 discussion in open session would compromise the position of
12 the board in the litigation.

13 Litigation is pending and that the board is party
14 to the litigation where the board determines that based on
15 the surrounding facts and circumstances and the advice of
16 legal counsel that there is significant exposure to
17 litigation.

18 Litigation is also pending when the board is
19 deciding whether to initiate litigation.

20 For the litigation exception to apply, the board's
21 legal counsel must submit a memorandum to the board before
22 the closed session if possible but no later than one week
23 after the closed session.

24 This memorandum is confidential until the
25 litigation has been finally adjudicated.

1 A closed session must exclude all persons who
2 participation is nonessential to the matter. There are
3 specific procedural requirements when holding a closed
4 session.

5 The general nature of the subject matter of the
6 closed session must be placed on the agenda. The board must
7 first convene in open session and disclose the general
8 nature of the topic of the closed session.

9 The board may only consider the matters publicly
10 disclosed on the agenda. After the closed session, the
11 board must reconvene in open session prior to adjournment.

12 So those are the things that we picked out as the
13 highlights of the Bagley-Keene Act that we thought that it
14 would make sense to described to you. If you have any basic
15 questions, we'll be happy to try to answer them.

16 CHAIRPERSON REYES: Let me start off with a couple
17 questions. The first question I have is the staff exemption
18 that you talked about.

19 So under Bagley-Keene staff -- the purposes of
20 briefing for this hearing, it's okay for six or seven staff
21 people to be in a room and be briefed as long as when those
22 staff members brief the individual members, it's on a
23 one-to-one basis or did I misunderstand what you said.

24 MR. PRIM: Let me make sure I understand. When
25 the briefings occur, there -- it doesn't necessarily matter

1 how many staff members there are there. The question is how
2 many members of the body are there.

3 CHAIRPERSON REYES: There are no members of the
4 body, but I have staff and the legislative members have
5 staff and Ms. Moore has staff and Mr. Almanza has staff that
6 report to him.

7 And can we send our individual staff people to a
8 meeting with the State Allocation -- with the OPSC staff so
9 they can be briefed on what is being discussed and the
10 agenda items -- a lot of technical stuff. It's a lot of
11 history that went on on some of these issues and some
12 precedent-setting cases that came before us.

13 And so those -- our staff can go and ask questions
14 about and what do we do and which -- who changed the law
15 back then and clarifying issues that may not be covered in
16 the written material presented by OPSC staff.

17 Is it -- is your staff exemption that you talked
18 about in Bagley-Keene is that covered? Can I -- can we send
19 all our staff at once to be briefed --

20 MR. PRIM: And when you say staff, you're talking
21 about representatives of the various members?

22 CHAIRPERSON REYES: Correct. So legislative
23 staff, the assembly member has a staff, the senator has a
24 staff, I have staff, and they go and get a presentation from
25 OPSC staff so that we all make sure they understand what the

1 issues are and what the nuances are on the individual appeal
2 or an action case and then they can then individually brief
3 us.

4 So my staff will brief me. Mr. Almanza's staff
5 will brief him. Senator Lowenthal's staff will brief him.
6 That one-on-one is the exemption or does the exemption for
7 staff also cover the representative's staff's briefing?

8 MR. PRIM: Well, I guess my concern there is that
9 what you have there is more of a meeting by intermediary.
10 In other words, one thing is that you can't -- these -- when
11 we talk about serial communications, they can be directly or
12 they can be also through intermediaries.

13 So if we have a five-member board, we know that
14 Members A, B, and C can't get together and talk business in
15 an unnoticed meeting.

16 Similarly, you can't have the representative for
17 A, B, and C sit down and have a meeting as representatives
18 of the Members A, B, and C. That would be doing a meeting
19 through intermediaries.

20 So my concern in the situation that you describe
21 is that the staff briefing which is supposed to be -- and
22 again I don't know the full organizational context of this
23 particular board, but if we had a staff for the board,
24 this -- the way that this would be envisioned is that that
25 staff could brief Member A and they could brief Member B and

1 they could brief Member C --

2 CHAIRPERSON REYES: So that's --

3 MR. PRIM: -- in separate conversations.

4 CHAIRPERSON REYES: So that's your staff exemption
5 when for purposes of Board staff, Mr. Savidge and
6 Ms. Silverman, Mr. Juan Mireles who staff the entire Board,
7 they can meet individually with Board members and brief
8 them. That's the exemption you're talking about.

9 MR. PRIM: Correct.

10 CHAIRPERSON REYES: But if Ms. Moore has a staff
11 person that counsels her on State Allocation Board issues
12 and I have a staff person that counsels me on Allocation
13 Board issues and Senator Lowenthal has a staff person who
14 counsels him on -- and so forth, if it were a five-member
15 board, those three staff could not get together to discuss
16 State Allocation Board issues.

17 MR. PRIM: As far as upcoming meeting --

18 CHAIRPERSON REYES: Yes.

19 MR. PRIM: -- with the agenda, I would think
20 that's the case, yes.

21 CHAIRPERSON REYES: Okay. Mr. Hagman.

22 ASSEMBLY MEMBER HAGMAN: I mean some of these
23 things -- our staffs if they get briefed -- and most of the
24 time it gets briefed one on one, they are getting that
25 information. They don't make any authority. They don't

1 make conclusions. They don't make any votes on this panel,
2 but they are gathering information on behalf of the members
3 so they can be informed before they come up on this Board.

4 I think the way it was worded is they're getting
5 together to discuss State Allocation Board business. What
6 they are is getting basically a debrief of what's coming up
7 on our agenda so they could give us a brief and I think
8 that's a small but slight difference. I just wanted to get
9 the interpretation of the Attorney General for that as well.

10 CHAIRPERSON REYES: So that's sort of what I
11 wanted to get to. So that there are -- a lot of these
12 issues have nuances to it and so Board -- OPSC staff briefs
13 members and they brief staff. And when they brief members,
14 they do it on a one-on-one level.

15 And when they meet -- when they brief staff, not
16 for purpose of discussing the item, but just to say here is
17 the case, there's not question and answer, but here is the
18 case, is that acceptable? Could that be covered under the
19 exemption of staff?

20 MR. PRIM: The fact that it's just information
21 that's being presented doesn't take it out from under
22 coverage. We have a published Attorney General opinion from
23 some time ago that's been (indiscernible) out over the years
24 that talk about a situation where we had the planning
25 commission and we had a developer come in and brief

1 Members A and B and then they -- all they did was receive
2 information. They didn't ask any questions. They didn't
3 have any conversation. They just listened to the briefing.

4 Then B left and C came in and we did the same
5 briefing again. Then C left and D came in and we did the
6 same thing again. And the question was is the receipt and
7 provision of information without discussion and questions,
8 was that covered and the answer was yes.

9 So the fact that we say, well, it's just
10 information is not enough to take it out from under the
11 coverage.

12 CHAIRPERSON REYES: Ms. Moore.

13 MS. MOORE: So can I ask the question in a
14 different way then. We're a ten-member Board. Six members
15 constitute a quorum. So are you saying that five members of
16 staff or five members of the Board could receive a briefing
17 at the same time?

18 MR. PRIM: Under the staff briefing, no because
19 they're not separate conversations one member at a time.
20 Under the less than a quorum, you could get five together
21 that could be briefed or could even have a conversation
22 because it's less than a quorum.

23 Our concern at that point is, you know, whether
24 you can then brief the remainder of the members. It seems
25 to us that the way the legislation is worded that you have

1 choice, at least for staff, if they're going to be
2 participating.

3 They can either participate in the less than a
4 quorum gathering or they can do the separate briefings.
5 It's not -- doesn't appear to us that you can necessarily do
6 both.

7 MS. MOORE: Maybe I misspoke. They're
8 hypothetical, but let's --

9 MR. PRIM: Sure.

10 MS. MOORE: -- talk with the staff meeting. So
11 how many staff members of this Board could receive a
12 briefing at the same time and remain within Bagley-Keene?

13 MR. PRIM: Well, when you say how many staff
14 members can receive the briefing --

15 CHAIRPERSON REYES: Representatives of the Board
16 members.

17 MR. PRIM: Right. Okay. So when you say
18 representing the Board members --

19 MS. MOORE: I'm sorry. Yeah. I'm being --

20 MR. PRIM: -- yeah.

21 MS. MOORE: We have a staff that is staff to the
22 Board and then each member has staff members that help with
23 the issues.

24 So I'm referring to my staff member, Mr. Reyes's
25 staff member, Mr. Lowenthal's staff member.

1 Institutionally, those staff members have received briefings
2 at times and I'm asking how many of them could be present at
3 a briefing and -- to receive it from the staff to the Board
4 and be within Bagley-Keene.

5 MR. PRIM: Well --

6 MS. MOORE: Or --

7 MR. PRIM: -- certainly the safest answer is to
8 follow the staff briefing exception which would mean
9 briefing one member's representatives at a time. So if we
10 have Member A, then staff could brief all of Member A's
11 representatives at one time and they could also brief
12 Member A and his or her representatives at one time.

13 My concern is when you're briefing representatives
14 of Members A, B, and C at the same time. When we consider
15 those to be representatives of the member, then it doesn't
16 fit under the staff briefing language which talks about
17 separate conversations with the member so long as there's no
18 cross pollination.

19 You're not having separate conversations at that
20 point. You're having, you know, a group conversation.

21 CHAIRPERSON REYES: Ms. Brownley.

22 ASSEMBLY MEMBER BROWNLEY: So just to clarify then
23 what you said is that five Board members could sit in the
24 room and be briefed on a subject.

25 MS. BILAVER: But only five -- so you --

1 ASSEMBLY MEMBER BROWNLEY: But only five. Right.

2 So --

3 MS. BILAVER: -- the other five at all.

4 ASSEMBLY MEMBER BROWNLEY: I understand.

5 CHAIRPERSON REYES: -- separate day.

6 ASSEMBLY MEMBER BROWNLEY: I understand. But
7 then -- but you're saying the individual staff members of
8 those five members can't be grouped together -- not more
9 than five staff members can't be grouped together.

10 The members can't -- the members can/staff can't.

11 MR. PRIM: No, I don't think that's quite what I'm
12 saying. We've got two different theories here. The one is
13 the less than a quorum theory and the other is the staff
14 briefing exception.

15 So the less than a quorum theory says that if we
16 have a series of communications that involves less than a
17 quorum of the body, we have not had an illegal meeting.

18 ASSEMBLY MEMBER BROWNLEY: Right.

19 MR. PRIM: Okay? So that's how we can say we can
20 put five members or five members' staffs -- doesn't
21 matter -- in a room and have a conversation and not violate
22 the law because --

23 ASSEMBLY MEMBER BROWNLEY: Well, so then that's --
24 then we can do that, albeit I understand that under those
25 circumstances, the whole Board can't be briefed.

1 CHAIRPERSON REYES: Right.

2 MR. PRIM: You could have one through five in the
3 room together and that won't violate the law because six
4 through ten are not there and are never there. And one
5 through five don't communicate with six through ten. Okay?
6 Does that make sense?

7 ASSEMBLY MEMBER BROWNLEY: Yes, it does. Thank
8 you.

9 MR. PRIM: Okay. So that's under the less than a
10 quorum theory. But under the staff briefing exception, that
11 one basically was a way of saying even though the old rule
12 was that you could never involve less than a quorum, under
13 the staff briefing, we're going to let you involve not only
14 a quorum, we're going to let you involve everybody, but it's
15 under a specific set of rules, those rules being separate
16 conversations and no cross pollinization.

17 So you got one approach or the other and our
18 thought is that you don't get to do both. It will take less
19 than a quorum to give us the first five and then we'll go
20 separate communications with the next five. So --

21 ASSEMBLY MEMBER BROWNLEY: It just seems like
22 we're in the gray area of the law when you say that because
23 I mean staff could come from all members, be briefed all
24 together, ask some clarifying questions, never have a
25 conversation with each other, the staff, and then come back

1 and individually brief each one of us.

2 MR. PRIM: Well, certainly that works okay if
3 we're just dealing with Member A's staff then Member B and
4 Member C, but let me tell you where the concern I think is.

5 We have the staff for --

6 CHAIRPERSON REYES: So Mr. -- I apologize.

7 MR. PRIM: Sure.

8 CHAIRPERSON REYES: Let's change the nomenclature.

9 MR. PRIM: Okay.

10 CHAIRPERSON REYES: For our member staff, let's
11 call it intermediaries for now and then the staff is the
12 OPSC. That way we're clear because we keep talking about
13 staff and it could be OPSC staff or it could be our
14 individual staff.

15 MR. PRIM: Okay.

16 CHAIRPERSON REYES: So let's refer to the Board
17 members' staff as our intermediaries, which is what they
18 are.

19 MR. PRIM: Right.

20 CHAIRPERSON REYES: And then OPSC staff is the
21 staff.

22 MR. PRIM: Okay.

23 CHAIRPERSON REYES: So when we refer to staff
24 briefing members is OPSC staff. When staff is briefing
25 intermediaries, that's our staff. So -- I'm sorry.

1 ASSEMBLY MEMBER BROWNLEY: Yeah. That's a good
2 clarification.

3 CHAIRPERSON REYES: Ms. Buchanan.

4 ASSEMBLY MEMBER BUCHANAN: I want to see if I can
5 summarize it in a way that I understand it. So what in
6 essence you're saying is that if you brief five members of
7 the Board, you can't brief the other five because then you
8 have the equivalent of a serial Board meeting and those five
9 that you brief, whether you're briefing them individually or
10 as a group, you know, that's the most you can have.

11 The staff exception is that you can brief people
12 one at a time; okay? Because then you don't have members
13 asking questions, influencing other members before you're
14 actually deliberating at the public Board meeting.

15 So I guess my question would be if staff is
16 briefed first -- or excuse me -- our intermediaries --

17 CHAIRPERSON REYES: Intermediaries.

18 ASSEMBLY MEMBER BUCHANAN: -- are briefed first,
19 then the staff would have to brief each one individually if
20 they're going to ask questions; right? And then you would
21 have to -- they either would have to or you'd have to brief
22 the Board members a second time individually which would
23 mean OPSC staff would have to have potentially ten meetings.
24 There are ten of us; right?

25 So the option is to not brief everybody or to just

1 use the staff exception and brief them one at a time so that
2 the questions I ask don't influence other members before
3 we've actually come to deliberate in public. Is that --

4 MR. PRIM: I think that's the crux --

5 ASSEMBLY MEMBER BUCHANAN: So --

6 MR. PRIM: Do you agree, Julia --

7 MS. BILAVER: Right. Right. And that's why we
8 think (indiscernible) five intermediaries because
9 intermediaries could also ask questions that could
10 influence --

11 ASSEMBLY MEMBER BUCHANAN: Staff because
12 intermediaries are representatives of the Board members and
13 the reason you can't brief all the intermediaries, even if
14 you don't allow them to ask questions, I assume would be
15 because you don't want to have the perception of the
16 potential that they're going to ask questions.

17 I mean there's got to be the assurance with the
18 public; is that --

19 MR. PRIM: Well, I think it's that as
20 intermediaries, they're just like the members.

21 ASSEMBLY MEMBER BUCHANAN: Right.

22 MR. PRIM: So just like we can't brief all ten
23 members together --

24 ASSEMBLY MEMBER BUCHANAN: Right.

25 MR. PRIM: -- we can't brief all ten

1 intermediaries together either.

2 CHAIRPERSON REYES: So back to Mr. Hagman's point
3 though, I mean our intermediaries have a little bit more
4 time than we do generally -- our intermediaries have a
5 little bit more than we do, so they can kind of go deeper in
6 some of these issues.

7 And if the presentation was one way and no
8 questions were asked by intermediaries, you still have a
9 Bagley-Keene issue?

10 MR. PRIM: Yes, I think so.

11 CHAIRPERSON REYES: Okay.

12 MR. PRIM: The fact that it's a one-way
13 presentation of information and the other side doesn't ask
14 questions doesn't take -- doesn't exempt it from the
15 coverage.

16 CHAIRPERSON REYES: Okay. Any other questions on
17 the staff?

18 MR. PRIM: This is probably not an approach you
19 want to follow, but I understand your dilemma and I
20 appreciate the difficulty of the situation.

21 One other way to possibly deal with it is to do
22 the briefings as noticed meetings.

23 CHAIRPERSON REYES: Okay. Next question.

24 ASSEMBLY MEMBER BUCHANAN: And then -- but if you
25 notice them, then you're going to have the public

1 potentially could ask questions before you've even had the
2 formal Board meeting; right?

3 CHAIRPERSON REYES: Yeah. These are long
4 meetings.

5 MS. JONES: Ten long meetings.

6 ASSEMBLY MEMBER BUCHANAN: So then you've got --

7 MR. PRIM: Well, no, it wouldn't have to be ten
8 long meetings. If you announce it as a meeting, you could
9 do it all at once.

10 CHAIRPERSON REYES: In the prehearing for the
11 meeting -- for the hearing.

12 MR. PRIM: That's correct.

13 CHAIRPERSON REYES: Yeah. Okay. Second question
14 I have is this school construction is an area of interest to
15 a lot of folks. So suppose the Senate and the Assembly
16 decide to have a joint hearing on where -- how to move
17 forward in school construction and the folks who are sitting
18 on the Board right now, we have six Assembly Members -- I
19 mean three Assembly Members and three Senators and clearly
20 they have a very vested interest on this.

21 So they call up a hearing and for that discussion,
22 they would like to have somebody from the Department of
23 Finance to come and talk about the money associated with
24 school construction.

25 Do we then have violation that we have seven Board

1 members at a hearing or is it the fact that it's a public
2 hearing and it's a legislature, we're off the hook on that?

3 MR. PRIM: You should be off the hook on that.

4 CHAIRPERSON REYES: Okay. Excellent. That was my
5 other question. Does anybody else have any other questions?

6 Great. Well, thank you. You can see that we have
7 a lot of questions -- we had a lot of questions on this. I
8 think you've been very enlightening. Not quite what we
9 expected.

10 MR. PRIM: Sorry about that.

11 CHAIRPERSON REYES: The law's the law, so we will
12 now move forward with full knowledge. So I appreciate your
13 time. Thank you very much. I appreciate it, Ted and Julia.
14 Thank you very much. Take care. Happy holidays.

15 MR. PRIM: Thank you.

16 MS. MOORE: Can I ask --

17 CHAIRPERSON REYES: Yeah. Ms. Moore.

18 MS. MOORE: There's one other wrinkle that we have
19 on this Board that's unusual and that is that the staff to
20 the Board also has a Board member on the Board. Is there
21 any concerns in that -- is there any special consideration
22 that must be given in that situation?

23 CHAIRPERSON REYES: So for purposes of
24 establishing the quorum of intermediaries, the Director of
25 General Services is a member of the Board and the Office of

1 Public School Construction is within the Department of
2 General Services.

3 So the question is -- and they are the folks
4 briefed who are the staff of the Board as well. So the
5 question is when you have somebody from OPSC making a
6 presentation, you already have one intermediary in the room
7 and can you have three more or five? Can -- you know what
8 I'm saying? At what point do you -- does that count towards
9 establishing the quorum issue?

10 Ms. Moore, is that your question?

11 MS. MOORE: Yeah. I just -- I mean it's -- if we
12 have -- that's the unusual -- well, this Board is unusual in
13 many manners, but it has a Board member that is -- that
14 comes from the agency from which the staff is a part of.

15 So how -- is there any wrinkle in that around --

16 ASSEMBLY MEMBER BROWNLEY: Or a conflict.

17 MS. MOORE: -- the staff then -- and I'm
18 talking -- I'm not talking about intermediaries now. I'm
19 talking about staff to the Board as they give their briefing
20 now as I assume we would have a one-to-one briefing with
21 every Board member. Is there anything we need to know
22 concerning that?

23 MS. BILAVER: Well, can I follow up. I guess I
24 would think that all the staff members for OPSC would have
25 the same obligations with respect to every Board member

1 unless there's one that's specifically assigned to just the
2 one Board member. But they all --

3 SENATOR LOWENTHAL: Even though they work for that
4 Board member?

5 MS. BILAVER: Well, I'm wondering if they are
6 really an intermediary. Are they assigned to just that one
7 Board member or do they have obligations to every Board
8 member?

9 MR. PRIM: Well, I think the problem, Julia, is
10 that the staff are the employees of a Board member.

11 SENATOR LOWENTHAL: Right.

12 MS. MOORE: That is correct.

13 SENATOR LOWENTHAL: That is correct.

14 MR. PRIM: And so in one sense, not only are they
15 the staff to the entire Board, but they are also in some
16 sense the intermediaries of that Board member by whom
17 they're employed.

18 And that's the dilemma you're asking about; right?

19 ASSEMBLY MEMBER BROWNLEY: Yes.

20 MS. MOORE: Correct.

21 SENATOR LOWENTHAL: Right.

22 MS. BILAVER: So I guess the follow-up question I
23 was trying -- okay. So there's some level of control that
24 you have over the staff that other Board members wouldn't
25 have.

1 MR. ALMANZA: That's true.

2 CHAIRPERSON REYES: He likes it that way.

3 (Laughter)

4 MS. BILAVER: I guess we could discuss that
5 further and maybe this is a question we'd have to get back
6 to you.

7 CHAIRPERSON REYES: Okay. Thank you.

8 MR. PRIM: Yeah. Why don't we do that.

9 CHAIRPERSON REYES: Thank you very much.
10 Appreciate it.

11 MS. MOORE: Sorry for bringing that up.

12 CHAIRPERSON REYES: No. That's a great question.
13 Thank you. Very good question. Thank you.

14 Okay. Where are we, Ms. --

15 MS. SILVERMAN: Well, we'll skip the financial
16 report --

17 CHAIRPERSON REYES: Yes.

18 MS. SILVERMAN: -- and do that at the end. Go to
19 12, the labor compliance.

20 CHAIRPERSON REYES: Labor compliance; okay. Thank
21 you.

22 Can we very quickly **lift the roll call** on the
23 **Minutes** and **Item 11**, please. Real quick.

24 MS. JONES: Senator Lowenthal, Minutes.

25 SENATOR LOWENTHAL: Yes. I think they're very

1 good. I say aye.

2 MS. JONES: Okay. Tab 5, Consent?

3 SENATOR LOWENTHAL: Same thing, yes.

4 CHAIRPERSON REYES: And that includes all the
5 other Consent items that were added on.

6 ASSEMBLY MEMBER BUCHANAN: No. 13, 15, and --

7 MS. JONES: 13, 15, 16, 18, 11.

8 SENATOR LOWENTHAL: It already includes Item
9 No. 15 because that was -- was there any discussion on Item
10 No. 15?

11 MS. JONES: No.

12 CHAIRPERSON REYES: 17.

13 SENATOR LOWENTHAL: Oh, 17.

14 CHAIRPERSON REYES: 17, we still have not gotten
15 to that. Okay.

16 SENATOR LOWENTHAL: Right. Right. 17.

17 CHAIRPERSON REYES: Okay. Is that an aye, sir?

18 SENATOR LOWENTHAL: Yeah, it's a definite aye for
19 15.

20 CHAIRPERSON REYES: Okay. And on all the others
21 as well. Okay.

22 SENATOR LOWENTHAL: And all the others.

23 MS. JONES: Okay. Great. Thank you.

24 CHAIRPERSON REYES: All right.

25 MS. MOORE: And then 11.

1 CHAIRPERSON REYES: And then 11.

2 MS. JONES: And 11.

3 SENATOR LOWENTHAL: 11 is a good number.

4 MS. JONES: Okay. That's great.

5 SENATOR LOWENTHAL: Aye --

6 CHAIRPERSON REYES: Thank you.

7 MS. JONES: Thank you.

8 CHAIRPERSON REYES: Okay. Please keep us on
9 track.

10 MR. O'DELL: Bryan O'Dell, Office of Public School
11 Construction. I'm here to present the item found on Tab 12
12 in the agenda, **prevailing wage monitoring proposed**
13 **regulations**, also begins on page 621.

14 Just as a background, AB1506 in 2002 was signed
15 into law. It required SFP projects funded from
16 Propositions 47 and 55 to have a Labor Compliance Program.
17 It could either be administered directly by the district or
18 a third-party vendor that was approved by the Department of
19 Industrial Relations.

20 In 2009, SBX29 was signed into law and that
21 extended then to all bond -- state bond funded projects once
22 it took effect.

23 On September 30th of this year, AB436 was signed
24 into law that amended those provisions. It still applied to
25 all state bond funded projects. It required the Department

1 of Industrial Relations to provide direct monitoring for
2 state bond funded projects once it took effect, which is
3 January 1st, 2012, for all construction contracts awarded
4 after that date.

5 There are two exceptions. The projects would be
6 subject to these provisions, but DIR wouldn't have to
7 provide the monitoring if the district has a previously
8 approved in-house Labor Compliance Program or if the project
9 is subject to a collective bargaining agreement or as was
10 mentioned earlier, commonly referred to as a project labor
11 agreement, with certain provisions that the statute
12 contains.

13 So the Department of Industrial Relations has
14 regulations that were approved by the Office of
15 Administrative Law. They take effect January 1st and the
16 process works where a district awards a construction
17 contract, then sends the notification to the Department of
18 Industrial Relations of the contract.

19 The DIR then begins the monitoring services and
20 sends an invoice to the district for these services in an
21 amount not to exceed a quarter of 1 percent of the total
22 state bond funded proceeds.

23 So what these proposed regulations would do is,
24 one, calculate a School Facilities Program grant that would
25 be the state share of a quarter of 1 percent. So if it's a

1 50-50 project, it would be half of that or if it's a 60-40
2 split.

3 If it's a 50-50 project, the state grant for every
4 \$1 million would be \$1,250. That's the way it would work.

5 The state share would also include any Financial
6 Hardship Program funds, any loans that were provided through
7 the Career Tech or the Charter Programs. All of that would
8 be lumped together and then the calculation gets run.

9 The funding applications -- there's a total of six
10 of them for some of the different types of programs -- are
11 also revised to determine whether there are construction
12 contracts for this project that were awarded on or after
13 January 1st, 2012, and it also requires districts to
14 indicate whether the monitoring services will be provided by
15 DIR or of the other two options.

16 It also asks districts that if -- maybe it's a
17 reimbursement project in April or May of this year. The
18 construction contract maybe was signed in 2011. Would they
19 be able to comply with the AB1506 provisions. In other
20 words, would they be eligible for Prop. 47 or 55.

21 That's something that we'd be able to determine
22 moving forward.

23 The fund release form 50-05 would be amended to
24 require districts to submit notification from DIR -- or from
25 DIR that they've been notified -- confirmation that they've

1 been notified of the construction contract for the first six
2 months until July 1st, 2012, because the new process could
3 be kinks in the system, districts would have the option of
4 just providing a copy of the notice that they sent to DIR.

5 That would just be until July 1st, 2012.

6 And that's the presentation. Are there any
7 questions?

8 CHAIRPERSON REYES: Mr. Savidge, is there anything
9 you want to add to that?

10 MR. SAVIDGE: Thank you, Mr. Chair.

11 CHAIRPERSON REYES: You spend a lot of time with
12 folks on this.

13 MR. SAVIDGE: Yes, sir. Excuse me. We met with
14 the Implementation Committee of the State Allocation Board
15 on two occasions. We invited the Department of Industrial
16 Relations to the meetings. They were in the bull pen, if
17 you will, answering questions, getting feedback from the
18 school districts that were in attendance.

19 We had a really good process of working with them
20 to try and come up with a system that we hope will end a lot
21 of the confusion that there may have been regarding
22 compliance with the Labor Compliance Programs and going
23 forward, we think that the procedures that we've set up that
24 we have -- or are bringing to you today will really make it
25 easy to comply and simple.

1 For example, we talked about a variety of
2 procedures or options that we looked at including a direct
3 deposit option with DIR, but the regulations we're bringing
4 you today propose that the funding would go to the school
5 districts as the school districts are the awarding bodies
6 and they have legal requirements and responsibilities under
7 the statute and under the law in public contract code.

8 So the districts will make payments directly to
9 DIR after they receive their funds from the state.

10 I think a lot of the concerns that we're hearing
11 from the field have to do really with the transition period
12 where the statute will go into effect on January 1st. Our
13 regulations may not be approved. If the Board adopts today,
14 our regulations may not be approved by the effective date of
15 the Labor Code statute, of the DIR regulations.

16 And so what we're doing though is we're informing
17 school districts that if you execute a contract after
18 January 1st, 2012, and you are intent on receiving state
19 bond funds, you must register this project to be safe, to
20 be -- that you will be in compliance at the time you will
21 receive the funds.

22 And so I think once we get over the hump of this
23 transition period, I think one of the -- couple of the
24 public speakers talked about, you know, how we look ahead
25 three to six months, we believe that this will be a simpler,

1 easier procedure for districts to comply with.

2 One of the other speakers that had brought forward
3 a concern about Labor Compliance Programs -- district Labor
4 Compliance Programs and project labor agreements, DIR has
5 indicated to us that they will not be approving any further
6 under their current ruling from their Director any more
7 in-house Labor Compliance Programs after January 1st.

8 However, there's nothing in the law and nothing in
9 their regulations that makes any representation regarding
10 project labor agreements after the effective date of the
11 statute.

12 So as we go forward, there's a subset of districts
13 throughout California, around 50, that have existing
14 previously approved Labor Compliance Programs that will
15 be -- that would be an option for districts to use under
16 this law.

17 So going forward, we see this as eventually
18 simpler and less confusing for districts to use the
19 compliance monitoring unit of DIR and we appreciate your
20 support in taking these forward.

21 CHAIRPERSON REYES: Ms. Buchanan, Mr. Hagman.

22 ASSEMBLY MEMBER BUCHANAN: A couple questions
23 because I had noted -- in response to Jeremy's question
24 regarding the wording, whether it was, you know, technically
25 accurate or not when we talk about having -- in your

1 summary -- in your description, you talk about having a
2 qualifying collective bargaining agreement and we don't
3 refer to a PLA.

4 Is -- a PLA may or may not be a collective
5 bargaining agreement; right?

6 MR. SAVIDGE: It generally is.

7 ASSEMBLY MEMBER BUCHANAN: It generally is, but it
8 may not be. So what does the actual law say on that? What
9 terms does it use?

10 MR. SAVIDGE: It uses collective bargaining
11 agreement that binds the contractors -- you want to read it
12 directly, Juan.

13 MR. MIRELES: Yeah. And that's why we stuck with
14 the --

15 ASSEMBLY MEMBER BUCHANAN: Right.

16 MR. MIRELES: -- number. We didn't make
17 references to the project labor agreement in the regulations
18 because we stuck to the language that's actually in statute.

19 ASSEMBLY MEMBER BUCHANAN: And so AB436, what does
20 it say then?

21 MR. MIRELES: It --

22 ASSEMBLY MEMBER BUCHANAN: I --

23 MR. MIRELES: -- to collective bargaining
24 agreement, let's see.

25 ASSEMBLY MEMBER BUCHANAN: It wasn't -- 436 wasn't

1 in the attachments and I was at a conference, so I didn't --

2 MR. O'DELL: AB436 amended Labor Code
3 Section 1771.3(b)(3) says the contract is awarded on or
4 after the effective date of the regulations described in
5 paragraph 1. If the awarding body has entered into a
6 collective bargaining agreement, that binds all of the
7 contractors performing work on the project and that includes
8 a mechanism for prevailing wage disputes.

9 ASSEMBLY MEMBER BUCHANAN: Okay. That -- okay.
10 It just --

11 MR. SAVIDGE: Part of our process related to his
12 at the Imp. Committee was we recommended to school districts
13 that they seek legal counsel if they have a PLA in place to
14 confirm that it meets those requirements.

15 We did have a legal opinion from a practitioner
16 that was provided to the Imp. Committee that gave us the
17 background and history of collective bargaining agreements
18 in the construction industry that pre-bind contractors to
19 that process and then also contain mechanisms for dispute
20 resolution regarding wages.

21 ASSEMBLY MEMBER BUCHANAN: Okay. And then there
22 was another question asked by -- about this does -- if I
23 pass a bond in 2014 and enter into a PLA agreement at that
24 point in time, I'm still -- that still is -- will allow me
25 to be exempt from that quarter of 1 percent; correct?

1 MR. SAVIDGE: That's correct.

2 ASSEMBLY MEMBER BUCHANAN: It doesn't have to be
3 in place earlier than that.

4 And then my other question was the quarter of
5 1 percent, does that apply to the -- I know the state fund
6 is -- say is half of that, but say the modernization project
7 and the state funding is providing really 30 percent of the
8 total contract cost because in modernization, it's not
9 uncommon for it to, you know, provide less than the
10 50 percent.

11 The quarter of 1 percent applies to the whole
12 contracted amount or does it apply to the, you know, state
13 portion assuming that's 50 percent? How are you -- how is
14 that calculated and is that clear?

15 MR. MIRELES: It's based on the state bond
16 proceeds. That's how you get to the quarter of 1 percent
17 and then depending on the program, there's the applicable
18 local match applied, whether it's 50-50 or 60-40.

19 ASSEMBLY MEMBER BUCHANAN: So if I had a
20 modernization project that was \$10 million and the state was
21 going to only provide \$2 million, then the labor compliance
22 cost would be based on the 2 million or theoretically
23 4 million and not based on the remaining amount.

24 MR. MIRELES: That's correct.

25 ASSEMBLY MEMBER BUCHANAN: So we're not collecting

1 much for labor compliance in that situation. Okay. Those
2 are all my questions. Thank you.

3 CHAIRPERSON REYES: Okay. Mr. Hagman.

4 ASSEMBLY MEMBER HAGMAN: Thank you. And for the
5 bonds that are going out, first of all, we have different
6 bonds funds. This is -- I guess for the record I didn't
7 support this when it came to Legislature -- you know, this
8 tighter of regulations on what we're doing, but this is the
9 tightest we've had on these bond funds so far to date.

10 Previous bond issuance didn't have quite those
11 things. That's why we had the two examples. We had to sit
12 there and switch funding sources in the past.

13 Now the hundreds or perhaps thousands of projects
14 that we have funded so far, two is not a high number of
15 going astray as far as not watching -- we had two so far
16 this year.

17 First of all, for those projects that are funded
18 under the Bond Act that would not require this tight of
19 language -- my question's more of I guess a legal one -- how
20 do we go back for voter initiative and change the parameters
21 that the voters voted in? Is that in retrospect -- I can
22 say going forward for new monies and stuff, but this is
23 enacted years ago when this was not a requirement.

24 Can we legally do that without going back to the
25 voters? I guess that's the first questions.

1 MS. SILVERMAN: I believe that was done in
2 statute; is that correct, Lance?

3 MR. DAVIS: If I understand your question, the new
4 statute bill enacted changed how we are going to fund labor
5 compliance and also changed who would be enforcing it and it
6 put a demarcation point, contracts that would be awarded
7 after the regulations were in place and after January 1.

8 ASSEMBLY MEMBER HAGMAN: I understand that -- the
9 premise there. But again if we -- we're going to be looking
10 at the different things. We run out of money, these
11 different pots of money and whether or not it's legal to
12 move it from another source to the other, can we combine
13 them, those types of things.

14 I understand that other provisions that the voters
15 have passed in the past -- we can only do so much as a
16 Legislature to change those rules, so to speak, of how it
17 works because -- unless we get the two-thirds threshold and
18 start overwriting that.

19 I guess the bigger picture, can this affect those?
20 I understand what the bill was passed and signed into law.
21 I understand what that states, but it doesn't say
22 particularly what things -- going for in the contracts.

23 This is a funding source that was done prior to
24 that in some cases, many times without those different
25 rules. Does that change that structure -- that bond fund

1 enough for when we have potential litigation coming down the
2 line in the future over that.

3 And I understand the SAB Board can write their own
4 rules and regs as far as what we want to see, but can we
5 counteract the voters in that way. And that's more of a
6 legal question I guess.

7 MR. DAVIS: The opinion of the bond counsel,
8 Attorney General's office, is that the enforcement of the
9 prevailing wage laws is a cost construction and that's the
10 way they word it that way into the new laws that were
11 enacted as a cost of construction.

12 So what this does is narrow it down what the
13 Department of Industrial Relations can charge and it puts
14 down the specific figure and it authorizes us to be able to
15 increase our grants because it's part of the construction
16 cost that the school districts will be incurring.

17 So under that -- oh, we're not changing the prior
18 will of the voters and of course the original AB160 -- 1504,
19 the original one, that was enacted -- it wasn't actually
20 part of the Bond Act. Of course it was only enacted if
21 those bonds -- Bond Acts were enacted.

22 ASSEMBLY MEMBER HAGMAN: And I understand and I'm
23 not having a problem with the prevailing wage aspect. I'm
24 having a problem with saying we're going to spend what the
25 state matching funds, what, a quarter of 1 percent of

1 whatever on a billion dollars. That's considerable amount
2 of money going out for something that the voters didn't
3 think they were going to be paying for -- basically an
4 agency within the state government to basically take another
5 chunk off of it versus going to building. And how much --
6 can you figure out what 1.3 billion -- it's 130 million
7 of -- at 1 percent, so roughly \$30 million in fees going off
8 in just this issuance alone to DIR. That's several projects
9 that we could have funded if that fund was not being
10 diverted to a state agency.

11 That's -- can we legally do that with -- because
12 we didn't go to the voters saying we want a percentage of
13 this to go to basically mandate a state agency to cover it.

14 I understand the prevailing wage laws that were
15 there and I support that part of it. I'm wondering can we
16 mandate just going off with those costs. That's the legal
17 question. So if you have a written opinion from the
18 Attorney General for that specifically, I'd love to see that
19 and see if they cover that part of it in the future.

20 But I just have questions on that because I don't
21 think that was part of what some of the voters voted in back
22 when they asked for the Bond Act.

23 Because it -- when you -- and that's just one
24 issuance here. If you go over a \$10 billion bond, that gets
25 considerable. 300 million.

1 MR. SAVIDGE: DIR represented to us during the
2 meetings that their -- this level of funding would actually
3 be considerably lower than the funding amounts under
4 Proposition 47 and 55 and more cost effective and efficient
5 and the dollar values will be less.

6 ASSEMBLY MEMBER BUCHANAN: I was going to say if
7 you go to page 631 and you take a look what the amounts are
8 now for compliance, we're actually going to be spending less
9 money on compliance.

10 ASSEMBLY MEMBER HAGMAN: Even with the in-house
11 people that have --

12 ASSEMBLY MEMBER BUCHANAN: The total's a quarter
13 of 1 percent. It's --

14 ASSEMBLY MEMBER HAGMAN: Thanks. That's all my
15 questions, Mr. Chair.

16 CHAIRPERSON REYES: Okay. Mr. Savidge, you have
17 the look of I want to say something.

18 MR. SAVIDGE: Nope.

19 CHAIRPERSON REYES: No? Okay. So we have --
20 Lyle.

21 MR. SMOOT: Thank you, sir. Lyle Smoot
22 representing Los Angeles Unified School District and I want
23 to start right off by saying we are ever so happy to see the
24 Implementation Committee up and running again and we believe
25 that they did a stellar job on addressing this issue.

1 It was a difficult issue and they really took the
2 time to go through it and we're very happy with the total
3 product.

4 We do have some concerns still -- the old concerns
5 about documentation, submittal of documentation, timing, but
6 after hearing my colleagues ask this Board to have an
7 automatic review through the -- hopefully through the
8 Implementation Committee in three months, I think that will
9 be a good way to address any remaining issues we have
10 especially after having an opportunity to go through the
11 process and see if it works.

12 Our biggest concern, however, is that this
13 regulation will be applied and utilized on January 1st.
14 Districts will be subject to it. However, it will not be
15 effective at that point in time and I'm not sure exactly how
16 all of that works. And my concern is twofold. One is that
17 we're applying a regulation before it's in effect, but two
18 is you have as a Board some confusion about the labor
19 compliance requirements of the program and sort of have a
20 situation where you don't have an effective regulation and
21 districts are going to be subject to it I think creates an
22 opportunity for confusion and I think along those lines, I
23 would just ask that we have, you know, that information in
24 the hands (indiscernible) does have a problem with it,
25 you'll already know -- that may have been created by the

1 fact the regulations weren't in effect at the time of their
2 submittal of their application. Thank you.

3 CHAIRPERSON REYES: Thank you.

4 MR. SMOOT: Appreciate it.

5 CHAIRPERSON REYES: Ms. Buchanan.

6 ASSEMBLY MEMBER BUCHANAN: Is there -- you know,
7 when you read on this -- on your report, it talks about it
8 has to be -- you talk about the -- it has to be in effect,
9 implemented when the -- it -- of what's going to be
10 implemented.

11 Is there anything in the bill that would restrict
12 us from implementing it before the approvals there? Is
13 there anything that -- because you say it -- are in effect
14 when the Department of Finance has approved the DIR's fee.
15 So -- I mean is there anything that -- is there anything in
16 the bill that restricts us from -- I mean from adopting them
17 a month early.

18 MR. MIRELES: You're referring to DIR's
19 regulations or our --

20 ASSEMBLY MEMBER BUCHANAN: Well, it says --

21 MR. MIRELES: -- regulations?

22 ASSEMBLY MEMBER BUCHANAN: -- you know, the DIR's
23 monitoring service will be provided in compliance. These
24 services will apply to the projects with a construction
25 contract awarded both the DIR regulations are in effect and

1 the Department of Finance has approved the DIR's fee
2 structure.

3 So if we made that -- put that in effect January 1
4 and they don't have -- they haven't completed that till
5 February 1, is there anything that restricts us from having
6 ours become effective before? I mean is there --

7 MS. SILVERMAN: Their regulations have been
8 approved already --

9 ASSEMBLY MEMBER BUCHANAN: Okay.

10 MS. SILVERMAN: -- so --

11 ASSEMBLY MEMBER BUCHANAN: Okay. Fine.

12 CHAIRPERSON REYES: So they're ready.

13 MS. SILVERMAN: Yeah, we're --

14 CHAIRPERSON REYES: So we just -- we're the ones
15 that now need to play catch-up.

16 MS. SILVERMAN: We're just a little behind and
17 we're trying to catch up by filing them on an emergency
18 basis. Okay.

19 MR. ALMANZA: Okay. I'd like to move on staff
20 recommendation to approve.

21 MS. MOORE: Second.

22 CHAIRPERSON REYES: Been moved and second. Are
23 there additional comments or questions? Hearing none, call
24 the roll, please.

25 MS. JONES: Lowenthal.

1 SENATOR LOWENTHAL: Aye.

2 MS. JONES: Brownley.

3 ASSEMBLY MEMBER BROWNLEY: Aye.

4 MS. JONES: Buchanan.

5 ASSEMBLY MEMBER BUCHANAN: Aye.

6 MS. JONES: Hagman.

7 Almanza.

8 MR. ALMANZA: Aye.

9 MS. JONES: Moore.

10 MS. MOORE: Aye.

11 MS. JONES: Reyes.

12 CHAIRPERSON REYES: Aye.

13 MS. JONES: Motion carries.

14 CHAIRPERSON REYES: Thank you. Ms. Moore.

15 MS. MOORE: After the vote, I'd just like to -- if
16 the Board is agreeable, I think we heard from a couple of
17 constituents that they'd like a review of this within a
18 certain period of time.

19 I do think it is a new requirement. It is quite
20 different for school districts and I think it would be
21 important to review it if the Board agrees first perhaps
22 with the Implementation Committee in three months and then
23 come forward to the Board so that we keep it the forefront
24 for school districts that this is the new way that you must
25 comply with the labor compliance component and to tease out

1 any problems early on so that we don't have appeals or other
2 issues come before us later.

3 CHAIRPERSON REYES: Is three months too soon
4 though?

5 MR. SAVIDGE: I would recommend a little bit
6 longer.

7 ASSEMBLY MEMBER BUCHANAN: Yeah. I would just ask
8 what are they reviewing in three months. Because they've
9 signed a form, but you haven't completed a project. There
10 haven't been audits. So what specifically do you want them
11 to review?

12 CHAIRPERSON REYES: What I'd like to see is just
13 more education to school districts particularly those that
14 are going out there, just get the word out, whatever vehicle
15 you have available to get the communication to folks because
16 that's really the piece. And yes, Lyle raises an issue -- a
17 legitimate issue that we're asking -- we're holding folks to
18 a future regulation that's not in place yet.

19 So -- but those are going to be the rules of the
20 game, so you might as well play by those rules because
21 you'll be affected by that. All right.

22 MS. MOORE: And I guess I would just respond that
23 it has been an issue of great confusion before this Board
24 for over two years and that --

25 CHAIRPERSON REYES: But that was before Bill.

1 MS. MOORE: That is correct. So we'll put it back
2 into his good hands. I just think that to have a review
3 once this program has had its opportunity to begin and we
4 have two different agencies involved. We have our staff
5 involved and we have the DIR staff involved and there -- I
6 mean it's going to have a transition period and I just think
7 it would be important to come back before us and ensure that
8 it's operating correctly.

9 ASSEMBLY MEMBER BUCHANAN: I don't have a problem.
10 I just want to know what they're reviewing because I submit
11 a project that's going to start after January 1 and by the
12 time, you know, you get -- the contractor gets the bonds in
13 place and everything else, I don't know -- I mean you may
14 not even have any shovels in the ground for a couple months.

15 So what -- I just want to clarify what we're --

16 MS. MOORE: I don't know what the actual problems
17 might be and that's what I'm asking about. I don't know --
18 I'll tell you from being in the field when new things occur,
19 a lot of stuff bubbles up from that and if there's anything
20 that bubbles up that we as a Board should be aware of or
21 that the staff should be aware of, I certainly want the
22 opportunity for the field to be able to provide that input
23 and for us to hear that and I think it would be beneficial
24 and as I said before, I'd rather take care of issues in the
25 next six months than to hear appeals three years from now.

1 CHAIRPERSON REYES: So why don't we go this route.
2 You know, as you point out, this is going to be an
3 implementation issue. Things are going to be coming up.

4 Bill, you have the Implementation Committee going
5 on right now. Folks can use that as a vehicle and why don't
6 you report back to us in terms of what you hear say in six
7 months and at that time, you can then tell us, you know,
8 this thing requires clarification, this is the stuff that is
9 causing heartburn for folks or whatever.

10 It may be causing heartburn, but it maybe the law
11 and we may not be in a position to change anything, but at
12 least we will know what it is and we have legislators on the
13 dais who may want to consider going back and clarifying the
14 law.

15 But at least that way, you're -- you will have the
16 pulse of the constituent groups that are affected by this.

17 Is that a reasonable approach, members?

18 CHAIRPERSON REYES: I'm fine -- Okay. Okay. Sir.

19 MR. DUFFY: Mr. Chairman, members, Tom Duffy for
20 CASH. I appreciate the discussion about this and just two
21 things.

22 One is because of the importance of it, we're
23 having a series of workshops on this in January. We'll have
24 one here in Sacramento and one in Southern California and
25 we're inviting all parties that have been involved in it to

1 present and discuss the implementation and make sure
2 everything is on target.

3 The second thing is that we do appreciate very
4 much, Mr. Chairman, your comments about having the
5 Implementation Committee as a forum to be able to bring
6 issues and we will do that.

7 But I think -- and I don't know if this was in
8 your mind, Ms. Moore, but when we were implementing AB1506,
9 the implementation was something that caused a number of
10 reviews and they were reviews that were done in front of the
11 Allocation Board and it was very helpful to make sure that
12 we resolved issues because there are two agencies not simply
13 OPSC that's involved and we not have any connection with any
14 oversight body such as the Allocation Board with the
15 Department of Industrial Relations.

16 So it was a good place to be able to say these are
17 issues we're trying to resolve and with the influence of
18 members of the Legislature as well as the administration, it
19 was very helpful.

20 So we will indeed work with Mr. Savidge and the
21 Implementation Committee, but just wanting to bring that
22 back to you because it was a very effective vehicle to
23 implement and resolve issues with 1506.

24 And this has been a rather complicated and
25 confusing issue, but thank you very much.

1 CHAIRPERSON REYES: Okay. I think DIR has been a
2 very close partner on this. So to their credit, they've
3 been very flexible and willing to work with us in a
4 meaningful -- Ms. Silverman.

5 MS. SILVERMAN: Yes. Staff is actually trying to
6 work with DIR to try to have some outreach functions so that
7 way we could kind of give folks the education piece on how
8 to be successful.

9 CHAIRPERSON REYES: Excellent.

10 MS. SILVERMAN: So --

11 CHAIRPERSON REYES: Excellent. Okay. Thank you.
12 Next item.

13 MS. SILVERMAN: 14.

14 ASSEMBLY MEMBER HAGMAN: Mr. Chairman, that -- I
15 pulled that earlier and my questions were answered and I
16 would like to move --

17 CHAIRPERSON REYES: It's been moved. Is there a
18 second?

19 MS. MOORE: Second.

20 CHAIRPERSON REYES: It's been second. Item 14,
21 **Charter School Facilities**, moved and second. Without
22 objection, it will be unanimous of those Board members
23 present. Thank you. 15 was Consent. 16 Consent. 17 -- 17
24 and I'm sorry Ms. Brownley left because I really wanted to
25 thank her for her request for Leg. Counsel.

1 We'd like to have the Leg. Counsel opinion put
2 into the record. So that should be part of guiding
3 principle moving forward.

4 I would like to thank Leg. Counsel for clarifying
5 this issue and request that the Board include the
6 Legislative Counsel opinion in its action today. I think
7 it's important for school districts to keep energy
8 efficiency in mind, especially when constructing new school
9 facilities.

10 Legislative Counsel review provided clear legal
11 authority for school districts to apply for energy
12 efficiency incentive funds which provide school districts
13 with funding to incorporate energy efficient designs and
14 materials when constructing facilities through the
15 Overcrowded Relief Grant Program.

16 Legislative Counsel's opinion correctly identifies
17 construction undertaken through the Overcrowded Relief Grant
18 Program as building new permanent school facilities and
19 thankfully Leg. Counsel's staff clarities as new facilities
20 are more than likely to incorporate energy efficient designs
21 and materials.

22 I'd like to go that on record too because I think
23 it's -- I'm grateful that folks asked for this. Sophia was
24 very instrumental in getting that and pushing counsel to get
25 the information. I know there's delay. LA delayed this

1 decision for a while, but thank you for your patience.

2 ASSEMBLY MEMBER BUCHANAN: I move approval.

3 CHAIRPERSON REYES: It's been moved.

4 ASSEMBLY MEMBER HAGMAN: Second.

5 SENATOR LOWENTHAL: Second.

6 CHAIRPERSON REYES: Second.

7 SENATOR LOWENTHAL: And I want to thank you for
8 introducing that into the record also. Thank you very much.

9 CHAIRPERSON REYES: Thank you. Okay. It's been
10 moved and second. Without objection, unanimous of all those
11 present. Thank you.

12 MS. SILVERMAN: Tab 20.

13 CHAIRPERSON REYES: 18?

14 MS. SILVERMAN: 20.

15 CHAIRPERSON REYES: 20. Thank you. **Seismic**
16 **mitigation.** Thank you.

17 MS. SILVERMAN: So staff wanted to give the Board
18 somewhat of an update of what we're doing and the progress
19 we're making in this program which relates to the Seismic
20 Mitigation Program.

21 As you all are aware, the regulations were changed
22 and went into effect on September 8th, 2011. And we wanted
23 to highlight at least from staff's perspective of what's
24 been happening with some of the applications.

25 We currently haven't received any additional

1 funding applications. So unfortunately we don't have any
2 news in that area.

3 But we wanted to remind the Board that we did fund
4 three projects in the past for \$4.7 million. We still have
5 \$194.7 million available and again those folks should
6 realize that the program did change significantly.

7 And what we did want to highlight is the -- we did
8 receive a grant, \$200,000, from the Seismic Safety
9 Commission and that \$200,000 has been solely been depleting.

10 We actually had a free evaluation template that
11 was available. We had about \$127,000 available for school
12 districts to tap into that free template review. We
13 actually have exhausted that free template money.

14 So those have been expended. That actually did go
15 out for five additional school districts for 40 different
16 sites. So we're happy that folks are moving forward with
17 those template reviews, so hopefully they can move forward
18 also with the Division of State Architect.

19 With that, I think DSA is here to present their
20 procedural updates.

21 CHAIRPERSON REYES: Thank you and welcome.

22 MR. SMITH: Great. Good afternoon, Board members,
23 Chair. My name's Howard Chip Smith, Acting State Architect
24 for a bit here and I have with me Masha Lutsuk and we could
25 give you a brief overview of the process changes. These are

1 contained in the document that you did receive as an
2 attachment and then a status update on the projects received
3 under the --

4 CHAIRPERSON REYES: In the interest of time, if
5 you can give us the Reader's Digest version.

6 MR. SMITH: Yes. I can do --

7 CHAIRPERSON REYES: 10,000 foot level.

8 MS. LUTSUK: Right. So I think in our report, we
9 tried to provide an abbreviated version and just to
10 highlight the -- on the second page of our report, the
11 couple of things that are new process improvements for us --
12 for DSA and give you an update.

13 The first thing that we did very quickly is adopt
14 a template for eligibility reviews. It's intended to make
15 the applications and our review as consistent as possible
16 rather than accepting a free format structural engineer's
17 report, this is a template that everyone's required to
18 complete. And the template was developed with -- as part of
19 the contract that was awarded with the grant money from the
20 Seismic Safety Commission.

21 And of course with the expanded eligibility
22 criteria, we had to incorporate the process and the
23 guidelines for doing additional evaluations for geological
24 hazards that weren't previously eligible, such as
25 liquefaction, faulting, and landslides. So that's also

1 included in our revised procedure.

2 And the -- additionally when we set out to amend
3 our procedures to incorporate new regulations, we also took
4 an opportunity to streamline our process and give it a lot
5 more structure and we attempted to put our procedure in
6 terms of phases to give the clients, DSA, OPSC, DGS, and
7 everyone a clear understanding of how the applications would
8 flow through the process.

9 So we basically have four large phases of review
10 and the first phase is the evaluation of whether the
11 building's eligible or not. And for that particular phase,
12 we received as of the writing of the report that you have,
13 we had 66 applications. Since two weeks have passed, we now
14 have a total of 79 applications.

15 Those resulted in 47 eligible buildings. We do an
16 application for building again for streamlining and
17 efficiency purposes. The rest of the applications are
18 either under review and they have been deemed incomplete and
19 the clients are working on completing them or the structural
20 analysis that was done had errors and that's a very minor
21 amount -- I think about five applications that are going
22 back to the preparers for corrections.

23 So that's where we're at with --

24 CHAIRPERSON REYES: Roughly how long does it take
25 them back from the districts when you send them out for

1 corrections?

2 MS. LUTSUK: I would say two to three weeks.

3 CHAIRPERSON REYES: Okay.

4 MS. LUTSUK: But a lot of districts have multiple
5 applications and if there's a problem with completeness, for
6 example, we'll typically have multiple applications, so we
7 kind of process these things in bundles.

8 CHAIRPERSON REYES: Okay. How soon are we going
9 to get money out? The real question.

10 MS. LUTSUK: It depends on the level of
11 preparedness of our clients I believe and we did have -- and
12 we have been getting questions from those that have actually
13 already gone through DSA review for -- with plans and
14 specifications for either replacement or rehabilitation of
15 buildings before these new regulations, districts on their
16 own doing this, but we haven't actually seen any
17 applications.

18 But those would be fastest because they've already
19 gone through the process. We simply have to do additional
20 verification that they actually comply with and meet the
21 requirements of regulations, but we haven't seen any yet.

22 CHAIRPERSON REYES: Okay. Senator Lowenthal.

23 SENATOR LOWENTHAL: Yeah. I just need to
24 understand, have we heard any concerns from districts
25 regarding the new procedures?

1 MS. LUTSUK: We have not. We have conducted a
2 public meeting before releasing these. We've answered a lot
3 of questions. I don't -- we have received a lot of
4 questions on how to comply in a particular circumstance with
5 a particular building structure, but we haven't received any
6 complaints.

7 SENATOR LOWENTHAL: So with the new regulations or
8 the procedures, how many more applications? I did not
9 follow that -- have we received?

10 MS. LUTSUK: Today we've received 79 applications.

11 SENATOR LOWENTHAL: And those 79 are -- how many
12 before you changed the procedures?

13 MS. LUTSUK: The 79 are the new ones.

14 SENATOR LOWENTHAL: Okay. So there's 79 new ones.

15 MS. LUTSUK: Right. Before we changed the
16 procedures, I want to say that we were somewhere in the
17 neighborhood of 70 also. About 50 of those were completed
18 by the districts on their own and about 20 were done with
19 the funds from the Seismic Safety Commission -- around that.

20 SENATOR LOWENTHAL: So these are 79 additional
21 ones.

22 MS. LUTSUK: New ones, yes.

23 SENATOR LOWENTHAL: Right. And --

24 MS. LUTSUK: Purely under the new regulations.

25 SENATOR LOWENTHAL: And do we have any idea about

1 approximately how much -- if they were all funded and went
2 out, how much money that would be?

3 MR. SMITH: We can't tell at this time. It's too
4 early --

5 CHAIRPERSON REYES: Because we don't have the full
6 scope of the project. So --

7 MR. SMITH: Right. Full scope.

8 SENATOR LOWENTHAL: Got it.

9 ASSEMBLY MEMBER BUCHANAN: And the chances of
10 funding 79 with \$200 million is --

11 SENATOR LOWENTHAL: I just wondered how much --

12 CHAIRPERSON REYES: Yeah. Okay.

13 SENATOR LOWENTHAL: So you're anticipating that we
14 will get though the \$199 million out now?

15 MS. LUTSUK: It will depend on which course of
16 action the districts choose. If they choose rehabilitation
17 or replacement and how extensive that rehabilitation has to
18 be. So it's a difference in terms of the Board -- in terms
19 that the Board used to, it's the difference between
20 modernizing or replacing with new construction.

21 So it will depend on what is the course that the
22 district selects for that particular building that's been
23 deemed eligible in this first phase of review.

24 SENATOR LOWENTHAL: So when would we -- you know,
25 since the driving force behind this is to get that money out

1 as quickly as possible, when will we have a picture of
2 whether it's working or not?

3 ASSEMBLY MEMBER BUCHANAN: I will only tell you
4 since the gym at the school district where I was on the
5 board was --

6 SENATOR LOWENTHAL: Um-hmm.

7 ASSEMBLY MEMBER BUCHANAN: -- the first one to
8 qualify under this program. You know, it takes time. By
9 the time you've got a structural engineer and a soils
10 engineer and others to take a look at a school to say yes,
11 it can be occupied/no, it can't be occupied and the fix is
12 that, you know, A or B.

13 I mean it's something that just doesn't happen in
14 three months' time.

15 SENATOR LOWENTHAL: I'm just wondering about how
16 long.

17 ASSEMBLY MEMBER BUCHANAN: I would think it would
18 be the better part -- well, depending on where they are in
19 the process, I would think it would be the better part of a
20 year. And that would be --

21 SENATOR LOWENTHAL: Before we have some picture.

22 ASSEMBLY MEMBER BUCHANAN: And that would be
23 irrespective, but it just -- like I said, it takes time to
24 do that kind of work to actually get to --

25 SENATOR LOWENTHAL: I got it. I just wanted to

1 know when we would have a feel for how these new
2 regulations --

3 ASSEMBLY MEMBER BUCHANAN: Yeah. I don't know,
4 but that would be my guess.

5 SENATOR LOWENTHAL: -- are working.

6 ASSEMBLY MEMBER BUCHANAN: Maybe Bill would --

7 MR. SAVIDGE: No. That's absolutely right.

8 SENATOR LOWENTHAL: About a year?

9 MR. SAVIDGE: About a year.

10 SENATOR LOWENTHAL: Okay.

11 CHAIRPERSON REYES: Yeah. That was one of the
12 questions I raised to staff during the briefing. Now that I
13 can do in a public setting from Bagley-Keene -- yeah, that
14 was the issue that I had.

15 It was just one staff -- OPSC staff and myself.

16 SENATOR LOWENTHAL: Okay. I'm just checking.
17 Just checking.

18 CHAIRPERSON REYES: Want to make sure that I was
19 in compliance, but that was the question I had because this
20 is an area that we were very interested and we opened and so
21 it's sort of frustrating that there's still -- but I
22 understand, Ms. Buchanan. There's a lot of legwork that has
23 to happen at the district.

24 ASSEMBLY MEMBER BUCHANAN: And a school district
25 doesn't know what to do. I mean it's sort of like we think

1 we have a problem. One, do we really have a problem. Two,
2 if we really have a problem, what's the remedy.

3 CHAIRPERSON REYES: Yeah.

4 SENATOR LOWENTHAL: Um-hmm.

5 ASSEMBLY MEMBER BUCHANAN: You know, how do we fix
6 it.

7 CHAIRPERSON REYES: Okay. Well, keep at it.
8 We're very, very interested in getting the money out.
9 There's clearly a need out there and so thank you and we'll
10 expect to have another briefing from you. Thank you very
11 much.

12 Okay. So we have Tab 7 on the **funding**. Is it
13 okay with the Board members to just bypass that? I mean we
14 have it. It's informational. It's not an action item.

15 SENATOR LOWENTHAL: Um-hmm.

16 CHAIRPERSON REYES: And, you know, I apologize.
17 We sort of jumped because of the quorum and then also we had
18 guests that we wanted to address or have them do the
19 training. So take us to the next level -- the next --

20 MS. SILVERMAN: Tab 21 is just our **workload**
21 report.

22 CHAIRPERSON REYES: Okay. So it's informational.
23 No action.

24 MS. SILVERMAN: Very informational. No action.
25 And we're going to be very loaded in appeals in January.

1 CHAIRPERSON REYES: Okay. Then Tab 22 is also not
2 an action item.

3 MS. SILVERMAN: That's just the **meetings**.

4 CHAIRPERSON REYES: Okay. Now we'd invite public
5 comments to anything that has been discussed and I apologize
6 for not doing that every item.

7 Board members, does it make sense to have the
8 public comments at the end instead of the beginning? Today
9 we had public comments and folks came and talked about
10 issues that we're going to be discussing later, but it is a
11 public comment, so they could come and talk about almost
12 anything --

13 ASSEMBLY MEMBER BUCHANAN: My suggestion would be
14 that if the public is going to comment on specific agenda
15 items, they comment --

16 CHAIRPERSON REYES: Right.

17 ASSEMBLY MEMBER BUCHANAN: -- when that agenda
18 item is --

19 CHAIRPERSON REYES: Right. Right.

20 ASSEMBLY MEMBER BUCHANAN: And that since people
21 travel great distances to be able to present their appeals
22 or whatever that at the end then we have public comment on
23 anything that's not on the agenda.

24 SENATOR LOWENTHAL: Nonagenda item.

25 CHAIRPERSON REYES: That -- I know you guys have

1 it in the agenda before my time to have it early on and
2 Mr. Walrath and I joked one time about what are you talking
3 about and it is in fact in the agenda for folks to come in
4 and today we have folks who don't come often and wanted to
5 talk because they wanted to make sure that their point was
6 taken, which was helpful.

7 But it seems to me that as we move forward in each
8 individual item, we should allow for public comment and then
9 at the end, we should allow for public comment for anything
10 that's not in the agenda.

11 SENATOR LOWENTHAL: Right.

12 MS. MOORE: I have one caveat to that.

13 CHAIRPERSON REYES: Yes, Ms. Moore.

14 MS. MOORE: And that would be that if someone has
15 comment on something that is not in the agenda and our
16 meeting runs long that we allow them to -- or we accommodate
17 them because people do come from great distances sometimes.
18 So --

19 ASSEMBLY MEMBER BUCHANAN: That should be the
20 Chair's discretion.

21 MS. MOORE: At the Chair's discretion.

22 CHAIRPERSON REYES: If people will make me aware
23 of that, then we'll take that into consideration.

24 The Chair's interest, if you haven't noticed, is
25 to move us out of here quickly. But, you know --

1 MS. MOORE: I just have a final comment too.

2 CHAIRPERSON REYES: Yes.

3 MS. MOORE: I would really like to recognize staff
4 on the 925 million that went out. I know that there was a
5 tremendous amount of work that went on with that and that
6 it's the most important work I think that we do now on a
7 biannual basis and I wanted to compliment them on their
8 work.

9 MS. JONES: Staff or intermediaries?

10 (Laughter)

11 CHAIRPERSON REYES: We're talking OPS staff or
12 intermediaries?

13 (Laughter)

14 CHAIRPERSON REYES: Both. Mr. Hagman.

15 ASSEMBLY MEMBER HAGMAN: I was going just do a
16 follow-up to -- we talked about a number of potential
17 subcommittees coming up this working year as our bond funds
18 run near, as we've kind of worked through some of our
19 problems, just as we get everything smoothed out, of course
20 we're out of money.

21 So any thoughts about setting those up in the
22 calendar for that as well.

23 CHAIRPERSON REYES: We will put that on the list
24 of things to do.

25 ASSEMBLY MEMBER HAGMAN: Thank you.

1 CHAIRPERSON REYES: Thank you very much. As the
2 Chair's prerogative, I want to wish everybody happy
3 holidays. See you next year.

4 (Whereupon, at 4:00 p.m. the proceedings were recessed.)

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