REPORT OF THE EXECUTIVE OFFICER
State Allocation Board Meeting, February 22, 2012

NEW CONSTRUCTION SUB-COMMITTEE

PURPOSE OF REPORT

To present the State Allocation Board (Board) with recommendations from the State Allocation Board Sub-committee on New Construction (Sub-committee).

DESCRIPTION

This item is to seek Board direction regarding recommendations from the Sub-committee concerning the future of the School Facility Program (SFP). The Sub-committee discussed and made recommendations on the following four topics: Level III developer fees, the transfer of Overcrowding Relief Grant (ORG) bond authority, extending the remaining new construction bond authority, and accepting applications beyond authorized bond authority.

AUTHORITY

See Attachment A.

BACKGROUND

At the September 2011 State Allocation Board (Board) meeting, the members created a sub-committee to consider the future of the SFP. In particular, the members wished to take a look at where we stand with New Construction bond authority between now and the next potential school facilities bond that could be placed on the ballot.

The Sub-committee had three main goals:

- Delaying level III developer fees,
- program preservation, and
- placing the State in the best position possible to pass a school facilities bond in 2014

On November 7, 2011 the Sub-committee met to begin discussion on how to proceed with the SFP as the amount of remaining New Construction bond authority nears depletion. The Sub-committee met to continue these discussions on January 11, 2012. A final meeting was held on February 14, 2012 to reach a consensus and direct Staff to present the Sub-committee's recommendations to the full Board.

As of the January 2012 Board meeting, less than $150.1 million remains in New Construction (NC) bond authority and $410.0 million remains in Modernization bond authority. Based on the typical processing timeline of applications and the average monthly drawdown on authority, NC bond authority will be exhausted in April 2012. Modernization bond authority is expected to be exhausted in October 2012.

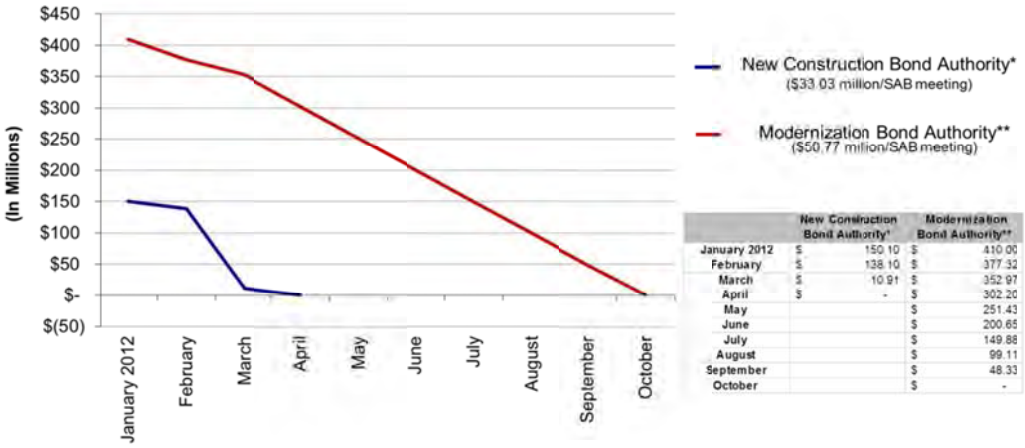
At the February 14, 2012 Sub-committee meeting, the following bond authority drawdown charts were presented:

(Continued on Page Two)

BACKGROUND (cont.)

1. Drawdown based on in-house workload, typical processing, and no bond authority transfers.

Estimated Drawdown of Proposition 47, 55, and 1D New Construction and Modernization Bond Authority
As of February 2, 2012
(Based on average amount of Unfunded Approvals over last 12 months)



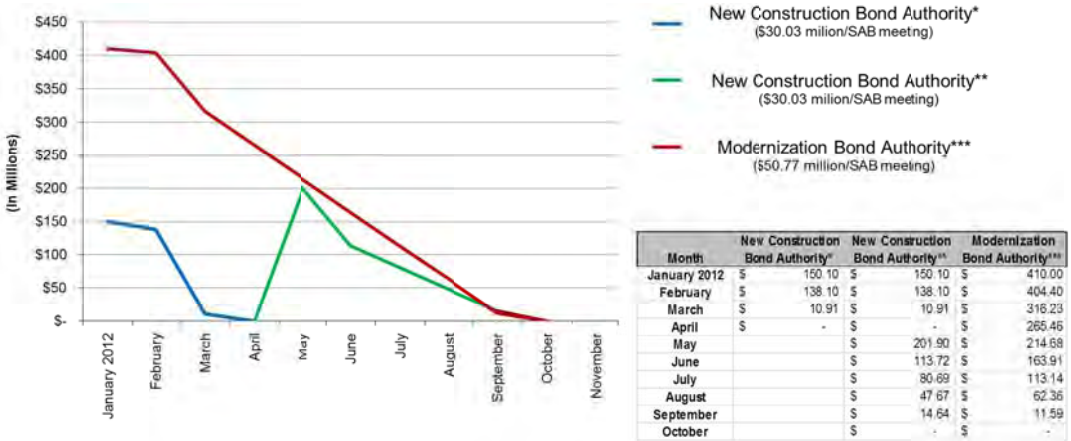
	New Construction Bond Authority*	Modernization Bond Authority**
January 2012	$ 150.10	$ 410.00
February	$ 138.10	$ 377.32
March	$ 10.91	$ 352.97
April	$ -	$ 302.20
May		$ 251.43
June		$ 200.65
July		$ 149.88
August		$ 99.11
September		$ 48.33
October		$ -

February and March 2012 drawdown is based on OPSC's in-house workload estimates.
April drawdown is based on average amount of Unfunded Approvals over the last 12 months.

* Includes Prop. 47, 55 and 1D New Construction Bond Authority (excludes Seismic and Energy)
** Includes Prop. 47, 55 and 1D Modernization Bond Authority

2. Drawdown based on in-house workload, typical processing, and transfer of Critically Overcrowded School (COS) program bond authority ($201.9 million†) to NC.

Estimated Drawdown of Proposition 47, 55, and 1D New Construction and Modernization Bond Authority
As of February 2, 2012
(Based on average amount of Unfunded Approvals over last 12 months)



Month	New Construction Bond Authority*	New Construction Bond Authority**	Modernization Bond Authority***
January 2012	$ 150.10	$ 150.10	$ 410.00
February	$ 138.10	$ 138.10	$ 404.40
March	$ 10.91	$ 10.91	$ 316.23
April	$ -	$ -	$ 265.46
May		$ 201.90	$ 214.68
June		$ 113.72	$ 163.91
July		$ 80.69	$ 113.14
August		$ 47.67	$ 62.36
September		$ 14.64	$ 11.59
October		$ -	$ -

February and March 2012 drawdowns are based on OPSC's in-house workload estimates.

* Includes Prop. 47, 55 and 1D New Construction Bond Authority (excludes Seismic and Energy)
** Includes Prop. 47, 55 and 1D New Construction Bond Authority with transfer of all Outstanding COS PAs, $201.9 million (excludes Seismic and Energy)
Unfunded List has $26,599,820 in unfunded COS EH and $140,398,413 in unfunded COS PAs. Additonally, there are $34.9 million in COS reserves.
*** Includes Prop. 47, 55 and 1D Modenization Bond Authority

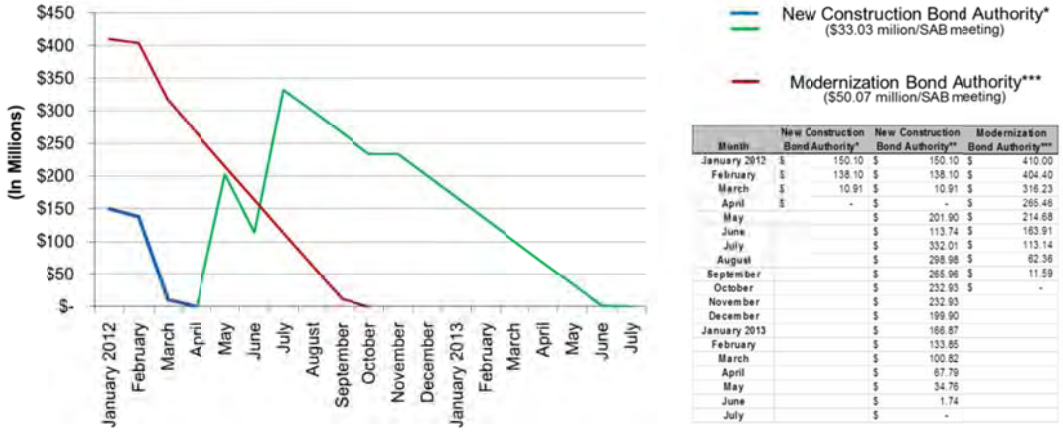
† One project has been received to convert to a final adjusted grant unfunded approval in the amount of $12.8 million.

(Continued on Page Three)

BACKGROUND (cont.)

3. Drawdown based on in-house workload, typical processing, and transfer of COS ($201.9 million) and of Overcrowded Relief Grant (ORG) ($251.3 million†) program bond authority to NC.

Estimated Drawdown of Proposition 47, 55, and 1D New Construction and Modernization Bond Authority
Transfer Critically Overcrowded Schools ($201.9 million) and Overcrowding Relief Grant Authority ($251.3 million) to New Construction
As of February 2, 2012



Month	New Construction Bond Authority*	New Construction Bond Authority**	Modernization Bond Authority***
January 2012	$ 150.10	$ 150.10	$ 410.00
February	$ 138.10	$ 138.10	$ 404.40
March	$ 10.91	$ 10.91	$ 316.23
April	$ -	$ -	$ 265.46
May		$ 201.90	$ 214.68
June		$ 113.74	$ 163.91
July		$ 332.01	$ 113.14
August		$ 298.98	$ 62.36
September		$ 265.96	$ 11.59
October		$ 232.93	$ -
November		$ 232.93	
December		$ 199.90	
January 2013		$ 166.87	
February		$ 133.85	
March		$ 100.82	
April		$ 67.79	
May		$ 34.76	
June		$ 1.74	
July		$ -	

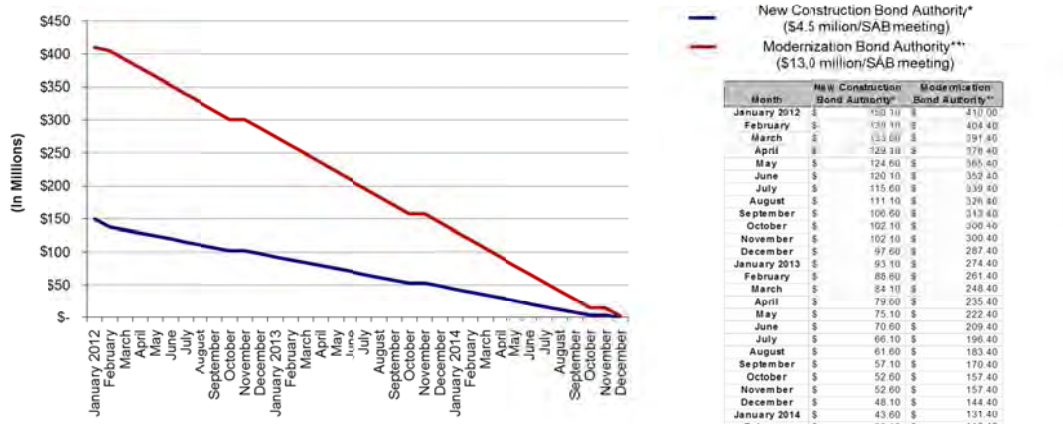
February and March 2012 drawdown is based on OPSC's in-house workload estimates. The SAB does not normally have a November meeting.

* Includes Prop. 47, 55 and 1D New Construction Bond Authority (excludes Seismic and Energy)
** Includes Prop. 47, 55 and 1D New Construction Bond Authority with transfer of all Outstanding COS PAs, $201.9 million (excludes Seismic and Energy) and $251.3 million from ORG.
*** Includes Prop. 47, 55 and 1D Modenization Bond Authority

† Seven applications have been received for the ninth cycle that closed January 31, 2012 in the amount of $23.5 million.

4. Drawdown based on in-house workload, regulated processing (propose $4.5 million NC, $13.0 Modernization), and no bond authority transfers.

Regulated Processing to get to December 2014
Estimated Drawdown of Proposition 47, 55, and 1D New Construction and Modernization Bond Authority
As of February 2, 2012



Month	New Construction Bond Authority*	Modernization Bond Authority**
January 2012	$ 150.10	$ 410.00
February	$ 138.10	$ 404.40
March	$ 133.60	$ 391.40
April	$ 129.10	$ 378.40
May	$ 124.60	$ 365.40
June	$ 120.10	$ 352.40
July	$ 115.60	$ 339.40
August	$ 111.10	$ 326.40
September	$ 106.60	$ 313.40
October	$ 102.10	$ 300.40
November	$ 102.10	$ 300.40
December	$ 97.60	$ 287.40
January 2013	$ 93.10	$ 274.40
February	$ 88.60	$ 261.40
March	$ 84.10	$ 248.40
April	$ 79.60	$ 235.40
May	$ 75.10	$ 222.40
June	$ 70.60	$ 209.40
July	$ 66.10	$ 196.40
August	$ 61.60	$ 183.40
September	$ 57.10	$ 170.40
October	$ 52.60	$ 157.40
November	$ 52.60	$ 157.40
December	$ 48.10	$ 144.40
January 2014	$ 43.60	$ 131.40
February	$ 39.10	$ 118.40
March	$ 34.60	$ 105.40
April	$ 30.10	$ 92.40
May	$ 25.60	$ 79.40
June	$ 21.10	$ 66.40
July	$ 16.60	$ 53.40
August	$ 12.10	$ 40.40
September	$ 7.60	$ 27.40
October	$ 3.10	$ 14.40
November	$ 3.10	$ 14.40
December	$ -	$ 1.40

SAB does not normally have a November meeting.

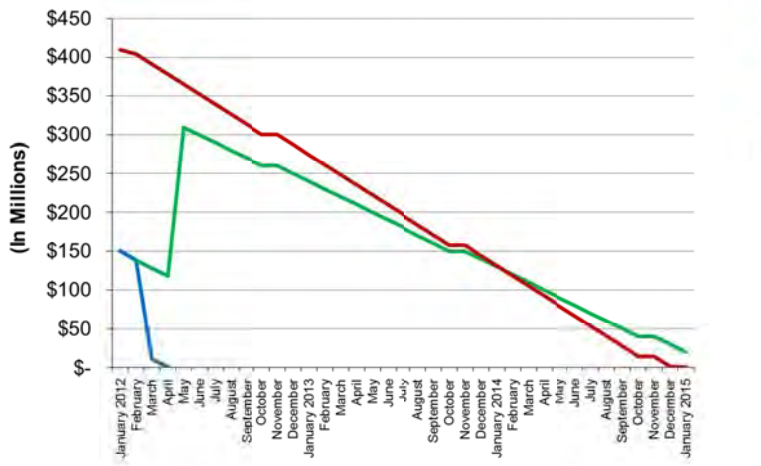
* Includes Prop. 47, 55 and 1D New Construction Bond Authority (excludes Seismic and Energy)
** Includes Prop. 47, 55 and 1D Modenization Bond Authority

(Continued on Page Four)

BACKGROUND (cont.)

5. Drawdown based on in-house workload, regulated processing (propose $10.0 million NC, $13.0 Modernization), and transfer of COS program bond authority to NC.

Estimated Drawdown of Proposition 47, 55, and 1D New Construction and Modernization Bond Authority
Transfer Critically Overcrowded Schools ($201.9 million) to New Construction
As of February 2, 2012



New Construction Bond Authority*

New Construction Bond Authority**
($10.0 milion/SAB meeting)

Modernization Bond Authority***
($13.0 million/SAB meeting)

Month	New Construction Bond Authority*	New Construction Bond Authority**	Modernization Bond Authority***
January 2012	$ 150.10	$ 150.10	$ 410.00
February	$ 138.10	$ 138.10	$ 404.40
March	$ 10.91	$ 128.10	$ 391.40
April	$	$ 118.10	$ 378.40
May		$ 310.00	$ 365.40
June		$ 300.00	$ 352.40
July		$ 290.00	$ 339.40
August		$ 280.00	$ 326.40
September		$ 270.00	$ 313.40
October		$ 260.00	$ 300.40
November		$ 260.00	$ 300.40
December		$ 250.00	$ 287.40
January 2013		$ 240.00	$ 274.40
February		$ 230.00	$ 261.40
March		$ 220.00	$ 248.40
April		$ 210.00	$ 235.40
May		$ 200.00	$ 222.40
June		$ 190.00	$ 209.40
July		$ 180.00	$ 196.40
August		$ 170.00	$ 183.40
September		$ 160.00	$ 170.40
October		$ 150.00	$ 157.40
November		$ 150.00	$ 157.40
December		$ 140.00	$ 144.40
January 2014		$ 130.00	$ 131.40
February		$ 120.00	$ 118.40
March		$ 110.00	$ 105.40
April		$ 100.00	$ 92.40
May		$ 90.00	$ 79.40
June		$ 80.00	$ 66.40
July		$ 70.00	$ 53.40
August		$ 60.00	$ 40.40
September		$ 50.00	$ 27.40
October		$ 40.00	$ 14.40
November		$ 40.00	$ 14.40
December		$ 30.00	$ 1.40
January 2015		$ 20.00	$ -

February and March 2012 drawdowns are based on OPSC's in-house workload estimates. The SAB does not normally have a November meeting.

* Includes Prop. 47, 55 and 1D New Construction Bond Authority (excludes Seismic and Energy)
** Includes Prop. 47, 55 and 1D New Construction Bond Authority with transfer of all Outstanding COS PAs, $201.9 million (excludes Seismic and Energy)
Unfunded List has $26,599,820 in unfunded COS EH and $149,398,413 in unfunded COS PAs. Additionally, there are $34.9 million in COS reserves.
*** Includes Prop. 47, 55 and 1D Modenization Bond Authority

SUBCOMMITTEE RECOMMENDATIONS

Listed below are the Sub-committee recommendations and a brief description of each topic discussed at the February 14, 2012 Sub-committee meeting. For more detailed information on all of the options presented see the agenda item for the February 12, 2012 Sub-committee meeting which is available on the Office of Public School Construction website at www.dgs.ca.gov/opsc.

Level III Developer Fees

Recommendation: Recommend to the Legislature to suspend Level III developer fees through December 31, 2014.

The Sub-committee discussed the possible fiscal impacts that the implementation of Level III developer fees could have on the State of California. There was a consensus between Sub-committee members that the implementation of Level III developer fees would negatively impact the State of California. Based on this information it is the Sub-committee's recommendation to support suspension of Level III developer fees through December 31, 2014. This provides motivation for all parties to work together to place a bond on the November, 2014, ballot or sooner and to work together for passage of the bond.

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SUBCOMMITTEE RECOMMENDATIONS (cont.)

Transfer of remaining ORG bond authority

Recommendation: The majority of the Committee Members agreed not to suggest (to the legislature) a transfer of ORG authority at this time.

The Sub-committee discussed the possible transfer of bond authority from the ORG program. Transferring ORG bond authority would require legislative action. The Sub-committee did receive opposition to a transfer from Stakeholders as districts have indicated that they have projects in construction or nearing completion for which they will be submitting funding requests. After deliberation, there was consensus amongst the legislative Committee members not to suggest a transfer ORG authority at this time.

Regulation of remaining bond authority

Recommendation: Direct the Board to regulate the remaining bond authority to extend the current program of providing unfunded approvals until the end of 2014.

Discussion at the Sub-committee dealt heavily with extending the State school facility funding programs into the future. The focus of the discussion was on how the State could best position itself to pass a school facilities bond in 2014. Two options were considered: 1) regulating remaining authority to keep the program running through the end of 2014 or 2) exhausting bond authority and using an unfunded approvals list to demonstrate that extending the remaining NC bond authority until the end of 2014.

Future acceptance and processing of funding applications

Recommendation: Continue to accept applications beyond the current available bond authority and develop a method for tracking these projects.

Compiling a list of projects once the program has exceeded all available bond authority will help demonstrate the need for a future school facilities bond. There was, however, some discussion regarding the type of list that should be used. The options considered were a traditional unfunded approval list in which applications are processed to the Board in the current fashion or a simplified list that provides project information with a date stamp each application. The latter list would be moved to an unfunded list once the parameters of the next bond are determined. The Sub-committee recommends creation of the simplified list with details to be developed by staff and/or the Implementation Committee.

RECOMMENDATION

Seek the Board's direction on all Sub-committee recommendations.

BOARD ACTION

In considering this Item, the SAB took separate actions on the four recommendations as follows: Recommendation #1 requested that the Legislature suspend the Level III developer fees through December 31, 2014. A motion was made, and carried, to approve Recommendation #1. Recommendation #2 transferred the ORG Program bond authority. The SAB did not act on this recommendation because the New Construction Sub-Committee members agreed not to suggest to the Legislature to take this action at this time. Recommendation #3 regulated the remaining bond authority by directing the SAB to regulate the remaining bond authority to extend the current program of providing unfunded approvals until the end of 2014. A motion was made, and failed, to approve Recommendation #3. Recommendation #4 continued to accept applications beyond the current bond authority and develop a method for tracking these projects. A motion was made, and carried, to accept and date stamp applications with the Implementation Committee proposing all options so the SAB can have a robust discussion regarding this issue.

ATTACHMENT A
AUTHORITY

Education Code (EC) Section 17070.35(a) states, “In addition to all other powers and duties as are granted to the board by this chapter, other statutes, or the California Constitution, the board shall do all of the following:

(1) Adopt rules and regulations, pursuant to the rulemaking provisions of the Administrative Procedure Act, Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, for the administration of this chapter…

(2) Establish and publish any procedures and policies in connection with the administration of this chapter as it deems necessary…”

EC Section 17075.10(B) requires that the district has made all reasonable efforts to impose all levels of local debt capacity and development fees, and that the school district is unable to participate in the program pursuant to this chapter except as set forth in this article.

EC Section 17076.10(d) states, “If a school district has received an apportionment, but has not met the criteria to have funds released pursuant to Section 17072.32 or 17074.15 within a period established by the board, but not to exceed 18 months, the board shall rescind the apportionment and deny the district's application.

EC Section 17620 states “(a) (1) The governing board of any school district is authorized to levy a fee, charge, dedication, or other requirement against any construction within the boundaries of the district, for the purpose of funding the construction or reconstruction of school facilities, subject to any limitations set forth in Chapter 4.9 (commencing with Section 65995) of Division 1 of Title 7 of the Government Code. This fee, charge, dedication, or other requirement may be applied to construction only as follows:

(A) To new commercial and industrial construction. The chargeable covered and enclosed space of commercial or industrial construction shall not be deemed to include the square footage of any structure existing on the site of that construction as of the date the first building permit is issued for any portion of that construction.

(B) To new residential construction.

(C) (i) Except as otherwise provided in clause (ii), to other residential construction, only if the resulting increase in assessable space exceeds 500 square feet. The calculation of the "resulting increase in assessable space" for this purpose shall reflect any decrease in assessable space in the same residential structure that also results from that construction. Where authorized under this paragraph, the fee, charge, dedication, or other requirement is applicable to the total resulting increase in assessable space.

(ii) This subparagraph does not authorize the imposition of a levy, charge, dedication, or other requirement against residential construction, regardless of the resulting increase in assessable space, if that construction qualifies for the exclusion set forth in subdivision (a) of Section 74.3 of the Revenue and Taxation Code.

(D) To location, installation, or occupancy of manufactured homes and mobilehomes, as defined in Section 17625.

(2) For purposes of this section, "construction" and "assessable space" have the same meanings as defined in Section 65995 of the Government Code.

(3) For purposes of this section and Section 65995 of the Government Code, "construction or reconstruction of school facilities" does not include any item of expenditure for any of the following:

(A) The regular maintenance or routine repair of school buildings and facilities.

(B) The inspection, sampling, analysis, encapsulation, or removal of asbestos-containing materials, except where incidental to school facilities construction or reconstruction for which the expenditure of fees or other consideration collected pursuant to this section is not prohibited.

(C) The purposes of deferred maintenance described in Section 17582.

(4) The appropriate city or county may be authorized, pursuant to contractual agreement with the governing board, to collect and otherwise administer, on behalf of the school district, any fee, charge, dedication, or other requirement levied under this subdivision. In the event of any agreement authorizing a city or county to collect that fee, charge, dedication, or other requirement in any area within the school district, the certification requirement set forth in subdivision (b) or (c), as appropriate, is deemed to be complied with as to any residential construction within that area upon receipt by that city or county of payment of the fee, charge, dedication, or other requirement imposed on that residential construction.

(5) Fees or other consideration collected pursuant to this section may be expended by a school district for the costs of performing any study or otherwise making the findings and determinations required under subdivisions (a), (b), and (d) of Section 66001 of the Government Code, or in preparing the school facilities needs analysis described in Section 65995.6 of the Government Code. In addition, an amount not to exceed, in any fiscal year, 3 percent of the fees collected in that fiscal year pursuant to this section may be retained by the school district, city, or county, as appropriate, for reimbursement of the administrative costs incurred by that entity in collecting the fees. When any city or county is entitled, under an agreement as described in paragraph (4), to compensation in excess of that amount, the payment of that excess compensation shall be made from other revenue sources available to the school district. For purposes of this paragraph, "fees collected in that fiscal year pursuant to this section" does not include any amount in addition to the amounts specified in paragraphs (1) and (2) of subdivision (b) of Section 65995 of the Government Code.

(b) A city or county, whether general law or chartered, or the Office of Statewide Health Planning and Development shall not issue a building permit for any construction absent certification by the appropriate school district that any fee, charge, dedication, or other requirement levied by the governing board of that school district has been complied with, or of the district's determination that the fee, charge, dedication, or other requirement does not apply to the construction. The school district shall issue the certification immediately upon compliance with the fee, charge, dedication, or other requirement.

(c) If, pursuant to subdivision (c) of Section 17621, the governing board specifies that the fee, charge, dedication, or other requirement levied under subdivision (a) is subject to the restriction set forth in subdivision (a) of Section 66007 of the Government Code, the restriction set forth in subdivision (b) of this section does not apply. In that event, however, a city or county, whether general law or chartered, shall not conduct a final inspection or issue a certificate of occupancy, whichever is later, for any residential construction absent certification by the appropriate school district of compliance by that residential construction with any fee, charge, dedication, or other requirement levied by the governing board of that school district pursuant to subdivision (a).

(d) Neither subdivision (b) nor (c) shall apply to a city, county, or the Office of Statewide Health Planning and Development as to any fee, charge, dedication, or other requirement as described in subdivision (a), or as to any increase in that fee, charge, dedication, or other requirement, except upon the receipt by that city, county, or the Office of Statewide Health Planning and Development of notification of the adoption of, or increase in, the fee or other requirement in accordance with subdivision (c) of Section 17621."

Budget Letter 10-09 requires that if there are insufficient bond proceeds, departments and agencies are responsible for prioritizing the projects that will be funded consistent with the prioritization criteria outlined (including job creation). It also indicates that if bond proceeds are not managed efficiently, additional bonds may not be sold for the program.

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

GC Section 65995(b)(3) requires the maximum square footage assessment for development be "increased in 2000 and every two years thereafter, according to the adjustment for inflation set forth in the statewide cost index for class B construction, as determined by the State Allocation Board at its January Board meeting…effective as of the date of that meeting."

School Facility Program (SFP) Regulation Section 1859.90 states, "With the exception of an apportionment made pursuant to Sections 1859.81.1(e) or 1859.81.2, or of an Inactive Apportionment subject to Section 1859.96, the OPSC will release State funds that the Board has apportioned to the district after submittal, by the district, of the Form SAB 50-05, subject to the availability of financing provided by the Pooled Money Investment Board for bond-funded projects. With the exception of an apportionment made for a Type II Joint-Use Project, not part of a qualifying SFP Modernization project, pursuant to Article 12 of these Regulations, a district must submit the Form SAB 50-05, within 18 months of the Apportionment of the SFP grant for the project or the entire New Construction Adjusted Grant, Modernization Adjusted Grant or Type I or II, part of a qualifying SFP Modernization project, Joint-Use Project apportionment shall be rescinded without further Board action, and the pupils housed in the project, if applicable, will be added back to the district's baseline eligibility. The district may refile a new application for the project subject to district eligibility and priority funding at the time of resubmittal.

If the apportionment was made for a Type II Joint-Use Project, not part of a qualifying SFP Modernization project, pursuant to Article 12 of these Regulations, the district must submit Form SAB 50-05 within 18 months of the date the plans and specifications for the Joint-Use Project that have been approved by the DSA and the CDE are submitted to the OPSC or the apportionment shall be rescinded without further Board action.

Subject to the availability of financing provided by the Pooled Money Investment Board for bond-funded projects, the OPSC will release State funds that have been apportioned by the Board pursuant to Section 1859.81.1(e) to the district within 30 calendar days of the apportionment."

SFP) Regulation Section 1859.90 states, "The priority funding process allows the Board to distribute available funds to districts or charter schools who request an Apportionment or an advance release of funds from a Preliminary Apportionment or Preliminary Charter School Apportionment during specific 30-calendar day filing periods beginning with July 27, 2011 and continuing with the 2nd Wednesday of January and the 2nd Wednesday of July each calendar year. Certifications are valid until the next filing period begins. Requests must be physically received by the OPSC by the 30th calendar day to be considered valid. During any priority funding process a district or charter school must submit the Form SAB 50-05 within a specified time period of the Apportionment or approved advance release of funds request, pursuant to (a)(2) or (b)(2) of this section. Projects receiving an apportionment as part of the priority funding process for which the OPSC does not physically receive an original signature copy of the Form SAB 50-05 within the appropriate time limit shall be rescinded without further Board action.
(a) In order to be considered for an Apportionment, approved advance release of design funds from a Preliminary Charter School Apportionment, or approved advance release of environmental hardship site

acquisition funds from a Preliminary Apportionment, the district or charter school must provide a written statement signed by an authorized representative that includes each of the project application numbers, and the type of apportionment request (e.g., Apportionment, separate apportionment for design or site acquisition), within the 30 calendar day filing period that contains all of the following:
(1) Request to convert the unfunded approval to an Apportionment or to receive an approved advance release of funds; and
(2) Concurrence with a 90 calendar day time limit on fund release; and
(3) Acknowledgement that a valid, original signature Form SAB 50-05 must be submitted and physically received by the OPSC within the 90 calendar day time limit and failure to do so will result in the rescission of the Apportionment or approved advance release of funds request without further Board action; and
(4) For those receiving an Apportionment, acknowledgement that by participating in the priority funding process, the district or charter school is waiving its right to a standard 18 month timeline for fund release submittal.
(b) In order to be considered for an approved advance release of site acquisition funds from a Preliminary Charter School Apportionment, the district or charter school must provide a written statement signed by an authorized representative within the 30 calendar day filing period that contains all of the following:
(1) Request to convert the advance release of funds to an approved advance release of funds request; and,
(2) Concurrence with a 180 calendar day time limit on fund release; and
(3) Acknowledgement that a valid, original signature Form SAB 50-05 must be submitted and physically received by the OPSC within the 180 calendar day time limit and failure to do so will result in the rescission of the approved advance release of funds request without further Board action; and
(4) Acknowledgement that it must provide evidence that it has entered into the Charter School Agreements within 90 calendar days of approval of the advance release of funds request and failure to do so will result in the rescission of the approval without further Board action.

In the event that the amount of requests received during a specific 30-day filing period exceeds the funds available, the Board shall apportion based on the unfunded approval date and the application received date up to the available cash from each bond source. Projects that have requested to participate in the priority funding process for which an Apportionment cannot be provided shall retain their date order position on the Unfunded List. Request letters of projects not converted to apportionments will not be returned to the district or kept by the Office of Public School Construction.

For purposes of this section “rescinded” or “rescission” shall mean that the apportionment or approved advance release of funds request returns to unfunded approval status with a new unfunded approval date. The new unfunded approval date will be 90 calendar days after the apportionment date. The district or charter school will not be required to re-submit the application and no further application review will be required.

REPORT OF THE EXECUTIVE OFFICER
State Allocation Board Meeting, February 22, 2012

OPTIONS FOR THE EXECUTION OF THE 2012 GRANT AMOUNTS

PURPOSE OF REPORT

To provide information regarding the history of unfunded lists under the School Facility Program (SFP), allowing the State Allocation Board (Board) to consider options for the execution of the 2012 annual grant adjustments to SFP project approvals.

DESCRIPTION

At its January 2012 meeting, an item was presented that provided options for the execution of the 2012 grant amounts and whether to apply the adjustment to projects on the unfunded approvals list. The Board requested Staff return with further information outlining the previous decisions made regarding adjustments to unfunded approvals. This item presents the history of Board decisions.

AUTHORITY

Education Code (EC) Section 17070.63 (a) states: "The total funding provided under this chapter shall constitute the State's full and final contribution to the project and for eligibility for state facilities funding represented by the number of unhoused pupils for which the school district is receiving the state grant. As a condition of receipt of funds, a school district shall certify that the grant amount, combined with local funds, shall be sufficient to complete the school construction project for which the grant is intended."

For New Construction grant, EC Section 17072.10(b) states, "The board shall annually adjust the per-unhoused-pupil apportionment to reflect construction cost changes, as set forth in the statewide cost index for class B construction as determined by the Board."

For Modernization funding, EC Section 17074.10(b) states, "The board shall annually adjust the factors set forth in subdivision (a) according to the adjustment for inflation set forth in the statewide cost index for class B construction, as determined by the board."

SFP Regulation Section 1859.2 defines "Class B Construction Cost Index [(CCI)]" as a "construction factor index for structures made of reinforced concrete or steel frames, concrete floors, and roofs, and accepted and used by the Board."

SFP Regulation Section 1859.71 states, "The new construction per-unhoused-pupil grant amount, as provided by Education Code Section 17072.10(a), will be adjusted annually based on the change in the Class B Construction Cost Index as approved by the Board each January."

SFP Regulation Section 1859.78 states, "The modernization per-unhoused-pupil grant amount, as provided by Education Code Section 17074.10(a), will be adjusted annually based on the change in the Class B Construction Cost Index as approved by the Board each January."

(Continued on Page Two)

BACKGROUND

At its January 2012 meeting, the Board approved the Marshall & Swift Eight California Cities CCI adjustment for 2012 grant amounts, which will be applied to all projects awarded unfunded approvals in 2012. At the same meeting, Staff presented an action item (Attachment A) providing options for the execution of the annual grant adjustments to SFP unfunded approvals. This item provided the Board options for how to apply the 2012 grant amounts to unfunded approvals currently on the unfunded list with 2009, 2010, and 2011 approval dates. In considering the item, the Board requested that Staff provide a detailed history of prior Board actions made in similar circumstances.

STAFF ANALYSIS/STATEMENTS

The Board has maintained an unfunded list in the past during periods when bond authority and/or cash proceeds have been exhausted. There have been five separate occasions when an unfunded list was required.

Lack of Proposition 1A Modernization Cash *(5-26-99 through 7-5-2000)*

The Kindergarten-University Public Education Facilities Bond Act of 1998 (Proposition 1A) was designed in such a way that while bond authority was available at all times, the cash to support the authority was made available separately: $3.35 billion was available at the inception of the SFP and $3.35 billion was made available on or after July 1, 2000. At the May 26, 1999 meeting ample bond authority remained, but the cash for modernization had been exhausted. In response, the Board established an unfunded list for modernization projects. The second infusion of Proposition 1A cash allowed the Board to apportion all of these projects at the July 5, 2000 meeting. A grant adjustment for the 2000 CCI increase was applied to these projects.

Exhaustion of Proposition 1A Modernization Authority *(9-27-00 through 11-6-02)*
Exhaustion of Proposition 1A New Construction Authority *(1-3-01 through 11-6-02)*

In September 2000, the Board established an unfunded list for SFP modernization projects due to the exhaustion of bond authority. A separate unfunded list for SFP new construction projects was established at the January 3, 2001 meeting, due to the exhaustion of Hardship bond authority. Following the passage of the Kindergarten-University Public Education Facilities Bond Act of 2002 (Proposition 47) bond authority was established. All modernization and new construction unfunded approvals were given an apportionment at the December 18, 2002 meeting. A grant adjustment for the 2002 CCI increase was applied to these projects.

Exhaustion of Proposition 55 Modernization Authority *(4-26-06 through 12-6-06)*

In April 2006, the Board established an unfunded list for SFP modernization projects when the bond authority was exhausted. Following the passage of the Kindergarten-University Public Education Facilities Bond Act of 2006 (Proposition 1D) bond authority was established. At its January 2007 meeting, the Board apportioned all modernization projects on the unfunded list and all projects were increased to the 2007 CCI grant amount.

(Continued on Page Three)

STAFF ANALYSIS/STATEMENTS (cont.)

Lack of Ability to Access Assembly Bill (AB) 55 Loans *(1-28-09 through present)*

Due to the State's inability to provide interim financing from the Pooled Money Investment Account in the form of AB 55 loans to fund school construction projects as of December 18, 2008 in spite of the availability of bond authority, a new unfunded list for all projects was established at the January 28, 2009 meeting. These projects were calculated using the 2009 CCI amounts and some of these remain on the unfunded list today.

Since the 2010 CCI was the first decrease in the history of the SFP, the Board elected at its January 2010 meeting to only apply the adjusted grant amounts to a project awarded an unfunded approval on or after March 2010. Additionally, the Board expressed a desire to adjust those projects in the future should the grant amounts increase in 2011. When the CCI increased in 2011, the Board elected to apply the 2011 grant amounts to all projects originally awarded 2010 amounts.

The following chart summarizes the history of SFP unfunded lists, including a breakout of those projects currently on the unfunded list:

Unfunded List Creation Date	Date Range on Unfunded List	Reason for Unfunded List	Apportionment Date	Adjustment Given Retroactively for CCI Changes?
5/26/1999	5/26/1999 - 5/24/2000	Lack of Cash (Modernization)	7/5/2000	Yes
9/27/2000	9/27/2000 - 11/6/2002	Lack of Authority (Modernization)	12/18/2002	Yes
1/3/2001	1/3/2001 - 11/6/2002	Lack of Authority (New Construction)	12/18/2002	Yes
4/26/2006	4/26/2006 - 12/6/2006	Lack of Authority (Modernization)	1/24/2007	Yes
1/28/09 (2009 Grant Projects)	8/26/2009 - 1/27/10	Lack of Cash*	TBD	No
1/28/09 (2010 Grant Projects)	4/28/10 - 12/15/10	Lack of Cash*	TBD	Yes
1/28/09 (2011 Grant Projects)	1/26/11 - 12/14/11	Lack of Cash*	TBD	TBD

* Caused by the inability of the Board to access AB 55 loans

An unfunded list has been used at various times by the Board when insufficient bond authority or cash is available to award apportionments. CCI adjustments have generally been applied when there is either ample bond authority available or a large influx of additional bonding authority has become available to augment projects on the unfunded list. However, there has not been a precedent for instances such as the current unfunded approvals list, for which there is both a lack of cash and diminishing bond authority remaining with no anticipated influx of additional authority in the near future.

(Continued on Page Four)

STAFF ANALYSIS/STATEMENTS (cont.)

The table below shows the impact of applying the 2012 grant increase to unfunded approvals awarded prior to 2012:

Unfunded Approval Date	Current Grant Amount	Number of Projects	Current Value of Unfunded Approvals	Estimated Impact if 2012 Grant Amount is Applied
January 2009 through February 2010	2009	13	$33,500,906	$304,858 Increase
March 2010 through December 2010	2011	114	$211,104,476	$7,937,528 Increase
January 2011 through December 2011	2011	323	$947,301,470	$35,726,393 Increase

Options

Staff presents the following options for the Board to consider for execution of the 2012 SFP grant amounts:

OPTION 1 – Take no action and provide no adjustments to the SFP grant amounts for any project added to the unfunded list prior to January 2012.

Pro: Requires no additional bond authority.
Con: Does not allow for an adjustment that aligns the state grants to the construction cost index.

OPTION 2 – Provide an increase for all projects that received unfunded approvals in 2011.
This would not include the 2010 unfunded approvals that were adjusted for the 2011 CCI.

Pro:
This allows 2011 unfunded approvals to receive an adjustment that aligns the state grants to the construction cost index.
Cons:
- Requires the use of up to $35,726,393 in additional scarce bond authority
- Likely provides an increase to reimbursement projects that are already complete.
- Likely provides increases for some projects that had the opportunity but did not request an apportionment.

OPTION 3 – Provide an increase for all projects with 2010 and 2011 unfunded approvals.
This option would provide an increase for all projects on the unfunded list that received either the 2010 or 2011 grant amounts. This would be a second increase for the projects originally awarded in 2010.

Pro:
This allows 2010 and 2011 unfunded approvals to receive an adjustment that aligns the state grants to the construction cost index.
Cons:
- Requires the use of up to $43,663,921 in additional scarce bond authority.
- Likely provides an increase to reimbursement projects that are already complete.
- Likely provides increases for some projects that had the opportunity but did not request an apportionment.

(Continued on Page Five)

STAFF ANALYSIS/STATEMENTS (cont.)

OPTION 4 – Provide increases for all projects on the unfunded approvals list.
This option would provide an increase for all projects on the unfunded list, including those from 2009 and 2010. This would also provide a second increase for the projects originally awarded in 2010.

Pro:

This allows all unfunded approvals to receive an adjustment that aligns the state grants to the construction cost index.

Cons:

- Requires up to $43,968,779 in remaining bond authority.
- Likely provides increases for some projects that had the opportunity but did not request an apportionment.
- Likely provides an increase to reimbursement projects that are already complete.

Given the current limited bond authority within the SFP, and in order to ensure that the remaining bond authority have the greatest impact by being applied to the most projects, it may be preferable to not provide any CCI adjustments for projects currently on the unfunded list with approval dates prior to 2012.

RECOMMENDATION

Apply the 2012 grant amounts only to projects added to the unfunded list on or after the January 2012 meeting, which would require no action from the Board at this time, as described in Option 1.

BOARD ACTION

In considering this Item, a motion was made, and failed, to approve Option #1, which would be to take no action and provide no adjustments to the SFP grant amounts for any project added to the Unfunded List prior to January 2012. A second motion was made, and failed, to approve Option #5, which would adjust the apportionments with the 2012 CCI increase and provide authority (it would essentially set aside $44 million and then the actual expense would depend on what actually came in).

ATTACHMENT A
REPORT OF THE EXECUTIVE OFFICER
State Allocation Board Meeting, January 25, 2012

OPTIONS FOR THE EXECUTION OF THE 2012 GRANT AMOUNTS

PURPOSE OF REPORT

To provide options for the execution of the annual grant adjustments to School Facility Program (SFP) project approvals.

DESCRIPTION

As a part of this agenda, the State Allocation Board (Board) will take action on the annual adjustment to the SFP grants based on the change in construction costs for 2011. This item requests the Board take no action and provide no adjustments to the SFP grant amounts for any project added to the unfunded list prior to January 2012.

AUTHORITY

Education Code (EC) Section 17070.63 (a) states: "The total funding provided under this chapter shall constitute the state's full and final contribution to the project and for eligibility for state facilities funding represented by the number of unhoused pupils for which the school district is receiving the state grant. As a condition of receipt of funds, a school district shall certify that the grant amount, combined with local funds, shall be sufficient to complete the school construction project for which the grant is intended."

For New Construction grant, EC Section 17072.10(b) states, "The board shall annually adjust the per-unhoused-pupil apportionment to reflect construction cost changes, as set forth in the statewide cost index for class B construction as determined by the Board."

For Modernization funding, EC Section 17074.10(b) states, "The board shall annually adjust the factors set forth in subdivision (a) according to the adjustment for inflation set forth in the statewide cost index for class B construction, as determined by the board."

SFP Regulation Section 1859.2 defines "Class B Construction Cost Index (CCI)" as a "construction factor index for structures made of reinforced concrete or steel frames, concrete floors, and roofs, and accepted and used by the Board."

SFP Regulation Section 1859.71 states, "The new construction per-unhoused-pupil grant amount, as provided by Education Code Section 17072.10(a), will be adjusted annually based on the change in the Class B Construction Cost Index as approved by the Board each January."

SFP Regulation Section 1859.78 states, "The modernization per-unhoused-pupil grant amount, as provided by Education Code Section 17074.10(a), will be adjusted annually based on the change in the Class B Construction Cost Index as approved by the Board each January."

BACKGROUND

Statute requires the Board to annually adjust the pupil grants to reflect statewide construction cost changes. Historically, the Board has used Marshall & Swift (M&S) Eight California Cities index for these adjustments, since it most accurately reflects the conditions under which districts will be building their schools with the SFP. The M&S Eight California Cities Index is the only Class B index that uses exclusively California cities to capture material and prevailing wage costs in California.

(Continued on Page Two)

BACKGROUND (cont.)

At its January 2010 meeting, the Board adopted the M&S Eight California Cities index, which resulted in a decrease to the per-unhoused-pupil grant of 6.74 percent. The Board elected to only apply the adjusted grant amounts to a project awarded an unfunded approval on or after March 2010.

The 2010 decrease in the CCI was the first decrease in the history of the SFP. Because of this, the Board expressed a desire to maintain the flexibility to specifically adjust those projects should the grant amounts once again increase in 2011.

At its January 2011 meeting, the Board adopted the M&S Eight California Cities index, which resulted in an increase to the per-unhoused-pupil grant of 4.28 percent with corresponding increases to 2011 project allocations. The Board also elected to apply the 2011 CCI adjustment to the projects on the Unfunded List beginning March 2010, in order to include all projects that were awarded using the 2010 grant amounts. This action did not include an increase for unfunded approvals awarded prior to March 2010.

Staff is presenting a separate action item this agenda that recommends the adoption of the M&S Eight California Cities index for 2012. If adopted, this index will result in a CCI increase of 3.76 percent.

STAFF ANALYSIS/STATEMENTS

The Board approval dates for projects on the list of unfunded approvals range from 2009 through December 2011 and will include today's new unfunded approvals as well. Until 2010, the current year CCI was only applied to projects approved or apportioned in that calendar year. Since unfunded approvals are not yet apportionments, they are not subject to the statutory "full and final" provisions and can be adjusted for the CCI at the discretion of the Board.

2009 Unfunded Approvals

There are 13 projects currently on the unfunded list with unfunded approvals based on 2009 grant amounts. These represent all projects with unfunded approvals through February 2010. These projects have been eligible for apportionment but have not yet requested apportionments to this point. These projects were not previously considered for adjustment. They were not part of the discussion at the January 2011 meeting, and were not adjusted for either the 2010 decrease or the 2011 increase.

Until the 2012 CCI increase, 2009 was the peak level for grant amounts, because the 2011 grant amounts were less than the 2009 amounts. If the Board adopts the M&S Eight California Cities index for 2012, the overall increase from 2009 to 2012 would be approximately 0.91 percent. Approving adjustments for these projects would require up to $304,858 in additional bond authority from Propositions 1A, 55, and 1D.

2010 Unfunded Approvals

There are 114 projects currently on the unfunded list with 2010 unfunded approvals. These represent all projects with unfunded approvals from March through December 2010. These projects have also been eligible for apportionment, but have not yet requested apportionments. Because they were subject to 2010 grant amounts that had decreased by 6.74 percent from 2009, the Board applied the 2011 grant amounts to these projects, which resulted in a 4.28 percent increase.

(Continued on Page Three)

STAFF ANALYSIS/STATEMENTS (cont.)

Although these projects received the 2011 CCI increase, their grants are still approximately 2.7 percent below the 2009 peak year. If the Board adopts the M&S Eight California Cities index for 2012, approving adjustments for these projects would be a second augmentation and increase their grant by 3.76 percent. Overall, it would result in grant amounts that are approximately 0.91 percent higher than the 2009 levels. This action would require up to $7,937,528 in additional bond authority from Propositions 47, 55, and 1D.

2011 Unfunded Approvals

There are 323 projects currently on the unfunded list with 2011 unfunded approvals. Some of these have had the opportunity to receive an apportionment during the most recent Priority Funding round. The apportionments granted at the December 2011 Board meeting included three of the 28 projects that received unfunded approvals on April 27, 2011. However, the vast majority of 2011 unfunded approvals have not received an apportionment due to their more recent approval dates and insufficient cash proceeds from bond sales.

These projects have awards that are approximately 2.7 percent below the 2009 peak year. If the Board adopts the M&S Eight California Cities index for 2012, approving adjustments for these projects would increase their grant by 3.76 percent. Overall, it would result in grant amounts that are approximately 0.91 percent higher than the 2009 levels. Providing an increase for these projects is consistent with the previous Board action to award increases for the 2010 projects. However, that decision was based on the decrease in the CCI. Approving adjustments for these projects would require up to $35,849,202 in additional bond authority from Propositions 47, 55, and 1D.

Estimated Additional Bond Authority Required for Increases

The following table provides an estimate of the additional bond authority required if the 2012 grant amounts were applied to projects on the list of unfunded approvals by year:

Unfunded Approval Date	Current Grant Amount	Number of Projects	Current Value of Unfunded Approvals	Estimated Impact if 2012 Grant Amount is Applied
January 2009 through February 2010	2009	13	$33,500,906	$304,858 Increase
March 2010 through December 2010	2011	114	$211,104,476	$7,937,528 Increase
January 2011 through December 2011	2011	323	$953,436,211	$35,849,202 Increase

Additional Considerations

There are additional considerations for the Board when deciding how to apply the current CCI adjustment, including the remaining bond authority. Any augmentation of existing unfunded approvals will reduce remaining SFP bond authority, thus limiting the Board's ability to provide future awards. After the December 2011 Board meeting, the remaining bond authority is approximately $197.1 million for new construction and $362.3 for modernization.

If the M&S Eight California Cities index for 2012 is adopted by the Board, the projects on the workload list will be recalculated using the 2012 grants, further reducing bond authority (please note that many of these projects are still under review and the actual need is subject to change). Providing increases to all projects on the unfunded list would reduce the remaining new construction and modernization authority an additional $11.2 million and $20.1 million respectively.

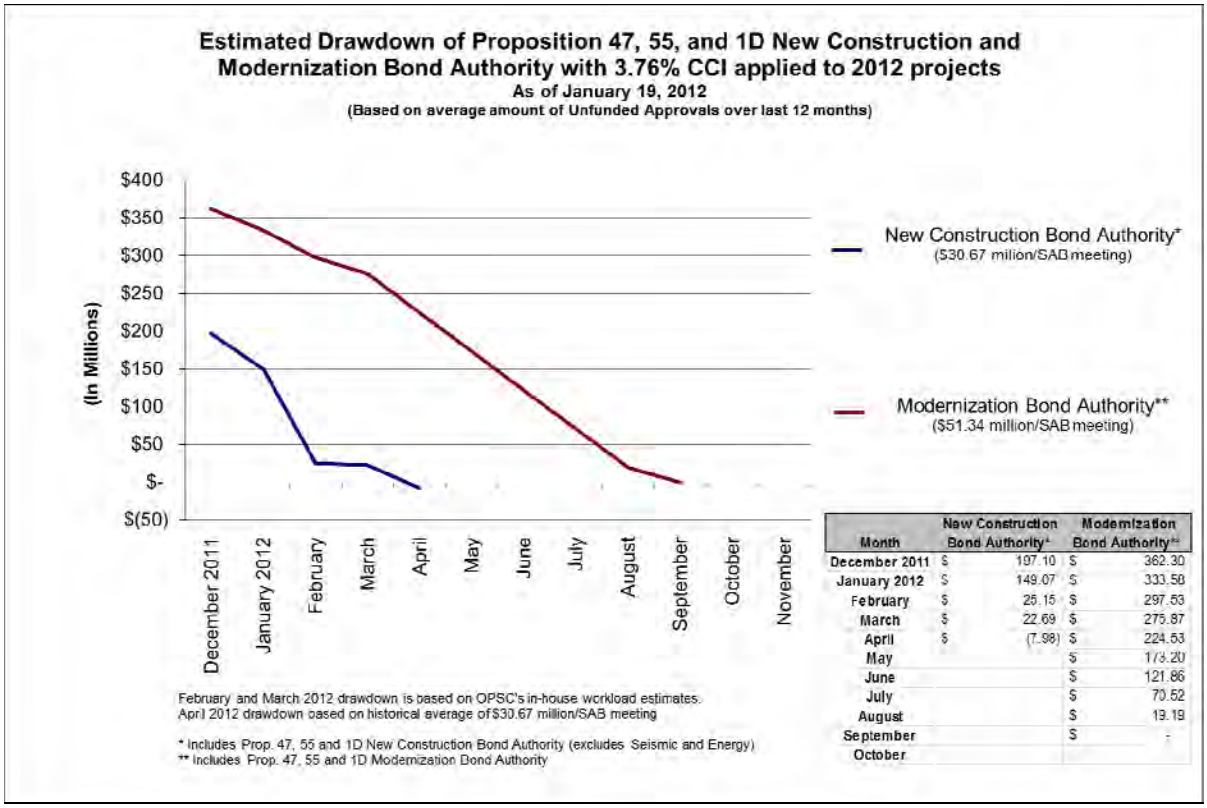
(Continued on Page Four)

STAFF ANALYSIS/STATEMENTS (cont.)

The following charts summarizes the current available New Construction bond authority and illustrates the impact of applying the 2012 CCI adjustment to the in-house workload and the current unfunded approval list (amounts are in millions).

Estimated Unfunded Approval Date	In-House Workload Estimated Value	New Construction Bond Authority Remaining*		Less 3.76% 2012 CCI Increase*		Subtotal of Remaining New Construction Bond Authority		Less 3.76% if 2012 CCI is Applied to Entire Unfunded List		Net Remainder of New Construction Bond Authority
December 2011		$ 197.10				$ 197.10				$ 197.10
January 2012	$ 48.03	$ 149.07	-	$ -	=	$ 149.07	-		=	$ 149.07
February	$ 117.69	$ 31.38	-	$ 6.23	=	$ 25.15	-	$ 11.23	=	$ 13.92
March	$ 2.37	$ 29.01	-	$ 0.09	=	$ 22.69	-		=	$ 11.46
April**	$ 30.67	$ (1.66)	-	$ -	=	$ (7.98)	-		=	$ (19.21)
May	$ -	$ -								

* February 2012 CCI drawdown includes CCI adjustments to January 2012 approvals.
** April 2012 drawdown is based on historical average of $30.67 million per Board meeting.



Month	New Construction Bond Authority*	Modernization Bond Authority**
December 2011	$ 197.10	$ 362.30
January 2012	$ 149.07	$ 333.56
February	$ 25.15	$ 297.53
March	$ 22.69	$ 275.87
April	$ (7.98)	$ 224.53
May		$ 173.20
June		$ 121.86
July		$ 70.52
August		$ 19.19
September		$ -
October		

Another consideration for the Board is that bond sale proceeds have not been sufficient to cover all projects on the unfunded list. Because of this, districts may wait for an apportionment for an extended period of time. Districts with sufficient local funds may proceed with the project and receive a reimbursement when an apportionment is granted. Other districts are unable to proceed until an actual apportionment is received, especially Financial Hardship districts. In either case, the grant amounts awarded for projects approved in previous years may not align with construction costs at the time of contract execution.

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STAFF ANALYSIS/STATEMENTS (cont.)

Finally, the unfunded approvals list includes items for the Charter School Facilities Program and Critically Overcrowded Schools Program, such as advance fund releases for design, site or Environmental Hardship. These items are not truly unfunded approvals. The grants for these advance funding items are either based on a set formula or actual costs, not the current year CCI. They were added to the list for the purposes of providing a mechanism to fund these advances. Staff does not recommend them for adjustment at this time, and they have not been included in this discussion. The current year grant amounts will be applied when these projects convert to a full adjusted grant for unfunded approval or apportionment.

Options
Staff presents the following options for the Board to consider for execution of the 2012 SFP grant amounts:

OPTION 1 – Take no action and provide no adjustments to the SFP grant amounts for any project added to the unfunded list prior to January 2012.

Pro: Requires no additional bond authority.
Con: Does not allow for an adjustment that aligns the state grants to the construction cost index.

OPTION 2 – Provide an increase for all projects that received unfunded approvals in 2011.
This would not include the 2010 unfunded approvals that were adjusted for the 2011 CCI.

Pro:
This allows 2011 unfunded approvals to receive an adjustment that aligns the state grants to the construction cost index.
Cons:
- Requires the use of up to $35,849,202 in additional scarce bond authority
- Likely provides an increase to reimbursement projects that are already complete.
- Likely provides increases for some projects that had the opportunity but did not request an apportionment.

OPTION 3 – Provide an increase for all projects with 2010 and 2011 unfunded approvals.
This option would provide an increase for all projects on the unfunded list that received either the 2010 or 2011 grant amounts. This would be a second increase for the projects originally awarded in 2010.

Pro:
This allows 2010 and 2011 unfunded approvals to receive an adjustment that aligns the state grants to the construction cost index.
Cons:
- Requires the use of up to $43,786,730 in additional scarce bond authority.
- Likely provides an increase to reimbursement projects that are already complete.
- Likely provides increases for some projects that had the opportunity but did not request an apportionment.

(Continued on Page Six)

STAFF ANALYSIS/STATEMENTS (cont.)

OPTION 4 – Provide increases for all projects on the unfunded approvals list.
This option would provide an increase for all projects on the unfunded list, including those from 2009 and 2010. This would also provide a second increase for the projects originally awarded in 2010.

Pro:

This allows all unfunded approvals to receive an adjustment that aligns the state grants to the construction cost index.

Cons:

- Requires up to $44,091,588 in remaining bond authority.
- Likely provides increases for some projects that had the opportunity but did not request an apportionment.
- Likely provides an increase to reimbursement projects that are already complete.

RECOMMENDATION

Approve Option 1.

BOARD ACTION

In considering this Item, the SAB requested that additional information be provided regarding the history of adjustments to projects and held this Item over to the February 2012 SAB meeting.

THE RECOMMENDATIONS FOR PRIOR BOND
FUNDS AVAILABLE FOR TRANSFER
ITEM HAS BEEN POSTPONED