REPORT OF THE EXECUTIVE OFFICER
State Allocation Board Meeting, February 24, 2015

FINAL ADOPTION OF PROPOSED REGULATORY AMENDMENTS IMPLEMENTING ASSEMBLY BILL 308

PURPOSE OF REPORT

To request final adoption of proposed regulatory amendments, based on public comments submitted, pertaining to Assembly Bill (AB) 308 (Hagman), Chapter 496, Statutes of 2013.

DESCRIPTION

The State Allocation Board (Board), at its June 25, 2014 meeting, adopted proposed regulatory amendments implementing AB 308. This item includes the public comments submitted during the 45-day public comment period. The Board must consider any public comments received before approving the final adoption of proposed regulatory amendments.

AUTHORITY

The Administrative Procedure Act, Government Code Section 11346.8(a) states, ". . . the state agency shall consider all relevant matter presented to it before adopting, amending, or repealing any regulation." Government Code Section 11346.9(a)(3) requires the Board to respond to public comments in the rulemaking file how it will "accommodate each objection or recommendation, or the reasons for making no change."

STAFF ANALYSIS / STATEMENTS

Staff reviewed the public comments received and recommends that they not be implemented because of the following reasons:

- Comment number one points out 1) a typographical error; the word "even" should be "event," and 2) that the requirement to submit documentation is missing. The misspelled word is considered a non-substantive change and the Form SAB 308, *Return of Real Property Sale Proceeds Notification*, does state under General Information (page 1) that it is required to be submitted.

- Comment number two states that "mays" and "shalls" are not clear in the new regulation and that it is not clear if the AB 308 return of funding is considered a one-time expenditure. The "mays" and "shalls" are stated in the Education Code Section 17462. The requirements of Education Code Section 17462.3 are only effective if a school district does not exercise the authority granted by Education Code Section 17462. Therefore, the AB 308 return of funding is not required to be a one-time expenditure.

- Comment number three states that 1) the taxpayers will be subsidizing charter schools for capital improvements; 2) the State Architect has no oversight of charter schools; 3) when charter schools lease property, it is from a non-profit corporation outside the public school system; 4) have no guarantee of existing and must be re-authorized; and 5) charter schools are set up as land-banks, which does not protect the taxpayer. Education Code Section 17462.3 states that if a property is sold within ten years of receiving state funding, a proportionate amount of funds will be returned. The statute does not address the lifetime of the property and improvements.

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STAFF ANALYSIS / STATEMENTS (cont.)

- Comment number four states that 1) land is valuable in urban cities; will capital gains be considered upon the sale; 2) the short time period and disregard of property values allows profiting and does not protect the taxpayer; and 3) charter schools governing boards members are not elected; bankruptcy is an option and does not exist for a School Board. The issue of capital gains is outside of the Board's jurisdiction. Education Code Section 17462.3 states that if a property is sold within ten years of receiving state school facilities funding, a proportionate amount of funds received shall be received.

RECOMMENDATIONS

1. Declare that the 45-day public comment period for the proposed regulations shown on Attachment B ended on November 17, 2014.

2. Approve the Board Responses on Attachment A and determine that the public comments, as presented on Attachment A as Comments #1, #2, #3, and #4, do not warrant revisions to the proposed regulatory amendments.

3. Authorize the Office of Public School Construction to complete the rulemaking process by submitting the rulemaking file to the Office of Administrative Law.

This item was approved by the State Allocation Board on February 24, 2015.

ATTACHMENT A
PROPOSED RESPONSES TO PUBLIC COMMENTS

The Office of Public School Construction (OPSC), on behalf of the State Allocation Board (Board), received and reviewed comments from Ms. Joyce Dillard, dated November 17, 2014, regarding the Board's proposed amendments implementing Assembly Bill (AB) 308 (Hagman), Chapter 496, Statutes of 2013. After considering her comments, the proposed comments are not accepted.

Comment #1:

Ms. Dillard states "The word "even" should be "event." Missing is the requirement to submit documentation."

Board Response:

The Board considered the public comment noted above, acknowledged the misspelling of the word event (which is considered a non-substantive change) and determined that the remainder of the comment did not warrant revisions to the regulations/form because it was already addressed on the first page of the Form SAB 308, under General Information.

Comment #2:

Ms. Dillard states "The MAYS and SHALLS are not clear in the new regulation. The Governing Board of a School District through the word **shall** has authority over the funds:

> ***shall be*** *for capital outlay or for costs of maintenance of school district property that the governing board of the school district determines will not recur within a five-year period*

and

> ***shall be*** *used for one-time expenditures, and may not be used for ongoing expenditures including, but not limited to, salaries and other general operating expenses.*

State Allocation Board is tasked with:

> ***shall adopt*** *regulations that govern the use of proceeds pursuant to this section for one-time expenditures and define ongoing expenditures for purposes of subdivision (a).*

It is not clear is the AB 308 return of funding is considered a one-time expenditure."

Board Response:

The Board considered the public comment noted above and determined that the "mays" and "shalls" are stated in Education Code Sections 17462 and 17463.3.

Comment #3:

Ms. Dillard states "Section 1701. 10-Year Time Period is added on the basis of Education Code Section 17462.3. The life of the property and improvements is only ten years. That is an extremely short period of time for real property assets and totally unrealistic. It also implies that you expect the taxpayers to fund capital improvements every ten years.

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Comment #3: (cont.)

Charter Schools have leniency to dispose of property after a short holding period. State Architect has no oversight of Charter Schools and that process is delegated to a local municipal authority such as a City Planning Department and Board of Building and Safety.

Charter Schools lease property, but usually from a non-profit corporation set up to hold the land outside the Public School System.

Charter Schools have to be re-authorized by the Governing School Board whether it be local, county or State and have no guarantee of existing past their approval period.

Charter Schools are set up as Land Banks and this reaffirms that the taxpayer is not being protected for public funds used. Was there any bond language that distinguished that the funding could be kept for non-Public School System use, with any time period limitations? Recoupment should occur over the lifetime of the property, not a ten-year limitation."

Board Response:

The Board considered the public comment noted above and determined that Education Code Section 17462.3 states that if a property is sold within ten years of receiving state school facilities funding, a proportionate amount of funds received shall be returned. The statute and proposed regulations do not address, nor is it necessary to address, the lifetime of the property and improvements and the future expectation of funding capital improvements. Further, Education Code Sections 17462 and 17462.3 require recoupment and the ten years was determined as part of the legislative approval process for AB 308.

Comment #4:

Ms. Dillard states "Land is valuable in urban cities such as Los Angeles. Will there be any consideration of the capital gains made by the sale when the Land is apportioned at a higher rate than the improvement. This is evident on a property tax bill and should be considered when surplus property is sold to a non-Public School System entity.

Though this has the appearance of protected the taxpayer, it does not. The short time period and the disregard of property values allow profiting.

Charter Schools are usually incorporated as non-profit corporations with a governing boards whose members are not elected. Bankruptcy is an option which does not exist for a School Board.

Many Charter School board members are experienced real estate developers, especially in urban areas such as in the Los Angeles School District jurisdiction."

Board Response:

The Board considered the public comment noted above and determined that capital gains is outside of the Board's jurisdiction. Education Code Section 17462.3 states that if a property is sold within ten years of receiving state school facilities funding, a proportionate amount of funds received shall be returned.

ATTACHMENT B

Title 2. Administration
Division 2. Financial Operations
Chapter 3. Department of General Services
Subchapter 4. Office of Public School Construction
Group 1. State Allocation Board
Subgroup 3.5. Regulations Relating to Surplus School Property; Use of Proceeds; Return of Moneys from a State School Facilities Fund Program

Section 1700. Definitions.

For the purpose of the provisions of Education Code Sections 17462 and 17462.3, the terms set forth below shall have the following meanings~~, subject to the provisions of the Act~~:

"Apportionment" means a reservation of funds for the purpose of the purchase of real property, modernization of real property, or construction of improvements on real property, that is approved by the Board for a school district, county office of education or Charter School.

"Board" means the State Allocation Board as established by Section 15490 of the Government Code.

"Charter School" shall mean a school as established in California pursuant to Education Code Section 47600, et seq.

"District Representative" means a member of the a school district, county office of education or Charter School staff or other agent authorized on behalf of the school district, county office of education or Charter School to serve as the "District Representative" to execute and file forms with the Board on behalf of the school district, county office of education, or Charter School and/or act as a liaison between the Board and the school district, county office of education or Charter School.

"Form SAB 308" means the *Return of Real Property Sale Proceeds Notification,* Form SAB 308 (New 06/14), which is incorporated by reference.

"Office of Public School Construction (OPSC)" means the State office within the Department of General Services that assists the Board as necessary on behalf of the Director.

….

"Portable Facility" means a building of one or more stories that is designed and constructed to be relocatable and transportable over public streets, and with respect to a single story portable building, is designed and constructed for relocation without the separation of the roof or floor from the building and when measured at the most exterior walls, has a floor area not in excess of 2,000 square feet.

Note: Authority cited: Sections 17462 and 17462.3, Education Code, Section 15490, Government Code.

Reference: Sections 17462, 17462.3 and 17463.8, Education Code.

Section 1701. 10-Year Time Period

For the purpose of the provisions of Education Code Section 17462.3(a)(3) and (b):

(a) Moneys shall be considered received on the date the Board approved an Apportionment.

(b) The real property is considered sold on the date of the title transfer.

(c) Sale of real property shall include real property transferred through condemnation proceedings.

(d) Sale of a Portable Facility that does not include the land to which it is affixed is not subject to Education Code Section 17462.3.

Note: Authority cited: Section 17462.3, Education Code.

Reference: Sections 17462.3, Education Code.

Section 1702. Reporting Requirements and Return of Funds

(a) Any school district, county office of education, or Charter School that sells real property and is subject to the provisions of Education Code Section 17462.3(a) is required to submit a completed Form SAB 308 to the OPSC within 90 calendar days of the sale of the real property, as outlined in Section 1701(b).

(b)When calculating the portion of the real property sold pursuant to EC Section 17463.2(c), the gross acreage/square footage of the school site as well as square footage of building area shall be considered for the purpose of determining the proportionate percentage of funding to be returned.

(c) When the Board makes a finding that the school district, county office of education, or Charter School, is subject to the provisions of Education Code Section 17462.3, the school district, county office of education, or Charter School must return the moneys to the Board within 90 calendar days of the Board's finding.

Note: Authority cited: Section 17462.3, Education Code.

Reference: Section 17462.3, Education Code.

STATE OF CALIFORNIA

RETURN OF REAL PROPERTY SALE PROCEEDS NOTIFICATION

STATE ALLOCATION BOARD
OFFICE OF PUBLIC SCHOOL CONSTRUCTION

SAB 308 (NEW 06/14)

GENERAL INFORMATION

This form is to be used by a school district, county office of education or Charter School that is subject to the provisions of Education Code Section 17462.3 and is required to submit a completed Form SAB 308 to Office of Public School Construction (OPSC) of the sale of real property.

The following document(s) must be submitted with this form:

- A copy of the closing escrow document(s), or other legal document, that clearly indicates the seller(s), purchaser(s), total acres/square footage (Sq.Ft.) of real property sold, and final sale price.
- A copy of the assessor's parcel map that clearly indicates the gross area of the site and the total area of the property sold.
- A copy of a current site plan diagram that clearly indicates the square footage of all facilities on site and which (if any) facilities sold.

SPECIFIC INSTRUCTIONS

1. Date of Sale of Real Property

Enter the date the title is transferred.

2. Real Property Sold

- Use the table provided to indicate gross area of real property (land and building area), the total area sold, the percentage of area sold, and associated Assessor's Parcel Number(s).

3. Purchasing Entity

Check the box that best describes the purchaser of the real property.

- If the purchaser of the property was a school district, county office of education, Charter School or an agency that will use the property exclusively for the delivery of child care and development services, pursuant to Education Code Section 17457.5, check the applicable box.
- If the purchaser of the property is an entity other than a school district, county office of education, Charter School or an agency that will use the property exclusively for the delivery of child care and development services, pursuant to Education Code Section 17457.5, check the box labeled "other" and enter the name of the purchasing entity.

4. Total Funds Received

Use the table provided to insert the OPSC application number, Board apportionment date, the total of all Apportionments provided within the 10 year period preceding the sale date of the real property, and the applicable portion of the apportionment to be returned to the State based on the percentage of real property sold.

5. Certification

The school district, county office of education, or Charter School representative must complete this section.

STATE OF CALIFORNIA

RETURN OF REAL PROPERTY SALE PROCEEDS NOTIFICATION

STATE ALLOCATION BOARD
OFFICE OF PUBLIC SCHOOL CONSTRUCTION

SAB 308 (NEW 06/14)

The school district, county office of education or charter school named below reports to the State Allocation Board via the Office of Public School Construction the sale of real property under the provisions of Chapter 4, Article 4, Part 10.5, Division 1, Section 17462.3 of the Education Code and the Regulations thereto.

SCHOOL DISTRICT		COUNTY
SITE NAME		CDE SITE CODE
PRIOR SITE NAME (IF APPLICABLE)		PRIOR CDE SITE CODE (IF APPLICABLE)
PROPERTY ADDRESS		ASSESSORS PARCEL NUMBER (APN)
DISTRICT REPERSENTATIVE NAME (PRINT NAME)	TELEPHONE NUMBER	E-MAIL ADDRESS

1. Date of Title Transfer: _____

2. Real Property Sold

AREA TYPE		AREA	ASSOCIATED APN(S)	PERCENTAGE OF TOTAL SITE
Gross Area of Site	☐ Acres ☐ Sq. Ft.			100%
Total Area Sold	☐ Acres ☐ Sq. Ft.			
Gross Building Area on Site (Sq. Ft.)			N/A	100%
Total Building Area Sold (Sq. Ft.)			N/A	

3. Purchasing Entity:

☐ School District
☐ County Office of Education
☐ Charter School
☐ An agency that will use the real property exclusively for the delivery of child care and development services, pursuant to Education Code Section 17457.5.
☐ Other: _____

4. Total Funds Received for the Site:

OPSC APPLICATION NUMBER	STATE ALLOCATION BOARD APPORTIONMENT DATE	TOTAL STATE APPORTIONMENT	PORTION OF APPORTIONMENT TO BE RETURNED
TOTAL		$	$

I certify, as the District Representative, that the information reported on this form is true and correct and that:

- I am designated as an authorized district representative by the governing board of the district; and,
- This form is an exact duplicate (verbatim) of the form provided by the Office of Public School Construction. In the event a conflict should exist, the language in the OPSC form will prevail.

SIGNATURE OF DISTRICT REPRESENTATIVE	DATE

REPORT OF THE EXECUTIVE OFFICER
State Allocation Board Meeting, February 24, 2015

IMPLEMENTATION OF SENATE BILL 869
PROPOSED REGULATIONS

PURPOSE OF REPORT

To request State Allocation Board (Board) approval of proposed regulatory amendments to align School Facility Program (SFP) regulations with changes to the High Performance Incentive (HPI) Grants and Career Technical Education Facilities Program (CTEFP) as a result of Senate Bill (SB) 869 Chapter 39, Statutes of 2014.

DESCRIPTION

This item includes proposed regulations to implement the provisions set forth by SB 869. The new law restricts the Board's ability to allocate HPI and CTEFP bond authority on or after January 1, 2015, and proposes how to reallocate bond authority returned to both programs after this date. In addition, non-substantive technical amendments are included to correct references in the SFP Regulation Section 1859.164.2.

AUTHORITY

See Attachment A.

BACKGROUND

On June 20, 2014, SB 869 was signed into law, adding Education Code (EC) Sections 17070.965 and 17078.73, and amending Sections 101012(a)(4) and (8). These sections pertain to the allocation of HPI and CTEFP bond authority. The new law provides the following changes to both the HPI grants and the CTEFP:

- Removes the statutory authority for the Board to allocate or approve HPI and CTEFP funding on or after January 1, 2015. (Projects on the Unfunded List (Lack of AB 55 Loans) will retain any HPI or CTEFP bond authority approved on or before December 31, 2014.)
- Provides that of any HPI and CTEFP bond authority unallocated by the Board by January 1, 2015, 50 percent shall be transferred to the SFP New Construction Account and 50 percent shall be transferred to the SFP Modernization Account.
- For any funds returned to the program on or after January 1, 2015, the Board shall determine the percentage to be allocated to the SFP New Construction and SFP Modernization Accounts.

As of January 1, 2015 there was approximately $32.2 million in HPI bond authority and $500,000 in CTEFP bond authority remaining.

STAFF ANALYSIS/STATEMENTS

To implement the requirements of SB 869 as it relates to EC Sections 17070.965, 17078.73 and 101012, Staff is proposing regulation amendments, closure of the third CTEFP funding cycle, and a method of allocating HPI and CTEFP bond authority that may return in the future.

(Continued on page Two)

STAFF ANALYSIS/STATEMENTS (cont.)

Proposed Program Amendments

Regulations
To implement the new requirements, Staff prepared the proposed amendments to SFP Regulation Sections 1859.2, 1859.70.4, 1859.107, 1859.190, 1859.195, 1859.198 and the *Application for Funding* (Form SAB 50-04), which are included as Attachment B.

Form SAB 50-04
The Special Instructions section of the Form SAB 50-04 has been updated to include references to EC Section 17070.965.

The Form SAB 50-04 also contains changes that were approved as part of the proposed regulations for the implementation of SB 854 Chapter 28, Statutes of 2014 presented at the October 16, 2014 Board meeting but are not yet effective.

There is a key at the top of Attachment B that differentiates the prior SB 854 amendments from the current SB 869 proposal.

CTEFP Third Funding Cycle
In May 2011, the Board decided to continue to provide unfunded approvals to applicants in the third funding cycle using all available bond authority. The funding cycle was kept open to allow for future rescissions and loan repayments to fund projects on the third cycle list. The third CTEFP filing round is currently open. Since EC Section 101012(a)(4)(B) redirects all remaining funds from the CTEFP, it appears necessary to close the third filing round.

Proposal for Allocation of Returning HPI and CTEFP Bond Authority
In accordance with the requirements of SB 869, the HPI and CTEFP bond authority that was available on January 1, 2015 was transferred on a 50/50 basis to the SFP New Construction and SFP Modernization Accounts. Since the statute provides flexibility for the Board to determine how future returning bond authority shall be allocated, Staff proposes that it be allocated in a manner consistent with the Board's current policy of giving priority to health and safety projects.

Staff is proposing that any bond authority that returns from HPI or CTEFP projects be allocated first to Facility Hardship projects on the Applications Received Beyond Bond Authority List based on date order received. If there are no Facility Hardship applications on the Applications Received Beyond Bond Authority List or after all Facility Hardship applications are fully funded, any excess returning authority would then be divided on a 50/50 basis between the SFP New Construction and Modernization accounts to fund new construction and modernization projects in date order received. Bond authority shall accumulate until Staff can fully assign bond authority to all applications received on the same day as is consistent with current practice. If the Board agrees with this proposal, Staff could prepare conforming regulations to implement the allocation of returning funds for presentation the next available Board meeting.

An example of the proposed process follows on the next page.

(Continued on page Three)

STAFF ANALYSIS/STATEMENTS (cont.)

$150,000 in Returned Bond Authority

Step 1: Provide authority to Facility Hardhsip applications on the Unfunded Lists based on date order received

New Construction Applications Received Beyond Bond Authority

District	*Project Type*	*Date Received*	*Estimated Grant*
A Unified	New Construction	11/20/2012	$120,000
B Unified	New Construction	12/1/2012	$71,000
C Unified	Facility Hardship	2/15/2013	$50,000
D Unified	Facility Hardship	2/15/2013	$50,000

Modernization Applications Received Beyond Bond Authority

District	*Project Type*	*Date Received*	*Estimated Grant*
E Unified	Modernization	11/19/2012	$54,820
F Unified	Facility Hardship	11/29/2012	$100,000
G Unified	Modernization	1/30/2013	$1,000,000
H Unified	Modernization	1/30/2013	$1,000,000

Step 2: If there are no Facility Hardship applications on the Unfunded Lists, provide 50 percent of the authority to New Construction projects on the Unfunded List (Lack of Authority) and 50 percent to the modernization projects on the Unfunded List (Lack of Authority)

Unfunded List (Lack of Authority)

District	*Project Type*	*Date Received*	*State Share*
A Unified	Modernization	11/19/2012	$75,000
B Unified	Modernization	11/29/2012	$59,000
C Unified	New Construction	1/30/2013	$75,000
D Unified	Modernization	1/30/2013	$1,000,000
E Unified	New Construction	3/15/2014	$75,000

Charter School Facilities Program Regulation Update

Included in this item are proposed technical amendments to SFP Regulation Section 1859.164.2. The technical amendments are being brought forward because the Preliminary Charter School Apportionment grant calculations are not properly reflected, as the current regulations stand. In December 2011, the Board approved regulatory amendments to implement the Prevailing Wage Monitoring requirements specified in SB X2 9 Chapter 7, Statutes of 2010 and amended by Assembly Bill 436 Chapter 378, Statutes of 2011. These amendments altered the order and numbering of SFP Regulation Section 1859.163.1. However, the amendments did not reflect the required modifications to maintain the intent of SFP Regulation Section 1859.164.2. The technical regulatory amendments included as part of this item provide the correct and originally intended references within SFP Regulation Section 1859.163.1.

(Continued on page Four)

RECOMMENDATIONS

1. Proposed Program Amendments
    a. Adopt the proposed regulations as shown on Attachment B.
    b. Authorize the Executive Officer to file the proposed regulations with the Office of Administrative Law.

2. CTEFP Third Cycle
    Close the third CTEFP funding cycle

3. Returning Future Bond Authority
    a. Direct Staff to implement the proposal on how to allocate returning HPI and CTEFP funds as described above.
    b. Direct Staff to present conforming regulations for approval at the next available Board meeting.

This item was approved by the State Allocation Board on February 24, 2015.

ATTACHMENT A

Education Code (EC) Section 17070.35 states:

(a) 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. However, the board shall have no authority to set the level of the fees of any architect, structural engineer, or other design professional on any project. The initial regulations adopted pursuant to this chapter shall be adopted as emergency regulations, and the circumstances related to the initial adoption are hereby deemed to constitute an emergency for this purpose. The initial regulations adopted pursuant to this chapter shall be adopted by November 4, 1998. If the initial regulations are not adopted by that date, the board shall report to the Legislature by that date, explaining the reasons for the delay.

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

(3) Determine the eligibility of school districts to receive apportionments under this chapter.

(4) Apportion funds to eligible school districts under this chapter.

(b) The board shall review and amend its regulations as necessary to adjust its administration of this chapter to conform with the act that amended this section to add this subdivision. Regulations adopted pursuant to this subdivision shall be adopted by November 5, 2002, and shall be adopted as emergency regulations in accordance with 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). The adoption of any emergency regulation pursuant to this subdivision filed with the Office of Administrative Law shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare. Notwithstanding subdivision (e) of Section 11346.1 of the Government Code, any emergency regulation adopted pursuant to this section shall remain in effect for no more than 365 days unless the board has complied with Sections 11346.2 to 11348, inclusive, of the Government Code.

EC Section 17070.96 states:

As part of its application for funding under this chapter, a school district shall certify that it has considered the feasibility of using designs and materials for the construction or modernization project that promote the efficient use of energy and water, the maximum use of natural lighting and indoor air quality, the use of recycled materials and materials that emit a minimum of toxic substances, the use of acoustics conducive to teaching and learning, and other characteristics of high performance schools.

EC Section 17070.965 states:

On or after January 1, 2015, the board shall not approve funding for incentive grants to promote the use of designs and materials in new construction and modernization projects that include the attributes of high-performance schools, including, but not limited to, the elements set forth in Section 17070.96.

EC Section 17078.73 states, on or after January 1, 2015, the board shall not approve any projects pursuant to this article.

EC Section 101012 states:

(a) The proceeds from the sale of bonds, issued and sold for the purposes of this chapter, shall be allocated in accordance with the following schedule:

(1) The amount of one billion nine hundred million dollars ($1,900,000,000) for new construction of school facilities of applicant school districts under Chapter 12.5 (commencing with Section 17070.10) of Part 10. Of the amount allocated under this paragraph, up to 10.5 percent shall be available for purposes of seismic repair, reconstruction, or replacement, pursuant to Section 17075.10.

(2) The amount of five hundred million dollars ($500,000,000) shall be available for providing school facilities to charter schools pursuant to Article 12 (commencing with Section 17078.52) of Chapter 12.5 of Part 10.

(3) The amount of three billion three hundred million dollars ($3,300,000,000) for the modernization of school facilities pursuant to Chapter 12.5 (commencing with Section 17070.10) of Part 10.

(4) (A) The amount of five hundred million dollars ($500,000,000) for the purposes set forth in Article 13 (commencing with Section 17078.70) of Chapter 12.5 of Part 10, relating to facilities for career technical education programs.

(B) Of the amount not yet approved for allocation by the State Allocation Board pursuant to this paragraph by January 1, 2015, 50 percent shall be available for the purpose of paragraph (1), and 50 percent shall be available for purposes of paragraph (3). If an apportionment or State Allocation Board approval pursuant to this paragraph is rescinded after January 1, 2015, the rescinded amount shall be available for the purposes of paragraphs (1) and (3). The State Allocation Board shall determine the percentage of the rescinded amount to be used for purposes of paragraph (1) and the percentage of the rescinded amount to be used for purposes of paragraph (3).

(5) Of the amounts allocated under paragraphs (1) and (3), up to two hundred million dollars ($200,000,000) for the purposes set forth in Chapter 894 of the Statutes of 2004, relating to incentives for the creation of smaller learning communities and small high schools.

(6) The amount of twenty-nine million dollars ($29,000,000) for the purposes set forth in Article 10.6 (commencing with Section 17077.40) of Chapter 12.5 of Part 10 of Division 1 of Title 1, relating to joint use projects.

(7) The amount of one billion dollars ($1,000,000,000) shall be available for providing new construction funding to severely overcrowded schoolsites pursuant to Article 14 (commencing with Section 17079) of Chapter 12.5 of Part 10 of Division 1 of Title 1.

(8) (A) The amount of one hundred million dollars ($100,000,000) for incentive grants to promote the use of designs and materials in new construction and modernization projects that include the attributes of high-performance schools, including, but not limited to, the elements set forth in Section 17070.96, pursuant to regulations adopted by the State Allocation Board.

(B) Of the amount not yet approved for allocation by the State Allocation Board pursuant to this paragraph by January 1, 2015, 50 percent shall be available for purposes of paragraph (1), and 50 percent shall be available for purposes of paragraph (3). If an apportionment or State Allocation Board approval pursuant to this paragraph is rescinded on or after January 1, 2015, the rescinded amount shall be available for purposes of paragraphs (1) and (3). The State Allocation Board shall determine the percentage of the rescinded amount to be used for purposes of paragraph (1) and the percentage of the rescinded amount to be used for purposes of paragraph (3).

(b) School districts may use funds allocated pursuant to paragraph (3) of subdivision (a) only for one or more of the following purposes in accordance with Chapter 12.5 (commencing with Section 17070.10) of Part 10 of Division 1 of Title 1:

(1) The purchase and installation of air-conditioning equipment and insulation materials, and related costs.

(2) Construction projects or the purchase of furniture or equipment designed to increase school security or playground safety.

(3) The identification, assessment, or abatement in school facilities of hazardous asbestos.

(4) Project funding for high-priority roof replacement projects.

(5) Any other modernization of facilities pursuant to Chapter 12.5 (commencing with Section 17070.10) of Part 10 of Division 1 of Title1.

(c) Funds allocated pursuant to paragraph (1) of subdivision (a) may also be used to provide new construction grants for eligible applicant county boards of education under Chapter 12.5 (commencing with Section 17070.10) of Part 10 of Division 1 of Title 1 for funding classrooms for severely handicapped pupils, or for funding classrooms for county community school pupils.

(d) (1) The Legislature may amend this section to adjust the funding amounts specified in paragraphs (1) to (8), inclusive, of subdivision (a), only by either of the following methods:

(A) By a statute, passed in each house of the Legislature by rollcall vote entered in the respective journals, by not less than two-thirds of the membership in each house concurring, if the statute is consistent with, and furthers the purposes of, this chapter.

(B) By a statute that becomes effective only when approved by the voters.

(2) Amendments pursuant to this subdivision may adjust the amounts to be expended pursuant to paragraphs (1) to (8), inclusive, of subdivision (a), but may not increase or decrease the total amount to be expended pursuant to that subdivision.

(e) Funds available pursuant to this section may be used for acquisition of school facilities authorized pursuant to Section 17280.5.

ATTACHMENT B

The *Application for Funding* (Form SAB 50-04) reflects single strikethrough and single underlines that were previously approved by the Board on October 16, 2014. All double underlines require Board action as of February 24, 2015.

Section1859.2. Definitions.

"Form SAB 50-04" means the *Application for Funding*, Form SAB 50-04 (Revised ~~05/14~~02/15), which is incorporated by reference.

…

Section 1859.70.4. Available Funding for High Performance.

The Board shall set aside $100 million pursuant to Education Code Section 101012(a)(8) for the costs of designs and materials that promote in new construction and modernization projects, the efficient use of energy and water, the maximum use of natural lighting and indoor air quality, the use of recycled materials and materials that emit a minimum of toxic substances, the use of acoustics conducive to teaching and learning and other characteristics of high performance schools.

On or after January 1, 2015, the Board shall not approve High Performance Incentive grants pursuant to Education Code Section 17070.965.

Any High Performance funds not yet approved for allocation by the Board by January 1, 2015, or rescinded on or after January 1, 2015, shall be subject to EC Section 101012(a)(8)(B).

Note: Authority cited: Sections 17070.35 and 101012, Education Code.
Reference: Section 101012(a)(8) and 17070.965, Education Code.

…

Section 1859.107. Amending and Withdrawal of Applications.

A funding application that received an apportionment under Chapter 12 or Chapter 12.5 may not be rescinded and re-approved under the provisions of any amended law or administrative regulation unless specifically authorized by other applicable law.

…

The resubmitted application will receive a new processing date by the OPSC.

At the option of the district, an Approved Application for Career Technical Education Facilities Project Funding submitted to OPSC prior to January 1, 2012 may be resubmitted for the purpose of requesting the funding as prescribed in Section 1859.71.6 or Section 1859.77.4, as applicable. To request that funding, the district must submit an amended Form SAB 50-10 at least 90 days prior to requesting an Apportionment pursuant to Section 1859.90.1 or 1859.90.2 or receiving an Apportionment pursuant to Section 1859.195. The amended application shall retain its original OPSC processing date. This paragraph is subject to EC Sections 17070.965 and 17078.73.

…

Note: Authority cited: Sections 17070.35, 17078.72(l), Education Code.
Reference: Sections 17070.35, 17070.63, 17070.965, 17074.15, 17074.16, ~~and~~ 17074.56~~,~~ and 17078.73, Education Code.

…

Section 1859.164.2. Preliminary Charter School Apportionment Fund Release.

A Charter School receiving a Preliminary Charter School Apportionment from the Board after July 2, 2003 may request an advance release of funds for either of the following:
(a) A separate advance release of funds for design equal to 20 percent of the amount determined in Section 1859.163.1(a)(1) through (~~9~~8) and Section 1859.163.1(c)(1) and (2) or Section 1859.163.5(a)(1) through (~~g~~6) and Section 1859.163.5(b)(1) and (2).
(b) A separate advance release of funds for site acquisition once the requirements in Section 1859.81.1(a)(2) and (3) are met for an amount not to exceed the Preliminary Charter School Apportionment for site acquisition. The Board shall release to the Charter School an amount up to the Preliminary Charter School Apportionment determined in Section 1859.163.1(b).

Qualified Charter Schools may request a separate advance release of funds for the design and for the site acquisition for the same project. A Charter School seeking an advance release of funds pursuant to (a) and/or (b) must have been deemed and maintained financial soundness status from the Authority. Subject to the availability of financing provided by the Pooled Money Investment Board for bond-funded projects, the OPSC will release State funds included in a Preliminary Charter School Apportionment pursuant to (a) or (b) to the Charter School after submittal of the Form SAB 50-05. The OPSC shall not release funds in excess of the Preliminary Charter School Apportionment. State funds released from a Preliminary Charter School Apportionment pursuant to this Section shall be subject to the provisions in Section 1859.166. Once the Preliminary Charter School Apportionment is converted to a Final Charter School Apportionment pursuant to Section 1859.167, the Charter School may request a release of the remaining funds as prescribed in Section 1859.90 or 1859.90.2. Prior to the release of any funds, the Charter School Agreements must be executed.

Note: Authority cited: Sections 17070.35 and 17078.64, Education Code.
Reference: Sections 17078.53 and 17078.58, Education Code.

Section 1859.190. General.

An applicant seeking Career Technical Education Facilities Project funding pursuant to the provisions of Education Code Section 17078.72, shall complete and file Form SAB 50-10.

An applicant may submit multiple Career Technical Education Facilities applications for different career technical education projects located at a single school site, pursuant to Education Code Section 17078.72(e), (f), and (i).

Modernization of facilities under Article 16 shall not affect the Modernization Eligibility of the facility pursuant to Section 1859.60.

On or after January 1, 2015, the Board shall not approve any Career Technical Education Facility projects pursuant to Education Code Section 17078.73

Any Career Technical Education Facilities funds not yet approved for allocation by the Board on by January 1, 2015, or rescinded after January 1, 2015, shall be subject to EC Section 101012(a)(4)(B).

Note: Authority cited: Sections 17070.35 and 17078.72(k), Education Code.
Reference: Sections 17078.72, 17078.73, and 101012(a)(4), Education Code.

…

Section 1859.195. Career Technical Education Facilities Project Apportionment.

The Board shall apportion Career Technical Education Facilities Funds in the following manner:
(a) The Board may apportion up to a maximum of $350 million for applications received in the first Career Technical Education Facilities funding cycle ending October 31, 2007.
(1) The amount of $250 million shall be distributed proportionally to the Service Regions based on the high school enrollment within each Service Region. The proportional distribution of funds shall be determined by the current year CBEDS enrollment.
(2) If funding requested on qualifying applications exceeds the funds allotted to any Service Region, the amount of $100 million shall be available for apportionment to the highest ranked projects regardless of Service Region.
(b) The Board may apportion up to the sum of $150 million plus any funds not apportioned in the first cycle for applications received in the second Career Technical Education Facilities funding cycle ending April 30, 2008.
(1) The amount of $150 million plus any funds remaining from (a)(2) shall be distributed proportionally to each of the Service Regions based on the high school enrollment within each Service Region.
(2) Any unused funds distributed under (a)(1) shall be added to the amount determined for each Service Region in (b)(1).
(3) The cumulative apportionments in each Service Region may not exceed the amount determined in (1) and (2) except as described in Section 1859.196(b).
(c) On or after January 1, 2015, ~~T~~the Board may no longer apportion any or all remaining available Career Technical Education Facilities funds in subsequent cycles, as deemed necessary and practical by the Board pursuant to EC Section 17078.73.

Note: Authority cited: Sections 17070.35 and 17078.72(k), Education Code.
Reference: Section 17078.72 and 17078.73, Education Code.

…

Section 1859.198. Time Limit on Apportionment and Substantial Progress.

The district is subject to the time limit on the apportionment as outlined in Education Code Section 17076.10 and substantial progress requirements pursuant to Section 1859.105.

On or after January 1, 2015, ~~A~~any Career Technical Education Facilities Project funds returned due to projects being rescinded or reduced to cost incurred shall no longer be made available for apportionment in subsequent funding cycles pursuant to EC Section 17078.73.

Note: Authority cited: Sections 17070.35 and 17078.72(k), Education Code.
Reference: Sections 17078.72, 17078.73, and 101012(a)(4), Education Code.

GENERAL INFORMATION

If this application is submitted when there is Insufficient Bond Authority, as defined in Regulation Section 1859.2, the School District must adopt and submit a school board resolution, pursuant to Regulation Section 1859.95.1. For information regarding remaining bond authority, contact the Office of Public School Construction (OPSC) prior to submittal of this application.

Once the Board has determined or adjusted the district's eligibility for either new construction or modernization funding, the district may file an application for funding by use of this form. The Board will only provide new construction funding if this form is submitted prior to the date of occupancy of any classrooms included in the construction contract. If the district has a pending reorganization election that will result in the loss of eligibility for the proposed project, the district may not file an application for funding until the Board has adjusted the district's new construction baseline eligibility as required in Section 1859.51. This may be accomplished by completion of Form SAB 50-01, Form SAB 50-02 and Form SAB 50-03.

For purposes of Education Code Section 17073.25, the California Department of Education (CDE) is permitted to file modernization applications on behalf of the California Schools for the Deaf and Blind.

Requests for funding may be made as follows:

1. A separate apportionment for site acquisition for a new construction project for environmental hardship pursuant to Section 1859.75.1. For purposes of this apportionment, the following documents must be submitted with this form (as appropriate):
   - Form SAB 50-01, Form SAB 50-02 and Form SAB 50-03 (if not previously submitted).
   - Contingent site approval letter from the CDE.
   - Preliminary appraisal of property.
   - Approval letter from the Department of Toxic Substances Control.
2. A separate apportionment for site acquisition and/or design costs for a new construction project pursuant to Section 1859.81.1. This apportionment is available only to districts that meet the financial hardship criteria in Section 1859.81. Districts may apply for a separate apportionment for the design and for site acquisition on the same project. For purposes of this apportionment, the following documents must be submitted with this form (as appropriate):
   - Form SAB 50-01, Form SAB 50-02 and Form SAB 50-03 (if not previously submitted).
   - Contingent site approval letter from the CDE (site apportionment only).
   - Preliminary appraisal of property (site apportionment only).
3. A separate apportionment for district-owned site acquisition cost pursuant to Section 1859.81.2. For purposes of this apportionment, the following documents must be submitted with this form (as appropriate):
   - Form SAB 50-01, Form SAB 50-02 and Form SAB 50-03 (if not previously submitted).
   - Site approval letter from the CDE.
   - Appraisal of district-owned site.
   - Cost benefit analysis as prescribed in Section 1859.74.6 or a copy of the Board finding that the non-school function on the district-owned site must be relocated.
4. A separate apportionment for design cost for a modernization project pursuant to Section 1859.81.1. This apportionment is available only to districts that meet the financial hardship criteria in Section 1859.81. For purposes of this apportionment, the Form SAB 50-03 must accompany this form (if not previously submitted).
5. A New Construction Adjusted Grant pursuant to Section 1859.70 or 1859.180. If the funding request includes site acquisition, the proposed site must either be owned by the district, in escrow, or the district has filed condemnation proceedings and received an order of possession of the site. For purposes of this apportionment, the following documents must be submitted with this form (as appropriate):
   - Form SAB 50-01, Form SAB 50-02 and Form SAB 50-03 (if not previously submitted).
   - Site/plan approval letter from the CDE.
   - Appraisal of property if requesting site acquisition funds.
   - Plans and specifications (P&S) for the project that were approved by the DSA. Submittal of plans may be on CD-ROM or "Zip Drive" readable in AutoCAD 14. The specifications may be provided on a diskette that is IBM compatible.
   - Cost estimate of proposed site development, if requesting site development funding.
   - If this request is pursuant to Section 1859.77.2 and the district's housing plan is other than those listed in the certification section of this form, a copy of the school board resolution and the approved housing plan.
   - If the site apportionment is requested pursuant to Regulation Section 1859.74.5, a cost benefit analysis as prescribed in Regulation Section 1859.74.6 or a copy of the Board finding that the non-school function on the district-owned site must be relocated.
   - If this request is fully or partially based on eligibility derived from an Alternative Enrollment Projection, a justification of how the project relieves overcrowding, including but not limited to, the elimination of the use of Concept 6 calendars, four track year-round calendars, or bussing in excess of 40 minutes.
   - Written confirmation from the district's career technical advisory committee indicating that the need for vocational and career technical facilities is being adequately met within the district consistent with Education Code Sections 51224, 51225.3(b), 51228(b), and 52336.1.
6. For purposes of the Overcrowding Relief Grant (ORG), districts must submit the Overcrowding Relief Grant District-Wide Eligibility Determination (Form SAB 50-11) prior to the submittal of this funding application. In addition, districts must have had the CDE deem the site eligible for the ORG (pursuant to Section 1859.181) prior to the submittal of this application. For purposes of this apportionment, the following documents must be submitted with this form as well as the documents listed in section 5 above:
   - Overcrowding Relief Grant Eligibility Determination Form approved by the CDE.
   - Copies of the supporting documentation provided to the CDE when determining the density of the site, including the site diagram.

   The district is not required to submit its current CBEDS enrollment data.
7. Modernization Adjusted Grant pursuant to Section 1859.70. For purposes of this apportionment, the following documents must be submitted with this form (as appropriate):
   - Form SAB 50-03 (if not previously submitted).
   - P&S for the project that were approved by the DSA.
   - If the request includes funding for accessibility and fire code requirement pursuant to Section 1859.83(f), the DSA approved list of the minimum accessibility work required and a detailed cost estimate for the work in the plans.
   - DSA approval letter for elevator to meet handicapped compliance, if funding is requested.
   - Cost estimate of the proposed site development necessary for the Reconfiguration of an existing high school.
   - Plan approval letter from the CDE.

- Districtwide enrollment data on Form SAB 50-01 when requesting project assistance (if not previously submitted).
- If the request includes funding for 50 year old permanent buildings pursuant to Section 1859.78.6, a site diagram identifying all buildings to be modernized in the project. The diagram must specify those buildings that are at least 50 years old.
- Written confirmation from the district's career technical advisory committee indicating that the need for vocational and career technical facilities is being adequately met within the district consistent with Education Code Sections 51224, 51225.3(b), 51228(b), and 52336.1.

8. Final Charter School Apportionment for Charter School Facilities Rehabilitation pursuant to Section 1859.167.1. For purposes of this apportionment, the following documents must be submitted with this form (as appropriate):

- P&S for the project that were approved by DSA.
- If the request includes funding for accessibility and fire code requirement pursuant to Section 1859.167.3(d), the DSA approved list of the minimum accessibility work required and a detailed cost estimate for the work in the plans.
- DSA approval letter for elevator to meet handicapped compliance, if funding is requested.
- High performance incentive (HPI) scorecard from DSA.
- Plan approval letter from the CDE.
- Construction cost estimate signed by the architect of record or design professional.
- Determination of financial soundness from the California School Finance Authority (CSFA).
- Written confirmation from the applicant's career technical advisory committee indicating that the need for vocational and career technical facilities is being adequately met within the district consistent with Education Code Sections 51224, 51225.3(b), 51228(b), and 52336.1.

Prior to acceptance of an application for funding that includes a financial hardship request:

- If the application is submitted pursuant to Section 1859.81, the district must have its financial hardship status "pre-approved" by the OPSC. To apply for a financial hardship "pre-approval", consult the OPSC Web site at www.dgs.ca.gov/opsc.
- If the application is submitted when there is Insufficient Bond Authority, as defined in Section 1859.2, the district must adopt a school board resolution pursuant to Section 1859.95.1(b).

If the district is requesting New Construction funding after the initial baseline eligibility was approved by the Board and the district's current CBEDS enrollment reporting year is later than the enrollment reporting year used to determine the district's baseline eligibility or adjusted eligibility, the district must complete a new Form SAB 50-01 based on the current year CBEDS enrollment data, and submit it to the OPSC with this form. In addition, if the district's request is fully or partially based on eligibility derived from an Alternative Enrollment Projection, the district must update the Alternative Enrollment Projection to correspond with the CBEDS enrollment data for the current year. A small district with 2,500 or less enrollment as defined in Section 1859.2 will not have its eligibility reduced for a period of three years from the date the district's baseline eligibility was approved by the Board as a result of reduction in projected enrollment.

For a list of the documents that must be submitted in order for the OPSC to deem a funding request for new construction or modernization complete and ready for OPSC processing, consult the SFP handbook and other information located on the OPSC Web site at www.dgs.ca.gov/opsc.

For purposes of completing this form for a Final Charter School Apportionment, a charter school shall be treated as a school district.

SPECIFIC INSTRUCTIONS

The district must assign a Project Tracking Number (PTN) to this project. The same PTN is used by the OPSC, the DSA and the CDE for all project applications submitted to those agencies to track a particular project through the entire state application review process. If the district has already assigned a PTN to this project by prior submittal of the P&S to either the DSA or the CDE for approval, use that PTN for this application submittal. If no PTN has been previously assigned for this project, a PTN may be obtained from the OPSC Web site at www.dgs.ca.gov/opsc "PT Number Generator."

1. Type of Application

Check the appropriate box that indicates the type of School Facility Program (SFP) grant the district is requesting for purposes of new construction, modernization, a separate design and/or site apportionment, site apportionment as an environmental hardship or New Construction (Final Apportionment). If the application is for the modernization of school facilities and includes facilities that are eligible for an additional apportionment pursuant to Section 1859.78.8, include a site diagram with this application that specifies the age of each facility eligible for modernization. The diagram should also indicate the date of its original DSA plan approval and the date the facility received its prior modernization apportionment. If known include the project modernization number on the diagram. If the application is for modernization of a California School for the Deaf or Blind, the CDE shall check the box identified as Modernization of California Schools for the Deaf/Blind. If the request is for a separate design apportionment, the CDE shall check the appropriate box. If the eligibility for this project was established as a result of the need for new or replacement facilities pursuant to Section 1859.82 (a) and (b), seismic replacement or seismic rehabilitation for the Most Vulnerable Category 2 Buildings, or rehabilitation pursuant to Section 1859.83 (e), check the appropriate box(es).

If this request is for an addition to an existing site and advance funding for the evaluation and RA costs, check the appropriate box and refer to Section 1859.74.4.

If this request is for an Overcrowding Relief Grant, check the New Construction (Overcrowding Relief Grant) box.

If this request is to convert a Preliminary Apportionment or a Preliminary Charter School Apportionment to a Final Apportionment, check the New Construction Final Apportionment, New Construction Final Charter School Apportionment or the Rehabilitation Final Charter School Apportionment box, as appropriate.

If the district is requesting a separate site and/or design apportionment, complete boxes 2a, 3, 4, the site acquisition data in box 5 (d and e), and boxes 13, 14, 15, 16, and 24 only.

2. Type of Project

a. Select the type of project that best represents this application request and enter the total number of pupils assigned to the project for each grade group. Include pupils to be housed in a new or replacement school authorized by Section 1859.82 (a). The amount entered cannot exceed the district's baseline eligibility determined on Form SAB 50-03 and will be the basis for the amount of the new construction or modernization grants provided for the project.

If this request is for a Final Apportionment, the pupils assigned to the project must be at least 75 percent, but not more than 100 percent, of the pupils that received the Preliminary Apportionment. Refer to Section 1859.147.

For ORG projects, the amount entered cannot exceed the Overcrowding Relief Pupil Eligibility (pursuant to Section 1859.182 and 1859.183) as reflected in the total number of eligible pupils determined by the Form SAB 50-11 or the CDE Overcrowding Relief Grant Eligibility Determination form.

For Charter School Facilities Program Rehabilitation, leave the number of pupils blank.

b. Check the box if the project is eligible for funding for 50 year or older permanent buildings and report, at the option of the district:

- The total number of eligible classrooms or the total eligible square footage building area at the site. Refer to Section 1859.78.6(b)(1)(A) or (b)(2)(A).
- The total number of permanent classrooms or the total permanent square footage building area that is at least 50 years old and not been previously modernized with state funds. Refer to Section 1859.78.6(b)(1)(B) or (b)(2)(B).
- Enter the greater percentage as calculated under Regulation Section 1859.78.6(b)(1)(C) or Regulation Section 1859.78.6(b)(2)(C).
- If this project includes eligible 50 year or older pupil grants, enter the appropriate number assigned to the project for each grade group. The number of pupils entered cannot exceed the cumulative number of 50 year or older permanent buildings pupil grants requested for all modernization funding applications for the site as determined by using the percentage factor above.

c. If this request includes pupil grants generated by an Alternative Enrollment Projection Method, enter the number of pupils by grade level.

d. Indicate if this request is for funding of a 6–8 school and/or an Alternative Education School.

e. Check the applicable box if the district is requesting additional pupil grants assigned to the project that exceed the capacity of the project or if the pupils assigned represent eligibility determined at another grade level and check the appropriate box to indicate under which regulation the district is applying. The pupil capacity of the project may be determined by multiplying the classrooms reported in box 3 by 25 for K–6; 27 for 7–8, 9–12 grades; 13 for non-severe and 9 for severe.

f. If the request is for replacement facilities pursuant to Section 1859.82 (a) or (b) on the same site, check the facility hardship box.

g. Enter the square footage of the non-toilet area and toilet area contained in the Charter School Facilities Program Rehabilitation project.

h. Indicate the site scenario that best represents the project request.

i. For ORG projects, the district must provide the following information in the space provided:

- Name of the eligible school site(s) where portables will be replaced in this project
- Number of portables being replaced at each school site
- Number of site specific eligible pupils being requested for this project for each school site. The total number of site specific eligible pupils assigned to this project must equal the total number of pupils in Section 2a.

3. Number of Classrooms

Enter the:

- Number of classrooms as shown on the plans and specifications (P&S). If there was demolition at the site, report the net increase in the number of classrooms showing in the P&S.
- Master plan site size, as recommended by the California Department of Education.
- Recommended site size, as determined by the California Department of Education.
- Existing Useable Acres already owned at that location (if any).
- Proposed Useable Acres that was/will be purchased as part of the application (if any).

4. Financial Hardship Request

Check the appropriate box(es) if the district is requesting financial hardship assistance because it is unable to meet its matching share requirement.

- If the district is submitting this form pursuant to Section 1859.81, the district must have received a pre-approval for financial hardship status by the OPSC. Consult the OPSC Web site at www.dgs.ca.gov/opsc for details and necessary documentation needed in order to determine eligibility.
- If there is Insufficient Bond Authority for the type of application, check the second box and attach a school board resolution pursuant to Section 1859.95.1(b).

5. New Construction Additional Grant Request

Check the appropriate box(es) if the district requests an augmentation to the new construction grant for "additional" grants for the items listed or for replacement facilities pursuant to Section 1859.82(a) and (b). Refer to Sections 1859.72 through 1859.76 and 1859.82(a) and (b) for eligibility criteria. Enter the:

a. Therapy area in square feet as provided in Section 1859.72.

b. Multilevel classrooms in the P&S pursuant to Section 1859.73.

c. Check the box if the district is requesting project assistance pursuant to Section 1859.73.1. If the district has not submitted a request for new construction baseline eligibility on a district-wide basis, it must submit a current Form SAB 50-01 based on district-wide enrollment data with this form.

d. If the project the district is requesting SFP funding for does not require an RA, refer to Section 1859.74. If a RA is required on a site that is not leased or an addition to an existing site, refer to Section 1859.74.2. If RAs are required on a leased site or an addition to an existing site, refer to Sections 1859.74.3 or 1859.74.4, respectively. The limitation of 50 percent may be exceeded when unforeseen circumstances exist, the CDE determines that the site is the best available site, and substantiation that the costs are the minimum required to complete the evaluation and RA.

1) Enter 50 percent of the actual cost.
2) Enter 50 percent of the appraised value of the site. If the request is made pursuant to Regulation Section 1859.74.5, enter 50 percent of the appraised value.
3) Enter 50 percent of the allowable relocation cost.
4) Enter two percent of the lesser of the actual cost or appraised value of the site (minimum $25,000).
5) Enter 50 percent of the Department of Toxic Substances Control (DTSC) fee for review and approval of the phase one environmental site assessment and preliminary endangerment assessment reports. Refer to Sections 1859.74, 1859.74.1, 1859.74.5, 1859.75, 1859.75.1 and 1859.81.1.

A project that received site acquisition funds under the Lease-Purchase Program (LPP) as a priority two project is not eligible for site acquisition funds under the SFP. A district-owned site acquired with LPP, SFP or Proposition 1A funds is not eligible for funding under Regulation Section 1859.74.5.

e. Enter 50 percent of the amount allowable for hazardous materials/waste removal and/or remediation for the site acquired pursuant to Sections 1859.74.2, 1859.74.3, 1859.74.4, 1859.75.1 or 1859.81.1. If an RA is required, check the box.

f. Enter 50 percent of eligible service-site development, off-site development including pedestrian safety paths and utilities costs allowed pursuant to Section 1859.76. Attach cost estimates of the proposed site development work which shall be supported and justified in the P&S. All cost estimates shall reflect 100 percent of the proposed work.

Check the box if the district is requesting an Additional Grant for General Site Development pursuant to Section 1859.76

g. If the district is requesting replacement facilities on the same site, (including seismic replacement), enter the square footage requested as provided in Section 1859.82(a) or (b).

h. If the request for seismic rehabilitation does not exceed 50 percent of the current replacement cost of the classroom or related facility, report 50 percent of the health/safety seismic mitigation cost and the ancillary costs as authorized by Section 1859.82(a).

i. Enter the square feet of eligible replacement area as provided by Section 1859.73.2.

j. If the district is requesting an Additional Grant for Energy Efficiency pursuant to Section 1859.71.3, enter the percentage of energy efficiency that exceeds Title 24 requirements as prescribed in Section 1859.71.3(a)(3).

k. Check the box(es) if the district requests and the project qualifies for additional funding for fire code requirements authorized in Section 1859.71.2.

l. If the district is requesting an Additional Grant for High Performance Incentive pursuant to Section 1859.70.4, enter the number of high performance points as prescribed in Section 1859.71.6 or 1859.77.4, as appropriate, subject to Education Code Section 17070.965.

6. Modernization Additional Grant Request

a. Check the box if the district is requesting project assistance allowance pursuant to Section 1859.78.2. If the district has not submitted a request for new construction baseline eligibility on a district-wide basis, it must submit a current Form SAB 50-01 based on district-wide enrollment data with this form.

b. If the district is requesting an Additional Grant for Energy Efficiency pursuant to Section 1859.78.5, enter the percentage of energy efficiency that exceeds Title 24 requirements as prescribed in Section 1859.78.5(a)(3).

c. Check the box if the district requests an additional grant for site development utility cost necessary for the modernization of 50 years or older permanent building(s). Enter 60 percent of the eligible costs allowable pursuant to Section 1859.78.7(a).

d. Check the box(es) if the district requests and the project qualifies for additional funding for fire code requirements authorized in Section 1859.78.4.

e. If the district is requesting an Additional Grant for High Performance Incentive pursuant to Section 1859.70.4, enter the number of high performance points as prescribed in Section 1859.77.4, subject to Education Code Section 17070.965.

7. Excessive Cost Hardship Request

Check the appropriate box to request an augmentation to the New Construction or Modernization Grants for an excessive cost hardship for the items listed. Refer to Section 1859.83 for eligibility criteria. Requests for excessive cost grants for accessibility requirements are allowed only if required by the Division of the State Architect (DSA). At the district's option, the district may request three percent of the modernization base grant or enter 60 percent of the amount calculated pursuant to Regulation Section 1859.83(f). Attach a copy of the DSA approved list that shows the minimum work necessary for accessibility requirements.

If the request is for the excessive cost grant for a new Alternative Education school pursuant to Section 1859.83(c)(2) and the district wishes to request less than the maximum allowance, please submit a letter along with application indicating the desired amount.

If the request is for rehabilitation mitigation, report 80 percent or 60 percent (as appropriate) of health/safety rehabilitation mitigation cost for a modernization project as authorized by Section 1859.83(e).

8. Charter School Facilities Program Rehabilitation – Additional Grant and Excessive Cost Hardship Request

Additional Grant Request

a. If the applicant is requesting an Additional Grant for High Performance Incentive pursuant to Section 1859.77.4, enter the number of high performance points as prescribed in Section 1859.77.4.

Excessive Cost Hardship Request

Check the appropriate box to request an augmentation to the Charter School Facilities Program Rehabilitation grants for an excessive cost hardship for the items listed. Refer to Section 1859.167.4 for eligibility criteria.

b. Check the box if the applicant requests and qualifies for an Excessive Cost Hardship Grant due to Geographic Location pursuant to Section 1859.167.3(a).

c. Check the box if the applicant requests and qualifies for an Excessive Cost Hardship Grant for a small size project pursuant to Section 1859.167.3(b).

d. Check the box if the applicant requests and qualifies for an Excessive Cost Hardship Grant due to Urban Location, Security Requirements, and Impacted Site pursuant to Section 1859.167.3(c).

e. Check the box if the applicant requests and qualifies for an Excessive Cost Hardship Grant due to accessibility and fire code requirements pursuant to Section 1859.167.3(d). Requests for excessive cost grants for accessibility requirements are allowed only if required by the Division of the State Architect (DSA). At the applicant's option, the applicant may request three percent of the Charter School Facilities Program Rehabilitation Grant or enter 50 percent of the amount calculated pursuant to Regulation Section 1859.167.3(d)(2). Attach a copy of the DSA approved list that shows the minimum work necessary for accessibility requirements.

9. Project Priority Funding Order

Enter the priority order of this project in relation to other new construction applications submitted by the district on the same date. If applications are not received on the same date, the OPSC will assign a higher district priority to the application received first. Check the box(es) if the project meets the criteria outlined in Section 1859.92(c)(3),(4) and (6), as appropriate. This information is needed for purposes of priority points.

10. Prior Approval Under the LPP

If the project the district is requesting SFP grants for received a Phase P, S, or C approval under the LPP, report the application number of that project, regardless if the project actually received funding or was included on an "unfunded" list. Failure to report this information may delay the processing of the application by the OPSC.

11. Prior Apportionment Under the SFP

If the project received a separate apportionment under the SFP for either site and/or design, or site environmental hardship, enter the application number of the project. Failure to report this information may delay the processing of the application by the OPSC.

12. Preliminary Apportionment to a Final Apportionment

If this request is to convert a Preliminary Apportionment to a Final Apportionment, enter the application number of the Preliminary Apportionment. Failure to report this information may delay the processing of the application by the OPSC.

13. Alternative Developer Fee

The district must report certain alternative fees collected pursuant to Government Code Section 65995.7, as of the date of application submittal to the OPSC. Refer to Section 1859.77 for details. Districts are advised that the OPSC may perform an audit of the developer fees collected prior to application approval by the Board.

14. Adjustment to New Construction Baseline Eligibility

Pursuant to Section 1859.51 certain adjustments to the district's new construction baseline eligibility must be made each time a district submits Form SAB 50-04, to the OPSC for SFP new construction or modernization grants. These adjustments are made by the OPSC based on information reported by the district on this form.

a. Report all classroom(s) provided after the district submitted its request for determination of its new construction baseline eligibility for the grades shown, or indicate N/A if there are none. Refer to Section 1859.51(i).

   In the additional classroom column, indicate the number of additional net classrooms provided if not previously reported.

   In the replacement classroom column, indicate the number of classrooms that were included in the determination of the district's new construction eligibility pursuant to Education Code Section 17071.75 but replaced in a locally funded project.

   Enter the date the initial construction contract was signed for additional or replacement classrooms.

15. Pending Reorganization Election

Complete only for new construction projects. Indicate if there is a pending reorganization election that will result in a loss of eligibility for this project. If the answer is "yes", the district must complete Form SAB 50-01, Form SAB 50-02 and Form SAB 50-03, to adjust the district's new construction baseline eligibility as a result of the reorganization and submit them with this form.

16. Joint-Use Facility/Leased Property

Check the box if:

a. The facilities to be constructed/modernized as part of this project will be for joint use by other governmental agencies.
b. The new construction or modernization grants will be used for facilities located or to be located on leased property.

17. Project Progress Dates

a. Enter the date(s) the construction contract(s) was awarded for this project(s). If a construction contract has not been executed, enter N/A. (If the space provided is not sufficient for all applicable contract dates, please list all dates on a separate attachment to this form.)
b. Enter the issue date(s) for the Notice to Proceed for the construction phase of the project, or enter N/A if a Notice to Proceed has not been issued.
c. If a construction contract was awarded prior to January 1, 2012, check the appropriate box to indicate whether or not the district has initiated and enforced a Labor Compliance Program (LCP) approved by the Department of Industrial Relations (DIR) pursuant to Labor Code Section 1771.7 for this project.

18. Prevailing Wage Monitoring and Enforcement Costs

If the construction contract(s) for this project was ~~or will be~~ awarded on ~~or after~~ January 1, 2012 through June 19, 2014, check the appropriate box to indicate which of the following methods was or is being~~will be~~ used to meet the requirement for prevailing wage monitoring and enforcement pursuant to Labor Code Section 1771.3 in effect on January 1, 2012 through June 19, 2014:

- ~~The~~ DIR ~~Compliance Monitoring Unit (CMU)~~Public Works administration and enforcement
- A DIR-approved internal LCP
- A collective bargaining agreement that meets the criteria set forth in Labor Code Section 1771.3(b)(3) in effect on January 1, 2012 through June 19, 2014.

19. Construction Delivery Method

Check the box that best represents the construction delivery method that the district has or will use for this project, if known.

20. Career Technical Education Funds Request

Indicate if Career Technical Education (CTE) funds will be requested for classroom(s) included in the plans and specifications for this project pursuant to Section 1859.193. If "Yes", enter the number of CTE classroom(s) shown on the P&S.

21. Overcrowding Relief Grant Narrative

The district must either provide an explanation in the space provided or attach a letter signed by the district representative detailing how this project will relieve overcrowding.

22. Architect of Record or Licensed Architect Certification

The architect of record or the licensed architect must complete this section.

23. Architect of Record or Design Professional Certification

The architect of record or the appropriate design professional must complete this section.

24. Certification

The district representative must complete this section. For additional information regarding district certifications, refer to the SFP handbook located on the OPSC web site at www.dgs.ca.gov/opsc.

STATE OF CALIFORNIA

APPLICATION FOR FUNDING

SCHOOL FACILITY PROGRAM

SAB 50-04 (REV ~~05~~10~~02~~/1~~4~~5)

STATE ALLOCATION BOARD
OFFICE OF PUBLIC SCHOOL CONSTRUCTION

The school district named below applies to the State Allocation Board via the Office of Public School Construction for a grant under the provisions of Chapter 12.5, Part 10, Division 1, commencing with Section 17070.10, et seq., of the Education Code and the Regulations thereto.

SCHOOL DISTRICT		APPLICATION NUMBER
SCHOOL NAME		PROJECT TRACKING NUMBER
COUNTY	DISTRICT REPRESENTATIVE'S E-MAIL ADDRESS	HIGH SCHOOL ATTENDANCE AREA (HSAA) OR SUPER HSAA (IF APPLICABLE)

1. Type of Application—Check Only One

☐ New Construction
☐ New Construction (Final Apportionment)
☐ New Construction (Final Charter School Apportionment)
☐ New Construction (Overcrowding Relief Grant)
☐ Rehabilitation (Final Charter School Apportionment)
☐ Modernization
☐ Modernization of California Schools for Deaf/Blind

Separate Apportionment

☐ Site Only—New Construction [Section 1859.81.1]
☐ Site Only (District owned)—New Construction [Section 1859.81.2]
☐ Site Only—Environmental Hardship [Section 1859.75.1]
☐ Design Only—New Construction [Section 1859.81.1]
☐ Design Only—New Construction with High Performance
☐ Design Only—Modernization
☐ Design Only—Modernization with High Performance
☐ Design Only—Modernization of California Schools for Deaf/Blind
☐ Facility Hardship [Section 1859.82(a)]
  ☐ Seismic Replacement
  ☐ Seismic Rehabilitation
☐ Facility Hardship [Section 1859.82(b)]
☐ Rehabilitation [Section 1859.83(e)]
☐ Advance Funding for Evaluation and RA

2. Type of Project

a. ☐ Elementary School
☐ Middle School
☐ High School

Total Pupils Assigned:
K–6: _____
7–8: _____
9–12: _____
Non-Severe: _____
Severe: _____

b. ☐ 50 Years or Older Building Funding (Modernization Only)
Total Eligible Classrooms/Square Footage: _____
Classroom/Square Footage at Least 50 Years Old: _____
Ratio of 50 Years Old Classrooms/Square Footage: _____ %
From 2a above, how many are 50 Year or Older Pupil Grants?
K–6: _____
7–8: _____ Non-Severe: _____
9–12: _____ Severe: _____

c. Included in 2a above, how many pupils are generated by the Alternative Enrollment Projection? (New Construction Only)
K–6: _____
7–8: _____ Non-Severe: _____
9–12: _____ Severe: _____

d. Is this a 6–8 school? ☐ Yes ☐ No
If you answered yes, how many K–6 pupils reported above are sixth graders? _____
Is this an Alternative Education School? ☐ Yes ☐ No

e. Is this a use of grant request pursuant to Section 1859.77.2? ☐ Yes ☐ No
Is this request pursuant to Section 1859.77.2(c)? ☐ Yes ☐ No
If yes, enter date of successful bond election: _____
Is this a use of grant request pursuant to Section 1859.77.3? ☐ Yes ☐ No
Is this request pursuant to Section 1859.77.3(c)? ☐ Yes ☐ No
If yes, enter date of successful bond election: _____

f. ☐ Facility Hardship (no pupils assigned)

g. Charter School Facilities Program Rehabilitation Request:
Toilets (sq. ft.) _____
Other (sq. ft.) _____

h. Project to be located on:
☐ Leased Site
☐ New Site
☐ Existing Site with Additional Acreage Acquired
☐ Existing Site with No Additional Acreage Acquired

i. ORG Projects Only

NAME OF ELIGIBLE SCHOOL SITE(S)	NUMBER OF PORTABLES BEING REPLACED	NUMBER OF SITE SPECIFIC ELIGIBLE PUPILS BEING REQUESTED
	Total	

3. Number of Classrooms: _____
Master Plan Acreage Site Size (Useable): _____
Recommended Site Size (Useable): _____
Existing Acres (Useable): _____
Proposed Acres (Useable): _____

4. Type of Financial Hardship Request

☐ Submittal with OPSC "pre-approval" letter
☐ Submittal with school board resolution, pursuant to Section 1859.95.1 (Insufficient Bond Authority)

5. New Construction Additional Grant Request—New Construction Only

a. Therapy: Toilets (sq. ft.) _____
Other (sq. ft.) _____

b. Multilevel Construction (CRS): _____

c. ☐ Project Assistance

d. Site Acquisition:
(1) 50 percent Actual Cost: $ _____
(2) 50 percent Appraised Value: $ _____
(3) 50 percent Relocation Cost: $ _____
(4) 2 percent (min. $25,000): $ _____
(5) 50 percent DTSC Fee: $ _____

e. 50 percent hazardous waste removal: $ _____
☐ Response Action (RA)

f. Site Development
☐ 50 percent Service-Site: $ _____
☐ 50 percent Off-Site: $ _____
☐ 50 percent Utilities: $ _____
☐ General Site

g. Facility Hardship Section 1859.82(a) or (b)
☐ Toilet (sq. ft.): _____
☐ Other (sq. ft.): _____

h. ☐ Seismic Rehabilitation [Section 1859.82(a)] $ _____

i. Replacement area
☐ Toilet (sq. ft.): _____
☐ Other (sq. ft.): _____

j. ☐ Energy Efficiency: _____ %

k. ☐ Automatic Fire Detection/Alarm System
☐ Automatic Sprinkler System

l. ☐ High Performance Incentive (Indicate Points): _____

6. Modernization Additional Grant Request

a. ☐ Project Assistance

b. ☐ Energy Efficiency: _____ %

c. ☐ Site Development—60 percent utilities: $ _____

d. ☐ Automatic Fire Detection/Alarm System

e. ☐ High Performance Incentive (Indicate Points): _____

7. Excessive Cost Hardship Request

New Construction Only

☐ Geographic Percent Factor: _____ %
☐ New School Project [Section 1859.83(c)(1)]
☐ New School Project [Section 1859.83(c)(2)]
☐ Small Size Project
☐ Urban/Security/Impacted Site;
If a new site, $ _____ per Useable Acre [Section 1859.83(d)(2)(C)]

Modernization Only

☐ Rehabilitation/Mitigation [Section 1859.83(e)]: $ _____
☐ Geographic Percent Factor: _____ %
☐ Small Size Project
☐ Urban/Security/Impacted site
☐ Accessibility/Fire Code
☐ 3 percent of base grant; or,
☐ 60 percent of minimum work $ _____
☐ Number of 2-Stop Elevators: _____
☐ Number of Additional Stops: _____

8. Charter School Facilities Program Rehabilitation Additional Grant and Excessive Cost Hardship Request

Additional Grant Request

a. ☐ High Performance Incentive (Indicate Points): _____

Excessive Cost Hardship Request

b. ☐ Geographic Percent Factor: _____%
c. ☐ Small Size Project
d. ☐ Urban/Security/Impacted site
e. ☐ Accessibility/Fire Code
☐ 3 percent of base grant; or,
☐ 50 percent of minimum work $ _____
☐ Number of 2-Stop Elevators: _____
☐ Number of Additional Stops: _____

9. Project Priority Funding Order—New Construction Only

Priority order of this application in relation to other new construction applications submitted by the district at the same time: # _____

Project meets:
☐ Density requirement pursuant to Section 1859.92(c)(3).
☐ Stock plans requirement pursuant to Section 1859.92(c)(4).
☐ Energy efficiency requirement pursuant to Section 1859.92(c)(6).

10. Prior Approval Under the LPP

New Construction: 22/ _____
Modernization: 77/ _____

11. Prior Apportionment Under the SFP

Site/Design—New Construction: 50/ _____
Design—Modernization: 57/ _____

12. Preliminary Apportionment to Final Apportionment

Preliminary Apportionment Application Number: # _____

13. Alternative Developer Fee—New Construction Only

Alternative developer fee collected and reportable pursuant to Regulation Section 1859.77: $ _____

14. Adjustment to New Construction Baseline Eligibility

a. Classroom(s) provided:

Additional		Replacement	
K–6:	_____	K–6	_____
7–8:	_____	7–8	_____
9–12:	_____	9–12	_____
Non-Severe:	_____	Non-Severe	_____
Severe:	_____	Severe	_____

Construction Contract(s) for the project signed on:

_____ _____

15. Pending Reorganization Election—New Construction Only ☐ Yes ☐ No

16. Joint-Use Facility/Leased Property

a. ☐ Joint-Use Facility
b. ☐ Leased Property

17. Project Progress Dates

a. Construction Contract(s) awarded on: _____
(If the space provided is not sufficient for all applicable contract dates, please list all dates on a separate attachment to this form.)
b. Notice(s) to Proceed issued on: _____
c. If the Construction Contract(s) was awarded prior to January 1, 2012, have you initiated and enforced an LCP approved by the DIR pursuant to Labor Code Section 1771.7 for this project? ☐ Yes ☐ No

18.Prevailing Wage Monitoring and Enforcement Costs

If the Construction Contract(s) was ~~or will be~~ awarded on ~~or after~~ January 1, 2012 through June 19, 2014, please indicate which monitoring requirement~~s~~ was or is being~~will be~~ used, pursuant to Labor Code Section 1771.3 in effect on January 1, 2012 through June 19, 2014:

☐ DIR ~~CMU Administered~~Public Works administration and enforcement
☐ DIR approved District LCP
☐ Collective bargaining agreement, pursuant to Labor Code Section 1771.3(b)(3) in effect on January 1, 2012 through June 19, 2014

19. Construction Delivery Method

☐ Design-Bid-Build
☐ Design-Build
☐ Developer Built
☐ Lease Lease-Back
☐ Energy Performance Contract
☐ This project includes or will include piggyback contract(s) as defined in Section 1859.2
☐ Other: _____

20. Career Technical Education Funds Request

Will CTE Funds be requested for classroom(s) included in the plans and specifications for this project? ☐ Yes ☐ No
Number of CTE classroom(s): _____

21. Overcrowding Relief Grant Narrative

_____
_____
_____
_____

22. Architect of Record or Licensed Architect Certification

I certify as the architect of record for the project or as a licensed architect that:

- The P&S for this project were submitted to the OPSC by electronic medium (i.e., CD-ROM, zip disk or diskette) or as an alternative, if the request is for a modernization Grant, the P&S were submitted in hard copy to the OPSC.
- Any portion of the P&S requiring review and approval by the Division of the State Architect (DSA) were approved by the DSA on _____ (enter DSA approval date).
- Any portion of the P&S not requiring review and approval by the DSA meets the requirements of the California Code of Regulations, Title 24, including any handicapped access and fire code requirements.
- If the request is for a Modernization or Charter School Facilities Program Rehabilitation Grant, the P&S include the demolition of more classrooms than those to be constructed in the project, the difference is _____ classroom(s). (Indicate N/A if there are none.)
- If the request is for a Modernization or Charter School Facilities Program Rehabilitation Grant, the P&S include the construction of more classrooms than those to be demolished in the project, the difference is _____ classroom(s). (Indicate N/A if there are none.)

ARCHITECT OF RECORD OR LICENSED ARCHITECT (PRINT NAME)

SIGNATURE	DATE

23. Architect of Record or Design Professional Certification

I certify as the architect of record for the project or the appropriate design professional, that:

- If the request is for a New Construction Grant, not including the ORG, I have developed a cost estimate of the proposed project which indicates that the estimated construction cost of the work in the P&S including deferred items (if any) relating to the proposed project, is at least 60 percent of the total grant amount provided by the State and the district's matching share, less site acquisition costs and the High Performance Base Incentive Grant. This cost estimate does not include site acquisition, planning, tests, inspection, or furniture and equipment and is available at the district for review by the OPSC.
- If the request is for a Modernization or Charter School Facilities Program Rehabilitation Grant, I have developed a cost estimate of the proposed project which indicates that the estimated construction cost of the work in the P&S, including deferred items and interim housing (if any) relating to the proposed project, is at least 60 percent of the total grant amount provided by the State and the district's matching share, less the High Performance Base Incentive Grant. This cost estimate does not include planning, tests, inspection or furniture and equipment and is available at the district for review by the OPSC.

ARCHITECT OF RECORD OR DESIGN PROFESSIONAL (PRINT NAME)

SIGNATURE	DATE

24. Certification

I certify, as the District Representative, that the information reported on this form, with the exception of items 22 and 23, is true and correct and that:

- I am an authorized representative of the district as authorized by the governing board of the district; and,
- A resolution or other appropriate documentation supporting this application under Chapter 12.5, Part 10, Division 1, commencing with Section 17070.10, et. seq., of the Education Code was adopted by the school district's governing board or the designee of the Superintendent of Public Instruction on, _____; and,
- The district has established a "Restricted Maintenance Account" for exclusive purpose of providing ongoing and major maintenance of school buildings and has developed an ongoing and major maintenance plan that complies with and is implemented under the provisions of Education Code Section 17070.75 and 17070.77 (refer to Sections 1859.100 through 1859.102); and,
- Pursuant to Education Code Section 17070.755, the district has made a priority of the funds in the restricted maintenance account, established pursuant to Education Code Section 17070.75, to ensure that facilities are functional and meet local hygiene standards; and,
- The district has considered the feasibility of the joint use of land and facilities with other governmental agencies in order to minimize school facility costs; and,
- If this funding request is for the modernization of portable classrooms eligible for an additional apportionment pursuant to Education Code Section 17073.15, the district certifies that (check the applicable box below):
  - ☐ 1. The state modernization funds will be used to replace the portable classrooms and permanently remove the displaced portables from the classroom use within six months of the filing of the Notice of Completion for the project; or,
  - ☐ 2. It has provided documentation to the Office of Public School Construction which indicates that modernizing the portable classrooms eligible for an additional apportionment is better use of public resources than the replacement of these facilities.
- Facilities to be modernized have not been previously modernized with Lease-Purchase Program, Proposition 1A Funds or School Facility Program state funds; and,
- Facilities to be rehabilitated under the Charter School Facilities Program previously funded with School Facility Program State funds meet the requirements of Section 1859.163.6; and,
- All contracts entered on or after November 4, 1998 for the service of any architect structural engineer or other design professional for any work under the project have been obtained pursuant to a competitive process that is consistent with the requirements of Chapter 10 (commencing with Section 4525) of Division 5, of Title 1, of the Government Code; and,
- If this request is for new construction funding, the district has received approval of the site and the plans from the CDE. Plan approval is not required if request is for separate design apportionment; and,
- If this request is for modernization or Charter School Facilities Program Rehabilitation funding, the district has received approval of the plans for the project from the CDE. Plan approval is not required if request is for separate design apportionment; and,
- The district has or will comply with the Public Contract Code regarding all laws governing the use of force account labor; and,
- This district has or will comply with Education Code Section 17076.11 regarding at least a 3 percent expenditure goal for disabled veteran business enterprises; and,
- The district matching funds required pursuant to Sections 1859.77.1 or 1859.79 has either been expended by the district, deposited in the County School Facility Fund or will be expended by the district prior to the notice of completion for the project; and,
- The district has received the necessary approval of the plans and specifications from the Division of the State Architect unless the request is for a separate site and/or design apportionment; and,
- If the district is requesting site acquisition funds as part of this application, the district has complied with Sections 1859.74 through 1859.75.1 as appropriate; and,
- With the exception of an apportionment made pursuant to Section 1859.75.1, the district understands that the lack of substantial progress toward increasing the pupil capacity or renovation of its facilities within 18 months of receipt of any funding shall be cause for the rescission of the unexpended funds (refer to Section 1859.105); and,
- If the apportionment for this project was made pursuant to Section 1859.75.1, the district understands that the lack of substantial progress toward increasing the pupil capacity or renovation of its facilities within 12 months of receipt of any funding shall be cause for the rescission of the unexpended funds (refer to Section 1859.105.1); and,
- The district understands that funds not released within 18 months of apportionment shall be rescinded and the application shall be denied (refer to Section 1859.90); and,
- The statements set forth in this application and supporting documents are true and correct to the best of my knowledge and belief; and,
- All school facilities purchased or newly constructed under the project for use by pupils who are individuals with exceptional needs, as defined in Education Code Section 56026, shall be designed and located on the school site so as to maximize interaction between those individuals with exceptional needs and other pupils as appropriate to the needs of both; and,
- This form is an exact duplicate (verbatim) of the form provided by the OPSC. In the event a conflict should exist, the language in the OPSC form will prevail; and,
- The district understands that some or all of the State funding for the project must be returned to the State as a result of an audit pursuant to Sections 1859.105, 1859.105.1, 1859.106; and,
- The district has complied with the provisions of Sections 1859.76 and 1859.79.2 and that the portion of the project funded by the State does not contain work specifically prohibited in those Sections; and,
- If the SFP grants will be used for the construction or modernization of school facilities on leased land, the district has entered into a lease agreement for the leased property that meets the requirements of Section 1859.22; and,

- If the application contains a "Use of New Construction Grant" request, the district has adopted a school board resolution and housing plan at a public hearing at a regularly scheduled meeting of the governing board on _____ as specified in Sections 1859.77.2, or 1859.77.3, as appropriate. The district's approved housing plan is as indicated (check all that apply):
  - ☐ 1. The district will construct or acquire facilities for housing the pupils with funding not otherwise available to the SFP as a district match within five years of project approval by the SAB and the district must identify the source of the funds. [Applicable for Sections 1859.77.2(a) and (b) and 1859.77.3(a) and (b)]
  - ☐ 2. The district will utilize higher district loading standards providing the loading standards are within the approved district's teacher contract and do not exceed 33:1 per classroom. [Applicable for Sections 1859.77.2(a) and (b) and 1859.77.3(a) and (b)]
  - ☐ 3. The pupils requested from a different grade level will be housed in classrooms at an existing school in the district which will have its grade level changed, to the grade level requested, at the completion of the proposed SFP project. [Applicable for Sections 1859.77.2(b) and 1859.77.3(b)]
- If the district requested additional funding for fire code requirements pursuant to Sections 1859.71.2 or 1859.78.4, the district will include the automatic fire detection/alarm system and/or automatic sprinkler system in the project prior to completion of the project; and,
- The district has consulted with the career technical advisory committee established pursuant to Education Code Section 8070 and the need for vocational and career technical facilities is being adequately met in accordance with Education Code Sections 51224, 51225.3(b), and 51228(b), and 52336.1; and,
- If the district is requesting an Additional Grant for Energy Efficiency pursuant to Sections 1859.71.3 or 1859.78.5, the increased costs for the energy efficiency components in the project exceeds the amount of funding otherwise available to the district; and,
- If this application is submitted after January 1, 2004 for modernization funding, the district has considered the potential for the presence of lead-containing materials in the modernization project and will follow all relevant federal, state, and local standards for the management of any identified lead; and,
- The district has initiated and enforced an LCP that has been approved by the DIR, pursuant to Labor Code Section 1771.7, if the project is funded from Propositions 47 or 55 and the Notice to Proceed for the construction phase of the project is issued on or after April 1, 2003 and before January 1, 2012; and,
- The district ~~will contract or~~ has contracted with the DIR for prevailing wage monitoring and enforcement pursuant to Labor Code Section 1771.3(a) in effect on January 1, 2012 through June 19, 2014, if the construction contract ~~is~~was awarded on ~~or after~~ January 1, 2012 through June 19, 2014 and the district has not obtained a waiver for the requirement, pursuant to Labor Code Section 1771.3(b) in effect on January 1, 2012 through June 19, 2014. The district understands that if it fails to meet this requirement, it will be required to repay all state bond funds received including interest; and,
- Beginning with the 2005/2006 fiscal year, the district has complied with Education Code Section 17070.75(e) by establishing a facilities inspection system to ensure that each of its schools is maintained in good repair; and,
- If this application is submitted pursuant to Section 1859.180, the district certifies that within six months of occupancy of the permanent classrooms, it will remove the replaced portables from the eligible school site and K–12 grade classroom use with the exception of schools described in Education Code Section 17079.30(c); and,
- The district has considered the feasibility of using designs and materials for the new construction or modernization project that promote the efficient use of energy and water, maximum use of natural light and indoor air quality, the use of recycled materials and materials that emit a minimum of toxic substances, the use of acoustics conducive to teaching and learning, and the other characteristics of high performance schools; and,
- If the district is requesting an additional grant for high performance incentive funding, the school district governing board must have a resolution on file that demonstrates support for the high performance incentive grant request and the intent to incorporate high performance features in future facilities projects; and,
- If this application is submitted when there is Insufficient Bond Authority, the district has adopted a school board resolution pursuant to Section 1859.95.1; and,
- The district will comply with all laws pertaining to the construction or modernization of its school building.

NAME OF DISTRICT REPRESENTATIVE (PRINT)	PHONE NUMBER
SIGNATURE OF DISTRICT REPRESENTATIVE	DATE

REPORT OF THE EXECUTIVE OFFICER
State Allocation Board Meeting, February 24, 2015

SEISMIC MITIGATION PROGRAM

PURPOSE OF THE REPORT

To report to the State Allocation Board (Board) on efforts made and future options available to streamline the Seismic Mitigation Program (SMP) and speed up the award of seismic mitigation funds.

DESCRIPTION

The attached report is a follow up to a previous item on this topic heard by the Board at its October 2014 meeting. Per Board direction, this item focuses on the following areas to increase participation in, and/or streamline, the SMP:

1. Minimum Work Determination for SMP Funding
    a. DSA Procedures and Office of Public School Construction(OPSC) Outreach Under Current Regulations
    b. Holistic Approach to SMP Project Funding
    c. Partial Seismic Upgrades
2. Reservation of Bond Authority for Conceptually Approved Projects
3. Accelerated Cash Proceeds for SMP Projects

This report in its entirety and any resulting Board actions will be submitted to the Legislature in fulfilment of the requirements of Education Code (EC) Section 17070.53.

SEISMIC MITIGATION PROGRAM:

Options to Streamline and Speed up the Award of Seismic Mitigation Program Funds

OVERVIEW

The Board has been considering efforts made and future options available to streamline the Seismic Mitigation Program (SMP) and speed up the award of seismic mitigation funds during the past year. This report is a follow up to a previous item on this topic heard by the Board at its October 2014 meeting. Per Board direction, this item focuses on the following areas to increase participation in, and/or streamline, the SMP:

1. Minimum Work Determination for SMP Funding
    a. DSA Procedures and OPSC Outreach Under Current Regulations
    b. Holistic Approach to SMP Project Funding
    c. Partial Seismic Upgrades
2. Reservation of Bond Authority for Conceptually Approved Projects
3. Accelerated Cash Proceeds for SMP Projects

This report in its entirety and any resulting Board actions will be submitted to the Legislature in fulfillment of the requirements of Education Code (EC) Section 17070.53.

AUTHORITY

A complete list of the applicable statutes and regulations for this report is included as Attachment A.

BACKGROUND & HISTORY

The Kindergarten-University Public Education Facilities Bond Act of 2006 (Proposition 1D), approved by California voters in 2006, provided up to $199.5 million in bond authority "for seismic repair, reconstruction or replacement, pursuant to Section 17075.10." EC Section 17075.10 further defined the criteria for the SMP to include "the most vulnerable school facilities that are identified as a Category 2 building, as defined in the report submitted pursuant to Section 17317 and determined by the department to pose an unacceptable risk of injury to its occupants in the event of a seismic event."

The Board first approved regulations to implement the SMP in September 2007. Since then, the Board has had multiple discussions on changes and approved amendments to the SMP regulations two more times in an effort to increase participation in the program. The table below summarizes the major regulation amendments adopted by the Board to date. For a listing of past Board actions and discussions on the SMP, please see Attachment B.

Regulation Adoption	Ground Shaking Intensity	Number of Category 2 Building Types	Other Changes	Number of Applications Approved
September 2007	> 1.70	4 of 14	N/A	3
August 2009	> 1.68	8 of 14	N/A	0
June 2011*	Requirement removed.	14 of 14	Additional Geological threats added.	17

*In May 2013 the Board approved a Regulatory amendment to allow districts to request the High Performance Incentive grant. However, this amendment was not for the purposes of increasing participation in the SMP.

(Continued on Page Two)

BACKGROUND & HISTORY (cont.)

EC Section 17070.53 states that "The Office of Public School Construction shall report to the [Board] and the Legislature by March 1, 2015, on efforts to streamline and speed up the award of seismic mitigation funds."

As a first step toward completing this report, at its June 2014 meeting, the Board requested that the Implementation Committee convene to evaluate why SMP projects do not progress past initial SMP eligibility approval. On August 7, 2014, the Committee heard testimony from school districts, design professionals, and other stakeholders on this topic. Staff presented the feedback as a report to the Board on October 16, 2014. The Board approved the report and directed staff to bring back a discussion item providing options to increase participation in the SMP.

As of the November 2014 Board meeting, there was $142.4 million (of the initial amount of $199.5 million) remaining in SMP bond authority. In addition, there are currently over $46 million of Seismic Mitigation Program projects with Conceptual Approvals that have been approved by the Board.

STAFF ANALYSIS/STATEMENTS

The following analysis will address the three topic areas requested by the Board for further analysis of options to streamline and increase participation in the SMP.

Topic 1: Minimum Work Determination for SMP Funding

As it is currently administered, the SMP regulations require that funding be provided only for the minimum work necessary to mitigate the seismic health and safety threat and obtain approval from the Division of the State Architect (DSA). This can also include required work related to accessibility and fire and life safety requirements. However, plans and cost estimates submitted to DSA and OPSC often contain work that is beyond the minimum work necessary. While it is acceptable for districts to include additional locally funded work in the approved plans for the overall project, approval of those plans by DSA does not equal funding for the additional work.

Stakeholders have indicated that there appears to be redundancy in having both DSA and OPSC review the plans for minimum work, and have indicated they feel a level of uncertainty about whether SMP grants will be equal to the cost estimate submitted to DSA for the approved set of plans.

The key to this issue is that the DSA review verifies that the scope of work and plans include *at least* the minimum work necessary to mitigate the seismic deficiencies described in the structural engineer's report and address required access, while the OPSC review verifies that SMP grants exclusively cover only the *minimum work to mitigate the threat,* as well as any other work required by DSA. It is possible that a district may submit, and that the DSA may review and approve, a single set of construction plans that includes both a building for the SMP program where the project includes seismic mitigation work for structural strengthening of the walls as well as other unrelated work. The OPSC would only fund the seismic mitigation work for the structural strengthening of the walls and not the other work, unless the DSA *required* it to be completed to gain their approval.

Analysis
Staff has identified three separate areas for discussion of this topic. The first is communication and outreach efforts by DSA and OPSC to explain and simplify the current program structure related to minimum work, the second relates to a more holistic approach to funding SMP projects, and the third covers partial reviews as related to accessibility and fire and life safety requirements.

(Continued on Page Three)

STAFF ANALYSIS/STATEMENTS (cont.)

Topic 1a: DSA Procedures and OPSC Outreach

To help districts understand the current process for SMP plan review and funding, both OPSC and DSA have made changes to enhance communication with districts earlier in the process so that design decisions can be made with funding limitations in mind.

In May 2014, DSA made many updates throughout its DSA Procedure 08-03 (the procedure used when seeking approval for SMP projects). Multiple sections in the procedure now advise districts to contact OPSC for more information about SMP funding eligibility prior to submitting the next Phase of the procedure. It also outlines a new process for rehabilitation projects which requires districts to more clearly delineate work that is unrelated to the seismic rehabilitation and associated required fire and life safety and accessibility work. Additionally, the latest version of the DSA Procedure 08-03 also provides information to districts that OPSC can collaborate with school districts throughout the process to provide the school districts' design and facilities teams with an understanding of the types of costs that may be eligible for funding significantly earlier in the planning process versus at the end when the plans are complete.

Having the opportunity to provide outreach to districts throughout their application process may provide more clarity related to what type of work is fundable through the SMP. Historically, OPSC has also offered pre-meetings to districts during the design process before an application is submitted. Now these meetings will include DSA as well. Additionally, the inclusion of the new process for rehabilitation work in the DSA Procedure 08-03 may allow for the DSA and the OPSC to more clearly delineate the minimum work required as it relates to the SMP.

In addition to increasing lines of communication with school districts, OPSC staff recently visited SMP project sites to gain a better understanding of the projects as they are processed for funding. These visits proved to be extremely beneficial to OPSC's understanding of the projects. OPSC plans to continue site visits when necessary on future applications. These already implemented actions have the potential to result in a more streamlined review process at both agencies that provides more clarity for districts as well.

OPTION

No Board action is necessary to implement these changes as both DSA and OPSC have already taken administrative action.

(Continued on Page Four)

STAFF ANALYSIS/STATEMENTS (cont.)

Topic 1b: Holistic Approach to SMP Project Funding

At the October 2014 meeting, Board Members requested further consideration of adopting a holistic approach to funding SMP projects.

Along with the minimum seismic mitigation work in the project, a district may be required to complete additional work to meet current California Building Code requirements (e.g., the requirement to address accessibility and fire and life safety issues). This additional work is eligible for funding as part of an SMP project. In addition, there is often significant work on seismic rehabilitation projects when older building elements encountered, or impacted, during the work must be fully upgraded. Currently, this may or may not be considered part of the minimum work eligible for funding.

For a variety of reasons, some school districts also elect to concurrently complete additional work in conjunction with the SMP project that is not required to mitigate the hazard and obtain DSA approval for the SMP project. Additional work may include, but is not limited to, electrical upgrades, reconfiguration of interior space, repair or replacement of exterior building finishes, and replacing a facility in lieu of repairing it. This work may be more typically included in a modernization project and under current regulations is not eligible for SMP funding.

The program was implemented to focus on the minimum work necessary to mitigate the health and safety threat. Therefore, the SFP Regulations limit the statutory reach such that only seismic and those repairs triggered by the seismic repair can be funded. EC Section 101012 (a)(1) states that "up to 10.5 percent shall be available for purposes of *seismic repair, reconstruction, or replacement*, pursuant to Section 17075.10." (emphasis added) Further, EC Section 17075.10(a) states:

> A school district may apply for hardship assistance in cases of extraordinary circumstances. Extraordinary circumstances may include, but are not limited to, the need to repair, reconstruct, or replace the most vulnerable school facilities that are identified as a Category 2 building, as defined in the report submitted pursuant to Section 17317, determined by the department to pose an unacceptable risk of injury to its occupants in the event of a seismic event.

Also, the Proposition 1D Voter guide, published in August 2006, advised California voters that "Up to $200 million of the $1.9 billion would be available to retrofit facilities likely to be unsafe during an earthquake."

Statute does not preclude the Board from broadening the regulatory definition of extraordinary circumstances, which could include the additional work. However, broadening the scope of work allowed in SMP projects will lead to bond authority going to purposes other than seismic mitigation. In this case, more funding would be awarded sooner, but less funding would be available for future seismic-related work. In addition, allowing other types of work as part of SMP projects could circumvent the eligibility and funding requirements of the other SFP programs.

OPTION

The Board could consider broadening the scope of SMP projects to include full replacements for building components, systems, or finishes which must be upgraded in association with the seismic rehabilitation through regulation amendments. In addition, it would be necessary to determine if any limitations to scope of work should be included if this option was pursued, as there is no typical pattern for additional work included by districts because of the unique nature of the repairs in each of the SMP projects submitted to date.

(Continued on Page Five)

STAFF ANALYSIS/STATEMENTS (cont.)

Topic 1c: Partial Seismic Upgrades

At the October 2014 meeting, Board Members requested further consideration of providing funding for partial seismic upgrades.

The concept of providing SMP funding for partial seismic upgrades of school buildings was previously considered by the Board's Subcommittee on Seismic Mitigation at its May 18, 2011, meeting. Projects for partial seismic upgrades can be designed specifically to address the most critical and necessary structural repairs/retrofits and identified life-safety deficiencies. This approach focuses on addressing mitigation efforts in multiple steps or phases. Each step includes necessary repairs that will decrease the vulnerability of school buildings to earthquakes. However, addressing only a portion of the work may not fully mitigate the health and safety threat until all upgrades are completed.

The subject was also raised by stakeholders at the August 2014 Implementation Committee meeting. Stakeholders stated that budgetary constraints can make it difficult for some districts to contribute the matching funds for the entire project scope. In many cases, the scope is expanded due to additional accessibility and/or fire and life safety work that is triggered by the seismic mitigation work. Providing funding for partial seismic upgrades would allow the districts and their design professionals to prioritize the scope of work in a project based on need and available funding—while performing the mitigation of the identified life-safety deficiencies.

Staff understands the issue of budgetary constraints and also sees a larger policy implication surrounding the issue. As noted previously, the program is designed to provide funding "to repair, reconstruct, or replace the most vulnerable school facilities that are … determined by the department to pose an unacceptable risk of injury to its occupants in the event of a seismic event." SFP Regulation further stipulates that the funding will be for the minimum work necessary to obtain DSA approval. SMP funding used for partial repairs may not fully mitigate the risk of injury to the occupants, which is the program's main purpose. The smaller scope approach may minimize the cost of the project, but the district may miss the opportunity to complete all of the improvements and the matching funds for them.

Districts are not currently prevented from completing partial seismic upgrades for school facilities. Since the current structure of the SMP is designed to provide funding for the mitigation of the identified threat, funding is only provided for a project that accomplishes that goal. Partial seismic upgrades are not currently eligible for funding.

Some stakeholders have stated that code requirements triggered by seismic upgrades can add to the project budget and have expressed a desire to have less code upgrades in SMP projects; however this would require legislative change.

OPTION

The Board could request that Staff and DSA consider program and procedural changes to allow funding for partial seismic upgrades.

(Continued on Page Six)

STAFF ANALYSIS/STATEMENTS (cont.)

Topic 2: Reservation of Bond Authority for Conceptually Approved Projects

Conceptual approvals are provided to school districts that can substantiate their eligibility for the SMP in advance of receiving plan approval from the DSA and the California Department of Education (CDE). Districts have indicated that going through the conceptual approval process demonstrates their commitment to move forward with the project and is useful at the local level. There are currently six SMP projects totaling $46,260,370 that have conceptual approval from the Board. Conceptual approvals do not guarantee a commitment of bond authority in the future.

School districts have stated that a reservation of bond funds at the conceptual approval stage would help them because it would allow them to move forward with their SMP projects with a guarantee that bond authority wouldn't be allocated to other school districts already further along in the approval process or that remaining bond authority would be swept into another program as part of the legislative process.

Statute currently allows three programs within the SFP to grant apportionments to projects prior to obtaining DSA and CDE approval of plans and specifications. Under the Joint-Use Program districts are allowed one year from apportionment to submit DSA and CDE plan approvals, and after submittal, may request the release of funds. This provision is made in statute for the Joint Use Program, the Critically Overcrowded Schools (COS) Program and the Charter School Facility Program (CSFP) both provide a "preliminary apportionment" and a "final apportionment" under the specific authority in EC. The EC defines "preliminary apportionment" to mean an apportionment made for eligible applicants in advance of full compliance with all of the application requirements pursuant to EC chapter 12.5.

Analysis
As the SMP and the bond authority behind it is a subset of the new construction program; the same statutory and regulatory requirements apply to these projects. Staff consulted legal counsel regarding the Board's ability to reserve bond authority at the time of conceptual approval and was advised that it would conflict with the statutory definition of an Apportionment. An Apportionment is defined by the EC to mean "a reservation of funds for the use of eligible new construction, modernization, or hardship approved by the board for an applicant school district". A reservation of funds at any stage in the project timeline would, based on the EC definition, act as an Apportionment.

EC Sections17070.50 and 17072.30 specifically state that the Board shall not apportion funds to new construction projects, which includes projects for the SMP, prior to the district obtaining CDE and DSA approval of the plans and specifications for the project. Therefore an apportionment can only be provided after Step 3 of the SMP process where a district receives DSA approval of the plans and specifications for the project.

Reserving bond authority at the time of conceptual approval would require legislative change.

OPTION

The Legislature could make changes to statute to allow a reservation of funds in advance of Apportionment for SMP projects.

(Continued on Page Seven)

STAFF ANALYSIS/STATEMENTS (cont.)

Topic 3: Accelerated Cash Proceeds for SMP Projects

SFP Regulations require all projects, including SMP, to participate in the priority funding process. The priority funding process was created to allow all SFP projects placed on the Unfunded List (Lack of AB 55 Loans) with an opportunity to receive an Apportionment when school districts are ready to request funds and begin construction on the project.

To participate, school districts with projects on the Unfunded List (Lack of AB 55 Loans) must submit a written request during 30 day filing periods beginning the second Wednesday in May and second Wednesday in November of each year.

Under the current system it is possible that any SMP project receiving an unfunded approval would have to wait up to five months before a priority funding request could be submitted. In 2014, for example, a district receiving an unfunded approval on or after December 13th would be unable to submit a priority funding request until May 13, 2015. Therefore, the earliest date the project could receive an apportionment is July 1, 2015, which is nearly seven months after receiving an unfunded approval.

At the August 7, 2014 Implementation Committee meeting, the statement was made that because of the health and safety aspect of SMP projects, they should not be required to wait for the biannual filing periods to receive an Apportionment. They should, instead, receive an Apportionment as soon as cash becomes available.

Analysis
SMP projects fall under the Facility Hardship (FH) Program, which is a health and safety mitigation program; therefore, projects approved by the Board are placed at the top of the Unfunded List (Lack of AB 55 Loans) and given priority for funding once cash (and bond authority, once current authority is exhausted) becomes available. These projects, however, are limited by the current priority funding process. Amending the SFP Regulations to allow all SMP and FH projects to submit a request for an Apportionment outside of a priority funding filing period could accelerate the time frame between receiving an unfunded approval and converting it to an Apportionment if cash became available to the program. The other requirements for SMP and FH projects to participate in the priority funding process would remain in place. However, by allowing these projects to submit a priority funding request on a year-round basis, the school districts would be eligible to receive funding as soon as cash becomes available.

Amending the regulations to allow for earlier Apportionments would speed up the award of SMP grant funds.

OPTION

The Board could direct Staff to bring back conforming SFP Regulation amendments to implement accelerated cash proceeds for all FH and SMP projects.

RECOMMENDATION

Seek Board direction.

BOARD ACTION

In considering this Item, the SAB took the following two actions:

- accepted the report for purposes of submittal to the Legislature, and,
- a motion was made, and carried, to have staff: 1) prepare an item for discussion considering the issue of a single agency review as it pertains to SMP projects plans; and 2) provide an outline for review of the statutory scheme for a reservation of funds (bond authority) for conceptual approvals for SMP projects.

ATTACHMENT A

AUTHORITY

Education Code (EC) Section 17072.30 states:

(a) Subject to the availability of funds, and to the determination of priority pursuant to Section 17072.25, if applicable, the board shall apportion funds to an eligible school district only upon the approval of the project by the Department of General Services pursuant to the Field Act, as defined in Section 17281, and certification by the school district that the required 50 percent matching funds from local sources have been expended by the district for the project, or have been deposited in the county fund, or will be expended by the district by the time the project is completed, in an amount at least equal to the proposed apportionment pursuant to this chapter, prior to release of the state funds.

(b) This section is operative January 1, 2008.

EC Section 17070.50 states:

The board shall not apportion funds to any school district, unless the applicant school district has certified to the board that the services of any architect, structural engineer, or other design professional for any work under the project have been obtained pursuant to a competitive process that is consistent with the requirements of Chapter 10 (commencing with Section 4525) of Division 5 of Title 1 of the Government Code and has obtained the written approval of the State Department of Education that the site selection, and the building plans and specifications, comply with the standards adopted by the department pursuant to subdivisions (b) and (c), respectively, of Section 17251.

EC Section 17070.53 states:

(a) The Office of Public School Construction shall report to the board and the Legislature by March 1, 2015, on efforts to streamline and speed up the award of seismic mitigation funds.

(b) The report required to be submitted to the Legislature shall be submitted in accordance with Section 9795 of the Government Code.

(c) This section shall remain in effect only until January 1, 2016, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2016, deletes or extends that date.

EC Section 17074.16 states:

(a) The board shall release disbursements to school districts with approved applications for modernization, to the extent state funds are available for the state's 60-percent share, and the school district has provided its 40-percent local match. Subject to the availability of funds, the board shall apportion funds to an eligible school district only upon the approval of the project by the Department of General Services pursuant to the Field Act, as defined in Section 17281, including, but not limited to, a project that complies with the Field Act by complying with Section 17280.5, and evidence that the certification by the school district that the required 40-percent matching funds from local sources have been expended by the district for the project, or have been deposited in the county fund or will be expended by the district by the time of completion of the project, and evidence that the district has entered into a binding contract for the completion of that project. If state funds are insufficient to fund all qualifying school districts, the board shall fund all qualifying school districts in the order in which the application for funding was approved by the board.

(b) This section shall apply only to an application that was filed after April 29, 2002.

EC Section 17075.10(a) states:

A school district may apply for hardship assistance in cases of extraordinary circumstances. Extraordinary circumstances may include, but are not limited to, the need to repair, reconstruct, or replace the most vulnerable school facilities that are identified as a Category 2 building, as defined in the report submitted pursuant to Section 17317, determined by the department to pose an unacceptable risk of injury to its occupants in the event of a seismic event.

EC Section 17075.10(b)(2) states:
Funds for the purpose of seismic mitigation work or facility replacement pursuant to this section shall be allocated by the board on a 50-percent state share basis from funds reserved for that purpose in any bond approved by the voters after January 1, 2006. If the board determines that the seismic mitigation work of a school building would require funding that is greater than 50 percent of the funds required to construct a new facility, the school district shall be eligible for funding to construct a new facility under this chapter.

EC Section 17317(a) states:
The Department of General Services shall, in consultation with the Seismic Safety Commission, conduct an inventory of public school buildings that are concrete tilt-up school buildings and school buildings with nonwood frame walls that do not meet the minimum requirements of the 1976 Uniform Building Code. Priority shall be given to the school buildings identified in the act that added this section that are in the highest seismic risk zones in accordance with the seismic hazard maps of the Division of Mines and Geology of the Department of Conservation.

EC Section 17317(b) states:
The Department of General Services shall submit a report by December 31, 2001, to the Legislature and the Governor that summarizes the findings of the seismic safety inventory and makes recommendations about future actions that should be taken to address the problems found by the seismic safety inventory. The report shall not identify individual schoolsites on which inventoried school buildings are located.
Report: http://www.documents.dgs.ca.gov/dsa/pubs/FinalAB300Report.pdf

EC Section 17077.45 states:

> …
> (c) On July 1 of each year the board shall apportion to qualifying applicant school districts those funds that it determines are available for the purpose of this article. The board shall not release funds to a qualifying applicant until the project plans have received all approval required pursuant to this chapter, including but not limited to, the approval of the Division of the State Architect. If the project does not receive all necessary plan approvals within one year of the date of the apportionment, the board shall rescind the apportionment.
> …

EC Section 17078.72 states:

> (a) The Career Technical Education Facilities Program is hereby established to provide funding to qualifying local educational agencies for the purpose of constructing new facilities or reconfiguring existing facilities, including, but not limited to, purchasing equipment with an average useful life expectancy of at least 10 years, to enhance educational opportunities for pupils in existing high schools in order to provide them with the skills and knowledge necessary for the high-demand technical careers of today and tomorrow.
> (b) The State Department of Education, in cooperation with the Chancellor's Office of the California Community Colleges, the Labor and Workforce Development Agency, and industry groups, shall develop criteria and pupil outcome measures to evaluate the program. The criteria shall ensure equity, program relevance to industry needs, and articulation with more advanced coursework at the partnering community colleges or private institutions.
> (c) The program shall be based on grant applications administered by the board.
> (d) Grants shall be allocated on a per-square-foot basis for the applicable type of construction proposed or deemed necessary by the board consistent with the approved application for the project.
> (e) New construction grants shall not exceed three million dollars ($3,000,000) per project per schoolsite, inclusive of equipment, and shall only be allocated to comprehensive high schools that have an active Career Technical Advisory Committee pursuant to Section 8070, in either of the following methods:
> (1) For a stand-alone project on a per-square-foot basis for the applicable type of construction proposed, based on the criteria established pursuant to subdivision (b), consistent with the approved application for the project.
> (2) For new school projects, as a supplement to the per pupil allocation pursuant to Section 17072.10. The supplement is intended to cover excess costs uniquely related to the facilities required to provide the career technical education program or programs.

(f) Modernization grants shall not exceed one million five hundred thousand dollars ($1,500,000) per project per schoolsite, inclusive of equipment and may be awarded to comprehensive high schools or joint power authorities currently operating career technical education programs that have an active Career Technical Advisory Committee pursuant to Section 8070 for the purpose of reconfiguration. For comprehensive high schools, the grant shall be supplemental to the per pupil allocation pursuant to Section 17074.10. The supplement is intended to cover excess costs uniquely related to the facilities required to provide the career technical education program or programs.
(g) (1) A school district shall contribute from local resources a dollar amount that is equal to the amount of the grant of state funds awarded under subdivisions (d), (e), and (f). The required local contribution may be provided by private industry groups, the school district, or a joint powers authority.
(2) A school district shall not be required to demonstrate that it has unhoused pupils or that a permanent school building is more than 25 years old in order to receive a grant under the program.
(h) The program shall allow the required local contribution to be paid over time if sufficient local funds are not immediately available. The board may provide for a repayment schedule consistent with subparagraphs (C) and (D) of paragraph (1) of subdivision (a) of Section 17078.57. The board shall not waive the required local contribution on the basis of financial hardship or on any other basis.
(i) Applications shall meet the criteria developed under subdivision (b) and shall require all of the following:
(1) A clear and comprehensive career technical education plan for each course of study applicable to the instructional space.
(2) Projections of pupil enrollment.
(3) Identification of feeder schools, industry partners, and community colleges or other postsecondary schools participating in the development, articulation, and review of the educational program.
(4) Evidence of approval of the plan by the entities listed in paragraph (3).
(5) The method by which accountability for pupil enrollments and outcomes will be maintained. Outcomes shall include, but are not limited to, certificate completion, the successful entry of pupil to employment in the applicable industry, and successful transition to post-secondary institutions for work in the applicable industry or other areas of study.
(6) Evidence of coordination with all feeder schools, middle schools, and high schools within the area to ensure that the project and programs complement career technical education offerings in the area.
(7) Evidence that upon completion of the project the local educational agency will meet all of its obligations under Section 51228 relating to career technical education.
(j) Applications shall give weight to the number of pupils expected to attend, the cost per pupil, financial participation by industry partners in the construction and equipping of the facility, commitment to accountability for outcomes and participation, the strength and relevance of the educational plans to the needs of industry for qualified technical employees applicable to the economic development needs of the region in which the project will be located, and coordination and articulation with feeder schools, other high schools, and community colleges.
(k) The Office of Public School Construction shall develop and the board shall approve regulations to implement this article on or before April 19, 2007, and the board may promulgate those regulations first on an emergency basis, which shall be effective for no more than 12 months, after which any permanent regulations shall be promulgated in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).
(l) Notwithstanding paragraphs (e) and (f), a project approved pursuant to this section is also eligible for an incentive grant from the funds specified in paragraph (8) of subdivision (a) of Section 101012 if the project meets the criteria prescribed in that section.

EC Section 101012 (a)(1) states, "Of the amount allocated under this paragraph, up to 10.5 percent [$199.5 million] shall be available for purposes of seismic repair, reconstruction, or replacement, pursuant to Section 17075.10."

School Facility Program (SFP) Regulation Section 1859.2 states:

"Most Vulnerable Category 2 Buildings" means the building meets the criteria outlined in Section 1859.82(a)(1)(C) and is one of the following building types:
C1 – Concrete Moment Frame,
C1B – Reinforced Concrete Cantilever Columns with Flexible Diaphragms,

C2A – Concrete Shear Wall with Flexible Diaphragms,
C3A – Concrete Frame with Infill Masonry Shear Walls and Flexible Diaphragms,
PC1 – Precast/Tilt-up Concrete Shear Wall with Flexible Diaphragms,
PC1A – Precast/Tilt-up Concrete Shear Wall with Rigid Diaphragms,
PC2A – Precast Concrete Frame without Concrete Shear Walls and with Rigid Diaphragms,
PC2 – Precast Concrete Frame and Roofs with Concrete Shear Walls,
URM – Unreinforced Masonry Bearing Wall Buildings,
RM1 – Reinforced Masonry Bearing Wall with Flexible Diaphragms,
URMA - Unreinforced Masonry Bearing Wall with Rigid Diaphragms,
S1B – Steel Cantilever Columns with Flexible Diaphragm,
S3 – Steel Light Frame Metal Siding and/or Rod Bracing, or
M – Mixed construction containing at least one of the above structures types.

SFP Regulation Section 1859.70 states:

> A district seeking New Construction or Modernization funding shall complete and file Form SAB 50-04, concurrently or after completing the applicable requirements in Sections 1859.20 and 1859.40. The Board shall only provide New Construction funding if the Approved Application was received by the OPSC prior to the date of Occupancy for any classrooms included in the construction contract. After the date of Occupancy of any classroom in the construction contract, a district will be ineligible to seek New Construction funding and the classrooms will be reduced from the baseline eligibility pursuant to Section 1859.51(i) if not previously reduced.
>
> A district affected by a reorganization election on or after November 4, 1998 may not file an application for New Construction funding after the notification of the reorganization election until a new calculation of the district's baseline eligibility has been determined on the Form SAB 50-03, or the district certifies that the reorganization election will not result in a loss of eligibility for the project for which the district is requesting new construction grants.
>
> A district that is newly created as a result of a reorganization election may file an application for funding after approval of the election has been made by the State Board of Education.

SFP Regulation Section 1859.78.7 states:

> …
> The district must submit a detailed cost estimate and appropriate DSA approved plans with Form SAB 50-04 for all requests for the site development work. The cost estimate must include appropriate justification documents that indicate the work is necessary to complete the modernization of the 50 years or older building(s) that will be modernized as part of the project.

SFP Regulation Section 1859.82 states, "A district is eligible for facility hardship funding to replace or construct new classrooms and related facilities if the district demonstrates there is an unmet need for pupil housing or the condition of the facilities, or the lack of facilities, is a threat to the health and safety of the pupils."

SFP Regulation Section 1859.82(a)(1) provides for Facility Hardship grant funding when, "The facilities are needed to ensure the health and safety of the pupils if the district can demonstrate to the satisfaction of the Board that the health and safety of the pupils is at risk. Factors to be considered by the Board shall include…seismic mitigation of the Most Vulnerable Category 2 Buildings as verified by the DSA…."

SFP Regulation Section 1859.82(a)(1)(A) states:
If the request is for replacement facilities, a cost/benefit analysis must be prepared by the district and submitted to the OPSC that indicates the total costs to remain in the classroom or related facility and mitigate the problem is at least 50 percent of the Current Replacement Cost of the classroom or related facility. The cost/benefit analysis may include applicable site development costs as outlined in Section 1859.76. The cost/benefit analysis shall not include increased costs associated with high performance related costs or components, with the exception of those high performance components that were pre-existing in the classroom or related facility. If the cost to remain in the classroom or related

facility is less than 50 percent of the Current Replacement Cost, the district may qualify for either grant below, as applicable:
1. Modernization Excessive Cost Hardship Grant for Rehabilitation Costs pursuant to Section 1859.83(e), or
2. A grant not to exceed 50 percent of the cost estimate that has been reviewed and approved by the OPSC and approved by the board for seismic rehabilitation.

SFP Regulation Section 1859.82(a)(1)(B) states:
If the request is for replacement facilities that included structural and/or seismic deficiencies, the cost/benefit analysis must also include a report from a licensed design professional identifying the minimum work necessary to obtain DSA approval. The report must contain a detailed cost estimate of the repairs. The cost/benefit analysis shall not include increased costs associated with high performance related costs or components, with the exception of those high performance components that were pre-existing in the classroom or related facility. The report and cost estimate shall be subject to review by the OPSC for conformance with the Saylor Current Construction Cost Publication and, at the OPSC's discretion, the DSA. For seismic deficiencies of the Most Vulnerable Category 2 Buildings, the report and the cost estimate for the minimum work necessary must be reviewed by the DSA.

SFP Regulation Section 1859.82(a)(1)(C) states:
The seismic mitigation projects must meet all of the following requirements:
1. The construction contract was executed on or after May 20, 2006;
2. The project funding provided shall be for the minimum work necessary to obtain DSA approval;
3. The building is designed for occupancy by students and staff; and
4. The DSA concurs with a report by a structural engineer, which identifies structural deficiencies that pose an unacceptable risk of injury to its occupants in a seismic event. If the unacceptable risk of injury is due to the presence of faulting, liquefaction or landslide, these hazards must be documented by a geologic hazards report prepared by an engineering geologist in accordance with California Building Code, Part 2, Chapter 18, section 1803A and with the concurrence of the California Geological Survey.

The structural engineer's report shall conform to the guidelines prepared by the DSA, in accordance with Education Code Section 17310.

SFP Regulation Section 1859.90.2 states:

> The priority funding process allows the Board to distribute available funds to districts or charter schools that request, pursuant to (a) or (b) below, as applicable, 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 of 2012. Requests submitted during the filing periods described above are valid until the next filing period begins. The specific 30-calendar day filing periods subsequent to 2012 begin with January 9, 2013 and continue with the 2nd Wednesday of May and the 2nd Wednesday of November, each calendar year. Requests submitted during the filing period beginning with January 9, 2013 are valid until June 30, 2013. Requests submitted during a filing period beginning with the 2nd Wednesday of May are valid from July 1 until December 31 of that year. Requests submitted during a filing period beginning with the 2nd Wednesday in November are valid from January 1 until June 30 of the following year. Requests must be physically received by the OPSC by the 30th calendar day of each filing period to be considered valid.
> (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 priority funding request in the form of 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, and shall contain the following:
> (1) Statement that the request is to convert the unfunded approval to an Apportionment or to receive an approved advance release of funds; and
> (2) Acknowledgement that a valid, original signature Form SAB 50-05 must be submitted and physically received by the OPSC within 90 calendar days of Apportionment or approved advance release of funds

request, except for a Career Technical Education Facilities Project in (a)(5), and that failure to do so will result in the rescission of the Apportionment or approved advance release of funds request without further Board action; and
(3) Acknowledgement that, if the district submits the Form SAB 50-05 on or after July 1, 2013 and is required to submit an LCP third party report, pursuant to Section 1859.97(b), the report will be submitted to the OPSC and the DIR at least 60 days prior to submitting the Form SAB 50-05; 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 the 18 month timeline for fund release submittal described in Section 1859.90.
(5) For a Career Technical Education Facilities Project that was granted an unfunded approval without the required CDE plan approval and/or required DSA-approved plans and specifications, the applicant's request must include:
(A) Acknowledgement that the applicant must submit the required approval(s) to the OPSC within 12 months from the date of the Apportionment. If the required submittal(s) is not received within 12 months, the Apportionment shall be rescinded without further Board action pursuant to Section 1859.197(c)(1); and
(B) Acknowledgement that a valid, original signature Form SAB 50-05 must be submitted and physically received by the OPSC within 90 calendar days of the submittal described in (5)(A) and that failure to do so will result in the rescission of the Apportionment without further Board action.
(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 priority funding request in the form of a written statement signed by an authorized representative within the 30-calendar day filing period, and shall contain all of the following:
(1) Statement that the request is to convert the advance release of funds to an approved advance release of funds request; and,
(2) Acknowledgement that a valid, original signature Form SAB 50-05 must be submitted and physically received by the OPSC within 180 calendar days of the approved advance release of funds request and that failure to do so will result in the rescission of the approved advance release of funds request without further Board action; and
(3) 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 that failure to do so will result in the rescission of the approval without further Board action.
(c) If a district or charter school receives an Apportionment or approved advance release of funds request through the priority funding process, the OPSC must receive a valid, original signature copy of the Form SAB 50-05 within the specified time period, pursuant to (a)(2), (a)(5) or (b)(2) as applicable. If the OPSC does not receive a valid, original signature copy of the Form SAB 50-05 within the time period:
(1) The priority funding Apportionment or approved advance release of funds request shall be rescinded without further Board action, and
(2) If the Application is not subject to rescission pursuant to Section 1859.90.3(c) as defined in Section 1859.90.3(d), the Application shall return to the Unfunded List (Lack of AB 55 Loans) with a new unfunded approval date that is 90 calendar days from the date of Apportionment or approval of the advance release of funds request.
(d) In the event that the amount of requests received during a specific 30-calendar 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 (Lack of AB 55 Loans). Requests not converted to Apportionments will not be returned to the district or kept by the OPSC.
(e) 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, except for (a)(5)(A). The new unfunded approval date will be 90 calendar days from 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.

SFP Regulation Section 1859.95.1(a) states:
When the Board has Insufficient Bond Authority to apportion the School District's funding request on the Form SAB 50-04, the following will apply:
(1) The Office of Public School Construction (OPSC) will receive and determine if the Form SAB 50-04 is an Approved Application. To be placed on the Applications Received Beyond Bond Authority List, the Approved Application for funding shall be accompanied by a school board resolution, as specified in paragraph (b) of this Section. The OPSC will not determine if the Approved Application is ready for Apportionment.

SFP Regulation Section 1859.129 states:

(a) If the district received an apportionment for a Type I Joint-Use Project or a Type II, part of a qualifying SFP Modernization project, Joint-Use Project, the district is subject to the time limit on the apportionment as outlined in Education Code Section 17076.10.
(b) If the district received an apportionment for a Type II Joint-Use Project, not part of a qualifying SFP Modernization project, the district:
(1) Has one year from the date of that apportionment to submit the plans and specifications to the OPSC for the Joint-Use Project that have been approved by the DSA and the CDE (plans only), otherwise the apportionment will be rescinded without further Board action. If, upon review by the OPSC, the final Division of the State Architect approved plans create a reduction in square footage that is greater than or equal to five percent of the square footage contained in the preliminary plans, a commensurate reduction to the apportionment pursuant to Section 1859.125 shall be taken to the next available State Allocation Board meeting.
(A) In the event the Board determines there is a fiscal emergency or crisis on the part of the State of California, the Board can make a finding that a project has an Inactive Apportionment, as defined in Regulation Section 1859.2, and that the districts' ability to submit completed plans to the DSA has been impacted, and therefore the district will no longer be able to meet the approval requirement in Education Code Section 17077.45(c). In the event the Board makes that determination and finding, the Board may suspend the 12-month period for a period not to exceed 12 months beyond the time period as required in (b)(1). Once the suspension period has concluded, each project will resume where its originating period of time was suspended. Regulation Section 1859.129(b)(1)(A) shall become inoperative January 1, 2010.
(2) Has 18 months from the date the DSA and CDE approved plans were submitted to the OPSC to submit a completed Form SAB 50-05 or the apportionment will be rescinded without further Board action. If the district is requesting an Apportionment pursuant to Section 1859.90.1 or 1859.90.2, the Board will require that this time limit be reduced to no more than 90 days from the date of the apportionment.
(3) Is subject to substantial progress time limit on the apportionment as outlined in Subdivision (b) of Education Code Section 17076.10.

SFP Regulation Section 1859.197 states:

The OPSC will release State funds that have been apportioned by the Board pursuant to Sections 1859.195 and 1859.196 after submittal by the applicant of the Form SAB 50-05.
(a) If an Apportionment was made for a Career Technical Education Facilities Project, the applicant must submit a Form SAB 50-05 within 18 months of the Apportionment as outlined in Education Code Section 17076.10 or the Apportionment shall be rescinded without further Board action.
(b) If Career Technical Education Facilities funds were reserved for the applicant pursuant to Section 1859.193(d) of these Regulations, the applicant:
(1) Has one year from the date of Apportionment to submit the CDE plan approval and DSA-approved plans and specifications, as required, to the OPSC for the Career Technical Education Facilities Project, otherwise the Apportionment shall be rescinded without further Board action.
(2) Has 18 months from the date the CDE plan approval and DSA-approved plans and specifications, as needed, are submitted to the OPSC to submit a completed Form SAB 50-05 or the Apportionment shall be rescinded without further Board action. If the district is requesting an Apportionment pursuant to Section 1859.90.1 or 1859.90.2, the Board will require that this time limit be reduced to no more than 90 days from the date of the Apportionment.

(c) For an Apportionment received pursuant to Section 1859.90.2 where submittal of the necessary CDE plan approval and/or DSA-approved plans and specifications were not required at the time the Board granted an unfunded approval, then the applicant:
(1) Has up to 12 months to submit the required approvals from the date of Apportionment. If the required submittal(s) is not received within 12 months, the Apportionment shall be rescinded without further Board action and the Career Technical Education Facilities bond authority will return to the program for reallocation.
(2) The submittal date in (c)(1) shall start the 90-calendar-day fund release process in Section 1859.90.2.
(d) If the applicant requires a loan for the entire matching share requirement pursuant to Section 1859.194(b) of these Regulations:
(1) Subject to the availability of financing provided by the Pooled Money Investment Board for bond-funded projects, the OPSC will release ten percent of the Career Technical Education Facilities grant to the applicant within 30 calendar days of the Apportionment.
(2) The applicant has one year from the date of Apportionment to submit the CDE plan approval and DSA approved plans and specifications, as required, to the OPSC for the Career Technical Education Facilities Project, otherwise the Apportionment shall be rescinded without further Board action.
(3) The applicant has 18 months from the date in (d)(2) to submit a completed Form SAB 50-05 or the Apportionment shall be rescinded without further Board action. (e) If the district is requesting an Apportionment pursuant to Section 1859.90.1 or 1859.90.2 and if the district is requesting funding as prescribed in Section 1859.71.6 or Section 1859.77.4, as applicable, then the district must submit the necessary approvals from the DSA and/or the CDE, as applicable, at least 90 days prior to requesting an Apportionment.
(f) If the district receives an Apportionment pursuant to (a) or (b) and if the district is requesting funding as prescribed in Section 1859.71.6 or Section 1859.77.4, as applicable, then the district must submit the necessary approvals from the DSA and/or the CDE, as applicable, at least 90 days prior to receiving an Apportionment.
(g) The applicant is subject to substantial progress time limit on the Apportionment as outlined in Education Code Section 17076.10(b).
(h) In the event the Board determines there is a fiscal emergency or crisis on the part of the State of California, the Board may grant an extension not to exceed 12 months to the time limit prescribed in (b)(1) and (d)(2) above and Section 1859.193(d). Regulation Section 1859.197(h) shall become inoperative January 1, 2010.

ATTACHMENT B

SEISMIC MITIGATION PROGRAM CHRONOLOGY OF IMPORTANT EVENTS

March 2009: The OPSC presented a report to the Board to present options to promote the allocation of funds for the SMP. Options to be considered included: 1) reducing the Ground Shaking Intensity (GSI) factor from 1.70g; 2) providing a specific grant for interim housing for SMP projects; 3) providing a specific grant for structural engineering reports for facilities that meet all other SMP criteria (as provided by the California State Seismic Commission detailed below); and 4) creation of a list of unfunded SMP projects when SMP funds have been exhausted. No options were approved by the Board.

August 2009: The OPSC presented a report to the Board that provided options for proposed regulatory amendments in order to promote participation in the SMP. The primary options presented included: 1) adding new building structure types/lowering the GSI to 1.68g; 2) adding new building structure types/lowering the GSI factor to 1.68g/reverting SMP funds to New Construction funding account; 3) add new building structure types/reduce the GSI factor incrementally over time; 4) authorize a supplemental grant for interim housing; and 5) authorize the initiation of an unfunded list. Option #1 was approved by the Board.

November 2009: The California Seismic Safety Commission (CSSC) provided the OPSC with a $200,000 grant to contract for structural engineering services to conduct seismic evaluations. Evaluations were conducted at K-12 public school sites preliminarily identified by the as meeting SMP eligibility requirements. The evaluations were designed to ascertain the seismic vulnerability of certain K-12 school buildings that may be at risk during a seismic event. The contracts also resulted in the development of a seismic evaluation report template which provides a more systematic and cost- effective approach for determining the seismic safety status of school facilities within the state. This seismic template has been successfully used in the field for seismic structural evaluations of preliminarily identified qualified school facilities. The template provided a standardized procedure for evaluating the structural risk of facilities, which resulted in rapid seismic evaluations at minimal cost.

November 2009 – March 2011: The DSA identified 16 school districts as potentially having 48 preliminarily qualified buildings. Nine of the 16 school districts with 38 preliminarily qualified buildings chose to participate in the CSSC grant funded evaluation process. Seismic evaluation reports have been completed for all nine school districts. Of the 38 buildings, 20 have met the eligibility requirements for funding under SMP.

March 2011: On March 3, 2011, the OPSC hosted an inter-departmental Seismic Program Review Workshop to assess the scope and effectiveness of seismic building evaluations and to review how state agencies currently review, evaluate, and assess seismic risk. Main topics for discussion included: recent changes to seismic evaluations as provided by the new template, current methodology applied to determine seismic risk, comparisons/contrasts between the California and Oregon seismic evaluations and funding programs, and current spectral response acceleration threshold rating policies. This technical workgroup indicated that the current ground shaking and building type protocols utilized in the SMP is the correct assessment vehicle to identify future SMP projects.
On March 23, 2011 the OPSC presented a report to the Board which provided only an update (no options were considered) on the SMP. Report topics included the CSSC grant funded seismic evaluations and creation of the seismic evaluation template, status of approved and pending SMP projects, and potential impact on bond authority of the 20 SMP eligible buildings. The report also provided the Board with an update on the OPSC's March 10, 2011 presentation to the CSSC that included the OPSC's request (which was approved) to retain the $77,000 of unencumbered inspection grant funds for such a time that will allow the OPSC to outreach to additional school districts.

April 2011: The OPSC presented a report to the newly formed Seismic Mitigation Sub-Committee (Sub-Committee). The report presented updates and program regulatory amendment proposals in order to further participation in the SMP. The report included impediments/barriers to accessing SMP Proposition 1D funding (see below), current status of Proposition 1D bond authority and impact of qualified buildings, and results of the seismic inspection program including financial cost projections. Two options for amendments were presented: 1) lower the GSI factor to 1.65g from 1.68g for a period of six months and continue to lower the threshold by increments of .03g in six-month windows

until the $199.5 million of Proposition 1D funds are fully subscribed; and 2) re-evaluate the list of potentially eligible buildings to ensure that all school campuses located in zones with a GSI factor of 1.68g or greater have been identified.

During the Sub-Committee hearing, the chair presented a history of the SMP and stated the goal of the Sub-Committee is to ensure the safety of California's school children through expanded promotion and participation in the SMP. The OPSC presented program SMP background information, explanation of building types and "Category 2", information on the CSSC grant to the OPSC, and the OPSC's SMP outreach efforts to school districts. Discussion and information sharing included costs of SMP rehabilitation and reconstruction projects. The costs districts realize for interim housing was a major topic of discussion. Interim housing is an allowable expense – meaning that the state grants and local matching funds can be expended to provide interim housing but not provided as an "augmentation" grant or by excessive cost hardship request so, therefore, the expenses for interim housing "comes at a cost of something else." Also, historical background information was provided on the subject of imminent threat including the Imminent Threat Workgroup Report. Stakeholders provided information as to experiences they are having accessing SMP funding. Impediments realized by their districts include buildings in a GSI factor zone of 1.82g, built in 1951, without seismic retrofit, and still not qualifying for the program due to restrictive building classification regulations. The DSA presented information on construction code standards and resulting subjectivity of analysis if standards are reduced or eliminated. The OPSC was tasked by the Sub-Committee to research the following options: 1) interim housing; 2) imminent threat; 3) reversion of SMP grant funds to the FH Program; and 4) lowering of the Spectral acceleration (Sa) factor.

May 2011: At the May 18, 2011 meeting, the Sub-Committee reviewed and discussed the options and analysis provided by the OPSC with the goal of encouraging more participation in the program. Primary options included consideration of reducing the Sa factor and adding two additional "Most Vulnerable Category 2" building types in the SFP regulations. Secondary options discussion topics included consideration of voluntary (partial) seismic upgrades, reserving bond authority, loans, the 50 percent matching share requirement, and providing an additional allowance for interim housing. Stakeholders, representatives from the DSA, and Department of Finance also provided testimony.

At its May 2011 meeting, the Board took separate actions regarding the Sub-Committee's recommendations. The Board approved recommendation 1, which authorized staff to develop proposed regulatory amendments based on the following criteria:

- Must contain a building with any "Category 2" construction type as defined in Assembly Bill 300;
- Must be designed for occupancy by students and staff;
- Must have an accompanying structural engineer's report identifying the building deficiencies and reasoning for concluding that the building has a potential for catastrophic collapse in a seismic event, including, but not limited to, ground shaking, liquefaction, faulting, landslide or other identified risks;
- Must have the DSA concurrence with the structural engineer's report to establish program eligibility.

Recommendation 2, which would have provided an additional allowance for interim housing, was not approved by the Board.

Recommendation 3, which directed staff to develop conforming regulatory amendments for the next scheduled hearing of the Seismic Mitigation Sub-Committee, inclusive of the criteria in Recommendation #1 above, was approved by the Board.

June 2011: The Board approved the regulatory changes proposed by staff on an emergency basis.

June 2014: Senate Bill 869 goes into effect. Among other legislative changes, EC Section 17070.53 requires that the OPSC report to the Board and the Legislature by March 1, 2015, on the efforts to streamline and speed up the award of SMP funding. This is a one-time report and the EC section is only in effect until January 1, 2016.

At its June 25, 2014 Board meeting, staff presented a report back with ideas for the Board to consider streamlining the SMP. The item included the following information:

- A summary of past Board actions to streamline the program, with the resulting increase in funding applications.

- A comparison of the processes to receive SMP funding versus funding for other types of Facility Hardship (health and safety) projects.
- Information to update and clarify funding demand.
- Options for additional steps that could be taken by the Board.

The Board directed Staff to hold an Implementation Committee meeting to discuss the best methods to streamline the SMP.

August 2014: The Implementation Committee met and heard testimony from school districts, design professionals, and other stakeholders on the topic of why SMP projects do not often progress past the initial SMP eligibility approval stage. Several issues were discussed.

1. Stakeholders indicated that there appears to be some redundancy/conflict with having both DSA and OPSC review the plans for the minimum work to mitigate the threat and obtain DSA plan approval. School districts indicated that uncertainty in the final approved SMP grants by OPSC can be significantly lower than what they expected based on the plans approved by DSA.
2. Districts have stated that a reservation of bond funds at the conceptual approval stage would allow them to move forward with their SMP projects without the fear that bond authority would be allocated to other school districts further in the approval process or that bond authority would be swept into another program as part of the legislative process.
3. Districts stated that expedited SMP reviews at DSA would keep momentum of the projects moving forward.
4. Stakeholders discussed the possibility of providing funding for partial seismic upgrades when the full scope of a comprehensive seismic rehabilitation is cost prohibitive, which may result in additional school districts participating in the SMP.
5. School districts and stakeholders expressed that the specialized engineering and architectural reviews and engineering/architectural services for seismic related work to determine SMP eligibility is costly. Paying for these reviews without a guarantee of state funding has caused hesitation for some districts to review their facilities in order to participate in the program.
6. Districts requested funding for structural engineer's reports for SMP projects that school districts have already expended in order to qualify for Step 1, SMP Eligibility Determination.
7. Accelerate cash to SMP projects that have already made it through Step 3 by providing them a way to bypass the priority funding requirements.

October 2014: Staff presented an item to the Board reporting a summary of the Implementation Committee meeting discussion as to why projects that have obtained SMP eligibility are dropping off and not continuing to the next step in the process to request funding. No action was taken and the Board acknowledged the report.