

## STATE ALLOCATION BOARD AGENDA

Meeting Date: February 24, 2015

Department of Finance Building  
915 L Street, Basement  
Cedar Conference Room  
4:00 p.m.

Revision date: February 20, 2015

Tab 01 – Replace page i

Tab 05 – Replace page 12 - 17

Tab 07 – Insert pages 196 – 214

Thank you,

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February 24, 2015

# Agenda

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NEXT MONTHLY STATE ALLOCATION BOARD MEETING – April 15, 2015

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FACILITY PROGRAM CONSENT ITEM  
HAS BEEN WITHDRAWN

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 fulfillment 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 Sections 17070.50 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 13<sup>th</sup> 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.

## 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 unhouseed 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 2<sup>nd</sup> 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.