Special Meeting of the State Allocation Board

Rob Cook, Executive Officer
State Allocation Board
1130 K Street, Suite 400
Sacramento, CA 95814

Public Meeting
Wednesday, March 11, 2009
State Capitol
Room 4203*
4:00 p.m.*

General Information
(916) 445-3160
ATSS 485-3160

For further information please contact your Project Manager.

*Meeting location and time subject to change.

This notice can also be found on our web site at: http://www.dgs.ca.gov/opsc

Individuals who need auxiliary aids for effective participation are invited to make their requests and preferences known to Ms. Lisa Jones at (916) 322-1043 five days prior to the meeting.

March 11, 2009

Agenda

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March 11, 2009

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REPORT OF THE EXECUTIVE OFFICER
State Allocation Board Meeting, March 11, 2009

TRANSFER OF CRITICALLY OVERCROWDED SCHOOLS PROGRAM FUNDS

PURPOSE OF REPORT

To request to transfer $800 million in available funds from the Proposition 47, 2002 Unrestricted Critically Overcrowded School (COS) Facilities Fund to the School Facility Program (SFP) New Construction Fund.

DESCRIPTION

Qualifying school districts received COS preliminary apportionments in 2002 under Proposition 47. These districts had four years, or five years with an approved one-year extension provided by the State Allocation Board (SAB), to convert their COS projects to final apportionments. Upon final reconciliation of all COS project conversions, any funds remaining in the Unrestricted COS Fund shall be transferred to the SFP New Construction Fund.

AUTHORITY

Education Code Section 17078.30 outlines how the funds shall be identified within and transferred out of the COS Facilities Funds. It also provides that available funds beyond those reserved for preliminary apportionments shall be transferred to the SFP New Construction Fund and may be available to the Board for apportionments for any new construction purpose.

Regulation Section 1859.154(c) in part states that any funds remaining in the 2002 COS Fund not needed for purposes of converting projects shall be transferred to the SFP New Construction Fund.

Labor Code Section 1771.7(a)(1) in part states that public works projects using funds derived from the Public Education Bond Act of 2002 shall initiate and enforce or contract with a third party to initiate and enforce a labor compliance program.

STAFF COMMENTS

There is approximately $840.7 million in the 2002 Unrestricted COS Facilities Fund. Staff has conducted the final reconciliation of all 2002 COS projects under Proposition 47 that have converted to final apportionments. However, since these projects have not been closed-out or audited, Staff is unable to determine if the funds are not needed at this time. Staff recommends transferring $800 million from the 2002 Unrestricted COS Facilities Fund to the SFP New Construction Fund. The remaining balance of $40.7 million in the 2002 Unrestricted COS Funds will be used as a prudent reserve to fund projects eligible for grant increases for environmental mitigations at the close-out audits of these projects. Once all projects have been closed-out and audited, any remaining funds from the reserve will be transferred into the SFP New Construction Fund.

Districts need to be aware that all new construction projects funded from these funds are subject to Labor Compliance provisions. Districts will need to take the appropriate measures to ensure their SFP New Construction projects meet all the criteria as described in the Labor Code Section referenced above.

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STAFF COMMENTS (cont.)

Staff is concerned that school districts have already commenced construction on their SFP projects expecting to be apportioned from Proposition 1D and may not have enforced a Labor Compliance Program on their projects. By having Proposition 47 funds available, the OPSC will have to apportion projects from the oldest bond funds first to avoid federal arbitrage penalties. Any funds received from Proposition 47 subject the entire project to Labor Compliance Program requirements. The transfer and funding of projects from these funds could jeopardize these school district projects if they did not have a Labor Compliance Program in effect at the time the school district proceeded with construction. An audit of the projects could result in rescission of the State apportionment if it is determined that the project received Proposition 47 funding and did not enforce a Labor Compliance Program.

In order to minimize the impact to school districts, Staff will transfer $800 million from the 2002 Unrestricted COS Fund to the SFP New Construction Fund only after all prior authorized bonds have been apportioned. Staff will notify all potentially impacted school districts that withdrawal of their *Application for Funding* may be necessary if they have started work on a project without a Labor Compliance Program in place and cannot receive Proposition 1D funding. Additionally, Staff will notify all school districts that additional Proposition 47 funding is available and will require the enforcement of a Labor Compliance Program should school districts choose to apply for funding.

RECOMMENDATIONS

1. Authorize a prudent reserve of $40.7 million in the 2002 Unrestricted COS Fund to fund environmental mitigations at the close-out audits of these projects.

2. Authorize the transfer of $800 million from the 2002 Unrestricted COS Fund to the SFP New Construction Fund on an as needed basis to utilize the funds for districts with Labor Compliance Programs.

3. Request Staff to forewarn school districts that SFP funding applications pending SAB approval may receive an apportionment from either Proposition 47 or 55, and therefore, in order to protect the potential to receive SFP funding, the districts should carefully consider initiating and enforcing a Labor Compliance Program approved by the Department of Industrial Relations for those SFP projects.

BOARD ACTION

In considering this item, the Board asked staff to bring the item back to the March 25, 2009 SAB meeting. In addition, the Board requested and staff agreed to notify all school districts and post on its Web site a notice about the initiation and enforcement of Labor Compliance Programs should their projects be funded from Propositions 47 and 55 once Proposition 1D funds have been exhausted.

THE GENERAL OBLIGATION BOND REPORT HAS BEEN WITHDRAWN

The draft report prepared to comply with Government Code Section 16724.4 has been withdrawn at the request of the Department of General Services. It will be provided to the State Allocation Board once it has been formally adopted.

REPORT OF THE EXECUTIVE OFFICER
State Allocation Board Meeting, March 11, 2009

DEFFERED MAINTENANCE PROGRAM FUNDING OPTIONS

PURPOSE OF REPORT

To present policy options for funding the Deferred Maintenance Program.

BACKGROUND

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

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

The DMP is funded annually through the following:

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

AUTHORITY

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

RECENTLY ENACTED LEGISLATION

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

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

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RECENTLY ENACTED LEGISLATION (cont.)

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

See Example Below:

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

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

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

OPTIONS

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

- Option 1: Distribute 100 percent of the DMP funding proportionately to all participating school districts and provide no funding for Extreme Hardship projects.
- Option 2: Distribute 90 percent of the DMP funding proportionately to all participating school districts and provide 10 percent for Extreme Hardship projects distributed proportionately among 126 Extreme Hardship projects – funding these projects at 34 percent annually which equates to 168 percent of the project cost over five years.
- Option 2A: Distribute 90 percent of the DMP funding proportionately to all participating school districts and provide 10 percent for Extreme Hardship projects distributed at 20 percent of the cost of the project among 126 Extreme Hardship projects – funding these projects at 20 percent annually which equates to 100 percent of the project cost over five years.
- Option 3: Distribute 90 percent of the DMP funding proportionately to all participating school districts and provide 10 percent for Extreme Hardship projects to fund as many Extreme Hardship projects as possible (approximately 40 projects) - funding these projects at 100 percent annually which equates to 100 percent of the project cost over five years.

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

BOARD ACTION

In considering this item, the Board requested that:

1. the OPSC and the Department of Finance (DOF) work together in order to find a solution to the question of whether the funds could be transferred to another account which would give the Board more flexibility;
2. the OPSC, the DOF, and Mr. David Walrath, representing the Small School Districts Association, work together on the issue of contingent apportionments based on school district certifications; and
3. the OPSC agendize this item for the March 25, 2009 SAB meeting.

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ATTACHMENT A

State Allocation Board Meeting, March 11, 2009

Deferred Maintenance Program – Options for Board Consideration

Actions taken by the SAB at the February 25, board meeting:

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

Proposed options to be considered at the March 11, 2009 Board:

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

Fiscal Impact

- The DM basic grants would be funded at 76% instead of the current 68%

Pros

- Establishes a more equitable baseline and funding amount for the next five years. Since the districts have no obligation to use the Extreme Hardship funds to repair the health and safety projects, this option eliminates the dedicated funding.
- The vast majority of the school districts will get an increase to their basic DM apportionment, which will be used to set their baseline, for the next five years.

Cons

- Qualifying health and safety issues will not be addressed.
- Qualifying facilities could become unusable.
- 41 school districts will receive a decrease to their basic DM apportionment that had been previously approved on February 25, 2009.

Future SAB Actions Required

- Rescind allocation made for DM basic grants
- Approve amended apportionment amount for the Basic Grant (approximately $240 million)

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

Fiscal Impact

- The DM Basic Grants would be funded at 68.5 percent and Extreme Hardship projects would be funded at 34 percent.
- Baseline will be established at two separate levels: Those with Extreme Hardship projects and those without.

Pros

- All Extreme Hardship projects will get funding.
- The vast majority of the school districts will get a slight increase to their basic DM apportionment, which will be used to set their baseline, for the next five years.

Cons

- Districts have no obligation to use the Extreme Hardship funds to repair the health and safety projects.
- Increases the 08/09 baseline for districts with Extreme Hardship projects – giving districts approximately 168 percent of the Extreme Hardship project cost over five years.

Future SAB Actions Required

- Rescind allocation approved for DM basic grants at the February 25th SAB meeting.
- Approve an adjusted DM basic grant.
- Approve Extreme Hardship project apportionments.
- Declare the Extreme Hardship projects as fully funded and ineligible for future funding from DM or other SFP programs.

Option 2A: Distribute 94 percent of the Deferred Maintenance funding proportionately to all participating school districts and provide 6 percent for Extreme Hardship projects distributed at 20 percent of the project cost among all 126 Extreme Hardship projects.

Fiscal Impact

- The DM Basic Grants would be funded at 72 percent and Extreme Hardship projects would be funded at 20 percent.
- Baseline will be established at two separate levels: Those with Extreme Hardship projects and those without.

Pros

- All Extreme Hardship projects will get funded at 100 percent over five years..
- The vast majority of the school districts will get a slight increase to their basic DM apportionment, which will be used to set their baseline, for the next five years.

Cons

- Districts have no obligation to use the Extreme Hardship funds to repair the health and safety projects.
- Increases the 08/09 baseline for districts with Extreme Hardship projects.

Future SAB Actions Required

- Rescind allocation approved for DM basic grants at the February 25th SAB meeting.
- Approve an adjusted DM basic grant.
- Approve Extreme Hardship project apportionments.
- Declare the Extreme Hardship projects as fully funded and ineligible for future funding from DM or other SFP programs.

Option 3: Distribute 90 percent of the Deferred Maintenance funding proportionately to all participating school districts and provide 10 percent for Extreme Hardship projects to fund as many Extreme Hardship projects as possible (approximately 40 projects) at 100 percent.

Fiscal Impact

- Baseline will be established at two separate levels: Those with Extreme Hardship projects and those without.
- The DM Basic Grants would be funded at 68 percent and Extreme Hardship projects would be funded at 500 percent over five years.

Pros

- Some Extreme Hardship projects get fully funded.
- The vast majority of the school districts will get a slight increase to their basic DM apportionment, which will be used to set their baseline, for the next five years.

Cons

- Districts have no obligation to use the Extreme Hardship funds to repair the health and safety projects.
- Increases the 08/09 baseline for districts with Extreme Hardship projects – giving districts approximately 500 percent of the Extreme Hardship project cost over five years.

Future SAB Actions Required

- Rescind allocation approved for DM basic grants at the February 25th SAB meeting.
- Approve an adjusted DM basic grant.
- Approve the approximate 40 Extreme Hardship projects.
- Declare the Extreme Hardship projects as fully funded and ineligible for future funding from DM or other SFP programs.

Note:

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

(Rev. 1)

REPORT OF THE EXECUTIVE OFFICER
State Allocation Board Meeting, March 11, 2009

STATE ALLOCATION BOARD SUB-COMMITTEES SELECTION

PURPOSE OF REPORT

To select members from the State Allocation Board (SAB) to serve on:

1) the sub-committee to review the scope of the Office of Public School Construction's (OPSC) auditing authority, and
2) the sub-committee to develop rules and procedures for the Board.

DESCRIPTION

At the February 2009 SAB meeting, the Board discussed the Department of Finance, Office of State Audits and Evaluations Report, and the Board made a decision to convene two sub-committees to review the OPSC's auditing authority and to develop rules and procedures for the Board.

This item is for the Board to discuss the nomination and selection of SAB members to the sub-committees.

BOARD ACTION

In considering this item, the Board approved the nominations of Senator Alan Lowenthal as the chair, and Ms. Kathleen Moore, and Mr. Scott Harvey for the audits sub-committee. Other members invited but who have not yet responded are Assembly Member Tom Torlakson, Senator Loni Hancock, and Assembly Member Julia Brownley.

In addition, the Board approved the nominations of Senator Mark Wyland (as the Chair), Senator Loni Hancock, Assembly Member Julia Brownley, and Mr. Scott Harvey for the rules and procedures sub-committee. The Board also requested that the Assistant Executive Officer be the lead staff person and work on both sub-committees, as it will address SAB oversight issues.

The SAB's legal counsel reminded the Board that the two sub-committees would need to comply with the notice requirements under the Bagley-Keene Open Meeting law.

REPORT OF THE EXECUTIVE OFFICER
State Allocation Board Meeting, March 11, 2009

SCHOOL FACILITY PROGRAM
CAREER TECHNICAL EDUCATION FACILITIES PROGRAM FUNDING CYCLE

PURPOSE OF REPORT

To request authorization and present a proposed schedule for the third funding cycle of the School Facility Program (SFP) Career Technical Education Facilities Program (CTEFP).

DESCRIPTION

The CTEFP was established with $500 million by Proposition 1D. The State Allocation Board (SAB) apportioned $417.2 million in the first and second funding cycles. The dates of funding cycles are established in the SFP Regulations. There is available funding to hold an additional funding cycle, should the Board authorize a third funding cycle.

AUTHORITY

SFP Regulation Section 1859.191 establishes the funding cycles for the CTEFP. If funds remain after the first and second funding cycles, subsequent funding cycles may continue every six months thereafter at the discretion of the Board.

SFP Regulation Section 1859.192 states that an applicant may submit a CTEFP funding application if the applicant's CTEFP application has met all the requirements in Education Code Section 17078.72(i) and has a score of at least 105 points. This Education Code Section describes how the California Department of Education (CDE) will evaluate the applicant's career technical education program.

STAFF COMMENTS

After applicants received apportionments from the second funding cycle (December, 2008), there is approximately $82.8 million remaining. Staff recommends scheduling a third funding cycle of the CTEFP. Staff is proposing that CTEFP funding applications for the third funding cycle be submitted to the Office of Public School Construction (OPSC) by March 31, 2010.

In order to be eligible for funding, applicants must first submit a grant application to the CDE and receive a passing score. Staff worked with the CDE staff to develop the proposed schedule listed below for the third funding cycle of the CTEFP. The following schedule provides applicants time to prepare applications and time for both agencies to review the applications.

- CDE Grant Applications due to CDE by September 18, 2009.
- Grant Application scores published by CDE in February 2010.
- *Application for Career Technical Education Facilities Funding* (SAB Form 50-10) due to the OPSC by March 31, 2010.
- Presentation to the SAB in 2010.

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RECOMMENDATIONS

1. Authorize the third funding cycle for the CTEFP.

2. Approve the schedule for a third funding cycle as noted under "Staff Comments."

3. Require that qualifying CTEFP funding applications be accepted by the OPSC by March 31, 2010, after they have been scored by the CDE.

This Item was approved by the State Allocation Board on March 11, 2009.

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REPORT OF THE EXECUTIVE OFFICER
State Allocation Board Meeting, March 11, 2009

UNFUNDED APPROVALS FOR THE EMERGENCY REPAIR PROGRAM

PURPOSE OF REPORT

To present a listing of Emergency Repair Program (ERP) applications to be considered for an unfunded approval.

DESCRIPTION

The Local Educational Agencies (LEAs) listed on the Attachment have submitted a *Grant Request* (Form SAB 61-03, Rev. 01/07) for ERP funding. The applications have been reviewed by Staff and it has been determined that the applications meet the regulations and requirements of the ERP.

The Attachment includes 18 grant requests for projects that are not completed and/or for which the funds have not been fully expended. There are no reimbursement requests to be presented this month as all applications received in the given time period were for advance project funding.

At the January 28, 2009 State Allocation Board (SAB) meeting, Staff informed the Board that, the 2008/09 Budget allocation of $101 million for the ERP was not available due to the lack of funds. ERP Regulation Section 1859.322 requires the Board to make apportionments on a monthly basis and provides for an unfunded list to be generated when there is insufficient funding in any given month. The ERP currently has approximately $300,000 in funds available. This amount is not sufficient to fund all applications on the Attachment. These applications were received on the same date and must be funded at the same time.

ERP Regulations further stipulate that when funds become available, projects on the Unfunded List will be apportioned in the order of date received. Once all ERP funds have been depleted, any applications remaining on the Unfunded List will be returned to the LEA, and the Unfunded List shall be dissolved.

AUTHORITY

California Code of Regulations (CCR) Title 2, Section 1859.322, states in part, that the Board shall make apportionments on a monthly basis for Grants in the order of receipt of an Accepted Application. Further, Section 1859.322(b) states:

> If funding is insufficient in any given month:
> (1) Grants will be provided to each application on a prorated basis with the balance placed on the Unfunded List, unless the proration will result in funding less than 25 percent of the eligible project costs. The proration shall be determined by dividing the total funds available by the total eligible costs of all applications Ready for Apportionment. All Grant Adjustments will be placed on the Unfunded List.
> (2) If the proration, as determined in (1) above, will be less than 25 percent of the eligible project costs, the Board shall provide Grant funding at 100 percent of the eligible project costs of the Grants based on date order received until funds are no longer available and the remaining Grant applications shall be placed on the Unfunded List. All Grant Adjustments will be placed on the Unfunded List.
> (3) The Board will continue to accept and process applications for the purpose of developing an Unfunded List based on the order of receipt of the Accepted Applications.

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AUTHORITY (cont.)

> When funds become available, projects on the Unfunded List will be apportioned in the order of date received. From available funds, Grants will be funded first and Grant Adjustments will be funded second. ...
>
> Once all ERP funds have been depleted, any applications that have received a prorated Apportionment, a Grant, or a Grant Adjustment will be deemed a full and final Apportionment, any applications remaining fully unfunded on the Unfunded List will be returned to the LEA, and the Unfunded List shall be dissolved.

RECOMMENDATIONS

1. Approve the applications listed on the Attachment for inclusion on the ERP Unfunded List with a "SAB Unfunded Approval" date of March 11, 2009.

2. Provide that these unfunded approvals do not constitute a guarantee of future funding.

3. Authorize Staff to present future unfunded approvals in the consent section of the agenda.

This Item was approved by the State Allocation Board on March 11, 2009.

ATTACHMENT
EMERGENCY REPAIR PROGRAM
State Allocation Board Meeting, March 11, 2009

County	Local Educational Agency (LEA)	Site	Application Number	Types of Projects	Applic-n Type*	Unfunded Approval	Admin Filing Fees (Included in total)
Los Angeles	Los Angeles Unified	Manual Arts Senior High	61/64733-00-3737	Pest/Vermin Infestation($6,060);	g	$ 6,060	
Los Angeles	Los Angeles Unified	Manual Arts Senior High	61/64733-00-3739	Plumbing($1,249); Gutters($7,573);	g	$ 8,822	
Los Angeles	Los Angeles Unified	Locke (Alain Leroy) Senior High	61/64733-00-3740	Paving($241,629);	g	$ 241,629	
Los Angeles	Los Angeles Unified	Locke (Alain Leroy) Senior High	61/64733-00-3741	Siding/Fences($15,005);	g	$ 15,005	
Los Angeles	Los Angeles Unified	Locke (Alain Leroy) Senior High	61/64733-00-3742	Paving($1,191,786);	g	$ 1,191,786	
Los Angeles	Los Angeles Unified	Manual Arts Senior High	61/64733-00-3743	Paving($39,670);	g	$ 39,670	
Los Angeles	Los Angeles Unified	Manual Arts Senior High	61/64733-00-3744	Paving($556,596);	g	$ 556,596	
				Los Angeles Unified Total Unfunded Approvals		**$ 2,059,568**	
Santa Barbara	Guadalupe Union Elementary	Buren (Mary) Elementary	61/69203-00-0003	Paving($219,314)	g	$ 219,314	$ 3,840
Santa Barbara	Guadalupe Union Elementary	Buren (Mary) Elementary	61/69203-00-0004	Accessibility($51,2510	g	$ 51,251	$ 897
Santa Barbara	Guadalupe Union Elementary	Buren (Mary) Elementary	61/69203-00-0005	Pest/Vermin Infestation($12,789);	g	$ 12,789	$ 251
Santa Barbara	Guadalupe Union Elementary	Buren (Mary) Elementary	61/69203-00-0006	Flooring Systems($59,832)	g	$ 59,832	$ 1,108
Santa Barbara	Guadalupe Union Elementary	Buren (Mary) Elementary	61/69203-00-0007	Gutters($57,080);	g	$ 57,080	$ 1,119
Santa Barbara	Guadalupe Union Elementary	Buren (Mary) Elementary	61/69203-00-0008	Roofing($118,854);	g	$ 118,854	$ 2,081
Santa Barbara	Guadalupe Union Elementary	Buren (Mary) Elementary	61/69203-00-0009	Siding/Fences($2,962);	g	$ 2,962	$ 58
Santa Barbara	Guadalupe Union Elementary	Buren (Mary) Elementary	61/69203-00-0010	Windows/Doors/Gates($27,948);	g	$ 27,948	$ 489
Santa Barbara	Guadalupe Union Elementary	Buren (Mary) Elementary	61/69203-00-0011	Roofing($58,205);	g	$ 58,205	$ 1,019
				Guadalupe Union Elementary Total Unfunded Approvals		**$ 608,235**	
Tulare	Cutler-Orosi Joint Unified	Cutler Elementary	61/71860-00-0110	Structural Damage($457,895);	g	$ 457,895	
Tulare	Cutler-Orosi Joint Unified	Golden Valley Elementary	61/71860-00-0112	Structural Damage($432,290);	g	$ 432,290	
				Cutler-Orosi Joint Unified Total Unfunded Approvals		**$ 890,185**	
				GRAND TOTAL		**$ 3,557,988**	

SPECIAL
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*Application type 'g' identifies requests for grant funding for projects that have not been completed
Application type 'e-r' identifies requests for reimbursement funding for projects that have been completed

REPORT OF THE EXECUTIVE OFFICER
State Allocation Board Meeting, March 11, 2009

SCHOOL FACILITY PROGRAM UNFUNDED APPROVALS

PURPOSE OF REPORT

To discuss unfunded project approvals.

BACKGROUND

On December 17, 2008, the Pooled Money Investment Board (PMIB) took action to halt disbursing cash from the State's Pooled Money Investment Account (PMIA) for capital projects, including the construction of public schools. On December 18, 2008, the Department of Finance issued Budget Letter #33 that directed all State entities that have expenditure control and oversight of General Obligation bond programs to cease authorizing any new grants for bond projects.

At the January 28, 2009 SAB meeting, the Board requested Staff to seek input from stakeholders and the school community at an Implementation Committee meeting and provide recommendations regarding the implementation of unfunded approvals.

DESCRIPTION

An item to discuss unfunded approvals was presented at the February 19, 2009 Implementation Committee meeting. Most Implementation Committee members were in favor of an unfunded list for projects up to and beyond the bond authority. Implementation Committee members and school district representatives highlighted the following advantages to having an unfunded approval by the SAB for a project:

- Unfunded approvals typically serve as valid collateral in securing interim financing.
- Once a project approval is received, the project's eligibility does not need to be re-justified and no new legislation or regulation will jeopardize the project's approval. This is especially important in the event of a new State-wide bond proposal which may result in new program requirements.

AUTHORITY

Regulation Section 1859.2 defines an Unfunded List as an information list of unfunded projects.

SFP Regulation Section 1859.95 states:

> "When the Board has no funds to apportion ..., the Board will also accept and process applications for apportionment for purposes of developing an Unfunded List based on the date the application is ready for Apportionment, with the exception of New Construction funding applications that utilize eligibility generated by the Alternative Enrollment Projection.
>
> An application for funding included on an Unfunded List is eligible for reimbursement subject to adjustments in the New Construction Grants amount pursuant to Section 1859.77."

STAFF COMMENTS

In the past when the SAB exhausted its bond authority, it established an unfunded list. Although receiving an unfunded approval did not constitute a guarantee of funding, the list established the need for State funding for school construction and modernization.

(Continued on Page Two)

STAFF COMMENTS (cont.)

Staff recommends that the Office of Public School Construction continue to process applications to the SAB for unfunded approval up to available bonding authority. At a later date, Staff recommends that the SAB consider an unfunded list once bonding authority is exhausted.

RECOMMENDATIONS

1. Request Staff to continue processing applications to the SAB on an unfunded list, up to the bonding authority. The inclusion of a project on an unfunded list would not be a guarantee of State funding.

2. Request Staff to bring a discussion item back to the SAB at a future date to address the continuance of an unfunded list beyond the bonding authority.

BOARD ACTION

This Item was approved by the State Allocation Board on March 11, 2009, and the Board requested that staff bring forward unfunded approvals to the March 25, 2009 SAB meeting.

REPORT OF THE EXECUTIVE OFFICER
State Allocation Board Meeting, March 11, 2009

RECOMMENDATIONS FOR PRIOR BOND FUNDS AVAILABLE FOR TRANSFER

PURPOSE OF REPORT

To present a recommendation for the transfer of the available prior Lease-Purchase Program (LPP) bond funds.

BACKGROUND

At the October 2008 State Allocation Board (SAB) meeting, the Board was given a report that estimated approximately $6.6 million from prior bonds that could be transferred to any active programs within the School Facility Program (SFP). The Board requested Staff to report back in February 2009 with an update on the status of the various programs and potential uses that those funds could be transferred into.

AUTHORITY

Section 20 of Assembly Bill 127, Chapter 35, Statutes of 2006 (Pereta/Nunez) states:

"(a) Up to twenty-one million dollars ($21,000,000) of any funds that are required to be made available for rehabilitation or construction of joint-use facilities for public schools and ***that result or are derived from the sale of bonds issued on or before January 1, 2006,*** shall be transferred to the State Allocation Board and may be apportioned by that board for the purposes of Article 10.6 (commencing with Section 17077.40) of Chapter 12.5 of Part 10 of the Education Code.

(b) *Any funds remaining after the transfer required under subdivision (a)* ***that conform to the description set forth in that subdivision*** *shall be transferred to the State Allocation Board and may be apportioned by that board for any of the purposes of Chapter 12.5* (commencing with Section 17070.10) of Part 10 of the Education Code." *[Emphasis added.]*

Although this section authorizes the transfer of prior bond funds that have previously been issued or sold for any Chapter 12.5 purposes, it does not authorize the sale of prior bonds, and the bond funds that have not been issued or sold cannot be transferred.

STAFF COMMENTS

Current law authorizes the Board to transfer available money to any active program within the SFP. There will be approximately $6.6 million in prior bond funds that could be transferred and made available. While there is bond authority there are no funds available with the Pooled Money Investment Board's restrictions to release the funds due to the fiscal crisis. The following chart represents the current funding and application requests by program.

SFP Program	Projected Balance of Bond Funds Available for Program Funding as of 1/28/09* (Amount in Millions)	Current Number of Applications In-House as of February 18, 2009	Estimated State Share of Projects Currently In-House (Amount in Millions)
New Construction	$ 780.9	131	$929.7
Facility Hardship Projects**		9	$ 39.9
Modernization	$ 2,070.1	101	$189.4
Rehabilitation Projects**		5	$ 9.3
Career Technical Education	$ 82.8	0	$ 0
Overcrowding Relief Grant	$ 901.0	21	$156.5
Charter School	$ 164.4	0	$ 0
Joint-Use ***	$ 8.5	5	$ 6.0

* Includes all bond funds.

** These projects have received a Conceptual Approval from the SAB and have 18 months to request funding for these health and safety projects.

*** School districts have until March 1, 2009 to submit their application for the next funding cycle for the SFP Joint-Use Program.

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STAFF COMMENTS (cont.)

School districts have until March 1, 2009 to submit their SFP joint-use applications to the Office of Public School Construction (OPSC) for the current SFP Joint-Use Program funding cycle. To date, the OPSC has received five SFP Joint-Use Program applications. Should the Board transfer the $6.6 million available in prior bond funds to the Joint-Use Program, Staff estimates based on the historical average of $850,000 per project, that potentially between 15 and 18 SFP Joint-Use Program projects could be funded in the next funding cycle.

Staff believes that with new construction and other program fund balances rapidly declining, and the possibility of the funds being exhausted, the SAB may wish to consider reserving these funds specifically under New Construction for Facility Hardship health and safety projects.

If the Board elects to reserve funds for any purpose, it is critical that districts understand that these estimates of funding would not constitute a commitment or obligation on behalf of the SAB, and those potential applicants would be solely responsible for any local decisions and investments.

RECOMMENDATION

Transfer the $6.6 million in prior LPP bond funds to a reserve account within the SFP New Construction category to be used for Facility Hardship health and safety projects.

BOARD ACTION

In considering this item, the State Allocation Board postponed this item to a future SAB meeting.

THE MURRIETA VALLEY UNIFIED/RIVERSIDE 50/75200-00-010 ITEM HAS BEEN WITHDRAWN

SPECIALS

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REPORT OF THE EXECUTIVE OFFICER
State Allocation Board Meeting, March 11, 2009

SEISMIC MITIGATION PROGRAM

PURPOSE OF THE REPORT

To provide an update on the Seismic Mitigation Program provided under Assembly Bill 127, Chapter 35, Statutes of 2006 (Perata/Nunez).

BACKGROUND

Assembly Bill (AB) 127 authorized up to $199.5 million for seismic mitigation of school facilities that are the most vulnerable Category 2 buildings and pose an unacceptable risk of injury to students during a seismic event. Part of the criteria to meet the definition of the most vulnerable Category 2 buildings is to provide a structural engineer's report that demonstrates that the building has a potential for catastrophic collapse.

Only one school has applied for AB 127 seismic funding to date, although the Department of General Services, Division of the State Architect has identified approximately 36 buildings that may meet the criteria of the Most Vulnerable Category 2 buildings, absent the structural engineer's report as identified above.

As of December 17, 2008, the Pooled Money Investment Board halted all school construction funding indefinitely, including seismic mitigation funding, due to the State's inability to sell bonds.

DESCRIPTION

Due to the lack of participation in the seismic mitigation funding, the Secretary of State and the Consumer Services Agency has hosted several meetings which included the Executive Officer of the Office of Public School Construction (OPSC)/State Allocation Board (SAB), the Assistant Executive Officer of the SAB, the State Architect, the Department of General Services Executive Staff, the Seismic Safety Commission (SSC), and other seismic experts. The primary purpose of the meetings was to determine how to initiate participation in this program, at a time when the State is unable to sell bond funds.

On February 11, 2009, the OPSC presented a proposal for a pilot program to the SSC for the purpose of securing a $200,000 grant to pay for structural engineering reports, at an estimated expense of $7,000 to $10,000 per facility. The pilot program would ensure consistent seismic evaluation to further the State's understanding of seismic risks, move a potential barrier to participation and enable the program to proceed while bond funding is frozen. The pilot program would continue to advance the seismic safety agenda and the critical need to proceed with seismic mitigation.

The proposal was approved by the SSC. The OPSC is currently drafting an interagency agreement to affect the transfer of funds. Upon execution of the agreement, the OPSC will contact districts with potentially eligible facilities to initiate the pilot project.

Additionally, the OPSC will be bringing forward a broader discussion item at the March 25, 2009 SAB meeting regarding the Seismic Mitigation Program structure in order to promote participation in the program.

RECOMMENDATION

Accept this report.

SPECIAL
000035

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BOARD ACTION

The State Allocation Board accepted the report on March 11, 2009 and noted the comments by the Executive Officer that this is site specific funding and that the Board is seeking additional feedback from advisory committees and the field on how to make this all work more efficiently and timely.

REPORT OF THE EXECUTIVE OFFICER
State Allocation Board Meeting, March 11, 2009

WEB CASTING STATE ALLOCATION BOARD MEETINGS

PURPOSE OF REPORT

To inform the State Allocation Board (SAB) of options for the web casting of the SAB meetings.

DESCRIPTION

The Office of Public School Construction (OPSC) in conjunction with the Department of General Services (DGS), Office of Public Affairs, has been working towards providing greater transparency for SAB meetings through the use of web casting. Should the Board wish to pursue this, the following options are proposed for the Board's consideration:

- SAB Meetings Held in the State Capitol
  The DGS, Office of Public Affairs staff, would need authorization to utilize the existing television camera equipment in the hearing rooms for purposes of video web casting the SAB meetings, or permission to utilize the existing audio panel in the hearing rooms for purposes of audio web casting of the SAB meetings. If a hearing room did not have these capabilities, the DGS, Office of Public Affairs staff, would need to provide the necessary equipment to record the SAB meeting. There is a cost associated with this endeavor; however, since the parameters have not been established, the cost is unknown at this time.

- SAB Meetings Held in Alternative Locations Outside the State Capitol
  The DGS, Office of Public Affairs staff, would need to inspect the hearing room to make a determination of what type of equipment would be necessary to web cast the SAB meeting. There is a cost associated with this endeavor; however, since the parameters have not been established, the cost is unknown at this time.

- No web casting of the SAB meetings. There would be no cost incurred.

STAFF COMMENTS

Approximately 15 years ago, television cameras were installed in some of the hearing rooms in the State Capitol to allow the public to view government in action. The SAB meetings used to be televised on cable Channel 9. The DGS, Office of Public Affairs staff, would like to initiate the ability to web cast the SAB meetings to continue the spirit of greater transparency. In addition, it is the intent of the DGS, Office of Public Affairs, to utilize the least intrusive method of web casting but to allow for greater accessibility to the SAB meetings.

RECOMMENDATION

Accept this report.

The State Allocation Board accepted the report on March 11, 2009.

SPECIAL
000036

REPORT OF THE EXECUTIVE OFFICER
State Allocation Board Meeting, March 11, 2009

STATE ALLOCATION BOARD MEETING LOCATIONS

PURPOSE OF REPORT

To present a report concerning meeting locations accessible to the State Allocation Board (SAB).

BACKGROUND

At the January 28, 2009 SAB meeting, the Board requested that Staff report back concerning alternative hearing rooms available for SAB meetings.

DESCRIPTION

The SAB meets on the fourth Wednesday of the month in different rooms within the State Capitol at 4:00 p.m. when the State Legislature is in session, and at 2:00 p.m. when the State Legislature is out on recess. Four weeks in advance, Staff requests the largest available hearing room in the State Capitol through the Senate or Assembly Sergeant-at-Arms Offices. These are Rooms 4203 and 4202, respectively. There are eight other smaller hearing rooms in the State Capitol. Staff has been informed by both the Senate and Assembly Sergeant-at-Arms Offices that they schedule Legislative Committee hearings on Tuesdays and Wednesdays and that could mean all hearing rooms would be utilized. They state that the SAB: 1) will seldom be scheduled for a large State Capitol hearing room; 2) the SAB can be "bumped" by a Legislative hearing need because the SAB is not a legislative committee; and 3) must hope for final day Legislative Committee vacancies or early adjournments in order to schedule a hearing room. Additionally, hearing rooms cannot be scheduled months in advance.

The following hearing rooms and auditoriums are within two and a half blocks of the State Capitol, and can be scheduled in advance. Because these buildings close at 5:00 p.m. or 6:00 p.m., security scheduling arrangements must be made in advance at possible additional cost. The Department of Education hearing room is already scheduled as the back-up meeting room for most of the remaining 2009 SAB meetings.

Dept. of Education Building. Dais for 12 with microphones. Seats 95.
1430 N Street (corner of 15th and N), Room 1101. No cost.

Water Resources Building. Dais for 14 with microphones. Seats 150.
1416 Ninth Street (between N and O Streets). No cost.

Food and Agriculture Department. Dais for 13 with microphones. Seats 162.
1220 N Street. $250 for half day use; security costs unknown if meeting runs past 6:00 p.m.

State Personnel Board Auditorium. Dais for five and front table for six with microphones. Seats 120.
801 Capitol Mall, Room 150. No cost.

AUTHORITY

The Bagley-Keene Open Meeting Act, Government Code (GC) Sections 11120 – 11132, states that actions of state agencies must be taken openly and their deliberations conducted openly. GC Section 11123(a) states "All meetings of a state body shall be open and public and all persons shall be permitted to attend . . . ."

(Continued on Page Two)

STAFF COMMENTS

Legislative members of the SAB have expressed the desire to continue meeting in the State Capitol in order to be close to their legislative committee hearings, meetings, and voting requirements.

RECOMMENDATION

Continue to schedule SAB meetings for the largest available hearing room in the State Capitol, with a nearby back-up hearing room also scheduled in the event there is no hearing room available in the State Capitol.

The State Allocation Board accepted the report on March 11, 2009.