

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

STATE ALLOCATION BOARD
SUBCOMMITTEE ON PRIORITIES
IN SCHOOL CONSTRUCTION FUNDING
CASH MANAGEMENT, PART II

STATE CAPITOL, ROOM 126
SACRAMENTO, CALIFORNIA 95814

DATE: MARCH 1, 2011
TIME: 3:00 P.M.

Reported By: Mary Clark Transcribing
4919 H Parkway
Sacramento, CA 95823-3413
(916) 428-6439
marycclark13@comcast.net

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

APPEARANCES

Committee Members:

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

SCOTT HARVEY, Acting Director, Department of General Services.

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

ASSEMBLY MEMBER JOAN BUCHANAN

Office of Public School Construction Staff:

LISA SILVERMAN, ACTING EXECUTIVE OFFICER

JUAN MIRELES

BARBARA KAMPMEINERT

P R O C E E D I N G S

1
2
3 CHAIRPERSON REYES: Begin our meeting of the
4 Committee on Cash Management -- Subcommittee. No --
5 Subcommittee on Funding Priorities agenda. We have several
6 items before us. Do we need to take a roll call? Do we
7 need to establish a quorum for the Subcommittee? No.

8 Okay. We do notice the absence of Mr. Harvey
9 who's probably still looking for a parking spot someplace.
10 In my understanding, members, and I look to you for carry
11 forward since I was not here last time around, but this is
12 Part II of this conversation.

13 And I'd like to turn it over to staff to lead us
14 through.

15 MS. SILVERMAN: Yeah. For purposes just trying to
16 synopsise what's kind of evolved in the program, since the
17 Board is taking steps to counteract the fiscal crisis and
18 help expedite the flow of cash into the economy through the
19 priority of funding rounds and establishing fiscal crisis
20 regulation and creation of the unfunded approvals list.

21 And in early 2009, the State -- this Board
22 actually decided to create some emergency regulations that
23 would allow the Board to make findings of certain
24 apportionments were considered inactive to relieve school
25 districts from meeting the various statutory requirements

1 and at that time, there was over \$2.4 billion of
2 apportionments that were declared inactive since there was
3 no cash available due to the suspension of the AB55 loans
4 provided by the Pooled Money Investment Board.

5 And in March 2009, the Board approved and took
6 action to create an unfunded approval list which actually
7 provided the ability for staff to move forward and continue
8 processing applications. And at the November 4, 2009,
9 Board, the Board took action to reactivate the inactive
10 projects and in March 2010, the Treasurer sold \$1.3 billion
11 in cash. Thus ensued the cash management discussion.

12 And in April of 2010, the Board did provide
13 \$960 million in apportionments to the projects on the
14 unfunded list based on date order received.

15 With that, the Board also decided with the
16 residual cash of 408 million that they would create some
17 kind of mechanism that obviously would create a way of
18 streamlining a process and establish a priorities of funding
19 committee -- subcommittee and with that ensued the starting
20 the Subcommittee meetings.

21 The first meeting was held in May 2010. With
22 that, the Board did adopt the action of the Subcommittee to
23 create a mechanism to allowing projects that are ready to
24 move forward to actually come in with a fund release request
25 within 90 days to receive an apportionment. This created

1 the priority funding to provide a reliable way of
2 accelerating cash and directly fund those projects within a
3 90-day time frame.

4 And at the second meeting in July 2010, the Board
5 also -- excuse me -- the Subcommittee also discussed the
6 facility hardship projects and how they would historically
7 deal with those projects. That action was adopted on
8 August 4, 2010, where the Board decided that to place the
9 facility hardships on top of the cumulative unfunded list at
10 all times.

11 The following action in August 2010 -- there was
12 two Board meetings. We actually specifically adopted a
13 one-time specific round and at the August meeting, the Board
14 decided to expand that one-time round and actually change
15 regulations to approve additional rounds on an as-needed
16 basis.

17 And at our third meeting in October 2010, we
18 actually had presented some options to discuss the
19 possibility of expanding the flow of cash to districts that
20 are ready to request funds on the unfunded list and that's
21 where we entertained how do we present some options for the
22 projects that are sitting out there on the 18-month
23 timeline.

24 We presented options of buying time by switching
25 projects on the unfunded list, again allowing districts to

1 swap projects, allow districts to rescind projects and swap
2 projects on the unfunded list, and then the final option was
3 whether or not we wanted to extend ourselves or leverage the
4 cash that we have committed to the projects on the 18-month
5 timeline and overextend ourselves and potentially
6 over-apportion projects that are sitting on the unfunded
7 list.

8 So those are -- this is how we've evolved over the
9 last year and so we -- first meeting for cash management was
10 presented on February 8th and obviously it was a sub of the
11 Subcommittee and there were some options that were laid out
12 at that meeting. And so now we're here to present kind of a
13 recap of that meeting and also present some other items
14 today that addresses the bond authority and the fiscal
15 crisis regulations.

16 So with that, I'll turn it over to Juan.

17 CHAIRPERSON REYES: Do members have any questions
18 or comments? Does anybody from the public has any questions
19 or comments at this point?

20 MR. MIRELES: The first option that we introduced
21 at the last meeting was the creation of the -- an additional
22 unfunded approval list that we've called a priority list.
23 The purpose of this list was to add school districts that
24 can certify that they will be able to submit a fund release
25 within 90 days after receiving an apportionment regardless

1 of when cash is made available.

2 The main difference between this list and the
3 current process that we have now is that right now we
4 present the next priorities in funding round. We identify
5 the cash that's available. We request certifications from
6 school districts and then based on the districts that
7 certified, then we'll make apportionments accordingly.

8 This new proposal would be to add a list of
9 districts that could certify that they will be able to
10 submit again a fund release request if they get an
11 apportionment at any point in time.

12 The purpose of this was to allow for a process
13 that would consistently flow the other cash available, in
14 other words, that we wouldn't have to reestablish priorities
15 in funding round. We would be able to continuously allocate
16 bond funds as they became available.

17 We had a discussion on this issue. Some of the
18 Subcommittee members and audience members did state that
19 adding a separate list could add to confusion. There was
20 great concern that they wanted the process to be simple and
21 that it still be efficient.

22 It was during this discussion that a Subcommittee
23 member also introduced a proposal to reduce permanently the
24 18-month time limit on fund release to 90 days through
25 regulation. Basically this would be that instead of having

1 18 months to submit a fund release request, if the district
2 receives an apportionment, they would have 90 days to submit
3 a fund release request. This would omit the need for a
4 priorities in funding round mechanism. Basically the Board
5 would go back to making apportionments based on the list and
6 districts would get apportionment, then they would be
7 required to come in within 90 days with the fund release
8 request.

9 CHAIRPERSON REYES: I have a question on that real
10 quick.

11 MR. MIRELES: Yes.

12 CHAIRPERSON REYES: How does changing it from 180
13 days to 90 days impact the poorer districts?

14 MR. MIRELES: Impact?

15 CHAIRPERSON REYES: The smaller, poorer -- the
16 poor districts.

17 MR. MIRELES: Right now, we have a little over a
18 billion dollars on the unfunded list. So there are a mix of
19 districts in there, financial hardship districts and
20 nonfinancial hardship districts.

21 Requiring the districts to come in within 90 days
22 permanently -- those require school districts to -- some
23 districts have cash and they can move forward if they have
24 local funds available. Others can't go forward until they
25 get the apportionment.

1 So financial hardship districts may be impacted
2 and that's one of the things that we wanted to bring up for
3 discussion here, maybe perhaps hear from some of the
4 stakeholders to see exactly how they would be impacted if
5 this is enacted on a permanent basis.

6 CHAIRPERSON REYES: Okay.

7 MR. HARVEY: As a follow-up.

8 CHAIRPERSON REYES: Yeah.

9 MR. HARVEY: Help me understand your last
10 statement, Juan, in the sense that I thought financial
11 hardship districts had 100 percent State grant. Wouldn't
12 that make it easier? They wouldn't have to worry about a
13 local match. Wouldn't that help expedite them through the
14 process?

15 MR. MIRELES: Again this is something that maybe
16 we could hear from the districts directly, but it's our
17 understanding that to get -- to move forward with the whole
18 process of going out to bid, they may have to expend some
19 local funds.

20 Districts that are financial hardship may have a
21 hundred percent State financing. Some do have local cash
22 that they contribute to their projects. Not all financial
23 hardship districts get a hundred percent State financing.
24 Some of them do have local cash, but it's our understanding
25 that there is some up-front cost to get started in the whole

1 process of going out to bid, but again, this is something
2 that we would like to hear from the districts directly to
3 get a better idea.

4 MR. HARVEY: Fair enough. I would ask us to also
5 consider the precedent we've set about establishing
6 incentivizing concepts. We've done that for the high
7 performance schools. We've done it with the seismic and if
8 needing a little front-end cash that we could get reimbursed
9 later on might help a financial hardship district -- just
10 thinking outside the box.

11 CHAIRPERSON REYES: Ms. Brown -- Ms. Moore.
12 Ms. Moore, I'm sorry.

13 MS. MOORE: I know. Same first name. The shift
14 that is being proposed is 18 months to 90 days and currently
15 in the process, a financial hardship district prior to the
16 financial crisis would have 18 months in which to bid their
17 project; correct? How is that different -- is it the same
18 issue they'd have whether it was 18 months or 90 days? Are
19 they up-front need for funds to bid the project?

20 So that issue already existed on an 18-month;
21 right? And they had to somehow work through that.

22 MR. MIRELES: Yes.

23 MS. MOORE: Or did they get their money any
24 earlier?

25 MR. MIRELES: No. That's an issue that currently

1 could exist. Now some financial hardship districts, they
2 have the ability to come in and get planning money and site
3 money and that helps them get started to go out and get a
4 construction contract.

5 Not all financial hardship districts elect to get
6 the planning money up front. The ones that do not may have
7 a harder time getting started. The ones that do get
8 planning money and/or site acquisition money might have an
9 easier time to hire architects, to get the plans approved,
10 and then go out and -- go out to bid.

11 But you are correct. That's something that under
12 the current -- the old system of the 18 months, it still
13 could be the issue as we would have now but just a much
14 shorter time frame to go out to bid.

15 CHAIRPERSON REYES: Ms. Buchanan.

16 ASSEMBLY MEMBER BUCHANAN: So let's kind of walk
17 through the process here because a district has all the
18 approvals and then it receives an apportionment and it has
19 18 months to request funding; correct? And at that point in
20 time, they can still request a six-month extension.

21 MR. MIRELES: No.

22 ASSEMBLY MEMBER BUCHANAN: I thought districts --

23 MR. MIRELES: The current process is that
24 districts submit an application --

25 ASSEMBLY MEMBER BUCHANAN: Right.

1 MR. MIRELES: -- for -- say for funding and they
2 have all the necessary plan approvals by the Department of
3 Education --

4 ASSEMBLY MEMBER BUCHANAN: Right.

5 MR. MIRELES: -- Division of State Architect, and
6 then they make the unfunded list. Now when cash becomes
7 available, the Board can make an apportionment towards a
8 particular project. Then after that apportionment, then the
9 district has -- in this case, it would be 90 days to come in
10 with a fund release request.

11 ASSEMBLY MEMBER BUCHANAN: Right.

12 MR. MIRELES: And under the current priorities in
13 funding mechanism, failure to do so within the 90 days would
14 put them at the bottom at the unfunded list.

15 ASSEMBLY MEMBER BUCHANAN: That -- okay. But
16 right now -- I mean what is -- if I'm requesting funding,
17 you know, you'd have to assume that I'm ready to go with the
18 project; correct? And I know that sometimes districts
19 aren't -- that you have to assume and then after that, they
20 have six months -- 180 days to sign a contract.

21 What is reasonable -- if I am requesting
22 funding -- okay -- there needs to be time to prepare my bid
23 documents and go out to bid and sign the construction
24 contract. So what is reasonable there? Because it seems to
25 me that part of what we're trying to do, when you look at

1 your last meeting last week, we had, what was it,
2 \$1.2 billion that we had committed to projects that was
3 sitting there because the projects -- we hadn't funded them
4 yet.

5 So what we're trying to look at here is how do we
6 make sure that we, one, get money to projects that are ready
7 to be funded and that are ready to begin construction in a
8 timely manner and we just don't have a billion dollars
9 sitting in float.

10 So, you know, I'm not sure 90 days is
11 necessarily -- if I have to prepare bid documents, you know,
12 to go through that process and award a contract, but there
13 should be some way of assuring that when projects move up to
14 this list, they're not just holding space hoping that
15 somehow everything works out and they get more developer
16 fees or they pass their next bond or whatever, but when they
17 move up to that point in that list, they are ready to be
18 funded.

19 MR. MIRELES: This is something that had come up
20 at the last Subcommittee meeting. There were some
21 statements that the current priorities in funding mechanism
22 allows instead of a 90 day, something on the order of about
23 150 days.

24 If you take a look at the initial notification to
25 begin a priorities in funding mechanism, then we give

1 districts 30 days to submit that certification. Then from
2 that time, it usually would take us another month to go to
3 the Board and provide apportionments and then after the
4 apportionments, there was the 90-day requirement.

5 So it was more along the lines of about 150-day
6 process, but that was something that was brought up at the
7 last Subcommittee in terms of discussing what is
8 appropriate. Is it 90. Is it something other than 90 days.

9 ASSEMBLY MEMBER BUCHANAN: And our float out there
10 that's the 1.2 billion, do we have any kind of statistics on
11 how much of that is a result of projects that have been
12 sitting there for one month, two months, five months? Do we
13 have any idea?

14 MR. MIRELES: We do have it based on -- the list
15 is sorted by Board approved date and then by received date,
16 so we can take a look and I think we have some projects
17 going back as far as 2008. Actually I have to take a look
18 at the refreshed list. But we do have that list available.
19 Actually it's in our Board books. I don't have that list
20 with me right now, but we can tell when they were approved
21 by the Board, when they were submitted to the OPSC and how
22 long they've been on the list.

23 Obviously the ones that have elected not to
24 participate in priorities of funding have been there longer
25 than the ones that have because they get off the list if

1 they get an apportionment.

2 ASSEMBLY MEMBER BUCHANAN: How long -- I mean
3 they're there since 2008. How long can they stay on the
4 list?

5 MS. SILVERMAN: Indefinitely until there's cash to
6 back them up. And to your point, I think when we initially
7 created this priority round in the fall, we had over
8 \$2 billion requested to compete with this money and
9 ironically we didn't know what was coming in from the bank.

10 And so if you look at that list at that time and
11 we had \$2 billion in requests, there was 26 percent of those
12 projects that are sitting on unfunded list that didn't come
13 in to compete.

14 So you're right. It speaks to your point, why
15 aren't those projects ready. I mean those projects at some
16 point in time are going to have to be rescinded and at what
17 point in time do you make that --

18 ASSEMBLY MEMBER BUCHANAN: Okay. And maybe it was
19 my confusion where I thought -- is the unfunded -- which is
20 the list where you can stay on 18 months and then have a
21 6-month extension?

22 MS. MOORE: There is no six-month extension --

23 ASSEMBLY MEMBER BUCHANAN: Okay.

24 MS. MOORE: -- in the program. In the past, it
25 was 18 month period.

1 ASSEMBLY MEMBER BUCHANAN: Okay.

2 MS. MOORE: And then we went to the financial
3 crisis and we suspended any requirements on the unfunded
4 list. So you could remain on that unfunded list until such
5 time as we had funding and then we created a separate list
6 that said those that are ready to go in 90 days, we will
7 apportion the cash to you.

8 So right now, we have a kind of two-party list in
9 that we have those that are in line but have never requested
10 cash and do not have a deadline on them and we have those
11 that have been apportioned from the funding that we've had
12 available to us.

13 At the last meeting that Mr. Harvey and I were at,
14 we -- there was the proposal by staff to establish -- to
15 continue on kind of as we are, having the -- well, actually
16 having the -- the list that is there that people haven't
17 moved off of and then having a separate list for those that
18 are ready to go at any point for 90 days.

19 I was the person that talked about why don't we
20 just shift the culture and the list to, you know, throughout
21 90 days. I think we're hearing a little bit about that --
22 permanently so that when the cash becomes available, we
23 don't have to go through funding rounds that take a lot of
24 staff time and take a lot of district time.

25 Now, the downside of that is it's less flexible.

1 It's less flexible to districts. Right now districts have
2 the greater flexibility of making the move when they are
3 ready to make the move.

4 But ultimately those that are sitting on the
5 unfunded list that haven't made the move are potentially
6 taking up bond authority.

7 CHAIRPERSON REYES: Mr. Harvey and then
8 Ms. Buchanan again.

9 SENATOR HANCOCK: Go ahead. Go ahead, Scott.

10 MR. HARVEY: Well, I simply wanted to go on record
11 as well as saying when we had our discussion last meeting,
12 we intentionally had no votes. We held everything open, but
13 I certainly endorsed what Member Moore had to say.

14 I believe that kind of cultural shift is
15 appropriate. Having a single list reduces redundancy and
16 confusion and the advantage of having a continuous
17 appropriation takes 30 days away from this clock where the
18 Board has to wait and then take action.

19 To me it had a lot of sex appeal. It had a lot of
20 advantages to us, to communities, to creating jobs and to
21 me, I'm hopeful we can have a consensus here to make that
22 kind of a recommendation to the full Board.

23 CHAIRPERSON REYES: Okay. Ms. Buchanan.

24 ASSEMBLY MEMBER BUCHANAN: I have comments, but
25 maybe we ought to wait and let them go through Options 2 and

1 3 and then finish our discussion. Does that make sense?

2 CHAIRPERSON REYES: Would the -- what is it --
3 90-day versus 180- is a standalone issue anyway regarding
4 the other options.

5 MR. MIRELES: Yeah.

6 CHAIRPERSON REYES: So that's kind of your
7 umbrella. Do you want to change regulations to go from 180
8 to 90 days and then you deal with the other options.

9 MR. MIRELES: Well, actually the first option is
10 to change it permanently to 90 days.

11 CHAIRPERSON REYES: Oh, okay.

12 MR. MIRELES: Option 2 is basically to keep the
13 current process of priorities in funding mechanism.

14 CHAIRPERSON REYES: I stand corrected. Thank you,
15 Ms. Buchanan. Okay. Go ahead. Ms. Moore, do you have --

16 MS. MOORE: It's more -- it's 18 months though to
17 90 days.

18 ASSEMBLY MEMBER BUCHANAN: Right.

19 MS. MOORE: So not 180 days.

20 CHAIRPERSON REYES: Yes. I'm sorry. Yes. 18
21 months. You're correct.

22 MS. MOORE: But we're hearing some belief that
23 maybe the 90 days is not the best policy decision if we're
24 going to move in that direction and maybe some more people
25 can address us on that.

1 CHAIRPERSON REYES: Okay.

2 MR. MIRELES: Some of the issues that came up that
3 we just talked about was the 90-day timeline, whether that
4 should be changed to something other than 90 days. The
5 results -- the issues that came up in terms of districts
6 that are on the unfunded list but would not be able to
7 submit a fund release request within the 90 days, whether
8 the Board would want to consider them on a case by case and
9 then when does this -- when would this take effect.

10 You know, do we do it prospectively after the
11 regulations become in effect. So those are some of the
12 issues that came up in terms of the changing it to a
13 permanent 90-day.

14 Option 2 was basically to keep the current system,
15 and again the current system is announcing a priorities in
16 funding round and then requesting certification from school
17 districts that they come in within 90 days if they receive
18 an apportionment. We identify the cash that's available at
19 that time, but this option modified it a little bit to time
20 the priorities in funding round a little better and to
21 identify minimum cash thresholds.

22 So when do we want to announce the priorities in
23 funding round. Do we align it with possible sale of the
24 bonds. Do we wait until we get a certain amount of cash
25 that's available.

1 So this one basically changed the system a little
2 bit to time it better with, you know, when cash is
3 available.

4 And we had a discussion about this. There were
5 some issues raised about the amount of time and work as
6 Ms. Moore mentioned in terms of the staff time and district
7 time to submit this. They need certifications.

8 There was also some discussion about if we keep
9 this system whether we want to address the ones that -- as
10 Member Buchanan mentioned earlier -- in terms of the ones
11 that are on the list and have no definite time. They could
12 stay on the list for a while.

13 There was a -- the comment that was raised and
14 whether we want to plug the clock back in if you will for
15 all projects that are on the unfunded list that they have
16 18 months to come in and participate and we give them the
17 18 months, but when we get down to the three months, we
18 freeze that timeline and then require them to come in and
19 submit a certification to participate in the priorities in
20 funding round.

21 So that was a comment that was made whether we
22 keep the system. If we do it, then do we encourage all the
23 districts that are on the unfunded list to move forward by
24 plugging the clock back in.

25 So this is something that the committee wanted to

1 come back and discuss when we had the full membership. That
2 was Option 2.

3 Option 3 was a cash leveraging model. Basically
4 it would be providing apportionments in excess of cash
5 available. The members that were here didn't support this,
6 but again because there was no votes, we wanted to keep on
7 for the full membership to discuss.

8 And then the last issue that we discussed was
9 basically selective ordering based on the ability to provide
10 full apportionments. What that means is when we have --
11 when we don't have enough cash to fund the next project in
12 line, what do we do. Do we offer partial funding? Do we
13 wait until cash is available to fully fund the next project.

14 We had a discussion on this issue. I think some
15 of the members did consider that partial funding would be
16 acceptable, but this was something that we also -- that the
17 Subcommittee also wanted to bring back and have a further
18 discussion with the full membership.

19 Those were the options that were discussed at the
20 last meeting. I'd be happy to answer questions on any of
21 those options before we get into the new topics.

22 CHAIRPERSON REYES: Members. Ms. Buchanan.

23 ASSEMBLY MEMBER BUCHANAN: I have -- my biggest
24 problem is having \$1.2 billion out there waiting for
25 projects and I really do believe that when voters pass a

1 bond for school construction, they want to see the money
2 utilized and their facilities upgraded as soon as they can.

3 And so it seems to me option -- I mean you could
4 manage it on a cash flow basis, but clearly the Department
5 of Finance doesn't like Option 3. I mean you could look at
6 how much float you're going to have out there and never
7 authorize more than your total bonded indebtedness, but, you
8 know, recognizing that you always have -- maybe take 50 or
9 75 percent of what you always have outstanding and try to
10 get more money out there.

11 So I go back to Option 1 but wanting to know if
12 there isn't some sort of hybrid. It doesn't make sense to
13 me that projects stay on the list for two or three years.
14 Either you're ready to move forward with them or they
15 shouldn't be taking up space.

16 You know, there should be some time limit in which
17 you say, you know, we're not ready to move forward with this
18 project and you resubmit it at a future date.

19 I don't know -- I mean and I know that districts
20 have to sign saying they're going to be under contract
21 within a specific period of time. So I don't know what's
22 reasonable, but I would wonder if there's some way we could
23 have, you know, a little bit of the two -- a list and -- you
24 know, that the 18-month list, but districts could move
25 themselves up and -- similar to what we're doing with

1 priority, but on a going-forward basis, they could move them
2 up to the list that's ready to be funded and then when you
3 get down to the three months, they're notified that they
4 either submit the funding request or they, you know, drop
5 off the list.

6 But somehow we've got to be able to move money to
7 projects that are ready to be bid and built and not have
8 projects just stay on this list for extended periods of
9 time.

10 CHAIRPERSON REYES: Okay. Mr. Harvey.

11 MR. HARVEY: No. I just want to say
12 hip-hip-hooray.

13 CHAIRPERSON REYES: Hip-hip-hooray. Finance.
14 Finance staff. Chris, identify yourself.

15 MR. FERGUSON: Chris Ferguson, Department of
16 Finance. We would support that type of bona fide option.
17 We do have that caveat though that we're concerned with the
18 smaller districts, the poorer districts per se. Part of
19 that is bonded indebtedness at the local level.

20 The districts have eligibility to have projects
21 they want to move forward, but given the property valuations
22 in that district, they're unable to sell their local bonds
23 to provide that match.

24 So we want some flexibility in there for those
25 districts, but for the vast majority of districts that have

1 current staffing, current resources to move forward, we
2 would support a 90-day option for them.

3 CHAIRPERSON REYES: Ms. Moore.

4 MS. MOORE: How long do you think we can afford to
5 wait for assessed valuation to come back?

6 CHAIRPERSON REYES: That's a loaded question.
7 That would be a good investment opportunity if anybody knows
8 that answer I think.

9 ASSEMBLY MEMBER BUCHANAN: A long time.

10 MS. MOORE: Because -- maybe it's rhetorical in
11 that if we --

12 MR. FERGUSON: But that said --

13 MS. MOORE: -- hold out funds for locals to
14 recapture assessed valuation, I think that could be -- I
15 mean who can say when that will be versus others that may be
16 ready to move forward and what's the balance.

17 CHAIRPERSON REYES: But you're talking about just
18 cash poor districts that have limited ability. Even in the
19 height of the market, they're still a poor district. So the
20 real estate has really no impact on it in terms of, you
21 know, the timing. It's just that they would otherwise have
22 been poor anyway and their ability to -- we can all think of
23 districts or cities that their ability to go out there and
24 generate revenue would always be questionable.

25 So how would you address those even with the

1 hundred and -- or the 18 month though?

2 MR. FERGUSON: Well, part of providing those
3 districts greater than 90 days is they may not have a
4 dedicated staff person that's full time in facilities. They
5 can do the contract and -- easily. Smaller districts tend
6 to have fewer administrative staff. Larger districts tend
7 to have more administrative staff and have the ability to do
8 that.

9 For example, a smaller district may be less able
10 to deal with big challenges that come in when they bid those
11 projects than a large district that has done numerous
12 projects, that's been through the process multiple times.

13 That would be sort of our reasoning for providing
14 those districts a little bit more flexibility than the
15 larger districts.

16 CHAIRPERSON REYES: Mr. Harvey.

17 MR. HARVEY: Can I build on something that Juan
18 indicated during his comments on this whole question and
19 that was there was a process or is a process under our
20 current apportionments where those kinds of districts do get
21 planning and help money up front. It's then deducted from
22 the grant itself.

23 There could be a replication of that to at least
24 assist the dollar side of it. It doesn't address, Chris,
25 your lack of staff or part-time staff. But again we could

1 have a cutoff for districts that have certain criteria and
2 give them a little bit more time -- some more time to submit
3 because I think the beauty of what we're trying to craft is
4 that it doesn't discriminate necessarily except for that and
5 it moves the money when it's available and it creates the
6 jobs. It makes the schools safer on a more timely and
7 expeditious way.

8 CHAIRPERSON REYES: Expeditious, yes.

9 MR. HARVEY: So I'm certainly open to having some
10 kind of a carve-out, but I certainly don't want to obviate
11 the other overarching policy.

12 CHAIRPERSON REYES: Ms. Moore and then
13 Ms. Buchanan.

14 MS. MOORE: I'm sorry.

15 CHAIRPERSON REYES: Okay. Ms. Buchanan.

16 ASSEMBLY MEMBER BUCHANAN: If we had a hybrid
17 where they could move themselves up to the 90-day list when
18 they were ready, that would then expedite funding for them.
19 I mean I would suggest that on the one hand, there is a
20 potential downside assuming these districts are not getting
21 up-front planning grants which they should be getting, but
22 there's a downside to them as well because if they're on
23 this list and you've got a billion dollars in projects out
24 there that have been funded and they're not moving towards
25 construction fast enough, then every project, whether

1 you're, you know, a traditional project or a financial
2 hardship project, every project is waiting longer to get
3 funding.

4 So it really depends on where you are in the list,
5 but the whole idea from my perspective is not -- that's why
6 I'm proposing that -- sort of an A and a B list here is that
7 once you're ready to get funded, those are to go to
8 construction and those projects should be the highest
9 priority to be funded.

10 Because I don't know how other than that we
11 really -- you know, we keep --

12 CHAIRPERSON REYES: Right.

13 ASSEMBLY MEMBER BUCHANAN: -- adding on and making
14 things more I think convoluted than they need to be.

15 CHAIRPERSON REYES: Right.

16 ASSEMBLY MEMBER BUCHANAN: And the whole idea is
17 let's get money to the projects ready to be funded. If we
18 need to do something to help with financial hardship grants
19 for planning or whatever, we should treat that separately so
20 those projects get ready to be funded, but we want to be
21 able to get money out the door.

22 CHAIRPERSON REYES: Mr. Mireles, you're dying to
23 make a statement.

24 ASSEMBLY MEMBER BUCHANAN: Yes.

25 MR. MIRELES: Mr. Chair, the way we would envision

1 this working is if we adopt this, whether it's 90 days or
2 some other day, but the permanent -- the requirement to come
3 in permanently, basically we go down the list. We have on
4 it on a funded list now. We have cash available. We would
5 offer -- we would apportion the projects in order of that
6 list and then they would have the 90 days to come in.

7 There could be an option to allow for say a
8 one-time opt out. These districts that may be aren't ready
9 but they will not be ready to move forward, that --

10 CHAIRPERSON REYES: When they're time comes, they
11 can go -- try to give their space and go back.

12 MR. MIRELES: They can say, you know, right now
13 I'm not ready, but --

14 ASSEMBLY MEMBER BUCHANAN: Are they going to
15 extend it for six months or something, you know.

16 CHAIRPERSON REYES: But they don't tie up the
17 resources though. These kind of go back to some other place
18 in line. Not necessarily at the bottom of the line, but
19 someplace in line so that hopefully in the next round they
20 will then be ready to participate.

21 MR. MIRELES: Yeah. But something -- they can
22 consider something like that to give those districts that
23 aren't ready at least an opportunity --

24 CHAIRPERSON REYES: And they have one shot at it.

25 SENATOR HANCOCK: So my rhetorical question to you

1 is if they've been on the list on 18 months and they're not
2 ready, what --

3 CHAIRPERSON REYES: They'll never be ready.

4 ASSEMBLY MEMBER BUCHANAN: Well, I'm not saying
5 they're never going to be -- but I'm just saying what -- you
6 know is it the fact that -- I mean what's holding up the
7 project. It's -- 18 months is -- they -- all their plans
8 have been approved; right? You're at the point where you're
9 theoretically if you have the money, you're ready to go with
10 it. Now you've been on the list for 18 months. I mean
11 what's more -- I mean what's going to change.

12 You know, and why not -- I mean like I said I --
13 we can either continue doing what we're doing or we can say
14 you can stay on that list for 18 months. Within 18 months,
15 anytime you're ready to be funded, you move up to the A list
16 and those are the ones we fund first and you just then move
17 forward.

18 CHAIRPERSON REYES: Ms. Moore.

19 MS. MOORE: Are you proposing that on a -- for
20 those that are on the list now, kind of that's -- they get
21 this deal, but that those that get on the list from now
22 until the future, this is the lay of the land and it is
23 whether it's 90 days, whether it's 150 days, that they're
24 ready -- when funds come, that they're ready to go to
25 construction?

1 ASSEMBLY MEMBER BUCHANAN: I think I --

2 MS. MOORE: Or are you still doing an A/B list?

3 ASSEMBLY MEMBER BUCHANAN: Well, I think what I'm
4 saying is that you can be on the list for 18 months as you
5 can today, but you create a second list that people move to
6 in order -- I mean if you have three coming in the same day,
7 I would request -- I would put them in in the order they're
8 on the list, but you have a second list that says -- you
9 know, basically like your priority funding, on an ongoing
10 basis that says -- I'm -- whatever -- Valley School District
11 and I notify you that I'm ready to start construction and
12 you move up to the 90-day list and we fund from the 90-day
13 list.

14 So that clearly the money's going to those
15 districts that are ready to get the money out right away,
16 but you're not losing your spot on the 18-month list.

17 MS. MOORE: I see that. My only concern is this
18 and that's why I said it at the last meeting. I think the
19 more lists we create, the more confusion we potentially have
20 and also the greater -- you know, there's a greater
21 possibility of mistake and error.

22 I didn't get moved to the list that I should be on
23 and I'm on this -- and that was my concern. I thought if we
24 had a list, people knew what the rules were, the rules have
25 had to change, whether it's -- you know, we know that the

1 18-month rule does not work anymore. What is the
2 appropriate time. It may not be 90 days, but maybe it's
3 150, it's 180, whatever that time period is, that coming
4 into the system you know that and that you can plan
5 accordingly.

6 It's a little tougher planning schedule because
7 you don't know when the cash infusions are, but when the
8 cash infusion comes, you have that time period to get your
9 project out to bid.

10 I'm concerned -- and maybe, you know, we should
11 just continue with how -- it's been a successful program to
12 have the priorities in funding. But it does create
13 additional work and I'm concerned that we have all these
14 lists out there that are hard to track to know where you are
15 and create -- I don't know -- potentially create confusion.
16 But there's going to be an interim time period of the
17 projects that may be sitting on the list that haven't gone
18 for the cash yet, that they need some additional time to
19 create their status.

20 I'm interested more in a shift into a permanent
21 culture of how does it work now.

22 CHAIRPERSON REYES: It looks like I have a
23 gentleman from the public who wants to make a comment. So
24 if you want to grab one of those microphones, go ahead.

25 MR. GIBBS: I want you guys to know I've got the

1 answer.

2 CHAIRPERSON REYES: Okay.

3 MR. GIBBS: I'm Gary Gibbs, California Building
4 Industry Association, and we have no strong opinion here
5 other than I just wanted to kind of give an idea or a
6 thought -- you know, a solution here that might work or kind
7 of meets everybody's needs.

8 But again it's up to everybody what they want to
9 do. First of all, I like number 2 in terms of priority
10 funding. I think that was a great program you guys
11 implemented. I think it's really successful. So let's not
12 throw the baby out with the bath water. I mean it's working
13 really well.

14 But we also have another program which is just as
15 good and has been just as successful and that was SB15 and
16 that was the 18-month timeline. So why don't we just marry
17 those back together. It's real simple. You just unplug the
18 18 months. Just unplug it and everyone goes forward.

19 You're not discriminating against anyone in terms
20 of time. They move up in date order all the way and then
21 when -- somebody who hasn't got funded yet is still on the
22 unfunded list. When they get to like three months, you
23 unplug them. They stop.

24 So everybody's in date order, moving up. They
25 have to go for funding within the 18 months. We haven't

1 changed anything in terms of existing statutes or
2 regulations and we've married it with the existing program.

3 And so I think that could really work and what
4 we're creating here on the other side is I did do some
5 numbers. You have, for example, \$160 million of
6 applications sitting there on the unfunded list that are 18
7 months or more. You have 70 million that's three and a half
8 years or more on the unfunded list.

9 And so my bigger concern is that districts are
10 going to go in. They're going to file for an application
11 for apportionment knowing that they don't really have to be
12 funded forever. And they'll just sit there in that line in
13 order.

14 So somewhere if you unplug it, you create the
15 integrity and maintain the integrity of the old program.
16 Everyone knows now it's 18 months going forward and when the
17 next funding cycle comes in, if they've hit that three
18 months, they're going to be funded or they're going to be
19 rescinded.

20 And we need to rescind the applications. We've
21 destroyed the integrity of the program I think by allowing
22 people to go to the bottom of the list. Either they build
23 the school -- under the normal program after 18 months, if
24 they decide not to build the school, that application is
25 rescinded, and they have to go -- they go off the list and

1 have to start again.

2 There needs to be a penalty for those people that
3 are gaming the system.

4 So anyway there -- again those -- that's just a
5 thought to try to make it all work simply.

6 CHAIRPERSON REYES: Mr. Mireles, do you have a
7 comment on that?

8 MR. MIRELES: That was part of the proposal that
9 came up last month and it's part of what we have outlined
10 today. We do understand that there are some concerns that
11 districts don't have an incentive to come in, so we
12 understand that this would be plugging them back in meaning
13 that they do have to come in within 18 months and receive an
14 apportionment.

15 The other thing that we also recognize is that
16 projects that may not be moving forward are taking up scarce
17 funding authority, so at this point, we don't have a
18 position, but we do understand the proposal.

19 CHAIRPERSON REYES: Chris.

20 MR. FERGUSON: I think that's a workable proposal
21 from our standpoint. Effectively you get the 18 months. It
22 draws down to 90 days. At the point of the 90 days when the
23 next funding cycle does occur, it's use or lose it
24 effectively.

25 MS. MOORE: But you still --

1 CHAIRPERSON REYES: Ms. Moore.

2 MS. MOORE: Oh, I'm sorry. You still have a --
3 are you proposing -- how would you move from the unfunded
4 list to the 90-day list. Do you still have to take an
5 action to do so?

6 MR. FERGUSON: So --

7 MR. GIBBS: (Indiscernible-away from microphone) I
8 would say -- they stop -- they stay on the unfunded list,
9 but they just -- they stop (indiscernible) three months. So
10 there's no new list. They just move up.

11 MS. JONES: We're not going to hear you.

12 MR. GIBBS: Oh, well, that's okay.

13 MS. MOORE: Well, let -- I think let me restate it
14 then. So we have an unfunded list. We get cash. We go
15 down that list for the cash which means that districts
16 didn't have a choice. We went down that list and you have
17 to be out to bid within 90 days or what?

18 MR. FERGUSON: The project would be rescinded.

19 CHAIRPERSON REYES: At that point, you get dropped
20 from the list altogether.

21 MR. GIBBS: Yeah, you get --

22 MR. FERGUSON: Correct. So you can have 18 months
23 to do your -- if I understand this correct -- to do your
24 planning, to prepare the bids for award, but once you do
25 receive an apportionment, you have 90 days from that point

1 till you move forward or rescind the project.

2 CHAIRPERSON REYES: So you're basically saying I
3 have a project ready to go, put me on. We put you on the
4 list. Time goes on. When you get to a certain point and we
5 say cash is here, you got 90 days to react and if you were
6 just holding a spot -- a place in the line just to hold it,
7 you get called out on it and you're kicked out of it.
8 Because you go back to your point of the 90 days.

9 MS. MOORE: I'm still a little confused
10 administratively how that would work.

11 CHAIRPERSON REYES: Can it be done
12 administratively? I look to the Executive Officer.

13 MS. SILVERMAN: Well, I think the core issue is do
14 you apply that prospectively because like Gary pointed out,
15 those projects have been sitting there for quite some time.
16 And so to me if you still go in the date order received,
17 concept -- when there's cash available, it's either move it
18 or lose it and I think it could be done.

19 But there is no 18 months on the unfunded list.
20 That is not defined anywhere. There is no 18 months --

21 MR. GIBBS: No, but -- no. The old projects that
22 are 18 months or older, immediately -- they're -- you don't
23 change them. They just go to the top and when the next
24 funding comes in, they're funded or they lose it.

25 The ones that are say a year -- who have been on

1 the list for a year, then when we unplug the date, they
2 start that from that point, 12 months out. So they only
3 have six months more.

4 So you just move everybody up. If there's no --
5 if they've been there -- on there more than 18 months, then
6 they have to build at the next cycle.

7 MR. HARVEY: So, Gary, what you've done, you blow
8 away the unfunded list. That goes away and you go back to
9 the 18-month list --

10 MR. GIBBS: No, I --

11 MR. HARVEY: -- and use it?

12 MR. GIBBS: Yeah. Keep the unfunded list. Just
13 move --

14 ASSEMBLY MEMBER BUCHANAN: He's saying for those
15 projects that are 18 months -- have been on there for 18
16 months or longer, they either at the next funding cycle get
17 funded or they go off the list, but they're not allowed to
18 stay there for three or four years waiting to be funded,
19 which I don't understand even with DSA. At what point in
20 time are their plans still valid. I mean -- you know, so
21 the question is --

22 CHAIRPERSON REYES: When the kids graduate from
23 high school.

24 ASSEMBLY MEMBER BUCHANAN: Yeah. There are always
25 some kids waiting to graduate. So I think that's what

1 you're saying is, you know, the subsequent funding round,
2 you say, okay. We're going to process these in date order,
3 but if you're more than 18 months and you're still not ready
4 to be built, then you're going to have to go off and reapply
5 again.

6 So you're trying to get the projects down to a
7 true 18-month list where you're funding the most current
8 projects.

9 MR. GIBBS: And then those, for example, that are
10 filed an application for apportionment 12 months, their
11 clock is unplugged too. So they'd only have six months
12 left.

13 ASSEMBLY MEMBER BUCHANAN: So then are you -- did
14 I also hear you say that you would -- currently they have,
15 what, 180 days to go out and bid and sign a contract. You
16 would keep that at 90?

17 MR. GIBBS: -- keep that at 90 because everyone's
18 aware --

19 MS. MOORE: They currently only have 90.

20 MR. GIBBS: I like the 90. It's working.

21 ASSEMBLY MEMBER BUCHANAN: Okay. 90. Okay.

22 Right.

23 MR. GIBBS: It's working for --

24 ASSEMBLY MEMBER BUCHANAN: Under the priority,
25 they have 90.

1 CHAIRPERSON REYES: Ms. Moore.

2 MS. MOORE: What if I'm a project that has been on
3 the list for six months. So all the 18 monthers are ahead
4 of me. Everybody's ahead of me until I'm at six months,
5 but -- and you come down to me to get funded. What -- are
6 you saying I have a choice to sit there for another 12
7 months and skip over this funding round which somehow I have
8 to communicate that to the -- that's what I'm talking about
9 administratively.

10 How do I -- I have to communicate that. Currently
11 we have a priorities in funding round, which was successful
12 and it said tell us in 30 days whether you're ready to go in
13 90 days, essentially and so I'm just waiting to hear
14 administratively how would you handle someone that's not
15 ready to go but they're not an 18 monther that has to go.

16 MR. MIRELES: That's something that we'd have to
17 work out and one of the examples I was going to bring up is
18 the Board has modified the list to move facility hardships
19 to the top of the list.

20 So you could have a facility hardship project that
21 was recently approved by the Board, hasn't been there very
22 long, but technically they are at the top of the list. So
23 we would have to come up with a mechanism to address those
24 projects that they're recently approved by the Board, but
25 the Board considers them to be health and safety projects

1 and they wanted to get priority in terms of cash being
2 available. And so that's something that we would have to
3 work out.

4 CHAIRPERSON REYES: Go ahead.

5 MR. GIBBS: You know, they've been on it six
6 months. They just filed. They have another 12 months. I
7 think you maintain the integrity the eight months, but I
8 don't think there's any right answer here, but in the sense
9 that if there are some projects below them that want to be
10 funded and start sooner, then we give them that right and
11 we're not affecting at all the 18-month statute which is
12 they've got 18 months --

13 MS. MOORE: Here's what I would --

14 MR. GIBBS: It doesn't really matter --

15 MS. MOORE: I think as I said before -- and my
16 head swirls thinking about this, but -- and I can imagine
17 for school districts. If we're going to move in that
18 direction, I think that districts have now had a year or
19 priorities in funding -- that it's kind of a modified
20 priorities in funding.

21 We're saying that the -- we take the time --
22 unending time limit off of the unfunded list. You're saying
23 place it at 18 months and then we still have priorities in
24 funding.

25 So it's an opt-in game and if you are 18 months

1 out and you don't opt in, you're out, is what I'm hearing.
2 It's more of a modified priorities in funding round as
3 opposed to a permanent change of -- you know, we're now at
4 you bid within five months of being apportioned or you bid
5 within 90 days of being apportioned which was the old -- you
6 know, the old system was you didn't have to opt in or out
7 after you got on the list. You just got funded.

8 MR. GIBBS: Yeah, well that --

9 MS. MOORE: Okay.

10 CHAIRPERSON REYES: So -- go ahead, Scott.

11 MR. HARVEY: The very appealing thing to me,
12 however, is moving the dead wood. I mean I'm surprised to
13 hear the dollar amounts that are on that list more than 18
14 months and some -- 70 million if I hear you correctly --
15 three years.

16 They are, to use Ms. Moore's statement, taking up
17 bonded indebtedness. They're taking up space. So I'm
18 intrigued about that aspect of your proposal, but I share
19 the concern about the shift to something yet again in a
20 year's time.

21 I like the simplicity of a single list, the
22 cultural change, 90 days, but I certainly am also interested
23 in trying to make sure we get rid of those that are just
24 taking space. And I don't know if we can build that into
25 what we want to talk about too somehow.

1 Do you have any comments, staff?

2 MR. GIBBS: But I -- the 90 days works too. I was
3 just trying to cradle (indiscernible).

4 MS. SILVERMAN: You know, I mean in concept you
5 can split it up two way. I mean the projects that get on
6 the unfunded list, prospectively they now have a new
7 18-month requirement. I mean that's kind of one way to
8 think about that.

9 And sooner or later -- you're right. I mean from
10 this point forward, you know, do you clearly give everybody,
11 you know, a kitchen timer. Here it is. Here we go. This
12 is from this point forward, we're going to do it this way.

13 And projects that are on the unfunded list
14 obviously have a date in time in which you're coming up in
15 the 90-day timeline. It's cash received. Are you ready to
16 go or not.

17 I think we can get there. I just -- we can create
18 a way of administratively how we pull projects that are not
19 ready to go, you know, that are outside the 18-month
20 timeline or perhaps your younger projects. I think we
21 can -- once we move forward as a Subcommittee, then staff
22 can go back and think about all the administrative ways we
23 can try to make it work.

24 MR. HARVEY: How are you doing about the dead
25 wood?

1 MS. SILVERMAN: Well, I think the dead wood
2 obviously would have to be something that in concept, you
3 know, put it writing as far as what kind of examples we may
4 have to share, you know, maybe at another Subcommittee or to
5 the full Board of how this could work.

6 CHAIRPERSON REYES: Ms. Buchanan.

7 MR. HARVEY: Thank you.

8 ASSEMBLY MEMBER BUCHANAN: I -- you know, the fact
9 that some projects have been on there for three years to me
10 is just -- it doesn't -- I mean when you talk about -- even
11 if we have just one single list, when you talk about the
12 integrity of a list, how can -- I mean what happens to that
13 integrity when a project's on there where they have no --
14 there's no ability to fund that project. You know, because
15 districts don't know.

16 I mean I think there should be one list and I do
17 think there should be a way of, quote, removing the dead
18 wood and if you need to think about, you know, what that
19 should be in terms of a time frame, but if you know when you
20 go on that list, you know, you have 18 months, that to me --
21 that's a year and a half. I mean districts should have some
22 idea of where they're going to go and they shouldn't -- I
23 don't think you should remain there indefinitely especially
24 when I think some of these projects -- I don't know how long
25 your DSA approval's for.

1 So I -- and I know we're talking about going
2 forward, but I think even going forward, if you notify
3 districts and say we have a change in policy here, we're
4 going to keep projects on for 18 months, we're going to
5 allow for some kind of grandfathering or something that's
6 reasonable, at which time we're going to, you know, remove
7 projects, then I don't -- I think that is reasonable to do
8 because, you know, especially given where we are with the
9 economy today and everything.

10 So -- and I think I go back to Ms. Moore's
11 question about if you're waiting for housing markets to turn
12 around or whatever, I mean there's too much out there,
13 but -- you know, one thing we know for certain under an
14 18-month list is, you know, you're encouraging people to
15 receive funding at the time they're ready to bid a project
16 and that's the whole intent of the State Facilities Program.

17 CHAIRPERSON REYES: I think I'll do an anecdotal
18 comment. In terms of the market in some of those
19 neighborhoods where there are needs for schools, one would
20 have to question the current need for schools given the
21 number of homes that went up in foreclosure where in fact
22 you have nobody there now.

23 So we wait for that -- for those kinds of time
24 delays. Your data's not as good as it was when their
25 original needs were projected. You have a different

1 population living there, but it may not be the same group of
2 folks.

3 So can we -- you know, we came to talk about the
4 90 versus 18 months issue and then we then started the
5 conversation about dropping the, quote/unquote, dead wood.
6 We would need to amend the regulations if we went from 90
7 to -- from 18 months to 90 days; is that correct? Would we
8 also need to amend the regulations to drop folks from the
9 program altogether so that -- does it need to be -- I guess
10 the question is does it have to be one action or can we
11 bifurcate.

12 Ms. Moore, are you comfortable with the dropping
13 the dead wood concept? You expressed a little bit of
14 concern, but I'm not sure if you landed there yet or you
15 still have that concern.

16 MS. MOORE: I don't like referring to them as dead
17 wood. I'm comfortable with ending an unending list, yes,
18 because I do think that either the local district is able to
19 move that project forward or they're not. And if they're
20 not able to at this time, all a district that is to move
21 forward and get back in line when it works for you.

22 Yes. I think we should give them some time to --
23 you know, to be knowledgeable of those kinds of decisions.
24 So I'm comfortable with --

25 CHAIRPERSON REYES: Okay. You're comfortable with

1 dealing with all that are --

2 MS. MOORE: -- that -- dealing with that list
3 because they are taking up bond authority and I think bond
4 authority is going to become very valuable.

5 CHAIRPERSON REYES: Okay. The question I have for
6 staff is I'm sensitive to the issues that Finance raised in
7 terms of the smaller, less technical savvy districts. For
8 instance, we know of a district who had a person at the last
9 State Allocation Board meeting was able to come up and say,
10 yeah, let me make a call and see whether or not we can cut
11 the deal.

12 The smaller districts don't have the level of
13 resources, let alone level of resources to provide for this
14 and I understand that we don't want to delay the process. I
15 mean they need to be able to come up with some thing and
16 whether you give them 18 months or 90 days, they still have
17 to come up with something.

18 Would there be a process whereby we could protect
19 the small districts? And I don't know what that definition
20 is of a small, poorer district. I mean I'll look to you for
21 the experience in identifying because if we go this route
22 and we keep the smaller districts out, we will never hear
23 from them because they will never be on the --

24 ASSEMBLY MEMBER BUCHANAN: But the small districts
25 are on that list now; right? They're on a list saying that

1 they're ready to be funded. These aren't districts that
2 don't have the ability to get their projects to the list.
3 We're talking about the projects that are on the list.

4 So if you want to help districts get to that list,
5 then you -- we should have a better way in our -- maybe a
6 different way of dealing with financial hardship to give
7 them that planning money up front, but there are small
8 districts --

9 CHAIRPERSON REYES: The ones that say they're
10 ready to go and that's within the list.

11 ASSEMBLY MEMBER BUCHANAN: -- that maybe -- and
12 maybe it's taken them longer to get there, but now they're
13 there waiting for their funds and they're at the mercy of a
14 list just like everybody else and what we're trying to do is
15 be able to move the money to --

16 CHAIRPERSON REYES: To clean that list and move it
17 fast.

18 ASSEMBLY MEMBER BUCHANAN: -- projects that are
19 ready go to.

20 CHAIRPERSON REYES: Chris.

21 MR. FERGUSON: I understand your concern. I just
22 note that you have some smaller districts that may not be
23 able to meet the 90-day certification. They can move
24 forward with the project and they will move forward with the
25 project, but they may be uncomfortable as it is assigning a

1 90-day time.

2 MS. MOORE: I --

3 CHAIRPERSON REYES: Ms. Moore.

4 MS. MOORE: I hear that and in fact after the last
5 Board meeting I just asked around a bit about okay, what --
6 if it's 90 days, what is it and why. And part of the input
7 that I got back is because of the incredibly competitive bid
8 environment that we're in.

9 There are times that -- there are more times now
10 than there were in the past that we have bid protests and
11 bid protests take a little bit of time to work out. And I'm
12 wondering if, if we're going to make -- if we're considering
13 a permanent change to our regulation from 18 months and one
14 that we don't have priorities in funding anymore if maybe it
15 is a more appropriate, say, 150 days.

16 And so we gave them a little more time. Those
17 smaller districts know -- all districts know. Smaller
18 districts had to deal within the 18-month time frame
19 previously before. We didn't give them an exception. We
20 didn't give anybody an exception.

21 So if we shift the time frame in which everyone
22 has to go to bid, you know, let's pick the best one and
23 perhaps it's 150 days as was -- I think staff expressed the
24 actual time of those priority funding rounds really come out
25 to be 150 days. So I mean that's food for thought.

1 MR. HARVEY: I want to comment.

2 CHAIRPERSON REYES: Mr. Harvey.

3 MR. HARVEY: Yeah. I certainly see where you're
4 going. I have no major heartache, but could we not take
5 30 days off that clock because we had the 30-day timer as we
6 waited for our monthly meetings to make the apportionment
7 and if we're not having to wait for that stage, could we not
8 condense it somewhat. Another thought.

9 MS. MOORE: I'm --

10 CHAIRPERSON REYES: I have 18 months. I hear 150.
11 Is there a 90, 91, 20 -- do I hear --

12 MS. MOORE: I'm actually really interested to hear
13 what school districts have to say and it's -- if any school
14 district can provide their insight, I think it's relevant to
15 the discussion.

16 CHAIRPERSON REYES: I think we're at a point where
17 we'll take public comment because you've heard where we are
18 on this and if you could share what it is that you -- if
19 there's anybody here that wants to comment, you're welcome
20 to come up, please.

21 Okay. We need to make one single line, please.

22 Ms. Moore.

23 MS. MOORE: I'm sorry. I'm good.

24 CHAIRPERSON REYES: Okay. So we toyed with the
25 90. We toyed with 150 to address the smaller districts who

1 may have an issue. We then went back to potentially 120
2 days. It is clear that everybody wants to walk away from
3 the 18 months.

4 MR. HARVEY: Yes.

5 CHAIRPERSON REYES: So I will entertain a
6 motion -- and all this is is recommendation to the entire
7 Board. It is not -- it's still up for discussion at that
8 level, but at least we can go forward with a recommendation
9 by the Subcommittee. Is there a motion for 120 days?

10 MR. HARVEY: I would move 120 days.

11 CHAIRPERSON REYES: We have a motion. Do we have
12 a substitute motion or do we have a second?

13 ASSEMBLY MEMBER BUCHANAN: I'll second that.

14 CHAIRPERSON REYES: We have a motion and a second
15 that we move from 18 months to 120 days. And then we talked
16 about does the motion include the provisions for taking them
17 off the list when they get to that point.

18 MR. HARVEY: My motion would be to direct staff to
19 come up with that process. They said they wanted to take
20 whatever direction we gave them today to work on, some
21 options or a more complete discussion.

22 Again I hear sympathy for doing something about
23 that and I would just ask staff to hear that and then give
24 us --

25 CHAIRPERSON REYES: So let's bifurcate -- let's

1 bifurcate then. Do it 120 days and then the second would
2 now be a motion to give direction to staff to come back with
3 recommendations on how to go through that process that
4 Ms. -- process. Ms. Buchanan, is that --

5 ASSEMBLY MEMBER BUCHANAN: And I don't want to
6 complicate things, but if indeed you have a bid protest that
7 details it, I mean it seems to me there ought to be some
8 reasonable --

9 CHAIRPERSON REYES: Safety valves in place.

10 ASSEMBLY MEMBER BUCHANAN: -- some sort of safety
11 valve, but it needs to be somewhat specific so it's not
12 because we didn't get around to sending the bid documents
13 out or we didn't have a date by which the bid documents had
14 to be received.

15 But there ought to be some way that if a district
16 legitimately gets its project out to bid, gets all the bid
17 documents out, awards it, and then has a bid protest --

18 CHAIRPERSON REYES: Okay.

19 ASSEMBLY MEMBER BUCHANAN: -- they're able to deal
20 with that.

21 CHAIRPERSON REYES: Is everybody with that? Okay.
22 All in favor of that say aye.

23 (Ayes)

24 CHAIRPERSON REYES: Opposed/abstains? Okay.

25 Staff has direction. Thank you.

1 The next item, Ms. Silverman.

2 MS. SILVERMAN: Staff will present.

3 MS. KAMPMIENERT: Beginning on page 4 are our new
4 topics for the Subcommittee. So there are two sections to
5 the remaining new construction bonding authority and other
6 areas where bond authority may potentially be able to be
7 transferred and then the second piece of that is the fiscal
8 crisis regulations and the Board has enacted and extended on
9 a temporary basis.

10 With regards to the remaining new construction
11 bonding authority, it's come up a couple times in the
12 discussion. As this account was being depleted, there may
13 be other areas within the School Facilities Program that
14 Board members wish to look at moving the funds from one
15 place to another.

16 So we focused in this item on the three accounts
17 that have the most bond authority remaining and that is the
18 Seismic Mitigation Program, the Overcrowding Relief Grant
19 Program, and the Modernization Program.

20 Now, what we've done in this item is we've
21 outlined the amounts in those programs. Seismic Mitigation
22 currently has about 194.8 million is unused bond authority.
23 This bond authority could transfer by Board action because
24 it was an up to amount in the bond language, so the Board
25 did set how much was going to be within this program.

1 And -- however, this program has been going
2 through changes recently at the Board. The Board has been
3 refining regulations back in August 2009 to increase
4 participation and recently some studies were done with
5 \$200,000 that was made available from the Seismic Safety
6 Commission to evaluate buildings considered the highest risk
7 to look and see whether or not they qualified for the
8 program. So those evaluations have not been finalized yet.
9 So that information is still forthcoming.

10 But that would be a policy shift that the Board
11 could consider is transferring some of those funds back into
12 the new construction account.

13 With the Overcrowding Relief Grant and the
14 Modernization Programs, both of these areas would require a
15 legislative change to move the funding. Two-thirds vote by
16 the Legislature would be necessary to do this.

17 Overcrowding Relief Grant Program has about
18 459 million available. The Board has taken previous action
19 to evaluate the program after the next filing round which is
20 July of this year and we have had participation in all of
21 the rounds so far, but we have not exhausted the funds
22 available. Again this would require legislative action.

23 In Modernization, we have 894.4 million in unused
24 Proposition 1D bonding authority and some questions to
25 consider there would be if there's need in the program and

1 whether we want to move this to new construction. Again it
2 would required legislative action.

3 So we put this out there for discussion as far as
4 whether the Board wants to entertain looking at any of these
5 programs at this time. We could look at more research.
6 There's a number of different directions you could go on
7 this and we'd be happy to answer any questions that we could
8 at this point. If you'd like, we could either stop there
9 or --

10 CHAIRPERSON REYES: Mr. Harvey and then
11 Ms. Buchanan. It's the --

12 MR. HARVEY: Well, I would say in order on the
13 seismic, I would recommend that since at our last Board
14 meeting direction was given to convene a seismic working
15 group to take a look at whether there are additional changes
16 we can make to those regulations to move the money, I think
17 clearly when the voters passed 1D and when AB127 was passed,
18 there was a commitment made that we would go after the
19 school districts and school facilities that were the worst
20 of the worst and would make them safer.

21 And I'd certainly like to let it run the course a
22 little longer at least, but the appealing thing is it
23 doesn't require legislation. The other two do and my
24 proposal in those that require legislative change, I think
25 that's very problematic. I would defer to others who are in

1 that arena, but I think it's problematic.

2 I'd like us at the appropriate time as a Board to
3 have recommendations from you all on how we can expand the
4 definitions of use in these categories, so that by changing
5 how the money is applied, you draw it down perhaps because
6 you've created more opportunities for use.

7 Some things I think about are the modernization,
8 for example, is allowing solar panels to be paid for in this
9 category or to change the requirement now that it has to be
10 literally on the same footprint to say under some
11 circumstances, yet to be determined, we would allow for
12 expansions or additions to that footprint.

13 Do some of those kinds of things or bring us those
14 kinds of concepts believing that if you liberalize, if I can
15 use that term, the kinds of activities and things that are
16 funded, you may draw those monies down and therefore not
17 require some legislative action to move them.

18 CHAIRPERSON REYES: Ms. Buchanan.

19 ASSEMBLY MEMBER BUCHANAN: Okay. I had another
20 member call me on the seismic. I -- based on our last
21 meeting, I will be really honest with you. I would transfer
22 the seismic money into the minimum, the critical hardship
23 fund.

24 I mean we're not funding seismic projects. You
25 know, when schools are modernized or are -- you know, you

1 build new schools, they're all built to the standards. The
2 funding for the seismic is 50 percent, the same as for the
3 critical facilities site.

4 I mean it seems to me that let's simplify that --
5 the facility hardship. Let's simply that and put into one
6 fund and not keep studying it because it's been there. We
7 funded one project and clearly it's not meeting the needs.

8 So I -- that's where I would be going on the
9 seismic.

10 On the overcrowding relief grant, I -- be honest
11 with you, I would love to see that money shifted into new
12 construction and --

13 MR. HARVEY: I would too.

14 ASSEMBLY MEMBER BUCHANAN: -- when I take a look
15 at the overcrowding relief grant and the one that was -- we
16 did a couple meetings ago, frankly I was sort of surprised
17 that, you know, a school could have portables added,
18 boundaries drawn such that the school is overcrowded but
19 without any regard as to whether or not the overcrowding
20 exists either in the high school attendance area or the
21 district as a whole which is how you determine eligibility.

22 So you can do that and get eligibility for a
23 school when if you take a look at the area, you may not need
24 that. And, you know, a lot of your portables came in with
25 class size reduction and of course we know that with that

1 program, schools are utilizing fewer classrooms because
2 they're not able to fully maintain the class size reduction
3 program now.

4 So if you're dealing with overcrowding, that means
5 you want to add new classrooms. So it would make perfect
6 sense to me that we transfer that money, even if we need to
7 ask for legislative concurrence, into the new construction
8 program.

9 With respect to modernization, my suspicion is, is
10 that districts are going to be requiring more modernization
11 funding in the future as much as new construction because
12 given the fact that enrollment isn't growing in all
13 districts and we have some schools that are old, at this
14 point in time without having more information on what we
15 think the future demand's going to be for modernization, I
16 would be hesitant to move that money.

17 CHAIRPERSON REYES: Ms. Moore.

18 MS. MOORE: On the three items, I would be
19 deferential to the committee that -- I mean as a Board we
20 did say we would establish that working group and I would
21 give them the opportunity to provide that feedback one last
22 time and then I probably would be in the same place that --

23 CHAIRPERSON REYES: The committee on seismic or
24 what committee?

25 MS. MOORE: We at the last Board meeting said --

1 we I think gave Ms. Hancock charge to have a working group
2 to look at that. So I'd let them complete that work and
3 then see where we are with that, but we have struggled with
4 seismic for some time and I think I -- the next fund that I
5 would look out for is facility hardship where perhaps it
6 could be utilized on seismic projects.

7 Secondly, on the overcrowded relief grant, would
8 be open to that shift, but it's a legislative shift, so it
9 has to have that type of activity. And then thirdly the
10 modernization, I like you would not be open to that. I
11 think that is going to be the area that we have the most
12 need. I'm more interested in a better modernization program
13 that modernizes for educational purposes together with
14 systems and access purposes. So that's where I am.

15 ASSEMBLY MEMBER BUCHANAN: Yeah. And let me just
16 add on the modernization even though I share some of your
17 concern. When it comes to solar, we could eat up all that
18 money really fast and not really do anything to improve
19 classrooms. And school districts are entering into power
20 purchase agreements and using their utility savings to fund
21 those power purchase agreements.

22 So, you know, what's critical to me is that we're
23 making our schools safer and upgrading the actual physical
24 structure. Not that I don't believe that solar's not
25 important and we shouldn't lead with that example, but I

1 really do think it's important that it goes to actually
2 modernizing the classrooms and the core facilities.

3 MR. HARVEY: I wholeheartedly agree. I was simply
4 listing things as examples --

5 ASSEMBLY MEMBER BUCHANAN: Right. Right.

6 MR. HARVEY: -- without endorsing as a way of
7 getting us to think outside the box on that question.

8 MS. MOORE: I had one question for staff.

9 CHAIRPERSON REYES: Yes, Ms. Moore.

10 MS. MOORE: Do we know how many seismic projects
11 are in the works?

12 MS. SILVERMAN: Well, with the evaluations that
13 just were completed, there's a number and we're trying to
14 draw some estimates from that particular number. I think we
15 actually have one in-house as we speak now. I don't know
16 the specific dollar value on that particular project, but
17 just on the evaluations alone, I think there is about an
18 estimate 60 million potentially that could be used as a
19 result of those recent evaluations.

20 So -- and that's just a ballpark figure, but we
21 needed to fine tune some of our estimates, but there could
22 be a draw-down to some extent based on those recent
23 evaluations.

24 MS. MOORE: Thank you.

25 CHAIRPERSON REYES: Okay. What I'm -- does the

1 staff need to answer any questions from the Board members?
2 Is everybody -- everybody understood what -- where Board
3 members -- we're not all on the same page on this, but okay.

4 Is there any comments from the public? Okay. So
5 back to then let's go take one at a time. On the seismic, I
6 got the impression that folks were okay with transferring
7 to -- Ms. Moore said to let the working group work on this.

8 MR. HARVEY: So did I.

9 CHAIRPERSON REYES: And you said the working
10 group. Ms. Buchanan, are you amenable to that?

11 ASSEMBLY MEMBER BUCHANAN: I'm absolutely amenable
12 to it. If anything, I would just give direction that we're
13 interested in coming up with a solution or transferring it
14 to another fund where we actually will have --

15 CHAIRPERSON REYES: Okay.

16 ASSEMBLY MEMBER BUCHANAN: -- construction occur
17 that meets the intent of the program.

18 CHAIRPERSON REYES: So we need to convey that to
19 the working group that is -- I believe is being headed by
20 Ms. Hancock -- Senator Hancock. So we can do that. So
21 we'll take no action on that other than to provide.

22 On the overcrowded relief grant, to do the
23 transfer does require legislative action and there appear to
24 be some comfort level in that.

25 I will abstain from that. I'd like to see is

1 anything else -- all legislation that has any kind of fiscal
2 goes through Finance, so I'd like to see the whole picture
3 when it comes to us. So I will abstain from that, but I'll
4 certainly entertain a motion on --

5 MS. MOORE: But can we do anything? It's
6 legislative action so the Board doesn't have jurisdiction.

7 CHAIRPERSON REYES: To recommend legislative
8 action, you'll --

9 MS. MOORE: Oh, okay. Gotcha'.

10 CHAIRPERSON REYES: -- need to -- I assume that
11 that's what the committee wants to do. All this will need
12 to go -- elevated to the Board. I just want to be on record
13 as not being committed yet to that legislation whatever it
14 may look like.

15 MR. HARVEY: And I know how many times I've been
16 told that we in the administration do not have positions
17 until the Governor has a position. I also will simply
18 encourage us to elevate it, but I will not vote on it.

19 CHAIRPERSON REYES: Since we will not have the
20 vote, then why don't we elevate it to the Board as a
21 whole --

22 MR. HARVEY: Yes.

23 MS. JONES: -- without a vote, just as a
24 recommendation that the staff work and Ms. Buchanan, as a
25 legislative member, will work with staff in coming up with

1 something that will address this issue and then we'll take
2 it up to the full Board.

3 MR. HARVEY: She's the lead author.

4 MS. SILVERMAN: Yeah. We actually have one
5 final -- we have a filing round that closes July 30th --
6 31st, excuse me. And so we would obviously know to what
7 extent some additional participation in the program --

8 ASSEMBLY MEMBER BUCHANAN: Right.

9 MS. SILVERMAN: -- by then and I think we could
10 probably -- would be prepared to at least share with the
11 Board what's come through the door as far as dollar value
12 potentially and have that dialogue.

13 CHAIRPERSON REYES: So overall there appears to be
14 an interest in moving forward with transferring, recognizing
15 that it requires legislation.

16 MR. HARVEY: That's fair.

17 CHAIRPERSON REYES: Okay?

18 MR. HARVEY: Fair.

19 CHAIRPERSON REYES: All right. Any public
20 comments on that decision or that direction that we're
21 going? Hearing none, moving onto the next one, the
22 modernization. We --

23 MS. MOORE: I think we were a no consent -- no --

24 CHAIRPERSON REYES: And there is no consensus on
25 that. We went from solar panels to keeping it alone to

1 transferring to --

2 MS. MOORE: No. Just --

3 CHAIRPERSON REYES: -- no, not to -- to leave it
4 alone.

5 ASSEMBLY MEMBER BUCHANAN: I think the concern
6 that we have right now is that making any change in the
7 modernization program could take away money that's
8 legitimately needed for modernizing schools and we need
9 more -- we would need, you know --

10 CHAIRPERSON REYES: Okay.

11 MS. MOORE: -- more information to show that the
12 money is strictly surplus if we're going to make any changes
13 there.

14 CHAIRPERSON REYES: So we're not going to do
15 anything right now.

16 ASSEMBLY MEMBER BUCHANAN: Not surplus, but --

17 MS. MOORE: If anything, I think that we -- I
18 heard the Subcommittee say that we're interested in a more
19 robust modernization program.

20 MR. HARVEY: Yes.

21 CHAIRPERSON REYES: Okay. And I think this is
22 when you spoke about broadening the issues that may recover
23 with this. Okay. All right. So staff has direction on
24 that.

25 Any more comments from the public? Fiscal crisis

1 regs.

2 MS. KAMPMIENERT: The fiscal crisis regulations,
3 we have three areas in this section as well. Back in
4 December, the Board took action to extend these regulations
5 on a six-month basis while the cash management issue went
6 forward.

7 And so we are discussing the Charter School
8 Facilities Program preliminary apportionments, the
9 Critically Overcrowded Schools Program preliminary
10 apportionments, as well as the financial hardship
11 re-reviews.

12 Beginning with the Charter School Facilities
13 Program, these projects have a reservation of funds and then
14 they have a four- to five-year timeline in statute to
15 convert to a final apportionment which is when they would be
16 placed on the unfunded list, ready to receive funding.

17 When the fiscal crisis occurred, the Board took
18 action to stop that four-to-five-year clock. Now, in the
19 last couple of months, the Board has made 96 million
20 available so that these projects could have access to the
21 design and site acquisition funds that the program provides
22 so that they can get started.

23 And as we've mentioned I think when this topic's
24 come up in the past, the charter schools don't really have a
25 mechanism to get the projects started outside of their

1 general fund without this cash from the State.

2 So some of the need for the advance apportionments
3 has been made available by the Board. We did actually have
4 two and a half million left over from the last round, but we
5 have eight -- I'm sorry -- 17 projects that will be on the
6 unfunded list that have not accessed their design and site
7 funds yet.

8 Now, the question would be whether or not or when
9 we restart the clock on these projects. And some of the
10 questions that we have would be should we continue to extend
11 the fiscal crisis regulations. Should we plug back in the
12 Charter School Facility Program preliminary apportionments
13 once they've received all of the cash that they were
14 eligible for either in site money and design money or
15 possibly just the design if they were not purchasing the new
16 site and not something that the Board could consider.

17 If you've gotten all the cash that was previously
18 part of the program, you've had access to it, you drew it
19 down, now you may be back on a level playing field as far as
20 before the fiscal crisis hit because this is what the
21 program had available to you, you've gotten the cash, you
22 can now go forward, design your plans, purchase your site,
23 and then it's just getting the approvals in place and you go
24 on the unfunded list just like the rest of the new
25 construction/modernization -- like the rest of the other

1 programs would do.

2 So you could do that and plug the clock back in
3 once cash has been made available. You could reactivate the
4 project regardless of whether cash has been made available.

5 And then under an inactive status, this gets into
6 some additional questions. If the projects remain inactive
7 until cash becomes available for advance design and site,
8 there could be a consideration for whether if a charter
9 school passes on an opportunity to have cash, for instance,
10 the ones that are now on the unfunded list, cash becomes
11 available and they say no, do you plug the clock back in
12 then because they've had opportunity to get cash and chose
13 not to. Have they waived their option at that point.

14 And then another piece that's come into the
15 discussion is some of the charter school stakeholders have
16 raised an issue that they believe goes hand in hand in that
17 not only is it the design and site fund releases that they
18 need assurances for cash before they can move forward and
19 commit to the project, but they also need a guarantee of
20 construction cash being available for them.

21 So we've received a couple of request letters that
22 additional cash be considered for charter school projects
23 that are on the unfunded list and for construction funds.

24 So basically you have your unfunded list
25 (indiscernible) and charter schools have requested that they

1 have a different priority in essence for a carve-out of
2 cash.

3 Some ideas have been an amount commensurate with
4 bond funds that were provided to charter schools or another
5 amount made available. So --

6 CHAIRPERSON REYES: Hold on. Ms. Moore has a
7 question.

8 MS. MOORE: Can I just add to this point. Aren't
9 they able -- haven't they been able to compete in the
10 priorities for funding? What would preclude them from doing
11 that and why would we carve out special for them any
12 different on construction?

13 I understood site and plan and we hopefully have
14 taken care of that, but why would we do different in terms
15 of -- because they've had access to the cash as well.

16 MS. KAMPMIENERT: Right. They have been eligible
17 for priorities in funding once the project goes on the list,
18 but they are at the bottom of the list. The reason that I
19 have heard was that without knowing that you can go forward,
20 folks don't want to necessarily start and invest the time
21 and effort and perhaps some of their own funds in the
22 project.

23 We've had people that have moved forward and
24 they've been on the unfunded list, they've competed in
25 priorities, and they've gotten funded through priorities.

1 These are requests from folks that haven't gotten to that
2 stage yet, but we -- I'm not sure. We may have folks in the
3 audience that could provide more insight onto that. We'll
4 rely on what we've been hearing.

5 MS. MOORE: Thank you.

6 CHAIRPERSON REYES: Is anybody in the audience
7 that could shed some light on that?

8 MS. FERRERA: I'll be quick. Anna Ferrera with
9 the California Charter Schools Association. I think it's
10 been explained fairly well. It's a timeline issue because
11 they have a different funding mechanism.

12 I know that there's continuing discussions on this
13 item and that those discussions will continue. We do
14 appreciate the decisions that the Board has made up until
15 this point on the other two not new construction by
16 modernization and I know that those discussions will
17 continue as far as the time frame is concerned.

18 I think that what I was hearing was that there was
19 a one-year time frame that was being discussed.

20 CHAIRPERSON REYES: Ms. Buchanan.

21 ASSEMBLY MEMBER BUCHANAN: I have a question. And
22 this is such a shift to reserve both planning and
23 construction money at the same time which potentially ties
24 up, you know, more funds that end up being -- that aren't
25 used, but how do you know how much you need for construction

1 if you haven't completed your planning and gone through your
2 design phase, your constructability reviews and all of that?

3 CHAIRPERSON REYES: Anybody?

4 MS. KAMPMIENERT: What we potentially would have
5 is the preliminary apportionment amounts and in some cases,
6 the maximum amount, and projects can come in under. We have
7 different funding models for the different preliminary
8 apportionments and we have some that come in over the
9 preliminary apportionment and some that are in effect capped
10 with their preliminary apportionment amount because we don't
11 have an initial bond authority.

12 But it's not until the point of the final
13 conversion when they've actually done the plans that they
14 have a true number --

15 ASSEMBLY MEMBER BUCHANAN: But I've gotten a
16 planning grant and I'm saying I don't want to go through
17 with the planning grant if I don't know if construction
18 money's going to be there. But if I haven't completed the
19 planning process -- anyone who's been through a
20 construction -- I mean it's very difficult to estimate even
21 the cost of a project until you've gone through that
22 process.

23 So one is by -- I understand you want -- everyone
24 wants that certainty, but one is it's tying up money from
25 other charter schools that are ready to go, but two is how

1 do you even know what you need if you haven't gone through
2 the planning process.

3 That's the whole reason of accelerating the
4 planning grants is the --

5 CHAIRPERSON REYES: Sir, do you have other -- want
6 to shed some light here?

7 MR. BUSH: Mr. Chairman, members of the Board, my
8 name is Jim Bush. I work for a company called School Site
9 Solution and we represent a number of charters and regular
10 school districts.

11 To answer your question, when the preliminary
12 apportionment was made, the charter estimated how many
13 students they would be eligible for, so they have a pretty
14 definite knowledge of how much money they're eligible for
15 construction back when their apportionment was made.

16 So that's -- they're working within that
17 framework. The amount isn't going to go up.

18 ASSEMBLY MEMBER BUCHANAN: So you're talking about
19 just the grants. You're not talking about any land or
20 anything else. Okay.

21 MR. BUSH: That's right. The land is calculated
22 separately.

23 ASSEMBLY MEMBER BUCHANAN: But it -- so they want
24 their grant money -- their student grant money reserved even
25 though -- you know, sometimes the grant money covers

1 50 percent. Sometimes it covers more. Sometimes it covers
2 less of construction even though they don't know the total
3 cost of the project.

4 MR. BUSH: Well, I think there are some charters
5 that have actually progressed down the road where they're
6 pretty close to coming out of DSA.

7 ASSEMBLY MEMBER BUCHANAN: Okay.

8 MR. BUSH: And some of these charters are -- date
9 back to Prop. 55. So to come out of DSA and then get to the
10 bottom of the line after they've been working on the project
11 so long, they think that's unreasonable.

12 One suggestion that I've thought about is when the
13 State does sell some bonds that a portion of that bond sale
14 be reserved in sort of a percentage to the allocation that
15 charters were reserved in the bond. There was 500 million
16 reserved --

17 ASSEMBLY MEMBER BUCHANAN: Right.

18 MR. BUSH: -- and there could be a small portion
19 of that next bond sale reserved for charters and let the
20 charters compete amongst themselves based on some type of
21 percentage. And I think that might be reasonable for them
22 and I think there's enough charters that they could do that
23 without having a lot of money left over.

24 CHAIRPERSON REYES: Finance, we'd be interested in
25 your comments on this.

1 MR. FERGUSON: Sure. First to clarify Ms. Moore's
2 earlier comment. There's still another 90 million needed to
3 fully fund the site acquisition and design costs for charter
4 schools within this program.

5 We would support potentially moving the charter
6 schools to the top of the list or just below the facility
7 hardships in terms of these projects have been on the list.
8 They've been waiting for an inordinate amount of time.
9 They've been unable to move forward. It's been four to five
10 years for many of these projects.

11 We would support moving those up and providing
12 funds to them once the next bond sale does occur.

13 ASSEMBLY MEMBER BUCHANAN: Would you support the
14 bifurcation so that you have whatever -- you take the ratio
15 of the 500 million to the total bond, so you create a
16 charter list and a noncharter list?

17 MR. FERGUSON: I think we would be neutral on
18 that, but ultimately we would support moving the entire
19 projects up to the top of the list as these projects have
20 been waiting a much longer period of time than any other
21 projects on the unfunded list.

22 ASSEMBLY MEMBER BUCHANAN: Then why aren't they at
23 the top of the list already?

24 MR. FERGUSON: They received preliminary
25 apportionments and were unable to convert those to final

1 apporportionments because they simply didn't have the funds to
2 acquire their sites or design those projects.

3 MR. BUSH: So it would be based on the preliminary
4 apporportionment date for planning if they came in for
5 construction; is that what you're talking about?

6 MR. FERGUSON: Yeah. We would support that.

7 MS. MOORE: Will we have a charter program in
8 which charters were -- that program allowed for them to
9 receive a reservation of funds at preliminary. So if they
10 qualified for preliminary, they in essence had a reservation
11 from the authority, the 500 million. They competed for that
12 amongst themselves, had that reservation and then had five
13 years in which to perfect that project; correct? So five
14 years in which to move along.

15 Under the crisis, we were alerted that they
16 perhaps were disadvantaged on preliminary -- the preliminary
17 funding monies because we didn't have a mechanism for them
18 to come in for the cash for that.

19 And we hopefully corrected for that. Now while
20 there might still be 90 million on the list, 90 million did
21 not come forward in the priority round -- or 90 million did
22 not come forward in the round to capture the additional
23 money we gave for charters on that.

24 So either there's some lag in the demand for the
25 cash or not, I for one would not be supportive of putting

1 the charters to the top of the list because I do believe
2 that just like the other school districts, they had the
3 ability to access the cash and either chose not to or they
4 had the concern, as you indicated, that they want a more
5 solid deal on that. I don't know.

6 May be more open to their ratio of cash versus the
7 bonds. It seems a better solution than simply moving
8 charters ahead of other projects for cash. I don't see the
9 public policy good in that.

10 MR. FERGUSON: If I may respond. In terms of
11 being able to access the cash, no, these projects up until
12 the 90 million was provided, the previous 90 million was
13 provided, they did not have access to that cash and could
14 not have accessed the program.

15 Effectively when AB55 loans were shut down, OPSC
16 was unable to provide any advanced monies for site or design
17 costs to these projects. They were unable to move forward.
18 They were unable to perfect those projects to then in turn
19 become apportionments or in this case unfunded approvals and
20 compete with everyone else. They were unable to do that.

21 It's only recently that they were even provided
22 site or design funds to begin that process to convert those
23 to final apportionments.

24 MR. BUSH: Just one other thought. We have two
25 deadlines coming up for charters for this 96 million, one in

1 April and one in June -- I think it's June sometime. And if
2 there are some charters that don't meet that deadline, there
3 might be some ability to have a little bit of money left
4 over in that charter pot that maybe could be shifted to some
5 of these construction projects that are nearing submittal.
6 Just a thought. Thank you.

7 CHAIRPERSON REYES: Yes.

8 MS. KAMPMIENERT: And with regards to the
9 statement about the cash returning to the program, the Board
10 did specifically request that staff bring back an item to
11 handle any of the cash that could then be available for
12 other purposes. So if cash does return, if -- we could also
13 take the item back at that time for the previous Board
14 direction -- recommendation and decision based on this
15 Subcommittee.

16 CHAIRPERSON REYES: Okay. Is there an interest
17 for the charter schools to go back and provide for design
18 and -- for site and design cost, to provide bond proceeds
19 for that at all?

20 MR. FERGUSON: We would support that the next time
21 a bond sale does occur, the proceeds from that sale be set
22 aside to cover the site and design costs for these projects.

23 CHAIRPERSON REYES: Okay. That seems --
24 Ms. Moore.

25 MS. MOORE: That isn't really what is before us;

1 right? What's before us is whether we reactivate those
2 projects on -- they're off the clock so to speak right
3 now --

4 CHAIRPERSON REYES: Right.

5 MS. MOORE: -- and now we're talking back onto a
6 cash management --

7 CHAIRPERSON REYES: Right.

8 MS. MOORE: -- piece; right? So we're --

9 CHAIRPERSON REYES: The question is what do we --
10 what is the will of the Subcommittee? To reactivate?

11 MR. HARVEY: Let me jump in and say I for one
12 would endorse reactivating only those projects that have
13 access to the cash for design and site acquisition funds. I
14 think it's --

15 MS. MOORE: I support that.

16 MR. HARVEY: -- appropriate for the clock to
17 start for those.

18 MS. MOORE: For those that have --

19 CHAIRPERSON REYES: Only those.

20 MS. MOORE: -- the cash to move forward.

21 MR. HARVEY: Yes.

22 CHAIRPERSON REYES: Okay. So I have three nods.
23 Finance, concerns with that?

24 MR. FERGUSON: We'd just be concerned that there
25 may be some schools that are currently undertaking site

1 acquisition or design functions, that those projects may be
2 unable to move forward without funding being provided and
3 they can't convert for that final apportionment and when
4 they do, they'll be given a date that is much lower than
5 other projects that are much more recent than theirs.

6 So we would support giving them a higher date on
7 that list so that they can compete.

8 CHAIRPERSON REYES: But as you point out, that's
9 not before us now; right? That's your issue, Ms. Moore?

10 MS. MOORE: That's not -- that was not in the
11 write-up. That -- I don't know that that was a --

12 MR. FERGUSON: No. That's the Department of
13 Finance's position.

14 MS. MOORE: Yeah.

15 MR. FERGUSON: OPSC did the write-up.

16 CHAIRPERSON REYES: Did the write-up; right. From
17 the charter schools, does anybody express the same concern
18 that Finance does?

19 MS. FERRERA: (Away from microphone) I'm not
20 really authorized to say, but I would venture that we
21 would -- the CCSA would adopt the same position as Finance
22 on that issue.

23 CHAIRPERSON REYES: But you're not authorized to
24 advocate for it at this point. Okay. All right.

25 MR. HARVEY: Can we direct staff to add that to

1 the discussion when it goes to the full Board. We may not
2 have it before us, but it does tie into the question and it
3 has been raised by Finance. I for one don't know where I
4 stand on it, but would certainly like the full Board to have
5 an opportunity to debate it when we talk about this
6 regulation.

7 MS. MOORE: I'm okay with that and --

8 CHAIRPERSON REYES: Good. Ms. Moore.

9 MS. MOORE: -- it -- with more information around
10 it and I just want to understand, Chris, you're talking
11 about -- we just provided charters with a hundred million
12 roughly -- 95- I think it was.

13 MR. FERGUSON: 96-

14 MS. MOORE: -- 96 million in site and plan money
15 and we had two funding rounds for that -- you know, come in
16 for that cash. It was actual cash. And we were not
17 oversubscribed in that, but are you talking about what's --
18 you said 90 million remains in that same situation but
19 didn't come forward for the cash?

20 MR. FERGUSON: We know based on the number of
21 preliminary apportionments that were provided to charter
22 schools that another 90 million in site acquisition and
23 design costs remain on top of the 96 million that was
24 already provided.

25 MS. MOORE: Okay.

1 MR. FERGUSON: I actually think it's 88 million is
2 the specific number.

3 MS. MOORE: Okay. So you're talking about not
4 providing the 90 million for additional projects -- for
5 additional site and plan and some type of reservation -- or
6 you said put them to the front of the line or others have
7 said some type of reservation for the construction side of
8 those projects.

9 MR. FERGUSON: Correct. We would support given
10 them a date that puts them towards the top of the list,
11 using the preliminary apportionment date.

12 MS. MOORE: Okay.

13 CHAIRPERSON REYES: Okay. So are we comfortable
14 just asking staff -- directing staff to move this item
15 forward and incorporating some of the issues that Finance
16 has raised because I think they're fair issues in terms of
17 providing the resources to charter schools and then by then,
18 Ms. Ferrera will be authorized to go thumbs up or thumbs
19 down. Staff, does that work for you?

20 MS. SILVERMAN: Yes.

21 CHAIRPERSON REYES: I just want to make sure you
22 have clear direction. Ms. Buchanan.

23 ASSEMBLY MEMBER BUCHANAN: I'd like to know -- I'd
24 like a little bit more information on -- of the total
25 500 million that was designated in the bond for charters.

1 Could you give us more information on how much of that has
2 been used and for what projects, what percentage of that is
3 the total -- I mean so we have kind of an apples to apples
4 comparison in terms of how we're dealing with the charters
5 versus traditional schools and a better idea of -- I mean
6 there are -- in regular traditional school districts that
7 aren't charters, there are schools that sometimes don't have
8 money for planning purposes for four or five years for
9 projects as well. I mean, you know, so -- they can move
10 forward so --

11 CHAIRPERSON REYES: Yes. That would be a very
12 good piece of information for the whole --

13 ASSEMBLY MEMBER BUCHANAN: You know, I mean I'd
14 just like to know how it all -- you know, are we -- how
15 we're burning through that money versus the other, the
16 number of projects, and, you know, I think we need to be
17 fair and help charter schools move forward.

18 At the same time, if you have a school district
19 that has 2 charter schools and 18 regular schools and a
20 charter school project is started after a project for a
21 traditional school and then gets moved up to the top of the
22 list, that ends up being hard to explain too, so I think we
23 have to figure out what truly is fair and how we move money
24 out and accomplish the goals of the bond there.

25 MS. SILVERMAN: We actually have an illustration

1 in the back of the packet that actually shows that there's
2 172 million available in bond authority for charter schools,
3 so that's the pie chart in the back. So out of that 500
4 million --

5 MS. MOORE: But that -- is that -- that's
6 authority or cash?

7 MS. SILVERMAN: That's authority.

8 MS. MOORE: Okay. And I think what we're --

9 MS. SILVERMAN: Authority not cash.

10 MS. MOORE: -- talking about here is cash;
11 correct?

12 ASSEMBLY MEMBER BUCHANAN: Both I think.

13 CHAIRPERSON REYES: Both.

14 MS. SILVERMAN: Both. So --

15 CHAIRPERSON REYES: Both are good to have.

16 MS. MOORE: Is it both?

17 ASSEMBLY MEMBER BUCHANAN: Yeah.

18 MS. MOORE: Okay.

19 CHAIRPERSON REYES: Okay.

20 MS. KAMPMIENERT: If I could add onto that?

21 CHAIRPERSON REYES: Yes.

22 MS. KAMPMIENERT: Some of the authority that's
23 represented there is tied up in some of the other charter
24 school regulations, so we can try to break that down for
25 you. But we will be presenting the Board with an additional

1 set of preliminary apportionments in the coming months to
2 try to exhaust some of the additional bond authority that we
3 have, number of unfunded approvals that have been drawn
4 down, all the authority as well. So we can represent that
5 as well.

6 CHAIRPERSON REYES: Okay. Thank you. Critically
7 overcrowded schools issue.

8 MS. KAMPMIENERT: The Critically Overcrowded
9 Schools Program is set up much like the Charter School
10 Program where districts had a four-to-five-year time period,
11 just received a preliminary apportionment and then had the
12 time to convert to a final apportionment which they would
13 then be placed on the unfunded list.

14 The Board has also heard a little bit about this
15 issue in the past months because there is a component to the
16 program for those sites that require extensive environmental
17 cleanup and the Board recently took action to place any
18 amounts that were available for environmental hardship on
19 the unfunded list and also several of those requests were
20 taken of.

21 We have -- out of the 496 -- I'm sorry. Out of
22 the 344 projects that were in preliminary apportionment
23 status when the fiscal crisis hit, we still have 33
24 preliminary apportionments that are inactive. The remaining
25 344 -- excuse me. The remaining 311 were able to move

1 forward and convert to an unfunded approval on the unfunded
2 list. This is largely due to the fact that the school
3 districts had local match, so they were able to proceed with
4 the project just as you would with any other new
5 construction project.

6 If reactivated, these preliminary apportionments
7 would have approximately ten months left on their statutory
8 timelines to either convert or rescind the project and these
9 33 projects, it's I believe roughly four districts that are
10 in various stages of their projects and we -- what the
11 Subcommittee could consider is whether or not to extend the
12 regulations that keeps the timeline inactive. However, only
13 11 of the 33 inactive preliminary apportionments -- and
14 they're all projects of one -- one project at one site for
15 the 11 preliminary apportionments have been approved for the
16 environmental hardship.

17 The remainder -- remaining 22 have no additional
18 assistance necessary from the State in order to move this
19 project forward. The program does not have advanced design
20 funds or anything like that.

21 So with the exception of that -- of those 11
22 preliminary apportionments that do have the environmental
23 hardship components, the Board may -- or the Subcommittee
24 may wish to consider restarting the clock on the remaining
25 22 apportionments and then like with the charter schools, if

1 the cash is made available for the environmental hardship,
2 you could restart the clock on that preliminary
3 apportionment as well.

4 These projects -- again they'd have ten months.
5 Another concept that came up in the previous Board was if
6 you wanted to provide folks with a little more time, you
7 could start the clock, but say effective as of this date,
8 you will -- your clock will be started so you can give
9 districts a little bit of warning to start the projects
10 and -- but the -- with the exception of the environment
11 hardship, there is nothing that the fiscal crisis is really
12 doing to harm these projects. So it may be time to consider
13 reactivating.

14 CHAIRPERSON REYES: And, Chris, you have a slight
15 variation for that.

16 MR. FERGUSON: We would support reactivating all
17 of these projects. In this case, the environmental hardship
18 projects do have access to the unfunded list and can compete
19 for funds, so we would support reactivating all of the
20 COS -- critically overcrowded projects.

21 CHAIRPERSON REYES: So that's the difference is
22 the environmental impact -- the environmental piece.

23 MR. HARVEY: And again, Chris, the justification
24 is that the cash that they need for that environmental
25 hardship is available to them.

1 MR. FERGUSON: Correct. The Board took previous
2 action to authorize the environmental hardship aspect of it
3 onto the unfunded list.

4 CHAIRPERSON REYES: So they should be ready to
5 roll on that. Okay.

6 MR. HARVEY: And the unfunded list is not larger
7 than the cash we expect to be available.

8 MR. FERGUSON: We don't know at this time.

9 MR. HARVEY: Well, if we activate all of them and
10 they need the cash but they can't get it because they're too
11 far down on the unfunded list, what potentially have we
12 done?

13 MR. FERGUSON: I would note that the ten-month
14 time frame that's being mentioned here --

15 MR. HARVEY: Correct.

16 MR. FERGUSON: -- is the tail end of a five-year
17 process. So these projects had already been out there for
18 five years.

19 MR. HARVEY: Okay. I kind of like where you're
20 going. Staff, can you tell me how much money has not been
21 converted?

22 MS. SILVERMAN: There's about over \$166 million in
23 projects that haven't come in yet, so --

24 MR. HARVEY: And do we expect all of that to be
25 gone or would there be some left for diversion to other

1 program needs?

2 MS. SILVERMAN: If the products are plugged in,
3 given the ten-month time frame, the Board could make a
4 decision after the ten months has expired to transfer that
5 existing authority like it has in the past to new
6 construction.

7 MR. HARVEY: Okay. So here's another one where we
8 potentially could do it without the need for legislation.

9 Do you have a sense how much of it would be
10 converted?

11 MS. SILVERMAN: Not at this point in time. I
12 know --

13 MR. HARVEY: That unless we had the clock ticking.

14 CHAIRPERSON REYES: Right.

15 MS. SILVERMAN: Yeah. Yeah.

16 MR. HARVEY: Well, in that case, I endorse
17 Mr. Chris's proposal to unplug it for all of them.

18 MR. FERGUSON: And I would note that the
19 Department of Finance previously supported moving the
20 environmental hardship aspects to the top of the list as
21 well.

22 CHAIRPERSON REYES: Ms. Moore.

23 MS. MOORE: So if we don't have cash until
24 August/September, another bond -- if they do a bond sale,
25 then those 11 hardships would have to compete for that cash;

1 correct? They would have to do -- they would have to be in
2 line for the cash.

3 MR. FERGUSON: We would expect them to compete for
4 the cash and move forward.

5 MS. MOORE: And if they were not far enough up on
6 the list to receive the cash, they would be out of luck for
7 the next round.

8 MR. FERGUSON: As I recently mentioned, we had
9 previously supported (indiscernible-coughing) as well. I
10 believe the goal is to get these preliminary apportionments
11 moving so these projects can be perfected and converted to
12 apportionments.

13 CHAIRPERSON REYES: Ms. Buchanan.

14 ASSEMBLY MEMBER BUCHANAN: Well, you know, I --
15 this kind of goes -- falls back to me to the same as
16 projects either need to move up or off --

17 CHAIRPERSON REYES: Right.

18 ASSEMBLY MEMBER BUCHANAN: -- and --

19 CHAIRPERSON REYES: This opens them up to get
20 going --

21 ASSEMBLY MEMBER BUCHANAN: And, you know, on the
22 one hand, I guess you move up and, you know, if you --
23 there's always the question are you going to have the money,
24 but I don't know how that changes a year from now or later.
25 So I think --

1 CHAIRPERSON REYES: Right.

2 ASSEMBLY MEMBER BUCHANAN: -- they've been there
3 long enough. I don't know to what extent they should be
4 moved to the top of the list, but I do think they -- I would
5 love to have staff come back with a recommendation of how we
6 move -- you know, or how we can move these projects back to
7 the active -- especially if they were started years ago. I
8 mean they either -- you know, we either need to find funding
9 and for all we know, you know, there may not be the needs in
10 terms of the critical overcrowding today as there were a few
11 years ago because of, you know, changes in all the massive
12 cuts we've had to education in the last couple years.

13 CHAIRPERSON REYES: Staff.

14 MS. KAMPMIENERT: Also when the Board took action
15 on the COS projects earlier this year -- excuse me -- back
16 in 2010, these projects were placed -- their environmental
17 hardship was placed at the top of the list based on the
18 preliminary apportionment date. So the Board has moved
19 these projects to the to of the list.

20 CHAIRPERSON REYES: Um-hmm.

21 MS. KAMPMIENERT: So they will be very close to
22 the top of the list next time cash becomes available for
23 those components.

24 CHAIRPERSON REYES: Ms. Moore.

25 MS. MOORE: Then I would support reactivating

1 these projects so that they're subject to the same
2 requirements as all new construction projects.

3 ASSEMBLY MEMBER BUCHANAN: Yeah. And not being
4 privy to the Board's action, I absolutely agree.

5 CHAIRPERSON REYES: And that's pretty much
6 we're -- Chris's recommendation then. Is that --

7 MR. HARVEY: Mr. Ferguson.

8 CHAIRPERSON REYES: Okay. Staff's as amended by
9 Chris. Okay. Thank you very much. Financial hardship
10 re-review

11 MS. KAMPMIENERT: Financial hardship re-review,
12 the Board adopted regulations to assist financial hardship
13 districts that were on the unfunded list for an extended
14 period of time and typically financial hardship projects --
15 well, in the past, the financial hardship projects had to
16 undergo an additional review if it been longer than six
17 months that they were on the unfunded list to see if the
18 situation had changed any and if there was any additional
19 contribution that had come up.

20 The Board had adopted regulations to not do the
21 financial hardship re-reviews during the time period that
22 the project was on the unfunded list. However, that
23 regulation will expire and the basic question is whether the
24 Board wants to revisit its previous position on this given
25 that we may not reach a point where the unfunded list ever

1 is fully exhausted and we might be moving towards a new
2 system of cash management.

3 The question is with the new systems and options
4 in place is it still appropriate to extend this regulation
5 or would the Board like to let it expire.

6 CHAIRPERSON REYES: So you're basically asking
7 should we let it sunset and then do a re-review when
8 necessary. Okay. Board members.

9 MR. HARVEY: Does Finance have a position?

10 MR. FERGUSON: We support letting this regulation
11 sunset. These projects receive significantly more State
12 funding than a traditional 50-50 or 60-40 match under the
13 new construction and modernization program. This would just
14 reevaluate the district's contribution to a project.

15 And in some cases, that could actually help the
16 district if those funds did not materialize in those
17 accounts.

18 CHAIRPERSON REYES: Interesting. Ms. Ferrera.

19 MS. FERRERA: Anna Ferrera on behalf of the County
20 School Facilities Consortium. I know this isn't a popular
21 position at this point, but we do believe nothing's changed
22 as far as the fiscal situation and in the spirit of moving
23 projects forward, we would suggest that the waiver be
24 extended -- strongly suggest that the waiver be extended
25 because we feel that we are still in fiscal crisis and this

1 would hold up projects in very needy county offices and
2 districts.

3 ASSEMBLY MEMBER BUCHANAN: Could I just clarify.
4 I mean it's the -- the fiscal crisis is being felt hardest
5 on the general fund side. So what is going to change on the
6 facilities side to provide more money?

7 MS. FERRERA: I'm sorry.

8 ASSEMBLY MEMBER BUCHANAN: You're talking about
9 there's still the fiscal crisis and that schools don't have
10 the ability to move forward. Is that -- am I
11 misunderstanding?

12 MS. FERRERA: The waiver was put in place because
13 there was a freeze on the state funds.

14 ASSEMBLY MEMBER BUCHANAN: Right.

15 MS. FERRERA: And therefore these financial
16 hardship projects have been on the list for an extended
17 amount of time and were left off when others were unplugged
18 basically.

19 At this point, there was a catch-up period --

20 ASSEMBLY MEMBER BUCHANAN: Right.

21 MS. FERRERA: -- and we don't believe that at this
22 point there needs to be sunset of the waiver and we're happy
23 to discuss that with you.

24 ASSEMBLY MEMBER BUCHANAN: So for how long would
25 you have the waiver? Would you extend it?

1 MS. FERRERA: I would say perhaps another six
2 months, but, you know, we'd like to discuss that with you.
3 I'd have to talk to the members in my organization as well.

4 CHAIRPERSON REYES: Ms. Moore.

5 MS. MOORE: So currently we have 76 projects on
6 the unfunded list that have a financial hardship designation
7 and that had the financial hardship review and we as a Board
8 were very supportive of -- and in fact we had to come back
9 to that issue because we originally did not address it as I
10 recollect. We had not addressed financial hardship and they
11 were disproportionately being re-reviewed when other -- when
12 we had unplugged the clock and done other things for the
13 school districts because of the financial hardship issue.

14 And I'm a -- I guess I would want more information
15 because I do think that the financial hardship districts are
16 in a more difficult position than all others and that that
17 financial hardship review is an extensive review. And so if
18 we ask staff to then conduct those reviews again, which as I
19 am knowledgeable, can take up to six months to do, we
20 potentially can harm financial hardship districts.

21 MS. SILVERMAN: On that point, I think what we can
22 do is -- although we -- when the fiscal crisis was in
23 place -- and Anna's correct, the hardship re-review wasn't
24 addressed in the original set of regulations.

25 We've had over two years of a stay on the

1 re-reviews. As far as trying to expedite, if we do know in
2 advance that there's a fall sale potentially and we change
3 our mechanism to a 90-day process to get in the date order
4 received, we can have a snapshot in time of potentially who
5 would be required for re-review and then we could help
6 expedite that process.

7 I think some of the challenges have been -- is
8 getting the appropriate docs, but I think we'd be willing to
9 work with districts in advance to help expedite that
10 process. If we had a snapshot in time, have a general
11 understanding of how many projects are sitting there, I
12 think -- you're right, we funded projects over the last few
13 funding cycles that have had hardship designation, but at
14 some point in time, it's either you do something with the
15 existing regulations or you move forward.

16 I think -- we're going to be in a fiscal crisis
17 for -- and I don't have a magic ball, but it's going to be
18 potentially -- this is probably what it's going to be for an
19 extended period of time.

20 CHAIRPERSON REYES: Fiscal crisis will be the norm
21 for a while?

22 MS. SILVERMAN: Yes, it will be the norm.

23 ASSEMBLY MEMBER BUCHANAN: Well, I --

24 MS. MOORE: It has normed, but I -- what I am
25 concerned about is redoing 76 financial hardship reviews.

1 What's the capacity of staff to do that in a timely manner
2 when we know that financial hardship reviews have usually
3 been fairly lengthy.

4 That's my concern and what harm does that do to
5 those districts that have been waiting. And I guess my
6 question is this. Doesn't this actually resolve itself out
7 as these -- if indeed we say -- if we do the first part of
8 our project where --

9 CHAIRPERSON REYES: They'll come off the list
10 anyway.

11 MS. MOORE: -- they have to come off the list
12 unless they go to -- go for the cash. Doesn't that actually
13 resolve this.

14 So next round, they're either going to have to
15 access the cash or come off the list potentially. We
16 haven't -- the Board hasn't fully decided that.

17 CHAIRPERSON REYES: Chris.

18 MR. FERGUSON: That would be correct. If the
19 Board took up those regulations and adopted them, the 120
20 days moving forward, that wouldn't be an issue.

21 CHAIRPERSON REYES: So if we do those regulations,
22 when would those regulations be in place?

23 MS. SILVERMAN: Depending on if we go through an
24 emergency status.

25 CHAIRPERSON REYES: I mean Ms. Ferrara's saying at

1 least another six months of letting this go through. Do we
2 get through the six months before we get through the actual
3 adopting those regulations anyway.

4 MS. FERRERA: Yeah. I'm already rethinking that.

5 MR. FERGUSON: We would note that the Board would
6 have to take these issues up, so at the next Board, they
7 would adopt -- it can be done within three months to four
8 months if they're on an emergency basis. Under a
9 traditional basis, it could be six months to one year.

10 CHAIRPERSON REYES: So that would give you your
11 year anyway and so I'm kind of with Ms. Moore that if we do
12 the regulation process, that would sort of filter everybody
13 else anyway regardless of whether this issue moves --
14 whatever we do with this. Ms. Buchanan.

15 ASSEMBLY MEMBER BUCHANAN: I think what I'm
16 hearing is that we don't want to put districts through a
17 lengthy -- or the Department -- a lengthy re-review process,
18 but we want to have a way of either moving them up or out.

19 CHAIRPERSON REYES: Right.

20 ASSEMBLY MEMBER BUCHANAN: So what we want to do
21 is continue the waiver pending the adoption of new
22 regulations; is that what I'm hearing?

23 MS. FERRERA: That would go with the theme for
24 today.

25 ASSEMBLY MEMBER BUCHANAN: All right.

1 CHAIRPERSON REYES: Mr. Harvey.

2 MR. HARVEY: It would go with the theme. Let me
3 ask a question. By not having re-reviews, are we allowing
4 some districts to get a status they don't deserve?

5 MS. SILVERMAN: I think what it does is you
6 actually could have an issue, whether or not the district
7 has to contribute to the project. That's really what is at
8 issue.

9 The hardship status stays with the district.

10 MR. HARVEY: That's what I meant.

11 MS. SILVERMAN: Right. It's just --

12 MR. HARVEY: I mean they're scooping more dollars
13 than they technically would be entitled to if they had the
14 re-review and therefore we have less money to get to others.

15 I'm just -- I don't know the answer. I'm posing
16 it as a potential downside to not having a re-review. I
17 don't know.

18 MR. FERGUSON: If I may. Yes, there would be
19 advantage to other projects.

20 MR. HARVEY: Thank you.

21 CHAIRPERSON REYES: Say that again, Chris.

22 MR. FERGUSON: Those projects without a re-review
23 would be advantaged over other school districts' projects.

24 CHAIRPERSON REYES: Because the same criteria that
25 made them eligible would stay in place whether or not the

1 environment had changed and again we go back to the impact
2 on real estate.

3 But that will still be a moving target regardless.
4 Go ahead.

5 MS. MOORE: You know, one of the things that
6 districts -- that could change that districts would
7 contribute more developer fees or some of those types of
8 mechanisms which I would postulate probably aren't there
9 anyway.

10 MR. FERGUSON: However, I would note of your
11 traditional nonfinancial hardship projects, once they submit
12 their application and they're provided an unfunded approval,
13 they're locked in in terms of what the -- so given whatever
14 time frame they have to wait, the situation changes for
15 them.

16 For these districts that are financial hardship,
17 the same thing applies. The situation changes over time and
18 to the extent that they receive up to 100 percent of the
19 funding from the State, they're advantaged over somebody
20 else even though they have funds they could contribute.

21 CHAIRPERSON REYES: So your -- under your
22 scenario, Chris -- digesting what you're telling me is that
23 a re-review would even the playing field because --

24 MR. FERGUSON: Correct.

25 CHAIRPERSON REYES: -- what it does -- moving them

1 for 120 days instead of 18 months and dropping those --
2 which we have not taken action of course. We're asking
3 staff to guide us as to how we can accomplish that
4 administratively.

5 So we have not taken that as a regulatory action.
6 I'm thinking out loud. So we haven't done anything. We
7 have not recommended anything on that filtering thing that
8 we're hanging our hat on.

9 So going back to these regulations then, if we
10 sunset and Ms. Ferrari said at least year, six months, your
11 concern is that we're asking staff to go back and look at
12 the 76 applicants and see whether or not -- and that's a
13 very time consuming, resource intensive activity.

14 MS. SILVERMAN: It's the projects that are sitting
15 on the unfunded list and that we wouldn't be looking at the
16 projects that already receiving funding. It's the --

17 MS. MOORE: You said 76 projects.

18 MS. SILVERMAN: I didn't say 76.

19 MS. MOORE: Well, what does it --

20 CHAIRPERSON REYES: There are 76 projects with
21 financial hardship status remaining on the unfunded list.

22 MS. SILVERMAN: That depends where they're at and
23 the date order received potentially on -- and how you review
24 those projects. I mean all we're asking is for updated
25 financial information, is whether or not they can contribute

1 to the project or not.

2 That's the only extensive as a re-review.

3 CHAIRPERSON REYES: Ms. Moore.

4 MS. MOORE: It is a different -- an intensive
5 process for districts. We've had substantial issues about
6 financial hardship on this Board and I mean I just -- I
7 would support the natural outflow of potentially adopting
8 the regulations that we are recommending up front.

9 I think that financial hardship districts have
10 been disadvantaged in this system because they of all
11 districts do not have funding to move forward. They have to
12 wait for the State funding. So --

13 MS. FERRERA: We appreciate those comments so
14 much, Ms. Moore. I must tell you, you know, watching and
15 listening today with priorities in funding and knowing that
16 financial hardship, you know, we -- when you went to 90-day
17 system, you know, we agreed that everyone should be under
18 those rules and now we're -- you know, we're moving forward
19 and making them permanent in the interest of, you know,
20 moving projects and getting rid of dead wood and all of
21 that.

22 And what I see with financial hardship is, you
23 know, a continuing inequity as far as being in the list.
24 They are in the position that they are on that list in a
25 delayed way all the way through and it's at this point that

1 I would just suggest that we clear those projects. We'd be
2 very supportive of that position.

3 CHAIRPERSON REYES: Did you want to testify or
4 were you just getting ready to leave? Okay. Go ahead.

5 MS. CUNNINGHAM: Hi. I'm Alana Cunningham from
6 Jack Schrader & Associates. We're a consulting firm. I
7 guess it's my understanding -- the regulations state that
8 projects that -- financial hardship projects require
9 re-review if they're on an unfunded list for more than
10 180 days and that the definition of an unfunded list is a
11 list that's been created because the bonding authority has
12 run out.

13 And it was my understanding that the State
14 Allocation Board, when this regulation was -- you know, this
15 change was discussed was that there was a distinction
16 between the types of unfunded lists that -- being created.
17 One was because of the fiscal crisis and then later another
18 one would be created when the bonding authority has run out.

19 So from our perspective, the financial hardship
20 projects that are currently are -- that are on the unfunded
21 list are not technically on an unfunded list in terms of
22 what the definition of an unfunded list is.

23 CHAIRPERSON REYES: Ms. Moore.

24 MS. MOORE: You are correct. That is the
25 discussion that we had at the Board when we looked at this.

1 There was this distinction between the two.

2 I don't recollect the action of the Board on that,
3 but I do recollect that it was -- the regulation and I
4 think -- I believe the Board acted to have that
5 interpretation.

6 MS. CUNNINGHAM: Well, and I think that at that
7 Board meeting there was some discussion about calling it an
8 unfunded list because it technically wasn't an unfunded list
9 in terms of bonding authority running out, that it was a
10 different type of unfunded list. Thank you.

11 CHAIRPERSON REYES: Yes. Thank you. Mr. Harvey.

12 MR. HARVEY: Well, at this point I think we may
13 not have consensus, which is not a bad thing. We don't
14 personalize our disagreements, do we. We simply say that we
15 respectfully disagree and I for one support Finance's
16 position that it should be sunsetted for the reasons
17 articulated, primarily this level playing field thing and
18 making sure someone who shouldn't get a break, should be
19 contributing to a project does.

20 CHAIRPERSON REYES: Ms. Buchanan.

21 ASSEMBLY MEMBER BUCHANAN: Could we ask that
22 information be brought back to us, whether it's really 76
23 projects or how many and what this is because I don't want
24 to create unnecessary work for districts or the Department
25 at this point in time.

1 I definitely believe that projects should be moved
2 either up and funded and out or they should drop off
3 consistent with what we've talked about today, but it would
4 be nice to know -- just to have a little bit more
5 information about those projects, how long they've been on
6 the list and where we are.

7 CHAIRPERSON REYES: Do we want to raise that to
8 the Board or do we want to have a conversation on the
9 Subcommittee level still?

10 MR. HARVEY: Go to the Board.

11 MS. MOORE: I think it would bear Subcommittee
12 discussion.

13 ASSEMBLY MEMBER BUCHANAN: Okay.

14 CHAIRPERSON REYES: So we can have this kind of
15 level of weed detail. Otherwise we'll be here till 9:00 on
16 a Board meeting instead of 6:30.

17 ASSEMBLY MEMBER BUCHANAN: Sounds good to me.

18 CHAIRPERSON REYES: Okay.

19 MS. MOORE: It's our job.

20 CHAIRPERSON REYES: Yeah. But I -- I'd rather
21 have this kind of back and forth conversation between the
22 group and kind of vet things out rather than to have ten
23 folks trying to -- I learned from the labor issue.

24 Okay. So this is to be continued.

25 Does anybody have any public comments? Anybody

1 from the public like to come up forward and be heard?

2 Thank you. Ms. Moore.

3 MS. MOORE: So -- through the Chair. Will we --
4 all that we did recommend, will that move forward to the
5 next Board and then we would need to have another
6 Subcommittee meeting on this last issue that would go to a
7 subsequent Board? Is that your thought?

8 CHAIRPERSON REYES: The idea would be to put this
9 on the agenda at -- some Board agenda in the near future
10 depending on what staff is able to accomplish in terms of
11 those issues that we gave them.

12 Some of the stuff is easier to do and can come up
13 sooner. Other stuff will be in the near future and we've
14 given direction to staff of things that we want to see to
15 bring up to the Board. But in all cases, any action from
16 the Committee will show up as a Board either as a this is
17 what we did and we are asking for the Board to take full
18 action or this is a Subcommittee recommendation that we
19 would hope that -- and the way I would like to proceed with
20 that is when we have sent them an issue is one of the
21 Subcommittee members actually present the issue or at least
22 make the motion that we have the conversation and we move
23 forward and then a second, so we can get the conversation by
24 those that were there and kind of get it going. So --

25 MS. MOORE: And then staff will work with us for

1 another meeting.

2 CHAIRPERSON REYES: Yes.

3 MS. MOORE: Part III?

4 CHAIRPERSON REYES: We'll set up another meeting.

5 Yes. And I promise to be more knowledgeable on the issues

6 at that point.

7 MS. SILVERMAN: Two open issues; right? As I
8 understand, the issue on rescissions that you wanted us to
9 work up some examples on rescissions and how that would play
10 out with the list and then the issue of hardship.

11 MS. MOORE: Great.

12 MR. HARVEY: Yes, that would be great.

13 MS. SILVERMAN: Okay.

14 CHAIRPERSON REYES: Yes. Any other direction --

15 does staff require any further clarification from the

16 Board -- or the Subcommittee rather?

17 Hearing none, we are -- thank you everybody.

18 (Whereupon, at 5:10 p.m. the proceedings were recessed.)

19

20

---oOo---

21

22

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

REPORTER'S CERTIFICATE

STATE OF CALIFORNIA)
) ss.
COUNTY OF SACRAMENTO)

I, Mary C. Clark, a Certified Electronic Court Reporter and Transcriber, Certified by the American Association of Electronic Reporters and Transcribers, Inc. (AAERT, Inc.), do hereby certify:

That the proceedings herein of the **STATE ALLOCATION BOARD SUBCOMMITTEE ON PRIORITIES IN SCHOOL CONSTRUCTION FUNDING, CASH MANAGEMENT, PART II**, hearing were duly reported and transcribed by me;

That the foregoing transcript is a true record of the proceedings as recorded;

That I am a disinterested person to said action.

IN WITNESS WHEREOF, I have subscribed my name on March 14, 2011.

Mary C. Clark
AAERT CERT*D-214
Certified Electronic Court
Reporter and Transcriber