

**Sub-committee on Rules and Procedures
State Allocation Board**

Chair, Senator Loni Hancock
Assemblywoman Jean Fuller
Assemblywoman Julia Brownley
Scott Harvey, Dept. of General Services

Hearing
May 25, 2010
3:30 pm – 5pm
State Capitol Building
Room 112

AGENDA

- 1) Discuss Subjects of Future Subcommittee topics
- 2) Discuss mock-up Operating Rules and Procedures for the State Allocation Board based on Senate Rules with the default to Masons Rules
- 3) Public Comment

MINUTES:

Senator Hancock started the meeting announcing the goals of the day which were to approve draft operating rules and then in subsequent meetings focus on specific topics, while obtaining feedback from other members of the Board.

The sub-committee recognized that the draft was a skeleton version of what it will become the rules and procedure and thus they've agreed to use Masons as a default.

Sub-committee reviewed the draft by sub-section.

OFFICERS:

There was concern over the vice chair. Currently the Board does not have a vice chair but history and past policy show's that the Board at times has elected a vice chair. The sub-committee will discuss the direction they wish to take with concerns to the vice chair at a subsequent meeting.

MEETINGS:

A majority of the quorum may act on any matter was a concern for Scott Harvey and Senator Hancock. They believe that a majority of a quorum is 4 people and should not be able to act on a matter. Lisa Kaplan informed them this was an error and "majority of the" should be removed resulting in a quorum equaling 6 members.

AGENDA:

Concern was expressed that if a member wishes to add an item to the agenda they must do so no less than 30 days was too long. It was viewed that if a SAB member asked for an item to be put on the agenda, staff would then need 30 days to prepare pushing the item back at least 60 days.

Mr. Harvey said staff has been doing a wonderful job with the framework of the agenda and preparing the 90 day workload plan which allows members to plan and shape the calendar while enabling them to move items which help smooth and distribute the work. Mr. Harvey would like to add language to the rules that allows for the chair to recognize the workload and ensure that the calendar is not front loaded and when necessary and item that is 90 days out could be moved forward by a member while a item that is to be heard in 30 days could be pushed back if requested by an SAB member?

Senator Hancock was not familiar with the workload and Mr. Harvey explained that it was part of the Executive Report at the last SAB meeting. The plan projected the work out 30, 60 and 90 days giving members an opportunity to review the workload and move things. The plan is a tool to give the Board and the public predictability, transparency and a way for Board members to manage the calendar so items don't just come up 10 days before a meeting. The board has not really "wrestled" with the plan, but I believe it was something that the Executive Officer and Assistant Executive Officer worked on and is something that will continue to come forward.

Lisa Jones with OPSC insured the sub-committee that the 90 day workload will continue to come forward and is an item that is indexed on the 10 day notice. If the Board wished to make any changes they would need to send those to the Chair, Executive Officer or the Assistant Executive Officer prior to the 10 day notice.

Senator Hancock would like to keep the rule as a 15 day notice and typically Board members do not bring up a lot of concerns. Yes, there are some items that would not get moved forward if a member did push them and as you know discussions can go on for months. When items are available for April, but not seen till May is not timely and would prefer an item be placed on the agenda for consideration and referral versus waiting months. Then the Board could decide to deal with it or not. Senator Hancock has not served on any board that has had a 30 day requirement.

Assemblywoman Fuller agreed with expedience as long as the public is noticed properly. What if we put something on at 15 days and districts are unaware. How do we perfect timing especially when school districts only look at potential agenda items once a month?

Lisa Kaplan did note that during public comment SAB members can request to have an item placed on the next Boards agenda. A member can also call the chair and ask for items to be placed on the calendar or removed. When it is a single school district issue it's easier to inform the party. When it's a policy issue that could affect more that one party it is more difficult to notice. If the sub-committee wishes we could get more specific.

The sub-committee decided that they would go with the 15 day notice as the deadline to request items be placed on the agenda. The sub-committee also requested that language be added to rule stating that any member may place an item on the agenda for consideration and referral.

FINAL ARBITAR OVER RULES DISPUTES:

The draft suggests that the final arbiter be Greg Schmidt of Senate Rules. Mr. Harvey suggested that the final arbiter be someone the Board respects and trust and suggested that chair or whoever ask the Attorney General (AG) to be the final arbiter. The arbiter should be present at discussions and render a decision in a timely fashion. Mr. Harvey believed if they had to rely on someone as talented as Mr. Schmidt it could be weeks before a decision was made. Counsel is someone who is the objective voice and I recommend having the AG as ours.

Mr. Harvey continued to explain that the AG would be a designee and would become the Boards attorney because concern has been expressed that the DGS attorney can not remain objective. Not discrediting Mr. Schmidt, but I'm more concerned with how someone not attending the meetings can give us a timely rendering.

Assemblywomen Brownley believed that either Greg Schmidt or Dotson Wilson would make a fine choice as this is their job, they are the experts. The meetings are recorded and if their expertise was needed to render a decision on a matter they could review the recording and provide feedback by the next meeting and frankly did not see the Board needing their expertise often.

Concern with expressed over the cost of the designee from the Attorney Generals office and conversation noted that the SAB/OPSC pays for the DGS attorney and could use the funds to pay for the designee instead.

Sub-committee asked to leave this item open for further discussion.

We need to consider an attorney opinion and what the Board is doing versus confirmation of the rules.

Assemblywomen Fuller commented that on some committees the chair is the arbitrator of the rules and then if there is a dispute the chair could decide the means (Greg Schmidt vs. designee) of resolution.

Assemblywomen Brownley stressed that Greg Schmidt and Dotson Wilson are the experts versus a designee from the Attorney Generals Office.

Senator Hancock noted that under Roberts Rules the chair makes the decision because they know the rules. For gray areas the Chair seeks the experts.

So talking points for the future are:

- 1) Approach Attorney Generals Office to see about having a designee as counsel to the SAB.
- 2) Ask on of the parliamentarians to be on stand by to help interpret rules where the Board is in disagreement.

LIMIT ON SETTING OF SAB AGENDA ITEMS:

Senator Hancock did not understand the limit of items being placed on the agenda. For example seismic has been placed on the agenda at least 10 times before the Board was able to get DSA to say they needed more money before they could give the SAB a definition.

Lisa Kaplan explained the intent of rule which was to enable items that get decided from appearing back on the calendar with no new information; this is where the limit would come in. If an item was on 3 times and never got discussed then the limit would not apply.

This rule would go into affect when gridlock occurred and would only come back when new information was available.

Concern was expressed about incomplete staff analysis and items that the Board wanted more information on.

Sub-committee agreed that the limit would be acceptable and wanted to add a 6th exception to the list which would be “More information requested by the Board.”

MATERIAL INFORMATION:

Sub-committee felt that any information received by OPSC should be shared with the Board not just material. Sub-committee asked that the title be changed to Agenda Item Information.

Public Comment: Lyle Smoot expressed concern with the time line in which documents must be submitted to the Board. If a district did not get an analysis until 72 hours before the board meeting districts would have very little time to respond because of the rule.

Lisa Jones commented that the analysis for the districts are available after staff distributes the binders to the Board Members which is anywhere for 6 to 7 days before the meeting.

Discussion continued and the sub-committee discussed possibly having the staff analysis at least five days before a meeting or the item would be pulled. Districts could respond to an analysis up to 48 hours before a meeting.

Public Comment: Richard Gonzalez asked how this would affect appeals and why a draft analysis could not be distributed to districts with the understanding that it is a working document which would allow districts more time.

Mr. Harvey responded that in the current appeals process there is a give and take and a working relationship between the district and OPSC that they should know what OPSC’s position.

Public Comment: Richard Gonzalez responded that districts are not sure how items are going to be written and they need more than 5 days. In the past, OPSC has provided districts with drafts.

Sub-committee agreed to the 5 day deadline for staff analysis while allowing districts to respond up to 48 hours before a meeting.

QUORUM AND VOTING:

Clarification was asked for on voice roll call (item e) – assuming generally, the chair asks for consensus a member can then ask for roll call. Generally speaking, we will have roll calls, but this language makes it sound like we won’t have voice roll calls. Sub-committee agreed to move item e under item d making it one item and re-numbering the remaining items.

WORKING GROUPS AND SUBCOMMITTEES:

Mr. Harvey stated that the chair of a working group or a subcommittee should set the agenda and asked about staff.

Lisa Jones stated that the chair sets the agenda; the Assistant Executive Officer helps with the items and can request staff assistance from OPSC. Also, OPSC notices all meetings.

Mr. Harvey commented that it's good to know there is a working relationship happening.

FUTURE SUB-COMMITTEE MEETINGS:

Mr. Harvey requested that the sub-committee discuss ex-parte at a future meeting.

PUBLIC COMMENT:

Lyle Smoot requested that the sub-committee consider annual reaffirmation of the rules and under the meetings section language be added to specify when the board meetings are held.

Eric Bakke suggested that the sub-committee review the quorum and voting section because it reads if a vote is left open at the end of the day the majority of the Board should be present and wanted clarification if that was the intent.

Lisa Kaplan informed Erik and the Board that this paragraph was lifted from Masons and there was no problem's deleting it.

Sub-committee agreed that a majority was not needed.

CLOSING:

Sub-committee adopted the rules as amended and asked Lisa Kaplan to distribute as an information item.

STATE ALLOCATION BOARD RULES AND OPERATING PROCEDURES

To present suggested rules and operating procedures for the State Allocation Board (SAB).

DESCRIPTION

Currently, the SAB has no formalized established governance or procedural rules. In an effort to make the SAB meetings more transparent and efficient for Board members, school districts and stakeholders alike, this item provides suggested rules and procedures for the SAB subcommittee on Rules & Procedures to review for recommendation to the full SAB for adoption and implementation.

- Re-word first sentence that currently states there are 'no formalized' established governance or procedural rules. (The implications are concerning for a multi-billion dollar program.)

AUTHORITY

Government Code Chapter 243, Statutes of 1947, established the SAB as a successor to the Post War Public Works Review Board.

Government Code Section 15490 stipulates the makeup of the SAB.

Education Code (EC) Section 17070.35 outlines the Board's duties, including but not limited to the duties of establishing and publishing policies and procedures for the administration of the chapter and adopting rules and regulations pursuant to the Administrative Procedures Act.

The Bagley-Keene Open Meeting Act, set forth in Government Code sections 11120-111321, covers all State boards and commissions and requires these bodies to publicly notice their meetings, prepare agendas, accept public testimony and conduct their meetings in public unless specifically authorized by the Act to meet in closed session.

EC Section 17070.30 continues the existence of the SAB for purposes of the Leroy F. Greene School Facilities Act of 1998.

BACKGROUND INFORMATION

At the February 2009 SAB meeting, Board members voted to form a subcommittee to establish rules and procedures for the SAB. The Attachment to this item provides suggested rules and procedures drawn from the Assembly Education and Senate Education committees, and defaults to Mason's Rules a commonly used set of rules) when no specific procedure or rule is identified..

RECOMMENDATION

Discuss the attached SAB Rules and Operating Procedures and recommend revisions / changes for adoption at the full SAB.

Yellow Highlight = subject of future board meeting discussion
Green Highlight = new section or change subject to discussion at Aug 10th Meeting
Teal highlight = general comments received from Board Members

GREEN HIGHLIGHT AREAS ARE SUBJECT OF AUG 10TH MEETING FOR DISCUSSION AND CONSIDERATION

PROPOSED STATE ALLOCATION BOARD RULES AND OPERATING PROCEDURES

(1) OFFICERS

A. **Chair.** The chair shall:

1. Call the State Allocation Board (SAB) together at the times and places necessary to enable the committee to properly perform its duties.
2. Preside over meetings of the Board.
3. Maintain order and decide all questions of order subject to appeal to the Board present.
4. Supervise the preparation of agenda and reports of the Board.
 - **Is this a formalized role?**

B. **Vice Chair.** The vice chairman shall: **(subject of a future board meeting)**

- *See Background for SAB approved item regarding VC.*
- Perform all duties of the chair in their absence.
- **Who is the vice chair? What is the purpose of having a VC? Should there be a VC?**

Background on VC:

- In March of 2006, the SAB approved the creation of the position of Vice Chair, who would be a legislative member of the Board selected by the members. In particular the Vice Chair was to “participate with the Chair in reviewing the proposed SAB agenda.” (see attached 3/22/06 SAB Board item). Senator Scott was elected to the position, but following his retirement, no one was selected to fill the vacancy.

C. **Process for Selecting Officers of the Board**

1. **Chair**

- **Currently the Chair has been the DOF by default.**
- **Should there be a reason to change this?**
- **Should there be a process if the SAB wishes to change the chair?**

2. **Vice-Chair**

- The SAB established a Vice-Chair in 2007.
- **Comment:** The rules for election of the chair and vice chair should be set prior to the determination of the chair’s duties.

(2) MEETINGS

- A. Call.
The chair, or the vice chair in the absence or incapacity of the chair, may call a meeting of the Board by sending by regular mail and or electronic mail to each member of the Board written notice ten (10) days prior to the meeting, in accordance with the Bagley-Keene Open Meeting laws.
- B. Date.
The regularly scheduled monthly SAB meeting occurs on the Fourth Wednesday of each Month. Meetings are subject to change upon notice at a regular Board meeting and approval by a majority of the SAB.
- C. Frequency, Time and Place.
The time and place of meeting of the Board shall be designated by the chair or by the vice chair and coordinated with the Office of Public School Construction (OPSC) staff.
- D. Quorum.
The quorum necessary for the Board to transact business shall be a majority of the members. A quorum / majority for the Board is 6 members. A quorum may act on any matter.

(3) AGENDA (Shall Remain Open for discussion on setting Agenda & changes to agenda)

- A. The State Allocation Board final Agenda is set by the Chair and Vice-Chair.
- What is the reasoning behind having both finalize the agenda? Is it an efficient use of time?
- B. Any SAB Member may request the Chair, Vice-Chair, the Executive Officer, or the Assistant Executive Officer to put an item on the SAB Agenda, for consideration and referral. The request should be made in public at a SAB meeting, or, if made outside of a meeting, it should be approved by both the Chair and Vice-chair. Any SAB Member request must be made to the Chair, Vice-chair, the Executive Officer, or the Assistant Executive Officer no less than 15 calendar days before the meeting.
- Is the approval by both the Chair and VC the proper process?
 - It is not necessary to limit the timeframe for board members to request an agenda item.
 - How does this fit in with the 90 day work plan?
- C. Office of Public School Construction (OPSC) Staff will post a notice of the SAB meeting in accordance with Government Code Sections 11120 -11132 (Bagley-Keene Open MeetingAct).
- Add - D. 30/60/90-day Projected Workload included in the SAB Agenda.

(4) ORDER OF BUSINESS

The OPSC shall prepare and present the following SAB Agenda items, in order as outlines below, subject to change by a majority vote of the SAB.

A. Standard Order of Business.

1. Roll call.
2. Minutes
3. Executive Officers Report (shall include the 30/60/90 day Projected Workload Plan and Implementation Committee future agenda items)
4. Consent
5. **Financial Reports**
6. Special Consent
7. Appeals
8. Action Items
9. **Discussion / Policy Items**
10. **Reports / Information Items**
11. Public Comment
12. Adjournment.

Once the SAB Agenda is publicly noticed, any SAB Member during the meeting may request items to be put over to the next SAB meeting unless another SAB Member objects. If there is an objection to an item being put over, a majority vote by the SAB shall decide the issue.

Written Presentations Analysis – shall consist of a staff recommendation after the purposes of the report and before the staff background and analysis. Funding items shall be presented County alphabetical order. (A Board members requests this)

Written Presentations Analysis – shall consist of staff recommendation(s) after the “Purpose of Report” but before the staff Background and/or Description and Analysis. Funding items shall be presented in County alphabetical order.

B. Ex-parte Communication

- **(See Attached Information in Background Item on Ex-Parte Communication received from the legal department at State Water Resources Control Board)**
- Requested by a SAB member to be discussed and the creation of a potential policy
- Objection by another SAB member on this issue – doesn't believe it is needed
- What is the reasoning and rationale for having this?

(5) LIMIT ON SETTING OF SAB AGENDA ITEMS

SAB items may be set on the SAB Agenda no more than three times, unless new information is available for presentation and consideration by the SAB that shall aid in the resolution of the item or resolution of the item is forthcoming the next time the item is set on the agenda. After that threshold is met, taking into consideration the exceptions listed below, the status quo will be deemed the default resolution of the item:

- A. No quorum (before or during issue)
- B. SAB Member request to put over (unless another SAB Member objects or the item is not heard)
- C. District not able to attend meeting
- D. District and OPSC both agree to request that the item be withdrawn
- E. Staff analysis is not distributed or deemed complete at least 72 hours prior to the meeting
- F. More information on the item is requested by the Board

- This section should be removed all together. It does not address the systemic problem of staff writing board reports on appeals for items that they have rejected. Board reports must be written by an objective third party. Our suggestion is the AEO. If reports are complete and clear, fewer questions will arise at the board meeting and decisions can be made efficiently.

(6) STAFF ANALYSES

SAB Agenda items shall have a Staff analysis. The OPSC shall provide the analysis to the SAB and post them to the internet no less than 5 working days prior to the meeting.

What happens if it is not complete or posted?

Written Presentations Analysis – shall consist of a staff recommendation after the purposes of the report and before the staff background and analysis. Funding items shall be presented County alphabetical order.

This section should be removed all together. It does not address the systemic problem of staff writing board reports on appeals for items that they have rejected. Board reports must be written by an objective third party. Our suggestion is the AEO. If reports are complete and clear, fewer questions will arise at the board meeting and decisions can be made efficiently.

(7) AGENDA ITEM INFORMATION

In order to be considered by the SAB, documents that contain material information pertinent to an SAB Agenda item, including those documents presented to any or all of the SAB membership, shall be submitted to the SAB's Executive Officer and Assistant Executive Officer, no less than forty-eight (48) hours prior to the SAB meeting at which the relevant item is scheduled to be heard.

What happens if it is not turned in?

Remove this item. Staff reports are frequently being redrafted on the day of the board meeting. The board would not receive full information if the public were not allowed to respond in writing to late information.

Districts will receive Agenda Item material five days before the SAB meeting and if the District is not in agreement with the Agenda Item will provide a response to the OPSC within 48 hours.

(8) QUORUM AND VOTING

- A. The majority of the statutorily set SAB Membership shall constitute a quorum. Majority for this purpose of this section shall be defined as 6 out of the 10 members of the Board. No motion on an Agenda action item may be adopted without a quorum present to vote on the item. Upon establishment of a quorum at a meeting, the SAB may thereafter take a vote on an item without a quorum present. If such an incident occurs, the SAB shall hold open the roll call until the meeting is adjourned for final action. The SAB may take testimony and hear items as a subcommittee. A majority of those present and voting does not constitute a quorum.
- Remove the sentence “*No motion on an Agenda action item may be adopted without a quorum present to vote on the item.*” This is confusing and unnecessary since motion and vote requirements are described later
- B. Once a quorum is established, motions may be made by any of the SAB Members present. A second to the motion is required on all motions and may be made by any other present SAB Member.
- C. SAB Agenda items requiring action are considered resolved when a majority of the SAB Members has voted upon a specific action.
- (Suggested re-write) SAB Agenda items requiring action are considered resolved when a majority of the SAB Members has voted upon a specific action.
- D. Upon establishment of a unanimous roll call, SAB items may be acted on by a single vote. However, any SAB Member may request a voice roll call vote on any SAB Agenda item if there is an objection to the unanimous roll call.
- (Suggested re-write) Upon establishment of a unanimous roll call, SAB items (Consent and Consent Specials) may be acted on by a single vote. However, any SAB Member may request a voice roll call vote on any SAB Agenda item.
- E. Any SAB Member may request a “call” be placed on any vote. The call may be “lifted” by the SAB member who placed it and the vote finalized any time, prior to the adjournment of the meeting.
- F. After the final vote on a motion is announced, any SAB Member may change his or her vote or “add on” before adjournment of the meeting unless the change or addition would alter the announced outcome of the vote.

(9) TESTIMONY ON AGENDA ITEMS

The Chair, in the necessary interest of time, and while preserving fairness and equity, may limit individual witness testimony and/or the number of witnesses, excluding presenters, on any given Agenda item, upon a majority vote of the SAB to limit witness testimony. Such restrictions will apply equally to both proponents and opponents of any SAB Agenda item.

(10) PUBLIC COMMENT

Public comment shall occur at the end of every agenda. Public comment is for testimony on any items not on the agenda.

(11) SUBCOMMITTEES AND WORKING GROUPS

The Chair, or any other SAB Member, subject to a majority of the SAB concurring, may create a subcommittee or working group of the SAB.

(A) SUBCOMMITTEES

1. Composition.

- i. Membership on subcommittees shall be distributed among legislative and administrative appointees to ensure nearly proportional representation
 - (Request for deletion – is this needed?)
 - This is needed and I believe it is to ensure proportional representation; otherwise, if it is not written as part of these rules it is not recognized and could result in one-sided sub-committees, which would be a waste of time.
 - Add to the end of the sentence ...Chair of each sub-committee sets the Agenda.
- ii. Subcommittees shall have a number of members as designated by the full committee, but no subcommittee shall have less than three (3) appointed members.
- iii. Subcommittees are subject to the Bagley-Keene Open Meeting Laws.

2. Quorum.

A quorum of a subcommittee with an even number of members shall be one-half (1/2) of the members, who may act on any question. A quorum of a subcommittee with an odd number of members shall be a simple majority of the membership, who may act on any question.

3. Duties.

Subcommittees shall perform the duties assigned to them and shall report on all matters referred to them. Actions of a subcommittee shall be reported in the form of proposals or recommendations to the full committee only, and shall have no force or binding effect except by action of the full committee.

4. Rules.

Rules relating to the full interim committee shall be followed by subcommittees, except with regard to a quorum.

5. Staff

Staff to the subcommittee shall be determined at the time of establishment.

- Staffing (Suggestion?)
Staff to the sub-committee shall be determined by the SAB at the time of establishment

- Remove (A), the board should not be restricted to a certain make up of subcommittee membership. The board can decide at the time a subcommittee is established which members are appropriate and available for participation.

(B) WORKING GROUPS

1. Composition

2. Membership on a working group shall be determined by the establishing entity.
- (is this not clearly stated in the paragraph directly below (11). The way it is stated here, the establishing entity may be staff, a subcommittee, etc.)

3. Working Groups are not subject to the Bagley-Keene Open Meeting Laws.

2. Duties

Working groups shall perform the duties assigned to them and shall report on all matters referred to them if created by the Board or a subcommittee. (Again, this sentence is in conflict with the paragraph below (11). For working groups established by a SAB subcommittee, actions of a working group shall be reported in the form of proposals or recommendations to the subcommittee only, and shall have no force or binding effect except by action of the subcommittee to the full SAB. (Does this mean that working groups established by the Board have force without a full SAB vote?)

- It is not clear what is meant by (D). (Also, please note that ‘board’ is sometimes referred to as ‘committee’ – these references need to be corrected pages 5-6)
- No, Working Groups have no authority but to speed up the discussion process. These groups brain-storm the issues and throw out possible solutions with the SAB supporting, rejecting, or coming up with its own recommendations.
- Delete by the Board a sub-committee of the Board.

(12) RECONSIDERATION to be determined at a future board meeting

A motion to reconsider or to rescind actions of the committee, unless made at the same meeting at which the action was taken, may be made by anyone on the committee.

- Mason’s states that reconsideration can be made by anyone anytime during the meeting.
- Need to discuss legal authorization of SAB to handle reconsideration – what circumstances

Three different subjects of Reconsideration

- 1) Failed motion - reconsideration
- 2) Policy position – reconsideration
- 3) Funding issue – reconsideration

- Delete committee in language above and add Board in its place.

(13) APPEALS PROCESS to be determined at a future board meeting

An appeal to the SAB shall be made according to the following process. *This is currently being drafted at with members of IMP and audit working group.*

- timeline
- documents
- precedence
- final arbitration
- Appeals must be researched, written and reported to the board by an objective third party. We recommend the AEO. The current OPSC Appeals staff positions should be transferred to the SAB under the AEO. It is not appropriate for OPSC, the entity that rejected the district request to write and report the appeal to the board. This is the equivalent of asking the prosecutor to act as both prosecutor and defense attorney before a judge.
- Delete “at” in the second sentence.

(14) MATERIAL INNACURACY / MERCY CLAUSE

(15) FINAL ARBITER OVER RULES DISPUTES

In case of a dispute regarding SAB operating rules and procedures, the final arbiter shall be dependent on the issue.

SAMPLE: If the dispute is regarding the procedural operating rules of the Board, the Board shall consult Greg Schmidt and/or Senate Rules committee staff. If the dispute is regarding the legal interpretation of a statute, regulation, policy or rule of the Board, the final arbiter shall be _____ (an appointed designee by the SAB from the attorney general’s office or / or DGS / or Legislative Counsel).

- The Senate Rules Committee staff could be consulted for an operational rule procedural question. The final arbitrator of a legal interpretation of a statute, regulation, policy or rule should be a majority of the State Allocation Board after consultation with legal counsel. NO OTHER ENTITY SHOULD SUPERCEDE the BOARD’S AUTHORITY.

Should the SAB have two arbiters? One for procedure and one for legal?

- **What are the costs for two arbiters?**

Violation of Rules ~ in Mason’s when a rule is violated, the motion must be restated until a majority votes and approves the action.

(16) LEGAL OPINIONS

Subject to further discussion: *Who should the SAB attorney be (DGS or Designee from AG's office)?*

- The first preference would be to utilize the current legal budget to hire SAB an attorney much the way school districts hire and/or cities hire legal counsel.

The second option would be to utilize Legislative Counsel, if that is allowed, or the Attorney General's office.

We have learned that counsel must have a firewall between their service to OPSC and their service to the SAB. We believe this creates a conflict of interest when the needs of the SAB differ from those of OPSC. Therefore, it is important that the SAB have legal representation that singularly represents the concerns of the SAB.

(17) CLOSED SESSION

(18) PROCEDURAL GUIDELINES

On all other parliamentary procedures, including motions and other actions not provided for by these rules, the authority is the California Senate rules, with a default to *Mason's Manual of Legislative Procedure* which shall govern procedural matters for the SAB and its subcommittees not covered elsewhere in these rules.

Every two years the SAB shall review and adopt the operating rules and procedures for the Board. These rules shall remain in effect until replaced or revised by a majority vote of the Board.

REPORT OF THE EXECUTIVE OFFICER
State Allocation Board Meeting, March 22, 2006

STATE ALLOCATION BOARD VICE-CHAIR SELECTION

PURPOSE OF REPORT

To establish and define the responsibilities for a Vice-Chair for the State Allocation Board (SAB).

BACKGROUND

At the January 2006 SAB meeting, the Board directed Staff to develop a process by which a Vice-Chair would be established to support the Chair of the Board. Historically, the Chair has been the Director of the Department of Finance or his/her designee and in the absence of the Chair, the Director of the Department of General Services or his/her designee acts as Vice-Chair. This has been past practice and is not stipulated in the Government Code.

DESCRIPTION

In establishing the position of Vice-Chair and his/her responsibilities, the Board may wish to consider the following items:

Selection Options

1. a. The Vice-Chair will be a legislative member of the Board; or,
b. The Vice-Chair will be any member of the Board.
2. a. The Vice-Chair will be nominated and elected with approval by the majority of the quorum of the Board; or,
b. The Vice-Chair will serve on a rotational basis.

Duration

The duration of the Vice-Chair term will be at the will of the Board.

Responsibilities

1. The Vice-Chair will assume all responsibilities of the Chair during his/her absence.
2. The Vice-Chair will participate with the Chair in reviewing the proposed SAB agenda.

RECOMMENDATION

Consider the items above in selecting a Vice-Chair and proceed with the selection (see Attachment).

SPECIAL
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