

MINUTES
State Allocation Board
February 27, 2008

Upon notice duly given, the monthly meeting of the State Allocation Board was held in Room 126 of the State Capitol in Sacramento, California on February 27, 2008 at 4:00 p.m.

Members of the Board present were as follows:

- Jeannie Oropeza, Program Budget Manager, Education, Department of Finance, designated alternate for Michael Genest, Director, Department of Finance
- Mike Webb, Deputy Director, Legislative Affairs, Department of General Services, designated alternate for Will Bush, Director, Department of General Services
- Kathleen Moore, Director, School Facilities Planning Division, California Department of Education (CDE), designated representative for Jack O'Connell, Superintendent of Public Instruction
- Rosario Girard, President and CEO, Phoenix Construction Services, Inc., appointee of Arnold Schwarzenegger, Governor of the State of California
- Senator Bob Margett
- Senator Jack Scott
- Senator Joe Simitian
- Assembly Member Gene Mullin
- Assembly Member Jean Fuller
- Assembly Member Kevin de León

Representatives of the State Allocation Board (SAB) were as follows:

Rob Cook, Executive Officer
Lori L. Morgan, Deputy Executive Officer
Mavonne Garrity, Assistant Executive Officer

Representatives of the Department of General Services, Office of Public School Construction (OPSC), were as follows:

Rob Cook, Executive Officer
Lori L. Morgan, Deputy Executive Officer

Representative of the Department of General Services, Office of Legal Services, was as follows:

Henry D. Nanjo, Senior Staff Counsel

With a quorum present, Jeannie Oropeza, Chair, called the meeting to order at 4:12 p.m.

PRIOR MINUTES

A motion was made and carried to approve the Minutes for the January 30, 2008 SAB meeting.

EXECUTIVE OFFICER'S STATEMENT

The Executive Officer informed the Board of the following:

Attorney General's Opinion on Site Sale Proceeds

At the April 2007 SAB meeting, the Board requested that that Attorney General (AG) provide an informal opinion regarding whether, under Regulation Section 1700, funds used to address the fiscal insolvency of a district's health and/or retirement program would be considered a one-time expenditure or an ongoing expenditure. The AG's opinion indicated that Regulation Section 1700 prohibits the use of site sale proceeds to fund the district's insolvent health or retirement program. However, the AG's opinion stipulated that, upon appropriate amendments to current regulations, the SAB may allow a school district to use site sale proceeds to fund the district's insolvent health or retirement program provided it is a one-time expense, pursuant to Education Code Section 17462.

Based on the AG's opinion, staff will be presenting proposed regulatory amendments to the March Implementation Committee meeting for discussion, and it is anticipated that regulatory amendments may be presented to the Board at the March SAB meeting.

Grant Adequacy Report Update

At the January 2008 SAB meeting, the Board requested that staff put together a working group to discuss the Grant Adequacy Report that was presented by the Macias Consulting Group. Invitations to participate in the group were sent to various experts that may provide insight into the report and its findings. The working group will hold its first meeting, hosted by the Governor's and Speaker's Offices, tomorrow morning (February 28, 2008).

Charter School and High Performance Incentive Update

Two Charter school projects in Los Angeles, the Oscar De La Hoya Charter High and the Amino Venice Charter High, converted to final apportionments. Additionally, the Amino Venice Charter High project received the first allocation of High Performance Incentive Grants, in the amount of \$107,000.

Emergency Repair Program Fund Transfer

ABX3 4, chaptered February 16, 2008, made a variety of education-related changes to the 2007/2008 Budget Act, including the re-appropriation of \$100 million to the Emergency Repair Program account. In addition, it removed a provision that would allow for additional funds to be appropriated by the Director of the Department of Finance should the Emergency Repair Program account have insufficient funds to cover approved grants. The OPSC expects the funds to take 30-60 days to be transferred and be available for apportionments to school districts.

CONSENT ITEMS

In considering this item, the Chair reminded the Board and audience that in accordance with the motion approved at the January 2008 SAB meeting, the new construction projects in the Consent Specials and in the Consent calendar will continue to remain open, contingent on the Board's action concerning grant adequacy. The Board approved the consent calendar as presented.

FINANCIAL REPORTS***Status of Funds***

The Board accepted the Status of Funds report as presented. Additionally, the Executive Officer stated that there are many projects that will be presented at the next SAB meeting and those projects are Critically Overcrowded School (COS) conversions, which are funded from the COS account rather than the New Construction fund.

SPECIAL CONSENT ITEMS***Exeter Union High/Tulare 58/71928-00-001***

This item was moved to the Consent portion of the Agenda.

Inglewood Unified/Los Angeles 51/64634-00-002

In considering this item, the Board approved the staff's recommendations.

Sequoia Union High/San Mateo 57/69062-00-015

This item was held over to a future SAB meeting.

SPECIALS/APPEALS***Buellton Union Elementary/Santa Barbara 50/69138-00-002***

Assembly Member Pedro Nava, representing the Buellton Union Elementary School District, and Mr. Tom Cooper, Superintendent of the District, addressed the Board and asked the Board for their support. The Board requested that the SAB's legal counsel work with staff and the District in order to find a possible solution that would assist the District and not set a precedent, and be prepared to discuss at the March SAB meeting.

REGULATIONS***School Facility Joint-Use Program Regulatory Amendments***

In considering this item, the Board approved the staff's recommendations.

REPORTS***Material Inaccuracy Penalties***

The following individuals addressed the Board concerning this issue:

- Assembly Member Juan Arambula - requested that the Board “receive” the report instead of “accept” the report. He also asked that the Board request the SAB Implementation Committee review and consider the report along with any other material that may be useful for purposes of discussion.
- Mr. Deo Persaud, Assistant Superintendent of Operational Services for the Fresno Unified School District, addressed the Board concerning their request for a formal hearing on its material inaccuracy issue and also added comment on one of the scenarios in the material inaccuracy report. The speaker was reminded that since the Fresno item was not agendaized, no further comments regarding the Fresno material inaccuracy issue could be made.
- Mr. Terry Tao, representing the law firm of Atkinson & Andelson, addressed the Board and discussed Education Code Section 17041.2(c), which is the audit section under Chapter 12 for the State Lease-Purchase Program. He stated that there is discretion on the part of the Board with regard to how material inaccuracy is determined and that the statutory scheme also includes an arbitration provision with a binding nature to it.

The Board discussed the report in great detail and approved the staff’s recommendations, with a modification to Recommendation No. 1, which was to “receive” rather than “accept” the report.

INFORMATION/REFERENCE***SAB Meeting Dates for the Calendar Year 2008******School Facility Program Workload List - Applications Received Through February 1, 2008******Deferred Maintenance Program Unfunded List as of January 30, 2008******Facility Hardship/Rehabilitation Approvals Without Funding List as of January 30, 2008*****MISCELLANEOUS**

There were three public comments made at this meeting:

- San Bernardino City Unified School District – Assembly Member Anthony Adams addressed the Board concerning: 1) the removal of the District’s funding projects from the SAB Agenda and, 2) the manner in which the District has had to work to try to obtain approval for financial hardship. Mr. John Peukert, Assistant Superintendent of Facilities for the San Bernardino City Unified School District, addressed the Board and stated that the District has obligated a minimum of \$5 million in purchasing contracts based upon the financial hardship approval letter that was rescinded. Since this item was not agendaized, the Board made general comments only. Staff indicated that it would work with the District expeditiously and report back at the March SAB meeting.

MISCELLANEOUS (cont.)

- Grant Adequacy – Mr. Tom Duffy, representing the Coalition for Adequate School Housing (CASH), addressed the Board concerning the Macias study and expressed concerns with how it was conducted. He stated that practitioners were not identified for being included and providing information, nor was the CDE involved. Mr. Duffy shared that CASH conducted a study of its own, shared a copy of the study with the Board, and stated that it was CASH's belief that it contained compelling information that would support an increase beyond the six percent. The study consisted of reuse projects. Two school districts addressed the Board in support of the CASH study: Mr. Jack Colvard, representing the Kern Union High School District, and Mr. Doug Mann, representing the Poway Unified School District. In summary, Mr. Colvard stated that by choosing to use the same building and design teams, it reduces the associated costs of the project. Mr. Mann stated that they used the lease-leaseback method and by using the same version of school plans, they are guaranteed a maximum price.
- Grant Adequacy – Ms. Denise Callahan, representing the Macias Consulting Group, addressed the Board and wished to clarify an earlier statement relating to stakeholder participation not being included in the Macias' grant adequacy study. She clarified that comments were received from key stakeholders and many of the issues raised were already addressed in the study. Ms. Callahan briefly commented that the Macias study also looked at six case studies and geographic location.

CLOSED SESSION

At 7:08 p.m. and in accordance with Section 11126(a)(1) of the Government Code, the Board convened into closed session for the purpose of discussing a matter relating to personnel.

Upon conclusion of the closed session, the Board reconvened into open session at 7:28 p.m.

ADJOURNMENT

There being no further business to come before the Board, the Chair adjourned the meeting at 7:29 p.m.

ROB COOK, Executive Officer