

MINUTES
State Allocation Board
September 24, 2008

Upon notice duly given, the monthly meeting of the State Allocation Board was held in Room 4203 of the State Capitol in Sacramento, California on September 24, 2008 at 2:00 p.m.

Members of the Board present were as follows:

- Anne Sheehan, Chief Deputy Director, Policy, Department of Finance, designated alternate for Michael Genest, Director, Department of Finance (DOF)
- Mike Webb, Deputy Director, Legislation, 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
- Senator Bob Margett
- Senator Jack Scott
- Senator Joe Simitian
- Assembly Member Jean Fuller
- Assembly Member Julia Brownley
- Assembly Member Betty Karnette

Member of the Board absent was as follows:

- Rosario Girard, President and CEO, Phoenix Construction Services, Inc., appointee of Arnold Schwarzenegger, Governor of the State of California

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

Rob Cook, Executive Officer
Lori L. Morgan, Deputy 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, Assistant Chief Counsel

With a quorum present, Anne Sheehan, Chair, called the meeting to order at 2:08 p.m.

Ms. Sheehan announced that this meeting (September 24, 2008 SAB meeting) would be her last meeting as Chair to the SAB and that she accepted a position at the California State Teachers' Retirement System as Director of Corporate Governance. Ms. Sheehan stated that Mr. Tom Sheehy would be interim Chair to the SAB beginning with the October SAB meeting. Senator Scott presented Ms. Sheehan with a Resolution on behalf of the SAB and thanked Ms. Sheehan for her professionalism and dedication. Ms. Sheehan will be greatly missed by the SAB and all its staff!

PRIOR MINUTES

A motion was made and carried to approve the Minutes for the August 27, 2008 SAB meeting. However, Assembly Member Brownley abstained from voting on the motion since she was not in attendance at the August SAB meeting.

EXECUTIVE OFFICER'S STATEMENT

The Executive Officer informed the Board of the following:

Grid Neutral

In an effort to support the Division of the State Architect's (DSA) goal of creating grid neutral schools within the State of California, subject matter experts from the State and private sector have been conducting workshops to develop a comprehensive guidebook detailing a set of solutions to communicate the recommended means, methods and economics on how to become grid neutral. Additionally, these workshops have addressed the following critical issues:

- comprehensive planning
- energy efficient solutions
- energy generating technology
- innovative financing
- energy use management
- operations and maintenance

The information gathered from these individual workshops will be presented in a combined special workshop on October 20, 2008 in the auditorium at the Department of General Services Headquarters in West Sacramento. It is anticipated that the final guidebook will be presented at the Green California Schools Summit in Anaheim in December 2008.

Assembly Bill 1014 Workshops

The OPSC launched statewide workshops to educate school districts on significant and complex changes to the enrollment projection regulations approved by the SAB in June 2008. In an effort to reach as many school districts as possible, the OPSC selected seven strategic locations throughout the State to conduct detailed training on all aspects of the new regulations. The regulations are currently going through the regulatory process. It is expected that the regulations will be approved by the Office of Administrative Law and will become effective in early October.

Financial Hardship Checklists

At the August 2008 SAB meeting, staff indicated it would present the Financial Hardship (FH) checklists at the September Implementation Committee meeting. However at that time, the 10-day public notice for the September Implementation Committee meeting had already been issued. The SAB legal counsel opined that since the public notice was issued for only the proposed regulation changes and without reference to the checklists and in order to comply with open meeting law provisions, staff was legally restricted to only disbursing the checklists at the meeting and encouraged that comments be provided to the OPSC, which did occur. In addition, all school districts and county offices of education subsequently received a letter from the OPSC that explained the FH checklists and process, and encouraged that comments and questions be submitted. The checklists will be available for discussion at the October Implementation Committee meeting.

CONSENT ITEMS

A motion was made, and carried, that the Board approve the Consent calendar as presented.

FINANCIAL REPORTS***Status of Funds***

The Deputy Executive Officer presented the Status of Funds to the Board and noted that the Board apportioned \$153.6 million representing 117 projects. The Board inquired about two issues surrounding the Emergency Repair Program (ERP): 1) whether the \$46.2 million would exhaust the ERP funding available for projects, and 2) when will the OPSC be able to go through the ERP applications? The Deputy Executive Officer indicated that the ERP is allocated \$100 million per fiscal year for eight years or until \$800 million has been exhausted, whichever occurs first. It was clarified that the current Budget Act included an additional \$101 million for a revised fund balance of approximately \$147 million. It was also noted that the OPSC may provide unfunded approvals for applications when a fiscal year's current funds are exhausted, however, not to exceed the maximum authority. The Board accepted the Status of Funds report as presented.

School Facility Program Cost Savings Per Pupil By Use of Year-Round Education

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

SPECIAL CONSENT ITEMS***State Relocatable Classroom Program Lease Extension Request***

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

Gerber Union Elementary/Tehama 57/71548-00-001

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

SPECIALS/APPEALS***Macias Grant Adequacy Study***

The Board made general comments surrounding the report and the Chair asked if any Board member wished to entertain a motion to take formal action. Senator Scott indicated that the Board should not accept the findings and not allow others to cite the report. Senator Margett stated that the McGraw Hill database should not have been used for school facility construction purposes, and that the Macias report information was incorrect. Ms. Kathleen Moore asked to have the report removed from the OPSC's Resource Web page but it would remain on the SAB item history Web page since it is a public document. The SAB's Legal Counsel responded that the SAB cannot direct other agencies or entities not to cite the report.

SPECIALS/APPEALS (cont.)***Macias Grant Adequacy Study*** (cont.)

A motion was made and discussion with the Board and members of the public ensued. Dr. Ken Macias, proprietor of the Macias Consulting Group, Inc., addressed the Board to express disagreement with the Board's motion surrounding the Macias Grant Adequacy report. He stated that the OPSC contracted with Macias and that Macias looked at four different methodologies. He further stated that Macias consistently seeks to promote good government practices, that the Board should use the report as a tool, and that the report was done under Generally Accepted Government Auditing Standards. Ms. Denise Callahan, representing the Macias Consulting Group, Inc., also addressed the Board to affirm the report contained verified, unbiased information.

The motion was reiterated, and carried, that the SAB does not accept the findings of the OPSC's Macias Consulting Group report and expressly declares that the report does not have the SAB's approval for citation in any administrative, legislative, fiscal or other official purpose. The Chair, however, abstained from voting on the motion.

Los Angeles Unified/Los Angeles 50/64733-00-119, 123, 127 and 131

The Executive Officer and Ms. Toni Martinez, representing the SAB staff, presented this item to the Board. Mr. Lyle Smoot, representing the Los Angeles Unified School District, addressed the Board and contended that the 150 percent rule applies to locally funded projects and none of the District's projects are locally funded. Mr. Tom Duffy, representing the Coalition for Adequate School Housing (CASH) organization, addressed the Board and contended that Assembly Bill 695, Chapter 858, Statutes of 1999 (Mazzoni) has not been implemented in the manner in which it was intended. There was much discussion by the Board and the Board stated that since these longstanding regulations have been affirmed (approved and in place), an appeal was not the place to start the policy argument. The Executive Officer indicated that rather than cleaning up phantom eligibility at the audit phase or end of the process, the timing of the regulation application was carried out and the adjustments made at the beginning of the process. The Board made a proposal to bifurcate two issues: 1) deny the District's appeal, and 2) send both the 60 percent commensurate and the 150 percent rules to the Implementation Committee for vetting, with the clarification that if regulation changes ultimately resulted, it would impact future projects. The Chair requested a roll-call vote and the motion, which was to deny the District's appeal, failed per the following votes:

MEMBER	AYE	NAY	ABSTAIN	ABSENT
Senator Margett				X
Senator Scott	X			
Senator Simitian	X			
Assembly Member Fuller	X			
Assembly Member Brownley		X		
Assembly Member Karnette		X		
Mike Webb	X			
Kathleen Moore		X		
Rosario Girard				X
Anne Sheehan	X			
Total	5	3		2

Motion:

Carried
Failed X

SPECIALS/APPEALS (cont.)***Los Angeles Unified/Los Angeles 50/64733-00-119, 123, 127 and 131*** (cont.)

The Chair requested a roll-call vote and the motion, which would send both the 60 percent commensurate and the 150 percent rules to the Implementation Committee for vetting, carried per the following votes:

MEMBER	AYE	NAY	ABSTAIN	ABSENT
Senator Margett				X
Senator Scott	X			
Senator Simitian	X			
Assembly Member Fuller	X			
Assembly Member Brownley	X			
Assembly Member Karnette	X			
Mike Webb	X			
Kathleen Moore	X			
Rosario Girard				X
Anne Sheehan	X			
Total	8			2

Motion:Carried X Failed

Lastly, since the motion to deny the District's appeal failed, the Board requested staff to bring the appeal back to the October 2008 SAB meeting for further discussion. However, Assembly Members Brownley and Karnette abstained from supporting the request.

Material Inaccuracy

Mr. Rick Asbell, representing the SAB staff, presented this item to the Board. Ms. Lisa Allred, representing the law firm of Atkinson & Andelson, addressed the Board and contended that the procedures for the loss of self-certification do not reflect the statutory language. Ms. Susan Stuart, representing Stuart & Associates, addressed the Board and requested a one-month delay and stated she was aware that there was a disagreement on Scenario #3 in the item. The Board asked if Scenario #3 could be sent back for further discussion. The Executive Officer responded that the issue had been thoroughly reviewed with legal counsel, extensively discussed at four Implementation Committee meetings, and that staff's position would not change. The Board requested that this item be brought back to the October 2008 SAB meeting.

REGULATIONS***Final Adoption of Proposed Regulatory Amendments for Assembly Bill 1014***

This item was withdrawn due to no public comments being received during the 45-day public comment period.

REPORTS***Prior Bond Funds Available for Transfer***

The Board accepted the report and requested that an item be brought back to the October 2008 SAB meeting with recommendations so the Board can consider transferring the available funding to the appropriate program category(ies).

INFORMATION/REFERENCE

Remaining SAB Meeting Dates for the Calendar Year 2008 – A reminder was announced that the October SAB meeting was moved from October 22nd to October 29th.

School Facility Program Workload List - Applications Received Through September 8, 2008

Deferred Maintenance Program Unfunded List as of August 27, 2008

Emergency Repair Program – Applications Received Through September 8, 2008

Facility Hardship/Rehabilitation Approvals Without Funding List as of August 27, 2008

MISCELLANEOUS

Mr. Tom Duffy, representing the CASH organization, addressed the Board regarding the Excessive Cost Hardship item (modernization accessibility grants) that went to the August 2008 SAB meeting and asked that the topic be reviewed. The Executive Officer responded that staff clarified at the August 2008 SAB meeting that those regulatory amendments would be presented at a future Implementation Committee meeting. Mr. Duffy also inquired as to the Seismic Mitigation Program and stated that there has not been any projects funded to date. The Chair asked that staff look at the pipeline and consider whether the regulations need to be reviewed. The Executive Officer responded that the OPSC is coordinating with the DSA in outreach efforts and analysis on this issue and that the OPSC and DSA will report back to the Board.

CLOSED SESSIONS

At 4:55 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 and, in accordance with Section 11126(e)(1) of the Government Code, the Board met in closed session for the purpose of conferring and receiving advice from counsel regarding *Fresno Unified School District v. SAB/DGS et al.*; Case No. 08CECG01393 DRF.

Upon conclusion of the closed sessions, the Board reconvened into open session at 5:16 p.m.

ADJOURNMENT

There being no further business to come before the Board, the Chair adjourned the meeting at 5:17 p.m.

ROB COOK, Executive Officer