

MINUTES
State Allocation Board
June 24, 2009

Upon notice duly given, the monthly meeting of the State Allocation Board was held at the California Department of Education Building, located at 1430 N Street, Room 1101, in Sacramento, California on June 24, 2009 at 4:00 p.m.

Members of the Board present were as follows:

- Tom Sheehy, Chief Deputy Director, Policy, Department of Finance, designated representative for Michael Genest, Director, Department of Finance (DOF)
- Scott Harvey, Chief Deputy Director, Department of General Services, designated representative 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 Alan Lowenthal
- Senator Loni Hancock
- Senator Mark Wyland
- Assembly Member Julia Brownley
- Assembly Member Tom Torlakson
- Assembly Member Martin Garrick

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

Representative of the State Allocation Board (SAB) was as follows:

Susan Ronnback, Interim Assistant Executive Officer

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

Lisa Silverman, Chief of Fiscal Services
Juan Mireles, Program Services Policy Manager

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

Henry D. Nanjo, Assistant Chief Counsel

With a quorum present, Tom Sheehy, Chair, called the meeting to order at 4:07 p.m.

PRIOR MINUTES

Mr. Juan Mireles, representing the SAB staff, presented the May minutes for the Boards' review and approval. The Chair addressed Mr. Mireles regarding a revision made to the May minutes. Mr. Mireles directed the Board to the revision on page four, where clarifying language had been added regarding a Board Member's comments on the Murrieta Valley Unified School District's appeal.

With no other comments needing to be addressed on the Minutes, the Chair opened the floor to public comment.

Public Comment

Mr. Tom Duffy, representing the Coalition for Adequate School Housing (CASH) organization, requested that a hold be put on the May Minutes being adopted. He went on to state that the May Minutes refer to comments being made by "Board Member" instead of identifying the individual Board Member making comment. There were no objections by the Board on the May Minutes being held over until the issue presented by Mr. Duffy could be resolved.

Further comment was made by the Chair and confirmed by Mr. Mireles regarding transcripts of the State Allocation Board meeting being posted as early as July to the OPSC Web site.

EXECUTIVE OFFICER'S STATEMENT

Ms. Lisa Silverman, Chief of Fiscal Services, informed the Board of the following:

Seismic Funding Update

San Ramon Valley High School has submitted the first application for Seismic Funding. This request is to replace the gym facility which qualifies as a *Most Vulnerable Category, Type 2 Building*. It was recommended the Board approve this unfunded approval.

Status of Funds

At the February and March 2009 SAB meeting, staff was requested to identify projects that were waiting for funding that had a Labor Compliance Component. Staff identified 30 projects with new construction unfunded approvals with a worth of approximately \$118 million that will be redesignated from Prop 1D to Prop 47.

High Performance Outreach

At the May 2009 SAB Meeting, staff was requested to provide increased outreach for the High Performance (HP) Funding. Staff met with representatives from Senator Hancock's office, the Leadership in Energy and Environmental Design, and the Collaborative for High Performance Schools. The nature of the discussion revolved around HP Grants, trying to incorporate HP Design into the construction, and green design construction elements that have little to no additional costs. A follow-up meeting was scheduled for the following week. Currently there remains \$88 Million in funding.

Charter School Facilities Program

As a result of the May 2009 SAB meeting, July 1, 2009 will start the new filing round for Charter Schools. OPSC in conjunction with the School Facilities Finance Authority and the California Department of Education will provide outreach workshops to assist Charter Schools to complete the necessary forms. Three workshops have been scheduled, the first two in Los Angeles and San Diego respectively and a follow up workshop in Sacramento being webcasted.

EXECUTIVE OFFICER'S STATEMENT (cont.)

Chair Tom Sheehy asked if there was a sense that additional applications would be turned in with \$88 million remaining in available HP funding. Ms. Silverman responded by stating the discussion centered on educating school districts on the criteria for eligibility and further outreach.

Mr. Harvey asked whether there was any discussion of obstacles preventing school districts from building High Performance Schools. Mr. Mireles responded that there were some concerns that the grants aren't enough to make changes to the design of the project and that regulation changes may be in order.

Public Comment

Mr. Bill Savidge, representing CASH, expressed concerns regarding the cost of consultant fees being greater than that of the grant increase. Kathleen Moore questioned Mr. Savidge about schools seeking a CHPS standard and whether that would have to be submitted as well, which was confirmed by Mr. Savidge. Senator Hancock questioned Mr. Savidge regarding the consultant fees and as to whether some of the consultant fees couldn't be absorbed in the initial architect's design and also whether too much information was required to make the grant cost effective. Mr. Savidge agreed that that was a part of the problem as well as the grant level not being high enough to support the program. Senator Hancock went on to ask for a report on this topic.

CONSENT ITEMS

Senator Wyland commented on the adequacy of the Career Technical Education Facilities Program (CTEFP) and the schools being funded. He stated that he would like the CDE to provide to the SAB members the plan by which the CDE approves for these types of projects. He further stated that he was interested in what the costs are and how they vary from application to application and district to district. Ms. Moore responded that the CDE is responsible for reporting on what each CTEFP component is doing in each school district CTEFP project. In considering this item, the Board approved the consent calendar as presented.

FINANCIAL REPORTS***Status of Funds***

Ms. Lisa Silverman, representing the SAB staff, presented the items to the Board. Although the Board accepted the Status of Funds reports as presented, Assembly Member Brownley and Senator Wyland asked for clarification regarding the listing of Proposition 1D and Build America Bonds. The Chair and Ms. Silverman addressed the questions as presented and it was recommended and agreed that inviting Ms. Laura Chick, Inspector General over the American Recovery Reinvestment Act of 2009 stimulus funds (Build America Bonds), to the next Board Meeting to address this and like questions would be prudent.

SPECIAL CONSENT ITEMS***Susanville Elementary/Lassen 58/64196-00-001***

Mr. Juan Mireles, representing the SAB staff, presented this Facility Hardship project which has met the qualifying criteria for imminent Health and Safety issues.

SPECIAL CONSENT ITEMS (cont.)

Mr. Harvey had policy and procedural questions regarding Susanville. It was established that a representative from the District, Mr. Richard Gonzales of Richard Gonzales and Associates, was present to answer Mr. Harvey's questions. Mr. Gonzales confirmed that no State funds were used in this work and that, to his knowledge, no inspections or approvals were sought. In considering this item, the Board approved the staff's recommendations.

Corcoran Joint Unified/Kings 58/63891-00-001

Mr. Juan Mireles, representing the SAB staff, presented this Facility Hardship project which has met the qualifying criteria for imminent Health and Safety issues. In considering this item, the Board approved the staff's recommendations.

San Bernardino City Unified/San Bernardino 58/67876-00-001

Mr. Juan Mireles, representing the SAB staff, presented this Facility Hardship project which has met the qualifying criteria for imminent Health and Safety issues. In considering this item, the Board approved the staff's recommendations.

SPECIALS/APPEALS***San Ramon Valley Unified/Contra Costa 51/61804-03-001***

Mr. Juan Mireles, representing the SAB staff, presented this item to the Board. Assembly Member Joan Buchanan was present to answer any questions the Board might have regarding this item. Senator Wyland did ask clarification to the term *soil liquefaction*. Assembly Member Buchanan simply stated that if an earthquake were to hit, the soil would liquefy under the gym and the building would collapse. In considering this item, the Board approved the staff's recommendations.

Glendale Unified/Los Angeles 50/64568-00-007

The Chair requested a roll call vote. Mr. Henry Nanjo, Assistant Chief Counsel, reminded the Board that there were three options to choose from and that one should be specified before the vote was taken. Assembly Member Brownley motioned option three (which would Approve the District's request to reimburse the District for the construction of the CVHS project), the motion was seconded by Senator Lowenthal. Mr. Nanjo reminded the Board that there may be legal concerns in this option.

SPECIALS/APPEALS (cont.)

The Chair requested a roll-call vote and the motion passed per the following votes:

MEMBER	AYE	NAY	ABSTAIN	ABSENT
Senator Lowenthal	X			
Senator Hancock	X			
Senator Wyland	X			
Assembly Member Garrick	X			
Assembly Member Brownley	X			
Assembly Member Torlakson	X			
Scott Harvey		X		
Kathleen Moore	X			
Rosario Girard				X
Tom Sheehy		X		
Total	7	2		1

Motion:Carried X Failed ***School Facility Program Inactive Preliminary Apportionments***

Ms. Barbara Kampmeinert, representing the SAB staff, presented this item regarding Critically Overcrowded Schools and Charter Schools to the Board. The Fiscal Crisis Emergency Regulations for Critically Overcrowded and Charter School projects became effective, April 22, 2009 allowing the Board to make a finding that eligible projects are "Inactive Apportionments." Districts and charter schools would not be required to proceed with their projects during a time when the Board could not provide the earlier stages of funding, such as a separate site apportionment for environmental hardship, design, or site acquisition.

Ms. Kampmeinert recommended the Board declare the projects listed on the attachments as Inactive Preliminary Apportionments and Inactive Preliminary Charter School Apportionments until further Board action.

Ms. Kathleen Moore asked whether this captured all projects or if there would be more projects coming forward. Ms. Kampmeinert stated that all project have been captured with this one item. Ms. Moore went on to state she would be voting affirmatively in favor of this item but would abstain from the Elk Grove individual item. With no further questions or comments, the Board approved the staff's recommendations.

School Facility Joint Use Program and Career Technical Education Facilities Program Extension

Ms. Tracy Sharp, representing the SAB staff, presented this item to the Board. Ms. Sharp recommended that the Board Approve the 12-month time extension as listed in the attachments. In considering this item, the Board approved the staff's recommendations.

REGULATIONS

Seismic Mitigation Program

This item was postponed until the July 2009 SAB meeting at the request of the Board. However, the Board did allow public comments on this issue.

Public Comment

Mr. Duffy, representing CASH, suggested that when the regulations are written that some authority for discretion be given to the State Architect when reviewing these projects. He went on to ask that Districts receive unfunded approval for these projects. Mr. Lyle Smoot, representing LAUSD, encouraged the Board to extend the criteria of eligibility to allow more Districts to qualify for funding.

REPORTS

New Construction Grant Adjustment Methodology

Ms. Masha Lutsuk, representing the SAB staff, presented this item to the Board. In an attempt to develop a sound approach to analyzing construction cost data gathered by the Office of Public School Construction (OPSC), Staff presented a proposed methodology to stakeholders to gather input and provide transparency to the process. The process engaged through three Implementation Committee meetings. Ms. Lutsuk described analytical approaches, data issues, feedback from stakeholders, and that there does not appear to be consensus on the final approach to the issue of AB 127 grant adjustments. Staff's proposal is to begin the analysis with the comparison of State grants vs. construction cost for all projects with useable reported data and then to present findings by sub-groups of main project categories.

Staff believes that the proposed methodology should be applied to the first set of construction data that is now available. Even with apparent challenges in the data gathering process, this project cost information is valuable in that it provides project information that was not readily available before and allows for a general conclusion on the relationship between State grants and project costs. In the future, the analysis can be further refined as the data gathering process improves. Staff proposes to conduct data analysis based on the methodology presented to the Implementation Committee and present findings to the SAB at the July 2009 meeting.

The Chair made comment that this item was not ready for a vote and that more work would need to be done.

Public Comment

Mr. Duffy, representing CASH, gave comment that he would like to continue to work with OPSC in developing this item and that he has vital information to share to help this item move forward. The Chair agreed and encouraged continued dialogue between CASH and OPSC. Senator Lowenthal put forward an idea to contact an outside source, specifically the authors of *The Complex and Multi-Faceted Nature of School Construction Costs* and ask their advice on our Methodology. The Chair directed Mr. Mireles to initiate a meeting. Mr. Lyle Smoot, representing LAUSD made a final comment that requested the data being collected by OPSC be more transparent. The Chair agreed and directed Mr. Mireles to work with LAUSD to address some of their concerns.

MISCELLANEUS

Before continuing into Closed Session, the Chair recognized Mr. Henry Nanjo, Assistant Chief Counsel, who thanked the Board for the opportunity to provide Legal counsel. Mr. Nanjo went on to introduce Theresa Boron-Irwin, Senior Staff Counsel Specialist, as the new State Allocation Board legal counsel.

INFORMATION/REFERENCE

Dates for the 2009 State Allocation Board Meetings
School Facility Program Unfunded List
School Facility Program Workload List
Emergency Repair Program Workload List
Facility Hardship/Rehabilitation Approvals Without Funding

CLOSED SESSION

At 6:15 p.m. and in accordance with Government Code Section 11126(e)(1), the Board convened into closed session to confer with and receive advice from counsel regarding *Fresno Unified School District v. SAB/DGS et al.*; Case No. 08CECG01393 DRF.

ADJOURNMENT

There being no further business to come before the Board, the Chair adjourned the meeting at 7:00 p.m.



ROB COOK, Executive Officer