

MINUTES
State Allocation Board
July 22, 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 July 22, 2009 at 2:00 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
- William J. Ellerbee, Deputy Superintendent, School and District Operations Branch, 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
- Assembly Member Jean Fuller
- Assembly Member Julia Brownley
- Assembly Member Mary Hayashi

Members of the Board absent were as follows:

- Senator Alan Lowenthal
- Senator Loni Hancock
- Senator Mark Wyland

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

Rob Cook, Executive Officer
Susan Ronnback, Interim Assistant Executive Officer

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

Rob Cook, Executive Officer
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:

Theresa Boron-Irwin, Senior Staff Counsel Specialist

With a quorum present, Tom Sheehy, Chair, called the meeting to order at 3:10 p.m.

PRIOR MINUTES

A motion was made and carried to approve the Minutes for the May 27, 2009 and June 24, 2009 SAB meetings. However, Ms. Girard abstained from voting on the June 24, 2009 SAB Minutes because she was not in attendance at that meeting.

EXECUTIVE OFFICER'S STATEMENT

The Executive Officer informed the Board of the following:

High Performance Outreach

At the May 27, 2009 SAB meeting, staff was requested to increase outreach to districts regarding High Performance. In this Agenda, four projects will be receiving incentive grants totaling approximately \$560,000. Staff is working with Senator Hancock's staff, the Division of the State Architect, the DOF, and the Collaborative for High Performance Schools to increase outreach. Additionally, staff is coordinating efforts with industry professionals and school districts to encourage participation. Approximately, \$83.4 million is available for qualifying schools.

Current Bond Rating in California

On July 14, 2009, California's bond rating was downgraded two steps from A2 to Baa1. The new rating will increase the cost of California's borrowing and create additional debt service burden on the General Fund.

Unfunded Approvals

Including the actions before the Board today (July 22, 2009), the SAB will have made nearly \$1.2 billion in unfunded approvals this calendar year.

Bond Accountability

Ms. Laura Chick has been invited to attend the August 26, 2009 SAB meeting to discuss bond accountability.

SAB Audit Subcommittee Meeting

This meeting is set for August 11, 2009.

Deputy Executive Officer and Assistant Executive Officer

The selection process for these vacancies is currently underway.

Relocatable Classrooms Available for Purchase

The State of California is liquidating its inventory of relocatable classrooms as part of the Phase-Out Plan previously approved by the SAB. Beginning August 15, 2009, the remaining relocatable classroom inventory will be offered for sale to public entities.

Furloughs

Per the Governor's Executive Order S-13-09, State Employees are being furloughed three days a month. The OPSC will be closed on the first three Fridays of each month. This equates to a loss of productivity approaching 15 percent to the OPSC's operations.

CONSENT ITEMS

In considering this item, the Board approved the consent calendar as presented.

FINANCIAL REPORTS***Status of Fund Releases***

Ms. Lisa Silverman, representing the SAB staff, presented the item to the Board. Although the Board accepted the Status of Fund Releases report as presented, Mr. Harvey asked if there were impediments to school districts to submit fund releases for the remaining funding (April sale). Mr. Cook replied that school districts could come in at any time and that the OPSC was unaware of any impediments.

Public Comment

Mr. Tom Duffy, representing the Coalition for Adequate School Housing (CASH) organization, commented that there needs to be a reinterpretation of statute for different kinds of contracts (i.e., architectural agreements, contracts for purchasing property, etc.) to consider and possibly change the regulation to allow for more than construction contracts.

Status of Funds

Ms. Lisa Silverman, representing the SAB staff, presented the item to the Board. Ms Silverman pointed out to the Board that when the OPSC certified the bond proceeds to the State Treasurer's Office (STO), an error was made on the certification list reflecting a project being entirely funded out of Prop 47 when it should have been split funded meaning some funding out of Prop 47 and 55. Assembly Member Brownley requested clarification that the project did not require an additional \$72 million. Ms. Silverman responded by stating the error was only in the certification list provided to the STO and the school district was not harmed. The Board accepted the Status of Funds report as presented.

SPECIAL CONSENT ITEMS***San Bernardino City Unified/San Bernardino 56/67876-00-001***

The Executive Officer presented this item to the Board.

Ms. Patty Ashton and Ms. Laura Breuer, representing the San Bernardino City Unified School District, requested that the District be given an inactive apportionment with a December 10th, 2008 apportionment date. Mr. Terry Tao, representing Atkinson, Andelson attorney firm addressed the Board in support of the District. In addition to the inactive apportionment request, Ms. Ashton also requested working with the CDE and the OPSC to reconcile the double hit on eligibility. The Chair reminded Ms. Ashton that the Board is no longer making apportionments; however, he did ask Mr. Cook what it would mean if the Board granted her request. Mr. Cook stated that this would put the District at the end of the line for the apportionments that the Board has made and in front of the other projects that have gotten unfunded approvals. The Chair cautioned the Board that it doesn't set a precedent on the apportionment issue. Another issue raised by the Chair was in regards to the OPSC being bound to an administrative action by the DOF and that they would have to get approval by the DOF. Mr. Chris Ferguson, representing the DOF, agreed with the Chair's statement and went on to add that there may be certification issues on the bonds in terms of this project not being submitted to the STO for certification. Assembly Member Fuller indicated that she would like to see a more firm opinion and briefing about the DOF certification. The Chair indicated to Ms. Ashton that the Board needed to obtain more information and that the item would be held over until the August 2009 SAB meeting.

SPECIALS/APPEALS***School Facility Program Inactive Apportionments***

The Executive Officer presented this item to the Board. Dr. Ellerbee indicated that there were two projects related to the Sacramento City Unified School District which would be a potential conflict of interest and he would be abstaining from voting on the two projects. The Chair stated there would be two motions: the first motion included approval of all the projects excluding the two Sacramento City Unified School District Projects and the motion carried. The second motion included approval of the two Sacramento City Unified School District projects. The Chair requested a roll-call vote and the motion carried per the following votes:

MEMBER	AYE	NAY	ABSTAIN	ABSENT
Senator Lowenthal				X
Senator Hancock				X
Senator Wyland				X
Assembly Member Fuller	X			
Assembly Member Brownley	X			
Assembly Member Hayashi	X			
Scott Harvey	X			
Dr. Ellerbee			X	
Rosario Girard	X			
Tom Sheehy	X			
Total	6		1	3

Motion:Carried X Failed ***Recommendations for Prior Bond Funds Available for Transfer***

This item was postponed until the August 2009 SAB meeting at the request of the Board.

School Facility Program Joint-Use Projects

Mr. Brian LaPask, representing the SAB, presented this item to the Board. Assembly Member Brownley questioned whether the action taken on this item could impact the "Prior Bond Funds Available for Transfer" item which was postponed until the next Board. Mr. Cook responded that the impact could be one of the projects would need to be further reduced, which is not the preferred choice. He further stated that perhaps the item be put over until both items can be acted upon simultaneously rather than taking an action that complicates the item that was postponed.

This item was postponed until the August 2009 SAB meeting at the request of the Board

Transfer of Critically Overcrowded Schools Program Funds

This item was postponed until the August 2009 SAB meeting at the request of the Board.

New Construction Grant Adjustment

Ms. Masha Lutsuk, representing the SAB, presented this item to the Board. Ms. Lutsuk provided an update on progress made and discussed plans to compile a report and hold an informational session to answer any questions regarding the methodology used in the analysis. The OPSC plans to present a completed report with recommendations at the August 2009 SAB meeting.

Public Comment

Mr. Tom Duffy, representing the CASH organization, encouraged the Board to encourage the OPSC to complete the report for the August Board meeting. He indicated that CASH had compiled its own findings and methodology based on information recorded on the PIW's that were complete projects. He further stated that CASH would present that to the Board at the August 2009 SAB meeting.

REGULATIONS***Seismic Mitigation Program***

This item was postponed until the August 2009 SAB meeting at the request of the Board.

REPORTS***University of California – Berkeley study on The Complex and Multifaceted Nature of School Construction Costs: Factors Affecting California***

Dr. Jeffrey Vincent, Deputy Director for the Center for Cities and Schools at the University of California at Berkeley, presented this report to the Board. He stated that the study, The Complex and Multifaceted Nature of School Construction Costs, was titled in this fashion because it was found that coming to solid conclusions about school construction costs was extremely difficult and was the most challenging research project. He further stated that the current effort by the OPSC to determine what it costs to build a school in California will be a very difficult and complex endeavor and that he hopes that their findings, methodologies, and data will shed light on ways to go about this. Assembly Member Brownley stated that the staff has been evaluating data from the Project Information Worksheets (PIW) to obtain a good methodology. She asked Dr. Vincent what recommendations could he give the SAB based on what he knows that could help correct the manner by which staff is collecting the data? Dr. Vincent responded that he believes the road staff is taking focuses only on the dollars and de-links the dollars from the educational structure (quality). He further stated that there is an enormous amount of variation and that he doesn't know if it is distillable down to one number. He also questioned what does it cost to build a school and stated that the data from school districts more accurately addresses the question of what are school districts spending to build the schools they choose to design. He further stated that it is related to issues of equity and local wealth capacity. Assembly Member Brownley asked if there was another methodology that could be used that we would be better off using. Dr. Vincent replied that it would be instructive to look at other states, for example, the state of Florida. Florida spends a lot of money on school construction and one could download a spreadsheet that shows the cost per square foot, different types, etc. Mr. Harvey asked if Dr. Vincent had any recommendations on how we could get the data in a more consistent manner. Dr. Vincent responded that he was struck by the non-standardization of cost categories on school construction projects (i.e., hard costs, soft costs, etc.) and recommended a standardization of construction categories as well as keeping the data collection tool simple. Mr. Harvey asked if there are regional rates within the State (i.e., beach, mountain, desert, etc.). Dr. Vincent did not know. However, the Executive Officer responded that there were regional rates in California that were established in the 70's. Ms. Girard wondered if you compared states' labor costs (prevailing wage), project labor agreements, and labor compliance regulations, that these may be the key factors into why schools are more expensive to build in California. Dr. Vincent said it was debatable and that he did not know the answer. Assembly Member Brownley indicated that different policies can affect projects and asked if a policy variable were added to the model could it reduce or increase costs? Dr. Vincent said that their findings didn't point to one policy but the cumulative affect of policies creating a change.

Public Comment

Mr. Bill Savidge, representing the CASH organization and West Contra Costa Unified School District, stated that the information collected by the OPSC is not the data used by the rest of the construction community. He also stated he appreciated Dr. Vincent's comment on looking at the quality level of education.

Mr. Tom Duffy, representing the CASH organization, addressed the question Assembly Member Fuller had regarding change orders to a project. He stated that change orders are allowed to exceed the 10 percent if the change order is for something above the ground. Some change orders are larger than others because of things that are found in the earth or there is a troubling contractor. He went on to emphasize that AB 127 is only for the per-pupil grant increase and encouraged the Board to encourage the staff to focus on that issue.

Mr. David Thorman, State Architect, Division of the State Architect (DSA), addressed the Board in regards to school costs in California. He stated that the prevailing wage is a major factor but another major factor is we're a very high seismic area. The State of California has the Field Act and we build schools better than other states due to the Field Act. We over-design and the quality of documents received from the architects is not what it needs to be which raises costs, change orders are very high and costly. We have the most complex geology, geography, and climate of any state in the country.

Status of Earthquake Early Warning in California

Mr. David Thorman, State Architect, DSA, introduced Mr. Dick McCarthy, Executive Officer of the Seismic Safety Commission, to present the report to the Board. Mr. McCarthy explained that California is trying to emulate Japan's Early Warning System; it's a national system with audible alerts and pre-automated things that are done automatically. The Seismic Safety Commission is currently pursuing federal stimulus dollars (ARRA) that would provide \$83 million over a five year period to fund an advanced early warning system. He is hopeful that working with local networks, that we could craft a siren network that would link them all together. Mr. McCarthy asked for a letter of support from the SAB of the early warning concept that moves toward mitigating earthquake hazards and would benefit California's school children, public schools, private schools, hospitals and other entities. Further, Mr. McCarthy stated that he believes the concept would create 800 jobs.. Mr. Harvey supported his efforts and thanked him for his presentation. The Chair directed Mr. Cook to draft a letter and send a copy to all of the Board for review to ensure their agreement.

Public Comment

Mr. Scott Nebenzahl, private provider of such early warning systems (emergency management sector), addressed the Board to support the work the Board is doing on the issue. He stated that school districts desire to have this technology.

Status of Emergency Repair Program Funding

Ms. Masha Lutsuk, representing the Staff, presented this item to the Board. Ms. Lutsuk reminded the Board and the audience that the funding for the Emergency Repair Program (ERP) is provided through the State's General Fund (Proposition 98 Reversion Account) and provides 100 percent State funding for eligible school districts to address health and safety emergency repair at eligible school sites.

Public Comment

Mr. Bruce Hancock, representing Hancock, Gonos & Park, addressed the Board. Mr. Hancock indicated the 2008/09 Fiscal Year budget was approved with \$101 million for the ERP. However, \$51 million remains unaccounted for and should be returned to the ERP. The Chair asked the DOF to comment. Mr. Chris Ferguson, representing the DOF, explained to the Board that funds are made available through a reversion account that is funded from school districts returning unused funds. He further explained that it's difficult to determine when more funds will come back into the reversion account as it fluctuates during the fiscal year. Mr. Hancock asked if the funding could come from another source. Mr. Ferguson could not state whether funding from another source would become available for this purpose.

The Chair asked the DOF to investigate when funds might be available in the reversion account and report the findings when the item comes back for further discussion at the August 2009 SAB meeting. In addition the Chair directed Mr. Cook to agendize this item for the August 2009 SAB meeting.

INFORMATION/REFERENCE

Dates for the Remaining 2009 State Allocation Board Meetings

School Facility Program Unfunded List Through June 24, 2009

School Facility Program Workload List Applications Received Through July 1, 2009

Emergency Repair Program Workload List Applications Received Through July 7, 2009

Facility Hardship/Rehabilitation Approvals Without Funding As of June 24, 2009

CLOSED SESSION

At 5:45 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. The Chair announced that the closed session was over and the reconvened into public session at 6:02 pm.

ADJOURNMENT

There being no further business to come before the Board, the Chair adjourned the meeting at 6:04 p.m.



ROB COOK, Executive Officer