

MINUTES
State Allocation Board
August 26, 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 August 26, 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 Jean Fuller
- Assembly Member Julia Brownley
- Assembly Member Tom Torlakson

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
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:

Teresa Boron-Irwin, Senior Staff Counsel Specialist

Mr. Tom Sheehy, Chair, called for a Sub Committee to convene until a quorum was established. At 4:33 p.m. a quorum was established.

PRIOR MINUTES

A motion was made and carried to approve the Minutes for the July 22, 2009 SAB meeting.

EXECUTIVE OFFICER'S STATEMENT

The Executive Officer informed the Board of the following:

Support for Early Earthquake Warning

A letter in support of the Seismic Safety Commission's American Recovery and Reinvestment Act Federal grant application was issued earlier this month. The grant application is for the creation of an early earthquake warning system that would benefit California's students.

Current Bond Rating for California

The State's bond rating has stabilized but still remains at the lowest level of any state. The Treasurer will soon be out in the capital markets to borrow billions for cash flow. Depending upon the success of that effort, the State may be able to sell General Obligation Bonds in the coming months.

Audit Subcommittee Meeting

The first Audit Subcommittee meeting was held on August 11, 2009 to discuss the OPSC's audit authority. Presenters included State Auditor Elaine Howle, OPSC Staff, a representative from the California Department of Education, as well as a number of stakeholders. Recent improvements to the OPSC's audit procedures include additional audit training and incorporation of field audits.

Furloughs

This is the first Board meeting after a full cycle of three furlough day per month. The OPSC is coming to grips with the loss of productivity that comes with losing 36 work days per year. In reviewing our internal deadlines, we are finding that expectations need to be reset.

Mr. Scott Harvey recommended establishing limits to the number of Agenda items that are presented at each Board. Further, he suggested that a 90-day calendar and/or a working document be prepared that would show a reasonable number of items for each board, and the Board would assist the OPSC in prioritizing the workload which would preserve the integrity of the Agenda. Ms. Moore stated that she would support that idea and that the Board should assist in setting the priorities of appeals and regulations. Assembly Member Torlakson asked how the OPSC's budget was funded. The Executive Officer responded that the OPSC is primarily funded from the bonds. Assembly Member Torlakson stated that perhaps there is a calculus where there may be some distinctions of allowing fee-based agencies to continue while keeping an eye on the lack of time that results in less projects going out the door. The Chair went on the record to explain that the reason for across the board State agency furloughs is directly tied to cash management and personnel issues related to employment distortion.

CONSENT ITEMS

Assembly Member Brownley requested clarification regarding an Emergency Repair Program item containing repairs to a swimming pool at the Sacramento Charter High School. Ms. Masha Lutsuk, representing the SAB staff, responded by stating that there are no restrictions to funding as long as the facilities are being used by pupils and it is a health and safety issue.

Ms. Moore stated that there were projects related to the Elk Grove Unified School District on the Consent Calendar, which would be a potential conflict of interest and she would be abstaining from voting on those projects. The Chair stated there would be two motions: the first motion

CONSENT ITEMS (continued)

included approval of all the projects excluding the Elk Grove Unified School District projects and the motion carried. The second motion included approval of the Elk Grove 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 Torlakson	X			
Scott Harvey	X			
Kathleen Moore			X	
Rosario Girard				X
Tom Sheehy	X			
Total	7		1	2

Motion:Carried X Failed **FINANCIAL REPORTS*****Status of Fund Releases***

Ms. Lisa Silverman, representing the SAB staff, presented the item to the Board. Ms. Silverman highlighted that from the March (Prop 1D) Bond sale proceeds, \$4 million out of \$4.3 million have been expended and from the April (Build America Bond) Bond sale, \$1.1 billion out of \$1.4 billion have been expended with \$338 million remaining. She further stated that there was \$247.1 million in remaining Bond proceeds compared to \$692.6 million in apportioned projects that have not received a fund release, which leaves a shortage of funds for those districts of \$445 million. The Board accepted the Status of Fund Releases report as presented.

Status of Funds

Ms. Lisa Silverman, representing the SAB staff, presented the item to the Board. Mr. Dave Walrath, representing the Small School Districts Association (SSDA), addressed the Board. Mr. Walrath recommended that the SAB formalize a policy, working with the Pooled Money Investment Board (PMIB) and the OPSC, on how to release funds once they become available. The Chair asked if the first in first out policy didn't cover this. Mr. Walrath responded that it didn't address all the issues and clarified that once the Treasurer starts to sell bonds, and if the proceeds cover the deficiency and if there is a remainder of funds, how do we address that. The Chair addressed the merit of this suggestion and went further by requesting input from the DOF. Mr. Chris Ferguson, representing the DOF, addressed the Board and stated that the most valuable information when notifying the Treasurer will be which bond, whether it is Prop 55, 47, or 1D. Ms. Moore recommended communicating with the Treasurer about a schedule for bond sales so that school districts could get notice of possible funding. The Executive Officer stated that the OPSC has and will continue to work very closely with the Treasurer's Office. The Chair added the importance of the SAB, as a separate entity, communicating with the Treasurer. With no further comment, the Board accepted the Status of Funds report as presented.

SPECIAL CONSENT ITEMS

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

The Executive Officer presented this item to the Board.

Ms. Moore raised a concern that this item had already been voted on once by the Board and was now being voted on again. She requested that the SAB Rules and Procedures Sub-Committee take a look at and address this issue. The Executive Officer responded that there have been instances where the Board took twists and turns in approving the appeal and that staff did not anticipate that which would make the funding difficult to determine.

Assembly Member Brownley raised a concern over this item due to a lack of members available to vote on the item. The Chair addressed her concern by stating that the motion to approve the District's unfunded approval included that if the item did not pass with the members present, that the motion would be removed and the item would be held over until the next meeting with no harm to the District. 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 Torlakson	X			
Scott Harvey		X		
Kathleen Moore	X			
Rosario Girard				X
Tom Sheehy		X		
Total	6	2		2

Motion:

Carried X

Failed

State Relocatable Classroom Program Disposal of Buildings

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

Santee Elementary/San Diego 51/68361-00-001

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

South San Francisco Unified/San Mateo 58/69070-00-001, 002, and 003

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

School Facility Program Additional Unfunded Approval

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

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

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

SPECIALS/APPEALS

San Bernardino City Unified/San Bernardino 50/67876-00-001

Mr. Rick Asbell, representing the SAB staff, presented this item to the Board. Mr. Wael Elatar, representing the San Bernardino Unified School District (SBUSD) and Mr. Matt Pettler, representing School Facility Consultants, addressed the Board. It was explained that the District wanted to use bridge financing to fund the project, however, once the State has reimbursed the District they wanted to use the money to fund other District projects instead of repaying the bridge financing debt. It was discussed and agreed that this was a global issue and was not part of the District's appeal; it would have to be brought up at a later time when it could be discussed not only for this District but for all school districts.

There was quite a discussion on the appeal and a question was raised as to when the SBUSD's ORG application was valid. Transcripts were provided and it was agreed that the District's ORG application was valid in July 2008. Mr. Scott Harvey raised a concern that the District might be double dipping on eligibility in New Construction and ORG for this project. The Executive Officer explained that the staff's recommendation followed the direction of the Board; however, to do as the District is proposing would be allowing them to collect on both ORG and New Construction eligibility. Senator Wyland made a motion that the district receive a February 2009 unfunded approval date and reduce the district's eligibility by 81 grants reduced from its New Construction eligibility and 324 grants reduced from its ORG eligibility. Mr. John Peukert, Assistant Superintendent for Facilities representing the SBUSD, addressed the Board in support of the February 2009 unfunded approval date. Mr. Pettler explained to the Board the District's perspective of how the eligibility math equates to 405 pupil grants thereby losing an additional 81 pupil grants in eligibility. The Executive Officer did not agree with that statement.

The Chair called for a roll call vote and the motion made by Senator Wyland 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 Torlakson	X			
Scott Harvey		X		
Kathleen Moore	X			
Rosario Girard				X
Tom Sheehy		X		
Total	6	3		1

Motion:

Carried X
 Failed

Recommendations for Prior Bond Funds Available for Transfer

Ms. Lisa Silverman, representing the SAB staff, presented this item to the Board.

Ms. Moore suggested that, once the Joint Use projects are funded, that the remainder of the funds could be used for Facility Hardship projects. Ms. Silverman responded that it was an option; however, the \$4.4 million would continue to diminish due to post federal arbitrage penalties. Ms. Moore made a motion to approve staff's recommendation which is option 1 with the idea that staff will inform the Board of imminent (grave) facility hardship projects.

SPECIALS/APPEALS (cont.)

Assembly Member Brownley asked for clarification of administrative fees paid to the State Controller, Treasurer, and the CDE etc. Ms. Silverman responded that these are routine charges that are paid on a monthly or quarterly basis (i.e., interest costs, costs for processing fund releases, other overhead costs) and that the OPSC validates/reconciles the charges to the appropriations every year. In considering this item, the Board approved the staff's recommendation.

School Facility Program Joint-Use Projects

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

Transfer of Critically Overcrowded School Program Funds

This item was held over to the September 2009 SAB meeting at the request of the Board.

Overcrowding Relief Grant Program

The Executive Officer presented this item to the Board. Mr. Walrath, representing the SSDA, addressed the Board in support of Staff Recommendation No. 1 and requested that Staff Recommendation No. 2 be deferred until February 2010, after the fifth funding round.

A motion was made and carried in support of staff's Recommendation No.1. The Chair directed the Executive Officer to reagendaize staff Recommendation No. 2 to a future SAB meeting.

Temecula Valley Unified/Riverside 50/75192-00-033, 036, and 037

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

Sale of State Relocatable Classrooms-Temecula Valley Unified/Riverside

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

New Construction Grant Adjustment

This item was put over to a future SAB meeting.

REGULATIONS***Seismic Mitigation Program***

Senator Hancock made a motion for the adoption and immediate implementation of Option 1a with the additional authorization for the Division of the State Architect (DSA) to develop criteria and ultimately to make recommendations to SAB regarding seismic mitigation funding for any school building that has been declared as part of an engineering study to be in imminent threat of collapse during a seismic event. Projects funded under Option 1a or through the process recommended by the DSA and approved by the Board shall not exceed the funds available in the Seismic Mitigation fund.

The Chair recommended and SAB legal counsel agreed to bifurcate the motion into two separate motions: 1) The first motion would be for the adoption and immediate implementation of Option 1a; and 2) the second motion would be to authorize the Division of the State Architect (DSA) to

REGULATIONS (cont.)

develop criteria and ultimately make recommendations to the SAB regarding Seismic Mitigation funding for any school building that has been declared as part of an engineering study to be in imminent threat of collapse during a seismic event. Projects funded upon recommendation of the DSA and approval of the SAB shall not exceed the funds available in the Seismic Mitigation fund (\$199.5 million) and shall not result in an unfunded list beyond the Board's bonding authority.

Mr. Chris Ferguson, representing the DOF, addressed the Board and stated that the DOF is in Support of staff's Option 2.

The Chair asked for a roll call vote on the first motion and it 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 Torlakson	X			
Scott Harvey	X			
Kathleen Moore	X			
Rosario Girard				X
Tom Sheehy	X			
Total	8			2

Motion:

Carried X
 Failed

Public Comment

Ms. Carri Matsumoto, representing the Long Beach Unified School District, addressed the Board and asked that the Program criteria be expanded to include all building category types and proximity to fault lines. Ms. Matsumoto gave a written testimony to the Board.

Mr. Tom Duffy, representing the Coalition for Adequate School Housing (CASH), addressed the Board in support of Option 1A and additionally requested to have staff monitor into the future how many school districts come in and that Staff provide a status report on the Program. The Chair requested the OPSC staff to report quarterly on the progress of the Program.

Mr. Brian Rivas, representing the California School Boards Association, came forward and thanked Senator Hancock. He further stated that he was in support of Option 1a.

Senator Hancock restated her second motion to the Board. Mr. Harvey asked if there was merit in requesting districts to seek other funding first before requesting seismic funding. He then asked for comments from a DSA representative on the second motion. Mr. Dennis Bellet, representing the DSA, addressed the Board. Mr. Bellet stated that it will take substantial work to define what an imminent threat would be.

The Chair requested a roll call vote on the second motion and the motion carried per the following votes:

SPECIALS/APPEALS (cont.)

MEMBER	AYE	NAY	ABSTAIN	ABSENT
Senator Lowenthal	X			
Senator Hancock	X			
Senator Wyland				X
Assembly Member Fuller		X		
Assembly Member Brownley	X			
Assembly Member Torlakson	X			
Scott Harvey		X		
Kathleen Moore	X			
Rosario Girard				X
Tom Sheehy	X			
Total	6	2		2

Motion:Carried X Failed **REPORTS*****Inspector General Laura Chick***

Federal Inspector General, Ms. Laura Chick, addressed the Board and emphasized her role with the American Recovery and Reinvestment Act. With nearly \$3.7 billion dollars already distributed to local school districts, her mission is to detect, deter, and disclose waste, fraud, or abuse in the expenditure of any recovery dollars in the State of California. The FBI has pointed out that she is likely to experience 7-10 percent fraud in the private sector and government combined. Ms. Chick, with the assistance of other Federal Inspector Generals, California U.S. Attorneys, local District Attorneys, mayors, local auditors and controllers, created a first in the nation, fraud detection and prevention training. This training group was in Sacramento a few weeks ago and will be moving on to San Diego, San Francisco, and Los Angeles for state employees and for local employees and recipients of recovery dollars. The Chair asked Ms. Chick about her role intersecting with the State School Facilities Program given that State bond funds are used. Ms. Chick reported that there hasn't been a final verdict in terms of the Build America Bonds and the transparency and reporting rules of the Recovery Act, and that she did not see an overlap other than all everyone really cares about is the transparency and accountability of public dollars. Assembly Member Brownley asked if there was a breakdown between corporations and government in regards to the quoted fraud figure from the FBI. Ms. Chick felt it was predominantly with contractors and vendors rather than inside government. Mr. Harvey asked Ms. Chick for any guidance or comments she might have about what audits should include. From her standpoint, she felt it was better to be over-audited than under-audited, and that we should be working hard trying to rebuild the public's trust and confidence that government can do things right. She went on to support the OPSC's new approach to audits and its looking more closely at local school districts in terms of what they have been doing with State bond money and in particular, with the excess money. Ms. Moore asked for clarification in her authority over bond money vs. recovery money. Ms. Chick stated that her authority was over recovery money; however, that it was her duty to address any concerns or problems about public dollars and connecting concerned parties to the proper authorities. Ms. Moore wanted to know what the recovery money audit process might look like for school districts. Ms. Chick recommended that school districts follow the guideline issued to them from the U.S. Department of Education. The Chair invited Ms. Chick to come back and update the SAB on Build America Bonds which she generously agreed to do.

REPORTS (cont.)***Unfunded Approval Status Report***

The Board accepted the report.

Status of Emergency Repair Program (ERP) Funding

Ms. Masha Lutsuk, representing the SAB staff, presented this item to the Board.

Mr. Chris Ferguson, representing the DOF, addressed the Board in response to the Board's request in July 2009 for information related to the ERP. Mr. Ferguson relayed that \$51 million, to his knowledge, has not been transferred to the ERP account from the reversion account. The DOF is working with legislative staff in providing additional funds towards the \$51 million for the 2008/09 Fiscal Year. Further there will be no funding to the ERP in the 2009/10 Fiscal Year.

Public Comment

Mr. Bruce Hancock, representing Hancock, Gonos & Park, addressed the Board and thanked the Board for bringing this issue back. Mr. Hancock referenced a letter sent to the Board Members and highlighted the funding history for the ERP. He pointed out that although the ERP fund is supposed to receive a minimum of \$100 million a year, the amount of funding that is available today is the same as it was in 2006, \$338 million. The Chair asked for clarification on this point. Mr. Hancock replied that there have been three intervening years where \$100 million should have been appropriated which equates to a minimum \$300 million shortage. Mr. Ferguson reiterated the DOF's commitment to providing the full \$800 million as it becomes available. Mr. Harvey asked the OPSC staff for clarification on the term "other sources" in reference to where the funding for the ERP could possibly come from besides the Prop 98 Reversion Account. Ms. Lutsuk clarified that the "other source" was the School Facilities Needs Assessment Grant Program (SFNAGP) which is no longer available. The Chair asked Mr. Ferguson to clarify what has happened to the \$338 million in the ERP account. Mr. Ferguson stated and Ms. Lutsuk agreed that \$330 million has been provided which leaves \$8 million plus \$5 million has been made available from SFNAGP which equates to \$13 million in the Status of Funds. The Chair wanted to know how much of the \$330 million was liquidated. Mr. Brooks Allen, representing the American Civil Liberty Union Foundation of Southern California, came forward and gave a brief funding history of the Williams Settlement and speculated as to why the Legislature would decide not to fund the ERP in the 2009/10 Fiscal Year. With no further comments, the Board accepted the report.

INFORMATION/REFERENCE***Dates for the Remaining 2009 State Allocation Board Meetings******School Facility Program Unfunded List as of July 22, 2009******School Facility Program Workload List Applications Received Through July 28, 2009******Emergency Repair Program Workload List Applications Received Through August 12, 2009******Facility Hardship/Rehabilitation Approvals Without Funding as of July 22, 2009***

CLOSED SESSION

At 6:45 p.m. and in accordance with Government Code Section 11126(a)(1), the Board convened into closed session to discuss issues relating to personnel involving the position of the Assistant Executive Officer, including but not limited to, appointment and employment with the State Allocation Board. The Chair announced that the closed session was over and the Board reconvened into public session at 7:04 pm.

ADJOURNMENT

There being no further business to come before the Board, the Chair adjourned the meeting at 7:52 p.m.

A handwritten signature in black ink, appearing to read 'ROB COOK', written in a cursive style.

ROB COOK, Executive Officer