Report on the

School Facilities Emergency Repair Program

Report to the Joint Legislative Budget Committee

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OVERVIEW

Pursuant to the request set forth in the *Supplemental Report of the 2008 Budget Act, 2008-09 Fiscal Year,* item 1760-001-3082, this report is to update the Joint Legislative Budget Committee and appropriate fiscal and policy committees of the Legislature on:

- The progress in distributing to schools the $800 million provided by the Legislature for the School Facilities Emergency Repair Program (ERP).
- A staffing plan explaining how the Department of General Services (DGS) proposes to utilize ERP staff when the program has fulfilled its duties.

ABOUT THE STATE ALLOCATION BOARD AND THE OFFICE OF PUBLIC SCHOOL CONSTRUCTION

State Allocation Board

The State Allocation Board (SAB) is the policy level body responsible for determining the allocation of state resources (proceeds from general obligation bond issues and other designated state funds) used for the new construction and modernization of public school facilities. The SAB is also charged with the responsibility for the administration of the ERP, the State Relocatable Classroom Program, and the Deferred Maintenance Program. The SAB consists of the Director of Finance (the traditional chair), the Director of the DGS, the Superintendent of Public Instruction, three members of the Senate, three members of the Assembly, and one member appointed by the Governor.

Office of Public School Construction

The Office of Public School Construction (OPSC), on behalf of the DGS, implements and administers the School Facilities Program (SFP) and other programs of the SAB. The OPSC is responsible for ensuring that funds are disbursed properly and in accordance with statute, regulations and decisions made by the SAB. It is also incumbent upon the OPSC staff to prepare, for SAB review and approval, regulations and procedures which carry out the mandates of the SAB. OPSC staff also works with school districts to assist them throughout the application process.

THE EMERGENCY REPAIR PROGRAM

Background

The ERP stemmed from the settlement of a class action lawsuit filed by the American Civil Liberties Union (ACLU) in May of 2000, known as *Williams v. State of California.* The lawsuit claimed that the state had failed in its duty to provide students in the lowest performing schools with equal educational opportunity. The plaintiffs believed that the state, and state educational agencies, did not provide equal access to instructional materials, safe and clean facilities, and qualified teachers to public school students.

The case was settled in August 2004 in what is now known as the *Williams* settlement. In the settlement, the state allocated nearly $1 billion back to the school districts, including $800 million for a program to address critical repairs for facilities for schools in the lowest three ranks (deciles) of academic performance. The funds for the repair of facilities are distributed through the ERP by the SAB.

From 2004-2006, the ERP was a reimbursement program, which required districts to complete emergency repair projects on their own before applying for state funds. According to a 2007 study by the ACLU ("*Williams v. California:* The Statewide Impact of Two Years of Implementation"), "some site and district administrators expressed reluctance to start emergency repair projects because they were uncertain about whether they would be reimbursed and did not have the funds to pay for them otherwise."

The districts' concerns were addressed when the School Facilities Emergency Repair Account bill was passed. Chapter 704, Statutes of 2006, Goldberg (Assembly Bill 607) provided that the Emergency Repair Account in the State Treasury would be available to fund grants. The ERP became a grant program with the beginning of the fiscal year on July 2, 2007, allowing eligible schools to receive funds before conducting the needed repairs.

Progress in Distributing Funds

Because of the high participation rate for the ERP, applications have been received requesting funds beyond the settlement amount. Therefore, as of December 17, 2010, the OPSC stopped accepting new applications for the program. The processing of the applications received prior to that date will continue until the total amount specified in the Williams settlement is distributed.

The terms of the *Williams* settlement specify that one-half of the funds in the Proposition 98 Reversion Account, but no less than $100 million, would be made available annually until the $800 million for facilities was allocated. This would have provided the total settlement amount to the ERP by the 2012-13 fiscal year. As of the date of this report, however, $338 million has been provided for these projects. The following chart shows the allocations proposed by the Governor and the final budget allocations for the ERP for the last nine years:

Budget Year	Proposed ERP Allocation (In Millions)	ERP Allocation (In Millions)
2004-05	N/A	$5
2005-06	$100	$196
2006-07	$107	$137
2007-08	$100	($50)
2008-09	$100	$50
2009-10	$0	$0
2010-11	$51	$0
2011-12	$0	$0
2012-13	$12.3	$0
2013-14	$9.7	TBD
Total	$480	$338

Applications have been processed in anticipation of settlement authority funds in future budget acts. Those applications are approved by the SAB and placed on an *Unfunded* list. The projects on the *Unfunded* list will eventually be funded, once cash becomes available. There is also a *Pending* list for projects beyond the settlement amount that will only be funded if sufficient project savings are returned to the ERP.

The following chart summarizes the status of the applications for the ERP:

	Funded (Received funds)	**Unfunded** (Approved but no funds received)	**Beyond Settlement Authority**
Districts	221	105	174
Sites	1,083	694	813
Total	$338,504,389	$458,957,130	$341,771,253

Staffing Plan

Applications to exhaust the total amount of settlement authority have already been processed to the *Unfunded* list; therefore, workload in the ERP has been diminished. Remaining workload is minimal. Staff previously in the ERP funded positions were re-directed to other positions within the SFP.