

*Interim Report on the*  
**USE OF SURPLUS SITE SALE PROCEEDS**

Report to the Legislature and State Allocation Board

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## OVERVIEW

In March 2020, Governor Newsom issued Executive Order N-25-20, which proclaimed that a state of emergency existed in California as a result of the threat of the coronavirus (COVID-19) pandemic. Many school districts switched to online distance learning which impacted school districts' ability to maintain normal operations.

Senate Bill (SB) 98 (Committee on Budget and Fiscal Review, Chapter 24, Statutes of 2020) was chaptered on June 29, 2020. SB 98 provides schools with the resources and flexibility necessary to provide quality public education during the COVID-19 pandemic.

SB 98 adds Education Code (EC) Section 17463.7, until July 1, 2024, to expand the purposes for which a school district may deposit the proceeds from the sale or lease of surplus real property – together with any personal property located on the property, purchased entirely with local funds – into the general fund of the school district and may use the proceeds for any one-time general fund purpose, as provided. EC Section 17463.7 requires a school district to submit a certification to the State Allocation Board (Board) before it exercises the authority granted in the section.

EC Section 17463.7 requires the Office of Public School Construction to submit an interim report to the Board and to the Legislature's Budget, Education Policy, and Fiscal committees by June 1, 2022 identifying the school districts that have exercised the authority granted by this section, the amount of proceeds involved, and the purposes for which those proceeds were used.

To date, one school district has utilized the authority granted by EC Section 17463.7 in April 2021. The district requested \$3.0 million to be used for the school district's general fund stabilization plan and for interfund support of the fee-based child care program (to supplement loss of revenue due to COVID-19).

Table 1 - School Districts using EC Section 17463.7  
June 29, 2020 to March 31, 2022

SCHOOL DISTRICT COUNTY	Books and Supplies	Capital Outlay	Employee Benefits	Other Expenses	Reserves	Services and Other Operating Expenses	PROCEEDS AMOUNT
Charter Oak Unified Los Angeles					✓	✓	\$3,000,000.00
<b>GRAND TOTAL</b>							\$3,000,000.00

# USE OF SITE SALE PROCEEDS HISTORY

## Background

Existing law authorizes school district governing boards to sell, or lease for a term not exceeding 99 years, any real property belonging to the school district. Additionally, existing law specifies the conduct of these sales and leases, and the purposes for which funds derived from these transactions may be used.

EC Section 17462 authorizes school districts to deposit the proceeds from the sale or lease of surplus real property, together with any personal property located on the property, into the general fund of the school district and to use the proceeds for any one-time general fund purpose. These sales are governed by the Board's regulations. EC Section 17462 is more restrictive than the temporary authority provided by EC Section 17463.7, and it prohibits school districts that request to use the proceeds from the sale of property from participating in any School Facility Program (SFP) programs. EC Section 17463.7 only restricts school districts from receiving financial hardship funding.

## Prior Statute

EC Section 17463.7 previously existed in statute from July 28, 2009, until January 1, 2016, when it was repealed. The statute authorized the use of surplus real estate sale proceeds for one-time general fund purposes if the costs were not related to a school district's ongoing operations. The school district was required to present a plan to its local governing board regarding the one-time expenditures and explain why these expenditures would not result in ongoing fiscal obligations for the school district.

School districts were ineligible for hardship funding under the State School Deferred Maintenance Program for a period of five years after the proceeds were deposited into the general fund. Additionally, a school district's SFP facility and financial hardship assistance was reduced by an amount equal to that of a school district's one-time expenditure(s). A school district was required to certify the following:

- That it has no major deferred maintenance needs;
- That the site sale does not violate local bond restrictions; and
- That the real property is not suitable to meet projected school construction needs for the next 10 years.

The statute required OPSC to submit an interim and a final report to the Board and the Budget, Education Policy and Fiscal committees of the Legislature that identified the school districts that exercised the authority granted by the section, the amount of proceeds involved, and the purposes for which those proceeds were used. OPSC published the reports in January 2011 and November 2014. The table below identifies the school districts that exercised the authority granted

by the prior statute, the amount of proceeds involved, and the purpose(s) for which those proceeds were used.

Table 2 - School Districts using Historical Authority of EC Section 17463.7  
July 29, 2009 to January 1, 2016

SCHOOL DISTRICT COUNTY	Books and Supplies	Capital Outlay	Employee Benefits	Other Expenses	Reserves	Services and Other Operating Expenses	PROCEEDS AMOUNT
Berkeley Unified Alameda	✓	✓	✓			✓	\$1,616,400.00
Brea Olinda Unified Orange				✓	✓		\$1,290,000.00
Cucamonga Unified San Bernardino	✓	✓	✓				\$1,952,617.00
Healdsburg Unified Sonoma			✓				\$5,100,000.00
Livermore Valley Joint Unified Alameda	✓	✓	✓			✓	\$4,000,000.00
Millbrae Elementary San Mateo		✓	✓			✓	\$3,137,430.00
New Haven Unified Alameda		✓	✓		✓		\$13,846,750.00
Orchard Elementary Santa Clara	✓	✓					\$565,650.00
Pasadena Unified Los Angeles	✓		✓			✓	\$2,000,000.00
San Bruno Park Elementary San Mateo		✓					\$12,129,933.00
San Marino Unified Los Angeles	✓	✓				✓	\$1,000,000.00
Santa Clara Unified Santa Clara		✓				✓	\$4,288,552.00
Ventura Unified Ventura			✓				\$10,000,000.00
Walnut Valley Unified Los Angeles			✓	✓	✓	✓	\$23,400,000.00
<b>GRAND TOTAL</b>							<b>\$84,327,332.00</b>

Current Statute (in detail)

SB 98 added back Education Code (EC) Section 17463.7, until July 1, 2024, authorizing a school district to deposit the proceeds from the sale or lease of surplus real property, together with any personal property located on the property, purchased with local funds, into the general fund of the school district and to use the proceeds for any one-time general fund purpose, as provided. EC

Section 17463.7 still requires a school district to submit a certification to the Board before it exercises the authority granted in the section.

In addition, a school district’s SFP financial hardship funding assistance will be reduced by an amount equal to that of a school district’s one-time expenditure(s).

A school district is now required to certify the following:

- That the site sale does not violate local bond restrictions; and
- That the real property is not suitable to meet projected school construction needs for the next 10 years.

EC Section 17463.7 requires OPSC to submit an interim and a final report to the Board and the budget, education policy, and fiscal committees of the Legislature that identifies the school districts that have exercised the authority granted by this section, the amount of proceeds involved, and the purposes for which those proceeds were used. The reports are due June 1, 2022 and January 1, 2026, respectively.

In addition to the newly enacted EC Section 17463.7, existing EC Section 17462 also provides school districts with options for the use of proceeds from the sale or lease of surplus sites. Below is a side-by-side comparison of the major differences between the two existing statutes governing the use of surplus site sale proceeds deposited into a school district’s General Fund.

	<b>EC Section 17462</b>	<b>EC Section 17463.7</b>
<b>Source of Site Funding</b>	Site can be purchased with state and/or local funds.	Site must have been purchased with nonstate funds.
<b>SFP Funding</b>	<ul style="list-style-type: none"> <li>• Prohibited from participating in the SFP for five years.</li> <li>• Unable to apply for Facility and financial hardship funding.</li> </ul>	<ul style="list-style-type: none"> <li>• Eligible for participation in the SFP.</li> <li>• Unable to apply for financial hardship grant funding.</li> </ul>
<b>Use of Funding</b>	One-time expenditures	One-time expenditures
<b>School Board Resolution Requirements</b>	<ul style="list-style-type: none"> <li>• No anticipated needs for additional sites or construction for 10 years.</li> <li>• No major deferred maintenance requirements.</li> <li>• The sale does not violate local bond act provisions.</li> </ul>	<ul style="list-style-type: none"> <li>• The site is not suitable to meet projected school construction needs for 10 years.</li> <li>• The sale does not violate local bond act provisions.</li> </ul>

## ATTACHMENT A

### Education Code Section 17463.7 (as of September 18, 2020)

- (a) Notwithstanding any other law, a school district may deposit the proceeds from the sale or lease of surplus real property, together with any personal property located on the property, purchased with nonstate funds, into the general fund of the school district and may use the proceeds for any one-time general fund purpose. If the purchase of the property was made using the proceeds of a local general obligation bond or revenue derived from developer fees, the amount of the proceeds of the transaction that may be deposited into the general fund of the school district may not exceed the percentage computed by the difference between the purchase price of the property and the proceeds from the transaction, divided by the amount of the proceeds of the transaction. For purposes of this section, proceeds of the transaction means either of the following, as appropriate:
- (1) The amount realized from the sale of property after reasonable expenses related to the sale.
  - (2) For a transaction that does not result in a lump-sum payment of the proceeds of the transaction, the proceeds of the transaction shall be calculated as the net present value of the future cash flow generated by the transaction.
- (b) The State Allocation Board shall reduce an apportionment of hardship assistance awarded to the particular school district pursuant to Article 8 (commencing with Section 17075.10), except an apportionment of hardship assistance awarded pursuant to paragraph (2) of subdivision (b) of Section 17075.10, by an amount equal to the amount of the sale of surplus real property used for a one-time expenditure of the school district pursuant to this section.
- (c) Before a school district exercises the authority granted pursuant to this section, the governing board of the school district shall first submit to the State Allocation Board documents certifying both of the following:
- (1) The sale of real property pursuant to this section does not violate the provisions of a local bond act.
  - (2) The real property is not suitable to meet projected school construction needs for the next 10 years.
- (d) Before the school district exercises the authority granted pursuant to this section, the governing board of the school district shall adopt a plan at a public meeting for expending one-time resources pursuant to this section. The plan shall identify the source and the intended use of the surplus property proceeds and describe the reasons why the expenditure will not result in ongoing fiscal obligations for the school district.
- (e)(1) Except for the sale or lease of surplus real property that has previously operated, or was constructed to be operated, as an early childhood education facility or a school for elementary and secondary instruction, the governing board of a school district shall not be required to appoint a district advisory committee pursuant to Article 1.5 (commencing with Section 17387).

- (2) It is the intent of the Legislature to allow a school district to meet the requirements to offer surplus properties set forth in the Education and Government Codes by making an offer simultaneously to all applicable entities.
- (f) The Office of Public School Construction shall submit an interim and a final report to the State Allocation Board and the budget, education policy, and fiscal committees of the Legislature that identifies the school districts that have exercised the authority granted by this section, the amount of proceeds involved, and the purposes for which those proceeds were used. The interim report shall be submitted by June 1, 2022, and the final report shall be submitted by January 1, 2026.
- (g) For any transaction for the sale or lease of surplus property a school district initiates pursuant to this section before June 30, 2024, the proceeds from the sale or lease transaction that are received after June 30, 2024, shall be considered proceeds that can be deposited in accordance with this section.
- (h) Subdivisions (a) to (e), inclusive, shall become inoperative on July 1, 2024, subdivision (f) shall become inoperative on January 15, 2026, and this section as of January 1, 2027, is repealed.

(Added by Stats. 2020, Ch. 24, Sec. 14. (SB 98) Effective June 29, 2020. Amended by Stats. 2020, Ch. 110, Sec. 8 (SB 820) Effective September 18, 2020. Repealed as of January 1, 2027, by its own provisions.)