

## **INITIAL STATEMENT OF REASONS**

### **Section 1859.2. Definitions.**

#### **Specific Purpose of the Regulation**

To provide the meaning of additional specific words and terms that are essential to these regulations.

#### **Need for the Regulation**

It was necessary to delete the locale codes (31, 32 and 33) from the definition of “Suburban Area” and add them to the definition of “Rural Area” in order to help similarly situated applications compete against one another [“Suburban Area” and “Rural Area”]. These definitions are also used in the Charter School Facilities Program (CSFP) and will have a similar effect in more accurately determining the locale code designation of a project.

In the fifth Career Technical Education Facilities Program (CTEFP) funding cycle, 220 applications were filed and received by OPSC and once the applications were ordered by the highest overall plan score and locale (Urban, Suburban and Rural), the result was over 95 percent of the applications received in the “Rural Area” were funded, while only 26 percent were funded in the “Urban Area” and 23 percent in the “Suburban Area” locales. Stakeholders expressed concerns about the equity of the funding order for the CTEFP, specifically about the assignment off the Town locale codes in the definition of “Suburban Area.” OPSC held two stakeholder meetings to discuss and illustrate the impact of regulation changes to the funding order. Although there was not an overwhelming consensus favoring one over another, there was consensus to move the sites classified as “Town” from the definition of “Suburban Area” to the definition of “Rural Area.”

#### **Anticipated Benefits and Economic Impact of the Proposed Regulations**

The proposed regulatory amendments promote fairness and equity to the funding process for the three locales so similar applications can compete against each other. This will benefit school districts and local educational agencies by distributing state bond funds on an equitable basis by moving the Town designation within the definition of “Rural Area.” In the CTEFP, this should allow for higher scoring applications in the Town locale to compete with similar Rural applicants in order to receive funding, which is in alignment with the statutory intent to distribute CTEFP funding equitably. This will also help ensure that the most accurate locale designation is assigned to projects in the CSFP. The State of California will also benefit by continuing to provide facilities needed for students to learn the skills and knowledge critical for today’s high demand technical careers resulting in a positive impact to the State’s economy as well as supporting job creation.

The proposed amendments are therefore determined to be consistent and compatible with existing State laws and regulations. Proceeding with the implementation of the proposed amendments carries out the will of the voters based on the successful passage of Proposition 1D in November 2006 and Proposition 51 in November 2016.

## **Technical Documents Relied Upon**

OPSC's Stakeholder agenda item, dated July 24, 2019, entitled "Funding Order under the Career Technical Education Facilities Program."

The State Allocation Board's Action items, dated August 28 and September 25, 2019, entitled "Funding Order of Career Technical Education Facilities Program Applications" and "Proposed Regulatory Amendments for the School Facilities Program," respectively.

## **Alternatives to the Proposed Regulatory Action that would be as Effective and Less Burdensome to Private Persons**

The SAB finds that no alternatives it has considered would be more effective in carrying out the purpose of the proposed regulations or would be as effective and less burdensome to affected private persons than the proposed regulations or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. OPSC held two stakeholder meetings to discuss and receive input from stakeholders regarding the "Suburban Area" and "Rural Area" locales. Stakeholders were supportive in having the Town locale codes moved to the "Rural Area" so that similarly situated applicants in the three locales could more evenly compete against each other for state funding.

## **Alternatives to the Proposed Regulatory Action that would Lessen any Adverse Economic Impact on Small Business**

The SAB has determined that the proposed regulatory amendments will not have a negative impact on small businesses.

## **Finding of Significant Adverse Economic Impact on Businesses**

The SAB has determined that the adoption of the proposed regulatory amendments will not have a negative economic impact on businesses/small businesses because they are not required to directly comply with or enforce the regulations, nor will they be disadvantaged by the regulations. Proceeding with the proposed regulatory amendments will help to equalize the number of applications funded across all three locales. This will benefit school districts and local education agencies by distributing state bond funds on an equitable basis by moving the Town designation within the definition of "Rural Area." In addition, the State of California will benefit by continuing to provide facilities needed for students to learn the skills and knowledge critical for today's high demand technical careers resulting in a positive impact to the State's economy as well as supporting job creation.

## **Impact on Local Agencies or School Districts**

The SAB has determined that the proposed regulatory amendments do not impose a mandate or a mandate requiring reimbursement by the State pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code. It will not require local agencies or school districts to incur additional costs in order to comply with the proposed regulatory amendments.

**ECONOMIC IMPACT ASSESSMENT OF REGULATIONS**  
*“Proposed Regulatory Amendments for the School Facilities Program”*

**Proposed State Allocation Board Regulations**

At its September 25, 2019 meeting, the SAB adopted proposed regulatory amendments that amend the definitions of “Rural Area” and “Suburban Area” for purposes of determining the funding order for applications participating in the Career Technical Education Facilities Program (CTEFP) under the SFP. The California Department of Education (CDE) and OPSC collaboratively administer the CTEFP. School districts that wish to participate in the CTEFP submit applications to CDE in order to be assigned a plan score, which is based on statutory requirements, and then school districts file an application and submit it to OPSC. OPSC funds applications by the highest overall plan score and locale (Urban, Suburban and Rural) as provided in the SFP Regulations. This definition is also used in the Charter School Facilities Program (CSFP) and will have a similar effect in more accurately determining the locale code designation of a project.

**Background and Problem Being Resolved**

As stated above, the CDE and OPSC collaboratively administer the CTEFP. School districts that wish to participate in the CTEFP submit applications to CDE in order to be assigned a plan score, which is based on statutory requirements, and then school districts file an application and submit it to OPSC. OPSC funds applications by the highest overall plan score and locale (Urban, Suburban and Rural) as provided in the SFP Regulations.

In the fifth CTEFP funding cycle, 220 applications were filed and received by OPSC and once the applications were ordered by the highest overall plan score and locale (Urban, Suburban and Rural), the result was over 95 percent of the applications received in the “Rural Area” were funded, while only 26 percent were funded in the “Urban Area” and 23 percent in the “Suburban Area” locales. Stakeholders expressed concerns about the equity of the funding order for the CTEFP, specifically about the assignment of the Town locale codes in the definition of “Suburban Area.” OPSC held two stakeholder meetings to discuss and illustrate the impact of regulation changes. Although there was not an overwhelming consensus favoring one over another, there was consensus to move the sites classified as “Town” from the definition of “Suburban Area” to the definition of “Rural Area.”

OPSC performed a search on whether the proposed regulatory amendments were consistent and compatible with existing State laws and regulations. After performing the search, OPSC, on behalf of the SAB, has determined that the proposed regulatory amendments are consistent and compatible with existing State laws and regulations. Proceeding with the proposed regulatory amendments will help to equalize the number of applications funded across all three locales.

**Description of Regulations to Implement Law**

The following two State school bonds were authorized by the Legislature and approved by the State’s electorate for purposes of school facility construction for the School Facility Program:

- Kindergarten-University Public Education Facilities Bond Act of 2006 (Proposition 1D)
- Kindergarten through Community College Public Education Facilities Bond Act of 2016 (Proposition 51)

The Leroy F. Greene School Facilities Act of 1998 established, through Senate Bill 50, Chapter 407, Statutes of 1998, the SFP. The SFP provides a per-pupil grant amount to qualifying school districts for purposes of constructing school facilities and modernizing existing school facilities.

The SAB adopted regulations to implement the Leroy F. Greene School Facilities Act of 1998, which were approved by the Office of Administrative Law and filed with the Secretary of State on October 8, 1999.

At its September 25, 2019 meeting, the SAB adopted proposed regulatory amendments that amend the definitions of “Rural Area” and “Suburban Area” for purposes of determining the funding order for applications participating in the Career Technical Education Facilities Program (CTEFP) under the SFP. The California Department of Education (CDE) and OPSC collaboratively administer the CTEFP. School districts that wish to participate in the CTEFP submit applications to CDE in order to be assigned a plan score, which is based on statutory requirements, and then school districts file an application and submit it to OPSC. OPSC funds applications by the highest overall plan score and locale (Urban, Suburban and Rural) as provided in the SFP Regulations. This definition is also used in the CSFP and will have a similar effect in more accurately determining the locale code designation of a project.

#### *Anticipated Benefits of the Proposed Regulations*

The proposed regulatory amendments promote fairness and equity to the funding process for the three locales so similar applications can compete against each other. This will benefit school districts and local educational agencies by distributing state bond funds on an equitable basis by moving the Town designation within the definition of “Rural Area.” In the CTEFP, this should allow for higher scoring applications in the Town locale to compete with similar Rural applicants in order to receive funding, which is in alignment with the statutory intent to distribute CTEFP funding equitably. This will also help ensure that the most accurate locale designation is assigned to projects in the CSFP. The State of California will also benefit by continuing to provide facilities needed for students to learn the skills and knowledge critical for today’s high demand technical careers resulting in a positive impact to the State’s economy as well as supporting job creation.

The proposed amendments are therefore determined to be consistent and compatible with existing State laws and regulations. Proceeding with the implementation of the proposed amendments carries out the will of the voters based on the successful passage of Proposition 1D in November 2006 and Proposition 51 in November 2016.

#### *Summary of the Proposed Regulatory Amendments*

Existing Regulation Section 1859.2 provides the meaning of additional specific words and terms that are essential to these regulations. The proposed regulatory amendments delete the locale codes (31, 32 and 33) from the definition of “Suburban Area” and add them to the definition of “Rural Area.” It was necessary to amend these two definitions in order to help similarly situated applications compete against one another [“Suburban Area” and “Rural Area”].

#### *Statutory Authority and Implementation*

Education Code Section 17070.35. (a) In addition to all other powers and duties as are granted to the board by this chapter, other statutes, or the California Constitution, the board shall do all of the following: (1) Adopt rules and regulations, pursuant to the rulemaking provisions of the Administrative Procedure Act, Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, for the administration of this chapter.

Government Code Section 15503. Whenever the board is required to make allocations or apportionments under this part, it shall prescribe rules and regulations for the administration of, and not inconsistent with, the act making the appropriation of funds to be allocated or apportioned. The board shall require the procedure, forms, and the submission of any

information it may deem necessary or appropriate. Unless otherwise provided in the appropriation act, the board may require that applications for allocations or apportionments be submitted to it for approval.

#### *Determination of Inconsistency or Incompatibility with Existing State Regulations*

The CDE and OPSC collaboratively administer the CTEFP. School districts that wish to participate in the CTEFP submit applications to CDE in order to be assigned a plan score, which is based on statutory requirements, and then school districts file an application and submit it to OPSC. OPSC funds applications by the highest overall plan score and locale (Urban, Suburban and Rural) as provided in the SFP Regulations.

In the fifth CTEFP funding cycle, 220 applications were filed and received by OPSC and once the applications were ordered by the highest overall plan score and locale (Urban, Suburban and Rural), the result was over 95 percent of the applications received in the “Rural Area” were funded, while only 26 percent were funded in the “Urban Area” and 23 percent in the “Suburban Area” locales. Stakeholders expressed concerns about the equity of the funding order for the CTEFP, specifically about the assignment of the Town locale codes in the definition of “Suburban Area.” OPSC held two stakeholder meetings to discuss and illustrate the impact of regulation changes to the funding order. Although there was not an overwhelming consensus favoring one over another, there was consensus to move the sites classified as “Town” from the definition of “Suburban Area” to the definition of “Rural Area.”

After conducting a review, the SAB has concluded that these are the only regulations on this subject area, and therefore, the proposed amendments are neither inconsistent nor incompatible with existing State laws and regulations. The proposed regulatory amendments are within the SAB’s authority to enact regulations for the SFP under Education Code Section 17070.35 and Government Code Section 15503.

#### **Impact to California Businesses and Jobs**

The proposed regulatory amendments promote fairness and equity to the funding process for the three locales so similar applications can compete against each other. This will benefit school districts and local educational agencies by distributing state bond funds on an equitable basis by moving the Town designation within the definition of “Rural Area.” In the CTEFP, this should allow for higher scoring applications in the Town locale to compete with similar Rural applicants in order to receive funding, which is in alignment with the statutory intent to distribute CTEFP funding equitably. This will also help ensure that the most accurate locale designation is assigned to projects in the CSFP.

Proceeding with the implementation of the proposed regulatory amendments will provide facilities needed for students to learn the skills and knowledge critical for today’s high demand technical careers resulting in a positive impact to the State’s economy as well as supporting job creation. The CTEFP carries out the will of the voters based on the successful passage of Proposition 1D in November 2006 and Proposition 51 in November 2016.

Therefore, the proposed regulations will most likely have a positive effect on the State’s economy, creation of jobs, creation of new businesses, expansion of businesses, and will not eliminate jobs or eliminate existing businesses within California.

*Benefits to Public Health and Welfare, Worker's Safety, and the State's Environment*

- The proposed regulatory amendments promote fairness and equity to the funding process for the three locales so similar applications can compete against each other. This will benefit school districts and local educational agencies by distributing state bond funds on an equitable basis by moving the Town designation within the definition of "Rural Area." In the CTEFP, this should allow for higher scoring applications in the Town locale to compete with similar Rural applicants in order to receive funding, which is in alignment with the statutory intent to distribute CTEFP funding equitably. This will also help ensure that the most accurate locale designation is assigned to projects in the CSFP.
- The proposed regulations promote the State's general welfare by providing facilities needed for students to learn the skills and knowledge critical for today's high demand technical careers. The CTEFP carries out the will of the voters based on the successful passage of Proposition 1D in November 2006 and Proposition 51 in November 2016.
- There are continued benefits to the health and welfare of California residents and worker safety. School districts and local educational agencies utilize construction and trades employees to work on school construction projects and although this proposed regulation does not directly impact worker's safety, existing law provides for the availability of a skilled labor force and encourages improved health and safety of construction and trades employees through proper apprenticeship and training. Further, public health and safety is enhanced because a properly paid and trained workforce will build school construction projects that are higher quality, structurally code-compliant and safer for use by pupils, staff, and other occupants on the site.
- There is no impact to the State's environment from the proposed regulatory amendments.

The SAB finds the proposed regulations fully consistent with the stated purposes and benefits.