

STATE ALLOCATION BOARD AGENDA  
WITH SUPPORTING DOCUMENTATION

Meeting Date: September 30, 2020

Department of General Services  
Ziggurat Building  
707 3<sup>rd</sup> Street, 6<sup>th</sup> Floor, Conference Room 6-300  
West Sacramento, CA 95605  
4:00 p.m.

Revision date: September 30, 2020

**ACTION ITEMS**

- Replace pages 302 - 305

Thank you,

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REPORT TO THE EXECUTIVE OFFICER  
State Allocation Board Meeting, September 30, 2020

USE OF SURPLUS SCHOOL PROPERTY PROCEEDS

PURPOSE OF REPORT

To present to the State Allocation Board proposed regulations implementing Education Code Section 17463.7 provisions into the existing Use of Surplus School Property Site Sale Proceeds regulations.

DESCRIPTION

Senate Bill 98 (SB) 98 (Chapter 24, Statutes of 2020: Education Finance: Education Omnibus Budget Trailer Bill) was chaptered on June 29, 2020. As stated in the bill, SB 98 provides schools with the resources and flexibilities necessary to provide quality public education during the COVID-19 pandemic. SB 820 (Chapter 110, Section 8, Statutes of 2020: Education Finance: Education Omnibus Budget Trailer Bill) was chaptered on September 18, 2020 and adds clarifying changes and flexibility to the School Facility Program (SFP).

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.

SB 98, as amended by SB 820, adds Education Code (EC) Section 17463.7, until July 1, 2024, to expand the purposes for which funds from those transactions may be used by 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 nonstate 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 requires a school district to submit a certification to the State Allocation Board (Board) before it exercises the authority granted in the section; therefore, this item requests the Board's approval of regulatory amendments to administer this EC section.

AUTHORITY

See Attachment A.

## BACKGROUND

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, as provided. These sales are governed by the Board's regulations on Attachment B.

EC Section 17463.7 previously existed in statutes 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 as long as 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. A summary of the former and current statutes follows.

### Former Statute

Under the prior EC Section 17463.7, 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. In addition, a school district's School Facility Program (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 ten years.*

Additionally, the statute required the Office of Public School Construction (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 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.

### Current Statute

The current EC Section 17463.7 authorizes 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 nonstate funds, into the general fund of the school district and to use the proceeds for any one-time general fund purpose.

## BACKGROUND (cont.)

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 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 ten years.*

The current statute also requires the 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. These 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 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>School Facility Program 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 Hardship and Financial Hardship funding.</li></ul>	<ul style="list-style-type: none"><li>• Not prohibited from participating 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 need 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>

## STAFF ANALYSIS/STATEMENTS

### *Program Participation*

In order to make use of the provisions in EC 17463.7 a district must take certain actions. Staff has updated OPSC's website with the following procedures to administer the program:

Prior to transferring site sale proceeds into their general fund account, school districts must submit the following documents to the Board for their request to be processed:

1. A letter to the Executive Officer of the State Allocation Board and the OPSC requesting authorization, pursuant to EC Section 17463.7, from the Board to transfer site sale proceeds into the school district's general fund account for a one-time general fund purpose.
2. A school board resolution stating the following:
  - o The school district has presented a plan to the local school board at a public meeting detailing the source and intended use of the surplus property proceeds and describing why the expenditure will not result in ongoing fiscal obligations for the district.
  - o The school district certifies to the Board that:
    - The sale of the property does not violate the provisions of any local bond act.
    - The real property is not suitable to meet projected school construction needs for the next ten years.
  - o The property sold was purchased with nonstate funds.
  - o The proceeds of the sale will be used for a one-time general fund purpose.
  - o The school district acknowledges that the Board will reduce any state financial hardship funding received by the district equal to the amount of the sale of surplus real property used for a one-time expenditure.
3. A copy of the original site purchase agreement that delineates the original purchase price, the number of acres on the site, and the sources of funds used to purchase the site.
4. Documentation of the number of acres being sold from the site.

The school district's request must be presented to the State Allocation Board for approval prior to the funds being transferred by the school district. EC Section 17463.7(g) provides that the proceeds from the sale or lease of surplus property that were initiated before June 30, 2024 may also be deposited in accordance with the statute.