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CALIFORNIA STATE ALLOCATION BOARD

PUBLIC MEETING

(TELECONFERENCE)

DEPARTMENT OF HEALTHCARE SERVICES

EAST END COMPLEX

1500 CAPITOL MALL

SACRAMENTO, CA 95814

DATE: WEDNESDAY, FEBRUARY 24, 2024

1 APPEARANCES: MEMBERS OF THE BOARD PRESENT:

2

3 MR. CHRIS FERGUSON, Program Budget Manager, Education  
4 Unit, Department of Finance designated representative for  
5 Joe Stephanshaw.

6 ANA LASSO, Director, Department of General Services

7 JUAN MIRELES, Director, School Facilities and  
8 Transportation Services Division, California Department of  
9 Education, designated representative for Tony Thurmond,  
10 Superintendent of Public Construction.

11 SENATOR SCOTT WILK

12 ASSEMBLY MEMBER AL MURATSUCHI

13 ASSEMBLY MEMBER LAURIE DAVIES

14 JEREMY SMITH, Governor's Appointee

15

16 REPRESENTATIVES OF THE STATE ALLOCATION BOARD/OFFICE  
17 OF PUBLIC SCHOOL CONSTRUCTION PRESENT:

18

19 REBECCA KIRK, Executive Officer

20 MICHAEL WATANABE, Deputy Executive Officer

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22 REPRESENTATIVE OF THE DEPARTMENT OF GENERAL SERVICES,

23 OFFICE OF LEGAL SERVICES:

24 EPHRAIM EGAN

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Transcribed by:

Antha A. Ward  
QuickCaption, Inc.  
County of Riverside  
State of California

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1 comment.

2 I would like to note that Gayle Miller will be  
3 separating from State service on March 8th.

4 I, Chris Ferguson, will serve as the chair of  
5 this Board until the California Department of  
6 Finance appoints a permanent designee.

7 We will begin this meeting by establishing a  
8 quorum.

9 Ms. Jones, will you please call the roll noting that  
10 Director Lasso has joined us from a remote location.

11 >> **LISA JONES:** Certainly.

12 Senator Wilk.

13 >> **SENATOR WILK:** Present.

14 >> **LISA JONES:** Senator Laird.

15 Senator Newman.

16 Assembly Member Muratsuchi.

17 >> **ASSEMBLY MEMBER MURATSUCHI:** Here.

18 >> **LISA JONES:** Assembly Member Davies.

19 >> **ASSEMBLY MEMBER DAVIES:** Here.

20 >> **LISA JONES:** Assembly Member Alvarez.

21 Juan Mireles.

22 >> **JUAN MIRELES:** Here.

23 >> **LISA JONES:** Jeremy Smith.

24 >> **JEREMY SMITH:** Here.

1 Ana Lasso.

2 >> **ANA LASSO:** Here.

3 >> **LISA JONES:** Chris Ferguson.

4 >> **CHAIR FERGUSON:** Here.

5 >> **LISA JONES:** Thank you.

6 >> **CHAIR FERGUSON:** Before we begin, I would like to  
7 welcome Rebecca Kirk to her first State Allocation Board  
8 meeting as the new Executive Officer of the Office of  
9 Public School Construction.

10 I'd also like to take a moment to thank  
11 Michael Watanabe, the Deputy Executive Director for  
12 his services, acting Executive Officer following  
13 Lisa Silverman's retirement.

14 I've worked with both for quite a while.

15 And I can say, they're just excellent leaders  
16 and great stewards of this program and of public  
17 funds.

18 So I couldn't be more pleased to be able to  
19 continue working with both in their capacities.

20 Michael, if you would like to present the minutes for  
21 the January 24th, 2024, meeting.

22 >> **MR. WATANABE:** Yeah, the minutes are on page  
23 1 through 7 for your approval.

24 >> **CHAIR FERGUSON:** Are there any public

1 comments?

2 >> **ASSEMBLY MEMBER MURATSUCHI:** Move to  
3 approve.

4 >> **ASSEMBLY MEMBER DAVIES:** Second.

5 >> **CHAIR FERGUSON:** I have a motion by Member  
6 Muratsuchi.

7 And a second by Member Davies.

8 Ms. Jones, if you could call the roll.

9 >> **LISA JONES:** Certainly.  
10 Senator Wilk.

11 >> **SENATOR WILK:** Aye.

12 >> **LISA JONES:** Wilk, aye.

13 Assembly Member Muratsuchi.

14 >> **ASSEMBLY MEMBER MURATSUCHI:** Aye.

15 >> **LISA JONES:** Muratsuchi, aye.

16 Assembly Member Davies.

17 >> **ASSEMBLY MEMBER DAVIES:** Aye.

18 >> **LISA JONES:** Davies, aye.

19 Juan Mireles.

20 >> **JUAN MIRELES:** Aye.

21 >> **LISA JONES:** Mireles, aye.

22 Jeremy Smith.

23 >> **JEREMY SMITH:** Abstain.

24 >> **LISA JONES:** Smith abstains.

1 Ana Lasso.

2 >> **ANA LASSO:** Aye.

3 >> **LISA JONES:** Lasso, aye.

4 Chris Ferguson.

5 >> **CHAIR FERGUSON:** Aye.

6 >> **LISA JONES:** Motion carries.

7 Thank you.

8 Ferguson, aye.

9 Excuse me.

10 >> **CHAIR FERGUSON:** Great.

11 With that, I would like to present the

12 delegation of authority for Ms. Kirk.

13 Are there any public comments?

14 Seeing none.

15 Ms. Jones, if you could call the roll --

16 sorry, if I could get a motion.

17 >> **ASSEMBLY MEMBER DAVIES:** Motion.

18 >> **SENATOR WILK:** Wilk, second.

19 >> **CHAIR FERGUSON:** I have a motion from Member

20 Davies.

21 And a second from Senator Wilk.

22 Ms. Jones, if you'd please call the roll.

23 >> **LISA JONES:** Certainly.

24 Senator Wilk.

1 >> **SENATOR WILK:** Aye.

2 >> **LISA JONES:** Wilk, aye.

3 Assembly Member Muratsuchi.

4 >> **ASSEMBLY MEMBER MURATSUCHI:** Aye.

5 >> **LISA JONES:** Muratsuchi, aye.

6 Assembly Member Davies.

7 >> **ASSEMBLY MEMBER DAVIES:** Aye.

8 >> **LISA JONES:** Davies, aye.

9 Juan Mireles.

10 >> **JUAN MIRELES:** Aye.

11 >> **LISA JONES:** Mireles, aye.

12 Jeremy Smith.

13 >> **JEREMY SMITH:** Aye.

14 >> **LISA JONES:** Smith, aye.

15 Ana Lasso.

16 >> **ANA LASSO:** Aye.

17 >> **LISA JONES:** Lasso, aye.

18 Chris Ferguson.

19 >> **CHAIR FERGUSON:** Aye.

20 >> **LISA JONES:** Ferguson, aye.

21 That motion carries.

22 Thank you.

23 >> **CHAIR FERGUSON:** Excellent.

24 With that, I would like to turn to Ms. Kirk,

1 if she would like to present the Executive Officer  
2 statement.

3 And I would note for all that before we take  
4 up the consent agenda which includes over 234  
5 million in apportionments, I do recommend that we  
6 hear an item for the legal analysis regarding the  
7 school facility grant program.

8 If you would first.

9 >> **MS. KIRK:** Thank you, Mr. Chair.

10 Firstly, I wanted to start by saying I'm so  
11 very pleased to be here today in my first meeting  
12 as Executive Officer.

13 I'm very much, very honored to be representing  
14 a truly exceptional staff at the Office of Public  
15 School Construction.

16 And I'm looking forward to continuing to work  
17 with all of you, State Allocation Board members,  
18 your staff, of course the school district,  
19 stakeholders, all in the service for California's  
20 public school children.

21 For the Executive Officer statement today, we  
22 do have a number of updates, in part, coming out of  
23 the Board's direction at the January State  
24 Allocation Board meeting.

1           So in that meeting, the Board directed that  
2 staff research alternative construction costs  
3 indices that could be used for the annual  
4 construction cost index adjustment to the School  
5 Facility Program Grants.

6           The Board also requested that the Board's  
7 legal counsel provide an opinion on questions  
8 related to the Board's ability to potentially make  
9 additional adjustment to the grants later in the  
10 year and directed staff to provide updates on these  
11 efforts as well as a potential school facility's  
12 bond at a future meeting.

13           Today's agenda for the updates regarding the  
14 construction cost indices, today's agenda does  
15 include a report presenting legal counsel's opinion  
16 that was requested by the Board in the January  
17 meeting.

18           In addition, I wanted to update the Board that  
19 in response to direction to staff to research  
20 alternative construction costs indices, we have  
21 begun the process of meeting with stakeholders and  
22 we also have research currently underway to prepare  
23 a comparison of various indices that could be  
24 considered by the Board.

1           We will be presenting an item with the results  
2 of that research at a future State Allocation Board  
3 meeting.

4           Per the Board's request in January, an update  
5 regarding a potential school facility's bond for  
6 later this year.

7           As the Governor's budget indicated, the  
8 administration has expressed the intention to  
9 negotiate with the legislature with the intention  
10 of placing a facility's bond on the ballot in  
11 November.

12           Currently, there are two facilities bonds,  
13 bond bills I should say, currently pending in the  
14 legislature.

15           Assembly Bill 247 and Senate Bill 28, both of  
16 which are currently in the second House  
17 appropriations committees.

18           We have an update in the executive officer  
19 statement on the processing timelines and status of  
20 funds for the School Facility Program.

21           For the Board's awareness, if the State  
22 Allocation Board and the Office of Public School  
23 Construction continue processing applications and  
24 apportionments at the same rate as has been the

1 case in recent years, which averages about \$125  
2 million per month, then the currently authorized  
3 funding for new construction and modernization  
4 projects would likely be exhausted around January  
5 2025.

6 We also, in every month we publish in the  
7 informational items, our applications received  
8 beyond bond authority list, which is also sometimes  
9 referred to as the acknowledged list.

10 That is a list that represents projects and  
11 applications for funding submitted to OPSC that  
12 have not been reviewed by staff but are on a list  
13 for acknowledgment by the State Allocation Board.

14 We do have approximately \$1 billion in request  
15 for new construction on that list currently.

16 And approximately \$1.8 billion in  
17 modernization requests on that list.

18 In the executive officer statement there is  
19 also a high-level overview of the three levels of  
20 developer fees and the conditions under which they  
21 can be assessed by school districts.

22 Moving on for the additional update in the  
23 executive officer statement.

24 We did want to make everyone aware and make

1 school districts that may have had facilities  
2 impacted by recent storms in California aware that  
3 the Office of Public School Construction is always  
4 available to assist and provide information on  
5 potential funding opportunities, particularly  
6 through our Facility Hardship Program.

7 So we are always available to assist in that  
8 regard.

9 And the final announcement is that our next  
10 meeting that was originally planned for late March  
11 is being rescheduled to April 3rd.

12 And we're additionally planning to cancel the  
13 meeting originally envisioned for late April.

14 So consolidating into an April 3rd meeting.

15 I'm pleased to address any questions.

16 And would be happy to take any future suggestions on  
17 any additional items you may like to hear in future  
18 executive officer statements.

19 >> **CHAIR FERGUSON:** Seeing no comments from the  
20 dais, are there any public comments about the  
21 executive officer statement?

22 Seeing none, I'll now move on.

23 Before we take up the consent agenda, which  
24 includes over \$234 million in apportionments, I

1 recommend that we hear the agenda item for the  
2 legal analysis regarding adjustments to the school  
3 facility grant program.

4 Are there any objections to taking this item  
5 out of order?

6 Seeing none.

7 I will turn it over to Board counsel, Ephraim.

8 >> **EPHRAIM EGAN:** Thank you.

9 So presenting my legal analysis in response to  
10 the two questions that the Board posed at the  
11 January 24th meeting.

12 The first question was: Can the Board adopt an  
13 additional CCI adjustment to the SFP Grants later  
14 in the year in addition to the additional  
15 adjustment adopted by the Board on the January  
16 24th, 2024, meeting?

17 And the second question is: If the Board does  
18 adopt an additional adjustment to the SFP Grant  
19 later in the year, could the Board retroactively  
20 apply that additional adjustment to projects  
21 previously approved with the adjustment adopted by  
22 the Board at that January 24th, 2024, meeting?

23 So tackling the first question.

24 The -- my report sites both of the statutes

1 that govern CCI adjustments.

2 Education code section 17072.10(b) covers new  
3 construction grants.

4 And it states, the Board annually shall adjust  
5 the per unhoused people apportionment to reflect  
6 construction costs changes as set forth in the  
7 statewide cost index for class B construction as  
8 determined by the Board.

9 Education code section 17074.10(b) covers  
10 modernization grants and has fairly identical  
11 language.

12 It says that the Board shall annually adjust  
13 the factors set forth in subdivision A according to  
14 the adjustment for inflation set forth in the  
15 Statewide Cost Index for class B construction as  
16 determined by the Board.

17 There are accompanying regulations for both  
18 the new construction grants and modernization  
19 grants.

20 And both state that they will be adjusted  
21 annually based on the change in the class B  
22 construction cost index as approved by the Board  
23 each January.

24 Looking at the word "annually," Black's Law

1 Dictionary defines "annually" as occurring once  
2 every year or yearly as in an annual meeting or of  
3 relating to or involving a period of one year as in  
4 annual income.

5       Tried to do a broad search of other  
6 definitions of annually, and they were largely the  
7 same.

8       As such, it's the Board counsel's opinion that  
9 only one adjustment can be legally made per year.

10       I did take a look at the Board's prior actions  
11 to see if the Board has done any adjustments either  
12 in non-January months or had done multiple  
13 adjustments or more than one adjustments in a  
14 calendar year.

15       There were some situations where the Board did  
16 make an adjustment other than in January.

17       I've listed those in the report.

18       I think in those circumstances there were some  
19 mitigating circumstances.

20       I think the more important thing to look at is  
21 in the situations where the Board did do any  
22 adjustments more than once or at least looked at  
23 indices more than once for a potential -- multiple  
24 adjustments in a calendar year, the first was in

1 2016.

2 The Board selected RS Means as a CCI index for  
3 the annual adjustments on a permanent basis moving  
4 forward.

5 And approved a .27% annual adjustment based on  
6 the data provided by RS Means.

7 And this was done in the January 27, 2016,  
8 meeting.

9 However, after that meeting, it was raised by  
10 other parties that the data that was provided to  
11 staff was incorrect and the adjustment was changed  
12 to 2.79% at the February 24, 2016, meeting.

13 Here I think since it involved a correction of  
14 error that seemed to be in line with the spirit of  
15 the statute, and I think that that was permissible.

16 In 2005, the Board did consider two different  
17 indices at two different board meetings.

18 But there was only one motion for one index  
19 that was made and approved.

20 At the January 26, 2005, meeting, OPSC  
21 presented a -- the annual adjustment for the SFP  
22 Grants based on the Marshall & Swift 10 Western  
23 States Index, which would have granted an 11.26%  
24 increase from 2004.

1           However, during the discussion of the item,  
2 the board member noted that the Board had adopted  
3 an amended regulations to delete the specific  
4 reference to the 10 Western States Index in the SFP  
5 regulations.

6           Because in the past the regulation required  
7 that the Board use a specific index.

8           And the Board had approved regulations to  
9 remove that specific reference to that index in  
10 October 2004.

11           But the regulations themselves were awaiting  
12 approval by the Office of Administrative Law.

13           During that discussion, the board member made  
14 what they term to be a complicated motion.

15           And asked to make apportionments that were  
16 based on the 10 Western States Index but were not  
17 final until further adjustment is made based on the  
18 index approved by the Board following the Office of  
19 Administrative Law finalizing the construction cost  
20 index approved by the Board in October 2004.

21           What I think is important is when the Board  
22 made that, when the board member made that motion,  
23 they didn't move to approve the annual adjustment  
24 of the SFP Grants based on the index but just moved

1 to grant the apportionments that were not final.

2 And then the motion itself was seconded and  
3 approved.

4 And then no other motion was made at that  
5 meeting to approve the adjustment to the SFP Grants  
6 at that meeting.

7 Subsequently on March 30th, 2005, meeting, the  
8 regulations had already been approved by OAL.

9 And an item was presented at the Board meeting  
10 by OPSC recommending that the Board adopt a  
11 different Marshall & Swift Index, the Marshall &  
12 Swift 8 California Cities Index, which focused on  
13 construction costs that are within cities that are  
14 within California.

15 And the Board did adopt and approve or did  
16 approve and adopt the Marshall & Swift 8 California  
17 Cities Class B CCI index for that meeting.

18 So in 2005, although OPSC did present two  
19 different indices at two different board meetings,  
20 there was only really one motion to approve one  
21 index and one index was actually approved by the  
22 Board during that calendar year.

23 So based off of that, I think it is my opinion  
24 that you can only make modifications to the SFP

1 Grants once in a calendar year.

2 And the Board does not have the ability to do  
3 that unless statutes are changed.

4 And because of that opinion, the question for  
5 question 2 is really moot.

6 So there is no need to go into that question.

7 I leave it opened up to the Board if they have  
8 any questions on this report or this analysis.

9 >> **CHAIR FERGUSON:** Seeing no questions on the  
10 dais.

11 Are there any public comments?

12 Seeing no public comment.

13 Thank you for the report.

14 We accept it.

15 Moving on to our consent agenda.

16 Ms. Kirk.

17 >> **MS. KIRK:** Thank you, Mr. Chair.

18 As previously mentioned, today's consent  
19 agenda includes approximately \$234 million in  
20 apportionments for over 63 projects.

21 I request that the Board approve the consent  
22 agenda with the exception of the grant adjustments  
23 to two Jacoby Creek Elementary School District  
24 projects, which staff requests be withdrawn from

1 today's consent agenda.

2 Those two projects are on stamped pages 103  
3 and 104 of the agenda.

4 In total your consent agenda is reflected on  
5 pages 11 through 118.

6 Thank you.

7 >> **SENATOR WILK:** Wilk moves.

8 >> Second.

9 >> **CHAIR FERGUSON:** Before we call the roll, if  
10 we could check for public comment.

11 Seeing no public comment.

12 Ms. Jones, would you call the roll.

13 >> **LISA JONES:** Yes, I will.

14 Senator Wilk.

15 >> **SENATOR WILK:** Aye.

16 >> **LISA JONES:** Wilk, aye.

17 Assembly Member Muratsuchi.

18 >> **ASSEMBLY MEMBER MURATSUCHI:** Aye.

19 >> **LISA JONES:** Muratsuchi, aye.

20 Assembly Member Davies.

21 >> **ASSEMBLY MEMBER DAVIES:** Aye.

22 >> **LISA JONES:** Davies, aye.

23 Juan Mireles.

24 >> **JUAN MIRELES:** Aye.

1 >> **LISA JONES:** Mireles, aye.  
2 Jeremy Smith.  
3 >> **JEREMY SMITH:** Aye.  
4 >> **LISA JONES:** Smith, aye.  
5 Ana Lasso.  
6 >> **ANA LASSO:** Aye.  
7 >> **LISA JONES:** Lasso, aye.  
8 Chris Ferguson.  
9 >> **CHAIR FERGUSON:** Aye.  
10 >> **LISA JONES:** Ferguson aye.  
11 This motion carries.  
12 >> **CHAIR FERGUSON:** Turning to the financial  
13 reports.  
14 Ms. Kirk.  
15 >> **MS. KIRK:** Thank you, Mr. Chair.  
16 The financial reports begin on stamped page  
17 119 of the agenda.  
18 I'll just note that the status of funds  
19 reflects the roughly \$234 million in apportionments  
20 just approved by the Board on today's consent  
21 agenda.  
22 And I'm happy to address any questions on the  
23 financial reports.  
24 >> **CHAIR FERGUSON:** Seeing no questions on the

1 dais, is there any public comment?

2 Seeing none, thank you for the reports.

3 Ms. Kirk, if we could move to the final item  
4 of the day.

5 >> **MS. KIRK:** Thank you, Mr. Chair.

6 We also have reports, discussion, and  
7 information items on pages 145 to 207 of the  
8 agenda.

9 The one that I would call out for your  
10 attention, there is an annual report providing a  
11 local audit's update that provides the annual  
12 update to the Board on the status of the State  
13 Controller's Office, Certifications of School  
14 Facility Program Audit Reports.

15 In the period from January 27th, 2003, sorry,  
16 2023, through January 26, 2024, the State  
17 Controller'S Office certified 56 School Facility  
18 Program audit reports.

19 And I would just note that of those 56 reports  
20 certified by SCO in that timeframe, two of them had  
21 audit findings.

22 But I would note that the total audit findings  
23 among those two reports was a little less than  
24 \$250,000 out of a total project cost of about

1 \$285.7 million across those 56 audit reports that  
2 were certified.

3 So we did have in totals from that set of 56  
4 reports certificated in roughly 2023 calendar year,  
5 far less than 1% that had audit findings of  
6 ineligible expenditures to return to the state.

7 So I think that's a credit to the work of our  
8 local educational agencies as well as OPSC staff  
9 for outreach on program eligibility and eligible  
10 expenditures.

11 I'm happy to address any questions on that  
12 report or the other reports in this section of the  
13 agenda.

14 >> **CHAIR FERGUSON:** At least for myself, I just  
15 reiterate what you said.

16 It's just a testament to the hard work of  
17 local educational agencies and the Office of Public  
18 School Construction that we really see little to no  
19 audit findings in these projects and in this  
20 program.

21 Just a thank you to all of the staff at the  
22 office and all of the staff at local educational  
23 agencies for their hard work.

24 With that, seeing no questions or additional

1 comments from the Board, is there any public  
2 comment on this item?

3 All right.

4 I would just note that we are not planning to  
5 have a -- there will not be a closed session in  
6 today's meeting.

7 And I would like to adjourn today's meeting.

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TRANSCRIBER'S CERTIFICATE

STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF RIVERSIDE )

I, (Antha A. Ward), a person who has 22 years of demonstrated experience, do hereby certify:

That the proceedings herein of the California State Allocation Board, Public Meeting, were duly transcribed by me;

That the foregoing transcript is a true record of the proceedings as transcribed;

That I am a disinterested person to said action.

IN WITNESS WHEREOF, I have subscribed my name on March 8, 2024,

*Antha A. Ward*

\_\_\_\_\_

Antha A. Ward  
QuickCaption, Inc.

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