

INITIAL STATEMENT OF REASONS

Section 1859.161. Preliminary Charter School Application Submittals.

Specific Purpose of the Regulation

To change the timeline for an application filing round for the Charter School Facilities Program (CSFP).

Need for the Regulation

Assembly Bill (AB) 48 (O'Donnell), Chapter 530, Statutes of 2019, places the Public Preschool, K-12, and College Health and Safety Bond Act of 2020 on the March 2020 ballot, and if approved by the voters, authorizes additional funding from the bond for the CSFP. AB 48 also includes program changes that would require the adoption and/or amendment of regulations. Adopting and/or amending regulations takes longer than 90 days to complete; therefore, it was necessary to change the timing of the application filing period which requires a regulation change.

Anticipated Benefits and Economic Impact of the Proposed Regulations

The proposed regulatory amendment promotes transparency for the SAB to establish and determine the duration of the filing rounds. This will benefit school districts and charter schools by ensuring that thoughtful and complete applications are submitted in a filing round that is not forced or rushed. The State of California will also benefit by having the ability to implement potential program modifications on a less rigid timeline. This will allow for thoughtful and transparent consideration of regulation changes necessary to implement the program changes set forth in statute. The proposed regulatory amendment does not have a direct impact on the State's economy or job creation.

The proposed amendment is therefore determined to be consistent and compatible with existing State laws and regulations. Proceeding with the implementation of the proposed amendment continues to carry out the will of the voters.

Technical Documents Relied Upon

The State Allocation Board's Action item, dated October 23, 2019, entitled "Proposed Regulatory Amendments to the Charter School Facilities Program."

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. The only consideration was approved by the SAB at its October 23, 2019 meeting. No other alternatives are available, as there is insufficient time to make regulation changes to comply with statute within the current regulatory 90-day time line.

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 implementation of the proposed regulatory amendment continues to carry out the will of the voters. Although the proposed regulation does not have a direct effect on the State's economy, creation of jobs, creation of new businesses, or expansion of businesses it will not eliminate jobs or eliminate existing businesses within California.

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 to the Charter School Facilities Program”

Proposed State Allocation Board Regulations

At its October 23, 2019 meeting, the State Allocation Board adopted a proposed regulatory amendment that would amend the timing of the application filing period for the Charter School Facilities Program (CSFP). Currently, School Facility Program Regulation Section 1859.161 requires that a CSFP application filing round that is the result of an election, must open 90 days after the election and remain open for 120 calendar days. The proposed regulatory amendment removes the 90 and 120-day timelines to allow the SAB to determine the start date and duration for all future application filing rounds.

Background and Problem Being Resolved

Currently, School Facility Program Regulation Section 1859.161 requires that a CSFP application filing round that is the result of an election, must open 90 days after the election and remain open for 120 calendar days. To date, there have been six filing rounds for the CSFP; four rounds were the result of an election approving additional funding and two were the result of the SAB establishing additional rounds due to available bond authority. Assembly Bill (AB) 48 (O'Donnell), Chapter 530, Statutes of 2019, places the Public Preschool, K-12, and College Health and Safety Bond Act of 2020 on the March 2020 ballot. If approved by the voters, additional funding will be authorized for the CSFP and statutory changes would be enacted that would require the adoption and/or amendment of the SFP [CSFP] Regulations. The adoption and/or amendment of the regulations will take longer than 90 days to complete; therefore, it is necessary to change the timing of the application filing period.

OPSC performed a search on whether the proposed regulatory amendment was 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 amendment is consistent and compatible with existing State laws and regulations. Proceeding with the proposed regulatory amendment will remove the 90 and 120-day timelines thereby allowing the SAB to determine the start date and duration for all future application filing rounds. This will allow for thoughtful and transparent consideration of regulation changes necessary to implement the program changes set forth in statute.

Description of Regulations to Implement Law

The following 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 2002 (Proposition 47)
- Kindergarten-University Public Education Facilities Bond Act of 2004 (Proposition 55)
- Kindergarten-University Public Education Facilities Bond Act of 2006 (Proposition 1D)
- Kindergarten through Community College Public Education Facilities Bond Act of 2016 (Proposition 51)
- Public Preschool, K-12, and College Health and Safety Bond Act of 2020 (Proposition 13)*

*Contingent upon voter approval in March 2020.

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 October 23, 2019 meeting, the State Allocation Board adopted a proposed regulatory amendment that would amend the timing of the application filing period for the Charter School Facilities Program (CSFP). Currently, School Facility Program Regulation Section 1859.161 requires that a CSFP application filing round that is the result of an election, must open 90 days after the election and remain open for 120 calendar days. The proposed regulatory amendment removes the 90 and 120-day timelines to allow the SAB to determine the start date and duration for all future application filing rounds.

Anticipated Benefits of the Proposed Regulations

The proposed regulatory amendment promotes transparency for the SAB to establish and determine the duration of the filing rounds. This will benefit school districts and charter schools by ensuring that thoughtful and complete applications are submitted in a filing round that is not forced or rushed. The State of California will also benefit by having the ability to implement potential program modifications on a less rigid timeline. The proposed regulatory amendment does not have a direct impact on the State's economy or job creation.

The proposed amendment is therefore determined to be consistent and compatible with existing State laws and regulations. Proceeding with the implementation of the proposed amendment continues to carry out the will of the voters.

Summary of the Proposed Regulatory Amendment

Existing Regulation Section 1859.161 specifies the timeframes for submitting applications for bond issue elections. The proposed regulatory amendment removes the 90 and 120-day timelines to allow the SAB to determine the start date and duration for all future application filing periods.

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

Currently, School Facility Program Regulation Section 1859.161 requires that a CSFP application filing round that is the result of an election, must open 90 days after the election and remain open for 120 calendar days. To date, there have been six filing rounds for the CSFP; four rounds were the result of an election approving additional funding and two were the result of the SAB establishing additional rounds due to available bond authority. AB 48 (O'Donnell), Chapter 530, Statutes of 2019, places the Public Preschool, K-12, and College Health and Safety Bond Act of 2020 on the March 2020 ballot. If approved by the voters, additional funding will be authorized for the CSFP and statutory changes would be enacted that would require the adoption and/or amendment of the SFP [CSFP] Regulations. The adoption and/or amendment of the regulations will take longer than 90 days to complete; therefore, it is necessary to change the timing of the application filing period.

After conducting a review, the SAB has concluded that these are the only regulations on this subject area, and therefore, the proposed amendment is neither inconsistent nor incompatible with existing State laws and regulations. The proposed regulatory amendment is 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 amendment promotes transparency for the SAB to establish and determine the duration of the filing rounds. This will benefit school districts and charter schools by ensuring that thoughtful and complete applications are submitted in a filing round that is not forced or rushed. The State of California will also benefit by having the ability to implement potential program modifications on a less rigid timeline. The proposed regulatory amendment does not have a direct impact on the State's economy or job creation.

Proceeding with the implementation of the proposed amendment continues to carry out the will of the voters. Although the proposed regulation does not have a direct effect on the State's economy, creation of jobs, creation of new businesses, or expansion of businesses it 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 amendment promotes transparency for the SAB to establish and determine the duration of the filing rounds. This will benefit school districts and charter schools by ensuring that thoughtful and complete applications are submitted in a filing round that is not forced or rushed. The State of California will also benefit by having the ability to implement potential program modifications on a less rigid timeline. This will allow for thoughtful and transparent consideration of regulation changes necessary to implement the program changes set forth in statute. The proposed regulatory amendment does not have a direct impact on the State's economy or job creation.
- There are continued benefits to the health and welfare of California residents and worker safety. School districts, charter schools, and local education 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 regulation fully consistent with the stated purposes and benefits.