

December 1, 2023

TO: ALL SCHOOL DISTRICTS, COUNTY SUPERINTENDENTS AND OTHER INTERESTED PARTIES

TITLE 2. STATE ALLOCATION BOARD

NOTICE OF PROPOSED EMERGENCY REGULATORY ACTION

In accordance with Assembly Bill 1302, Chapter 713, Statutes of 2006, enclosed is a proposed emergency regulation adopted by the State Allocation Board (SAB) at its meeting on September 27, 2023. The proposed regulation and the Finding of Emergency are attached to this Notice. These documents can also be accessed on the Office of Public School Construction's (OPSC) website at: <https://www.dgs.ca.gov/OPSC/Resources/Page-Content/Office-of-Public-School-Construction-Resources-List-Folder/Laws-and-Regulations>.

INFORMATIVE DIGEST/POLICY OVERVIEW STATEMENT

At its meeting on September 27, 2023, the SAB adopted an emergency regulatory amendment that would extend for two years (until January 1, 2026) the additional grant for general site development. This would prevent a lapse in regulatory authority and would continue to allow School Facility Program (SFP) new construction applications be processed with this additional grant. The Governor's budget has appropriated \$1.9 billion for funding eligible new construction and modernization projects under the SFP for the 2023/24 fiscal year. The Legislature has declared its intent to appropriate an additional \$875 million from the General Fund in the 2024/25 fiscal year for the same purpose, funding eligible new construction and modernization projects under the SFP.

Background and Problem Being Resolved

As first implemented, the additional grant for general site development costs was to be suspended "no later than January 1, 2008" unless extended by the SAB. The following is a sequence of events extending the additional grant for general site development:

- First One-Year Extension: The SAB, at its December 12, 2007 meeting, approved emergency regulations extending the suspension date to "no later than January 1, 2009," which was approved by the Office of Administrative Law (OAL) and filed with the Secretary of State on March 3, 2008.
- Second One-Year Extension: The SAB, at its February 25, 2009 meeting, approved extending the suspension date to "no later than January 1, 2010," which was approved by the OAL and filed with the Secretary of State on September 18, 2009.
- Third One-Year Extension: The SAB, at its November 4, 2009 meeting, approved extending the suspension date to "no later than January 1, 2011," which was approved by the OAL and filed with the Secretary of State on April 8, 2010.
- Fourth One-Year Extension: The SAB, at its June 23, 2010 meeting, approved extending the suspension date to "no later than January 1, 2012," which was approved by the OAL and filed with the Secretary of State on April 27, 2011.

- Fifth Two-Year Extension: The SAB, at its July 12, 2011 meeting, approved extending the suspension date to “no later than January 1, 2014,” which was approved by the OAL and filed with the Secretary of State on December 28, 2011.
- Sixth One-Year Extension: The SAB, at its May 22, 2013 meeting, approved extending the suspension date to “no later than January 1, 2015,” which was approved by the OAL, filed with the Secretary of State on October 30, 2013, and took effect January 1, 2014, due to Senate Bill (SB) 1099, Chapter 295, Statutes of 2012.
- Seventh One-Year Extension: The SAB, at its August 20, 2014 meeting, approved extending the suspension date to “no later than January 1, 2016,” which was approved by the OAL, filed with the Secretary of State on February 9, 2015, and took effect on April 1, 2015, due to SB 1099, Chapter 295, Statutes of 2012.
- Eighth One-Year Extension: The SAB, at its May 27, 2015 meeting, approved extending the suspension date to “no later than January 1, 2017,” which was approved by the OAL and filed with the Secretary of State on December 21, 2015.
- Ninth One-Year Extension: The SAB, at its May 25, 2016 meeting, approved extending the suspension date to “no later than January 1, 2018,” which was approved by the OAL and filed with the Secretary of State on December 12, 2016.
- Tenth One-Year Extension: The SAB, at its June 5, 2017 meeting, approved extending the suspension date to “no later than January 1, 2019,” which was approved by the OAL and filed with the Secretary of State on December 20, 2017.
- Eleventh Five-Year Extension: The SAB, at its June 27, 2018 meeting, approved extending the suspension date to “no later than January 1, 2024,” which was approved by the OAL and filed with the Secretary of State on December 18, 2018.

Bond Funds Impacted

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

- Class Size Reduction Kindergarten-University Public Education Facilities Bond Act of 1998 (Proposition 1A)
- 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)

General Fund Proceeds

For the 2023/24 fiscal year, the Governor’s budget has appropriated \$1.9 billion for funding eligible new construction and modernization projects under the SFP. The Legislature has declared its intent to appropriate an additional \$875 million from the General Fund in the 2024/25 fiscal year for the same purpose, funding eligible new construction and modernization projects under the SFP.

As noted in the introductory paragraph on the first page, the Finding of Emergency and the proposed regulation are attached to this Notice. These documents may be viewed on OPSC’s website at: <https://www.dgs.ca.gov/OPSC/Resources/Page-Content/Office-of-Public-School-Construction-Resources-List-Folder/Laws-and-Regulations>. Copies of the Finding of Emergency and the proposed regulation will be mailed to any person requesting this information by using

the OPSC contact information set forth below. The proposed regulation extends the additional grant for general site development for two years; from January 1, 2024 to January 1, 2026.

OPSC, on behalf of the SAB, intends to submit the emergency regulations to the Office of Administrative Law (OAL) in December 2023. The following is an overview of the proposed regulation.

Summary of the Proposed Regulation

At its September 27, 2023 meeting, the SAB adopted the proposed emergency regulation extending the additional grant for general site development for two years (until January 1, 2026). The proposed additional grant for general site development costs utilizes the continuing availability of new construction funding through the Bond Funds and General Fund Proceeds as reflected on page 2 of this Notice.

A summary of the proposed regulation is as follows:

Existing Regulation Section 1859.76 provides new construction additional grants for specific types and amounts of site development costs. The proposed amendment provides that the general site development shall be suspended no later than January 1, 2026 unless otherwise extended by the SAB.

SUBMISSION OF COMMENTS

Government Code Section 11346.1(a)(2) requires that, at least five working days prior to submission of the proposed emergency action to the OAL, the adopting agency provide a Notice of the Proposed Emergency Action to every person who has filed a request for notice of regulatory action with the agency. After submission of the proposed regulations to the OAL, the OAL shall allow interested persons five calendar days to submit comments on the proposed regulations as set forth in Government Code Section 11349.6.

Any interested person may present statements, arguments or contentions, in writing, submitted via U.S. mail, email or fax, relevant to the proposed regulatory action. Written comments submitted via U.S. mail, email or fax must be received at the OAL within five days after the SAB submits the regulations to the OAL for review.

Please reference submitted comments as regarding "Additional Grant for General Site Development," addressed to:

Reference Attorney

Mailing Address: Office of Administrative Law
300 Capitol Mall, Suite 1250
Sacramento, CA 95814

E-mail Address: staff@oal.ca.gov

Fax No.: (916) 323-6826

For the status of the SAB submittal to the OAL for review, and the end of the five-day written submittal period, please consult the website of 1) the OAL at www.oal.ca.gov under the heading

“Emergency Regulations,” and 2) OPSC at: <https://www.dgs.ca.gov/OPSC/Resources/Page-Content/Office-of-Public-School-Construction-Resources-List-Folder/Laws-and-Regulations>, then scroll down to School Facility Program “Pending Regulatory Changes.”

Pursuant to Title I, Section 55, please send a copy of written comments regarding the proposed regulatory action, as well as requests for a copy of the proposed regulatory action, and questions concerning the substance of the proposed regulatory action, addressed to:

Lisa Jones, Regulations Coordinator

Mailing Address: Office of Public School Construction
707 3rd Street, 4th Floor
West Sacramento, CA 95605

E-mail Address: lisa.jones@dgs.ca.gov

AGENCY CONTACT PERSONS

General or substantive questions regarding this Notice of Proposed Emergency Regulatory Action may be directed to Ms. Lisa Jones at (279) 946-8459. If Ms. Jones is unavailable, these questions may be directed to the backup contact person, Mr. Michael Watanabe, Deputy Executive Officer, at (279) 946-8463.