

## **INITIAL STATEMENT OF REASONS**

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

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

To set forth a new definition in the School Facility Program (SFP) Regulations for the new grant agreement master templates and to amend the revision date of the Form SAB 50-03.

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

It was necessary to define the new *Grant Agreement [Proposition 2]*, (New 03/25), as this term will be used exclusively for these regulations. School districts and charter school applications received by the Office of Public School Construction (OPSC) on or after October 31, 2024, and that have received School Facility Program (SFP) funding from Proposition 2, are required to enter into a grant agreement as a condition of bond funds being released for school construction projects. The *Eligibility Determination*, (Form SAB 50-03) which is incorporated by reference, was revised and its revision date changed from "12/10" to "03/25."

### **Section 1859.51. Adjustments to the New Construction Baseline Eligibility.**

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

To extend the timeframe for adjusting a small school district's new construction enrollment projection from three years to five years starting from the date the school district's eligibility is approved by the State Allocation Board (SAB).

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

It was necessary to extend the timeframe from three years to five years to align with Education Code Section 17071.75.

### **Section 1859.60. Calculation to Determine Modernization Baseline Eligibility.**

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

To set forth additional criteria for a school district to calculate its modernization baseline eligibility for each school site.

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

It was necessary to include the addition of subsections (c) and (d), which provides the determination of eligibility specific to school districts with a school facility on a military installation. Subsection (c) identifies all classrooms at the school site that are permanent and at least 10 years old and portable at least 10 years old. Subsection (d) identifies all square footage at the school site that are permanent and at least 10 years old and portable at least 10 years old. This is in alignment with Education Code Section 17073.15.

## **Section 1859.61. Adjustments to the Modernization Baseline Eligibility.**

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

To set forth an additional factor that impacts a school district's capacity to house pupils and therefore requires adjustments to the modernization baseline eligibility.

### **Need for the Regulation**

It was necessary to renumber existing subsection (l) to (m) and make subsection (l) pertain to the adjustments to the modernization baseline eligibility for additional facilities located on a military installation. This is in alignment with Education Code Section 17073.15(b). There were non-substantive changes for the renumbering of subsection (l) to subsection (m) for purposes of maintaining consistency.

## **Section 1859.78.8. Modernization Grant for Facilities Previously Modernized with State Funds.**

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

To provide additional criteria that allow for additional apportionments for facilities previously modernized with state funds.

### **Need for the Regulation**

It was necessary to add subsections (c) and (d) to reflect eligibility criteria for permanent and portable school facilities that are located on a military installation because this section provides an additional apportionment pursuant to Education Code Section 17074.10(a). This is in alignment with the criteria outlined in Education Code Section 17073.15(b).

## **Section 1859.79.2. Use of Modernization Grant Funds.**

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

To provide clarifying language to the guidelines for eligible and ineligible expenditures related to portable classrooms and the use of modernization grant funds.

### **Need for the Regulation**

It was necessary to clarify that some portable classrooms are eligible for additional funding but only if specific conditions have been met as outlined in Education Code Sections 17073.15 and 17074.10(f). The clarification is that portable classrooms funded under Education Code Section 17073.15(b) are also included in the exception of portable classroom facilities eligible for an additional apportionment. This is in alignment with Education Code Section 17073.15(b).

## **Section 1859.81. Financial Hardship.**

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

To set forth an additional criterion for school districts and county offices of education to qualify for financial hardship status based on a specific date. Also, to formalize the longstanding

policy/practice with the addition of a new subsection that establishes the process for school districts to utilize bridge financing/interfund borrowing tools.

### **Need for the Regulation**

It was necessary to delineate two different dates for the financial hardship qualifying criterion of a “district’s total bonding capacity at the time of the request.” In subsection (c)(4)(A), the criterion applies to applications received by OPSC on or before October 30, 2024 and it remains at \$5 million. In subsection (c)(4)(B), the criterion applies to applications received by OPSC on or after October 31, 2024 and it increases to \$15 million. This is in alignment with Education Code Section 17075.15(d)(3)(A) and (d)(3)(B).

On December 18, 2008, the Department of Finance (DOF) issued Budget Letter #08-33 which detailed the action taken by the Pooled Money Investment Board at their December 17, 2008 meeting. The action took effect immediately, and it was conveyed to all state entities that had expenditure control and oversight of General Obligation and lease revenue bond programs to cease authorizing any new grant or obligations for bond projects, including new phases for existing projects. The OPSC, in consultation with the DOF, issued a policy letter to all school districts as a result of DOF’s Budget Letter #08-33, which provided guidelines to school districts that proceeded with projects at their own risk prior to the receipt of state funding. The policy letter is basically the new subsection (i). It was necessary to put this longstanding policy/practice in regulation as new subsection (i) to outline the criteria and/or process for expending funding on an SFP project prior to SAB approval. This subsection also provides transparency as to the process of using bridge financing and/or interfund borrowing to access temporary funding ensuring that projects can proceed without delay caused by gaps in SFP funding.

OPSC performed a search on whether the proposed regulations were consistent and compatible with existing State laws and regulations. After performing the search, OPSC, on behalf of the SAB, has determined that there are no other programs or regulations in existence that make the necessary program modifications implementing some of the Proposition 2 provisions in the SFP. Therefore, the proposed regulations are determined to be consistent and compatible with existing State laws and regulations. Proceeding with the implementation of the proposed regulations will provide a positive impact on the state’s economy, as well as the creation of an unknown number of jobs in the school construction industry. This ensures equity amongst school districts, including those school districts with public schools on military installations to receive new and/or modernized school facilities.

## **SCHOOL FACILITY PROGRAM FORM**

### **Eligibility Determination, Form SAB 50-03 (Rev. 12/1003/25).**

#### **Specific Purpose of the Form**

To incorporate provisions of Proposition 2 related to eligibility for school facilities located on military installations. The revision dates for this Form change from “12/10” to “03/25.”

#### **Need for the Form**

It was necessary to update this Form with Proposition 2 provisions that are related to eligibility determination for school facilities located on military installations that are a recipient of a federal grant for facilities modernization that requires a local matching share. This is in alignment with Education Code Section 17073.15. There are two proposed amendments not related to

Proposition 2 and that is the data and year on pages 2 and 3 of this Form. The enrollment year information will help streamline the verification process and allow for a more concise verification of CBEDS enrollment being utilized on each Form SAB 50-03 as it is processed by OPSC.

**Grant Agreement [Proposition 2], (New 03/25).**

**Specific Purpose of the Form**

To introduce a second grant agreement that applies to applications received by OPSC on or after October 31, 2024.

**Need for the Regulation**

It was necessary to create a second grant agreement that includes provisions of Proposition 2 because those provisions are specifically related to applications received by OPSC on or after October 31, 2024. This date is implied in Assembly Bill (AB) 247 (Muratsuchi, Chapter 81, Statutes of 2024) Education Code Section 17070.87. It is the intent that the grant agreements will be entered into for every future funding application that is processed for an applicant (school districts, charter schools, and county offices of education). The grant agreement promotes fairness and the state's general welfare by helping to ensure taxpayer resources (bond funds) are expended appropriately for school construction purposes. The grant agreements were developed to address the Office of State Audits and Evaluations (OSAE) audit findings by improving program oversight and expenditure accountability. The grant agreements will serve as a binding document and a key resource that defines the responsibilities of the state and school districts from the determination of the amount of eligible state funding to the reporting of all project funds, including any savings achieved. This will ensure greater transparency and accountability for the program grants being awarded under the SFP.

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

There are benefits associated with the proposed regulations. The SAB has the opportunity to administer the SFP with new Proposition 2 provisions that make program modifications beneficial to school districts, including small school districts, and to replenish the SFP with \$8.5 billion in bond authority. The proposed regulations also provide school districts with additional opportunities to qualify for financial hardship at an increased total bonding capacity level; to have new construction eligibility locked in for five years for small school districts; and to allow school districts that have a school facility located on a military installation that is a recipient of a federal grant that requires a local matching share to receive an apportionment for the modernization of a permanent or portable building that is at least ten years old. In addition, there is a positive impact on the state's economy, as well as the creation of an unknown number of jobs in the school construction industry. Once school districts request the release of state funds, manufacturing and construction-related industries such as architecture, engineering, trades and municipalities may expand based on the demand on these industries.

The proposed amendments are therefore determined to be consistent and compatible with existing State laws and regulations. Proceeding with the implementation of the proposed regulations promotes transparency and accountability, as well as maintain equity amongst school districts projects and the integrity of the SFP funding process.

## **Technical Documents Relied Upon**

The SAB's Action item, dated March 26, 2025, REPORT OF THE EXECUTIVE OFFICER, entitled "Proposed Emergency Regulatory Amendments for the School Facility Program."

The OPSC's Policy Letter, dated January 16, 2009, entitled "Bridge Financing/Interfund Borrowing Policy for Financial Hardship Districts – At Your Own Risk."

## **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 alternative to these proposed regulatory amendments would be the SAB take no action, thereby violating the provisions contained in AB 247 (Muratsuchi, Chapter 81, Statutes of 2024) wherein it states that these provisions would become effective upon the adoption by the voters of the Kindergarten Through Grade 12 Schools and Local Community College Public Education Facilities Modernization, Repair, and Safety Bond Act of 2024 (Proposition 2).

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

The SAB has determined that the proposed regulations 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 regulations 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 regulations will not negatively impact the creation of jobs, the creation of new businesses, and the expansion of businesses in California. It is not anticipated that the proposed regulations will result in the elimination of existing businesses or jobs within California. Further, the proposed regulations maintain equity amongst school districts projects and the integrity of the SFP funding process.

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

The SAB has determined that the proposed regulations 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 regulations.

## **Office of Administrative Law Regulations, Title 1, Section 20(c)(1)**

Because the State Allocation Board's SFP Forms are cumbersome documents, it would be unduly expensive and otherwise impractical to publish the Forms in the California Code of Regulations. Therefore, it is not necessary to publish the Forms in the California Code of Regulations.

**Office of Administrative Law Regulations, Title 1, Section 20(c)(2)**

The State Allocation Board's SFP Forms are made available upon request and through our website and continue to be made available upon request and through our website.

## **ECONOMIC IMPACT ASSESSMENT OF REGULATIONS**

### *“Proposed Emergency Regulatory Amendments for the School Facility Program”*

#### **Proposed State Allocation Board Regulations**

At its meeting on March 26, 2025, the SAB adopted proposed regulatory amendments, on an emergency basis, that align and implement provisions of Assembly Bill (AB) 247 (Muratsuchi, Chapter 81, Statutes of 2024) into the SFP regulations and include the following topics:

- 1) the maximum level of total bonding capacity a school district could have and still be eligible for financial hardship assistance increases from \$5 million to \$15 million (Education Code Section 17075.15). In addition to this criterion, the longstanding policy of using bridge financing to allow for interfund borrowing as a tool for school districts to use to continue with their projects while waiting for approval for financial hardship status and project funding has been put in regulation. This mechanism provides school districts the immediate access to temporary funding, ensuring that projects can proceed without delay caused by gaps in receiving SFP funding from infrequent statewide general obligation bond sales. Although this mechanism is not in Proposition 2, it is an important piece of the financial hardship program to help school districts progress their projects while waiting for financial hardship funding.
- 2) the timeframe for requiring revalidation of small school districts’ new construction enrollment projections is extended from three years to five years starting from the date the school district’s eligibility is approved by the SAB (Education Code Section 17071.75).
- 3) specific assistance to school districts that have a school facility located on a military installation that is a recipient of a federal grant on the site for facilities modernization that requires a local matching share. It is stipulated that for these schools the school districts are eligible for an apportionment for the modernization of a permanent or portable building that is at least ten years old or is at least ten years old after the date of the previous modernization apportionment from state funds under this chapter (Education Code Section 17073.15).
- 4) incorporation by reference of a second *Grant Agreement [Proposition 2]* (New 03/25) used specifically for those applications received by OPSC on or after October 31, 2024 and that have received SFP grant funding. The *Grant Agreement [Proposition 2]* is not in Proposition 2; however, there are new eligible project expenditures in Proposition 2 that have been made part of the Grant Agreement.

#### **Background and Problem Being Resolved**

At its meeting on December 3, 2024, the SAB adopted recommendations implementing provisions of Proposition 2, which are contained in AB 247. In part, Proposition 2 provides \$8.5 billion in proceeds from the sale of bonds for the construction and modernization of Transitional Kindergarten (TK) through Grade 12 school facilities. Proposition 2 specifies that the \$8.5 billion will be allocated to the SFP as follows:

- New Construction = \$3.3 billion, of which up to ten percent (\$330 million) shall be available to small school districts.
- Modernization = \$4.0 billion, of which up to ten percent (\$400 million) shall be available to small school districts **and** up to \$115 million shall be available to address the remediation of lead in water.
- Charter School Facilities Program = \$600 million, and

- Career Technical Education Facilities Program = \$600 million.

Proposition 2 also makes numerous changes to the SFP as follows:

- Requires the submittal of a five-year school facilities master plan as a condition of participating in the SFP;
- Establishes a points-based methodology for calculating the local contribution a school district is required to make to be eligible to receive state funding;
- Requires school districts participating in the SFP New Construction or Modernization programs after November 5, 2024, to submit an updated report of the school district's existing school building capacity;
- Authorizes additional state funding for the replacement of school buildings that are at least 75 years old;
- Establishes several new supplemental grants (minimum essential facilities, energy efficiency, career technical education, and TK)
- Authorizes the SAB to provide interim housing assistance funding or any other assistance following specified natural disasters;
- Provides specified assistance to school districts with a school facility on a military installation, small school districts, and for the testing and remediation of specified lead levels in water fountains and faucets used for drinking or preparing food on school sites; and
- Increases the maximum level of total bonding capacity allowable for a school district to be automatically eligible for financial hardship assistance.

It was noted at the December 3, 2024 SAB meeting that it would take time for OPSC to process applications received before October 31, 2024, but necessary for OPSC to receive early guidance from the SAB to inform school districts who submitted applications on or after October 31, 2024, or who are currently planning to submit applications for funding. OPSC also determined the need for the SAB to set some program parameters expeditiously so that Facility Hardship Program and Seismic Mitigation Program applications, which address imminent health and safety needs and receive expedited processing and funding under existing SFP regulations, are processed under Proposition 2 quickly and without delay.

The problem being resolved is not a problem but an opportunity to replenish the SFP with \$8.5 billion in bond authority and to implement Proposition 2 provisions in the SFP. As indicated above, the proposed regulations also provide school districts with unique opportunities to qualify for financial hardship at an increased total bonding capacity level; to have new construction eligibility locked in for five years for small school districts; and to allow school districts that have schools located on a military installation that is a recipient of a federal grant that requires a local matching share to receive an apportionment for the modernization of a permanent or portable building that is at least ten years old.

OPSC performed a search on whether the proposed regulatory amendments were consistent and compatible with existing State laws and regulations and did not identify any inconsistent or incompatible existing State laws or regulations. The proposed regulatory amendments are consistent with and implement several provisions of statutory changes enacted with the passage of Proposition 2. Proceeding with the implementation of the proposed regulations will provide a positive impact on the state's economy, as well as the creation of an unknown number of jobs in the school construction industry. Once school districts request the release of state funds, manufacturing and construction-related industries such as architecture, engineering, trades and municipalities may expand based on the demand on these industries. School



districts will also have the ability to take advantage of the new Proposition 2 provisions. The proposed regulations will maintain equity, consistency, and the integrity of the SFP.

### **Description of Regulations to Implement Law**

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 meeting on March 26, 2025, the SAB adopted proposed regulatory amendments, on an emergency basis, that align and implement provisions of Assembly Bill (AB) 247 (Muratsuchi, Chapter 81, Statutes of 2024) into the SFP regulations and include the following topics:

- 1) the maximum level of total bonding capacity a school district could have and still be eligible for financial hardship assistance increases from \$5 million to \$15 million (Education Code Section 17075.15). In addition to this criterion, the longstanding policy of using bridge financing to allow for interfund borrowing as a tool for school districts to use to continue with their projects while waiting for approval for financial hardship status and project funding has been put in regulation. This mechanism provides school districts the immediate access to temporary funding, ensuring that projects can proceed without delay caused by gaps in receiving SFP funding from infrequent statewide general obligation bond sales. Although this mechanism is not in Proposition 2, it is an important piece of the financial hardship program to help school districts progress their projects while waiting for financial hardship funding.
- 2) the timeframe for requiring revalidation of small school districts' new construction enrollment projections is extended from three years to five years starting from the date the school district's eligibility is approved by the SAB (Education Code Section 17071.75).
- 3) specific assistance to school districts that have a school facility located on a military installation that is a recipient of a federal grant on the site for facilities modernization that requires a local matching share. It is stipulated that for these schools the school districts are eligible for an apportionment for the modernization of a permanent or portable building that is at least ten years old or is at least ten years old after the date of the previous modernization apportionment from state funds under this chapter (Education Code Section 17073.15).
- 4) incorporation by reference of a second *Grant Agreement [Proposition 2]* (New 03/25) used specifically for those applications received by OPSC on or after October 31, 2024 and that have received SFP grant funding. The *Grant Agreement [Proposition 2]* is not in Proposition 2; however, there are new eligible project expenditures in Proposition 2 that have been made part of the Grant Agreement.

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

There are benefits associated with the proposed regulatory amendments. The SAB has the opportunity to administer the SFP with new Proposition 2 provisions that make program modifications beneficial to school districts, including small school districts and to replenish the SFP with \$8.5 billion in bond authority. The proposed regulations also provide school districts with additional opportunities to qualify for financial hardship at an increased total bonding capacity level; to have new construction eligibility locked in for five years for small school

districts; and to allow school districts that have schools located on a military installation that is a recipient of a federal grant that requires a local matching share to receive an apportionment for the modernization of a permanent or portable building that is at least ten years old. In addition, there is a positive impact on the state's economy, as well as the creation of an unknown number of jobs in the school construction industry. Once school districts request the release of state funds, manufacturing and construction-related industries such as architecture, engineering, trades and municipalities may expand based on the demand on these industries.

The proposed regulations are therefore determined to be consistent and compatible with existing State laws and regulations. Proceeding with the implementation of the proposed regulations maintains the integrity of the SFP funding process, as well as maintains equity amongst school district projects.

### *Summary of the Proposed Regulations*

A summary of the proposed regulations are as follows:

Existing Regulation Section 1859.2 represents a set of defined words and terms used exclusively for these regulations. The proposed amendments define an additional specific term essential to these regulations and stipulates the applicable dates when a certain Grant Agreement will be used for projects.

Existing Regulation 1859.51 outlines the criteria for adjusting a district's new construction baseline eligibility. In subsection (j), small school districts (schools with an enrollment of 2,500 students or fewer) new construction baselines will not be adjusted until three years after the district's eligibility was approved by the SAB. The proposed amendment locks in their baseline eligibility from three years to five years. This is in alignment with Education Code Section 17071.75.

Existing Regulation Section 1859.60 sets forth the criteria for a school district to calculate its modernization baseline eligibility for each school site. The proposed amendments provide specified assistance to school districts that have a school facility located on a military installation that is the recipient of a federal grant that requires a local matching share. Further, these school districts are eligible for a modernization apportionment of a permanent or portable building that is at least ten years old or is at least ten years old after the date of the previous modernization apportionment. This is in alignment with Education Code Section 17073.15.

Existing Regulation Section 1859.61 sets forth specific factors which impact a district's capacity to house pupils and therefore require adjustments to the modernization baseline eligibility. The proposed amendments add a new subsection that pertains to the modernization baseline eligibility for additional facilities located on a military installation. This is in alignment with Education Code Section 17073.15(b). With the addition of the new subsection, there is renumbering of the subsections which is considered a non-substantive change.

Existing Regulation Section 1859.78.8 specifies that an additional apportionment will be provided by Education Code Section 17074.10(a) for facilities previously modernized with State funds. The proposed amendments add two new subsections that specify new eligibility criteria for permanent and portable school facilities that are located on a military installation. This is in alignment with Education Code Section 17073.15.

Existing Regulation Section 1859.79.2 sets forth guidelines for eligible and ineligible expenditures related to the use of modernization grant funds. The proposed amendments clarify

that portable classroom facilities funded under Education Code Section 17073.15(b) are also included in the exception of portable classroom facilities eligible for an additional apportionment.

Existing Regulation Section 1859.81 sets forth specific criteria for school districts and county offices of education to qualify for financial hardship status. The proposed amendments increase the maximum level of total bonding capacity that a school district can have and still be automatically eligible for financial hardship assistance from \$5 million to \$15 million. This is in alignment with Education Code Section 17075.15. In addition to this proposed amendment, new subsection (i) is being added to formalize the longstanding policy/practice of allowing school districts to utilize bridge financing. This policy has been used as a tool for interfund borrowing for school districts to continue with their projects while waiting for the receipt of financial hardship project funding. Lastly, there are non-substantive changes throughout this Section that capitalizes Financial Hardship as it is a defined term.

Existing Form SAB 50-03, *Eligibility Determination*, (Rev. ~~42/40~~ 03/25), is used by school districts to calculate their eligibility for new construction and modernization funding under the SFP. The proposed amendments incorporate provisions of Proposition 2 related to eligibility determination for school facilities located on military installations that are a recipient of a federal grant for facilities modernization that requires a local matching share. This is in alignment with the proposed amendments to the regulation sections noted on the previous page. There are two proposed amendments not related to Proposition 2 and that is the data and year on pages 2 and 3 of the form. The enrollment year information will help streamline the verification process and allow for clearer verification of CBEDS enrollment being utilized on each Form SAB 50-03 as it's processed by OPSC.

As discussed earlier, the proposed *Grant Agreement [Proposition 2]* (New 03/25) templates are used for projects submitted to OPSC on or after October 31, 2024 and incorporate the new provisions of Proposition 2. They are entered into for every future funding application that is processed; therefore, each Grant Agreement will contain the relevant program's sections. The Grant Agreements were developed to address the Office of Statewide Audits and Evaluation's audit findings by improving program oversight and expenditure accountability. The Grant Agreements serve as binding documents and key resources that define the responsibilities of the state and school districts from the determination of the amount of eligible state funding to the reporting of all project funds, including any savings achieved. This ensures transparency and accountability for the program grants being awarded under the SFP.

#### 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

At the December 3, 2024 SAB meeting, it was noted that it would take time for OPSC to process applications received before October 31, 2024, but necessary for OPSC to receive early guidance from the SAB to inform school districts who submitted applications on or after October 31, 2024, or who are currently planning to submit applications for funding. OPSC also determined the need for the SAB to set some program parameters expeditiously so that Facility Hardship Program and Seismic Mitigation Program applications, which address imminent health and safety needs and receive expedited processing and funding under existing SFP regulations, are processed under Proposition 2 quickly and without delay.

The SFP is replenished with \$8.5 billion in bond authority and Proposition 2 provisions are/will be implemented in the SFP. The proposed regulations provide school districts with unique opportunities to qualify for financial hardship at an increased total bonding capacity level; to have new construction eligibility locked in for five years for small school districts; and to allow school districts that have a school located on a military installation that is a recipient of a federal grant that requires a local matching share to receive an apportionment for the modernization of a permanent or portable building that is at least ten years old.

After conducting a review, the SAB has concluded that these are the only regulations on this subject area, and therefore, the proposed regulations are neither inconsistent nor incompatible with existing State laws and regulations. The proposed regulations 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 regulations promote transparency because school districts and the school district community have been collaborating on the proposed regulations through a series of stakeholder meetings. The proposed regulations also promote transparency and accountability due to the introduction of the new *Grant Agreement [Proposition 2]* master templates in the SFP. The SAB has the opportunity to administer the SFP with new Proposition 2 provisions that make program modifications beneficial to school districts, including small school districts and replenishes the SFP with \$8.5 billion in bond authority. The proposed regulations also provide school districts with additional opportunities to qualify for financial hardship at an increased total bonding capacity level; to have new construction eligibility locked in for five years for small school districts; and to allow school districts that have a school facility located on a military installation that is a recipient of a federal grant that requires a local matching share to receive an apportionment for the modernization of a permanent or portable building that is at least ten years old. In addition, the proposed regulations will not negatively impact the creation of jobs, the creation of new businesses, and the expansion of businesses in California. It is not anticipated that the proposed regulations will result in the elimination of existing businesses or jobs within California. Additionally, the proposed regulations expand the SFP while aligning with the statute, as well as maintain program integrity and equity amongst school district projects.

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

- The proposed regulations promote transparency because school districts and the school district community have been collaborating on the proposed regulations through a series of stakeholder meetings. The proposed regulations also promote transparency and accountability due to the introduction of the new *Grant Agreement [Proposition 2]* master templates in the SFP. The SAB has the opportunity to administer the SFP with new

Proposition 2 provisions that make program modifications beneficial to school districts, including small school districts and replenishes the SFP with \$8.5 billion in bond authority.

- There are continued benefits to the health and welfare of California residents and worker safety. School districts, charter schools, 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.