

INITIAL STATEMENT OF REASONS

Section 1700. Definitions.

Specific Purpose of the Regulation

To add a new Education Code section [17463.7] to this existing regulation section.

Need for the Regulation

The regulations for this Program already exist. It was necessary to add Education Code Section 17463.7 to this Program to be in alignment with the statutes.

In March 2020, Governor Newsom issued Executive Order N-25-20, which proclaimed a State of Emergency existed in California as a result of the threat of COVID-19. Since March, the threat of COVID-19 is still present. Counties are opening slowly based on the State's tier system, which allows those school districts in those counties to open slowly and/or continue with online distance-learning. However, there continues to be an impact on the public school system to maintain normal operations. School districts are running into issues, such as not having enough computer equipment to furnish students who are needing to attend school through online distance-learning. School districts are in need of additional financial resources in order to meet the needs to ensure a quality education for their students.

School districts' governing boards that want to sell, or lease, for a term not exceeding 99 years, any real property belonging to the district can under existing law. Additionally, existing law specifies the conduct of these sales and leases, and the purposes for which funds derived from these transactions may be used. Senate Bill (SB) 98, Chapter 24, Statutes of 2020, as amended by SB 820, Chapter 110, Statutes of 2020, added Education Code Section 17463.7 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 those proceeds for any one-time general fund purpose. Education Code Section 17463.7 also requires a school district to take certain actions. Prior to transferring the proceeds into a school district's general fund account, school districts must submit specific documents to the SAB for approval.

Anticipated Benefits and Economic Impact of the Proposed Regulation

The proposed regulation adds Education Code Section 17463.7 to the existing regulations for this Program for purposes of providing clarifying definitions of "one-time expenditures" and "on-going expenditures." This is an added benefit to school districts by allowing them to expand the purposes for which funds from the sale or lease of any real property belonging to the school district and the conduct of these sales and leases for which the funds derived from these transactions can be used. School districts are authorized to deposit the proceeds from the sale or lease of surplus real property, together with any personal property located on the property and purchased with nonstate funds, into the general fund of the school district and to use the proceeds for any one-time general fund purpose.

The proposed regulation does not impact California businesses and does not impact the creation of jobs. The proposed regulation affords school districts expanded resources and flexibilities under the SFP in order to help them make financially-sound decisions regarding one-time general fund purposes. It is not anticipated that the proposed regulation will result in the elimination of existing businesses or jobs within California.

The proposed regulation is therefore determined to be consistent and compatible with existing State laws and regulations. OPSC performed a search on whether the proposed regulation was consistent and compatible with existing State laws and regulations. After performing the search, OPSC, on behalf of the SAB, determined that there are no other programs or regulations in existence that address the circumstances. Therefore, the proposed regulation is determined to be consistent and compatible with existing State laws and regulations. Proceeding with the implementation of the proposed regulation expands flexibilities for school districts when determining the use of site sale proceeds for any one-time general fund purpose.

Technical Documents Relied Upon

The State Allocation Board's Action item, dated September 30, 2020, entitled "Use of Surplus School Property Proceeds."

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 regulation or would be as effective and less burdensome to affected private persons than the proposed regulation or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. Both statutes (SB 98, Chapter 24 and SB 820, Chapter 110, Statutes of 2020) were created to add Education Code Section 17463.7 and to clarify provisions in order to provide additional flexibilities to school districts under the SFP. There are no other programs or regulations in existence that address the circumstances. School districts are in need of additional financial resources to meet the needs to ensure a quality education for their students.

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

The SAB has determined that the proposed regulation will not impact small businesses.

Finding of Significant Adverse Economic Impact on Businesses

The SAB has determined that the adoption of the proposed regulation will not have an economic impact on businesses/small businesses because they are not required to directly comply with or enforce the regulation, nor will they be disadvantaged by the regulation. In fact, the proposed regulation will expand flexibilities for school districts when determining the use of site sale proceeds for any one-time general fund purpose.

Impact on Local Agencies or School Districts

The SAB has determined that the proposed regulation does 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 regulation.

ECONOMIC IMPACT ASSESSMENT OF REGULATIONS *“Use of Surplus School Property Proceeds”*

Proposed State Allocation Board Regulations

The SAB, at its meeting on September 30, 2020, adopted proposed regulatory amendments on an emergency basis relating to the use of site sale property proceeds. Senate Bill (SB) 98, Chapter 24, Statutes of 2020 [Education finance: omnibus budget trailer bill] was chaptered June 29, 2020 and provided school districts with the resources and flexibilities necessary to provide quality education during the COVID-19 pandemic. SB 820, Chapter 110, Statutes of 2020, [Education Finance: Education Omnibus Budget Trailer Bill] was chaptered September 18, 2020 and amended SB 98 by adding clarifying changes and flexibility to the School Facility Program (SFP). The proposed regulation implements Education Code Section 17463.7 provisions into the existing Use of Surplus School Property Site Sale Proceeds regulations.

Background and Problem Being Resolved

In March 2020, Governor Newsom issued Executive Order N-25-20, which proclaimed a State of Emergency existed in California as a result of the threat of COVID-19. Since March, the threat of COVID-19 is still present. Counties are opening slowly based on the State’s tier system, which allows those school districts in those counties to open slowly and/or continue with online distance-learning. However, there continues to be an impact on the public school system to maintain normal operations. School districts are running into issues, such as not having enough computer equipment to furnish students who are needing to attend school through online distance-learning. School districts are in need of additional financial resources in order to meet the needs to ensure a quality education for their students.

OPSC, on behalf of the SAB, administers the Unused Site Program. As required by law, all school districts are required to report any unused school sites to the SAB annually. The school districts self-certify requests for waivers and reduction of fees based on certain criteria outlined in Education Code Section 17219. In addition, school districts are required to report any newly acquired, recently sold, or closed school sites.

School districts’ governing boards that want to sell, or lease, for a term not exceeding 99 years, any real property belonging to the district can under existing law. 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, Chapter 24, Statutes of 2020, as amended by SB 820, Chapter 110, Statutes of 2020, added Education Code 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 those proceeds for any one-time general fund purpose. Education Code Section 17463.7 also requires a school district to take certain actions. Prior to transferring the proceeds into a school district’s general fund account, school districts must submit specific documents to the SAB for approval.

OPSC performed a search on whether the proposed regulation was consistent and compatible with existing State laws and regulations. After performing the search, OPSC, on behalf of the SAB, determined that both statutes (SB 98, Chapter 24 and SB 820, Chapter 110, Statutes of 2020) were created to add Education Code Section 17463.7 and to clarify provisions in order to provide additional flexibilities to school districts under the SFP. There are no other programs or regulations in existence that address the circumstances. Therefore, the proposed regulatory

amendments are determined to be consistent and compatible with existing State laws and regulations. Proceeding with the implementation of the proposed regulation will expand flexibilities for school districts when determining the use of site sale proceeds for any one-time general fund purpose.

Description of Regulations to Implement Law

The proposed regulation is summarized as follows:

Existing Regulation Section 1700 represents a set of defined words and terms used exclusively for these regulations. The proposed amendments add Education Code Section 17463.7 to the introduction of the definitions section because these definitions also apply to Section 17463.7. In addition, this same section has been added to the authority and reference citations.

There were no changes to existing Regulation Sections 1701 and 1702.

After conducting a review, the SAB has concluded that these are the only regulations on this subject area and, therefore, the proposed regulation is neither inconsistent nor incompatible with existing State laws and regulations. The proposed regulation is within the SAB's authority to enact regulations for the existing Use of Surplus School Property Site Sale Proceeds regulations.

Anticipated Benefits of the Proposed Regulations

The proposed regulation adds Education Code Section 17463.7 to the existing regulations for this Program for purposes of providing clarifying definitions of "one-time expenditures" and "on-going expenditures." This is an added benefit to school districts by allowing them to expand the purposes for which funds from the sale or lease of any real property belonging to the school district and the conduct of these sales and leases for which the funds derived from these transactions can be used. School districts are authorized to deposit the proceeds from the sale or lease of surplus real property, together with any personal property located on the property and purchased with nonstate funds, into the general fund of the school district and to use the proceeds for any one-time general fund purpose.

The proposed regulation is therefore determined to be consistent and compatible with existing State laws and regulations. As stated above, OPSC performed a search on whether the proposed regulation was consistent and compatible with existing State laws and regulations. After performing the search, OPSC, on behalf of the SAB, determined that there are no other programs or regulations in existence that address the circumstances. Therefore, the proposed regulation is determined to be consistent and compatible with existing State laws and regulations. Proceeding with the implementation of the proposed regulation expands flexibilities for school districts when determining the use of site sale proceeds for any one-time general fund purpose.

The proposed regulation does not impact California businesses and does not impact the creation of jobs. The proposed regulation affords school districts expanded resources and flexibilities under the SFP in order to help them make financially-sound decisions regarding one-time general fund purposes. It is not anticipated that the proposed regulation will result in the elimination of existing businesses or jobs within California.

Statutory Authority and Implementation

Education Code (EC) Section 17070.35 states in part: (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...

EC Section 17463.7 states in part: (a) Notwithstanding any other law, a school district may 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 may use the proceeds for any one-time general fund purpose. . .

. . .

(c) Before a school district exercises the authority granted pursuant to this section, the governing board of the school district shall first submit to the State Allocation Board documents certifying both of the following:

(1) the sale of real property pursuant to this section does not violate the provisions of a local bond act.

(2) the real property is not suitable to meet projected school construction needs for the next 10 years.

. . .

Impact to California Businesses and Jobs

The proposed regulation does not impact California businesses and does not impact the creation of jobs. The proposed regulation adds Education Code Section 17463.7 into the existing Use of Surplus School Property Site Sale Proceeds regulations, specifically the introduction of the definitions section because these definitions also apply to Section 17463.7. In addition, this same section has been added to the authority and reference citations.

It is not anticipated that the proposed regulation will result in the elimination of existing businesses or jobs within California.

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

- Executive Order N-25-20, issued by Governor Newsom in March 2020, proclaimed a State of Emergency existed in California as a result of the threat of COVID-19. Since that time, the threat of COVID-19 is still present. Counties are opening slowly based on the State's tier system, which allows those school districts in those counties to open slowly and/or continue with online distance-learning. However, there continues to be an impact on the public school system to maintain normal operations. School districts are running into issues, such as not having enough computer equipment to furnish students who are needing to attend school through online distance-learning. The proposed regulation promotes fairness and social equity to school districts by providing clarification to the definitions of "one-time expenditures" and "on-going expenditures" so that school districts have additional financial resources in order to ensure a quality education for their students. It also affords school districts expanded resources and flexibilities under the SFP in order to help them make financially-sound decisions regarding one-time general fund purposes.
- The proposed regulation also promotes transparency because statute requires OPSC to submit an interim and a final report to the SAB, and the budget, education policy, and fiscal committees of the Legislature that identifies the school districts that exercised the authority granted by Education Code Section 17463.7, the amount of proceeds involved, and the purposes for which those proceeds were used. The reports are due June 1, 2022 and January 1, 2026, respectively.

- There is no impact to the State's environment from the proposed regulation.

The SAB finds the proposed regulation fully consistent with the stated purposes and benefits.