

## **INITIAL STATEMENT OF REASONS**

### **Section 1859.90. Fund Release Process**

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

To provide the State Allocation Board (SAB) with the flexibility to extend the fund release deadlines for projects where a school district has a school facility located on a military installation that is the recipient of a federal grant that requires a local matching share, and needs an exception to the normal fund release deadlines to align with federal timelines.

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

The Department of Defense (DOD) established the Public Schools on Military Installations (PSMI) program in 2010 to administer an appropriation designated for the construction, renovation, repair, or expansion of elementary and secondary public schools on military installations in order to address capacity needs or facility condition deficiencies. The DOD assessed the condition and capacity of public schools on military installations as part of the PSMI program. It developed a priority list of these schools with the most serious condition and/or capacity deficiencies. The PSMI program provides federal funding of 80 percent of project costs to school districts and the school district provides the local matching share of 20 percent of the project cost.

The SAB established the DOD Subcommittee at its April 2012 meeting. The purpose of this Subcommittee was to consider funding options to assist all California school districts with DOD schools in meeting their 20 percent matching share requirement. At the June 2012 DOD Subcommittee meeting OPSC presented an analysis of the potential SFP funding options that school districts could pursue to meet the 20 percent match requirement. The Subcommittee's recommendations were presented to the SAB at the August 2012 SAB meeting. These recommendations included consideration of SFP Regulation changes for DOD projects, such as providing preliminary apportionments and recommending to the Legislature that future bond funds be made available specifically for DOD schools. The SAB chose to recommend that the Legislature provide funding for schools on military installations in California in a future bond proposal to cover the total need for these types of projects.

In 2018, the DOD continued an ongoing assessment of the condition and capacity of schools on military installations. Based on the assessment, the DOD developed an updated priority list. As new federal funds have been appropriated, the Office of Local Defense Community Cooperation (OLDCC) which administers these federal funds, has continued to invite California school districts to participate in the PSMI program.

It was necessary to provide the SAB with the ability to extend the fund release deadlines, not to exceed 18 months, for a school district that has a school facility located on a military installation that is the recipient of a federal grant that requires a local matching share. Subsequent clarifying amendments were necessary to allow the SAB the flexibility in providing an exception to the normal fund release deadlines to align with federal timelines, if necessary.

OPSC performed a search on whether the proposed regulatory amendments 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 allow the SAB to extend the fund release requirements to 18 months for the SFP.

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 regulatory amendments provides the ability for a school district that has a school facility on a military installation that has been invited to participate in the PSMI program to meet the SFP fund release requirements while aligning with federal timelines. This ensures equity that public schools on military installations receive new and/or modernized school facilities. It also ensures the prudent use of State funds while maintaining the integrity of the SFP.

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

There are benefits associated with the proposed regulatory amendments. The SAB will have the flexibility to provide an extended fund release deadline, if necessary, to school districts that have a school facility located on a military installation that is the recipient of a federal grant requiring a local matching share. It can be challenging for school districts to align fund release deadlines under the SFP with the elongated timelines of federal projects on military installations, even with active guidance from OPSC. The extended fund release timeline of 18 months is already allowed in statute. There is a positive impact on the state's economy, as well as the creation of an unknown number of jobs, by facilitating the ability for school districts to succeed with these projects and obtain 80 percent federal funding. 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 regulatory amendments maintains the integrity of the SFP funding process, as well as maintains equity amongst school district projects.

### **Technical Documents Relied Upon**

The SAB's Action item, dated September 25, 2024, REPORT OF THE EXECUTIVE OFFICER, entitled "Proposed Emergency Regulatory Amendments for the School Facility Program."

The SAB's Action item, dated January 22, 2025, REPORT OF THE EXECUTIVE OFFICER, entitled "Proposed Regulatory Amendments for the School Facility 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 alternative to these proposed regulatory amendments would be the SAB take no action, thus leaving school districts with public schools on military installations without a way to leverage federal funding, as well as state funding (matching share), to address the facility condition deficiencies and/or capacity needs.

### **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 amendments provides the ability for a school district that has a school facility on a military installation that has been invited to participate in the PSMI program to meet the SFP fund release requirements while aligning with federal timelines. This ensures equity that public schools on military installations receive new and/or modernized school facilities. It also ensures the prudent use of State funds while maintaining the integrity of the SFP.

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

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

At its meeting on September 25, 2024, the SAB adopted proposed regulatory amendments, on an emergency basis, that would allow the SAB to extend the fund release requirements up to 18 months for projects specifically pertaining to a school facility located on a military installation that is the recipient of a federal grant that requires a local matching share. The authority for the SAB to extend the fund release timeline, not to exceed 18 months, is already allowed in statute. OPSC submitted the emergency regulations to the Office of Administrative Law (OAL) and the OAL approved the emergency regulations and filed them with the Secretary of State with an effective date of November 1, 2024. Subsequently, OPSC identified the need to make clarifying language changes. The SAB, at its January 22, 2025 meeting, adopted clarifying amendments that the applicant school district must have received an invitation for federal funding to be considered for the extended fund release deadline of up to 18 months and that the SAB must consider whether additional time is needed for the school district to align with federal timelines.

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

The Department of Defense (DOD) established the Public Schools on Military Installations (PSMI) program in 2010 to administer an appropriation designated for the construction, renovation, repair, or expansion of elementary and secondary public schools on military installations in order to address capacity needs or facility condition deficiencies. The DOD assessed the condition and capacity of public schools on military installations as part of the PSMI program. It developed a priority list of these schools with the most serious condition and/or capacity deficiencies. The PSMI program provides federal funding of 80 percent of project costs to school districts and the school district provides the local matching share of 20 percent of the project cost.

The SAB established the DOD Subcommittee at its April 2012 meeting. The purpose of this Subcommittee was to consider funding options to assist all California school districts with DOD schools in meeting their 20 percent matching share requirement. At the June 2012 DOD Subcommittee meeting OPSC presented an analysis of the potential SFP funding options that school districts could pursue to meet the 20 percent match requirement. The Subcommittee's recommendations were presented to the SAB at the August 2012 SAB meeting. These recommendations included consideration of SFP Regulation changes for DOD projects, such as providing preliminary apportionments and recommending to the Legislature that future bond funds be made available specifically for DOD schools. The SAB chose to recommend that the Legislature provide funding for schools on military installations in California in a future bond proposal to cover the total need for these types of projects.

In 2018, the DOD continued an ongoing assessment of the condition and capacity of schools on military installations. Based on the assessment, the DOD developed an updated priority list. As new federal funds have been appropriated, the Office of Local Defense Community Cooperation (OLDCC) which administers these federal funds, has continued to invite California school districts to participate in the PSMI program.

The problem being resolved is not a problem but a unique opportunity in which school districts are invited to participate in the PSMI program and receive federal funding as long as they

submit verification to the OLDCC that local matching funds are available to leverage and receive final approval for federal funding. Funding from the SFP is a significant supporting component in each school district's proposal to access this federal funding opportunity. Since 2012, the SAB and OPSC have provided support to school districts invited to participate in the PSMI program. SAB approvals have provided approximately \$78.9 million in state funding for 19 projects on ten school sites which has leveraged over \$365 million in federal funding for these types of projects across the State of California. Including the September 2024 actions, SAB approvals have provided \$103.8 million in state funding which is expected to leverage more than \$702 million in federal funding.

OPSC performed a search on whether the proposed regulatory amendments 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 allow the SAB to extend the fund release requirements to 18 months for the SFP. 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 regulatory amendments provides the ability for a school district that has a school facility on a military installation that has been invited to participate in the PSMI program to meet the SFP fund release requirements while aligning with federal timelines. This ensures equity that public schools on military installations receive new and/or modernized school facilities. It also ensures the prudent use of State funds while maintaining 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 September 25, 2024, the SAB adopted proposed regulatory amendments, on an emergency basis, that would allow the SAB to extend the fund release requirements up to 18 months for projects specifically pertaining to a school facility located on a military installation that is the recipient of a federal grant that requires a local matching share. The authority for the SAB to extend the fund release timeline, not to exceed 18 months, is already allowed in statute. OPSC submitted the emergency regulations to the Office of Administrative Law (OAL) and the OAL approved the emergency regulations and filed them with the Secretary of State with an effective date of November 1, 2024. Subsequently, OPSC identified the need to make clarifying language changes. The SAB, at its January 22, 2025 meeting, adopted clarifying amendments that the applicant school district must have received an invitation for federal funding to be considered for the extended fund release deadline of up to 18 months and the SAB shall consider whether additional time is needed for the school district to align with federal timelines.

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

There are benefits associated with the proposed regulatory amendments. The SAB will have the flexibility to provide an extended fund release deadline, if necessary, to school districts that have a school facility located on a military installation that is the recipient of a federal grant requiring a local matching share. It can be challenging for school districts to align fund release deadlines under the SFP with the elongated timelines of federal projects on military installations,

even with active guidance from OPSC. The extended fund release timeline of 18 months is already allowed in statute. There is a positive impact on the state's economy, as well as the creation of an unknown number of jobs, by facilitating the ability for school districts to succeed with these projects and obtain 80 percent federal funding. 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 regulatory amendments maintains the integrity of the SFP funding process, as well as maintains equity amongst school district projects.

#### *Summary of the Proposed Regulatory Amendment*

A summary of the proposed regulatory amendments is as follows:

Existing Regulation Section 1859.90 aligns the direct Apportionment process with the timelines of the existing Priority Funding process in order for school districts to submit a valid Form SAB 50-05 and Grant Agreement within 180 days to request the release of funds for non-financial hardship school districts and 365 days for those school districts approved with financial hardship status. The proposed regulatory amendments provide the ability to extend the fund release deadlines, not to exceed 18 months, for a school district that has a school facility located on a military installation that is the recipient of a federal grant that requires a local matching share. It also allows the SAB the flexibility in determining whether to authorize an 18-month fund release deadline by considering whether additional time is needed for the district to align with federal timelines.

#### *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*

Participation in the PSMI program is by invitation. School districts with a school facility located on a military installation that is the recipient of a federal grant that requires a local matching share can receive federal funding as long as they submit verification to the OLDCC that local matching funds are available to leverage and receive final approval for federal funding. Funding from the SFP is a significant supporting component in each school district's proposal to access this federal funding opportunity. Since 2012, the SAB and OPSC have provided support to school districts invited to participate in the PSMI program. SAB approvals have provided

approximately \$78.9 million in state funding for 19 projects on ten school sites which has leveraged over \$365 million in federal funding for these types of projects across the State of California. Including the September 2024 actions, SAB approvals have provided \$103.8 million in state funding which is expected to leverage more than \$702 million in federal funding.

After conducting a review, the SAB has concluded that these are the only regulations on this subject area, and therefore, the proposed amendments are neither inconsistent nor incompatible with existing State laws and regulations. The proposed regulatory amendments 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 SAB will have the flexibility to provide an extended fund release deadline, if necessary, to school districts that have a school facility located on a military installation that is the recipient of a federal grant requiring a local matching share. It can be challenging for school districts to align fund release deadlines under the SFP with the elongated timelines of federal projects on military installations, even with active guidance from OPSC. The extended fund release timeline of 18 months is already allowed in statute. There is a positive impact on the state's economy, as well as the creation of an unknown number of jobs, by facilitating the ability for school districts to succeed with these projects and obtain 80 percent federal funding. 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 regulatory amendments will not have a negative impact to various business, manufacturing, and construction-related industries such as architecture, engineering, trades and municipalities. 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 regulatory amendments maintain the integrity of the SFP funding process, as well as maintains equity amongst school district projects.

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

- The SAB will have the flexibility to provide an extended fund release deadline, if necessary, to school districts that have a school facility located on a military installation that is the recipient of a federal grant requiring a local matching share. The extended fund release timeline of 18 months is already allowed in statute. Manufacturing and construction-related industries such as architecture, engineering, trades and municipalities may expand based on the demand on these industries. This is a positive impact on the state's economy and may also create an unknown number of jobs. Further, it is unlikely that the proposed amendments will eliminate new and/or existing businesses, including the elimination of jobs within California.
- 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.