

CALIFORNIA'S COALITION *for* ADEQUATE SCHOOL HOUSING

SPRING CONFERENCE

May 13-14, 2008
Westin Gaslamp Quarter
910 Broadway Circle
San Diego, CA

Tuesday, May 13
11:10 a.m. – 12:00 p.m.

Legislative Update



Laura Knauss, Lionakis
Mark Geyer, Dry Creek Jt. Elem. SD
Ernest Silva, Murdoch, Walrath & Holmes
Ian Padilla, Murdoch, Walrath & Holmes
Tom Duffy, Murdoch, Walrath & Holmes



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Legislative/Regulatory Update

Tuesday, May 13
11:10 a.m. – 12:10 p.m.



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AB 2864 (DeLeon) School Facilities and Energy Efficiency

Laura Knauss, AIA, REFP, LEED AP
Lionakis



Intent

“Legislative intent to encourage school districts to strive to achieve ‘grid neutrality’ through investments in renewable energy components for new school construction projects...”



Renewable Energy

- Allow a portion of the grant for new construction or modernization to be used for renewable energy components
- Implementation may include more state funding as a result of additional grant “points” being given to those high first cost renewable energy components, like photovoltaic systems if upon SAB review of the regulations, the points system is restructured

Application of Life Cycle Cost Analysis

“The bill would specify that an amount equal to the savings accrued by a district as a result of renewable energy components shall be transferred into the capital outlay fund of the district until the total cost of the purchase and installation of the components is repaid...”

Alder Creek Middle School
Tahoe Truckee Unified School District

CASE STUDY:
Geothermal Ground Source
Heat Pump; California
Energy Commission HPS
Grant

- During Design, the life cycle cost analysis estimated “payback” of 8 years
- Assuming \$160,000 cost: \$20,000 would be transferred each year for 8 years into the capital outlay account (assuming the district saves \$20,000 annually in energy costs)
- Actual payback of isolated system is difficult because of integrated design



Alder Creek Middle School
Tahoe Truckee Unified School District

POST OCCUPANCY NOTES:

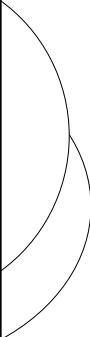
- Same energy costs as “old” middle school;
 - New middle school is 40% larger
 - Improved lighting
 - Cooling Added
 - Yard Lighting

- API scores have gone from 776 to 841 since moving from old middle school



Issues in Implementation

- Holistic Design Approach/Integrated Design
- Modeling vs. Actual
- Commissioning
- Ongoing Monitoring



AB 2173 (Caballero) Developer Fees

Mark Geyer
Dry Creek Jt. Elementary School
District



AB 2173 (Caballero) (cont.)

- Level 2 Prerequisites:
 - AB 2173 would repeal outdated Level 2 hurdles
 - 30 Percent of Students on MTYRE
 - 20 Percent Classrooms are Portables

AB 2173 (Caballero) (cont.)

- AB 2173 would require one of the following to be met for the imposition of Level 2 fees:
 - Local G.O. bond in previous four years that received a majority vote
 - Bonded Indebtedness at current statutory levels (15- and 30-percent)
 - \$5 million or less bonding capacity

The first two bullets are in existing Statute.

AB 2173 (Caballero) (cont.)

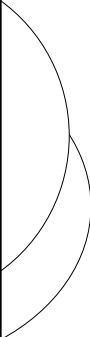
- Calculation of Level 2 Fees
 - Retains link to New Construction Per-Pupil Grants
 - Allows for Level 2 calculation to include all grant augmentations and additional grants for which a district is eligible

AB 2173 (Caballero) (cont.)

- Site Acquisition
 - AB 2173 would move the site acquisition calculation and defines it as an additional grant beyond the per-pupil grant calculated pursuant to the Education Code
 - AB 2173 would remove the reference to the outdated 1998 CDE Site Analysis and Development Guidebook, which is based on 1966 standards

AB 2173 (Caballero) (cont.)

- Level 3 Trigger: AB 2173 would redefine when the State Allocation Board declares that the State is out of bond money for purposes of triggering Level 3 fees to the sum of the values of the OPSC Workload list plus the DSA Workload list.



Ernest Silva, Coalition for Adequate School Housing

- SB 1468 (Oropeza): School Siting, Freeways
- SB 1507 (Oropeza): School Siting, Freeways
- SB 1165 (Kuehl): Environmental Impact Reports
- AB 2332 (Furutani): School Siting, Railyards
- AB 2729 (Ruskin): Underground Storage Tanks



Ian Padilla, Coalition for Adequate School Housing

- AB 2655 (DeSaulnier): Indoor Air Quality
- AB 1908 (Wolk): Surplus Property, Dixon USD
- AB 1934 (Ma): Surplus Property, San Francisco USD
- AB 2027 (Swanson): Routine Restricted Maintenance Account
- AB 2832 (Fuller): Routine Restricted Maintenance Account
- SB 1447 (Yee): Surplus Property, San Bruno Park SD

Tom Duffy, Coalition for Adequate School Housing

- SB 1354 (Torlakson): Funding for Complete Schools

SECTION 1. (a) The Superintendent shall examine and evaluate the ability of local educational agencies to build complete schools as approved by the State Department of Education pursuant to Section 17070.50 and the standards developed pursuant to Section 17251 with the funds provided by the State Allocation Board and an equal match from the local educational agency under the Leroy F. Greene School Facilities Act of 1998 (Chapter 12.5 (commencing with Section 17070.10) of Part 10 of Division 1 of Title 1 of the Education Code). The purpose of the evaluation and examination shall be all of the following:

SB 1354 (Torlakson) Cont.

(1) Examine the standards to ensure that the standards achieve educational adequacy, in terms of facilities necessary for the local educational agency to provide its education program. (2) Assess the level to which schools constructed with state funding assistance met standards for educational adequacy, in terms of facilities necessary for the school district to provide its education program. (3) Examine factors within school districts that enable them to build facilities to meet educational adequacy. (b) The Superintendent shall report his findings to the Legislature and the Governor by July 1, 2009. (c) The Superintendent shall evaluate the standards and examine schools as required pursuant to this section within the Department's existing resources.



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2008 Spring Conference Legislative and Regulatory Update

The State Budget's Impact on Education Policy and a Statewide School Bond

Although State Budget deficits are never good news, historically school facility funding and programs have been minimally affected by State Budget deliberations, at least as compared to general education and other significant sectors of the State Budget. Certainly programs such as the Deferred Maintenance Program (DMP), the Emergency Repair Program (ERP), and other specific programs receive their funding through the State Budget process, but the majority of school facility funding comes from state and local bonds.

The State Budget deficit is now estimated to be about \$10 billion. Therefore, this year's State Budget deliberations have a much more significant effect on school facility funding and programs than in the past as the State and school districts try to deal with reduced State funding. The following are school facility programs that may receive less funding as a result of the State's challenging fiscal situation:

Statewide School Bond

In his January State Budget, the Governor proposed statewide school bonds for 2008 and 2010. In addition, the Legislature moved AB 100 (Mullin) out of policy committee earlier in this year's Legislative Session to ensure that a legislative vehicle would be available if an agreement is made to place a statewide school bond on the ballot. However, we anticipate that substantive discussions about placing a statewide school bond on the ballot will most likely occur during the summer, at the earliest.

Use of School Maintenance Funding for General Fund Expenditures

As school districts look for ways to protect staff and programs in light of the proposed cuts to education funding, legislative proposals to allow school districts to contribute less than the required 3% of their General Funds to their Routine Restricted Maintenance Accounts (RRMA) and use these funds for General Fund expenditures have emerged. While we recognize that school districts are being forced to look at all options in light of the State's fiscal downturn, C.A.S.H. has fought against the erosion of the traditional firewall between capital outlay and operational funding. Historically school maintenance funding is the first cut at both the state and local level, and C.A.S.H. believes that this "Rob Peter to Pay Paul" approach is short-sighted. C.A.S.H. believes reducing funding to maintain schools diminishes the gains made as a result of the *Williams* lawsuit, as well as the State's ability to protect its significant investment in school facilities over the past ten years.

Use of Proceeds from the Sale of Surplus Property for General Fund Expenditures

Multiple bills have been introduced to allow specific school districts to use the proceeds from the sale of district-owned surplus property for General Fund expenditures (see AB 1908, AB 1934, and SB 1447 further in this document). C.A.S.H. opposes these proposals for the same reasons that we oppose the use of school maintenance funding for General Fund expenditures. C.A.S.H. believes that SB 1415 (Scott), which was signed into law last year, establishes a process to allow school districts to use the proceeds

from the sale of district-owned surplus property. SB 1415 also requires that the school district agree to not apply for funds under the School Facility Program for a period of ten years unless waived by the State Allocation Board.

C.A.S.H.-Sponsored Bills

AB 2173 (Caballero): Developer Fees

AB 2173 (Caballero) seeks to update the Level 2 developer fee laws to reflect current conditions by repealing outdated sections of the statute, and adding provisions that enable local assessed fees to more closely match what the state provides under the School Facility Program. Specifically, the bill does the following things:

- Repeals outdated prerequisites for Level 2 fees, including the requirement to have a substantial number of students enrolled on multi-track year-round calendars and that 20 percent of a district's teaching stations be portable classrooms.
- Repeals the requirement to include surplus property when developing a district's school facility needs analysis.
- Repeals the requirement to count students on multi-track year-round calendars as adequately housed for purposes of developing a district's school facility needs analysis.
- Changes the "trigger" for Level 3 fees and redefines when the State Allocation Board declares that the state no longer has sufficient bond funds.

Status: Assembly Floor

Position: Sponsor

AB 2864 (DeLeon): Renewable Energy Technology

AB 2864 (DeLeon) seeks to provide greater incentives for school districts to invest in renewable energy technologies in an effort to achieve grid neutrality (net zero energy consumption). The bill requires that a school district transfer savings resulting from the installation and use of a renewable energy component, such as photovoltaic systems, into the district's restricted capital outlay account until the technology is repaid in full, at which point the district may opt to retain those funds in the general fund for ongoing general fund purposes. C.A.S.H. believes that certain technologies, including renewable energy technologies, are too costly and that the state High Performance Schools Grant is an insufficient incentive to invest the upfront capital. By authorizing a school district to transfer savings resulting from the use of renewable technologies to its capital outlay account for those upfront costs, AB 2864 provides no additional cost to the state and incentivizes these types of investments.

Status: Assembly Appropriations Committee

Position: Sponsor

SB 1354 (Torlakson): Funding for Complete Schools

SB 1354 (Torlakson) is the first step in a long journey to determine what a "complete school" is and what the state per-pupil grants, as 50 percent of new school construction costs, should be in order for school districts to build complete schools with local and state resources. Senator Torlakson took amendments in the Senate Education Committee that request the State Superintendent of Public Instruction to evaluate state school facility standards and compare them to what is being built by school districts within state and local resources. The evaluation will serve to identify the growing problem that more and more school districts are unable to build complete schools approved by the California Department of Education. The evaluation directed by SB 1354 will help to inform a future,

comprehensive study on the grant levels and what the state expects school districts to build for the students of California.

Status: Senate Appropriations Committee
Position: Sponsor

Key Facilities Bills

School Facility Program (SFP)

AB 1841 (Coto): Small Schools

AB 1841 (Coto) reestablishes the Small Schools Program under the School Facility Program and authorizes up to \$200 million from Proposition 1D funding for this purpose. The Small High School Program sunsetted on January 1, 2008.

Status: Assembly Appropriations Committee
Position: Watch

AB 2087 (DeLaTorre): Multi-Track Year-Round Education

AB 2087 (DeLaTorre) repeals the Education Code provisions to operate multi-track year-round education on January 1, 2020.

Status: Assembly Appropriations Committee
Position: Watch

AB 2936 (Mullin): Site Acquisition

AB 2936 (Mullin) provides that the State Allocation Board shall reimburse a school district for fifty percent of the costs of acquiring a school site based on the lesser of the appraised value of the land done within six months of acquisition or the actual cost of the acquisition. Current law requires the Board to reimburse districts for 50 percent of the lesser of the appraised value of the land within six months of *an application for funding* or the actual cost of acquisition.

Status: Assembly Appropriations Committee
Position: Support

SB 1552 (Margett): State Allocation Board

SB 1552 (Margett) proposes to reorganize the State Allocation Board by reducing the number of legislative members from each house from three to two, and increasing the number of gubernatorial appointments to three members with staggered terms. The bill also proposes to transfer the Office of Public School Construction from the Department of General Services to the State Allocation Board effective January 1, 2009.

Status: Senate Appropriations Committee
Position: Watch

SB 1556 (Ducheny): Eligibility

SB 1556 (Ducheny) authorizes the State Allocation Board to permit an elementary school district that is located within a high school district with more than 5 high schools, and that has an average daily

attendance exceeding 9,000 pupils, to calculate its eligibility for new construction funding based on a provision that is otherwise applicable only to high school attendance areas.

Status: Senate Appropriations Committee
Position: Watch

SB 1605 (Cox): Re-Use of Plans

SB 1605 (Cox) requires the State Allocation Board to purchase stock architectural plans and make them available to school districts to encourage re-use of plans. The bill will prohibit a school district from using new construction grants for the design of new schools if the district opts not to use the stock plans made available by the State Allocation Board. C.A.S.H. and others held meetings with Senator Cox to express concerns and opposition to the bill. Senator Cox subsequently pulled his bill.

Status: Pulled by Author
Position: Oppose

SB 1657 (Romero): Facility Needs

SB 1657 (Romero) requires the Office of Public School Construction to develop a school facilities database and develop a facilities survey instrument, approved by the State Allocation Board and developed in consultation with an advisory committee, that would be required of school districts as a condition of receiving state Deferred Maintenance funding.

Status: Senate Appropriations Committee
Position: Watch

Public Contracting and Public Works Projects

AB 396 (Hernandez): Bid Preference

AB 396 (Hernandez) requires public agencies in awarding public works contracts to reduce a bid by 2.5 percent, for purposes of comparing prospective bidders and letting a contract, if a contractor and each of the contractor's subcontractors certify that they contribute at least 6.5 percent of the aggregate Social Security wage to their employees' health benefits. C.A.S.H. has expressed concern to the Building Trades Council, the bill's sponsor, about the potential cost implications of the bill. Specifically, AB 396 may compel a school district to award a contract to a contractor whose bid was higher than the lowest responsible bidder to whom the contract is required to be awarded under current law.

Status: Senate Appropriations Committee
Position: Oppose

AB 2002 (DeLeon): Withholdings

AB 2002 (DeLeon) increases the penalties imposed on contractors and subcontractors for failure to comply with prevailing wage laws. Specifically, the bill increases the penalty for failure to pay prevailing wages from \$50 per day to \$100 per day, and increases the penalty for not submitting required certified payroll records from \$25 per calendar day to \$50 per calendar day.

Status: Assembly Appropriations Committee
Position: Watch

AB 2995 (Davis): Inspector of Records

AB 2995 (Davis) will require school Inspectors of Record (IOR) to be employed and provided by the Department of General Services rather than be directly contracted for by a school district. The Professional Engineers of California Government (PECG) is sponsoring this bill. C.A.S.H. expressed strong opposition to the bill because of the cost implications resulting from the additional layer the bill will add to an already complex process of building schools. Moreover, PECG and Assembly Member Davis have argued that the bill seeks to remove the potential for conflicts of interest, but have been unable to cite any examples of wrongdoing relative to IORs in school public works. C.A.S.H. argued that the bill is onerous, costly to the state and local districts, and unnecessary. As a result of the wide coalition of opposition to the bill, Assembly Member Davis pulled the bill.

Status: Pulled by Author

Position: Oppose

SB 191 (Padilla): Proposition 1D, Labor Compliance Programs

SB 191 (Padilla) expands the requirement for a school district to initiate and administer a labor compliance program for Proposition 1D funded projects.

Status: Assembly Floor

Position: Watch

Energy Efficiency, Renewable Energy, and Green Buildings

AB 2030 (Lieu): Zero Net Energy Buildings

AB 2030 (Lieu) requires the State Energy Resources Conservation and Development Commission to adopt, in collaboration with specified parties, building design and construction standards, and energy and water conservation standards to new nonresidential constructions commenced on or after January 1, 2030, to be zero net energy buildings. C.A.S.H. submitted a letter to the author informing him of its opposition to the bill unless AB 2030 is amended to exempt school districts from its provisions.

Status: Assembly Appropriations Committee

Position: Oppose Unless Amended

Financing

AB 1908 (Wolk): Surplus Property, Dixon USD

AB 1908 (Wolk) authorizes the Dixon Unified School District, for purposes of avoiding receivership, to sell its surplus farmland previously used as the school farm, and requires the district to deposit the proceeds of the sale into the general fund of the school district. The District would be prohibited from financial hardship assistance under the School Facility Program from July 1, 2008, to June 30, 2010. C.A.S.H. traditionally has opposed any erosion of the firewall between capital outlay and general fund revenues and expenditures (see State Budget update earlier in the document).

Status: Assembly Appropriations Committee

Position: Oppose

AB 1934 (Ma): Surplus Property, San Francisco USD

AB 1934 (Ma) authorizes the San Francisco Unified School District to deposit the proceeds of the sale of surplus school property, together with any personal property located on that property, purchased entirely with local funds and sold between November 1, 2007 and October 31, 2011 into the school district general fund, and to use those proceeds for any one-time general fund purpose. The bill also exempts the district from staying out of the School Facility Program for 10 years as required under current law. AB 1934 prohibits the district from financial hardship eligibility under the Deferred Maintenance Program and would reduce any future state financial hardship grant by the amount equal to the proceeds of the sale of the site. C.A.S.H. traditionally has opposed any erosion of the firewall between capital outlay and general fund revenues and expenditures (see State Budget update earlier in the document).

Status: Assembly Appropriations Committee

Position: Oppose

AB 2027 (Swanson): Routine Restricted Maintenance Account

AB 2027 (Swanson) authorizes school districts to deposit 2 percent of their general fund expenditures into the Routine Restricted Maintenance Accounts for the 2008-2009 fiscal year. The bill re-enacts SB 409 (Hollingsworth) for the upcoming fiscal year, which C.A.S.H. opposed in 2003 as part of its tradition of opposing any erosion of the firewall between capital outlay and general fund revenue and expenditures.

Status: Assembly Education Committee

Position: Oppose

AB 2197 (Mullin): Non-Voter Approved Debt

AB 2197 (Mullin) requires school districts and county offices of education to notice certain local and state entities 30 days prior to approving the issuance of non-voter approved debt, such as certificates of participation, that are secured by real property. Those entities shall be required to provide public comment to the governing boards of the school district or county office of education as to the ability of the district to repay the debt.

Status: Assembly Appropriations Committee

Position: Watch

AB 2832 (Fuller): Routine Restricted Maintenance Account

AB 2832 (Fuller) authorizes school districts, without impacting their ability to access state facility funding, to deposit 1.5 percent of total general fund expenditures into their Routine Restricted Maintenance Accounts (RRMA) for the 2008-2009 and 2009-2010 fiscal years. The bill specifies that funds diverted from the RRMA may not be used to expand existing programs or increase salaries. Assembly Member Fuller is authoring ABx3 19 this year, as well, which contains an urgency clause that authorizes the same reduced deposit into the RRMA for the 2007-2008 fiscal year. As in the case of AB 2027 (above), C.A.S.H. opposes the bill, and ABx3 19, as it erodes the firewall between capital outlay and general fund expenditures and revenues.

Status: Assembly Education Committee

Position: Oppose

SB 1447 (Yee): Surplus Property, San Bruno Park SD

SB 1447 (Yee) authorizes the San Bruno Park School District to use \$1.4 million of the proceeds from the sale of a specific surplus property for any one-time general fund expenditure and exempting the district from the current 10-year restriction for state facility funding. Instead the bill authorizes the district's eligible financial hardship apportionment to be reduced by \$1.4 million until the district's capital outlay account is repaid in full. The district is required to repay its capital outlay account over a period of no more than 10 years. During such time that the encumbered site sale proceeds are not restored to the district's capital outlay account, the district is required to use the interest earned from the remaining proceeds from the sell to repay the account for the encumbered funds, and would be required to expend all its local capital outlay funds before requesting new construction or modernization funding from the state. For the reasons C.A.S.H. opposes AB 1908 (Wolk) and AB 1934 (Ma), C.A.S.H. opposes this bill as it erodes the protection of funds dedicated for school facilities for general fund use.

Status: Senate Appropriations Committee

Position: Oppose

Environmental

AB 2332 (Furutani): School Siting, Railyards

AB 2332 (Furutani) prohibits the construction or expansion of any railyard if the construction is within 440 yards of a school or the expansion will result in the railyard being within 440 yards of a school. The bill prohibits a railyard that, on January 1, 2009, is located within 440 yards of a school from expanding those facilities that are within 440 yards of the school.

Status: Assembly Transportation Committee

Position: Support

AB 2655 (DeSaulnier): Indoor Air Quality

AB 2655 (DeSaulnier) requires the Air Resources Board, in consultation with other state agencies including the Division of the State Architect and the Office of Public School Construction, to develop emission standards or indoor air pollution control measures for school districts for specified conditions, such as mold, allergens and noise. The bill requires the Board to develop emission standards or control measures for two source categories by July 15, 2010. AB 2655 further requires school districts to either contract with or use employees who are certified by specified organizations to maintain or repair HVAC systems. As currently drafted, the bill imposes a state mandate. A similar measure was introduced in 2005 that C.A.S.H. opposed because of the onerous nature of the bill and the certain increased costs associated with having to contract out for certified technicians to maintain and repair HVAC systems, much of which can be done with existing personnel. For the same reasons, C.A.S.H. opposes AB 2655.

Status: Assembly Appropriations Committee

Position: Oppose

AB 2720 (Levine): CEQA

AB 2720 (Levine) presumes an environmental impact report or negative declaration to be compliant if an administering agency that was noticed by a lead agency fails to either respond to the notice or identify existing facilities that may potentially emit hazardous substances. The bill further defines that

such hazardous substances include toxic air contaminants.

Status: Assembly Floor
Position: Support

AB 2729 (Ruskin): Underground Storage Tanks

AB 2729 (Ruskin) allows the use of the Underground Storage Tank Trust Fund to clean up Underground Storage Tanks (UST) on school property. Currently there is no steady source of funds for existing school site clean-up. This bill provides one source of funds for one of the environmental clean-up issues that arises on existing school sites. The bill is opposed by oil companies, who claim that the bill competes with statewide educational bond funds and that the bill excludes some from accessing the funds. C.A.S.H, in its support letter, corrects the record by pointing out that in fact Proposition 1D does not include funds for the removal of underground storage tanks, and that the bill attempts to broaden the base of who can access the Trust Fund to include school districts.

Status: Assembly Appropriations Committee
Position: Support

SB 1165 (Kuehl): Environmental Impact Reports

SB 1165 (Kuehl) would require a lead agency to prepare an environmental impact report (EIR) or supplemental EIR for a project if the prior certified EIR for the project is more than five years old. C.A.S.H. opposes SB 1165 unless it is amended to exempt projects funded under the School Facility Program due to the rigorous CEQA processes that complex school construction projects adhere to, particularly when seeking state funding. School districts sometimes opt to phase school projects, which can result in exceeding five years in the planning, as well as school districts often tier off of the land use authority's underlying CEQA compliance. SB 1165 would negatively impact a school district's ability to plan already complex school construction projects, and could result in significant delays and cost increases to districts and the state.

In support of our arguments, C.A.S.H. provided copies of our May 2006 study, Locally Funded Requirements and referenced the Legislative Analyst Office May 2001 study expressing concerns about multiple year school facility delays. The C.A.S.H. message is simple, the approval process is complex enough, do not add a second bite at the CEQA apple for SFP projects. C.A.S.H. is joined in its opposition by cities, counties, developers and others. Individual district letters on this bill would be welcome.

Status: Senate Appropriations Committee
Position: Oppose Unless Amended

SB 1277 (Maldonado): Synthetic Turf

SB 1277 (Maldonado), as introduced, sought to require that school districts first obtain a site specific environmental impact report from the Office of Environmental Health Hazards Assessment before installing or using synthetic turf on playfields or parks. C.A.S.H. opposed the bill. The bill has been amended to require specified state agencies to publish a report, accessible online, about the environmental impacts of synthetic and natural turf.

Status: Senate Appropriations Committee
Position: Withdrew Opposition, Neutral

SB 1468 (Oropeza): School Siting, Freeways

SB 1468 (Oropeza) prohibits the approval by the governing board of a school district of the acquisition of a school site that is located within 500 feet from the edge of the closest traffic lane of a freeway or other busy traffic corridor, unless the environmental health and safety agency of the district, as defined, determines through analysis pursuant to specified statutory provisions that the health and safety risks posed by the air quality at the proposed site are less than significant. The bill removes the authority of a governing board to approve a school site within 500 feet of a freeway or traffic corridor due to overriding considerations. C.A.S.H. opposes SB 1468 because it is too restrictive and does not account for instances where there are no other feasible, alternative school sites available to a district.

Recent amendments to the bill further complicate the siting process by giving flexibility only to districts which have a separate environmental health and safety agency. In addition, despite the author's stated intent, the bill continues to apply to sites which have already been acquired if the entire approval process is not complete.

Status: Senate Appropriations Committee
Position: Oppose

SB 1507 (Oropeza): School Siting, Freeways

SB 1507 (Oropeza) prohibits the California Transportation Commission from building or expanding a state highway within one-quarter mile of a school site unless the project is specifically exempted. Such exemptions provided by the bill include exemptions for carpool lanes and reconfigurations of highways that will not increase the capacity of the freeway. C.A.S.H., on an earlier version of the bill before the exemptions were proposed, supported the bill and requested that regional transportation agencies be subject to the bill.

Status: Senate Appropriations Committee
Position: Support with Amendment

Career Technical Education

SB 1248 (Wyland): CTE

SB 1248 (Wyland), in an earlier iteration, sought to make significant reforms to career technical education, including reforms for teacher credentialing and school facilities. C.A.S.H. opposed the bill because the bill seemed to be giving a facilities preference to career technical education facilities when school districts grapple with existing resources just to provide adequate classrooms and ancillary space. SB 1248 has since been amended to encourage the State Superintendent and the State Board of Education to consider ways to expand career technical education in public schools.

Status: Senate Education Committee
Position: Watch

SB 1327 (Wyland): CTE

SB 1327 (Wyland) allows the local contribution to a career technical education project under the School Facility Program to include donated equipment, materials and labor. C.A.S.H. sponsored SB 35 (Torlakson) last year to allow for the inclusion of donated equipment as part of the local contribution for joint use career technical education facilities, and therefore, support the concept of such inclusion in the broader Career Technical Education Facilities Program. We have expressed concerns, however, about

the complexity of including donated labor and materials as part of a contribution relative to preparing a bid solicitation, as well as being able to ensure that donated materials meet rigorous school building standards.

Status: Senate Appropriations Committee
Position: Watch

Regulatory Issues

New Construction Grant Increases

The 2006 school bond bill, AB 127 (Nunez), authorized the State Allocation Board effective January 1, 2008 to adjust the New Construction base grants by up to six percent to reflect the *actual costs* of school construction. In an effort to provide the Board with information documenting recent increases to school construction costs compared to annual adjustments to the base grants, C.A.S.H. conducted a study that examined multiple projects that were built using the same, or nearly the same, architectural plans. The C.A.S.H. Re-Use of Plans Study revealed that between 1998 and November 2007 the rising costs of building new schools outpaced the annual inflationary adjustments applied to the base grants every January by well over six percent. C.A.S.H. shared the results of its study with each member of the State Allocation Board and the Governor's Office. We understand that the State Allocation Board will take action at the May 28, 2008 State Allocation Board meeting to adjust the grants pursuant to AB 127 (Nunez).

Financial Hardship Program

At the State Allocation Board's (SAB) direction, the Office of Public School Construction (OPSC) has initiated the Financial Hardship Working Group to develop a more streamlined and equitable Financial Hardship application and approval process. The working group is composed of staff from OPSC, the Legislative Analyst's Office, the California Department of Education (CDE) and the Fiscal Crisis and Management Assistance Team (FCMAT). Both CDE and FCMAT intend to present their recommendations by the end of May. The working group's progress was discussed by both Assembly Budget Subcommittee No. 2 and the Senate Budget and Fiscal Review Subcommittee No. 1.

Material Inaccuracies

The State Allocation Board, at the February 27, 2008 SAB meeting, requested that the Office of Public School Construction (OPSC) review the matter of material inaccuracies, vet the item through the Implementation Committee, and bring the item back to the Board. Specifically, the Board asked that the OPSC review the policy on how to assess interest payment penalties on projects cited for material inaccuracy and the prohibition to self-certify projects. The issue of Material Inaccuracy was discussed at the March 7, 2008 Implementation Committee meeting. Concerns were raised regarding the amount of the apportionment on which interest payment penalties were being assessed. Ernest Silva suggested that the Education Code does not allow such penalties to be assessed on the *entire apportionment*, but rather on the *additional funding received that resulted from the material inaccuracy*. The statute that governs material inaccuracy and the assessment of interest payments is clear. The matter is not resolved fully and it is not clear what the OPSC will be presenting to the Board on the item. C.A.S.H. understands that the Fresno Unified School District, which was cited by the Board for material inaccuracy, has filed suit against the Board, the OPSC and the Department of General Services over the matter; therefore, the Board may defer the adoption of any related policies as a result of the litigation.

Project Information Worksheet

The Office of Public School Construction re-issued a 15-day public comment period on the Project Information Worksheet (PIW), which closes on May 12, because the proposed regulation exceeded the one-year time limit under the Administrative Procedures Act. No changes have been proposed to the PIW, and C.A.S.H. continues to have concerns about the efficacy of the document and the authority of the Board to require the submission of the PIW as a condition of receiving state funds. In that these concerns were raised during the last public comment period, and the Board at the January 2008 Board meeting, adopted the PIW despite C.A.S.H.'s concerns, C.A.S.H. refrained from re-submitting comments. It is not yet clear when the PIW will become effective, as it still must be approved by the Office of Administrative Law (OAL). However, Rob Cook, Executive Officer of the OPSC, committed to providing a report to the Board about the status of the PIW at the June 2008 Board meeting.

AB 1014 Implementation

The Office of Public School Construction (OPSC) is working on implementing AB 1014 (Bass) that was signed by the Governor in 2007 authorizing the State Allocation Board to make specific changes to how districts may determine their eligibility for New Construction funding. The bill augmented the current enrollment projection methodology by authorizing the following:

- Birth Rates: Use of birth rates in determining projections for kindergarten and first grade cohorts
- 10-Year Projections: Use of 10-year, rather than five-year, projections
- Student Residency: Use of student residency, rather than student attendance, for districts that calculate eligibility on a high school attendance area basis
- Supplemental Weighting Mechanisms: Use of supplemental weighting mechanisms to the cohort survival enrollment project method that are developed in consultation with the Department of Finance

The regulations are still being developed and vetted through the Implementation Committee. C.A.S.H. requested that the OPSC expedite the development so that school districts could use the new law in the Fall, 2008.

Storm Water

On March 2, 2007 the State Water Resources Control Board (SWRCB) issued a preliminary Draft Construction Permit which included significant new requirements for regulated entities as compared to the previous Construction Permit. After holding workshops and public hearings on the preliminary Construction Permit, the SWRCB revised the preliminary Construction Permit in response to the public comments received.

The SWRCB has now released the revised Permit for public review, and it still contains many issues of concern for those who build schools. The C.A.S.H. Environmental Committee under the leadership of C.A.S.H. Board Member Kathy Tanner has assembled a subcommittee to focus exclusively on storm water issues and their effect on school construction. The subcommittee has been working with SWRCB staff on issues of interest to school districts.

For more specific information on the proposed Construction Permit, you can go to www.swrcb.ca.gov/water_issues/programs/stormwater/ and look under "*Draft General for Discharges of Storm Water Associated with Construction Activities*".