AMENDED IN SENATE APRIL 18, 1996

SENATE BILL No. 1562

Introduced by Senator Greene

February 15, 1996

An act to add Part 10.5 (commencing with Section 17211) and Part 23 (commencing with Section 38000) to, to repeal and add Part 10 (commencing with Section 15100) of, and to repeal Part 10.5 (commencing with Section 17900) and Part 23 (commencing with Section 39001) of, the Education Code, and to repeal Sections 53080, 53080.1, 53080.15, 53080.2, 53080.3, 53080.4, 53080.6, and 53081 of the Government Code, relating to school facilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 1562, as amended, Greene. School facilities.

(1) Existing law includes various state general obligation bond acts, as approved by the voters, that provide for the issuance of bonds to raise revenues for, among other purposes, elementary and secondary school facility construction.

This bill would repeal and reenact the provisions governing state school bonds including the State School Building Aid Law of 1949, the State School Building Aid Law of 1952, the State School Construction Law of 1957, and the Urban School Construction Aid Law of 1968.

(2) Existing law, the Leroy F. Greene State School Building Lease-Purchase Law of 1976, provides bond funding for the construction, reconstruction, modernization, and replacement of school facilities and the performance of deferred maintenance activities on school facilities.

This bill would repeal and reenact this law and would make technical, nonsubstantive changes in those provisions.

(3) Existing law also provides for the Emergency School Classroom Law of 1979, school district revenue bonds, the Archie-Hudson and Cunneen School Technology Revenue Bond Act, and the California School Finance Authority.

This bill would repeal and reenact those bodies of law and would make technical, nonsubstantive changes in those provisions.

(4) Existing law sets forth specific requirements for the location and construction of school buildings including, among other provisions, the Field Act.

This bill would repeal and reenact those provisions and would *make* technical, nonsubstantive changes in those provisions.

(5) Under existing law, the governing board of any school district is authorized to levy a fee, charge, dedication, or other requirement against any development project within the boundaries of the school district for the purpose of funding the construction or reconstruction of school facilities.

This bill would repeal and add those provisions and would make technical, nonsubstantive changes in those provisions.

(6) This bill would provide that it is to be construed as a restatement and not as a new enactment.

(7) This bill would provide that the above-referenced provisions of the bill would become operative on January 1, 1998.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Part 10 (commencing with Section
2 15100) of the Education Code is repealed.
3 SEC. 2. Part 10 (commencing with Section 15100) is
4 added to the Education Code, to read:
5

PART 10. SCHOOL BONDS

CHAPTER 1. BONDS OF SCHOOL DISTRICTS AND COMMUNITY COLLEGE DISTRICTS

Article 1. Purposes for Authorizing Bonds

15100. Except as otherwise provided by law, the governing board of any school district or community college district may, when in its judgment it is advisable, and shall, upon a petition of the majority of the qualified electors residing in the school district or community college district, order the county superintendent of schools to call an election and submit to the electors of the district the question whether the bonds of the district shall be issued and sold for the purpose of raising money for the following purposes:

(a) The purchasing of school lots.

(b) The building or purchasing of school buildings.

(c) The making of alterations or additions to the school building or buildings other than as may be necessary for current maintenance, operation, or repairs.

(d) The repairing, restoring, or rebuilding of any school building damaged, injured, or destroyed by fire or other public calamity.

(e) The supplying of school buildings and grounds with furniture, equipment, or necessary apparatus of a permanent nature.

(f) The permanent improvement of the school grounds.

(g) The refunding of any outstanding valid indebtedness of the district, evidenced by bonds, or of state school building aid loans.

(h) The carrying out of the projects or purposes authorized in Section 17577 or 81613.

(i) The purchase of schoolbuses the useful life of which is at least 20 years.

(j) The demolition or razing of any school building with the intent to replace it with another school building, whether in the same location or in any other location.

Any one or more of the purposes enumerated, except that of refunding any outstanding valid indebtedness of the district evidenced by bonds, may, by order of the governing board entered in its minutes, be united and voted upon as one single proposition.

15101. Notwithstanding any provision of law to the contrary, no election shall be held pursuant to this chapter within 45 days before a statewide election or within 45 days after a statewide election unless conducted at the same time as the statewide election, subject to Part 3 (commencing with Section 10400) of Division 10 of the Elections Code.

15102. The total amount of bonds issued shall not exceed 1.25 percent of the taxable property of the district as shown by the last equalized assessment of the county or counties in which the district is located. For purposes of this section, the taxable property of a district for any fiscal year shall be calculated to include, but not be limited to, the assessed value of all unitary and operating nonunitary property of the district, which shall be derived by dividing the gross assessed value of the unitary and operating nonunitary property within the district for the 1987–88 fiscal year by the gross assessed value of all unitary and operating nonunitary property within the county in which the district is located for the 1987–88 fiscal year, and multiplying that result by the gross assessed value of all unitary and operating nonunitary property of the county on the last equalized assessment roll.

15103. Notwithstanding any other provision of law, for the purpose of computing the limit on the amount of bonds which may be issued by a district pursuant to the provisions of this chapter, the taxable property of the district shall be determined upon the basis that the district's assessed value has not been reduced by the exemption of the assessed value of business inventories in the district or reduced by the homeowner's property tax exemption.

15105. For the purpose of the provisions of Sections 15102 and 15106 which require that the valuation as

shown on the last equalized assessment roll be modified pursuant to Section 41201 or 84201, the ‘‘current year’’ as used in Section 41201 or 84201 shall be deemed to be the latest fiscal year for which there exists a last equalized county assessment roll as ascertained in accordance with Chapter 3 (commencing with Section 2050) of Part 3 of Division 1 of the Revenue and Taxation Code, and the term ‘‘two immediately preceding years’’ shall be deemed to be the two fiscal years immediately preceding the fiscal year for which the last equalized county assessment roll exists. Whenever in any year it becomes necessary to determine the modification under Sections 15102 and 15106, at a time between the date when the assessment roll for that year becomes the last equalized county assessment roll ascertained under Chapter 3 and the date when the factor for the current year is certified and becomes available, the factor for the current year shall be deemed to be 1.00.

15106. Any unified school district or community college district may issue bonds not to exceed 2.5 percent of the taxable property of the district as shown by the last equalized assessment of the county or counties in which the district is located.

In computing the outstanding bonded indebtedness of any unified school district or community college district for all purposes of this section, any outstanding bonds shall be deemed to have been issued for elementary school purposes, high school purposes, and community college purposes, respectively, in the respective amounts that the proceeds of the sale of those outstanding bonds, excluding any premium and accrued interest received on that sale, were or have been allocated by the governing board of the unified school district or community college district to each of those purposes respectively.

(a) For the purposes of the State School Building Aid Law of 1952 with respect to applications for apportionments and apportionments filed or made prior to September 15, 1961, and to the repayment thereof, Chapter 6 (commencing with Section 15700) of this part, inclusive, only, any unified school district shall be

considered to have a bonding capacity in the amount permitted by law for an elementary school district and a bonding capacity in the amount permitted by law for a high school district.

(b) For purposes of this section, the taxable property of a district for any fiscal year shall be calculated to include, but not be limited to, the assessed value of all unitary and operating nonunitary property of the district, which shall be derived by dividing the gross assessed value of the unitary and operating nonunitary property within the district for the 1987–88 fiscal year by the gross assessed value of all unitary and operating nonunitary property within the county in which the district is located for the 1987–88 fiscal year, and multiplying the result by the gross assessed value of all unitary and operating nonunitary property of the county on the last equalized assessment roll. In the event of the unification of two or more school districts or community college districts subsequent to the 1987–88 fiscal year, the assessed value of all unitary and operating nonunitary property of the unified district or community college district shall be deemed to be the total of the assessed value of the taxable property of each of the unifying districts as that assessed value would be determined under Section 15102.

15107. In computing the limitation of indebtedness of any school district or community college district of any kind or class heretofore or hereafter formed or organized, hereinafter in this section referred to as the ‘‘bonding district,’’ the outstanding indebtedness of any previously existing district all or any part of which forms a component part of the bonding district and the outstanding indebtedness of any district for which any territory which has become a part of the bonding district is liable shall be excluded and shall not be deemed, for the purposes of computing the limitation of indebtedness under Section 15102 or 15106, to constitute outstanding indebtedness of the bonding district, except to the extent that the outstanding indebtedness has been expressly assumed by the bonding district by vote of not less than two-thirds of the electors of the bonding district voting at

an election at which the proposition of assuming the indebtedness is voted upon. Nothing herein contained shall operate to release any property from liability for taxes to pay the principal and interest of indebtedness incurred by any component district or for which any territory which has become a part of the bonding district is liable and in which the taxable property is located at the time of the incurring of the indebtedness. It is the intent of the Legislature to provide in this section a special method of computing the limitation of indebtedness of school districts or community college districts irrespective of liability of the area embraced within the school districts for the payment of any bonded indebtedness.

15108. For the purpose of determining the limitation of indebtedness of a school district or community college districts of any type or class under Section 15102 or 15106, that portion of the bonded indebtedness of the district for which another district or territory in another district is liable shall be excluded and shall not be deemed to constitute outstanding bonded indebtedness of the district.

15109. Where an elementary school district and a high school district with a combined average daily attendance of 300,000 or more are governed by the same governing board, and the pupils in grades seven and eight in the districts are in attendance at high schools maintained by the high school district, the governing board, by resolution filed with the county auditor, may provide that the bond issuance limitations determined under Section 15102 shall be adjusted by reducing the bond issuance limitation of the elementary school district by 1 percent of its total and by augmenting the bond issuance limitation for the high school district by the amount by which that of the elementary district was reduced.

15110. An action to determine the validity of bonds and of the ordering of the improvement or acquisition may be brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure. In such action, all findings, conclusions and

determinations of the legislative body which conducted the proceedings shall be conclusive in the absence of actual fraud.

15111. The governing board of each school district or community college district shall, within 30 days after the end of each fiscal year, submit to the county superintendent of schools who has jurisdiction over the school district or community college district a report containing the following information, concerning any election held pursuant to Sections 4152, 15120, 15121, and 16058 for the approval of the issuance of bonds or the assumption of any bonded indebtedness or other indebtedness:

(1) The total amount of the bond issue, bonded indebtedness or other indebtedness involved.

(2) The percentage of registered electors of the district who voted at the election.

(3) The results of the election, with the percentage of votes cast for and against the proposition involved.

Article 2. General Provisions for Bond Elections

15120. The election shall be conducted as provided in Chapter 3 (commencing with Section 5300) of Part 4, except with respect to each of the following:

(1) As otherwise provided in Sections 15100 to 15126, inclusive.

(2) That the formal notice of the election shall contain, in addition to the items specified in Section 5361, each of the following:

(a) The purposes for which the bonds are to be issued.

(b) The amount of the bonds.

(c) The maximum rate of interest, not to exceed the maximum rate of interest allowed by Sections 15140 to 15143.

(d) The maximum number of years, not to exceed 25, not to exceed which the bonds or any series thereof are to run.

No election shall be held under this section in any school district for a period of 90 days after the election in the same school district.

15121. Any election called pursuant to Sections 15100 to 15141, inclusive, and Sections 15142 to 15261, inclusive, may be consolidated with any other election pursuant to Part 3 (commencing with Section 10400) of Division 10 of the Elections Code.

15122. The words to appear upon the ballots shall be ‘‘Bonds—Yes’’ and ‘‘Bonds—No,’’ or words of similar import. A brief statement of the proposition, setting forth the amount of the bonds to be voted upon, the maximum rate of interest, and the purposes for which the proceeds of the sale of the bonds are to be used, shall be printed upon the ballot. No defect in the statement other than in the statement of the amount of the bonds to be authorized shall invalidate the bonds election.

15123. The form and details of all ballots at school district or community college bond elections shall comply with ballot provisions of this code applicable to governing board member elections with additional requirements as provided for in this chapter.

15124. If it appears from the certificate of election results that two-thirds of the votes cast on the proposition of issuing bonds of the district are in favor of issuing the bonds; or, a majority of the votes cast, if the election is held to repair, reconstruct or replace school buildings in compliance with Section 17367 or 81162 or any other provision of law, the governing board of the school district or community college shall cause an entry of that fact to be made upon its minutes. The governing board shall then certify to the board of supervisors of the county whose superintendent of schools has jurisdiction over the district, all proceedings had in the premises. The county superintendent of schools shall send a copy of the certificate of election results to the board of supervisors of the county.

15125. The proceedings relating to the authorization of bonds of a joint school district of any type need be certified only to the board of supervisors of the county

whose superintendent of schools has jurisdiction over the district. The board of supervisors may issue and sell the bonds and no action of the board of supervisors of any other county in which the district is situated shall be required in connection with the issuance and sale, and the bonds need not be signed by any officer of any the other county.

15126. No error, irregularity, or omission which does not affect the substantial rights of the taxpayers within the district or the electors voting at any election at which bonds of any district are authorized to be issued shall invalidate the election or any bonds authorized.

Article 3. Issuance and Sale of Bonds

15140. Bonds of a school district or community college district shall be offered for sale by the board of supervisors of the county, the county superintendent of which has jurisdiction over the district, or the community college district governing board, where appropriate, as soon as possible following receipt of a resolution duly adopted by the governing board of the school district or community college district. The resolution shall prescribe the total amount of bonds to be sold. The resolution may also prescribe the maximum acceptable interest rate, not to exceed 8 percent, and the time or times when the whole or any part of the principal of the bonds shall be payable, which shall not be more than 25 years from the date of the bonds.

15141. When authorized by the governing board of a school district or a community college district, bonds of a school district or a community college district may be offered for sale as a group by the board of supervisors of the county, the county superintendent of schools, or the governing board of a community college district, which has jurisdiction over the district, at a time determined by the board of supervisors following receipt of a resolution duly adopted by the governing board of the school district or community college district. The resolution shall prescribe the total amount of bonds to be sold. The

resolution may also prescribe the maximum acceptable interest rate, not to exceed 8 percent, and the time or times when the whole or any part of the principal of the bonds shall be payable, which shall not be more than 25 years from the date of the bonds. Bidders shall be required to bid a lump sum bid on all bonds as a group. If bids satisfactory to the governing board of each school district included in the group are received, the bonds offered for sale shall be awarded to the bidder whose bid will result in the lowest net interest cost for the group or for the bonds of any district included within the group. Bonds shall be issued and sold in the name of each school district or a community college district in the same manner as provided in this chapter.

15142. The bonds shall be issued in the denomination or denominations as the board of supervisors or governing board of the community college district may prescribe.

15143. The bonds shall not bear a rate of interest greater than 8 percent per annum, payable annually or semiannually.

15144. The number of years the whole or any part of the bonds are to run shall not exceed 25 years, from the date of the bonds or the date of any series thereof.

15145. (a) The board of supervisors by an order entered upon its minutes shall prescribe the form of the bonds. The bonds shall be signed by the chairperson of the board of supervisors, or by any other member thereof as the board of supervisors shall, by resolution adopted by a four-fifths vote of all its members, authorize and designate for that purpose, and also signed by the treasurer of the county, and shall be countersigned by the clerk of the board of supervisors or by a deputy of either of the officers. Unless the board of supervisors otherwise provides, all the signatures and countersignatures may be printed, lithographed, engraved, or otherwise mechanically reproduced except that one of the signatures or countersignatures to the bonds shall be manually affixed. Any signature may be affixed in accordance with the provisions of the Uniform Facsimile Signatures of Public Officials Act, Chapter 6

(commencing with Section 5500) of Title 1 of the Government Code. All expense incurred for the preparation, sale, and delivery of the school bonds, including but not limited to, fees of an independent financial consultant, the publication of the official notice of sale of the bonds, the preparation, printing and distribution of the official statement, the obtaining of a rating, the purchase of insurance insuring the prompt payment of interest and principal, the preparation of the certified copy of the transcript for the successful bidder, the printing of the bonds, and legal fees of independent bond counsel retained by the school district or community college district issuing the bonds are legal charges against the funds of the district issuing the bonds and may be paid from the proceeds of sale of the bonds.

(b) Notwithstanding subdivision (a), the board of supervisors may, in its discretion, determine that all of the required signatures and countersignatures shall be by facsimiles, provided, however, that the bonds shall not be valid or become obligatory for any purpose until manually signed by an authenticating agent duly appointed by the board or its authorized designee.

15146. The bonds shall be issued by the board of supervisors, payable out of the interest and sinking fund of the district. The board of supervisors, in its discretion, and without further authorization from the governing board, may sell the bonds at a negotiated sale or by competitive bidding. The bonds may be sold at a discount not to exceed 5 percent and at an interest rate not exceeding the maximum permitted by law. If the sale is by competitive bid, the board of supervisors shall comply with Sections 15147 and 15148. The bonds shall be sold by the board of supervisors no later than the date designated by the governing board of the school district or community college district as the final date for the sale of the bonds. The proceeds of the sale of the bonds, exclusive of any premium received, shall be deposited in the county treasury to the credit of the building fund of the school district, or community college district as designated by the California Community Colleges Budget and

Accounting Manual. The proceeds deposited shall be drawn out as other school moneys are drawn out. The bond proceeds withdrawn shall not be applied to any other purposes than those for which the bonds were issued. Any premium or accrued interest received from the sale of the bonds shall be deposited in the interest and sinking fund of the district.

15147. Before selling the bonds, or any part of them, the board of supervisors or community college district, as appropriate, shall advertise for bids at least two weeks in some daily or weekly newspaper of general circulation published in the county whose county superintendent of schools or governing board of the community college district has jurisdiction over the district, or if there is no newspaper published in the county, in a newspaper published in some other county in the state having a general circulation in the county.

15148. If satisfactory bids are received, the bonds offered for sale shall be awarded to the highest responsible bidder or bidders, and the county clerk shall prepare and certify to all of the proceedings on file in his office relative to the issuance and sale of the bonds, which transcript of proceedings shall be delivered to the successful bidder or bidders without charge. If no bids are received, or if the board determines that the bids received exceed either the maximum acceptable interest rate prescribed by the governing board or the maximum rate prescribed by Section 15143, or that they are not satisfactory as to price or responsibility of the bidders, the board may reject all bids received, if any, and without further authorization from the governing board, either readvertise or sell the bonds at private sale.

For the purpose of determining whether or not a bid exceeds the maximum acceptable interest rate, the interest rate of that bid shall be deemed to be the interest rate resulting from the total net interest cost arrived at by computing the total amount of interest which the district would be required to pay from the date of the bonds to the respective maturity dates thereof at the rate or rates

specified in the bid and by deducting therefrom any premium bid.

15149. The issuing school district or community college district by action of its governing board may prepare, or have prepared, bond brochures to serve as a prospectus for bond buyers to assist in the satisfactory sale of the bonds, the expense of the brochures to be payable out of the funds of the district. The brochures may be prepared only after the issuance of the bonds to be sold has been approved by the electors of the district pursuant to Sections 15120 to 15126, inclusive.

The issuing school district or community college district by action of its governing board may expend district funds for the purposes of advertising the availability of the bonds for purchase in any publication or newspaper which in the opinion of the governing board will give notice to prospective bond buyers that the bonds are available for purchase by bond buyers.

Article 4. Required Form of Bonds

15180. Whenever under Sections 15100 and 15102, and Sections 15107 to 15140, inclusive, and Sections 15142 to 15261, inclusive, any bonds are issued, the bonds may be issued either in the form of coupon bonds, or in the form of registered bonds, or some in the form of coupon bonds and some in the form of registered bonds, as may be provided in the proceedings for the issuance of the bonds, and notwithstanding any language or provision to the contrary contained in any statute authorizing the issuance of the bonds, or in any other law.

15181. If any officer whose signature, countersignature, or attestation appears on any school bonds or coupons ceases to be an officer before the delivery of the bonds to the purchaser, the signature, countersignature, or attestation either on the bonds or the coupons, or on both, is nevertheless valid and sufficient for all purposes the same as if the officer had remained in office until the delivery of the bonds, and the signature upon the coupons of the person who is auditor

at the date of the bonds, is valid although the bonds themselves may be attested by a different person who is auditor at the time of delivery of the bonds.

15182. Any bonds executed in the manner provided by the board of supervisors shall be valid, notwithstanding any change in the officers who signed the bonds or the coupons, or in the seal of the board of supervisors, occurring after the execution.

Article 5. Registration of Bonds

15190. Whenever the owner of any coupon bond or of any bond payable to bearer presents the bond to the treasurer or other officer of the county in which the district is located, who by law performs the duties of treasurer, with a request for the conversion of the bond into a registered bond, the treasurer or other officer shall cut off and cancel the coupons of the coupon bond, and shall stamp, print, or write upon the coupon bond or other bond payable to the bearer, either upon its back or upon its face, as may be convenient, a statement to the effect that the bond is registered in the name of the owner and that thereafter the interest and principal of the bond are payable to the registered owner.

15191. After registration any bond may be transferred by the registered owner in person, or by attorney duly authorized, on presentation of the bond to the treasurer or other officer performing the duties of treasurer. The bond may be again registered as before, a similar statement being stamped, printed, or written thereon.

15192. The statement stamped, printed, or written upon the bond may be substantially in the following form:

(Date, giving month, day, and year.)

This bond is registered pursuant to the statute in such cases made and provided in the name of (insert name of owner) and the interest and principal thereof are hereafter payable to the owner.

_____

Treasurer (or other officer)

15193. After any bond has been registered as provided in this article, the principal and interest of the bond shall be payable to the registered owner.

15194. The treasurer or other officer shall keep in his or her office a book or books which shall at all times show what bonds are registered and in whose name respectively.

Article 6. Cancellation of Unsold Bonds

15200. If any bonds authorized under the provisions of Sections 15100 and 15102, and Sections 15107 to 15140, inclusive, and Sections 15142 to 15261, inclusive, have not been offered for sale for one year from the date of the election at which they were authorized or remain unsold for a period of six months after having been offered for sale in the manner prescribed by the board of supervisors, the governing board of the district, for which the bonds were authorized, may petition the board of supervisors that has jurisdiction of the issuance and sale of the bonds to cause the unsold bonds to be canceled.

15201. Upon receiving the petition, signed by a majority of the members of the governing board, the board of supervisors shall fix a time for hearing it, which shall not be more than 30 days after receipt of the petition, and shall cause a notice stating the time and place of the hearing, and the object of the petition in general terms, to be published for 10 days prior to the hearing, in a newspaper published in the school district or community college district, if there is one, and if there is no newspaper published in the school district, in a newspaper published at the county seat of the county.

15202. At the time and place designated in the notice, or at any subsequent time to which the hearing may be postponed, the board of supervisors shall hear any reasons that may be submitted for or against the granting of the petition.

15203. If the board of supervisors deem it for the best interests of the school district or community college district named in the petition that the unsold bonds be

canceled, it shall make and enter an order in the minutes of its proceedings that the unsold bonds be canceled. Upon the entry of the order the bonds and the vote by which they were authorized to be issued shall cease to be of any validity.

15204. The governing board of any school district or community college district may petition the board of supervisors to cancel the remaining authorization of that district to issue and sell bonds resulting from any particular school bond election after the sale of at least 90 percent of the bonds authorized at the election if the amount of the remaining authorization is not more than twenty-five thousand dollars ($25,000) and in the opinion of the governing board the sale of the remaining bonds would not be economically justified. Sections 15201 and 15202 shall be applicable and at or following, the hearing provided in Section 15201 and 15202, the board of supervisors, if it determines that the public interest will be served thereby, may make and enter an order in the minutes of its proceedings that the remaining authorization be canceled. Upon the entry of the order the vote by which the remaining authorization was created shall cease to be of any validity with respect to the remaining authorization.

Article 7. Purchase of Bonds by Issuing School Districts and Community College Districts

15220. The governing board of a school district or community college district may purchase in the open market bonds issued by the district. The cost of bonds purchased may be paid out of any funds of the district not required by law to be set aside for teachers' salaries.

15221. When any bonds issued by a district have been purchased by the governing board of the district, the bonds shall be deemed canceled and of no further validity. The governing board of the district shall immediately, after purchasing the bonds, notify the board of supervisors of its action, describing the bonds purchased. At its first meeting thereafter the board of

supervisors shall note the purchase and cancellation of the bonds in the minutes of its proceedings.

Article 8. Method of Bond Payment

15230. The board of supervisors by an order entered upon its minutes shall fix the time when the whole or any part of the principal of the bonds shall be payable, which shall not be more than 25 years from the date of the bonds. If the governing board of the district has prescribed in its resolution the time or times when the whole or any part of the bonds shall be payable, the times and amounts shall be fixed by the order of the board of supervisors.

Any bonds authorized at an election held after September 15, 1945, may be issued subject to call and redemption before maturity at the option of the governing board of the district. The governing board may include in its resolution a requirement that all or any part of such bonds shall be issued subject to call and redemption before maturity and the price or prices at which the bonds shall be redeemed. The board of supervisors, in its order fixing the form of the bonds and the maturities thereof, shall provide that the bonds be redeemable at the option of the governing board and at the price or prices fixed in the resolution. Bonds issued subject to call and redemption prior to maturity shall contain a recital to that effect, and no bond shall be subject to call or redemption prior to maturity unless it contains that recital. The board of supervisors in its order shall fix the method of giving notice of redemption to holders of bonds to be redeemed.

15231. The board of supervisors at the direction of governing board of the district may divide the principal amount of bonds authorized at any election into two or more series and may fix different dates for the bonds of each series, in which event the maximum maturity date of the bonds shall be calculated from the date of each series respectively. When the issuance of bonds shall have been authorized pursuant to two or more propositions submitted at the same or different elections, all or any

part of the bonds not theretofore issued may be combined and issued and sold as one or more series.

15232. The board of supervisors may make the principal and interest of the bonds payable at the office of the treasurer of the county, or at any other place within the United States which the board may designate, or at the office of the county treasurer, or at any other designated place at the option of the bondholder. The place of payment shall be specified in the bonds. The expense of paying the bonds elsewhere than at the office of the treasurer shall be a proper charge against the district to be paid out of the tax levied and collected for the payment of the bonds.

15233. The principal and interest on the bonds shall be paid by the county treasurer of the county, the superintendent of schools of which has jurisdiction of the district in behalf of which the bonds were issued, at the place required by the terms of the bonds, upon presentation and surrender of warrants drawn by the county auditor in payment thereof, after he or she has canceled the bonds and coupons, or upon the receipt of the registered owner, if the bonds are registered, after a proper warrant has been drawn by the auditor, out of the fund provided for their payment.

15234. Any money remaining in the interest and sinking fund of any district after the payment of all bonds and coupons payable from the fund, or any money in excess of an amount sufficient to pay all unpaid bonds and coupons payable from the fund, shall be transferred to the general fund of the district upon the order of the auditor.

15235. Any money paid into the county treasury of the county and credited to the interest and sinking fund of any district pursuant to subdivision (b) of Section 2106 or subdivision (b) of Section 2109 remaining after the payment of all bonds and coupons payable from the fund, or which is in excess of an amount sufficient to pay all unpaid bonds and coupons payable from the fund, shall be transferred to the special reserve fund of the school district, or designated building fund of the community college district upon the order of the auditor, and may be

used only for the purpose specified in Section 42840 or in accordance with the California Community Colleges Budget and Accounting Manual and for no other purpose.

Article 9. Tax for Payment of Bonds

15250. The board of supervisors of the county, the superintendent of schools of which has jurisdiction over any district, shall annually at the time of making the levy of taxes for county purposes, levy a tax for that year upon the property in the district for the interest and redemption of all outstanding bonds of the district. The tax shall not be less than sufficient to pay the interest on the bonds as it becomes due and to provide a sinking fund for the payment of the principal on or before maturity and may include an allowance for an annual reserve, established for the purpose of avoiding fluctuating tax levies. The tax shall be sufficient to provide funds for the payment of the interest on the bonds as it becomes due and also any part of the principal and interest that is to become due before the proceeds of a tax levied at the time for making the next general tax levy may be made available for the payment of the principal and interest.

15251. All taxes levied, when collected shall be paid into the county treasury of the county whose superintendent of schools has jurisdiction over the school district in behalf of which the tax was levied, to the credit of the interest and sinking fund of the school district, or community college district as designated by the California Community Colleges Budget and Accounting Manual, and shall be used for the payment of the principal and interest of the bonds and for no other purpose.

15252. The board of supervisors of the county, the superintendent of schools which has jurisdiction over any school district, shall annually at the time of making the levy of taxes for county purposes estimate the amount of money required to meet the payment of the principal and interest on bonds of the district authorized by the electors of the district and not sold, and which the governing board of the district informs the board in their belief will

be sold before the next tax levy, and the board of supervisors shall levy a tax sufficient to pay the principal and interest so estimated.

15253. If the bonds are declared invalid or are not issued for any reason, the tax levied and collected shall, if the school district or community college district has other bonds outstanding, be retained in the interest and sinking fund of the district to meet the interest and principal falling due on the bonds. If the district has no bonds outstanding the proceeds of the tax levy shall be transferred to the general fund of the district on the order of the auditor.

15254. This article shall apply only to bonds of a school district or community college district which were approved by the electors prior to July 1, 1978, and to bonded indebtedness for the acquisition or improvement of real property approved by two-thirds of the voters on or after June 4, 1986.

Article 10. Tax for Payment of Bonds of School District or Community College District Located in Two or More Counties

15260. In case of a district lying in two or more counties, the assessor of each of the counties in which the district lies, shall annually as soon as the county assessments have been equalized by the State Board of Equalization, certify to the board of supervisors of each of the counties in which any portion of the district is situated, the assessed value of all taxable property in the county situated in the school district or community college district. The tax shall be levied according to the ratio which the assessed value of the property in the district in any county bears to the total assessed value of the property in the district. Each board of supervisors shall levy upon the property of the district and within its own county the rate of tax that will be sufficient to raise not less than the amount needed to pay the interest and any portion of the principal of the bonds that is to become due during the year.

15261. The tax shall be entered upon the assessment roll and collected in the same manner as other school taxes.

The tax when collected shall be paid into the county treasury of the county. The treasurer of any county, other than the one whose superintendent of schools has jurisdiction over the school, shall, upon order of the county auditor, pay the sum collected on account of the tax into the treasury of the county whose superintendent of schools has jurisdiction over the school.

15262. This article shall apply only to bonds of a school district which were approved by the electors prior to July 1, 1978, and to bonded indebtedness for the acquisition or improvement of real property approved by two-thirds of the voters on or after June 4, 1986.

CHAPTER 2. BONDS OF SCHOOL FACILITIES IMPROVEMENT DISTRICTS

Article 1. General Provisions

15300. This chapter provides a method for the formation of school facilities improvement districts consisting of a portion of the territory within a school district and for the issuance of general obligation bonds by a school facilities improvement district.

15301. (a) Any school district that has a community facilities district formed pursuant to the Mello-Roos Community Facilities Act of 1982, as set forth in Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5 of the Government Code, that has as one of its purposes the construction of school facilities within a portion of the territory of the school district, may proceed under this chapter.

(b) The boundaries of any school facilities improvement district formed pursuant to this chapter shall include all of the portion of the territory within the boundaries of the school district that is not located within the boundaries of the community facilities district as described in subdivision (a).

15302. General obligation bonds of the school facilities improvement district may be issued for the following purposes, if the purpose of the bonds is to benefit the land within the school facilities improvement district consistent with any of the following:

(a) To purchase real property upon which to construct school facilities.

(b) To build or purchase school facilities.

(c) To make alterations or additions to the school facilities other than those necessary for ordinary maintenance, operation, or repairs.

(d) To repair, restore, or rebuild any school facilities damaged, injured, or destroyed by fire or other public calamity.

(e) To supply playgrounds with furniture, equipment, or necessary apparatus of a permanent nature.

(f) To permanently improve school grounds.

(g) To refund any valid outstanding indebtedness of the school facilities improvement district that is evidenced by bonds.

(h) To carry out the projects or purposes authorized in Section 39613.

(i) To demolish or raze any school building with the intent to replace it with another school building, whether in the same location or in any other location.

15303. This chapter shall not be operative in any county or counties until the board of supervisors of either the county in which the county superintendent of schools having jurisdiction over the school district in which the school facilities improvement district is located or, if a school facilities improvement district lies in two or more counties, the board of supervisors for those counties, by resolution adopted by a majority vote of the board of supervisors, makes this chapter applicable in the county or counties.

Article 2. Formation of District

15320. Whenever the governing board of a school district meeting the requirements set forth in Section

15301 determines that a school facilities improvement district is necessary, the governing board shall adopt a resolution of intention that states all of the following:

(a) The intention of the governing board to form the proposed school facilities improvement district.

(b) The purpose for which the proposed school facilities improvement district is to be formed, consistent with the requirements set forth in Section 15302.

(c) The estimated cost of the school facilities improvement project.

(d) That any taxes levied for the purpose of financing the general obligation bonds issued to finance the project shall be levied exclusively upon the lands in the proposed school facilities improvement district.

(e) That a map showing the exterior boundaries of the proposed school facilities improvement district is on file with the governing board of the school district and is available for inspection by the public. The boundaries of the school facilities improvement district shall meet the requirements set forth in subdivision (b) of Section 15301.

(f) The time and place for a hearing by the governing board on the formation of the proposed school facilities improvement district.

(h) That any interested persons, including all persons owning lands in the school district or in the proposed school facilities improvement district, may appear and be heard.

15321. Notice of the hearing shall be given by publishing a copy of the resolution of intention in a newspaper of general circulation published in each affected county, pursuant to Section 6066 of the Government Code, the first publication shall be at least 14 days prior to the time fixed for the hearing. The notice shall also be given by posting a copy of the resolution in three public places located within the proposed school facilities improvement district for at least 14 days prior to the time fixed for the hearing. No notice other than that required by this section need be given.

15322. The governing board of the school district shall hold the hearing provided for by resolution of intention

at the time and place fixed by that resolution. Any interested person, including, but not limited to, all persons owning land in the school district, or in the proposed school facilities improvement district, may appear and be heard concerning any matters set forth in the resolution of intention.

15323. At the hearing, the governing board of the school district may adopt a resolution proposing modifications, consistent with Section 15302, of the purpose stated in the resolution of intention. A resolution proposing modification shall describe the proposed modifications, state the change, if any, in the estimated cost of carrying out the purpose, and shall fix a time and place for hearing by the governing board.

15324. The governing board of the school district shall publish the resolution proposing the modifications to the resolution of intention once in the same newspaper in which the resolution of intention was published at least 14 days prior to the date of hearing on the proposed modifications.

15325. The hearing on any proposed modifications may be held at the same time and place as any continued hearing on the resolution of intention and both hearings may be held and conducted concurrently.

15326. At the conclusion of the hearing on the resolution of intention and of the hearing, if any, upon proposed modifications, the governing board may by resolution order the school facilities improvement district formed for the purpose and with the boundaries described in the resolution of intention, and, if relevant, the resolution proposing modifications. The resolution ordering the school facilities improvement district formed shall state the estimated cost of carrying out the purpose described in the resolution. The resolution shall also number and designate the school facilities improvement district substantially as ‘‘School Facilities Improvement District of ____ School District.’’

15327. The governing board of the school district in which a school facilities improvement district has been formed shall have the same rights, powers, duties and

responsibilities with respect to the formation and government of school facilities improvement district as the governing board has with respect to the school district.

Article 3. Financing the Bonds

15330. The total amount of bonds issued shall not exceed 1.25 percent of the taxable property of the school facilities improvement district as shown by the last equalized assessment of the county or counties in which the school facilities improvement district is located. For purposes of this section, the taxable property of a school facilities improvement district for any fiscal year shall be calculated to include, but not be limited to, the assessed value of all unitary and operating nonunitary property located within the school facilities improvement district, which shall be derived by dividing the gross assessed value of the unitary and operating nonunitary property located within the school facilities improvement district for the fiscal year by the gross assessed value of all unitary and operating nonunitary property located within the county in which the school facilities improvement district is located for the fiscal year, and multiplying that result by the gross assessed value of all unitary and operating nonunitary property of the county on the last equalized assessment roll.

15331. Notwithstanding any other law, for the purpose of computing the limit on the amount of bonds that may be issued by a school facilities improvement district pursuant to the provisions of this chapter, the taxable property of the school facilities improvement district shall be determined upon the basis that the school facilities improvement district's assessed value has not been reduced by the exemption of the assessed value of business inventories in the school facilities improvement district or reduced by the homeowner's property tax exemption.

15332. Notwithstanding Section 15330, any school facilities improvement district that is located within the

boundaries of a unified school district may issue bonds not to exceed 2.5 percent of the taxable property of the school facilities improvement district as shown by the last equalized assessment of the county or counties in which the school facilities improvement district is located.

In computing the outstanding bonded indebtedness of any school facilities improvement district that is located in any unified school district, any outstanding bonds shall be deemed to have been issued for elementary school purposes, high school purposes, respectively, in the respective amounts that the proceeds of the sale of those outstanding bonds, excluding any premium and accrued interest received on that sale, were or have been allocated by the governing board of the unified school district to each of those purposes respectively.

For purposes of this section, the taxable property of a school facilities improvement district for any fiscal year shall be calculated to include, but not be limited to, the assessed value of all unitary and operating nonunitary property located within the school facilities improvement district, which shall be derived by dividing the gross assessed value of the unitary and operating nonunitary property located within the district for the fiscal year by the gross assessed value of all unitary and operating nonunitary property located within the county in which the district is located for the fiscal year, and multiplying the result by the gross assessed value of all unitary and operating nonunitary property of the county on the last equalized assessment roll.

15333. In computing the limitation of indebtedness of any school facilities improvement district, hereinafter in this section referred to as the ‘‘bonding district,’’ the outstanding indebtedness of any previously existing district all or any part of which forms a component part of the bonding district and the outstanding indebtedness of any district for which any territory that has become a part of the bonding district is liable shall be excluded and shall not be deemed, for the purposes of computing the limitation of indebtedness under Sections 15330 and 15332, to constitute outstanding indebtedness of the

bonding district, except to the extent that the outstanding indebtedness has been expressly assumed by the bonding district by vote of not less than two-thirds of the electors of the bonding district voting at an election at which the proposition of assuming the indebtedness is voted upon. Nothing in this section shall operate to release any property from liability for taxes to pay the principal and interest of indebtedness incurred by any component district or for which any territory that has become a part of the bonding district is liable and in which the taxable property is located at the time of the incurring of the indebtedness. It is the intent of the Legislature to provide in this section a special method of computing the limitation of indebtedness of school facilities improvement districts irrespective of liability of the area embraced within the school districts for the payment of any bonded indebtedness.

15334. For the purpose of determining the limitation of indebtedness of a school facilities improvement district under Section 15330 or 15332, that portion of the bonded indebtedness of the school facilities improvement district for which another district or territory in another district is liable shall be excluded and shall not be deemed to constitute outstanding bonded indebtedness of the school facilities improvement district.

15335. An action to determine the validity of bonds and of the ordering of the improvement or acquisition may be commenced pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure. In the action, all findings, conclusions and determinations of the legislative body that conducted the proceedings shall be conclusive in the absence of actual fraud.

15336. Within 30 days after the end of each fiscal year, the governing board of the school district in which the school facilities improvement district is located shall submit a report containing the following information relating to an election held pursuant to Article 4 (commencing with Section 15340), to the county

superintendent of schools who has jurisdiction over the school district:

(a) The total amount of the bond issue, bonded indebtedness, or other indebtedness involved.

(b) The percentage of qualified electors who are residents of the school facilities improvement district who voted at the election.

(c) The results of the election, with the percentage of votes cast for and against the proposition involved.

Article 4. General Provisions for Bond Elections

15340. (a) After adopting the resolution ordering the formation of the school facilities improvement district, the governing board may provide for and call a special bond election within the school facilities improvement district to, or may at the next statewide election, submit to the voters of the school facilities improvement district a proposition of whether or not an indebtedness of the district shall be incurred and bonds issued therefor in an amount not exceeding the estimate stated in the resolution ordering the school facilities improvement district formed.

(b) The indebtedness and the bonds shall be payable from taxes to be levied and collected upon lands located within the school facilities improvement district.

15341. Notwithstanding any law, no election shall be held pursuant to this chapter within 45 days before a statewide election or within 45 days after a statewide election unless conducted at the same time as the statewide election, subject to the provisions of Part 2.5 (commencing with Section 23300) of Division 14 of the Elections Code.

15342. Any one or more of the purposes enumerated in Section 15302, except that of refunding any outstanding valid indebtedness of the school facilities improvement district evidenced by bonds, may, by order of the governing board of the school district in which the school facilities improvement district is located, be united and voted upon in a single proposition.

15343. The election shall be conducted as provided in Chapter 3 (commencing with Section 5300) of Part 4 except as provided by each of the following:

(a) As otherwise provided in this chapter.

(b) That the formal notice of the election shall contain and specify, in addition to the items specified in Section 5361:

(1) The purposes for which the bonds are to be issued.

(2) The amount of the bonds.

(3) The maximum rate of interest, not to exceed the maximum rate of interest allowed by Article 5 (commencing with Section 15350).

(4) The maximum number of years, not to exceed 25, not to exceed which the bonds or any series thereof are to run.

(c) No election shall be held under the provisions of this section in any school facilities improvement district for a period of 90 days after an election in the same school facilities improvement district.

15344. Any election called pursuant to this chapter may be consolidated with any other election pursuant to the provisions of Part 2.5 (commencing with Section 23300) of Division 14 of the Elections Code.

15345. Any qualified elector who is a resident of the territory of the school facilities improvement district may vote on the proposition of issuing bonds of the school facilities improvement district.

15346. The words to appear upon the ballots shall be ‘‘Bonds—Yes’’ and ‘‘Bonds—No,’’ or words of similar import. A brief statement of the proposition, setting forth the amount of the bonds to be voted upon, the maximum rate of interest, and the purposes for which the proceeds of the sale of the bonds are to be used, shall be printed upon the ballot. No defect in the statement other than in the statement of the amount of the bonds to be authorized shall invalidate the bonds election.

15347. Unless otherwise specified in this chapter, the form and details of all ballots at school facilities improvement elections shall comply with ballot

provisions of Part 4 (commencing with Section 2400) of the Government Code.

15348. The proposition shall be deemed approved upon approval by two-thirds of the votes cast by voters voting on the proposition of issuing bonds of the school facilities improvement district.

15349. If it appears from the certificate of election results that two-thirds of the votes cast by the voters voting on the proposition of issuing bonds of the school facilities improvement district are in favor of issuing the bonds, the governing board of the school district in which the school facilities improvement district is located shall cause an entry of that fact to be made upon its minutes. The governing board of that school district shall then certify to the board of supervisors of the county whose superintendent of schools has jurisdiction over the school district, all proceedings had in the premises. The county superintendent of schools shall send a copy of the certificate of election results to the board of supervisors of the county.

15349.1. The proceedings relating to the authorization of bonds of a school facilities improvement district that is located within a joint school district of any type need be certified only to the board of supervisors of the county whose superintendent of schools has jurisdiction over the school district in which the school facilities improvement district exists. The board of supervisors may issue and sell the bonds and no action of the board of supervisors of any other county in which the school board is situated shall be required in connection with the issuance and sale of the bonds, and the bonds need not be signed by any officer of any other county.

15349.2. No error, irregularity, or omission that does not affect the substantial rights of the taxpayers within the school facilities improvement district or the qualified electors voting at any election at which bonds of any school facilities improvement district are authorized to be issued shall invalidate the election or any bonds authorized by that election.

Article 5. Issuance and Sale of Bonds

15350. Bonds of a school facilities improvement district shall be offered for sale by the board of supervisors of the county in which the county superintendent of schools has jurisdiction over the school district in which the school facilities improvement district is located as soon as possible, when appropriate, following receipt of a resolution duly adopted by the governing board of that school district. The resolution shall prescribe the total amount of bonds to be sold. The resolution may also prescribe the maximum acceptable interest rate, not to exceed 8 percent, and the time or times when the whole or any part of the principal of the bonds shall be payable, which shall not be more than 25 years from the date of the bonds.

15351. When authorized by the governing board of the school district in which the school facilities improvement district is located, bonds of the school facilities improvement district may be offered for sale as a group by the board of supervisors of the county in which the county superintendent of schools has jurisdiction over the school district in which the school facilities improvement district is located, at a time determined by the board of supervisors following receipt of a resolution duly adopted by the governing board of that school district. The resolution shall prescribe the total amount of bonds to be sold. The resolution may also prescribe the maximum acceptable interest rate, not to exceed 8 percent, and the time or times when the whole or any part of the principal of the bonds shall be payable, which shall not be more than 25 years from the date of the bonds. Bidders shall be required to bid a lump-sum bid on all bonds as a group. If bids satisfactory to the governing board of each school district in which a school facilities improvement district is located are received, the bonds offered for sale shall be awarded to the bidder whose bid will result in the lowest net interest cost for the group or for the bonds of any district included within the group. Bonds shall be issued and sold in the name of each school

facilities improvement district in the same manner as provided in this chapter.

15352. The bonds shall be issued in the name of the school facilities improvement district and shall be designated ‘‘Bonds of the School Facilities Improvement District of the ____ School District’’ and each bond and all interest coupons shall state that the tax for the payment thereof shall be limited to annual taxes to be levied upon and collected from the lands within the school facilities improvement district.

15353. The bonds shall be issued in the denomination or denominations as the board of supervisors of the county in which the county superintendent of schools has jurisdiction over the school district in which the school facilities improvement district is located may prescribe.

15354. The bonds shall not bear a rate of interest greater than 8 percent per annum, payable annually or semiannually.

15355. The number of years the whole or any part of the bonds are to run shall not exceed 25 years, from the date of the bonds or the date of any series thereof.

15356. (a) The board of supervisors of the county in which the county superintendent of schools has jurisdiction over the school district in which the school facilities improvement district is located shall prescribe the form of the bonds by an order entered upon its minutes. The bonds shall be signed by the chairperson of the board of supervisors, or by any other member thereof as the board of supervisors shall, by resolution adopted by a four-fifths vote of all its members, authorize and designate for that purpose, and also signed by the treasurer of the county, and shall be countersigned by the clerk of the board of supervisors or by a deputy of either of the officers. Unless the board of supervisors otherwise provides, all the signatures and countersignatures may be printed, lithographed, engraved, or otherwise mechanically reproduced except that one of the signatures or countersignatures to the bonds shall be manually affixed. Any signature may be affixed in accordance with the provisions of the Uniform Facsimile

Signatures of Public Officials Act, Chapter 6 (commencing with Section 5500) of Title 1 of the Government Code. All expenses incurred for the preparation, sale, and delivery of the school facilities improvement bonds, including but not limited to, fees of an independent financial consultant, the publication of the official notice of sale of the bonds, the preparation, printing, and distribution of the official statement, the obtaining of a rating, the purchase of insurance insuring the prompt payment of interest and principal, the preparation of the certified copy of the transcript for the successful bidder, the printing of the bonds, and legal fees of independent bond counsel retained by the school facilities improvement district issuing the bonds are legal charges against the funds of the school facilities improvement district issuing the bonds and may be paid from the proceeds of sale of the bonds.

(b) Notwithstanding subdivision (a), the board of supervisors may, in its discretion, determine that all of the required signatures and countersignatures shall be by facsimiles, provided, however, that the bonds shall not be valid or become obligatory for any purpose until manually signed by an authenticating agent duly appointed by the board or its authorized designee.

15357. The board of supervisors shall establish within the country treasury a school facilities improvement fund for each school facilities improvement district the purpose of depositing the proceeds of the bonds issued pursuant to this chapter. The board of supervisors shall also establish within the county treasury a school facilities improvement bond interest and sinking fund for each school facilities improvement district.

15358. The bonds shall be issued by the board of supervisors, payable out of the interest and sinking fund of the school facilities improvement district. The board of supervisors, in its discretion, and without further authorization from the governing board of the school district in which the school facilities improvement district is located, may sell the bonds at a negotiated sale or by competitive bidding. The bonds may be sold at a discount

not to exceed 5 percent and at an interest rate not exceeding the maximum permitted by Section 15354. If the sale is by competitive bid, the board of supervisors shall comply with the provisions of Sections 15359 and 15359.1. The bonds shall be sold by the board of supervisors no later than the date designated by the governing board of the school district in which the school facilities improvement district is located as the final date for the sale of the bonds. The proceeds of the sale of the bonds, exclusive of any premium received, shall be deposited in the county treasury to the credit of the school facilities improvement fund of the school facilities improvement district. The proceeds deposited shall be drawn out as necessary to finance the purposes approved by the voters pursuant to this chapter. The bond proceeds withdrawn shall not be applied to any other purposes than those for which the bonds were issued. Any premium or accrued interest received from the sale of the bonds shall be deposited in the interest and sinking fund of the county treasury established for the school facilities improvement district.

15359. Before selling the bonds, or any part of them, the board of supervisors as appropriate, shall advertise for bids at least two weeks in some daily or weekly newspaper of general circulation published in the county whose county superintendent of schools has jurisdiction over the governing board of the school district in which the school facilities improvement district is located or if there is no newspaper published in the county, in a newspaper published in some other county in the state having a general circulation in the county.

15359.1. If satisfactory bids are received, the bonds offered for sale shall be awarded to the highest responsible bidder or bidders, and the county clerk shall prepare and certify to all of the proceedings on file in his or her office relative to the issuance and sale of the bonds, which transcript of proceedings shall be delivered to the successful bidder or bidders without charge. If no bids are received, or if the board determines that the bids received exceed either the maximum acceptable interest

rate prescribed by the governing board or the maximum rate prescribed by Section 15353, or that they are not satisfactory as to price or responsibility of the bidders, the board may reject all bids received, if any, and without further authorization from the governing board of the school district in which the school facilities improvement district is located, either readvertise or sell the bonds at private sale.

For the purpose of determining whether or not a bid exceeds the maximum acceptable interest rate, the interest rate of that bid shall be deemed to be the interest rate resulting from the total net interest cost arrived at by computing the total amount of interest that the school facilities improvement district would be required to pay from the date of the bonds to the respective maturity dates thereof at the rate or rates specified in the bid and by deducting therefrom any premium bid.

15359.2. The issuing school facilities improvement district, by action of the governing board of the school district in which the school facilities improvement district is located, may prepare, or have prepared, bond brochures to serve as a prospectus for bond buyers to assist in the satisfactory sale of the bonds, the expense of the brochures shall be payable out of the funds of the district. The brochures may be prepared only after the issuance of the bonds to be sold has been approved by the electors of the school facilities improvement district pursuant to Article 4 (commencing with Section 15340).

The issuing school facilities improvement district by action of the governing board in which the school facilities improvement district is located may expend funds of the school facilities improvement district for the purposes of advertising the availability of the bonds for purchase in any publication or newspaper that in the opinion of that governing board will give notice to prospective bond buyers that the bonds are available for purchase by bond buyers.

Article 6. Required Form of Bonds

15360. Notwithstanding any other provision of law, whenever any bonds are issued pursuant to this chapter, the bonds may be issued either in the form of coupon bonds, or in the form of registered bonds, or some in the form of coupon bonds and some in the form of registered bonds, as may be provided in the proceedings for the issuance of the bonds.

15361. If any officer whose signature, countersignature, or attestation appears on any school facilities improvement bonds or coupons ceases to be an officer before the delivery of the bonds to the purchaser, the signature, countersignature, or attestation either on the bonds or the coupons, or on both, is valid and sufficient for all purposes as if the officer had remained in office until the delivery of the bonds, and the signature upon the coupons of the person who is auditor at the date of the bonds, is valid although the bonds themselves may be attested by a different person who is auditor at the time of delivery of the bonds.

15362. Any bonds executed in the manner provided by the board of supervisors shall be valid, notwithstanding any change in the officers who signed the bonds or the coupons, or in the seal of the board of supervisors, occurring after the execution.

Article 7. Registration of Bonds

15370. Whenever the owner of any coupon bond or of any bond payable to bearer presents the bond to the treasurer or other officer of the county in which the school facilities improvement bonds are issued is located, who by law performs the duties of treasurer, with a request for the conversion of the bond into a registered bond, the treasurer or other officer shall cut off and cancel the coupons of the coupon bond, and shall stamp, print, or write upon the coupon bond or other bond payable to the bearer, either upon its back or upon its face, as may be convenient, a statement to the effect that the bond is

registered in the name of the owner and that thereafter the interest and principal of the bond are payable to the registered owner.

15371. After registration, any bond may be transferred by the registered owner in person, or by attorney duly authorized, on presentation of the bond to the treasurer or other officer performing the duties of treasurer. The bond may be again registered as before, a similar statement being stamped, printed, or written thereon.

15372. The statement stamped, printed, or written upon the bond may be substantially in the following form:

(Date, giving month, day, and year.)

This bond is registered pursuant to the statute in the cases made and provided in the name of (insert name of owner) and the interest and principal thereof are hereafter payable to the owner.

_____

Treasurer (or other officer)

15373. After any bond has been registered as provided in this article, the principal and interest of the bond shall be payable to the registered owner.

15374. The treasurer or other officer shall keep in his or her office a book or books that shall at all times show what bonds are registered and in whose name respectively.

Article 8. Cancellation of Unsold Bonds

15380. If any bonds authorized under this chapter have not been offered for sale for one year from the date of the election at which they were authorized or remain unsold for a period of six months after having been offered for sale in the manner prescribed by the board of supervisors, the governing board of the school district in which the school facilities improvement district is located and for which the bonds were authorized, may petition the board of supervisors that has jurisdiction of the

issuance and sale of the bonds to cause the unsold bonds to be canceled.

15381. Upon receiving the petition, signed by a majority of the members of the governing board of the school district in which the school facilities improvement district is located, the board of supervisors shall fix a time for a hearing, which shall not be more than 30 days after receipt of the petition, and shall cause a notice stating the time and place of the hearing, and the object of the petition in general terms, to be published for 10 days prior to the hearing, in a newspaper published in the school facilities improvement district if there is one, and if there is no newspaper published in the school facilities improvement district, in a newspaper published at the county seat of the county.

15382. At the time and place designated in the notice, or at any subsequent time to which the hearing may be postponed, the board of supervisors shall hear any reasons that may be submitted for or against the granting of the petition.

15383. If the board of supervisors deem it for the best interests of the school facilities improvement district named in the petition that the unsold bonds be canceled, it shall make and enter an order in the minutes of its proceedings that the unsold bonds be canceled. Upon the entry of the order the bonds and the vote by which they were authorized to be issued shall cease to be of any validity.

15384. The governing board of a school district in which a school facilities improvement district is located may petition the board of supervisors to cancel the remaining authorization of that district to issue and sell bonds resulting from any particular school bond election after the sale of at least ninety percent (90%) of the bonds authorized at the election if the amount of the remaining authorization is not more than twenty-five thousand dollars ($25,000) and in the opinion of the governing board the sale of the remaining bonds would not be economically justified. The provisions of Sections 15381 and 15382 shall be applicable and at or following the

hearing therein provided for, the board of supervisors, if it determines that the public interest will be served thereby, may make and enter an order in the minutes of its proceedings that the remaining authorization be canceled. Upon the entry of the order the vote by which the remaining authorization was created shall cease to be of any validity with respect to such remaining authorization.

Article 9. Purchase of Bonds by Issuing School Districts

15390. The governing board of a school district in which a school facilities improvement district is located may purchase in the open market bonds issued by the school facilities improvement district with available funds from the school facilities improvement fund.

15391. When any bonds issued by a school facilities improvement district have been purchased by the governing board of the school district in which the school facilities improvement district is located, the bonds shall be deemed canceled and of no further validity. The governing board of the school district in which the school facilities improvement district is located shall immediately, after purchasing the bonds, notify the board of supervisors of its action, describing the bonds purchased. At its first meeting thereafter the board of supervisors shall note the purchase and cancellation of the bonds in the minutes of its proceedings.

Article 10. Method of Bond Payment

15400. The board of supervisors by an order entered upon its minutes shall fix the time when the whole or any part of the principal of the bonds shall be payable, which shall not be more than 25 years from the date of the bonds. If the governing board of the school district in which the school facilities improvement district is located has prescribed in its resolution the time or times when the whole or any part of the bonds shall be payable, the times

and amounts shall be fixed by the order of the board of supervisors.

Any bonds may be issued subject to call and redemption before maturity at the option of the governing board of the school district in which the school facilities improvement district exists. The governing board may include in its resolution a requirement that all or any part of the bonds shall be issued subject to call and redemption before maturity and the price or prices at which said bonds shall be redeemed. The board of supervisors, in its order fixing the form of the bonds and the maturities thereof, shall provide that the bonds be redeemable at the option of the governing board and at the price or prices fixed in the resolution. Bonds issued subject to call and redemption prior to maturity shall contain a recital to that effect, and no bond shall be subject to call or redemption prior to maturity unless it contains the recital. The board of supervisors in its order shall fix the method of giving notice of redemption to holders of bonds to be redeemed.

15401. The board of supervisors at the direction of the governing board of the school district in which the school facilities improvement district is located may divide the principal amount of bonds authorized at any election into two or more series and may fix different dates for the bonds of each series, in which event the maximum maturity date of the bonds shall be calculated from the date of each series respectively. When the issuance of bonds shall have been authorized pursuant to two or more propositions submitted at the same or different elections, all or any part of the bonds not theretofore issued may be combined and issued and sold as one or more series.

15402. The board of supervisors may make the principal and interest of the bonds payable at the office of the treasurer of the county, or at any other place within the United States which the board may designate, or at the office of the county treasurer, or at any other designated place at the option of the bondholder. The place of payment shall be specified in the bonds. The

expense of paying the bonds elsewhere than at the office of the treasurer shall be a proper charge against the school facilities improvement district to be paid out of the tax levied and collected for the payment of the bonds.

15403. The principal and interest on the bonds shall be paid by the county treasurer of the county in which the superintendent of schools has jurisdiction of the school district in which the school facilities improvement district is located, at the place required by the terms of the bonds, upon presentation and surrender of warrants drawn by the county auditor in payment thereof, after he or she has canceled the bonds and coupons, or upon the receipt of the registered owner, if the bonds are registered, after a proper warrant has been drawn by the auditor, out of the fund provided for their payment.

15404. Any money remaining in the interest and sinking fund of any school facilities improvement district after the payment of all bonds and coupons payable from the fund, or any money in excess of an amount sufficient to pay all unpaid bonds and coupons payable from the fund, shall be transferred to the general fund of the governing board of the school district in which the school facilities improvement district is located upon the order of the auditor.

15405. Any money paid into the county treasury of the county and credited to the interest and sinking fund of any school facilities improvement district remaining after the payment of all bonds and coupons payable from the fund, or which is in excess of an amount sufficient to pay all unpaid bonds and coupons payable from the fund, shall be transferred to the special reserve fund of the school district in which the school facilities improvement district is located and may be used only for the purpose specified in Section 42840.

Article 11. Tax for Payment of Bonds

15410. The board of supervisors of the county in which the superintendent of schools of who has jurisdiction over a school district in which a school facilities improvement

district is located shall annually at the time of making the levy of taxes for county purposes levy a tax for that year upon the property in the school facilities improvement district for the interest and redemption of all outstanding bonds of the district. The tax shall not be less than sufficient to pay the interest on the bonds as it becomes due and to provide a sinking fund for the payment of the principal on or before maturity and may include an allowance for an annual reserve, established for the purpose of avoiding fluctuating tax levies. The tax shall be sufficient to provide funds for the payment of the interest on the bonds as it becomes due and also that part of the principal and interest as is to become due before the proceeds of a tax levied at the time for making the next general tax levy can be made available for the payment of the principal and interest.

15411. All taxes levied, when collected, shall be paid into the county treasury of the county whose superintendent of schools has jurisdiction over the school district in which the school facilities improvement district is located and on behalf of which the tax was levied. All collected tax revenues shall be used exclusively for the payment of the principal and interest of the bonds of the school facilities improvement district, including any sinking fund.

15412. The board of supervisors of the county whose superintendent of schools has jurisdiction over the school district in which the school facilities improvement district is located, shall annually at the time of making the levy of taxes for county purposes estimate the amount of money required to meet the payment of the principal and interest on bonds of the district authorized by the electors of the district and not sold, and that the governing board of the school district informs the board on their belief will be sold before the next tax levy, and the board of supervisors shall levy a tax sufficient to pay the principal and interest so estimated.

15413. If the bonds are declared invalid or are not issued for any reason, the tax levied and collected shall be retained in the interest and sinking fund of the school

facilities improvement district to meet the interest and principal falling due on the bonds. If the school facilities improvement district has no bonds outstanding the proceeds of the tax levy shall be transferred to the general fund of the school district in which the improvement district is located on the order of the auditor.

15414. This article shall apply only to general obligation bonds issued for one or more purposes specified in Section 15302 and approved by two-thirds of the votes cast by the voters voting on the proposition.

Article 12. Tax for Payment of Bonds of School Facilities Improvement District Located in Two or More Counties

15420. If a school facilities improvement district lies in two or more counties, the assessor of each of the counties in which the district lies, shall annually as soon as the county assessments have been equalized by the State Board of Equalization, certify to the board of supervisors of each of the counties in which any portion of the schools facilities improvement district is located, the assessed value of all taxable property in the county located within the school facilities improvement district or community college district. The tax shall be levied according to the ratio which the assessed value of the property in the district in any county bears to the total assessed value of the property in the school facilities improvement district. Each board of supervisors shall levy upon the property of the school facilities improvement district and within its own county the rate of tax that will be sufficient to raise not less than the amount needed to pay the interest and the portion of the principal of the bonds as is to become due during the year.

15421. The tax shall be entered upon the assessment roll and collected in the same manner as other on real property.

The tax when collected shall be paid into the county treasury of the county. The treasurer of any county, other than the one whose superintendent of schools has

jurisdiction over the school district in which the school facilities improvement district is located, shall, upon order of the county auditor, pay the sum collected on account of the tax into the treasury of the county whose superintendent of schools has jurisdiction over the school district in which the community facilities district is located.

15422. This article shall apply only to general obligation bonds issued for one or more purposes specified in Section 15302 and approved by two-thirds of the votes cast by voters voting on the proposition.

Article 13. Maximum Tax for Payment of Bonds

15425. Notwithstanding any other provision of this chapter, it is the intent of the Legislature that the rate of taxes levied annually upon the property in a school facilities improvement district pursuant to this chapter not be greater than the rate of the annual special tax levied upon parcels in the same school district that are part of a community facilities district formed pursuant to the Mello-Roos Community Facilities Act of 1982, as set forth in Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5 of the Government Code. A determination by the governing board of a school district, made at the time bonds are sold pursuant to this chapter, that the rate of taxes to be levied annually upon the property in the school facilities improvement district, based upon tax rate estimates prepared pursuant to Section 9401 of the Elections Code, does not exceed the rate of the annual special tax levied upon parcels in the same school district that are part of a community facilities district formed pursuant to the Mello-Roos Community Facilities Act of 1982, shall be conclusive evidence of compliance with the intent of this section.

CHAPTER 3. CALL AND REDEMPTION OF STATE SCHOOL CONSTRUCTION BONDS

15600. The State School Building Finance Committee or other governmental body empowered to make a

determination of whether any or all of the bonds authorized to be issued by the state, under legislation enacted following the effective date of this section, for the purpose of assisting local school districts in the acquisition of sites, the construction of school buildings and related facilities, and the purchase of furniture and equipment, may instruct the Treasurer to include in the bonds, or any of them, provisions permitting their call and redemption at the option of the state prior to their maturity and indicating the price at which such bonds shall be subject to redemption; and it shall be the duty of the Treasurer to comply therewith. No bonds shall be subject to call or redemption prior to maturity unless they contain a recital to that effect.

CHAPTER 4. STATE SCHOOL BUILDING AID LAW, 1949

Article 1. General Provisions

15700. The Legislature hereby declares that it is in the interest of the state and of the people thereof for the state to aid school districts of the state in providing necessary and adequate school sites and buildings for the pupils of the public school system, the system being a matter of general concern inasmuch as the education of the children of the state is an obligation and function of the state.

In adopting this act, the Legislature considers that the great need in school construction is for adequate classrooms for the education of the pupils of the public school system. It is the intent of the Legislature to first satisfy this primary need to the greatest extent possible before providing additional educational facilities, regardless of how desirable such additional facilities may be. To the end that school classrooms may be made available at once and to all school districts in need of such classrooms, provisions for other needed school facilities is necessarily subordinated.

15701. As used in this chapter:

(a) ‘‘Board’’ means the State Allocation Board.

(b) ‘‘Director’’ means the Director of Education for kindergarten and grades 1 to 12, inclusive.

(c) ‘‘Project’’ means the purposes for which a school district has applied for an apportionment under this chapter.

(d) ‘‘Grade level maintained by a district’’ means either of the following:

(1) The kindergarten, if any, and grades 1 to 6, inclusive, or grades 1 to 8, inclusive, maintained by an elementary school district or a unified school district.

(2) Grades 7 to 12, inclusive, grades 9 to 12, inclusive, or grades 7 to 10, inclusive, maintained by a high school district or unified school district.

(e) ‘‘Apportionment’’ means an apportionment made under this chapter unless the context otherwise requires.

15702. The Director of General Services shall administer this chapter and shall provide any assistance to the board that it may require.

15703. The State Allocation Board is continued in existence for the purposes of this chapter. The members of the board and the Members of the Legislature meeting with the board in an advisory capacity shall receive no compensation for their services under this chapter but shall be reimbursed for their actual and necessary expenses incurred in connection with the performance of their duties hereunder, to be paid out of the Public School Building Loan Fund.

15704. The board by the adoption of rules shall give priority in allocating funds to districts to those districts where the children will benefit most from additional schoolhouse facilities. This priority shall be based on acuteness of overcrowding, on sudden growth in attendance, on amount of local tax funds expended for housing of a character within the purposes of this chapter, and on the time the district’s application has been ready for allotment. The board may make exceptions when it determines that it will be for the benefit of the children affected.

In adopting rules the board may provide for the granting of priority points to govern the allocation according to the following schedule:

(a) Two priority points may be granted for each percent of the latest computed average daily attendance of the district that is inadequately housed. The number of inadequately housed pupils is the latest computed average daily attendance of the district less the sum of both of the following:

(1) Any classrooms up to a total of two, multiplied by 25.

(2) Any classrooms in excess of two, multiplied by 33.

The term ‘‘classrooms’’ for the purposes of this computation shall mean any school classrooms, temporary and permanent, determined by the State Department of Education to be safely usable.

(b) One priority point may be granted for each 5 percent of the latest computed average daily attendance of the district that represents an increase over the average daily attendance for the fifth preceding school year.

(c) One point of priority may be granted for each one-twentieth of 1 percent of the assessed valuation of the district, collected in taxes and expended for school housing within the scope of this chapter since July 1, 1944. Expenditure of the proceeds of the sale of bonds shall not be counted but expenditure for interest and retirement of bonds shall be counted.

(d) Not more than one point of priority shall be allowed for each calendar month that the completed application of the district has awaited funds.

If any computation of priority points made under this section results in a fraction of a point, that fraction shall be disregarded and the number of priority points shall be taken as the next lowest whole number.

These priorities shall be recomputed at least semiannually when funds are available for allocation, on the respective periods of time next preceding the date of computation. The State Department of Education shall

assist and cooperate with the board in determining priority ratings.

15705. In addition to any other powers and duties as are granted the board by this chapter, the board shall do each of the following:

(1) Establish any qualifications not in conflict with other provisions of this chapter that it deems will best serve the purposes of this chapter for determining the eligibility of school districts to apportionments of funds under this chapter.

(2) Establish any procedures and policies in connection with the administration of, and the expenditure of funds made available for the purpose of, this chapter that it deems necessary and which are not in conflict with the powers and duties of the State Department of Education or of the director granted or imposed by this chapter.

(3) Adopt any rules and regulations for the administration of this chapter, requiring any procedure, forms, and information, that it may deem necessary.

15706. Apportionment from the Public School Building Loan Fund to school districts shall be made in the manner and subject to the conditions herein provided and in accordance with policies adopted by the board, for all of the following purposes:

(a) The purchase and improvement of school sites which have been approved by the State Department of Education.

(b) The purchase of desks, tables, chairs, and built-in or fixed equipment, as listed in Part III of the California School Accounting Manual contained in the Bulletin of the California State Department of Education, Volume XIII, No. 2, June, 1944, or as amended or revised.

(c) The planning and construction, reconstruction, alteration of, and addition to, school buildings for any facilities that are approved by the State Department of Education as essential, all of which purposes are hereby declared to be, and are, public works.

Where a district is required by a contract entered into between itself and a contractor, to obtain at its own

expense insurance covering risks incurred during any construction, reconstruction or alteration for which an apportionment has been made, the costs thereof may be paid either directly, or by way of reimbursement, to the district out of the apportionment, or out of any apportionment made specifically covering the insurance. However, in other respects the apportionments are eligible for payment under this chapter.

15707. In addition to the purposes for which apportionments may be made to school districts under Section 15706, apportionments may also be made to school districts for the construction, repair, attachment or development of off-site facilities, utilities or improvements which the board determines are necessary to the proper operation or functioning of the school facilities for which apportionments are made, all of which purposes are hereby declared to be, and are, public works.

15708. In making application for, and in expending, apportionments of funds under this chapter, a school district acts as an agent of the state and all sites purchased and improved, all equipment purchased, and all buildings constructed, reconstructed, altered, or added to through the expenditure of funds apportioned under this chapter, are declared to be, and are, the property of the state. Upon the payment by the district of the amounts required to be paid by it to the state under this chapter the board shall, in the name of the state, convey the property to the district.

15709. The board may require school districts to insure for the benefit of the state all sites, equipment, and buildings which are under Section 15708 the property of the state, against any risks and in any amounts that the board may deem necessary to protect the interests of the state. No state funds apportioned under this chapter shall be used to pay the premiums on said insurance.

15710. Where a district is required by a contract entered into between itself and a general construction contractor to obtain, at its own expense, insurance covering risks incurred during any construction for which

an apportionment has been made, the cost thereof may be paid directly to said district out of the Public School Building Loan Fund.

It is the intent and purpose of this section to provide for reimbursement to school districts for any builders' risk insurance that may have been furnished and paid for by the districts in connection with approved apportionments from the Public School Building Loan Fund from the time of the effective date of Chapter 1389 of the Statutes of 1949.

The Legislature in adopting this section expressly recognizes that eligible school districts in making provision for builders' risk insurance during the period of construction of new buildings has provided a saving for the taxpayers of the district, and also has reduced the amount which otherwise would have been paid out of the Public School Building Loan Fund to the district if the cost of the builders' risk insurance had been borne by the contractor with the district. For this reason the Legislature hereby finds, determines, and declares that the adoption of this section having an effect retroactive to the effective date of Chapter 1389 of the Statutes of 1949 is therefore lawful, proper, and represents the saving of public funds for a lawful and public purpose.

The Controller of the State of California is hereby authorized and directed to cancel and annul any claims or demands against the school district arising out of, or in any way connected with, claims for reimbursement from the school districts to the Public School Building Loan Fund arising out of the direct purchase of builders' risk insurance on any construction by any school district under an approved application by the board.

15712. Funds apportioned to a school district under this chapter for a project, remaining unencumbered or unexpended one year from the date the application of the district for the apportionment was approved, shall not be encumbered or expended except as provided in this section.

The governing board of the district shall notify the board of its desire to encumber or expend the funds. The

board shall immediately request the State Department of Education to, and the department shall, review the project for which apportionment was made. If the State Department of Education finds that the conditions existing at the time it approved the project for which the apportionment was made have so changed that the needs of the district are less than originally determined, it shall notify the board of its findings and of the respects in which the project should accordingly be modified. The board shall review the project and revise the project in any manner that it deems necessary, subject to the provisions of Section 15727, and make any changes in the purposes for which the apportionment may be expended that it deems necessary. The cost of the project as revised by the board shall be computed in the manner prescribed by Section 15713 and the excess, if any, of the amount theretofore apportioned to the district over the computed cost of the revised project shall be deducted by the board from the apportionment made to the district. The board shall give notice of its action, in writing, to the Controller, the governing board of the district, and the county auditor and the county treasurer having jurisdiction over the public school building fund of the district. If the amount of the excess, or any portion thereof, has not been paid to the district, the excess, or portion thereof, shall be made available for apportionment to other districts. If the excess, or portion thereof, has been paid to the district, it shall not be encumbered or expended by the district and shall become due and payable to the State of California. The governing board of the district and the county treasurer shall pay that amount to the Treasurer, out of the funds, and in the manner specified in Section 15752. The payment shall, on order of the Controller, be deposited in the Public School Building Loan Fund in the State Treasury.

It shall be the duty of the governing body and county treasurer to make the payments to the Treasurer as provided in this section, and it shall be the duty of the Controller to enforce the collection on behalf of the state.

This section does not authorize the board to increase any apportionment made to a district.

15713. Each school district which desires an apportionment for a grade level maintained by it, shall submit through its governing board to the board an application therefor in any form and number of copies that the board shall prescribe. Each copy of the application shall be accompanied by a statement of the estimated cost of the project certified by an architect or structural engineer, and by layout plans showing the entire project for which the district desires an apportionment. Estimates of cost for new construction appearing in an application shall not exceed typical current costs of comparable new construction by school districts in the same area not receiving or not eligible for apportionment under this chapter, as determined by the Director of General Services, or if there has been no new construction by districts in the area, the estimates of cost shall not exceed the reasonable current cost of similar construction in the area as determined by the Director of General Services. Immediately upon receipt of an application in the prescribed form accompanied by the required estimate of cost, a copy thereof shall be transmitted by the board to the director and to the Director of General Services.

A district may at any time amend or supplement its application.

The Director of General Services shall determine the school district's financial ability to meet all or a portion of the cost of the project and the amount which the district can contribute toward the cost of the project out of its available funds, and shall submit his report thereon to the board.

The directors shall as promptly as possible prepare a report and recommendation with respect to the application and refer the application, report, and recommendation to the Director of General Services, who shall, if he or she finds the documents to be in proper form and otherwise sufficient, refer them to the board. If the Director of General Services finds the documents to

be lacking in any respect as to any matter which is subject to the jurisdiction or approval of the director or State Department of Education, he or she shall refer them to the director who shall take any action that may be necessary. The board shall, subject to the provisions of this chapter approve or reject each application referred to it by the Director of General Services. If the board approves of the application, either in whole or in part, it shall, by a resolution adopted by it, apportion to the district from the Public School Building Loan Fund the amount applied for, or any portion thereof that the board may deem appropriate. However, it may order that the apportionment or any part thereof shall be paid in progressive installments at the times and under the conditions that it may then prescribe. This shall be known as a conditional apportionment and shall become final only if the vote provided for in Section 15721 is favorable and if bonds are authorized and sold in the amounts prescribed by the board, and the proceeds of the bonds sold earmarked for the project as approved. The conditional apportionment shall remain effective for a period of nine months from the date of the resolution of the board, and if it does not become a final apportionment by the date, it shall become void and the money so apportioned shall become again available for apportionment pursuant to this chapter.

The board may for any good cause that it shall determine, reduce the amount of, or modify any provisions relating to, any contribution required of a district under the terms of an apportionment, other than any contribution required of the district under Section 15721 from the sale of bonds. However, the board may not, without the consent of the district, increase the amount of any district contribution under the terms of an apportionment, in the absence of mistake arising from any source, or misrepresentation, concealment, or omission, on the part of the district, intentional or otherwise. The provisions of this paragraph shall be applicable to apportionments heretofore or hereafter made.

15714. When an apportionment has been made by the board to a school district the board may, upon application of the governing board of the district, authorize the governing board to transfer funds from other authorized purposes if more than one purpose has been authorized in the district by the board, or to make additional apportionments to the district, or both, if the board determines that additional apportionments or transfers are necessary to meet the actual cost of the specific school plant facilities or sites for which the original apportionment was made. An apportionment made under this section shall be final if the original apportionment has become final, otherwise it shall become final if and when the original apportionment becomes final.

All provisions of this chapter shall apply to apportionments made under this section, except Sections 15713, 15721, 15722, 15725, and 15726 exclusive of the second paragraph of Section 15726 and any other provisions that may relate to application and eligibility for apportionments.

15715. The board may approve, in whole or in part, an application submitted by a school district under Section 15713 and in the amount, not exceeding the amount applied for, that the board may deem appropriate.

The board may, upon approval of the application, in whole or in part, and subsequently from time to time, make a conditional apportionment or conditional apportionments not exceeding in the aggregate the total amount determined by the board as aforesaid, to the applicant school district from the Public School Building Loan Fund for that portion or portions of the project that the board determines the district is ready to proceed with. If the board has approved an application and made an apportionment as to a portion or portions of a project, the board may approve the remaining portion or portions of the project and make an additional apportionment or apportionments within two years after the original approval without requiring a district to issue additional bonds.

The total of the amounts of applications as approved by the board under this section shall not, when added to all amounts apportioned to school districts by the board under Section 15713, exceed 90 percent of the total amount of state school building bonds authorized to be issued and sold by Section 2 of Article XVI of the Constitution of the state.

Except as otherwise provided in this section, all provisions of this chapter relating to apportionments shall apply to apportionments made under this section.

Approval of an application under this section shall not be construed as creating or implying any obligation, commitment or promise on the part of the board or the state to make apportionments under this chapter.

15716. If, after a conditional apportionment has been made to a school district, legal proceedings initiated prior or subsequent to the making of the conditional apportionment prevent the taking, within the period during which the conditional apportionment remains effective under Section 15713, of the actions necessary to permit the conditional apportionment to become final, the conditional apportionment shall nevertheless remain effective for a period of nine months from the date upon which the legal proceedings are finally determined. The amount of the apportionment may be diminished by the board after a second investigation at which the board shall determine whether conditions existing at the time it approved the project for which apportionment was made have so changed that the needs of the district are less than originally determined and if so the conditional apportionment shall be reduced by a corresponding amount.

15717. With respect to any apportionment made to a school district prior to December 26, 1950, the board may, on the application of the governing board of the district make additional apportionments to the school district for the purchase of the furniture authorized by Section 15706. An apportionment made under this section shall be final if the original apportionment has become final;

otherwise it shall become final if and when the original apportionment becomes final.

All provisions of this chapter shall apply to apportionments made under this section, except Sections 15713, 15721, 15722, 15725, and 15726, exclusive of the second paragraph of Section 15726, and any other provisions that may relate to applications and eligibility for apportionments.

15718. The sum of two million dollars ($2,000,000) was by Chapter 13 of the Statutes of 1952 (First Extraordinary Session) made available from the Public School Building Loan Fund for apportionment by the board pursuant to this chapter, except as otherwise provided by this section and to be transferred by the Controller as needed into a separate account in the State School Building Fund which was created in the State Treasury.

Apportionments made under this section shall be available as grants to those school districts to which apportionments have been made under this chapter, prior to April 1, 1952, and only for the amounts thereof as are in excess of the apportionments the voters of the districts voted to accept and repay under Sections 15721, 15722, and 15723.

If and when the electors of districts receiving apportionments under this section, vote to accept and repay additional amounts under Sections 15721, 15722, and 15723, the board may make apportionments under other sections of this chapter in substitution in whole or in part of the grants made under this section.

In the event the electors of the district fail to vote to accept and repay the additional amounts or if apportionments covering the amounts are not made under other sections of this chapter, beginning in September, 1953, and annually for nine years thereafter, apportionments made to the districts from the State School Fund under Sections 46304, 46305, and 92 or 41050, Sections 41330 to 41343, inclusive, and Sections 41600 to 41972, inclusive, or any successor thereof, shall be reduced by an amount equivalent to one-tenth of the amount apportioned under this section. This section shall

not be applied so as to reduce any average daily attendance apportionment below the constitutional minimum. During the year beginning September, 1953, and each year thereafter in which the Controller determines that the apportionment of any district is to be reduced as herein provided, he or she shall deduct the total amount of the annual repayment of each district in equal amounts from each installment of the apportionments made to the district. The amount deducted shall, on order of the Controller, be transferred from the State School Building Fund to the General Fund at the time and for the purpose provided in Section 15903.

Notwithstanding any other law, taxes in the districts shall be increased sufficiently to offset the amounts by which the average daily attendance apportionments are reduced under this section. The tax increases shall be made in the manner prescribed under Section 15742 of this chapter.

Any amounts made available by this section which are not apportioned by June 30, 1953, and any recovery by substitution of apportionments made in accordance with this section shall be transferred to the Public School Building Loan Fund.

15719. No apportionment shall be made for new construction which when added to the area of adequate school construction existing in the applicant school district at the time of application, will provide a total area of school building construction per pupil of the estimated enrollment in excess of that computed under the following schedule:

Type of school	Enrollment	Square feet per pupil
Elementary school comprising kindergarten and grades 1 to 6, inclusive	300 or more	55
Elementary school comprising grades 7 and 8	750 or more	75
Junior high school comprising grades 7 and 9, inclusive	750 or more	75

Junior high school comprising grades 7 to 10, inclusive	750 or more	75
High school comprising grades 7 to 12, inclusive	750 or more	80
High school comprising grades 9 to 12, inclusive	750 or more	80
High school comprising grades 10 to 12, inclusive	750 or more	80

The maximum total building areas per pupil allowed to applicants having schools with smaller estimated enrollments than shown in the above schedule shall be determined by the State Department of Education, and shall be building areas to provide comparable facilities to those enumerated above, and shall be the least building area required to house adequately the estimated enrollment and the normal instructional and other services.

No estimate of enrollment made by an applicant for the purpose of justifying an apportionment shall be made for a longer time than the second fiscal year beyond the fiscal year in which an application is made, and in no case shall be given effect unless approved by the State Department of Education.

15720. Payment shall be made in accordance with the terms of a final apportionment, either directly or by way of reimbursement, to a school district for expenditures, or commitments therefor, which have been made by the district subsequent to December 5, 1949, for any items approved by the board in the apportionment. However, where expenditures were made for, or work was commenced with respect to, any item so approved, prior to the time the application of the district containing the item was received by the board, payment or reimbursement for the item, either with state funds or with district funds which the district is required to contribute by the apportionment, shall be made only upon authorization of the board by special resolution citing this section.

15721. No apportionment to a school district shall become final unless one of the following is satisfied:

(a) The total amount of outstanding bonds of the district exceeds 95 percent of the maximum amount of bonds which the district could have had outstanding under any law on the date the conditional apportionment is made.

(b) If the total amount of the bonds of the district outstanding and unpaid is less than 95 percent of the amount of the bonds permitted to be issued by the district, the amount of district bonds outstanding is within twenty-five thousand dollars ($25,000) of the total bond limit permitted, as of the date on which the conditional apportionment is made. At the time the board makes a conditional apportionment pursuant to Section 15713, it shall determine what portion of the total amount of bonds which a district is permitted to issue and sell by law shall be issued and sold by the district, the proceeds of which shall be applied toward the cost of the project for which the apportionment is sought. The portion so determined by the board shall be not less than the minimum amount required for the apportionment to become final under this section. Any apportionment made by the board pursuant to Section 15713 shall be conditioned upon the approval and sale of the bonds by the district.

No apportionment to a district shall become final unless, at an election called by the governing board of the district, two-thirds of the qualified electors of the district voting thereat have authorized the governing board of the district to accept, expend, and repay, as provided in this chapter, an apportionment under the provisions of this chapter. The election shall be combined with and held at the same time as the bond election to authorize the amount of bonds required by the board, if any, and shall be called, held, and conducted in the same manner as are elections to authorize the issuance of district bonds, except that the ballot, in addition to the bond proposition, shall contain substantially the following words:

"Shall the governing board of the ____ school district be authorized to accept and expend an

apportionment in an amount not to exceed ____ dollars ($____) from the State of California under and subject to the provisions of Chapter 6 (commencing with Section 15700) of Part 10 of Division 1 of Title 1 of the Education Code which amount is subject to repayment as provided by said chapter? Yes __ No __.''

15722. Immediately after the result of the election has been determined, the county superintendent of schools shall make a certificate in duplicate stating whether the bonds have been authorized in the amount prescribed by the board and whether the school district has authorized the acceptance and expenditure of the apportionment. One copy of the certificate shall be sent to the board and one copy to the Controller. When the bonds authorized have been issued and sold and the proceeds thereof made available for the purposes of the application, the county superintendent of schools shall also certify this fact to the board and the Controller. Upon the receipt by the board of the certificate stating that the bonds have been issued and sold and the proceeds thereof made available for the purposes of the application, the apportionment shall become final.

15723. The election by a school district upon the acceptance, expenditure, and repayment of an apportionment prescribed by Section 15721 may be called and held either before or after the making of an apportionment.

All elections held prior to October 13, 1950, whether before or after the making of an apportionment, are hereby validated and confirmed if otherwise called and held pursuant to law.

15724. Whenever a conditional apportionment has been made, and the county auditor has inadvertently and erroneously included in his certification of the outstanding bonded indebtedness of the school district the bonded indebtedness of another school district having the same, or substantially the same, boundaries, which bonded indebtedness is less than 2 percent of the total amount of the total bonded indebtedness certified, and thereafter an election upon the issuance of new

bonds in the amount required by the board has been had and the vote thereon has been in favor of the issuance of the bonds, and the board has certified to the Controller that the apportionment to the district has become final, the final apportionment is hereby confirmed, ratified, and validated, and any expenditure of money from the Public School Building Loan Fund according to the terms of the final apportionment is hereby confirmed, ratified, and validated.

Any bonds erroneously certified, however, shall not be taken into consideration in making the computation required by Section 15721.

15725. No apportionment shall be made to a school district for any grade level if the estimated cost of the project, as approved by the Director of General Services, is (1) an amount which would result in an apportionment to the district exceeding the amount authorized at the district election held under Section 15721, or (2) an amount which if raised by the issuance and sale of bonds of the district running for 25 years bearing the current going rate of interest as determined by the board and the principal of which is payable in 25 equal annual payments, would require the levy of a tax under Section 15250 upon property in the district which would, when added to the tax actually being levied upon property in the district for the grade level as determined by the Director of General Services under that section, amount to less than thirty cents ($0.30) on each one hundred dollars ($100) of assessed valuation of property in the district during the next fiscal year. Beginning in 1981–82, the amount shall be the levy of a tax which would amount to less than 0.075 percent of full valuation of property in the district during the next fiscal year.

At the time the board makes an apportionment, it shall, with the approval of the Director of General Services, fix the interest to be paid by the district on the sum apportioned to it at a rate equal to the effective rate paid by the state upon the bonds sold from the proceeds of which the apportionment is made, giving effect to the price at which the bonds are sold and the premium, if any,

paid thereon, adjusted to the next highest one-eighth of 1 percent, to cover the cost of sale and issuance of the bonds and costs of administration, to be compounded annually through the 30th day of June of each year.

15726. As used in Section 15725 of the Education Code, the phrase ‘‘adjusted to the next highest one-eighth of 1 percent’’ means ‘‘increased by a full one-eighth of 1 percent.’’ It is hereby declared that this construction is not intended as a change in the present law, but as a declaration of the existing law, and shall apply to any interest rate heretofore or hereafter fixed by the board under said section.

15727. No apportionment shall be made to a district for the construction, reconstruction, or alteration of, or addition to, school buildings if the requirements prescribed by this code for the construction of school buildings are not met by the plans for the entire building program of the district in connection with which the district applied for an apportionment or for any project or part thereof which has not been approved by the State Department of Education.

15728. Each district to which an apportionment has been made under this chapter shall repay the principal amount of the apportionment and the accrued interest thereon in the amount and in the manner hereinafter provided in this chapter.

15729. The following definitions apply to the computations and determinations required to be made under Sections 15730, 15732, and 15733, and they apply with respect to each grade level of a district for which grade level an apportionment has become final during any preceding fiscal year.

(a) ‘‘Forty-cent tax amount’’ means the amount that would be produced by a tax of forty cents ($0.40) on each one hundred dollars ($100) of assessed valuation, to and including 1980–81 fiscal year. For the 1981–82 fiscal year and thereafter, the tax shall be 0.10 percent of the full valuation. This tax amount shall exclude the assessed valuation of solvent credits and other intangible property, for the current fiscal year within the district;

(b) ‘‘Thirty-cent tax amount’’ means the amount that would be produced by a tax of thirty cents ($0.30) on each one hundred dollars ($100) of such assessed valuation to and including the 1980–81 fiscal year. For 1981–82 and thereafter, the tax shall be 0.075 percent of such full valuation: and

(c) ‘‘Ten-cent tax amount’’ means the amount that would be produced by a tax of ten cents ($0.10) on each one hundred dollars ($100) of such assessed valuation to and including the 1980–81 fiscal year. For the 1981–82 fiscal year and thereafter, the tax shall be 0.025 percent of the full value.

(d) ‘‘Eligible bonded debt service’’ means the amount raised and to be raised by the district during the current fiscal year for the repayment of principal and interest on the portion of the bonded indebtedness of the district that was incurred for each such grade level prior to the date of the first final apportionment for any grade level to the district under this chapter, computed as provided in Section 15730.

15730. On or before the first day of December of each fiscal year, the Director of General Services shall determine for each grade level and certify to the Controller the eligible bonded debt service for the district, as follows:

(a) He or she shall determine the amount of the bonded indebtedness that was incurred by the district for each grade level, when bonds were issued and sold for purposes of more than one grade level. When one or more additional apportionments have been made to a grade level of a district, conditioned upon the issuance and sale of additional bonds of the district, the Director of General Services shall determine and include in the eligible bonded debt service and in his or her certificate the amount raised and to be raised by the district during the current fiscal year for the payment of principal and interest on that portion of the additional bonded indebtedness of the district that was incurred for each grade level as a condition to receiving the additional apportionment.

(b) If the Director of General Services determines in any fiscal year that the amount certified to the Controller as the eligible bonded debt service during the last preceding fiscal year is more than the amount actually raised by the district for the repayment of principal and interest of the bonded indebtedness referred to in subdivision (d) of Section 15729 and subdivision (a) of this section, then the Director of General Services shall subtract from the amount determined as the eligible bonded debt service for the current fiscal year an amount equal to the difference between the amount actually raised by the district during the preceding fiscal year for the repayment of the bonded indebtedness and the amount so certified by the Director of General Services.

(c) If the Director of General Services determines in any fiscal year that the amount certified to the Controller as the eligible bonded debt service during the last preceding fiscal year is less than the amount actually raised by the district for the repayment of principal and interest of the bonded indebtedness referred to in subdivision (d) of Section 15729 and subdivision (a) of this section, then the Director of General Services shall add to the amount determined as the eligible bonded debt service for the current fiscal year an amount equal to the difference between the amount actually raised by the district during the preceding fiscal year for the repayment of the bonded indebtedness and the amount so certified by the Director of General Services.

15731. Notwithstanding any other provisions of this chapter, a school district otherwise eligible to receive a conditional apportionment under Chapter 8 (commencing with Section 16000) of this part may apply for an adjustment of annual repayment obligations under this chapter.

The board may require any information that is necessary to determine the number of units of estimated average daily attendance for which the district would have been eligible to construct school facilities under this chapter, if the conditional apportionment had been made and had become final. The units shall be known as

"eligible attendance units." The board shall then determine an "eligible facilities cost" by multiplying the number of the eligible attendance units by the average cost of housing elementary or high school pupils as set forth in the latest report to the Legislature required under Section 16098.

In any fiscal year in which the school district is, in the judgment of the board, operating sufficient year-round classes to provide housing for the eligible attendance units, the Director of General Services shall add to the amount which he or she is required to certify to the Controller under Section 15730 an amount equal to one-twentieth of such eligible facilities costs.

The additional amount so certified shall be considered for all purposes of this article as eligible bonded debt service.

15732. On or before the first day of January of each fiscal year, the Controller shall compute for each grade level of a district for which grade level an apportionment has become final during any preceding fiscal year the 40-cent tax amount, the 30-cent tax amount and the 10-cent tax amount.

15733. On or before the first day of January of each fiscal year the Controller shall determine the annual repayment, if any, to be due from each district during the next succeeding fiscal year, as follows:

(a) If, for any grade level of a district, the amount of the eligible bonded debt service exceeds the 40 cents ($0.40) tax amount, no annual repayment shall be due the state from the district with respect to the grade level during the next succeeding fiscal year.

(b) If, for any grade level of a district, the 40 cents ($0.40) tax amount is greater than the eligible bonded debt service, the amount of the excess shall constitute the annual repayment due the state with respect to the grade level during the next succeeding fiscal year. However, if the eligible bonded debt service is less than the 10 cents ($0.10) tax amount, the annual repayment shall equal the 30 cents ($0.30) tax amount.

(c) The total repayment from each district is the sum of the annual repayments determined for each grade level of the district under this section.

15734. Notwithstanding any other provision of this chapter, and regardless of how many apportionments are made to a grade level of a school district under the provisions of this chapter, the total annual repayment for the grade level during any fiscal year, covering all the apportionments, shall not exceed the amount that would be computed under Sections 15729 to 15735, inclusive, for any one of the apportionments.

15735. The Controller shall, during the next fiscal year following that in which he or she determines the annual repayment as herein provided, deduct the total amount of the annual repayment of each district in equal amounts from each of the February, March, April, and May installments of the apportionments made to the district from the State School Fund under Sections 46304, 46305, and 92 or 41050, Sections 41330 to 41343, inclusive, and Sections 41600 to 41972, inclusive, and, on order of the Controller, the amount so deducted shall be transferred to the Public School Building Loan Fund. All money transferred to the Public School Building Loan Fund under this section shall be available only for transfer to the General Fund under Section 15903.

15736. Notwithstanding any provision of law to the contrary, whenever in any fiscal year, pursuant to Chapter 5, Part 9, Division 1 of the Revenue and Taxation Code, a refund is made or a judgment rendered, as the case may be, for the return of an amount collected as school district taxes levied during a previous year upon secured or unsecured personal property, because it was determined that the property was exempt from taxation, and the property so determined to be exempt equals 1 percent, or more, of the assessed valuation in the school district upon which school district taxes for the previous year were levied, the Controller shall reduce the annual repayment of the district and the amount deducted from the State School Fund apportionment of the district for the fiscal year next succeeding that in which the refund

was made or judgment rendered, by that amount by which the annual repayment and deduction of the district would have been reduced for the fiscal year next succeeding that in which the taxes were levied had the assessed valuation upon which the annual repayment was computed not included an amount of assessed valuation equal to the amount of assessed valuation of the property so determined to be exempt.

The amount of annual repayment and deduction, reduced as required by this section, shall be the amount deducted by the Controller for the purposes of Sections 15735, 15741, and 15742 for the fiscal year in which the reduction is made.

15737. (a) Upon request of the district, the Controller shall use in computing the ‘‘40-cent, 30-cent, and 10-cent tax amounts’’ under Section 15732 the difference between the total assessed valuation of property in a district as shown on the equalized assessment roll for the current fiscal year and the assessed valuation of property as shown on the equalized assessment roll for the current fiscal year, in excess of 2 percent of the total assessed valuation, with respect to which revenues of the district taxes levied in the 1954–1955 fiscal year, or thereafter, have been impounded by the county auditor pursuant to Section 14240. Beginning with the 1981–82 fiscal year, the amount in excess of 0.5 percent of the total assessed valuation shall be used in the computation. If the request is received prior to August 1, 1955, with respect to the impounding of revenues of taxes levied during the 1954–1955 fiscal year, the Controller shall recompute the annual repayment of the district due during the 1955–1956 fiscal year on the basis of the reduced assessed valuation, and, on or before September 1, 1955, notify the officers and board referred to in Section 15741 of the recomputed annual repayment for the 1955–1956 fiscal year, and of the recomputed amount to be deducted from the State School Fund apportionment to the district during the 1955–1956 fiscal year.

(b) Whenever, after July 1, 1955, the county auditor notifies the Superintendent of Public Instruction and the Controller of the release of impounded tax revenues to the school district, the Controller shall add to the annual repayment of the district, for the first fiscal year or second fiscal year next succeeding that in which the notification of release was made, that amount by which the annual repayment of the district for a previous fiscal year was reduced by reason of the exclusion of assessed valuation with respect to tax revenues impounded and thereafter released.

(c) The amount of annual repayment and deduction, increased or reduced as required by this section, shall be the amount deducted by the Controller for the purposes of Sections 15735, 15741, and 15742 for the fiscal year in which the increase or reduction occurs.

(d) If a request is received from a school district and an annual repayment reduced pursuant to subdivision (a), Section 15736 shall not apply with respect to any tax revenues to which subdivision (a) applies.

15738. The Controller shall make the deduction provided by Section 15735 during each fiscal year, as herein provided, until the principal amount of the apportionment made to the district for the grade level, and all accrued interest due thereon, has been withheld; but no interest shall accrue or become due and payable to the state with respect to the principal amount of any apportionment after the expiration of 25 years from the first day of July of the fiscal year next succeeding the date of the warrant issued by the Controller covering the payment to the county treasurer of each portion of the apportionment. At the expiration of 30 years from the first day of July of the fiscal year next succeeding the date of the warrant issued by the Controller covering the payment to the county treasurer of each portion of the apportionment, any unpaid balance of the principal amount of the apportionment, including all interest included in the principal amount, shall be canceled on the books of the Controller, and the state shall have no further right to the repayment of the unpaid balance.

15739. The Controller shall certify to the board the cancellation of the unpaid balance of the principal amount of the apportionment. Upon receipt of the certification, the board shall, in the name of the state, convey to the district all sites purchased and improved, all equipment purchased, and all buildings constructed, reconstructed, altered, or added to, from moneys provided by the apportionment covered by the cancellation.

15740. The Controller shall determine and maintain a record of the amount due the state in connection with each apportionment made to each grade level of a district under this chapter. He or she shall compute interest on the original amount of the apportionment at the rate fixed by the board, from the date of issuance of the Controller's warrant covering the payment to the county treasurer of any portion of the apportionment until the first day of July of the fiscal year next succeeding that in which the warrant was issued. Thereafter, interest shall accrue to and be compounded as a part of the principal amount due the state pursuant to the apportionment through the 30th day of the following June of each year, until the principal and interest have been paid, or until the interest ceases to accrue, as provided in this chapter. Interest on unpaid school building aid apportionments shall be computed as if the annual repayment were credited on the first day of July of the fiscal year in which the repayment is withheld.

15741. Upon computing in any fiscal year the amount to be deducted from the apportionments to the district from the State School Fund during the succeeding fiscal year, the Controller shall notify the governing board of the district and the county auditor of the county, the county superintendent of which has jurisdiction over the district, of the amount to be deducted.

15742. The board of supervisors of the county, the county superintendent of which has jurisdiction over any district which under this chapter will have moneys withheld by the Controller from the apportionments to be made to it from the State School Fund during any fiscal

year, shall annually at the time the board of supervisors makes the levy of taxes for county purposes, levy a tax upon the property in the district sufficient to raise for the district the amount of money to be withheld by the Controller during the fiscal year in which the tax is levied. The tax, when collected, shall be paid into the county treasury of the county, the county superintendent of schools of which has jurisdiction over the district for which the tax was levied, to the credit of the general fund of the district.

15743. The board shall prescribe in the detail that it deems necessary, the purposes for which moneys apportioned by it or which it requires the district to contribute toward, or in reduction of the cost of a project, may be expended, and the prescription shall be binding upon the governing board of the district, save as it may be changed or modified by the board for any cause that it sees fit. In determining funds which can be contributed by the district, the board may require the district to contribute unexpended balances of funds earmarked or encumbered by the district for furniture, equipment, or any other lawful purpose. However, the changes or substitutions in the purposes for which the funds were earmarked or encumbered, with respect to the requirement under any apportionment heretofore or hereafter made, may be authorized by the board, or pursuant to its delegation, by the Director of General Services.

15744. Unless the board has received the certificates of the county superintendent of schools required by Section 15722 within nine months from the date of the conditional apportionment, it shall, at the expiration of the nine-month period, void the conditional apportionment and shall certify this fact to the Controller. Each final apportionment made by the board under this chapter shall be certified by it to the Controller who shall from time to time draw his or her warrant on the Treasurer in favor of the county treasurer of the county having jurisdiction over the district in accordance with the terms of the final apportionment. The warrant

shall be exempt from the provisions of Division 4 of Title 2 of the Government Code and shall be paid by the Treasurer from the Public School Building Loan Fund.

15745. A public school building fund is hereby created in the county treasury in each county for each school district in the county. The county treasurer of each county shall pay into the public school building fund of each district, exactly as apportioned by the board, all moneys received by him or her under this chapter with respect to that district.

15746. The governing board of each school district to which an apportionment is made under this chapter is authorized to, and shall, transfer to the public school building fund of the district from all other funds of the district in which the moneys may be, all moneys of the district which under, or pursuant to, this chapter are required to be expended for the project for which the apportionment was made.

15747. A fund in the State Treasury is hereby created, to be known as the Public School Building Loan Fund. All money in the Public School Building Loan Fund, including any money deposited in the fund from any source whatsoever after July 29, 1949, is hereby continuously appropriated without regard to fiscal years for expenditure pursuant to apportionments made under the provisions of this chapter.

15748. Notwithstanding any provision of law to the contrary, the State Allocation Board may from time to time by appropriate resolution order the transfer from the Public School Building Loan Fund to the State School Building Aid Fund of any amounts therein which it deems no longer desirable to retain for the purposes of this chapter and Sections 15900 to 15909, inclusive. Nothing herein shall be deemed to apply to any moneys heretofore or hereafter deposited in the Public School Building Loan Fund by virtue of Sections 15735 and 15907, and former Section 5107 as added by Chapter 922 of the Statutes of 1949, and as subsequently amended; or to any moneys appropriated from the Public School Building Loan Fund by virtue of the Budget Acts of 1954 and 1955,

and which remain available for expenditure. Upon such order or orders the Controller shall make appropriate transfers, and any sums so transferred shall be available for apportionment in the same manner as other moneys in the State School Building Aid Fund, except that to the amount available for apportionment on the fifth day of each month pursuant to Section 16409, there shall be added any amount transferred to the State School Building Aid Fund by virtue of this paragraph prior to the fifth day of the preceding month. Notwithstanding the provisions of Section 15904, after July 7, 1955, there shall be no further transfers to the General Fund from the Public School Building Loan Fund of any amounts deposited therein by virtue of Sections 15752, 15753, and 15754.

15749. The governing board of each school district to which an apportionment has been made under this chapter shall expend the moneys in the public school building fund of the district exactly as apportioned by the board and only for the purposes for which the moneys were apportioned to the district, and for no other purpose, and shall make the reports relating to the expenditure of the moneys that the board and the Controller shall require.

15750. A complete detailed report of expenditure of funds allocated pursuant to this chapter shall be made by the board annually to the Legislature. The report shall contain a detailed statement of facilities provided, type of construction, square footage provided and all other items which will enable the Legislature fully to understand the nature of the construction performed by the school districts.

15751. It shall be the duty of the Controller to make the audit or audits of the books and records of counties and school districts receiving apportionments under this chapter, as he or she may deem necessary from time to time, for the purpose of determining that the money received by school districts as apportionments hereunder has been expended for the purposes and under the conditions authorized by this chapter.

15752. Whenever the Controller determines that any money apportioned to a school district has been expended by the school district for purposes not authorized by this chapter, or exceeds the final cost of the project which is authorized by this chapter to be paid therefrom, the Controller shall furnish written notice to the board, the governing board of the school district, the county superintendent of schools, the county auditor, and the county treasurer of the county whose county superintendent of schools has jurisdiction over the school district, directing the school district and the county treasurer to pay into the State Treasury the amount of the unauthorized expenditures, or the amount of the excess apportionment, as the case may be. Upon receipt of the notice, the governing board shall order the county treasurer to pay to the Treasurer, out of any moneys in the county treasury available to the school district for that purpose, the amount set forth in the notice. That amount shall, upon order of the Controller, be deposited in the State Treasury to the credit of the Public School Building Loan Fund.

It shall be the duty of the governing body and county treasurer to make the payments to the Treasurer as provided in this section, and it shall be the duty of the Controller to enforce the collection on behalf of the state.

If, upon petition of the district, the Controller determines that the amount is in excess of the amount that may be paid out of taxes levied at the maximum rate increased by any increase in the rate authorized by the electors of the district pursuant to Section 42202, without impairing essential district services, he or she may provide for the payment of the entire amount or any unpaid balance thereof in not exceeding three consecutive annual payments, commencing with the next school year. Each payment shall be an equal portion of the principal amount, plus accrued interest, and shall be paid not later than January 31st of each school year in which a payment is due. If the district fails to make the payment as specified, the Controller shall deduct the

amount thereof from the February payment made to the district under Section 14041.

Deferred payments under this section shall bear interest at the same annual rate of interest as the apportionment from which the unauthorized expenditures or the amounts of excess apportionment were made.

15753. Any portion of an apportionment paid to a school district under this chapter shall be available for expenditure by its governing board for not less than one year nor more than three years, as the board shall determine, after the date on which the warrant covering the portion of the apportionment was issued by the Controller. For the purposes of this chapter, an apportionment shall be deemed to be expended at the time and to the extent that the amount thereof on deposit in the county treasury has been encumbered by the creation of a valid obligation on the part of the school district. Upon the expiration of its period of availability, the unencumbered balance of any apportionment made under this chapter shall become due and payable to the State of California; and the governing board of the school district and the county treasurer shall pay the amount of the unencumbered balance to the Treasurer, out of the funds, and in the manner specified in Section 15752. The payment shall, on order of the Controller, be deposited in the Public School Building Loan Fund in the State Treasury.

It shall be the duty of the governing body and county treasurer to make the payments to the Treasurer as provided in this section, and it shall be the duty of the Controller to enforce the collection on behalf of the state.

15754. Whenever a school district receives an apportionment under this chapter for the purchase or improvement of a school building site and within a period of five years after the date on which the warrant covering the appropriate portion or portions of the apportionment was drawn on the State Treasurer from the Public School Building Loan Fund, (1) sells or otherwise disposes of the site or the improvements thereon, or any portion thereof,

purchased or improved in whole or in part from the apportionment, or (2) within not less than one year nor more than five years, as the board shall determine, does not begin to use the site or the improvements thereon for the purpose or purposes for which the apportionment was made, the board shall make the determinations and take the action with respect thereto as it may deem necessary. If the board determines that the district has (1) sold or otherwise disposed of the site or the improvements thereon, or any portion thereof, or (2) has not used the site for the purpose for which the apportionment was made, it shall demand the return of the apportionment or the portion thereof that it deems proper.

Written notice of the demand, setting forth the amount due the state pursuant thereto, shall be furnished by the board to the governing board of the school district, the county superintendent of schools, the county auditor, the county treasurer of the county whose county has jurisdiction over the school district, and the Controller. Upon receipt of the notice and demand, the governing board of the school district shall order the county treasurer to pay to the Treasurer, out of any moneys in the county treasury available to the school district for that purpose, the amount set forth in the notice. The amount shall, upon order of the Controller, be deposited in the State Treasury to the credit of the Public School Building Loan Fund.

It shall be the duty of the governing board and county treasurer to make the payments to the Treasurer as provided in this section, and it shall be the duty of the Controller to enforce the collection on behalf of the state.

Article 2. School Housing Aid for Reorganized Districts

15780. (a) As used in this article:

(1) ‘‘State-aided district’’ means a district to which a conditional or final apportionment has been made under this chapter.

(2) ‘‘Acquiring district’’ means a district in which all, or a part of, a state-aided district or an applicant district has been included.

(b) Except as otherwise provided in Section 15788, the effective date for the purposes of this article of any change of boundaries or annexation or other inclusion affecting a school district shall be the date the action became effective for the purposes of Section 4002.

15781. When a district has received conditional apportionments which have become final under this chapter, and there is a unification of the district prior to December 31, 1952, within the meaning of Section 4320, with another district having the same boundaries, the effective date of the unification for the purpose of the first district receiving additional apportionments pursuant to the terms of Section 15714 shall be July 1, 1953.

15782. Whenever, prior to the date on which a conditional apportionment is made by the board to an applicant district, (1) if an applicant district is annexed to or otherwise included in whole in another district which is ineligible for an apportionment under this chapter, no apportionment shall be made to the applicant district; (2) if less than the whole of an applicant district is included in a district which is ineligible for an apportionment under this chapter, the board may reconsider the application of the applicant district and make the determinations and take the action with respect thereto, including the making, subject to Article 1 of this chapter, of a conditional apportionment to the district, as the board may deem necessary because of the inclusion of less than the whole of the applicant district in the acquiring district; (3) if an applicant district is annexed to or otherwise included in whole or in part in a district which is eligible for an apportionment under this chapter and has made or does make an application for the apportionment, the board may reconsider the applications of the applicant district and the acquiring district and make such determinations and take such action with respect thereto, including the making, subject to the provisions of Article 1 (commencing with

Section 15700) of this chapter, of conditional apportionments to districts, that the board may deem necessary because of the annexation or other inclusion in the acquiring district of the applicant district in whole or in part.

15783. Whenever, subsequent to the date on which a conditional apportionment is made by the board to an applicant district, but prior to the date on which the conditional apportionment becomes final, (1) if an applicant district is annexed to or otherwise included in whole in a district which is not eligible for an apportionment under this chapter, the conditional apportionment shall, notwithstanding any other provisions of this chapter, become void and the board shall promptly notify the Controller in writing thereof and the date on which the apportionment became void; (2) if the district to which an applicant district is annexed or in which it is otherwise included in whole is eligible for an apportionment, has made or does make an application for an apportionment under this chapter, the conditional apportionment made to the applicant district shall, notwithstanding any other provisions of this chapter, become void but the board may reconsider the application of the acquiring district and make determinations and take action with respect thereto, including the making, subject to the provisions of Article 1 (commencing with Section 15700) of this chapter except as hereinafter provided, of additional conditional apportionments to the acquiring district, as the board may deem necessary as a result of the annexation or other inclusion in the acquiring district of the applicant district; (3) if less than the whole of an applicant district is included in another district, the conditional apportionment shall, notwithstanding any other provisions of this chapter become void, but the board may reconsider the application and make such determinations and take such actions with respect thereto, including the making, subject to the provisions of Article 1 (commencing with Section 15700) of this chapter except as hereinafter provided, of new conditional

apportionments to the applicant district, as the board may deem necessary as a result of such inclusion of a portion of the applicant district in the acquiring district.

Notwithstanding anything in the first sentence of Section 15721 to the contrary, additional conditional apportionments made to a district under (2), or new conditional apportionments made to a district under (3) of the first paragraph of this section may, with the approval of the board, become final if the total amount of the bonds of the district outstanding and unpaid is within ten thousand dollars ($10,000) of the amount required under Section 15721.

15784. Whenever, prior to the date on which conditional apportionments have been made to an applicant district for the full amount of state aid approved for the district under Section 15715, (1) if the applicant district is annexed to or otherwise included in whole in another district which is ineligible for an apportionment under this chapter, no further apportionment shall be made to the applicant district; (2) if the applicant district is annexed to or otherwise included in whole in a district which is eligible for an apportionment under this chapter and which has made or does make an application for an apportionment, the board may reconsider the applications of the applicant district and the acquiring district and make determinations and take any action with respect thereto, including the making, subject to Article 1 (commencing with Section 15700) of this chapter, of a conditional apportionment or apportionments to the acquiring district that the board may deem necessary because of such annexation or other inclusion in the acquiring district of the applicant district; (3) if a portion of the applicant district is annexed to or otherwise included in another district, the board may reconsider the application of the applicant district and may, within two years after the first apportionment made under the approval, make additional apportionments that it sees fit to the applicant district, but not in excess of the amount in which the application was originally

approved, without requiring the district to issue additional bonds.

15785. Notwithstanding, and in lieu of, any provisions of this chapter to the contrary, excepting Section 15725 if during the fiscal year 1950–1951, or any subsequent fiscal year, a conditional apportionment is or has been made to a district, hereinafter referred to as the original district, and if the original district (1) holds or has held all elections required by Section 15721, and (2) before the apportionment becomes final is or has been annexed to or included in whole in another district, hereinafter referred to as the acquiring district, which had prior thereto received its first final apportionment under this chapter during the same fiscal year, and (3) after the inclusion or annexation sells or has sold the bonds authorized by the aforesaid elections, the board may approve any application by the governing board of the acquiring district and make an apportionment, or apportionments, for any project for which the original district would have been eligible under this chapter had such inclusion not taken place. No apportionment shall be made to the acquiring district under this section unless the proceeds of the bonds which the board required the original district to sell are available for and will be contributed toward the cost of the approved project. Any apportionment made to the acquiring district under this section shall become final when made.

The computations provided in Sections 15729, 15730, and 15733 with respect to apportionments made under this section shall be made exactly as though the acquiring school district was comprised only of the original school district.

Any rate or amount of tax levied pursuant to or under the authority of Sections 14204 and 15742, or any other provision of law, for the purpose of producing the amount or any part thereof deducted by the Controller with respect to apportionments made under this section, during any fiscal year under Sections 15735 and 15738 from apportionments to the acquiring district from the

State School Fund shall be levied only on property in the original school district.

15786. Whenever, subsequent to the date when a conditional apportionment is made to a district and before the conditional apportionment becomes final the boundaries of the district are changed so that the territory of the district is reduced by not to exceed 1 percent of the assessed valuation of the district, as determined by the last equalized assessment roll immediately preceding the effective date of the change of boundaries, and the superintendent of schools of the county having jurisdiction over the district has failed to file the certificate required by Section 15795, showing the change of boundaries, and prior to April 15, 1952, the board has certified to the Controller that the apportionment made to the district has become final, the final apportionment is hereby confirmed, ratified, and validated, and any expenditure of money from the Public School Building Loan Fund according to the terms of the final apportionment is hereby confirmed, ratified, and validated.

15787. Notwithstanding any provision of law to the contrary, whenever a conditional apportionment has been made to an elementary school district pursuant to Section 15714 prior to August 1, 1951, and the school district has subsequently voted to become a part of a union school district before the school district has voted to accept and repay an amount sufficient to include both said entire apportionment made pursuant to Section 15714, and all other apportionments made to the school district by the board prior to August 1, 1951, the elementary school district is continued in existence until September 1, 1953, for the purpose of (1) receiving any apportionment made to said district subsequent to August 1, 1951, under Section 15718, as if the elementary district had not voted to unionize with another school district, and (2) for the purpose of voting upon the acceptance and repayment of the apportionment mentioned in (1) or any other apportionment made to the district by the board subsequent to August 1, 1951.

If any elementary school district so described above shall vote, prior to September 1, 1953, to accept and repay any apportionment above mentioned (except of any apportionment made under Section 15718), the apportionment shall thereupon become final. Repayment of any apportionment referred to in this section shall be made by the elementary district pursuant to the applicable provisions of this chapter as if no change in boundaries had been made in the district.

15788. Whenever, subsequent to the date on which a conditional apportionment made to a district becomes final, the state-aided district is included in whole in another district, the acquiring district shall, on the effective date of the inclusion, succeed to and be vested with all of the duties, powers, purposes, jurisdiction, and responsibilities of the state-aided district with respect to the apportionment and the property acquired or to be acquired from funds provided thereby, and all funds in the public school building fund of the state-aided district shall be transferred to the public school building fund of the acquiring district. All amounts which would, after the effective date of the inclusion, have been otherwise paid to the state-aided district under the terms of or pursuant to the apportionment, shall be paid to the acquiring district. In addition, the acquiring district shall, on the effective date of the inclusion of the state-aided district in the acquiring district as fixed by Section 4000, become liable for the annual repayments and other payments due the state under this chapter with respect to the apportionment or the property acquired or to be acquired therewith.

15789. Whenever one or more state-aided districts are included in whole in an acquiring district, and the acquiring district applies for and receives an apportionment, then after the effective date of the inclusion and upon the approval of the application of the acquiring district, the governing board of each component state-aided district shall immediately transfer to the acquiring district all moneys of the component district which are required to be, or have been,

earmarked for a project or projects of the district. The acquiring district, upon the transfer to it of the funds, may expend the funds for any projects of the acquiring district as to which its application was approved.

15790. Whenever, subsequent to the date on which a conditional apportionment made to a state-aided district becomes final, less than all of such district is included in another district, the Director of General Services shall determine what portion of the apportionment was expended or will be expended for property acquired or to be acquired by the acquiring district. Any determination made by the Director of General Services under this section may be redetermined by him or her, from time to time, until the project for which the apportionment was made has been completed, and the final cost thereof determined and the final determination has been made pursuant to the final cost. The Director of General Services shall promptly notify the Controller, the governing board of the state-aided district and of the acquiring district, the superintendent of schools, the auditor, and the treasurer of the counties having jurisdiction over said districts of each determination and redetermination made by him or her under this section. No redetermination shall be retroactive nor affect the liability of any school district for any payment or annual repayment, or portion thereof, previously made by or on behalf of such district to the state under the provisions of this chapter.

On and after the date of the change of boundaries, the acquiring district succeeds to and is vested with all of the duties, powers, purposes, jurisdiction, and responsibilities of the state-aided district with respect to that portion of the apportionment which the Director of General Services has determined or redetermined under this section was expended, or will be expended, for property acquired or to be acquired by the acquiring district, and the unexpended part of the portion of the apportionment in the public school building fund of the state-aided district shall be transferred to the public school building fund of the acquiring district. In addition, and at the same

time, the acquiring district shall become liable for the payment to the state of that portion of the annual repayment and all other payments due the state under the provisions of this chapter with respect to that portion of the apportionment which the Director of General Services has determined or redetermined was expended, or will be expended for property acquired, or to be acquired by the acquiring district, or, in the event a portion of the apportionment is a lower percentage of the apportionment than the percentage that the assessed valuation in the territory of the state-aided district which was transferred to the acquiring district is of the total assessed valuation of the state-aided district immediately preceding the effective date of the transfer, the acquiring district shall become liable for the payment to the state of that percentage of the annual repayment and all other repayments due to the state under provisions of this chapter with respect to the apportionment which is equal to the percentage of assessed valuation in the territory transferred to the acquiring district.

Notwithstanding the foregoing, the liability of the acquiring district for the repayment of any portion of the apportionment made to the state-aided district shall not exceed the product of the highest percentage referred to above (whether relating to assessed valuation or to the portion of the apportionment expended in the property acquired), multiplied by the balance due on the apportionment made to the state-aided district at the time of the withdrawal on the effective date specified in Section 4064 of the territory referred to. The limited liability is hereinafter referred to as ‘‘the maximum.’’ It is the intent of the Legislature that the maximum shall be applied by the Controller, both retroactively and prospectively, provided that as a result of the application (1) no cash refund shall be made to any district; (2) in the event any district has, in the past, paid an amount greater than the maximum, assuming this paragraph had been in effect at that time, the excess shall be credited by the Controller against any apportionment balances for which said district is or may hereafter become liable; and (3) the

Controller shall make retroactively any adjustments in the amounts due from other districts by virtue of any adjustments made under (2) above. Notwithstanding the foregoing, any computations required to be made pursuant to this paragraph shall not be reflected in any changes in deductions required to be made pursuant to Section 15735 prior to January 1, 1966.

If any subsection, clause, sentence of phrase of this section is for any reason held to be unconstitutional such decision shall not affect the validity of the remaining portions of this section. The Legislature hereby declares that it would have adopted this section, and each subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more subsections, clauses, sentences or phrases be declared unconstitutional.

15791. Notwithstanding any change in the boundaries of a state-aided district or the annexation to, or the inclusion in, another district of a state-aided district, the state-aided district as it existed immediately prior to the effective date of the action shall be continued in existence for the determination of the assessed valuation of the property therein and for the purposes of the computations provided by Sections 15729, 15730, and 15733; and all the computations required to be made pursuant to those sections shall be made exactly as if there had been no change of boundaries, annexations, or inclusion, except as otherwise provided in Sections 15792 and 15793.

15792. Whenever, subsequent to the date on which a conditional apportionment becomes final, territory is withdrawn from a state-aided district and no portion of the apportionment was expended for school property acquired by the acquiring district:

(1) If the acquiring district is a state-aided district, the assessed valuation in the territory acquired shall be included in determining assessed valuation of the property in the acquiring district, and shall thereafter be excluded in determining assessed valuation of the

property in the state-aided district, for purposes of the computations under Sections 15729 to 15733, inclusive;

(2) If the acquiring district is not a state-aided district, the State Controller shall determine the percentage relationship, at the time of the withdrawal, between (a) the assessed valuation in the territory acquired, together with the current assessed valuation in all other territory theretofore acquired by the acquiring district from the state-aided district since the date of its first conditional apportionment under this chapter, and (b) the current assessed valuation of the state-aided district as it was territorially constituted on the latter date.

If the percentage of assessed valuation in acquired territory is, in the aggregate, less than 10 percent, the assessed valuation in all the acquired territory shall be excluded, until the next withdrawal of territory from the state-aided district to the acquiring district, in determining the assessed valuation of the state-aided district for the purposes of the computations under Sections 15729 to 15733, inclusive.

If the percentage of assessed valuation in acquired territory is, in the aggregate, a percentage equal to or greater than 10 percent, the Controller shall, by deducting such percentage from 100 percent, obtain the ‘‘complement percentage.’’ Until the next withdrawal of territory from the state-aided district to the acquiring district, the assessed valuation of the state-aided district for purposes of the computations under Sections 15729 to 15733, inclusive, shall be determined by dividing the current assessed valuation of the state-aided district, as territorially constituted immediately subsequent to the last withdrawal, by the complement percentage.

Whenever, pursuant to this section, the assessed valuation of the state-aided district is adjusted for repayment computation purposes by use of the complement percentage, liability for the annual repayment computed shall be apportioned between the state-aided district and the acquiring district by multiplying such annual repayment by the complement percentage, the product representing the liability of the

state-aided district, and the remainder of the computed repayment representing the liability of the acquiring district.

Notwithstanding the foregoing, the liability of the state-aided district shall not exceed the product of any ‘‘complement percentage’’ (as it may from time to time exist) times the balance due on the final apportionment at the time the complement percentage is established; and the liability of the acquiring district (while a complement percentage remains unchanged) shall not exceed the remainder of the balance of the aforesaid final apportionment at the time the complement percentage is established. The maximum liability on the part of either the state-aided or acquiring districts established as above (and until the time that the liability be altered by altering the ‘‘complement percentage’’) shall be hereinafter referred to in this section with respect to each district as ‘‘the maximum.’’

(3) In the event that two or more non-state-aided districts acquire territory from the state-aided district the Controller shall determine the formulae for apportioning liability for the annual repayment between the districts affected (including the formulae for determining what assessed valuations shall be used within the affected districts or territories withdrawn, and the dates of determination thereof) as will in his or her opinion best comply with the principles set forth above, irrespective of whether the formulae are in literal compliance therewith. The same percentage of annual repayment for which a district is liable at the time the liability apportionment is made shall (unless and until the liability apportionment is subsequently changed pursuant to this paragraph) be deemed applicable to the liability of the district for the balance (as of the date the liability apportionment is made) due on the final apportionment to the state-aided district. The liability for the balance shall, with respect to any affected district, be hereinafter referred to as the ‘‘maximum’’ for the district.

(4) It is the intent of the Legislature that the foregoing ‘‘maximums’’ shall be applied by the Controller both

retroactively and prospectively, provided that as a result of the application (1) no cash refund shall be made to any district; (2) in the event any district has, in the past, paid an amount greater than its ‘‘maximum,’’ assuming this paragraph and others to which it is referable had been in effect at that time, the excess shall be credited by the Controller against any apportionment balances for which the district is or may hereafter become liable; and (3) the Controller shall make retroactively any adjustments in the amounts due from any other district by virtue of any adjustments made under (2) above. Notwithstanding the foregoing, any computations required to be made pursuant to this paragraph shall not be reflected in any changes in deductions required to be made pursuant to Section 16080 prior to January 1, 1966.

If any subsection, clause, sentence or phrase of this section is for any reason held to be unconstitutional that decision shall not affect the validity of the remaining portions of this section. The Legislature hereby declares that it would have adopted this section and each subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more subsections, clauses, sentences, or phrases be declared unconstitutional.

15793. Whenever, subsequent to the date on which a conditional apportionment becomes final, any territory is withdrawn from a non-state-aided district and annexed to the state-aided district, the assessed valuation in the territory so annexed shall be included with the valuation of the state-aided district for the purposes of making the computations provided by Sections 15729 to 15733.

15794. The Controller shall compute, in accordance with Sections 15791, 15792, and 15793, the amount of the annual repayment due the state on account of the apportionment or apportionments to each state-aided district and shall deduct from the respective apportionments made from the State School Fund under Sections 46304, 46305, and 92 or 41050, Sections 41330 to 41343, inclusive, and Sections 41600 to 41972, inclusive, to

the state-aided district and an acquiring district the portion thereof for which each is liable under this article.

15795. (a) When, after any application is filed, the applicant district is annexed to, or, by change of boundaries or otherwise, is included in whole or in part in another district or districts, the superintendent of schools of the county having jurisdiction over the applicant district shall, within 10 days after the effective date of the annexation, inclusion, or change of boundaries, file a certificate with the board, in writing, in the form that the board shall prescribe, setting forth each of the following:

(1) The effective date of the annexation, inclusion, or change of boundaries.

(2) Identification of the area of the school district affected by such change and the name of the school district or districts in which such area is included as a result thereof.

(3) Any additional information in any form that the board may require.

(b) The board shall, upon receiving the appropriate certificate from a county superintendent of schools as provided herein, promptly notify the Controller, in writing, of each of the following:

(1) The effective date of annexation or other inclusion of a state-aided district by an acquiring district.

(2) The name of the state-aided district.

(3) The name of the acquiring district.

(4) The number and other identification of the apportionment affected.

CHAPTER 5. STATE SCHOOL BUILDING FINANCE COMMITTEE

15900. For the purpose of creating a fund to provide aid to school districts of the state, the State School Building Finance Committee, created by Section 15909, shall be and it hereby is authorized and empowered to create a debt or debts, liability or liabilities, of the state in

the manner and to the extent hereinafter provided, but not otherwise, nor in excess thereof.

15909. There is hereby created a State School Building Finance Committee composed of the Governor, Controller, Treasurer, Director of Finance, and Superintendent of Public Instruction, all of whom shall serve thereon without compensation and a majority of whom shall be empowered to act for the committee. Two Members of the Senate appointed by the Senate Committee on Rules, and two Members of the Assembly appointed by the speaker, shall meet and advise with the committee to the extent that the advisory participation is not incompatible with their respective positions as Members of the Legislature. For the purposes of this chapter, these Members of the Legislature shall constitute an interim investigation committee on the subject of this chapter and as such shall have the powers and duties imposed upon these committees by the Joint Rules of the Senate and the Assembly. The Director of Finance shall provide any assistance to the State School Building Finance Committee that it may require. The Attorney General of the state shall be the legal adviser of the State School Building Finance Committee.

CHAPTER 6. STATE SCHOOL BUILDING AID LAW OF 1952

Article 1. General Provisions

16000. This chapter may be cited as the State School Building Aid Law of 1952.

16001. The Legislature hereby declares that it is in the interest of the state and of the people thereof for the state to aid school districts of the state in providing necessary school sites and buildings for the pupils of the public school system, this system being a matter of general concern inasmuch as the education of the children of the state is an obligation and function of the state.

In adopting this chapter, the Legislature considers that the great need in school construction is for classrooms for the education of the pupils of the public school system. It

is the intent of the Legislature to first satisfy this primary need to the greatest extent possible before providing additional educational facilities, regardless of how desirable such additional facilities may be. To the end that school classrooms may be made available at once and to all school districts in need of such classrooms, provisions for other needed school facilities is necessarily subordinated.

16002. As used in this chapter:

(a) ‘‘Board’’ means the State Allocation Board.

(b) ‘‘Director’’ means the Director of Education for kindergarten and grades 1 to 12, inclusive.

(c) Notwithstanding any other law, the term ‘‘project’’ shall be deemed to include any or all of the purposes for which a school district has applied for apportionments under this chapter, pursuant to any regulations that the State Allocation Board may adopt.

(d) ‘‘Grade level maintained by a district’’ means any of the following:

(1) The kindergarten, if any, and grades 1 to 6, inclusive, or grades 1 to 8, inclusive, maintained by an elementary school district or a unified school district.

(2) Grades 7 to 12, inclusive, grades 9 to 12, inclusive, or grades 7 to 10, inclusive, maintained by a high school district or unified school district.

However, not more than one grade level shall be claimed by any district under any one of the paragraphs of this subdivision.

(e) ‘‘Apportionment’’ means an apportionment made under this chapter unless the context otherwise requires. The term ‘‘apportionment’’ in Sections 16091, 16097, 16099, 16100, 16104, 16105, and any other section in this chapter where the context justifies, shall be deemed to include funds of a school district required by the board to be contributed toward the purposes thereof. It is hereby declared that this construction is not intended as a change in the present law but rather as a declaration of existing law.

16002.5. For the purposes of this chapter, the term ‘‘basic bond requirement,’’ means 5 percent of the

assessed valuation of taxable property of the district for each grade level maintained by a district, as shown by the last equalized assessment of the county or counties in which the district is located, and as modified by Section 41201 or Section 84201.

16003. With respect to applications filed on and after the effective date of this section by a unified district and any apportionments and repayments made under the applications, ‘‘grade level maintained by the district’’ means the kindergarten, if any, and grades 1 to 12, inclusive, maintained by the district.

A unified district if otherwise eligible, may apply for and receive an apportionment for either one or both of the grade levels.

This section shall not apply to a unified district during the first three years following the effective date of this section, or during the first three fiscal years in which the district is in existence for all purposes, if the governing board of the district transmits to the board a written notice stating the district desires to be exempted from this section during that period.

16004. Notwithstanding any provision of this chapter to the contrary, the board shall review each application and shall take action to insure that apportionments are not made that will provide for construction of permanent facilities to meet temporary peak enrollments at any site or at any grade level. In cases deemed by the board to be hardship cases involving high school or unified school districts where the district will not be able to house high school pupils under basic area limitation formulas prescribed in this chapter, the board may make apportionments for high school facilities in excess of the limitations. In that event, the board may provide for the construction of portable facilities at any particular site for which the apportionments are made, particularly where the board determines that there will be, within a six- to nine-year period immediately following the apportionment for facilities at the site, a diminution in enrollment at the site justifying relocation of facilities. In no event shall the board have any authority to make an

apportionment for construction area at a high school attendance center which, when added to the area of adequate school construction at that center, would exceed the area permitted therefor by Sections 16053 and 16054.

16005. The Director of General Services shall administer this chapter and shall provide any assistance to the board that it may require.

16006. The State Allocation Board is continued in existence for the purposes of this chapter. The members of the board and the Members of the Legislature meeting with the board shall receive no compensation for their services under this chapter but shall be reimbursed for their actual and necessary expenses incurred in connection with the performance of their duties hereunder, to be paid out of the State School Building Aid Fund.

16007. The board by the adoption of rules shall give priority in allocating funds to districts to those districts where the children will benefit most from additional schoolhouse facilities. This priority shall be based on acuteness of overcrowding, on rapidity of growth in attendance, and on the time the district's application has been ready for allotment. The board may make exceptions when it determines that it will be for the benefit of the children affected.

The State Department of Education shall assist and cooperate with the board in determining priorities.

16008. In allocating funds under this chapter, the board may give first priority to school districts for the replacement and repair of school buildings and necessary facilities appurtenant thereto damaged by any earthquake occurring subsequent to July 1, 1952. All of the provisions of this chapter apply to the districts except the provisions for the establishment of priorities.

Prior to making any apportionment under this section, the State Allocation Board may secure from the Department of General Services, a report showing the urgency of the work of replacement or repair for which an application has been filed. The report shall not be

conclusive upon the State Allocation Board, but shall be advisory only.

16009. In addition to any other powers and duties that are granted the board by this chapter, the board shall:

(a) Establish any qualifications not in conflict with other provisions of this chapter that it deems will best serve the purposes of this chapter for determining the eligibility of school districts to apportionments of funds under this chapter.

(b) Establish any procedures and policies in connection with the administration of, and the expenditure of funds made available for the purpose of, this chapter that it deems necessary and which are not in conflict with the powers and duties of the State Department of Education or of the director granted or imposed by this chapter.

(c) Adopt any rules and regulations for the administration of this chapter, requiring the procedure, forms, and information, that it may deem necessary.

16010. The State Department of Education, in addition to any responsibilities or approvals required under Sections 39000 to 39323, inclusive, shall provide the following services to school districts making applications for apportionments under this chapter:

(1) It shall assist school districts in organizing a comprehensive planning effort. It shall guide a planning process through its appropriate steps and, when requested by a school district, it shall provide the school district with sources of expertise, either public or private, which may be able to contribute to the development of plans to find solutions for specific problems a school district may have.

(2) It shall provide continuing research in relation to all phases of educational programs and the school facilities that are required to implement these educational programs.

(3) It shall provide a review and evaluation service to school districts to assure the effectiveness of the facilities that have been provided in accommodating educational programs.

(4) It shall provide communication media through publications, seminars, and prepare planning guides and procedures containing recommendations, which guides shall be used to disseminate educational planning information to all school districts.

16011. Each school district which desires an apportionment of funds under this chapter shall, unless specifically exempted by the board, prepare a long-range comprehensive master plan for the district prepared in accordance with acceptable planning procedures. Information relating to the following factors should be included in this master plan:

(a) A statement of the educational programs and goals of the district in relation to its programs, both current and future.

(b) A comprehensive evaluation and report of the utilization of the school facilities now existing in the district.

(c) A comprehensive demographic study of the district, as it currently exists and as projected into the future.

(d) A policy statement regarding actual or potential human problems.

(e) A policy statement as to the priority in which the district proposes to solve its school housing problems.

(f) A policy statement regarding cooperation with other local public agencies to achieve total community development.

(g) A policy to insure continuous review so that plans will be kept up to date and changing conditions will be reviewed and accommodated by appropriate revision of plans.

The director shall review the long-range master plan and project development plan and shall report his or her findings and recommendations thereon to the board.

16012. The board shall prescribe instructions specifying the manner in which property, real or personal, being replaced through the apportionment, shall be disposed of, and compliance with the instructions shall be a condition upon the making of the

apportionment. The net proceeds derived from the disposition shall be contributed in reduction of any apportionment. Any school district affected shall comply with instructions prescribed by the board. The board may require a district to transfer to the state, by any instruments deemed appropriate by the board, title to property, whereupon, the board shall dispose of the property in any manner it deems appropriate to insure the highest return to the state, and apply the proceeds therefrom in reduction of apportionments to the district. The district affected shall do all things deemed necessary by the board to implement the disposition. Whenever the board determines it to be in the best interests of the state, an apportionment may be made for the demolition of any facilities replaced through an apportionment. This section shall be applicable to property replaced by apportionments heretofore or hereafter made under this chapter or Chapter 6 (commencing with Section 15700) of this part.

16013. Notwithstanding any other provisions of this chapter, the board may grant priority in the apportioning of funds to school districts to those districts which have sold facilities replaced under a previous application and have applied the proceeds therefrom in reduction of prior apportionments to the district. Apportionments so made shall not be in excess of the amount of the proceeds which were applied to prior apportionments subsequent to July 1, 1970, and shall be made only for projects which were approved by the board prior to July 1, 1970.

16014. Apportionment from the State School Building Aid Fund to school districts shall be made in the manner and subject to the conditions herein provided and in accordance with policies adopted by the board, for the following purposes, all of which purposes are hereby declared to be, and are, public works:

(a) The purchase and improvement of school sites which have been approved by the State Department of Education.

(b) The purchase of necessary desks, tables, chairs and other movable furniture and equipment, as approved by the State Department of Education.

(c) The planning and construction, reconstruction, alteration of, the moving of portable classroom buildings on an existing site or to another schoolsite, and addition to, school buildings, including built-in or fixed equipment, for any facilities that are approved by the State Department of Education as essential, except a room used solely for an auditorium for a school of any type or class and a room used solely for a gymnasium or a room used solely for a cafeteria for elementary schools. This section does not prohibit the State Department of Education from approving multipurpose rooms which are rooms designed to be used for two or more of the following purposes:

(1) Classroom.

(2) Auditorium.

(3) Gymnasium.

(4) Cafeteria.

(5) Any other purposes that district requires which are approved by the State Department of Education.

Where a district is required by a contract entered into between itself and a contractor, to obtain at its own expense insurance covering risks incurred during any construction, reconstruction or alteration for which an apportionment has been made, the cost thereof may be paid either directly, or by way of reimbursement, to the district out of the apportionment, or out of any apportionment made specifically covering the insurance. However, in other respects the apportionments are eligible for payment under this chapter.

In addition to the foregoing, the board may make an apportionment to a school district for the purchase from another school district of existing facilities, real or personal, including the site thereof, or any portion of any of the foregoing, providing that the board finds that it is economical and good practice on the part of the acquiring district to purchase the same, and that the consideration to be paid in the light of all the circumstances

surrounding the transfer is fair and equitable both to the acquiring district and to the state.

16015. Notwithstanding any other provisions of this chapter, the board may make an apportionment to any school district for the cost of leasing portable classrooms during the period in which additional school facilities are being constructed by a previously approved project, provided that each of the following conditions is satisfied:

(a) The district has received a final apportionment for the previously approved project and the construction of which has not yet been completed.

(b) Estimates of average daily attendance used for justifying the previously approved project indicate either of the following:

(1) An increase over the base period of projection of at least 15 percent.

(2) A substantial number of district classes being on triple session during the period of construction, as determined by the State Allocation Board.

(c) The district is making maximum use of its existing facilities through the operation of one or more continuous school programs.

Any apportionment made to a school district pursuant to this section shall be added to the final apportionment for the previously approved project specified in subdivision (a), and the repayment thereof by the school district shall be made under the same terms and conditions as prescribed for the final apportionment.

16016. A leasehold or use permit interest held by a school district in land owned in fee simple by the government of the United States may, for all purposes of this chapter, be deemed a purchase of land by the district and to vest title and ownership in the district.

16017. The board shall not make any apportionment with respect to an application for replacing inadequate school facilities unless it has first investigated and made a finding that it would not be economical or good practice to rehabilitate said facilities.

16018. In addition to the purposes for which apportionments may be made to school districts under

Section 16014, apportionments may also be made to school districts for the construction, repair, attachment or development of offsite facilities, utilities or improvements which the board determines are necessary to the proper operation or functioning of the school facilities for which apportionments are made, all of which purposes are hereby declared to be, and are, public works.

16019. In making applications for, and in expending apportionments of funds under this chapter, a school district acts as an agent of the state and all sites purchased and improved, all equipment purchased, and all buildings constructed, reconstructed, altered, or added to through the expenditure of funds apportioned under this chapter, are declared to be, and are, the property of the state.

The Director of General Services shall file with the county recorder of the county in which any site purchased or improved through the expenditure of funds apportioned under this chapter is located a certificate, properly acknowledged, indicating the state's interest in real property of the district by virtue of this section, without the necessity of particularizing the real property. The recorder shall record and index the certificate in the same manner as abstracts of judgments and the certificate shall constitute constructive notice of the state's interest in the particular real property affected. The certificate shall as to any party thereafter acquiring real property or any interest therein in the county from the school district have the same force, effect and priority as if it had been a judgment lien imposed upon real property which was not exempt from execution. This effect shall commence upon recordation and continue until the certificate is discharged or released as provided herein.

Upon request the Director of General Services shall do each of the following:

(a) Issue a release of the state's interest in any real property or a portion thereof that the district has been authorized by the board to dispose of under Section 16105, provided that delivery of the release may be subject to

any conditions that may be prescribed by the board to protect the state's interest.

(b) Issue a disclaimer of the state's interest in any real property or a portion thereof of the district, the disposition of which the board is not required to consent to under the terms of Section 16105, provided that the delivery of the disclaimer may be subject to any conditions that the board deems appropriate to protect the interests of the state, including conditions relating to the amount of consideration to be received from the disposition where the board asserts an interest in the proceeds of the disposition under other provisions of this chapter. The release or disclaimer shall conclusively protect any third party relying upon the same and shall be acknowledged to permit recordation by the county recorder.

Upon payment by the district of all amounts required to be paid by it or on its behalf to the state under this chapter each of the following shall occur:

(a) The Director of General Services shall file with the recorder a release of any certificate. The release shall be recorded and indexed in the same index as the certificate.

(b) The title to personal property purchased by the school district with funds apportioned under this chapter shall revert to the school district without further action by the state.

16020. The board may require school districts to insure for the benefit of the state all sites, equipment, and buildings which are under Section 16019 the property of the state, against any risk and in any amounts that the board may deem necessary to protect the interests of the state. No state funds apportioned under this chapter shall be used to pay the premiums on the insurance.

16021. A school district shall not expend money apportioned under this chapter unless the contracts under which the funds are expended have been let after competitive bids thereafter pursuant to this code.

16022. Funds apportioned to a school district under Section 16024 for a project, remaining unencumbered or unexpended one year from the date the application of the

district for apportionment was approved, shall not be encumbered or expended except as provided in this section.

The governing board of the district shall notify the board of its desire to encumber or expend funds. The board shall immediately request the State Department of Education to, and the department shall, review the project for which apportionment was made. If the State Department of Education finds that the conditions existing at the time it approved the project for which the apportionment was made have so changed that the needs of the district are less than originally determined, it shall notify the board of its findings and of the respects in which the project should accordingly be modified. The board shall review the project and revise the project in any manner that it deems necessary subject to Section 16067, and make any changes in the purposes for which the apportionment may be expended that it deems necessary. The cost of the project as revised by the board shall be computed in the manner prescribed by Section 16024 and the excess, if any, of the amount theretofore apportioned to the district over the computed cost of the revised project shall be deducted by the board from the apportionment made to the district. The board shall give notice of its action, in writing, to the Controller, the governing board of the district, and the county auditor and the county treasurer having jurisdiction over the state school building fund of the district. If the amount of the excess, or any portion thereof, has not been paid to the district, the excess, or portion thereof, shall be made available for apportionment to other districts, if the excess, or portion thereof, has been paid to the district, it shall not be encumbered or expended by the district and shall become due and payable to the State of California. The governing board of the district and the county treasurer shall pay the amount to the Treasurer, out of the funds, and in the manner specified in Section 16100. The payment shall, on order of the Controller, be deposited in the State School Building Aid Fund in the State Treasury.

It shall be the duty of the governing body and county treasurer to make the payments to the Treasurer as provided in this section, and it shall be the duty of the Controller to enforce the collection on behalf of the state.

This section does not authorize the board to increase any apportionment made to a school district.

16023. Notwithstanding any other provisions of this chapter, a district may apply, on a separate application, for an apportionment for the purchase of laboratory and vocational training equipment, whether or not the equipment is for use in connection with a construction project.

All of the provisions of this chapter apply to the application and apportionment except that:

(a) Any application for the equipment pursuant to this section which is received by the board shall be transmitted to the State Department of Education. If the State Department of Education approves the application, it shall refer it to the board which shall either approve or reject the application pursuant to Section 16024. Any provision of Section 16024 inconsistent with this section shall not apply to the application.

(b) Section 16007 does not apply.

(c) If the application is approved and an apportionment granted therefor the district shall repay the full amount of the apportionment and the interest thereon. The repayment of the apportionment, and the interest thereon, may be over a period of years, not to exceed 20 years from the first day of January of the fiscal year next succeeding the fiscal year in which the apportionment became final. The number of years allowed for repayment shall be determined by the board at the time it fixes interest on the apportionment. The repayment is in addition to any other repayment required under this chapter.

16024. Each school district that desires an apportionment for a grade level maintained by it, shall submit through its governing board to the board an application therefor in the form and number of copies as the board shall prescribe. Each copy of the application

shall be accompanied by a statement of the estimated cost of the project certified by an architect or structural engineer, and by layout plans showing the entire construction project for which the district desires an apportionment. Before the board approves an application for a construction project and makes an apportionment pursuant to this chapter, it shall, after consultation with the Department of General Services, establish standards for all new construction included therein. After this consultation the board shall establish current construction cost standards for that construction. The standards shall not exceed typical comparable new construction by school districts in the same area not receiving or eligible for apportionment under this chapter, or if there has been no new construction by school districts in the area, the standards shall not exceed the reasonable current cost of similar construction in the area. The board shall determine these typical current costs or reasonable current costs. In applying those standards the board shall take into account the size and type of the construction proposed and may make deviations as in their judgment are justified. When a standard has been set by the board to cover any individual apportionment, no apportionment shall be made by the board in excess of that standard, unless the board shall find that in view of a rapid increase in building costs an adjustment is warranted. Immediately upon receipt of an application in the prescribed form accompanied by the required estimate of cost, a copy thereof shall be transmitted by the board to the director and to the Director of General Services.

A school district shall not let any contract for new construction included in an application for a construction project that has been approved by the board if the cost exceeds the construction cost standards fixed by the board under this section for that new construction.

A school district may at any time amend or supplement its application.

Each construction project for which a district applies for an apportionment shall be applied for on a separate

application and shall be considered separately by the board. If a district applies for more than one construction project, at the same time or at different times, the priority points of the district shall be recalculated after the approval of each separate construction project and before a subsequent construction project is approved.

The board shall require the changes in the plans that an applicant school district submits with its application as the board determines is necessary or desirable to reduce the cost of the project. The board may also, by rule, provide for the vesting in the director or in the Director of General Services of the responsibility for requiring those changes, according to whether the subject matter of the change is subject to the jurisdiction or approval of the director or the Director of General Services, respectively.

The board may, for good cause as it shall determine, reduce the amount of, or modify any provisions relating to, any contribution required of a school district under the terms of an apportionment, other than any contribution required of the district under Section 16058 from the sale of bonds. However, the board may not, without the consent of the district, increase the amount of any district contribution under the terms of an apportionment, in the absence of mistake arising from any source, or misrepresentation, concealment, or omission, on the part of the district, intentional or otherwise. The provisions of this paragraph shall be applicable to apportionments heretofore or hereafter made.

The Director of General Services shall determine the school district's financial ability to meet all or a portion of the cost of the project and the amount that the school district can contribute toward the cost of the project out of its available funds, and shall submit his or her report thereon to the board.

The term ''available funds'' as used in the preceding paragraph means funds of the district other than funds received by gift or bequest.

The director shall, as promptly as possible, prepare a report and recommendation with respect to the application and refer the application, report, and

recommendation to the Director of General Services, who shall, if he or she finds the documents to be in proper form and otherwise sufficient, refer them to the board. If the director finds the documents to be lacking in any respect as to any matter that is subject to the jurisdiction or approval of the director or the State Department of Education, or the board of governors, as appropriate to their jurisdiction, he or she shall refer them to the director who shall take action as may be necessary. Subject to this chapter, the board shall approve or reject each application referred to it by the director. If the board approves of the application, either in whole or in part, it shall, by a resolution adopted by it, apportion to the district from the State School Building Aid Fund the amount applied for, or any portion thereof as the board may deem appropriate. However, it may order that the apportionment or any part thereof shall be paid in progressive installments at the time and under the conditions as it may then prescribe. This shall be known as a conditional apportionment and shall become final only if the vote provided for in Section 16058 is favorable and if bonds are authorized and sold in the amounts prescribed by the board, and the proceeds of the bonds sold earmarked for the project as approved. The conditional apportionment shall remain effective for a period of 12 months from the date of the resolution of the board, and if it does not become a final apportionment by that date, it shall become void and the money so apportioned shall become again available for apportionment pursuant to this chapter.

16025. Notwithstanding any other provisions of this chapter, a school district otherwise eligible to receive a conditional apportionment under this chapter may apply for an adjustment of annual repayment obligations in lieu of receiving the conditional apportionment.

The board may require any information that is necessary to determine the number of units of estimated average daily attendance for which the district would have been eligible to construct school facilities under this chapter, if the conditional apportionment had been made

and had become final. These units shall be known as ‘‘eligible attendance units.’’

The board shall then determine an ‘‘eligible facilities cost’’ by multiplying the number of the eligible attendance units by the average cost of housing elementary or high school pupils as set forth in the latest report to the Legislature required under Section 16098.

In any fiscal year in which the school district is in the judgment of the board operating sufficient year-around classes to provide housing for the eligible attendance units aforementioned, the Director of General Services shall add to the amount which he or she is required to certify to the Controller under Sections 16072, 16084, and 16086 an amount equal to one-twentieth of the eligible facilities costs.

The additional amount so certified shall be considered for all purposes of this chapter as eligible bonded debt service.

16026. Notwithstanding any other provisions of this chapter, any school district whose governing board has adopted and put into effect a year-round school operation plan or continuous school program, as defined in Section 16030, or has adopted a plan or program for operation in the following school year, may apply to the board and the board may provide financial assistance in furnishing and installing an air cooling system in those facilities which will be so operated, so long as the construction of the facility was commenced prior to December 31, 1972. Financial assistance provided by the board may be in any of the following forms:

(a) An apportionment pursuant to Section 16024.

(b) An authorization to use proceeds from the sale of district bonds.

(c) An authorization to use the net proceeds derived from the sale of unused school sites whether or not there are unpaid apportionments outstanding against the sites.

The board shall establish cost standards applicable to the furnishing and installing of air cooling systems in existing schools. No apportionment or authorization shall

be made by the board in excess of the standard established for the apportionment.

16027. In any fiscal year in which the school district is conducting a year-round school operation or continuous school program, as defined in Section 16030, utilizing a facility for which financial assistance was provided by the board under Section 16026, the Director of General Services shall add to the amount which he or she is required to certify to the Controller under Sections 16072, 16084 and 16086 an amount equal to the debt service for retirement of bonds authorized for use under Section 16026.

16028. Any authorization of the proceeds derived from the sale of an unused site pursuant to Section 16026 shall constitute a conversion of the unpaid portion of the apportionment to the application for an air-cooling system as if an apportionment had originally been made therefor. The converted apportionment shall be repaid pursuant to Section 16069 irrespective of Section 16105.

16028.5. Whenever a school district has received an increased building cost allowance pursuant to Section 16024 or 16026 for the purpose of providing facilities for year-round school operation as defined in Section 16030, and in any fiscal year subsequent to the fiscal year in which the facilities are completed fails to conduct a year-around school operation, the Director of General Services shall in the following fiscal year deduct an amount from the eligible bonded debt service of the district equal to one-twentieth of the amount of the increased cost allowance plus interest thereon. The total amount to be deducted in subsequent fiscal years after the completion of the facilities shall not exceed seven-twentieths of the amount of the increased allowance, plus interest.

16029. Notwithstanding any other provisions of this chapter, a school district qualifying for an adjustment of annual repayment obligations under Section 16025 or 15731 may apply for an apportionment under this chapter.

The apportionment shall not exceed the ‘‘eligible facilities cost’’, as defined in Section 16025 or 15731, and may be made available, upon the review and recommendation of the State Department of Education, only for the modifications of existing facilities necessary for the implementation of continuous school programs (as defined in Chapter 5 (commencing with Section 37600) of Part 22).

In allocating funds under this chapter, the board may give first priority to school districts for modifications to existing facilities to be made pursuant to this section when in the judgment of the board the modifications of existing facilities are necessary for operation of year-round classes. In no event shall apportionments be made for modifications to a standard greater than could have been constructed in a new school building under this article. All of the provisions of the chapter apply to the districts except the provisions for the establishment of priorities.

Any apportionment made under this section shall be deducted from the eligible facilities costs before the Director of General Services makes his or her computation of the adjustment under Section 16025 or 15731.

16031. Notwithstanding any provision of this chapter to the contrary, no school district shall be required, except as provided in this section, to contribute toward the cost of a project for which an application for an apportionment is filed, any of the following funds of the district:

(a) Amounts in the general fund of the district which are apportionments from the State School Fund.

(b) Amounts in the general fund of the district which are the proceeds of a tax levy and have not been earmarked by the governing board of the district or the electors of the district for any purposes for which school district bonds may be issued and sold.

In considering an application for an apportionment the board may review the purposes for which the district has expended or encumbered proceeds from the sale of district bonds authorized to be issued at an election held

on or after September 3, 1952. Upon a finding by the board that any such proceeds have been expended or encumbered for purposes outside the scope and intent of this chapter, the board may require the district to contribute toward the project for which an apportionment is sought from any funds of the district, except those referred to in subdivision (a) above, an amount equal to the amount of district bonds proceeds expended or encumbered for purposes outside the scope and intent of this chapter. Proceeds from the sale of district bonds which have been encumbered or expended for the purchase of schoolbuses authorized by Section 15100 shall be deemed encumbered or expended for purposes outside the scope and intent of this chapter.

If a district is required pursuant to this section to make a contribution toward the project for which an apportionment is sought as a result of the purchase prior to January 1, 1967, of schoolbuses authorized by Section 15100 out of proceeds from the sale of district bonds, the district at the time that the board determines that the contribution is required may agree to pay the required contribution by payment into the State School Building Aid Fund by 10 or less annual installments payable without interest over a period not exceeding 10 years after the date of the final apportionment. The first installment shall be due and payable one year after the date of the final apportionment. The installment payments shall be made by the governing board of the district from moneys in the general fund of the district if money is available therefor. If the governing board of the district determines that money is not available in the general fund of the district for such purposes, the maximum rate of school district tax for any school year is hereby increased for any school year by such amount not to exceed the amount of the proposed payment into the State School Building Aid Fund as shown by the budget for such school year as finally adopted by the governing board of the district, less any unencumbered balances remaining at the end of the preceding school year

derived from the revenue from the increase in the rate of tax provided by this section.

16032. Notwithstanding any other provisions of this chapter, whenever the board makes a finding pursuant to Section 16031 that proceeds from the sale of district bonds have been expended or encumbered by a school district for purposes outside the scope and intent of this chapter the board, in lieu of requiring the district to contribute toward the project for which an apportionment is sought from any funds of the district, may stipulate that such bond funds expended or encumbered shall not be considered as ‘‘eligible bonded debt service’’ as defined in Section 16070 and 16084.

16033. The expenditure by a school district, prior to the filing of an application for an apportionment under this chapter, of proceeds from the sale of district bonds for the construction of a swimming pool, shall not in and of itself constitute grounds for denying an apportionment, but the board may require a contribution of district funds therefor under Section 16031.

16034. Before the board approves an application for a furniture or equipment project, or an application for a new construction project, including furniture and equipment, and after consultation with the State Department of Education, it shall establish current furniture and equipment cost standards. Such standards shall not exceed the quantity and quality of furniture and equipment for comparable facilities purchased by school districts not receiving or not eligible for an apportionment under this chapter. Such standards shall consist of equipment costs for each type of classroom or pupil station which represents a differential in costs. The standards shall be reviewed quarterly by the board and adjustments made in accordance with current cost standards. When standards have been adopted by the board, no apportionment shall be made by the board in excess of such standards unless a rapid increase in costs warrants an adjustment.

Before the board approves an application for furniture and equipment in connection with an application for the

replacement of, reconstruction of, alteration of, or addition to, a school building, the State Department of Education, after full consideration of all the furniture and equipment existing in the applicant district that is in usable condition, shall recommend the amount that shall be approved in the application. The board may approve all or a portion of the amount so recommended.

16035. The board may approve, in whole or in part, an application submitted by a school district under Section 16024 and in such amount, not exceeding the amount applied for, as the board may deem appropriate.

The board may, upon approval of the application, in whole or in part, and subsequently from time to time, make a conditional apportionment or conditional apportionments not exceeding in the aggregate the total amount determined by the board, to the applicant school district from the State School Building Aid Fund for that portion or portions of the construction project as the board determines the district is ready to proceed with. If the board has approved an application and made an apportionment as to a portion or portions of a construction project, the board may approve the remaining portion or portions of the construction project and make an additional apportionment or apportionments within five years after the original approval without requiring a district to issue additional bonds. The board may also make an additional apportionment or apportionments for a period of time in excess of five years after the original approval without requiring a district to issue additional bonds if it has made a finding that the additional apportionment or apportionments are justified by virtue of the fact that state funds were not available for apportionment within the two-year period after the original approval because of the inability of the state to sell authorized state bonds within the maximum permitted interest rate.

If the board determines that the actual cost is in excess of the estimated cost of the specific school plant facilities or sites for which an apportionment to a district has been made, or for which a district's application has been

approved in whole or in part pursuant to this section, the board may make an additional apportionment to the district in an amount equal to the excess even though the additional apportionment will result in the total apportionments to the district exceeding the amount of the application originally approved by the board. Before the additional apportionment becomes final the district, pursuant to Section 16058, shall hold an election to repay the amount of the additional apportionment which is in excess of the amount which the district has previously voted to repay. The additional apportionment shall become final when the county superintendent of schools transmits to the board and the Controller a certificate in duplicate stating that the school district has authorized the acceptance and expenditure of the necessary amount of the excess. If the additional apportionments are made by the board within five years after the original approval, except an apportionment made final pursuant to subdivision (c) of Section 16058, the district shall not be required to issue additional bonds.

Except as otherwise provided in this section, all provisions of this chapter relating to apportionments shall apply to apportionments made under this section.

Whenever an apportionment has heretofore been made or is hereafter made to a district for a site and the district heretofore or hereafter proposes to acquire the site through negotiation or condemnation but the total acquisition cost thereof, plus all other costs incidental to either the acquisition or condemnation of the site, exceeds or exceeded the apportionment for the site, the board may at any time hereafter make an additional apportionment to provide for the differential in total acquisition cost without the district being required to issue additional bonds to qualify, providing the board finds (1) that it is in the interest of the state to proceed with the acquisition despite the acquisition costs, and (2) that the district is unable to provide, or it would be a hardship to require it to provide, the excess costs. The board may also, in its discretion, as a condition of making the apportionment, require the district to repay in full all

or any part of the excess apportionment, under the terms and conditions that the board deems desirable, and the district shall be empowered and obligated to comply if it accepts the excess apportionment, notwithstanding any other law to the contrary; provided, (1) that no the repayment shall be required from any source that would be exempt from required contribution toward the cost of a project under Sections 16024 and 16031 (excepting amounts in the General Fund raised by taxes to pay any judgment requiring the repayment), and (2) that any portion of the apportionment not required to be repaid in full, shall be repayable in the same manner as a construction apportionment.

Approval of an application under this section shall not be construed as creating or implying any obligation, commitment or promise on the part of the board or the state to make apportionments under this chapter.

16036. The board shall, after consultation with the State Department of Education, establish site cost standards which shall be used in evaluating the cost in relationship to the size of any site to be acquired wholly or partially with funds apportioned under this chapter. In determining the standards, consideration should be given to the following factors:

(a) The grade level of the school.

(b) The location of the school.

(c) The enrollment to attend the school.

(d) The purchase price of each acre of the site.

(e) The site development cost.

(f) Land use in the area.

16037. Notwithstanding any other provision of this chapter, whenever the board has made an apportionment more than two years after the original approval of and apportionment for any construction project, and pursuant to Section 16035 has required the district to issue additional qualifying bonds as a condition of the apportionment, the board may continue to make apportionments as it may consider necessary to complete the approved construction project without requiring further qualification by the district, provided the

apportionments are made within two years of the date upon which the additional qualifying bonds were required.

16038. Notwithstanding the provisions of Section 16035, if the board has approved an application for a construction project and has made an apportionment therefor, the board may make an additional apportionment or apportionments for a period of time in excess of two years after the original approval without requiring a district to issue additional bonds; provided that: (1) the approved project provides for the structural rehabilitation of an unsafe school building, and (2) the apportionment is necessary to cover costs resulting from additional items of work necessary for compliance with structural safety requirements, and the need for such additional work was not foreseen at the time of the original apportionment.

16039. Notwithstanding any other provisions of this chapter, a district which applies for an apportionment for the purchase of a site or for the cost of the preparation of plans and specifications, which is not a part of a construction project, shall make a separate application for the site or plans and specifications in the same manner as prescribed by Section 16024.

All of the provisions of this chapter apply to that application and apportionment except that:

(a) If the State Department of Education determines that within five years in the case of an application for an elementary grade level maintained by the district, or within seven years, in the case of an application for a high school grade level maintained by the district, from the date of the application for the site or for the plans and specifications, there will be sufficient enrollment in the district, based upon enrollment projection criteria adopted by the board, to show the need of such site or for the plans and specifications, it may approve the application. The board may modify a determination respecting future enrollment in connection with an application for an elementary grade level maintained by the district to utilize a period of seven years from the date

of the application if it is necessary to meet the emergency conditions existing in that certain district due to a rapid increase in the enrollment of pupils, or due to the scarcity of land within the district, or both. Any application referred to the board pursuant to this section may be either approved in whole or in part, not exceeding the amount applied for, as the board may deem appropriate, pursuant to Sections 16024 and 16035, except that the board may approve additional portions of an application and make an additional apportionment or apportionments within five years of the original approval without requiring a district to issue additional bonds. No additional approval pursuant to the original application or apportionment thereunder may be made unless the board first has investigated and determined the necessity of the additional approval or apportionment, and has received a report thereon from the State Department of Education. Any provision of Section 16024 inconsistent with this section does not apply to that application. As used in this section, an ‘‘elementary grade level maintained by the district’’ is a grade level composed of the grades and maintained by the districts specified in clause (1) of subdivision (e) of Section 16002. As used in this section a ‘‘high school grade level maintained by the district’’ is a grade level composed of the grades and maintained by the districts specified in clause (2) of subdivision (e) of Section 16002.

(b) Section 16007 does not apply.

(c) An application for a site pursuant to this section may include an amount for the preparation of plans and specifications for school facilities and for the development of the site, which will conform to those eligible for construction under this chapter.

(d) If the application is approved and an apportionment granted therefor the district shall repay the full amount of the apportionment and the interest thereon. The repayment of the apportionment for a site and the interest thereon, may be over a period of years, not to exceed 30 years from the first day of January of the fiscal year next succeeding the fiscal year in which the

apportionment became final. The repayment of the apportionment for plans and specifications, and the interest thereon, may be over a period of years, not to exceed 30 years from the first day of January of the second fiscal year succeeding the fiscal year in which such apportionment became final. The number of years allowed for repayment shall be determined by the board at the time it fixes interest on the apportionment. The repayment is in addition to any other repayment required under this chapter. If an apportionment is granted pursuant to this section for a site and the site is subsequently used in a construction project for which an apportionment is received under other provisions of this chapter, or if an apportionment is granted pursuant to this section for plans and specifications and the plans and specifications are subsequently used in a construction project for which an apportionment is received under other provisions of this chapter, the district shall not be required to make any further repayments for the site, or the plans and specifications, as the case may be, pursuant to this section and the unpaid balance of the apportionment and interest owing on the apportionment for the site, or the plans and specifications, as the case may be, pursuant to this section shall be added to the principal amount of the apportionment and accrued interest thereon for the construction project. The site is ‘‘subsequently used in a construction project’’ within the meaning of the preceding sentence, if it is used in connection with a construction project at the same grade level by any district receiving a construction apportionment therefor, as this is not intended as a change in the present law, but as a statement of the existing law. In addition, the site is ‘‘subsequently used in a construction project’’ within the meaning of that reference, if it is used in connection with the construction project by any district receiving a construction apportionment therefor at a different grade level, providing that in the latter instance the board in its discretion consents by resolution to the combination of the site and construction apportionments.

16039.5. Notwithstanding the provisions of Section 16039, if the board has made apportionments pursuant to the section for purchase of a site or preparation of plans and specifications and the district after January 1, 1977, (1) begins construction on the site of facilities which are justified by the maximum building areas set forth in Sections 16047, 16052, 16053, and 16054, or (2) uses the plans and specifications for the construction of the facilities using, in any case, funds other than an apportionment, the site or plans and specifications shall be deemed to be ‘‘subsequently used in a construction project’’ within the meaning of Section 16039. In these cases, the balance of the principal amount of the apportionment for the site or plans and specifications, and accrued interest thereon, shall not be payable pursuant to Section 16039, but shall be added by the Controller to, and become a part of, any apportionment for construction pursuant to Section 16041, as if an apportionment had been made for the construction and had become final upon the date construction began.

16040. In any month in which the priority point procedures prescribed by Section 16007 are utilized, the board may apportion to school districts, under Section 16039, not more than the sum of four hundred thousand dollars ($400,000); provided that any amount apportioned or made final pursuant to subdivision (c) of Section 16058 shall not be subject to the limitation.

16041. If an apportionment is or has been made at any time after September 9, 1953, for construction on a site for which an apportionment was made pursuant to Section 16039, from and after the date the apportionment for construction becomes, or became, final, no repayment deductions by the Controller pursuant to Section 16080 attributable to the apportionment for the site shall thereafter be made, except that any the repayment deductions attributable to the site apportionment which would otherwise be made by the Controller during the fiscal year in which the construction apportionment becomes final shall be made during the fiscal year only. The balance of the principal amount of the

apportionment for the site, and accrued interest thereon, shall be added by the Controller to and become part of the apportionment for construction, as of the date of the apportionment, and repaid in the manner otherwise prescribed by this article. The Controller shall promptly notify the governing board of the district and the county auditor of the county, the county superintendent of which has jurisdiction over the district, of any revision required by this section of any previous computation made by him or her pursuant to Section 16089.

16042. In addition to any powers granted the board under this chapter, the board shall have authority to make apportionments to school districts for the purchase of sites and construction or purchase of temporary and portable buildings thereon, or for the construction alone, and for the cost of site preparation, including necessary utility costs, in connection with their utilization. The board may establish standards in conjunction with the State Department of Education pertaining to said sites and facilities as a condition of making the apportionments.

In addition, the board may expend moneys from the State School Building Aid Fund directly for the construction, acquisition, storage, maintenance and repair of the buildings, and administrative costs relating thereto. In the event the board may lease, sell or transfer under a lease-purchase agreement the buildings to eligible school districts or to county superintendents of schools. Any agreements with school districts may provide for the payment by the state of site preparation costs, including necessary utility costs, sufficient to permit the utilization of the facilities. Any building leased for placement on the school property or under a purchase or a lease-purchase agreement shall be deemed the construction or alteration of a school building as those terms are defined in Sections 17280 to 17313, inclusive. The consideration payable by either school districts or county superintendents for the facilities shall, as nearly as practicable, reflect an amount which would render to the state a fair return, as determined by the board, on its investment in said facilities and expenditures connected

with their utilization, in the light of the benefits conferred by the agreement pertaining thereto.

The county superintendent of schools may contract with eligible school districts respecting and transfer to them by lease, lease-purchase or sale, facilities acquired by him or her from the board, provided that the agreements are not inconsistent with the rights of the state under any agreement between the superintendent and the board respecting the property. Repayments to the state as due shall be made by the county superintendent from the funds received from the affected school districts, and, if necessary to make the same when due, from the county school service fund, upon which he or she is authorized to draw requisitions for this purpose. The fund shall be reimbursed for the withdrawals from any payments made by the affected districts to the county superintendent not required when made for the discharge of any obligations of the county superintendent hereunder to the state.

No transfer of any property acquired directly by the board to any school district by lease or otherwise shall be made either by the board or county superintendents without the approval of the State Department of Education solely as to (1) the property to be transferred, including incidental construction, if any, connected therewith, (2) whether the same shall be by lease or sale, and (3) if less than a sale, the term of the lease, including any contingent or indefinite term.

The board, affected school districts, and county superintendents of schools are authorized to do any and all things necessary to carry out the purposes of this section. Payments required of any affected school districts under any agreement entered into pursuant to this section shall be made promptly when due. Whenever the board deems it economically desirable in the state's interest to do so, it may dispose of any facilities directly acquired by it to any public or private parties in the manner and under the terms as it deems best, providing that the disposition is not inconsistent with any agreements previously entered into under this section.

The term ‘‘eligible school districts’’ as used in this section, shall be deemed to refer to those districts which at the time an agreement contemplated hereunder is entered into would upon proper application have been eligible to receive an apportionment under this chapter, provided that solely for the purpose of determining the eligibility the board, or the county superintendent of schools in agreements with districts hereunder, may waive construction area restrictions pertaining to apportionments under this chapter.

16043. If, after a conditional apportionment has been made to a school district, legal proceedings initiated prior or subsequent to the making of any conditional apportionment prevent the taking, within the period during which the conditional apportionment remains effective under Section 16024, of the actions necessary to permit the conditional apportionment to become final, the conditional apportionment shall nevertheless remain effective for a period of nine months from the date upon which such legal proceedings are finally determined. The amount of the apportionment may be diminished by the board after a second investigation at which the board shall determine whether conditions existing at the time it approved the project for which apportionment was made have so changed that the needs of the district are less than originally determined, and if so, the conditional apportionment shall be reduced by a corresponding amount.

16044. No apportionment shall be made for new construction which, when added to the area of adequate school construction existing in the applicant school district at the time of application, will provide a total area of school building construction per unit of average daily attendance of the estimated average daily attendance in excess of that computed in accordance with Sections 16047, 16052, 16053, 16054, and 16055.

As used in Sections 16047, 16052, 16053, 16054, and 16055, ‘‘maximum area’’ means maximum area of school building construction and ‘‘attendance unit’’ means unit of estimated average daily attendance.

As used in this section and Sections 16053, 16054, and 16055, ‘‘attendance center’’ means a school maintained or to be maintained at a given location within a district. The State Department of Education shall approve or disapprove the allocation by an applicant district of units of estimated average daily attendance among the attendance centers of the district.

To the building area permitted to an applicant school district by Sections 16047, 16052, 16053, 16054, and 16055, there may be added any additional building area that may be required to provide adequate facilities for exceptional children pursuant to Article 3 (commencing with Section 16190) of this chapter.

No estimate of average daily attendance made by an applicant for the purpose of justifying an apportionment shall be made for a longer time than the third fiscal year beyond the fiscal year in which an application is made, except that an estimate for the purpose of justifying an apportionment for a grade level maintained by a unified district, under an application filed prior to September 15, 1961, or by a high school district composed of grades 7 to 12, inclusive, 9 to 12, inclusive, or 7 to 10, inclusive, or of justifying an apportionment for a unified district for a junior high school or high school project under an application made on or after the effective date shall not be made for a longer time than the fourth fiscal year beyond the fiscal year in which the application is made. Except as otherwise provided by the board, the estimates of average daily attendance shall be based upon the number of family dwellings and mobilehome parks, as defined in Section 18214 of the Health and Safety Code, under construction or newly constructed and never occupied in the district and the number of children residing in the district. In no case shall an estimate be given effect unless approved by the board.

For the purposes of this chapter pupils attending grades 7 and 8 in an elementary district but residing in a high school district which maintains one or more junior high schools shall not be considered in determining or estimating the average daily attendance of the

elementary district, unless the elementary district is maintaining and has continuously maintained grades 7 and 8 since a date prior to January 1, 1959, or unless the electorate of the district, during the year 1974, has authorized the return of the seventh and eighth grade pupils from the high school district and the maintaining of grades 7 and 8 in the elementary district. When pupils attending grades 7 and 8 are so considered in determining or estimating the average daily attendance of the elementary district in making apportionment to the elementary district, these pupils shall not be considered in determining or estimating average daily attendance of the high school district in making an apportionment to the high school district for junior high school purposes.

The board shall develop statewide or areawide averages of pupil occupancy for family dwellings of various sizes and for mobilehomes of various sizes for use by applicant school districts in estimating the average daily attendance of family dwellings and mobilehome parks under construction or newly constructed and never occupied in the district.

16045. (a) The board by the adoption of rules shall provide for the manner of determining the area of adequate school construction existing in an applicant school district at the time of application. The rules shall define and provide for the method of determining building areas that are to be included in whole or in part, or to be excluded from the area of existing adequate school construction.

The board may make exceptions to this section or to the rules adopted pursuant to this section when it determines that the exceptions will be for the benefit of children affected.

For the purposes of this section, ‘‘service area’’ may be defined as any of the following:

(b) (1) Buildings which when constructed were intended to be used for a purpose to which the provisions of Sections 17280 to 17313, inclusive, would not apply, whether or not those sections were in effect at the time when the building was constructed.

(2) Buildings which when constructed were intended to be used for a purpose to which Sections 17280 to 17313, inclusive, would apply, whether or not those sections were in effect when the building was constructed, but which building has been converted or is intended to be converted, as shown by the application, to use for purposes to which the sections would not apply. Service area may include, but is not limited to, construction used as bus garages, maintenance shops, centrally located district storage and warehouses, custodial houses, utility shelters, administration offices, transformer vaults, and service yards.

(c) In the event that a school district has expended funds for the purpose of constructing buildings used for housing certificated employees of the district and their families, the area of the buildings and the funds expended therefor shall be accounted for in the following manner:

(1) The area of the buildings constructed or acquired with the proceeds of a tax levied under Sections 14200 to 14240, 42200 to 42247, and 45020, inclusive, shall be excluded from the building area of the district.

(2) The area of the buildings constructed or acquired with the proceeds from the sale of school district bonds prior to July 1, 1961, shall be excluded from the building area of the district, however, the bond funds shall not be considered as ‘‘eligible bonded debt service’’ as defined in subdivision (d) of Section 16070 and Section 16084.

(d) The board shall exclude from the building area of a district:

(1) The area of any building which is or will be used exclusively for a parent cooperative nursery education facility, and for no other purpose, and which building at the time of acquisition thereof by the district was incidental to the purchase of a schoolsite and unsuitable for classroom purposes or which was acquired by the district without expenditure of school district funds.

(2) The area of any building which is or will be used exclusively for a preschool educational program facility pursuant to Chapter 4 (commencing with Section 54400) of Part 29, or Chapter 2.5 (commencing with Section

16150) of Part 4 of Division 9 of the Welfare and Institutions Code, or any combination thereof; provided, that the building was constructed, leased, or purchased with local general funds, or federal or state funds allocated specifically for a preschool educational program.

(e) The area of adequate school construction existing in a district at the time of application shall be initially computed as all of the construction area of a district except all of the following:

(1) The areas as may be eligible for replacement under standards established by the board.

(2) The areas in an existing structurally inadequate building for which an application has been filed for structural rehabilitation or in a building previously structurally rehabilitated under either Chapter 6 (commencing with Section 15700) or Sections 16000 to 16207, inclusive, that exceeds the maximum building area allowed by Section 16044 for a number of pupils, equivalent to those that could be housed in the building after rehabilitation.

The board shall prescribe by rule the method of computing the number of pupils which could be so housed for the purposes of this subdivision.

(f) If the area of adequate school construction, when added to the minimum facilities needed by the district, results in a total construction area in excess of the amount prescribed in Section 16044, then the board may make the following adjustments to the initial computation or the revisions thereof as the board, in its discretion, deems desirable:

(1) Service areas constructed prior to July 19, 1947, shall be excluded, except as provided in paragraph (3).

(2) Service areas constructed subsequent to July 19, 1947, shall be recomputed by multiplying the total number of square feet of said service area by the percentage determined from dividing the actual construction cost per square foot as determined by the Director of General Services by the estimated average

cost per square foot of the new school facilities for which the district has made application.

(3) If any inadequate nonservice area constructed prior to July 19, 1947, is, or will be, converted to a service area, the area shall be recomputed by multiplying said area by the percentage determined by dividing the depreciated value of said area by the replacement cost as the value and cost are determined by the Director of General Services.

(4) If, after the revised computation of service areas is made as prescribed under paragraphs (1), (2), and (3), the existing and requested building area of the district is in excess of the schedule set forth in Section 16044, the existing building area of nonservice facilities may be determined on the basis of the number of pupils housed by the facilities at an allowance per pupil which is not more than 25 percent in excess of the amount per pupil prescribed in Section 16044.

The board shall prescribe by rule the method for computing the number of adequately housed pupils for purposes of this subdivision.

16046. Any building area excluded from the computation of adequate school building construction by adjustments made under Section 16045 shall not be subsequently included in computing the area of adequate school construction by reason of its having been converted to usable instructional area used exclusively for vocational educational programs, provided the conversion was accomplished with federal or district funds, allocated specifically for that purpose, other than state apportionment funds or bond funds required to be contributed to the State School Building Aid Program.

16047. There shall be allowed to each district with attendance units of 300 or more in kindergarten and grades 1 to 6, inclusive, a maximum area of 55 square feet for each attendance unit of the district in kindergarten and grades 1 to 6, inclusive.

The maximum total building area per attendance unit allowed to applicant districts with attendance units of less than 300 in kindergarten and grades 1 to 6, inclusive, for

the attendance units shall be determined by the board, and shall be building area to provide comparable facilities to those provided by the first paragraph of this section, and shall be the least building area required to house adequately the estimated average daily attendance and the normal instructional and other services.

16048. The area of any building constructed by a school district after September 11, 1957 with any funds other than state or federal funds given or bequeathed to the district after the effective date, and the area of any building given, devised or bequeathed to a school district by any entity other than the state or federal government after the effective date, including any building given to a district by any city, county or political subdivision of this state, shall not be included in any computation of the area of adequate school construction existing in any applicant school district under this chapter.

For the purposes of this section, any building leased to a school district for a term exceeding 24 years and for an annual rental of not exceeding five dollars ($5), shall be construed as constituting a gift to the district.

16049. The area of any classroom or building used for adult education classes during the regular schoolday, except a building area that has been constructed or acquired with the proceeds from the sale of school district bonds or state or federal funds allocated to the district under any state school building aid program, shall not be included in any computation of the area of adequate school construction existing in any applicant school district under this chapter.

16050. The area of any building, the construction of which was financed by the proceeds from a tax levied pursuant to former Section 16633, shall not be included in any computation of the area of adequate school construction existing in any applicant school district under this chapter.

16051. The area of any building which has not been constructed or reconstructed under the provisions of Sections 17280 to 17313, inclusive, shall not be included in any computation of the area of adequate school

construction under this chapter, provided that such area is being used exclusively for adult education classes during the regular schoolday and that the operation of such classes has been approved by the State Department of Education.

16051.5. The area of any building, the construction of which was financed by the proceeds of a tax levied pursuant to Section 49502, shall not be included in any computation of the area of adequate school construction existing in any applicant school district under this chapter.

16052. There shall be allowed to each district a maximum area of 75 square feet for each attendance unit of the district in grades 7 and 8.

16053. The allowance of maximum area to a district for the attendance units in junior high schools of the district composed of grades 7 to 9, inclusive, or 7 to 10, inclusive, shall be determined pursuant to this section, rather than Sections 16052 and 16054. This section does not apply to junior high schools composed of grades 7 and 8 only.

There shall be allowed to each district a maximum area for the attendance units of the district in junior high schools determined by computing, in accordance with the following paragraph, the number of square feet for the attendance units at each junior high school attendance center of the district, and totaling the number of square feet so determined for all attendance units in all such junior high school attendance centers of the district.

There shall be allowed a maximum area of 75 square feet for each attendance unit of the junior high attendance center in grades 7 and 8. For each attendance unit in grade 9, or grades 9 and 10, as the case may be, at each junior high school attendance center, there shall be allowed a maximum area of a number of square feet equal to the number of square feet which would be allowed under Section 16054 for each attendance unit of an attendance center having a total number of attendance units equal to the total number of attendance units in grades 7 to 9, inclusive, or 7 to 10, inclusive, as the case

may be, at the junior high school attendance center. The number of square feet which would be allowed under Section 16054 for each attendance unit of an attendance center shall be computed by determining in accordance with that section the total number of square feet which would be allowed at an attendance center and dividing such total number of square feet by the total number of attendance units at such attendance center.

16054. There shall be allowed to each district a maximum area for the attendance units of the district in grades 9 to 12, inclusive, determined by computing, for the attendance units in grades 9 to 12, inclusive, at each attendance center of the district, a number of square feet for the number of attendance units in such grades at each attendance center, in accordance with the following table, and totaling the number of square feet so determined for all attendance units in such grades of all attendance centers of the district:

Attendance units of attendance center	Maximum number of square feet of building area	
1- 50	18,000	
51-100	18,000	plus 162 for each attendance unit over 50
101-200	26,000	plus 99 for each attendance unit over 100
201-300	36,000	plus 60 for each attendance unit over 200
301-600	42,000	plus 54 for each attendance unit over 300
601-1,800	58,200	plus 80 for each attendance unit over 600
Over 1,800	154,000	plus 85 for each attendance unit over 1,800

16056. When a unified district which is otherwise qualified for an apportionment under this chapter applies for an apportionment and the area of adequate school construction existing in any one of the component elementary districts included in the unified district is of

such an amount that the district is prevented, by Sections 16044 to 16055 inclusive, from receiving an apportionment, the maximum area of school construction for each unit of attendance, for elementary school construction prescribed by such sections, may be computed separately for each component elementary district without regard to the area of adequate school construction existing in the other component districts, and apportionments made to the unified district on the basis of such separate computations. On request of the governing board of the unified district the State Superintendent of Public Instruction shall make or cause to be made a survey of building needs in the district and the area computations for elementary school construction. He or she shall report his or her findings and recommendations to the board for consideration in connection with any application before the board from the unified school district.

16057. Payment shall be made in accordance with the terms of a final apportionment, either directly or by way of reimbursement, to a school district for expenditures, or commitments therefor, which have been made by the district for any items approved by the board in the apportionment, provided, the construction contract has been let no earlier than two years preceding the date the application is received by the board. Where expenditures were made for, or work was commenced with respect to, any item so approved, prior to the time the application of such district containing such item was received by the board, payment or reimbursement for the item, either with state funds or with district funds which the district is required to contribute by the apportionment, shall be made only upon authorization of the board by special resolution citing this section.

16058. No apportionment to a school district shall become final unless: (a) the total amount of outstanding bonds of the district exceeds 95 percent of the basic bond requirement of the district on the date the conditional apportionment is made, or (b) if the total amount of the bonds of the district outstanding and unpaid is within

twenty-five thousand dollars ($25,000) of the basic bond requirement of the district, as of the date on which the conditional apportionment is made, or (c) the district has issued and sold pursuant to this section, and as a condition to the initial conditional apportionment, an amount of bonds equal to the total cost of the project for which the apportionment was made, including necessary contingencies. At the time the board makes a conditional apportionment pursuant to Section 16024, it shall determine the total amount of bonds which shall be issued and sold by the district, the proceeds of which shall be applied toward the cost of the project for which the apportionment is sought. The amount so determined by the board shall be not less than the minimum amount required for the apportionment to become final under this section. Any apportionment made by the board pursuant to Section 16024 shall be conditioned upon the approval and sale of the bonds by the district. The amount of any apportionment for a construction project made as a consequence of applying district bond proceeds toward the reduction of prior apportionments pursuant to this section instead of applying the district bond proceeds toward the cost of the construction project, shall be excluded in determining the amount chargeable against the apportionments authorized by the electorate of the district to be accepted, expended and repaid. It is hereby declared that this provision, added by the amendment to this section enacted at the 1958 First Extraordinary Session of the Legislature, is not intended as a change in the law, but rather as a declaration of existing law.

Any provision of this code to the contrary notwithstanding, whenever the electors of a district, subsequent to any requirement by the board for the sale of bonds in connection with an apportionment, authorize the issuance of bonds for any purpose for which an apportionment could lawfully be made, the authorization shall, in addition to the purposes specified, be deemed to constitute the consent of the electors to apply the proceeds of the bonds so required to be sold by the board toward the reduction of any apportionment previously

made to the district. Any bond funds used to reduce any apportionment pursuant to this section shall be transferred to the State School Building Aid Fund and shall be available for reapportionment by the board. The amount so determined by the board shall be not less than the minimum amount required for the apportionment to become final under this section. Any apportionment made by the board pursuant to Section 16024 shall be conditioned upon the approval and sale of the bonds by the district.

No apportionment to a school district under this chapter shall become final, nor any agreement authorized by Section 16042 be entered into unless at an election called by the governing board of the district, two-thirds of the qualified electors of the district voting thereat have authorized the governing board to accept, expend and repay as provided in this chapter and apportionment under the provisions thereof or, with respect to the agreement, to obligate the district in an amount equal to or in excess of the maximum amount which the district could be obligated by the agreement, or by any act of its governing board or for which it is responsible, contemplated or permitted thereby. The election shall be called, held and conducted in the same manner as are elections to authorize the issuance of school district bonds, except that the ballot shall contain substantially the following words:

‘‘Shall the governing board of the district be authorized (1) to accept and expend an apportionment from the State of California under and subject to the provisions of Chapter 8 (commencing with Section 16000) of Part 10 of Division 1 of Title 1 of the Education Code, which amount is subject to repayment as provided by said chapter, or (2) to enter into an agreement or agreements with the state pursuant to Section 16042 of the Education Code, which will at the time of such agreement or agreements (or at the time of any subsequent act of the governing board, or for which it is responsible, contemplated or permitted thereby) commit the district to a total expenditure in

connection with all such agreements of not more than ____ dollars ($____), or both. Yes__ No__.''

16059. Notwithstanding any provision of Section 16058, if a previously eligible applicant school district has received apportionments and has realized savings in state aid apportionments or district contributions, or both, including any interest earned thereon, on completed projects pursuant to this chapter, which projects have not been reduced to final costs, the district may apply for, and shall be granted, final apportionments for additional eligible facilities in a total amount not to exceed those project savings.

The project savings for which a district has applied pursuant to this section shall not be considered excess apportionments or unencumbered balances for the purposes of Sections 16100 and 16104.

In no event shall the grant of the project savings to the district pursuant to this section extend the repayment period of any prior apportionments for the purposes of canceling the interest and principal payable thereon pursuant to Section 16083.

16060. Notwithstanding any provisions of Section 16058, if an applicant district issues and sells bonds prior to an apportionment in an amount which results in its being on the date of the apportionment within five thousand dollars ($5,000) of the basic bond requirement of the district, and makes the entire proceeds of the bond issue available for the purposes of the apportionment, or as a condition of an apportionment is required by the board to sell bonds to within five thousand dollars ($5,000) of the basic bond requirement of the district, and to make the proceeds available for the purposes of Section 16058, the district shall remain qualified to receive an apportionment or apportionments prior to the next equalized assessment of the county or counties in which said district is located without being required to issue and sell additional bonds, notwithstanding the retirement of any bonds of the district or territorial changes therein subsequent to any apportionment referred to in this section and prior to the next equalized assessment.

16061. Immediately after the result of the election has been determined, the county superintendent of schools shall make a certificate in duplicate stating whether the bonds have been authorized in the amount prescribed by the board and whether the school district has authorized the acceptance and expenditure of the apportionment. One copy of the certificate shall be sent to the board and one copy to the Controller. When the bonds authorized have been issued and sold and the proceeds thereof made available for the purposes of the application, the county superintendent of schools shall also certify this fact to the board and the Controller. Upon the receipt by the board of the certificates stating that the bonds have been issued and sold and the proceeds made available for the purposes of the application, the apportionment shall become final.

16062. The election by a school district upon the acceptance, expenditure, and repayment of an apportionment prescribed by Section 16058 may be called and held either before or after the making of an apportionment except that no election shall be held within 45 days before a statewide election or within 45 days after a statewide election unless conducted at the same time as that statewide election, subject to Part 3 (commencing with Section 10400) of Division 10 of the Elections Code.

16063. Whenever a conditional apportionment has, prior to January 1, 1980, been made to an applicant school district pursuant to this chapter and thereafter the county superintendent of schools of the county having jurisdiction over the district has certified to the board and the Controller that at an election called, held and conducted in the district for that purpose, two-thirds of the qualified electors of the district voting thereat authorized the governing board of the applicant school district to accept, expend and repay an apportionment under this chapter, and whenever thereafter the county superintendent of schools has certified to the board and the Controller that the amount of bonds, if any, required by the board, as a condition to the apportionment

becoming final, have been issued and sold and the proceeds thereof made available for the purposes of the application and the board has certified to the Controller that the apportionment to the applicant school district has become final, the final apportionment is hereby confirmed, ratified, and validated, and any expenditure of money from the State School Building Aid Fund according to the terms of the final apportionment is hereby confirmed, ratified, and validated.

Notwithstanding any provision to the contrary, no funds authorized by any bond act for the purpose of this chapter shall be made available for expenditure without specific authority of the board or its delegated representative.

16064. If the board has made an apportionment to a school district after November 1, 1960, upon the condition that the district issue and sell district bonds in an amount prescribed by the board, and an election was heretofore held in the district at which two-thirds of the voters voting on the proposition to authorize the issuance and sale of bonds in an amount sufficient to meet the condition of the apportionment voted in favor thereof, all acts or proceedings heretofore taken by or on behalf of the school district, under any law, or under the color of any law, for the authorization, issuance, sale or exchange of the bonds of the school district for any public purpose are hereby confirmed, validated and declared legally effective. This shall include all acts and proceedings of the governing board of the school district, and of any person or officer, heretofore done or taken upon the authorization, issuance, or sale of the bonds.

All bonds of any the school district heretofore authorized to be issued and hereafter issued and delivered in accordance with the authorization shall be the legal, valid and binding obligations of the district.

As used in this section the word ‘‘hereafter’’ means any time on or subsequent to the effective date of this section and the word ‘‘heretofore’’ means any time prior to the effective date.

16065. Notwithstanding any provision to the contrary after June 28, 1955, at the time the board makes an apportionment, the board, with the approval of the Director of General Services, shall, pursuant to this section, fix the rate of interest to be paid by the district on the sum apportioned to it. The board shall compute the average of the rates of interest which the state pays upon the state school building bonds, authorized by Article XVI, sold at the three sales of state school building bonds occurring immediately prior to the apportionment, or, if the board so determines, at all of the sales of the bonds occurring in the two years immediately prior to the apportionment, giving effect to the price at which the state school building bonds sold at the sales, and the premium, if any paid, thereon. The average rate shall be adjusted to the next highest one-tenth of 1 percent to cover the cost of sale and issuance of the bonds and costs of administration. The adjusted average rate shall be the rate paid by the district on its apportionment, and shall be compounded annually through the 30th day of June of each year.

16066. Apportionments may be made irrespective of whether there is on deposit at the time thereof a sufficient amount in the State School Building Aid Fund to permit the payment of the apportionments. Disbursements may be made under any apportionment which heretofore or hereafter becomes final from any funds in the State School Building Aid Fund without regard to whether there exists at the time of the disbursement a sufficient amount in the fund to permit the payment in full of all apportionments previously made. However, no disbursements shall be made from any funds in the State School Building Aid Fund required by law to be transferred to the General Fund, or from any moneys therein which the Controller deems necessary to satisfy appropriations from the fund for purposes other than apportionments.

16067. No apportionment shall be made to a district for the construction, reconstruction, or alteration of, or addition to, school buildings if the requirements

prescribed by this code for the construction of school buildings are not met by the plans for the entire building program of the district in connection with which the district applied for an apportionment or for any project or part thereof which has not been approved by the State Department of Education.

16068. If any school district receives a final apportionment under this chapter and after November 12, 1952, receives money from the federal government as reimbursement for any expenditures by the state or school district for constructing any school facilities included in the construction project for which the district is receiving an apportionment, the amount of the district's annual repayment next succeeding the date on which the district receives the money shall be increased by the amount of the money so received; provided, however, that the annual repayment of the district shall not be so increased where the money received from the federal government constitutes a contribution toward the cost of school facilities which are to be acquired, in part, with an apportionment, and the federal funds are encumbered or expended by the district in accordance with the purposes of the apportionment.

16069. Each district to which an apportionment has been made under this chapter shall repay the principal amount of the apportionment and the accrued interest thereon in the amount and in the manner provided in this chapter.

16070. The following definitions apply to the computation and determinations required to be made under Section 16072, 16074, and 16075, and they apply with respect to each grade level of a district for which grade level an apportionment has become final during any preceding fiscal year.

(a) ''Forty-cent tax amount'' means the amount that would be produced by a tax of forty cents ($0.40) on each one hundred dollars ($100) of assessed valuation, to and including 1980–81 fiscal year. For the 1981–82 fiscal year and thereafter, the tax shall be 0.10 percent of the full valuation. This tax amount shall exclude the full value of

solvent credits and other intangible property, for the current fiscal year within the district.

(b) ‘‘Thirty-cent tax amount’’ means the amount that would be produced by a tax of thirty cents ($0.30) on each one hundred dollars ($100) of the assessed valuation to and including the 1980–81 fiscal year. For the 1981–82 fiscal year and thereafter, the tax shall be 0.075 percent of the full valuation.

(c) ‘‘Ten-cent tax amount’’ means the amount that would be produced by a tax of ten cents ($0.10) on each one hundred dollars ($100) of the assessed valuation to and including the 1980–81 fiscal year. For the 1981–82 fiscal year and thereafter, the tax shall be 0.025 percent of the full value.

(d) ‘‘Eligible bonded debt service’’ means the amount raised and to be raised by the district during the current fiscal year for the repayment of principal and interest on the portion of the bonded indebtedness of the district that was incurred for each the grade level prior to the making of the first apportionment for grade level to the district under the provisions of this chapter computed as provided in Section 16072 plus the amount of the annual repayment under Chapter 6 (commencing with Section 15700) of this part, provided that for the purposes hereof the first apportionment made to a district for a grade level after all previous apportionments to the district for that grade level have been repaid in full, excluding apportionments made under Section 16039 and not combined with construction apportionments, shall be deemed to be the ‘‘first apportionment for the grade level.’’

16071. This section applies only to a unified school district that filed an application on or after April 30, 1977, for an apportionment for a grade level consisting of kindergarten, if any, and grades 1 to 12, inclusive, and the repayments required for apportionments made under those applications.

The following definitions apply to the computation and determinations required to be made under Sections 16072, 16074, and 16075, and they apply with respect to

the grade level of a unified school district for which grade level an apportionment has become final during any preceding fiscal year:

(a) ‘‘Forty-cent tax amount’’ means the amount that would be produced by a tax of 0.20 percent of full valuation for the current fiscal year within the district.

(b) ‘‘Thirty-cent tax amount’’ means the amount that would be produced by a tax of 0.15 percent of full valuation for the current fiscal year within the district.

(c) ‘‘Ten-cent tax amount’’ means the amount that would be produced by a tax of 0.05 percent of full valuation for the current fiscal year within the district.

(d) ‘‘Eligible bonded debt service’’ means the amount raised and to be raised by the district during the current fiscal year for the repayment of principal and interest on the portion of the bonded indebtedness of the district that was incurred for each grade level prior to the making of the first apportionment for the grade level to the unified school district under this chapter computed as provided in Section 16072 plus the amount of the annual repayment under Chapter 6 (commencing with Section 15700) of this part.

If the unified school district’s first apportionment under this chapter was for a grade level consisting of kindergarten, if any, and grades 1 to 6, inclusive, grades 1 to 8, inclusive, grades 7 to 12, inclusive, grades 9 to 12, inclusive, or grades 7 to 10, inclusive, ‘‘eligible bonded debt service’’ means the amount raised and to be raised by the district during the current fiscal year for the repayment of principal and interest on the portion of the indebtedness that was incurred for elementary and high school purposes prior to the making of the first apportionment under this chapter computed as provided in Section 16072 together with the amount of the annual repayment under Chapter 6 (commencing with Section 15700) of this part.

16071.5. The amounts raised and to be raised by the district during the current fiscal year for repayment of principal and interest for any bonds, issued and sold by an applicant district, which are in excess of the ‘‘basic bond

requirement,'' as defined in Section 16002.5, shall not be considered as ''eligible bonded debt service'' for purposes of computing repayments or deferments pursuant to Sections 16070, 16072, 16073, 16084 and 16086.

16072. On or before the first day of December of each fiscal year, the Director of General Services shall determine for each grade level and certify to the Controller the eligible bonded debt service for the district, as follows:

(a) He or she shall determine the amount of the bonded indebtedness that was incurred by the district for each grade level, when bonds were issued and sold for purposes of more than one grade level. When one or more additional apportionments have been made to a grade level of a school district, conditioned upon the issuance and sale of additional bonds of the district or upon the requirement that the proceeds of bonds issued and sold be contributed for the purposes of the application for which the apportionment is made, the Director of General Services shall determine and include in the eligible bonded debt service and in his certificate the amount raised and to be raised by the district during the current fiscal year for the payment of principal and interest on that portion of the additional bonded indebtedness of the district that was incurred for each such grade level as a condition to receiving the additional apportionment or which was incurred for bonds issued and sold, the proceeds of which were required to be contributed for purposes for which the apportionment was made.

(b) If the Director of General Services determines in any fiscal year that the amount certified to the Controller as the eligible bonded debt service during the last preceding fiscal year is more than the amount actually raised by the district for the repayment of principal and interest of the bonded indebtedness referred to in subdivision (d) of Section 16070 and subdivision (a) of this section, then the Director of General Services shall subtract from the amount determined as the eligible bonded debt service for the current fiscal year an amount

equal to the difference between the amount actually raised by the district during the preceding fiscal year for the repayment of such bonded indebtedness and the amount so certified by the Director of General Services.

(c) If the Director of General Services determines in any fiscal year that the amount certified to the Controller as the eligible bonded debt service during the last preceding fiscal year is less than the amount actually raised by the district for the repayment of principal and interest of the bonded indebtedness referred to in subdivision (d) of Section 16070 and subdivision (a) of this section, then the Director of General Services shall add to the amount determined as the eligible bonded debt service for the current fiscal year an amount equal to the difference between the amount actually raised by the district during the preceding fiscal year for the repayment of the bonded indebtedness and the amount so certified by the Director of General Services.

(d) If an apportionment has been made to a district for a grade level for which the district also received an apportionment pursuant to Chapter 4 (commencing with Section 15700) of this part, the Controller shall determine the amount of the annual repayment, if any, due from the district during the next succeeding fiscal year for the grade level as required by Chapter 4 (commencing with Section 15700) of this part and the amount shall be included by the Controller in the eligible bonded debt service of the district for that grade level. For an apportionment to a unified district for a grade level consisting of kindergarten, if any, and grades 1 to 12, inclusive, for which an application for an apportionment was filed on or after the effective date of the amendment to this section made at the 1961 session of the Legislature, if an apportionment had also been made to the district pursuant to Chapter 4 (commencing with Section 15700) of this part for a grade level consisting of kindergarten, if any, and grades 1 to 6, inclusive, or 1 to 8, inclusive, or grades 7 to 12, inclusive, 9 to 12, inclusive, or 7 to 10, inclusive, the Controller shall determine the amount of the annual repayment, if any, due from the district during

the next succeeding fiscal year for all of the grade levels as required by Chapter 4 (commencing with Section 15700) and the amount shall be included by the Controller in the eligible bonded debt service of the district for the grade level consisting of kindergarten, if any, and grades 1 to 12, inclusive.

16072.5. Whenever a school district has applied the proceeds of a sale of local bonds to a project pursuant to subdivision (c) of Section 17032, the Director of General Services shall include in the determination of the eligible bonded debt service of the district, the amount raised or to be raised for repayment of principal and interest on that portion of the bonded indebtedness of the district generating the proceeds.

16073. Whenever (a) a school district which has not sold bonds within two fiscal years immediately preceding the fiscal year in which a repayment computation is made pursuant to this article; and (b) the district is not eligible for deferment under Section 16084 or 16086 and has been required during the fiscal year in which repayment computations are made to issue bonds in order to qualify for an apportionment; and (c) no funds for the required bond issue have been provided during that year in the district's bond interest and redemption fund budget, the Director of General Services shall determine the eligible portion of the amount required from taxes for the required issue during the next succeeding fiscal year and shall certify the amount to the Controller as additional eligible debt service prior to the levy of taxes during such fiscal year. The provisions of this section shall apply to the qualifying bond requirements commencing with the 1972–73 fiscal year.

16074. On or before the first day of January of each fiscal year, the Controller shall compute for each grade level of a district for which grade level an apportionment has become final during any preceding fiscal year the 40-cent tax amount, the 30-cent tax amount and the 10-cent tax amount.

16075. On or before the first day of January of each fiscal year the Controller shall determine the annual

repayment, if any, to be due from each district during the next succeeding fiscal year, as follows:

(a) If, for any grade level of a district, the amount of the eligible bonded debt service exceeds the 40-cent tax amount, no annual repayment shall be due the state from such district with respect to such grade level during the next succeeding fiscal year.

(b) If, for any grade level of a district, the 40-cent tax amount is greater than the eligible bonded debt service, the amount of such excess shall constitute the annual repayment due the state with respect to such grade level during the next succeeding fiscal year; except that if the eligible bonded debt service is less than the 10-cent tax amount, the annual repayment shall equal the 30-cent tax amount.

(c) The total repayment for each district is the sum of the annual repayments determined for each grade level of the district under this section.

16076. Whenever the Director of General Services has certified an additional amount of eligible debt service under the provisions of Section 16073, the Controller shall make a recomputation of the annual repayment and notify, in writing, the board of supervisors of the county, the governing board of the district, the county auditor, and the county superintendent of schools having jurisdiction over the district of the revised repayment. The recomputation and notification shall be completed prior to the date on which the board of supervisors makes the levy of taxes for county purposes.

16077. If an apportionment is made for a project which includes a multipurpose room the board shall determine and specify the portion of the apportionment that is allocated to the cost of the multipurpose room.

If a district receives an apportionment a portion of which is for a multipurpose room it shall repay the principal amount of such portion of the apportionment as an additional payment as provided by this section. Interest on the total apportionment shall be paid as provided in Section 16083. The repayment is in addition to the repayments required on the total of all

apportionments to the district, which shall be repaid as otherwise provided in this chapter.

Notwithstanding the provisions of Sections 16083 and 16087 for cancellation of the principal amount of apportionments the Controller shall continue to make the deduction provided by Section 16080 during each fiscal year thereafter until the principal amount of the portion of the apportionment that was allocated to the cost of the multipurpose room and was made and disbursed to the district has been withheld, or for an additional period of 10 years, whichever first occurs. At the expiration of 40 years from the first day of July of the fiscal year next succeeding the fiscal year in which the apportionment became final, the unpaid balance of the principal amount of the portion of the apportionment shall be canceled on the books of the State Controller and the provisions of Section 16083 shall thereupon become applicable thereto and the board shall execute a conveyance to the district as provided in Section 16087.

16078. Notwithstanding any other provision of this chapter, the total amount of the repayment made each year by each school district to which one or more apportionments have been made under this chapter shall not be less than the amount of the cost to the state for that year to pay principal and interest on the bonded indebtedness incurred to fund the apportionment or apportionments made to that district.

16079. Notwithstanding any other provision of this chapter, and regardless of how many apportionments are made to a grade level of a school district under the provisions of this chapter, the total annual repayment for such grade level during any fiscal year, covering all such apportionments, shall not exceed the amount that would be computed under Sections 16070 to 16080, inclusive, for any one of such apportionments.

16080. The Controller shall, during the next fiscal year following that in which he or she determines the annual repayment as herein provided, deduct the total amount of the annual repayment of each district in equal amounts from each of the February, March, April, and May

installments of the apportionments made to the district from the State School Fund under Sections 46304, 46305, and 41050 and 92, Sections 41330 to 41343, inclusive, and Sections 41600 to 41972, inclusive, and, on order of the Controller, the amount so deducted shall be transferred to the State School Building Aid Fund. All money transferred to the State School Building Aid Fund under this section shall be available only for transfer to the General Fund of Section 16403.

16080.5. (a) Notwithstanding any other provision of this chapter, for any school district that qualifies under subdivision (b), as certified by the State Allocation Board, the Controller, upon receipt of a written request to that effect from the governing board of the school district, shall reduce the tax amount that would otherwise be utilized in computing the district's annual repayment obligation under this chapter by the amount of 50 percent.

(b) Subdivision (a) shall apply to any school district in which, on or after January 1, 1989, the voters of the district approve a local general obligation bond measure, which measure includes within its purposes the funding of school facilities construction or reconstruction. Subdivision (a) shall apply to a district that qualifies under this subdivision as of the day following the date of that voter approval.

16081. Notwithstanding any provision of law to the contrary, whenever in any fiscal year, pursuant to Chapter 5 (commencing with Section 5096), Part 9, Division 1 of the Revenue and Taxation Code, a refund is made or a judgment rendered, as the case may be, for the return of an amount collected as school district taxes levied during a previous year upon secured or unsecured personal property, because it was determined that such property was exempt from taxation, and such property so determined to be exempt equals 1 percent, or more, of the assessed valuation in the school district upon which school district taxes for such previous year were levied, the Controller shall reduce the annual repayment of the district and the amount deducted from the State School

Fund apportionment of such district for the fiscal year next succeeding that in which such refund was made or judgment rendered, by that amount by which the annual repayment and deduction of the district would have been reduced for the fiscal year next succeeding that in which such taxes were levied had the assessed valuation upon which such annual repayment was computed not included an amount of assessed valuation equal to the amount of assessed valuation of the property so determined to be exempt.

The amount of annual repayment and deduction, reduced as required by this section, shall be the amount deducted by the Controller for the purposes of Sections 16080, 16089 and 16090 for the fiscal year in which such reduction is made.

16082. (a) Upon request of the district, the Controller shall use in computing the ‘‘40-cent, 30-cent, and 10-cent tax amounts’’ under Section 16070 the difference between the total assessed valuation of property in a district as shown on the equalized assessment roll for the current fiscal year and the assessed valuation of property as shown on the equalized assessment roll for the current fiscal year, in excess of 2 percent of such total assessed valuation, with respect to which revenues of the district taxes levied in the 1954–1955 fiscal year, or thereafter, have been impounded by the county auditor pursuant to Section 14240. Beginning with the 1981–82 fiscal year, the difference in excess of 0.50 percent of the total assessed value shall be used in the computation. If the request is received prior to August 1, 1955, with respect to the impounding of revenues of taxes levied during the 1954–1955 fiscal year, the Controller shall recompute the annual repayment of the district due during the 1955–1956 fiscal year on the basis of the reduced assessed valuation, and, on or before September 1, 1955, notify the officers and board referred to in Section 16089 of the recomputed annual repayment for the 1955–1956 fiscal year, and of the recomputed amount to be deducted from

the State School Fund apportionment to the district during the 1955–1956 fiscal year.

(b) Whenever, after July 1, 1955, the county auditor notifies the Superintendent of Public Instruction and the Controller of the release of impounded tax revenues to the school district, the Controller shall add to the annual repayment of the district for the first fiscal year or second fiscal year next succeeding that in which the notification of release was made, that amount by which the annual repayment of the district for a previous fiscal year was reduced by reason of the exclusion of assessed valuation with respect to tax revenues impounded and thereafter released.

(c) The amount of annual repayment and deduction, increased or reduced as required by this section, shall be the amount deducted by the Controller for the purposes of Sections 16080, 16089, and 16090 for the fiscal year in which the increase or reduction occurs.

(d) If a request is received from a school district and an annual repayment reduced pursuant to subdivision (a) hereof, Section 16081 shall not apply with respect to any tax revenues to which subdivision (a) applies.

16083. The Controller shall make the deduction provided by Section 16080 during each fiscal year, as herein provided, until the principal amount of the apportionment made and disbursed to the district for the grade level, and all accrued interest due thereon, has been withheld; but no interest shall accrue, or become due and payable, to the state with respect to the principal amount of the apportionment, or any portion thereof, for any period of time following the expiration of 25 years after the first day of July of the fiscal year next succeeding the fiscal year in which the apportionment becomes final. At the expiration of 30 years from the first day of July of the fiscal year next succeeding the fiscal year in which the apportionment became final, the unpaid balance of the principal amount of the apportionment disbursed to the district, including all interest included in the principal amount as provided in Section 16088, shall be canceled on the books of the Controller; and the state shall have no

further right to the repayment of the unpaid balance. Notwithstanding the provisions of this section, that portion of the ‘‘annual repayment,’’ if any, computed by the Controller under Section 16075 prior to the date of cancellation of the principal amount of an apportionment under this section, which has not been withheld by the Controller, as provided by Section 16080, prior to the date of the cancellation, shall be withheld by the Controller, as provided by Section 16080, subsequent to the effective date of the cancellation; and the amount so withheld shall be credited to the school district in determining the principal amount of the apportionment, including all interest included therein, which is canceled under the provisions hereof. The grade level shall be excluded from any computations provided under Sections 16070, 16071, 16072, 16074, and 16075, in making the computations, after the effective date of the cancellation, to determine the ‘‘annual repayment,’’ if any, that may thereafter be due the state from the school district with respect to other grade levels thereof.

16084. If, on or before June 30th of any fiscal year, the governing board of any school district files a request with the Controller for a deferment of the annual repayment due from the district during the next succeeding fiscal year for an apportionment received by the district pursuant to this chapter or Chapter 6 (commencing with Section 15700) of this part, and it is determined, in accordance with this section, that the district is entitled to a deferment of all or part of the annual repayment, the deferment shall be made in accordance with the determination. The request for deferment, having once been filed with the Controller, shall remain in effect each ensuing year, and the Controller shall continue to compute and allow the deferment in accordance with this section each year, until the time as the governing board of the school district files a written request with the Controller to discontinue the deferment.

As used in the preceding paragraph, ‘‘any school district’’ means a district which is liable for the repayment of the principal amount of apportionments made to the

district under the provisions of Chapter 4 (commencing with Section 15700) of this part and which has received a conditional apportionment under this chapter.

The portion of the annual repayment to be deferred under this section shall be determined as follows:

There shall be computed the amount required to be raised by taxes on property within the district, during the fiscal year in which the annual repayment is to be deducted pursuant to Sections 15735 and 16080, for the payment of principal and interest on (a) any bonded indebtedness incurred for school purposes prior to the first conditional apportionment to the school district under this chapter, (b) any bonded indebtedness which was incurred as a condition to any apportionment under this chapter, and (c) any bonded indebtedness incurred, the proceeds of which were required to be contributed for the purposes for which an apportionment was made under this chapter. To this amount shall be added the amount required during such fiscal year, for the annual repayment of school building apportionments under Chapter 4 (commencing with Section 15700) of this part and under this chapter. The total of these amounts shall constitute the ‘‘basic tax amount.’’

If the applicant district is a unified district, the amount to be deferred shall be separately considered for each grade level thereof. For this purpose, the basic tax amount shall only include the amounts specified in the preceding paragraph required to be raised for the repayment of principal and interest on bonded indebtedness which was incurred for, or as a condition to receiving an apportionment for, or required by the board to be contributed for the purposes of, the grade level being considered, plus those amounts required for the annual repayment of apportionments made under Chapter 4 (commencing with Section 15700) of this part for the grade level. It is hereby declared that this paragraph is not intended as a change in the present law but rather as a declaration of existing law.

There shall be computed the amount which would be produced by a tax of forty-five cents ($0.45) on each one

hundred dollars ($100) of assessed valuation of the district during the year, to be known as the ‘‘45-cent tax amount,’’ except beginning with the 1981–82 fiscal year, the amount shall be produced by a tax of 0.1125 percent of the full value. The amount of the annual repayment to be deferred during the fiscal year in which the annual repayment is due shall be the amount, if any, by which the basic tax amount exceeds the 45-cent tax amount. The amount deferred shall be added to the annual repayment for the next succeeding fiscal year.

On or before the last day of July of each fiscal year, the Controller shall request the Director of General Services to, and the Director of General Services shall, determine and certify to the Controller the amount of bonded debt service included in the ‘‘basic tax amount.’’ On or before the third Monday in August of each fiscal year, the Controller shall request the county auditor of each county to, and the county auditor of each county shall, determine and certify to the Controller the current assessed valuation of property within each district which has filed a request for a deferment under this section.

Before the date on which the board of supervisors makes the levy of taxes for county purposes, the Controller shall make the deferment determination required by this section for each district requesting a deferment, and, for each district which is entitled to a deferment, shall notify, in writing, the board of supervisors of the county, the governing board of the district, the county auditor, and the county superintendent of schools having jurisdiction over the district of the amount of the repayment of the district which is to be deferred under this section.

For the purposes of this section the ‘‘annual repayment’’ means the amount of the annual repayment of the district due in a fiscal year as determined pursuant to Section 15733 and Section 16075, plus the then unpaid deferred amount of any annual repayment due in any previous fiscal years. Any repayments by a district of a deferred amount shall be first applied to loans granted

under Chapter 4 (commencing with Section 15700) of this part.

Notwithstanding any other provision of this chapter, if, at the end of the 30-year period provided in Section 15738 or Section 16083, as the case may be, there are any deferred amounts due in any previous fiscal year remaining unpaid, repayments shall continue to be made in the manner provided by this section during each fiscal year thereafter until the amounts are paid, or for an additional period of 10 years, whichever first occurs. At the expiration of the additional 10-year period the unpaid portion of the deferred amounts shall be canceled on the books of the Controller, and the provisions of Section 15738 or Section 16083, as the case may be, shall thereupon become applicable thereto and the board shall execute a conveyance to the district as provided in Section 15739 or 16087, whichever is applicable.

16085. For purposes of computing, under Section 16084, the portion of the annual repayment to be deferred in the case of a unified school district which has applied for and received an apportionment under Section 16003, the ‘‘45-cent tax amount’’ shall be the amount produced by a tax of ninety cents ($0.90) on each one hundred dollars ($100) of assessed valuation of the district during the year, except beginning with the 1981–82 fiscal year the tax shall be 0.225 percent of the full value.

16086. The provisions of this section shall apply: (1) to any school district which has succeeded to and become vested with all duties, powers, purposes, jurisdiction, and responsibility with respect to a portion of an apportionment determined or redetermined to have been expended, or to be expendable, for property acquired or to be acquired by it, and which has become liable for a portion of the annual repayment of a portion of an apportionment, as provided in Section 16159; and (2) to any state-aided district a portion of the territory of which was transferred to a district described in (1), above, and in connection with which territory a portion of an apportionment made to such state-aided district has

or will be expended for property acquired or to be acquired.

If, on or before June 30 of any fiscal year, the governing board of the school district files a request with the Controller for a deferment of the annual repayment due from such district during the next succeeding fiscal year for an apportionment received by the district pursuant to this chapter, and it is determined, in accordance with this section, that the district is entitled to a deferment of all or part of the annual repayment, the deferment shall be made in accordance with the determination. The request for deferment, once filed with the Controller, shall remain in effect in each ensuing year, and the Controller shall continue to compute and allow the deferment in accordance with this section each year, until the time as the governing board of the school district files a written request with the Controller to discontinue the deferment.

The portion of the annual repayment to be deferred under this section shall be determined as follows:

There shall be computed the amount required to be raised by taxes on property within the district during the fiscal year in which the annual repayment is to be deducted pursuant to Section 16080, for the payment of principal and interest on: (a) that portion of the annual repayment and all other payments due the state under Section 16075 and other provisions of this chapter with respect to the portion of the apportionment for which the district has been determined to be liable under Section 16159; (b) any bonded indebtedness incurred for school purposes prior to the first conditional apportionment to the school district under this chapter; (c) any bonded indebtedness which was incurred as a condition to any apportionment under this chapter; and (d) any bonded indebtedness incurred, the proceeds of which were required to be contributed for the purposes for which an apportionment was made under this chapter. To this amount shall be added the amount required during the fiscal year, for the annual repayment of school building

apportionments under this chapter. The total of these amounts shall constitute the ‘‘basic tax amount.’’

If the applicant district is a unified district, the amount to be deferred shall be separately considered for each grade level thereof. For this purpose, the basic tax amount shall only include the amounts specified in the preceding paragraph required to be raised for the repayment of principal and interest on bonded indebtedness which was incurred for, or as a condition to receiving an apportionment for, or required by the board to be contributed for the purposes of, the grade level being considered, plus those amounts required for the annual repayment of apportionments made under this chapter for the grade level.

There shall be computed the amount which would be produced by a tax of forty cents ($0.40) on each one hundred dollars ($100) of assessed valuation of the district during such year, to be known as the ‘‘40-cent tax amount,’’ except beginning with the 1981–82 fiscal year, the amount shall be produced by a tax of 0.10 percent of the full value of the district during such year. The amount of the annual repayment to be deferred during the fiscal year in which the annual repayment is due shall be the amount, if any, by which the basic tax amount exceeds the 40-cent tax amount. The amount deferred shall be added to the annual repayment for the next succeeding fiscal year.

On or before the last day of July of each fiscal year, the Controller shall request the Director of General Services to, and the Director of General Services shall, determine and certify to the Controller the amount of bonded debt service included in the ‘‘basic tax amount.’’ On or before the third Monday in August of each fiscal year, the Controller shall request the county auditor of each county to, and the county auditor of each county shall, determine and certify to the Controller the current assessed valuation of property within each district which has filed a request for a deferment under this section.

Before the date on which the board of supervisors makes the levy of taxes for county purposes, the

Controller shall make the deferment determination required by this section for each district requesting a deferment, and, for each district which is entitled to a deferment, shall notify, in writing, the board of supervisors of the county, the governing board of the district, the county auditor, and the county superintendent of schools having jurisdiction over the district of the amount of the repayment of the district which is to be deferred under this section.

For the purposes of this section the ‘‘annual repayment’’ means the amount of the annual repayment of the district due in a fiscal year as determined pursuant to Section 16075, plus the then unpaid deferred amount of any annual repayment due in any previous fiscal years.

Notwithstanding any other provision of this chapter, if, at the end of the 30-year period provided in Section 16083 there are any deferred amounts due in any previous fiscal year remaining unpaid, repayments shall continue to be made in the manner provided by this section during each fiscal year thereafter until the amounts are paid, or for an additional period of 10 years, whichever first occurs. At the expiration of the additional 10-year period the unpaid portion of the deferred amounts shall be canceled on the books of the Controller, and the provisions of Section 16083 shall thereupon become applicable thereto and the board shall execute a conveyance to the district as provided in Section 16087.

16086.5. Notwithstanding any other provision of this chapter, where an election is or has been held after March 1, 1979, and prior to December 1, 1979, for the purpose of forming a new unified school district, coterminous with an existing elementary school district, and such reorganization becomes effective for all purposes on July 1, 1980, such unified school district shall be eligible for a deferment of annual repayment as set forth in Section 16086, except that the ‘‘basic tax amount’’ shall be computed as the sum of (a) that portion of the original high school repayment for which the new district is liable and (b) that portion of the original high school eligible debt service computed pursuant to Section 16072 for

which the new district is liable, as provided in Section 4147.

16087. The Controller shall certify to the board the cancellation of the unpaid balance of the principal amount of the apportionment. Upon receipt of the certification, the board shall, in the name of the state, convey to the district all sites purchased and improved, all equipment purchased, and all buildings constructed, reconstructed, altered, or added to, from money provided by the apportionment covered by the cancellation.

16088. The Controller shall determine and maintain a record of the amount due the state in connection with each apportionment made to each grade level of a district under the provisions of this chapter. He or she shall compute interest, at the rate fixed by the board, on each amount disbursed by the state pursuant to the apportionment, from the date of issuance of the Controller's warrant covering the payment to the county treasurer of the amount until the first day of July of the fiscal year next succeeding that in which the warrant was issued. Thereafter, interest shall accrue to and be compounded as a part of the principal amount due the state pursuant to the apportionment, through the 30th day of the following June of each year, until the principal and interest have been paid, or until the interest ceases to accrue, as provided in this chapter. Interest on unpaid school building aid apportionments shall be computed as if the annual repayment were credited on the first day of July of the fiscal year in which the repayment is withheld.

16089. Upon computing in any fiscal year the amount to be deducted from the apportionments to the district from the State School Fund during the succeeding fiscal year, the Controller shall notify the governing board of the district and the county auditor of the county, the county superintendent of which has jurisdiction over the district, of the amount to be deducted.

16090. The board of supervisors of the county, the county superintendent of which has jurisdiction over any district which under this chapter will have moneys

withheld by the Controller from the apportionments to be made to it from the State School Fund during any fiscal year, shall annually at the time the board of supervisors makes the levy of taxes for county purposes, levy a tax upon the property in the district sufficient to raise for the district the amount of money to be withheld by the Controller during the fiscal year in which the tax is levied. Effective July 1, 1988, that tax, when collected, shall be paid into the county treasury of the county, the county superintendent of schools of which has jurisdiction over the district for which the tax was levied, to the credit of a separate fund of the district to be known as the Tax Override Fund.

16091. The board shall prescribe in the detail that it deems necessary, the purposes for which moneys apportioned by it or which it requires the district to contribute toward, or in reduction of the cost of a project, may be expended, and the prescription shall be binding upon the governing board of the district, save as it may be changed or modified by the board for any cause that it sees fit. In determining funds which can be contributed by the district, the board may require the district to contribute unexpended balances of funds earmarked or encumbered by the district for furniture, equipment, or any other lawful purpose. However, the changes or substitutions in the purposes for which the funds were earmarked or encumbered, with respect to the requirement under any apportionment heretofore or hereafter made, may be authorized by the board, or pursuant to its delegation, by the Director of General Services.

16092. Unless the board has received the certificates of the county superintendent of schools required by Section 16061 within nine months from the date of the conditional apportionment, it shall, at the expiration of the nine months' period, void the conditional apportionment and shall certify this fact to the Controller. Each final apportionment made by the board under this chapter shall be certified by it to the Controller who shall from time to time draw his or her warrant on

the Treasurer in favor of the county treasurer of the county having jurisdiction over the district in accordance with the terms of the final apportionment. The warrant shall be exempt from the provisions of Division 4 (commencing with Section 16100) of Title 2 of the Government Code and shall be paid by the Treasurer from the State School Building Aid Fund.

16093. A state school building fund is hereby created in the county treasury in each county for each school district in the county. The county treasurer of each county shall pay into the state school building fund of each school district, exactly as apportioned by the board, all moneys received by him or her under this chapter with respect to each school district.

16094. Interest earned on those portions of deposits in a state school building fund representing allocations from the proceeds of state school construction bonds received by the county treasurer for the benefit of a school district under this chapter shall be paid into the state school building fund created by Section 16093. The interest which prior to the 1964–65 fiscal year was deposited in the general fund of the school district for which the state school building fund was established shall remain the property of that general fund.

16095. The governing board of each school district to which an apportionment is made under this chapter is authorized to, and shall, transfer to the state school building fund of the district from all other funds of the district in which the moneys may be, all moneys of the district which under, or pursuant to, this chapter are required to be expended for the project for which the apportionment was made.

16096. A fund in the State Treasury is hereby created, to be known as the State School Building Aid Fund. All money in the State School Building Aid Fund, including any money deposited in the fund from any source whatsoever after November 12, 1952, is hereby continuously appropriated without regard to fiscal years for expenditure pursuant to apportionments made under the provisions of this chapter.

16096.5. From any moneys in the State School Building Aid Fund available for the purposes of this chapter, the board shall make available to the Director of General Services any amounts that it determines necessary to provide the assistance, pursuant to this chapter, required by Section 15504 of the Government Code.

16097. The governing board of each school district to which an apportionment has been made under this chapter shall expend the moneys in the state school building fund of the school district exactly as apportioned by the board and only for the purposes for which the moneys were apportioned to the district, and for no other purpose, and shall make the reports relating to the expenditure of the moneys that the board and the Controller shall require.

16098. A complete detailed report of expenditure of funds allocated pursuant to this chapter shall be made by the board annually to the Legislature. The report shall contain a detailed statement of facilities provided, type of construction, square footage provided and all other items which will enable the Legislature fully to understand the nature of the construction performed by the school districts.

16099. It shall be the duty of the Controller to make the audit or audits of the books and records of counties and school districts receiving apportionments under this chapter, as he or she may deem necessary from time to time, for the purpose of determining that the money received by school districts as apportionments hereunder has been expended for the purposes and under the conditions authorized by this chapter.

16100. Whenever the Controller determines that any money apportioned to a school district has been expended by the school district for purposes not authorized by this chapter, or exceeds the final cost of the project which is authorized by Section 16024 to be paid therefrom, the Controller shall furnish written notice to the board, the governing board of the school district, the county superintendent of schools, the county auditor, and

the county treasurer of the county whose county superintendent of schools has jurisdiction over the school district, directing the school district and the county treasurer to pay into the State Treasury the amount of the unauthorized expenditures, or the amount of the excess apportionment, as the case may be. Upon receipt of the notice, the governing board shall order the county treasurer to pay to the Treasurer, out of any moneys in the county treasury available to the school district for that purpose, the amount set forth in the notice. The amount shall, upon order of the Controller, be deposited in the State Treasury to the credit of the State School Building Aid Fund, to be reapportioned by the board.

It shall be the duty of the governing body and the county treasurer to make the payments to the Treasurer as provided in this section, and it shall be the duty of the Controller to enforce the collection on behalf of the state.

If, upon petition of the district, the Controller determines that the amount to be included in the county settlement is in excess of the amount that may be paid out of taxes levied at the maximum rate authorized by law (increased by any increase in the rate authorized by the electors of the district pursuant to Section 42202), without impairing essential district services, he or she may provide for the payment of the entire amount or any unpaid balance thereof in not exceeding three consecutive annual payments, commencing with the next school year. Each payment shall be an equal portion of the principal amount, plus accrued interest, and shall be paid not later than January 31st of each school year in which a payment is due. If the district fails to make the payment as specified, the Controller shall deduct the amount thereof from the February payment made to the district under Section 14041.

Deferred payments under this section shall bear interest at the same annual rate of interest as the apportionment from which the unauthorized expenditures or the amounts of excess apportionment were made.

16101. Notwithstanding any provision of law to the contrary, if an apportionment is or has been made at any time after October 1, 1953, to meet a construction low bid and if the State Allocation Board after approving the apportionment revises the apportionment, and the apportionment finally approved reveals that an applicant school district receives excess construction area to what they are entitled to pursuant to Section 16044, and if a judgment for the collection of the excess apportionment has not been rendered by a court prior to September 11, 1957, the excess apportionment shall be computed by the Controller and shall be repaid pursuant to this section. The district shall repay the amount of excess apportionment, and the interest thereon, in equal annual installments within 20 years from the date it receives the excess apportionment. The rate of interest shall be the same rate as that fixed for the approved apportionment. The district may at any time before the end of the 20-year period for repayment elect to repay, and repay, the balance of the excess apportionment then unpaid, plus interest computed to the date of repayment of such balance.

16102. If the board, between April 5, 1963, and July 1, 1963, approves an application for an apportionment and makes a conditional apportionment to the district making the application and if after the approval it is determined that the projected enrollment of the district is less than that upon which the district's application was based, any apportionment made by the board under the application is hereby ratified and confirmed and payments shall be made to the district pursuant to the apportionment. The board shall as a condition to any apportionment made under the application require the district to repay in full that portion of the apportionment which it determines to be attributable to the excess projected enrollment upon which the application was based and the district shall be empowered and obligated to comply with the requirement if it accepts the portion of the apportionment. The repayment shall be in equal annual installments made within 20 years from the date the

district receives the apportionment. The repayment shall be in addition to any other repayment required by this chapter. The rate of interest shall be the same rate as that fixed for the remainder of the apportionment.

If at any time the board determines that the amount of actual enrollment of the district attains the amount of the projected enrollment upon which the district's application, referred to above, was based, the board may, if it determines that the inclusion of the excess projected enrollment in the application occurred inadvertently, provide that the district shall not be required to pay any further installments for full repayment of that portion of the apportionment attributable to the excess projected enrollment and the unpaid balance of the portion and interest thereon shall thereafter be repaid under the same terms and in the same manner as the balance of the apportionment made under the application.

16103. If a school district entered into an agreement at any time beginning on October 1, 1954, and ending on December 31, 1954, whereby it agreed to lease a site and facilities situated thereon, for the purpose of constructing administrative facilities on the site in accordance with plans prepared by or for the district, the State Allocation Board may make an apportionment to the district for the acquisition of the site and facilities; provided, (1) that the district at the time of receiving the apportionment would otherwise be eligible to receive an apportionment for square footage of building area equal to or exceeding that of the facilities to be constructed; (2) the Department of Education approves of the acquisition on the basis that it is necessary to provide needed administrative facilities for the district; and (3) the board finds that the acquisition and the consideration being paid therefor is economically feasible and constitutes sound financial practice.

16104. Any portion of an apportionment paid to a school district under this chapter shall be available for expenditure by its governing board for not less than one year nor more than three years, as the board shall determine, after the date on which the warrant covering

that portion of the apportionment was issued by the Controller, provided that no limitation on expenditure shall be applicable with respect to any items the payment or reimbursement of which is required to be made by special resolution pursuant to Section 16057, whether the special resolution is adopted prior or subsequent to the termination of the period of availability herein specified. For the purposes of this chapter, an apportionment shall be deemed to be expended at the time and to the extent that the amount thereof on deposit in the county treasury has been encumbered by the creation of a valid obligation on the part of the school district. Upon the expiration of its period of availability, the unencumbered balance of any apportionment made under this chapter shall become due and payable to the State of California; and the governing board of the school district and the county treasurer shall pay the amount of the unencumbered balance to the Treasurer, out of the funds, and in the manner specified in Section 16100 of this code. The payment shall, on order of the Controller, be deposited in the State School Building Aid Fund in the State Treasury, to be reapportioned by the board.

It shall be the duty of the governing body and county treasurer to make the payments to the Treasurer as provided in this section, and it shall be the duty of the Controller to enforce the collection on behalf of the state, provided that notwithstanding the above duties shall not be deemed to exist with respect to any amount heretofore or hereafter due the state occasioned by the termination of the period of availability of expenditure provided by this section where the period of availability of expenditure for the items representing the amount is subsequently made inapplicable by the adoption of a special resolution pursuant to Section 16057.

16105. Whenever a school district receives or has received an apportionment for or toward the purchase or improvement of realty or personalty (hereafter referred to as ‘‘property’’) and within five years from the date of the written authorization from a duly authorized representative of the board for the expenditure therefor

from state funds or from contributable district funds, sells, leases, exchanges or otherwise disposes of the property or any portion thereof without the consent of the board, the board may demand the return of the state apportionment or the portion thereof it deems proper, plus accrued interest at the prescribed rate, less any repayment made prior to the demand by the district on account of the apportionment. A district may not at any time while an apportionment remains unpaid or noncancelled, dispose of any property acquired therefrom without the consent of the board, excepting transfers provided for by Article 15 (commencing with Section 17556) of Chapter 3 of Part 23 and existing improvements on an acquired site. The consent may be subject to the conditions as may be imposed, which may include the application of the consideration received in reduction of any apportionments previously made to the district. Any property into which the consideration from the disposition is converted shall be and remain the property of the state as if an apportionment had originally been authorized therefor.

Whenever, in the judgment of the board, a district fails to use property for the purpose or purposes for which an apportionment has been made, within not less than one nor more than five years from the aforesaid authorization, as the board shall determine, the board may demand back the return of the apportionment, or portion thereof, with interest, as specified in the preceding paragraph. The board's interpretation of the ''use'' in any instance, and whether or not the district has complied therewith, shall be conclusive upon the district affected after a hearing and finding of the board. In addition to the foregoing, the board may at any time subsequent to the expiration of the last mentioned period, while an apportionment remains unpaid or uncanceled, determine that a site or portion thereof, purchased in whole or in part with the apportionment is not being used for the purpose or purposes for which the apportionment was made, which determination shall be conclusive upon the district after a hearing and finding of the board. Pursuant to that

determination, the board may direct the sale or other disposition of the site or portion thereof by the state or by the district and apply the proceeds, after deducting expenses it determines necessary to facilitate the disposition, in reduction of the apportionment, plus accrued interest. Any excess shall be applied in reduction of any other unpaid or noncancelled apportionments, plus interest, as the board shall direct, any remaining proceeds thereafter being payable to the district. For the purposes of the determination of disposition, the district shall, whenever directed by the board, convey record title to the site or portion thereof to the state or do any other acts deemed necessary by the board to facilitate the disposition or implement the terms thereof. Any disposition authorized to be made hereunder by the district shall be made in accordance with the procedure prescribed by this code for the disposition of unneeded school property, otherwise as directed by the board, provided that the consideration to be received shall be subject to the approval of the board or its delegate for that purpose.

Written notice of any demand prescribed by this section, setting forth the amount due the state pursuant thereto, shall be furnished by the board to the governing board of the school district, the county superintendent of schools, the county auditor, the county treasurer of the county whose county has jurisdiction over the school district, and the Controller. Upon receipt of the notice and demand, the governing board of the school district shall order the county treasurer to pay to the Treasurer, out of any moneys in the county treasury available to the school district for that purpose, the amount set forth in the notice. The amount shall, upon order of the Controller, be deposited in the State Treasury to the credit of the State School Building Aid Fund, to be reapportioned by the board.

Whenever a school district receives or has received an apportionment under this chapter for the purchase of a site which contains existing improvements, the board may require the district to dispose of the existing

improvements as a condition of receiving an apportionment in the manner as the board deems proper, and contribute the net proceeds therefrom or the value of any consideration received therefor, in reduction of any apportionment. In the event that the district is not so required to dispose of the existing improvements but after receiving the apportionment subsequently disposes thereof, the net proceeds therefrom or the value of the consideration received therefor, shall be contributed by the district in reduction of any remaining indebtedness to the state under this chapter or Chapter 4 (commencing with Section 15700).

Where a district has been unable to use any building site acquired by an apportionment under this chapter because of the delay of the board in acting upon its application for an apportionment for the planning and construction of school buildings on the site, the board may withhold demand for repayment of the apportionment for the building site for a period of not less than one or more than three years after approval of the apportionment for planning and construction.

It shall be the duty of the governing body and county treasurer to make the payments to the Treasurer as provided in this section, and it shall be the duty of the Controller to enforce the collection on behalf of the state.

Whenever the consent of the board is required in this section, it may be given by written authorization of its authorized representative for that purpose. The provisions of this section, including the term ‘‘apportionment’’ or ‘‘apportionments,’’ shall be deemed to be applicable to apportionments heretofore or hereafter made under this chapter or Chapter 4 (commencing with Section 15700).

Article 2. School Housing Aid for Reorganized Districts

16150. (a) As used in this article:

(1) ‘‘State-aided district’’ means a district to which a conditional or final apportionment has been made under this chapter.

(2) ‘‘Acquiring district’’ means a district in which all or a part of, a state-aided district or an applicant district has been included.

(3) ‘‘Original district’’ means a state-aided or applicant district included in whole or in part in an acquiring district.

(b) For the purposes of this article as it applies to an acquiring district, the effective date of any change of boundaries, annexation, formation of a new district, or other reorganization shall be:

(1) For granting conditional apportionments: the date the action became effective for the purposes of Sections 4062 and 4063.

(2) For making conditional apportionments final: the date the action became effective for the purposes of Sections 4062 and 4063.

(c) For the purposes of this article as it applies to an original district, the effective date of any change of boundaries, annexation, formation of a new district, or other reorganization in which the original district is included in whole or in part in an acquiring district shall be:

(1) For granting conditional apportionments: the date the action becomes effective for all purposes as specified in Section 4064.

(2) For making conditional apportionments final: the date the action became effective for all purposes as specified in Section 4064.

(3) No conditional apportionment may be made to any original district affected by any reorganization after the date such action became effective for the purposes of Sections 4062 and 4063 except upon an application that has the approval of the governing board of the acquiring district.

16151. On the date an acquiring district becomes effective for all purposes, as specified in Section 4064, the authority to accept a state loan voted by an original district pursuant to this chapter whose boundaries are coterminous with the boundaries of the acquiring district shall become authority of the acquiring district to accept

a state loan. However, when the proceeds of bonds authorized and sold by the acquiring district are applied toward the reduction of apportionments made to an original district which is included in whole in the acquiring district pursuant to Section 16058, the amount of bond proceeds shall be excluded in determining the amount chargeable against any apportionment authorized to be accepted by the electorate of the original or acquiring district.

16152. Notwithstanding any other provision of this chapter, where an election is or has been held after April 1, 1972, in two elementary districts for the purpose of forming a new elementary district from the territories of the districts, which reorganization would become effective for all purposes on July 1, 1973, and where one of the districts has prior to April 1, 1972, voted to accept, expend, and repay apportionments under this chapter but no apportionments pursuant to the authorization has been made to the district as of April 1, 1972, the consent of the electors in the districts to the reorganization shall be deemed to constitute a consent on behalf of the newly formed district to accept, expend, and repay apportionments under this chapter to the extent that the former authorization for apportionments had not been utilized.

Further, the ballot for the election held for the purpose of forming the new elementary school district shall contain a statement to the effect that approval of reorganization shall be deemed to constitute a consent on behalf of the newly formed district to accept, expend, and repay apportionments under this chapter to the extent that the former authorization for apportionments has not been utilized.

16153. Whenever, prior to the date on which a conditional apportionment is made by the board to an applicant district, (1) if an applicant district is annexed to or otherwise included in whole in another district which is ineligible for an apportionment under this chapter, no apportionment shall be made to the applicant district; (2) if less than the whole of an applicant district is included

in a district which is ineligible for an apportionment under this chapter, the board may reconsider the application of the applicant district and make such determinations and take the action with respect thereto, including the making, subject to Article 1 (commencing with Section 16000) of this chapter, of a conditional apportionment to the district, as the board may deem necessary because of such inclusion of less than the whole of the applicant district in the acquiring district; (3) if an applicant district is annexed to or otherwise included in whole or in part in a district which is eligible for an apportionment under this chapter and has made or does make an application for the apportionment, the board may reconsider the applications of the applicant district and the acquiring district and make the determinations and take the action with respect thereto, including the making, subject to the provisions of Article 1 (commencing with Section 16000) of this chapter, of conditional apportionments to the districts, as the board may deem necessary because of the annexation or other inclusion in the acquiring district of the applicant district in whole or in part.

16154. Whenever, subsequent to the date on which a conditional apportionment is made by the board to an applicant district, but prior to the date on which the conditional apportionment becomes final, (1) if an applicant district is annexed to or otherwise included in whole in a district which is not eligible for an apportionment under this chapter, the conditional apportionment shall, notwithstanding any other provisions of this chapter, become void and the board shall promptly notify the Controller in writing thereof and the date on which the apportionment became void; (2) if the district to which an applicant district is annexed or in which it is otherwise included in whole is eligible for an apportionment, has made or does make an application for such an apportionment under this chapter, the conditional apportionment made to the applicant district shall, notwithstanding any other provisions of this chapter, become void but the board may reconsider the

application of the acquiring district and make the determinations and take such action with respect thereto, including the making, subject to the provisions of Article 1 (commencing with Section 16000) of this chapter except as hereinafter provided, of additional conditional apportionments to the acquiring district, as the board may deem necessary as a result of such annexation or other inclusion in the acquiring district of the applicant district; (3) if less than the whole of an applicant district is included in another district, the conditional apportionment shall, notwithstanding any other provisions of this chapter, become void, but the board may reconsider the application and make such determinations and take such actions with respect thereto, including the making, subject to the provisions of Article 1 (commencing with Section 16000) of this chapter except as hereinafter provided, of new conditional apportionments to the applicant district, as the board may deem necessary as a result of such inclusion of a portion of the applicant district in the acquiring district.

Notwithstanding anything in the first sentence of Section 16058 to the contrary, additional conditional apportionments made to a district under (2), or new conditional apportionments made to a district under (3) of the first paragraph of this section may, with the approval of the board, become final if the total amount of the bonds of the district outstanding and unpaid is within twenty-five thousand dollars ($25,000) of the amount required under Section 16058.

16155. If an annexation or other inclusion of a portion of an applicant district in another district comprises less than 5 percent of the assessed valuation of the applicant district on the effective date of the change, no annexation or other inclusion shall be deemed to have taken place for the purposes of Sections 16154 and 16156.

16156. Whenever, prior to the date on which conditional apportionments have been made to an applicant district for the full amount of state aid approved for the district under Section 16035, (1) if the applicant

district is annexed to or otherwise included in whole in another district which is ineligible for an apportionment under this chapter, no further apportionment shall be made to the applicant district; (2) if the applicant district is annexed to or otherwise included in whole in a district which is eligible for an apportionment under this chapter and which has made or does make an application for the apportionment, the board may reconsider the applications of the applicant district and the acquiring district and make any determinations and take any action with respect thereto, including the making, subject to the provisions of Article 1 (commencing with Section 16000) of this chapter, of a conditional apportionment or apportionments to the acquiring district that the board may deem necessary because of the annexation or other inclusion in the acquiring district of the applicant district; (3) if a portion of the applicant district is annexed to or otherwise included in another district, the board may reconsider the application of the applicant district and may, within two years after the first apportionment made under the approval, make the additional apportionments as it sees fit to the applicant district, but not in excess of the amount in which the application was originally approved, without requiring the district to issue additional bonds.

16157. Whenever, subsequent to the date on which a conditional apportionment made to a district becomes final, the state-aided district is included in whole in another district, the acquiring district shall, on the effective date of the inclusion, succeed to and be vested with all of the duties, powers, purposes, jurisdiction, and responsibilities of the state-aided district with respect to the apportionment and the property acquired or to be acquired from funds provided thereby, and all funds in the state school building fund of the state-aided district shall be transferred to the state school building fund of the acquiring district. All amounts which would, after the effective date of the inclusion, have been otherwise paid to the state-aided district under the terms of or pursuant to the apportionment, shall be paid to the acquiring

district. In addition, the acquiring district shall, on the effective date of the inclusion of the state-aided district in the acquiring district as fixed by Section 4064, become liable for the annual repayments and other payments due the state under Section 16075 and other provisions of this chapter with respect to the apportionment or the property acquired or to be acquired therewith.

16158. Whenever one or more state-aided districts are included in whole in an acquiring district, and the acquiring district applies for and receives an apportionment, then after the effective date of the inclusion and upon the approval of the application of the acquiring district, the governing board of each component state-aided district shall immediately transfer to the acquiring district all moneys of the component district which are required to be, or have been, earmarked for a project or projects of the district. The acquiring district, upon the transfer to it of the funds, may expend the funds for any projects of the acquiring district as to which its application was approved.

16159. Whenever, subsequent to the date on which a conditional apportionment made to a state-aided district becomes final, less than all of the district is included in another district, the Director of General Services shall determine what portion of the apportionment was expended or will be expended for property acquired or to be acquired by the acquiring district. Any determination made by the Director of General Services under this section may be redetermined by him or her, from time to time, until the project for which the apportionment was made has been completed, and the final cost thereof determined and the final determination has been made pursuant to the final cost. The Director of General Services shall promptly notify the Controller, the governing board of the state-aided district and of the acquiring district, the superintendent of schools, the auditor and the treasurer of the counties having jurisdiction over the districts of each determination and redetermination made by him or her under this section. No redetermination shall be retroactive nor affect the

liability of any school district for any payment or annual repayment, or portion thereof, previously made by or on behalf of the district to the state under this chapter.

On and after the date of the change of boundaries, the acquiring district succeeds to and is vested with all of the duties, powers, purposes, jurisdiction, and responsibilities of the state-aided district with respect to that portion of the apportionment which the Director of General Services has determined or redetermined under this section was expended, or will be expended, for property acquired or to be acquired by the acquiring district, and the unexpended part of the portion of the apportionment in the state school building fund of the state-aided district shall be transferred to the state school building fund of the acquiring district. In addition, and at the same time, the acquiring district shall become liable for the payment to the state of that portion of the annual repayment and all other payments due the state under Section 16075 and other provisions of this chapter with respect to that portion of the apportionment which the Director of General Services has determined or redetermined was expended, or will be expended for property acquired, or to be acquired by the acquiring district, or, in the event the portion of the apportionment is a lower percentage of the apportionment than the percentage that the assessed valuation in the territory of the state-aided district which was transferred to the acquiring district is of the total assessed valuation of the state-aided district immediately preceding the effective date of the transfer, the acquiring district shall become liable for the payment to the state of that portion of the annual repayment and all other repayments due the state under Section 16075 and other provisions of this chapter with respect to the apportionment which is equal to the percentage of assessed valuation in the territory transferred to the acquiring district. ‘‘Annual repayment,’’ as used in this section, refers to repayment computed under Sections 16070 to 16075, inclusive, and excludes amounts for which the state-aided district is liable under the provisions of Section 16039. Whenever a site for which repayments are

being made under Section 16039 is transferred to an acquiring district the acquiring district shall be liable for the repayments required under Section 16039.

Notwithstanding the foregoing, the liability of the acquiring district for the repayment of any portion of the apportionment made to the state-aided district shall not exceed the product of the highest percentage referred to above (whether relating to assessed valuation or to the portion of the apportionment expended in the property acquired), multiplied by the balance due on the apportionment made to the state-aided district at the time of the withdrawal on the effective date specified in Section 4064 (Sec. 1, Ch. 95, Stats. 1964, 1st Ex. Sess.) of the territory referred to. The limited liability is hereinafter referred to as ‘‘the maximum.’’ It is the intent of the Legislature that the maximum shall be applied by the Controller, both retroactively and prospectively, provided that as a result of the application (1) no cash refund shall be made to any district; (2) in the event any district has, in the past, paid an amount greater than the maximum, assuming this paragraph had been in effect at that time, the excess shall be credited by the Controller against any apportionment balances for which the district is or may hereafter become liable; and (3) the Controller shall make retroactively any adjustments in the amounts due from other districts by virtue of any adjustments made under (2) above. Notwithstanding the foregoing, any computations required to be made pursuant to this paragraph shall not be reflected in any changes in deductions required to be made pursuant to Section 16080 prior to January 1, 1966.

If any subdivision clause, sentence, or phrase of this section is for any reason held to be unconstitutional the decision shall not affect the validity of the remaining portions of this section. The Legislature hereby declares that it would have adopted this section and each subdivision, sentence, clause, or phrase thereof irrespective of the fact that any one or more subsections, clauses, sentences, or phrases be declared unconstitutional.

16160. Notwithstanding the provisions of Sections 16159 and 16161, in situations where an applicant district at the elementary grade level under this chapter is divided into three parts, each of which is included in a newly formed unified school district, each part shall be excluded in determining the state loan repayment liability for any apportionment made to the original district subsequent to the date the unification is effective for purposes of Section 4062 (Sec. 1, Ch. 873, Stats. 1972), provided:

(a) The assessed valuation of the part is less than 4 percent of the original district in the fiscal year immediately preceding the fiscal year the change is made effective for all purposes.

(b) The average daily attendance in the part is excluded in determining projected enrollment of the original district for additional state aid during the period after the change is effective for purposes of Section 4062 (Sec. 1, Ch. 873, Stats. 1972) and prior to the effective date for all purposes.

(c) The part contains no sites, plans, or school facilities, which were acquired under this chapter or under Chapter 4 (commencing with Section 15700) of this part.

16161. Notwithstanding any change in the boundaries of a state-aided district or the annexation to, or the inclusion in, another district of a state-aided district, the state-aided district as it existed immediately prior to the effective date of the action shall be continued in existence for the determination of the assessed valuation of the property therein and for the purposes of the computations provided by Sections 16070, 16072, 16074, 16075 and 16084; and all the computations required to be made pursuant to those sections shall be made exactly as if there had been no such change of boundaries, annexation, or inclusion, except as otherwise provided in Sections 16163 and 16164. However, that if a state-aided district shall be included entirely in another school district which subsequently becomes state aided, then the unpaid balances of the apportionments made to the original district shall be added to the balances of the

apportionments made to the newly aided district. In those cases, no further computations as aforesaid, or repayments, shall be made with respect to the original district, but the computations and repayments shall thenceforth be based solely upon the territory and assessed valuation of the newly aided district, in the manner provided by Sections 16070, 16072, 16074, 16075 and 16084.

16162. If a unified school district, after the effective date of this section, applies for and is granted an apportionment under this chapter on the basis of grade levels as defined in Section 16003, all unpaid balances of prior apportionments made to the district, subject to Section 16161, shall be added to the balances of the apportionments made on the basis of Section 16003. In those cases, no further computations or repayments under Sections 16070, 16072, 16074, 16075 and 16084 shall be made with respect to the prior apportionments alone, but the computations and repayments shall thenceforth be based solely upon the combined apportionments, and shall be made as provided in Sections 16071, 16072, 16074, 16075 and 16084.

16163. Whenever, subsequent to the date on which a conditional apportionment becomes final, territory is withdrawn from a state-aided district and no portion of the apportionment was expended for school property acquired by the acquiring district:

(1) If the acquiring district is a state-aided district, the assessed valuation in the territory acquired shall be included in determining assessed valuation of the property in the acquiring district, and shall thereafter be excluded in determining assessed valuation of the property in the state-aided district, for purposes of the computations under Sections 16070 to 16075, inclusive;

(2) If the acquiring district is not a state-aided district, the Controller shall determine the percentage relationship, at the time of the withdrawal, between (a) the assessed valuation in the territory acquired, together with the current assessed valuation in all other territory theretofore acquired by the acquiring district from the

state-aided district since the date of its first conditional apportionment under this chapter, and (b) the current assessed valuation of the state-aided district as it was territorially constituted on the latter date.

If the percentage of assessed valuation in acquired territory is, in the aggregate, less than 10 percent, the assessed valuation in all the acquired territory shall be excluded, until the next withdrawal of territory from the state-aided district to the acquiring district, in determining the assessed valuation of the state-aided district for the purposes of the computations under Sections 16070 to 16075, inclusive.

If the percentage of assessed valuation in acquired territory is, in the aggregate, a percentage equal to or greater than 10 percent, the Controller shall, by deducting the percentage from 100 percent, obtain the ‘‘complement percentage.’’ Until the next withdrawal of territory from the state-aided district to the acquiring district, the assessed valuation of the state-aided district for purposes of the computations under Sections 16070 to 16075, inclusive, shall be determined by dividing the current assessed valuation of the state-aided district as territorially constituted immediately subsequent to the last withdrawal, by the complement percentage.

Whenever, pursuant to this section, the assessed valuation of the state-aided district is adjusted for repayment computation purposes by use of the complement percentage, liability for the annual repayment computed shall be apportioned between the state-aided district and the acquiring district by multiplying the annual repayment by the complement percentage, the product representing the liability of the state-aided district, and the remainder of the computed repayment representing the liability of the acquiring district.

Notwithstanding the foregoing, the liability of the state-aided district shall not exceed the product of any ‘‘complement percentage’’ (as it may from time to time exist) times the balance due on the aforesaid final apportionment at the time the complement percentage

is established; and the liability of the acquiring district (while a complement percentage remains unchanged) shall not exceed the remainder of the balance of the final apportionment at the time complement percentage is established. The maximum liability on the part of either the state-aided or acquiring districts established as above (and until the time that the liability be altered by altering the ‘‘complement percentage’’) shall be hereinafter referred to in this section with respect to each such district as ‘‘the maximum.’’

(3) In the event that two or more non-state-aided districts acquire territory from the state-aided district, the Controller shall determine the formulae for apportioning liability for the annual repayment between the districts affected (including the formulae for determining what assessed valuations shall be used within the affected districts or territories withdrawn, and the dates of determination thereof), as will in his or her opinion best comply with the principles set forth above, irrespective of whether the formulae are in literal compliance therewith. The same percentage of annual repayment for which a district is liable at the time the liability apportionment is made shall (unless and until the liability apportionment is subsequently changed pursuant to this paragraph) be deemed applicable to the liability of the district for the balance (as of the date the liability apportionment is made) due on the final apportionment to the state-aided district. The liability for the balance shall, with respect to any affected district, be hereinafter referred to as the ‘‘maximum’’ for the district.

(4) It is the intent of the Legislature that the foregoing ‘‘maximums’’ shall be applied by the Controller both retroactively and prospectively, provided that as a result of the application (1) no cash refund shall be made to any district; (2) in the event any district has, in the past, paid an amount greater than its ‘‘maximum,’’ assuming this paragraph and others to which it is referable had been in effect at that time, the excess shall be credited by the Controller against any apportionment balances for which the district is or may hereafter become liable; and (3) the

Controller shall make retroactively any adjustments in the amounts due from any other district by virtue of any adjustments made under (2) above. Notwithstanding the foregoing, any computations required to be made pursuant to this paragraph shall not be reflected in any changes in deductions required to be made pursuant to Section 16080 prior to January 1, 1966.

If any subdivision, clause, sentence, or phrase of this section is for any reason held to be unconstitutional the decision shall not affect the validity of the remaining portions of this section. The Legislature hereby declares that it would have adopted this section and each subdivision, sentence, clause, or phrase thereof irrespective of the fact that any one or more subdivisions, clauses, sentences, or phrases be declared unconstitutional.

16164. Whenever, subsequent to the date on which a conditional apportionment becomes final, any territory is withdrawn from a non-state-aided district and annexed to the state-aided district, the assessed valuation in the territory so annexed shall be included with the valuation of the state-aided district for the purposes of making the computations provided by Sections 16070 to 16075, inclusive.

16165. The Controller shall compute, in accordance with Sections 16161, 16163 and 16164, the amount of the annual repayment due the state on account of the apportionment or apportionments to each state-aided district and shall deduct from the respective apportionments made from the State School Fund under Sections 46304, 46305, and 92 or 41050, Sections 41330 to 41343, inclusive, and Sections 41600 to 41972, inclusive, to the state-aided district and an acquiring district the portion thereof for which each is liable under this article (Sections 16150 to 16166, inclusive).

16166. When, after any application is filed, the applicant district is annexed to, or, by change of boundaries or otherwise, is included in whole or in part in another district or districts, the superintendent of schools of the county having jurisdiction over the

applicant district shall, within 10 days after the effective date of the annexation, inclusion, or change of boundaries, file a certificate with the board, in writing, in the form that the board shall prescribe, setting forth (1) the effective date of the annexation, inclusion, or change of boundaries; (2) identification of the area of the school district affected by the change and the name of the school district or districts in which the area is included as a result thereof; and (3) any additional information in any form that the board may require.

The board shall, upon receiving the appropriate certificate from a county superintendent of schools as provided herein, promptly notify the State Controller, in writing, of (1) the effective date of annexation or other inclusion of a state-aided district by an acquiring district; (2) the name of the state-aided district; (3) the name of the acquiring district; and (4) the number and other identification of the apportionment affected.

Article 3. School Housing Aid for Exceptional Children

16190. The board may make apportionments from any sum appropriated by the Legislature at the 1952 Second Extraordinary Session and from any state bonds heretofore or hereafter authorized by the electorate for state school building aid, including the proceeds of bonds authorized by Section 2 of Article XVI of the California Constitution, for assistance to school districts in providing necessary housing and equipment for the education of exceptional children. All the provisions of Article 1 (commencing with Section 16000) and Article 2 (commencing with Section 16150) of this chapter, except Sections 16007 and 16044, shall apply to this article unless otherwise provided herein.

16191. As used in this article, ‘‘exceptional children’’ means physically handicapped pupils, mentally retarded pupils, educationally handicapped pupils, multihandicapped pupils, or pupils enrolled in development centers for the handicapped required or

allowed to be educated pursuant to Part 30 (commencing with Section 56000).

16192. Allocations under this article for assistance to school districts in providing necessary housing and equipment for the education of pupils enrolled or to be enrolled in development centers for the handicapped may be made only to those school districts that are authorized to operate development centers pursuant to Article 1 (commencing with Section 56800) of Chapter 6 of Part 30, as enacted by Section 2 of Chapter 1010 of the Statutes of 1976.

16193. The State Allocation Board, in cooperation with the State Department of Education, shall develop standards to be complied with in the construction of housing facilities for development centers for the handicapped with allowances provided pursuant to this article.

16194. The State Allocation Board shall establish guidelines and procedures to be utilized in determining the eligibility of school districts for allowances provided pursuant to this article with respect to facilities and equipment for the education of pupils enrolled in development centers for the handicapped. The guidelines and procedures shall provide that in order to be eligible to receive the allowance the school district has no existing facilities which could be utilized for a development center for the handicapped.

16195. Allocations under this article may be made in the amount as may be necessary, and in the manner as to distribute the available funds equitably among school districts, giving consideration to the needs of each district and the number of children within each district who are blind, partially seeing, aphasic, deaf, hard of hearing, mentally retarded, or orthopedic or who are health impaired, multihandicapped, speech handicapped, educationally handicapped, or enrolled in development centers for the handicapped.

In computing the number of those children, there shall be included all of the following:

(a) The number of them residing in the district.

(b) The number of handicapped minors who are actually living within the district five or more days a week, although their legal residence may be outside the district and who are educated pursuant to Section 56708, as enacted by Section 2 of Chapter 1010 of the Statutes of 1976.

(c) The number of them who reside outside of the district, except those described in subdivision (b), and who are to be educated by the district, excluding mentally retarded minors within Section 56501, as amended by Section 58 of Chapter 1247 of the Statutes of 1977, who reside within a district having an average daily attendance of 900 or more and which does not meet the requirements of Section 16058 concerning outstanding bonded indebtedness.

Allocations for housing and equipment for minors having speech defects or disorders shall be allowed in new schools constructed after July 1, 1968, and in existing schools constructed between July 1, 1933, and July 1, 1968. The housing and equipment shall be designed and provided to permit their utilization for remedial and other special services including speech therapy, speech reading (lipreading), and auditory training for the speech and hearing handicapped, screening and testing for speech and hearing defects, or both, psychological testing of exceptional children, subject matter tutoring of exceptional children, and other specialized activities required by these children. In addition to the maximum building area allowances provided in Sections 16047, 16052, 16053, and 16054, not more than an additional 200 square feet of building area shall be allowed for each new school so planned and constructed.

Each existing school, constructed between July 1, 1933, and July 1, 1968, shall be allowed not more than an additional 200 square feet of building area only for construction thereon of a new speech facility. At the option of the applicant district, the board may allocate funds to convert existing facilities or to provide a combination of new construction and conversion of existing facilities to provide housing for minors having

speech defects or disorders, provided the cost of the conversion or combination of new construction and conversion does not exceed the computed cost for 200 square feet of new classroom construction based upon cost standards adopted by the board. At the further option of the applicant district, and in lieu of new building construction or conversion, the board may allocate funds for the acquisition of mobile speech therapy facilities, provided the cost of the mobile facilities does not exceed the combined computed cost for 200 square feet of new classroom construction, based upon cost standards adopted by the board, at all schools which will be served by the mobile facility.

16196. Notwithstanding any provisions of this article to the contrary, apportionments for the construction of facilities and the purchase of essential furniture and equipment for the education of exceptional children may, subject to the approval of the State Department of Education, be made to any school districts not otherwise eligible to receive apportionments under Article 1 (commencing with Section 16000) and Article 2 (commencing with Section 16150) of this chapter, for the education of blind, partially seeing, aphasic, deaf, hard-of-hearing, mentally retarded, orthopedic or other health-impaired, multihandicapped, and educationally handicapped minors, pupils having speech defects or disorders, or pupils enrolled in development centers for the handicapped.

The State Department of Education may approve applications in those situations where the facilities will be used by a county superintendent of schools required to educate physically handicapped minors pursuant to Section 1850, as enacted by Section 2 of Chapter 1010 of the Statutes of 1976, and mentally retarded minors pursuant to Section 1880, as enacted by Section 2 of Chapter 1010 of the Statutes of 1976. A school district may educate these minors by agreement with a county superintendent of schools required to educate these minors. Priority in the use of the facilities shall be given to pupils from districts other than the applicant district.

Except as otherwise provided in this section, not more than 50 percent of the amount of any apportionment made pursuant to this section shall be repaid. Repayments shall be made in the following manner: Fifty percent of the amount of the apportionment shall be repaid in full with interest by the district, in the annual amounts and at the interest rate over the period as the State Allocation Board may determine, not to exceed 20 years from the date the apportionment became final. In any school year in which 50 percent or more of the pupils in average daily attendance, as determined by the county superintendent of schools, and served by the facilities are not pupils from districts other than the applicant district, the repayment for the succeeding fiscal year shall be an amount which would have been payable if the district had been required to repay 100 percent of the apportionment over that period.

The county board of supervisors of the county whose superintendent of schools conducts classes in the facility during any fiscal year shall at that time or times within the fiscal year that may be agreed upon between the county and the school district, but in any case not later than the end of the fiscal year, pay to the school district having the obligation to repay the apportionment made under this section for the construction of the facility, an amount equal to 80 percent of the amount the district is required to repay in the fiscal year with respect to the apportionment described above.

The county board of supervisors shall raise the amount required through a general tax levy on the property within the participating districts, or through a tuition charge not to exceed one hundred sixty dollars ($160) a year per pupil by the county superintendent of schools to the school districts of residence of pupils attending the facility other than the district having the obligation to repay, or through a combination of these.

The county superintendent of schools shall notify the county board of supervisors of his or her intention to approve a school district's application for an allocation

under this article before he or she approves the application.

16197. Notwithstanding any other provisions of this article to the contrary, apportionments for the purchase of mobile classrooms for the education of physically handicapped pupils enrolled in integrated programs, as set forth in Section 56702, as enacted by Section 2 of Chapter 1010 of the Statutes of 1976, and for the education and therapy of speech-handicapped pupils may, subject to the approval of the State Department of Education, be made to any school district not otherwise eligible to receive apportionments under Article 1 (commencing with Section 16000) and Article 2 (commencing with Section 16150) for that purpose.

The State Department of Education may approve applications in those situations where mobile classrooms will be used by a county superintendent of schools required to educate physically handicapped minors pursuant to Sections 1850 and 56701, as enacted by Section 2 of Chapter 1010 of the Statutes of 1976. Mobile classrooms shall be used pursuant to an agreement authorized by Section 41308.

Except as otherwise provided in this section, not more than 50 percent of the amount of any apportionment made pursuant to this section shall be repaid. Repayments shall be made in the following manner: Fifty percent of the amount of the apportionment shall be repaid in full with interest by the district, in annual amounts and at an interest rate over the period as the State Allocation Board may determine, not to exceed 20 years from the date the apportionment became final. In any school year in which 50 percent or more of the pupils in average daily attendance, as determined by the county superintendent of schools, and served by the facilities are not pupils from districts other than the applicant district, the repayment for the succeeding fiscal year shall be an amount which would have been payable if the district had been required to repay 100 percent of the apportionment over that period.

The county board of supervisors of the county whose superintendent of schools uses mobile classrooms during any fiscal year shall at the time or times within the fiscal year as may be agreed upon between the county and the school district, but in any case not later than the end of the fiscal year, pay to the school district having the obligation to repay the apportionment made under this section for the purchase of mobile classrooms, an amount equal to 100 percent of the amount the district is required to repay in the fiscal year with respect to the apportionment described above.

The county board of supervisors shall raise the amount required through a general tax levy on the property within the participating districts, or through a tuition charge not to exceed one hundred sixty dollars ($160) a year per pupil by the county superintendent of schools to the school districts of residence of pupils attending the facility including the district having the obligation to repay, or through a combination of these.

The county superintendent of schools shall notify the county board of supervisors of his or her intention to approve a school district's application for an allocation under this article before he or she approves the application.

The State Department of Education shall prepare specifications or regulations for the construction of mobile classrooms to provide for a useful life of no less than 20 years.

The use of mobile classrooms shall meet specifications described by the State Department of Education as they relate to the needs of the physically handicapped pupils being served, as set forth in Section 56701, as enacted by Section 2 Chapter 1010 of the Statutes of 1976.

16198. Notwithstanding any provision of law to the contrary, the board shall control the amount of apportionments made for facilities for exceptional children. In so controlling these apportionments the board shall establish allowable building areas and cost standards comparable to the building areas and costs of

similar facilities constructed by school districts which are not applicants under this chapter.

16199. The State Department of Education may accept applications by school districts for the construction of facilities and the purchase of essential furniture and equipment, under a pilot project to maintain regional programs for physically exceptional children.

The Superintendent of Public Instruction shall establish standards with respect to the regional programs for the pilot project which shall include, among other things, the curriculum to be offered, the area to be served, and the supervision and instruction with respect to the programs. Of the school district applicants which meet the standards established, the State Department of Education may designate not more than four school districts to receive apportionments as part of the pilot project to maintain regional programs for physically exceptional children.

The pilot project pursuant to this act shall begin with the 1972–1973 school year and shall terminate at the end of the 1974–1975 school year. The State Department of Education shall provide for state evaluation of the pilot project.

With respect to school districts selected as part of the pilot project, the State Allocation Board may approve applications and make apportionments pursuant to Section 16196, notwithstanding that the school district is serving a district or districts with an average daily attendance in excess of 8,000.

In any school year in which 50 percent or more of the pupils in average daily attendance, as determined by the county superintendent of schools, and served by the facilities are not pupils from districts other than the applicant district, the repayment for the succeeding fiscal year shall be an amount which would have been payable if the district had been required to repay 100 percent of the apportionment over that period.

The districts participating in a pilot project may include in interdistrict attendance agreements the cost of making repayments in the same proportion to the total

repayment as the number of pupils enrolled from each district bears to the total number of pupils enrolled.

16200. Notwithstanding any provisions of this article to the contrary, the board may make apportionments to school districts not otherwise eligible to receive apportionments under Article 1 (commencing with Section 16000) and Article 2 (commencing with Section 16150) for the construction of special education facilities and the purchase of essential furniture and equipment for the purpose of either or both (1) educating those physically handicapped, mentally retarded, and educationally handicapped pupils who regularly reside in an established, licensed children's institution or family home and are being educated pursuant to Section 42902, as amended by Section 1 of Chapter 1173 of the Statutes of 1977, and (2) educating handicapped pupils in development centers for handicapped pupils pursuant to Article 1 (commencing with Section 56800) of Chapter 6 of Part 30, as enacted by Section 2 of Chapter 1010 of the Statutes of 1976.

Only 50 percent of any amounts allocated and disbursed to a district under this section shall be repaid by the district. Each disbursement shall be repaid in 20 equal annual installments, including interest as determined by the board, and shall be computed and withheld by the Controller. The first computation of repayment of any disbursement shall be made in the fiscal year following the disbursement and shall during the next fiscal year be deducted in equal amounts from the February, March, April, and May installments of the apportionment made to the district from the State School Fund under Sections 41330 to 41343, inclusive, and Sections 41600 to 41972, inclusive.

16201. Notwithstanding the provisions of Article 1 (commencing with Section 16000) and Article 2 (commencing with Section 16150) of this chapter, the obligation of any district receiving an apportionment under this article to repay the apportionment shall not extend to more than one-half of the amount of the apportionment.

16202. With the approval of the county superintendent of schools, a school district may make application for an allocation under this article. Facilities for which an apportionment is made under this section shall be made available for use by the county superintendent of schools until he or she ceases to conduct the classes therein or until the superintendent of schools of a county other than the county whose superintendent of schools approved the application made under this section acquires jurisdiction over the location of the facility, whichever first occurs. Not more than 50 percent of the amount of any apportionment made pursuant to this section shall be repaid. Repayments shall be made in the following manner: Ten percent of the amount of the apportionment shall be subject to repayment by the district to the extent, and in the manner prescribed in Article 1 (commencing with Section 16000) of this chapter for apportionments other than those made pursuant to Section 16039. Forty percent of the amount of the apportionment shall be repaid in full with interest by the district, in the annual amounts and over the period as the board may determine, not to exceed 20 years from the date the apportionment became final. The county board of supervisors of the county whose superintendent of schools conducts classes in the facility during any fiscal year shall at the time or times within the fiscal year as may be agreed upon between the county and the school district, but in any case not later than the end of the fiscal year, pay to the school district having the obligation to repay the apportionment made under this section for the construction of the facility, an amount equal to the amount the district is required to repay in that fiscal year with respect to the 40 percent of the amount of the apportionment described above.

The county board of supervisors may raise the amount required through a general tax levy or through a tuition charge not to exceed one hundred sixty dollars ($160) a year per pupil by the county superintendent of schools to the school districts of residence of pupils attending the

facility other than the district having the obligation to repay or through a combination of these.

Upon application of a school district and written approval of the county superintendent of schools the board may amend any apportionment previously received by a district for exceptional children by providing that the same shall be deemed to have been made with reference to this section, in which event all the incidents of this section shall be deemed applicable thereto, except that only the unpaid balance of the apportionment at the time of the amendment of the apportionment with interest accrued to that date shall be repaid as prescribed in this section.

The county superintendent of schools shall notify the county board of supervisors of his or her intention to approve a school district's application for an allocation under this article before he approves the application.

16203. Not later than July 10th of each year the county superintendent of schools of each county in which there is a school district maintaining facilities for the education of exceptional children which have been constructed with funds apportioned to the district under this article shall certify to the board of supervisors and to the county auditor of the county the total number of units of average daily attendance of pupils enrolled in the facilities during the next preceding fiscal year who reside in a district other than the district maintaining the facilities. On or before July 10th of each year the county superintendent of schools shall notify the governing board of each affected school district of the total number of units of average daily attendance of pupils residing in that district who were in attendance at the facilities maintained by another district.

16204. On or before July 20th of each year, the governing board of a school district which has received a notification pursuant to Section 16203, shall determine, and notify the county board of supervisors and the county auditor, whether the amounts required to be paid on behalf of the district under Section 16207 shall be provided from the general fund of the district or by a

special district tax levied by the county board of supervisors.

In the event that the district notification specifies that the amounts so required shall be provided by a special district tax, or if no notification is made, the board of supervisors with whom the certificate prescribed by Section 16203 is filed shall, at the time of making the tax levy for that year for county purposes, levy a special tax upon all taxable property in the district of residence of each pupil enrolled in the facilities other than the district maintaining the facilities, sufficient in amount to raise, for the use of the facilities, the sum of one hundred sixty dollars ($160) per unit of average daily attendance, less any amounts per unit of the average daily attendance remaining in the county school building aid fund from levies and collections made in any prior year and not paid to the state pursuant to Section 16207.

16205. If the board of supervisors fails to make a district tax levy required under Section 16204, the auditor shall make the levy.

In the event the governing board of a school district has elected to provide from the district general fund the amounts required to be paid on behalf of the district from the county school building aid fund under Section 16207, the county superintendent of schools shall order the payment to be made in the amount required from the general fund of the district.

16206. In the event that the governing board of a school district determines, subject to the approval of the county superintendent of schools, that the amounts collected within the district by special taxes levied pursuant to Section 16204 or Section 16205 and credited to the district in the county school building aid fund are substantially in excess of amounts required of the district for purposes of Section 16207 for the ensuing three-year period, the county superintendent may order the payment to the district from the county school building aid fund of so much of the excess moneys that he or she may deem appropriate.

16207. The county auditor shall, not later than the last Monday in December and the last Monday in May of each year, notify the superintendent of schools of the amount in the county school building aid fund. Thereupon the superintendent shall draw his or her order on the county auditor in favor of the Treasurer for the amount in the county school building aid fund of the county, except that the total of the orders for any year may be limited to an amount not to exceed the total of one hundred sixty dollars ($160) for each unit of average daily attendance during the next preceding fiscal year of students residing in a district other than a district maintaining the facilities. The amount shall be paid by the county treasurer and, upon order of the Controller, shall be deposited in the State Treasury to the credit of the State School Building Aid Fund. All money paid to the State School Building Aid Fund under the provisions of this section shall be available only for transfer to the General Fund under Section 16403, as amended by Section 2 of Chapter 1373 of the Statutes of 1992, and shall be credited to the repayment of the apportionment of funds to the school district maintaining the facilities.

Article 4. School Housing Aid for Compensatory Education Purposes

16210. Not to exceed thirty-five million dollars ($35,000,000) of the proceeds of the sale of bonds authorized by the State School Building Aid Bond Law of 1966 may be expended pursuant to this article as grants to assist school districts.

Allocations and grants under this article shall be made by the State Allocation Board, upon application of an eligible school district, for the purposes and projects designated by the district and approved by the Director of Compensatory Education. The purposes and projects shall be provided for pupils in any kindergarten or any of grades 1 to 9, inclusive, and for children participating in preschool programs. The Director of Compensatory Education may establish priorities for purposes of

allocations and grants under this article based upon comparative needs of school districts and the urgency thereof. No interest shall be charged to a school district for an allocation or grant made under this article to the school district.

16211. Grants may be made pursuant to this article to districts which have been determined to be eligible for an apportionment under Article 5 (commencing with Section 54480) of Chapter 4 of Part 29, or districts maintaining schools for kindergarten, or any of grades 1 to 6, inclusive, in areas designated pursuant to Section 54482 which have reduced the number of pupils to full-time equivalent classroom teachers in kindergarten and any of grades 1 to 6, inclusive, in those schools to a ratio of 25 to 1, or better. The grants shall be made for the purposes, and subject to the conditions, following:

For expenditure by the district in areas designated pursuant to Section 54482 for any of the following:

(a) Acquisition, by purchase or lease, and the installation and equipping of portable classrooms for classroom instructional purposes.

(b) Acquisition of land for schoolsites.

(c) Construction and equipping of permanent school buildings and facilities.

(d) Reconstruction, renovation or remodeling of existing school buildings and facilities.

(e) Any combination of the above.

16212. In lieu of grants to districts pursuant to subdivision (a) of Section 16211 for the purpose of acquisition of portable buildings or other facilities and equipment, the board may expend moneys available for grants under this article for the acquisition of portable buildings and facilities and equipment by the state, and thereafter convey the same to the eligible districts. The conveyance to eligible districts may take the form of sale, lease, outright grant, or other suitable form of conveyance, as determined by the board.

16213. In formulating recommendations to the board under this article, the State Department of Education, through the Director of Compensatory Education, shall

be subject to standards established by rules and regulations of the State Board of Education.

16214. For each school district which receives a grant or allocation pursuant to this article, commencing with the fiscal year next succeeding the fiscal year in which the grant or allocation was received, and for each fiscal year thereafter, the Controller shall compute an amount equal to one cent ($0.01) on each one hundred dollars ($100) of the assessed valuation of property within the district. The Controller shall, during the next fiscal year following that in which he or she makes the computation pursuant to the preceding sentence of this section, deduct the amount so computed in equal amounts from each of the February, March, April, and May installments of the apportionments made to the district from the State School Fund under Sections 41330 to 41343, inclusive, and Sections 41600 to 41972, inclusive; and, on order of the Controller, the amount so deducted shall be transferred to the State School Building Aid Fund. All money transferred to the State School Building Aid Fund under this section shall be available only for transfer to the General Fund under Section 17204, as enacted by Section 2 of Chapter 1010 of the Statutes of 1978.

The Controller shall make the computations and deductions required by this section for 30 fiscal years or until the time as the total of the amounts so deducted equal 50 percent of the amount of the grant or allocation which was made to the school district, whichever first occurs.

Notwithstanding any provision of law to the contrary, for each fiscal year for which a computation is made pursuant to the section, the maximum rate of school district tax for the school district for which the computation is made shall be increased by one cent ($0.01) per each one hundred dollars ($100) of the assessed value of property within the district and shall be in addition to any amount of tax otherwise authorized to be levied, and amounts raised through the levy of the tax may be used to offset any reduction in equalization aid

resulting from the deductions made pursuant to this section.

The increase in the maximum school district tax provided by this section shall be deemed to be for bonded debt service or current capital construction. If the one cent ($0.01) rate of school district tax levied by the district causes the tax levied by the district for bonded debt service and for current capital construction in the same year to exceed the forty cent ($0.40) tax amount, as that term is defined by Section 16070 or 16071, whichever is applicable, for each grade level maintained by the district, the Controller shall not make the deduction otherwise required by this section for the fiscal year.

16215. Sections 16000 to 16006, inclusive, Sections 16009, 16018, and 16021, and Sections 16091 to 16100, inclusive, shall be applicable to the administration of this article, unless the context of this article, as determined by the board, requires otherwise.

Article 5. School Housing Aid for Districts Impacted by Seasonal Agricultural Employment

16230. Not to exceed one million five hundred thousand dollars ($1,500,000) of the amount of the proceeds of bonds issued under the State School Building Aid Bond Law of 1966 which are reserved pursuant to Section 17214, as enacted by Section 2 of Chapter 1010 of the Statutes of 1976, may be expended pursuant to this article.

Nothing in this article shall be construed to sanction, perpetuate or promote the racial or ethnic segregation, or the segregation by economic class, of pupils in the public schools.

The funds shall be expended by the State Allocation Board, for the acquisition of portable school and classroom buildings, and for the expenses incurred in the administration of this article.

The portable school and classroom buildings may be made available by the board, upon the recommendation of the Director of Compensatory Education, to any school

district which, because of the influx for temporary periods in the school year of large numbers of persons employed in seasonal agricultural work, experiences emergency increases in school enrollments of such magnitude as to make it impossible or impractical to accommodate the additional pupils in existing school buildings and facilities available to the district.

16231. The portable school and classroom buildings acquired pursuant to this article shall be made available to a school district irrespective of whether the district is otherwise in receipt of or eligible for assistance under any other provisions of this chapter.

The use of the portable school and classroom buildings may be made available to a school district by letting the same to the district free of charge, or by lease, or by conveying the same to the district under lease-purchase agreement, sale, or outright grant, as determined by the State Allocation Board upon consultation with, and the advice of, the Director of Compensatory Education. In addition the use of the portable school and classroom buildings may be made available to a school district by any of the means specified by Section 16041, as determined by the State Allocation Board upon consultation with, and the advice of, the Director of Compensatory Education.

16232. The use of the portable school and classroom buildings under this article shall be based upon application therefor submitted by the governing board of the school district to the Director of Compensatory Education, who shall review the same, make any modifications he or she deems appropriate, and transmit the approved application to the State Allocation Board with his or her recommendations as to the action to be taken thereon.

16233. If at any time the State Allocation Board shall determine that the need of the district for particular portable buildings which are made available to the district pursuant to this article has ceased, the board may take possession of the buildings on behalf of the state, and may dispose of the buildings to public or private parties

in any manner and under any terms that it deems to be in the best interests of the state.

16234. Sections 16000 to 16006, inclusive, Sections 16009, 16018, and 16021, and Sections 16091 to 16100, inclusive, shall be applicable to the administration of this article, unless the context of this article, as determined by the board, requires otherwise.

16235. All moneys received from the rental, lease, or sale of portable school and classroom buildings pursuant to this article shall be deposited in the State Treasury and, on order of the Controller, shall be credited to and in augmentation of the appropriation made by Section 16230.

All moneys shall be available without regard to fiscal years for repairing, renovating, installing, moving, or maintaining the buildings or for acquiring additional portable school and classroom buildings for the purposes of this article.

Article 6. School Housing Aid for a Regional Occupational Center

16250. Not to exceed two million four hundred twelve thousand two hundred thirty-three dollars and forty-nine cents ($2,412,233.49) of the amount of the proceeds of bonds issued under the State School Building Aid Law of 1966 may be expended pursuant to this article. The funds shall be allocated by the State Allocation Board to a joint powers board of education for the construction of a permanent campus for a newly created regional occupation center school to be located in the south bay area of Los Angeles County, having a population in excess of 1,070,000, and a potential average daily attendance in excess of 10,000 persons. Not to exceed four hundred thousand dollars ($400,000) of such sum shall be allocated and expended for architectural and engineering services in connection with the construction.

Sections 16000 to 16006, inclusive, Sections 16009, 16018 and 16021, inclusive, shall be applicable to the

administration of this article, unless the context of this article, as determined by the board requires otherwise.

16251. The allocation of funds to the entity pursuant to this article shall be conditioned upon the prior approval of the proposed facilities and subject matter of the educational program by the Superintendent of Public Instruction.

16252. It is the intent of the Legislature in enacting this article to finance the capital expenditures involved in the construction, equipping, and establishment, to serve an area in great need of occupational preparation, of a regional occupational center school to be maintained by a Joint Powers Board of Education and entity. It is the further intent of the Legislature to improve the employment opportunities of persons residing in areas of need for the training, by providing educational programs of a nature that will serve the social and economic needs of that area. The program will also serve to upgrade the cultural and intellectual as well as the economic life of the area to be served.

The Legislature finds that the federal government has made available in the south bay area of Los Angeles County land to be used for a regional occupation center school, provided a permanent campus can be established on the land within 18 months. For this reason, it is essential that the money made available for purposes of this article be allocated to the establishment of a permanent campus for a regional occupational center school in the south bay area of Los Angeles County.

16253. (a) Any amounts allocated and disbursed to the Joint Powers Board of Education and entity pursuant to this article shall be a loan by the state to the entity and shall be fully repaid by the entity to the state within 10 years after the date of disbursement to the entity. Interest shall be paid at a rate determined by the board. Any loan shall be repaid by the entity from proceeds of a tax under provisions of Section 52317, as amended by Section 1 of Chapter 267 of the Statutes of 1977, for sites, buildings and equipment, by a maximum tax levy of the assessed valuation of the entity not to exceed five cents ($0.05) on

each one hundred dollars ($100) of assessed valuation in that entity.

(b) The annual repayment shall be determined by agreement between the Director of Finance and the Superintendent of Public Instruction. The tax revenue referred to in subdivision (a) above shall be transferred by the County Auditor of Los Angeles County to the General Fund of the state in accordance with established regulations and procedures.

Article 7. Children's Center Construction Law of 1968

16260. This article shall be known as the Children's Center Construction Law of 1968.

16261. The Legislature hereby declares that it is in the interest of the state and of the people thereof for the state to provide assistance to school districts and to county superintendents of schools for the construction of children's center facilities. Children's centers are of general concern and interest to all the people of the state, and the education and care of children of working parents are a joint obligation of both the state and local agencies operating children's centers.

In enacting this article, the Legislature considers that the greatest need is to provide children's center facilities for the education and care of children during the time the sole parent is at work making the family economically self-sufficient, or is in school or in training to gain economic self-responsibility. The Legislature recognizes the need to encourage the provision of additional children's center facilities to permit more families to become economically self-sufficient.

16262. The following terms, whether used or referred to in this article, have the following meanings, unless a different meaning clearly appears from the context:

(a) ''Local agency'' means a school district or a county superintendent of schools operating or authorized to operate a children's center pursuant to this chapter.

(b) ''Board'' means the State Allocation Board.

(c) ‘‘Project’’ means the purposes for which a local agency has applied for assistance. A project may include the acquisition and improvement of sites, the planning and construction of permanent facilities, and the acquisition of equipment for children’s centers.

(d) ‘‘Construction of facilities’’ means construction of permanent facilities which may include leased portable buildings.

16263. This article shall be administered by the State Allocation Board. The board shall adopt any rules and regulations that it deems necessary to carry out the purposes of this article. The rules and regulations of the board shall establish a system of priorities to determine the relative necessity to establish children’s center facilities by a local agency. In establishing priorities with regard to the outlay of capital funds for the construction of new children’s centers, or with regard to the rental or leasing of facilities for new centers, the board shall give special consideration to school districts as described under subdivision (a) of Section 54425 which are also certified by the State Department of Health as containing substantial numbers of families who are recipients of aid to families with dependent children or who are former or potential recipients of the aid and who might reasonably be expected to improve their ability to be self-supporting if child care services are made available. The Department of Benefit Payments shall provide the State Department of Health with any information in its possession necessary for the administration of this section.

16264. No local agency shall receive an initial allocation from any appropriation made for the purposes of this article more than an amount to be known as the local agency entitlement. This amount shall be computed as follows:

(a) Determine the percentage that the amount apportioned to the local agency in the previous fiscal year for operation purposes pursuant to Section 8380, as amended by Section __ of Chapter ___ of the Statutes of ____, bears to the total amount allocated to all local agencies under the same section.

(b) Determine the percentage that the statewide modified assessed valuation per average daily attendance for the grade level involved in the previous fiscal year bears to the assessed valuation per unit of average daily attendance of the local agency. Local agencies other than school districts shall use a percentage of 1.00.

(c) Determine the local agency eligibility factor by multiplying the percentage derived in (a) by that derived in (b).

(d) Determine the local agency entitlement by multiplying the district eligibility factor derived in (c) by the amount appropriated for this purpose.

Amounts of the appropriation initially unallocated may be allocated subsequently without regard to the limitation of the local agency entitlement. Amounts of local agency entitlement not applied for within 90 days of the notification of entitlement, and amounts approved pursuant to Section 16268 but not allocated pursuant to Section 16269, and not made available on an extended basis after one year from the date of the original approval, may also be allocated without regard to the limitation of local agency entitlement.

16265. Any local agency operating or authorized to operate a children's center may apply for assistance under this article to undertake one or more projects. Any local agency not operating a children's center in the prior fiscal year shall have its eligibility and other factors determined by a method similar to that in Section 16264. Reasonable estimates may be used.

16266. Applications for assistance under this article shall be made on forms prescribed and furnished by the board. The applications shall include, but not be limited to, all of the following data and information:

(a) An outline and general description of the project to be undertaken.

(b) An estimate of the cost of the project to be undertaken and the anticipated source of funds to complete the project.

(c) The estimated number of children to be served by the project.

(d) The waiting list of the local agency for children's centers.

(e) The amount expended by the local agency from local sources during the past five years for the provision of children's center facilities.

16267. Not more than 25 percent of any funds available under this article for allocation to local agencies under this article shall be allocated for the reconstruction or rehabilitation of existing children's center facilities. Not less than 75 percent of the funds shall be allocated for the planning and construction of new permanent facilities, including acquisition and improvement of sites and acquisition of equipment for the facilities.

16268. The board shall notify a local agency when a preliminary approval of project has been given, and shall reserve from the appropriation made a sum in the amount of the approval given.

16269. Funds allocated for a project shall be disbursed to the local agency upon certification to the Controller when the executive officer of the board has determined both of the following:

(a) All required approvals of the projects have been granted.

(b) The local agency has subsequent to the effective date of this section, committed the expenditure through the granting of a contract or the authorization of an agreement which requires the payment of funds.

16270. In administering this article, the board shall approve the application. The executive officer of the board shall (a) prescribe and furnish application forms and (b) certify to the Controller the allocation of funds to which a local agency is eligible.

16271. All sites, plans, and specifications of the proposed facilities shall be approved by the State Department of Education. Prior to the approval, the local agency shall certify to the State Department of Education the unavailability of adequate, alternate facilities in the area to be served by the proposed facilities. The facilities shall include but not be limited to vacant classrooms,

auditoriums, multipurpose rooms, church or recreation facilities.

16272. For each one dollar ($1) of money allocated to a local agency which is expended for a project, the local agency shall expend local funds for the project in an amount which bears the same percentage to the one dollar ($1) as the modified assessed valuation per unit of the average daily attendance of the local agency bears to the statewide modified assessed valuation per average daily attendance of all local agencies. Local agencies other than school districts shall use a percentage of 1.00.

Article 7.5. Regional Occupational Center of Kern

16280. Not to exceed six million dollars ($6,000,000) of the amount of the proceeds of bonds issued under the State School Building Aid and Earthquake Reconstruction and Replacement Bond Law of 1974 shall be allocated by the State Allocation Board to the Regional Occupational Center of Kern for the construction and equipping of a new regional occupational center to be located in Kern County. The funds shall be available for allocation to the entity for a period of not more than four years from the effective date of this article and during such period the entity shall apply for the funds as are necessary to accomplish the purposes of this article. Funds shall be expended after the four-year period with respect to allocations made during the four-year period.

Only Sections 16000, 16001, 16003, 16005, and 16006, and Sections 16009, 16018, 16019, 16021, 16089, 16093, 16094, 16097, and 16099 of Article 1 (commencing with Section 16000) of this chapter shall be applicable to the administration of this article unless the context of this article as determined by the State Allocation Board requires otherwise.

16281. The Legislature finds that the Regional Occupational Center of Kern is comprised of three school districts in Kern County and it provides vocational training in areas of social and economic need. The Legislature further finds that the entity is in need of

school building facilities and the participating school districts have levied the permissive override tax authorized by Education Code Section 52317 to meet the cost of that construction. Inflation dictates that construction must begin at the earliest possible time to minimize the overall cost. The Legislature intends, therefore, in enacting this article to make available the necessary funds for immediate construction of the needed school facilities. The Legislature intends, however, that the funds shall be paid back in full with interest as provided by this article so that the taxpayers of this state shall not be required to pay for the support of the facilities.

16282. Any amounts allocated and disbursed to the Regional Occupational Center of Kern pursuant to this article shall be fully repaid with interest by the entity to the state in 20 equal annual payments commencing with the second fiscal year after the date of disbursement to the entity. Interest shall be paid at a rate determined by the State Allocation Board. Amounts allocated pursuant to this article shall be repaid by the entity from the proceeds of the tax levied by the participating school districts pursuant to Section 52317 and the payments shall be transferred by the County Auditor of Kern County to the State Treasury for the credit of the State School Building Aid Fund in accordance with established regulations and procedures.

16283. If at the time of considering the entity's application the State Allocation Board determines that the revenue to be received from the tax permitted by Section 52317 will be insufficient to pay the principal and interest of the loan in 20 equal annual payments, the board shall approve the application and allocate the funds therefor only upon condition that an election be called by the governing board of the entity and that two-thirds of the qualified electors of the entity voting on a proposition therefor, authorize the governing board to accept, expend and repay as provided in this article the allocation or apportionment. The election shall be called, held, and conducted in the same manner as are elections to

authorize the issuance of school district bonds, except that the ballot shall contain substantially the following words: ‘‘Shall the Governing Board of the Regional Occupational Center of Kern, for the purpose of providing permanent facilities for a regional occupational center, be authorized to accept, expend, and repay an apportionment from the State of California under and subject to the provisions of Article 7.5 (commencing with Section 16280) of Chapter 8, Part 10, Division 1, Title 1 of the Education Code, in an amount not to exceed $____. Yes__ No__’’

16284. On or before the first day of January of each fiscal year the Controller shall determine the annual repayment due.

Article 8. School Housing Aid for a Regional Occupational Center in San Joaquin County

16300. Not to exceed two million dollars ($2,000,000) of the amount of the proceeds of bonds issued under the State School Building Aid Bond Law of 1966 shall be expended pursuant to this article. The funds shall be expended under the administrative direction of the State Allocation Board in cooperation with the Board of Education of the Stockton Unified School District for the construction of a permanent campus for a newly created regional occupational center school to be located in San Joaquin County. Not to exceed two hundred fifty thousand dollars ($250,000) of the sum shall be allocated and expended for architectural and engineering services in connection with the construction.

Sections 16000 to 16006, inclusive, and Sections 16009, 16018 and 16021, shall be applicable to the administration of this article, unless the context of this article, as determined by the board, requires otherwise. Except to the extent and for the purposes expressly provided herein, the provisions of other articles in this chapter shall not be applicable hereto.

16301. (a) It is the intent of the Legislature in enacting this article to finance the capital expenditures involved in the construction, equipping, and

establishment of a regional occupational center to be maintained by the Stockton Unified School District, to serve an area in great need of occupational preparation. It is the further intent of the Legislature, by this article, to improve the employment opportunities of persons residing in areas of need for the training by providing educational programs of a nature that will serve the social and economic needs of that area. The program provided will also serve to upgrade the cultural and intellectual life, as well as the economic life, of the area to be served.

(b) The governing board of any school district maintaining a high school may, pursuant to Section 52301, cooperate with the Stockton Unified School District in the establishment and maintenance of the regional occupational center.

(c) In conjunction with the regional occupational center, regional occupational programs may be established in the Stockton Unified School District and in participating school districts.

(d) The cooperation in the establishment and maintenance of a regional occupational center pursuant to subdivision (b) and the establishment and maintenance of regional occupational programs pursuant to subdivision (c), may be undertaken pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code.

(e) Notwithstanding subdivisions (b), (c), and (d), the Stockton Unified School District has the sole duty to the state to operate and manage the regional occupational center and any regional occupational program authorized by this article.

(f) The amount computed for the Stockton Unified School District pursuant to subdivision (a) of Section 42233 shall be deemed to have been increased by the amount raised within the Stockton Unified School District for the support of a regional occupational center and program, except capital outlay expenditures, maintained during the 1972–73 fiscal year by the county superintendents of schools. The other computations required by Article 2 (commencing with Section 42230)

of Chapter 7 of Part 24 shall be adjusted to appropriately reflect the increase. The revenue limit applicable to the county superintendent of schools shall be reduced by an amount equal to the increase in the revenue limit of the Stockton Unified School District made pursuant to this subdivision.

Article 9. School Housing Aid for Rehabilitation and Replacement of Structurally Inadequate School Facilities

16310. Not to exceed forty million dollars ($40,000,000) of the proceeds of the sale of bonds authorized by the State School Building Aid Bond Law of 1966 may be expended pursuant to this article.

16311. Not to exceed two hundred fifty million dollars ($250,000,000) of the proceeds of the sale of bonds authorized by the School Building Aid and Earthquake Reconstruction and Replacement Bond Law of 1972 may be expended pursuant to this article.

16312. The Legislature hereby declares that it is in the interest of the state and the people thereof to provide assistance to school districts in rehabilitating or replacing structurally unsafe school facilities inasmuch as the education of children is an obligation of the state, and the obligation carries with it a corresponding responsibility for the physical safety of children while attending school.

16313. It is the intent of the Legislature in enacting this article to provide a means through repayable state loans for school districts not otherwise eligible for assistance under this chapter (consisting principally of school districts in the urban centers of the state), to house their pupils in facilities that are structurally safe.

16314. The following terms, as used in this article, shall have the following meanings, unless the State Allocation Board finds a different meaning is essential for properly carrying out the purposes of this article, or finds that a different meaning clearly appears from the context:

(a) ‘‘Board’’ means the State Allocation Board as defined in Article 1 (commencing with Section 16000) of this chapter.

(b) ‘‘Director’’ means the Director of Education.

(c) ‘‘District’’ means an elementary, high school, or unified school district.

(d) ‘‘Project’’ means the purposes for which a district has applied for assistance in the rehabilitation or replacement of unsafe school facilities at a given attendance center.

(e) ‘‘Apportionment’’ means an apportionment made under this article, and unless the context otherwise requires, it shall be deemed to include funds of a district required by the board to be contributed toward the cost of a project.

(f) ‘‘Attendance center’’ means a school maintained or to be maintained at a given location within a district.

16315. The State Allocation Board shall administer this article. The Director of General Services shall provide the assistance to the board as it may require.

16316. In addition to any other powers and duties granted to the board by Article 1 (commencing with Section 16000) of this chapter, the board shall:

(a) Establish the qualifications that it deems will best serve the purposes of this article for determining the eligibility of districts to apportionments under this article.

(b) Establish the procedures and policies in connection with the administration of and expenditure of funds made available for the purpose of this article that it deems necessary.

(c) Adopt the rules and regulations for the administration of this article, requiring the procedure, forms, and information as it may deem necessary.

16317. The board, by the adoption of rules, shall give priority in allocating funds to districts which will benefit most from the reconstruction or replacement of schoolhouse facilities. This priority may be based on the age and structural safety of existing buildings at the school or schools where the construction or reconstruction will occur, acuteness of overcrowding and density of

population in the attendance areas affected, or any other factors that will insure that the greatest need will be served in allocating funds under this article.

16318. The board shall prescribe instructions specifying the manner in which property, real or personal, being replaced through the apportionment, shall be disposed of, and compliance with the instructions shall be a condition upon the making of the apportionment. The net proceeds derived from the disposition shall be contributed in reduction of any apportionment proportionate to the state's participating in the project. Any school district affected shall comply with instructions prescribed by the board. The board may require a district to transfer to the state by any instruments deemed appropriate by the board, title to the property, whereupon, the board shall dispose of the property in any manner it deems appropriate to insure the highest return to the state, and apply the applicable proceeds therefrom in reduction of apportionments to the district. The district affected shall do all things deemed necessary by the board to implement the disposition.

16319. Apportionments under this article from the State School Building Aid Fund shall be made for the sole purpose of reconstructing or replacing existing substandard buildings that present a potential threat to the safety of schoolchildren and which do not comply with the requirements of Article 3 (commencing with Section 17280) of Chapter 2 of Part 10.5 or for the purpose of restoring facilities damaged by an earthquake after February 1, 1971, and for which there are no other state or federal funds available for the restoration. The apportionments shall be made in the manner and subject to the conditions herein provided and in accordance with policies adopted by the board for the following purposes, all of which purposes are declared to be, and are, public works:

(a) The reconstruction, renovation, or remodeling of existing school buildings and facilities.

(b) The construction of permanent or temporary school buildings and facilities for replacement purposes.

(c) The acquisition, by purchase or lease, and the installation of classrooms for replacement purposes.

(d) The acquisition and development of school sites necessary for construction of buildings approved under this article.

(e) The construction, repair, attachment, or development of offsite facilities, utilities or improvements which the board determines are necessary to the proper operation or functioning of the school facilities for which apportionments are made.

(f) The acquisition of additional furniture and equipment as is deemed necessary by the board to make the rehabilitated or replaced facilities properly function.

(g) Any combination of the above.

Except as is provided in Section 16320, apportionments shall not be made under this article for the purpose of reconstructing or replacing existing substandard buildings which have already been reconstructed or replaced using funds made available under Chapter 1575 of the Statutes of 1947, as amended, or Chapter 7 (commencing with Section 16500), Chapter 4 (commencing with Section 15700), and Chapter 8 (commencing with Section 16000) of this part.

As a part of the purposes, where a district is required by a contract entered into between itself and a contractor, to obtain at its own expense insurance covering risks incurred during any construction, reconstruction, or alteration for which an apportionment has been made, the cost thereof may be paid either directly, or by way of reimbursement, to the district out of the apportionment, or out of any apportionment made specifically covering the insurance. However, in other respects the apportionments are eligible for payment under this chapter.

16320. Notwithstanding the provisions of Section 16319, apportionments under this article from the proceeds of bonds remaining from the authorization provided in the State School Building Aid Bond Law of

1966 may be made for the purpose of (1) reconstructing or replacing existing substandard school buildings or high school dormitories that present a potential threat to the safety of schoolchildren and which were not previously constructed or reconstructed in accordance with the requirements of Article 3 (commencing with Section 17280) of Chapter 2 of Part 10.5 or which if previously reconstructed to comply with the provisions of Article 3 no longer meet the standards of structural safety prescribed under the authority of Article 3 in effect on April 10, 1933, or (2) reconstructing or replacing existing structures utilized by a school district as school buildings originally designed to house the United States Cavalry and used as World War II prisoner-of-war camp structures or an existing structure utilized by a school district as a school building which was originally designed as a mess facility for the United States Army Air Corps without regard to conditional or provisional structural approvals received by the district with respect to the buildings prior to the enactment of Chapter 500 of the Statutes of 1972.

Apportionments for the reconstruction or replacement of a dormitory shall only be made when the use and occupancy of the dormitory will be by resident pupils of the district who are in attendance at the high school of the district and when in the judgment of the board the pupils cannot be reasonably expected to travel by vehicle to the school on a daily basis.

16321. Notwithstanding the provisions of Section 16319, apportionments under this article from the proceeds of bonds remaining from the authorization provided in the State School Building Aid Bond Law of 1966 may be made for the purpose of replacing school buildings severely damaged by an earthquake in Sonoma County subsequent to September 30, 1969, and subsequently demolished by the school district in the interest of safety to the children, but not yet replaced by permanent facilities.

16321.7. Notwithstanding the provisions of Section 16319, apportionments may be made to a school district for the purpose of replacing an existing substandard

building which formerly housed the district's high school, and which was subsequently replaced by a new high school building using an apportionment received under this chapter, but which continued to be used by the district for elementary school purposes from the time of completion of the new high school in the 1958–59 school year until November 1971, when the pupils were transferred from the unsafe school building to temporary structures.

16322. The State Department of Education shall provide the following services to school districts making applications for apportionments under this article:

(a) It shall assist school districts in organizing a comprehensive planning effort. It shall guide a planning process through its appropriate steps and, when requested by a school district, it shall provide the school district with sources of expertise, either public or private, which may be able to contribute to the development of plans to find solutions for specific problems a school district may have.

(b) It shall provide continuing research in relation to all phases of educational programs and the school facilities that are required to implement these educational programs.

(c) It shall provide a review and evaluation service to school districts to assure the effectiveness of the facilities that have been provided in accommodating educational programs.

(d) It shall provide communication media through publications and seminars, and prepare planning guides and procedures containing recommendations, which guides shall be used to disseminate educational planning information to all school districts.

Unless specifically exempted by the State Allocation Board, each school district which files an application for an apportionment of funds under this article after July 1, 1973, shall prepare and submit to the board either, (1) a long-range comprehensive master plan justifying the application, prepared in accordance with acceptable planning procedures, or (2) a certification to the effect

that replacement school buildings for which application has been made will all be located on existing schoolsites containing a school building or buildings, or (3) a certification that the applicant school maintains only one school. Specific information relating to the following factors must be included in the master plan:

(a) A statement of the educational programs and goals of the district in relation to its programs, both current and future.

(b) A comprehensive evaluation and report of the utilization of the school facilities now existing in the district together with preliminary plans of the facilities to be reconstructed or replaced under this article, prepared in accordance with the requirements of Section 17302 or 81138.

(c) A comprehensive demographic study of the district, as it currently exists and as projected into the future.

(d) A policy statement regarding actual or potential human problems.

(e) A policy statement as to the priority in which the district proposes to solve its school housing problems.

(f) A policy statement regarding cooperation with other local public agencies to achieve total community development.

(g) A policy to insure continuous review so that plans will be kept up to date and changing conditions will be reviewed and accommodated by appropriate revision of plans.

The director shall review the long-range master plan and project development plan and shall report his findings and recommendations thereon to the board. The board shall in no instance approve an application or make an apportionment therefor until it has determined to its satisfaction that the facility for which the apportionment is sought is justified by an appropriate estimate of average daily attendance and location within the district.

16323. Each school district which desires an apportionment shall submit through its governing board to the board an application therefor in the form and

number of copies as the board shall prescribe. Each copy of the application shall be accompanied by a statement of the estimated cost of the project certified by an architect or structural engineer, and by layout plans showing the entire construction project for which the district desires an apportionment.

Estimates of costs for new construction or equipment appearing in an application shall conform to cost standards adopted by the board under Section 16024.

A school district shall not let any contract for new construction included in an application for a construction project which has been approved by the board if the cost exceeds the construction cost standards fixed by the board under Section 16024 for the new construction by more than 2 percent or except as otherwise provided in Section 16332. The amount, if any, by which the contract cost exceeds the construction cost standards fixed by the board shall be borne by the school district and shall not be included in the apportionment.

A school district may at any time amend or supplement its application.

Each construction project for which a district applies for an apportionment shall be applied for on a separate application and shall be considered separately by the board. If a district applies for more than one construction project, at the same time or at different times, the priority points of the district shall be recalculated after the approval of each separate construction project and before a subsequent construction project is approved.

The board shall require any changes in the plans which an applicant school district submits with its application that the board determines is necessary or desirable to reduce the cost of the project.

16324. A school district may at any time file an application or amend or supplement an application. Upon receipt of any application, the Director of General Services shall as promptly as possible prepare a report and recommendation with respect to the application after having received recommendations from the director in respect to any matter which is subject to the jurisdiction

or approval of the director or State Department of Education. The board shall, subject to the provisions of this article, approve, in whole or in part, or reject each application referred to it by the Director of General Services. If the board approves of the application, either in whole or in part, it shall, by a resolution adopted by it, apportion to the district from the State School Building Aid Fund the amount applied for, or any portion thereof that the board may determine appropriate. However, it may order that the apportionment or any part thereof shall be paid in progressive installments at any times and under any conditions that it may then prescribe. This shall be known as a conditional apportionment and shall become final only if the vote provided for in Section 16327 is favorable and if the county superintendent of schools furnishes a certificate satisfactory to the board certifying that there is on deposit in the state school building fund of the district the amount of district funds which, when added to the apportionment computed under Section 16330, will equal the estimated cost of the project approved under Section 16323.

Unless the board has received the certificates of the county superintendent of schools required by this section within nine months from the date of the conditional apportionment, it shall, at the expiration of the nine-month period, void the conditional apportionment and shall certify this fact to the Controller. Each final apportionment made by the board under this article, shall be certified by it to the Controller who shall from time to time draw his or her warrant on the Treasurer in favor of the county treasurer of the county having jurisdiction over the district in accordance with the terms of the final apportionment. The warrant shall be exempt from the provisions of Division 4 (commencing with Section 16100) of Title 2 of the Government Code and shall be paid by the Treasurer from the State School Building Aid Fund.

16325. The board may, upon approval of the application, in whole or in part, and subsequently from time to time, make a conditional apportionment or

conditional apportionments not exceeding in the aggregate the total amount approved for the application from the State School Building Aid Fund for such portion or portions of the project for which the board determines the district is ready to proceed. If the board has approved an application and made an apportionment as to a portion or portions of a project, the board may approve the remaining portion or portions of the project and make an additional apportionment or apportionments as it deems appropriate.

If the board determines that the actual cost is in excess of the estimated cost of the specific school plant facilities or sites for which an apportionment to a district has been made, or for which a district's application has been approved in whole or in part pursuant to this section, the board may make an additional apportionment to any district in an amount equal to the excess even though the additional apportionment will result in the total apportionments to the district exceeding the amount of the application originally approved by the board.

Approval of an application under this section shall not be construed as creating or implying any obligation, commitment or promise on the part of the board or the state to make apportionments under this chapter.

16326. The amount of new building area for which an apportionment may be made for the purpose of replacing unsafe school buildings shall be computed in accordance with regulations adopted by the board. Such regulation shall be based upon the number of units of average daily attendance which were housed in the unsafe buildings being replaced and the building area limitations contained in Sections 16047, 16052, 16053, 16054 and 16055 together with any adjustments necessary to alleviate hardships occurring as a result of only partial replacement of an entire attendance center. In no event shall an apportionment be made for new building area the chargeable area of which exceeds the chargeable area of the unsafe buildings being replaced. The chargeable area of any school building shall be computed in the uniform manner prescribed by the board.

16327. No payment of funds may be made pursuant to an apportionment unless the district holds an election at which the electorate of the district approve the acceptance, expenditure, and repayment of at least the amount apportioned pursuant to this article. The election may be held prior to or subsequent to an apportionment. If the electors voting at the election fail to approve the proposition by the same majority required at a district bond election, within nine months from the date of the apportionment, the apportionment and the board's approval of the application become null and void.

Notwithstanding the foregoing, an election held prior to the effective date of Article 9 (commencing with Section 16310) of this chapter, pursuant to Section 16058, is valid for the purposes of the foregoing paragraph, provided that the district is not otherwise eligible to receive apportionments under Article 1 (commencing with Section 16000), Article 2 (commencing with Section 16150), and Article 3 (commencing with Section 16190) of this chapter.

16328. No apportionment shall be made to a district for the construction, reconstruction, or alteration of, or addition to, school buildings if the requirements prescribed by this code for the construction of school buildings are not met by the plans for the entire building program of the district in connection with which the district applied for an apportionment.

16329. Payment shall be made in accordance with the terms of an apportionment, either directly or by way of reimbursement, to a school district for expenditures, or commitments therefor, which have been made by the district subsequent to the effective date of this article for any items approved by the board in such apportionment. However, where expenditures were made for, or work was commenced with respect to, any item so approved, prior to the time the application of the district containing the item was received by the board, payment or reimbursement for the item, either with state funds or with district funds which the district is required to contribute by the apportionment, shall be made only

upon authorization of the board by special resolution citing this section.

16330. The amount of the apportionment to a school district from the State School Building Aid Fund shall initially be computed by the board as follows:

(a) Determining the ratio which the school district's assessed valuation per pupil for the grade level of the project application bears to the statewide assessed valuation per pupil in that grade level, for the preceding fiscal year.

(b) Subtracting the amount computed under (a) from four.

(c) Dividing the amount computed under (b) by four plus the ratio which the school district's assessed valuation per pupil for the grade level of the project application bears to the statewide assessed valuation per pupil for that grade level, for the preceding fiscal year, which computation shall be denoted the ''basic computed state matching ratio of assistance.''

(d) The computation prescribed by subdivisions (a), (b), and (c) may be diagrammed as follows, with ''A.V.'' representing the words ''assessed valuation,'' and ''a.d.a.'' representing the words ''average daily attendance.''

$$\text{Basic computed state matching ratio of assistance} = \frac{4 - \dfrac{\text{District A.V. per a.d.a.}}{\text{Statewide A.V. per a.d.a.}}}{4 + \dfrac{\text{District A.V. per a.d.a.}}{\text{Statewide A.V. per a.d.a.}}}$$

(e) The basic computed state matching ratio of assistance for a grade level of a school district shall not be less than 25 percent nor more than 80 percent of the cost of any specific project.

(f) When the final eligible costs of a project have been determined pursuant to the audit prescribed in Sections 16340 and 16099, the amount of the basic computed state

matching ratio of assistance to the district shall be adjusted accordingly.

16330.5. Notwithstanding former Section 39230, as amended by Section 147 of Chapter 36 of the Statutes of 1977, or anything to the contrary in this article, whenever the State Allocation Board determines that state funds are not available to make an apportionment for an otherwise eligible project in the amount computed pursuant to Section 16330, an application may be approved and an apportionment made for one dollar ($1) only. In any instances the project may be financed by the applicant district using funds derived from a twenty-cent ($0.20) tax levy provided by Section 39230, as amended by Section 147 of Chapter 36 of the Statutes of 1977, together with any other funds available to the district for those purposes. The tax levy shall be twenty cents ($0.20) per one hundred dollars ($100) of assessed value for years prior to the 1980-81 fiscal year and beginning in the 1981–82 fiscal year shall be 0.05 percent of the full value.

16331. A school district may obtain local funds to match the state assistance with any combination of funds available as follows:

(a) Through the issuance of school district bonds.

(b) Through the levy and collection of school district taxes. The proceeds of any increase in the maximum tax rate shall be used exclusively for projects for which an apportionment or apportionments have been made under this article.

(c) Through the levy and collection of school district taxes as authorized by Section 39230.

(d) From any other fund available for capital outlay purposes.

16332. Whenever a school district determines that it is in its best interest to provide facilities on a given schoolsite in addition to those contained in the approved application, it may do so, with any excess funds it has available for capital outlay purposes, beyond those required under this article, by adding the excess funds to the total cost of the project. There shall be no penalties imposed under this article as a result of the expenditures.

16333. Whenever a school district has received an apportionment or apportionments of funds pursuant to Chapter 6 (commencing with Section 15700) or Chapter 8 (commencing with Section 16000) of this part, and, through the issuance of bonds, uses the bond proceeds as its source of funds to match its share of the eligible project cost of any project for which an apportionment of funds is made under this article, the amount of the bond funds shall be considered eligible bonded debt service in the computations made by the Director of General Services prescribed in Sections 15729 and 15730 and in Sections 16070 to 16090, inclusive.

16334. The interest on apportionments made under this article shall be established by the board, with the approval of the Director of General Services, as follows:

(1) The interest rate applicable to apportionments made pursuant to Article 1 (commencing with Section 16000) and determined in accordance with Section 16065 shall be established as of June 30 of each year.

(2) The applicable interest rate on June 30 shall apply to apportionments made under this article in the ensuing fiscal year, July 1 through June 30.

(3) Interest on the apportionment shall be compounded annually through the 30th day of June of each year.

16335. Each district to which an apportionment or apportionments has been made under this article shall repay the principal amount of such apportionment or apportionments and the accrued interest thereon in 20 equal annual payments. The first payment shall be made in the second fiscal year following the year in which the apportionment is made. In any year prior to the 1980–81 fiscal year in which the equal annual repayment exceeds that amount which seventeen and one-half cents ($0.175) per one hundred dollars ($100) of assessed valuation for each grade level (i.e. elementary or high school) operated by the district would raise during the year of the computation, the repayment shall be reduced to the amount which the seventeen and one-half cents ($0.175) for each grade level would so raise. In any year, beginning

in the 1981–82 fiscal year, in which the equal annual repayment exceeds that amount which 0.04375 percent of the full value for each grade level operated by the district would raise during the year of the computation, the repayment shall be reduced to the amount which the 0.04375 percent of the full value for each grade level would so raise. The amount of the reduction in computed repayment shall be canceled on the books of the Controller. If more than one apportionment is made the annual amount payable shall be the sum of the amounts which would be payable on each amount if computed separately.

On or before the first day of January of each fiscal year the State Controller shall determine the annual repayment, if any, to be due from each district during the next succeeding fiscal year. The computation and collection procedures shall be in accordance with Sections 16080, 16089, and 16090.

16335.1. Any apportionment made to the Marysville Joint Unified School District under Section 16339.8 shall be repaid through the continuance of the seventeen and one-half cents ($0.175) per one hundred dollars ($100) of assessed valuation per grade level tax rate set forth in Section 16335, after such time as the maximum repayment under Section 16335 becomes less than seventeen and one-half cents ($0.175) per one hundred dollars ($100) of assessed valuation per grade level. When the Controller has determined that the entire apportionment including interest, but less any amount paid by the district pursuant to Section 16339.8 has been completely repaid, this section shall cease to be operative.

16336. Notwithstanding any provisions of this article, any school district which has levied the entire amount permitted under former Section 39230, as amended by Section 147 of Chapter 36 of the Statutes of 1977, and has declared the entire proceeds therefrom available as local matching funds for a particular project, but lacks sufficient matching funds for the project as required under this article, may file an application thereunder prior to January 1, 1974. Under the circumstances the

board may increase the basic computed state matching ratio of assistance in the amount, which, when added to the sum of the entire proceeds of the levy permitted under former Section 39230, as amended by Section 147 of Chapter 36 of the Statutes of 1997, and any other funds which in the opinion of the board is or can be made currently available for the project, including funds authorized by the electors from bonds or otherwise, would be necessary to construct minimum essential facilities for the project as determined by the board. Not more than forty-five million dollars ($45,000,000) available for the purposes of this article may be apportioned for increases in the basic computed state matching ratio pursuant to this section. The source of the forty-five million dollars ($45,000,000) apportioned for this purpose shall be thirty million dollars ($30,000,000) previously appropriated for this purpose from the School Building Safety Fund by Chapter 500 of the Statutes of 1972, plus an additional fifteen million dollars ($15,000,000) of bond funds remaining from the State School Building Aid Bond Law of 1966.

16337. Notwithstanding any provisions of this article, where less than thirty million dollars ($30,000,000) has been apportioned or otherwise reserved by the board pursuant to Section 16336 on January 1, 1973, the board shall apportion as grants the remainder thereof under this section for matching purposes pursuant to this article to districts which the board determines has the greatest need. The apportionments under this section may be made only to those districts (1) which would not have been eligible to apply under Section 16336 if they had levied the entire twenty cent ($0.20) tax rate specified therein, and (2) which have filed an application by January 1, 1973 and received an apportionment under this article from the board by February 28, 1973.

16339. Notwithstanding any provisions of this article or Section 16336 thereof to the contrary, any school district which lacks sufficient matching funds for a particular project or projects, as required under this article, may file an application and the board may

approve a project or projects conditioned upon the district levying, in the 1974–75 fiscal year, the entire twenty cent ($0.20) tax rate per one hundred dollars ($100) of assessed valuation permitted under former Section 39230, as amended by Section 147 of Chapter 36 of the Statutes of 1997, or Section 81180 and applying the proceeds of such levy as local matching funds for such project or projects. Beginning in the 1981–82 fiscal year, the tax shall be 0.05 percent of full value.

Under those circumstances, provided the applicant district was not eligible to receive a grant under Section 16337, the board may increase the basic computed state matching ratio of assistance in that amount, which, when added to the sum of the entire proceeds of the twenty cent ($0.20) tax rate, except beginning in the 1981–82 fiscal year, the tax shall be 0.05 percent of full value, and any other funds which in the opinion of the board are or can be made currently available for the project or projects, would be necessary to construct minimum essential facilities for the project or projects as determined by the board. Not more than nineteen million dollars ($19,000,000) of the proceeds of the sale of bonds authorized by Section 16310, may be apportioned pursuant to this section and in augmentation of the forty-five million dollars ($45,000,000) made available under Section 16336.

16339.5. Notwithstanding any provisions of this article to the contrary, any district which does not have sufficient matching funds for a particular project as required under this article may file an application under Section 16339, and the board may approve the project conditioned upon the district levying in the 1975–76 fiscal year the entire twenty cent ($0.20) tax rate per one hundred dollars ($100) of the assessed valuation permitted under Section 39230.1 in lieu of the tax authorized by Section 16339 and applying the entire proceeds of the levy as local matching funds for the project providing:

(a) The district has levied a tax at the rate of at least ten cents ($0.10) per one hundred dollars ($100) of assessed valuation of the tax permitted under Section

39230 for the 1973–74 fiscal year and of at least nine cents ($0.09) per one hundred dollars ($100) of assessed valuation of the tax permitted under Section 39230 for the 1974–75 fiscal year.

(b) The district has sold the facilities to be replaced to a county prior to June 1972, but continued to use the facilities after the sale until June 1972.

16339.6. Notwithstanding any provisions of this article or Sections 16336 and 16339 thereof to the contrary, any school district, which has issued at least thirty-seven million dollars ($37,000,000) in bonds for the purpose of replacing structurally unsafe buildings and which lacks sufficient matching funds for a particular project or projects, as required under this article, may apply and the board may approve, a project or projects conditioned upon the district having levied or being required to levy, in the fiscal years 1974–75, 1975–76, and 1976–77, the entire twenty cent ($0.20) tax rate per one hundred dollars ($100) of assessed valuation permitted under Section 39230 and applying the entire proceeds therefrom as local matching funds to an eligible project or projects.

Under those circumstances, the board may increase the basic computed state matching ratio of assistance in the amount which, when added to the sum of (1) the entire proceeds which have been collected from the aforementioned twenty cent ($0.20) tax levies at the time of the application and not yet applied as matching funds to previously approved projects and (2) any other funds which in the opinion of the board are or can be made currently available for the project or projects, would be necessary to construct minimum essential facilities for the project or projects as determined by the board. Not more than six million dollars ($6,000,000) of the proceeds of the sale of bonds authorized by Section 16310, may be apportioned pursuant to this section.

16339.8. Notwithstanding any provisions of this article to the contrary, the State Allocation Board may appropriate to the Marysville Joint Unified School District a sum not to exceed seven hundred thousand

dollars ($700,000) for costs incurred in repairing damage at Lindhurst High School, which was constructed pursuant to this article as a replacement of facilities not complying with earthquake safety requirements. The need for the repair of Lindhurst High School may have been caused by improper construction or design. Therefore, the proceeds received from any insurance or arbitration award, or any other action, shall be paid by the district to the board as a direct reduction in the apportionment made under this section.

16340. Sections 16006, 16017, 16021, 16066, 16088, 16091, and 16093 to 16100, inclusive, shall be applicable to the administration of this article unless the context of this article as determined by the board, requires otherwise.

16341. Whenever a school district receives or has received an apportionment under this article for the purchase of a site which contains existing improvements, the board may require the district to dispose of any existing improvements that a condition of receiving an apportionment in any manner that the board deems proper. Whenever a district sells, leases or disposes of any site acquired under an apportionment or any improvements appurtenant to any site so acquired it shall contribute a portion of the net proceeds therefrom or the value of any consideration received therefor, in reduction of any apportionment, such portion being proportionate to the state's participation in the project.

16342. To determine the effect of school housing aid for reorganized districts, the applicable portions of Article 2 (commencing with Section 16150) of this chapter shall apply.

16343. Whenever a conditional apportionment has, prior to January 1, 1980, been made to an applicant school district pursuant to this chapter and thereafter the county superintendent of schools of the county having jurisdiction over such district has certified to the board and the Controller that at an election called, held and conducted in the district for that purpose, the qualified electors of the district voting thereat authorized the governing board of the applicant school district, by the

same majority vote required at a district bond election, to accept, expend and repay an apportionment under the provisions of this chapter, and whenever thereafter said county superintendent of schools has certified to the board and the Controller that the required contribution of the district has been placed on deposit in the state school building fund of the district and the board has certified to the Controller that the apportionment to the applicant school district has become final, such final apportionment is hereby confirmed, ratified, and validated, and any expenditure of money from the State School Building Aid Fund or the School Building Safety Fund according to the terms of such final apportionment is hereby confirmed, ratified, and validated.

Notwithstanding any provision to the contrary, no funds authorized by any bond act for the purpose of this chapter shall be made available for expenditure without specific authority of the board or its delegated representative.

16344. Notwithstanding the provisions of Section 16319, if a school district otherwise eligible to receive an apportionment under this article operates sufficient continuous school programs (as defined in Chapter 5 (commencing with Section 37600) of Part 22) to provide housing for students displaced from structurally inadequate facilities, the costs of modifying any existing facilities necessary for the implementation of any continuous school programs shall be eligible, upon the review and recommendation of the State Department of Education, for an apportionment under this article from the proceeds of bonds remaining from the authorization provided in the State School Building Aid Law of 1966.

CHAPTER 7. SCHOOL CONSTRUCTION LAW OF 1957

Article 1. General Provisions

16500. This chapter may be cited as the ‘‘State Project Area School Construction Law.’’

16501. In recognition of the impact which certain major state construction projects have on local school

district building needs in the areas in which the projects are constructed, the Legislature declares that it is the policy of the state to bear a proportionate share of the construction costs of school buildings in the area affected in the manner and to the extent provided by this chapter.

16502. As used in this chapter:

(a) ‘‘State project’’ means any construction project undertaken by the state, or the state and federal government jointly, which will cause a sudden influx of people into the area affected and where sufficient housing, schools, and other community facilities are not available. For the purposes of this subdivision, the Governor is hereby empowered to proclaim any major construction project undertaken by the state as a ‘‘state project’’ and define the area affected or likely to be affected thereby if both of the following conditions are satisfied:

(1) The Governor finds that the construction project will cause a sudden influx of people into the area.

(2) The Governor is requested to do so by the county board of supervisors.

The proclamation shall be in writing and shall take effect immediately. As soon thereafter as possible it shall be filed in the office of the Secretary of State.

(b) ‘‘Board’’ means the State Allocation Board.

(c) ‘‘Director’’ means the Director of Education for kindergarten and grades 1 to 12, inclusive.

(d) ‘‘Project’’ means the purposes for which a school district has applied for an apportionment.

(e) ‘‘Construction project’’ means the purposes for which a school district has applied for an apportionment at a given location.

(f) ‘‘Grade level maintained by a district’’ means any of the following:

(1) The kindergarten, if any, and grades 1 to 6, or grades 1 to 8, inclusive, maintained by an elementary school district or a unified school district.

(2) Grades 7 to 12, inclusive, grades 9 to 12, inclusive, or grades 7 to 10, inclusive, maintained by a high school district or unified school district, but not more than one

grade level shall be claimed by any district under any one of the paragraphs of this subdivision.

(g) ‘‘Apportionment’’ means an apportionment made under this chapter unless the context otherwise requires.

(h) ‘‘Project children’’ means children of parents who have come to the district subsequent to the start of the state project and who are employed by the State of California or the federal government in connection with a state project and children of parents employed by any contractor or subcontractor of a state project.

(i) ‘‘Indirect project children’’ means children of parents who have come to the district subsequent to the start of the state project and who are not employed by a contractor or subcontractor of a state project but who are children in the area in addition to those which would be expected as a result of normal development and growth of the area as determined pursuant to regulations of the director which he or she is hereby authorized to adopt.

(j) ‘‘Parent’’ includes a legal guardian or other person standing in loco parentis.

(k) ‘‘Department’’ means the State Department of Education.

16503. The Director of General Services shall administer this chapter and shall provide any assistance to the board that it may require.

16504. A fund in the State Treasury is hereby created, to be known as the State School Construction Fund. All money in the State School Construction Fund, including any money deposited in the fund from any source whatsoever after September 11, 1957, is hereby continuously appropriated without regard to fiscal years for expenditure pursuant to apportionments made under this chapter.

Article 2. Apportionments

16520. Apportionment from the State School Construction Fund to school districts shall be made in the manner and subject to the conditions herein provided and in accordance with policies adopted by the board, for any of the following purposes:

(a) The purchase and improvement of schoolsites which have been approved by the department.

(b) The purchase of desks, tables, chairs, and equipment, as approved by the department.

(c) The planning and construction, reconstruction, alteration of, and addition to, school buildings for facilities that are approved by the department as essential, all of which purposes are hereby declared to be, and are, public works.

Where a district is required by a contract entered into between itself and a contractor, to obtain at its own expense insurance covering risks incurred during any construction, reconstruction or alteration for which an apportionment has been made, the cost thereof may be paid either directly, or by way of reimbursement, to the district out of the apportionment, or out of any apportionment made specifically covering the insurance. However, in other respects the apportionments are eligible for payment under this chapter.

16521. In addition to the purposes for which apportionments may be made to school districts under Section 16520, apportionments may also be made to school districts for the construction, repair, attachment or development of off-site facilities, utilities or improvements which the board determines are necessary to the proper operation or functioning of the school facilities for which apportionments are made, all of which purposes are hereby declared to be, and are, public works.

16522. In making applications for, and in expending, apportionments of funds under this chapter, a district acts as an agent of the state and all sites purchased and improved, all equipment purchased, and all buildings constructed, reconstructed, altered, or added to through the expenditure of funds apportioned under this chapter, are declared to be, and are, the property of the state. Upon the payment by the district of the amounts required to be paid by it to the state under this chapter, the board shall, in the name of the state, convey the property to the district.

16523. The board may require school districts to insure for the benefit of the state all sites, equipment, and buildings which are the property of the state, against any risks and in any amounts that the board may deem necessary to protect the interests of the state. No state funds apportioned under this chapter shall be used to pay the premiums on the insurance.

16524. A district shall be eligible to an apportionment under this chapter if the estimated number of project children and indirect project children who will be in average daily attendance in the schools of the district during the period of the state project is at least 25 and is at least 5 percent of the estimated number of all children who will be in average daily attendance in the schools of the district during the current fiscal year.

16525. Any eligible school district may make application for an apportionment for a grade level which it maintains by submitting through the governing board an application therefor in a form and number that the board shall prescribe. The application shall be addressed to the board and shall set forth a project for the construction of school facilities for the district in accordance with this section.

(a) Each application and copy thereof shall contain and be supported by:

(1) A description of the project and the site therefor, preliminary drawings of the school facilities to be constructed thereon, and any other information relating to the project that the board may require.

(2) A statement of the estimated cost of the project certified by an architect or structural engineer.

(3) Evidence that the district has or will have title to the site upon which the facilities as specified in the application will be constructed.

(4) Assurance that the district will cause the work on the project to be commenced within a reasonable time and prosecuted to completion with reasonable diligence.

(b) The board shall require any changes in the plans which an applicant school district submits with its application that the board determines is necessary or

desirable to assure completion of the project with available funds of the district and the amount of the apportionment to which the district is entitled under this chapter. For that purpose the board may delegate to the director or the Director of General Services, according to whether the subject matter of the revision of the plans is subject to the jurisdiction and approval of the director or the Director of General Services, the authority to require any revision in the plans that the board deems necessary or desirable to accomplish the purposes of this subdivision.

(c) Upon submission of an application for an apportionment under this chapter the Director of General Services shall do each of the following:

(1) Transmit a copy of the application to the director who shall as promptly as possible prepare a report and recommendation with respect thereto. Thereupon the director shall transmit his or her report and recommendation to the Director of General Services who shall refer them to the board if he or she finds them in proper form and otherwise sufficient. If the Director of General Services finds the documents to be lacking in any respect as to any matter subject to the jurisdiction of the director or the department, he or she shall refer them to the director who shall take any action that may be necessary.

(2) Determine the applicant district's financial ability with funds apportioned under this chapter and funds devoted by the district to the project to meet the cost of the project and submit his or her report thereon as promptly as possible to the board.

16526. At the next regular meeting of the board following the submission of the reports and recommendations required by Section 16525, the board shall, subject to this chapter, approve or reject the application. If the board approves the application, it shall by resolution adopted by it, apportion to the district from the State School Construction Fund the amount applied for, or any portion thereof that the board determines proper. This shall be known as a conditional

apportionment and shall become final only if the vote provided for in Section 16527 is favorable. The conditional apportionment shall remain in effect for a period of nine months from the date of the resolution of the board. If the apportionment does not become final within the time prescribed, it shall become void and the money so apportioned shall again become available for apportionment pursuant to this chapter.

16527. No apportionment to a school district under this chapter shall become final, nor shall any agreement authorized by Section 16528 be entered into, unless at an election called by the governing board of the district, two-thirds of the qualified electors of the district voting thereat have authorized the governing board to accept, expend, and repay an apportionment as provided in this chapter or, with respect to an agreement authorized by Section 16528, to obligate the district in an amount equal to or in excess of the maximum amount which the district could be obligated by the agreement, or by any act of its governing board, or for which it is responsible, contemplated, or permitted under the agreement. The election shall be called, held, and conducted in the same manner as are elections to authorize the issuance of district bonds, except that the ballot shall contain substantially the following words:

"Shall the governing board of the district be authorized (1) to accept and expend an apportionment from the State of California under and subject to the provisions of the State Project Area School Construction Law, a portion of which amount is subject to repayment as provided by that law, or (2) to enter into an agreement or agreements with the state pursuant to Section 16528 of the Education Code, which will at the time of the agreement or agreements (or at the time of any subsequent act of the governing board, or for which it is responsible, contemplated or permitted thereby) commit the district to a total expenditure in connection with all of these agreements of not more than ____ dollars, or both. Yes ___ No ___."

16528. (a) In addition to the powers granted the board under this chapter, the board shall have authority to do each of the following:

(1) Make apportionments to districts for the purchase of sites only, or for the construction or purchase of temporary or portable buildings, and for the cost of site preparation, including any necessary utility costs, in connection with their utilization.

(2) Establish standards in conjunction with the State Department of Education pertaining to the sites and buildings as a condition for making the apportionment. In addition the board may also expend moneys from the State School Construction Fund directly for the construction, acquisition, storage, maintenance, and repair of the buildings, including administrative costs related thereto. In the latter event the board may lease, sell, or transfer under a lease-purchase agreement the buildings to school districts eligible for aid under this chapter, under the terms as it deems fit. Agreements pertaining thereto may provide for the payment by the state of site preparation costs, including any necessary utility costs, sufficient to permit their utilization.

(b) Whenever the board deems it economically desirable to do so the board may dispose of any facilities acquired or constructed directly by it under this section to any public or private parties under the terms and in the manner as the board deems fit, save insofar as the disposal is inconsistent with any agreement under this section between the board and an affected district. The board is authorized to do any and all things necessary to effectuate the purposes of this section, and any eligible school district is authorized to enter into an agreement with the board to carry out the purposes hereof.

(c) Any buildings leased for placement on the school property or under a purchase or a lease-purchase agreement shall be deemed the construction or alteration of a school building as those terms are defined in Sections 17280 to 17313, inclusive.

(d) The consideration provided by any agreement between the state and districts pursuant to this section

shall as nearly as possible reflect an amount which would return to the state a fair pro rata proportion of its capital investment and expenditures connected therewith in the light of the benefits conferred by the agreement. The consideration shall be paid by the districts promptly when due, and Section 16573 shall not be deemed applicable to reduce the consideration, provided that the amounts so repaid shall be redeposited in the State School Construction Fund.

(e) No agreement shall be entered into under this section unless the department has, with respect thereto, or as a condition of making the agreement, approved each of the following items:

(1) The property to be transferred, including any incidental construction pertaining thereto.

(2) Whether the agreement shall be by lease or sale.

(3) The term of the transfer, if less than a sale, including any contingent or indefinite term.

''Sale'' as used in this subdivision includes a lease-purchase transaction. The jurisdiction of the department shall not otherwise extend to the terms of the agreement.

Article 3. Apportionments, Computation

16540. The board shall compute for each applicant school district the amount to which the district is entitled under this chapter in the manner prescribed by this article. The amount so computed shall be reduced by the amount received or to be received by the district under Public Law 815 of the 81st Congress, as amended, or any similar provisions of any other act of Congress, solely on account of the participation of the federal government in the state project or shall be reduced by the percentage of the cost of the project (as that term is defined in Section 41930) borne by the federal government, whichever is the greater amount.

16541. In the computation of the apportionments to applicant school districts, the board may utilize the facilities and services of any department or agency of the state and may delegate the performance of any duties or

functions, except those specifically delegated by this chapter to the director or department, to any officer or employee thereof as the board deems necessary and proper.

16542. The board shall multiply:

(a) The estimated number of project children in the district by the current construction cost per pupil in the area of the state project.

(b) The estimated number of indirect project children in the district by the current construction cost per pupil in the area, multiplied by 55 percent.

(c) ‘‘Current construction cost per pupil’’ as used in this section means the average per pupil cost of constructing complete school facilities for the grade level maintained by the district for which application for an apportionment is made under this chapter.

(d) The total of the amounts computed pursuant to subdivisions (a) and (b) shall be apportioned to the district.

16543. (a) The average per pupil cost of constructing complete school facilities in the area of the state project for the purposes of this article shall be determined by the board, after consultation with the department and the Department of General Services, on the basis of information obtained thereby and any other information that may be available to the department.

(b) Estimates of the number of project children and indirect project children for the purpose of this article shall be made by the applicant school district in accordance with rules prescribed by the director and shall be made as of the time the greatest number of such children will attend the schools of the district as a result of the state project. The estimates shall be made on the basis of the best information available to the district at the time of the application. Approval of the estimates by the director, in whole or in part, shall be on the basis of the best information available to the director at the time of the approval. In the approval of estimates of the number of project children and indirect project children for the purposes of this article the director may utilize the

facilities and services of any department or agency of the state as he or she deems necessary and proper. No estimate shall be used as a basis of an apportionment that has not been approved by the director.

Article 4. Apportionments, Payment

16550. Immediately after the result of the election required by Section 16527 has been determined, the county superintendent of schools shall make a certificate in duplicate stating whether the district has authorized the acceptance and expenditure of the apportionment. One copy of the certificate shall be sent to the board and one copy to the Controller. Upon the receipt by the board of the certificate, the apportionment shall become final.

16551. The election by a school district upon the acceptance, expenditure, and repayment of an apportionment prescribed by Section 16527 may be called and held either before or after the making of an apportionment.

16552. Payment shall be made in accordance with the terms of a final apportionment, to a school district for expenditures, or commitments therefor, which have been made by the district subsequent to the date of the proclamation of the Governor proclaiming a state project in the area including the district, for any items approved by the board in the apportionment. However, if expenditures were made for, or work was commenced with respect to, any item so approved, prior to the time the application of the district containing the item was received by the board, payment or reimbursement for the item shall be made only upon authorization of the board by special resolution citing this section.

16553. The board shall prescribe in the detail that it deems necessary, the purposes for which moneys apportioned by it to a district under this chapter may be expended and the prescription shall be binding upon the governing board of the district except that it may be, for good cause, modified by the board.

16554. Each apportionment made by the board under this chapter shall be certified by it to the Controller who shall thereupon draw his or her warrant on the State Treasury in favor of the county treasurer of the county having jurisdiction over the district. The warrant shall be paid by the Treasurer from the State School Construction Fund and is not subject to the provisions of Section 925.6 of the Government Code.

16555. The county treasurer of each county shall pay all moneys received by him or her under this chapter into the county treasury to the credit of the state school construction fund of the district, which fund is hereby created, exactly as apportioned by the board.

16556. The governing board of each school district to which an apportionment has been made under this chapter shall expend the moneys in the state school construction fund of the district only for the purposes for which the moneys were apportioned to the district and for no other purpose and shall make any reports relating to the expenditure of the moneys that the board and the Controller shall require.

16557. It shall be the duty of the Controller to make any audit or audits of the books and records of counties and school districts receiving apportionments under this chapter, that he or she may deem necessary from time to time, for the purpose of determining that the money received by school districts as apportionments hereunder has been expended for the purposes authorized by this chapter.

Article 5. Apportionments, Repayment

16570. Each school district to which an apportionment is made under this chapter shall repay the principal amount of the apportionment in the manner prescribed by this article.

16571. For purposes of computing the repayment, the state project shall be deemed completed on June 30th of the fiscal year in which the state project is completed and accepted by the state.

16572. The principal amount of the apportionment shall be computed and repaid in the manner prescribed in this article.

(a) On or before the first day of January succeeding the completion of the state project, the Controller shall compute the annual repayment of each apportionment for each grade level maintained by the district, as follows:

(1) He or she shall determine from the certification of the director the total amount of average daily attendance of project children, and the total amount of average daily attendance of indirect project children, in attendance in the grade level maintained by the district for the period commencing with the date of the proclamation of the Governor proclaiming the existence of a state project in the area including the district and ending on June 30th of the fiscal year in which the state project is completed.

(2) He or she shall divide the average daily attendance of the project children by 30 and multiply the quotient by the amount determined by the board pursuant to Section 16543 as the average per pupil cost of construction in the area of the state project.

(3) He or she shall multiply the average daily attendance of the indirect project children by 55 percent. The product shall be divided by 30 and the quotient multiplied by the amount determined by the board pursuant to Section 16543 as the average per pupil cost of construction in the area of the state project.

(4) The total of the amounts computed pursuant to paragraphs (2) and (3) shall be subtracted from the amount of the apportionment to the district. The remainder shall be divided by 30 and the quotient shall constitute the amount of the annual repayment of the apportionment.

(5) Upon application of the district and approval by the board, the total amount of the repayment may be paid in a lump sum or in fewer than 30 years.

16573. If on June 30th of the fiscal year in which the state project is completed there is classroom space constructed with funds apportioned under this chapter, that is not being used by the district, the board shall, upon

application of the district, reduce the total amount to be repaid by the district on a proportionate basis until the time that the classroom space is used by the district. No payment shall be required by the district for the period during which the classroom space is not used by the district.

16574. The Controller shall, during the fiscal year in which he or she determines the annual repayment as provided in Section 16572, and for each subsequent fiscal year not exceeding 30, deduct the total amount of the annual repayment of each district in equal amounts from each of the February, March, April, and May installments of the apportionments made to the district from the State School Fund under Sections 46304, 46305, and 92 or 41050, Sections 41330 to 41343, inclusive, and Sections 41600 to 41972, inclusive, and, on order of the Controller, the amount so deducted shall be transferred to the General Fund of the state.

16575. Upon computing in any fiscal year the amount to be deducted from the apportionments to the district from the State School Fund during the fiscal year, the Controller shall notify the governing board of the district and the county auditor of the county, the county superintendent of which has jurisdiction over the district, of the amount to be deducted.

16576. The board of supervisors of the county, the county superintendent of which has jurisdiction over any district which under this chapter will have moneys withheld by the Controller from the apportionments to be made to it from the State School Fund during any fiscal year, shall annually at the time the board of supervisors makes the next levy of taxes for county purposes, levy a tax upon the property in the district sufficient to raise for the district the amount of money withheld by the Controller during the fiscal year preceding that in which the tax is levied. The tax, when collected, shall be paid into the county treasury of the county, the county superintendent of schools of which has jurisdiction over the district for which the tax was levied, to the credit of the general fund of the district.

16577. Notwithstanding Section 16572 to the contrary, if on or before June 30th of the fiscal year in which the state project is completed the district has received a final apportionment under Sections 16000 to 16207, inclusive, or if at any time thereafter the district receives a final apportionment under Sections 16000 to 16207, inclusive, the amount of the apportionment to the district under this chapter then remaining unpaid shall, upon request of the district, be added to the principal amount of the apportionment made to the district under Sections 16000 to 16207, inclusive. Thereupon the apportionment made to the district under this chapter shall be deemed to be an apportionment made to the district under Sections 16000 to 16207, inclusive, and subject to repayment in the manner therein prescribed, except that no interest shall be charged or collected upon the amount which is added to the principal amount of the apportionment made to the district under Sections 16000 to 16207, inclusive. For the purposes of Section 16083, any amount added to the principal amount of an apportionment pursuant to this section shall be deemed to have become final and disbursed to the district on the date the state project is deemed completed pursuant to Section 16571.

Article 6. Miscellaneous

16590. In addition to any other powers and duties as are granted the board by this chapter, the board shall do each of the following:

(a) Establish any procedures and policies in connection with the administration of, and the expenditure of funds made available for the purpose of, this chapter that it deems necessary and which are not in conflict with the powers and duties of the State Department of Education or of the director granted or imposed by this chapter.

(b) Adopt any rules and regulations for the administration of this chapter, requiring any procedure, forms, and information, that it may deem necessary.

16591. The State Allocation Board is continued in existence for the purposes of this chapter. The members of the board and the Members of the Legislature meeting with the board shall receive no compensation for their services under this chapter but shall be reimbursed for their actual and necessary expenses incurred in connection with the performance of their duties hereunder, to be paid out of the State School Construction Fund.

16592. Whenever the Controller determines that any money apportioned to a school district under this chapter has been expended by the district for purposes not authorized by this chapter, or exceeds the final cost of the project which is authorized by this chapter to be paid therefrom, the Controller shall furnish written notice to the board, the governing board of the school district, the county superintendent of schools, the county auditor, and the county treasurer of the county whose county superintendent of schools has jurisdiction over the school district, directing the school district and the county treasurer to pay into the State Treasury the amount of the unauthorized expenditures, or the amount of the excess apportionment, as the case may be. Upon receipt of the notice, the governing board shall order the county treasurer to pay to the Treasurer, out of any moneys in the county treasury available to the school district for that purpose, the amount set forth in the notice. The amount shall, upon order of the Controller, be deposited in the State Treasury to the credit of the State School Construction Fund, to be reapportioned by the board.

The governing body and county treasurer shall make the payments to the Treasurer as provided in this section, and the Controller shall enforce the collection on behalf of the state.

CHAPTER 8. URBAN SCHOOL CONSTRUCTION AID LAW OF 1968

Article 1. General Provisions

16700. This chapter may be cited as the ''Urban School Construction Aid Law of 1968.''

16701. The Legislature hereby declares that it is in the interest of the state and of the people thereof for the state to aid urban school districts of the state in reconstructing, modernizing, or replacing schoolsites and buildings for pupils of the public school system who are now housed in substandard schools constructed prior to 1943.

16702. As used in this chapter:

(a) ''Board'' means the State Allocation Board.

(b) ''Director'' means the Director of Education.

(c) ''Project'' means the purpose or purposes for which a school district has applied for an apportionment or apportionments.

(d) ''Apportionment'' means an apportionment made under this chapter unless the context otherwise requires.

(e) ''Urban district'' means any school district, the boundaries of which are substantially identical to or which encompass the boundaries of a city having a population in 1960 of not less than 50,000 persons.

16703. The Director of General Services shall administer this chapter and shall provide any assistance to the board that it may require.

16704. The State Allocation Board is continued in existence for the purposes of this chapter. The members of the board and the Members of the Legislature meeting with the board shall receive no compensation for their services under this chapter but shall be reimbursed for their actual and necessary expenses incurred in connection with the performance of their duties hereunder, to be paid out of the Urban School Construction Aid Fund.

16705. The board by the adoption of rules shall give priority in allocating funds to urban districts to those districts where the children will benefit most from

schoolhouse facilities. This priority shall be based upon the age of existing buildings and the acuteness of overcrowding at the school or schools where the construction or reconstruction will occur, the density of population in the attendance areas affected, or any other factors that will insure that the greatest need will be served.

16706. In addition to any other powers and duties that are granted the board by this chapter, the board shall:

(a) Establish any qualifications not in conflict with other provisions of this chapter that it deems will best serve the purposes of this chapter for determining the eligibility of school districts to apportionments of funds under this chapter.

(b) Establish any procedures and policies in connection with the administration of, and the expenditure of funds made available for the purpose of, this chapter that it deems necessary.

(c) Adopt any rules and regulations for the administration of this chapter, requiring any procedure, forms, and information, that it may deem necessary.

16707. The board shall prescribe instructions specifying the manner in which property, real or personal, being replaced through the apportionment, shall be disposed of, and compliance with the instructions shall be a condition upon the making of the apportionment. The net proceeds derived from the disposition shall be contributed in reduction of any apportionment. Any school district affected shall comply with instructions prescribed by the board. The board may require a district to transfer to the state, by any instruments deemed appropriate by the board, title to the replaced property, whereupon, the board shall dispose of the property in any manner it deems appropriate to insure the highest return to the state, and apply the proceeds therefrom in reduction of apportionments to the district. The district affected shall do all things deemed necessary by the board to implement the disposition.

16708. Apportionments from the Urban School Construction Aid Fund created by Section 16728 shall be limited to urban districts and shall be made for the sole purpose of reconstructing or replacing existing substandard buildings constructed prior to 1943. The apportionments shall be made in the manner and subject to the conditions herein provided and in accordance with policies adopted by the board for the following purposes:

(1) The acquisition, by purchase or lease, and the installation and equipping portable classrooms for instructional purposes.

(2) The acquisition and development of schoolsites.

(3) The construction and equipping of permanent school buildings and facilities.

(4) The reconstruction, renovation, or remodeling of existing school buildings and facilities.

(5) Any combination of the above.

As a part of these purposes, where a district is required by a contract entered into between itself and a contractor, to obtain at its own expense insurance covering risks incurred during any construction, reconstruction, or alteration for which an apportionment has been made, the cost thereof may be paid either directly, or by way of reimbursement, to the district out of the apportionment, or out of any apportionment made specifically covering the insurance, provided that in other respects the apportionments are eligible for payment under this chapter.

A leasehold or use permit interest held by a school district in land owned in fee simple by the government of the United States may, for all purposes of this chapter, be deemed a purchase of land by the district and to vest title and ownership in the district.

16709. The board shall not make any apportionment with respect to an application for replacing inadequate school facilities unless it has first investigated and made a finding that it would not be economical or good practice to rehabilitate the facilities.

16710. In addition to the purposes for which apportionments may be made to school districts under

Section 16708, apportionments may also be made to school districts for the construction, repair, attachment, or development of offsite facilities, utilities, or improvements which the board determines are necessary to the proper operation or functioning of the school facilities for which apportionments are made, all of which purposes are hereby declared to be, and are, public works.

16711. (a) In making applications for, and in expending apportionments of funds under this chapter, a school district acts as an agent of the state and all sites purchased and improved, all equipment purchased, and all buildings constructed, reconstructed, altered, or added to through the expenditure of funds apportioned under this chapter, are declared to be, and are, the property of the state.

(b) The Director of General Services shall file with the county recorder of the county in which any site purchased or improved through the expenditure of funds apportioned under this chapter is located a certificate, properly acknowledged, indicating the state's interest in real property of the district by virtue of this section, without the necessity of particularizing the real property. The recorder shall record and index the certificate in the same manner as abstracts of judgments and the certificate shall constitute constructive notice of the state's interest in the particular real property affected. The certificate shall as to any party thereafter acquiring real property or any interest therein in the county from the school district have the same force, effect and priority as if it had been a judgment lien imposed upon real property which was not exempt from execution. That effect shall commence upon recordation and continue until the certificate is discharged or released as provided herein.

(c) Upon request, the Director of General Services shall issue either of the following:

(1) A release of the state's interest in any real property or a portion thereof that the district has been authorized by the board to dispose of under this chapter, provided that delivery of the release may be subject to any

conditions that may be prescribed by the board to protect the state's interest.

(2) A disclaimer of the state's interest in any real property or a portion thereof of the district, the disposition of which the board is not required to consent to under this chapter, provided that the delivery of the disclaimer may be subject to any conditions that the board deems appropriate to protect the interests of the state, including conditions relating to the amount of consideration to be received from the disposition if the board asserts an interest in the proceeds of the disposition under other provisions of this chapter.

The release or disclaimer shall conclusively protect any third party relying upon the same and shall be acknowledged to permit recordation by the county recorder.

(d) Upon payment by the district of all amounts required to be paid by it or on its behalf to the state under this chapter both of the following shall occur:

(1) The Director of General Services shall file with the recorder a release of any certificate. The release shall be recorded and indexed in the same index as the certificate.

(2) The title to personal property purchased by such school district with funds apportioned under this chapter shall revert thereto without further action by the state.

16712. A school district shall not expend money apportioned under this chapter unless the contracts under which the funds are expended have been let after competitive bids thereafter pursuant to this code.

16713. Each school district which desires an apportionment shall submit through its governing board to the board an application therefor in the form and number of copies as the board shall prescribe. Each copy of the application shall be accompanied by a statement of the estimated cost of the project certified by an architect or structural engineer, and by layout plans showing the entire construction project for which the district desires an apportionment.

Estimates of costs for new construction or equipment appearing in an application shall not exceed typical

current costs of comparable new construction or equipment by school districts in the same area not receiving an apportionment under this chapter, as determined by the Director of General Services, or if there has been no new construction by school districts in the area, the estimates of costs shall not exceed the reasonable current cost of similar construction or equipment in the area as determined by the Director of General Services.

A school district may at any time file an application or amend or supplement an application. Upon receipt of any application, the Director of General Services shall as promptly as possible prepare a report and recommendation with respect to the application after having received recommendations from the director in respect to any matter which is subject to the jurisdiction or approval of the director or State Department of Education. The board shall, subject to the provisions of this chapter, approve, in whole or in part, or reject each application referred to it by the Director of General Services. If the board approves of the application, either in whole or in part, it shall, by a resolution adopted by it, apportion to the district from the Urban School Construction Aid Fund the amount applied for, or a portion thereof as the board may determine appropriate. However, it may order that the apportionment or any part thereof shall be paid in progressive installments at times and under conditions as it may then prescribe.

16714. The board may approve, in whole or in part, an application submitted by a school district under Section 19263 and in any amount, not exceeding the amount applied for, that the board may deem appropriate.

The board may, upon approval of the application, in whole or in part, and subsequently from time to time, make a conditional apportionment or conditional apportionments not exceeding in the aggregate the total amount approved in the application of the district by the board to the applicant school district from the Urban School Construction Aid Fund for any portion or portions of the project that the board determines the district is

ready to proceed with. If the board has approved an application and made an apportionment as to a portion or portions of a project, the board may approve the remaining portion or portions of the project and make an additional apportionment or apportionments as it deems appropriate.

If the board determines that the actual cost is in excess of the estimated cost of the specific school plant facilities or sites for which an apportionment to a district has been made, or for which a district's application has been approved in whole or in part pursuant to this section, the board may make an additional apportionment to the district in an amount equal to the excess even though the additional apportionment will result in the total apportionments to the district exceeding the amount of the application originally approved by the board.

Approval of an application under this section shall not be construed as creating or implying any obligation, commitment or promise on the part of the board or the state to make apportionments under this chapter.

16715. No apportionment shall be made for new construction, the area of which exceeds the area of the unsafe buildings being replaced under Section 16708. The area of school buildings shall be computed in a uniform manner as prescribed by the board.

16716. Payment shall be made in accordance with the terms of an apportionment, either directly or by way of reimbursement, to a school district for expenditures, or commitments therefor, which have been made by the district subsequent to the effective date of this chapter for any items approved by the board in the apportionment. However, if expenditures were made for, or work was commenced with respect to, any item so approved, prior to the time the application of the district containing the item was received by the board, payment or reimbursement for the item, either with state funds or with district funds which the district is required to contribute by the apportionment, shall be made only upon authorization of the board by special resolution citing this section.

16717. Notwithstanding any provision to the contrary, the board, with the approval of the Director of General Services, shall, pursuant to this section, fix the rate of interest to be paid by the districts on the sums apportioned during that fiscal year. Beginning each fiscal year the board shall compute the average of the rates of interest which the state pays upon the state school reconstruction and replacement bonds, sold at the three sales of state school reconstruction and replacement bonds occurring immediately prior to that fiscal year, or, if the board so determines, at all of the sales of the bonds occurring in the two years immediately prior thereto, giving effect to the price at which the state school reconstruction and replacement bonds sold at the sales, and the premium, if any paid, thereon. If an apportionment is made prior to the sale of state school reconstruction and replacement bonds, the board shall use the computed average rate of interest which the state paid on the last sale of state school building bonds. The average rate shall be adjusted to the next highest one-tenth of 1 percent to cover the cost of sale and issuance of the bonds and costs of administration. The adjusted average rate shall be the rate paid by districts on apportionments received during that fiscal year, and shall be compounded annually through the 30th day of June of each year.

16718. Apportionments may be made irrespective of whether there is on deposit at the time thereof a sufficient amount in the Urban School Construction Aid Fund to permit the payment of the apportionments. Disbursements may be made under any apportionment from any funds in the Urban School Construction Aid Fund irrespective of whether there exists at the time of the disbursement a sufficient amount in the fund to permit the payment in full of all apportionments previously made. However, no disbursements shall be made from any funds in the Urban School Construction Aid Fund required by law to be transferred to the General Fund, or from any moneys therein which the

Controller deems necessary to satisfy appropriations from the fund for purposes other than apportionments.

16719. No apportionment shall be made to a district for the construction, reconstruction, or alteration of, or addition to, school buildings if the requirements prescribed by this code for the construction of school buildings are not met by the plans for the entire building program of the district in connection with which the district applied for an apportionment.

16720. Each district to which an apportionment or apportionments has been made under this chapter shall repay a portion or all of the principal amount of such apportionment or apportionments and the accrued interest thereon in 30 equal annual payments, as shall be determined by the Controller pursuant to this section. If more than one apportionment is made the annual amount payable shall be the sum of the amounts which would be payable on each apportionment if computed separately.

The Controller shall determine the portion of the principal amount of the apportionment or apportionments made to each district to be repaid by the district by diminishing the principal amount by the product of the ratio which the assessed valuation of the district per unit of average daily attendance of pupils in the grades maintained by the district during the preceding fiscal year bears to the assessed valuation per unit of average daily attendance in the same type of districts in the state and one-half of the principal amount of the apportionment or apportionments, except that the amount to be repaid shall not exceed the amount of the principal apportionment or apportionments.

The Controller shall make the computation to determine the annual repayment due in the next fiscal year following the fiscal year in which the apportionment is made. In any year prior to the 1980–81 fiscal year in which the annual repayment exceeds the amount which may be raised by a three cent ($0.03) tax rate per one hundred dollars ($100) of assessed valuation in the district, the governing board of the school district shall so

certify to the Controller whereupon the Controller shall grant a deferment of the annual repayment which is in excess of the amount that would be produced by a tax rate of three cents ($0.03) per one hundred dollars ($100) of assessed valuation of the district. In any year, beginning with the 1981–82 fiscal year, in which the annual repayment exceeds the amount which may be raised by a levy of 0.0075 percent of the full value in the district, the governing board of the school district shall so certify to the Controller whereupon the Controller shall grant a deferment of the annual repayment which is in excess of the amount that would be produced by a tax of 0.0075 percent of the full value of the district. The amount deferred shall be added to the annual repayment for the next succeeding fiscal year.

16721. The Controller shall, during the next fiscal year following that in which he determines the annual repayment as herein provided, deduct the total amount of the annual repayment of each district in equal amounts from each of the February, March, April, and May installments of the apportionments made to the district from the State School Fund and, on order of the State Controller, the amount so deducted shall be transferred to the Urban School Construction Aid Fund. All money transferred to the Urban School Construction Aid Fund under this section shall be available only for transfer to the General Fund.

16722. The Controller shall determine and maintain a record of the amount due the state in connection with each apportionment made to a district under this chapter. He or she shall compute interest, at the rate fixed by the board, on each amount disbursed by the state pursuant to the apportionment, from the date of issuance of the Controller's warrant covering the payment to the county treasurer of the amount until the first day of July of the fiscal year next succeeding that in which the warrant was issued. Thereafter, interest shall accrue to and be compounded as a part of the principal amount due the state pursuant to the apportionment, through the

30th day of the following June of each year, until the principal and interest have been paid.

16723. Upon computing in any fiscal year the amount to be deducted from the apportionments to the district from the State School Fund during the succeeding fiscal year, the Controller shall notify the governing board of the district and the county auditor of the county, the county superintendent of which has jurisdiction over the district, of the amount to be deducted.

16724. The board of supervisors of the county, the county superintendent of which has jurisdiction over any district which under this chapter will have moneys withheld by the Controller from the apportionments to be made to it from the State School Fund during any fiscal year, shall annually at the time the board of supervisors makes the levy of taxes for county purposes, levy a tax upon the property in the district sufficient to raise for the district the amount of money to be withheld by the Controller during the fiscal year in which the tax is levied. The tax, when collected, shall be paid into the county treasury of the county, the county superintendent of schools of which has jurisdiction over the district for which the tax was levied, to the credit of the general fund of the district.

16725. The board shall prescribe in the detail that it deems necessary, the purposes for which moneys apportioned by it or which it requires the district to contribute toward, or in reduction of the cost of a project, may be expended, and the prescription shall be binding upon the governing board of the district, except that it may be changed or modified by the board for any cause that it sees fit.

16726. An urban school construction fund is hereby created in the county treasury in each county for each school district in the county. The county treasurer of each county shall pay into the urban school construction fund of each school district, exactly as apportioned by the board, all moneys received by him or her under this chapter with respect to each school district.

16727. Interest earned on those portions of deposits in an urban school construction fund representing allocations from the proceeds of state school reconstruction and replacement bonds received by the county treasurer for the benefit of a school district under this chapter shall be paid into the Urban School Construction Fund created by Section 16728.

16728. A fund in the State Treasury is hereby created, to be known as the Urban School Construction Aid Fund. All money in the Urban School Construction Aid Fund, including any money deposited the fund from any source whatsoever is hereby continuously appropriated without regard to fiscal years for expenditure pursuant to apportionments made under the provisions of this chapter.

16729. The governing board of each school district to which an apportionment has been made under this chapter shall expend the moneys in the urban school construction fund of the school district exactly as apportioned by the board and only for the purposes for which the moneys were apportioned to the district, and for no other purpose, and shall make the reports relating to the expenditure of the moneys that the board and the Controller shall require.

16730. A complete detailed report of expenditure of funds allocated pursuant to this chapter shall be made by the board annually to the Legislature. The report shall contain a detailed statement of facilities provided, type of construction, square footage provided and all other items which will enable the Legislature fully to understand the nature of the construction performed by the school districts.

16731. It shall be the duty of the Controller to make any audit or audits of the books and records of counties and school districts receiving apportionments under this chapter, that he or she may deem necessary from time to time, for the purpose of determining that the money received by school districts as apportionments hereunder has been expended for the purposes and under the conditions authorized by this chapter.

16732. Whenever the Controller determines that any money apportioned to a school district has been expended by the school district for purposes not authorized by this chapter, or exceeds the final cost of the project which is authorized by this chapter to be paid therefrom, the Controller shall furnish written notice to the board, the governing board of the school district, the county superintendent of schools, the county auditor, and the county treasurer of the county whose county superintendent of schools has jurisdiction over the school district, directing the school district and the county treasurer to pay into the State Treasury the amount of the unauthorized expenditures, or the amount of the excess apportionment, as the case may be. Upon receipt of the notice, the governing board shall order the county treasurer to pay to the Treasurer, out of any moneys in the county treasury available to the school district for that purpose, the amount set forth in the notice. The amount shall, upon order of the Controller, be deposited in the State Treasury to the credit of the Urban School Construction Aid Fund, to be reapportioned by the board.

It shall be the duty of the governing body and the county treasurer to make the payments to the Treasurer as provided in this section, and it shall be the duty of the Controller to enforce the collection on behalf of the state.

If the district fails to make the payment specified within one year after written notice of the amount due, the Controller shall deduct the amount thereof with interest from date of the notice from the February payment made to the district under Section 14041 in the next succeeding fiscal year.

16733. (a) As used in this chapter:

(1) ‘‘State-aided district’’ means a district to which an apportionment has been made under this chapter.

(2) ‘‘Acquiring district’’ means a district in which all or a part of, a state-aided district or an applicant district has been included.

(3) ‘‘Original district’’ means a state-aided or applicant district included in whole or in part in an acquiring district.

(b) For the purposes of this article as it applies to an original district or to an acquiring district, the effective date of any change of boundaries, annexation, formation of a new district, or other reorganization shall be the date the action became effective for the purposes of Section 4060.

16734. Whenever, subsequent to the date of an apportionment to a district, the state-aided district is included in whole or in part in another district, the acquiring district in which a state-aid project is located shall, on the effective date of the inclusion, succeed to and be vested with all of the duties, powers, purposes, jurisdiction, and responsibilities of the state-aided district with respect to any apportionment or apportionments for such project and the property acquired or to be acquired from funds provided thereby, and all funds in the urban school construction fund of the state-aided district shall be transferred to the urban school construction fund of the acquiring district. All amounts which would, after the effective date of the inclusion, have been otherwise paid to the state-aided district under the terms of or pursuant to the apportionment, shall be paid to the acquiring district. In addition, the acquiring district shall, on the effective date of the inclusion of the state-aided district in the acquiring district become liable for the annual repayments and other payments due the state under this chapter.

CHAPTER 12. STATE SCHOOL BUILDING LEASE-PURCHASE LAW OF 1976

Article 1. General Provisions

17000. This chapter may be cited as the ‘‘Leroy F. Greene State School Building Lease-Purchase Law of 1976.’’

17001. (a) The Legislature hereby declares that it is in the interest of the state and the people thereof for the

state to reconstruct, remodel, or replace existing school buildings that are educationally inadequate or that do not meet present-day structural safety requirements, and to acquire new schoolsites and buildings for the purpose of making them available to local school districts for the pupils of the public school system, that system being a matter of general concern inasmuch as the education of the children of the state is an obligation and function of the state.

(b) In order to expedite the elimination of the use of nonconforming school buildings that are used or designed to be used for instructional purposes or intended to be entered by pupils, the State Allocation Board may establish criteria that considers special circumstances under which funds may be allocated for the reconstruction of nonconforming buildings. The funds allocated in accordance with this section shall not exceed 75 percent of the cost of facility replacement.

(c) It is the intent of the Legislature that all construction projects be designed and constructed to maximize the use of educational technology, as set forth in subdivision (b) of Section 17002.

17002. The following terms wherever used or referred to in this chapter, shall have the following meanings, respectively, unless a different meaning appears from the context:

(a) ‘‘Board’’ means the State Allocation Board.

(b) ‘‘Cost of project’’ includes, but is not limited to, the cost of all real estate property rights, and easements acquired, and the cost of developing the site and streets and utilities immediately adjacent thereto, the cost of construction, reconstruction, or modernization of buildings and the furnishing and equipping, including the purchase of educational technology hardware, of those buildings, the supporting wiring and cabling, and the technological modernization of existing buildings to support that hardware, the cost of plans, specifications, surveys, and estimates of costs, and other expenses that are necessary or incidental to the financing of the project. For purposes of this section, ‘‘educational technology

hardware'' includes, but is not limited to, computers, telephones, televisions, and video cassette recorders.

(c) The term ''lease'' includes a lease with an option to purchase.

(d) ''Project'' means the facility being constructed or acquired by the state for rental to the applicant school district and may include the reconstruction or modernization of existing buildings, construction of new buildings, the grading and development of sites, acquisition of sites therefor and any easements or rights-of-way pertinent thereto or necessary for its full use including the development of streets and utilities.

(e) ''Property'' includes all property, real, personal or mixed, tangible or intangible, or any interest therein necessary or desirable for carrying out the purposes of this chapter.

(f) ''Apportionment'' means a reservation of funds necessary to finance the cost of any project approved by the board for lease to an applicant school district.

17002.1. As used in this chapter, construction shall include, but not be limited to, reconstruction, modernization, and replacement of facilities, and the performance of deferred maintenance activities on facilities pursuant to rules and regulations regarding those activities as may be adopted by the board. Funding for deferred maintenance activities for a facility may be approved under this chapter without regard to whether project funding for the reconstruction, modernization, or replacement of the facility is prohibited under Section 17021.

17003. The Director of General Services shall administer this chapter and shall provide such assistance to the board as it may require.

17004. The State Allocation Board is continued in existence for the purpose of this chapter. The members of the board and the Members of the Legislature meeting with the board shall receive no compensation for their services under this chapter but shall be reimbursed for their actual and necessary expenses incurred in connection with the performance of their duties

hereunder, to be paid as an administrative expense referred to herein.

17005. In addition to all other powers and duties as are granted the board by this chapter, other statute, or the Constitution, the board shall have power to:

(a) Establish any qualifications not in conflict with other provisions of this chapter, as it deems will best serve the purposes of this chapter, for determining the eligibility of school districts to lease projects under this chapter.

(b) Establish any procedures and policies in connection with the administration of this chapter as it deems necessary.

(c) Adopt any rules and regulations for the administration of this chapter, requiring any procedure, forms, and information, as it may deem necessary.

(d) Construct and control any project.

(e) Fix rates, rents, or other charges for the use of any project acquired, constructed, rehabilitated, equipped, furnished, or for services rendered in connection with that project, and to alter, change, or modify the same at its pleasure, subject to any contractual obligation that may be entered into by the board with respect to the fixing of the rates, rents, or charges.

17005.1. On or before June 30, 1981, and on or before June 30 of each year thereafter, the board shall approve a plan specifying (a) the amount of funds to be allocated in the forthcoming fiscal year for the purposes of deferred maintenance activities and (b) the manner in which such funds shall be allocated to applicant districts.

17005.3. (a) Any school district with an average daily attendance of less than 2,501 pupils may apply to the board for a loan to cover the project activities of the first or second phase, as those phases were defined on July 1, 1993, of a project funded under this chapter. The loan shall not be utilized for the purchase of real property and shall be repaid by the school district either through a dedication of fees or charges levied pursuant to Section 17620 until the loan is repaid or upon receiving the project funding at the construction phase, but, in any

event, the loan shall be repaid within five years from the date on which the board makes the loan. In addition to the other methods of repayment specified in this subdivision, the board may also notify the Controller if a school district is 90 days late in making loan repayments, in which case the Controller shall reduce the apportionments to which the school district is otherwise entitled under Section 42238 as necessary to recover past due payments and any current payments.

(b) The board may make loans under this section to the extent that the board determines that funds are available for that purpose. The total annual maximum funds that may be loaned under this section is ten million dollars ($10,000,000) per fiscal year.

(c) The board may make loans under this section only for those projects and phases that have met all of the eligibility standards of the board and receive approval for an apportionment, but for which apportionment funds are not available. In any event, the amount of the loan shall not exceed the amount that would have been eligible for apportionment.

17005.5. The board may provide a loan to any school district from the proceeds of the sale of bonds pursuant to the School Facilities Bond Act of 1992, and the 1992 School Facilities Bond Act, to provide aid for school districts in accordance with this chapter, when those proceeds are available in the State School Building Lease-Purchase Fund. In order to provide a loan, both of the following conditions shall be met:

(a) The amount of the loan shall not exceed the amount set forth in legislation enacted that specifies the loan amount.

(b) The loan shall be repaid pursuant to a schedule set forth in legislation enacted that specifies a loan repayment schedule.

17006. (a) The board shall not enter into any lease with respect to an application for replacing inadequate school facilities unless it first has investigated and made a finding, or the governing board of a self-certifying district, as applicable, first certifies that it has investigated

and made a finding, consistent with guidelines adopted by the board, that one or both of the following conditions exists:

(1) It would not be economical or good practice to rehabilitate those facilities.

(2) The school facilities are inadequate due to their susceptibility to repeated flooding. The board shall develop and adopt regulations that define inadequacy of school facilities on the basis of susceptibility to repeated flooding. The building area of any facility found to be inadequate pursuant to this subdivision shall be excluded, for the purposes of any application for the replacement of any facility, from the calculation under this chapter of the area of adequate school construction existing in the applicant school district.

(b) The self-certifying district shall maintain documentation of each investigation and finding it conducts pursuant to subdivision (a) as may be required by the board, and the investigation and finding shall be subject to subsequent audit as the board may direct.

(c) For purposes of this chapter, a ‘‘self-certifying district’’ as to any project to be funded under this chapter, is an applicant district that provides 50 percent or more of the cost of the project from funding sources other than any state program administered by the board.

17007. The State School Building Finance Committee, created by Section 15909 and composed of the Governor, Controller, Treasurer, Director of Finance, and Director of Education, all of whom shall serve thereon without compensation and a majority of whom shall constitute a quorum, is continued in existence for the purpose of this chapter. Two Members of the Senate appointed by the Senate Committee on Rules, and two Members of the Assembly appointed by the Speaker, shall meet with and advise the committee to the extent that the advisory participation is not incompatible with their respective positions as Members of the Legislature.

For purposes of this chapter the Members of the Legislature shall constitute an interim investigation committee on the subject of this chapter and as an interim

investigating committee shall have the powers and duties imposed upon interim investigating committees by the Joint Rules of the Senate and the Assembly. The Director of General Services shall provide any assistance to the committee that it may require. The Attorney General shall be the legal adviser of the committee.

17008. A fund is hereby created in the State Treasury to be known as the State School Building Lease-Purchase Fund. All money in the State School Building Lease-Purchase Fund, including any money deposited in that fund from any source whatsoever, and notwithstanding Section 13340 of the Government Code, is hereby continuously appropriated for expenditure pursuant to this chapter.

The State Allocation Board may apportion funds to school districts for the purposes of this chapter from funds transferred to the State School Building Lease-Purchase Fund from any source.

17008.3. (a) The board may establish a revolving loan account within the State School Building Lease-Purchase Fund, and may allocate from the fund to that account those amounts it determines to be necessary for the purposes of this section.

(b) The board may apportion to any school district that submits to the board a statement of its intent to subsequently file a project application under this chapter, a loan for the purpose of advance planning and related administrative costs pursuant to the preparation of that application. The loan amount shall not exceed 3 percent of the estimated project cost, as determined pursuant to the building cost standards established under this chapter.

(c) If, within a period of 24 months following the receipt of any loan amounts under this section, the project for which those advance planning funds were provided has not been found by the board to be qualified for funding under this chapter, the board shall so notify the Controller, who shall reduce the apportionments to which the district is otherwise entitled under Section 42238 as necessary to repay the amount of all loans

provided under this section, over such period of time as the board finds to be reasonable. The Controller shall transfer the amount of all apportionment reductions imposed under this subdivision to the revolving loan account established under this section.

(d) The repayment of loan amounts received under this section by school districts other than those described under subdivision (c) shall be accomplished by the withholding, as determined by the board, of apportionment funds that would be available to the district for purposes of the project for which the district received funding approval under this chapter.

17008.5. The board may approve projects and make apportionments in amounts not exceeding those funds on deposit in the State School Building Lease-Purchase Fund plus any amount of bonds authorized by the State School Building Finance Committee but not yet sold by the Treasurer.

Disbursements may be made under any apportionment made from any funds in the State School Building Lease-Purchase Fund, irrespective of whether there exists at the time of the disbursement a sufficient amount in the State School Building Lease-Purchase Fund to permit payment in full of all apportionments previously made. However, no disbursement shall be made from any funds required by law to be transferred to the General Fund.

17009. (a) The county superintendent of schools or county office of education shall be eligible to receive any funds from the portion of the proceeds of the sale of any state bonds that are set aside for the construction, reconstruction, or modernization of, or deferred maintenance on facilities to house special education pupils who are defined as severely handicapped and eligible pursuant to Section 17047.

(b) Subdivision (a) is only applicable if the county superintendent of schools or county office of education has filed with the State Allocation Board a regionalized facility plan, as developed and approved by the State Department of Education, that covers the county or

special education local planning agency area of responsibility.

Article 2. Projects

17010. The board may construct any project, and may acquire all property necessary therefor, on any terms and conditions as it may deem advisable. When any part of the work is to be done or performed by any public body or the United States jointly or in conjunction with the board, the portion of the cost of the project to be borne by the board may be turned over to the government of the United States or to any other public body, to be expended by it in the acquisition, construction or completion of the project.

17011. The board may use for the payment of the costs of acquisition, construction or completion of any project any funds made available to the board by the State of California or any other funds provided by the board from any source, to be expended for accomplishing the purposes set forth in this chapter, together with the proceeds of bonds issued and sold pursuant to the State School Building Lease-Purchase Bond Law of 1976.

17012. The board has full charge of the acquisition, construction, completion, and control of all projects authorized by them and may proceed with such work forthwith.

17013. Title to all property acquired, constructed, or improved by the board and the revenues and income therefrom, is in the State of California. All such property, and the income therefrom are exempt from all taxation by the State of California or by any county, city and county, city, district, political subdivision or public corporation thereof.

17014. (a) The board shall require the school district to make all necessary repairs, renewals, and replacements to ensure that a project is at all times kept in good repair, working order, and condition. All costs incurred for this purpose will be borne by the school district.

(b) In order to ensure compliance with subdivision (a) and encourage applicants to maintain all buildings under

their control, the board shall require the applicant to do all of the following prior to the approval of a project:

(1) Establish a restricted account within the district's general fund for the exclusive purpose of providing moneys for regular maintenance and routine repair of school buildings, according the highest priority to funding for the purpose set forth in subdivision (a).

(2) Agree to deposit into the account established pursuant to paragraph (1), in each fiscal year for the term of the lease agreements of all projects constructed under this chapter, a minimum amount equal to or greater than 2 percent of the applicant's General Fund budget for that fiscal year. This paragraph is applicable only to the following districts:

(A) High school districts with average daily attendance greater than 300.

(B) Elementary school districts with average daily attendance greater than 900.

(C) Unified school districts with average daily attendance greater than 1,200.

17015. The board shall require the school district to insure against public liability or property damage in connection with any project.

17016. The board, by the adoption of rules, may establish priorities for the construction and leasing of projects to those school districts the pupils of which will benefit most. The board may make exceptions from established priorities when it determines that to do so will benefit the pupils affected.

17017. Each school district that desires to lease a project for a grade level maintained by it, shall submit through its governing board an application therefor to the board in the form and number of copies that the board may prescribe. Immediately upon receipt of an application in the prescribed form accompanied by the required estimate of cost, a copy thereof shall be transmitted by the board to the Director of General Services.

Each copy of the application shall be accompanied by a statement of the estimated cost of the project certified

by an architect or structural engineer, and by layout plans showing the entire construction project.

Before the board approves an application for a construction project, it shall establish cost standards for all new construction included therein. The cost standards shall not exceed typical comparable new construction by school districts in the same area, or if there has been no new construction by school districts in the area, the cost standards shall not exceed the reasonable current cost of similar construction in the area. The board shall determine such typical current costs or such reasonable current costs. In applying cost standards the board shall take into account the size and type of the construction proposed and may make any deviations that in its judgment are justified. When a standard has been set by the board to cover any individual apportionment, no project shall be approved by the board in excess of the standard, unless the board shall find that in view of a subsequent increase in building costs an adjustment is warranted. No contract shall be let for a construction project which has been approved by the board if the cost exceeds the construction cost standards fixed by the board under this section for the new construction.

17017.1. (a) The West Contra Costa Unified School District shall be ineligible for any state school facilities funding for a period of five years from June 30, 1993, or until the date of the final payment on its entire debt to the state, including both principal and interest, whichever is later.

Notwithstanding the above, the school district may continue to receive funding for deferred maintenance activities and for those purposes specified in subdivision (b).

(b) The State Allocation Board shall approve funding for only those Richmond Unified School District State School Building Lease-Purchase Program projects which were approved for Phase II apportionments on or before April 1, 1993. All West Contra Costa Unified School District projects may be considered for funding by the State Allocation Board either in five years or after the

complete repayment of the loan established under Section 41471, whichever is later.

(c) In the event that the State Allocation Board approves the replacement of the existing Belding Elementary School with funds currently allocated for the modernization of the Harry Ells Middle School and the Samuel Gompers Middle School, that approval shall be considered allowable exemption under subdivision (b). Authority for this exemption is repealed on November 1, 1993, if approval of Phase III construction apportionment for the replacement of the existing Belding Elementary School has not occurred.

In allowing for the possibility of this exemption, it is not the intent of the Legislature to interfere in any way with the decisionmaking authority and process of the State Allocation Board. It is the intent of the Legislature that a proposal to replace the existing Belding Elementary School with funds currently allocated to the modernization of the Harry Ells Middle School and the Samuel Gompers Middle School be submitted to the State Allocation Board under its existing procedures and policies. The State Allocation Board's decision shall be based on the merits of the proposal, not this exemption authority. Specifically, this subdivision may not be used as justification for approval of a project to replace the Belding Elementary School.

(d) Any properties or facilities designated by the school district to be used for other than school purposes to generate capital to repay the outstanding debt shall be ineligible for deferred maintenance funding. Should any facilities receive funding for those purposes after the enactment of this legislation, and later be declared available for purposes intended to repay the debt, the value of state funding received for deferred maintenance at that facility shall be deducted from ongoing or future deferred maintenance projects in the district.

If no projects are available for offset of apportionments, the value of the deferred maintenance performed will be added to the outstanding loan balance.

17017.5. (a) The board may approve, in whole or in part, an application submitted by a school district under Section 17017 or 17020 in an amount not exceeding the amount applied for as the board may deem appropriate.

(b) The board may, upon approval of the application, in whole or in part, and subsequently from time to time, make apportionments of project funding not exceeding in the aggregate the total amount determined by the board under subdivision (a) for the portion or portions of the project for which the board determines the district is ready to proceed. Subsequent to the board's approval of a project, any requirement imposed by the board that the compliance of the project with building cost or area standards and related guidelines adopted by the board be established as a condition of the apportionment of funds under this chapter shall be satisfied, as to a project for a self-certifying district, by the certification by the district of that compliance. In addition, the board shall not require that estimates of average daily attendance be updated as to that project more often than once every 12 months subsequent to the board's approval of the project. The self-certifying district shall maintain documentation of the compliance certified pursuant to this subdivision as may be required by the board, and that compliance shall be subject to subsequent audit as the board may direct.

(c) Whenever a district files an application, the board shall require the district to submit to the board and the State Department of Education a five-year plan for construction and rehabilitation of school facilities, and to obtain the written approval of the department that the plan complies with standards that are established by the department for this purpose to ensure that the applicant district has adequately anticipated its school facilities needs and identified funding sources as necessary to meet those needs. The plan may be adjusted to reflect adjusted growth targets.

(d) The board shall not approve any application under this chapter after January 1, 1990, unless accompanied by a study examining the feasibility of implementing in the district a year-round multitrack educational program that

is designed to increase pupil capacity in the district or in overcrowded high school attendance areas by at least 20 percent.

(e) The board may waive subdivision (d) or the requirements of Section 17017.7, or both, if a school district demonstrates that these requirements will result in a particular educational or financial hardship to the district. Further, the board shall waive subdivision (d), if it finds that there is clear hardship to a district due to declining enrollment or no growth.

17017.6. Notwithstanding Section 17017.7, the definition of ‘‘substantial enrollment’’ set forth in that section shall apply only to elementary and unified school districts. For a high school district, ‘‘substantial enrollment in multitrack year-round schools,’’ for the purposes of Section 17017.7, means that at least 30 percent of the pupils enrolled in the high school district are enrolled in multitrack year-round schools, or that 40 percent of the pupils enrolled in public school in kindergarten and grades 1 to 12, inclusive, within the boundaries of the high school attendance area for which the school district is applying for new facilities are enrolled in multitrack year-round schools. In addition, a high school district shall be deemed to have a substantial enrollment in multitrack year-round schools for purposes of Section 17017.7 if, at the option of the district, the entire high school to be constructed is to operate on a multitrack year-round basis.

17017.7. (a) Notwithstanding any other provision of this chapter, priority for the approval of project funding for new construction under this chapter, shall be as follows:

(1) First priority for construction funds shall be given to school districts with a substantial enrollment in multitrack year-round schools requesting state funding for 50 percent of the cost of a project that would be constructed to operate on a multitrack year-round basis.

(2) Second priority shall be for school districts with a substantial enrollment in multitrack year-round schools requesting state funding for the entire cost of a project

that would be constructed to operate on a multitrack year-round basis.

(3) Third priority shall be for school districts without a substantial enrollment in multitrack year-round schools requesting state funding for 50 percent of the cost of a project to operate on a multitrack year-round basis.

(4) Fourth priority shall be for school districts without a substantial enrollment in multitrack year-round schools requesting state funding for the entire cost of a project that would be constructed to operate on a multitrack year-round basis.

(5) Fifth priority shall be for school districts with a substantial enrollment in multitrack year-round schools requesting state funding for 50 percent of the cost of a project that would not operate on a multitrack year-round basis.

(6) Sixth priority shall be for school districts with a substantial enrollment in multitrack year-round schools requesting state funding for the entire cost of a project that would not operate on a multitrack year-round basis.

(b) The board shall not restrict the availability of funding for construction of multitrack year-round schools, from any funding source available to the State School Building Lease-Purchase Fund, but shall make approval of project funding for those projects the first priority in accordance with this section.

(c) ‘‘Substantial enrollment,’’ for the purposes of this section, means enrollment of at least 30 percent of district pupils in kindergarten and grades 1 to 6, inclusive, or 40 percent of pupils in kindergarten and grades 1 to 12, inclusive, in the high school attendance area for which the school district is applying for new facilities. The calculation set forth in this subdivision, as to a self-certifying district, shall be made by the district, in accordance with any standards governing that calculation that are adopted by the board. The calculation shall be certified by the district to the board and used by the board for the purposes of this section. The self-certifying district shall maintain documentation of the calculation as may be required by the board, and the

calculation shall be subject to subsequent audit as the board may direct. If a self-certifying district is found by the board to have materially misrepresented its pupil enrollment pursuant to this subdivision, the board may impose either or both of the penalties set forth in paragraphs (1) and (2) of subdivision (b) of Section 17041.2, in accordance with that section.

(d) ‘‘Multitrack year-round school,’’ for purposes of this section, means a school for which the applicant district demonstrates that both of the following criteria are satisfied:

(1) The pupils are divided into three or more groups or tracks, which rotate attendance so that, for a majority of schooldays during the school year, at least one group or track is not attending the school while all other groups or tracks are in attendance.

(2) The operation of the school on a multitrack year-round basis has resulted in an increase in enrollment capacity.

(e) Notwithstanding any other provision of this section, the State Allocation Board may continue to implement any year-round school priority provisions for hardships adopted prior to September 1, 1990.

17017.9. (a) Notwithstanding any other provision of law, a project shall be accorded, subject to subdivision (b), the priority status that otherwise is accorded under Section 17017.7 to a project for which state funding is requested for only 50 percent of the cost, if both of the following conditions are met:

(1) The applicant district documents to the satisfaction of the board that it has incurred bonded indebtedness in an amount not less than 95 percent of the bonding capacity of the district.

(2) The applicant district agrees that all of the following local resources of the district existing on or after the date of the district’s first application for project funding pursuant to this section shall apply toward the cost of projects for which the district requests state funding pursuant to this chapter, not to exceed 50 percent of the cost of any project:

(A) Any unexpended bonding capacity of the district.

(B) Funding that is made available to the district from local sources expressly for school facilities purposes, including, but not limited to, funding provided under Chapter 2.5 (commencing with Section 53311) of Division 2 of Title 5 of the Government Code and developer fees or other charges imposed pursuant to Section 17620, or Title 7 (commencing with Section 65000) of the Government Code.

(b) An applicant district qualifying for the priority status described in subdivision (a) as to any project shall continue to be accorded that status for all subsequent projects under this chapter until the time that the bonding capacity of the district determined for purposes of that subdivision increases by 20 percent.

(c) The condition set forth in paragraph (2) of subdivision (a) shall apply until either the applicant district's eligibility under this section terminates pursuant to subdivision (b), or funding for the district is approved and apportioned under this chapter for a project for which 50 percent or more of the cost is provided by the district from funding sources other than any state program administered by the board, whichever occurs first.

(d) Notwithstanding any other provision of law, as to any project for which priority status is accorded pursuant to subdivision (a), the estimate of average daily attendance for the applicant district may be calculated, upon request of the district, in the manner set forth in subdivision (a) of Section 17040.3.

17018. In approving applications pursuant to this chapter, the board shall encourage the design and construction of facilities which will conserve unreplenishable energy resources by consideration of alternate design and insulation concepts as well as unconventional energy sources. In so doing, the board may increase cost allowances to reflect the difference between conventional and unconventional concepts when the board is satisfied that the life cycle cost of the

project is not expected to exceed the life cycle cost of a conventionally designed project.

17018.5. (a) The Legislature intends for the board to encourage school districts to utilize alternative methods to fund school facilities.

(b) The board shall approve applications pursuant to the requirements of this section that request the board to share a portion of the cost of projects constructed pursuant to the Mello-Roos Community Facilities Act of 1982, as set forth by Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5 of the Government Code. The board shall disregard the fact that structures have been constructed in accordance with that act, and neither consider nor approve any application for cost sharing until the time that the applicant school district would have become eligible for approval of its application during the normal process established for considering and approving applications.

(c) The board shall approve applications for cost sharing based on both of the following factors:

(1) Estimates of average daily attendance at the time the application is considered.

(2) The amount of cost sharing requested.

(d) The costs shared by the board shall be an amount equal to the cost that would have been allowed for the project had it been originally approved pursuant to this chapter less 5 percent per year depreciation, exclusive of land, for each year that the project was constructed in advance of the application approval, but no more than the lesser of an amount equal to 75 percent of the allowable cost of the project or the principal amount of any outstanding callable bonds and other debts incurred to finance the project under the Mello-Roos Community Facilities Act of 1982.

(e) If the board utilizes a point system to prioritize applications for funding, the computation of priorities for an application pursuant to this section shall be increased by 4 percent for each year from the date of construction of the project to the date of approval of the cost-sharing application.

17019. Before the board approves any project that includes the acquisition of furniture or equipment, it shall establish current cost and quality standards for furniture and equipment, including, but not limited to, educational technology hardware. The standards shall not exceed the cost and quality of furniture and equipment for comparable facilities purchased by school districts in the same area. The standards shall consist of furniture and equipment costs for each type of classroom or pupil station having different cost criteria. The standards shall be reviewed quarterly by the board and adjustments made in accordance with actual current costs. When cost and quality standards have been adopted by the board, the standards shall not be exceeded unless a subsequent increase in actual current costs warrants an adjustment.

Before the board approves a project for the replacement, reconstruction, or alteration of, or addition to, a school building, full consideration shall be given to all usable furniture and equipment existing in the applicant district. The board may approve all or a portion of the amount applied for.

17019.3. (a) Any applicant school district may contract with a firm, as defined in Section 4525 of the Government Code, for construction project management services to assist in the development or implementation of a project for which the district has applied for funding under this chapter, subject to the requirement that a performance bond be required from all building contractors hired to construct the project in order to ensure the completion of performance under the contract.

(b) That portion of any contract, as described in subdivision (a), concerning the final phase of construction of the project, shall be submitted by the applicant district to the board for approval. If the board does not approve, reject, or recommend modifications to, that contract portion within 15 business days after receiving that contract information, that portion of the contract shall be deemed to be approved by the board.

(c) From the amount of funding approved by the board under this chapter for any project, the board shall authorize the expenditure of funds for the costs of construction project management services provided to the project, as described in subdivision (a), where the board finds that the contracting for those services was necessary and appropriate to the school district's development or implementation of that project.

17019.5. For a school district having an average daily attendance of 2,500 or less for the prior fiscal year, the board may approve, subject to the building cost standards established under this chapter, a supplemental apportionment up to five thousand five hundred dollars ($5,500) for any new construction project, and up to one thousand three hundred twenty dollars ($1,320) for any other project approved under this chapter, as reimbursement for administrative expenses incurred by the district in filing the application for the project. The amount of the supplemental apportionments shall be adjusted in 1990, and every two years thereafter, by the board at its January meeting, which adjustment shall be in an amount equal to the amount of the adjustment for inflation set forth in the statewide cost index for class D construction.

17020. (a) Notwithstanding other provisions of this chapter, in order to expedite a total school facility a school district may first apply for a project which includes only the advance purchase of the land and preparation of plans and specifications. The acquisition of the site and the plans preparation shall be based on the justification documents for the total school facility. The school district may apply for a subsequent project or projects to complete the total school facility.

(b) Any application filed pursuant to this section shall be subject to all provisions of this chapter generally applicable to project applications, to the extent not in conflict with this section.

(c) Any estimate of average daily attendance made by an applicant district for the purpose of justifying an application pursuant to this section may be made for up

to and including two years longer than the period of time permitted by Section 17040.

(d) Beginning in the fifth fiscal year following the fiscal year in which any apportionment is made to a school district pursuant to this section, the district shall repay the apportionment, with interest, in 10 equal annual installments, unless and until the district has qualified for an apportionment pursuant to an application for utilization of the site under this chapter. These repayments shall constitute rent, and shall be in addition to any other rents or fees for which the district is obligated under Section 17032. The board may waive any obligation of repayment under this subdivision to the extent that the board finds that the obligation will result in an extreme hardship upon the district.

(e) The school district may apply for a subsequent project or projects to complete the total school facility.

17021. No project shall be approved for the reconstruction, modernization, or replacement of any school building that was constructed or reconstructed less than 30 years, or, in the case of any portable classroom, as defined in subdivision (e) of Section 17042.5, less than 20 years, prior to the date of approval of the project applied for under this chapter.

17021.3. (a) For purposes of this chapter, ‘‘modernization’’ or ‘‘renovation’’ means any modification of an existing structure, the costs of which do not exceed 25 percent of the replacement cost of that structure.

(b) No project shall be approved for the modernization of any school facility unless and until both of the following are demonstrated to the satisfaction of the board:

(1) The project will enhance the capacity of the facility to achieve one or more educational purposes.

(2) The resulting pupil capacity of the facility, as measured in units of average daily attendance, will equal or exceed 80 percent of the facility’s maximum capacity as determined under the board standards established under this chapter.

(c) No project shall be approved for the modernization of any school facility that was constructed less than 30 years prior to the date of the approval of the project applied for under this chapter.

(d) The State Allocation Board may waive the requirement in subdivision (c) if the building has been declared by the office of the State Architect to be, or is in imminent danger of becoming, a health or safety hazard to the pupils. This determination may only be made in the case of a natural disaster, for example, fire, flood, or earthquakes, or as a result of a determination by a qualified engineer, and agreed to in writing by the office of the State Architect.

17021.4. Notwithstanding the limitation set forth in subdivision (a) of Section 17021.3, the costs of a modernization or renovation project funded under this chapter may exceed 25 percent of the replacement cost of an existing structure where the costs in excess of that amount are funded by the district exclusively from sources other than any state program administered by the board. For each project, the total costs of the modernization or renovation project, as supplemented pursuant to this section, may not exceed 50 percent of the replacement cost of the existing structure except to the extent of those costs funded by the district, from sources other than any state program administered by the board, that are expended to conform that structure to current building standards, in which event the total costs of the project may not exceed 75 percent of the replacement cost of the structure.

17022. Except as provided in Section 17041, the board shall not approve any new school facilities for any applicant school district or county superintendent of schools until it first has made a determination that the applicant will utilize all existing facilities and sites to the extent economically and practically feasible. The board may also require the applicant to explore cooperative efforts with adjacent districts or, in the case of county superintendents of schools, with adjacent county superintendents of schools, in order that all existing or

planned facilities in the general area of need shall be utilized.

17022.7. (a) The funding for any reconstruction project approved by the board pursuant to this chapter that meets the requirements set forth in subdivision (b) shall include all of the following, not to exceed the total cost of the reconstruction project or 75 percent of the replacement cost of the facility to be reconstructed, whichever is less:

(1) Twenty-five percent of the replacement cost of the facility.

(2) A funding entitlement to the extent that the reconstruction will result in an increased capacity of the facility to house pupils, calculated pursuant to the cost standards for new construction established by the board under Section 17017.

(3) Any costs incurred by the district as required to ensure that the facility, as reconstructed, complies with applicable structural safety standards for school buildings pursuant to Article 3 (commencing with Section 17280) and Article 6 (commencing with Section 17365) of Chapter 2 of Part 10.5, and Article 7 (commencing with Section 81130) and Article 8 (commencing with Section 81160) of Chapter 1 of Part 49.

(b) In order to qualify for the funding entitlement set forth in subdivision (a), a school district reconstruction project shall be required to meet all of the following conditions:

(1) The facility to be reconstructed is at least 30 years old as of the date the application is filed.

(2) The cost of the reconstruction project exceeds 25 percent of the replacement cost of the facility.

(3) The reconstruction will result in an increased capacity of the facility to house pupils.

(c) No reconstruction project shall be approved under this chapter for which the total cost exceeds 75 percent of the replacement cost of the facility to be reconstructed.

17023. Nothing contained in this chapter shall be construed as changing the powers and duties of the Department of Education or the Department of General

Services in respect to schoolsites and the construction of school buildings as contained in Chapter 1 (commencing with Section 17211) and Chapter 2 (commencing with Section 17251) of Part 10.5.

17024. (a) The board shall not authorize the selection of any school site, or a contract for the construction of any new school building, or for any addition to, or alteration of, any existing building, for lease-purchase to any school district, unless the applicant district has obtained the written approval of the State Department of Education that the site selection, and the building plans and specifications, comply with the standards adopted by the department pursuant to subdivisions (b) and (c), respectively, of Section 17251.

(b) A self-certifying district shall comply with subdivision (a) by certifying to the State Department of Education and the board that the site selection, and the building plans and specifications, comply with the standards adopted by the department pursuant to subdivisions (b) and (c), respectively, of Section 17251. The self-certifying district shall maintain documentation of the determinations made pursuant to this subdivision as required by the board. Those determinations shall be subject to subsequent audit by the State Department of Education in accordance with this section.

(c) The State Department of Education shall conduct random audits of the information certified by self-certifying districts pursuant to subdivision (b), using generally accepted auditing principles, at any time to ensure compliance with the law.

(d) If any information certified by a self-certifying district pursuant to subdivision (b) is found by the department to contain any material inaccuracy, the department shall so notify the board. The board shall thereupon impose both of the following penalties:

(1) Pursuant to a repayment schedule approved by the board of no more than five years, the district shall repay to the board, for deposit in the State School Building Lease-Purchase Fund, an amount equal to the amount of project funding allocated under this chapter to

acquire any site that was selected in material violation of the standards adopted by the department pursuant to subdivision (b) of Section 17251, together with interest at the rate paid on moneys in the Pooled Money Investment Account or at the highest rate of interest for the most recent issue of state general obligation bonds as established pursuant to Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code, whichever is greater. The amount of any repayment owing under this paragraph for any fiscal year, which is not repaid otherwise by the district, shall be withheld by the board from any project funding that otherwise would be allocated to that district under this chapter in that fiscal year. As to any repayment obligation remaining for that fiscal year, the board shall notify the Superintendent of Public Instruction, who shall withhold the amount of that remaining obligation from the apportionments to be made to the district from the State School Fund in that fiscal year.

(2) The board shall prohibit the district from exercising the self-certifying authority under subdivision (b) under any subsequent applications for project funding for a period of up to five years following the date of the finding of a material inaccuracy, or until the district's repayment of the entire amount owing under paragraph (1), whichever occurs later.

(e) Any school district against which the board imposed the penalties under paragraphs (1) and (2) of subdivision (d) may submit for binding determination by an arbitrator the issue of whether the penalties imposed are disproportionate to the inaccuracy certified by the district. Except as otherwise provided by this chapter, the procedure governing the arbitration shall be as set forth in Title 9 (commencing with Section 1280) of Part 3 of the Code of Civil Procedure.

(f) It is the intent of the Legislature that audits as described in this section not interfere with the application and construction process under this chapter unless one or more violations are discovered.

17024.5. Upon request of any school district, the State Department of Education shall provide assistance in the evaluation and utilization of existing school facilities and the justification of the need for schoolsites, new facilities, and the rehabilitation or replacement of existing facilities, in accordance with board regulations.

17025. (a) The board shall not authorize a contract for the construction of any new school, or for the addition to, or reconstruction or alteration of, any existing building, for lease-purchase to any school district unless the applicant district has submitted plans therefor to the Department of General Services and obtained the written approval of the department pursuant to Article 3 (commencing with Section 17280) of Chapter 3 of Part 10.5.

(b) The board, or the self-certifying district, as applicable, shall certify the compliance of a project with Sections 17212, 17212.5, and 17213, with Division 13 (commencing with Section 21000) of the Public Resources Code, and with any other law that applies to that project, but may require documentation of compliance only as to requirements that are applicable under this chapter. Notwithstanding any other law, for purposes of Division 13 (commencing with Section 21000) of the Public Resources Code, the applicant district shall be deemed to be the ‘‘lead agency’’ with regard to any project funded for that district under this chapter.

17029. (a) The board shall authorize the applicant school district to act as its agent in the performance of acts specifically approved by the board and all acts required pursuant to Article 3 (commencing with Section 17280) of Chapter 3 of Part 10.5. That authorization shall include, but is not limited to, the selection of schoolsites, the securing of appraisals, the contracting for architectural services, the advertisement for construction bids and the entering into of contracts therefor and the purchase of furniture and equipment.

(b) If, pursuant to the authority granted under subdivision (a), a self-certifying district submits to the

board two or more independent appraisals and certifies to the board that the appraisals were performed by appraisers licensed or certified in accordance with Part 3 (commencing with Section 11300) of Division 4 of the Business and Professions Code and were obtained in accordance with standards and procedures imposed by the board for that purpose, the district shall not be required to document its compliance with those standards and procedures except as specified in Section 17041.2. In addition, the board shall use any of those appraisals, including an appraisal that is not the highest bid appraisal, for the purposes of this section, except that the board may substitute, for the results of those appraisals, the results of one or more independent appraisals, which may include an appraisal performed by the Department of General Services, obtained by the board for that purpose.

(c) If, pursuant to the authority granted under subdivision (a), any bid reported to the board by a self-certifying district as the lowest responsible bid for a construction contract does not exceed the cost limit established by the board for that purpose, and the district certifies to the board that the bid was obtained in accordance with standards and procedures imposed by the board for that purpose, the district shall not be required to document its compliance with those standards and procedures except as specified in Section 17041.2.

17029.5. Notwithstanding any other provisions of this chapter, the funding by the board of contracts entered into by a school district pursuant to this chapter shall not, in itself, make the board liable for any tort, breach of contract, or any other action for damages caused by a school district arising from those contracts. These contracts include, but are not limited to, contracts between the school district and its construction contractors, construction managers, architects, or engineers. The school district shall be liable for all torts, breaches of contract, or any other actions for damages caused by the school district.

17030. (a) In expending funds for any project under this chapter, a school district acts as an agent of the state and all sites purchased and improved, all equipment purchased, and all buildings constructed, altered or added to through the expenditure of funds apportioned under this chapter, are declared to be, and are, the property of the state.

(b) The Director of General Services shall file with the county recorder of the county in which any site purchased or improved through the expenditure of funds under this chapter is located a certificate, properly acknowledged, indicating the state's interest in real property of the district by virtue of this section, without the necessity of particularizing the real property. The recorder shall record and index the certificate in the same manner as abstracts of judgments and the certificate shall constitute constructive notice of the state's interest in the particular real property affected. The certificate shall, as to any party thereafter acquiring real property or any interest therein in the county from the school district, have the same force, effect and priority as if it had been a judgment lien imposed upon real property which was not exempt from execution. That effect shall commence upon recordation and shall continue until the certificate is discharged or released as provided herein.

(c) Upon request, the Director of General Services shall issue either of the following:

(1) A release of the state's interest in any real property or a portion thereof that the district has been authorized by the board to dispose of under Section 17039, provided that delivery of such release may be subject to such conditions as may be prescribed by the board to protect the state's interest.

(2) A disclaimer of the state's interest in any real property or a portion thereof of the district, the disposition of which the board is not required to consent to under the terms of Section 17039, provided that the delivery of such disclaimer may be subject to such conditions as the board deems appropriate to protect the interest of the state, including conditions relating to the

amount of consideration to be received from the disposition where the board asserts an interest in the proceeds of such disposition under other provisions of this chapter. The release or disclaimer shall conclusively protect any third party relying upon the same and shall be acknowledged to permit recordation by the county recorder.

(d) Upon payment by the district of all amounts required to be paid by it, or on its behalf, to the state under this chapter, each of the following shall occur:

(1) The Director of General Services shall file with the county recorder a release of any certificate, which release shall be recorded and indexed in the same index as the certificate.

(2) The title to personal property purchased by the school district with funds apportioned under this chapter shall revert thereto without further action by the state.

17030.2. Notwithstanding any other provision to the contrary, all lease agreements shall terminate 40 years from the date of execution and title to the property covered therein shall revert to the district as though full payment had been made.

17030.3. Notwithstanding any other provision of this chapter, any project funded under this chapter that involves only the identification, assessment, or abatement of hazardous asbestos in school facilities shall not be subject to Section 17014 or 17032, nor shall that funding cause the transfer to the state of title or any other property interest in the subject facilities.

17030.5. Notwithstanding any provision to the contrary, no funds authorized by any act for the purpose of this chapter may be expended for any purpose without specific authorization from the board or its designated representatives.

17030.6. From any moneys in the State School Building Lease-Purchase Fund, the board shall make available to the Director of General Services such amounts as it determines necessary to provide the assistance, pursuant to this chapter, required by Section 15504 of the Government Code.

17031. The applicant district, acting as agent for the state, shall comply with all laws pertaining to the construction, reconstruction, or alteration of, or addition to school buildings.

17032. The board shall fix rents for all projects acquired and may change the rents from time to time as may be needed provided the rents shall not in any year exceed the sum of the following:

(a) One dollar ($1).

(b) Any interest earned on funds in the county school lease-purchase fund for the district.

(c) Any unencumbered bond funds of the district, exclusive of funds that are used by the district to fund a project pursuant to Section 17040.2.

(d) The net proceeds from the sale or lease of any school buildings or land no longer needed for school purposes, exclusive of proceeds that are used for capital outlay expenditures for school construction that conforms to building area standards established under this chapter, for revenue purposes under a joint venture as authorized by Section 17032.3.

17032.3. (a) Any school district for which one or more projects has been funded under this chapter may, pursuant to written agreement with any other public or private person or entity, utilize any school buildings, land, or other real property interest that the governing board determines is not needed for school purposes, and will not be needed for school purposes within the next 30 years, in a joint venture with that person or entity to generate revenues for school facilities purposes, pursuant to the following conditions:

(1) The district has developed a school district asset utilization plan, setting forth the information required under subdivision (b), which plan has been the subject of a public hearing, and the governing board of the district has made the finding that the implementation of the plan will benefit the district.

(2) Prior to the execution by the school district governing board of any agreement regarding the utilization of the school buildings or land, or both, under

a joint venture pursuant to this section, the school district asset utilization plan has been submitted for, and has received, the review and approval of the State Allocation Board. No later than 90 days after the receipt of the plan, the board shall determine whether to approve the plan, which approval shall be granted if the board finds the plan to comply with this section.

(3) Once every three years after the approval of any plan pursuant to paragraph (2), the school district shall update the plan with information regarding the disposition of the revenues received by the district from the utilization of the school buildings or land, or both, under the joint venture, including the effect of those revenues upon the school facility needs for which the district may otherwise be eligible under this chapter or under any other school facilities program administered by the board, together with such other information as the board may require, and shall resubmit the plan to the board for its review and approval. In the event that the board refuses to approve the plan on the basis that the district is no longer in substantial compliance with this section, the surplus school buildings or land, or both, utilized under the joint venture shall no longer be exempt from the rental requirements of Section 17032.

(4) Pursuant to a school district asset utilization plan approved under this section, the school district may utilize school buildings or land, or both, in a joint venture, the revenues from which shall be placed by the district in a separate fund. The principal and interest from that separate fund may be expended by the district only for the following school facilities purposes, as authorized under the approved plan, in accordance with the pupil loading and cost standards established pursuant to this chapter: the acquisition of land, new construction, reconstruction, modernization, rehabilitation, and deferred maintenance.

(b) For purposes of this section, a school district asset utilization plan shall include, but not necessarily be limited to, all of the following:

(1) A specific description of the surplus school buildings or land, or both, to be utilized under the joint venture.

(2) The identification of the current educational uses of the surplus school buildings or land, or both, and of the educational uses proposed under the joint venture.

(3) The identification of the current noneducational uses of the surplus school buildings or land, or both, and of the noneducational uses proposed under the joint venture, and a specific assessment of the compatibility of those uses with any applicable general or specific governmental land use plans and with applicable zoning restrictions.

(4) A description of the prospective economic benefits to be derived by the district from the joint venture.

(5) A description of the prospective educational benefits to be derived by the district from the joint venture.

(6) A comprehensive description of the joint venture, including, but not limited to, a description of the intended means of financing the joint venture.

(7) A plan for the disposition of the revenues received by the district from the joint venture.

17033. Rent, charges, and fees collected in error may be refunded by the board in accordance with regulations prescribed by the board.

17034. A county school lease-purchase fund is hereby created in the county treasury within each county for each school district project in the county.

17035. The board may from time to time authorize the Controller to transfer any funds that the board may deem necessary from the State School Building Lease-Purchase Fund established for a given project to the corresponding county school lease-purchase fund in the county treasury.

17036. (a) Except as provided in subdivision (b), funds may be expended from the county school lease-purchase fund by the applicant school district only when specifically authorized by the board for either direct project costs or reimbursements.

(b) Upon specific authorization by the board, applicant school districts may be reimbursed from the county school lease-purchase fund for expenditures, or commitments therefor, made prior to the approval of a project by the board, subject to all of the following conditions:

(1) The expenditures or commitments were made in accordance with the terms of the approval of a project.

(2) The expenditures or commitments were made not more than four years prior to the approval of a project.

(3) The expenditures or commitments do not include any cost incurred for construction of a project.

17038. The board shall require school districts to insure at their own expense for the benefit of the state, all sites, equipment and buildings which are, under Section 17030, the property of the state, against such risks and in such amounts as the board may deem necessary to protect the interests of the state. No project funds shall be used to pay the premiums on such insurance. All payments resulting from claims made against said insurance shall be made payable to and retained by the board. Funds so received shall be utilized by the board for repair or replacement of the facilities for which claim was made. In no event may the amounts expended from such funds for such repair or replacement exceed the payments received.

17039. (a) Not more than one hundred fifty million dollars ($150,000,000) of the moneys authorized by the State School Building Lease-Purchase Bond Law of 1982 (Sec. 34, Ch. 552, Stats. 1995) shall be reserved for the reconstruction or modernization of facilities within the meaning of this chapter.

(b) For purposes of this section, the State Allocation Board shall establish a separate priority system which shall be based on the following factors and any other factors which the board determines are appropriate:

(1) Structural condition and age of the building.

(2) Percentage of pupils affected in the district or attendance area.

(3) Degree of utilization of eligible buildings.

(4) Other building code deficiencies, such as health, safety, or electrical problems.

17039.1. Not more than two hundred million dollars ($200,000,000) of the moneys authorized by the State School Building Lease-Purchase Bond Law of 1982 (Sec. 34, Ch. 552, Stats. 1995) shall be reserved for the reconstruction or modernization of facilities within the meaning of this chapter.

17039.2. Of the moneys reserved for the rehabilitation or modernization of facilities pursuant to Section 17039.1, the board may reserve not more than twenty-five million dollars ($25,000,000) for apportionments to school districts that the board has determined to be in severe need of the apportionment. In addition, of the moneys reserved for the reconstruction or modernization of facilities pursuant to Section 17696.96 of the Greene-Hughes School Building Lease-Purchase Bond Law of 1986 (Sec. 34, Ch. 552, Stats. 1995), the board may reserve up to and including 10 percent for this purpose. In either event, the apportionment shall be for purposes of site acquisition and the construction of school facilities for schoolsites that meet one or more of the conditions established by the board, which shall include, but are not limited to, the following:

(a) The schoolsite is not less than 30 years of age.

(b) The schoolsite has accommodated a significant increase in enrollment during the last 10-year period.

(c) Enrollment increases have been accommodated by placing relocatable structures on the schoolsite without expanding the schoolsite.

(d) The schoolsite has inadequate playground space for its enrollment.

(e) The schoolsite has inadequate meal facilities, and those facilities are used for more than three times the number of pupils for which the facilities were originally designed.

Article 3. Allowances

17040. Except as provided in Section 17041, no project shall be approved, the building area of which, when

added to the area of adequate school construction existing in the applicant school district at the time of application, will provide a total area of school building construction per unit of estimated average daily attendance in excess of that computed in accordance with Sections 17043, 17044, 17045, and 17046.

As used in Sections 17041.5, 17043, 17044, 17045, and 17046, ‘‘maximum area’’ means maximum area of school building construction and ‘‘attendance unit’’ means unit of estimated average daily attendance.

As used in this section and Sections 17045 and 17046, ‘‘attendance center’’ means a school maintained or to be maintained at a given location within a district. Enrollment projections shall be made for the third fiscal year beyond the fiscal year in which the application is made for a project for kindergarten or any of grades 1 to 6, inclusive, and for the fourth fiscal year beyond the fiscal year in which the application is made for a junior high school or high school project. Except as otherwise provided by the board, the estimates of average daily attendance shall be based upon the number of family dwellings and mobilehome parks, as defined in Section 18214 of the Health and Safety Code, under construction or newly constructed and never occupied in the district and the number of children residing in the district. In no case shall an estimate be given effect unless approved by the board.

For the purposes of this chapter, pupils attending grades 7 and 8 in an elementary district, but residing in a high school district that maintains one or more junior high schools, shall not be considered in determining or estimating the average daily attendance of the elementary district, unless one of the following conditions is met:

(a) The elementary district is maintaining and has continuously maintained grades 7 and 8 since a date prior to January 1, 1975.

(b) The elementary district, by a vote of the electorate at an election held on June 2, 1981, withdrew its 7th and 8th grade pupils from the high school district.

(c) The elementary district, by a vote of the electorate at an election held on November 4, 1980, withdrew its 7th and 8th grade pupils from the high school district and the high school district continues to qualify for a project, other than a project pursuant to Section 17041, on the basis of the remaining 7th and 8th grade pupils. In no event shall a facility be constructed for the withdrawn 7th and 8th grade pupils at a distance less than one and one-half miles from the nearest proposed or existing junior high facility.

When these pupils are so considered in determining or estimating the average daily attendance of the elementary district, they shall not be considered in determining or estimating average daily attendance of the high school district for junior high school purposes.

17040.1. (a) The allowable building area of any project, as calculated under this article, may be increased by any applicant school district, where the increase is funded exclusively from sources other than any state programs administered by the State Allocation Board. Any increase in building area pursuant to this section in a project for which construction commenced on or after January 1, 1987, not to exceed 110 percent of the area that would be allowed under applicable state standards, shall be excluded from the calculation of the area of adequate school construction for the purposes of all subsequent project applications by the district under this chapter.

(b) The maximum building cost permitted for any project under this article may be increased, by not more than 10 percent, by any applicant school district, where the increase is funded by the district exclusively from the proceeds of a general obligation bond measure approved by the voters of the district or of a special tax pursuant to the formation of a community facilities district under Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5 of the Government Code, or both. In order to qualify for this purpose, any tax or other charge authorized pursuant to that approval or formation, respectively, shall apply uniformly to all taxpayers or all real property within the school district,

rather than to a particular class of property or taxpayers, and shall require that the amount of the school facilities fee or other requirement that may be levied by the school district pursuant to Section 17620, in addition to that tax or other charge, not exceed the amount deemed by the governing board to be necessary for the interim school facilities needs of the district.

17040.2. Where 75 percent or more of the total cost of a project approved under this chapter is to be funded by the applicant district from sources other than any state program administered by the board, the area of the allowable new building construction for that project, and the amount of the building cost allowed for that project under this chapter, shall each be increased by 5 percent, plus 1 percent for each 1 percent by which that local contribution exceeds 75 percent.

17040.3. (a) Notwithstanding any other provision of this part, the estimate of average daily attendance for an applicant school district shall be calculated for up to and including two years longer than the period of time permitted by Section 17040, as requested by the district, where 50 percent or more of the cost of the project is provided by the district from funding sources other than any state program administered by the board. For the purposes of any subsequent project application from that district based upon additional growth in pupil enrollment, the estimate of average daily attendance shall be based on enrollment projections for any period of time, as requested by the district, up to and including that permitted by Section 17040.

(b) The project shall be ‘‘fast tracked.’’ For purposes of this section, ‘‘fast tracking’’ means that the total amount of project funding eligibility shall be established upon the board’s approval of the project, which shall be subsequently disbursed as necessary for the development and construction of the project without the prerequisite of any additional state certification or other state-conducted review of project eligibility. Based upon the results of an audit to be conducted upon completion of the project, the board or the applicant district, as

appropriate, shall pay to the other any amount that is necessary to conform to the allocation of project costs determined upon the board's approval of the project.

In the event that the applicant district has not executed all contractual agreements necessary for the complete construction of the project within a period of 18 months following the board's approval of the project, this subdivision shall cease to apply to the project with regard to any state funding of the project not yet disbursed. Upon request of the applicant district and approval by the board, this 18-month period may be extended for an additional period of up to six months to account for one or more delays resulting from circumstances beyond the district's control.

17040.4. Notwithstanding any other provision of this part, the board may use, for purposes of determining the estimate of average daily attendance for an applicant school district, a master plan that has been prepared by a district that includes the additional pupils due to increases in housing units within the boundaries of the district or attendance area. Before a master plan may be used, both of the following conditions shall be satisfied:

(a) The city, county, or city and county has obtained approval of a local general obligation bond or has obtained funds pursuant to the Mello-Roos Community Facilities Act of 1982, as set forth by Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5 of the Government Code, to provide local matching funds for school facility projects for which approval is being sought pursuant to this section.

(b) At least 60 percent of the total cost of the project for which approval is being sought shall be provided by funding sources other than any state program administered by the board.

17040.5. Notwithstanding any other provision of this article, the board shall exclude the area of enclosed stairs and appropriate landings for each floor level served from the computation of the allowable building area of multistory buildings for any applicant school district.

17040.6. (a) For any school of two or more stories, the project funding provided under this chapter shall include, at the request of the applicant district, the costs of any or all of the following:

(1) Compliance with applicable requirements of law for fire safety, and for handicapped access, as a result of the multistory design.

(2) Playground apparatus.

(3) Duct shafts, utility tunnels, and pipe conduit chases.

(4) Security items required as a result of the multistory design.

(b) In calculating the maximum project funding that may be allocated for parking, landscaping, and other general schoolsite improvements, which calculation is determined in proportion to the total building cost or area approved for funding under the project, the total building cost or area approved for funding under the project shall be computed by the board to include any increase in project building area, as authorized under Section 17041.8. The applicant district shall provide the board information on how the supplemental project funding will be allocated to relieve the effects resulting from less than the specified land area for the schoolsite.

(c) This section shall apply to any application for project funding under this chapter for which the final apportionment for construction of the project had not been made on or prior to December 1, 1987.

(d) For any project approved under this chapter, the amount of project funding granted by the board shall include the actual and reasonable costs incurred by any applicant district for the revision of its project application for the purpose of qualifying for supplemental project funding as authorized by this section.

17040.7. Notwithstanding any other provision of this article, the board shall provide that building area for enclosed hallways in the second or higher story of any building shall be counted as two-thirds of the actual area. For purposes of this section ‘‘enclosed hallways’’ includes, but is not limited to, all of the following:

(a) Covered passages, arcades, shelters, porches, and planting areas.

(b) Enclosed covered areas that provide shelter between buildings that are 20 feet or more apart.

(c) Sun control devices designed and located to function in lieu of covered walks or other shelters.

(d) Mezzanines used for storage purposes.

17040.8. Where an applicant district that is eligible under this chapter for project funding of new construction of school facilities on an existing schoolsite, which site has less than 50 percent of the land recommended under State Department of Education guidelines, as published in the School Site Analysis and Development Handbook in effect on January 1, 1987, the area of allowable new building construction for that project shall be increased by the square footage of any existing one-story school facility or facilities to be replaced under the project by one or more multistory school facilities.

17040.9. (a) (1) The board shall allocate the amount calculated under subdivision (b), in addition to any other project funding authorized under this chapter, to each project funded under this chapter for which the resulting pupil density will exceed the following:

(A) For a project for kindergarten or any of the grades 1 to 6, inclusive, 90 pupils per acre.

(B) For a project for a junior high school project, 80 pupils per acre.

(C) For a project for a senior high school project, 70 pupils per acre.

(2) For any new construction project, pupil density shall be computed, for purposes of paragraph (1), by dividing the number of units of estimated average daily attendance for the project, including those to be served by relocatable structures, by the acreage of the project site.

(3) For any project for the construction of additional facility space on an existing schoolsite or on land acquired that is adjacent to an existing schoolsite, pupil density shall be computed, for purposes of paragraph (1), by

adding the number of units of estimated average daily attendance for the project to the number of units of average daily attendance for the existing school facilities, and dividing that sum by the total site acreage for the project and the existing school facilities.

(b) The supplemental project funding authorized under this section shall be calculated by dividing the actual pupil density for the project, as calculated under subdivision (a), by the threshold pupil density for the project as set forth in that subdivision, and multiplying the resulting fraction by an amount equal to the average cost per acre of the land approved for acquisition by the board under this chapter for the project, or that would have been approved for acquisition if the applicant school district had not had an existing school site available for the project.

17041. Whenever the area of adequate school construction existing in any attendance area is such as to prevent another attendance area from receiving the maximum area of school construction for each unit of attendance as specified for the district as a whole, the allowable building area may be computed separately for each attendance area. For the purposes of this section and Section 17041.5, an ‘‘attendance area’’ is defined as the geographical area serving an existing or proposed high school and those junior high schools and elementary schools included therein.

17041.1. (a) Notwithstanding any other provision of this chapter, the following determinations shall be made by a self-certifying district, in the manner specified in this chapter and in accordance with the standards governing those determinations that are adopted by the board, for the purpose of calculating the district’s eligibility for project funding under this chapter:

(1) The total allowable building area for which the district is eligible for project funding under this chapter.

(2) The district’s area of existing adequate school construction, including, but not limited to, the conducting of field inspections for this purpose.

If requested by the applicant district, the board shall provide assistance to the district in preparing the necessary documents for self-certification pursuant to this chapter.

(b) The area determinations made by a self-certifying district pursuant to subdivision (a) shall be certified by the district in its application for project funding and shall be used by the board as the basis for project funding eligibility, except to the extent of any information that the board finds is demonstrated, pursuant to the information certified and any other documentation available to the board from prior project funding applications for that district, to be materially inaccurate, regardless of whether the inaccuracy was intended. No later than 30 calendar days after receipt of the determinations certified pursuant to subdivision (a), the board shall notify the district of any inaccuracies identified under this subdivision.

(c) Each self-certifying district shall maintain documentation of the determinations described in subdivision (a) as required by the board. Those determinations shall be subject to subsequent audit as the board may direct.

(d) All estimates of average daily attendance for a self-certifying district for the purposes of this article shall be made by the district in accordance with the standards governing those estimates that are adopted by the board. Each determination made by a self-certifying district pursuant to this subdivision shall be reviewed for accuracy by the board or by the county office of education in the county in which the district is located. In the event that the review is performed by the board, that review shall be completed no later than 45 calendar days subsequent to the board's receipt from the district of all documentation necessary for that purpose.

17041.2. (a) The State Allocation Board shall conduct random audits of the information certified by self-certifying districts pursuant to this chapter, except as to any determinations that are made under subdivision (d) of Section 17041.1 or that are subject to audit by the

State Department of Education pursuant to Section 17024, using generally accepted auditing principles, at any time to ensure compliance with the law.

(b) If any information submitted by a self-certifying district in its certification of funding eligibility for any project is found by the board to contain any material inaccuracy, any building area constructed as a result, in excess of the building area to which the district was entitled for purposes of that project, shall be included in the calculation of the area of adequate school construction for the purposes of all subsequent project applications by the district under this chapter. In addition, the board shall impose both of the following penalties:

(1) Pursuant to a repayment schedule approved by the board, the district shall repay to the board of no more than five years, for deposit in the State School Building Lease-Purchase Fund, an amount equal to the amount of project funding allocated under this chapter to construct that excess building area, together with interest at the rate paid on moneys in the Pooled Money Investment Account or at the highest rate of interest for the most recent issue of state general obligation bonds as established pursuant to Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code, whichever is greater. The amount of any repayment owing under this paragraph for any fiscal year, which is not repaid otherwise by the district, shall be withheld by the board from any project funding that otherwise would be allocated to that district under this chapter in that fiscal year. As to any repayment obligation remaining for that fiscal year, the board shall notify the Superintendent of Public Instruction, who shall withhold the amount of that remaining obligation from the apportionments to be made to the district from the State School Fund in that fiscal year.

(2) The information that otherwise may be certified under this chapter by a self-certifying district shall be made by the board under any subsequent applications for project funding, rather than by the applicant district, for

a period of up to five years following the date of the finding of a material inaccuracy, or until the district's repayment of the entire amount owing under paragraph (1), whichever occurs later.

(c) Any school district against which the board imposes the penalties under paragraphs (1) and (2) of subdivision (b) may submit for binding determination by an arbitrator the issue of whether the penalties imposed are disproportionate to the inaccuracy certified by the district. Except as otherwise provided by this chapter, the procedure governing the arbitration shall be as set forth in Title 9 (commencing with Section 1280) of Part 3 of the Code of Civil Procedure.

(d) It is the intent of the Legislature that audits as described in this section not interfere with the application and construction process under this chapter unless one or more violations are discovered.

17041.3. For the purposes of Sections 17041 and 17041.5, allowable building area may be computed, in the alternative to the methods prescribed by Section 17041, for any combination of two or more adjacent high school attendance areas pursuant to the following conditions:

(a) The project to be funded is for the construction of a high school, junior high school, or elementary school located or to be located in any of those high school attendance areas.

(b) The high school, junior high school, or elementary school to be constructed is to serve pupils residing in each of those high school attendance areas.

(c) The combined computation of allowable building area reflects the allowable building area to which each of the high school attendance areas would otherwise be entitled, reflecting the proportion of projected pupil enrollment in the school to be constructed, as calculated under this chapter, from each of those attendance areas.

17041.5. (a) Whenever the area of adequate school construction existing in an attendance area is less than the maximum area computed for that attendance area, any portion of the remaining computed allowable building

area may be used for the construction of district administration and maintenance facilities.

(b) If the allowable building area is computed separately by attendance area, the board shall include within the computation of the maximum area for that attendance area the proposed building area of a project for the construction of district administration and maintenance facilities.

17041.6. The board shall, in allocating funds for school facilities construction pursuant to this chapter, give first priority to applicant districts proposing additional classrooms within their maximum allowable building area before allocating funds to applicant districts proposing administration and maintenance facilities.

17041.8. (a) Notwithstanding any other provision of law, any applicant school district that receives supplemental project funding under Sections 17040.6, 17040.7, 17040.8, and 17041.8 shall apply that funding to the purposes of the project funded, in compliance with any requirements set forth in those sections, but need not comply in that regard with the allowable building area of that project as otherwise calculated under this chapter. The expenditure of the supplemental project funds authorized under those sections is exempt from the total building cost standards applicable to the project. In addition, the increase in building area authorized under this subdivision is exempt, for purposes of any subsequent application for project funding under this chapter, from the calculation of existing adequate school construction of the district.

(b) Notwithstanding any other provision of law, the total amount of supplemental project funding that an applicant district is entitled to receive under Sections 17040.6, 17040.7, 17040.8, and 17040.9 may not exceed the lesser of the following:

(1) An amount equal to that calculated under subdivision (b) of Section 17040.9.

(2) An amount equal to the sum of four thousand dollars ($4,000) for each of the first 500 units of estimated average daily attendance for the project, and two

thousand dollars ($2,000) for each additional unit of estimated average daily attendance. The monetary rates set forth in this paragraph shall be increased annually for inflation for the prior calendar year on the basis of the cost index for class B construction as determined in the January meeting of the board.

17042. (a) The board, by the adoption of rules, shall provide for the manner of determining the area of adequate school construction existing in an applicant school district at the time of application. Those rules shall define and provide for the method of determining building areas that are to be included in, in whole or in part, or to be excluded from, the area of existing adequate school construction. Any building to which Article 3 (commencing with Section 17280) of Chapter 3 of Part 10.5 does not apply shall not be considered adequate school construction for the purpose of determining the maximum total building area per attendance unit.

The board may make exceptions to the provisions of this section, or to the rules adopted pursuant thereto, if it determines that the exception or exceptions will be for the benefit of pupils affected.

(b) For the purposes of this chapter, the area of adequate school construction existing in an applicant school district does not include any of the following:

(1) Any portable classroom made available to the district under Chapter 14 (commencing with Section 17085).

(2) In any school operated on a year-round schedule, any building area that has been in continuous use during the preceding five-year period primarily for the operation of any preschool program or programs.

(3) Any building area, not to exceed the area that is equivalent to one classroom per schoolsite, used to provide support services pursuant to Chapter 5 (commencing with Section 8800) of Part 6 or to provide integrated children's services pursuant to Section 18986.40 of the Welfare and Institutions Code. A school shall meet the definition of a ''qualifying school'' under paragraph (1) of subdivision (h) of Section 8802 to qualify

for this exemption from the area of adequate school construction.

(c) The board may make exceptions to this section, or to the rules adopted pursuant thereto, if it determines that the exception or exceptions will be for the benefit of pupils affected.

17042.5. (a) For purposes of determining the area of adequate school construction existing in an applicant school district pursuant to Section 17042.7, all portable classrooms, whether owned or leased, shall be included, except as otherwise provided in paragraphs (1) to (3), inclusive.

(1) Leased portable classrooms acquired by a school district shall not be included in the area of existing adequate school construction until January 1, 1991.

(2) Portable classrooms leased pursuant to Chapter 14 (commencing with Section 17085) shall be excluded from the area of adequate school construction. Portable classrooms obtained by an applicant district pursuant to subdivision (b) of Section 17088.5 also shall be excluded from the area of adequate school construction, except as to any portable classroom or classrooms for which the district rejected the board's offer to purchase pursuant to that subdivision.

(3) Portable classrooms that have been leased or owned by the district for 20 years or more shall be excluded from the area of adequate school construction.

(4) Leased portable classrooms shall not be included in the area of adequate school construction for a period of five years from the date first leased by the district. That exclusion shall be extended by the board for one additional five-year period where the board finds that the continued use of the leased portable classrooms for classroom purposes is justified by additional growth in average daily attendance pursuant to the standards established by this part. If the board finds continued use to be no longer justified, it may extend the exclusion for a period of up to two years as necessary to maintain the eligibility of the applicant district for project funding pursuant to this chapter if the board finds that the district

has made a good faith effort to obtain that funding in a timely manner. The additional five-year exclusion shall not apply to any portable classroom for which, under the lease agreement, the district is to take title, or the total consideration paid by the district for the lease and an option to purchase is determined by the board to be substantially equivalent to the cost of acquiring title.

(b) For purposes of this section, ‘‘portable classroom’’ means a classroom building of modular design and construction that meets all of the following criteria:

(1) Is designed and constructed to be relocatable and transportable over public streets.

(2) Is designed and constructed for relocation without the separation of the roof or floor from the building.

(3) When measured at the most exterior walls, has a floor area not in excess of 2,000 square feet.

17042.7. (a) For any project application filed or amended on or after January 1, 1993, the area of adequate school construction existing in the applicant school district or, where appropriate, in the attendance area, at the time of application shall be calculated pursuant to the following formula:

(1) Identify by grade level all teaching stations existing in the school district or, where appropriate, the attendance area, as of January 1, 1993. For the purposes of this section, ‘‘teaching station’’ means any space that was constructed or reconstructed to serve as an area in which to provide pupil instruction.

(2) Determine the maximum pupil loading figure for each grade level pursuant to the district pupil loading standards in effect on January 1, 1993. For the purposes of this section, the ‘‘district pupil loading standards’’ are those pupil loading standards in effect in a school district on July 1, 1992, as a result of actions including, but not necessarily limited to, the execution of a collective bargaining agreement or the adoption of a district policy by the governing board of the school district. In no event may this figure be more than the maximum pupil loading standards established by the board, or less than three

pupil units lower than those maximum pupil loading standards.

(3) Multiply the figure determined under paragraph (2) for each grade level by the number of teaching stations for the particular grade level, as determined under paragraph (1).

(4) Multiply the product determined under paragraph (3) by the maximum area allowance established for that grade level under this article.

(5) The sum of these computations for each grade level, as determined under paragraphs (1) to (4), inclusive, shall be the total area of adequate school construction existing in the district or attendance area pursuant to this formula.

(b) For purposes of this section, a school district that is participating in a class size reduction program set forth in this code shall use the pupil loading standard established pursuant to that program.

(c) The area of existing adequate school construction calculated under this section shall not include, in any school operated on a year-round schedule, any teaching station that has been in continuous use during the preceding five-year period primarily for the operation of a preschool program or programs.

17043. (a) There shall be allowed to each district with attendance units of 300 or more in kindergarten and grades 1 to 6, inclusive, a maximum area of 55 square feet for each attendance unit of the district in kindergarten and grades 1 to 6, inclusive.

(b) The maximum total building area per attendance unit allowed to applicant districts with attendance units of less than 300 in kindergarten and grades 1 to 6, inclusive, for such attendance units shall be determined by the board, and shall be building area to provide comparable facilities to those provided by subdivision (a) of this section, and shall be the least building area required to house adequately the estimated average daily attendance and the normal instructional and other services.

17044. There shall be allowed to each district a maximum area of 75 square feet for each attendance unit of the district in grades 7 and 8.

17045. The maximum area allowed to a district for attendance units in junior high schools composed of grades 7 to 9, inclusive, or 7 to 10, inclusive, as the case may be, shall be determined pursuant to this section, rather than Sections 17044 and 17046. This section shall not apply to junior high schools composed of grades 7 and 8 only.

The maximum area allowed for attendance units in junior high schools shall be determined by computing, in accordance with this section, the number of square feet for the attendance units at each junior high school attendance center of the district, and totaling the number of square feet so determined for all attendance units in all such junior high school attendance centers of the district. There shall be allowed a maximum area of 75 square feet for each attendance unit of the junior high school attendance center in grades 7 and 8. For each attendance unit in grade 9, or grades 9 and 10, as the case may be, at each junior high school attendance center, there shall be allowed a maximum area equal to the number of square feet which would be allowed under Section 17046 for each attendance unit of an attendance center having a total number of attendance units equal to the total number of attendance units in grades 7 to 9, inclusive, or 7 to 10, inclusive, as the case may be, at such junior high school attendance center. The number of square feet which would be allowed under Section 17046 for each attendance unit of an attendance center shall be computed by determining in accordance with that section the total number of square feet which would be allowed at an attendance center and dividing such total number of square feet by the total number of attendance units at such attendance center.

17046. There shall be allowed to each district a maximum area for the attendance units of the district in grades 9 to 12, inclusive, determined by computing, for the attendance units in grades 9 to 12, inclusive, at each

attendance center of the district, a number of square feet for the number of attendance units in such grades at each attendance center, in accordance with the following table, and totaling the number of square feet so determined for all attendance units in such grades of all attendance centers of the district:

Attendance units of attendance center	Maximum number of square feet of building area
1- 50	18,000
51-100	18,000 plus 162 for each attendance unit over 50
101-200	26,100 plus 99 for each attendance unit over 100
201-300	36,000 plus 60 for each attendance unit over 200
301-600	42,000 plus 54 for each attendance unit over 300
601-1,800	58,200 plus 80 for each attendance unit over 600
Over 1,800	154,200 plus 85 for each attendance unit over 1,800

17046.7. Notwithstanding any other provision of law, the determination of the area of allowable new building construction for any project for an applicant school district for which original construction commenced on or after January 1, 1987, shall be made on the basis of 107 percent of the area that would otherwise be determined for that purpose under this chapter, calculated to the nearest whole number.

17046.8. Notwithstanding any other provisions of law, the maximum allowable building area for each applicant district shall be reduced by the product of the maximum area per attendance unit calculated for each appropriate grade level and the number of pupils reported by the Superintendent of Public Instruction for that grade level pursuant to Section 42268. This reduction shall be calculated on the basis, at the district's option, of either

the district as a whole or the appropriate attendance area, as defined in Section 17041.

17047. (a) The allowable new building area for the purpose of providing special day class and Resource Specialist Program Facilities for special education pupils shall be negotiated and approved by the State Allocation Board, with any necessary assistance to be provided by the Special Education Division of the State Department of Education. The square footage allowances shall be computed within the maximum square footage set forth in the following schedule:

Special Day Class Basic Need	Grade Levels	Loading*	Square Footage
Nonsevere Disability			
—Specific Learning Disability	All	12	1080
—Mildly Mentally Retarded	All	12	1080
—Severe Disorder of Language	All	10	1080
Severe Disability			
—Deaf and Hard of Hearing	All	10	1080
—Visually Impaired	All	10	1330 (1080 + 250 storage)
—Orthopedically and Other Health Impaired	All	12	2000 (1080 + 400 toilets + 250 storage + 270 daily living skills + 3000 therapy + 75 therapy per additional classroom)
—Autistic	All	6	1160 (1080 + 80 toilets)
—Severely Emotionally Disturbed	All	6	1160 (1080 + 80 toilets)
—Severely Mentally Retarded	Elem.	12	1750 (1080 + 400 toilets + 270 daily living skills)
	Secon.		2150 (1080 + 400 toilets + 270 daily living skills + 400 vocational)

—Developmentally Disabled	All	10	2000 (1080 + 400 toilets + 250 storage + 270 daily living skills + 3000 therapy** + 750 therapy per additional CR)
—Deaf–Blind/Multi	All	5	1400 (1080 + 200 storage + 150 toilets)

			Pupils	Square Feet
Resource Specialist Program for those pupils with disabling conditions whose needs have been identified by the Individualized Education Program (IEP) Team, who require special education for a portion of the day, and who are assigned to a regular classroom for a majority of the schoolday.***	All	Maximum caseload for RS is 28, not all served at same time.	1–8	240
			9–28	480
			29–37	720
			38–56	960
			57–65	1200
			66–85	1440
			86–94	1680
			95–112	1920

* Special pupils may usually be grouped without accordance to type, especially in smaller districts or where attendance zones may indicate, to maximize loadings per classroom where there are children with similar educational need (Sec. 56364).

** Therapy add–ons not to be provided if on same site as orthopedically impaired.

*** To a maximum of 4 percent of the unhoused average daily attendance of the district, per new school or addition, to a maximum of 1920 square feet.

(b) The allowable new building area shall be computed by dividing the number of eligible pupils by the minimum required loading per classroom for special day classes for the type of pupils to be enrolled. No new

or additional facility shall be provided for special day classes unless the number of additional eligible pupils equals one-third or more of the minimum required loading.

17047.5. (a) All school facilities purchased or newly constructed pursuant to this chapter for use, in whole or in part, by pupils who are individuals with exceptional needs, as defined in Section 56026, shall be designed and located on the schoolsite so as to maximize interaction between those individuals with exceptional needs and other pupils as appropriate to the needs of both.

(b) School district governing boards and county offices of education shall ensure that school facilities for pupils who are individuals with exceptional needs are integrated with other school facilities in applying for the purchase or new construction of school facilities pursuant to this chapter.

(c) The State Allocation Board, after consultation with the State Department of Education and representatives from county offices of education, special education services regions, and school districts, shall develop and adopt any regulations necessary to implement this section.

(d) Notwithstanding any other law, the requirement set forth in subdivision (a) may be waived, by the Superintendent of Public Instruction, only upon compliance with the following procedure:

(1) The applicant school district or county superintendent of schools shall file a written request for waiver that documents the reasons for its inability to comply with the requirement.

(2) The State Department of Education shall verify the reasons set forth pursuant to paragraph (1), including the documentation submitted, which verification shall be completed no later than 30 days after the filing of the request for waiver with the Superintendent of Public Instruction.

(3) The Advisory Commission on Special Education, as established under Section 33590, at its first scheduled meeting following the verification conducted pursuant to

paragraph (2), shall review the request for waiver, accompanying documentation, and the verification findings of the State Department of Education. No later than 15 days following the date of that meeting, the commission shall submit its written comments and recommendations regarding the request for waiver to the Superintendent of Public Instruction.

(4) The Superintendent of Public Instruction shall review the comments and recommendations submitted by the Advisory Commission on Special Education prior to approving or rejecting the request for waiver.

(5) Any request for waiver, submitted in accordance with this section, that is not rejected within 60 days of its receipt by the State Department of Education, shall be deemed approved.

(e) This section does not apply to any application for project funding under this chapter that meets one of the following conditions:

(1) The application was submitted to the board prior to January 1, 1987, and all of the facilities under the project for use, in whole or in part, by pupils who are individuals with exceptional needs are located on a schoolsite on which facilities for use by other pupils are also located.

(2) The application is for any other project, for which, prior to January 1, 1987, the board approved the drawing of final plans and the preparation of final specifications.

17048. Whenever an existing building is to be reconstructed, rather than replaced, under an application pursuant to this chapter, there shall be allowed, for those attendance units to be housed in such reconstructed building, an additional five square feet of building area beyond the amounts set forth in Section 17043, 17044, 17045, or 17046.

17049. (a) The board shall require, as a condition of providing funding for any project under this chapter, that, for any facilities for kindergarten or any of grades 1 to 12, inclusive, or for any facilities for special education or continuation high school purposes, at least 30 percent

of allowable new building construction for classrooms under the project be utilized for relocatable structures.

(b) The board may reduce the percentage requirement set forth in subdivision (a), as to any applicant, in the event that the quantity of relocatable structures necessary to comply with those requirements is unavailable from the manufacturers of those structures.

(c) The board may reduce or eliminate the percentage requirements set forth in subdivision (a), as to any applicant, under either of the following circumstances:

(1) Where the board finds that special conditions of terrain, climate, or unavailability of space within the attendance area make the use of relocatable structures impractical or inappropriate.

(2) Under the condition that, as the result of a future project for which the district receives funding under this chapter, located on the same schoolsite on which the current project is located, at least 30 percent of total building construction for classrooms on that schoolsite will be utilized for relocatable structures.

(d) Relocatable structures acquired by an applicant school district up to two years preceding the final approval by the board of the project application submitted by the district shall apply to the percentage requirements set forth in subdivision (a).

(e) Notwithstanding subdivision (d), relocatable structures acquired by an applicant school district up to 10 years preceding the final approval by the board of the project application submitted by the district shall apply to the percentage requirements set forth in subdivision (a) if the relocatable structures are to be situated on the site of a new school to be constructed under the project and all of the following conditions are met:

(1) The relocatable structures were not previously used to satisfy the 30 percent requirement set forth in subdivision (a) under any other project constructed pursuant to this chapter.

(2) The board determines that the relocatable structures are in satisfactory condition upon being moved

to the new schoolsite, and are usable for classroom purposes without requiring major repair or renovation for a period of not less than 20 years subsequent to that relocation.

(3) Subsequent to moving the relocatable structures to the new schoolsite, at least 30 percent of the classroom space at the schoolsite where the structures were previously located consists of relocatable structures.

The cost of moving the relocatable structures to the new schoolsite shall be at the school district's sole expense.

(f) Whenever at least 10 percent of the allowable new building construction contained in an application is to be utilized for relocatable structures, an additional three square feet of building area for each pupil to be housed under the approved project shall be allowed.

17050. (a) A district may enter into a contract with the county, or other appropriate entity having responsibility for the provision of public library services, in which the district is located for the purpose of operating a joint-use library facility at a schoolsite owned by the district.

(b) The district may apply for the lease-purchase of a project which includes a library facility, pursuant to Section 17017, which facility, if constructed, would be of sufficient size to accommodate the requirements of a joint-use library for which the district has entered into a contract, pursuant to subdivision (a).

(c) Should the board receive an application for a project which includes space for a joint-use library, the board shall evaluate the application disregarding any space in the proposed library facility which is beyond the needs of the district, provided the application contains a copy of the contract specified in subdivision (a), and provided that the contract contains at least the following:

(1) Agreement that the county or other appropriate entity shall deposit in the county school lease-purchase fund, created pursuant to Section 17034, an amount equal to the total cost of any space in the proposed library facility which is beyond the needs of the district, prior to

the signing of the construction contract for the project. The deposit shall not be refundable, except to the extent that it may prove subsequently to be in excess of the actual total cost of the space which is beyond the needs of the district.

(2) Agreement between the district and the county or other appropriate entity regarding staffing, maintenance, materials acquisition, and other matters related to the administration and operating costs of the joint-use facility.

(3) Agreement between the district and the county or other appropriate entity regarding the procedure for amendment or termination of the contract, including the disposition of materials housed in the joint-use facility should termination of the contract occur.

(d) Any space in a joint-use library which is beyond the needs of the district shall not be included by the board in any calculations made for any other purposes provided for in this article for the period of time that the contract for that joint-use facility remains in effect. Should the contract be terminated, the board shall include the additional space in any calculations made after the termination for any other purposes provided for in this article.

17051. (a) A district may enter into an agreement with another governmental entity that includes some or all of the territory of the district for the purpose of the joint use of park and recreation facilities, including an auditorium, or commercial or industrial facilities.

(b) If the board receives an application for a project that includes some or all of the territory of the district for the purpose of the joint use of park and recreation facilities or commercial or industrial facilities, the board shall evaluate the application disregarding any space in the proposed joint-use facility that is beyond the needs of the district if the application contains a copy of the agreement specified in subdivision (a) and if the contract contains at least the following:

(1) An agreement that the county or other appropriate entity shall deposit in the county school

lease-purchase fund, created pursuant to Section 17034, an amount equal to the total cost of any space in the proposed joint-use facility that is beyond the needs of the district, prior to the signing of the construction contract for the project. The deposit shall not be refundable, except to the extent that it may prove subsequently to be in excess of the actual total cost of the space that is beyond the needs of the district.

(2) An agreement between the district and the county or other appropriate entity regarding staffing, maintenance, materials acquisition, and other matters related to the administration and operating costs of the joint-use facility.

(3) An agreement between the district and the county or other appropriate entity regarding the procedure for amendment or termination of the contract, including the disposition of materials housed in the joint-use facility should termination of the contract occur.

(c) Any space in a joint-use facility that is beyond the needs of the district shall not be included by the board in any calculations made for any other purposes provided for in this article for the period of time that the contract for that joint-use facility remains in effect. If the contract is terminated, the board shall include the additional space in any calculations made after the termination for any other purposes provided for in this article.

Article 4. Space-Saver Schools

17055. (a) The board shall authorize project funding under this chapter for the construction, in urban areas in which the construction of schools would ordinarily require the removal of residential, commercial, or industrial structures, of four elementary or junior high schools, or any combination thereof, none of which serve any of the grades 10 to 12, inclusive.

(b) The construction funded pursuant to subdivision (a) shall be designed to minimize the need for the relocation of inhabitants of residential, commercial, or industrial structures. The design features of the schools may include, but should not be limited to, the use of

below-ground facility construction, multistory construction, multiuse construction where single-use construction currently exists, the joint use of facilities that otherwise involve such uses as a shopping center, office complex, or apartment building, the joint or dual use of land that otherwise involves park or other uses, overhead or underground parking, or the use of areas above or below streets or freeways.

17056. Any school district that is a project applicant under this chapter may apply for the funding of a school specifically under this article, pursuant to which it may be approved by the board for funding only to the extent of its project eligibility under this chapter. The governing board of each district for which that funding is approved by the board shall do all of the following, in the order specified:

(a) Identify an area within the district that it determines to be appropriate for the construction of a school that meets the purposes of this article.

(b) Establish criteria for the purpose of identifying the school design that will most effectively accomplish the purposes of this article and the needs of the district. The district shall thereupon issue, in a manner approved by the board, a request for architectural design proposals incorporating those criteria.

17058. The cost of any project funded under this article shall not exceed the maximum cost that would otherwise be allowable for a project funded under this chapter.

Article 4.1. Alternative Use of Apportionments

17059. The Legislature finds and declares as follows:

(a) In many areas of the state, overcrowding in the schools has created a need for new school facilities in neighborhoods where little or no vacant land exists. School districts are compelled, therefore, to acquire property that already has been developed with structures, then demolish these structures and construct classroom space.

(b) With an estimated statewide need for school facilities within the next five years that exceeds fourteen billion dollars ($14,000,000,000), neither state nor local funds reasonably can be anticipated to meet this need.

(c) In many of the areas having overcrowded schools, a significant supply exists of vacant space in structures meeting current building codes.

(d) Use of this vacant space by schools can be a cost-effective means of providing classroom space for the students of California.

(e) This chapter and Section 4-306 of Part 1 of Title 24 of the California Code of Regulations authorize the reconstruction of existing commercial buildings for school facility purposes.

(f) No existing commercial building shall be considered for reconstruction for school facility classroom purposes unless it was designed and constructed according to the standards established in the 1976 Uniform Building Code or subsequent editions of that code.

17059.1. In a manner that is consistent with this chapter and the California Code of Regulations, a school district that is eligible for an apportionment for project funding for new construction under this chapter may use that apportionment for the acquisition and conversion of an existing commercial building to school facility purposes.

17059.2. The State Allocation Board in conjunction with the office of the State Architect shall advise all school districts in the state of the existence of the procedure for reconstructing existing commercial buildings for school facility purposes and shall upon request assist in the interpretation and successful implementation of the pertinent regulations in the California Code of Regulations.

Article 5. Joint Venture School Facilities Construction Projects

17060. (a) A school district may enter into a joint venture relationship for the purposes of school facilities construction. Notwithstanding any other provision of this chapter, a school district entering into a joint venture relationship does so as an independent entity and not as an agent of the State Allocation Board.

(b) For the purposes of this article, ‘‘joint venture’’ means a collaborative undertaking by two or more persons or organizations for a specific project or projects, having the legal characteristics of a partnership.

(c) The joint venture relationship may, but is not required to, include any of the following:

(1) Joint use of the property of, or facilities on, the project site.

(2) Ground leases, alternative financing arrangements, or similar financing arrangements.

(3) A construction arrangement in which a school district enters into an agreement with a developer pursuant to which the school district initially stipulates the basic performance and programmatic criteria for the facility and the developer provides input into the design work and building construction services by entering into a contract with a single source team to administer the project in a manner consistent with state law, and construct the project to, under most circumstances, a maximum price.

(d) The price for the portion of the project that is funded by the state shall be established through a bidding process as approved by the State Allocation Board. All subcontract trade groups that are included within the project, shall be determined based upon competitive bidding for each contract group. All subcontracts shall be awarded to the lowest responsible bidder.

(e) The proposed uses of any facilities constructed under the joint venture project shall not be inconsistent with educational purposes and activities.

(f) The cost of any project funded under this article shall not exceed the maximum cost that would otherwise be allowable for a project funded under this chapter.

17061. (a) A school district may apply to the State Allocation Board for funding for the costs of property acquisition and the cost of construction, as specified in this chapter, of the school facilities portion of a joint venture project. The school district shall publicly solicit proposals for the joint venture project pursuant to the procedures set forth in this section and Sections 17062, 17521, 17522, and 17523.

(b) Upon review of the application for funding, the State Allocation Board shall establish the maximum allowances for construction of the school facilities portion of the joint venture project. For the purpose of calculating allowances pursuant to Article 3 (commencing with Section 17040), the State Allocation Board shall use the information used to determine the allowances for the school district at the time the district received approval of funds under this chapter to acquire property on which the school facilities will be constructed, or at the time an application is made pursuant to subdivision (a), whichever is earlier.

(c) The State Allocation Board may approve, in whole or in part, an application submitted by a school district pursuant to this section in an amount the State Allocation Board may deem appropriate, not to exceed the amount applied for, subject to final approval of the joint venture agreement pursuant to Section 17063.

(d) For purposes of this section, and the process referred to in subdivision (a), a school district joint venture request for proposals shall include, but not necessarily be limited to, all of the following:

(1) A specific description of the school buildings or land, or both, to be constructed or utilized under the joint venture and a description of how the costs of the project have been determined.

(2) The identification of the current educational uses of the school buildings or land, or both, and of the educational uses proposed under the joint venture.

(3) The identification of the current noneducational uses of the proposed school buildings or land, or both, and of the noneducational uses proposed under the joint venture, and a specific assessment of the compatibility of those uses with any applicable general or specific governmental land use plan and with applicable zoning restrictions.

(4) A description of the prospective economic benefits to be derived by the school district from the joint venture.

(5) A description of the prospective educational benefits to be derived by the school district from the joint venture.

(6) A request that each request for proposal response include a comprehensive description of the joint venture, including, but not limited to, a description of the intended means of financing the joint venture.

17062. (a) Notwithstanding Sections 20111 and 20118.4 of the Public Contract Code, or any other law, upon approval of funding pursuant to Section 17061, a school district may utilize a request for qualifications and proposal process described in subdivision (a) of Section 17061 to select and enter into a joint venture agreement with a developer to construct school facilities. The agreement may utilize Section 17406.

(b) The joint venture agreement shall include, but not be limited to, all of the following terms:

(1) The cost of the project approved by the State Allocation Board pursuant to Section 17061 as the amount that the district will pay to the developer pursuant to the joint venture agreement upon completion of the project, if applicable.

(2) A detailed description of the project, including, but not limited to, the school facilities and any other facilities that may be included in the project and any other information necessary to meet the requirements of this chapter.

(3) The timeframe for completion of the project.

(4) A requirement that there shall be no state liability if funds are not made available within the four-year period specified in subdivision (a) of Section 17063.

(c) The joint venture agreement may also include a requirement that if the actual cost of constructing the school facility project designated in the agreement exceeds the amount set forth in that agreement, the developer shall be responsible for the additional expense.

(d) The lien placed on a schoolsite pursuant to this chapter shall only attach to that portion of the project for which state funds are actually expended. In addition, the lien shall expressly recognize any subordinate property interest created by the joint venture, and the state lien shall not be foreclosed or otherwise used to terminate the property interest, or any subordinate financing liens incidental thereto, created by the joint venture. The document creating that lien on a schoolsite shall be written in a manner to clearly prohibit assumption of any state liability resulting from the lien.

(e) Notwithstanding subdivision (d), the nondisturbance of subordinate property interests permitted in subdivision (d) shall not permit the foreclosure or other private taking of actual school facilities or property paid for with state funds in a manner that would restrict, terminate, or impair the school facilities portion of the joint venture or the school district's use thereof.

17063. Upon completion of the joint venture agreement pursuant to Section 17062, the school district shall transmit the agreement to the State Allocation Board for final review to determine whether the agreement is consistent with the project approval pursuant to Section 17061. The State Allocation Board shall act to approve or disapprove the complete agreement within 60 days following submission of the complete proposal to the State Allocation Board. The approval or disapproval relates to only the decision by the State Allocation Board to fund the school portion of the joint venture project and is not to be construed as an approval or disapproval of the terms and conditions of the joint venture agreement nor as authority for the school district to act as the agent of the State Allocation Board. The State Allocation Board is not made a party to the joint

venture agreement and shall not incur liability under the joint venture agreement through its approval or disapproval of the agreement. The joint venture shall indemnify and hold harmless the State Allocation Board and its officers, agents, and employees from any loss or liability, including reasonable attorneys fees and costs, caused by the joint venture arising out of, or in relation to, any contract entered into by the joint venture in furtherance of the joint venture project. The date of approval by the State Allocation Board of the project shall be the date of funding eligibility for the project. The apportionment of funds for the eligible project shall be made at any point up to four years following the date of funding eligibility subject to the availability of funds for this purpose. If the state funds are not available within that four-year period, the school district may at its option remain in the funding cycle, subject to other provisions of this chapter, until the school district receives all of the funds it is eligible to receive pursuant to this article as of the date of funding eligibility. The district's eligibility for reimbursement of authorized costs and the district's position in the processing schedule for the reimbursement shall be established as the date of project approval by the State Allocation Board. The exact amount of the reimbursement shall be determined at the conclusion of the project and shall be based upon the actual subcontract trade bids and other costs allowable pursuant to Section 17019.3.

17064. The selection of any design professional pursuant to this article shall be made in accordance with Chapter 10 (commencing with Section 4525) of Division 5 of Title 1 of the Government Code.

17065. The design and construction of school facilities pursuant to this article shall comply with Article 3 (commencing with Section 17280) of Chapter 2 of Part 10.5.

17066. This article does not affect any requirement of a school district to comply with the prevailing wage requirements of Article 2 (commencing with Section 1770) of Chapter 2 of Part 7 of Division 2 of the Labor

Code with respect to the school facilities portion of a joint venture project under this article.

CHAPTER 13. TRANSFER OF EXCESS FUNDS

17080. (a) Notwithstanding any other provision of law, whenever moneys transferred to the General Fund each year from (1) moneys deposited in the Public School Building Loan Fund pursuant to Section 15735, and (2) moneys deposited in the State School Building Aid Fund pursuant to Section 16080, are in excess of the amounts required to reimburse the General Fund on account of principal and interest due and payable for that fiscal year on all school building aid bonds outstanding against the state, an amount equal to such excess is appropriated from the General Fund for purposes of the Leroy F. Greene State School Building Lease-Purchase Law of 1976 (Chapter 12 (commencing with Section 17000)) and Section 17584. The Controller shall transfer, as directed by the State Allocation Board, such appropriated amount to the State School Building Lease-Purchase Fund and to the State School Deferred Maintenance Fund, which is hereby established.

(b) In addition to the amount transferred pursuant to subdivision (a), the Controller shall transfer annually from the General Fund to the State School Deferred Maintenance Fund an amount equal to any amount transferred to or deposited in the General Fund as a result of repayment of any loan made by the board pursuant to Section 17005.15.

(c) Notwithstanding Section 13340 of the Government Code, the State School Deferred Maintenance Fund is continuously appropriated for the purposes for which it is established.

CHAPTER 14. EMERGENCY SCHOOL CLASSROOM LAW OF 1979

Article 1. General Provisions

17085. This chapter may be cited as the State Relocatable Classroom Law of 1979.

17086. In adopting this chapter, the Legislature recognizes that the ad valorem tax is no longer available as a source of revenue for the construction of necessary school facilities. The Legislature considers that the greatest need in school construction is for classrooms for the education of public school pupils. It is the intent of the Legislature to satisfy this primary need to the greatest extent possible before providing any additional educational facilities, regardless of how desirable such additional facilities may be.

17087. As used in this chapter:

(a) ''Board'' means the State Allocation Board.

(b) ''State School Building Aid Fund'' means that fund established pursuant to Section 16096.

(c) ''Lessee'' means a school district or county superintendent of schools to whom the board has leased a portable classroom pursuant to this chapter.

17088. In addition to any other powers and duties as are granted the board by this chapter, other statutes, or the State Constitution, the board has the power to do each of the following:

(a) Establish any qualifications not in conflict with other provisions of this chapter, as it deems will best serve the purposes of this chapter, for determining the eligibility of school districts and county superintendents of schools to lease portable classrooms under this chapter.

(b) Establish any procedures and policies in connection with the administration of this chapter as it deems necessary.

(c) Adopt any rules and regulations for the administration of this chapter requiring such procedure, forms, and information, as it may deem necessary.

(d) Have constructed, furnished, equipped, or otherwise require whatever work is necessary to place, portable classrooms on schoolsites where needed.

(e) Own, have maintained, and lease portable classrooms to qualifying school districts and county superintendents of schools.

(f) From any moneys in the State School Building Aid Fund available for purposes of this chapter, the board shall make available to the Director of General Services such amounts as it determines necessary to provide the assistance, pursuant to this chapter, required by Section 15504 of the Government Code.

(g) Notwithstanding any other provision of law, from any funds available to the board, the board may, no later than January 15 of any year, make available to the Director of General Services up to thirty-five million dollars ($35,000,000) for expenditure in the subsequent school year. It is the intent of the Legislature that this allocation be annually funded from an appropriation made for this purpose by the Legislature in the Budget Act for the fiscal year in which the board is to act to make that funding available. These funds shall be utilized to purchase portable classrooms for the purposes of this section.

17088.3. (a) No school district shall qualify for the lease under this chapter, after January 1, 1990, of one or more portable classrooms except upon submitting a study examining the feasibility of implementing in the district a year-round multitrack educational program that is designed to increase pupil capacity in the district by at least 20 percent.

(b) Emergency or urgency conditions within a school district shall constitute grounds for approval by the board, pending submission of the report.

(c) Subdivision (a) does not apply to facilities that are designated as uninhabitable after July 1, 1989, due to fire or other health or safety conditions.

(d) Subdivision (a) does not apply to a school district for leases or subleases under this chapter for the purpose of providing facilities, pursuant to subdivision (c) of

Section 17091, for licensed child day care programs or recreation or enrichment activities or programs for schoolage children.

17088.5. (a) The board may empower any lessee to act as its agent in the performance of acts authorized under this chapter with regard to portable classrooms to be made available to that lessee, including, but not necessarily limited to, contracting for architectural and construction services and purchasing furniture and equipment.

(b) In addition, where any qualifying school district or county superintendent of schools is deemed by the board to be eligible under this chapter for the lease of portable classrooms, but adequate funds are not at that time available to the board for the purchase of those classrooms, the board may authorize the school district or county superintendent of schools to purchase portable classrooms, to the extent of that eligibility, pursuant to the following conditions:

(1) The portable classrooms are purchased under a procedure determined by the board, pursuant to either a bidding process implemented by the school district or county superintendent of schools or by the State Office of Procurement.

(2) To the extent that funding for purposes of this chapter is subsequently made available to the board, the board shall purchase the portable classroom or classrooms from the school district or county superintendent of schools, for lease to that entity under this chapter, for an amount, not to exceed the purchase price the board determines it would have paid for the classroom or classrooms at the time they were acquired pursuant to paragraph (1), as necessary to reimburse the school district or county superintendent of schools for the purchase price, less the amount that would have been charged to the school district or county superintendent of schools for the lease of the classroom or classrooms under Section 17089 from the date of purchase. The sale of the portable classroom or classrooms under this paragraph

shall be at the discretion of the school district or county superintendent of schools.

17088.7. (a) Any school district, or, under a joint powers agreement pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code, any combination of one or more school districts or county superintendents of schools, may, to the extent of the eligibility of the school district or of the parties to the joint powers agreement to lease portable classrooms under this chapter, purchase portable classrooms as provided in this section.

(b) The number of portable classrooms which may be purchased pursuant to this section, on a statewide basis, shall not exceed 200 in any given year, and shall not exceed 600 in total. Portable classrooms purchased prior to September 22, 1989, are exempt from the yearly limit of 200, but shall be counted towards the total limit of 600.

(c) The purchase costs of the portable classrooms, which include costs of site preparation, furniture and equipment, toilet facilities as described in Section 65980 of the Government Code, and the transportation of classrooms, may be funded from revenues received by the school district or districts pursuant to Section 17620. The purchase shall comply with any procedures and policies established by the board under this chapter for the purchase of portable classrooms. All portable classrooms purchased pursuant to this section are the property of the state.

(d) The board shall lease the portable classrooms purchased pursuant to the authority granted in this section to the purchaser, as described in subdivision (a), in accordance with this chapter, including applicable eligibility standards, and the purchase costs paid shall be credited toward the rent the purchaser would otherwise be required to pay under this chapter as a lessee.

(e) In the event that the purchase of portable classrooms under this section occurs pursuant to a joint powers agreement, as described in subdivision (a), the agreement shall identify the school district or districts and county superintendent or superintendents of schools

that are party to the agreement, identify the district or districts providing the revenues, specify the manner in which the revenues are to be expended, and specify the distribution of portable classrooms subsequent to purchase, which distribution shall be in accordance with the eligibility requirements of this chapter. The agreement shall be subject to approval of the board, pursuant to subdivision (b) and any applicable procedures and policies established by the board under this chapter.

17089. (a) The board shall lease portable classrooms to qualifying school districts and county superintendents of schools for not less than one dollar ($1) per year, nor more than four thousand dollars ($4,000) per year, for each portable classroom, which amount shall be annually increased according to the adjustment for inflation set forth in the statewide cost index for classroom construction, as determined by the board at its January meeting.

(b) The board shall require each lessee to undertake all necessary maintenance, repairs, renewal, and replacement to ensure that a project is at all times kept in good repair, working order, and condition. All costs incurred for this purpose shall be borne by the lessee.

17089.2. Any portable classroom that is leased from the board by a school district or county superintendent of schools under this chapter on July 1, 1991, may be purchased by that district or county superintendent of schools for an amount equal to the purchase price paid by the board, including the purchase costs specified in subdivision (c) of Section 17088.7, less the amount of any rent already paid to the board by the district or county superintendent of schools for that classroom. Payment for purchases made pursuant to this section shall be in equal annual installments for an agreed-upon term not to exceed nine years.

17089.5. The board may lease portable classrooms to any school district or county superintendent of schools which serves infant or preschool individuals with exceptional needs, as defined in Section 56026, and which

operates programs pursuant to Part 30 (commencing with Section 56000). These portable classrooms shall be adequately equipped to meet the educational needs of these students, including, but not limited to, sinks and restroom facilities.

17090. The board shall require lessees to insure at their own expense for the benefit of the state, any leased portable classroom which is the property of the state, against such risks, including liability from the use thereof, in such amounts as the board may deem necessary to protect the interest of the state. All payments resulting from claims made against the insurance shall be made payable to and retained by the board for deposit in the State School Building Aid Fund.

17091. (a) The board shall have authority to adopt rules establishing priorities for the acquisition and leasing of classrooms to those school districts and county superintendents of schools whose pupils will benefit most. The board may make exceptions from the established priorities if it determines that the pupils affected will benefit.

(b) If at any time the number of portable classrooms available exceeds the number of those required by applicant districts, as determined by basic loading standards and eligibility requirements, the board may authorize additional portable classrooms to be placed in any school district that agrees to hire an additional teacher for each additional portable classroom placed in the district pursuant to this subdivision.

(c) If at any time the number of portable classrooms available exceeds the number of those required by applicant districts, as determined by basic loading standards and eligibility requirements, the board shall authorize additional portable classrooms to be placed in any school district, upon request of the school district, for the purpose of providing licensed child day care programs or recreation or enrichment activities or programs for schoolage children on a schoolsite, unless the surplus classrooms are needed for emergency purposes.

17092. (a) No portable classrooms shall be made available to any school district unless the district furnishes evidence, satisfactory to the board, that the district has no available bond proceeds that could be used for the purchase of classroom facilities.

(b) Notwithstanding any other provision of law, a school district or county superintendent of schools that has received approval for a project that includes a justified number of new teaching stations pursuant to Chapter 12 (commencing with Section 17000) shall be eligible for at least the same number of emergency portable classrooms as approved new teaching stations.

(c) Subdivision (a) does not apply to leases or subleases under this chapter for the purpose of providing facilities, pursuant to subdivision (c) of Section 17091, for licensed child day care programs or any recreation or enrichment activities or programs for schoolage children.

17092.3. A school district may sublease any portable classroom obtained by the district pursuant to subdivision (c) of Section 17091 to a private provider that has entered into a contract with the district to provide any child care and development program or programs or any recreation or enrichment activities or programs for schoolage children on a schoolsite. The terms of the sublease for rental payments and other related costs shall not exceed the costs of the portable classroom to the district.

17093. The board shall have prepared for its use, performance specifications for portable classrooms complying with Sections 17280 to 17314, inclusive, which are capable of being economically moved, and bids for the construction of which can be solicited from more than one responsible bidder. The board may from time to time solicit bids from, and award to, the lowest responsible competitive bidder, contracts for the construction or purchase of the number of portable classrooms it deems will be required by eligible school districts and county superintendents of schools during the next 12 months.

17094. If at any time the board determines that a lessee's need for particular portable classrooms which were made available to the lessee pursuant to this chapter

has ceased, the board may take possession of the portable classrooms and may lease them to other eligible districts or county superintendents of schools, or if there is no longer a need for any portable classrooms, the board may dispose of them to public or private parties in any manner that it deems to be in the best interests of the state.

Any revenue which is derived from a lease or other disposition of the portable classrooms pursuant to this section shall be deposited in the State School Building Aid Fund.

17095. The State Board of Education may waive application of the penalty provisions of Section 41376 for school districts which during the school year used portable classrooms leased pursuant to this chapter.

CHAPTER 15. SCHOOL DISTRICT REVENUE BONDS

Article 1. General Provisions

17100. The Legislature hereby finds and declares that the State School Building Lease-Purchase Fund, pursuant to Section 17008, and the proceeds from the sale or lease of surplus school property are the two sources available to school districts to finance the construction of school facilities to relieve overcrowding. However, these sources are still insufficient to meet the construction needs statewide of school districts.

Article 2. Revenue Bonds

17110. The governing board of a school district may issue for sale revenue bonds to finance the construction of joint occupancy facilities as prescribed in Article 8 (commencing with Section 17515) of Chapter 4 of Part 10.5, which facilities are necessary to relieve overcrowded schools. Proceeds from the rental and lease of the facilities shall be used by the governing board to repay the revenue bonds.

As used in this chapter:

(a) ‘‘To finance the construction of joint occupancy facilities’’ means to offset either the cost of constructing the joint occupancy facilities or the cost of financing the construction of joint occupancy facilities, or both.

(b) ‘‘Joint occupancy facilities’’ means any building constructed pursuant to this chapter which is occupied jointly by a school district and a private entity specified in Section 17811 or one or more buildings which are constructed pursuant to this chapter on the same property used by the district and the private entity, but are not occupied jointly. Facilities to be acquired by purchase pursuant to this article for occupancy by pupils shall meet the requirements of Article 3 (commencing with Section 17280) and Article 6 (commencing with Section 17365) of Chapter 3 of Part 10.5.

(c) ‘‘Construction’’ includes acquisition by purchase.

17111. The governing board may contract with any person, firm, partnership, joint venture, or other private entity for the purpose of issuing revenue bonds pursuant to Section 17810 and for the purpose of renting or leasing the facilities constructed pursuant to this chapter.

17112. No revenue bonds may be issued for sale by the governing board unless the facilities are to be constructed on district-owned property, except as to facilities to be acquired by purchase.

CHAPTER 16. PUBLIC DISCLOSURE OF NON-VOTER-APPROVED DEBT

17150. (a) Upon the approval by the governing board of the school district to proceed with the issuance of certificates of participation revenue bonds, the school district shall notify the county superintendent of schools and the county auditor. The superintendent of the school district shall provide the repayment schedules for that debt obligation, and evidence of the ability of the school district to repay that obligation, to the county auditor, the county superintendent, the governing board, and the public. Within 15 days of the receipt of the information, the county superintendent of schools and the county

auditor may comment publicly to the governing board of the school district regarding the capability of the school district to repay that debt obligation.

(b) Upon the approval by the county board of education to proceed with the issuance of certificates of participation or revenue bonds, the county superintendent of schools or superintendent of a school district for which the county board serves as governing board shall notify the Superintendent of Public Instruction. The county superintendent of schools or the superintendent of a school district for which the county board serves as the governing board shall provide the repayment schedules for that debt obligation and evidence of the ability of the county office of education or school district to repay that obligation, to the Superintendent of Public Instruction, the governing board, and the public. Within 15 days of the receipt of the information the Superintendent of Public Instruction may comment publicly to the county board of education regarding the capability of the county office of education or school district to repay that debt obligation.

CHAPTER 17. THE ARCHIE-HUDSON AND CUNNEEN SCHOOL TECHNOLOGY REVENUE BOND ACT

17160. It is the intent of the Legislature in enacting this act to provide a source of financing for the development of California public schools' educational technology infrastructure for the use of technology in instruction through the use of state revenue bonds repaid from a dedicated portion of funds allocated to school districts from the California State Lottery Education Fund pursuant to Section 8880.5 of the Government Code. It is further the intent of the Legislature in enacting this act to further the purposes of the California State Lottery Act of 1984 as approved by the voters on November 6, 1984.

17161. For the purpose of this article the following terms have the following meanings:

(a) ‘‘Act’’ means the Archie-Hudson and Cunneen School Technology Revenue Bond Act.

(b) ‘‘Authority’’ means the California School Financing Authority established pursuant to Section 17172.

(c) ‘‘Bond’’ means bonds, notes, bond anticipation notes, commercial paper, and any other evidences of indebtedness.

(d) ‘‘Fund’’ means the School Technology Pooled Revenue Bond Fund established pursuant to subdivision (c) of Section 17162.

(e) ‘‘School district’’ means school district or county office of education.

17162. (a) Notwithstanding Section 17199.3, the authority may issue bonds exclusively for the purposes of this act, provided that the total amount of bonds issued and outstanding at any time under this act shall not exceed four hundred million dollars ($400,000,000). Authorization for the issuance of bonds under this act shall become operative after July 1, 1997, upon receipt by the authority of repayment pledges made by school districts, pursuant to Section 17163, which, when the pledges from all school districts are combined, are equal to or greater than five million dollars ($5,000,000). The authority shall not issue bonds for any project that cannot be supported by the repayment pledges of school districts.

(b) In administering this act, the authority shall meet all of the requirements established by law for the issuance, holding, and repayment of revenue bonds by the authority, including those set forth in Chapter 17 (commencing with Section 17170), unless otherwise provided for in this act.

(c) Revenues from the sale of bonds issued pursuant to this act shall be deposited in the School Technology Pooled Revenue Bond Fund, which fund is hereby established in the State Treasury. Notwithstanding Section 13340 of the Government Code, all moneys in the fund shall be continuously appropriated without regard to fiscal year for the purposes of this chapter. The

authority shall allocate moneys to each participating school district from the fund.

(d) Allocations from the fund shall be used by school districts only for the purpose of establishing computer-based networks and telecommunications systems for instructional purposes, including the procurement and installation of computer hardware and software, multimedia audio, video, and data transfer equipment, and wiring, cabling, and other equipment necessary to establish network connectivity, and any planning and installation costs associated with establishing and installing the networks.

(e) The length of terms of the bonds issued pursuant to this act shall be less than the useful life of the equipment to be purchased as set forth in subdivision (d).

17163. (a) Notwithstanding any other provision of law, a school district may participate in this act, if the governing board of the school district adopts a resolution approving that participation. A participating school district shall pledge a portion of the lottery revenues allocated annually to the school district from the California State Lottery Education Fund as a dedicated revenue source to repay bonds issued by the authority under the act.

(b) A school district may pledge an amount up to the equivalent of 25 percent, but not more than 25 percent, of the allocation to the school district for the 1996–97 fiscal year from the California State Lottery Education Fund.

(c) A participating school district shall guarantee the repayment of bonds issued under this chapter by providing instructions to the Controller as follows:

(1) Informs the Controller of its election to participate in this act.

(2) Authorizes the Controller to pay the portion of the school district's annual allocation of funds from the California State Lottery Education Fund to the bond trustee identified by the school district for the repayment of the school district's share of the bonds issued under this chapter.

(3) Contains a transfer schedule that sets forth the amounts of funds, which shall be equal to the amount of funds pledged pursuant to subdivisions (a) and (b) of this section, to be transferred by the Controller to the trustee from the funds to be allocated to that school district from the California State Lottery Education Fund.

17163.5. The Controller shall pay bond trustees in accordance with the instructions received pursuant to Section 17863. The Controller shall make that payment only from moneys in the California State Lottery Education Fund allocated to that school district. The Controller is not authorized to pay a bond trustee any amount in excess of a district's allocation from the California State Lottery Education Fund.

17164. Nothing contained in this chapter shall be deemed or construed to create or constitute a debt, liability, or a loan or pledge of the credit of the state.

Notwithstanding any other provision of law, should lottery funds pledged to repay bonds issued pursuant to this act be insufficient to repay the revenue bonds, negotiable notes, or negotiable bond anticipation notes sold to finance projects and related interest and expenses, moneys in the General Fund shall not be available as an alternative source of repayment.

17165. The State Department of Education shall include in its annual survey of schools on the use of lottery funds, the amount of lottery revenues expended to repay bonds issued pursuant to this act.

CHAPTER 18. CALIFORNIA SCHOOL FINANCE AUTHORITY

17170. This chapter shall be known and may be cited as the California School Finance Authority Act.

17171. The Legislature hereby finds and declares that it is in the interest of the state and its people for the state to do all of the following:

(a) Reconstruct, remodel, or replace existing school buildings which are educationally inadequate or which do not meet current structural safety requirements.

(b) Acquire new schoolsites and buildings to be made available to school districts and community college districts for the pupils of the public education system, which is a matter of general concern inasmuch as the education of the state's children is an obligation and function of the state.

(c) Assist school districts and community college districts by providing access to financing for working capital and capital improvements.

17172. There is in the state government the California School Finance Authority. The authority is a public instrumentality, and the exercise by the authority of the powers conferred by this chapter is an essential public function.

17173. As used in this chapter, the following words and terms shall have the following meanings, unless the context indicates or requires another or different meaning or intent:

(a) ''Act'' means the California School Finance Authority Act.

(b) ''Agent'' means a county or city board of education or superintendent of schools acting with its consent on behalf of one or more school districts for any purpose of this chapter, and the Board of Governors of the California Community Colleges or the Chancellor of the California Community Colleges acting with its consent on behalf of one or more community college districts for any purpose of this chapter.

(c) ''Authority'' means the California School Finance Authority, or any board, body, commission, department, or officer succeeding to the principal functions of the authority, or to which the powers conferred upon the authority by this chapter shall be given by law.

(d) ''Bonds'' means bonds, notes, bond anticipation notes, commercial paper, and any other evidences of indebtedness.

(e) ''Cost,'' as applied to all or part of a project financed pursuant to this chapter, means and includes all or any part of the cost of any of the following:

(1) Construction.

(2) Acquisition or improvement of all lands, structures, real or personal property, rights, rights-of-way, franchises, easements, and interests acquired or used for a project.

(3) Demolition or removal of any buildings or structures on land acquired for a project, including the acquisition of any lands to which the buildings or structures may be moved.

(4) All machinery and equipment.

(5) Financing charges.

(6) Interest prior to, during, and for a period following, the completion of such construction or improvement as determined by the authority.

(7) Provisions for working capital.

(8) Reserves for principal and interest, and for extensions, enlargements, additions, replacements, renovations, and improvements.

(9) Engineering, architectural, financial, and legal services, plans, specifications, studies, surveys, estimates, administrative expenses, and other expenses necessary or incident to the construction, acquisition, or improvement of any project or any financing under this chapter.

(f) ‘‘Educational facility’’ means any property, facility, structure, equipment, or furnishings used or operated in conjunction with one or more public schools or community colleges, including, but not limited to, all of the following:

(1) Classrooms.

(2) Auditoriums.

(3) Student centers.

(4) Administrative offices.

(5) Sports facilities.

(6) Maintenance, storage, or utility facilities.

(7) All necessary or usual attendant and related facilities and equipment, including streets, parking, and supportive service facilities or structures required or useful for the effective operation of the educational facility.

(g) ‘‘Participating district’’ means a school district or community college district which undertakes, itself or

through an agent, the financing or refinancing of a project or of working capital pursuant to this chapter. ‘‘Participating district’’ shall also be deemed to refer to the agent to the extent the agent is acting on behalf of the school district or community college district for any purpose of this chapter.

(h) ‘‘Project’’ means the acquisition, construction, expansion, remodeling, renovation, improvement, furnishing, or equipping of an educational facility to be financed or refinanced pursuant to this chapter. ‘‘Project’’ may include any combination of the foregoing undertaken jointly by any participating district with one or more other participating districts.

(i) ‘‘Working capital’’ means funds to be used by, or on behalf of, a participating district to pay maintenance or operating expenses, or any other costs which would be treated as an expense item under generally accepted accounting principles in connection with the ownership or operation of an educational facility, including, but not limited to, all of the following:

(1) Reserves for maintenance or operating expenses.

(2) Interest for a period not to exceed one year on any loan for working capital made pursuant to this chapter.

(3) Reserves for debt service, and any other costs necessary or incidental to, financing pursuant to this chapter.

(j) ‘‘Certificate of participation’’ means an undivided interest in one or more bonds, leases, loans, installment sales, or other agreements of a participating district or districts.

17174. (a) The authority shall be comprised of the following members:

(1) The Treasurer, who shall serve as chairperson.

(2) The Director of the State Department of Finance.

(3) The Superintendent of Public Instruction.

(b) Each member of the authority may designate an individual from the member’s department or agency to act for the member and represent the member at all meetings.

(c) Members of the authority or their designees shall serve without compensation, but may be reimbursed by the authority for necessary and reasonable expenses incurred in the discharge of their duties.

17175. (a) Upon the first appointment of its members, and thereafter on or after March 31 of each year, the authority shall elect from its members a vice chairperson and a secretary-treasurer, who shall hold office until the following March 31, and shall continue to serve until their successors have been elected.

(b) On behalf of the authority, the chairperson shall appoint an executive director, who shall not be a member of the authority, and who shall serve at the pleasure of the authority. The executive director shall receive the compensation fixed for that purpose by the authority.

The authority may delegate to the executive director the power to enter contracts on behalf of the authority.

17176. (a) Except as otherwise provided by subdivision (b), the Attorney General shall be the legal counsel for the authority.

(b) Upon the approval of the Attorney General, which shall not be unreasonably withheld, the authority may employ legal counsel as, in its judgment, is necessary or advisable to enable it to carry out the duties and functions of the authority pursuant to this chapter, including, but not limited to, the employment of bond counsel in connection with the issuance of bonds.

17177. The executive director or other person designated by resolution of the authority shall maintain a record of the proceedings of the authority, and shall be custodian of all books, documents, and papers filed with the authority, the minute book or journal of the authority, and its official seal. The executive director or the designee may cause copies to be made of all minutes and other records and documents of the authority, and may certify under the official seal of the authority that the copies are true copies, and all persons dealing with the authority may rely upon that certification.

17178. Two members of the authority shall constitute a quorum. The affirmative vote of a majority of a quorum

shall be necessary for any action taken by the authority. A vacancy in the membership of the authority shall not impair the right of a quorum to exercise all the rights and perform all the duties of the authority. Each meeting of the authority shall be open to the public and shall be held in accordance with Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code. Resolutions of the authority need not be published or posted. The authority may delegate by resolution to one or more of its members or its executive director any powers and duties as it may deem proper.

17179. The provisions of this chapter shall be administered by the authority, which shall have and is hereby vested with all powers reasonably necessary to carry out the powers and responsibilities expressly granted or imposed under this chapter.

17180. The authority is hereby authorized to do all of the following:

(a) Adopt bylaws for the regulation of its affairs and the conduct of its business.

(b) Adopt an official seal.

(c) Sue and be sued in its own name.

(d) Receive and accept gifts, grants, or donations of money for any of the purposes of this chapter from any of the following:

(1) A federal agency.

(2) A state agency.

(3) A municipality, county, or other political subdivision of the state.

(4) An individual, association, or corporation.

(e) Engage the services of private consultants to render professional and technical assistance and advice in carrying out the purposes of this chapter.

(f) (1) Determine the location and character of any project to be financed under this chapter, and acquire, construct, enlarge, remodel, renovate, alter, improve, furnish, equip, own, maintain, manage, repair, operate, lease as lessee or lessor, or regulate the same.

(2) Designate a participating district as its agent, with authority to enter into contracts, for any of the purposes specified in paragraph (1).

(3) Enter into contracts for any of the purposes specified in paragraph (1).

(4) Enter into contracts for the management and operation of a project owned by the authority.

(g) Acquire, directly or by and through a participating district as its agent, by purchase solely from funds provided pursuant to this chapter, or by gift or devise, and sell, by installment or otherwise, property, rights, rights-of-way, franchises, easements, and other interests in lands, including, but not limited to, lands lying under water, and riparian rights, located within the state which the authority deems necessary or convenient for the acquisition, construction, financing, or operation of a project. The authority may do so upon the terms, and at the prices, it considers reasonable and upon which it can agree with the owner, and may take the title to the interest in the name of the authority or in the name of a participating district as its agent.

(h) Receive and accept from any source loans, contributions, or grants for, or in aid of, the construction, financing, or refinancing of all or part of a project, in the form of money, property, labor, or other things of value.

(i) Pursuant to an agreement between the authority and the participating district, make, directly or through a lending institution, secured or unsecured loans to, or purchase secured or unsecured loans from, a participating district for any of the following purposes:

(1) To finance a project or provide working capital. No loan to finance a project shall exceed the total cost of the project, as determined by the participating district and approved by the authority.

(2) To refinance indebtedness incurred by the participating district in connection with projects undertaken, educational facilities acquired, or working capital financed.

(j) Upon the terms and conditions the authority deems proper, lease a project being financed pursuant to this

chapter to a participating district, and charge and collect rent therefor. The authority may terminate a lease pursuant to this subdivision upon the lessee's failure to comply with any of its obligations under the lease. The lease may include any of the following provisions:

(1) That the lessee shall have the option to renew the term of the lease for the period or periods, and at the rent, determined by the authority, or to purchase any or all of the project.

(2) That upon payment by the participating district of all of the indebtedness incurred by the authority for the financing of the project or for the refinancing of the district's outstanding indebtedness, the authority may convey any or all of the project to the lessee or lessees, with or without further consideration.

(k) Charge and equitably apportion among participating districts its administrative costs and expenses incurred pursuant to this chapter.

(*l*) (1) Obtain, or aid in obtaining, from any state or federal agency or any private company, any insurance, guarantee, letter, or line of credit regarding, or of, or for, the payment or repayment of all or part of the interest, principal, or both, on any loan, lease, or obligation, or any instrument evidencing or securing the same, made or entered into pursuant to this chapter, or on any bonds issued pursuant to this chapter.

(2) Notwithstanding any other provision of this chapter, enter into any agreement, contract, or any other instrument regarding any insurance, guarantee, letter, or line of credit specified in paragraph (1), and accept payment in the manner and form provided therein in the event of default by a participating district.

(3) Assign any insurance, guarantee, letter, or line of credit specified in paragraph (1) as security for bonds issued by the authority.

(m) Enter into any agreements or contracts, including, but not limited to, agreements for liquidity or credit enhancement, execute any instruments, and any other act or thing necessary, convenient, or desirable for

the purposes of the authority or to carry out any express power granted the authority pursuant to this chapter.

(n) At the discretion of the authority, invest any moneys held in reserve or in sinking funds, or any moneys not required for immediate use or disbursement, in obligations authorized by the resolution authorizing the bonds secured by the investment, or by law governing the investment of trust funds in the custody of the Treasurer.

17181. (a) The California School Finance Authority Fund is hereby created in the State Treasury, to be administered by the authority. Notwithstanding Section 13340 of the Government Code, all moneys in the fund shall be continuously appropriated without regard to fiscal year for the purposes of this chapter. The authority may pledge any or all of the moneys in the fund as security for payment of the principal of, and interest on, any particular issuance of bonds pursuant to this chapter. For that purpose, or as necessary or convenient to the accomplishment of any other purpose of this chapter, the authority may divide the fund into separate accounts. All moneys accruing to the authority pursuant to this chapter from any source shall be deposited in the fund.

(b) Subject to any priorities created by the pledge of particular moneys in the fund to secure any issuance of bonds of the authority, and to reasonable administrative costs incurred by the authority in implementing this chapter, all moneys in the fund, regardless of the source, shall be held in trust for the security and payment of bonds of the authority, and shall not be used or pledged for any other purpose while any bonds are outstanding and unpaid. Nothing in this subdivision shall be construed to limit the power of the authority to make loans with bond proceeds in accordance with the terms of the resolution authorizing the issuance of those bonds.

(c) Pursuant to any agreements with the holders of particular bonds pledging any particular assets, revenues, or moneys, the authority may create separate accounts in the fund to manage the assets, revenues, or moneys in the manner prescribed by the agreements.

(d) From time to time, the authority may direct the Treasurer to do any of the following:

(1) Invest moneys in the fund which are not required for its current needs, including, but not limited to, proceeds from the sale of any bonds in eligible securities specified in Section 16430 of the Government Code and designated by the authority, or in any other securities or obligations designated by the authority, in the resolution authorizing the issuance of the bonds payable or secured by the moneys.

(2) Deposit moneys in the fund in interest bearing accounts in state or national banks or other financial institutions having principal offices in the state.

(3) Transfer moneys in the fund to the Surplus Money Investment Fund for investment pursuant to Article 4 (commencing with Section 16470) of Chapter 3 of Part 4 of Division 4 of Title 2 of the Government Code.

Notwithstanding Section 16305.7 of the Government Code, all interest or other earnings resulting from an investment or deposit pursuant to this subdivision shall be deposited in the fund.

(e) Except as otherwise provided in paragraph (3) of subdivision (d), no moneys in the fund shall be subject to transfer to any other fund pursuant to any provision of Part 2 (commencing with Section 16300) of Division 4 of Title 2 of the Government Code.

17182. (a) Except as otherwise provided in subdivision (b), all expenses incurred by the authority in implementing this chapter shall be payable solely from funds appropriated for purposes of this chapter, and the authority shall not incur liabilities in excess of the amount of those funds.

(b) For purposes of meeting the necessary expenses of initial organization and operation of the authority until it derives money from funds provided to it pursuant to this chapter, the authority may borrow such moneys as it may require. Moneys borrowed pursuant to this subdivision shall subsequently be charged to, and apportioned among, participating school districts in an equitable

manner, and repaid with appropriate interest over a reasonable period of time.

17183. (a) From time to time, the authority may, by resolution, issue its revenue bonds in order to provide funds for any of the purposes of this chapter. Bonds may be issued to finance any of the following:

(1) A single project or financing of working capital for a single participating district.

(2) A series of projects or financings of working capital for a single participating district.

(3) A single project or financing of working capital for several participating districts.

(4) Several projects or financing of working capital for several participating districts.

(b) Except as otherwise expressly provided by the authority, all revenue bonds shall be payable from any available revenues or moneys of the authority not otherwise pledged, subject only to any agreements with holders of particular bonds or notes pledging any particular revenue or moneys. Notwithstanding that revenue bonds issued pursuant to this section may be payable from a special fund, the revenue bonds shall be, and shall be deemed to be for all purposes, negotiable instruments, subject only to the provisions of the revenue bonds for registration.

(c) The revenue bonds of the authority may be issued as serial bonds, term bonds, or the authority, in its discretion, may issue bonds of both types. The issuance shall be in accordance with the indenture, trust agreement, or resolution relating to the revenue bonds, which shall provide all of the following:

(1) The date or dates of the bonds.

(2) The date or dates upon which the bonds will mature, not to exceed 40 years from their respective dates.

(3) The interest rate or rates, or methods of determining the interest rate or rates, of the bonds.

(4) When the bonds are payable.

(5) The denominations of the bonds.

(6) The form of the bonds, which shall be either bearer or registered.

(7) The registration privileges of the bonds.

(8) The manner in which the bonds are to be executed.

(9) The place or places at which the bonds shall be payable in lawful money of the United States of America.

(10) The terms of redemption of the bonds.

(d) After giving due consideration to the recommendations of the participating district or districts, the revenue bonds of the authority shall be sold by the Treasurer at either a public or private sale at a price or prices, and upon the terms and conditions prescribed by the authority. The revenue bonds of the authority may be sold at, above, or below the par value of the bonds.

(e) Pending the preparation of the definitive bonds, the authority may issue interim receipts or certificates or temporary bonds which shall be exchanged for the definitive bonds.

(f) Any resolution authorizing the issuance of any bonds of the authority, or any issue of revenue bonds of the authority, may include any of the following provisions:

(1) Provisions pledging all or any part of the proceeds of the bonds or revenue of a project or loan.

(2) Provisions concerning the replacement of mutilated, destroyed, stolen, or lost bonds.

(3) Provisions specifying insurance to be maintained on the project and the authorized uses of the proceeds of the insurance.

(4) Covenants against the mortgaging or otherwise encumbering, selling, leasing, pledging, placing a charge upon, or otherwise disposing of the project prior to the payment of the bonds issued to finance the project.

(5) Provisions specifying the events of default, terms upon which the bonds may be declared due before maturity, and the terms upon which the declaration and its consequences may be waived.

(6) The rights, liabilities, powers, and duties arising upon the breach of any covenants, conditions, or obligations.

(7) Vesting of the right to enforce covenants in a trustee.

(8) The terms upon which all or any percentage of the bondholders may enforce covenants or duties.

(9) Procedures for amending the terms of the resolution, with or without the consent of the holders of a specified number of bonds.

(10) Provision for any other acts or things deemed necessary, convenient, or desirable by the authority to secure the bonds or improve their marketability.

(g) The validity of the authorization and issuance of any bond issue shall not be affected by proceedings for the acquisition, construction, or improvement of any project, or by contracts relating to those proceedings. Any resolution authorizing the issuance of any bonds of the authority may provide authorization for the bonds to bear a statement certifying that they are issued pursuant to this chapter. Bonds bearing such a statement shall be conclusively deemed valid and issued in conformity with this chapter. Reference on the face of the bonds to the resolution by its date of adoption shall incorporate the provisions of the resolution and of this chapter into the terms of the bonds.

(h) Members of the authority, or any person executing the revenue bonds of the authority, shall not incur personal liability on the bonds, nor shall these persons incur personal liability or accountability by reason of the issuance of the revenue bonds of the authority.

(i) The authority is authorized, out of any funds available for that purpose, to purchase revenue bonds of the authority. The authority may hold, pledge, cancel, or resell any bonds purchased under the authority of this subdivision, subject to, and in accordance with, agreements with bondholders.

(j) The financing or refinancing of projects or working capital may be provided pursuant to this chapter by means other than revenue bonds, at the discretion of the authority, including financing or refinancing through certificates of participation, or other interests, in bonds, loans, leases, installment sales, or other agreements of the

participating district or districts. In this connection, the authority may do all things and execute and deliver all documents and instruments as may be necessary or desirable with regard to issuance of the certificates of participation or other means of financing or refinancing.

17183.5. In enacting this chapter, it is the intent of the Legislature to provide financing only for projects demonstrated by the participating district to be financially feasible. In demonstrating financial feasibility, the participating district may take into account all district funds, and may base future projections upon historical experience or reasonable expectations, or a combination thereof. Nothing in this section shall be construed to imply that any project is required to produce revenue in order to be financed under this chapter.

17184. (a) In the discretion of the authority, any revenue bonds of the authority issued under this chapter may be secured by a trust agreement, or by indenture by and between the authority and a corporate trustee or trustees, including the Treasurer or any trust company or bank having the powers of a trust company within or outside the state.

(b) Any trust agreement, indenture, or any resolution providing for the issuance of bonds of the authority, may pledge or assign the proceeds of the bonds, and the revenues to be received by, a participating district or districts.

(c) Any trust agreement, indenture, or resolution providing for the issuance of revenue bonds of the authority may include any provisions for the protection of, and the enforcement of the rights and remedies of, bondholders as may be reasonable and proper and not in violation of any law, including provisions included in any resolution or resolutions of the authority provided under subdivision (a) or (b).

(d) Any trust agreement or indenture may prescribe the rights and remedies of the bondholders, and of the trustee or trustees, and may restrict the individual right of action of the bondholders.

(e) Any trust agreement, indenture, or resolution may include any other provisions deemed by the authority to be reasonable and proper for the security of the bondholders.

(f) Notwithstanding any other provision of law, the Treasurer shall not be deemed to have a conflict of interest by reason of his or her capacity as trustee pursuant to this chapter.

17185. (a) Revenue bonds issued under this chapter are not and shall not be deemed to constitute a debt or liability of the state, or any political subdivision thereof, and are not and shall not be deemed to be a pledge of the faith and credit of the state, or any political subdivision thereof, other than the authority. Revenue bonds of the authority shall be payable solely from funds provided under this chapter.

(b) Each revenue bond of the authority shall include a statement on the face of the bond that neither the State of California nor the authority is obligated to pay the principal or interest thereon, except from revenues of the authority, and shall also include a statement that neither the faith or credit, nor the taxing power of the State of California, or any political subdivision, is pledged to the payment of the principal or interest of the bonds.

(c) The issuance of revenue bonds under this chapter shall not directly, indirectly, or contingently obligate the state, or any political subdivision thereof, to levy or pledge any form of taxation, or make any appropriation for their payment.

17186. (a) Any holder of revenue bonds issued under this chapter, or any coupons appertaining thereto, or the trustee or trustees under any trust agreement, indenture, or resolution, may, either at law or in equity, by suit, action, mandamus, or other proceedings, protect and enforce any rights conferred under state law, by this chapter, or under the terms of any trust agreement, indenture, or resolution, except to the extent that these rights may be otherwise restricted by any resolution authorizing the issuance of these bonds, or by any trust agreement or indenture securing these bonds.

(b) Any holder of revenue bonds issued under this chapter, or any coupons appertaining thereto, or the trustee or trustees under any trust agreement, indenture, or resolution, may enforce and compel the performance of all duties required under this chapter, or by any trust agreement, indenture, or resolution, to be performed by the authority, or by any officer, employee, or agent of the authority.

17187. All moneys received under this chapter, whether received as proceeds from the sale of revenue bonds or as revenues, are trust funds to be held and applied solely as provided in this chapter. Any officer, bank, or trust company with whom those moneys have been deposited, shall act as trustee of those moneys and shall hold and apply them for those purposes, subject to the requirements of this chapter and the resolution authorizing the bonds of any issue, or the trust agreement or indenture securing those bonds, may provide.

17188. (a) The authority may provide for the issuance of the revenue bonds of the authority for the purpose of refunding any bonds, or any series or issue of the revenue bonds of the authority then outstanding, and may include the payment of any redemption premium for those bonds and any interest accrued or to accrue to the date of redemption and purchase or maturity of those bonds.

(b) The proceeds of any bonds issued for the purpose of refunding of outstanding bonds may, in the discretion of the authority, be applied to the purchase or redemption prior to maturity or retirement at maturity of the outstanding bonds on their earliest or any subsequent redemption date or upon the purchase or at the maturity thereof, or paid to a third person to assume the authority's obligation to make those payments, and may, pending that application, be placed in escrow to be applied to the purchase or retirement at maturity or redemption on any date or dates as may be determined by the authority.

(c) Any escrowed proceeds, pending such use may be invested and reinvested in obligations or securities

authorized by resolution of the authority, maturing at any time or times as shall be appropriate to assure the prompt payment, as to principal, interest, and redemption premium, if any, of the outstanding bonds to be so refunded. The interest, income and profits, if any, earned or realized on any investment may also be applied to the payment of the outstanding bonds to be so refunded or of interest in the refunding bonds. After the terms of the escrow have been fully satisfied and carried out, any balance of proceeds and interest, income profits, if any, earned or realized on the investments thereof may be returned to the authority for use by it in any lawful manner.

(d) All refunding bonds are subject to the provisions of this chapter, in the same manner and to the same extent, as other bonds issued pursuant to this chapter.

17189. (a) Revenue bonds issued by the authority under this chapter shall be designated as securities in which all banks, bankers, savings banks, trust companies, and other persons engaged in a banking business; all insurance companies, insurance associations, and other persons carrying on an insurance business; any administrators, executors, guardians, trustees, and other fiduciaries; and any other persons who are now or who may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest any funds, including capital belonging to them or within their control.

(b) Revenue bonds issued by the authority under this chapter, other notes or securities, or obligations are hereby made securities which may properly and legally be deposited with, and received by, any state or municipal officer, or agency of the state for any purpose for which the deposit of bonds or other obligations of the state are, or may hereafter be, authorized by law.

17190. (a) Any bonds issued under this chapter, their transfer, and income therefrom shall at all times be free from taxation of every kind by the state and by all political subdivisions of the state.

(b) The authority is not required to pay any taxes or assessments upon, or with respect to, any project or property acquired by or for the authority under this chapter, or upon any income therefrom, or on or from any other assets or operations of the authority.

17191. (a) The State of California pledges and agrees with the holders of the bonds issued pursuant to this chapter, and with those parties who may enter into contracts with the authority pursuant to the provisions of this chapter, that the state will not limit, alter, or restrict the rights hereby vested in the authority to finance educational facilities. The State of California pledges and agrees to fulfill the terms of any agreements made with the holders of bonds authorized by this chapter, and with the parties who may enter into contracts with the authority pursuant to this chapter, and pledges and agrees not to impair the rights or remedies of the holders of any revenue bonds or any parties until the bonds, together with interest, are fully paid and discharged and any contracts are fully performed on the part of the authority.

(b) The authority shall have the right to include the pledges made pursuant to this section in its revenue bonds and contracts.

17192. (a) Pledges by or to the authority of revenues, moneys, accounts, accounts receivable, contract rights, or other rights to payment of any other kind made by or to the authority pursuant to this chapter shall be valid and binding from the time the pledge is made for the benefit of the pledges, and the successors thereto.

(b) The revenues, moneys, accounts, accounts receivable, and other rights to payment of any other kind pledged by or to the authority or its assignees, shall immediately be subject to the lien of the pledge without physical delivery, or any further act. The lien of any pledge shall be valid and binding against all parties, irrespective of whether the parties have notice of the claim. The trust agreement, indenture, resolution, or other instrument by which any pledge is created need not be recorded.

17193. (a) The authority shall fix, revise, charge, and collect rents for the use of each project owned by the authority, and may contract with any person, partnership, association, corporation, or other body, whether public or private, for that purpose. Any lease entered into by the authority with a participating district, and each agreement, note, or other instrument evidencing the obligations of a participating district to the authority, shall provide that the rents or principal, interest, and other charges payable by the participating district shall be sufficient to provide for all of the following:

(1) To pay the principal, sinking fund payments, if any, premiums, if any, and the interest on outstanding bonds of the authority issued in respect of the project when due and payable.

(2) To create and maintain reserves which may, but need not necessarily be required or provided for, in the resolution relating to the revenue bonds of the authority.

(3) To pay its share of the administrative costs and expenses of the authority.

(b) The authority shall pledge the revenues derived and to be derived from a project or from a participating district for the purposes specified in paragraphs (1), (2), and (3) of subdivision (a). The authority may issue additional revenue bonds which may be ranked on a parity with other bonds relating to the project to the extent, and under the terms and conditions provided, in the bond resolution.

(c) The authority and a participating district may include in any lease or agreement between them or with a credit provider any terms and conditions relating to insurance, liquidity, or credit enhancement of the bonds, or any other lawful terms and conditions the authority deems necessary or desirable to facilitate the purposes of this chapter.

17194. The authority may authorize any participating district to act as its agent in the performance of acts specifically approved by the authority, and all acts required under Article 3 (commencing with Section

17280) of Chapter 3 of Part 10.5. The authorizations may include, but are not necessarily limited to, all of the following:

(a) The selection of school or college sites.

(b) The securing of appraisals.

(c) Contracts for architectural services.

(d) The advertisement for construction bids and the entry into contracts for construction.

(e) The purchase of furniture and equipment.

17195. Whenever the principal and interest on bonds issued by the authority to finance the cost of a project, or to refinance the outstanding indebtedness of one or more participating districts, including any refunding bonds issued to refund and refinance those bonds, have been fully paid or retired, or whenever adequate provision has been made to fully pay and retire the bonds, and all other conditions of the resolution, lease, trust indenture and any security interest, or any other instrument or instruments authorizing and securing the bonds have been satisfied and the lien of security interest has been released in accordance with those provisions, the authority shall promptly provide for and execute any releases, release deeds, reassignments, deeds, and conveyances as are necessary and required to convey or release its rights, title, and interest in the project financed, to the participating districts.

17196. (a) This chapter shall be deemed to provide a complete, additional, and alternative method for accomplishing the acts authorized in this chapter, and shall be deemed as being supplemental and additional to the powers conferred by other applicable laws, except that the issuance of revenue bonds and refunding bonds and the undertaking or projects or financings under this chapter need not comply with the requirements of any other laws applicable to the issuance of bonds, including, without limitation, Division 13 (commencing with Section 21000) of the Public Resources Code.

(b) Except as provided in subdivision (a), the financing of a project under this chapter shall not exempt

a project from any of the requirements of law which are otherwise applicable to the project.

17197. To the extent that the provisions of this chapter are inconsistent with any other provisions of any general statute, or a special act or parts thereof, the provisions of this chapter shall be deemed controlling.

17198. Any net earnings of the authority beyond that necessary for the retirement of any obligations issued by the authority, or to implement the purposes of this chapter, may inure only to the benefit of the State of California or the authority.

17199. Upon the dissolution of the authority, title to all property owned by the authority shall vest in the successor authority created by the Legislature, if any, if the successor authority meets the requirements of Section 103 of the federal Internal Revenue Code of 1954, as amended, and its implementing regulations, as an authority entitled to issue obligations on behalf of the State of California, the interest from which is exempted from federal income taxation.

In the event that a successor authority is not created, title to all property owned by the authority shall vest in the State of California.

17199.1. (a) Any participating district, exclusively for the purpose of securing financing or refinancing of projects or working capital pursuant to this chapter through the issuance of revenue bonds, certificates of participation, or other means, and notwithstanding any other provision of law, may issue bonds to the authority or borrow money or purchase or lease educational facilities from the authority, and in connection therewith, sell or lease property to the authority, at any interest rate or rates, rental provisions, with any maturity date or dates or term, and with any other payment, security, default, remedy, and other terms or provisions as may be specified in the bonds of the participating district or a loan, loan purchase, installment sale, lease, or other agreement between the authority and the participating district, subject to the following conditions:

(1) The sum of the amount borrowed to finance working capital and the interest payable thereon at the initial interest rate if interest is variable, shall not exceed 85 percent of the estimated amount of uncollected taxes, income, revenue, cash receipts, and other district funds which will be available in any fiscal year for the repayment of the loan and the interest thereon. For purposes of this paragraph, ‘‘revenue’’ includes, but is not limited to, federal and state funds received by the district.

(2) In computing the maximum amount which may be borrowed in any fiscal year pursuant to paragraph (1), the district may exclude the amount of any principal or interest which is secured by a pledge of the amount in any inactive or term deposit of the district which has a term scheduled to terminate during that fiscal year.

(3) A participating district that borrows money to finance working capital pursuant to this subdivision shall be required to repay and discharge the loan within 15 months of the loan date.

(4) In enacting this chapter, it is the intent of the Legislature to provide financing of working capital needed to cover temporary or cash-flow deficits and needs for working capital and not long-term budget deficits or shortfalls in funding. The participating school district must demonstrate to the satisfaction of the authority that, during the term of any working capital loan received pursuant to this chapter, the participating district will receive or otherwise have (without additional borrowing) sufficient funds to repay and discharge the loan. The participating district may take into account all district funds and may base future projections upon historical experience or reasonable expectations, or a combination thereof.

(b) Any participating district may enter into any agreement for liquidity or credit enhancement, with any reimbursement, payment, interest, security, default, remedy, and other terms it may deem necessary or appropriate in connection with the issuance of bonds, the borrowing of money or the lease or purchase of educational facilities, whichever is applicable. Any

participating district or districts may also do all things and execute all documents as may be necessary or desirable in connection with the issuance of certificates of participation, or other interests, in any bond, loan, installment sale, lease, or other agreement of the district.

(c) A school district may by resolution authorize any county or city board of education or superintendent of schools, and a community college district may by resolution authorize the Board of Governors of the California Community Colleges or the Chancellor of the California Community Colleges, to act as its agent in the performance of any of the matters permitted by this section or any other provision of this chapter. Notwithstanding any other provision of law, the agent shall have the powers granted by the resolution for purposes of this chapter. The resolution shall be deemed to bind the school district or community college district, as the case may be, to any contract, agreement, instrument, or other document executed by the agent on behalf of the school district or community college district, and all duties, obligations, or responsibilities contained therein on the part of the school district or community college district, to the same extent as if duly authorized, executed, and delivered by the school district or community college district.

(d) This section shall be deemed to provide a complete, additional, and alternative method for accomplishing the acts authorized by this section, and the issuance of bonds to, borrowing of money from, or sale or purchase or lease of educational facilities from or to, the authority. Any agreement entered into in connection with the issuance of bonds, the borrowing of money or the sale, purchase, or lease of educational facilities, including, without limitation, any agreement for liquidity or credit enhancement under this section, need not comply with the requirements of any other law applicable to issuance of bonds, borrowing, selling, purchasing, leasing, pledge, encumbrance, or credit, as the case may be, by a school district or community college district, or by a county or city board of education or superintendent of schools or

the Board of Governors of the California Community Colleges or Chancellor of the California Community Colleges.

17199.2. An action may be commenced under Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure to determine the validity of any issuance or proposed issuance of revenue bonds, the loan of the proceeds thereof, the sale, purchase, or lease of facilities under this chapter, or the legality and validity of any proceedings previously taken or proposed in a resolution of the authority to be taken for the authorization, issuance, sale, and delivery of the bonds, for the use of the proceeds thereof, or for the payment of the principal and interest thereon.

17199.3. (a) The total amount of revenue bonds which may be issued and outstanding at any time under this chapter shall not exceed four hundred million dollars ($400,000,000).

(b) For purposes of subdivision (a), bonds which meet any of the following conditions shall not be deemed to be outstanding:

(1) Bonds which have been refunded pursuant to Section 17188.

(2) Bonds for which money or securities in amounts necessary to pay or redeem the principal, interest, or any redemption premium on the bonds have been deposited in trust.

(3) Bonds which have been issued to provide working capital.

SEC. 3. Part 10.5 (commencing with Section 17211) is added to the Education Code, to read:

PART 10.5. SCHOOL FACILITIES

CHAPTER 1. SCHOOLSITES

Article 1. General Provisions

17211. Prior to commencing the acquisition of real property for a new schoolsite or an addition to an existing

schoolsite, the governing board of a school district shall evaluate the property at a public hearing using the site selection standards established by the State Department of Education pursuant to subdivision (b) of Section 17251. The governing board may direct the district's advisory committee established pursuant to Section 17388 to evaluate the property pursuant to those site selection standards and to report its findings to the governing board at the public hearing.

17212. The governing board of a school district, prior to acquiring any site on which it proposes to construct any school building as defined in Section 17283 shall have the site, or sites, under consideration investigated by competent personnel to ensure that the final site selection is determined by an evaluation of all factors affecting the public interest and is not limited to selection on the basis of raw land cost only. If the prospective schoolsite is located within the boundaries of any special studies zone or within an area designated as geologically hazardous in the safety element of the local general plan as provided in subdivision (g) of Section 65302 of the Government Code, the investigation shall include any geological and soil engineering studies by competent personnel needed to provide an assessment of the nature of the site and potential for earthquake or other geologic hazard damage.

The geological and soil engineering studies of the site shall be of such a nature as will preclude siting of a school in any location where the geological and site characteristics are such that the construction effort required to make the school building safe for occupancy is economically unfeasible. No studies are required to be made if the site or sites under consideration have been the subject of adequate prior studies. The evaluation shall also include location of the site with respect to population, transportation, water supply, waste disposal facilities, utilities, traffic hazards, surface drainage conditions, and other factors affecting the operating costs, as well as the initial costs, of the total project.

For the purposes of this article, a special studies zone is an area which is identified as a special studies zone on any map, or maps, compiled by the State Geologist pursuant to Chapter 7.5 (commencing with Section 2621) of Division 2 of the Public Resources Code.

17212.5. Geological and soil engineering studies as described in Section 17212 shall be made, within the boundaries of any special studies zone, for the construction of any school building as defined in Section 17283, or if the estimated cost exceeds twenty thousand dollars ($20,000), for the reconstruction or alteration of or addition to any school building for work which alters structural elements. The Department of General Services may require similar geological and soil engineering studies for the construction or alteration of any school building on a site located outside of the boundaries of any special studies zone. No studies need be made if the site under consideration has been the subject of adequate prior studies.

No school building shall be constructed, reconstructed, or relocated on the trace of a geological fault along which surface rupture can reasonably be expected to occur within the life of the school building.

A copy of the report of each investigation conducted pursuant to this section shall be submitted to the Department of General Services pursuant to Article 3 (commencing with Section 17280) of this chapter and to the State Department of Education. The cost of geological and soil engineering studies and investigations conducted pursuant to this section may be treated as a capital expenditure.

17213. The governing board of a school district shall not approve a project involving the acquisition of a schoolsite by a school district unless all of the following occur:

(a) The lead agency, as defined in Section 21067 of the Public Resources Code, determines that the property purchased or to be built upon is not any of the following:

(1) The site of a current or former hazardous waste disposal site or solid waste disposal site unless, if the site

was a former solid waste disposal site, the governing board of the school district concludes that the wastes have been removed.

(2) A hazardous substance release site identified by the State Department of Health Services in a current list adopted pursuant to Section 25356 for removal or remedial action pursuant to Chapter 6.8 (commencing with Section 25300) of Division 20 of the Health and Safety Code.

(3) A site which contains one or more pipelines, situated underground or aboveground, which carries hazardous substances, acutely hazardous materials, or hazardous wastes, unless the pipeline is a natural gas line which is used only to supply natural gas to that school or neighborhood.

(b) The lead agency, as defined in Section 21067 of the Public Resources Code, preparing the environmental impact report or negative declaration has consulted with the administering agency in which the proposed schoolsite is located and with any air pollution control district or air quality management district having jurisdiction in the area, to identify facilities within one-fourth of a mile of the proposed schoolsite which might reasonably be anticipated to emit hazardous air emissions, or to handle hazardous or acutely hazardous materials, substances, or waste. The lead agency shall include a list of the locations for which information is sought.

(c) The governing board of the school district makes one of the following written findings:

(1) Consultation identified none of the facilities specified in subdivision (b).

(2) The facilities specified in subdivision (b) exist, but one of the following conditions applies:

(A) The health risks from the facilities do not and will not constitute an actual or potential endangerment of public health to persons who would attend or be employed at the school.

(B) The governing board finds that corrective measures required under an existing order by another

jurisdiction which has jurisdiction over the facilities will, before the school is occupied, result in the mitigation of all chronic or accidental hazardous air emissions to levels that do not constitute an actual or potential endangerment of public health to persons who would attend or be employed at the proposed school. If the governing board makes this finding, the governing board shall also make a subsequent finding, prior to the occupancy of the school, that the emissions have been mitigated to these levels.

(d) As used in this section:

(1) ''Hazardous air emissions'' means emissions into the ambient air of air contaminants which have been identified as a toxic air contaminant by the State Air Resources Board or by the air pollution control officer for the jurisdiction in which the project is located. As determined by the air pollution control officer, hazardous air emissions also means emissions into the ambient air from any substance identified in subdivisions (a) to (f), inclusive, of Section 44321 of the Health and Safety Code.

(2) ''Hazardous substance'' means any substance defined in Section 25316 of the Health and Safety Code.

(3) ''Acutely hazardous material'' means any material defined pursuant to subdivision (a) of Section 25532 of the Health and Safety Code.

(4) ''Hazardous waste'' means any waste defined in Section 25117 of the Health and Safety Code.

(5) ''Hazardous waste disposal site'' means any site defined in Section 25114 of the Health and Safety Code.

(6) ''Administering agency'' means any agency designated pursuant to Section 25502 of the Health and Safety Code.

(7) ''Handle'' means handle as defined in Article 1 (commencing with Section 25500) of Chapter 6.95 of Division 20 of the Health and Safety Code.

17215. (a) In order to promote the safety of pupils, comprehensive community planning, and greater educational usefulness of schoolsites before acquiring title to property for a new schoolsite, the governing board of each school district, including any district governed by

a city board of education, shall give the Department of Transportation written notice of the proposed acquisition and shall submit any information required by the department if the proposed site is within two miles, measured by air line, of that point on an airport runway or a potential runway included in an airport master plan that is nearest to the site.

(b) If the Department of Transportation is no longer in operation, the governing board of the school district shall, in lieu of notifying the Department of Transportation, notify the United States Department of Transportation or any other appropriate agency, in writing, of the proposed acquisition for the purpose of obtaining from the department or other agency any information or assistance that it may desire to give.

(c) The Department of Transportation shall investigate the proposed site and, within 30 working days after receipt of the notice, shall submit to the governing board a written report and its recommendations concerning acquisition of the site. As part of the investigation, the Department of Transportation shall give notice thereof to the owner and operator of the airport who shall be granted the opportunity to comment upon the proposed schoolsite.

(d) The governing board shall not acquire title to the property until the report of the Department of Transportation has been received. If the report does not favor the acquisition of the property for a schoolsite or an addition to a present schoolsite, the governing board shall not acquire title to the property until 30 days after the department's report is received and until the department's report has been read at a public hearing duly called after 10 days' notice published once in a newspaper of general circulation within the school district or, if there is no newspaper of general circulation within the school district, in a newspaper of general circulation within the county in which the property is located.

(e) Except as provided in subdivision (e), if the Department of Transportation in its report submitted to

a governing board of a school district does not favor acquisition of a proposed site that is within two miles of the centerline of an active runway, no state funds or local funds shall be apportioned or expended for the acquisition of that site, construction of any school building on that site, or for the expansion of any existing site to include that site.

(f) This section does not apply to sites acquired prior to January 1, 1966, nor to any additions or extensions to those sites.

(g) If the recommendations of the Department of Transportation are unfavorable, the recommendations shall not be overruled without the express approval of the State Allocation Board.

17216. No action undertaken by the State Department of Education or by any other state agency or by any political subdivision pursuant to this chapter, or in compliance with this chapter, shall be construed to affect any rights arising under the provisions of Section 19 of Article 1 of the California Constitution.

17217. The governing board of a school district may acquire a site for a school building contiguous to the boundaries of the district and upon the acquisition of the site it shall become a part of the district. The site shall not be acquired until the county committee on school district organization of the county or of each of the counties concerned has received the proposal for acquisition of the site and reported its recommendations thereon to the governing boards of the districts concerned and to each county superintendent of schools concerned. The report of the county committee shall be made within 60 days from the time the proposal for acquisition of the site was submitted to it. The power of eminent domain may be used for the purposes of this section.

A schoolsite is contiguous for the purpose of this section although separated from the boundaries of the district by a road, street, stream, or other natural or artificial barrier or right-of-way.

17218. The governing board of a school district which has been included in a school district unification proposal

approved by the electors of the territory involved pursuant to Chapter 2 (commencing with Section 4206) of Part 3, may, prior to the time the new unified school district becomes effective for all purposes, acquire a site for a school building at any place within the new unified school district, and upon the acquisition of the site it shall become a part of the district pending the date when the new unified school district becomes effective for all purposes. The site shall not be acquired until the county committee on school district organization of the county or of each of the counties concerned has received the proposal for acquisition of the site and reported its recommendations thereon to the governing boards of the districts concerned and to each county superintendent of schools concerned. The report of the county committee shall be made within 60 days from the time the proposal for acquisition of the site was submitted to it.

17219. (a) Whenever a school district acquires or has acquired a site for school purposes, as determined by the State Allocation Board, and does not use the site within (1) five years of the date of acquisition for the kindergarten, if any, and any of grades 1 to 8, inclusive, maintained by an elementary school district or a unified school district, or, (2) seven years of the date of acquisition for any of grades 7 to 12, inclusive, maintained by a high school district or a unified school district, or if a school district has a site at any grade level that has previously been used but has not been used for school purposes within the preceding five years, the school district shall be subject to nonuse payments, unless the State Allocation Board, from time to time, makes a determination that the school district will utilize the property for the purpose for which it was intended within a reasonable period of time, in a specific amount for each additional year in which the site is retained and not used by the district beyond the foregoing specified periods, except the first additional year shall be deemed to end not earlier than April 30, 1973.

(b) Payment shall not be required under this section as to any site having a value of twenty thousand dollars

($20,000) or less. Commencing on January 1, 1988, and annually thereafter, the State Allocation Board shall increase this exemption figure by the amount of the current fiscal year inflation adjustment specified in Section 42238.1, if any.

(c) The payments required shall be computed by the Executive Officer of the State Allocation Board and certified to the Controller, and payments shall be equal to one one-hundredth ($^{1}/_{100}$) of the original purchase price of the site modified by either a factor reflecting the change in assessed value of all lands in the state from the date of purchase of the site to the current date or any other factor that in the determination of the State Allocation Board is applicable to the site under consideration.

(d) Whenever the State Allocation Board has determined that a school district in good faith has, within the preceding year, advertised the schoolsite for sale to the highest bidder pursuant to the provisions of Article 4 (commencing with Section 17455) of Chapter 4 of Part 10.5 and has received no bids that in the judgment of the State Allocation Board reflect the fair market value of the property, the Executive Officer of the State Allocation Board shall not compute any nonuse payments for the site for a period of one year beyond the date of the determination.

(e) Nonuse payments shall not be required for any year with respect to a schoolsite that for one-half or more of the number of days of that year has been utilized for any of the following purposes:

(1) By the school district, or by any other governmental entity pursuant to agreement with the school district, for school purposes, for use as a civic center, or for community playground, playing field, or other outdoor recreational purposes. ‘‘Civic center,’’ for this purpose, means a site used for one or more of the purposes described in Section 40041.

(2) By the State Allocation Board, pursuant to agreement with the school district, for the storage of emergency portable classrooms.

(3) By the school district, or by any other public or private entity pursuant to agreement with the school district, for the operation of a child care program.

(f) Nonuse payments shall not be required for any year with respect to a schoolsite that was leased at least one-half of the days in that year in a manner that subjected the site to property taxes equal to the taxes that would have been paid if the site had been sold.

17220. If the State Allocation Board determines a school district to be exempt from the requirement to make nonuse payments for any year as to any schoolsite on any basis authorized under subdivision (e) or (f) of Section 17219, that exemption shall continue to apply to that schoolsite for each subsequent year for which the superintendent of the school district certifies to the State Allocation Board, on a timely basis, that the basis of exemption continues to exist.

17221. The amount of any nonuse payments required of any school district under Section 17219 shall be reduced, without regard to fiscal year, by the amount of the proceeds, resulting from the lease of district property that is subject to that section, that are expended by the district the payment of bond debt service costs that are directly related to the actual construction of school facilities.

17222. The Controller shall, during the next fiscal year following that in which the executive officer of the State Allocation Board certifies to him or her the amount of payment, deduct the total amount of the payment of each district in equal amounts from each of the February, March, April and May installments of the apportionments made to the district from the State School Fund under Sections 46304, 46305, and 41050, Sections 41330 to 41343, inclusive, and Sections 41600 to 41972, inclusive, whichever are in effect. However, in no event shall the deductions exceed an amount which would result in a district's receiving, in any school year, from the State School Fund, less than one hundred twenty dollars ($120) per pupil in average daily attendance in the district during the preceding school year. On order of the

Controller, the amount so deducted shall be transferred to the State School Site Utilization Fund which is hereby created.

17223. (a) Whenever a school district has either begun to use an unused site or has sold that site within two years of the date the Controller, pursuant to Section 17222, has deducted a certified nonuse payment from the district's State School Fund apportionment, the State Allocation Board shall certify that fact to the Controller. The Controller shall then cease to withhold any additional payments and shall return to the district from the State School Site Utilization Fund the payments, without interest, which had been withheld for the particular site during the prior fiscal year and the current fiscal year.

(b) If the school district begins to use or has sold the site more than two years after the aforesaid date, the State Allocation Board shall so certify to the Controller and no further payments shall be withheld as specified in Section 17222.

17224. Any funds in the State School Site Utilization Fund, including interest, which are not subject to return to a school district pursuant to Section 17223 shall revert to the General Fund.

Article 2. Disposal of Sites

17230. Notwithstanding the provisions of Article 4 (commencing with Section 17455) of Chapter 4 of this part and in addition to the requirements placed upon school districts pursuant to Section 54222 of the Government Code, the governing board of any school district may sell, for less than fair market value, any school site that is deemed to be surplus property of the district, to any park district, city, or county in which the school district is wholly or partially situated for use or partial use as park or recreational purposes or open-space purposes if the governing board adopts a resolution specifying that it will sell or transfer the property for less than fair market value to such an entity for that purpose. The offer to sell shall be made in writing, but the terms by which the

property may be sold or transferred need not be specifically provided.

17231. The sale or transfer may be made for cash and other valuable consideration, or for other valuable consideration, as deemed appropriate by the governing board of the school district. The sale or transfer may be made without first taking a vote of the electors of the district.

17232. A school district's offer to sell or transfer the land shall be made to all park districts, cities, and counties in which the school district is wholly or partially situated pursuant to this article and shall remain open for not less than 60 days. The sale or transfer shall be made to whichever public entity first accepts the offer, or whichever public entity can negotiate satisfactorily for the purchase or transfer of the surplus land.

17233. Notwithstanding Article 4 (commencing with Section 17455) of Chapter 4 of this part, Article 8 (commencing with Section 54220) of Chapter 5 of Part 1 of Division 2 of Title 5 of the Government Code, or any other provision of law, any unimproved real property that was acquired by a school district pursuant to Section 35270.5, which property the governing board of the school district has deemed to be surplus property of the district, may not be sold to any person or entity within 20 years of its acquisition by the district unless the district has first made a bona fide offer to sell the property to the person or entity that owned the property at the time of its acquisition by the district or, if applicable, offered to that person or entity a right of first refusal of any bona fide offer acceptable to the district made by another to purchase the property.

17234. The failure to comply with any provision of this article shall not invalidate any sale or transfer of real property to a purchaser or encumbrancer for value.

CHAPTER 2. NEW SCHOOLS RELIEF ACT OF 1979

17240. This chapter shall be known and may be cited as the New Schools Relief Act of 1979.

17241. The Legislature hereby finds and declares that because of the adoption of Article XIII A of the California Constitution, imposing limits on the ability of school districts to levy and collect property taxes, it is necessary to create new revenues for the construction of school facilities.

17242. It is the intent of the Legislature in enacting this chapter to provide opportunities for school districts, the state, and the private sector to cooperate to provide needed school facilities in growth impacted districts, and to facilitate innovative financing and other techniques for growth impacted districts to help meet new school construction needs.

17243. As used in this chapter:

(a) ''Board'' means the State Allocation Board.

(b) ''A school district with an anticipated increase in enrollment'' means a school district in which the level of enrollment is projected by the district to be higher during any of the five years, including the year in which the projection is made, than the year preceding the year in which the projection is made. Projections shall be made pursuant to regulations adopted by the board.

(c) ''Private developers'' means individuals or corporations owning land, facilities, or both; or, in the business of developing land for construction purposes, constructing facilities on developed land, or both.

17244. Notwithstanding any other provision of law, a school district with an anticipated increase in enrollment is authorized to lease land and facilities from a private developer with funds provided by one or more of the following sources, subject to regulations established by the board:

(a) Funds provided by the state for the purposes of school construction (1) in the Budget Act, (2) in separate legislation, (3) from the sale of bonds, the issuance of which was approved by the voters of the state prior to January 1, 1980, provided that the purposes for which the issuance of the bonds was approved encompassed the purposes of this section; or (4) from the sale of bonds, the issuance of which may be approved on or after January 1,

1980, by the voters of the state for the purposes of school construction, among other purposes.

(b) Funds the district has borrowed from the state and which the district is in the process of repaying, provided that nothing in this section shall be construed as terminating, delaying, or otherwise interrupting the district's schedule of repayments for the funds.

(c) Available capital reserves from the district's general fund or special funds of the district, provided the purposes of this section do not conflict with the purposes for which the funds may be used.

(d) Proceeds from the sale or lease of unneeded facilities, provided that nothing in this section shall be construed to have any of the following effects:

(1) To terminate, delay, or otherwise interrupt the schedule of regular repayments for the district's obligations to the state.

(2) To relieve the district from any obligation to the state, except to the degree that such district may retain that portion of the proceeds from the sale or lease of unneeded facilities necessary to lease land and facilities pursuant to this section.

(3) To permit the district to retain any proceeds otherwise owing to the state from the lease or sale of unneeded facilities in excess of the amount necessary to lease land and facilities pursuant to this section.

17245. Notwithstanding any other law, a school district with an anticipated increase in enrollment is authorized to construct school facilities authorized within state school building aid standards, and subject to regulations established by the board, with funds from the following sources:

(a) Available capital reserves from the district's general fund or special funds of the district, provided the purposes of this section do not conflict with the purposes for which the funds may be used.

(b) Proceeds from the sale or lease of unneeded facilities provided that nothing in this section shall be construed to have any of the following effects:

(1) To terminate, delay, or otherwise interrupt the schedule of regular repayments for the district's obligations to the state.

(2) To relieve the district from any obligation to the state, except to the degree that the district may retain that portion of the proceeds from the sale or lease of unneeded facilities necessary to construct facilities pursuant to this section.

(3) To permit the district to retain any proceeds otherwise owing to the state from the lease or sale of unneeded facilities in excess of the amount necessary to construct facilities pursuant to this section.

CHAPTER 3. CONSTRUCTION OF SCHOOL BUILDINGS

Article 1. State Department of Education: Powers and Duties

17251. The State Department of Education shall:

(a) Upon the request of the governing board of any school district, advise the governing board on the acquisition of new school sites and, after a review of available plots, give the governing board in writing a list of the recommended locations in the order of their merit, considering especially the matters of educational merit, safety, reduction of traffic hazards, and conformity to the land use element in the general plan of the city, county, or city and county having jurisdiction. The governing board may purchase a site deemed unsuitable for school purposes by the State Department of Education only after reviewing the department's report on proposed sites at a public hearing. The department shall charge the school district a reasonable fee for each school site reviewed not to exceed the actual administrative costs incurred for that purpose.

(b) Develop standards for use by a school district in the selection of schoolsites, in accordance with the objectives set forth in subdivision (a). The department shall investigate complaints of noncompliance with site selection standards and shall notify the governing board

of the results of the investigation. If that notification is received prior to the acquisition of the site, the governing board shall discuss the findings of the investigation in a public hearing.

(c) Establish standards for use by school districts to ensure that the design and construction of school facilities are educationally appropriate and promote school safety.

(d) Upon the request of the governing board of any school district, review plans and specifications for school buildings in the district.

The department shall charge governing boards of school districts, for the review of plans and specifications, a reasonable fee not to exceed the actual administrative costs incurred for that purpose.

(e) Upon the request of the governing board of any school district, make a survey of the building needs of the district, advise the governing board concerning the building needs, suggest plans for financing a building program to meet the needs. The department shall charge the district, for the cost of the survey, a reasonable fee not to exceed the actual administrative costs incurred for that purpose.

(f) Provide information relating to the impact or potential impact upon any school site of hazardous substances, solid waste, safety, hazardous air emissions, and other information as the department may deem appropriate.

17252. All money collected by the State Department of Education under the provisions of this article shall be available for the use of the department pursuant to appropriations for any use that may from time to time be made by the Legislature.

17253. (a) The Legislature finds and declares the following:

(1) The Department of Water Resources, pursuant to Division 3 (commencing with Section 6000) of the Water Code, exercises regulatory control over dam safety in the State of California.

(2) The department approves all plans and specifications, certifies that any dam is safe to impound

water, periodically inspects all dams for the continuing safety of all impounding structures, and may revoke any certification allowing impoundment of water if it is determined that the dam is a danger to life and property.

(b) If the Department of Water Resources has asserted and continues to exercise its regulatory control over the Domenigoni Valley Reservoir Project, the State Department of Education, when evaluating schoolsites, shall not require mitigation related to potential dam breach inundation of the Domenigoni Valley Reservoir Project.

Article 2. Plans

17260. As used in Sections 17260 to 17267, inclusive, ‘‘school buildings’’ refers to only one-story schoolhouses of not more than nine classrooms.

17261. The State Department of Education shall:

(a) Establish a pool of duplicate plans for school buildings appropriate for school districts in rural areas. The series shall be composed of plans designed to meet the requirements of school districts located in rural areas of varying characteristics. The plans may include landscape suggestions.

(b) Provide specifications for the design and construction of school buildings.

17262. Any school district may request sets of any plans and specifications appropriate for use in constructing a school building of the type desired by the district. The plans and specifications shall be furnished to the school district subject to the payment of the actual expense incurred by the State Department of Education, but the expense shall not exceed more than 2 percent of the total cost of the project. Any payments received for the plans and specifications shall be paid into the State Treasury to the credit of the General Fund.

17263. The plans and specifications for any school building as defined in Section 17283, together with estimates of cost, shall be submitted by the board to the Department of General Services for approval.

17264. (a) Commencing January 1, 1992, all plans and specifications for the construction of a new or modernized elementary school building shall be designed to provide appropriate space, consistent with the needs of the attendance area of the school, to accommodate before-school and after-school child care programs. The State Allocation Board may waive this requirement if it determines that the school district will experience an educational or financial hardship in this accommodation.

(b) For purposes of this section, first consideration in the design of space to be used for the before-school and after-school child care programs shall be within the multipurpose room.

(c) For purposes of this section, the terms ‘‘new construction’’ and ‘‘modernization’’ shall have the same meaning as those words are used in Chapter 12 (commencing with Section 17000) of Part 10.

(d) No funding shall be made available to any childcare program or facility pursuant to this chapter unless all of the following conditions are met:

(1) The program facility is open to children without regard to any child’s religious beliefs or any other factor related to religion.

(2) No religious instruction is included in the program.

(3) The space in which the program is operated is not utilized in any manner to foster religion during the time used for the program.

17265. All provisions of Sections 17280 to 17313, inclusive, are made applicable to school buildings as defined in Section 17283 constructed from plans and specifications furnished under Sections 17260 to 17267, inclusive, except as otherwise provided in the latter sections.

17266. The district shall furnish its own architect or structural engineer, or both, for necessary structural engineering and supervision of construction.

17267. The governing board of a school district shall, before letting any contract for the construction of a school building as defined in Section 17283 according to the plans and specifications, file a set of the plans and

specifications with the Department of General Services accompanied by a fee in the amount fixed by Section 17300.

17268. (a) The governing board of a school district shall not approve a project for the construction of a new school building, as defined in Section 17283, unless the project and its lead agency comply with the same requirements specified in subdivision (a) of Section 17213 for schoolsite acquisition.

(b) For purposes of this section, the acceptance of construction bids shall constitute approval of the project.

Article 3. Approvals

17280. (a) The Department of General Services under the police power of the state shall supervise the design and construction of any school building or, if the estimated cost exceeds twenty thousand dollars ($20,000), the reconstruction or alteration of or addition to any school building, to ensure that plans and specifications comply with the rules and regulations adopted pursuant to this article and building standards published in Title 24 of the California Code of Regulations, and to ensure that the work of construction has been performed in accordance with the approved plans and specifications, for the protection of life and property. Nothing in this section shall be construed to allow a school district to perform work with its own forces in excess of the limitations set forth in Sections 17595 and 17599. In calculating the cost of any project of reconstruction or alteration of, or addition to, any school building for the purpose of determining the applicability of the rules and regulations adopted pursuant to this article and building standards published in Title 24 of the California Code of Regulations, the Department of General Services shall not include, as an element of that cost, any expenses of air-conditioning equipment or insulation materials for that building, or of installing the equipment or materials.

(b) Whenever repairs due to fire damage, not including any damage caused by wind or earthquake, must be made to any school building previously approved by the Department of General Services, the approved plans and specifications used in the original work under then existing rules, regulations, and building standards may be used without modification, providing all other provisions of this article are carried out.

(c) Notwithstanding any other provision of law, no school district shall be authorized to construct or reconstruct any school building, regardless of the source of funding, unless and until the governing board of the district, by resolution, has indicated the agreement of the district that any school building construction or reconstruction that exceeds those construction cost and allowable area standards or any allowable building area computed for an attendance area pursuant to Section 17041 shall, in the event of the district's subsequent application for state funding for school facility construction, be deducted from the allowable building area for which the district would otherwise have been eligible, which restriction shall not be subject to waiver or exception as otherwise may be provided by law.

If it is determined that, for any reason, a school district failed to comply with the requirement of this section, the district shall not be eligible for any additional building area pursuant to Section 17049 and may be denied any time priority established for the particular project pursuant to Section 17016.

17281. This article, together with Article 6 (commencing with Section 17365), and Article 7 (commencing with Section 81130) of Chapter 1 of Part 49, shall be known and may be cited as the ''Field Act.''

17282. (a) It is the intent of the Legislature to expedite the repair, alteration, and reconstruction of school facilities that have been damaged or destroyed by fire, earthquake, flood, or other manmade or natural disasters, to return those school facilities to a condition that makes them useful to school districts in the least amount of time and at the lowest appropriate cost while

maintaining the integrity and safety of the structure as required by the laws of this state.

(b) Notwithstanding any other law, if a school facility has been damaged or destroyed by fire, earthquake, flood, or other manmade or natural disaster, all reviews or approvals required by this article shall be expedited. In no event shall any review or approval exceed 60 days, excluding weekends and holidays, from the date of receipt of all complete plans, specifications, and documentation for the facilities from the district.

(c) If, upon review, the plans or specifications require minor amendment or modification, these minor amendments or modifications shall not delay the completion of the review or approval beyond the 60-day requirement specified in subdivision (b) unless the amendment or modification constitutes a major substantive change affecting the entire project. While any minor amendments or modifications are being undertaken, the remainder of the project shall continue under review so that a timely and adequate review may be completed within the 60-day requirement of subdivision (b).

(d) A state agency that is required to perform any review or approval under this article may hire additional personnel or incur any additional costs necessary to perform the review or approval within the time limits set forth in this section and shall charge the district a fee not to exceed the actual cost of the review or approval.

(e) As used in this section, ‘‘damaged’’ means damages to the extent that occupancy is precluded based upon a report of an architect or a structural engineer and the concurrence of the Department of General Services in the report’s conclusion that the occupancy of the premises is precluded.

(f) The expedited review and approval required by this section shall not apply if the documents are not submitted within six months of the damage to, or destruction of, the facilities.

17283. ‘‘School building’’ as used in this article means and includes any building used, or designed to be used, for

elementary or secondary school purposes and constructed, reconstructed, altered, or added to, by the state or by any city or city and county, or by any political subdivision, or by any school district of any kind within the state, or by any regional occupational center or program created by or authorized to act by an agreement under joint exercise of power, or by the United States government, or any agency thereof.

17284. Any school building, as defined in Section 17283, operated by a county official, board, or commission which on the effective date of this section is in violation of this article, if compliance therewith was otherwise required, may be continued in use as a school building after June 30, 1975, provided that no building shall be operated after that date unless the county official, board, or commission requests and obtains from the State Allocation Board authority for use of the building for a specific period after that date.

Concurrent with the request the county official, board, or commission shall file with the State Allocation Board a statement or resolution declaring an intention to utilize the building as a school building after June 30, 1975, pending its repair, reconstruction, or replacement.

The State Allocation Board shall not authorize the county official, board, or commission to use the building after June 30, 1975, unless it has first determined that the affected authority has already proceeded with a plan of total repair, reconstruction, or replacement in a timely manner and the contract has been let for any phase of, and work commenced on, the project.

In no event shall the State Allocation Board authorize the use of these unsafe facilities for a period extending beyond the completion of the replacement facilities or beyond June 30, 1977, whichever occurs first.

17285. (a) Notwithstanding any provision of law except Sections 17286, 17287, and 17405, a leased building that does not meet the requirements of Section 17280 may not be used as a school building, as defined in Section 17283, after September 1, 1990.

(b) Notwithstanding any other provision of law, a building leased pursuant to Section 17280 may be used after September 1, 1991, as a regional occupational center or program that does not meet the requirements of Section 17280, provided the building satisfies all of the following conditions:

(1) The facility is one of the following:

(A) A single story, wood-framed structure.

(B) A single story, light steel frame structure.

(C) A structure for which a structural engineer has submitted a report that certifies that substantial structural hazards do not exist, as to that structure. The governing board of the regional occupational center or program, as provided for under Section 52310.5, shall review the report prior to approval of the lease and may reject the report if there is any evidence of fraud regarding the facts in the report.

(2) The building or structure complies with all applicable local building standards and all applicable local health and safety standards in the community in which it is located.

(3) The governing board of the regional occupational center or program, as provided for under Section 52310.5, certifies to the State Allocation Board that reasonable efforts have been made to locate the regional occupational center or program in facilities that conform to the seismic safety standards set forth in Part 2 (commencing with Section 2-101), Part 3 (commencing with Section 3-089-1), Part 4 (commencing with Section 4-403), and Part 5 (commencing with Section 5-102), of Title 24 of the California Code of Regulations.

(c) On or before September 1, 1994, and every three years thereafter, each governing board of a regional occupational center or program shall report to the State Allocation Board on the facilities utilized for the operation of that center or program and on efforts to place the center or program in facilities that conform to the seismic safety standards described in paragraph (3) of subdivision (b).

17286. Where the primary use of either a building or complex within which the building is situated, operated by an official or board of a city, city and county or county, is for purposes other than educational, such as, but not limited to, correctional, forestry, or hospital purposes, the building shall not be considered to be a ‘‘school building’’ within the meaning of Section 17283 notwithstanding any educational use thereof incidental to the primary purpose.

17287. For the purposes of this article and Article 6 (commencing with Section 17365), ‘‘school building’’ does not include (a) any building of a school district or county superintendent of schools which is used solely for classes or programs in outdoor science, conservation, and forestry in accordance with Article 5 (commencing with Section 8760) of Chapter 4 of Part 6 and which does not occupy, in whole or in part, the same parcel of land upon which there is situated any school maintained by the district or county superintendent, or (b) agricultural education laboratory facilities used primarily for plant and animal production or the storage of materials, equipment, and supplies involved in this production.

17288. (a) Notwithstanding Section 17285, any high school pupil who attends a class or classes on a campus of the University of California or the California State University in order to receive specialized educational services and opportunities authorized by Chapter 6 (commencing with Section 58800) of Part 31 and any adult attending a special education program established pursuant to Part 30 (commencing with Section 56000), is considered a pupil of that campus for the purposes of Article 3 (commencing with Section 17280) of Chapter 3 of Part 10.5. Any building or structure or portion of building or structure that pupils occupy pursuant to this section shall not be considered ‘‘school buildings’’ within the meaning of Section 17283.

(b) The governing board of each school district, each county board of education, or each county superintendent of schools, as appropriate, shall notify, in writing, the parent or guardian of each high school pupil

who attends a class or classes authorized by Chapter 6 (commencing with Section 58800) of Part 31 and each adult attending a special education program established pursuant to Part 30 (commencing with Section 56000), prior to the pupil's attendance at the class on a university campus that, although University of California and California State University buildings are required to conform to the rigorous standards of the Uniform Building Code (UBC), the buildings on the university campuses may not meet the requirements of Article 3 (commencing with Section 17280) of Chapter 3 of Part 10.5. This notice shall accompany, to the greatest extent possible, any existing notification to parents or guardians regarding specialized educational services and opportunities.

17289. In order to provide alternative, community-based educational opportunities through independent study, any school district or county office of education may request an exemption from the State Allocation Board for a building or structure, or portion of a building or structure, from the definition of ''school buildings'' within the meaning of Section 17283. The exemptions may be granted for no longer than two years and exemptions are renewable. An exemption may only be granted if the school district or county office of education demonstrates to the satisfaction of the State Allocation Board all of the following:

(a) The building or structure, or portion of building or structure, satisfies all of the following:

(1) It is not located on a regular schoolsite.

(2) It complies with all applicable local building standards and all relevant local health and safety standards in the community in which it is located.

(3) It is used for independent study.

(4) It serves fewer than 25 pupils enrolled in kindergarten or any of the grades 1 to 12, inclusive, at any one time in the building or structure, or in a portion of a building or structure where the remainder of the building or structure is not used for instructional purposes.

(b) The use of the building or structure is critical to providing an effective alternative, community-based program.

(c) The use of other buildings or structures that would meet seismic safety standards for school facilities is not practical.

17290. (a) An owned relocatable building or structure that is to be used for school purposes shall be subject to the provisions of Article 3 (commencing with Section 17280) and Article 6 (commencing with Section 17365). The governing board of a school district may request and obtain from the State Allocation Board a one-time waiver of Article 3 (commencing with Section 17280) and Article 6 (commencing with Section 17365) for a maximum of three years upon presentation of satisfactory evidence to the State Allocation Board that the district is proceeding in a timely manner with a program that will eliminate the need for the owned relocatable facilities within that time period.

(b) Notwithstanding subdivision (a), a waiver granted to a school district pursuant to that subdivision prior to January 1, 1993, may be renewed by the State Allocation Board for one additional period of no more than three years, not extending past September 30, 1996. However, any waiver granted to a school district that will expire on or before September 30, 1996, is hereby extended until September 30, 1997.

(c) This section applies only to relocatable buildings or structures owned by school districts on or before April 17, 1990, and does not authorize school districts to purchase relocatable buildings or structures to be used for school purposes which do not comply with the provisions of Article 3 (commencing with Section 17280) and Article 6 (commencing with Section 17365) of this chapter.

(d) This section shall remain in effect only until September 30, 1997, and as of that date is repealed, unless a later enacted statute, that is enacted before September 30, 1997, deletes or extends that date.

17291. (a) An owned relocatable building or structure that is to be used for school purposes shall be

subject to the provisions of Article 3 (commencing with Section 17280) and Article 6 (commencing with Section 17365).

(b) This section shall become operative on September 30, 1997.

17292. (a) Notwithstanding any provision of law, an owned or leased relocatable building that does not meet the requirements of Section 17280 may be used as a school building through September 30, 2007, if all of the following conditions are met:

(1) The relocatable building is a single story structure with not more than 2,160 square feet of interior floor area when all sections are joined together.

(2) The relocatable building was constructed after December 19, 1979, and bears a commercial coach insignia of approval from the Department of Housing and Community Development.

(3) The bracing and anchoring of interior overhead nonstructural elements, such as light fixtures and heating and air-conditioning diffusers, and the foundation system complies with the applicable rules and regulations adopted pursuant to this article and published in Title 24 of the California Code of Regulations.

(4) The building construction, including associated site construction, except for the relocatable building defined in paragraph (2), complies with the applicable rules and regulations adopted pursuant to this article, Sections 4450 to 4458, inclusive, of the Government Code, and Section 13143 of the Health and Safety Code and the administrative and building standards published in Title 19 and Title 24 of the California Code of Regulations.

(5) The Department of General Services has issued a certification of compliance with the requirements of this article.

(6) The relocatable building was in use for classroom purposes on or before September 30, 1997.

(b) The Department of General Services may assess fees to carry out the requirements of this section. Fees imposed pursuant to this subdivision shall be equal to the costs associated with making the certifications and

inspections required by, and otherwise enforcing, this section and shall be deposited in the Public School Planning, Design, and Construction Review Revolving Fund.

(c) (1) Any relocatable building that has received a certification of compliance from the Department of General Services pursuant to subdivision (a) shall be reinspected for structural integrity by the Division of the State Architect by December 31, 2002.

(2) Notwithstanding paragraph (1), any relocatable building that has been moved from one site to another site and was inspected between the years 2000 and 2002, inclusive, is exempt from the requirements of paragraph (1).

(d) On or before September 30, 2007, the governing board of the school district shall certify to the State Allocation Board by resolution that the relocatable building is no longer being used as a school building.

17292.5. (a) If the governing board of a school district operates a program for expelled pupils, the governing board shall do one or more of the following:

(1) Utilize available school facilities that conform to the requirements of Part 2 (commencing with Section 2-101), Part 3 (commencing with Section 3-089-1), Part 4 (commencing with Section 4-403), and Part 5 (commencing with Section 5-102), of Title 24 of the California Code of Regulations.

(2) Apply for emergency portable classrooms pursuant to Chapter 25 (commencing with Section 17085) of Part 10.

(3) Enter into lease agreements for facilities, provided that the facilities are limited to a structure where a structural engineer has submitted a report that determines substantial structural hazards do not exist.

(b) Before entering into any lease pursuant to paragraph (3) of subdivision (a), the governing board of the school district shall certify to the State Allocation Board that all reasonable efforts have been made to locate the program in facilities that conform to the structural safety standards listed in paragraph (1) of subdivision (a).

(c) On or before September 1, 1996, and every three years thereafter, each school district shall report to the State Allocation Board on the facilities utilized for the operation of these programs and efforts to place programs in facilities that conform with the requirements of Part 2 (commencing with Section 2-101), Part 3 (commencing with Section 3-089-1), Part 4 (commencing with Section 4-403), and Part 5 (commencing with Section 5-102), of Title 24 of the California Code of Regulations.

17293. (a) On or after January 1, 1993, if a county superintendent or school district elects to operate a new or expanded pregnant and parenting teen program pursuant to Chapter 6.5 (commencing with Section 8910) of Part 6, the county superintendent or school district may enter into lease agreements for school facilities as set forth in subdivision (b), if both of the following conditions are met:

(1) All available school facilities that conform to the requirements of Article 3 (commencing with Section 17280) and Article 6 (commencing with Section 17320) have been utilized.

(2) If facilities meeting the requirements of paragraph (1) are not available, the school district or county superintendent of schools has applied to lease or purchase emergency portable classrooms pursuant to Chapter 14 (commencing with Section 17085) of Part 10 and the application was either not approved, or the portable classrooms approved will not meet the needs of the county superintendent of schools or the school district.

(b) Notwithstanding any other provision of law, the county superintendent or the school district may enter into lease agreements as follows:

(1) The lease may be for a period of up to five years if a report and certification of safety is prepared by a structural engineer that verifies that the building meets local safety standards and that substantial structural hazards do not exist. The county board of education or school district governing board, as the case may be, shall review the report and certification prior to the approval

of the lease and may reject the report if there is evidence of fraud regarding the facts in the report.

(2) Before entering into any lease, the county superintendent or the school district shall certify that all reasonable efforts have been made to locate programs in facilities that conform to paragraph (1) or (2).

17294. ‘‘Construction or alteration’’ as used in this article includes any construction, reconstruction, or alteration of, or addition to, any school building.

17295. The Department of General Services shall pass upon and approve or reject all plans for the construction or, if the estimated cost exceeds twenty thousand dollars ($20,000), the alteration of any school building. To enable it to do so, the governing board of each school district and any other school authority before adopting any plans for such school building shall submit the plans to the Department of General Services for approval, and shall pay the fees prescribed in this article.

Where the estimated cost of an alteration exceeds ten thousand dollars ($10,000) but does not exceed twenty thousand dollars ($20,000), a structural engineer shall examine the proposed project to determine if it is a nonstructural alteration or a structural alteration. If he or she determines that the project is a nonstructural alteration, he or she shall prepare a statement so indicating. If he or she determines that the project is structural, he or she shall prepare plans and specifications for the project and shall observe the work of construction. A copy of the engineer’s report stating that the work does not affect structural elements, or a copy of the plans and specifications for structural work, as the case may be, shall be filed with the Department of General Services.

17296. Notwithstanding any other provision of law, any school-based facility providing social services or support services, or health care, that is established through agreements with local governments and school districts pursuant to Chapter 5 (commencing with Section 8800) of Part 6 or as part of an integrated children’s services program pursuant to Chapter 12.9 (commencing with Section 18986.40) of Part 6 of Division

9 of the Welfare and Institutions Code, respectively, is located on school property, and meets all the requirements of the Uniform Building Code and has been approved by the building department of the appropriate local jurisdiction, as well as those of the appropriate local jurisdiction, shall not be required to obtain approval of plans by the Department of General Services pursuant to Section 17295.

17297. Except as provided in Section 17298, before letting any contract for any construction or alteration of any school building, the written approval of the plans, as to safety of design and construction, by the Department of General Services, shall be first had and obtained.

17298. Before the commencement of any fabrication, construction, or alteration of a relocatable school building of a type previously approved by the Department of General Services, the written approval of the plans, as to the safety and design of construction, by the Department of General Services, shall be first had and obtained.

17299. In each case the application for approval of the plans shall be accompanied by the plans and full, complete, and accurate specifications, and structural design computations, and estimates of cost, which shall comply in every respect with any and all requirements prescribed by the Department of General Services.

17300. (a) The application shall be accompanied by a filing fee in amounts as determined by the Department of General Services based on the estimated cost of the work described in subdivision (a) of Section 17280, according to the following schedule:

(1) For the first one million dollars ($1,000,000), a fee of not more than 0.7 percent of the estimated cost.

(2) For all costs in excess of one million dollars ($1,000,000), a fee of not more than 0.6 percent of the estimated cost.

The minimum fee in any case shall be two hundred fifty dollars ($250). If the actual cost exceeds the estimated cost by more than 5 percent, a further fee shall be paid to the Department of General Services, based on the above

schedule and computed on the amount by which the actual cost exceeds the amount of the estimated cost.

(b) The fees determined pursuant to subdivision (a) shall be paid in two installments, as specified by the Department of General Services. The first installment shall be in an amount equal to 70 percent of the estimated cost calculated under subdivision (a), and shall be paid at the time the application is submitted to the department. The second installment shall be in an amount equal to 30 percent of the estimated cost calculated under subdivision (a), and shall be paid no later than five working days after the applicant accepts the bids for construction of the project for which the fees are paid. This subdivision shall become operative January 1, 1994.

(c) The fee shall be paid to the Department of General Services, including, but not limited to, a case in which the application is referred under Section 17306 to a qualified plan review firm.

17301. (a) All fees received by the Department of General Services pursuant to this chapter shall be paid into the State Treasury and credited to the Public School Planning, Design, and Construction Review Revolving Fund, which is hereby created. Notwithstanding Section 13340 of the Government Code, all moneys in the fund are hereby continuously appropriated for expenditure by the Department of General Services to be applied, in the most efficient and expeditious manner possible, to the expenses associated with the review and approval of plans and specifications, and the supervision of public school building construction, pursuant to this article and Article 5 (commencing with Section 17350). The fees paid into the fund shall not be used for or diverted to any other program or purpose. Notwithstanding any other provision of law, any moneys in the Architecture Public Building Fund on the effective date of this section thereupon shall be transferred to the Public School Planning, Design, and Construction Review Revolving Fund for expenditure in accordance with this section.

Adjustments in the amounts of the fees, as determined by the Department of General Services, may be made by

the department within the limits set forth in Sections 17300 and 17352 in order to maintain a reasonable working balance in the fund.

(b) The Department of Finance shall provide for the audit of the fund as needed to ensure that it is used solely for the purposes of this article and that the amount of the fee charged does not exceed what is necessary to cover the costs realized by the Department of General Services in carrying out its responsibilities pursuant to this article. The actual cost of the audit shall be paid from the fund.

17302. (a) Except as provided in subdivision (b), all plans, specifications, and estimates shall be prepared by a licensed architect holding a valid certificate under Chapter 3 (commencing with Section 5500) of Division 3 of the Business and Professions Code or by a structural engineer holding a valid certificate to use the title structural engineer under Chapter 7 (commencing with Section 6700) of Division 3 of the Business and Professions Code, and the observation of the work of construction shall be under the responsible charge of such an architect or structural engineer.

(b) For the purposes of this section, a mechanical or electrical engineer holding a valid certificate under Chapter 7 (commencing with Section 6700) of Division 3 of the Business and Professions Code may be in responsible charge of preparation of plans, specifications, and estimates, and observation of the work of construction where the work is, as determined by the Department of General Services, of the kind normally performed by engineers certified in the particular branch of engineering for which the engineer is certified. Any architectural or structural work involved shall be the respective responsibility of a licensed architect holding a valid certificate under Chapter 3 (commencing with Section 5500) of Division 3 of the Business and Professions Code, or a structural engineer holding a valid certificate to use the title structural engineer under Chapter 7 (commencing with Section 6700) of Division 3 of the Business and Professions Code.

17303. (a) The Department of General Services shall establish one or more methods to ensure that each application has been completed sufficiently by the applicant to enable the plan review to be performed.

(b) Upon receipt of a complete application, the Department of General Services shall inform the applicant of the period of time that it anticipates to elapse prior to commencing review of the applicant's plans. As necessary to ensure that this period of time does not exceed an average, as calculated for each quarter of the calendar year, of 15 working days, the department shall do one or more of the following:

(1) Contract for assistance from one or more qualified plan review firms pursuant to Section 17305.

(2) Employ additional staff on a temporary basis.

(3) Maximize the use of department staff through the use of overtime or other appropriate means.

(4) Any other action determined by the department to have the effect of expediting the review and approval process.

(c) Each application shall identify, for purposes of receiving the notifications required under this subdivision, an employee of the applicant school district and either the applicant's architect or structural engineer. The Department of General Services immediately shall notify that employee, and the identified architect or structural engineer, when each of the following steps in the plan review process occurs:

(1) The department requests the applicant's architect or structural engineer to correct or complete any part of the application.

(2) An application number is assigned to the application.

(3) Review of the applicant's plans is commenced.

(4) Review of the applicant's plans is completed and the department returns the plans to the architect or structural engineer for correction.

(5) Corrected plans are returned to the department by the applicant's architect or structural engineer for final review and approval.

(6) The department approves the plans and causes a final record set of the plans to be printed in accordance with Section 17304.

(d) The Department of General Services may provide additional notifications to applicants as it deems necessary.

17304. (a) Upon approving the plans submitted by an applicant pursuant to this article, the Department of General Services shall cause a final record set of the plans to be printed. The department may contract with one or more private entities to perform that printing at one or more of the regional area offices of the department. The costs incurred pursuant to this subdivision shall be paid by the applicant.

(b) No later than five working days after approving plans submitted by an applicant pursuant to this article, the department shall issue a final letter of approval to the applicant.

17305. (a) Notwithstanding Section 14952 of the Government Code, the Department of General Services may contract with one or more qualified plan review firms for assistance in performing the plan review required under this article or Article 5 (commencing with Section 17350).

(b) For purposes of this article, ‘‘qualified plan review firm’’ means an individual or firm that is identified by the Department of General Services as having appropriate expertise and knowledge of the requirements that apply to school buildings under this article. The department shall establish and maintain a list of the individuals and firms so identified, and shall make that list available, upon request, to school districts and other interested parties.

17306. (a) Upon submitting a complete application for review under this article, the applicant may request that the Department of General Services refer the documents necessary for the review of that application to a qualified plan review firm operating under contract with the department pursuant to Section 17305. The department immediately shall grant the request if it anticipates that more than 15 working days will elapse

prior to its commencing the review of the applicant's plans. In addition, if more than 15 working days elapse after the applicant submits the complete application before the department commences review, the department immediately shall refer the necessary documents to a qualified plan review firm if the applicant so requests.

Upon completing the review, the qualified plan review firm shall submit the documents referred to it for the review of the application, together with the results of its review, to the Department of General Services.

(b) The Department of General Services shall establish a procedure governing the use by applicants of the review process alternative described in this section, including, but not limited to, provisions restricting the use of qualified plan review firms on the basis of conflict of interest.

17307. No contract for the construction or alteration of any school building, made or executed by the governing board of any school district or other public board, body, or officer otherwise vested with authority to make or execute a contract, is valid, and no public money shall be paid for any work done under a contract or for any labor or materials furnished in constructing or altering any building, unless the plans, specifications, and estimates comply in every particular with the provisions of this article and the requirements prescribed by the Department of General Services and unless the approval thereof in writing has first been had and obtained from the Department of General Services.

17308. (a) The Legislature finds and declares that a number of serious discrepancies in the interpretation of the structural standards and architectural barrier requirements that apply to school buildings under this chapter, and of the plan review procedures that apply under this chapter, exist within the Department of General Services, and within and between various firms utilized by the department on a contract basis, applicant school districts, and architects and structural engineers utilized by applicant school districts.

(b) The Department of General Services shall provide training, on an ongoing basis, to its employees and to the employees of architectural and structural engineering firms that contract with the department for the purposes of this chapter. The training shall address all phases of the plan review process established under this chapter, and shall be designed to ensure that all individuals who develop and review school building plans obtain sufficient knowledge of the rules, regulations, and standards that apply under this chapter.

(c) The department shall make the training described in subdivision (b) available to the employees of architectural and structural engineering firms that contract with applicant school districts for the purpose of this chapter, and to any other individuals, firms, and government agencies that are involved in school building design, construction, or inspection and that may benefit from the training. The department may charge a fee for training provided pursuant to this subdivision.

(d) The department shall develop and publish interpretations of the structural standards, architectural barrier requirements, and review procedures referred to in subdivision (a) as may be necessary to remedy the interpretational discrepancies described in that subdivision. These interpretational materials shall be updated at least annually.

17309. From time to time, as the work of construction or alteration progresses and whenever the Department of General Services requires, the licensed architect or structural engineer in charge of observation of construction or registered engineer in charge of observation of other work, the inspector on the work, and the contractor shall each make to the Department of General Services a report, duly verified by him or her, upon a form prescribed by the Department of General Services, based upon his or her own personal knowledge, indicating that the work during the period covered by the report has been performed and materials have been used and installed, in every material respect, in compliance with the approved plans and specifications, setting forth

such detailed statements of fact as are required by the Department of General Services.

The term ‘‘personal knowledge’’ as used in this section and as applied to the architect, and the registered engineer, means the personal knowledge which is obtained from periodic visits to the project site of reasonable frequency for the purpose of general observation of the work, and also which is obtained from the reporting of others as to the progress of the work, testing of materials, inspection and superintendence of the work that is performed between the above-mentioned periodic visits of the architect or the registered engineer. The exercise of reasonable diligence to obtain the facts is required.

The term ‘‘personal knowledge’’ as applied to the inspector means the actual personal knowledge which is obtained from his or her personal continuous inspection of the work of construction in all stages of its progress at the site where he is responsible for inspection and, when work is carried out away from the site, that personal knowledge which is obtained from the reporting of others on the testing or inspection of materials and workmanship for compliance with plans, specifications or applicable standards. The exercise of reasonable diligence to obtain the facts is required.

The term ‘‘personal knowledge’’ as applied to the contractor means the personal knowledge which is obtained from the construction of the building. The exercise of reasonable diligence to obtain the facts is required.

17310. Except as provided in Section 18930 of the Health and Safety Code, the Department of General Services may from time to time make such rules and regulations as it deems necessary, proper, or suitable to carry out the provisions of this article.

The Department of General Services shall adopt and submit building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 of Division 13 of the Health and Safety Code for the purposes described in this article.

17311. The Department of General Services shall make such inspection of the school buildings and of the work of construction or alteration as in its judgment is necessary or proper for the enforcement of this article and the protection of the safety of the pupils, the teachers, and the public. The school district, city, city and county, or the political subdivision within the jurisdiction of which any school building is constructed or altered shall provide for and require competent, adequate, and continuous inspection during construction or alteration by an inspector satisfactory to the architect or structural engineer and the Department of General Services. The inspector shall act under the direction of the architect or structural engineer as the board may direct, and be responsible to the governing board.

17312. Any person who violates any of the provisions of this article or makes any false statement in any verified report or affidavit required pursuant to this article is guilty of a felony.

17313. Upon written request by the governing board of any school district or upon written request by at least 10 percent of the parents having children enrolled as pupils in any school district as certified to by the county superintendent of schools, the Department of General Services shall make an examination and report on the structural condition of any public school building of the district, subject to the payment by the governing board of the actual expenses incurred by the Department of General Services. Payment of the expenses may be waived by the Department of General Services on recommendation of the State Superintendent of Public Instruction when it appears to him or her that the school district in which the public school building is located cannot afford to pay them.

17314. Any public school building which has been approved by the Department of General Services (formerly Division of Architecture) for occupancy shall be deemed to meet the local building requirements for use as a private school.

17315. (a) When a school building constructed in accordance with plans and specifications approved by the Department of General Services is completed, the notice of completion is filed, and all final verified reports and all testing and inspection documents, as required by this article or as required by the rules and regulations adopted pursuant to this article, are submitted to and on file with the Department of General Services, and all required fees paid by the school district, the department shall issue a certification that the school building complies with the requirements of this article. Nothing in this article shall prevent beneficial occupancy by a school district prior to the issuance of this certification.

(b) When a school building, constructed in accordance with approved plans and specifications, is completed but final verified reports, as are required under Section 39151, have not been submitted to the Department of General Services due to the incapacitating illness, death, or the default of any persons required to file such reports, the Department of General Services shall, upon written request of the school district, review all of the project records and make such examinations as it deems necessary to enable it to certify that the school building otherwise complies with the requirements of this article. The Department of General Services may request the school district to have made, reported, and verified any other tests and inspections which the department deems necessary to complete its examinations of the construction.

(c) The costs incurred by the Department of General Services in connection with this section shall be paid by the school district. The actual costs to perform the examinations, tests, and inspections shall be an appropriate cost of the project to be paid from the building funds of the district. Certification of the project by the Department of General Services shall be withheld until all the costs have been paid by the school district.

(d) This section shall not relieve any individual of his or her responsibility to file verified reports, as required in Section 17309, or any other documents required by the

rules and regulations adopted pursuant to this article. This section shall not abrogate the provisions of Section 17312.

17316. Any contract entered into by and between the governing board of any school district and any certified architect or structural engineer pursuant to Section 39148 shall provide that all plans, specifications and estimates prepared pursuant thereto shall be and remain the property of the school district.

Article 3.5. Earthquake Construction of Private Schools

17320. This article shall be known and may be cited as the Private Schools Building Safety Act of 1986.

17321. The Legislature finds and declares all of the following:

(a) Most of California is subject to potentially devastating, large-magnitude earthquakes.

(b) Earth scientists estimate that there is a greater than 50-percent probability that one or more damaging earthquakes will occur in California between now and the end of the century.

(c) Not all students of private schools enjoy the same or equivalent earthquake safety as is afforded to students of public schools by the Field Act and other legislation.

(d) Modifications of building design, plan checking, and inspection procedures can offer increased protection to private school students.

17322. It is the intent of the Legislature that children attending private schools be afforded life safety protection similar to that of children attending public schools by having all of the following:

(a) Private school structures designed and constructed in a manner that minimizes fire hazards and resists the forces generated by earthquakes, gravity, and winds to the extent necessary to ensure the safety of occupants.

(b) The structural systems and details set forth in working drawings and specifications carefully reviewed

by responsible enforcement agencies using qualified personnel, and the construction process carefully inspected.

(c) Procedures for the design and construction of private school structures to be subjected to qualified design review and construction inspection.

(d) Nonstructural components, including, but not limited to, ceiling systems, electrical equipment, and mechanical equipment given adequate consideration during the design and construction process to assure that they will not detract from occupant safety in the event of an earthquake.

17323. For the purposes of this article:

(a) ‘‘Construction or alteration’’ means any construction of, addition to, reconstruction of, or structural alteration to any private school structure.

(b) ‘‘Enforcement agency’’ means the agency of a city, city and county, or county responsible for building safety within its jurisdiction.

(c) ‘‘Private school structure’’ means any building used for educational purposes through the 12th grade by 50 or more persons for more than 12 hours per week or 4 hours in any one day. Any structure owned or operated by a public school district shall not be affected by this article.

(d) ‘‘Structural engineer’’ means a person authorized to use the title of structural engineer under Chapter 7 (commencing with Section 6700) of Division 3 of the Business and Professions Code.

(e) ‘‘Engineer of record’’ means the architect, if no structural engineer or civil engineer has been retained for the structural design.

(f) ‘‘Electrical engineer’’ means an electrical engineer, as defined in Section 6702.1 of Chapter 7 of Division 3 of the Business and Professions Code.

(g) ‘‘Mechanical engineer’’ means a mechanical engineer, as defined in Section 6702.2 of Chapter 7 of Division 3 of the Business and Professions Code.

(h) ‘‘Qualified inspector’’ means a person who is currently certified by the International Conference of

Building Officials or who has demonstrated his or her competence to the satisfaction of the enforcement agency as having expertise and experience in the particular type of construction or operation requiring inspection.

17324. The appropriate enforcement agency that meets the requirements of Sections 17331 and 17332 shall review the design and inspect the construction, reconstruction, structural alteration, or addition to any private school structure to the extent necessary to ensure that drawings and specifications comply with the applicable sections of the Uniform Building Code and to ensure that construction work has been performed in accordance with the approved drawings and specifications, and the provisions of this article.

17325. Private school structures of one-story Type V and Type II N Construction, as defined by the Uniform Building Code, that are 2,000 square feet or less in floor area are exempt from the provisions of this article.

17326. (a) Prior to adopting any drawings or specifications for the private school structure, the governing board, authority, owner, corporation, or other agency proposing to construct any private school structure shall submit the design calculations, drawings, and specifications of the private school structure to the appropriate enforcement agency. The enforcement agency shall stamp the drawings and specifications if the construction or alteration is approved by the enforcement agency. Included with the stamp shall be the signature of the qualified person referred to in Sections 17333 and 17334.

(b) The provisions of this section are not applicable to private school construction or alteration contracts entered into prior to July 1, 1987.

17327. The application for approval of the drawings and specifications for private school structures shall be accompanied by comprehensive and complete drawings, design calculations, specifications, and a soil analysis at a level of detail appropriate to the proposed structure and site, all of which shall comply with the requirements

prescribed by the enforcement agency. This review shall not preclude incremental submission and approval of drawings and specifications.

17328. The enforcement agency shall approve or reject all drawings and specifications for the construction or alteration of private school structures and in doing so shall review the submitted design calculations, drawings, and specifications to ensure compliance with the requirements of this article. A record shall be kept by the enforcement agency indicating that design calculations, drawings, and specifications have been reviewed and conform with the applicable sections of the Uniform Building Code.

17329. All drawings and specifications shall be prepared under the responsible charge of an architect, civil engineer, or structural engineer, who shall sign all drawings and specifications that are to be approved by the enforcement agency. Observation of the work of construction shall be under the general responsible charge, as defined by Section 6703 of Chapter 7 of Division 3 of the Business and Professions Code, of the architect, civil engineer, or structural engineer who signed the drawings, except that drawings and specifications not involving architectural or structural conditions may be prepared and the construction work may be administered by a registered professional engineer qualified in the branch of engineering that is appropriate to the drawings, specifications, estimates, and construction work.

If the architect, civil engineer, or structural engineer is unable to exercise general responsible charge of construction another architect, civil engineer, or structural engineer shall be retained to exercise general responsible charge of construction.

17330. Except as provided in Section 17326, on or after July 1, 1987, construction of a private school structure shall not commence unless the structure's drawings and specifications comply with the provisions of this article and the requirements prescribed by the enforcement

agency, and approval of those drawings and specifications has been obtained from the enforcement agency.

17331. During construction or alteration of a private school structure, the building owner shall provide for, and the local enforcement agency shall require, special inspection by a qualified inspector when needed, as determined by the local enforcement agency. Continuous inspection is not required.

17332. An enforcement agency is qualified to undertake the review of plans, drawings, and specifications for a private school structure if the enforcement agency has a structural engineer, either on its staff or under contract, that is responsible for all design review conducted by the enforcement agency and the record prepared under Section 17328.

17333. A jurisdiction whose enforcement agency does not meet the qualifications specified in Sections 17331 and 17332 shall obtain necessary qualified personnel to meet the requirements of this article by contracting with other public agencies, private sector firms, or individuals qualified to perform the necessary services.

17334. During the construction of a private school structure, the enforcement agency shall require the engineer of record responsible for the structural design, or that engineer's authorized representative, to make periodic reviews of construction at the construction site to observe compliance with the approved structural plans, specifications, and change orders. The engineer of record in general responsible charge of the work of construction, and the registered professional engineer shall make a report, duly verified by him or her through periodic review of construction, showing that the work done during the period covered by the report has been performed and that the materials used and installed are in accordance with the approved drawings and specifications. Any detailed statements of fact required by the enforcement agency shall be included. These observations and statements shall not be relied upon by others as acceptance of the work, nor shall they be construed to relieve the contractor in any way of his or

her obligations and responsibilities under the construction contract.

‘‘Periodic review of construction,’’ as used in this section and as applied to the architect, civil engineer, structural engineer, or the registered professional engineer, means the knowledge that is obtained from periodic visits of reasonable frequency to the project site for the purpose of general observation of the work. It also means the knowledge that is obtained from the reporting of others as to the progress of the work, testing of materials, inspection, and superintendence of the work that is performed between those periodic visits of the architect, civil engineer, or structural engineer, or the registered engineer. The exercise of reasonable diligence to obtain the facts is required. ‘‘Periodic review of construction’’ does not include responsiblity for superintendence of construction processes, site conditions, operations, equipment, personnel, or maintenance of a safe place to work or any safety in, on, or about the site of work.

17335. Prior to the issuance of a Certificate of Occupancy, the engineer of record shall state in writing to the enforcement agency that, in exercising his or her reasonable professional judgment and to the best of his or her knowledge, information, and belief, the private school structure was constructed in substantial conformity with the approved plans and specifications.

17336. Any person who willfully violates this chapter is guilty of a misdemeanor.

Article 4. Building Schoolhouses

17340. The governing board of any school district may, and when directed by a vote of the district shall, build and maintain a schoolhouse.

17342. The governing board of any school district, whenever in its judgment it is desirable to do so, may establish additional schools in the district.

17343. The governing board of any school district may purchase property and construct and equip buildings in

an area after the legal action has been taken that will result in annexation of the area to the school district, but before the annexation has become effective.

Article 5. Factory-Built School Buildings

17350. It is the intent of this article to provide an alternative procedure to Article 3 (commencing with Section 17280) for the construction and installation of factory-built school buildings not over 1,000 square feet in area designed or intended for use as school buildings. As used in this article, a ‘‘factory-built building’’ means any building designed or intended for use as a school building which is either wholly manufactured or is in substantial part manufactured at an offsite location in accordance with building standards adopted and approved pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 of Division 13 of the Health and Safety Code and other regulations adopted by the Department of General Services, to be assembled or erected on a schoolsite. Any such building purchased or leased by a school district shall be deemed to be the construction or alteration of a school building as those terms are used in Article 2 (commencing with Section 17260) and Article 3 (commencing with Section 17280) of this chapter, and all of the provisions of each of those articles, not inconsistent with the provisions of this article, shall apply with respect to factory-built buildings designed or intended for use as school buildings.

17351. Except as provided in Section 18930 of the Health and Safety Code, the Department of General Services shall adopt regulations for the safety of design and construction of factory-built buildings for use as school buildings, and shall prescribe procedures for the plans, specifications, methods of construction, and estimates of cost of a factory-built school building to be submitted to the department for approval as provided in Section 17352. Except as provided in Section 18930 of the Health and Safety Code, such regulations shall comply with but not be limited by the provisions of Article 2

(commencing with Section 17260) and Article 3 (commencing with Section 17280) of this chapter.

The Department of General Services shall adopt and submit building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 of Division 13 of the Health and Safety Code for the purposes described in this section.

17352. A manufacturer of factory-built buildings designed or intended for use as school buildings shall submit to the Department of General Services and the State Department of Education for approval, its plans, specifications, methods of construction, and estimates of cost of such buildings. At the same time the manufacturer shall pay to the Department of General Services a deposit to be applied toward the actual expenses in an amount as determined by the Department of General Services based on the estimated cost of such factory-built buildings, but not exceeding 0.5 percent of such estimated cost. The minimum deposit in any case shall be fifty dollars ($50). The manufacturer shall reimburse the Department of General Services and the State Department of Education for the actual expenses incurred by those departments in the review of such plans and specifications.

All fees received by the Department of General Services pursuant to this article are subject to the provisions of Section 17301.

17353. All plans, specifications and estimates shall be prepared by a certified architect holding a valid license under Chapter 3 (commencing with Section 5500) of Division 3 of the Business and Professions Code or by a structural engineer holding a valid certificate to use the title structural engineer under Chapter 7 (commencing with Section 6700) of Division 3 of the Business and Professions Code, and the supervision of the work of construction in the factory shall be under the responsible charge of such an architect or structural engineer.

17354. The Department of General Services, in accordance with standards and procedures adopted pursuant to Section 17351, and as such standards and

procedures may thereafter be modified, shall either approve or reject such plans, specifications, and methods of construction. Approval shall not be given unless such plans, specifications, and methods of construction are in accordance with standards adopted by the department pursuant to Section 17351. The department may establish procedures for the inspection of the facilities and manufacturing processes of a manufacturer to determine the manufacturer's ability to produce factory-built school buildings in accordance with the plans, specifications, and methods of construction which the manufacturer has submitted to the department. The Department of General Services shall notify the State Department of Education of its approval of a manufacturer's plans, specifications, and methods of construction of a factory-built school building.

17355. The Department of General Services shall provide for competent, adequate, and continuous inspection during construction in the factory to insure that all work has been performed and materials used and installed, in every particular, in accordance with the approved plans and specifications. The manufacturer shall reimburse the department for the costs incurred for such inspection as determined by the department.

17356. From time to time, as the work of construction in the factory progresses and whenever the Department of General Services requires, the certified architect or structural engineer in responsible charge of the supervision of the work of construction in the factory, the inspector on the work, and the manufacturer shall each make to the Department of General Services a report, duly verified by him or her, upon a form prescribed by the Department of General Services, showing, of his or her own personal knowledge, that the work during the period covered by the report has been performed, and materials used and installed, in every particular, in accordance with the approved plans and specification, setting forth such detailed statements of fact as are required by the Department of General Services.

17357. Upon the Department of General Services' approval of a manufacturer's plans, specifications, and methods of construction of a factory-built school building, a school district, whenever it is otherwise required by any of the provisions of Article 2 (commencing with Section 17260), or Article 3 (commencing with Section 17280) of this chapter to submit to the Department of General Services or to the State Department of Education the plans and specifications for the construction of a school building may, instead, include in its application for approval to each of such departments a notification that it intends to utilize such factory-built school building. The plans and specifications for the factory-built building to be utilized shall be submitted with the application and notification for identification purposes. Before granting its approval for the use of such buildings, the Department of General Services shall insure that the plans, specifications, and methods of construction of the buildings have been approved and are in accordance with standards adopted by the department pursuant to Section 17351 which are in effect at the time the application for approval is passed upon by the department. Whenever a school district complies with the alternative procedure prescribed by this section it shall not be required to pay the filing fee prescribed by Sections 17267 and 17300, except that a fee shall be charged for onsite work pursuant to Section 17358. If the submitted plans and specifications have not been previously approved the application shall be rejected. In such case a new application together with required documents shall be filed for approval of plans and specifications by either the manufacturer pursuant to the provisions of Section 17352 or by the school district pursuant to the provisions of Article 3 (commencing with Section 17280) of this chapter.

17358. Whenever a school district has contracted for the purchase or lease of a factory-built school building and where such building is to be supported by foundations, underpinning, pedestals, or similar type elements which extend more than 18 inches above natural grade at any

point, or on temporary blocks or jacks of any height, all the provisions of Article 3 (commencing with Section 17280) of this chapter shall apply to the design and construction of onsite work except that, for fee purposes, only the estimated cost of onsite work need be considered. The minimum amount in any case shall be fifty dollars ($50).

17359. The provisions of Sections 17266, 17268, 17300, 17302, and 17309 shall not apply with respect to the manufacture, sale, or lease of factory-built school buildings if this article is otherwise complied with.

17360. Sections 17297, 17302, 17307, 17309, and 17311 shall not apply with respect to the design and construction of onsite work except where required Section 17358.

Article 6. Fitness for Occupancy

17365. The Legislature finds and declares as follows:

(a) By an urgency act (Stats. 1933, Ch. 59), the Legislature at the 1933 General Session established reasonable minimum standards for the design and construction of new school buildings, as now defined in Section 17283. Although it was not required that then existing school buildings incorporate these standards, it was intended by the Legislature that in the intervening years continuous progress would be made in the repair, reconstruction or replacement of such school buildings.

(b) Progress toward this end has been outstanding since 1971 as a result of state funds being made available for rehabilitating or replacing structurally unsafe school facilities.

17366. It is the intent of the Legislature to reexamine the progress under this article from time to time. To enable it to do so, and to expedite the provision of safe educational facilities for California schoolchildren, the Legislature intends that the governing board of each school district adopt a plan for the orderly repair, reconstruction, or replacement of school buildings not

repaired, reconstructed, or replaced in accordance with this article.

17367. The governing board of any school district which has in use for school purposes any school buildings which were not constructed under approved plans and the supervision and inspection requirements of Article 3 (commencing with Section 17280) of this chapter shall have such buildings examined pursuant to this section and shall have completed on or before January 1, 1970, the examination, reporting and estimate requirements of this section and Section 39223.

Whenever an examination of the structural condition of any school building of a school district has been made by the Department of General Services, or by any licensed structural engineer or licensed architect for the governing board of the school district, or under the authorization of law, and a report of the examination, including the findings and recommendations of the agency or person making the examination, has been made to the governing board of the district, and the report shows that the building is unsafe for use, the governing board of the district shall immediately have prepared an estimate of the cost necessary to make such repairs to the building or buildings as are necessary, or, if necessary, to reconstruct or replace the building so that the building when repaired or reconstructed, or any building erected to replace it, shall meet such standards of structural safety as are established in accordance with law. The estimate shall be based on current costs and may include other costs to reflect modern educational needs. Also an estimate of the cost of replacement based on the standards established by the State Allocation Board for area per pupil and cost per square foot, shall be made and reported.

The report required by this section shall include a statement that each of the buildings examined is safe or unsafe for school use. For the purpose of this statement the sole consideration shall be protection of life and the prevention of personal injury at a level of safety equivalent to that established by Article 3 (commencing

with Section 17280) of this chapter and the rules and regulations adopted thereunder, disregarding, insofar as possible, such building damage not jeopardizing life which would be expected from one disturbance of nature of the intensity used for design purposes in said rules and regulations.

The governing board, utilizing the information acquired from the examination and report developed pursuant to this section, shall establish a system of priorities for the repair, reconstruction, or replacement of unsafe school buildings.

17368. ‘‘School building’’ as used in this article shall be limited to any physical structure capable of being occupied by pupils, but shall exclude, (a) any bleacher or grandstand with less than six rows of seats, (b) any building which is used exclusively for warehouse, storage, garage, or districtwide administrative office purposes, into which pupils are not required to enter, and buildings utilized by adult schools for off-campus, voluntary adult education courses or registered apprentice courses, (c) any swimming pool, or (d) any yard or lighting poles or flagpoles or playground equipment which does not exceed 35 feet in height.

‘‘School building’’ as used in this article excludes any building owned or occupied by a unified school district, high school district, or a county superintendent of schools which is used exclusively for adult education purposes.

If any building so excluded was not constructed in accordance with Article 3 (commencing with Section 17280) of this chapter and was not repaired, reconstructed, or replaced in accordance with this article, there shall be posted in a conspicuous place on such building a public notice stating that such building does not meet the structural standards imposed by law for earthquake safety.

17369. ‘‘School building’’ as used in this article excludes any building operated by an official or board of a public entity for purposes other than educational, notwithstanding any educational use thereof incidental to the other primary purpose.

For purposes of this section, a public entity includes, but is not limited to, a city, city and county, county, or special district, but does not include a school district or county superintendent of schools.

17370. Except as provided in Section 17371, nothing in this article shall be construed as relieving any member of the governing board of a school district of any liability for injury to persons or damage to property imposed by law.

17371. No member of the governing board of a school district shall be held personally liable for injury to persons or damage to property resulting from the fact that a school building was not constructed under the requirements of Article 3 (commencing with Section 17280) of this chapter, if such governing board complies with the provisions of this article. Such limit on liability shall commence when such governing board initiates action to comply with the provisions of Section 17367.

A licensed structural engineer or licensed architect employed by a governing board to examine any school building under this article shall not be held personally liable for injury to persons or damage to property as a result of the structural inadequacy and failure of a building, provided he or she has exercised normal professional diligence in carrying out his or her functions under Article 3 (commencing with Section 39140) of this chapter and the provisions of this article.

17372. No school building examined and found to be unsafe for school use pursuant to Section 17367 and not repaired or reconstructed in accordance with the provisions of this article, and no school building which has never met the requirements of Article 3 (commencing with Section 17280) of this chapter, shall be used as a school building for elementary or secondary school purposes after June 30, 1975, unless the governing board of the school district has requested and obtained from the State Allocation Board authority for use of the building for a specific period beyond that date. Prior to requesting this authority, the governing board shall adopt a resolution declaring the board's intention to utilize the building as a school building after June 30, 1975, pending its repair,

reconstruction, or replacement. The State Allocation Board shall not authorize any school district to use a building beyond June 30, 1975, unless it has first determined that the school district has already proceeded with a plan of total repair, reconstruction, or replacement in a timely manner and a contract has been let for any phase of, and work commenced on, the project. In no event shall the State Allocation Board authorize the use of any unsafe facilities for a period extending beyond the completion of the replacement facilities or beyond June 30, 1977, whichever occurs first.

For purposes of this section, ‘‘school building’’ does not include any portable building. Portable buildings may be used beyond June 30, 1975 to meet temporary housing needs until all repair, reconstruction or replacement of all district school buildings is complete or until June 30, 1977, whichever occurs first, provided that the governing board of the district has requested and obtained from the State Allocation Board authority for use of such portable buildings. The State Allocation Board may grant this authority only to those districts in which 20 percent or more of the schools are subject to partial or complete reconstruction pursuant to Section 17367. Any portable buildings for which authority is granted for temporary use pursuant to this section shall not be subject to Article 3 (commencing with Section 17280) or Article 6 (commencing with Section 17365) of this chapter during the period of the authorized use.

17373. Notwithstanding any other provision of this article or Article 9 (commencing with Section 16310) of Chapter 6 of Part 10, whenever a school district does not have funds available to repair, reconstruct, or replace the school buildings referred to in this article or Section 16320, the school district shall apply for any funds that may be necessary to accomplish the repair, reconstruction, or replacement pursuant to Article 9. The school district shall also accept any funds that are disbursed to the district pursuant to Article 9, whether or not the funds constitute the maximum amount applied for, and shall repay the funds in accordance with Article

9. In cases in which funds derived from a tax increase levied pursuant to Section 39230, as amended by Section 147 of Chapter 36 of the Statutes of 1977, or Section 39230.5, as enacted by Section 2 of Chapter 1010 of the Statutes of 1976, are utilized to match amounts disbursed to a school district under an apportionment made pursuant to Article 9 (commencing with Section 16310) of Chapter 6 of Part 10, the disbursement and repayment may be made without the necessity of a vote of the electorate of the district as prescribed in any provision of Chapter 6 (commencing with Section 16000) of Part 10.

17374. Any revenue derived from an increase in the rate of tax provided by Section 39230, as amended by Section 147 of Chapter 36 of the Statutes of 1977, prior to July 1, 1975, and which is unexpended on that date, may be used after July 1, 1975, by the governing board of a school district to complete the corrective structural repair, reconstruction, or replacement of any school building subject to Section 17367 which had not been completed on that date.

Article 8. All-Purpose Recreational Stadium and Center

17375. The Governing Board of the Los Angeles Unified School District, the City of Los Angeles, and the Board of Supervisors of the County of Los Angeles may form a joint powers agency pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code for the financing, construction, and operation of an all-purpose recreational stadium and center in the San Pedro area of Los Angeles County.

The governing body of the joint powers agency shall be composed of the following members:

(a) One member appointed by the Los Angeles County Board of Supervisors.

(b) One member appointed by the City of Los Angeles.

(c) One member appointed by the governing board of the Los Angeles Unified School District.

(d) Two members by a majority of the three members appointed pursuant to subdivisions (a), (b), and (c).

17376. The Board of Supervisors of Los Angeles County may establish a county service area pursuant to Chapter 2.2 (commencing with Section 25210.1) of Part 2 of Division 2 of Title 3 of the Government Code, for the construction and operation of the recreational stadium and center, with the consent of both the City of Los Angeles and the governing board of Los Angeles Unified School District.

The boundaries of the county service area shall be prescribed by the governing body of the joint powers agency.

17377. The governing body of the joint powers agency may, pursuant to Article 2 (commencing with Section 6540) of Chapter 5 of Division 7 of Title 1 of the Government Code, issue revenue bonds to finance the construction of the all-purpose recreational stadium and center.

17378. The governing body of the joint powers agency may, pursuant to the terms of the joint powers agreement, rent the stadium or center to any public or private entity. The proceeds of the rental shall be used for the payment of principal and interest on the revenue bonds and the operation and maintenance of the stadium and center.

17379. The board of supervisors may have levied and collected a tax within the county service area for the purpose of obtaining funds for contribution to the joint powers agency for the operation and maintenance of the stadium and center.

However, no such tax may be levied and collected unless a majority of the voters of the county service area voting at an election called for such purpose approve a ballot proposition authorizing the levy and collection of such tax. The election may be called by the board of supervisors.

The joint powers agency shall not undertake any financing or construction of the all-purpose recreational

stadium and center unless and until such proposition is approved by the voters.

17380. The Legislature finds and declares that because of a unique situation existing in the San Pedro area of the County of Los Angeles regarding the possible acquisition of useful federal surplus land, a general law, within the meaning of Section 16 of Article IV of the California Constitution, cannot be made applicable.

CHAPTER 4. PROPERTY: SALE, LEASE, EXCHANGE

Article 1. Conveyances

17385. The governing board of any school district shall receive in the name of the district conveyances for all property received and purchased by it, and shall make in the name of the district conveyances of all property belonging to the district and sold by it.

17386. The governing board of any school district shall have the power to execute and deliver quitclaim deeds, either with or without consideration to the owners of real property adjacent to any real property owned by the school district, for the purpose of removing defects in and otherwise clearing up the title to such adjacent real property.

Article 1.5. Advisory Committees

17387. It is the intent of the Legislature that leases entered into pursuant to this chapter provide for community involvement by attendance area at the district level. This community involvement should facilitate making the best possible judgments about the use of excess school facilities in each individual situation.

It is the intent of the Legislature to have the community involved before decisions are made about school closure or the use of surplus space, thus avoiding community conflict and assuring building use that is compatible with the community's needs and desires.

17388. The governing board of any school district may, and the governing board of each school district, prior to the sale, lease, or rental of any excess real property, except rentals not exceeding 30 days, shall, appoint a district advisory committee to advise the governing board in the development of districtwide policies and procedures governing the use or disposition of school buildings or space in school buildings which is not needed for school purposes.

17389. A school district advisory committee appointed pursuant to Section 17388 shall consist of not less than seven nor more than 11 members, and shall be representative of each of the following:

(a) The ethnic, age group, and socioeconomic composition of the district.

(b) The business community, such as store owners, managers, or supervisors.

(c) Landowners or renters, with preference to be given to representatives of neighborhood associations.

(d) Teachers.

(e) Administrators.

(f) Parents of students.

(g) Persons with expertise in environmental impact, legal contracts, building codes, and land use planning, including, but not limited to, knowledge of the zoning and other land use restrictions of the cities or cities and counties in which surplus space and real property is located.

17390. The school district advisory committee shall do all of the following:

(a) Review the projected school enrollment and other data as provided by the district to determine the amount of surplus space and real property.

(b) Establish a priority list of use of surplus space and real property that will be acceptable to the community.

(c) Cause to have circulated throughout the attendance area a priority list of surplus space and real property and provide for hearings of community input to the committee on acceptable uses of space and real property, including the sale or lease of surplus real

property for child care development purposes pursuant to Section 17458.

(d) Make a final determination of limits of tolerance of use of space and real property.

(e) Forward to the district governing board a report recommending uses of surplus space and real property.

17391. The governing board may elect not to appoint an advisory committee pursuant to Section 17387 in the case of a lease or rental to a private educational institution for the purpose of offering summer school in a facility of the district.

Article 2. Leasing Property

17400. (a) Any school district may enter into leases and agreements relating to real property and buildings to be used by the district pursuant to this article.

(b) As used in this article, ‘‘building’’ includes each of the following:

(1) One or more buildings located or to be located on one or more sites.

(2) The remodeling of any building located on a site to be leased pursuant to this article.

(3) Onsite and offsite facilities, utilities or improvements which the governing board determines are necessary for the proper operation or function of the school facilities to be leased.

(4) The permanent improvement of school grounds.

(c) As used in this article, ‘‘site’’ includes one or more sites, and also may include any building or buildings located or to be located on a site.

17401. As used in this article ‘‘lease or agreement’’ shall include a lease-purchase agreement.

17402. Before the governing board of a school district enters into a lease or agreement pursuant to this article, it shall have available a site upon which a building to be used by the district may be constructed and shall have complied with the provisions of law relating to the selection and approval of sites, and it shall have prepared and shall have adopted plans and specifications for the

building that have been approved pursuant to Sections 17280 to 17316, inclusive. A district has a site available for the purposes of this section under any of the following conditions:

(a) If it owns a site or if it has an option on a site that allows the school district or the designee of the district to purchase the site. Any school district may acquire and pay for an option containing such a provision.

(b) If it is acquiring a site by eminent domain proceedings and pursuant to Chapter 6 (commencing with Section 1255.010) of Title 7 of Part 3 of the Code of Civil Procedure, the district has obtained an order for possession of the site, and the entire amount deposited with the court as the probable amount of compensation for the taking has been withdrawn.

(c) In the case of a district qualifying under Section 17410, if it is leasing a site from a governmental agency pursuant to a lease having an original term of 35 years or more or having an option to renew that, if exercised, would extend the term to at least 35 years.

17403. The term of any lease or agreement entered into by a school district pursuant to this article shall not exceed 40 years.

17404. Sections 17455 to 17480, inclusive, shall not apply to leases made pursuant to this article.

17405. Any lease or agreement shall be subject to the following requirements:

(a) A building or structure that is to be used for school purposes shall be subject to the provisions of Article 3 (commencing with Section 17280) and Article 6 (commencing with Section 17365). The governing board of a school district may request and obtain from the State Allocation Board authority for use of any building not meeting the structural standards prescribed by Article 3 (commencing with Section 17280) until September 1, 1990. After September 1, 1990, the governing board of a school district may request and obtain from the State Allocation Board a waiver of Article 3 (commencing with Section 17280) for a maximum of three years. A building or facility used by a school district under a lease or

lease-purchase agreement into which neither pupils nor teachers are required to enter or that would be excluded from the definition of ‘‘school building,’’ as contained in Section 17368, shall not be considered to be a ‘‘school building’’ within the meaning of Section 17283.

(b) Notwithstanding subdivision (a), a waiver granted to a school district pursuant to that subdivision prior to January 1, 1993, may be renewed by the State Allocation Board for one additional period of no more than three years, not extending past September 30, 1996. However, any waiver granted to a school district that will expire on or before September 30, 1996, is hereby extended until September 30, 1997.

(c) Subdivision (a) shall not apply to trailer coaches used for classrooms or laboratories if the trailer coaches conform to the requirements of Part 2 (commencing with Section 18000) of Division 13 of the Health and Safety Code, and the rules and regulations promulgated thereunder concerning mobilehomes, are not expanded or fitted together with other sections to form one unit greater than 24 feet in width, are used for special educational purposes, and are used by not more than 12 pupils at a time, except that the trailer coaches may be used by not more than 20 pupils at a time for driver training purposes.

(d) The site on which a leased relocatable structure is located shall be owned by the school district, or shall be under the control of the school district pursuant to a lease or a permit.

‘‘Relocatable structure’’ is any structure that is designed to be relocated.

(e) This section shall remain in effect only until September 30, 1997, and as of that date is repealed, unless a later enacted statute, that is enacted before September 30, 1997, deletes or extends that date.

17405. Any lease or agreement shall be subject to the following requirements:

(a) A building or structure that is to be used for school purposes shall be subject to the provisions of Article 3 (commencing with Section 17280) and Article 6

(commencing with Section 17365). A building or facility used by a school district under a lease or lease-purchase agreement into which neither pupils nor teachers are required to enter or that would be excluded from the definition of ‘‘school building,’’ as contained in Section 17368, shall not be considered to be a ‘‘school building’’ within the meaning of Section 17283.

(b) Subdivision (a) shall not apply to trailer coaches used for classrooms or laboratories if the trailer coaches conform to the requirements of Part 2 (commencing with Section 18000) of Division 13 of the Health and Safety Code, and the rules and regulations promulgated thereunder concerning mobilehomes, are not expanded or fitted together with other sections to form one unit greater than 24 feet in width, are used for special educational purposes, and are used by not more than 12 pupils at a time, except that the trailer coaches may be used by not more than 20 pupils at a time for driver training purposes.

(c) The site on which a leased relocatable structure is located shall be owned by the school district, or shall be under the control of the school district pursuant to a lease or a permit.

‘‘Relocatable structure’’ is any structure that is designed to be relocated.

(d) For purposes of interconnection of fire alarms, buildings leased for 24 months or less shall be subject to Section 809 of the Uniform Building Code until applicable regulations proposed by the State Fire Marshal are adopted as part of Title 24 of the California Code of Regulations.

(e) This section shall become operative on September 30, 1997.

17406. (a) Notwithstanding Section 17417, the governing board of a school district, without advertising for bids, may let, for a minimum rental of one dollar ($1) a year, to any person, firm, or corporation any real property that belongs to the district if the instrument by which such property is let requires the lessee therein to construct on the demised premises, or provide for the

construction thereon of, a building or buildings for the use of the school district during the term thereof, and provides that title to that building shall vest in the school district at the expiration of that term. The instrument may provide for the means or methods by which that title shall vest in the school district prior to the expiration of that term, and shall contain such other terms and conditions as the governing board may deem to be in the best interest of the school district.

(b) Any rental of property that complies with subdivision (a) shall be deemed to have thereby required the payment of adequate consideration for purposes of Section 6 of Article XVI of the California Constitution.

17407. The governing board of any school district may enter into an agreement with any person, firm, or corporation under which that person, firm, or corporation shall construct, or provide for the construction of, a building to be used by the district upon a designated site and lease the building and site to the district. The instrument shall provide that the title to the building and site shall vest in the district at the expiration of the lease, and may provide the means or method by which the title to the building and site shall vest in the district prior to the expiration of the lease, and shall contain such other terms and conditions as the governing board of the district deems to be in the best interest of the district.

The agreement entered into shall be with the lowest responsible bidder who shall give the security that any board requires. The board may reject all bids. For the purpose of securing bids the board shall publish at least once a week for two weeks in some newspaper of general circulation published in the district, or if there is no paper, then in some paper of general circulation circulated in the county, a notice calling for bids, stating the proposed terms of the agreement and the time and place where bids will be opened.

17408. The governing board of a school district shall call and hold an election, pursuant to Section 17409 or 17412, before or after entering a lease or agreement, as

the case may be, except that if the lease or agreement does not effect an increase in the existing applicable maximum tax rate of the district, the election requirements of this section shall not apply.

17409. Before entering into a lease or agreement pursuant to this article, the governing board of the district shall call, hold, and conduct an election in the manner provided in Section 42202, except that the ballot used in the election shall contain substantially the words: ‘‘Shall the governing board of the ____ District purchase (a site, sites) prepare plans and specifications, [the reference to the site or sites and plans and specifications shall not be included if, prior to calling the election, the governing board of the district has acquired a site or sites or proposes to lease a site or sites and has prepared plans and specifications] and lease (a site and, sites and) (a building, buildings) to be constructed for use by the school district [designating the location of the site or sites on which the building or buildings will be constructed and generally describing the building or buildings], and, for such purposes, shall the maximum tax rate of the district be increased by not to exceed ____, such increase to be in effect in the ____ District for the years 19_ to __, be authorized and the amount of such increase used solely and exclusively for such purposes?’’

17410. (a) If, at an election held pursuant to Section 17409, or the predecessor to that section, a majority of the electors voting on the proposition voted ‘‘Yes,’’ the governing board may call an election pursuant to this section.

Before entering into one or more leases or agreements pursuant to this section and this article, the governing board of the district shall call, hold, and conduct an election in the manner provided in Section 42202 of the Education Code, as it existed on December 31, 1979, except that the ballot used in the election shall contain substantially the words: ‘‘Shall the governing board of the ____ District purchase (a site, sites) prepare plans and specifications [the reference to the site or sites and plans and specifications shall not be included if, prior to

calling the election, the governing board of the district has acquired a site or sites or proposes to lease a site or sites or has prepared plans and specifications] and lease (a site, sites) and (a building, buildings) to be constructed for use by the school district (designating the location of the site or sites on which the building or buildings will be constructed and generally describing the building or buildings) and for those purposes, shall the tax rate increase authorized on [the date of the original election], be used solely and exclusively for those purposes in addition to those approved by the majority of electors at the election held pursuant to Section 17409, or the predecessor to that section, on [the date of the original election]?''

If, at the election held pursuant to this section, a majority of the electors voting on the proposition vote ''Yes,'' the governing board may proceed pursuant to this article to use that previously authorized tax increase for the purpose or purposes authorized under that election.

(b) It is the intent of the Legislature, in enacting this section, to permit the levy of a tax to the extent authorized at an election held pursuant to Section 17409, or the predecessor to that section, as modified to permit the proceeds of that tax to be expended for the purposes authorized at the election held pursuant to subdivision (a).

17411. The governing board of the district, if the district proposes at an election held pursuant to Section 17409 to lease more than one building, may include in the ballot measure used in the election a statement that the district reserves the right to lease less than all of the proposed buildings designated in the ballot measure. If such a statement is included in the ballot measure, the governing board may at any time thereafter determine to not lease one or more of the buildings included in the ballot measure, and such determination shall not breach any obligation of the district to the voters of the district.

17412. An election held pursuant to Section 17409 or Section 17413 shall be held in conjunction with either a

statewide primary or general election, or an election date specified in Section 2500 of the Elections Code.

17413. In lieu of calling an election pursuant to Section 17409, the governing board of a school district may call an election pursuant to this section. Within 10 days after the governing board has opened the proposals pursuant to Section 17417 or has adopted a resolution pursuant to Section 17418 it may accept a proposal, if proceeding under Section 17417, and execute the lease or agreement, and immediately thereafter call an election pursuant to this section.

The governing board of the district shall call, hold, and conduct an election in the manner provided in Section 42202, except that the ballot used in the election shall contain substantially the words: ‘‘Shall the governing board of the ____ District lease [a site (sites) and] a building [buildings] to be constructed for use by the school district [designating the location of the site or sites on which the building or buildings will be constructed, and generally describing the building or buildings and the cost thereof], and, for such purposes, shall the maximum tax rate of the district be increased by not to exceed ____, such increase to be in effect in the ____ District for the years 19__ to ____, be authorized and the amount of such increase used solely and exclusively for such purposes?’’

17414. If, at the election held pursuant to Section 17409 or Section 17413, a majority of the electors voting on the proposition vote ‘‘Yes,’’ the governing board may proceed pursuant to this article.

17415. Whenever the electors of a school district, at an election held pursuant to Section 17409 or 17413, have approved an increase in the maximum tax rate of the district for the purpose of enabling the district to enter into a lease or agreement for a site or building, or both, and before the lease or agreement is entered into, or during the term of the lease or agreement, territory is taken from the district and annexed to or included in another district by any means, the acquiring district shall automatically assume and shall pay to the district from

which the territory is transferred a proportionate share of any remaining payments due under the lease or agreement, as the payments become due, for so long as the lease or agreement runs.

The acquiring district's proportionate share shall be in the ratio which the total assessed valuation of taxable property in the transferred territory bore to the total assessed valuation of taxable property in the whole district from which the territory is transferred for the year immediately preceding the date on which the transfer became effective for all purposes.

This section shall be applicable only with respect to transfers of school district territory which become effective for all purposes after the effective date of enactment of this section, and shall be applicable whether the election under Section 17409 or 17413 occurred prior to or after the effective date of this section.

17416. (a) Unless the time allowed for the governing board to enter into the lease agreement is extended pursuant to subdivision (b), if the governing board of the district fails to enter into a lease pursuant to this article within three years after an election, held pursuant to Section 17409, at which a majority of the votes cast favors the proposition submitted, the authorization for an increase in the maximum tax rate shall become void.

(b) If litigation is filed challenging in any way the election held pursuant to Section 17409 or the competitive bidding proceedings or contract for the construction of the building to be used by the district; compliance with the California Environmental Quality Act; or the validity of or the proceedings for the issuance of any bonds, notes, warrants, or other evidences of indebtedness of a nonprofit corporation to be sold to finance construction of the building, the authorization for an increase in the maximum tax rate shall not become void because of the failure of the governing board to enter into a lease pursuant to this article until three years after the date upon which this subdivision becomes effective.

This subdivision shall apply only to school districts which had an average daily attendance of 65,000 or more in the 1975–76 fiscal year.

17417. After the governing board of a school district has complied with Section 17402, it shall, in a regular open meeting, adopt a resolution declaring its intention to enter into a lease or agreement pursuant to this article. The resolution shall describe, in any manner to identify it, the available site upon which the building to be used by the district shall be constructed, shall generally describe the building to be constructed and state that the building shall be constructed pursuant to the plans and specifications adopted by the governing board therefor, shall, if that is the case, state the minimum yearly rental at which the governing board will lease real property belonging to the district upon which the building is to be constructed, and shall state the maximum number of years for which the school district will lease the building or site and building, as the case may be, and shall state that the proposals submitted therefor shall designate the amount of rental, which shall be annual, semiannual, or monthly, to be paid by the school district for the use of the building, or building and site, as the case may be. The resolution shall fix a time, not less than three weeks thereafter for a public meeting of the governing board to be held at its regular place of meeting, at which sealed proposals to enter a lease or agreement with the school district will be received from any person, firm, or corporation, and considered by the governing board. Notice thereof shall be given in the manner provided in Section 17469.

At the time and place fixed in the resolution for the meeting of the governing body, all sealed proposals which have been received shall, in public session, be opened, examined, and declared by the board. Of the proposals submitted which conform to all terms and conditions specified in the resolution of intention to enter a lease or agreement and which are made by responsible bidders, the proposal which calls for the lowest rental shall be finally accepted, or the board shall reject all bids. The

board is not required to accept a proposal, or else reject all bids, on the same day as that in which the proposals are opened.

17418. (a) As an alternative to obtaining sealed proposals as required by Sections 17407 and 17417, the governing board may, in a public meeting, adopt a resolution declaring its intention to enter into a lease or agreement pursuant to this article with a nonprofit public benefit corporation organized under the Nonprofit Public Benefit Corporation Law (Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code) if the articles of incorporation or bylaws of the nonprofit public benefit corporation provide both of the following:

(1) That no person shall be eligible to serve as a member or director of the corporation except a person initially approved by resolution of the governing board of the school district.

(2) That no part of the net earnings of the corporation shall inure to the benefit of any member, private shareholder, individual, person, firm or corporation excepting only the school district.

(b) The resolution adopted by the governing board shall do all of the following:

(1) Describe, in a manner to identify it, the available site upon which the building to be used by the district shall be constructed.

(2) Generally describe the building to be constructed and state that the building shall be constructed pursuant to the plans and specifications adopted by the governing board therefor.

(3) If that is the case, state the minimum yearly rental at which the governing board will lease real property belonging to the district upon which the building is to be constructed.

(4) State the maximum number of years for which the school district will lease the building, or building and site, as the case may be.

(c) Any building constructed by a nonprofit public benefit corporation pursuant to a lease or agreement

entered into pursuant to this section shall be constructed under a contract awarded to the lowest responsible bidder pursuant to Article 42 (commencing with Section 20670) of Part 3 of Division 2 of the Public Contract Code. Section 17424 applies to the contract.

17419. Any bonds, notes, warrants, or other evidences of indebtedness to be issued by a nonprofit corporation to finance the construction of a building pursuant to a lease or agreement entered into pursuant to Section 17418 shall be sold pursuant to Chapter 10 (commencing with Section 5800) of Division 6 of Title 1 of the Government Code.

17420. All bonds, notes, warrants or other evidences of indebtedness referred to in Section 17419 and the interest thereon, and all bonds, notes, warrants, or other evidences of indebtedness issued to refinance any bonds, notes, warrants, or other evidences of indebtedness referred to in Section 17419 and the interest thereon, are exempt from all taxation in the state other than inheritance, gift and franchise taxes.

17421. Any building constructed for the use of a school district pursuant to this article is subject to Sections 17280 to 17313, inclusive.

17422. For the purposes of Sections 15102 and 15106 and Chapter 6 (commencing with Section 16000) of Part 10, 50 percent of any remaining payments for use of the building or site and building which would become due from the district under any leases and agreements entered into by the district pursuant to this article, if the leases and agreements were to run their full term, shall be considered outstanding bonded indebtedness.

17423. No district shall enter into any lease or agreement pursuant to this article if at the time 50 percent of any remaining rental payments for use of the building or site and building which would become due from the district pursuant to this article, including the lease or agreement to be entered into, if the leases and agreements were to run their full term, plus the total amount of district bonded indebtedness outstanding at the time, shall exceed 7.5 percent for elementary school

districts and high school districts and 12.5 percent for unified school districts of the taxable property of the district as shown by the last equalized assessment of the county or counties in which the district is located. For the purpose of this section, the taxable property of the district shall be determined upon the basis that the district's assessed value has not been reduced by the exemption of the assessed value of business inventories in the district or reduced by the homeowners' property tax exemption.

17424. The governing board of the school district shall obtain the general prevailing rate of per diem wages from the Director of the Department of Industrial Relations for each craft, classification or type of workman needed for the construction of the building and shall specify in the resolution and in the notice, required by Section 17417, or in the resolution required by Section 17418 and in the lease or agreement made pursuant to this article, what the general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work in the locality is for each craft, classification or type of workmen needed for the construction of the building. The holidays upon which such rate shall be paid need not be specified by the governing board, but shall be all holidays recognized in the collective-bargaining agreement applicable to the particular craft, classification or type of workmen employed on the project.

Any agreement or lease entered into pursuant to this article shall require that such general prevailing rates will be paid. It shall also require that work performed by any workman employed upon the project in excess of eight hours during any one calendar day shall be permitted only upon compensation for all hours worked in excess of eight hours per day at not less than $1^1/_2$ times the basic rate of pay. There may also be included in leases or agreements entered into pursuant to this article any other requirements with respect to matters related to the subject of this section which the governing board deems necessary or desirable.

17425. The provisions of this article prevail over any provisions of law which conflict therewith.

17426. All acts and proceedings taken prior to the effective date of the enactment of this section, by or on behalf of any district under this article, or under color of this article, for the authorization of an increase in the maximum tax rate of the district and for the leasing of a building or buildings for the purposes of the district are hereby confirmed, ratified, validated, and declared legally effective. This shall include all acts and proceedings of the governing board of the district and of any person, public officer, board, or agency, heretofore done or taken upon the question of the authorization of the tax rate increase or the leasing. Whenever an election has been called and held prior to the effective date of the enactment of this section, for the purpose of submitting to the voters of any district the question of an increase in the maximum tax rate of the district and for the leasing of a building or buildings for the purposes of the district, the election and all proceedings attendant thereon are hereby confirmed, ratified, validated, and declared to be legally effective for all purposes, and the tax rate increase, if authorized by the required vote and in accordance with the proceedings heretofore taken, shall be a legal and valid authorization, in accordance with its terms, and any tax heretofore or hereafter levied pursuant to that authorization shall be legal and valid. The foregoing provisions of this section shall operate to supply any legislative authorization that may be necessary to validate the acts and proceedings heretofore taken which the Legislature could have supplied or provided for in this article. The foregoing provisions of this section shall be limited to the validation of acts and proceedings to the extent to which the same can be effectuated under the California and United States Constitutions. The foregoing provisions of this section shall not operate to confirm, ratify, validate, or legalize any act, proceeding, or other matter the legality of which is being contested or inquired into in any legal proceeding now pending and undetermined or which may be pending and

undetermined during the period of 30 days from and after the effective date of this section, and shall not operate to confirm, ratify, validate, or legalize any act, proceeding, or other matter which has heretofore been determined in any legal proceeding to be illegal, void, or ineffective.

In any school district in which an election was called and held prior to the effective date of this section in which the voters of the district authorized an increase in the maximum tax rate of the district and the leasing of a building or buildings for the purposes of the district, the law in effect at the date of the school district election shall govern the terms of the lease, the terms of the sale of related bonds, notes, and warrants, and the school district's maximum bonded indebtedness, and Section 17423 shall not be applicable to the school district's entry into any lease or agreement authorized at an election called and held prior to the effective date of this section.

17427. The State Allocation Board shall consider community school pupils housed in leased facilities that do not conform to the requirements of Part 2 (commencing with Section 2-101), Part 3 (commencing with Section 3-089-1), Part 4 (commencing with Section 4-403), and Part 5 (commencing with Section 5-102), of Title 24 of the California Code of Regulations as unhoused for the purposes of determining priority for the leasing of portable classrooms pursuant to Chapter 14 (commencing with Section 17085) of Part 10.

17428. The governing board of a school district may lease property in an adjoining school district for garage, warehouse, or other utility purposes or may purchase property in an adjoining school district for those purposes and may dispose of the property in the same manner as property within the boundary of the district is purchased and disposed of.

The power of eminent domain shall not be applicable and the acquisitions by purchase shall be subject to the approval of the governing board of the school district in which the property is located.

17429. (a) This section shall apply only to a school district in which the electorate authorizes an increase in

the maximum tax rate of the district pursuant to this article for the lease of one or more schools, and there exists at the time of the election on a site owned by the district a school facility not owned by the district meeting all of the requirements of Article 3 (commencing with Section 17280) of this chapter, which site and school facility are designated and described in the ballot proposition approved by the voters.

(b) Notwithstanding any other law, a school district may lease from a California nonprofit corporation an existing school and may pay rentals therefor from funds derived from the increase in the maximum tax rate approved by the voters at an election. The purchase price of the school paid by the nonprofit corporation to the owners of the school shall not exceed the actual audited cost of construction thereof including actual interest paid on money borrowed to finance such construction. Prior to the purchase of the school by the nonprofit corporation, an independent certified public accountant shall be retained by the school district to verify the actual cost of construction and any interest paid to finance the construction, and the nonprofit corporation may conclusively rely upon any certificate or opinion setting forth the actual cost of construction and the interest prepared by the independent certified public accountant.

(c) A school district, the electorate of which, prior to the effective date of this section, authorized an increase in the maximum tax rate in the manner, for the purposes, and under the circumstances specified in subdivision (a), may avail itself of the authority afforded by subdivision (b).

Article 2.5. Leasing Facilities

17430. Notwithstanding any other law, the governing board of any school district may enter into a lease or agreement for any school facilities pursuant to this article with a nonprofit corporation organized under Division 2 (commencing with Section 5000) of Title 1 of the

Corporations Code if the articles of incorporation or bylaws of the nonprofit corporation provide for both of the following conditions:

(a) No person shall be eligible to serve as a member or director of the nonprofit corporation, except a person initially approved by resolution of the governing board of the school district.

(b) No part of the net earnings of the nonprofit corporation shall inure to the benefit of any member, private shareholder, individual, person, firm, or corporation, excepting only the school district.

Any facilities constructed by a nonprofit corporation pursuant to a lease or agreement entered into pursuant to this article shall be constructed under a contract awarded to the lowest responsible bidder pursuant to Chapter 3.5 (commencing with Section 4220) of Division 5 of Title 1 of the Government Code.

17431. Notwithstanding any other law, an owner's development lien created pursuant to this article is a covenant for the benefit of the school district or districts expressly described therein which shall, upon recordation with the county recorder of the county in which the real property is located, run with the land described in the document by which the lien is placed of record. The owner's development lien shall be binding upon successors in interest, during their ownership, of any portion of such land affected thereby and each person having an interest therein derived through any owner of the land owned by the covenantor.

The covenant running with the land created by the owner's development lien as provided in this section constitutes a valid covenant notwithstanding the fact that it is created in connection with only one estate and is imposed upon a single parcel and is intended to be for the benefit of a school district or districts who are not a landowner or owners.

17432. The sale of bonds for the accomplishment of a school facilities plan shall be subject to the approval of the State Treasurer. Prior to the sale of any bonds, the State Allocation Board shall determine that the proposed

facilities to be constructed with the bond proceeds are consistent with its building area and costs standards as to the area and facilities described in the school facilities plan pursuant to which the bonds are to be issued. The sale of the bonds shall be conducted in compliance with Chapter 10 (commencing with Section 5800) of Division 6 of Title 1 of the Government Code. However, the bonds may be sold at a negotiated sale. The State Treasurer and the State Allocation Board may impose a charge and collect a fee for reimbursement of actual costs incurred in accomplishing the approval and determination.

17433. Any rental payments required by any lease or agreement entered into pursuant to this article may be paid in annual installments or may be prepaid from state funds or other funds of the school district permissible by law to be used for those purposes at any time during the period of the lease or agreement.

17434. Whenever the governing board determines that a lease or agreement should be entered into with a nonprofit corporation, the board shall adopt a resolution of intention. The board shall have the following powers and shall state in the resolution all of the following:

(a) The intention of the board to formulate a school facilities plan for the school district or a portion thereof.

(b) A summary description of the facilities to be included within the school facilities plan.

(c) The estimated expense of carrying out the school facilities plan, including all incidental expenses.

(d) That a map depicting the exterior boundaries of the territory to be benefited by the school facilities plan is on file with the secretary of the school district and is available for inspection by any person or persons interested.

(e) A legal description of the real property upon which an owner's development lien is to be imposed and to be recorded with the county recorder of the county or counties in which the real property is located.

(f) The intention of the board to cause the formation of a nonprofit corporation the purpose of which is to issue bonds, notes, or other obligations to finance the

construction of the facilities included within the school facilities plan and to lease the facilities to the school district.

(g) That pursuant to Section 17438, an owner's development lien shall be imposed to the benefit of the school district on all real property described in the map on file with the secretary of the school district, exclusive of real property subject to restrictions that preclude development thereon, which shall specify the amount thereof and the maximum period of time over which the amount is to be paid, together with a specified maximum interest rate.

(h) That the school district may enforce the lien, as to any amount or amounts in default, by judicial foreclosure proceedings as provided for in Section 17444.

(i) That the owner's development lien provided for in this article shall be imposed with the consent of all owners within the final map of the boundaries in equal amounts on each acre or portion thereof within the territory to be benefited by the school facilities plan or imposed pursuant to Section 17447.

(j) That the proposed facilities may or may not be constructed within the boundaries of the territory to be benefited by the school facilities plan as depicted on the map described in subdivision (d).

(k) That the benefited property may include noncontiguous territory and that real property may subsequently be included by the governing board, subject to the assumption of a pro rata share of all obligations incurred or to be incurred, plus an amount not less than all amounts collected pursuant to the owner's development lien per acre or portion thereof.

17435. Subsequent to the adoption of the resolution pursuant to Section 17434, the secretary of the school district shall mail a copy of such resolution to each owner of property within the territory to be benefited from the school facilities plan as shown on the last equalized assessment roll, as well as the persons that the secretary can reasonably determine may have an interest in the property, except for those persons who have filed written

waivers to receive copies of the resolution with the secretary of the district. A copy of the resolution shall be published pursuant to Section 6066 of the Government Code. The school district also shall give the notice to any persons who have in writing requested notice of the proceedings. The secretary of the district also shall mail copies of the resolution to any beneficiary under any deeds of trust on property within the territory to be benefited by the school facilities plan unless written waivers to receive the copies have been filed with the secretary of the school district.

Any owner of real property or owner of an interest in real property, such as a trustee or beneficiary under a deed of trust or similar secured interest, may file written objections to the implementation of the school facilities plan with the secretary of the district, which written objections shall be filed with the secretary no later than 30 days from the date of the mailing of a copy of the resolution.

17436. No sooner than 30 days from the date mailing occurs pursuant to Section 17435, the governing board of the school district may consider all written objections filed with the secretary of the school district and may, at its discretion, discontinue proceedings pursuant to this article or may adopt, after consideration of written objections, a resolution ordering the implementation of the school facilities plan for the purpose and for the benefit of that territory described in the resolution of intention, provided the owners described in Section 17435 have consented in writing to the owner's development lien.

17437. The resolution ordering implementation of the school facilities plan shall state the following:

(a) A legal description of the real property to which an owner's development lien is to be imposed.

(b) The names of all owners of record of the real property to which an owner's development lien is to be imposed.

(c) The total amount of the owner's development lien to benefit the school district as described in subdivision (g) of Section 17434.

(d) The real property described in the resolution shall be subject to an owner's development lien for a pro rata share on each acre or portion thereof pursuant to this article or any other amount as herein provided.

(e) That all owners of the real property described in the resolution have agreed on their behalf and on behalf of their successors in interest to pay the designated share of the owner's development lien, have acknowledged that such agreement constitutes a covenant running with the land pursuant to Section 17431, have agreed that the obligation created is secured by the owner's development lien as provided in this article, and have consented to the implementation of the owner's development lien.

(f) That a lease or agreement will be entered into with a nonprofit corporation.

17438. After adoption of the resolution ordering implementation of the school facilities plan, the resolution shall be recorded with the county recorder of the county or counties in which the real property subject to the owner's development lien is located.

Upon recordation of the resolution, an owner's development lien is hereby created and attaches to the real property described therein for the cost of implementing the school facilities plan.

17439. No sooner than 90 days from the date a resolution is recorded pursuant to Section 17438, a nonprofit corporation which has entered into a lease or agreement with the school district pursuant to this article may issue bonds for the purpose of financing all or a portion of the school facilities plan approved pursuant to procedures of this article.

17440. Except as provided in Section 2192.1 of the Revenue and Taxation Code, an owner's development lien imposed for the purposes of this article shall have the same priority as special assessment liens described in Article 13 (commencing with Section 53930) of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code.

Except as to any due, unpaid and delinquent amount, the owner's development lien shall not be deemed to be a prior encumbrance within the meaning of Section 766 of the Financial Code. From and after the date of the recording of the owner's development lien, all persons shall be deemed to have notice of the contents thereof.

17441. Additional territory may be added to the area described as being benefited by the school facilities plan in the discretion of the governing board, provided the owners of the real property to be added consent to the imposition of a lien for all present and future obligations as set forth in the school facilities plan and agree to pay to the district an amount at least equal to all amounts collected pursuant to the owner's development lien.

Any additional territory added to the area benefited by the school facilities plan pursuant to this section shall be the subject of a resolution described in Section 17437 and recorded pursuant to Section 17438.

17442. The governing board may bill and collect pursuant to the owner's development lien and collect payments from the owners of all property subject to an owner's development lien in amounts sufficient for the district to meet its rental obligations under any lease or agreement and to pay or reimburse any expenses incurred to implement the school facilities plan. The amounts due pursuant to the owner's development liens shall be billed and collected in equal amounts on each acre or portion thereof as provided for in the owner's development lien or as provided for in Sections 17437 and 17447.

A school district electing to utilize the provisions of this article may enter into a contract with the county tax collector for the billing of the annual amounts billed pursuant to this section. The tax collector may collect these amounts together with and not separate from the taxes on the property. The county tax collector shall be entitled to a fee for the reasonable value of his or her services.

17443. An owner's development lien may be released by the governing board, provided funds are deposited

with the board to pay the unpaid principal amount of the lien, plus any prepayment charges in an amount to be determined by the governing board.

Upon receipt of these amounts, the board shall adopt a resolution specifically providing a legal description of the real property and the record title owners thereof subject to the release. The resolution shall be recorded with the county recorder of the county or counties in which the real property is located. Upon recordation of the resolution, the owner's development lien shall be discharged and of no further effect.

17444. (a) Any installment of an owner's development lien created pursuant to this article shall become delinquent 30 days following billing thereof if unpaid, or if the installment is being collected by the county tax collector, at the time general taxes become delinquent. An installment shall be in default 30 days after written notice of the delinquency has been given by certified or registered mail to the record owner of the property subject to the lien and all lenders of record.

(b) The governing board, not later than four years after the date of default of any payment, may order that the amount be collected by an action brought in superior court to foreclose against the real property subject to the owner's development lien for the then delinquent installment of the owner's development lien. The action shall affect only the delinquent amounts and shall not accelerate or require payment of any remaining amount of the owner's development lien.

(c) The lease agreement between the governing board and the nonprofit corporation may contain covenants for the benefit of bondholders providing that the governing board shall commence and diligently prosecute to completion any foreclosure action regarding delinquent installments of an owner's development lien. The lease agreement may specify a deadline for commencement of the foreclosure action and any other terms and conditions that the governing board may determine to be reasonable.

(d) The governing board may assign its rights under this section to the nonprofit corporation or to any trustee under the resolution adopted pursuant to Section 17437.

(e) Costs in the action shall be fixed and allowed by the court and shall include, but are not limited to, reasonable attorneys' fees, interest, penalties and other charges or advances authorized by this article, and when so fixed and allowed by the court, the costs shall be included in the judgment. The amount of penalties, costs, and interest due shall be calculated up to the date of judgment.

(f) All matters pertaining to foreclosure, execution and sale shall be governed by the then existing law of California. However, notwithstanding any other law, the owner's right of redemption shall be limited to 60 days following the date of sale of the owner's interest. The owner's development lien shall continue as security for all future required installment payments. Any remaining funds after foreclosure and payment of all obligations and costs of foreclosure of the delinquent installment of the owner's development lien shall be paid pursuant to the priority of encumbrances of record and to the owner or owner's successor as of the date of initiation of the foreclosure proceeding.

(g) Foreclosures of installments of the owner's development lien pursuant to this article shall not affect the priority of any scheme of community development approved by the Department of Real Estate, including, but not limited to, subdivision maps, condominium plans, covenants, conditions, restrictions, and easements whether recorded prior to or subsequent to the owner's development lien.

17445. Any action to contest the validity of this article may be brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure, except that an appeal from any judgment rendered in such action shall be made directly to the Supreme Court of the State of California.

17446. Notwithstanding any other provision contained in this article, and as an alternative method of accomplishing the purposes of this article, owner's

development liens may be imposed in unequal amounts on each acre or portion thereof in order that the liens may be based upon equal or equitable amounts for each individual dwelling unit after subdivision into lots or condominium units.

17447. (a) As an alternate provision, owner's development liens previously imposed upon a particular parcel or parcels of property which are subsequently subdivided may be apportioned to provide that the owner's development liens shall be imposed upon the individual lots and condominium units created by one or more subdivisions. The liens need not necessarily be imposed upon a pro rata basis based upon acreage, but may be imposed pursuant to Section 17446 to provide for an equal or equitable portion of the total lien to be imposed upon each individual dwelling unit or resulting separate parcel. In imposing the owner's development liens on individual lots and condominium units, there may be excluded from the liens property which becomes subject to restrictions that preclude development thereon including, but not limited to, areas of common ownership, streets, and easements. Prior to the apportionments of an owner's development lien pursuant to this section, the governing board of the school district shall adopt a resolution which shall include the following:

(1) A legal description of the real property on which an owner's development lien has previously been imposed.

(2) The intention of the governing board to apportion the owner's development lien to provide for an equitable apportionment of the lien upon individual lots and condominium units within the properties to be subdivided.

(3) A map showing the subdivided lands, together with the proposed owner's development liens to be imposed upon the individual lots and condominium units within one or more such subdivisions.

(b) Upon adoption of the resolution, the secretary of the school district shall mail a copy of the resolution to each owner of the property upon which the owner's

development lien has previously been imposed as shown on the last equalized assessment roll. A copy of this resolution shall be published pursuant to Section 6066 of the Government Code. The secretary of the school district shall mail copies of the resolution to any beneficiary of deeds of trust upon the property. No sooner than 30 days after the mailings, the governing board may consider objections to the proposed apportionment of the owner's development lien. Provided that all owners of the parcels over which the lien is to be apportioned, including any beneficiary under any deeds of trust, or any beneficiary under any deed of trust, have consented, the owner's development lien may be apportioned to provide for an equitable portion of the total development lien to be placed upon the individual lots, condominium units or separate parcels created within one or more of the subdivisions. A resolution approving the apportionment of the owner's development lien shall thereafter be adopted and recorded with the county recorder of the county or counties in which the real property is located. Apportionment pursuant to this section shall be effective upon the recordation. The apportionment of the owner's development lien shall in no way either increase or decrease the total amount of the owner's development lien which has previously been imposed upon the properties involved. However, the original owner's development lien which had been previously imposed shall be released of record at the time the apportionment of the lien pursuant to this section is recorded.

Article 3. Leasing of Equipment

17450. Any school district or any county superintendent of schools may, as lessee, enter into a lease or lease-purchase agreement for equipment or service systems with any persons, firm, corporation or public agency. As used in this article ''equipment'' includes all of the following:

(1) Schoolbuses.

(2) Other motor vehicles.

(3) Test materials, educational films, and audiovisual materials.

(4) All other items defined as equipment or service systems in the California School Accounting Manual.

17451. Before a lease or lease-purchase agreement may be entered into the lessee shall comply with all applicable provisions for bids and contracts prescribed by Article 3 (commencing with Section 17595) of Chapter 5 of this part. Each contract shall show the total price for an outright purchase of any item and also its total cost for the entire specified term of the contract.

17452. The term of any lease or lease-purchase agreement shall not exceed the estimated useful life of the item but in no event shall the term exceed 10 years. A lease, but not a lease-purchase agreement, may be renewable at the option of the lessee and the lessor, jointly, at the end of each term at a rate not more than 12 percent annually above the rate set pursuant to the existing agreement. In no event shall the combined period of the original lease and renewals or extensions exceed 10 years. Any contract for the lease or lease-purchase of equipment or service systems which was in existence prior to April 22, 1975, shall remain in effect and such terms are hereby ratified.

17453. As a lessor, a school district governing board is authorized to let, or let with option to purchase, any land, buildings, or equipment it determines is not needed for school purposes for a term extending to the end of the expected nonuse of the land, buildings, or equipment and under any conditions it deems reasonable. All of these leases and leases with options to purchase to nonpublic agencies or individuals shall comply with the provisions of Sections 17545, 17546, 17547, and 17548.

Article 4. Sale or Lease of Real Property

17455. The governing board of any school district may sell any real property belonging to the school district or may lease for a term not exceeding 99 years, any real property, together with any personal property located

thereon, belonging to the school district which is not or will not be needed by the district for school classroom buildings at the time of delivery of title or possession. The sale or lease may be made without first taking a vote of the electors of the district, and shall be made in the manner provided by this article.

17456. Notwithstanding Section 17455, the sale by the governing board of any school district of any real property belonging to the school district or the lease by that governing board, for a term not exceeding 99 years, of any real property, together with any personal property located thereon, belonging to the school district shall not be subject to any other provision of this chapter, to Article 5 (commencing with Section 17485), or to Article 8 (commencing with Section 54220) of Chapter 5 of Part 1 of Division 2 of Title 5 of the Government Code, if all of the following conditions are met:

(a) The property is sold or leased to another local governmental agency, or to a nonprofit corporation that is organized for the purpose of assisting one or more local governmental agencies in obtaining financing.

(b) (1) In the case of the sale of school district property pursuant to this section, the school district, as part of that same sale transaction, simultaneously repurchases the same property that is the subject of the transaction.

(2) In the case of the lease of school district property pursuant to this section, the school district, as part of that same lease transaction, simultaneously leases back, for a term that is not substantially less than the term of that lease, the same property that is the subject of the transaction.

(c) The financing proceeds obtained by the school district pursuant to the transaction described in this section are expended solely for capital outlay purposes, including the acquisition of real property for intended use as a schoolsite and the construction, reconstruction, and renovation of school facilities.

17457. Notwithstanding any other provision of this part, in connection with a sale, sale back, lease, or

leaseback of school district property, no proceeds obtained by the school district from the sale of the sale back or leaseback agreement, or interests therein, or a debt instrument payable from payments under the sale back or leaseback agreement shall be used for general operating purposes of the school district.

17458. (a) Notwithstanding Article 8 (commencing with Section 54220) of Chapter 5 of Part 1 of Division 2 of Title 5 of the Government Code, the governing board of any school district complying with Section 101338.2 of Title 22 of the California Administrative Code and seeking to sell or lease any real property it deems to be surplus property may first offer that property for sale or lease to any contracting agency, as defined in Section 8208 of the Education Code, pursuant to the following conditions:

(1) The real property sold or leased shall be used by the contracting agency, or by any successor in interest to the contracting agency, exclusively for the delivery of child care and development services, as defined in Section 8208 of the Education Code, for a period of not less than five years from the date upon which the real property is made available to that agency, or successor in interest, pursuant to the sale, or, in the event of a lease, until the real property is returned to the possession of the school district, whichever occurs earlier.

(2) In the event that the contracting agency, or any successor in interest, fails to comply with the condition set forth in paragraph (1), that agency, or successor in interest, that purchased the real property, is required immediately to offer that real property for sale pursuant to this article and Article 5 (commencing with Section 17485) and to sell the property pursuant to those provisions. The agency, or its successor in interest, shall comply, in that regard, with all requirements under those provisions that would otherwise apply to a school district, except that a sale price computed under subdivision (a) of Section 17491 shall be based upon the cost of acquisition incurred by the school district that sold the property pursuant to this subdivision, rather than that incurred by

the contracting agency or its successor in interest. In the event, alternatively, of a lease of real property pursuant to this subdivision, the failure by the contracting agency, or any successor in interest, to comply with paragraph (1) shall constitute a breach of the lease, entitling the school district to immediate possession of the real property, in addition to any damages to which the district may be entitled under the lease agreement.

(3) The school district, and each of the entities authorized to receive offers of sale pursuant to this article or Article 5 (commencing with Section 17485), has standing to enforce the conditions set forth in this subdivision, and shall be entitled to the payment of reasonable attorneys' fees incurred as a prevailing party in any action or proceeding brought to enforce any of those conditions.

(b) No sale or lease of the real property of any school district, as authorized under subdivision (a), may occur until the school district advisory committee has held hearings pursuant to subdivision (c) of Section 17390.

(c) This section is in addition to, and shall not limit the requirements of, Article 5 (commencing with Section 17485), but this section may be utilized with regard to property which the governing board of a school district may retain under Section 17490.

17459. The sale of real property pursuant to this article shall be subject to the provisions of Article 8 (commencing with Section 54220) of Chapter 5 of Part 1 of Division 2 of Title 5 of the Government Code.

17460. (a) Notwithstanding subdivision (c) of this section or Sections 17456, 17457, and 42133, the West Contra Costa Unified School District, formerly known as the Richmond Unified School District, may enter into an agreement to lease any real property pursuant to Section 17456 and may use the financing proceeds from the agreement to terminate the Lease-Purchase Agreement, dated May 1, 1988, between the Richmond Unified School District Financing Corporation and the Richmond Unified School District. However, any property that has been leased, rented, sold, or otherwise utilized pursuant

to Section 41470 may not be leased pursuant to this section.

(b) The West Contra Costa Unified School District shall notify the Controller at the time the district enters into a lease agreement pursuant to subdivision (a). That notice shall set forth a schedule of the rental payments payable under the lease agreement and shall include the name and address of the trustee to whom the right to receive the rental payments has been assigned.

(c) Upon written notification by the trustee that the school district has not made one or more of the rental payments required by the terms of the lease, the Controller shall pay to the trustee from Section A of the State School Fund the defaulted rental payment. That payment by the Controller shall not exceed the amount of any apportionment entitlement of the district to moneys in Section A of the State School Fund, less any payments required in that fiscal year to repay any state loans made to the district. The Controller shall withhold the amount of any payment made under this subdivision, including reimbursement of the Controller's administrative costs as determined under a schedule approved by the California Debt Advisory Commission, from subsequent apportionments to the West Contra Costa Unified School District from Section A of the State School Fund.

(d) Nothing in this section shall be construed to obligate the state to make any payment to, or on behalf of, the West Contra Costa Unified School District from Section A of the State School Fund in any amount, pursuant to any particular allocation formula, or to make any other payment to, or on behalf of, the district, including, but not limited to, any payment of those rental payments.

(e) Any apportionments made by the Controller pursuant to subdivision (c) shall be deemed to be an allocation to the West Contra Costa Unified School District for purposes of subdivision (b) of Section 8 of Article XVI of the California Constitution, and for

purposes of Chapter 2 (commencing with Section 41200) of Part 24.

17461. (a) The governing board of any school district that has, by majority vote, established a standard rate or rates for the lease pursuant to this article of its real property may, by majority vote, delegate to the officer or employee as the governing board may designate, the power to enter into any lease, for and on behalf of the district, of any real property of the school district, with respect to which real property either the district has received only one sealed proposal that conforms with the existing standard rate or rates, from a responsible bidder, and no oral bid that would meet the requirements of Section 17473, or the lease is to be entered into pursuant to Section 17480.

(b) The governing board of any school district may, by majority vote, delegate to such officer or employee as the governing board may designate, the power to enter into any lease, permit, or agreement for the use by the district of buildings or other facilities if the use is to be granted to the district without charge.

17462. The funds derived from the sale of surplus property shall be used for capital outlay or for costs of maintenance of school district property that the governing board of the school district determines will not recur within a five-year period. Proceeds from a lease of school district property with an option to purchase may be deposited into a restricted fund for the routine repair of district facilities, as defined by the State Allocation Board, for up to a five-year period. In addition, the proceeds may be deposited in the general fund of the district for any general fund purpose if the school district governing board and the State Allocation Board have determined that the district has no anticipated need for additional sites or building construction for the five-year period following the sale or lease, and the district has no major deferred maintenance requirements. A school district that sold or leased real property pursuant to Section 17455 and that deposited the interest earned on those proceeds in the general fund of the school district

in the 1986–87 or the 1987–88 fiscal years, may continue to deposit the interest into the general fund for operating expenses through June 30, 1991. In the 1991–92 fiscal year, and each fiscal year thereafter for five fiscal years, the school district shall reduce the deposit of interest by 20 percent and shall use the reduction in interest for capital outlay or for costs of deferred maintenance of school district property. The State Allocation Board may grant a school district permission to change the five-year and 20 percent requirement to 10 years and 10 percent, if the State Allocation Board determines that the individual circumstances of the district warrants the change.

The proceeds may also be deposited into a special reserve fund for capital outlay, for costs of maintenance of school district property that the governing board determines will not recur within a five-year period, or for the future maintenance and renovation of schoolsites if the district governing board and the State Allocation Board have determined that the district has no anticipated need for schoolsites or building construction or major deferred maintenance projects for a five-year period following the sale or lease. Proceeds deposited in the special reserve fund shall not be available for general operating expenses as provided in Section 42842.

17463. Notwithstanding Section 17462, a school district having an average daily attendance of less than 10,001 in any fiscal year may deposit any and all interest earned on the funds derived from the sale in that fiscal year of surplus property into the general fund of the district for any general fund purpose, subject to the following conditions:

(a) Prior to that deposit, the district shall submit to the State Allocation Board a capital outlay plan for the district for a period of five years following that sale, together with a declaration of the finding by the governing board of the school district that the school facilities needs of the district can be met over that five-year period without funding or other assistance from any state school facilities funding program. No later than the date upon which that initial five-year period concludes, the district shall submit to the

State Allocation Board a capital outlay plan for the district for the subsequent five-year period.

(b) Prior to the decision to place that interest money into the district's general fund, the governing board of the school district shall consider the extent to which it is necessary or appropriate to expend that money to meet the district's needs relative to capital outlay, facilities, modernization, and deferred maintenance. In addition, as to any interest money deposited into the district's general fund pursuant to this section, the governing board shall consider the extent to which it is necessary or appropriate to expend the money to meet the district's needs relative to ongoing maintenance prior to expending that money for any other purpose.

(c) A school district that deposits interest into its general fund pursuant to the authority set forth in this section shall not be eligible during the 10-year period described in subdivision (a) for funding or other assistance under Chapter 12 (commencing with Section 17000) or Chapter 14 (commencing with Section 17085) of Part 10, Sections 17582 to 17592, inclusive, or any other state school facilities funding program.

(d) If a school district seeks state funding pursuant to Chapter 22 (commencing with Section 17000), Chapter 14 (commencing with Section 17085) of Part 10, Sections 17582 to 17592, inclusive, or any other state school facilities funding program, on or after the expiration of the 10-year period specified in subdivision (c), any state funding received by the district from the program shall be reduced by any remaining funds derived from the sale of that surplus property by the district and any unencumbered interest earned on those funds.

17464. Except as provided for in Article 2 (commencing with Section 17230) of Chapter 1, the sale or lease with an option to purchase of real property by a school district shall be in accordance with the following priorities and procedures.

(a) First, the property shall be offered for park or recreational purposes pursuant to Article 8 (commencing with Section 54220) of Chapter 5 of Part 1 of Division 2 of

Title 5 of the Government Code, in any instance in which that article is applicable.

(b) Second, the property shall be offered for sale or lease with an option to purchase, at fair market value in both of the following ways:

(1) In writing, to the Director of General Services, the Regents of the University of California, the Trustees of the California State University, the county and city in which the property is situated, and to any public housing authority in the county in which the property is situated.

(2) By public notice to any public district, public authority, public agency, public corporation, or any other political subdivision in this state, to the federal government, and to nonprofit charitable corporations existing on December 31, 1979, and organized pursuant to Part 3 (commencing with Section 10200) of Division 2 of Title 1 of the Corporations Code then in effect or organized on or after January 1, 1980, as a public benefit corporation under Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code. Public notice shall consist of at least publishing its intention to dispose of the real property in a newspaper of general circulation within the district, or if there is no newspaper of general circulation in the district, then in any newspaper of general circulation that is regularly circulated in the district. The notice shall specify that the property is being made available to all public districts, public authorities, public agencies, and other political subdivisions or public corporations in this state, and to other nonprofit charitable or nonprofit public benefit corporations.

Publication of notice pursuant to this section shall be once each week for three successive weeks. Three publications in a newspaper regularly published once a week or more often, with at least five days intervening between the respective publication dates not counting the publication dates, are sufficient. The written notice required by paragraph (1) shall be mailed no later than the date of the second published notice.

The entity desiring to purchase or lease the property shall, within 60 days after the third publication of notice, notify the school district of its intent to purchase or lease the property. If the entity desiring to purchase or lease the property and the district are unable to arrive at a mutually satisfactory price or lease payment during the 60-day period, the property may be disposed of as otherwise provided in this section. In the event the district receives offers from more than one entity pursuant to this subdivision, the school district governing board may determine which of such offers to accept.

(c) Third, the property may be disposed of in any other manner authorized by law.

This section shall become operative January 1, 1988.

17465. (a) As used in this section, the terms ‘‘district,’’ ‘‘special education local plan area,’’ and ‘‘county office’’ have the same meaning as prescribed by Part 30 (commencing with Section 56000).

(b) The governing board of a school district that adopts a resolution of intent to lease vacant classrooms shall first offer to lease the classrooms for special education programs that are provided by either other districts that comprise part of the special education local plan area in which the leasing district is included or by the county office having jurisdiction over the leasing district, to the pupils of the leasing district, in whole or in part.

(c) Upon adoption of the resolution, the governing board shall notify, in writing, other districts or the county office, as specified in subdivision (b), of its intent to lease vacant classrooms. The notice shall describe the vacant classrooms, shall specify that the lease shall not exceed a term of 99 years and that the lease payment and other terms of the lease are subject to negotiation, and shall state that the offer to lease is valid for no more than 60 days after receipt thereof.

(d) Notwithstanding Section 17466, the governing board may include in its resolution a time for a public meeting of the governing board to be held at its regular place of meeting at which sealed proposals to lease will be received and considered, and, notwithstanding Section

17469, may post copies of the resolution and publish notice of the adoption of the resolution. However, the governing board shall not act on any proposal prior to the first of the following conditions occurring:

(1) Receipt from the county superintendent or the public education agency, as appropriate, of its intent to lease the classrooms or of its intent not to do so.

(2) Expiration of the 60-day period prescribed by subdivision (c).

(e) An entity desiring to lease the vacant classrooms shall, within 60 days from receipt of the notification, inform the governing board, in writing, of its intent to lease or not to lease the classrooms.

(f) (1) The lease payments and other terms of the lease for vacant classrooms leased to other districts or to the county office, as specified in subdivision (b), shall be negotiated by the entity desiring to lease the vacant classrooms and the governing board. Any entity eligible to lease vacant classrooms pursuant to this section and any governing board may negotiate lease payments prior to the availability of the vacant classrooms.

(2) The lease payments shall not exceed the district's actual costs for maintenance, operation, and custodial services for the leased classrooms.

(3) If more than one governing board offers to lease classrooms, the entity desiring to lease such classrooms may elect to negotiate either individually with each district, or jointly, with some or all of such districts. If the entity elects joint negotiations, the lease payments shall not exceed the participating districts' average actual costs for maintenance, operation, and custodial services for the leased classrooms.

(g) If the governing board and the entity desiring to lease the classrooms are unable to complete negotiations for the lease and arrive at a mutually satisfactory lease within the same 60-day period that the entity has to inform the governing board of its intent to lease or not lease, the governing board may lease the classrooms in accordance with the provisions of this article.

(h) If vacant classrooms are available in both operating and nonoperating schools, the governing board, prior to adopting a resolution of intent to lease, shall consider which school would provide the environment least restrictive to the needs of handicapped pupils or individuals with exceptional needs, as appropriate, for whom the county superintendent or public education agency provides special education programs.

17466. Before ordering the sale or lease of any property the governing board, in a regular open meeting, by a two-thirds vote of all its members, shall adopt a resolution, declaring its intention to sell or lease the property, as the case may be. The resolution shall describe the property proposed to be sold or leased in such manner as to identify it and shall specify the minimum price or rental and the terms upon which it will be sold or leased and the commission, or rate thereof, if any, which the board will pay to a licensed real estate broker out of the minimum price or rental. The resolution shall fix a time not less than three weeks thereafter for a public meeting of the governing board to be held at its regular place of meeting, at which sealed proposals to purchase or lease will be received and considered.

17467. In lieu of the declaration of intention to lease real property provided in Section 17466, the governing board of any school district having an average daily attendance of 400,000 or more as shown by the annual report of the county superintendent of schools for the preceding year may publish a notice three times in a period of not less than 15 days in a newspaper of general circulation published in the district. The notice shall describe the property proposed to be leased in such manner as to identify it and shall specify the minimum rental and terms upon which it will be leased. The notice shall fix a time not less than 15 days thereafter for a public meeting of the governing board to be held at its regular place of meeting at which proposal to lease will be received and considered.

The governing board by majority vote may adopt a ruling delegating to such officer or employee of the district as the board may designate, authority to perform the duties prescribed in this section.

Bids received under this section shall be received, accepted, or rejected in accordance with the provisions of this article.

17468. If, in the discretion of the board, it is advisable to offer to pay a commission to a licensed real estate broker who is instrumental in obtaining any proposal, the commission shall be specified in the resolution. No commission shall be paid unless there is contained in or with the sealed proposal or stated in or with the oral bid, which is finally accepted, the name of the licensed real estate broker to whom it is to be paid, and the amount or rate thereof. Any commission shall, however, be paid only out of money received by the board from the sale or rental of the real property.

17469. Notice of the adoption of the resolution and of the time and place of holding the meeting shall be given by posting copies of the resolution signed by the board or by a majority thereof in three public places in the district, not less than 15 days before the date of the meeting, and by publishing the notice not less than once a week for three successive weeks before the meeting in a newspaper of general circulation published in the county in which the district or any part thereof is situated, if any such newspaper is published therein.

17470. (a) The governing board of a school district that intends to sell real property pursuant to this article shall take reasonable steps to ensure that the former owner from whom the district acquired the property receives notice of the public meeting prescribed by Section 17466, in writing, by certified mail, at least 60 days prior to the meeting.

(b) The governing board of a school district shall not be required to accord the former owner the right to purchase the property at the tentatively accepted highest bid price nor to offer to sell the property to the former owner at the tentatively accepted highest bid price.

17471. Whenever it is proposed to lease real property and the governing board unanimously determines in the resolution that in its opinion, the monthly rental value of the property does not exceed the sum of fifty dollars ($50), the resolution need not be posted and may, before the date of the meeting, be published in two successive issues of a weekly newspaper or in five successive issues of a daily newspaper. The newspaper in which the notice is published shall be one published in the district and having a general circulation there; or if there is no newspaper, then one having a general circulation in the district; or if there is no newspaper, then in one having a general circulation in a county in which the district or any part thereof is situated.

17472. At the time and place fixed in the resolution for the meeting of the governing body, all sealed proposals which have been received shall, in public session, be opened, examined, and declared by the board. Of the proposals submitted which conform to all terms and conditions specified in the resolution of intention to sell or to lease and which are made by responsible bidders, the proposal which is the highest, after deducting therefrom the commission, if any, to be paid a licensed real estate broker in connection therewith, shall be finally accepted, unless a higher oral bid is accepted or the board rejects all bids.

17473. Before accepting any written proposal, the board shall call for oral bids. If, upon the call for oral bidding, any responsible person offers to purchase the property or to lease the property, as the case may be, upon the terms and conditions specified in the resolution, for a price or rental exceeding by at least 5 percent, the highest written proposal, after deducting the commission, if any, to be paid a licensed real estate broker in connection therewith, then the oral bid which is the highest after deducting any commission to be paid a licensed real estate broker, in connection therewith, which is made by a responsible person, shall be finally accepted. Final acceptance shall not be made, however,

until the oral bid is reduced to writing and signed by the offeror.

17474. In the event of a sale on a higher oral bid to a purchaser procured by a licensed real estate broker, other than the broker who submitted the highest written proposal, and who is qualified as provided in Section 17468 of this code, the board shall allow a commission on the full amount for which the sale is confirmed. One-half of the commission on the amount of the highest written proposal shall be paid to the broker who submitted it, and the balance of the commission on the purchase price to the broker who procured the purchaser to whom the sale was confirmed.

17475. The final acceptance by the governing body may be made either at the same session or at any adjourned session of the same meeting held within the 10 days next following.

17476. The governing body may at the session, if it deems such action to be for the best public interest, reject any and all bids, either written or oral, and withdraw the property from sale or lease.

17477. (a) (1) If the governing board has complied with the provisions of this article, and no proposals are submitted or the proposals submitted do not conform with all terms and conditions specified in the resolution of intent to lease, the governing board may within one year thereafter, or one year after the passage of 30 days from the rejection of a public entity's nonconforming proposal, as appropriate, lease such real property, together with any personal property located thereon, to any lessee, at a price not less than fair market value in accordance with any terms and conditions agreed upon by the governing board and the lessee, except that the term of a lease shall not exceed three years. Sections 17461, 17464, and 17466 to 17469, inclusive, and Sections 17471 to 17473, inclusive, shall not apply to the lease.

(2) The governing board may by majority vote delegate an officer or employee of the district, or any other third person, to secure a lessee and to negotiate the terms and conditions of the lease. However, the lease shall

not be executed unless the governing board by majority vote, at a public meeting, approves the lease.

(3) If a public entity has submitted a nonconforming proposal, the governing board shall not take any action pursuant to this subdivision until 30 days after the rejection of the proposal.

(b) Subdivision (a) shall not apply if a public entity has submitted a proposal that does not conform with all the terms and conditions specified in the resolution of intent to lease, and if the public entity requests, in writing, within 30 days from the rejection of its proposal, that the governing board lease the real property, subject to the resolution of intent, in accordance with this article.

17478. Any resolution of acceptance of any bid made by the governing body authorizes and directs the president of the governing body, or other presiding officer, or the members thereof, to execute a deed or lease and to deliver it upon performance and compliance by the purchaser or lessee of all the terms or conditions of his or her contract to be performed concurrently therewith.

17479. Nothing in Sections 17455 to 17542, inclusive, shall prevent the governing board of any school district from acquiring, leasing or subleasing property pursuant to Section 1261 of the Military and Veterans Code.

17480. The governing board of any school district may, without complying with any other provision of this article, let in the name of the district any buildings, grounds, or space therein, together with any personal property located thereon, not needed for school classroom buildings upon any terms and conditions as may be agreed upon by the governing board of the district and the lessee thereof for a period not exceeding 30 separate or consecutive calendar days or portions thereof in each fiscal year.

17481. In addition to any other authority to lease real property, the governing board of a school district, by a two-thirds vote of its members, may lease, for a term not exceeding three months, school district property having a residence thereon, which cannot be developed for district purposes because of the unavailability of funds.

The lease shall be upon any terms and conditions that the parties thereto may agree and may be entered into without complying with any provisions in this code except as provided in this section.

17482. The governing board of a school district may, with the approval of the county board of supervisors, sell or lease any building of the district together with the site upon which the building is located, without complying with any other provisions of this article, provided that the county board of supervisors finds that all of the following conditions exist:

(a) The sale or lease is to be made to an incorporated nonprofit tax-exempt community or civic organization with a membership comprised predominantly of persons residing in the community in which the building and site are situated.

(b) The building is not suitable for school purposes.

(c) The building has an historic value and its preservation and utilization for the benefit of the community will best be ensured by sale or lease to an organization specified in subdivision (a).

(d) The sale or lease is to be executed for a consideration to enure to the school district reflecting the fair market value of the property, or its fair rental value, as the case may be, except that the sale may be executed for a consideration that is less than the fair market value of the property if all of the following conditions exist:

(1) More than 50 percent of the buildings on the site have been designated as historically significant by the State Historical Resources Commission.

(2) For a period of 25 years, commencing with the date that possession of the property is transferred, the building or buildings designated pursuant to paragraph (1) shall be used and maintained for public benefit as an historical resource, and the site shall otherwise be available for public access and use, including, but not limited to, park and recreational uses. Any violation of this condition shall result in the automatic reversion of title to the property so transferred, without remuneration, to the transferor school district. The condition set forth in this paragraph

does not prohibit any use of the site that is necessary or appropriate to its use and maintenance for historical purposes.

(3) The consideration paid is equal to or greater than the sum of the actual cost of the acquisition of the property by the school district and the actual cost of any capital improvements made to the property.

(e) Adequate provision has been made in connection with the sale or lease transaction to protect the district against all civil liabilities which might arise in connection with any use of the building and site.

17483. The failure to comply with the provisions of this article shall not invalidate the transfer or conveyance of real property to a purchaser or encumbrancer for value.

17484. The governing board of any school district, constituting the governing body of an elementary district, a high school district, or any two of those districts, may sell any building, structure, or other fixture, belonging to one of its respective districts to another district governed by it, for an amount to be fixed by the governing body, without advertisement for or receipt of bids or compliance with any other provisions of this code.

Whenever any property is sold under this section it shall be removed from the premises of the district selling it within 60 days from the date of the sale.

Article 5. Surplus School Playground, Playing Field, and Recreational Property

17485. The Legislature is concerned that school playgrounds, playing fields, and recreational real property will be lost for those uses by the surrounding communities even if those communities in their planning process have assumed that the properties would be permanently available for recreational purposes. It is the intent of the Legislature in enacting this article to allow school districts to recover their investment in surplus property while making it possible for other agencies of government to acquire the property and keep it available

for playground, playing field or other outdoor recreational and open-space purposes.

17486. This article shall apply to any schoolsite owned by a school district, which the governing board determines to sell or lease, and with respect to which the following conditions exist:

(a) Either the whole or a portion of the schoolsite consists of land which is used for school playground, playing field, or other outdoor recreational purposes and open-space land particularly suited for recreational purposes.

(b) The land described in subdivision (a) has been used for one or more of the purposes specified therein for at least eight years immediately preceding the date of the governing board's determination to sell or lease the schoolsite.

(c) No other available publicly owned land in the vicinity of the school site is adequate to meet the existing and foreseeable needs of the community for playground, playing field, or other outdoor recreational and open-space purposes, as determined by the governing body of the public agency which proposes to purchase or lease land from the school district, pursuant to Section 17492.

17487. As used in this article, ''schoolsite'' means a parcel of land, or two or more contiguous parcels, which is owned by a school district. ''Governing board'' means the governing board of the school district which owns the schoolsite.

17488. The governing board of any school district may sell or lease any schoolsite containing land described in Section 17486, and, if the governing board decides to sell or lease such land, it shall do so in accordance with the provisions of this article.

17489. Notwithstanding Section 54222 of the Government Code, the governing board, prior to selling or leasing any schoolsite containing land described in Section 17486, excluding that portion of a schoolsite retained by the governing board pursuant to Section 17490, shall first offer to sell or lease that portion of the

schoolsite consisting of land described in Section 17486, excluding that portion retained by the governing board pursuant to Section 17490, to the following public agencies in accordance with the following priorities:

(a) First, to any city within which the land may be situated.

(b) Second, to any park or recreation district within which the land may be situated.

(c) Third, to any regional park authority having jurisdiction within the area in which the land is situated.

(d) Fourth, to any county within which the land may be situated.

The governing board shall have discretion to determine whether the offer shall be an offer to sell or an offer to lease.

An entity which proposes to purchase or lease a schoolsite offered by a school district shall notify the district of its intention, in writing, within 60 days after receiving written notification from the district of its offer to sell or lease.

17490. In determining what portion of a schoolsite shall be offered for sale or lease pursuant to this article, the governing board may retain any part of the schoolsite containing structures or buildings, together with such land adjacent thereto which, as determined by the governing board, must be included in order to avoid reducing the value of that part of the schoolsite containing such structures or buildings to less than 50 percent of fair market value.

17491. (a) Except as otherwise provided in subdivision (b) or (e), the price at which land described in Section 17486, excluding that portion of a schoolsite retained by the governing board pursuant to Section 17490, is sold pursuant to this article shall not exceed the school district's cost of acquisition, calculated as a pro rata cost of acquiring the entire parcel comprising the schoolsite, adjusted by a factor equivalent to the percentage increase or decrease in the cost of living from the date of purchase to the year in which the offer of sale is made, plus the cost of any improvement to the

recreational and open-space portion of the land which the school district has made since its acquisition of the land. In no event shall the price be less than 25 percent of the fair market value of the land described in Section 17486 or less than the amount necessary to retire the share of local bonded indebtedness plus the amount of the original cost of the approved state aid applications on the property, excluding that portion of a schoolsite retained by the governing board pursuant to Section 17489, at the time of the offer.

These provisions shall apply to land that the school district acquired by gift or for consideration.

(b) A school district that offers a portion of a schoolsite for sale may offer such portion of property for sale at its fair market value, provided the school district offers an equivalent size alternative portion of that school site for school playground, playing field, or other recreational and open-space purposes.

(c) Land which is leased pursuant to this article shall be leased at an annual rate of not more than 1/20th of the maximum sales price determined pursuant to subdivision (a) of this section, adjusted annually by a factor equivalent to the percentage increase or decrease in the cost of living for the immediately preceding year.

(d) The percentage of annual increase or decrease in the cost of living shall be the amount shown for January 1st of the appropriate year by the then current Bureau of Labor Statistics Consumers Price Index for the area in which the schoolsite is located.

(e) Whenever a school district closes a schoolsite and sells any land described in Section 17486 pursuant to this article to help pay only for capital outlay costs incurred directly as a result of the transfer of pupils from the closed school to another school or other schools of the district, the sale price of the property determined pursuant to subdivision (a) shall be increased by an amount equal to the additional costs incurred due to the school closure.

17492. The governing body of a public agency which proposes to purchase or lease land from a school district pursuant to this article shall first make a finding,

approved by a vote of two-thirds of its members, that public lands in the vicinity of the schoolsite are inadequate to meet the existing and foreseeable needs of the community for playground, playing field, or other outdoor recreational and open-space purposes.

17493. (a) No public agency may purchase surplus school property from a school district pursuant to this article unless it has first adopted a plan for the purchase of surplus school property. The plan shall designate the surplus site or sites all or a portion of which the public agency desires to purchase at the price established pursuant to this article and shall designate at least 70 percent of the total surplus school acreage as property which the agency does not desire to purchase at the price established pursuant to this article. Where the plan indicates that the agency desires to purchase only a portion of a schoolsite at the price established pursuant to this article, it shall designate the percent of the property to be so purchased and provide a description of the general location of the property to be purchased, without designating the metes and bounds.

(b) Any property designated by public agencies as surplus schoolsites which the agencies do not wish to purchase, pursuant to subdivision (a), may be sold or leased by a school district without regard to this article.

(c) This section shall become operative on April 1, 1982.

17494. Any land purchased or leased by a public agency pursuant to this article shall thereafter be maintained by such agency for playground, playing field, or other outdoor recreational and open-space uses. Land which prior to its sale or lease was used for playground or playing field purposes, shall continue to be maintained for such use by the acquiring agency, unless the governing body of that agency, by a two-thirds vote at a public hearing, determines that there is no longer a significant need for the land to be so used, in which case the land may thereafter be used for other outdoor recreational or open-space purposes. The school district may, at any time, reacquire the land at a price calculated in the manner

prescribed in Section 17491, and the rights of reacquisition provided in this section shall be set forth in the deed or other instrument of transfer. If the governing board of the public agency determines that the land is no longer needed for playground, playing field, or other outdoor recreational and open-space purposes, the public agency shall offer the property to the school district for reacquisition under this section, and the school district shall notify the public agency within 60 days of its intent to reacquire the land. If the school district intends to sell the property within one year of the reacquisition date, the school district may finance the reacquisition of the land by lien against the proceeds to be obtained from the sale of the land by the school district. If the school district fails to give the public agency timely notice of its intent to reacquire the property, or if it fails to exercise its right of reacquisition, the public agency may use or dispose of the property.

For purposes of this section, ‘‘cost of acquisition,’’ as used in Section 17491, shall refer to the cost at which the land was acquired by the public agency.

17495. The sale or lease of land by a school district pursuant to this article shall be subject to, and governed by, the provisions of Article 2 (commencing with Section 17230) of Chapter 1 and Article 4 (commencing with Section 17455), except to the extent that the provisions of this article are inconsistent with a provision or provisions of Article 2 or 4, in which event the provisions of this article shall govern the sale or lease.

17496. Failure by the school district to comply with the provisions of this article shall not invalidate the transfer or conveyance of real property to a purchaser or encumbrancer for value.

17497. Notwithstanding the other provisions of this article, any school district governing board may designate not more than two surplus school sites as exempt from the provisions of this article for each planned school site acquisition if the school district has an immediate need for an additional schoolsite and is actively seeking to acquire an additional site, and may exempt not more than one

surplus schoolsite if the district is seeking immediate expansion of the classroom capacity of an existing school by 50 percent or more.

The exemption provided for by this section shall be inapplicable to any schoolsite which, under a lease executed on or before July 1, 1974, with a term of 10 years, was leased to a city of under 100,000 population for park purposes, was improved at city expense, and used for public park purposes.

17498. A school district having a schoolsite described in Section 17486 may, as an alternative to sale or lease of the land pursuant to the foregoing provisions of this article, enter into other forms of agreement concerning the disposition of the property with any entity enumerated in Section 17489, in accordance with the priorities therein specified, including, but not limited to each of the following:

(a) An agreement to lease to such entity all or part of the schoolsite for a specified term, with an option to purchase such properties at the end of the term.

(b) An agreement granting to the entity a permanent open-space easement for recreational use over a portion of the leased site.

(c) If the lessee or a grantee under an agreement is an entity having zoning powers, an agreement requiring the entity to rezone any portion of the property retained by the school district in accordance with conditions specified in the agreement, to the extent that rezoning in accordance with the conditions is in compliance with applicable laws of the state.

17499. (a) No more than 30 percent of the total surplus school acreage owned by a school district may be purchased or leased by public agencies pursuant to this article.

(b) The right of any public agency to purchase or lease surplus school property pursuant to this article shall exist only with respect to an amount of surplus school acreage within its jurisdictional boundaries which, when added to the surplus school acreage within its jurisdictional boundaries already purchased or leased pursuant to this

article, will not exceed 30 percent of the surplus school acreage owned by the school district which is within the jurisdictional boundaries of that agency.

(c) For purposes of this section, ‘‘surplus school acreage’’ of a school district means property which is owned by a district and not used for school purposes, including, but not limited to, undeveloped property and property which contains school buildings that are not in use as a result of a school closure and which is not subject to any lease or agreement executed on or before July 1, 1974, for a term in excess of six years, in which any city containing a population of less than 100,000 had use of the property for park purposes on January 1, 1981, and had improved the property.

(d) Nothing in this section shall be construed to deny local agencies the opportunity to purchase at full market value all or part of the 70 percent of the total surplus school acreage which is not affected by this article.

17500. This article shall not apply to any school district having more than 400,000 pupils in average daily attendance.

Article 7. Leasing for Production of Gas

17510. The governing board of a school district may, upon complying with this article, enter into and be a party to a community lease to which a city or other public agency and one or more private persons or private agencies are also parties for the leasing of the parcels of lands owned by the district and the other parties for the extraction and taking of gas not associated with oil, on the terms and conditions that the governing board of the district may prescribe. The lease may be entered into without complying with any provisions of this code except as provided in this article.

17511. The board shall not enter into and be a party to any lease unless the following conditions have been met:

(a) A resolution authorizing that action and prescribing the terms of the lease has been adopted by

the unanimous vote of all the members elected or appointed to the board.

(b) The resolution has been published in a newspaper of general circulation published in the district, or if there be no newspaper, in a newspaper having a general circulation in the district, once a week for three weeks prior to the execution of the lease by the board.

17512. No well for the production of gas shall be drilled on any land owned by the district and leased pursuant to this article.

Article 8. Joint Occupancy

17515. Any school district may enter into leases and agreements relating to real property and buildings to be used jointly by the district and any private person, firm, or corporation pursuant to this article. As used in this article, ‘‘building’’ includes onsite and offsite facilities, utilities and improvements that, as agreed upon by the parties, are appropriate for the proper operation or function of the building to be occupied jointly by the district and the private person, firm, or corporation. It also includes the permanent improvement of school grounds.

Any building, or portion thereof, that is used by a private person, firm, or corporation pursuant to this section shall be subject to the zoning and building code requirements of the local jurisdiction in which the building is situated.

Section 53094 of the Government Code shall not be applicable to uses of school district property or buildings authorized by this section, except in the case of property or buildings used solely for educational purposes.

17516. (a) Before the governing board of a school district enters into a lease or agreement pursuant to this article, it shall own a site upon which a building to be used by the district and private person, firm, or corporation may be constructed and shall have complied with the provisions of law relating to the selection and approval of sites.

(b) This section shall not apply to any building to be acquired by purchase pursuant to Article 2 (commencing with Section 17110) of Chapter 16 of Part 10.

17517. The term of any lease or agreement entered into by a school district pursuant to this article shall not exceed 66 years.

17518. The governing board of a school district may let to any private person, firm, or corporation, any real property that belongs to the district if the instrument by which the property is let requires the lessee therein to construct on the demised premises, or provide for the construction thereon of, a building or buildings for the joint use of the school district and the private person, firm, or corporation during the term of the agreement.

However, title to that portion of the building to be occupied by the private individual, firm, or corporation shall remain exclusively the personal property of the private party during the term of the lease and the title to that portion of the building to be occupied by the district shall vest in the district upon completion thereof and acceptance thereof by the school district. No rental fee or other charge for the use of the building shall be paid by the district.

17519. Any lease of real property by a school district to a private person, firm, or corporation pursuant to this article shall be upon the terms and conditions as the parties thereto may agree and may be entered into without complying with any provisions of this code except as provided in this article. However, any lease or agreement pursuant to this article shall be subject to Article 7 (commencing with Section 35230) of Chapter 2 of Part 21.

17520. Before entering into a lease or agreement pursuant to this article, the governing board of a school district shall comply with Section 17521.

17521. For the purposes of receiving proposals for the joint occupancy of a building to be constructed on school property, the board shall, in a regular open meeting, adopt a resolution declaring its intention to consider the proposals. The resolution shall describe the proposed site

on which the building to be jointly occupied is to be constructed in a manner so as to identify the site, shall specify the intended use of that portion of the building that is to be occupied by the district, and shall fix a time not less than 90 days thereafter for a public meeting of the governing board to be held at its regular place of meeting, at which meeting the board shall receive and consider all plans or proposals submitted.

17522. Notice of adoption of the resolution and the time and place of holding the meeting shall be given by publishing the resolution at least once a week for three weeks in a newspaper of general circulation published in the district if there is one, or if none is published in the district, in a newspaper published in the county.

17523. At the time and place fixed in the resolution for the meeting of the governing board, the board shall meet and consider all plans and proposals submitted for the joint occupancy of the building to be constructed on the proposed schoolsite.

17524. (a) After considering all proposals submitted, the governing board of the school district may, subject to Section 17525, select the plan or proposal that best meets the needs of the school district and enter into a contract incorporating that plan or proposal either as submitted or as revised by the governing board of the school district. However, the governing board shall not approve any proposal nor enter into a lease or contract incorporating a proposal until the governing board has submitted the proposal to the State Board of Education, and the State Board of Education has approved the proposal. The State Board of Education shall, within 45 days of the date of submission, notify the governing board of its approval or disapproval.

(b) The governing board shall require any person, firm, or corporation with whom it enters into a lease or agreement pursuant to this article to file one of the following, as determined by the governing board:

(1) A bond for the performance of the lease or agreement.

(2) An irrevocable letter of credit issued by a state or national bank for the performance of the lease or agreement.

17525. Any building constructed for the use of a school district pursuant to this article is subject to Sections 17280 to 17313, inclusive, and all other provisions of this code relating to the physical structure of school buildings.

17526. The provisions of this article prevail over any provisions of law that conflict therewith.

Article 9. Joint Use

17527. (a) The governing board of any school district may enter into agreements to make vacant classrooms or other space in operating school buildings available for rent or lease to other school districts, educational agencies, except private educational institutions which maintain kindergarten or grades 1 to 12, inclusive, governmental units, nonprofit organizations, community agencies, professional agencies, commercial and noncommercial firms, corporations, partnerships, businesses, and individuals, including during normal school hours if the school is in session.

(b) The governing board shall give first priority in leasing or renting vacant classroom space or other space to educational agencies for conducting special education programs and second priority to other educational agencies.

17528. As used in this article, ‘‘building’’ includes onsite and offsite facilities, utilities, and improvements which, as agreed upon by the parties, are appropriate for the proper operation or function of the building to be jointly occupied and used. It also includes the permanent improvement of school grounds.

17529. Prior to entering into a lease or agreement pursuant to this article, the school district governing board shall determine that the proposed joint occupancy and use of school district property or buildings will not do any of the following:

(a) Interfere with the educational program or activities of any school or class conducted upon the real property or in any building.

(b) Unduly disrupt the residents in the surrounding neighborhood.

(c) Jeopardize the safety of the children of the school.

17530. The governing board of a school district entering into a lease pursuant to this article shall comply with the applicable provisions of Article 4 (commencing with Section 17455).

17531. (a) Except as provided in subdivision (b) of this section and Section 17532, the amount of classroom space leased pursuant to this article in any schoolsite during normal school hours shall not exceed 45 percent of the total classroom space of that school, and in no event shall the leased classroom space in the school district during normal school hours exceed 30 percent of the district's total classroom space in operating schools.

(b) The governing board of a school district may, upon a two-thirds vote, enter into lease agreements which exceed the 45 percent limit per school upon making a finding that the leases are compatible with the educational purpose of the school. The board, however, shall not exceed, pursuant to this subdivision, the 30 percent limit of classroom space for the entire school district.

(c) The provisions of this section shall not apply to agreements for the lease of classroom space entered into by districts on or before March 4, 1981.

17532. The governing board of a school district may lease vacant classroom space the total area of which exceeds the 30 percent districtwide limit of classroom space available pursuant to this article, if a lease is for any day care center, nursery school, or special education class.

17533. A local agency having general planning jurisdiction may require adherence to appropriate zoning ordinances, use permits, construction or safety codes, by a school district seeking to lease a portion of a school building for uses other than public or education-related uses.

17534. (a) Except as provided in subdivision (b), the term of any agreement entered into by a school district pursuant to this article shall not exceed five years.

(b) The provisions of subdivision (a) shall not apply to agreements under or pursuant to which capital outlay improvements are made on school property for park and recreation purposes by public entities and nonprofit corporations.

17535. (a) Except as provided in subdivision (b), no agreement entered into by a school district pursuant to this article shall rent or lease vacant classrooms or other space in operating schools for less than fair market rental for comparable facilities.

(b) A district may enter into an agreement to rent or lease vacant classrooms or other space in operating schools to public entities for less than fair market rental for comparable facilities.

Article 10. Exchange of Property

17536. The governing board of a school district may exchange any of its real property for real property of another person or private business firm. Any exchange shall be upon such terms and conditions as the parties thereto may agree and may be entered into without complying with any provisions in this code except as provided in this article.

17537. Before ordering any exchange of real property the board shall adopt, by a two-thirds vote of its members, a resolution declaring its intention to exchange the property. The resolution shall describe the properties to be exchanged in a manner to identify them, and the terms and conditions, not including the price, upon which they will be exchanged.

17538. The governing board of any school district which has acquired title to property included within an application which has been approved by the State Allocation Board for state school building aid and which property is to be used as an access roadway to the schoolsite may exchange the property for other property

to be used as an access roadway which abuts a state highway, if in the opinion of the Division of Highways in the Department of Transportation there is objection to the first access roadway, and if in the opinion of the governing board the property acquired by the exchange will afford more safety to the pupils of the district.

Article 13. Sale or Lease of Personal Property by One District to Another

17540. The governing board of any school district may sell any personal property or school supplies belonging to the district to the federal government or its agencies, to the state, to any county, city and county, city or special district, or to any other school district or any agency eligible under the federal surplus property law, (40 U.S.C. Sec. 484(j)(3)) and the governing board of another school district may purchase the property, for an amount equal to the cost thereof plus the estimated cost of purchasing, storing, and handling the property, without advertisement for or receipt of bids or compliance with any other provisions of this code. The governing board of any school district may purchase any personal property or school supplies for the purpose of selling them, pursuant to this section.

This section does not authorize the purchase, for the purpose of resale, of standard school supplies and equipment by any elementary school district governed by school trustees.

17541. The provisions of Section 17540 shall be applicable to a sale of personal property from a unified school district whose boundaries are coterminous with a city or city and county to that city or city and county.

17542. The governing board of any school district may sell or lease used personal property belonging to the district to the federal government or its agencies, to the state, to any county, city and county, city or special district, or to any other school district, and the governing board of another school district may purchase or lease the property. The selling price and the terms of sale, or the lease price and the terms of lease shall be fixed by the

governing boards of the school districts effecting the sale or lease, and approved by the county superintendent of schools. The sale or lease may be made without advertisement for or receipt of bids, or compliance with any other provisions of this code.

Article 14. Sale of Personal Property

17545. (a) The governing board of any school district may sell for cash any personal property belonging to the district if the property is not required for school purposes, or if it should be disposed of for the purpose of replacement, or if it is unsatisfactory or not suitable for school use. There shall be no sale until notice has been given by posting in at least three public places in the district for not less than two weeks, or by publication for at least once a week for a period of not less than two weeks in a newspaper published in the district and having a general circulation there. If there is no such newspaper, then in a newspaper having a general circulation in the district; or if there is no newspaper, then in a newspaper having a general circulation in a county in which the district or any part thereof is situated. The board shall sell the property to the highest responsible bidder, or shall reject all bids.

(b) The governing board may choose to conduct any sale of personal property authorized under this section by means of a public auction conducted by employees of the district or other public agencies, or by contract with a private auction firm. The board may delegate to the district employee responsible for conducting the auction the authority to transfer the personal property to the highest responsible bidder upon completion of the auction and after payment has been received by the district.

17546. (a) If the governing board, by a unanimous vote of those members present, finds that the property, whether one or more items, does not exceed in value the sum of two thousand five hundred dollars ($2,500), it may be sold at private sale without advertising, by any

employee of the district empowered for that purpose by the board.

(b) Any item or items of property having previously been offered for sale pursuant to Section 17545, but for which no qualified bid was received, may be sold at private sale without advertising by any employee of the district empowered for that purpose by the board.

(c) If the board, by a unanimous vote of those members present, finds that the property is of insufficient value to defray the costs of arranging a sale, the property may be donated to a charitable organization deemed appropriate by the board, or it may be disposed of in the local public dump on order of any employee of the district empowered for that purpose by the board.

17547. The money received from the sale shall be placed to the credit of the fund from which the original expenditure for the purchase of the property was made or in the general or reserve fund of the district.

17548. The governing board of any school district may dispose of personal property belonging to the district for the purpose of replacement by providing in the notice calling for bids for furnishing new materials, articles, or supplies that each bidder shall agree in his or her bid to purchase the property being replaced and to remove it from the school grounds and shall state in his or her bid the amount which he or she will deduct from the price bid for furnishing new materials, articles, or supplies as the purchase price for the personal property being purchased from the district. The board shall let the contract to any responsible bidder whose net bid is the lowest, or shall reject all bids.

17549. The governing board of any school district may enter into contracts with manufacturers or suppliers for the exchange of household appliances and equipment belonging to the district and used for instructional purposes for new property of like class and kind for a similar use without advertising for or taking bids. The cost to the district for the exchange shall not exceed the excess, if any, of the manufacturer's or supplier's selling price of the new property over the original cost to the

district of the property being disposed of by the district, plus any applicable tax.

17550. The governing board of any school district may, when calling for bids and letting contracts for constructing new school buildings, or repairing, altering, adding to, or reconstructing existing school buildings, or demolishing existing school buildings, require each bidder for the performance of the work to agree in his or her bid to purchase and to remove from the school grounds all old materials required by the specifications to be removed from any existing school building on the same school grounds and not required for school purposes and to state in his or her bid the amount which he or she will deduct from the price bid for the work as the purchase price of the old materials. The board shall let the contract to any responsible bidder whose net bid is the lowest, or shall reject all bids.

17551. The governing board of a school district may authorize any officer or employee of the district to sell to any pupil personal property of the district which has been fabricated by such pupil, at the cost to the district of the materials furnished by the district and used therein.

17552. The governing board of a school district may sell to persons enrolled in classes for adults maintained by the district any materials that may be necessary for the making of articles by those persons in those classes. The materials shall be sold at not less than the cost thereof to the district and any article made therefrom shall be the property of the person making it.

17553. A school district may, in accordance with regulations adopted by the governing board of the district and for educational use, sell, give, or exchange for similar published materials, published materials prepared by the district in connection with the curricular and special services that the district is authorized to perform. Unless restricted by the regulations of the governing board, the sale or gift may be made to, and the exchange may be made with, any person, political subdivision, public officer or agency, or educational institution. The distribution of the published material in accordance with

this section is declared to be a public purpose and in furtherance of Article IX, Section 1, of the Constitution.

A school district may also license the use of copyrights held by the district, to the same persons or entities and for the same purposes as provided in the above paragraph.

The district shall grant a license to any public agency organized under the authority of this state, unless an exclusive license has previously been granted a private publisher.

Any charge which may be assessed a public agency for the license to use the copyright or for materials, to which the district holds the copyright, shall not exceed the cost to the district of the preparation and reproduction of the materials.

Any granting of a license, by a school district, to reproduce copyrighted material is declared to be for a public purpose in furtherance of Article XI, Section 1, of the Constitution.

17554. Notwithstanding any other provision of law, the governing board of any school district owning land upon which agricultural products are grown may enter into agreements with an agricultural cooperative or association for the purpose of maintaining, harvesting or selling the products.

17555. Notwithstanding any other provision of this article, the governing board of any school district may sell or lease any personal property belonging to the district to any private educational institution for use in any summer school which the institution offers in a facility of the district used under a lease or agreement entered into pursuant to Section 17527.

Article 15. Dedication of Real Property

17556. The governing board of any school district may, pursuant to this article, dedicate or convey to the state, or any political subdivision or municipal corporation thereof, for public street or highway purposes, either with or without consideration and without a vote of the electors of the district first being taken, any real property belonging to the district, either

in fee or any lesser estate or interest therein, including abutter's right of access to any public street or highway; and may dedicate or convey to any public corporation, or private corporation engaged in the public utility business, without a vote of the electors of the district first being taken, an easement to lay, construct, reconstruct, maintain, and operate water, sewer, gas, or storm drain pipes or ditches, electric or telephone lines, and access roads used in connection therewith, over and upon any land belonging to the school district, upon such terms and conditions as the parties thereto may agree.

17557. Before ordering the dedication or conveyance of any property the governing board shall in regular open meeting by a two-thirds vote of all its members adopt a resolution declaring its intention to dedicate or convey the property. The resolution shall describe the property proposed to be dedicated or conveyed in such manner as to identify it, and shall specify the purposes for which and the terms upon which it will be dedicated or conveyed, and shall fix a time not less than 10 days thereafter for a public meeting of the governing board to be held at its regular place of meeting for a public hearing upon the question of making the dedication or conveyance.

17558. Notice of adoption of the resolution and of the time and place of holding the meeting shall be given by posting copies of the resolution signed by the members of the board, or by a majority thereof, in three public places in the district not less than 10 days before the date of the meeting, and by publishing the notice once not less than five days before the date of the meeting in a newspaper of general circulation, published in the district, if there is one, or, if there is no such newspaper published in the district, then in a newspaper published in the county in which the district or any part thereof is situated and having a general circulation in the district.

17559. At the time and place fixed in the resolution for the meeting of the governing board the public hearing shall be held, and the governing board may at the meeting, or at any other meeting of the governing board held within 60 days thereafter, unless a protest is entered,

adopt a resolution by a two-thirds vote of all its members authorizing and directing the president of the governing board, or any other presiding officer, or the secretary, or the members thereof, to execute a deed of dedication or conveyance of the property and to deliver it. Upon the delivery and acceptance of the deed the dedication or conveyance is fully effective.

17560. A petition protesting against the proposed dedication or conveyance signed by at least 10 percent of the qualified electors of the district, as shown by the affidavit of one of the petitioners, may be filed with the governing board at the meeting held at the time and place fixed in the resolution. If a protest is filed, the governing board shall, before taking any further action on the proposed dedication or conveyance, submit the question of whether the proposed dedication or conveyance should be made, to the superintendent of schools of the county having jurisdiction over the district, whose decision is final. If the superintendent approves the proposed dedication or conveyance, the board may proceed as provided in Section 17559. If the superintendent of schools does not approve the proposed dedication or conveyance, no further proceedings shall be had thereon.

17561. Whenever school districts are required to improve and dedicate real property to the centerline of streets or highways adjacent to a schoolsite or forming an intersection at a schoolsite location, and when such street or highway rights-of-way are being conveyed to the city or county or by the city or county to the school district, the requirements of this article shall be deemed satisfied solely by posting a notice of intention to convey in an appropriate location before conveyance.

CHAPTER 5. PROPERTY MAINTENANCE AND CONTROL

Article 1. Duties of Governing Board

17565. The governing board of any school district shall furnish, repair, insure against fire, and in its discretion rent the school property of its districts. The governing

board may also insure the property against other perils. The insurance shall be written in any admitted insurer, or in any nonadmitted insurer to the extent and subject to the conditions prescribed in Section 1763 of the Insurance Code. Insurance on property of a district may be, in the discretion of the governing board, of the deductible type of coverage. By deductible type of coverage is meant a form of insurance under which the insurance becomes operative when the loss and damage exceeds an amount stipulated in the policy or policies.

The governing board, in their notice of bid for any school district construction, may indicate that it may elect to assume the cost of fire insurance by adding the coverage to the district's existing policy and in that event bids made on the construction shall be made in the alternative, with and without the fire insurance coverage included, and the governing board shall make its election as to who shall secure and pay for the insurance at the time of accepting the bid.

17566. (a) The governing board of any school district, by resolution, may establish a fund or funds for losses, and payments, including, but not limited to, health and welfare benefits for its employees as defined by Section 53200 of the Government Code, school district property, any liability, and workers' compensation, in the county treasury for the purpose of covering the deductible amount under deductible types of insurance policies, losses or payments arising from self-insurance programs, or losses or payments due to noninsured perils. In the fund or funds shall be placed those sums, to be provided in the budget of the school district, that will create an amount that, together with investments made from the fund or funds, will be sufficient in the judgment of the governing board to protect the school district from those losses or to provide for payments on the deductible amount under deductible types of insurance policies, losses or payments arising from self-insurance programs, or losses or payments due to noninsured perils. Nothing in this section shall be construed to prohibit the governing board from providing protection against those

losses or liability for the payment of claims partly by means of the fund or funds and partly by means of insurance written by acceptable insurers as provided in Section 17565.

The fund or funds shall be considered as separate and apart from all other funds of the school district, and the balance therein shall not be considered to be part of the working cash of the school district in compiling annual budgets.

Warrants may be drawn on or transfers made from the fund or funds so created only to reimburse or indemnify the school district for losses as herein specified, and for the payment of claims, administrative costs, and related services, and to provide for deductible insurance amounts and purchase of excess insurance. The warrants or transfers shall be within the purpose of the fund or funds as established by resolution of the governing board.

The cash placed in the fund or funds may be invested and reinvested by the county treasurer, with the advice and consent of the governing board of the school district, in securities that are legal investments for surplus county funds in this state. The income derived from the investments, together with interest earned on uninvested funds, shall be considered revenue of, and be deposited in, the fund. The cost of contracts or services authorized by this section are appropriate charges against the respective fund.

The governing board may contract for investigative, administrative, and claims adjustment services relating to claims. The contract may provide that the contracting firm may reject, settle, compromise, and approve claims against the district, or its officers or employees, within the limits and for amounts that the governing board may specify, and may provide that the contracting firm may execute and issue checks in payment of those claims, which checks shall be payable only from a trust account that may be established by the governing board. Funds in the trust account established by the board pursuant to this section shall not exceed a sum that is sufficient, as determined by the governing board to provide for the

settlement of claims for a 30-day period. The rejection or settlement and approval of a claim by the contracting firm in accordance with the terms of the contract shall have the same effect as would the rejection or settlement and approval of the claim by the governing board.

The contract may also provide that the contracting firm may employ legal counsel, subject to terms and limitations that the board may prescribe, to advise the contracting firm concerning the legality and advisability of rejecting, settling, compromising, and paying claims referred to the contracting firm by the board for investigation and adjustment, or to represent the board in litigation concerning the claims. The compensation and expenses of the attorney for services rendered to the board shall be an appropriate charge against the appropriate fund.

The contract provided for in this section may contain other terms and conditions that the governing board may consider necessary or desirable to effectuate the board's self-insured programs.

In lieu of, or in addition to, contracting for the services described in this section, the governing board may authorize an employee or employees to perform any or all of the services and functions for which the board may contract under the provisions of this section.

(b) As used in this section:

(1) ''Firm'' includes a person, corporation, or other legal entity, including a county superintendent of schools.

(2) ''Governing boards'' includes governing boards of school districts and county superintendents of schools.

(3) ''School district'' includes a county superintendent of schools who may participate in or administer insurance or self-insurance programs for the county office of education or for one or more school districts.

(c) A county superintendent of schools may participate in or administer insurance for one or more school districts pursuant to this section or for one or more community college districts pursuant to Section 81602, for any combination of school districts and community

college districts pursuant to this section and Section 81602.

(d) Prior to funding health and welfare benefits pursuant to this section, the school district shall secure the services of an actuary who is a member of the American Academy of Actuaries to provide actuarial evaluations of the future annual costs of those benefits. The future annual costs as determined by the actuary shall be made public at a public meeting at least two weeks prior to the commencement of funding health and welfare benefits pursuant to this section.

(e) Upon commencing the funding of health and welfare benefits pursuant to this section, the school district shall secure the services of an actuary as described in subdivision (d) to complete, every three years, an actuarial evaluation of the annual costs of those benefits. A copy of the results of that evaluation shall be submitted by the district to the county superintendent of schools.

17567. Nothing in this code shall be construed to prohibit two or more school districts from exercising, through a joint powers agreement made pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code, the powers prescribed in Section 17566 in accordance with the terms and conditions set forth in that section and in Section 17565.

17568. In districts situated within or partly within cities having a population of over five hundred thousand (500,000) as determined by the 1920 federal census any board of education may establish a fund in the county treasury for the purpose of covering fire losses to school property in lieu of carrying fire insurance in admitted insurers as provided in Section 17565. In the fund shall be placed sums, to be provided in the budget of the district, as will create an amount which, together with investments made from the fund, will be sufficient in the judgment of the board of education upon the advice of competent actuaries to protect the board of education against losses by fire on all or any part of the school property within its jurisdiction. Nothing contained herein

shall be construed as prohibiting the board of education from providing protection against fire losses partly by means of the fund and partly by means of fire insurance written by admitted insurers as provided in Section 17565.

The fund shall be considered as separate and apart from all other funds of the district and the balance therein shall not be considered as being part of the working cash of the district in compiling annual budgets or fixing annual tax rates.

Warrants shall be drawn on, or transfers made from, the fund so created only to reimburse or indemnify the school district for losses as herein specified, and for the payment of claims, administrative costs, related services, and to provide for deductible insurance amounts and the purchase of excess insurance. The warrants or transfers shall be within the purpose of the fund as established by resolution of the governing board.

The cash placed in the fund may be invested and reinvested by the county treasurer with the advice and consent of the board of education in securities which are legal investments for surplus county funds in this state. The income derived from such investments together with interest earned on uninvested funds shall be considered revenue of and be deposited in the fund.

The county treasurer shall make quarterly reports to the board of education as to the condition of the fund, using as a basis for the report the cost or market value, whichever may be the lower, of the securities held as investments plus the cash in the fund.

17569. The governing board of any school district may grade, pave, construct sewers, or otherwise improve streets and other public places in front of real property owned or controlled by it, and also may construct in immediate proximity to any school or site owned or controlled by the district, pedestrian tunnels, overpasses, footbridges, sewers and water pipes when required for school or administrative purposes, may acquire property, easements and rights-of-way for such purpose, and may appropriate money to pay the cost and expense of the improvements, whether made by the board under

contract executed by the board, or under contracts made in pursuance of any of the general laws of the state respecting street improvements, or under other contracts made in pursuance of the charter of any county or municipality.

17570. Any provision to the contrary notwithstanding, the governing board of any school district, other than a city school district with over 50,000 pupils in average daily attendance during the preceding fiscal year, may construct pedestrian walks, footbridges, and pedestrian tunnels when required for the safety of pupils attending the schools of the district, may acquire easements and rights-of-way for those purposes, and may appropriate money to acquire such easements and rights-of-way and to pay the cost and expense of the improvements, whether made by the board under contract executed by the board, or under contracts made in pursuance of any of the general laws of the state respecting street improvements, or under other contracts made in pursuance of the charter of any county or municipality. Pedestrian walks, footbridges, and pedestrian tunnels shall be constructed, and such easements or rights-of-way for those purposes shall be acquired, within one mile of the school for the pupils of which the walks, bridges, and tunnels are necessary.

17571. The governing board of any school district may install and maintain a lighting system in any underpass in the vicinity of a schoolhouse.

17572. The governing board of any school district may appropriate money to pay assessments, for the improvement of streets or other public places, levied against any real property owned by, or under the control of the board, when the property is included within an assessment district formed in pursuance of any general law of the state or under the charter of any municipality. The assessments may be paid out of any funds belonging to the school district, except funds derived from the sale of bonds or required by law to be used for teachers' salaries.

17573. The governing board of every school district shall provide a warm, healthful place in which children who bring their own lunches to school may eat the lunches.

17574. The governing board of a school district may construct a mobilehome site on the grounds of any district facility or facilities maintained by the district, including all necessary appurtenances and fixtures, and may pay the cost of utilities, insurance, and necessary services, for the purpose of enabling a responsible person or persons to install and occupy a mobilehome on such site. Such person or persons, who need not be classified as employees of the district, shall, in return for being permitted to install and occupy a mobilehome on the district facility site on terms and conditions acceptable to the governing board, agree to maintain any surveillance over the facility grounds as the school district governing board requires, and to report to district authorities illegal or suspicious activities that are observed.

17575. The governing board of any school district, when leasing a building for housing of school district employees, may lease such building for any period they deem necessary.

17576. The governing board of every school district shall provide, as an integral part of each school building, or as part of at least one building of a group of separate buildings, sufficient patent flush water closets for the use of the pupils. In school districts where the water supply is inadequate, chemical water closets may be substituted for patent flush water closets by the board.

This section shall apply to all buildings existing on September 19, 1947, or constructed after such date.

17577. In addition to the other powers granted the governing board of each school district may provide sewers and drains adequate to treat and/or dispose of sewage and drainage on or away from each school property. For this purpose it may construct adequate systems or acquire adequate disposal rights in systems constructed or to be constructed by others for these purposes without regard to their proximity. The cost

thereof may be paid from the building fund, including any bond moneys therein.

17578. The governing board of each district maintaining a high school shall provide for the annual cleaning, sterilizing, and necessary repair of football equipment of their respective schools pursuant to Sections 39614 and 39616.

17579. All football equipment actually worn by pupils shall be cleaned and sterilized at least once a year. Football equipment used in spring training shall be cleaned and sterilized before it is used in the succeeding fall term.

17580. Any contract with a dealer or craftsman for the repair of football equipment belonging to the district or the state college shall specifically state or describe the materials to be used by the dealer or craftsman in repairing such equipment.

17581. (a) The Legislature finds and declares that the quality of protective equipment worn by participants in high school interscholastic football is a significant factor in the occurrence of injuries to such participants and that it is therefore necessary to insure minimum standards of quality for the equipment in order to prevent unnecessary injuries to such participants.

(b) No football helmets shall be worn by participants in high school interscholastic football unless the equipment has been certified for use by the National Operating Committee on Standards for Athletic Equipment or any other recognized certifying agency in the field.

This section shall not be construed as relieving school districts from the duty of maintaining football protective equipment in a safe and serviceable condition.

17582. (a) The governing board of each school district may establish a restricted fund to be known as the ‘‘district deferred maintenance fund’’ for the purpose of major repair or replacement of plumbing, heating, air conditioning, electrical, roofing, and floor systems, the exterior and interior painting of school buildings, the inspection, sampling, and analysis of building materials to

determine the presence of asbestos-containing materials, the encapsulation or removal of asbestos-containing materials, and any other items of maintenance approved by the State Allocation Board. Funds deposited in the district deferred maintenance fund may be received from any source whatsoever, and shall be accounted for separately from all other funds and accounts and retained in the district deferred maintenance fund for purposes of this section.

(b) Funds deposited in the district deferred maintenance fund shall only be expended for maintenance purposes as provided pursuant to subdivision (a).

(c) The governing board of each school district shall have complete control over the funds and earnings of funds once deposited in the district deferred maintenance fund, provided that no funds deposited in the district deferred maintenance fund pursuant to subdivision (a) or (b) of Section 17584 may be expended by the governing board for any purpose except those specified in subdivision (a) of this section.

17583. Notwithstanding Section 17582, whenever the state funds provided pursuant to Sections 17584 and 17585 are insufficient to fully match the local funds deposited in the deferred maintenance fund, the governing board of each school district may transfer the excess local funds deposited in that fund to any other expenditure classifications in other funds of the district. A resolution providing for the transfer shall be approved by a two-thirds vote of the governing board members and filed with the county superintendent of schools and the county auditor.

17584. (a) Whenever, in any given fiscal year, a school district has budgeted, exclusive of state matching funds and district funds previously matched pursuant to subdivision (b), in its deferred maintenance fund established pursuant to Section 17582 an amount equal to, or greater than, that amount the district expended from its general fund for major maintenance, repair, or modernization of existing school buildings, as specified in

Section 17582, exclusive of categorical aid funds and any proceeds from the sale of district property which were expended for the purpose of the district deferred maintenance account, in either the 1978–79 or 1979–80 fiscal year, adjusted annually to the current fiscal year in conformance with the percentage change in the district revenue limit computed pursuant to Section 42237 or 42238, the Superintendent of Public Instruction shall so certify to the State Allocation Board.

(b) The State Allocation Board shall apportion, from the State School Deferred Maintenance Fund, to school districts an amount equal to one dollar ($1) for each one dollar ($1) of local funds up to a maximum of $^1/_2$ percent of the district's current-year revenue limit average daily attendance multiplied by the average, per unit of average daily attendance, of the total general funds and adult education funds budgeted by districts of similar size and type, as defined in Section 42238.4, for the prior fiscal year, exclusive of any amounts budgeted for capital outlay or debt service, to the extent of funds available pursuant to Chapter 13 (commencing with Section 17080) of Part 10.

(c) Notwithstanding subdivision (a), in order to be eligible to receive state aid pursuant to subdivision (b), no district shall be required to budget from local district funds an amount greater than $^1/_2$ percent of the district's current-year revenue limit average daily attendance, multiplied by the average, per unit of average daily attendance, of the total general funds and adult education funds budgeted by districts of similar size and type, as defined in Section 42238.4 for the prior fiscal year, exclusive of any amounts budgeted for capital outlay or debt service.

17585. (a) School districts may submit applications to the State Allocation Board for deferred maintenance funding in addition to the amounts specified in Section 17584. In order to be eligible for an additional apportionment, a school district shall do all of the following:

(1) Certify that if an additional apportionment is provided, the district will have matched the additional apportionment amount with an equal amount of district funds that have not been previously used as a match for state aid.

(2) Certify an additional claim of not greater than one-half of 1 percent of the district's current-year revenue limit average daily attendance, multiplied by the average, per unit of average daily attendance, of the total general funds and adult education funds budgeted by districts of similar size and type, as defined in Section 42238.4 for the prior fiscal year, excluding any amounts budgeted for capital outlay or debt service, but including adult education funds.

(3) Certify that any additional funds will be used to meet deferred maintenance identified in the district's five-year deferred maintenance plan.

(b) The State Allocation Board shall establish rules and regulations regarding the formulas used to apportion additional funds pursuant to this section.

(c) It is the intent of the Legislature that state funds for deferred maintenance be drawn first from excess bond repayments by school districts, revenues pursuant to subdivision (f) of Section 6217 of the Public Resources Code, and proceeds from existing general obligation bonds.

17586. Notwithstanding any limitations imposed as a result of actions taken by the State Allocation Board pursuant to Section 17462, a school district shall be eligible to receive an apportionment pursuant to subdivision (b) of Section 17584, if it meets all of the following criteria:

(a) There are excess revenues that resulted from the sale of surplus sites upon which there was no encumbrance to the board.

(b) The Superintendent of Public Instruction has verified all of the following:

(1) The district had a fiscal emergency in any one or both of the 1987–88 and 1988–89 fiscal years.

(2) The fiscal emergency was caused primarily by required expenditures.

(3) The district has taken reasonable steps to address the fiscal emergency.

17587. (a) Notwithstanding the limitations of Section 17584, the State Allocation Board may each year reserve an amount not to exceed 10 percent of the funds transferred from any source to the State School Deferred Maintenance Fund for apportionments to school districts, in instances of extreme hardship. The apportionment shall be in addition to the apportionments made pursuant to Section 17584. Not less than one-half of all funds made available by this section shall be apportioned to school districts that had an average daily attendance, excluding summer session attendance, of less than 2,501 during the prior fiscal year.

An extreme hardship shall exist in a school district when the State Allocation Board determines the existence of all of the following:

(1) That the district has deposited in its deferred maintenance fund an amount equal to at least 0.5 percent of the total general funds and adult education funds budgeted by the district for the fiscal year, exclusive of any amounts budgeted for capital outlay or debt service.

(2) That the district has a critical project on its five-year plan which if not completed in one year could result in serious damage to the remainder of the facility or would result in a serious hazard to the health and safety of the pupils attending the facility.

(3) That the total funds deposited by the district and the state pursuant to Section 17584 are insufficient to complete the project.

(b) As a result of the determination made in subdivision (a), the State Allocation Board may increase the apportionment to a school district by the amount it determines necessary to complete the critical project.

(c) Notwithstanding subdivision (a), in any fiscal year in which the State Allocation Board has apportioned all funding from the State School Deferred Maintenance Fund for which school districts have qualified under Section 17584, the board may apportion any amount remaining in that fund for the purposes of this section.

17588. As a result of the determination made in Section 17587, the State Allocation Board may do any of the following:

(a) Increase the apportionment to an eligible school district by the amount it determines necessary to complete the critical project, and require a contribution by the district.

(b) Waive repayment by the district, in whole or in part.

(c) Reduce state apportionments pursuant to Section 17584 in future years to offset the increased apportionment.

The State Allocation Board shall develop and adopt regulations for the application of subdivisions (a), (b), and (c). The regulations may give consideration to a school district's financial resources, ongoing deferred maintenance needs, and the nature of the project for which the hardship apportionment is requested.

The waiver authorized in subdivision (b) may be applied by the board to any repayment otherwise required by law, regardless of apportionment date.

17589. The State Allocation Board shall develop board policies for the apportionment of funds appropriated for the containment or removal of asbestos materials in schools pursuant to Section 49410. The policies shall provide for the allocation of funds on a matching basis, or the board may determine, based on each application, to increase the allocation to any school district by the amount it determines is necessary to complete critical projects. In making policies pursuant to this section, the board may establish funding priorities based on a determination in each instance as to the imminence of the health hazard posed by the asbestos materials.

17590. The Asbestos Abatement Fund is hereby created, and notwithstanding Section 13340 of the Government Code, all moneys deposited in this fund are continuously appropriated to be administered by the State Allocation Board for the purpose of making allocations to school districts and county offices of education pursuant to Sections 17589 and 49410.

17591. Each district desiring an apportionment pursuant to Section 39619 shall file with the State Allocation Board and receive approval of a five year plan of the maintenance needs of the district over such period. This plan may be amended from time to time. Any expenditure of funds from the district deferred maintenance fund shall conform to the plan approved by the State Allocation Board.

17592. From any moneys in the State School Deferred Maintenance Fund, the board shall make available to the Director of General Services such amounts as it determines necessary to provide the assistance, pursuant to this chapter, required by Section 15504 of the Government Code.

Article 2. Duties of District Clerks

17593. The clerk of each district except a district governed by a city or city and county board of education shall, under the direction of the governing board, keep the schoolhouses in repair during the time school is taught therein, and exercise a general care and supervision over the school premises and property during the vacations of the school.

Article 3. Contracts

17595. Nothing in this code shall preclude the governing board of any school district from purchasing materials, equipment or supplies through the Department of General Services pursuant to Section 14814 of the Government Code.

17596. Continuing contracts for work to be done, services to be performed, or for apparatus or equipment to be furnished, sold, built, installed, or repaired for the district, or for materials or supplies to be furnished or sold to the district may be made with an accepted vendor as follows: for work or services, or for apparatus or equipment, not to exceed five years; for materials or supplies, not to exceed three years.

17597. In addition to utilizing the procedures specified in Article 14 (commencing with Section 17545)

of Chapter 4, any school district or any county board of education may, by direct sale or otherwise, sell to a purchaser any electronic data-processing equipment, other major items of equipment, or any relocatable building owned by, or to be owned by, the school district or county board, if the purchaser agrees to lease the equipment or building back to the school district or county for use by the school district or county following the sale.

The approval by the governing board of the school district or of the county superintendent of schools of the sale and leaseback shall be given only if the governing board of the school district or the county superintendent of schools finds, by resolution, that the equipment is data-processing equipment, another major item of equipment, or a relocatable building within the meaning of this section and that the sale and leaseback is the most economical means for providing the electronic data-processing equipment, other major items of equipment, or relocatable building to the school district or county. For purposes of determining the area of existing adequate school construction under the Leroy F. Greene State School Building Lease-Purchase Law of 1976, any portable relocatable classroom acquired under this section and used for classroom purposes shall be considered owned by the district.

17598. The governing board of a school district may contract for electromechanical or electronic data-processing work.

17599. Nothing contained in this article shall be construed to limit the authority of any school district to contract for electromechanical or electronic data-processing work to be done or related services to be performed with any other public agency pursuant to the provisions of Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code or Section 11000 or 11001 of this code.

17600. The governing board of any district defined hereafter, in addition to any other authority granted by law, may employ as classified employees, in accordance

with rules and regulations established by the personnel commission, any certificated employees of the district or districts during vacation periods, or on any other day or days when the certificated employee is not required to perform services for the district, to repair or build apparatus or equipment related to their duties as certificated employees even though the total cost of labor exceeds one thousand dollars ($1,000). This section applies only when the average daily attendance of any school district, or of two or more school districts governed by governing boards of identical personnel, is 400,000 or more, as shown by the annual report of the county superintendent of schools for the preceding school year.

17601. Notwithstanding any limitations imposed by this article specifically with respect to electromechanical or electronic data-processing work to be done or related services to be performed, the governing board of a school district, the boundaries of which are coterminous with those of the City and County of San Francisco, may contract for such work to be done or related services to be performed, without regard to such limitations.

17602. The governing board of any school district may purchase from the federal government or any agency thereof any surplus property, as defined in the Surplus Property Act of 1944, in any amount needed for the operation of the schools of the district without taking estimates or advertising for bids.

17603. The governing board of any school district shall determine the method of payment for construction contracts, including progress payments for completed portions of the work or for materials delivered on the ground or stored subject to the control of the board and unused.

17604. Wherever in this code the power to contract is invested in the governing board of the school district or any member thereof, the power may by a majority vote of the board be delegated to its district superintendent, or to any persons that he or she may designate, or if there be no district superintendent then to any other officer or employee of the district that the board may designate.

The delegation of power may be limited as to time, money or subject matter or may be a blanket authorization in advance of its exercise, all as the governing board may direct. However, no contract made pursuant to the delegation and authorization shall be valid or constitute an enforceable obligation against the district unless and until the same shall have been approved or ratified by the governing board, the approval or ratification to be evidenced by a motion of the board duly passed and adopted. In the event of malfeasance in office, the school district official invested by the governing board with the power of contract shall be personally liable to the school district employing him or her for any and all moneys of the district paid out as a result of the malfeasance.

17605. The governing board by majority vote may adopt a rule, delegating to any officer or employee of the district as the board may designate, the authority to purchase supplies, materials, apparatus, equipment, and services. No rule shall authorize any officer or employee to make any purchases involving an expenditure by the district in excess of the amount specified by Section 20111 of the Public Contract Code. The rule shall prescribe the limits of the delegation as to time, money, and subject matter. All transactions entered into by the officer or employee shall be reviewed by the governing board every 60 days.

In the event of malfeasance in office, the school district officer or employee invested by the governing board with the power to contract shall be personally liable for any and all moneys of the district paid out as a result of the malfeasance.

17606. The governing board of any school district with an average daily attendance of not less than 60,000 may by majority vote authorize its district superintendent, or such person as he or she may designate, to expend up to one hundred dollars ($100) per transaction for work done, compensation for employees or consultants, and purchases of equipment, supplies, or materials. Ratification by the governing board shall not be required

with respect to transactions entered into pursuant to this section. In the event of malfeasance in office, the school district official invested by the governing board with authority to act under this section shall be personally liable for any and all moneys of the district paid out as a result of the malfeasance.

CHAPTER 6. DEVELOPMENT FEES, CHARGES, AND DEDICATIONS

17620. (a) (1) The governing board of any school district is authorized to levy a fee, charge, dedication, or other requirement against any development project within the boundaries of the district, for the purpose of funding the construction or reconstruction of school facilities, subject to any limitations set forth in Chapter 4.9 (commencing with Section 65995) of Division 1 of Title 7 of the Government Code. This fee, charge, dedication, or other requirement may be applied to construction only as follows:

(A) To new commercial and industrial construction. The chargeable covered and enclosed space of a commercial or industrial development project, as defined in Section 65995 of the Government Code, shall not be deemed to include the square footage of any structure existing on the site of that development project as of the date the first building permit is issued for any portion of that development project.

(B) To new residential construction.

(C) To other residential construction, only if the resulting increase in assessable space, as defined in Section 65995 of the Government Code, exceeds 500 square feet. The calculation of the ‘‘resulting increase in assessable space’’ for this purpose shall reflect any decrease in assessable space in the same residential structure that also results from that construction. Where authorized under this paragraph, the fee, charge, dedication, or other requirement is applicable to the total resulting increase in assessable space.

(2) For purposes of this section, ‘‘development project’’ means any project undertaken for the purpose of development, and includes a project involving the issuance of a permit for construction or reconstruction, but not a permit to operate.

(3) For purposes of this section, ‘‘construction or reconstruction of school facilities’’ does not include any item of expenditure for any of the following:

(A) The regular maintenance or routine repair of school buildings and facilities.

(B) The inspection, sampling, analysis, encapsulation, or removal of asbestos-containing materials, except where incidental to school facilities construction or reconstruction for which the expenditure of fees or other consideration collected pursuant to this section is not prohibited.

(C) The purposes of deferred maintenance described in Section 17582.

(4) The appropriate city or county may be authorized, pursuant to contractual agreement with the governing board, to collect and otherwise administer, on behalf of the school district, any fee, charge, dedication, or other requirement levied under this subdivision. In the event of any agreement authorizing a city or county to collect that fee, charge, dedication, or other requirement in any area within the school district, the certification requirement set forth in subdivision (b) or (c), as appropriate, is deemed to be complied with as to any residential development project within that area upon receipt by that city or county of payment of the fee, charge, dedication, or other requirement imposed on that project.

(5) Fees or other consideration collected pursuant to this section may be expended by a school district for the costs of performing any study or otherwise making the findings and determinations required under subdivisions (a), (b), and (d) of Section 66001 of the Government Code. In addition, an amount not to exceed, in any fiscal year, 3 percent of the fees collected in that fiscal year pursuant to this section may be retained by the school

district, city, or county, as appropriate, for reimbursement of the administrative costs incurred by that entity in collecting the fees. When any city or county is entitled, under an agreement as described in paragraph (4), to compensation in excess of that amount, the payment of that excess compensation shall be made from other revenue sources available to the school district.

(b) No city or county, whether general law or chartered, may issue a building permit for any development absent certification by the appropriate school district of compliance by that development project with any fee, charge, dedication, or other requirement levied by the governing board of that school district pursuant to subdivision (a), or of the district's determination that the fee, charge, dedication, or other requirement does not apply to the development project.

(c) If, pursuant to subdivision (c) of Section 17621, the governing board specifies that the fee, charge, dedication, or other requirement levied under subdivision (a) is subject to the restriction set forth in subdivision (a) of Section 66007 of the Government Code, the restriction set forth in subdivision (b) of this section does not apply. In that event, however, no city or county, whether general law or chartered, may conduct a final inspection or issue a certificate of occupancy, whichever is later, for any residential development project absent certification by the appropriate school district of compliance by that development project with any fee, charge, dedication, or other requirement levied by the governing board of that school district pursuant to subdivision (a).

(d) Neither subdivision (b) nor (c) shall apply to a city or county as to any fee, charge, dedication, or other requirement as described in subdivision (a), or as to any increase in that fee, charge, dedication, or other requirement, except upon the receipt by that city or county of notification of the adoption of, or increase in, the fee or other requirement in accordance with subdivision (c) of Section 17621.

17621. (a) Any resolution adopting or increasing a fee, charge, dedication, or other requirement pursuant to Section 17620, for application to residential, commercial, or industrial development, shall be enacted in accordance with Chapter 5 (commencing with Section 66000) of Division 1 of Title 7 of the Government Code, with Section 54994.1 of the Government Code, and with the procedures for mailed notice set forth in Section 54992 of the Government Code. The adoption, increase, or imposition of any fee, charge, dedication, or other requirement pursuant to Section 17620 shall not be subject to Division 13 (commencing with Section 21000) of the Public Resources Code. The adoption of, or increase in, the fee, charge, dedication, or other requirement shall be effective no sooner than 60 days following the final action on that adoption or increase, except as specified in subdivision (b).

(b) Without following the procedure otherwise required for adopting or increasing a fee, charge, dedication, or other requirement, the governing board of a school district may adopt an urgency measure as an interim authorization for a fee, charge, dedication, or other requirement, or increase in a fee, charge, dedication, or other requirement, where necessary to respond to a current and immediate threat to the public health, welfare, or safety. The interim authorization shall require a four-fifths vote of the governing board for adoption, and shall contain findings describing the current and immediate threat to the public health, welfare, or safety. The interim authorization shall have no force or effect on and after a date 30 days after its adoption. After notice and hearing in accordance with subdivision (a), the governing board, upon a four-fifths vote of the board, may extend the interim authority for an additional 30 days. Not more than two extensions may be granted.

(c) Upon adopting or increasing a fee, charge, dedication, or other requirement pursuant to subdivision (a) or (b), the school district shall transmit a copy of the resolution to each city and each county in which the

district is situated, accompanied by all relevant supporting documentation and a map clearly indicating the boundaries of the area subject to the fee, charge, dedication, or other requirement. The school district governing board shall specify, pursuant to that notification, whether or not the collection of the fee or other charge is subject to the restriction set forth in subdivision (a) of Section 66007 of the Government Code.

(d) Any party on whom a fee, charge, dedication, or other requirement has been directly imposed pursuant to Section 17620 may protest the establishment or imposition of that fee, charge, dedication, or other requirement in accordance with Section 66020 of the Government Code, except that the procedures set forth in Section 66021 of the Government Code are deemed to apply, for this purpose, to commercial and industrial development, as well as to residential development.

(e) In the case of any commercial or industrial development, the following procedures shall also apply:

(1) The school district governing board shall, in the course of making the findings required under subdivisions (a) and (b) of Section 66001 of the Government Code, do all of the following:

(A) Make the findings on either an individual project basis or on the basis of categories of commercial or industrial development. Those categories may include, but are not limited to, the following uses: office, retail, transportation, communications and utilities, light industrial, heavy industrial, research and development, and warehouse.

(B) Conduct a study to determine the impact of the increased number of employees anticipated to result from the commercial or industrial development upon the cost of providing school facilities within the district. For the purpose of making that determination, the study shall utilize employee generation estimates that are calculated on either an individual project or categorical basis, in accordance with subparagraph (A). Those employee generation estimates shall be based upon commercial and industrial factors within the district or upon, in whole or

in part, the applicable employee generation estimates set forth in the January 1990 edition of ‘‘San Diego Traffic Generators,’’ a report of the San Diego Association of Governments.

(C) The governing board shall take into account the results of that study in making the findings described in this subdivision.

(2) In addition to any other requirement imposed by law, in the case of any development project against which a fee, charge, dedication, or other requirement is to be imposed pursuant to Section 53080 on the basis of a category of commercial or industrial development, as described in paragraph (1), the governing board shall provide a process that permits the party against whom the fee, charge, dedication, or other requirement is to be imposed the opportunity for a hearing to appeal that imposition. The grounds for that appeal include, but are not limited to, the inaccuracy of including the project within the category pursuant to which the fee, charge, dedication, or other requirement is to be imposed, or that the employee generation or pupil generation factors utilized under the applicable category are inaccurate as applied to the project. The party appealing the imposition of the fee, charge, dedication, or other requirement shall bear the burden of establishing that the fee, charge, dedication, or other requirement is improper.

17622. (a) No fee, charge, dedication, or other requirement may be levied by any school district pursuant to Section 17620 upon any greenhouse or other space that is covered or enclosed for agricultural purposes, unless and until the district first complies with subdivisions (b) and (c).

(b) The school district governing board shall make a finding, supported by substantial evidence, of both of the following:

(1) The amount of the proposed fees or other requirements and the location of the land, if any, to be dedicated, bear a reasonable relationship and are limited

to the needs of the community for elementary or high school facilities caused by the development.

(2) The amount of the proposed fees or other requirements does not exceed the estimated reasonable cost of providing for the construction or reconstruction of the school facilities necessitated by the development projects from which the fees or other requirements are to be collected.

(c) In determining the amount of the fees or other requirements, if any, to be levied on the development of any structure as described in subdivision (a), the school district governing board shall consider the relationship between the proposed increase in the number of employees, if any, the size and specific use of the structure, and the cost of the construction. No fee, charge, dedication, or other form of requirement, as authorized under Section 17620, shall be applied to the development of any structure described in subdivision (a) where the governing board finds either that the number of employees is not increased as a result of that development, or that housing has been provided for those employees, to the extent of any increase, by their employer, against which housing a fee, charge, or dedication, or other form of requirement has been applied under Section 17620. In developing the finding described in this section, the governing board shall consult with the county agricultural commissioner or the county director of the cooperative extension service.

17623. In the event the fee authorized pursuant to Section 17620 is levied by two nonunified school districts having common territorial jurisdiction, in a total amount that exceeds the maximum fee authorized under Section 65995 of the Government Code, the fee revenue for the area of common jurisdiction shall be distributed in the following manner:

(a) The governing boards of the affected school districts shall enter into an agreement specifying the allocation of fee revenue and the duration of the agreement. A copy of that agreement shall be transmitted by each district to the State Allocation Board.

(b) In the event the affected school districts are unable to reach an agreement pursuant to subdivision (a), the districts shall jointly submit the dispute to a three-member arbitration panel composed of one representative chosen by each of the districts and one representative chosen jointly by both of the districts. The decision of the arbitration panel shall be final and binding upon both districts for a period of three years.

17624. (a) Any school district that has imposed or, subsequent to the operative date of this section, imposes, any fee, charge, dedication, or other requirement under Section 17620 against any development project that subsequently meets the description set forth in subdivision (b), shall repay or reconvey, as appropriate, that fee, charge, dedication, or other requirement to the person or persons from whom that fee, charge, dedication, or other requirement was collected, less the amount of the administrative costs incurred in collecting and repaying the fee, charge, dedication, or other requirement.

(b) This section applies to any development project for which the building permit, including any extensions, expires on or after January 1, 1990, without the commencement of construction, as defined in subdivision (c) of Section 65995 of the Government Code.

17625. Notwithstanding any other law, any fee, charge, dedication, or other form of requirement levied by the governing board of a school district under Section 17620 may apply, as to any manufactured home or mobilehome, only pursuant to compliance with all of the following conditions:

(1) The fee, charge, dedication, or other form of requirement is applied to the initial location, installation, or occupancy of the manufactured home or mobilehome within the school district.

(2) The manufactured home or mobilehome is to be located, installed, or occupied on a space or site on which no other manufactured home or mobilehome was previously located, installed, or occupied.

(3) The manufactured home or mobilehome is to be located, installed, or occupied on a space in a mobilehome park, or on any site or in any development outside a mobilehome park, on which the construction of the pad or foundation system commenced after September 1, 1986.

(b) Compliance on the part of any manufactured home or mobilehome with any fee, charge, dedication, or other form of requirement, as described in subdivision (a), or certification by the appropriate school district of that compliance, shall be required as a condition of the following, as applicable:

(1) The close of escrow, where the manufactured home or mobilehome is to be located, installed, or occupied on a mobilehome park space, or on any site or in any development outside a mobilehome park, as described in subdivision (a), and the sale or transfer of the manufactured home or mobilehome is subject to escrow as provided in Section 18035 or 18035.2 of the Health and Safety Code.

(2) The approval of the manufactured home or mobilehome for occupancy pursuant to Section 18551 or 18613 of the Health and Safety Code, in the event that paragraph (1) does not apply.

(c) No fee or other requirement levied under Section 17620 shall be applied to any of the following:

(1) Any manufactured home or mobilehome located, installed, or occupied on a space in a mobilehome park on or before September 1, 1986, or on any date thereafter, if construction on that space, pursuant to a building permit, commenced on or before September 1, 1986.

(2) Any manufactured home or mobilehome located, installed, or occupied on any site outside of a mobilehome park on or before September 1, 1986, or on any date thereafter if construction on that site pursuant to a building permit commenced on or before September 1, 1986.

(3) The replacement of or addition to a manufactured home or mobilehome located, installed, or occupied on a space in a mobilehome park, subsequent to the original

location, installation, or occupancy of any manufactured home or mobilehome on that space.

(4) The replacement of a manufactured home or mobilehome that was destroyed or damaged by fire or any form of natural disaster.

(5) A manufactured home or mobilehome accessory structure, as defined in Section 18008.5 or 18213 of the Health and Safety Code.

(6) The conversion of a rental mobilehome park to a subdivision, cooperative, or condominium for mobilehomes, or its conversion to any other form of resident ownership of the park, as described in Section 50561 of the Health and Safety Code.

(d) Where any fee or other requirement levied under Section 17620 is required as to any manufactured home or mobilehome that is subsequently replaced by a permanent residential structure constructed on the same lot, the amount of that fee or other requirement shall apply toward the payment of any fee or other requirement under Section 17620 applied to that permanent residential structure.

(e) Notwithstanding any other provision of law, any school district that, on or after January 1, 1987, collected any fee, charge, dedication, or other form of requirement from any manufactured home, mobilehome, mobilehome park, or other development, shall immediately repay the fee, charge, dedication, or other form of requirement to the person or persons who made the payment to the extent the fee, charge, dedication, or other form of requirement collected would not have been authorized under subdivision (a). This subdivision shall not apply, however, to the extent that, pursuant to Section 16 of Article I of the California Constitution, it would impair the obligation of any contract entered into by any school district, on or before the effective date of this section.

(f) For purposes of this section, ‘‘manufactured home,’’ ‘‘mobilehome,’’ and ‘‘mobilehome park’’ have the meanings set forth in Sections 18007, 18008, and 18214, respectively, of the Health and Safety Code.

(g) (1) Whenever a manufactured home or a mobilehome owned by a person 55 years of age or older who is also a member of a lower income household as defined by Section 50079.5 of the Health and Safety Code, and which has been moved from a mobilehome park space located in one school district, where the mobilehome owner has resided, to a space or lot located in a mobilehome park or a subdivision, cooperative, or condominium for mobilehomes or manufactured homes located in another school district, is subject to any fee or other requirement under Section 17620, this section, and Chapter 4.9 (commencing with Section 65995) of Division 1 of Title 7 of the Government Code, the district in which the manufactured home or mobilehome has been newly located may waive the fee or other requirement under Section 53080, this section, and Chapter 4.9 (commencing with Section 65995) of Division 1 of Title 7 of the Government Code, or otherwise shall be required to grant the homeowner the necessary approval for occupancy of the home, and permission to pay the amount of the fee or other requirement thereafter, in installments, over a period totaling no less than 36 months. A school district may require that the installments be paid monthly, quarterly, or every six months during the 36-month period, and that the fee be secured as a lien perfected against the mobilehome or manufactured home pursuant to Section 18080.7 of the Health and Safety Code.

(2) Costs of filing the lien and reasonable late charges or interest may be added to the amount of the lien. This subdivision does not apply where a school facilities fee, charge, or other requirement is imposed pursuant to Section 65995.2 of the Government Code.

17626. (a) A fee, charge, dedication, or other requirement authorized under Section 17620, whether or not allowable under Chapter 6 (commencing with Section 66010) of Division 1 of Title 7 of the Government Code, may not be applied to the reconstruction of any residential, commercial, or industrial structure that is damaged or destroyed as a result of a disaster, except to

the extent the square footage of the reconstructed structure exceeds the square footage of the structure that was damaged or destroyed. That square footage comparison shall be made, in the case of a commercial or industrial structure, on the basis of chargeable covered and enclosed space, as defined in Section 65995 of the Government Code, or, in the case of a residential structure, on the basis of assessable space, as defined in Section 65995 of the Government Code.

(b) The following definitions apply for the purposes of this section:

(1) ''Disaster'' means a fire, earthquake, landslide, mudslide, flood, tidal wave, or other unforeseen event that produces material damage or loss.

(2) ''Reconstruction'' means the construction of property that replaces, and is equivalent in kind to, the damaged or destroyed property.

CHAPTER 7. ENERGY EFFICIENCY

17650. The Legislature finds and declares that it is in the interest of the state and of the people thereof for the state to aid school districts in finding cost-effective methods of conserving energy in school buildings maintained by the districts. The Legislature also finds that while many districts may desire to participate in energy conservation programs designed to reduce the steadily rising costs of meeting the energy needs of school buildings, that the costs involved in improving existing school facilities to become more energy efficient are often prohibitive.

It is the intent of the Legislature in enacting this chapter to encourage school districts to retrofit school buildings so as to conserve energy and reduce the costs of supplying energy.

17651. (a) School districts may borrow funds from federal or state regulated financial institutions for the purposes of design and construction costs associated with retrofitting school buildings to become more energy efficient. School districts shall only be authorized to

borrow an amount which does not exceed that which can be repaid from energy cost avoidance savings accumulated from the improvement of school facilities.

(b) Any savings and loan association may make loans or advances of credit pursuant to subdivision (a) in an amount not in excess of 5 percent of its total assets. This investment may be in addition to any other investment savings and loan associations are permitted to undertake under Section 6705.7 of the Financial Code.

17652. To the extent that these services are available, school districts shall arrange for the preaudit and postaudit of school buildings by investor-owned or municipal utility companies or by independent energy audit companies or organizations which are recognized by federal or state regulated financial institutions. The preaudit shall identify the type and amount of work necessary to retrofit the buildings and shall include an estimate of projected energy savings. The postaudit shall be conducted upon completion of the retrofitting of the school buildings to ensure that the project satisfies the recommendations of the preaudit.

17653. School districts taking action under this chapter shall contract with qualified businesses capable of retrofitting school buildings. To the extent that lists of qualified businesses are made available to school districts by investor-owned or municipal utility companies or federal or state regulated financial institutions, school districts may utilize the services of these businesses.

SEC. 4. Part 10.5 (commencing with Section 17900) of the Education Code is repealed.

SEC. 5. Part 23 (commencing with Section 38000) is added to the Education Code, to read:

PART 23. SUPPLEMENTAL SERVICES

CHAPTER 1. SECURITY DEPARTMENTS

38000. (a) The governing board of any school district may establish a security department under the supervision of a chief of security or a police department

under the supervision of a chief of police, as designated by, and under the direction of, the superintendent of the school district. In accordance with Chapter 5 (commencing with Section 45100) of Part 25, the governing board may employ personnel to ensure the safety of school district personnel and pupils and the security of the real and personal property of the school district. In addition, a school district may assign a school police reserve officer who is deputized pursuant to Section 35021.5 to a schoolsite to supplement the duties of school police personnel pursuant to this section. It is the intention of the Legislature in enacting this section that a school district police or security department is supplementary to city and county law enforcement agencies and is not vested with general police powers.

(b) The governing board of a school district that establishes a security department or a police department shall set minimum qualifications of employment for the chief of security or chief of police, respectively, including, but not limited to, prior employment as a peace officer or completion of any peace officer training course approved by the Commission on Peace Officer Standards and Training. A chief of security or chief of police shall comply with the prior employment or training requirement set forth in this subdivision as of January 1, 1993, or a date one year subsequent to the initial employment of the chief of security or chief of police by the school district, whichever occurs later. This subdivision shall not be construed to require the employment by a school district of any additional personnel.

38001. Persons employed and compensated as members of a police department of a school district, when appointed and duly sworn, are peace officers, for the purposes of carrying out their duties of employment pursuant to Section 830.32 of the Penal Code.

38002. Moneys transferred into the general fund of any school district pursuant to Section 1463.12 of the Penal Code may be made available for the following purposes:

(a) The training of persons employed and compensated as members of a police department of a school district, pursuant to the requirements or approval of the Commission on Peace Officer Standards and Training.

(b) The training of persons employed and compensated as members of a police department of a school district in other public safety skills, including, but not limited to, all of the following:

(1) First aid.

(2) Rescue.

(3) Cardiopulmonary resuscitation.

(4) Emergency medical technician training.

(5) Juvenile procedures.

(6) Specialized safety equipment.

38003. Persons employed and compensated as members of a security or police department of a school district shall be supplied with and authorized to wear a badge bearing the name of the school district. The employee shall carry a suitable identification card bearing his or her photograph and signature and the signature of the superintendent of the school district. The employee shall also carry such other identification data as may be required by local law enforcement agencies. The governing board may direct the wearing of a distinctive uniform and shall prescribe same. The costs of required uniforms, equipment, identification badges, and cards shall be borne by the district.

38004. The governing board of a school district which establishes a security or police department may provide and maintain motor vehicles for the use of the department. Any vehicle, when operated in the performance of his or her duties by any member of the police department, is an authorized emergency vehicle and may be equipped and operated as such as provided by the Vehicle Code.

38005. The governing board of any school district may contract with a private licensed security agency to insure the safety of school district personnel and pupils and the security of the real and personal property of the school

district when the personnel normally required to provide such service fail to do so because of an emergency including, but not limited to, war, epidemic, fire, flood, or work stoppage; or when such an emergency necessitates additional security services.

This section shall apply only if the governing board by a majority vote makes a specific finding that an emergency exists, and that this finding is included in the board minutes.

CHAPTER 2. TRANSPORTATION

Article 1. General Provisions

38020. The governing board of any school district may provide for the transportation of pupils to and from school whenever in the judgment of the board such transportation is advisable and good reasons exist therefor. The governing board may purchase or rent and provide for the upkeep, care, and operation of vehicles, or may contract and pay for the transportation of pupils to and from school by common carrier or municipally owned transit system, or may contract with and pay responsible private parties for the transportation. Such contracts may be made with the parent or guardian of the pupil being transported. A governing board may allow the transportation in schoolbuses owned or operated by the district of preschool or nursery school pupils. No state reimbursement may be received by a district for the transportation of such pupils.

Whenever the term ‘‘municipally owned transit system’’ appears in this article, it means a transit system owned by a city, or by a district created under Part 1 (commencing with Section 24501) of Division 10 of the Public Utilities Code.

38021. The governing board of any school district may contract with the county superintendent of schools to provide necessary transportation services. The county superintendent of schools, acting pursuant to such a

contract, shall have all the powers and duties granted to governing boards by this article.

38022. The governing board of any school district may contract for the transportation of matriculated or enrolled adults, or provide transportation to adults in district-owned equipment for educational purposes other than to and from school.

Any district which contracts to provide or provides transportation to adults pursuant to this section may charge adults all or part of the costs of contracting for or providing such transportation services.

38023. In order to procure the service at the lowest possible figure consistent with proper and satisfactory service, the governing board shall, whenever an expenditure of more than ten thousand dollars ($10,000) is involved, secure bids pursuant to Sections 20111 and 20112 of the Public Contract Code whenever it is contemplated that a contract may be made with a person or corporation other than a common carrier or a municipally owned transit system or a parent or guardian of the pupils to be transported. The governing board may let the contract for the service to other than the lowest bidder.

38024. (a) Continuing contracts for the furnishing of transportation of pupils in school districts to and from school, if made, shall be made for a term not to exceed five years. Such contracts shall be renewable at the option of the school district and the party contracting to provide transportation services, jointly, at the end of each term of the contract. The contract as renewed shall include, other than the rates of the previous contract, all of the terms and conditions of the previous contract, including any provisions increasing rates based on increased costs.

(b) Continuing contracts may be made for the lease or rental of schoolbuses, not to exceed five years, except that if such a lease or rental contract provides that the district may exercise an option either to purchase the buses or to cancel the lease at the end of each annual period during the period of the contract, such contract may be made for a term not to exceed 10 years.

(c) Notwithstanding any other provisions of law to the contrary, continuing contracts executed under the provisions of this section may be negotiated annually within the contract period when economic factors indicate such negotiation is necessary to maintain an equitable pricing structure. Such renegotiation shall be subject to the approval of both contracting parties.

(d) Any rental, lease, or lease-purchase of a schoolbus shall comply with all applicable provisions of Article 3 (commencing with Section 17450) of Chapter 4 of Part 10.5.

38025. In bidding on contracts to be made pursuant to Section 39803, bidders may include in their bids abstractions of their quotations indicating the pricing structure used to compute the annual lease or rental payments for the sole purpose of identifying that portion of each annual lease or rental payment which may represent tax exemption reimbursement to the vendor, lessor or to their assignees.

38026. In lieu of providing in whole or in part for the transportation of a pupil attending the schools of a district, the governing board may pay to the parents or guardian of the pupil a sum not to exceed the cost of actual and necessary travel incurred in transporting such pupils to and from the regular day schools of the district. No payments shall be made pursuant to this section unless it will be more economical to make the payments than to provide for said transportation.

38027. In lieu of furnishing transportation to pupils attending the schools of a school district, the governing board may pay to the parents or guardian of each pupil the cost of food and lodging of the pupil at a place convenient to the schools. The amount paid on account of each pupil shall not exceed the estimated cost to the district of providing for the transportation of the pupil to and from his or her home and the school he or she attends.

38028. When the governing board of any school district provides for the transportation of pupils to and from schools in accordance with the provisions of Section 38020, or between the regular full-time day schools they

would attend and the regular full-time occupational training classes attended by them as provided by a regional occupational center or program, the governing board of the district may require the parents and guardians of all or some of the pupils transported, to pay a portion of the cost of such transportation in an amount determined by the governing board.

The amount determined by the board shall be no greater than the statewide average nonsubsidized cost of providing such transportation to a pupil on a publicly owned or operated transit system as determined by the Superintendent of Public Instruction, in cooperation with the Department of Transportation.

For the purposes of this section, ‘‘nonsubsidized cost’’ means actual operating costs less federal subventions.

The governing board shall exempt from these charges pupils of parents and guardians who are indigent as set forth in rules and regulations adopted by the board.

No charge under this section shall be made for the transportation of handicapped children.

Nothing in this section shall be construed to sanction, perpetuate, or promote the racial or ethnic segregation of pupils in the schools.

38029. The governing board of any school district may allow pupils entitled to attend the school of the district, but in attendance at a school other than a public school, under the provisions of Section 48222, transportation upon the same terms and in the same manner and over the same routes of travel as is permitted pupils attending the district school.

The allowance of this section shall be restricted to actual transportation when furnished by the district to children attending the district school, and nothing in this section shall be construed to authorize or permit in lieu of transportation payments of money to parents or guardians of children attending private schools.

38030. (a) In no case shall the sum of the state aid received and the parent fees collected in a fiscal year exceed actual operating cost of home-to-school transportation in that fiscal year.

(b) If excess fees are collected due to errors in estimated costs, fees shall be reduced in succeeding years.

(c) The governing board shall certify to the county superintendent that districts have levied fees in accordance with law, and that fees have been reduced and excess fee revenue eliminated whenever excess fees have been charged.

Article 2. State Reimbursement

38040. Notwithstanding any other law, the governing board of any school district may provide, beginning in the 1975–1976 fiscal year, for the transportation to and from public school of pupils who have attained the age of three years and nine months and are enrolled in classes established pursuant to Section 52023, whenever in the judgment of the board, transportation is advisable and good reasons exist therefor. A governing board may allow for the transportation of parents of pupils enrolled in these classes for the purpose of accompanying their children to and from the attendance center offering the early primary classes.

Districts shall receive state reimbursements for the transportation of these pupils pursuant to Article 10 (commencing with Section 41850) of Chapter 5 of Part 24.

Article 3. Schoolbuses

38045. A schoolbus is any motor vehicle designed, used, or maintained for the transportation of any school pupil at or below the 12th-grade level to or from a public or private school or to or from public or private school activities, except the following:

(a) A motor vehicle of any type carrying only members of the household of the owner thereof.

(b) A motortruck transporting pupils who are seated only in the passenger compartment, and a passenger vehicle designed for and when actually carrying not more than 10 persons, including the driver, except any vehicle

or truck transporting two or more handicapped pupils confined to wheelchairs.

(c) A motor vehicle operated by a common carrier, or by and under exclusive jurisdiction of a publicly owned or operated transit system, only during the time it is on a scheduled run and is available to the general public or on a run scheduled in response to a request from a handicapped pupil confined to a wheelchair, or from a parent of the handicapped pupil, for transportation to or from nonschool activities. However, the motor vehicle is designed for and actually carries not more than 16 persons and the driver, is available to eligible persons of the general public, and the school does not provide the requested transportation service.

(d) A school pupil activity bus as defined in Section 38046.

(e) A motor vehicle operated by a carrier licensed by the Interstate Commerce Commission which is transporting pupils on a school activity entering or returning to the state from another state or country.

(f) A state-owned motor vehicle being operated by a state employee upon the driveways, paths, parking facilities, or grounds specified in Section 21113 of the Vehicle Code that are under the control of a state hospital under the jurisdiction of the State Department of Developmental Services where the posted speed limit is not more than 20 miles per hour. The motor vehicle may also be operated for a distance of not more than one-quarter mile upon a public street or highway that runs through the grounds of a state hospital under the jurisdiction of the State Department of Developmental Services, if the posted speed limit on the public street or highway is not more than 25 miles per hour and if all traffic is regulated by posted stop signs or official traffic control signals at the points of entry and exit by the motor vehicle.

38046. A ‘‘school pupil activity bus’’ is any motor vehicle, other than a schoolbus, operated by a common carrier, or by and under the exclusive jurisdiction of a publicly owned or operated transit system, or by a

passenger charter-party carrier, used under a contractual agreement between a school and carrier to transport school pupils at or below the 12th-grade level to or from a public or private school activity, or used to transport pupils to or from residential schools, when the pupils are received and discharged at off-highway locations where a parent or adult designated by the parent is present to accept the pupil or place the pupil on the bus. As used in this section, ‘‘common carrier,’’ ‘‘publicly owned or operated transit system,’’ and ‘‘passenger charter-party carrier’’ mean carriers in business for the principal purpose of transporting members of the public on a commercial basis. This section shall not apply to a motor vehicle operated by a carrier licensed by the Interstate Commerce Commission transporting pupils on a school activity trip entering or returning to the state from another state or country.

The driver of a school pupil activity bus shall be subject to the regulations adopted by the California Highway Patrol governing schoolbus drivers, except that the regulations shall not require drivers to duplicate training or schooling that they have otherwise received which is equivalent to that required pursuant to the regulations, and the regulations shall not require drivers to take training in first aid. However, a valid certificate to drive a school pupil activity bus shall not entitle the bearer to drive a schoolbus.

38047. The State Board of Education shall adopt reasonable regulations relating to the use of schoolbuses by school districts and others. The regulations shall not include the safe operation of schoolbuses which regulations shall be adopted instead by the Department of the California Highway Patrol pursuant to Section 34500 of the Vehicle Code.

The Department of the California Highway Patrol shall adopt regulations relating to the safe operation of schoolbuses which shall include requiring school district governing boards to include in their schoolbus driver training programs, the proper actions to be taken in the event that a schoolbus is hijacked.

38048. (a) All pupils in prekindergarten, kindergarten, and grades 1 to 12, inclusive, in public or private school who are transported in a schoolbus or school pupil activity bus shall receive instruction in schoolbus emergency procedures and passenger safety. The county superintendent of schools, superintendent of the school district, or owner/operator of a private school, as applicable, shall ensure that the instruction is provided as follows:

(1) Upon registration, the parents or guardians of all pupils not previously transported in a schoolbus or school pupil activity bus and who are in prekindergarten, kindergarten, and grades 1 to 6, inclusive, shall be provided with written information on schoolbus safety. The information shall include, but not be limited to, all of the following:

(A) A list of schoolbus stops near each pupil's home.

(B) General rules of conduct at schoolbus loading zones.

(C) Red light crossing instructions.

(D) Schoolbus danger zone.

(E) Walking to and from schoolbus stops.

(2) At least once in each school year, all pupils in prekindergarten, kindergarten, and grades 1 to 8, inclusive, who receive home-to-school transportation shall receive safety instruction which includes, but is not limited to, proper loading and unloading procedures, including escorting by the driver, proper passenger conduct, bus evacuation, and location of emergency equipment. Instruction also may include responsibilities of passengers seated next to an emergency exit. As part of the instruction, pupils shall evacuate the schoolbus through emergency exit doors.

(3) Prior to departure on a school activity trip, all pupils riding on a schoolbus or school pupil activity bus shall receive safety instruction which includes, but is not limited to, location of emergency exits, and location and use of emergency equipment. Instruction also may include responsibilities of passengers seated next to an emergency exit.

(b) The following information shall be documented each time the instruction required by paragraph (2) of subdivision (a) is given:

(1) Name of school district, county office of education, or private school.

(2) Name and location of school.

(3) Date of instruction.

(4) Names of supervising adults.

(5) Number of pupils participating.

(6) Grade levels of pupils.

(7) Subjects covered in instruction.

(8) Amount of time taken for instruction.

(9) Bus driver's name.

(10) Bus number.

(11) Additional remarks.

The information recorded pursuant to this subdivision shall remain on file at the district or county office, or at the school, for one year from the date of the instruction, and shall be subject to inspection by the Department of the California Highway Patrol.

38049. The name or names of the particular school or schools to which a schoolbus conveys pupils may be painted on the side of the bus, in the manner prescribed by the Department of the California Highway Patrol.

38050. Any officer, agent, or employee of a school district, or any other person knowingly operating, or permitting or directing the operation of a schoolbus in violation of any regulation or order of the Department of the California Highway Patrol, and any person knowingly operating a school bus without possessing the qualifications required by the Department of the California Highway Patrol for schoolbus operators, is guilty of a misdemeanor.

38051. (a) Except as provided in subdivision (b), any officer, agent, or employee of a school district, office of the county superintendent of schools, or joint powers agency, or any other person, knowingly operating, or permitting or directing the operation of a schoolbus, when it is loaded with schoolchildren in excess of the limits of its seating capacity, is guilty of a misdemeanor.

(b) The governing board of any school district, office of the county superintendent of schools, or joint powers agency may adopt a district policy establishing plans for the evacuation of pupils in case of any emergency which may provide, where necessary, for the loading of schoolchildren on a schoolbus in excess of the limits of its seating capacity.

(c) As used in this subdivision, ‘‘emergency’’ means a natural disaster or hazard which requires that pupils be moved immediately in order to ensure their safety.

38052. (a) The governing board of any school district may use schoolbuses to transport persons for purposes of community recreation as provided in Sections 10900 to 10915, inclusive, of this code. The transportation may be provided on any day or days throughout the school year.

(b) Any school district which files forms with the Superintendent of Public Instruction covering the annual report of transportation expense in connection with reimbursement for transportation shall show on said forms the total mileage of schoolbuses used in providing transportation for community recreation purposes. The Superintendent of Public Instruction, in accordance with regulations adopted by him or her, shall deduct from the allowances to a school district for transportation an amount equal to the depreciation of schoolbuses due to their use in transporting persons for community recreation.

38053. During any national emergency declared by the President of the United States of America or during any war in which the United States of America is engaged, the governing board of a school district may operate any bus owned or under lease to the district for the transportation of pupils of the district engaged in the harvesting of crops to and from the places of harvest and shall require the payment of a reasonable charge for transportation furnished.

38054. The governing board of any school district may use and operate any bus owned or under lease to the district for the transportation of pupils to and from their places of employment during the summer in connection

with any summer employment program for youth. The governing board shall require the payment of a reasonable charge for transportation so furnished. The governing board shall, in accordance with Section 35208, adequately insure against the liability of the district, members of the board, and officers and employees of the district in connection with the furnishing of transportation.

38055. The governing board of any school district may provide for the transportation of employees of the district and of parents of pupils of the district to and from educational activities authorized by the district.

38056. Each schoolbus shall be equipped with one or more fire extinguishers bearing the approval of the laboratories of the National Board of Fire Underwriters, Underwriters' Laboratories Incorporated, or any other nationally recognized testing laboratory, and located in an easily accessible place in the driver's compartment.

Each schoolbus shall be equipped with one or more fire extinguishers with an aggregate rating of at least 8-B, C units, as rated by the Underwriters' Laboratories Incorporated. Carbon tetrachloride fire extinguishers shall not be used on schoolbuses.

38057. Guide dogs, signal dogs, and service dogs trained to provide assistance to individuals with a disability may be transported in a schoolbus when accompanied by disabled pupils enrolled in a public or private school or by disabled teachers employed in a public or private school or community college or by persons training the dogs.

38058. The governing board of any school district may enter into a contract under the terms of which the school district grants the use of any schoolbus which is owned or leased by the school district to any federal, state, or local governmental agency for the purpose of providing transportation for employees of the agency to or from their places of employment, or both, if the following conditions are satisfied:

(a) No public transportation is reasonably available to the agency's employees at their place of employment.

(b) The school district normally provides transportation for pupils residing on the governmental agency's property to or from school, or both.

(c) The transportation of the agency's employees does not interfere with the school district's use of schoolbuses for school transportation purposes.

(d) All schoolbus warning lights and exterior lettering or signs that identify the bus as a schoolbus are covered or removed during operation by the federal, state, or local governmental agency.

(e) Mechanical condition of a schoolbus during operation by the federal, state, or local governmental agency is maintained so as to meet or exceed those regulations promulgated by the State Department of Education pursuant to Section 38047 governing the operation of schoolbuses.

(f) Accurate records are maintained which reflect the actual number of miles any schoolbus is driven during times of operation by the federal, state, or local governmental agency, which records are to be made available to the Superintendent of Public Instruction in connection with the annual report of transportation expense made by the school district. The Superintendent of Public Instruction, in accordance with Section 38052, shall deduct from the allowances to a school district for transportation an amount equal to the depreciation of schoolbuses due to their use in transporting employees of a federal, state, or local governmental agency pursuant to this section.

38059. The following requirements shall be included in any agreement entered into between a school district and a publicly owned transit system under which the school district grants the use of any schoolbus which is owned or leased by it to the transit system for public transportation purposes:

(a) All schoolbus warning lights and exterior lettering or signs that identify the bus as a schoolbus are covered or removed during operation by the transit system.

(b) Mechanical condition of a schoolbus during operation by the transit system is maintained so as to meet

or exceed those regulations promulgated by the State Board of Education pursuant to Section 38047 governing the operation of schoolbuses.

(c) Accurate records are maintained which reflect the actual number of miles any schoolbus is driven during times of operation by the transit system.

Article 4. Special Services

38065. The governing board of any school district may contract for the transportation of pupils attending schools within the district to and from any exposition or fair, school activities, or other activities which the governing board determines to be for the benefit of the pupils, in this state, and may pay for the transportation out of any funds of the district available for the purpose.

CHAPTER 3. CAFETERIAS

Article 1. Establishment and Use

38080. The term ‘‘cafeteria’’ as used in this code is considered synonymous with the term ‘‘food service.’’

38081. The governing board of any school district may establish cafeterias in the schools under its jurisdiction whenever in its judgment it is advisable to do so.

38082. Food shall not be sold at any cafeteria operated by a school district to anyone except pupils and employees of any school district, members of the governing board thereof, and members or employees of the fund or association maintaining the cafeteria; provided, however, that nothing herein contained shall prohibit the use of the cafeteria facilities by any work or harvest camp maintained by or within the district, and by persons entitled to use the school under the Civic Center Act; and provided further, that the governing board of any school district operating a cafeteria may exempt by formal resolution of the board other individuals and organizations from the operation of this section including senior citizens participating in any program conducted

pursuant to Chapter 6 (commencing with Section 9500) of Division 8.5 of the Welfare and Institutions Code.

~~38082.~~

38083. Perishable foodstuffs and seasonal commodities needed in the operation of cafeterias may be purchased by the school district in accordance with rules and regulations for such purchase adopted by the governing board of said district notwithstanding any provisions of this code in conflict with such rules and regulations.

~~38083.~~

38084. The food served shall be sold to the patrons of the cafeterias at such a price as will pay the cost of maintaining the cafeterias, exclusive of the costs made a charge against the funds of the school district by this chapter, and items made a charge against the funds of the school district by resolution of the governing board under authority of this chapter.

~~38084.~~

38085. A minimum of 50 percent of the items, other than foods reimbursed under Chapters 13 (commencing with Section 1751) and 13A (commencing with Section 1771) of Title 42 of the United States Code, offered for sale each schoolday at any schoolsite by any entity or organization during regular school hours shall be selected from the following list:

(a) Milk and dairy products, including cheese, yogurt, frozen yogurt, and ice cream.

(b) Full-strength fruit and vegetable juices and fruit drinks containing 50 percent or more full-strength fruit juice, and fruit nectars containing 35 percent or more full-strength fruit juice.

(c) Fresh, frozen, canned, and dried fruits and vegetables.

(d) Nuts, seeds, and nut butters.

(e) Nonconfection grain products, as defined by regulation of the United States Food and Drug Administration, including crackers, bread sticks, tortillas, pizza, pretzels, bagels, muffins, and popcorn.

(f) Meat, poultry, and fish, and their products, including beef jerky, tacos, meat turnovers, pizza, chili and sandwiches.

(g) Legumes and legume products, including bean burritos, chili beans, bean dip, roasted soy beans, and soups.

(h) Any foods which would qualify as one of the required food components of the Type A lunch which is defined in and reimbursable under the National School Lunch Act (Chapter 13 (commencing with Section 1751) of Title 42 of the United States Code).

For the purposes of this section, ‘‘item’’ shall be defined as each separate kind of food offered for sale as a separate unit.

Article 2. Cafeterias, Funds and Accounts

38090. Money received for the sale of food or for any services performed by the cafeterias may be paid into the county treasury to the credit of the ‘‘cafeteria fund’’ of the particular school district.

38091. The cafeteria fund shall be used only for those expenditures authorized by the governing board as necessary for the operation of school cafeterias, including, but not limited to, expenditures for the lease or purchase of additional cafeteria equipment for the central food processing plant, vending machines and their installation and housing, and computer equipment and related software.

Whenever a cafeteria fund is operated pursuant to these provisions, the governing board may authorize the establishment of one or more cafeteria revolving accounts. For accounting purposes, a cafeteria revolving account is to be treated as a revolving cash account of the cafeteria fund, providing that the receipt of income and expenditures made from a cafeteria revolving account become recorded as income and expenditures of the cafeteria fund. Appropriate transfers, replenishments, and deposits between the cafeteria fund and a cafeteria revolving account may occur as are necessary to comply

with accounting requirements. A cafeteria revolving account may receive and expend moneys in the same manner and for the same purposes as authorized for a cafeteria account.

The governing board of any school district, or of two or more school districts governed by governing boards of identical personnel, may also make expenditures from the cafeteria fund for the construction, alteration, or improvement of a central food processing plant, for the installation of additional cafeteria equipment for the central food processing plant, and for the lease or purchase of vehicles used primarily in connection with the central food processing plant.

38092. The governing board of any school district with an average daily attendance of over 100,000 may allow as an expenditure from the cafeteria fund or account a share of money agreed upon pursuant to a contract, which is generated from the joint sale of items between the cafeteria and an associated student body student store. The expenditure must result from an agreement entered into by the cafeteria and the associated student body in which pupils will participate in the operation of the store.

38093. The governing board of any school district may establish an account for each cafeteria established in a school of the district, or for all cafeterias established in the schools of the district, in one or more banks. The account shall be known as ‘‘The Cafeteria Account of (insert name of district) District.’’ If the account is established for one of several cafeterias, it shall be known as ‘‘The Cafeteria Account of the (insert name of school) School of (insert name of district) District.’’ All receipts of the cafeteria, or cafeterias, as the case may be, derived from the sale of food shall be deposited in the account and shall be expended only for the maintenance of the cafeteria, or cafeterias, exclusive of items made a charge against the funds of the school district by this chapter, and items made a charge against the funds of the school district by resolution of the governing board under authority of this chapter.

38094. The governing board of the district shall designate an employee or employees of the district to have custody of the account or accounts, who shall be responsible for the payment into the account or accounts of all moneys required to be paid into the account or accounts, and for all expenditures therefrom, subject to any regulations that the governing board prescribes.

38095. Upon the order of the governing board of any district having a cafeteria fund in the county treasury and establishing an account, or accounts, the county treasurer shall deposit the money in the fund to the account, or accounts, and shall notify the county auditor and county or city and county superintendent of schools of his action. If the money is to be deposited in more than one account, the governing board of the district shall designate the amount to be placed in each account.

Article 3. Cafeterias, Allocation of Charges

38100. The cost of housing and equipping cafeterias is a charge against the funds of the school district. However, when the governing board of a school district deems it necessary, the governing board may make the cost of the lease or purchase of additional cafeteria equipment for a central food processing plant, and of vending machines and their installation and housing, a charge against cafeteria funds. If school district funds are expended for the lease or purchase of additional cafeteria equipment for a central food processing plant, or for the lease, purchase, installation, or housing of vending machines, the governing board may at any time within five years after the expenditure reimburse school district funds from cafeteria funds.

The governing board of a school district may by resolution make the cost of maintenance of the physical plant used in connection with cafeterias, the cost of replacement of equipment and the cost of telephone charges, water, electricity, gas, coal, wood, fuel oil, and garbage disposal a charge against the funds of the school district.

The governing board of any school district, or of two or more school districts governed by governing boards of identical personnel, may also make the cost of the construction, alteration, or improvement of a central food processing plant and the installation of additional cafeteria equipment a charge against cafeteria funds. If district funds are expended for these purposes, the governing board also may at any time within five years after the expenditure reimburse district funds from cafeteria funds.

38101. (a) The governing board of any school district may authorize expenditures from the cafeteria fund or cafeteria account only for those charges from that fund or account that are defined in the California School Accounting Manual or are reported to the State Department of Education on form J-380, as revised April 1990.

(b) A food service program shall not be charged more than once for expenditures for the same service. If a food service program is being charged for a service as a direct cost, the school district shall not also allocate that cost as a direct support cost or indirect cost.

(c) For purposes of this section, an ‘‘indirect cost’’ shall be limited to the lesser of the school district’s prior year indirect cost rate as approved by the State Department of Education or the statewide average approved indirect cost for the second prior fiscal year.

(d) Any charges to, or transfers from, a food service program shall indicate when the charge or transfer was made and shall be accompanied by a written explanation of the purpose of, and basis for, the expenditure.

(e) Nothing in this section authorizes a school district to charge a food service program any charges prohibited by state or federal law or regulation.

(f) If the State Department of Education and the Department of Finance concur that a school district has violated this section, the Superintendent of Public Instruction shall direct that school district to transfer double the amount improperly transferred to the district’s general fund from that fund to the district’s

cafeteria fund or cafeteria account for the subsequent fiscal year which is then to be used for the improvement of the district's food service program. If the school district fails to make that transfer as directed, the superintendent shall reduce the school district's regular apportionment determined pursuant to Section 42238 and increase the district's child nutrition allowance determined pursuant to Section 41350 by double the amount improperly transferred to the district's general fund and that amount is then to be used for improvement of the food service program.

(g) It is the intent of the Legislature in enacting this section that responsible school district officials be held fully accountable for the accounting and reporting of food service programs and that minor and inadvertent instances of noncompliance be resolved in a fair and equitable manner to the satisfaction of the Superintendent of Public Instruction and the Department of Finance.

(h) The Superintendent of Public Instruction, with the approval of the Department of Finance, may waive up to the full transfer amount in subdivision (f) if he or she determines that the noncompliance involved is minor or inadvertent, or both.

38102. The governing board of any school district operating school cafeterias may establish and maintain a cafeteria fund reserve for the purchase, lease, maintenance, or replacement of cafeteria equipment, to be known as the cafeteria equipment reserve. The funds for this reserve are to be derived from the sales of food in the school cafeterias in an amount to be determined by the governing board and may be accumulated from year to year until expended for this purpose. Funds in the cafeteria equipment reserve shall only be used for the purchase, lease, maintenance, or replacement of cafeteria equipment.

Nothing in this section shall prohibit any school district from replacing cafeteria equipment from district funds as provided in Section 38100.

38103. The governing board of a school district shall employ persons for food service positions as part of the classified service, except that school districts may utilize the services of volunteers for programs that provide meals for senior citizens as authorized pursuant to Chapter 6 (commencing with Section 9500) of Division 8.5 of the Welfare and Institutions Code. Wages, salaries, and benefits, including employer retirement contributions for food service personnel, shall be paid from the general fund of the school district or from the cafeteria fund, at the discretion of the governing board and upon approval of the county superintendent of schools who has responsibility for a countywide payroll/retirement system under Sections 42646 and 85260. Expenses of the general fund under this section for the costs of wages, salaries, and benefits, including employer retirement contributions and other purposes classed as food service, shall be excluded from the definition of ‘‘current expense of education’’ as defined in Section 41372. The governing board may, at any time, order reimbursement from the cafeteria fund or account to the general fund of the district for payments under this section in such amounts as it prescribes but not to exceed food service employee salary, wage and benefit costs actually incurred.

Any reimbursements in excess of the amount actually required shall be refunded to the cafeteria fund or account not later than the close of the current fiscal year.

The reimbursements from the cafeteria fund or account shall be considered expenses of the cafeteria fund or account, as the case may be, and only those payments made from the general fund that are not reimbursed from the cafeteria fund or account shall be considered expenses of the general fund.

Accounting for those transactions shall be as prescribed in Section 41010.

CHAPTER 4. MISCELLANEOUS PROVISIONS

Article 1. Apparatus and Supplies

38110. The county board of education shall on or before the first day of February of each year establish rules and regulations under which any school district in the county shall, except as provided in Section 40002, purchase standard school supplies and equipment through the county superintendent of schools, or when so directed by him or her, through a county purchasing agent.

When the county superintendent of schools purchases standard school supplies without directing their purchase through the county purchasing agent or other county, city, or school district agent or agency, he or she shall make such purchase from the lowest responsible bidder who shall give such security as the county superintendent of schools requires, or else reject all bids. For the purpose of securing bids, the county superintendent of schools shall publish at least once a week for two weeks in a newspaper of general circulation published in the county, a notice calling for bids stating where the list and specifications of standard school supplies and equipment to be furnished may be obtained and the time when, and the place where bids will be opened.

The county board of education shall list as standard school supplies and equipment such supplies and equipment as can be advantageously purchased in quantity. The list of standard school supplies shall be accompanied by a table of specifications giving the minimum grade, quality, substance, or other standard required for the purchase of each item listed.

The cost of advertising for bids and the cost of preparation of a table of specifications shall be paid from the county general fund.

The provisions of this section shall not apply to counties of the first or second class containing no more than three districts with an average daily attendance of less than 2,500.

38111. The governing board of each school district shall, except as otherwise provided in this code, purchase school furniture, including musical instruments, and apparatus, and such other articles as are necessary for the use of schools, and may, in its discretion, purchase uniforms and other regalia for the use of school bands, orchestras and choirs, and including uniforms and equipment necessary for the use of athletic teams. The provisions of Article 1 of Chapter 4 of Division 5 of Title 1 of the Government Code shall not apply to the purchase of musical instruments made pursuant to this section. Any such articles purchased shall always remain the property of the school district purchasing them. Only such books, apparatus, uniforms, and equipment shall be purchased by the governing board of an elementary school district, if the board is not a city board of education, as have been adopted by the county board of education having jurisdiction over the district.

38112. (a) Except as provided in subdivision (b), the governing board of any school district may purchase any necessary school supplies and equipment, including standard school supplies and equipment listed by the county board of education, in the manner provided in this chapter, or the governing board of any school district may purchase such supplies and equipment directly from the vendor. Such direct purchase may be as a single district or two or more districts acting as a cooperative.

(b) An elementary school district having an average daily attendance of less than 2,500 during the preceding fiscal year may purchase standard school supplies and equipment directly from a vendor only by means of a purchasing cooperative representing a total average daily attendance in excess of 2,500 and then only if the county superintendent of schools has on file a document certifying the school district's membership in such a cooperative.

38113. The clerk of each district shall, under the direction of the board of trustees, provide all school supplies authorized by this chapter.

38114. The cost of maintaining schoolbuses may be paid out of any funds of the district except funds derived from the sale of bonds and funds required by law to be set aside for teachers' salaries.

38115. The superintendent of schools of each county may transfer at the beginning of any school year from the funds of the school districts of the county which elect to purchase equipment and supplies in accordance with Section 38110, to the school supply revolving fund, which fund is continued in existence, a sum not to exceed 10 percent of the amount to be received during the school year by each district from the State School Fund.

38116. If in any county a school supply revolving fund is not established, payment for school supplies and equipment purchased through the county superintendent of schools or through the county purchasing agent shall be made by order of the governing board of the school district purchasing them, in the same manner as other payments are made from school district funds.

38117. The governing board of each school district throughout the state shall provide for each schoolhouse under its control, a suitable Flag of the United States, which shall be hoisted above each schoolhouse during all school sessions and on school holidays, weather permitting.

The governing board of each school district shall provide smaller and suitable United States Flags to be displayed in each schoolroom at all times during the school sessions.

The governing board of each school district shall enforce this section.

38118. Writing and drawing paper, pens, inks, blackboards, blackboard erasers, crayons, lead pencils, and other necessary supplies for the use of the schools, shall be furnished under direction of the governing boards of the school districts.

38119. The governing board of a school district may rent or lease personal property needed for district purposes, including the renting or leasing of caps and

gowns for seniors who participate in high school graduation ceremonies.

38120. The governing board of any school district may lend school band instruments, music, uniforms, and other regalia to persons who are or have been, during the prior school year, members of the school band for use by them on excursions to foreign countries whether or not such an excursion is sanctioned by the governing board.

The governing board may require the borrower to make a deposit or take other measures to insure that the items borrowed will be returned in usable condition.

Article 2. Use of School Property

38130. This article shall be known and may be cited as the Civic Center Act.

38131. (a) There is a civic center at each and every public school facility and grounds within the state where the citizens, parent-teachers' associations, camp fire girls, boy scout troops, farmers' organizations, school-community advisory councils, senior citizens' organizations, clubs, and associations formed for recreational, educational, political, economic, artistic, or moral activities of the public school districts may engage in supervised recreational activities, and where they may meet and discuss, from time to time, as they may desire, any subjects and questions which in their judgment pertain to the educational, political, economic, artistic, and moral interests of the citizens of the communities in which they reside.

(b) The governing board of any school district may grant the use of school facilities or grounds as a civic center upon the terms and conditions the board deems proper, subject to the limitations, requirements, and restrictions set forth in this article, for any of the following purposes:

(1) Public, literary, scientific, recreational, educational, or public agency meetings.

(2) The discussion of matters of general or public interest.

(3) The conduct of religious services for temporary periods, on a one-time or renewable basis, by any church or religious organization that has no suitable meeting place for the conduct of the services, provided the governing board charges the church or religious organization using the school facilities or grounds a fee as specified in subdivision (d) of Section 40043.

(4) Child care or day care programs to provide supervision and activities for children of preschool and elementary school age.

(5) The administration of examinations for the selection of personnel or the instruction of precinct board members by public agencies.

(6) Supervised recreational activities including, but not limited to, sports league activities for youths that are arranged for and supervised by entities, including religious organizations or churches, and in which youths may participate regardless of religious belief or denomination.

(7) Other purposes deemed appropriate by the governing board.

38132. Notwithstanding Section 38134, the governing board of any school district shall grant the use of school buildings, grounds, and equipment to public agencies, including the American Red Cross, for mass care and welfare shelters during disasters or other emergencies affecting the public health and welfare. The governing board shall cooperate with these agencies in furnishing and maintaining such services as the governing board may deem necessary to meet the needs of the community.

38133. The management, direction, and control of school facilities under this article is vested in the governing board of the school district which shall promulgate all rules and regulations necessary to provide, at a minimum, for the following:

(1) Aid, assistance, and encouragement to any of the activities authorized in Sections 40041 and 40041.5.

(2) Preservation of order in school facilities and on school grounds, and protection of school facilities and

school grounds, including, if the governing board deems necessary, appointment of a person who shall have charge of the school facilities and grounds for purposes of their preservation and protection.

(3) That the use of school facilities or grounds is not inconsistent with the use of the school facilities or grounds for school purposes or interferes with the regular conduct of schoolwork.

38134. (a) The governing board of any school district shall authorize the use of any school facilities or grounds under its control, when an alternative location is not available, to nonprofit organizations, and clubs or associations organized to promote youth and school activities, including, but not limited to:

(1) Girl Scouts, Boy Scouts, Camp Fire, Inc.

(2) Parent-teachers' associations.

(3) School-community advisory councils.

This subdivision shall not apply to any group that uses school facilities or grounds for fundraising activities that are not beneficial to youth or public school activities of the district, as determined by the governing board.

(b) Except as otherwise provided by law, the governing board may charge an amount not to exceed its direct costs for use of its school facilities. Each governing board that decides to levy these charges shall first adopt a policy specifying which activities shall be charged an amount not to exceed direct costs.

(c) The governing board of any school district may charge an amount not to exceed its direct costs for use of its school facilities by any entity, including a religious organization or church, that arranges for and supervises sports league activities for youths as described in paragraph (6) of subdivision (b) of Section 38131.

(d) The governing board of any school district that authorizes the use of school facilities or grounds for the purpose specified in paragraph (3) of subdivision (b) of Section 38131 shall charge the church or religious denomination an amount at least equal to the district's direct costs.

(e) In the case of entertainments or meetings where admission fees are charged or contributions are solicited and the net receipts are not expended for the welfare of the pupils of the district or for charitable purposes, a charge shall be levied for the use of school facilities or grounds which charge shall be equal to fair rental value.

(f) If any group activity results in the destruction of school property, the group may be charged for an amount necessary to repay the damages, and further use of facilities may be denied.

(g) As used in this section, ‘‘direct costs’’ to the district for the use of school facilities or grounds means those costs of supplies, utilities, janitorial services, services of any other district employees, and salaries paid school district employees necessitated by the organization’s use of the school facilities and grounds of the district.

(h) As used in this section, ‘‘fair rental value’’ means the direct costs to the district, plus the amortized costs of the school facilities or grounds used for the duration of the activity authorized.

(i) Any school district authorizing the use of school facilities or grounds under subdivision (a) shall be liable for any injuries resulting from the negligence of the district in the ownership and maintenance of those facilities or grounds. Any group using school facilities or grounds under subdivision (a) shall be liable for any injuries resulting from the negligence of that group during the use of those facilities or grounds. The district and the group shall each bear the cost of insuring against its respective risks and shall each bear the costs of defending itself against claims arising from those risks. Notwithstanding any other provision of law, this subdivision shall not be waived. Nothing in this subdivision shall be construed to limit or affect the immunity or liability of a school district under Division 3.6 (commencing with Section 810) of Title 1 of the Government Code, for injuries caused by a dangerous condition of public property.

38135. Any use, by any individual, society, group, or organization for the commission of any act intended to

further any program or movement the purpose of which is to accomplish the overthrow of the government of the United States or of the state by force, violence, or other unlawful means shall not be permitted or suffered.

Any individual, society, group, or organization which commits any act intended to further any program or movement the purpose of which is to accomplish the overthrow of the government by force, violence, or other unlawful means while using school property pursuant to the provisions of this chapter is guilty of a misdemeanor.

38136. No governing board of a school district shall grant the use of any school property to any person or organization for any use in violation of Section 38135.

For the purpose of determining whether or not any individual, society, group, or organization applying for the use of the school property intends to violate Section 38135, the governing board shall require the making and delivery to the governing board, by the applicant of a written statement of information in the following form:

STATEMENT OF INFORMATION

The undersigned states that, to the best of his or her knowledge, the school property for use of which application is hereby made will not be used for the commission of any act intended to further any program or movement the purpose of which is to accomplish the overthrow of the government of the United States by force, violence or other unlawful means;

That ____, the organization on whose behalf he or she is making application for use of school property, does not, to the best of his or her knowledge, advocate the overthrow of the government of the United States or of the State of California by force, violence, or other unlawful means, and that, to the best of his or her knowledge, it is not a Communist action organization or Communist front organization required by law to be registered with the Attorney General of the United States. This statement is made under the penalties of perjury.

_____
(Signature)

The school board may require the furnishing of additional information as it deems necessary to make the determination that the use of school property for which application is made would not violate Section 38135.

Any person applying for the use of school property on behalf of any society, group, or organization shall be a member of the applicant group and, unless he or she is an officer of the group, must present written authorization from the applicant group to make the application.

The governing board of any school district may, in its discretion, consider any statement of information or written authorization made pursuant to the requirements of this section as being continuing in effect for the purposes of this section for the period of one year from the date of the statement of information or written authorization.

38137. Written statements of information as required by Section 38136 need not be under oath, but shall contain a written declaration that they are made under the penalty of perjury, and any person so signing the statements who willfully states therein as true any material matter which he or she knows to be false, is subject to the penalties prescribed for perjury in the Penal Code.

38138. Notwithstanding the provisions of this article or any other provisions of law, when a nonpartisan charitable organization organized under the laws of this state has constructed or will construct, subject to the provisions of Article 3 (commencing with Section 39140) of Chapter 2 of this part, a school athletic and youth center facility at no cost to a school district, upon a school-district-owned site to be owned by and for the benefit of the school occupying the site, the governing board of the school district, in accepting the donation and prescribing the conditions and restrictions with respect thereto, may permit the general use of the facility under the provisions of this article for specified supervised

recreational activities which are sponsored by or conducted by the donor organization, and may also permit the donor organization to use the facility for this purpose at times when the facility is not being used by the school district for the educational program and related school activities of the designated beneficiary school, unless the use and occupancy of the facility by the donor organization would otherwise interfere with the regular conduct of the school. Any use granted to the donor organization shall, however, immediately and forever terminate if the donor organization denies the use of the facility to any person because of their race, religion, creed, national origin, ancestry, or sex.

This section shall apply only to elementary school districts in San Diego County which had an average daily attendance of 425 or less during the 1970–71 school year, and which, during the 1970–71 school year, had a modified assessed valuation per pupil in average daily attendance of between forty-five thousand dollars ($45,000) and fifty thousand dollars ($50,000).

38139. (a) Public primary schools shall post at an appropriate area restricted to adults information regarding missing children provided by the Department of Justice pursuant to Section 11114.1 of the Penal Code.

(b) Public secondary schools shall post at an appropriate area information regarding missing children provided by the Department of Justice pursuant to Section 11114.1 of the Penal Code.

Article 3. Farm Labor Driver Training Course

38150. The State Department of Education shall develop or approve a course for the training of schoolbus, school pupil activity bus, and farm labor vehicle drivers that will provide them with the skills and knowledge necessary to prepare them for an examination for certification pursuant to Sections 12517 and 12519 of the Vehicle Code. The department shall seek the advice and assistance of the Department of Motor Vehicles and the

Department of the California Highway Patrol in developing or approving such a course.

The department shall train or approve the necessary instructional personnel to conduct the course. For schoolbus and school pupil activity bus training, the department shall provide for and approve the course outline and lesson plans used in the course. For farm labor vehicle training, the department shall approve the course outline and lesson plans used in the course.

Article 4. Specialized Vehicle Driver Training Courses

38155. (a) This article governs the minimum training required for drivers to obtain or renew a certificate described in Section 12517, 12519, or 12804.6 of the Vehicle Code.

(b) As used in this article, ‘‘department’’ means the State Department of Education.

38156. (a) The department shall develop or approve courses for training school pupil activity bus (SPAB), transit bus, schoolbus, and farm labor vehicle drivers that will provide them with the skills and knowledge necessary to prepare them for certification pursuant to Sections 12517, 12519, and 12804.6 of the Vehicle Code. The department shall seek the advice and assistance of the Department of Motor Vehicles and the Department of the California Highway Patrol in developing or approving those courses.

(b) The department shall train or approve the necessary instructional personnel to conduct the driver training courses. For all schoolbus and school pupil activity bus (SPAB) driver instructor training, the department shall provide for and approve the course outline and lesson plans used in the course. For transit bus and farm labor vehicle driver training, the department shall approve the course outline and lesson plans used in the course.

(c) All courses of study and training activities required by this article shall be approved by the department and given by, or in the presence of, an instructor in possession

of a valid school pupil activity bus (SPAB), transit bus, schoolbus, or farm labor vehicle driver instructor certificate of the appropriate class.

(d) As an alternative to subdivisions (a), (b), and (c), instructors who have received a certificate from the Transportation Safety Institute of the United States Department of Transportation indicating that they have completed the Mass Transit Instructor Orientation and Training (Train-the-Trainer) course may approve courses of instruction and train transit bus drivers in order to meet the requirements for certification pursuant to Section 12804.6 of the Vehicle Code.

38157. (a) An original applicant for a certificate to drive a schoolbus, as defined by Section 545 of the Vehicle Code, shall have successfully completed a minimum 40-hour course of instruction. The course shall include at least 20 hours of classroom instruction in, but not limited to, all units of the Instructor's Manual for California's Bus Driver's Training Course. All classroom instruction shall be given by, or in the presence of, a state-certified instructor of the appropriate class. The course shall also include at least 20 hours of applicant behind-the-wheel training in all sections of the Instructor's Behind-the-Wheel Guide for California's Bus Driver's Training Course. Applicant behind-the-wheel training shall include driving vehicles comparable to those vehicles that will be driven by the applicant to transport pupils. All behind-the-wheel training shall be given by a state-certified instructor of the appropriate class or the delegated behind-the-wheel trainer as designated pursuant to Section 38160.

(b) Except as provided in subdivision (c), a driver who is holding a driver certificate or endorsement described in Section 38158, and is seeking a schoolbus certificate of the appropriate class, shall have successfully completed a minimum of five hours of classroom instruction, including, but not limited to, schoolbus laws and regulations, defensive driving, student loading and unloading, and the exceptional child. All classroom instruction shall be given by, or in the presence of, a

state-certified instructor of the appropriate class. The driver shall also complete at least three hours of behind-the-wheel training in defensive driving practices, lane control, railroad grade crossing procedures, and student loading and unloading.

(c) A driver who has received training by an instructor who has received a certificate as described in subdivision (d) of Section 38156 may not be certified to drive a schoolbus in the manner described in subdivision (b).

38158. An original applicant for a certificate to drive any bus defined by Section 546 or 642 of the Vehicle Code shall have successfully completed a minimum 35-hour course of instruction. The course shall include at least 15 hours of classroom instruction, including, but not limited to, all units of the Instructor's Manual for California's Bus Driver's Training Course, or other classroom curricula which the department has certified meets or exceeds the standards in its curricula. All classroom instruction shall be given by, or in the presence of, a state-certified instructor of the appropriate class, except that an instructor who has received a certificate as described in subdivision (d) of Section 38156 may provide the training for an original applicant for a certificate to drive a bus defined by Section 642 of the Vehicle Code. The course shall also include at least 20 hours of applicant behind-the-wheel training in all sections of the Instructor's Behind-the-Wheel Guide for California's Bus Driver's Training Course, or at least 20 hours of other behind-the-wheel training or driving experience which the department has certified meets or exceeds the standards of its training course. Applicant behind-the-wheel training shall include driving vehicles comparable to those vehicles that will be used to transport passengers. All behind-the-wheel training for a certificate to drive a bus defined by Section 546 of the Vehicle Code shall be given by a state-certified instructor of the appropriate class or the delegated behind-the-wheel trainer as designated pursuant to Section 38160. All behind-the-wheel training for a certificate to drive a bus defined by Section 642 of the

Vehicle Code shall be given by a state-certified instructor of the appropriate class or the delegated behind-the-wheel trainer as designated pursuant to Section 38160, or the delegated behind-the-wheel trainer as designated by the instructor certified pursuant to subdivision (d) of Section 38156.

This section shall become operative on January 1, 1993.

38159. An original applicant for a certificate to drive a farm labor vehicle shall have successfully completed a minimum 20-hour course of instruction. The course shall include at least 10 hours of classroom instruction, including, but not limited to, all units of the Instructor's Manual for California's Bus Driver's Training Course. All classroom instruction shall be given by, or in the presence of, a state-certified instructor of the appropriate class. The course shall also include at least 10 hours of applicant behind-the-wheel training in all sections of the Instructor's Behind-the-Wheel Guide for California's Bus Driver's Training Course. Applicant behind-the-wheel training shall include driving vehicles comparable to those that will be driven by the applicant to transport farm passengers. All behind-the-wheel training shall be given by a state-certified instructor of the appropriate class or the delegated behind-the-wheel trainer as designated pursuant to Section 38160.

38160. (a) All behind-the-wheel training required to obtain certificates pursuant to Sections 12517 and 12519 of the Vehicle Code shall be performed by a state-certified instructor or by a delegated behind-the-wheel trainer who has been certified or approved by the department to conduct the required training.

(b) A delegated behind-the-wheel trainer is a person selected to assist a state-certified instructor in the behind-the-wheel training of drivers. Selected persons shall be trained by state-certified instructors and approved by the department prior to conducting any behind-the-wheel training. The minimum standards for the selection of a delegated behind-the-wheel trainer are as follows:

(1) One year experience as a driver of the appropriate type and size vehicle immediately preceding the date of selection as a delegated behind-the-wheel trainer.

(2) Possession of the appropriate license, certificates, and endorsements needed to drive and train in a particular type and size vehicle.

(3) A high school diploma or general education development equivalent.

(4) A driving record with no chargeable accidents within the past three years immediately preceding the date of selection.

(5) Successful completion of all training in the latest edition of the Instructor's Behind-the-Wheel Training Guide for California's Bus Driver's Training Course given by, and in the presence of, a state-certified instructor of the appropriate class.

(6) Successful completion of a written assessment test on current laws, regulations, and policies given by, and in the presence of, a state-certified instructor of the appropriate class.

(7) Successful completion of a driving test and a behind-the-wheel training performance test on all phases of behind-the-wheel and vehicle inspection training. The test shall be given by, and in the presence of, a state-certified instructor of the appropriate class.

(c) The state-certified instructor shall train and document the qualifications and competence of each delegated behind-the-wheel trainer to be utilized in training. All training required by this section shall be documented on the State Department of Education Training Certificate T-01, and signed by a state-certified school pupil activity bus (SPAB), transit bus, schoolbus, or farm labor vehicle driver instructor of the appropriate class, and by the delegated behind-the-wheel trainer. The signatures shall certify that the instruction was given to, and received by, the delegated behind-the-wheel trainer and that the delegated behind-the-wheel trainer displayed a level of competency necessary to train drivers to drive authorized vehicles in a safe and competent manner. The completed State Department of Education

Training Certificate T-01 shall be submitted to the department in Sacramento, along with all other required documents, when requesting approval of a delegated behind-the-wheel trainer.

(d) The department may disapprove the eligibility of a delegated behind-the-wheel trainer for any of the following causes:

(1) The state-certified instructor authorizing the competency of the delegated behind-the-wheel trainer has requested disapproval.

(2) The employer of the delegated behind-the-wheel trainer has requested disapproval.

(3) The delegated behind-the-wheel trainer has voluntarily requested disapproval.

(4) The delegated behind-the-wheel trainer failed to comply with Section 40087.

(5) The delegated behind-the-wheel trainer failed to comply with Section 40084.5.

(6) The delegated behind-the-wheel trainer does not possess a valid driver's license, appropriate endorsements, or special driver's certificate of the appropriate class.

(7) The delegated behind-the-wheel trainer's driver's license or special driver's certificate has been suspended or revoked.

(e) A delegated behind-the-wheel trainer may be limited in behind-the-wheel training as determined by the department.

38161. Applicants seeking to renew a certificate to drive a schoolbus as defined in Section 545 of the Vehicle Code or a school pupil activity bus as defined in Section 546 of the Vehicle Code shall have successfully completed at least 10 hours of original or renewal classroom instruction, or behind-the-wheel or in-service training during each 12 months of certificate validity. In-service training credit may be given by a state-certified driver instructor of the appropriate class to an applicant for attending or participating in appropriate driver training workshops, driver safety meetings, driver safety conferences, and other activities directly related to

passenger safety and driver training. During the last 12 months of the special driver certificate validity, the 10 hours required shall consist of classroom instruction covering, but not limited to, current laws and regulations, defensive driving, accident prevention, emergency procedures, and passenger loading and unloading. Failure to successfully complete the required training during any 12-month period of certificate validity is cause for the Department of Motor Vehicles to cancel the busdriver certificate. All training required by Section 38166 may be accepted in lieu of the requirements of this section.

38162. Applicants seeking to renew a certificate to drive a transit bus as defined in Section 642 of the Vehicle Code shall have successfully completed at least eight hours of original or renewal classroom instruction, or behind-the-wheel or in-service training during each 12 months of certificate validity. In-service training credit may be given by a state-certified driver instructor of the appropriate class, or an instructor certified pursuant to subdivision (d) of Section 38156, to an applicant for attending or participating in appropriate driver training workshops, driver safety meetings, driver safety conferences, and other activities directly related to passenger safety and driver training. During the last 12 months of the validity of the certificate, the eight hours required shall consist of classroom instruction covering, but not limited to, current laws and regulations, defensive driving, accident prevention, emergency procedures, and passenger loading and unloading. Failure to successfully complete the required training during any 12-month period of certificate validity is cause for the Department of Motor Vehicles to cancel the busdriver certificate. All training required by Section 38166 may be accepted in lieu of the requirements of this section.

This section shall become operative on January 1, 1993.

38163. Applicants seeking to renew a certificate to drive a farm labor vehicle shall have successfully completed two hours of classroom instruction for each 12 months of certificate validity covering, but not limited to,

current laws and regulations, accident prevention, and defensive driving. Failure to successfully complete the required training during any 12-month period of certificate validity is cause for the Department of Motor Vehicles to cancel the farm labor vehicle driver license or certificate. All training required in Section 38166 may be accepted in lieu of the requirements of this section.

38164. (a) Except as provided in subdivision (b), driver training required by this article shall be properly documented on the State Department of Education Training Certificate T-01, and signed by a state-certified school pupil activity bus (SPAB), transit bus, schoolbus, or farm labor vehicle driver instructor of the appropriate class, and by the driver or applicant. The signatures certify that the instruction was given to, and received by, the applicant or driver, and that the applicant or driver displayed a level of competency necessary to drive the vehicle in a safe and competent manner. The applicant or driver shall present the completed State Department of Education Training Certificate T-01, to the examining state agency when applying for an endorsement or certificate, or, for renewal of an endorsement or certificate.

(b) Driver training provided by an instructor certified pursuant to subdivision (d) of Section 38156 shall be documented on a form developed by the Department of Motor Vehicles, with the consultation of the department. The form shall be signed by the instructor and by the applicant or driver. The signatures certify that the instruction was given to, and received by, the applicant or driver, and that the applicant or driver displayed a level of competency necessary to drive the vehicle in a safe and competent manner. The applicant or driver shall present the completed form to the Department of Motor Vehicles when applying for a certificate or for renewal of a certificate.

38165. (a) An applicant for a school pupil activity bus (SPAB), transit bus, schoolbus, or farm labor vehicle driver instructor certificate shall successfully complete

the appropriate instructor course given or approved by the department.

(b) An applicant for the course shall possess:

(1) A valid driver's license and endorsement valid for driving the vehicles for which the driver instructor rating is sought.

(2) A certificate or endorsement valid for driving the vehicles for which the driver instructor rating is sought.

(3) Five years of experience as a driver in the appropriate vehicle category, or two years experience of that driving experience and three years equivalent experience driving vehicles that require a class A or B driver's license.

(4) A high school diploma or General Education Development (GED) equivalent.

(5) A driving record with no chargeable accidents within the past three years preceding the date of application for the instructor certificate.

The department may waive any or all of the requirements of this subdivision as it determines is necessary to ensure that there are an adequate number of state-certified instructors in the state.

(c) (1) A state-certified schoolbus driver instructor of the appropriate class may instruct all applicants for a schoolbus, school pupil activity bus (SPAB), transit bus, or farm labor vehicle driver's certificate.

(2) A state-certified school pupil activity bus (SPAB) driver instructor of the appropriate class may instruct all applicants for a school pupil activity bus (SPAB), transit bus, or farm labor vehicle driver's certificate, but not a schoolbus certificate.

(3) A state-certified transit bus instructor of the appropriate class may instruct all applicants for a transit bus or farm labor driver's certificate, but not a school pupil activity bus (SPAB) or a schoolbus certificate.

(4) A state-certified farm labor vehicle driver instructor may instruct applicants only for a certificate to drive a farm labor vehicle.

(d) A school pupil activity bus (SPAB), transit bus, schoolbus, or farm labor vehicle driver instructor

certificate shall be valid until suspended, revoked, or canceled if it is accompanied by a valid driver's license and a special driver's certificate or valid driver's license and endorsement of the appropriate class or is limited to classroom or in-service training only.

(e) The department may suspend or revoke a school pupil activity bus (SPAB), transit bus, schoolbus, or farm labor vehicle driver instructor certificate for any of the following causes:

(1) The certificate holder failed to comply with Section 38164.

(2) The certificate holder failed to comply with Section 38160.

(3) The certificate holder has committed an act listed in Section 13369 of the Vehicle Code or Section 13370 of that code.

(f) The department shall revoke a schoolbus, school pupil activity bus (SPAB), transit bus, or farm labor vehicle driver instructor certificate if the certificate holder falsified a State Department of Education Training Certificate T-01, T-02, or T-03.

(g) The department may cancel the driver instructor certificate for any of the following causes:

(1) The certificate holder has voluntarily requested cancellation.

(2) The certificate holder has his or her driving privilege suspended or revoked.

(3) The certificate holder has failed to meet the provisions required for retention of the driver instructor certificate. This includes failure to meet the instructor training requirements prescribed by Section 38166.

(4) The certificate holder does not possess a valid driver's license, endorsement, or special driver's certificate of the appropriate class.

(h) The department shall by regulation adopt an instructor certificate appeals procedure for subdivisions (e), (f), and (g).

(i) The Department of Motor Vehicles or the Department of the California Highway Patrol may disallow the driver training documentation provided

pursuant to Section 38164 signed by any driver instructor certified pursuant to Section 38156 if either of those departments finds that the instructor's certificate would have been suspended, revoked, or canceled for any of the reasons designated in subdivision (e), (f), or (g).

38166. (a) A school pupil activity bus (SPAB), transit bus, schoolbus, or farm labor vehicle driver instructor with no instructional limitations shall conduct at least 20 hours of instruction each 12 months that includes at least 10 hours of behind-the-wheel and 10 hours of classroom training, which need not be given in a single session. A school pupil activity bus (SPAB), transit bus, schoolbus, or farm labor vehicle driver instructor limited to either classroom or behind-the-wheel training only shall conduct at least 10 hours of instruction each 12 months that includes at least 10 hours of behind-the-wheel or classroom training depending on the limitation. The training need not be given in a single session. A school pupil activity bus (SPAB), transit bus, schoolbus, or farm labor vehicle driver instructor limited to in-service training only shall conduct at least 10 hours of in-service training each 12 months. All school pupil activity bus (SPAB), transit bus, schoolbus, and farm labor vehicle driver instructor training conducted by department staff may be accepted in lieu of the requirements of this subdivision.

(b) A school pupil activity bus (SPAB), transit bus, schoolbus, or farm labor vehicle driver instructor may be limited to classroom instruction, behind-the-wheel training or in-service training only, and prohibited from recording, documenting, or signing for any training required by this article, as determined by the department.

(c) A school pupil activity bus (SPAB), transit bus, schoolbus, or farm labor vehicle driver instructor shall be limited to behind-the-wheel instruction in vehicles that the instructor is qualified to drive.

(d) All school pupil activity bus (SPAB), transit bus, schoolbus, or farm labor vehicle driver instructor training required by subdivision (a) shall be properly

documented on a State Department of Education Training Certificate T-01, and signed by the state-certified instructor at the end of each 12-month training period. The signature certifies that the required instruction was conducted during the 12-month training period. Upon renewal of the instructor driver's license, endorsement, or certificate, the completed instructor training record, recorded on the State Department of Education Training Certificate, shall be submitted to the department in Sacramento.

38167. The department may assess fees to any instructor applicant who will be training drivers of any vehicle as defined in Section 642 of the Vehicle Code. The fee shall not be more than necessary to offset the department's reasonable costs.

38168. Employers shall take all action necessary to make available to every transit busdriver required to be trained pursuant to Section 38158 or 38162 the opportunity to be trained without the loss of wages or benefits.

SEC. 6. Part 23 (commencing with Section 39001) of the Education Code is repealed.

SEC. 7. Section 53080 of the Government Code is repealed.

SEC. 8. Section 53080.1 of the Government Code is repealed.

SEC. 9. Section 53080.15 of the Government Code is repealed.

SEC. 10. Section 53080.2 of the Government Code is repealed.

SEC. 11. Section 53080.3 of the Government Code is repealed.

SEC. 12. Section 53080.4 of the Government Code is repealed.

SEC. 13. Section 53080.6 of the Government Code is repealed.

SEC. 14. Section 53081 of the Government Code is repealed.

SEC. 15. To the extent that the provisions of this act are substantially the same as existing statutory provisions

relating to the same subject matter, the provisions shall be construed as restatements and continuations of existing statutory provisions and not as a new enactment.

SEC. 16. The Legislature finds and declares that the enactment of this act, in view of the nonsubstantive statutory changes made, will not result in new or additional costs to local agencies charged with any duties or responsibilities in connection therewith.

SEC. 17. Any section of any act enacted by the Legislature during the 1996 calendar year prior to~~, or subsequent to,~~ the enactment of this act, that amends, amends and renumbers, adds, repeals and adds, or repeals a section, article, chapter, or part, that is amended, amended and renumbered, added, repealed and added, or repealed by this act, shall prevail over this act *until January 1, 1998, at which time Sections 1 to 16 of this act shall become operative*.

SEC. 18. The provisions of this act are severable. If any provisions of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

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