

MEMORANDUM

Staff Summary No. 6

Date: July 11, 2018

To: Members of the California School Finance Authority

From: Katrina M. Johantgen, Executive Director

Re: Resolution 18-12 – Approving Second Readoption of the Emergency Rulemaking Process

Emergency Regulations (ER) under the Charter School Facility Grant Program (SB740 or Program) were approved at the October 11, 2017 California School Finance Authority (Authority) Board Meeting, and approved by the Office of Administrative Law (OAL) on November 2, 2017. The ER set forth the pro-rata award methodology necessary to administer the Program due to oversubscription.

On December 12, 2017, the Proposed Permanent Regulations (PPR) were approved by the Board and submitted to OAL, as the beginning of the Regular Rulemaking process. A Notice of Proposed Rulemaking opened the 45-day Public Comment period which closed on February 20, 2018. The Authority received several public comments on the PPR concerning Section 10170.4 (a)(1). This subsection included two facility cost limiters which capped annual rent increases for existing leases, and required new facility agreements be capped at fair market rate as determined by an Independent Appraisal.

During the same time frame, the Department of Finance (DOF) introduced Trailer Bill Language (TBL), which did not agree with PPR Section 10170.4 (a)(1). At that time, the Authority decided to put the regular rulemaking process on hold until the state budget was enacted, and the TBL was in effect. The first readopt ER was approved at the March 14, 2018 Board Meeting and later approved by OAL on April 30, 2018. The first readopt ER, included the addition of the language from the PPR (minus Section 10170.4 (a)(1)), amendments to the online application process, and removal of obsolete language.

The Authority is requesting a second readopt to continue Program operations given that the current ER expires on July 30, 2018. The proposed second readopt ER contains the approved OAL language; no additional language was added to the second readopt ER. The Authority will file a Notice of Publication as required under the Emergency Readopt Rulemaking Action to extend the emergency regulations for 90 days. If approved, the second readopt ER will expire on October 29, 2018.

The Authority intends to proceed with the Regular Rulemaking Action and Certificate of Compliance now that the TBL is finalized and when the Authority Board approves the proposed amended permanent regulations. The Authority has one year to complete the proposed permanent rulemaking process.

Recommendation: Staff recommends the approval of Resolution 18-12 – approving a second readoption of the OAL approved Emergency regulations to continue Program administration.