

STATE BOARD OF EDUCATION – ADMINISTRATIVE RULE SUMMARY**OAR # & Title:** First Reading—New OAR’s School Construction Matching Program Funding Formula**Date:** December 10, 2015**Staff/Office:** Rick Crager, Mike Wiltfong, and Michael Elliott, Office of Finance and Administration **New Rule** **Amend Existing Rule** **Repeal Rule****Hearing Date:** _____ **Hearings Officer Report Attached****Prompted by:** **State law changes** **Federal law changes** **Other****Action Requested:** **First Reading/Second Reading** **Adoption of Temporary Rule**
 Adoption/Consent Agenda

PROPOSED/AMENDED RULE SUMMARY: Establishes funding formula, priority list and first in time application method to award grants from the Oregon School Capital Improvement Matching Account.

BACKGROUND: Currently, it is estimated that \$7.6 billion in deferred maintenance needs exists in Oregon’s schools. This deferred maintenance leads to unhealthy and unsafe conditions for our children’s learning environments. The problem is that 43% of school districts in Oregon have been unable, or even unwilling to try (due to prior bond measure failures) to pass local general obligation bonds to address these problems. The result is that these conditions create more barriers to student success.

In 2015, the Legislative Assembly took the unprecedented step of providing state funding to address this issue. The legislature established the Office of School Facilities (Office) in the Department of Education (ODE) and provided the Office with the ability to sell \$126.2 million in state-backed general obligation bonds. The goals of the Office are straightforward:

1. Encourage districts to pass local general obligation bonds by providing matching grants from state funds.
2. Encourage districts to create long range facilities plans, assess current facilities and conduct seismic assessments by providing grants to accomplish these purposes.
3. Provide hardship grants to districts for critical capital improvements.
4. Enhance and maintain the statewide facilities database.

The bulk of the work of this Office will be in providing matching grants to the districts that successfully pass general obligation bonds. The net proceeds of the \$126.2 million in bonds, approximately \$123 million, will be used to fund this program. This money will be divided into two amounts for districts. 60% of the funds will be distributed to districts based on a priority list that accounts for the districts’ average daily membership, districts’ total amount of taxable property and the districts’ poverty percentage. The second amount,

40%, will be awarded to the first districts that submit completed applications by the deadlines set by the Department.

The priority list is based on a formula similar to the list developed for the Local Option Equalization Grant. The goal is to provide awards to those districts with higher poverty rates and lower assessed values. This encourages equity and, by providing updated facilities to districts with higher rates of poverty, can work to close the achievement gap by removing one less barrier to students.

The remaining 40% will be on a “First in Time” basis. In order to be the most equitable, ODE will be using a lottery system for First in Time applications. All applications that are received by the Department within a set time period (i.e., a few hours), will be deemed to have arrived at the same time. If there is not enough money to commit to all of those grant applications, then the districts who receive a matching commitment will be drawn by lottery. This proposal reduces external issues such as time and distance for an in-person application process and internet capacity for an electronic submission.

All of the districts that qualify for the grants will use the same funding formula to determine how much state matching money for which the district will be eligible. The funding formula provides a one-to-one match for districts that provide up to \$4 million in local general obligation bonds. All local general obligation bonds passed in excess of \$4 million will be matched according to the funding formula with a minimum of \$4 million and a maximum of \$8 million. The funding formula compares the estimated amount of revenue per ADMw that a district could raise with an artificially high amount of revenue per ADMw. The amount of the matching grant is the difference between the estimated and theoretical revenue multiplied by a district’s extended ADMw.

For additional information on the program, the funding and priority list formulae, please see the website at: <http://www.ode.state.or.us/search/results/?id=398>.

ISSUES/CONCERNS THAT SURFACED DURING RULE WORK: ODE met with an Advisory Group to receive feedback on ODE’s initial work on putting together the Oregon School Capital Improvement Matching Program (OSCIM Program). The Advisory Group consists of 2 investment banking firms, an architecture firm, several school business officials, superintendents and board members from across the state, COSA, OSBA, and OEA. The Advisory Group met once in person and has had email communications as well.

Two issues arose during the Advisory Group meeting. The first was a concern that the current priority list and funding formula calculations did not adequately weight the poverty factor. The second was that a strict first in time application process was not equitable for the districts across the state.

ODE reviewed these concerns and proposed changes. First, ODE increased the poverty weighting factor from 2 to 20. This gave poverty a much greater weight in the formula and led to results more in line with the intent of the Task Force. Second, ODE is moving from a straight first in time application process to a lottery where all districts that submit within a

specified time period are deemed to have submitted at the same time. This eliminates the concerns that a particular district is too far from Salem, or that a district’s internet capacity would hinder its application. The Advisory Group has reviewed and agreed to the changes.

CHANGED SINCE LAST BOARD MEETING? None.

- N/A; first read—hasn’t been before board
- No; same as last month
- Yes – As follows:

FISCAL IMPACT: As part of SB 447, ODE was given \$2.5 million from the State School Fund’s Facility Grant to run the program. Additionally, ODE was given position authority for 4.5 FTE to help with this program. ODE anticipates that about \$1 million will be used for staff salaries and services and the remaining \$1.5 million will be used to fund technical assistance grants to help districts with facilities assessments, long range facility plans, seismic assessments and other assessments.

STAFF RECOMMENDATION:

- Adopt administrative rule as prepared this month
- Adopt administrative rule next month
- No recommendation at this time (rarely used)

Comments: ODE is requesting the approval of temporary rules. ODE needs to have the OSCIM Program ready to receive applications by January 15th. Thus, ODE requests temporary rules now with permanent rules to follow. Temporary rules are being requested because ODE needed time to meet with the Advisory Group and put together a program that would be acceptable to the state in time for the January 15th application deadline.
Created by CH on 11/30/15

**DIVISION 27
School Construction Matching Program**

OAR 581-027-0005 Definitions

The following definitions and abbreviations apply to rules within OAR 581, Div 27:

- (1) “Adjusted Assessed Property Value Per ADM” means the value calculated per OAR 581-027-0010 to determine the ranking of school districts on the Priority List for Funding.
- (2) “ADM” means Average Daily Membership.
- (3) “Assessed Value” means the total assessed value of all tangible property within the boundaries of the school district as published by the Oregon Department of Revenue.

(4) “Average Daily Membership” means the number of students in a school district as calculated under ORS 327.061 and includes all weights, and extended Average Daily Membership weighted, as calculated under ORS 327.013(1)(c).

(5) “Date Stamp” means electronic or mechanical means of imprinting documents with date and time the document is received by the Department of Education.

(6) “First in Time” means that portion of the Oregon School Capital Improvement Matching Account that is to be awarded to school districts based on the order in which the Department receives the applications.

(7) “Guaranteed Tax Base Amount” or “GTBA” means a theoretical tax base of \$1,000,000 per ADM.

(8) “Guaranteed Tax Rate Amount” means \$1,000 which is the GTBA multiplied by .001 for \$1 of tax per \$1,000 of Assessed Value.

(9) “Oregon School Capital Improvement Matching Account” means an interest bearing account established in the State Treasury, separate and distinct from the General Fund, that consists of net proceeds from Article XI-P bonds issued under Article XI-P (School District Capital Costs) of the Oregon Constitution.

(10) “Priority List” means the list created with the formula outlined in OAR 581-027-0010.

(11) “Students in Poverty” means the number of children, age 5 to 17, in families in poverty as described by the Small Area Income Poverty Estimate published by the U.S. Census Bureau.

Stat. Auth.: Sections 2 and 5, Chapter 783, Oregon Laws 2015 (Enrolled Senate Bill 447).

Stats. Implemented: Sections 2, 4 and 5, Chapter 783, Oregon Laws 2015 (Enrolled Senate Bill 447).

OAR 581-027-0010 Calculations for Oregon School Capital Improvement Matching Program Priority List

(1) The Department of Education shall provide matching grants to school districts from designated resources in the Oregon School Capital Improvement Matching Account.

(2) Sixty percent (60%) of designated grant resources in the Oregon School Capital Improvement Matching Account shall be awarded based on a priority list established by the Department.

(3) The priority list established by the Department shall be based on a district’s Assessed Value, percentage of Students in Poverty, and Average Daily Membership.

(4) The Department shall update the priority list at the beginning of each biennium. To update the list, the Department will use the data from the most recent year for which all three sources have reported actual data.

(5) The priority list shall be calculated as follows:

(a) The district's Students in Poverty shall be multiplied by 20 to determine the Weighted Number of Students in Poverty.

(b) The district's Weighted Number of Students in Poverty shall be divided by the district's ADM to arrive at the district's Percentage of Students in Poverty.

(c) The district's Assessed Value shall be divided by the district's ADM to determine the district's Assessed Property Value per ADM.

(d) The district's Assessed Property Value per ADM shall then be divided by 1 plus the Percentage of Students in Poverty to determine the district's Adjusted Assessed Value per ADM.

(e) The districts will be ranked from the smallest Adjusted Assessed Property Value per ADM to the highest. This ranking will ensure districts with the highest rate of students in poverty and lowest assessed property wealth per ADMw are provided the greatest chance for matching grant.

Stat. Auth.: Sections 2 and 5, Chapter 783, Oregon Laws 2015 (Enrolled Senate Bill 447).

Stats. Implemented: Sections 2, 4 and 5, Chapter 783, Oregon Laws 2015 (Enrolled Senate Bill 447).

581-027-0015 Calculations for Oregon School Capital Improvement Matching Program Funding Formula

(1) The Department of Education shall provide matching grants to school districts from designated grant resources in the Oregon School Capital Improvement Matching Account.

(2) Sixty percent (60%) of designated grant resources in the Oregon School Capital Improvement Matching Account shall be awarded based on a priority list established by the Department under OAR 581-027-0010.

(3) Forty percent (40%) of designated grant resources in the Oregon School Capital Improvement Matching Account shall be awarded based on the order in which application are received during a pre-determined time frame established by the Department.

(4) The Department of Education shall use a funding formula to determine the amount of state matching grant funds each school district is eligible to receive from the Oregon School Capital Improvement Matching Account. This funding formula will be used to determine state matching fund eligibility for grants awarded through both the priority list and first in time application process.

(5) Districts whose voters pass \$4,000,000 or less in general obligation bonds for school facility projects shall be eligible for a one-to-one match from the state matching funds.

(6) Districts whose voters pass more than \$4,000,000 in general obligation bonds for school facility projects, shall be eligible for at least \$4,000,000 and no more than \$8,000,000 based on the following formula:

(a) The district's Adjusted Assessed Property Value per ADM as determined by OAR 581-027-0010 shall be multiplied by the assumed tax rate of .001 (\$1 per \$1000 of assessed property value) to calculate the district's Estimated Local Bond Revenue per ADM.

(b) The Estimated Local Bond Revenue per ADM shall be subtracted from the Guaranteed Tax Rate Amount to determine the amount of Eligible State Match per ADM.

(c) The Eligible State Match per ADM shall be multiplied by the district's ADM to determine the maximum amount of matching funds for which a district is eligible.

(7) In no case shall a district be eligible for more matching grant funds than the amount of local general obligation bonds approved by local voters.

(8) At no time shall a district receive more in matching funds than what the districts actually receives from the issuance of its local general obligation bonds.

(9) Districts shall be eligible for one matching grant per bond election regardless of the number of issues sold.

(10) The Department shall update the priority list at the beginning of each biennium. The update will use the data from the most recent year for which all three sources have reported actual data.

Stat. Auth.: Sections 2 and 5, Chapter 783, Oregon Laws 2015 (Enrolled Senate Bill 447).

Stats. Implemented: Sections 2, 4 and 5, Chapter 783, Oregon Laws 2015 (Enrolled Senate Bill 447).

581-027-0020 Oregon School capital Improvement Matching Program Application

(1) The Department shall create one application for districts to apply for grants from the Oregon School Capital Improvement Matching Account.

(2) The Department shall post the following on the Department's web page:

(a) The application prior to the application acceptance period begins;

(b) The first date on which the Department shall accept applications. No applications will be accepted prior to this date; and

(c) The last date the Department will accept applications.

(3) Applicants may either submit their application to the Department electronically through secure file transfer protocol or by delivering in person.

(4) The Department shall:

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- (a) Date stamp all applications based on the time they are received by the Department; and
- (b) Reject all incomplete applications.

(5) The Department shall:

- (a) Rank complete applications from school districts according to the Priority List formula;
- (b) Make funding commitments to school districts with the highest ranking on the priority list until sixty percent of the available resources are used.
- (c) Then make funding commitments to the remaining school districts in accordance to the First in Time process and based on the order in which the Department receives applications.

(6)(a) In order to promote equity across the state, the Department shall deem all applications received within a specified period of time as being received at the same time. The Department shall establish multiple periods as necessary for the reception of applications as follows:

- (A) Those applications received within the first time period shall be deemed to be the first in time for purposes of award commitments.
- (B) Those applications received in subsequent time periods will be deemed to be received in order of the established time periods.

(b) The Department shall commit First in Time funding to districts based on which time period the district is deemed to have submitted their application.

(c) If the First in Time funding is insufficient to provide a commitment to all districts within a given time period, the Department shall randomly select the districts by a lottery process to determine which districts will receive an award commitment.

(d) The lottery process shall be determined by the Department.

(e) All lottery results are final.

(7) The Department shall notify school districts that receive a funding commitment from the Oregon School Capital Improvement Matching Account within two weeks of the close of the application period.

(8) The Department shall post the eligibility and ranking of all districts that applied during that election cycle will be posted on the Department's website. Districts that applied but did not receive a commitment will be notified of where they fall on the waiting list.

(9) All funding commitments are contingent upon the school district passing the required general obligation bonds for matching within 6 months of the bond election.

(10) Any school districts on the waiting list may choose to move forward seeking voter approval for local bonds with the understanding that state matching funds may become available for use should a school district that has received a commitment be unsuccessful in passing their local bond.

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(11) All funding commitments to school districts that successfully pass their local bonds will be officially awarded state matching funds upon the execution of a grant agreement prescribed by the Department.

(12) All funding commitments to school districts that are not successful in passing their local bonds may be recommitted to school districts that are on the Waiting List.

(13) Funding commitments will not carry over from one election to the next. Funding commitments for future elections will only be made to school districts who reapply during the designated application period.

(14) All decisions of the Department regarding the completeness of the application or ranking under either the Priority List or First in Time process are final.

(15) Any funding remaining after all awards have been made shall be moved forward to the next application period.

Stat. Auth.: Sections 2 and 5, Chapter 783, Oregon Laws 2015 (Enrolled Senate Bill 447).

Stats. Implemented: Sections 2, 4 and 5, Chapter 783, Oregon Laws 2015 (Enrolled Senate Bill 447).