

STATE BOARD OF EDUCATION – ADMINISTRATIVE RULE SUMMARY		
OAR # & Title: First Reading —New School Construction Matching Program		
Date: February 16, 2016		
Staff/Office: Rick Crager, Mike Wiltfong, and Michael Elliott, Office of Finance and Administration		
<input checked="" type="checkbox"/> New Rule	<input type="checkbox"/> Amend Existing Rule	<input type="checkbox"/> Repeal Rule
Hearing Date: _____ <input type="checkbox"/> Hearings Officer Report Attached		
Prompted by: <input checked="" type="checkbox"/> State law changes <input type="checkbox"/> Federal law changes <input type="checkbox"/> Other		
Action Requested:		
<input checked="" type="checkbox"/> First Reading/Second Reading Agenda	<input type="checkbox"/> Adoption	<input type="checkbox"/> Adoption/Consent

PROPOSED/AMENDED RULE SUMMARY: Establishes procedures for awarding matching 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.

In December, the State Board adopted temporary rules for the Oregon School Capital Improvement Matching Program (OSCIM Program) so that the Office of School Facilities could get started providing commitments to districts for the May election. Since the temporary rules were adopted by the State Board of Education, the Office of School Facilities has held its first application process for school districts to receive commitments of matching funds from the OSCIM Program. There were 29 districts that applied. The potential total matching grants was \$113 million. Since the OSCIM Program only had \$62.5 million set aside for the May election cycle, the Office of School Facilities was only able to award commitments to 16 of the 29 districts that applied. 10 districts received commitments through the Priority List and 6 districts received grants through the First in Time. The list of districts that received a commitment is:

Priority List Recipients:		Bond Amount	Grant Amount
2113	Adrian SD 61	\$ 945,000	\$ 945,000
2185	Centennial SD 28J	\$ 85,000,000	\$ 7,095,543
2203	Echo SD 5	\$ 4,000,000	\$ 4,000,000
2193	Falls City SD 57	\$ 2,000,000	\$ 2,000,000
2140	Jefferson SD 14J	\$ 26,000,000	\$ 4,000,000
2085	Mapleton SD 32	\$ 4,000,000	\$ 4,000,000
2205	Milton-Freewater Unified SD 7	\$ 12,500,000	\$ 4,000,000
2110	Nyssa SD 26	\$ 4,000,000	\$ 4,000,000
2108	Ontario SD 8C	\$ 4,000,000	\$ 4,000,000
1994	South Umpqua SD 19	\$ 44,500,000	\$ 4,000,000

First in Time Recipients:		Bond Amount	Grant Amount
2208	Athena-Weston SD 29RJ	\$ 4,000,000	\$ 4,000,000
2105	Central Linn SD 552	\$ 30,000,000	\$ 4,000,000
2186	Corbett SD 39	\$ 18,000,000	\$ 4,000,000
1925	Molalla River SD 35	\$ 75,000,000	\$ 4,000,000
2096	Siuslaw SD 97J	\$ 35,000,000	\$ 4,000,000
2251	Yamhill Carlton SD 1	\$ 16,200,000	\$ 4,000,000

The remaining 13 districts have been put on waiting lists based either on their priority list or through the lottery process. If a district receives a commitment, but their community fails to pass a local general obligation bond, that commitment would go to the next district on the waiting list, assuming that community had successfully passed a local general obligation bond. The two waiting lists operate independently of each other.

ISSUES/CONCERNS THAT SURFACED DURING RULE WORK: Since the temporary rules went into affect, the Office of School Facilities has received feedback from districts who participated in the process; held another electronic meeting of the advisory group; and received advice on the rules from the Department of Justice and bond counsel hired by ODE to assist in the sale of the bonds.

Issue Raised	Rule Solution
Districts may try to go for multiple bond elections in one biennium thereby getting multiple matching grant awards to the detriment of other districts that cannot go for multiple elections	The rules limit districts to one matching grant and then not eligible for the next 3 funding cycles.
When do districts need to sell their bonds such that they have the funds available to match the OSCIM Program grant?	Districts need to close their bonds within six months of the election.

Issue Raised	Rule Solution
Whether a district could use a successful May election as a basis for future OSCIM Program applications.	In order to ensure fairness to all districts, a district that has a successful bond election in one election cycle cannot use that election as a basis for future OSCIM Program applications. They will need to have a new successful election to qualify for an OSCIM Program match.
Whether a district that sells a bond at a premium to obtain more funds than the voters voted on would be able to use these additional funds as a basis for the OSCIM Program match.	The OSCIM Program will only match the lesser of the amount of funds approved by the voters or the proceeds of the bond.
Whether a district can use OSCIM Program funds to help refinance old debt.	No. OSCIM Program funds are to be used for projects that address deferred maintenance or new construction issues.
Whether a district can use OSCIM Program funds to reimburse the districts for costs incurred before the community passed the local general obligation debt.	It depends. So long as the district can use the newly passed general obligation bonds to pay for those expenses, the district can use OSCIM Program funds for those expenses.
Whether any OSCIM Program funds leftover after all election cycles in a biennium have ended will be rolled forward to the new biennium.	The goal of the OSCIM Program would be to distribute all funds within the biennium. Thus, if there are funds leftover after all commitments have been made, the OSCIM Program plans to use a lottery process to offer those funds to districts that have successfully passed a bond during that biennium.

CHANGED SINCE LAST BOARD MEETING?

- N/A; first read—hasn't been before board
- No; same as last month
- Yes – As follows: Please see table in Issues/Concerns that Surfaced During Rule Work section above for a list of changes to the rules.

FISCAL IMPACT: As these rules are a clarification of SB 447, there is no fiscal impact to the Department or districts with the implementation of these rules.

STAFF RECOMMENDATION:

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

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~~ 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~~ District as published by the Oregon Department of Revenue.

(4) “Average Daily Membership” means the number of students in a ~~school district~~ 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) “Closing” means the date on which a District receives some or all of the proceeds of its Local GO Bonds.

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

(7) “Department” means the Oregon Department of Education.

(68) “District” or “Districts” means school districts, as defined in ORS 328.001(3), that are eligible to apply for a State Matching Grant.

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

(710) “Funding Cycle” means the period of time, as determined by the Department under OAR 581-027-0020 (2) (b), before and after a May or a November general election during which the Department will accept applications and issue commitments for State Matching Grants under the OSCIM Program.

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

(812) “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)13) “Local GO Bonds” means general obligation bonds approved by voters for the benefit of a District during the Funding Cycle for which the District applied for a State Matching Grant.

(14) “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.

(40)15) “Oregon School Capital Improvement Matching Program” or “OSCIM Program” means the program created by Article XI-P of the Oregon Constitution and ORS 286A.769 to 286A.806.

(16) “Priority List” means the list created ~~with~~by the Department each biennium pursuant to ORS 286A.801 and the formula outlined in OAR 581-027-0010.

(41)17) “Projects” means the capital costs financed in part with Local GO Bonds with respect to which a District is requesting State Matching Grant Funds.

(18) “State Matching Grant” means the grant funds provided by the State through the OSCIM Program to match the proceeds of a District’s Local GO Bonds.

(19) “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.

(20) “Waiting List” means the list of Districts not initially awarded a State Matching Grant, based on either the District’s position on the Priority List or the District’s First in Time status, during any Funding Cycle.

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~~For each Funding Cycle, the Department ~~of Education~~ shall provide ~~matching grants to school districts~~State Matching Grants to Districts from designated resources in the Oregon School Capital Improvement Matching Account. The Department shall determine and apportion the amount of available resources among the Funding Cycles in each biennium. The total amount of State Matching Grant funds available and awarded by the Department may vary during each Funding Cycle.

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- (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.~~ the Priority List.
- (3) The ~~priority list established by the Department~~ Priority List shall be based on a ~~district~~ District's Assessed Value, percentage of Students in Poverty, and Average Daily Membership.
- (4) The Department shall update the ~~priority list~~ 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~~ Priority List shall be calculated as follows:
- The ~~district~~ District's Students in Poverty shall be multiplied by 20 to determine the Weighted Number of Students in Poverty.
 - The ~~district~~ District's Weighted Number of Students in Poverty shall be divided by the ~~district~~ District's ADM to arrive at the ~~district~~ District's Percentage of Students in Poverty.
 - The ~~district~~ District's Assessed Value shall be divided by the ~~district~~ District's ADM to determine the ~~district~~ District's Assessed Property Value per ADM.
 - The ~~district~~ District's Assessed Property Value per ADM shall then be divided by 1 plus the Percentage of Students in Poverty to determine the ~~district~~ District's Adjusted Assessed Value per ADM.
 - The ~~districts~~ Districts will be ranked from the smallest Adjusted Assessed Property Value per ADM to the highest. This ranking will ensure ~~districts~~ Districts with the highest rate of students in poverty and lowest assessed property wealth per ~~ADMw~~ ADM are provided the greatest chance for ~~matching grant.~~ a State 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~~ State Matching Grants to Districts from available resources in the Oregon School Capital Improvement Matching Account.
- (2) Sixty percent (60%) of ~~designated grant~~ the available resources in the Oregon School Capital Improvement Matching Account for a biennium shall be awarded based on ~~a priority list established by the Department under OAR 581-027-0010.~~ the Priority List.
- (3) Forty percent (40%) of ~~designated grant~~ the available resources in the Oregon School Capital Improvement Matching Account for a biennium shall be awarded based on the order in which application ~~applications~~ are received during ~~a pre-determined time frame~~ the application period established by the Department for the Funding Cycle.

(4) The Department ~~of Education~~ shall use a funding formula to determine the amount of ~~state matching grant~~ State Matching Grant funds each ~~school district~~ 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~~ State Matching Grants awarded through both the ~~priority list~~ Priority List and ~~first~~ First in ~~time~~ Time application process.

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

(6) Districts whose voters pass more than \$4,000,000 in ~~general obligation bonds~~ Local GO Bonds for ~~school~~ District facility ~~projects~~ 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~~ 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~~ 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~~ eligible State ~~Match~~ Matching Grant funds per ADM.

(c) The ~~Eligible~~ eligible State ~~Match~~ Matching Grant funds per ADM shall be multiplied by the ~~district~~ District's ADM to determine the maximum amount of ~~matching~~ State Matching Grant funds for which a ~~district~~ 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.~~ will the amount of a State Matching Grant exceed the lesser of the proceeds of the District's Local GO Bonds or the principal amount of the District's Local GO Bonds.

(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.~~ Local GO Bonds used by a District to qualify for the OSCIM Program must be Closed within six months of the date of the election at which the Local GO Bonds were approved.

~~(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~~Capital Improvement Matching Program Application

- (1) The Department shall create one application for ~~districts~~Districts to apply for ~~grants~~State Matching 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~~when each Funding Cycle begins;
- (b) The beginning and end dates of each Funding Cycle for the next two elections;
- (c) The first date of the Funding Cycle on which the Department shall accept applications. No applications will be accepted prior to this date for a Funding Cycle; and
- (ed) The last date of the Funding Cycle on which 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. Districts may submit applications only for an open and current Funding Cycle. The Department will not accept applications for later Funding Cycles.
- (4) The Department shall:
- (a) Date stamp all applications based on the time they are received by the Department; and
- (b) Reject all incomplete applications.
- (c) Refuse all resubmitted applications from districts for the same Funding Cycle after the Department has determined original application was not accepted for a funding commitment.
- (5) The Department shall:
- (a) Rank complete applications from ~~school-districts~~Districts for each Funding Cycle according to the Priority List formula;
- (b) Make funding commitments to ~~school-districts~~Districts with the highest ranking on the priority list until sixty percent of the available resources for that Funding Cycle are used.
- (c) ~~Then make~~Make funding commitments to the remaining ~~school-districts~~Districts in accordance to the First in Time process for that Funding Cycle 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 for each Funding Cycle 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.

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- (b) The Department shall commit First in Time funding to ~~districts~~Districts based on which time period the ~~district~~District is deemed to have submitted their application.
- (c) If the First in Time funding is insufficient to provide a commitment to all ~~districts~~Districts within a given time period for that Funding Cycle, the Department shall randomly select the ~~districts~~Districts by a lottery process to determine which ~~districts~~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~~Districts that receive a funding commitment from the Oregon School Capital Improvement Matching Account within two weeks of the close of the application period for a Funding Cycle.
- (8) The Department shall post the eligibility and ranking of all ~~districts~~Districts that applied during that ~~election cycle will be posted~~Funding Cycle 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~~Waiting List.
- (9) All funding commitments are contingent upon the ~~school-district-passing~~District subsequently Closing the required ~~general obligation bonds for matching~~Local GO Bonds within 6 months of ~~the~~that Funding Cycle's bond election.
- (10) Any ~~school-districts~~Districts on the ~~waiting list~~Waiting List may choose to move forward seeking voter approval for ~~local bonds~~Local GO Bonds in that Funding Cycle with the understanding that ~~state matching~~State Matching Grant funds may become available for ~~use should a school-district~~that Funding Cycle if a District that has received a commitment ~~be is~~ unsuccessful in passing their ~~local bond~~Local GO Bonds.
- (11) All funding commitments to ~~school-districts~~Districts that successfully pass their ~~local bonds~~Local GO Bonds in the Funding Cycle will be officially awarded ~~state matching funds~~a State Matching Grant upon the execution of a grant agreement prescribed by the Department.
- (12) All funding commitments to ~~school-districts~~Districts that are not successful in passing their ~~local bonds~~Local GO Bonds may be recommitted to ~~school-districts~~that Districts that have successfully passed Local GO Bonds and are on the Waiting List for that Funding Cycle.
- (13) Funding commitments will not carry over from one ~~election~~Funding Cycle to the next. Funding commitments for future ~~elections~~Funding Cycles will only be made to ~~school-districts-who~~Districts that reapply during the designated application period for that Funding Cycle.
- (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 for a Funding Cycle shall be moved forward to the next ~~application period~~Funding Cycle.

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).

581-027-0025 Oregon School Capital Improvement Matching Program Grant Restrictions

(1) A District that receives a State Matching Grant will be ineligible for additional State Matching Grant funds for the next three Funding Cycles after the Funding Cycle in which the District was awarded the State Matching Grant.

(2) A District may not use State Matching Grant funds to refinance general obligation bonds issued by the District.

(3) A District must use State Matching Grant funds for capital costs as defined in ORS 286A.796(3).

(4) A District may use State Matching Grant funds to reimburse the District for capital costs incurred by the District prior to the Funding Cycle in which the District was awarded a grant only if:

(a) The District complies with all requirements of the OSCIM Program; and

(b) Federal tax reimbursement rules would permit all of the proceeds of the Local GO Bonds to be allocated to expenditures on the Projects if the State Matching Grant were not received; and

(c) The expenditure of all of the proceeds of the Local GO Bonds on the Projects is permitted under State and local law; and

(d) The Department approves the use of State Matching Grant funds for such purpose.

(5) The Department's approval or disapproval of the use of State Matching Grant funds is final. A District may not submit a revised request for use of funds.

(6) State Matching Grant funds shall be used only to match the proceeds of Local GO Bonds authorized by an election in the same Funding Cycle in which the District applied for State Matching Grant funds.

(7) If there are State Matching Grant funds available for disbursement after all the awards for all the Funding Cycles in a biennium have been made, the Department may award those uncommitted funds by lottery to Districts that have applied for State Matching Grant funds during the biennium and have Local GO Bond proceeds available to use as a basis for a match regardless of when the Local GO Bonds from which the proceeds are derived were approved by the voters during the biennium.