

DATE: September 14, 2017

AGENDA ITEM: K

TO: BSCC Chair and Members

FROM: John Prince, Deputy Director, john.prince2@bscc.ca.gov

SUBJECT: Senate Bill 844, Financing of Adult Local Criminal Justice Facilities
Construction Financing Program, San Joaquin County - Statement of
Decision from Appeals Panel: **For Discussion**

Summary

This agenda item seeks adoption of the SB 844 Appeals Panel recommendation. San Joaquin County appealed the Board's June 8, 2017 decision on SB 844, alleging it was unfairly denied preference points based on the County having received only a partial award previously. Specifically, the County argues that "the Executive Steering Committee failed to take into account the intent of the legislature [sic] to provide supplemental funds for those who received only partial awards under SB 1022, before providing funding for those who received no award at all." Additionally San Joaquin County also suggests that it should have competed in the "medium county" category for SB 844 as it did when SB 1022 awards were made. On July 10, 2017, the three-member Appeals Panel for the Board considered the County's appeal and unanimously recommended that the Board deny the appeal. The recommendation from the Appeals Panel is attached for the Board's consideration.

Background

The Title 15 regulations for an appeals process if a county is dissatisfied with the Board's decision on funding is as follows:

§ 1788. Request for Board of State and Community Corrections Appeal Hearing.

- (a) If a participating county is dissatisfied with an action of the BSCC's evaluation and rating process or the application assessment process, it may file a request for an appeal hearing with the BSCC. Such appeal shall be filed within thirty (30) calendar days of the notification of the action with which the county is dissatisfied.
- (b) The request shall be in writing and:
 - (1) Shall state the basis for the dissatisfaction;
 - (2) Shall state the action being requested of the BSCC;
 - (3) Shall state the desired remedy; and,
 - (4) Shall include as attachments any correspondence related to the appeal to and from the Executive Director.

On June 27, 2016, Senate Bill 844 (Chapter 34, Statutes of 2016) (SB 844) became law, authorizing the Board of State and Community Corrections (hereafter the Board) to make

conditional awards up to \$250,000,000 in state lease-revenue bond financing for the acquisition, design and construction of Adult Local Criminal Justice Facilities (ALCJF). SB 844 also set aside an additional \$20 million for the replacement of the earthquake-damaged jail in Napa County.

At its September 22, 2016 meeting, the Board approved the establishment of an Executive Steering Committee (ESC) for the SB 844 Adult Local Criminal Justice Facilities Construction Program.

On June 8, 2017, the Board of State and Community Corrections made conditional awards to nine counties that competed for \$250 million in lease revenue bond authority pursuant to SB 844. San Joaquin County applied for \$7,672,000 in funding in the large county category, but did not receive an award.

On June 23, 2017, San Joaquin timely filed an appeal of the Board's action pursuant to Section 1788 of Title 15 of the California Code of Regulations.

On June 29, 2017, pursuant to Section 1790 of Title 15 of the California Code of Regulations, the Chair of the Board selected Board members Michael Ertola, Scott Kernan, and Linda Penner to hear the appeal and provided timely notice to the county that its appeal would be heard on July 10, 2017.

On July 10, 2017, the three-member appeals hearing panel met and considered San Joaquin County's arguments.

On July 24, 2017, the 3-member appeals hearing panel issued the Decision of SB844 appeals Hearing Panel to the BSCC and County representatives. (Attachment K-1)

San Joaquin County sought two remedies:

1. To be given priority for having previously received only a partial award.
2. To have its score recalculated and its final ranking reestablished in the medium-sized county category.

Recommendation/Action Needed

Pursuant to Regulation 1792, the BSCC may take one of the following three actions: (1) adopt the proposed decision; (2) amend the decision with or without taking additional evidence into consideration; or (3) order a further hearing to be conducted if additional information is needed to decide the issue.

Staff recommends that the Board adopt the Appeal Panel's recommendation to deny San Joaquin County's appeal.

Attachments

K-1: Decision of SB 844 Appeals Hearing Panel to BSCC