

Date of Hearing: April 24, 2019

ASSEMBLY COMMITTEE ON EDUCATION
Patrick O'Donnell, Chair
AB 1578 (Luz Rivas) – As Amended April 12, 2019

SUBJECT: School Pavement to Parks Grant Program

SUMMARY: Establishes the School Pavement to Parks Grant Program. Specifically, **this bill:**

- 1) Establishes the following definitions:
 - a) “Applicant” means a school district.
 - b) “Department” means the California Department of Education (CDE).
 - c) “Disadvantaged communities” means communities identified as disadvantaged communities pursuant to Section 39711 of the Health and Safety Code.
 - d) “Fund” means the School Pavement to Parks Grant Program Fund established pursuant to subdivision (a) of Section 33495.
 - e) “Organization” means a nonprofit organization that is exempt from taxation pursuant to Section 501(c)(3) of the Internal Revenue Code.
 - f) “Program” means the School Pavement to Parks Grant Program established pursuant to Section 33493.
- 2) Finds and declares that children in disadvantaged communities lack access to clean and safe parks and suffer from health issues as a result of their proximity to freeways and stationary sources of pollution, and further finds that outdoor programs have been proven to do a number of things for pupils, including improving physical fitness, inspire collaborative play, reduce violence and bullying, and others.
- 3) Establishes the School Pavement to Parks Grant Program to provide funding to applicants maintaining schools located in disadvantaged communities to convert portions of existing pavement on grounds at those schools to parks.
- 4) Requires the CDE to establish processes and procedures to accomplish, at the minimum, all of the following:
 - a) Allocation of grants to grant recipients.
 - b) Providing grant priority to applicants based on the poor air quality of their schools under the applicable air quality data averages as determined by the applicable air pollution control or air quality management districts, the number of their pupils who are eligible for free or reduced-price meals, and the proximity of their schools to existing public green spaces.
 - c) Providing grant priority to applicants for schools where all, or a majority of, the playground at the schoolsite consists of pavement.

- 5) Specifies that the program shall be funded by donations from organizations, and dollar-for-dollar state matching funds, not to exceed an unspecified amount, upon appropriation by the Legislature.
- 6) Requires each applicant to demonstrate in its grant application both of the following:
 - a) A commitment to maintaining, in perpetuity, each park established within the school district under the program.
 - b) The ability to accommodate the transformation of school pavement to parks while ensuring that sufficient space remains for purposes of existing and future school activities on school pavement.
- 7) Requires an applicant seeking a grant under the program to work with nonprofit organizations to secure local funding to facilitate the implementation of the program.
- 8) Authorizes a school district to apply for a grant on behalf of a school with existing green spaces on school grounds.
- 9) Requires a school district that receives a request from a school in the school district to participate in the program to provide a response to the school within six weeks of the request.
- 10) Specifies that a grant recipient is encouraged to implement a gardening program that incorporates science, mathematics, literacy, and nutrition for pupils attending participating schools maintained by the grant recipient. Expresses the intent of the Legislature that each school year, the gardening program be implemented to, at a minimum, include a six-week cycle of planting, harvesting, and eating food at parks established under the program.
- 11) Establishes the School Pavement to Parks Grant Program Fund in the State Treasury. Notwithstanding Section 13340 of the Government Code, moneys in the fund shall be continuously appropriated, without regard to fiscal years, to the CDE for the program. The fund shall be the initial repository of all appropriations, donations from organizations, or other financial assets received by the CDE in connection with operation of the program.
- 12) Specifies that subject to available funding, the program shall be implemented on or before January 1, 2021.
- 13) Requires the Director of Finance, at the commencement of each fiscal year, to determine if there are sufficient funds to implement the program in that fiscal year, and to communicate that determination to the CDE in a timely manner.
- 14) Specifies that for purposes of making the computations required by Section 8 of Article XVI of the California Constitution, moneys appropriated by the Legislature for purposes of this article shall not be deemed to be "General Fund revenues appropriated for school districts," as defined in subdivision (c) of Section 41202, and shall not be deemed to be included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B," as defined in subdivision (e) of Section 41202.

EXISTING LAW:

- 1) Requires the governing board of any school district to meet with appropriate local government recreation and park authorities to review all possible methods of coordinating planning, design, and construction of new school facilities and schoolsites or major additions to existing school facilities and recreation and park facilities in the community. (Education Code (EC) Section 35275)
- 2) Finds and declares that school gardens provide an interactive, hands-on learning environment in which pupils learn composting and waste management techniques, fundamental concepts about nutrition and obesity prevention, and the cultural and historical aspects of our food supply. School gardens also foster a better understanding and appreciation of where food comes from, how food travels from the farm to the table, and the important role of agriculture in the state, national, and global economy. (EC Section 51795)
- 3) Establishes the Instructional School Gardens Program, administered by the CDE for the promotion, creation, and support of instructional school gardens through the allocation of grants, and through technical assistance provided, to school districts, charter schools, or county offices of education. (EC Section 51796)
- 4) Prohibits a local governing board from siting a school located on land that was previously a hazardous waste disposal site, that contains pipelines that carry hazardous substances, or that is near an airport runway or freeway, other busy traffic corridors and railyards that have the potential to expose students and school staff to hazardous air emissions. (EC Sections 17213 and 17215)
- 5) Requires the California Environmental Protection Agency (CalEPA) to identify disadvantaged communities for investment opportunities. Requires these communities to be identified based on geographic, socioeconomic, public health, and environmental hazard criteria, and may include, but are not limited to, either of the following:
 - a) Areas disproportionately affected by environmental pollution and other hazards that can lead to negative public health effects, exposure, or environmental degradation.
 - b) Areas with concentrations of people that are of low income, high unemployment, low levels of homeownership, high rent burden, sensitive populations, or low levels of educational attainment. (Health and Safety Code Section 39711)

FISCAL EFFECT: Unknown

COMMENTS: Existing law encourages schools to establish school garden programs. School garden programs have many functions and benefits. In addition to being an instructional program, school garden programs can supply produce for a school's meal program and teach kids the benefits of making healthier food choices such as fresh fruits and vegetables. Garden programs also provide an opportunity to teach composting, including vermiposting using worms. In 1995, the CDE launched the Garden in Every School initiative and collaborates with entities that support school gardens, including public and private agricultural agencies, waste management agencies, health agencies and others.

In 2006, AB 1535 (Nunez), Chapter 427, Statutes of 2006, provided \$15 million for a grant program administered by the State Superintendent of Public Instruction. Kindergarten through grade 8 schoolsites were eligible to receive a maximum of \$2,500 and high schools were eligible to receive a maximum of \$5,000. Funds were used for instructional school garden equipment or supplies and professional development for teachers, garden volunteers and food service staff. According to the CDE, approximately 3,500 schoolsites received grants.

Existing law also requires a local governing board to evaluate methods for coordinating and planning new schoolsites and parks in the community. Many new schools are now constructed adjacent to a city park.

Benefits of green space in areas with pollution. Environmental health scientists promote the use of green environments to improve air quality and public health. According to the University of Washington's Green Cities: Good Health website, "vegetation and trees, in particular, can act as natural filters for both gases and particulate matter in urban environments." Researchers also link the availability of green space with improved health through physical activity and healthy food from gardens.

The author states, "Children in low income communities deserve access to quality parks. Because school children in disadvantaged communities already suffer from poor air quality, often live in food deserts, and lack the financial resources to travel to green spaces, many are unable to enjoy basic experiences with nature and growing healthy food. AB 1578 will bring nature to children and make it an educational, joyful, and integral part of their daily learning by creating a Pavement to Parks Program."

This bill establishes a grant program for schools located in disadvantaged communities to convert portions of existing pavement on school grounds to parks. The definition of disadvantaged communities used by this bill means low income areas designated by the CalEPA as being disproportionately affected by environmental pollution. The author states:

"The City Project recently completed a study which highlights that 'children of color disproportionately live in communities of concentrated poverty without enough places to play in parks and schools, and without access to cars or an adequate transit system to reach parks and school fields in other neighborhoods.'"

The merits of promoting green space notwithstanding, the bill, as drafted, is unclear and confusing:

- The bill directs the CDE to establish the process and procedures to provide grants to recipients, but the bill does not specify the purpose of the funds or what the funds can be used for.
- It is unclear what the term "park" means in the context of a schoolsite. Parks are generally operated by local municipalities or state or federal governments and opened to the public, with or without a charge. It is unclear whether the author intends to have the park on a schoolsite as a recreational area opened to the public.
- The bill requires a school district to work with a nonprofit organization to secure local funding, but the bill also establishes a fund where donations can be deposited. It is

unclear whether the fund is a shared pool that CDE can use to provide grants to all applicants or whether local funds shall be used for an applicant where the nonprofit is located. It is unclear why a school district is required to work with a nonprofit or whether the nonprofit would have a role in the design or use of the park.

- The bill establishes a continuous appropriation to the CDE and provides a one to one state match for donations. The bill states that the funds appropriated for the purpose of this bill shall not count towards Proposition 98 calculations. Proposition 98 establishes a minimum for K-14 education spending and is enshrined in the State Constitution. Any education-related spending is counted towards the Proposition 98 allocation. The effect of a statutory declaration that certain appropriation of funds shall not count towards Proposition 98 is unclear.
- The bill directs the Director of the Department of Finance to determine if funds are available every year and to notify the CDE in a timely manner. This provision takes away authority from the Legislature.
- The bill requires a school district to respond to a school seeking participation in the Program within six weeks. It is unclear what the district is to inform the school within six weeks. It is unlikely that the district will know whether CDE has awarded funding within such a short period of time. The district will not be able to provide a response regarding funding if the timeline for submitting applications is outside of the time frame of the request made by a school.
- The bill only allows school districts to apply for grant funds.

Committee amendments. Staff recommends striking the contents of the bill with the exception of the findings and declarations section and rewriting the bill with the following amendments:

- 1) Uncodify the findings and declarations section.
- 2) Establish the School Pavement to Parks Grant Program.
- 3) Allow school districts, county offices of education and charter schools to be eligible for funding.
- 4) Specify that the purpose of the School Pavement to Parks Program is to enable schools located in disadvantaged communities with no or minimal green space at schoolsites to convert existing pavement to green space.
- 5) Specify that the green space shall include, but is not limited to, a garden with a gardening program that incorporates science, mathematics, and literacy for hands-on outdoor learning.
- 6) Require an applicant to provide a local match, which may be provided by the applicant or another source, including a nonprofit organization or another governmental agency.
- 7) Require the CDE to establish processes and procedures for the allocation of funds that includes the process and timeline for applying and awarding funds, the maximum amount for each grant, eligible uses of funds, reporting requirements, and verification that approval from

the Division of State Architect (DSA) has been received, if DSA approval for the proposed project is necessary.

- 8) Specify that the priority for funding shall be for applicants with schools located in areas with the worst air quality, high number of pupils eligible for free- and reduced-price meals, and where a majority of the playground at a schoolsite consists of pavement.
- 9) Require each applicant to provide specified information in its application, including the school for which it is applying for funds, the percentage of a school's playground that is on pavement, the percentage of the school's pupils eligible for free- or reduced-price meals, the amount of pavement the applicant seeks to convert to green space, a description of how the funds will be used, and demonstration that the applicant commits to maintaining the green space and that sufficient space remains for purposes of existing and future school activities on school pavement.
- 10) Require an applicant to inform a school that it has received its request to participate in the Program in a timely manner.
- 11) Specify that the operation of the provisions of this bill is contingent upon a one-time appropriation in the Budget Act or another statute.

Arguments in Support. A number of organizations supporting the bill state:

“AB 1578 is an innovative solution, long overdue in California to start to institutionalize ‘greening’ old, hardscaped playgrounds with multi-benefit parks. Features like open spaces, trees, rain gardens, porous paving material, and modern playground equipment, can provide recreational opportunities to children during and after school that never existed before. When designed well, playgrounds are a cost-effective approach to improving air quality, cooling the city, protection from severe flooding, capturing stormwater, and most importantly, improving the physical and emotional health of our kids.”

Prior related legislation. AB 2367 (Bonilla), Chapter 428, Statutes of 2012, authorize a school district, charter school, or county office of education to sell produce grown in a school garden.

AB 1535 (Núñez), Chapter 437, Statutes of 2006, provided \$15 million for grants to school districts, county offices of education and charter schools for the development of instructional school gardens.

REGISTERED SUPPORT / OPPOSITION:

Support

Audubon California
 California Council of Land Trusts
 California Environmental Justice Alliance
 California League of Conservation Voters
 California Releaf
 California State Parks Foundation
 Center For Climate Change & Health
 Children & Nature Network

Community Nature Connection
Friends of the Los Angeles River
From Lot to Spot
Long Beach Gray Panthers
Los Angeles Neighborhood Land Trust
Oakland Unified School District
Pacoima Beautiful
Rose Foundation for Communities and the Environment
Safe Routes to School National Partnership
San Francisco Unified School District
Sierra Club California
The Hellman Foundation
The Trust for Public Land
The Watershed Project
Union of Concerned Scientists

Opposition

None on file

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