

Date of Hearing: May 6, 2020

ASSEMBLY COMMITTEE ON EDUCATION

Patrick O'Donnell, Chair

AB 1837 (Smith) – As Amended May 4, 2020

SUBJECT: School safety: emergency response team

SUMMARY: As proposed to be amended, requires the Superintendent of Public Instruction (SPI) to establish a State Assistance for Emergency Response (SAFER) Team within the California Department of Education (CDE) to provide guidance and support to local educational agencies (LEAs) experiencing emergencies. Specifically, **this bill:**

- 1) Defines LEA as a school district, county office of education (COE), or charter school serving students in kindergarten or any of grades 1 to 12, inclusive.
- 2) Requires the SPI to establish a SAFER Team in within the CDE to provide guidance and support to LEAs during an emergency, including, but not limited to, any of the following:
 - a) Fire;
 - b) Flood;
 - c) Impassable roads;
 - d) Epidemic;
 - e) Earthquake;
 - f) The imminence of a major safety hazard as determined by the local law enforcement agency;
 - g) A strike involving transportation services to pupils provided by a non-school entity;
 - h) Conditions disqualifying school districts from apportionments, as specified;
 - i) A public safety power shutoff;
 - j) A threat or act of violence, or other student safety threat or act;
 - k) A crisis related to mental health, including a suicide cluster or spate, post-traumatic stress disorder, or other trauma with a broad impact; or
 - l) Other emergency events, as determined by the SPI.
- 3) Requires the SAFER Team to include CDE staff who are able to address the ramifications of various emergencies as it relates to educational matters, including, but not limited to, any of the following: assessment and accountability, data collection, fiscal and administrative services, school fiscal services, human resources, technology services, facilities and transportation, funding and apportionment, early learning and child care, special education and individualized education programs, nutrition services, charter schools, state special

schools and services, and other matters affected by an emergency, as determined by the Superintendent.

- 4) Requires the duties of the SAFER team to include, but not be limited to, all of the following:
 - a) Serving as a liaison for the SPI and the CDE with LEAs.
 - b) Providing guidance and assistance in coordinating crisis response, including but not limited to, all of the following: timeframes for closing, opening, and reopening schoolsites; cleaning and air quality protocols; health and safety protocols; surveillance and monitoring of changing conditions; protocols and procedures for remaining open; damaged facilities; sample notices; adjusting master schedules; preparation and training for staff; and, procurement and funding for appropriate emergency supplies.
 - c) Facilitating expedited processing of requests for allowance of attendance due to emergency conditions.
 - d) Coordinating with the California Department of Public Health to collect and report appropriate disaggregated population-level pupil health and mental health data resulting from emergencies.
 - e) Coordinating and liaising with applicable federal, state, and local agencies, including but not limited to, all of the following: California Office of Emergency Services, Federal Emergency Management Agency, affected county and city offices of emergency services and offices of emergency management, U.S. Department of Education, local hospitals and county health agencies, as needed.
- 5) Requires that within 72 hours of a state emergency proclaimed by the Governor or an emergency declared by the President of the United States, as specified, or at the discretion of the SPI, the SPI must schedule a telephone conference call, video conference call, or in-person meeting with all affected superintendents of school districts, county superintendents of schools, charter school administrators, and other LEA employees serving LEAs.
- 6) Requires the SAFER team to submit a report describing its activities to the SPI, Assembly Committee on Education, and the Senate Committee on Education on or before June 30 of each year.
- 7) Specifies that the section will only become operative upon an apportionment by the Legislature for the purposes of this section.

EXISTING LAW:

- 1) Requires each school district or COE to be responsible for the overall development of all comprehensive school safety plans for its schools operating kindergarten or any of grades 1 through 12. (Education Code (EC) 32281)
- 2) Specifies that the schoolsite council or a school safety planning committee is responsible for developing the comprehensive school safety plan. (EC 32281)

- 3) Requires that the comprehensive school safety plans to include an assessment of the current status of school crime committed on school campuses and at school-related functions and identification of appropriate strategies and programs to provide or maintain a high level of school safety, and address the school's procedures for complying with existing laws related to school safety, including child abuse reporting procedures; disaster procedures; an earthquake emergency procedure system; policies regarding pupils who commit specified acts that would lead to suspension or expulsion; procedures to notify teachers of dangerous pupils; a discrimination and harassment policy; the provisions of any schoolwide dress code; procedures for safe ingress and egress of pupils, parents, and school employees to and from school; a safe and orderly environment conducive to learning; and rules and procedures on school discipline. (EC 32282)
- 4) Requires the comprehensive school safety plan to be evaluated at least once a year. (EC 32282)
- 5) Encourages that, as school safety plans are reviewed, plans be updated to include clear guidelines for the roles and responsibilities of mental health professionals, community intervention professionals, school counselors, school resource officers, and police officers on school campuses, if the school district employs these professionals. (EC 32282.1)
- 6) Requires the comprehensive school safety plan to be submitted annually to the school district or COE for approval and requires a school district or COE to notify the CDE by October 15 of every year of any school that is not in compliance. (EC 32288)
- 7) Requires that if the SPI determines that there has been a willful failure to make any report, he or she shall notify and assess no more than \$2,000 against that school district or COE. (EC 32287)
- 8) Authorizes the portions of a school safety plan that include tactical responses to criminal incidents to be developed by school district or COE administrators in consultation with law enforcement officials and with a representative of an exclusive bargaining unit of school district or COE employees, if he or she chooses to participate. Authorizes the school district or COE to elect not to disclose those portions of the comprehensive school safety plan that include tactical responses to criminal incidents. (EC 32281)
- 9) Defines "tactical responses to criminal incidents" as steps taken to safeguard pupils and staff, to secure the affected school premises, and to apprehend the criminal perpetrators. (EC 32281)
- 10) Requires that the petition for the establishment of a charter school include procedures that the charter school will follow to ensure the health and safety of pupils and staff. Requires that these procedures include all of the following: a criminal record summary of each employee; the development of a school safety plan with specified safety topics; and that the school safety plan be reviewed and updated by March 1 of every year by the charter school. (EC 47605 and 47605)
- 11) Establishes the California Emergency Services Act, which recognizes the state's responsibility to mitigate the effects of natural, manmade, or war-caused emergencies that result in conditions of disaster or in extreme peril to life, property, and the resources of the

state, and generally to protect the health and safety and preserve the lives and property of the people of the state. (Government Code 8550, 8551)

12) Requires the SPI, for apportionment purposes, to credit to a LEA a material loss of average daily attendance (ADA) due to the following reasons, provided the loss has been established to the satisfaction of the SPI by affidavits of the members of the governing board or body of the LEA:

- a) Fire;
- b) Flood;
- c) Impassable roads;
- d) Epidemic;
- e) Earthquake;
- f) The imminence of a major safety hazard as determined by the local law enforcement agency; or
- g) A strike involving transportation services to pupils provided by a non-school entity. (EC 46392)

13) In the event of a state of emergency declared by the Governor in a county, requires the SPI to determine the length of the period during which ADA has been reduced by the state of emergency, and prohibits the SPI from extending the period into the next fiscal year except upon a showing by a LEA, to the satisfaction of the SPI, that extending the period into the next fiscal year is essential to alleviate continued reductions in ADA attributable to the state of emergency. (EC 46392)

FISCAL EFFECT: Unknown

COMMENTS:

Need for the bill. According to the author: “The COVID-19 pandemic has laid bare many of the underlying challenges and equity issues within our public education system. We are seeing how much reliance there is on free and reduced price meals, how important professional development is for teachers, and how the digital divide is hurting students with limited or no access to technology. There is a wide breadth of considerations to make sure that students are safe and able to continue their education in spite of these situations. Even as we move forward past this pandemic, we will need increased guidance from the state to ensure that all of our students are set up for success. AB 1837 will ensure that CDE has the resources to share best practices and critical communications with our school administrators on the ground.”

What this bill proposes. This proposal would establish a protocol and process for the CDE to work internally and with other relevant local, state and federal agencies to support LEAs during an emergency or other crisis, as specified. Subject to an appropriation, the SPI would establish an emergency response team within the CDE to provide guidance and support to school districts, COEs and charter schools. The team would be known as State Assistance for Emergency

Response (SAFER) and would be required to guide the process for expedited requests for allowance of attendance due to specified emergency conditions, and the procurement of funding sources for appropriate emergency supplies such as food, cleaning products, and air masks.

SPI and CDE response to disasters and emergencies. As stated on its website, the CDE's role and responsibilities include:

The CDE oversees the state's diverse and dynamic public school system, which is responsible for the education of more than seven million children and young adults in more than 9,000 schools. The CDE and the State SPI are responsible for enforcing education law and regulations; and for continuing to reform and improve public elementary school programs, secondary school programs, adult education, some preschool programs, and child care programs. The CDE's mission is to provide a world-class education for all students, from early childhood to adulthood. The CDE serves our state by innovating and collaborating with educators, schools, parents, and community partners, preparing students to live, work, and thrive in a highly connected world.

The SPI and CDE have an obligation and responsibility to serve LEAs at all times, but especially as it relates to emergency preparation, response and recovery. The type of response has varied over time based on the priorities and style of individual SPIs, as well as the type and duration of emergencies faced by schools during a SPI's term of office. Previous SPIs have initiated task forces, established conference calls with impacted county superintendents of schools and district superintendents, and provided information on the CDE's website. Given the rapid increase of wildfires, other natural disasters and pandemics, a common and shared understanding of the role and responsibilities of the SPI and CDE would likely facilitate increased communication between the state agency and the field, and support the expedited delivery of goods and services.

Emergency proclamations and levels of disaster assistance. State and federal statute detail several processes for the proclamation or declaration of an emergency. Each proclamation and declaration type provides a different level of disaster assistance from local, state and federal agencies which primarily serve to support cities and counties. For context, the Governor requested and on November 12, 2018, California was granted a Presidential Declaration of a Major Disaster for Butte, Los Angeles and Ventura Counties related to the impacts of the Camp, Hill and Woolsey Fires.

- **Local Emergency Proclamations:** Pursuant to Government Code 8558, if a local government determines that the effects of an emergency are beyond the capability of local resources to mitigate effectively, the local government must proclaim a local emergency. This proclamation, in part, serves as a prerequisite for requesting a Governor's Proclamation of a State of Emergency and/or President Declaration of an Emergency or Major Disaster.
- **Director's Concurrence:** The California Disaster Assistance Act authorizes the director of the Governor's Office of Emergency Services (Cal OES), at his/her discretion, to provide financial assistance to repair and restore damaged public facilities and infrastructure.
- **Governor's Proclamation:** The Governor, on behalf of the impacted local government, may proclaim an emergency as authorized by the powers authorized by the Emergency Services Act. This proclamation authorizes the Cal OES Director to provide financial

relief for emergency actions and restoration of public facilities and infrastructure; prerequisite when requesting federal declaration of a major disaster or emergency.

- **Presidential Declaration of an Emergency:** The Governor, on behalf of the impacted local government, may request this declaration which supports response activities of the federal, state and local government. It also authorizes federal agencies to provide “essential” assistance including debris removal, temporary housing and the distribution of medicine, food and other consumable supplies.
- **Presidential Declaration of a Major Disaster:** The Governor, on behalf of the impacted local government, may request this declaration which supports response activities of the federal, state and local government. The Presidential Declaration of a Major Disaster goes beyond the Presidential Declaration of an Emergency and authorizes the implementation of some or all federal recovery programs including individual assistance and hazard mitigation. It helps people in the impacted areas through eligibility for support including crisis counseling, housing and unemployment assistance and legal services. It also provides public assistance to help state, tribal and local governments with ongoing emergency response and recovery, including the repair and replacement of disaster-damaged facilities and infrastructure, including roads, bridges and utilities.

The increasing frequency of natural disasters in California. According to the Governor’s Office of Emergency Services (Cal OES), the Governor proclaimed 16 State of Emergencies in 2018. Of those proclaimed emergencies, the President issued 3 Major Disaster Declarations. Wildfires, in particular, have been more prevalent and destructive than ever before.

COVID-19 pandemic. COVID-19, also known as “coronavirus” is a respiratory illness caused by a novel virus that has spread worldwide. Tens of thousands of community-acquired cases have been confirmed in California, and 1,000 individuals have died in the state. State officials gain more understanding of COVID-19’s epidemiology, clinical course, immunogenicity, and other factors as time progresses, and the situation is changing daily. The complete clinical picture with regard to COVID-19 is not fully understood. Reported illnesses have ranged from mild to severe, including illness resulting in death. Older people and people with certain underlying health conditions like heart disease, lung disease and diabetes, for example, seem to be at greater risk of serious illness.

COVID-19 pandemic and statewide actions related to K-12 public education. As of March 2020, public K-12 schools in California closed in order to help stop the spread of COVID-19.

Executive Orders:

- N-26-20 (March 13, 2020): Ensures California LEAs retain statutory funding during physical closure. Directs LEAs to use states funds for distance learning and high quality educational opportunities, provide school meals, and, as practicable, arrange for the supervision of students during school hours.
- N-30-20 (March 18, 2020): Waives statewide testing for the 2019-20 school year.
- N-45-20 (April 4, 2020) and N-47-20 (April 7, 2020): Relates to the provision of child care for families of essential workers until June 30, 2020, or until the State of Emergency

has ended, whichever occurs first, unless rescinded sooner or extended by the Legislature or a future Executive Order. Programs that are continuing to operate, or which are reopening, must serve currently enrolled families first, and if there is sufficient funding within their existing contract, they may enroll additional families of essential workers, as specified. At-risk populations continue to receive priority.

- N-56-20 (April 23, 2020): Pushes out timelines for the Local Control Accountability Plan (LCAP) adoption process in response to school closures related to COVID-19. LEAs that previously would have to adopt their LCAP and budget overview for parents by July 1st now have an updated adoption deadline of December 15, 2020. LEAs will be required to adopt, at the same meeting of the governing body where they adopt the annual budget due July 1, 2020, a written report to the community that explains the changes to program offerings that the LEA has made in response to school closures. This report must include a description of how the LEA is meeting the needs of unduplicated pupils during the school closures, as well as steps taken to support the delivery of high-quality distance learning opportunities; provide school meals in non-congregate settings; and arrange for supervision of students during ordinary school hours. The EO also waives minimum instructional minutes for physical education in grades 1-12, as well as the requirements to provide adequate facilities for physical education courses. The order also waives the requirement for a LEA to administer the physical fitness test to students in grades 5, 7, and 9, during the 2019-20 school year.

Other Executive Action: On April 10th, the Governor announced the release of \$100 million to support childcare services. \$50 million of this will be used for 20,000 additional short-term slots for children of essential workers and other vulnerable populations. The remaining \$50 million will be made available to childcare centers and family childcare homes to reimburse them for costs associated with maintaining health and safety during the COVID-19 crisis, including the purchase of gloves, face coverings, cleaning supplies, and other expenses related to cleaning facilities, pursuant to public health guidelines.

SB 117 (Committee on Budget and Fiscal Review) was enacted in the same month as a response to the closures, and includes the following (in part):

- Ensures LEAs continue to receive funding for the school year, regardless of the closure of schools in response to COVID-19.
- Waives the requirements in EC for instructional days and minutes for LEAs during a school closure that is in response to COVID-19.
- Charter schools that do not currently have an independent study program or distance-learning program in their currently approved petition shall not be required to submit a material revision to its authorizer in order to offer those types of programs in response to closure due to COVID-19.
- For the purposes of funding After School Education and Safety Programs, a closure due to COVID-19 qualifies as an event that prevents a program from operating its entire program, and grantees shall be credited for their entire average annual attendance as if the program had operated the full program.

- Provides \$100 million in one-time Proposition 98 General fund to the Superintendent of Public Instruction to apportion to local educational agencies on the basis of average daily attendance for classroom based education programs, with a minimum of \$250 per schoolsite. These funds may be used for purchasing personal protective equipment or for supplies and labor costs of cleaning schoolsites.

School safety plans. Existing law specifies that school districts and COEs are responsible for the overall development of school safety plans. Each school is required to develop a school safety plan that includes procedures, and policies to ensure student and staff safety at a school site. The components of the plan range from child abuse reporting procedures, disaster procedures, pandemic response, earthquake emergency procedures and procedures to allow a public agency to use school buildings, grounds, and equipment for mass care and welfare shelters during disasters or other emergencies affecting the public health and welfare.

The school safety plan is developed by a school site council or a school safety planning committee. Current law requires a school to submit the school safety plan to the school district or COE for approval and requires the school district or COE to annually notify the CDE of any schools that have not complied with the requirement to develop a school safety plan. The SPI is authorized to impose a fine of not more than \$2,000 against a school district or COE for any willful failure to make any required report. According to the CDE, there has been no report of noncompliance by schools and no district or COE has been fined for willfully failing to report a school that has not developed a school safety plan. Charter schools are also required to develop comprehensive school safety plans, including specified elements.

Recommended Committee Amendment. *Staff recommends that the bill be amended* to add to the duties of the SAFER team: coordinating and liaising with relevant city and county offices, departments and agencies.

Related legislation. SB 117 (Committee on Budget and Fiscal Review), Chapter 3, Statutes of 2020, contains changes for education programs that ensure LEAs continue to receive funding during the COVID-19 emergency and allow for flexibility for local educational agencies to continue to provide educational options including instruction, meals, and child care to their students.

AB 2052 (O'Donnell) of this Session would authorize LEAs to meet minimum instructional day requirements by both: adding remaining instructional minutes to remaining instructional days in a school year when the LEA is unable to meet instructional day requirements under specified conditions, and by submitting affidavits of members of the governing board or body of the school district, county office of education (COE), or charter school and the county superintendent of schools.

AB 2126 (O'Donnell) of this Session would require the CDE to develop and implement a website and app for the purpose of collecting temporary school closure information for local educational agencies (LEAs) from superintendents and charter school administrators.

AB 2127 (O'Donnell) of this Session would require LEAs to provide the CDE information related to each school facility, schoolsite, or school property owned or leased by the LEA in order to improve coordination between LEAs and emergency response agencies during emergencies.

SB 884 (Dodd) of this Session would add public safety power shutoffs to the list of emergencies for which LEAs may submit a J-13A form request, and would establish the Disaster Relief Instructional Recovery Program for the purpose of allocating funding to eligible LEAs to make up instructional days lost due to emergency or other extraordinary conditions.

AB 72 (Committee on Budget), Chapter 1, Statutes of 2019, appropriated \$64 million to reimburse counties for property tax losses incurred in the 2017–18 and 2018–19 fiscal years as a result of the 2017 and 2018 wildfires.

AB 1840 (Committee on Budget), Chapter 426, Statutes of 2018, requires the SPI to extend through the 2018-19 fiscal year the period during which it is essential to alleviate continued reductions in ADA attributable to a state emergency declared by the Governor in October 2017, for a school district where no less than 5 percent of the residences within the school district or school district facilities were destroyed by the qualifying emergency.

AB 2228 (Wood) of the 2017-18 Session would have allowed the SPI to extend, by an additional fiscal year (2019-20), the period that is essential to alleviate continued reductions in ADA for a school district, COE or a charter school attributable to the state of emergency declared by the Governor due to the 2017 wildfires. Additionally, AB 2228 would have required the Superintendent to make a supplemental apportionment to a school district, COE, or a charter school in an amount that credits to the school district, COE, or charter school 50 percent of the apportionment the school district, COE, or charter school would have received based on the ADA they lost due to the 2017 wildfires.

REGISTERED SUPPORT / OPPOSITION:

Support

California Association of School Business Officials (CASBO)

Opposition

None on file

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