

Date of Hearing: April 6, 2022

ASSEMBLY COMMITTEE ON EDUCATION

Patrick O'Donnell, Chair

AB 1867 (Lee) – As Amended March 3, 2022

SUBJECT: School facilities: modernization projects: bathrooms

SUMMARY: Requires the governing board of a school district applying for state school facilities bond funds for a modernization project to include, as part of the modernization project, faucet aerators, hand dryers, and water-conserving plumbing fixtures in all bathrooms.

Specifically, **this bill:**

- 1) Requires faucet aerators, hand dryers, and water-conserving plumbing fixtures in all bathrooms for modernization projects for school facilities that were constructed before January 1, 2012.
- 2) Provides that the requirements of the bill apply to the following:
 - a) Projects seeking funding on or after January 1, 2023, and that were submitted to the Division of State Architect (DSA) for approval on or after January 1, 2023; and
 - b) Projects that propose to renovate, repair, or modernize the interior of a school building and do not apply to projects that only propose to renovate, repair, or modernize the exterior of a school building, the school grounds, or the playing fields of a school.

EXISTING LAW:

- 1) Specifies the duties of a governing board of a school district and gives authority to the governing board to enter into contracts, establish funds, and make payments for the purpose of maintaining property.
- 2) Requires, under the Leroy F. Greene School Facilities Act of 1998, the State Allocation Board (SAB) to allocate to applicant school districts, prescribed per-unhoused-pupil state funding for construction and modernization of school facilities, including hardship funding, and supplemental funding for site development and acquisition.
- 3) Requires the DSA, under the police power of the state, to supervise the design and construction of any school building or the reconstruction or alteration of, or addition to, any school building to ensure that plans and specifications comply with existing law and Title 24 regulations (California Building Standards Code).
- 4) Requires, on and after July 1, 2011, all new construction projects submitted to the DSA to include locks that allow doors to classrooms and any room with an occupancy of five or more persons to be locked from the inside. Requires the locks to conform to the specifications and requirements set forth in Title 24 regulations. Exempts doors that are locked from the outside at all times and pupil restrooms from the requirement.
- 5) Requires the governing board of a school district seeking state school facilities bond funds for a modernization project and submitted to the DSA for approval on or after January 1,

2019, to include, as part of a modernization project, locks that allow doors to classrooms and any room with an occupancy of five or more persons to be locked from the inside of the room.

- 6) Requires building alterations or improvements to single-family residential and multifamily residential real property to replace all noncompliant plumbing fixtures with water-conserving plumbing fixtures. Defines “noncompliant plumbing fixtures” as the following:
 - a) Any toilet manufactured to use more than 1.6 gallons of water per flush;
 - b) Any urinal manufactured to use more than one gallon of water per flush;
 - c) Any showerhead manufactured to have a flow capacity of more than 2.5 gallons of water per minute; and
 - d) Any interior faucet that emits more than 2.2 gallons of water per minute.
- 7) Defines “water-conserving plumbing fixture” as any fixture that is in compliance with current building standards applicable to a newly constructed real property of the same type.

FISCAL EFFECT: Unknown

COMMENTS:

Need for the bill. The author states, “AB 1867 establishes parity between modernization and new construction requirements in the state School Facility Program to ensure school bathrooms are up to code to help us address water efficiency and conservation. The bill requires the governing board of a school district, if they apply for state funding pursuant to the Greene Act for a school modernization project on a school constructed before Jan. 1, 2012, to meet the same standards established in the CALGreen code. This will help the State of California address our worsening climate crisis by prioritizing water efficient fixtures in our school facilities when they are being modernized.”

Background on the School Facility Program (SFP). The construction and rehabilitation of public K-12 facilities are funded by a combination of state and local general obligation (GO) bonds, developer's fees and local assessments such as Mello-Roos community facilities districts. State bond funds are allocated pursuant to the SFP and administered by the Office of Public School Construction under the direction of the SAB, a ten member body comprised of the Department of Finance, the Director of the Department of General Services, the State Superintendent of Public Instruction, three Senators, three Assemblymembers, and a Governor's appointee. Under the SFP, the New Construction program requires a 50% local match, unless the school district qualifies for financial hardship, which pays up to 100% of project costs. Modernization funds are awarded at 60% with a 40% match. Since the inception of the SFP in 1998, voters have approved \$54 billion in state GO bonds for K-12 schools.

The last bond passed by voters, Proposition 51 on the November 2016 statewide ballot, provided \$9 billion for K-12 and California Community Colleges facilities. While the full amount of the

bond has not been sold, there is a total of \$3.3 billion in applications submitted without funding authority. Of that amount, \$1.94 billion are from applications for modernization funding.

DSA Review and Title 24 Regulations. The SFP requires a school district seeking state bond funds to receive approval from the California Department of Education (CDE), to ensure that the selected site and school specifications are safe and meet the school's education plan; and the DSA, to ensure that the architectural design plans meet fire, life and safety requirements, Field Act requirements, and access requirements under the Americans with Disability Act pursuant to Title 24 of the California Code of Regulations.

The California Green Standards Code (CALGREEN) is one part of Title 24 and was first adopted by the Building Standards Commission in 2009. CALGREEN establishes regulations for energy efficiency, water efficiency and conservation, material conservation and resource efficiency, and environmental quality, and apply to residential, commercial and public school buildings. All new school construction design plans submitted to the DSA after July 1, 2011 must comply with CALGREEN. CALGREEN does not currently apply to existing buildings.

This bill requires a school district seeking state bond funds for a modernization project that renovates the inside of a school building constructed prior to January 1, 2012, to include, in the modernization project, faucet aerators, hand dryers, and water-conserving plumbing fixtures if they meet the standards defined as “noncompliant plumbing fixture” in the Civil Code. The CDE estimates that approximately 30% of the state’s K-12 school buildings are at least 50 years old and 10% are 70 years old.

Are the requirements in this bill consistent with the CALGREEN code? Supporters of the bill state that this bill equalizes the components in existing schools with requirements in new schools. The bill proposes a trigger for replacing plumbing fixtures that is based on a Civil Code provision requiring any alterations or improvements to residential or commercial buildings to replace all noncompliant plumbing fixtures with water-conserving plumbing fixtures. This table shows the standard for triggering replacement of plumbing fixtures and CALGREEN requirements for new school buildings.

	Noncompliant Plumbing Fixture	CALGREEN Requirement for New Schools
Toilets	Manufactured to use more than 1.6 gallons of water per flush	Water closets shall not exceed 1.28 gallons per flush
Urinals	Manufactured to use more than one gallon per flush	Wall-mounted urinals shall not exceed 0.125 gallon per flush Floor-mounted urinals shall not exceed 0.5 gallons per flush

However, CALGREEN does not include requirements for faucet aerators or hand dryers. A faucet aerator is a small, inexpensive device screwed onto faucets to reduce water flow. It is unclear how the addition of an aerator compares with the requirement for water flow in bathroom faucets in the CALGREEN code. The **Committee may wish to consider** whether hand dryers should be universally required, not only because they are not required under the CALGREEN code, but some studies have reported lower rates of bacteria transmission using paper towels compared with use of hand dryers.

Competing needs. Under the SFP, districts are eligible to receive modernization funds for a permanent school building when the building is 25 years old or a portable classroom that is at least 20 years old. The SFP requires a 40% local match. With districts only eligible for funds every 25 years and with potentially other needs that impact health and safety, the *Committee may wish to consider* whether the Legislature should dictate the type of work that districts must include in a modernization project that isn't due to an immediate health and safety reason.

Committee amendments. *Staff recommends* the following amendments:

- 1) Clarify that bathrooms that already meet the requirements specified in this bill are exempted.
- 2) Delete hand dryers.
- 3) Due to the potential costs and lack of state bond authority, apply the requirements of this bill to modernization projects submitted to the DSA three months after the date of a future election whereby a school facilities bond with funds for K-12 facilities is passed by voters.
- 4) In Section 17584(b)(2), strike "renovate" and replace "modernize" with "make alterations".

Arguments in support. The sponsor, the California Association of Student Councils, states, "Droughts are becoming more frequent, intense, and long lasting. This results in more difficulty managing our water systems throughout California. The CALGreen Code's purpose is to reduce negative environmental impacts and promote sustainable infrastructure to conserve water and increase resilience. Low-flow plumbing fixtures and appliances reduce per-capita water usage in most urban areas. We must safeguard our water supply and ensure that all school facilities meet the standards set forth in the CALGreen Code as we prepare for intensified droughts."

Related legislation. AB 3205 (O'Donnell), Chapter 301, Statutes of 2018, requires the governing board of a school district seeking state school facilities bond funds for a modernization project and submitted to the DSA for approval on or after January 1, 2019, to include, as part of a modernization project, locks that allow doors to classrooms and any room with an occupancy of five or more persons to be locked from the inside of the room.

AB 677 (Dodd), of the 2015-16 Session, would have required, if a bond was passed by voters on or after January 1, 2016, all modernization projects submitted to the DSA to include locks that allow doors to classrooms and any room with an occupancy of five or more persons to be locked from the inside. The bill would have also required all higher education institutions to include locks that lock from the inside on all new construction projects. This bill was held in the Assembly Appropriations Committee.

SB 316 (Block), of the 2013-14 Session, would have required, on or after January 1, 2016, all modernization projects submitted to the DSA to include locks that allow doors to classrooms and any room with an occupancy of five or more persons to be locked from the inside. The bill also directed the SAB to adjust modernization grants to reflect the associated cost of installing locks. This bill was held in the Assembly Appropriations Committee.

AB 85 (Mendoza), of the 2011-12 Session, would have required all K-12 modernization projects that include rehabilitation in a classroom or a room with an occupancy of five or more and all

community college district new construction projects to install locks that can be locked from the inside. The bill was held in the Assembly Appropriations Committee.

AB 211 (Mendoza), Chapter 430, Statutes of 2010, requires, as a condition for state education bond funds, all new construction projects submitted to the DSA on and after July 1, 2011 to include locks that allow a door to be locked from the inside of a classroom or any room that accommodates five or more people.

REGISTERED SUPPORT / OPPOSITION:

Support

California Association of Student Councils (sponsor)
GENup

Opposition

None on file

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