

Date of Hearing: March 23, 2022

ASSEMBLY COMMITTEE ON EDUCATION
Patrick O'Donnell, Chair
AB 2072 (Gabriel) – As Introduced February 14, 2022

[Note: This bill is double referred to the Assembly Health Committee and will be heard by that Committee as it relates to issues under its jurisdiction.]

SUBJECT: Mental health professionals: natural disasters: county offices of education: personnel sharing agreements

SUMMARY: Requires, by November 1, 2024, county offices of education (COEs), in consultation with the California Department of Education (CDE) and other relevant state and local agencies, to coordinate agreements between school districts and charter schools within the county to develop a system for rapidly deploying qualified mental health professionals and other key school personnel employed by individual school districts and charter schools throughout the county to areas of the county that experienced a natural disaster or other traumatic event. Specifically, **this bill:**

- 1) States the findings and declarations of the Legislature:
 - a) Following natural disasters and human-caused traumatic events, such as the destructive California wildfires of 2017 and 2018, there is a tremendous need for mental health professionals and other key school personnel to be available to support pupils and staff impacted by those events.
 - b) Most school communities currently do not employ an adequate number of mental health professionals and other key school personnel necessary to support pupil and staff recovery from large-scale traumatic events.
- 2) Defines “local educational agency” as a school district, COE, or charter school.
- 3) Requires, on or before November 1, 2024, COEs, in consultation with the CDE and other relevant state and local agencies, to coordinate agreements between school districts and charter schools within the county in order to develop a system through which qualified mental health professionals and other key school personnel employed by individual school districts and charter schools throughout the county could be rapidly deployed on a short- or long-term basis to an area of the county that has experienced a natural disaster or other traumatic event, in order to provide support to pupils and staff.
- 4) Requires, in developing agreements for this system of sharing mental health professionals and other key school personnel, COEs to consider, at a minimum, all of the following:
 - a) The cost of creating and maintaining the system;
 - b) The criteria required for a local educational agency (LEA) to request the use of mental health professionals and other key school personnel employed by another LEA;

- c) Potential reimbursement between LEAs; and
 - d) Reimbursement for travel expenses incurred by mental health professionals and other key school personnel.
- 5) Requires single school district COEs to comply with this requirement by entering into agreements with at least one other COE with which they share a border. Requires COEs that share a county border with a single school district COE to enter into agreements with at least one single school district COE in order to comply with this requirement.

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 the comprehensive school safety plan to be evaluated at least once a year. (EC 32282)
- 4) Specifies that the comprehensive school safety plan must establish disaster procedures, including a procedure to allow a public agency, including the American Red Cross, to use school buildings, grounds, and equipment for mass care and welfare shelters during disasters or other emergencies affecting the public health and welfare. Requires the school district or COE to cooperate with the public agency in furnishing and maintaining the services as the school district or COE may deem necessary to meet the needs of the community. (EC 32282)
- 5) Requires the Superintendent of Public Instruction (SPI), for apportionment purposes, to credit to an 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;
 - g) A strike involving transportation services to pupils provided by a non-school entity. (EC 46392)

- 6) 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 46292)

FISCAL EFFECT: Unknown

COMMENTS:

Intent of the bill. This bill would require COEs to facilitate planning conversations and agreements between the school districts and charter schools within the county for the sharing of key personnel when responding to an emergency or crisis. The bill is modeled after the existing mutual aid system, used by peace officers and other support personnel, with the idea that the framework of mutual aid could be applied to LEAs in a time of crisis. The type of agreement is not specified in the bill, and therefore the agreements established across the state could range from informal to formal memorandums of understanding. This flexibility will be critical as each region of the state develops their agreements; local contexts, resources, and needs may uniquely form the format and terms of each.

Giving the increasing frequency of natural disasters attributed to climate threats, as well as other human-created emergencies, LEAs throughout California will require broad support and resources. When emergencies strike, the toll on school communities can be profound. Schools often close and students lose valuable instructional time that is rarely made up. Student and staff mental health may also suffer. However, LEAs well equipped to respond to emergencies are able to ensure continuity of learning and foster school connectedness despite the extenuating circumstances. Once robust planning is well underway, schools, emergency personnel can better coordinate response activities to ensure that student, and school personnel safety needs are met.

Need for the bill. According to the author, “Unfortunately we are living in a time where the effects of climate change are worsening. We are seeing more extreme wildfires, floods and other weather related disasters. At the same time, we are seeing a rise in school shootings. We must act preventatively to save lives and prepare to provide the services needed when disaster strikes. AB 2072 will facilitate conversations and planning on the local level so that when disaster strikes, school districts have a mutual aid plan in place that will help ensure that the appropriate mental health professionals are available to provide crisis support and mental health services to students and faculty.”

Examples of other state and local government systems equipped to provide emergency support. The California Mutual Aid System is an extension of the concept of “neighbor helping neighbor.” Both local agreements and statewide coordination assist with providing additional, specialized personnel necessary for mitigating the effects of disasters, whether natural or man-caused. Some examples of existing mutual aid plans include: The California Law Enforcement Mutual Aid Plan (which includes The Coroners’ Mutual Aid and Mass Fatality Management Planning Program), The California Fire Service and Rescue Emergency Mutual Aid Plan, and The California Medical Mutual Aid Plan.

Each mutual aid plan is unique, but most involve agreements between local governments to provide key personnel during or after natural disasters, or other human-caused events. Often, local governments first work with neighboring jurisdictions and when that capacity is exhausted, reach out to a regional structure, which in turn reaches out to the state, as necessary. Mutual aid agreements plans may or may not include reimbursement for staff time or travel expenditures.

There are over 1,000 school districts and approximately 1,300 charter schools in California. Establishing individual agreements between each school district, COE and charter school for this purpose likely will not yield the greatest administrative efficiencies or effectiveness. However, if agreements are established throughout the geographic area of each county, where collaboration and partnerships may already exist, public school leaders will be closer to being better resourced and able to support their communities when responding to an emergency event.

LAO recommendations on climate impacts. In January 2021, the Legislative Analyst's Office (LAO) responded to a request from the California State Assembly Speaker related to climate impacts on various policy sectors: transportation, health, K-12 education and childcare, housing, and workers and employers. The LAO identified California's five major climate hazards: temperature increases and extreme heat, drought, flood, wildfire, and sea-level rise. For K-12 education and childcare, the LAO described the key ways in which this policy area is impacted by climate change:

- Climate change impacts increase likelihood that schools will need to respond to emergencies and public health issues;
- Schools will need to take steps to avoid disrupting education and services;
- Climate change will require modifications to many existing and future school facilities; and
- Responding to impacts of climate change will have fiscal impacts on schools.

Acknowledging that schools are primarily managed at the local level, many of the decisions about how to adapt to climate impacts will be made by governing boards and district and site administrators. However, the state also has an important role in ensuring that schools will be prepared to keep students safe and learning, despite external circumstances.

Included among the key issues identified by the LAO for legislative consideration is the consideration for how the state can support local efforts for preparedness and response activities, many of which require collaboration across different agencies. To do so, the LAO suggested that the Legislature fund grants to support emergency planning activities at the LEA level – specifically those that face the greatest risk and/or might have less capacity to prepare and respond to climate threats without state assistance.

Aligned with the LAO recommendations, this bill will create competitive grants for LEAs, administered by the CDE, to support emergency planning activities at the local level. Contingent upon an appropriation, this bill will require the CDE to prioritize grants for high need and underprepared parts of the state, as well as those that demonstrate a willingness and ability to coordinate with related state and local emergency response agencies. Given the increasing frequency and intensity of climate change impacts and related natural disasters, public schools

need tremendous support and resources in order to prioritize emergency preparedness, response and climate adaptation strategies. Although not every emergency or crisis can be planned for, school communities that have invested in disaster preparedness and have strong relationships with related local agencies are far more likely to successfully support the needs of their students and staff when needed.

The increasing frequency of climate-related disasters in California. In 2021, in addition to living with the COVID-19 pandemic, Californians were impacted by wildfires and other natural disasters. Climate change continues to intensify and lengthen the fire season in California. The state has experienced unprecedented wildfire activity over the past several years, with increases in the number and severity of wildfires. The state experienced 4 of the 20 largest wildfires in its history in 2021.

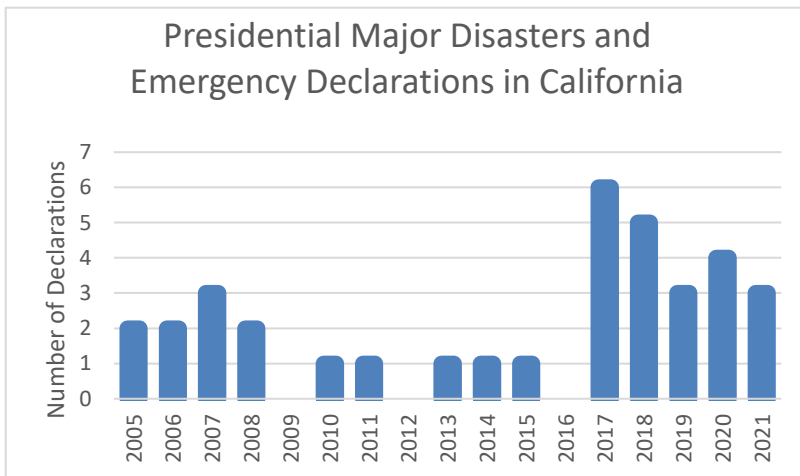
The Camp Fire and the impact on schools. The Camp Fire, which began on November 18, 2018, in Butte County was, at the time, the deadliest and most destructive wildfire in California history. The Camp Fire burned 153,336 acres of land (almost 240 square miles) and destroyed the town of Paradise, which had a population of 27,000, within the first six hours of the fire. According to a November 21, 2018, report by the *Redding Record*, when the fire was 95% contained it had destroyed 13,631 residences, 275 multifamily residences, and 514 commercial buildings. Additional reports stated that 4,404 barn sheds were also destroyed. At least eighty-five deaths were confirmed. The total monetary damage was \$16.5 billion. Due to the evacuations, one hundred-percent of the student population met the definition of homeless under federal law and were considered homeless for the duration of the school year. In addition to the impact to students, 260 of 400 district staff members lost their homes and another 60 were displaced by the fires. Students and school staff alike suffered trauma from the fires and their ongoing impact.

The California 2020 wildfire season. The 2020 California wildfire season was characterized by a record-setting year of wildfires that burned across the state of California. Nearly 10,000 fires burned over 4.2 million acres, more than 4% of the state's roughly 100 million acres of land, making 2020 the largest wildfire season recorded in California's modern history. California's August Complex fire was described as the first "gigafire," as the area burned exceeded 1 million acres. The fire crossed seven counties burned an area larger than the state of Rhode Island. On August 19, 2020, the state was battling 367 known fires, many sparked by intense thunderstorms. In early September 2020, a combination of a record-breaking heat wave and Diablo and Santa Ana winds sparked more fires and explosively grew the active fires, with the August Complex more than doubling the Mendocino Complex's size, to become California's largest recorded wildfire. Due to the COVID-19 pandemic, many schools were closed for in-person instruction in 2020 and students learned at home through remote instruction. The direct impact of the 2020 wildfire season to schools was minimal; however, it would have likely been greater if students were on campus. Students learning at home were impacted by the other residual effects of wildfires, such as poor air quality.

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 Presidential 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 their 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; a prerequisite when requesting federal declaration of a major disaster or emergency;



Source: Data compiled from www.fema.gov/disaster

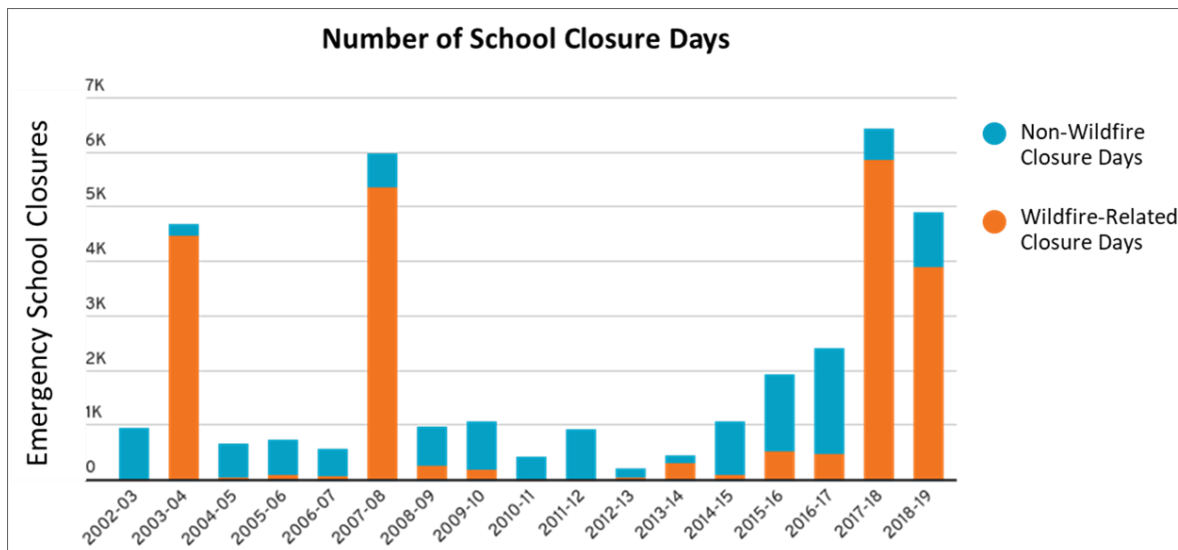
- **Presidential Declaration of an Emergency:** The Governor, on behalf of the impacted local government, may request this declaration which supports response activities of the federal, state and local government. It also authorizes federal agencies to provide “essential” assistance including debris removal, temporary housing and the distribution of medicine, food and other consumable supplies; and

- **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.

In recent years, there have been markedly high numbers of Presidential Major Disaster and Emergency Declarations in response to natural disasters in California, according to data from the Federal Emergency Management Agency (FEMA), as shown in the table above.

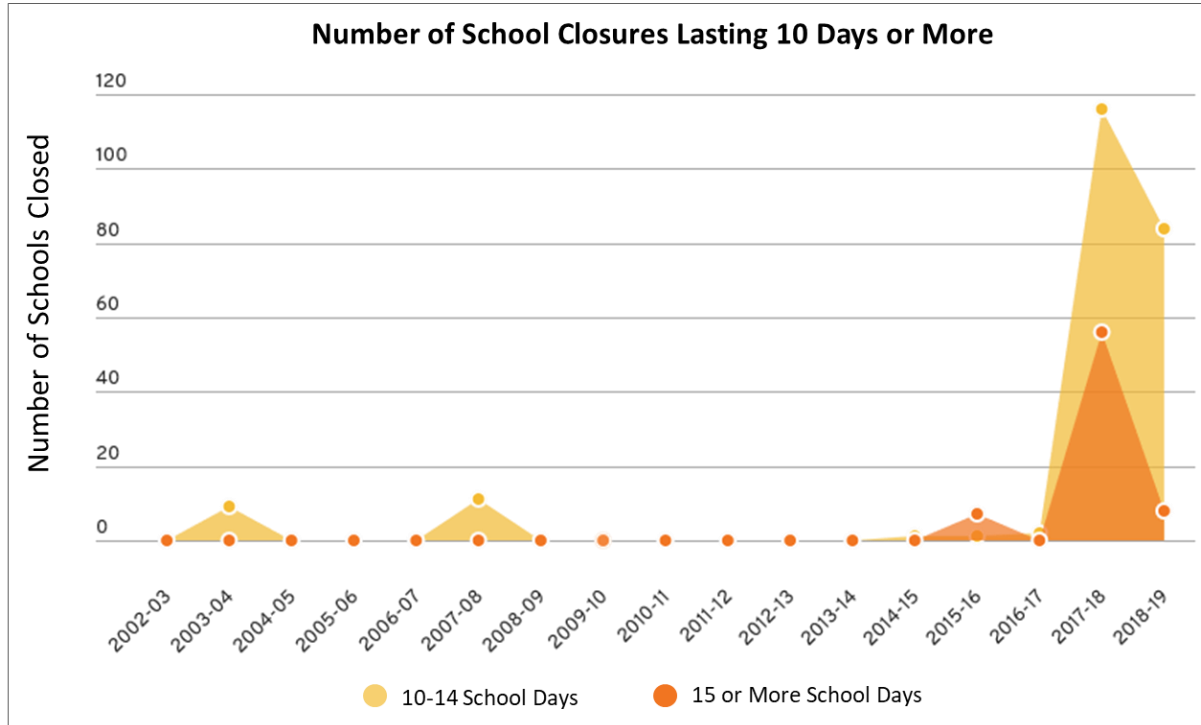
Increasing frequency and duration of school closures prior to the onset of the COVID-19 pandemic. The number of temporary school closures in California was increasing in the years leading up to the COVID-19 pandemic, due in large part to the increased incidence of climate-fueled wildfires. Large fires in San Diego County caused mass school closures in 2003 and 2007, and more recently a dramatic and sustained increase in closures has resulted from frequent wildfires, including the devastating Camp Fire of 2018 in Butte County.

According to CalMatters’ *Disaster Days* series (which compiled data from waivers submitted to the CDE from LEAs requesting credit for funding lost due to school closures over the last two decades), nearly two-thirds of the 34,000 school closure days recorded in California since 2002 have been due to wildfires. Of these, more than half have occurred since 2015, highlighting a trend in increasing wildfire-related closures, including those due to poor air quality, fire damage, power outages, and public safety power shutoffs (PSPS) caused by wildfires. In the 2018-2019 school year, there were nearly 4,900 school closure days in California, affecting 2,260 schools and over 1.2 million students, or nearly 1 in 5 students in California. Of these closures, 62% were related to the November 2018 Camp Fire. In the fall of the 2019-2020 school years, power shutoffs were a major cause for school closures. Between September and November of 2019, schools in at least 34 counties issued temporary closures due to fires and preventative power shutoffs.



Source: CalMatters Disaster Days: *How megafires, guns and other 21st century crises are disrupting California schools*

During one week in November, 2018, over 180 school districts, with a combined enrollment of more than 1 million students, reported at least one school closure day due to hazardous air quality resulting from the Camp and Woolsey fires in Butte County and Ventura County, respectively.



Source: CalMatters Disaster Days: *How megafires, guns and other 21st century crises are disrupting California schools*

The duration of school closures has also increased significantly in the last several years. Until recently, only a handful of schools reported losing ten or more instructional days in a single year due to wildfire-related school closures, but in the last two years that number has risen to more than 270. CalMatters identified at least 480 California public schools that have lost 10 or more instructional days for fire-related issues since the 2017-18 term.

Impact of COVID-19 on schools. In prior years, wildfires were the predominant reason for school closures, but in 2020 the unprecedented months-long closure of nearly all schools across the nation due to the COVID-19 pandemic has far exceeded any other school closures on record in both magnitude and duration. To mitigate the spread of the pandemic, virtually all of the schools in California closed in mid-March 2020, and remained closed through the end of the 2019-20 school year. Numerous state and federal funding sources and programs incentivized the reopening of schools for remote instruction, or distance learning, for the start of 2020-21 school year. As case levels dropped and additional precautions, such as masks, were put in place most schools were able to re-open successfully. However, the ongoing demands of a pandemic made the operation of schools extremely challenging. Some of the pandemic-related demands include school COVID-19 exposures, contact tracing coordination, distribution of personal protective equipment (PPE) supporting student and staff mental health, staffing shortages, supply chain challenges, the Delta and Omicron variants, COVID-19 testing, mask requirements, and vaccination rollouts.

School leaders looked to and coordinated with local and state public health officials, among others, to support their school communities during the pandemic. Resource and service coordination with schools varied greatly across the state due to numerous contributing factors including, but not limited to access to resources, preexisting relationships and partnerships, local politics, beliefs, and demographics.

Request for allowance of attendance due to emergency conditions. LEAs receive funding largely based on their average daily attendance (ADA). Total ADA is defined as the total days of student attendance divided by the total days of instruction. Emergencies can result in loss of funding due to reduced attendance. Furthermore, LEAs face financial penalties for failing to meet the minimum required instructional days and instructional times for a given school year, which means closing schools can result in financial loss for LEAs. Schools that experience a material loss of instructional time or ADA due to emergencies can submit a Request for Allowance of Attendance Due to Emergency Conditions, Form J-13A to the CDE to obtain approval for attendance and instructional time credit.

The Local Control Funding Formula (LCFF) funding apportioned to the school is not immediately impacted by emergency school closures. Because the top priority of LEAs during emergency closures is student safety and crisis management, and because LEAs are encouraged to adjust their calendars to make up for missed instructional time before requesting instructional time credit, Form J-13A requests are often submitted long after the emergency closure occurs.

Modifications were made to the Form J-13A process and requests for material decreases in attendance when school remains open and school closures that occur between September 1, 2021, and June 30, 2022, related to the COVID-19 pandemic, as a result of AB 167 (Chapter 252, Statutes of 2021).

School safety plans. All LEAs are responsible for developing a comprehensive school safety plan for their schools to aid in the prevention of campus crime and violence and to address concerns of student safety. The school safety plan must establish disaster procedures, including procedures for earthquake response and a procedure to allow a public agency, including the American Red Cross, to use school buildings, grounds, and equipment for mass care and welfare shelters during disasters or other emergencies affecting the public health and welfare. Emergency school closure and related decisions are made at the LEA level, and procedures for notifying students and parents of the closure vary.

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. According to a 2017 report by the California State Auditor, *School Violence Prevention: School Districts, County Offices of Education, and the State Must Do More to Ensure That School Safety Plans Help Protect Students and Staff During Emergencies*, the CDE is not providing sufficient guidance to LEAs to help them ensure their schools comply with safety plan requirements. Further, the State Auditor notes that CDE has never conducted any oversight activities, such as audits, to ensure that LEAs are appropriately approving safety plans that their schools submit. Based on their reviews, the Auditor contends that if CDE had conducted a survey or audit on this topic, it would have found that LEA's schools were failing to submit safety plans.

Charter schools are also required to develop comprehensive school safety plans, including specified elements.

Standard Emergency Management System. According to the Governor’s Office of Emergency Services (CalOES), the Standard Emergency Management System (SEMS) is the cornerstone of California’s emergency response system and the fundamental structure for the response phase of emergency management. The system unifies all elements of California’s emergency management community into a single integrated system and standardizes key elements. SEMS was created in California in order to facilitate priority setting, interagency cooperation, and the efficient flow of resources and information during emergency response. SEMS incorporates the following:

- Incident Command System - A field-level emergency response system based on management by objectives;
- Multi/Inter-agency coordination - Affected agencies working together to coordinate allocations of resources and emergency response activities;
- Mutual Aid - A system for obtaining additional emergency resources from non-affected jurisdictions; and
- Operational Area Concept - County and its sub-divisions to coordinate damage information, resource requests and emergency response.

Related legislation. AB 544 (O’Donnell) of this Session requires LEAs to provide the CDE information related to each school facility, schoolsite, or school property owned or leased by the LEA.

AB 2814 (Wood) of this Session establishes the Emergency Planning Grant Program, under the administration of the CDE. Requires, upon an appropriation by the Legislature for this purpose, the CDE to award \$1 million in competitive grants to LEAs to support emergency planning activities.

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 918 (Smith) of the 2019-20 Session would have required the CDE to develop and submit recommendations to the Legislature and Governor to develop a system through which qualified mental health professionals employed by LEAs throughout the state could be rapidly deployed on a short- or long-term basis to an area of the state that has experienced a natural disaster or other traumatic event, in order to provide support to pupils and staff. This bill was held in the Assembly Appropriations Committee.

AB 1837 (Smith) of the 2019-20 Session would have required the SPI to establish a State Assistance for Emergency Response (SAFER) Team within the CDE to provide guidance and support to LEAs experiencing emergencies. This bill was held in the Senate Education Committee.

AB 2126 (O’Donnell) of the 2019-20 Session would have required the CDE to develop and implement a website and app for the purpose of collecting temporary school closure information for LEAs from superintendents and charter school administrators. This bill was held in the Senate Appropriations Committee.

AB 2127 (O'Donnell) of the 2019-20 Session would have required LEAs to provide the CDE with 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. This bill was held in the Senate Education Committee.

SB 884 (Dodd) of the 2019-20 Session would have added public safety power shutoffs to the list of emergencies for which LEAs may submit a J-13A form request, and would have established 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. This bill was held in the Assembly Appropriations Committee.

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% 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, this bill would have required the SPI 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% of the apportionment the school district, COE, or charter school would have received based on the ADA they lost due to the 2017 wildfires. This bill was held in the Senate Education Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file

Opposition

None on file

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