

Date of Hearing: May 6, 2020

ASSEMBLY COMMITTEE ON EDUCATION
Patrick O'Donnell, Chair
AB 2126 (O'Donnell) – As Introduced February 10, 2020

SUBJECT: Temporary school closures: notification

SUMMARY: Requires the California Department of Education (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. Specifically, **this bill:**

- 1) Defines “local educational agency” as a school district, county office of education (COE), or charter school.
- 2) Requires the CDE to develop and implement a website and app for collecting school closure information from LEAs, to be operative by July 1, 2022.
- 3) Requires a county superintendent of schools, superintendent of a school district, or charter school administrator or their designee to use the website or app to notify the CDE of all temporary school closures each day the school is closed.
- 4) Requires that the information collected include, but not be limited to:
 - a) The name of each closed school;
 - b) The duration of the school closure; and
 - c) The reason for the school closure.
- 5) States that reasons for closure do not include non-school days such as weekends, holidays, and interim breaks.

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) States that the State Board of Education may waive the fiscal penalties for a school district or COE that fails to maintain the prescribed minimum length of time for the instructional school year, minimum number of instructional days for the school year, or both. (EC 46206)
- 6) Requires the Superintendent of Public Instruction (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;
 - g) A strike involving transportation services to pupils provided by a non-school entity. (EC 46392)
- 7) 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:

Need for the bill: According to the author, “The primary goal of AB 2126 is to provide emergency responders and state and federal agencies reliable, up-to-date information on whether public schools are open. The frequency and duration of temporary school closures in California has increased significantly in recent years due to wildfires, power-shutoffs, and now, at an unprecedented scale, due to the COVID-19 pandemic.

While districts and schools notify students and parents of temporary school closures, there is no efficient way for emergency personnel such as law enforcement and state and federal agencies to determine if a school is open or closed, which impedes emergency response.

During disasters such as wildfires, emergency responders frequently turn to school campuses to serve as evacuation centers or operation bases for emergency responders and state and federal agencies. Responders need to know if a school is open or closed. They need to know if it's occupied so they can determine if an evacuation is necessary or if the school facility could be used as a temporary shelter or housing for emergency responders.

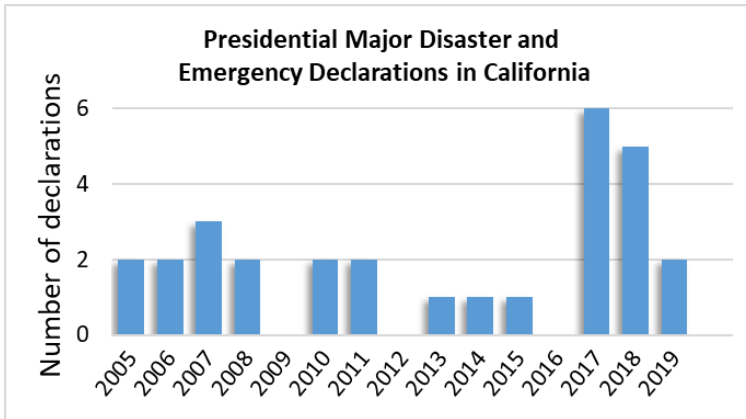
In the current COVID-19 crisis, state agencies need to know whether schools are open and how they are addressing the closures in order to understand the landscape of the pandemic's far-reaching effects on students across California. Furthermore, knowing LEAs' plans for reopening in the future may help emergency response agencies determine priorities for the distribution of personal protective equipment.

By implementing a streamlined system for reporting school closure information to the CDE, this bill removes barriers to effective emergency response and ensures the safety of students and school employees in crisis situations and in the uncertain future ahead.”

State and federal response to increasing natural disasters in CA. State and federal statutes 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.

- **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 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;
- **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



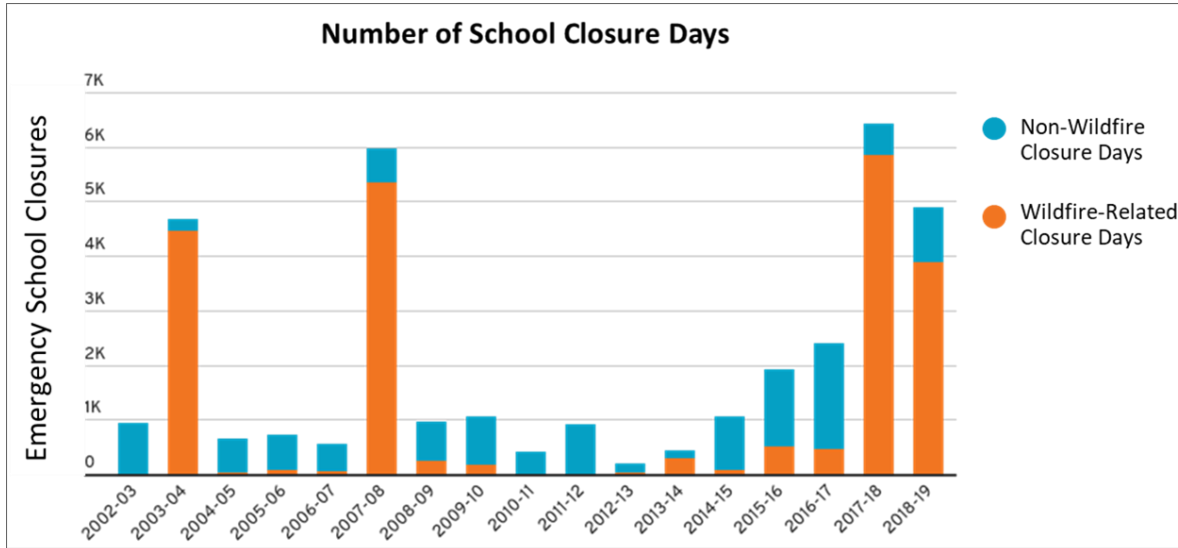
Source: Data compiled from www.fema.gov/disasters

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).

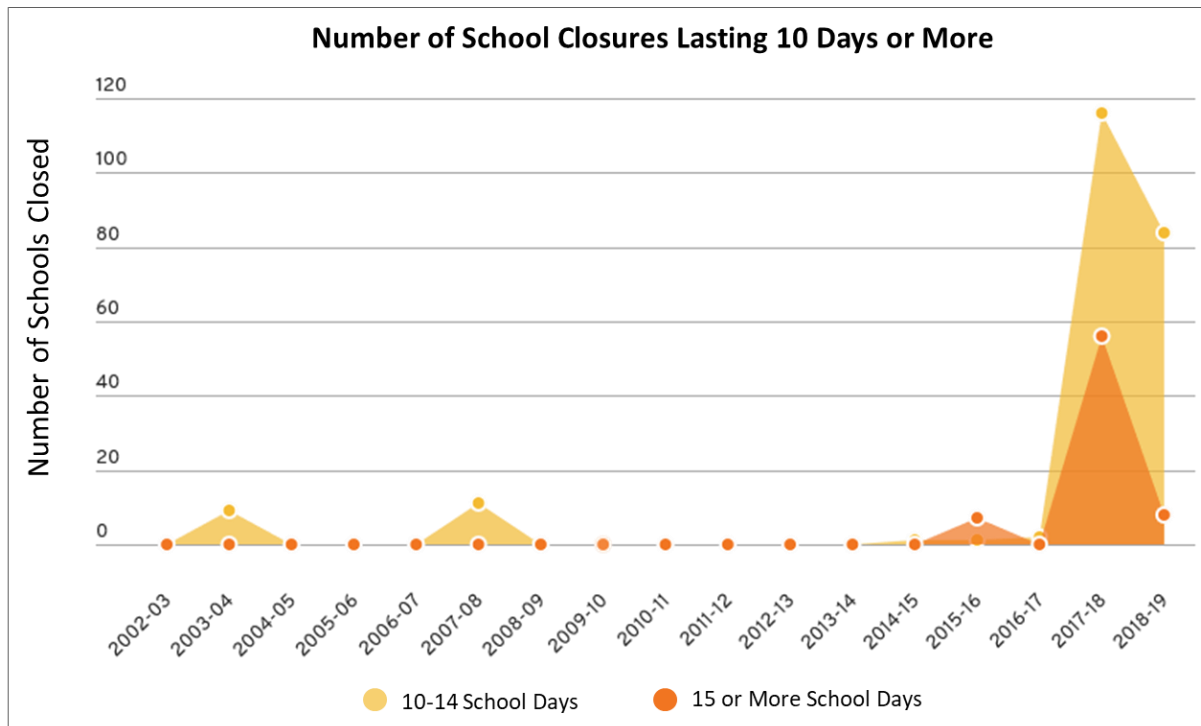
Increasing frequency and duration of school closures. The number of temporary school closures in California has increased in recent years, due in large part to the increased incidence of climate-fueled wildfires. Large fires in San Diego County caused mass school closures in 2003 and 2007, and more recently a dramatic and sustained increase in closures has resulted from frequent wildfires, including the devastating Camp Fire of 2018 in Butte County which was the deadliest and most destructive wildfire in California history.

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, and power outages caused by wildfires. In the 2018-2019 school year, there were nearly 4,900 school closure days in California, impacting 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 the 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.

Making school closure information available to emergency response agencies may help facilitate coordinated and efficient emergency response. The school closure information to be collected by the CDE, according to the provisions of this bill, may be shared with state and local emergency response agencies. Having this information readily available will allow emergency responders to make critical decisions regarding emergency response, including whether a schoolsite should be evacuated, or if it may be used as a temporary shelter or base for emergency response personnel. Having a centralized database of school closures allows emergency response agencies to get school closure information directly from the CDE rather than collecting it disparately from LEAs. This is especially critical during rapidly progressing large-scale emergencies such as wildfires, which often span multiple schoolsites, districts, and communities. In these situations, the need to collect school closure information individually from LEAs may impede a timely and effective emergency response.

This bill requires the CDE to create a website and app that LEAs will use to report temporary school closures. It requires LEAs to report temporary school closure information including the name of each school closed, the duration of the closure, and the reason for the closure to the CDE using the website or app. By establishing a standardized system for reporting closure information, and requiring that LEAs submit this information to the CDE, this bill will create a real-time database of school closure information that emergency response agencies can use to coordinate emergency procedures.

School safety plans and school closure notifications. 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.

California law states that when a school principal verifies through local law enforcement officials that a report has been filed of the occurrence of a violent crime on the schoolsite, the principal may send written notice to each student's parent and each school employee regarding the occurrence and the general nature of the crime to each pupil's parent or legal guardian and each school employee a written notice of the occurrence and general nature of the crime. However, this is not a requirement, and further requirements or guidance on how schools should notify parents, students, and staff in the event of an emergency is not provided.

Emergency school closure decisions are made at the LEA level, and procedures for notifying students and parents of the closure vary. Many local school districts notify parents and their communities of emergency closures online, via social media, or through phone calls. LEAs are not required to report temporary closures to the state.

School closures due to COVID-19. 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. 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 2,000 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. To mitigate the spread of the pandemic, virtually all of the schools in California closed in mid-March 2020, and closures are anticipated to extend through the end of the 2019-20 school year. If each school in California lost only three days of instruction due to closures, the cumulative school days lost due to COVID-19 (number of schools multiplied by number of days closed) would still exceed the total days lost to all emergency school closures in California over the last seventeen years. Governor Newsom declared a state of emergency to help the state prepare for the spread of COVID-19 on March 4, 2020, and issued a state-wide stay-at-home order on March 19, 2020 (Executive Order N-33-20).

California is one of only 9 states that has not issued mandatory statewide school closures, opting instead for a “recommended” state-wide closure through the end of the academic year. By March 15, 2020, approximately two-thirds of school districts in the state had closed their doors, but according to reporting from the New York Times, one school remained opened at least until April 10.

Due to the vast regional and geographical variation in California, each LEA’s decision to close or remain open was based on a complex and unique assessment of the cost and risk of each option. Many communities, especially those in rural areas, lack the technology and connectivity to effectively transition to online remote learning. For other communities, food security is a concern — 60% of students in California are eligible to receive free or reduced price meals at schools (data from CDE). The authority of LEAs to decide at the local or regional level whether to close schools, offer meals, or provide distance learning enabled them to respond to the unique needs of their community, but it also adds uncertainty to an already chaotic time. Allowing for local control without implementing a streamlined method for collecting school closure plans resulted in piece-meal data collection and inhibited state agencies from surveying the landscape of the COVID-19 pandemic and its impact on schools and students.

Unlike the wildfires of 2017 and 2018, COVID-19 did not close schools or destroy communities overnight, but efficient coordination with state agencies and emergency responders is still critical during this crisis. Decisions such as how to prioritize the distribution of personal protective equipment (PPE) will depend on when and in what capacity individual LEAs plan to come back online in the summer and fall.

In the era of COVID-19, there are many questions about what education will look like when students eventually return to classrooms. One model of the disease, developed by researchers at Harvard, predicts recurrent outbreaks of COVID-19 that may necessitate prolonged or intermittent social distancing measures into 2022 (Missler, Tedijanto et al, 2020). Another model, produced by the Imperial College COVID-19 Response Team shows that with an adaptive strategy, i.e. enforcing social distancing, case isolation, household quarantine, and school and university closure policies whenever a “trigger” of 100 ICU cases/week was reached, periodic triggering of these measures would occur every ~3 months until November 2021. In all probability, schools face the prospect of intermittent closures throughout the 2020-2021 school year and beyond.

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.

Current procedures require a physical copy of the J-13A form with wet signatures from the majority of members of the County Board of Education to be mailed to the CDE to begin the review process. The CDE does not give time estimates for Form J-13 approval or denial. A statement on the CDE website states “The length of time it takes to receive an approval or denial letter for a Form J-13A request varies significantly depending on the total number of requests received each year as well as the complexity and completeness of the request once it reaches CDE. The processing time for a Form J-13A request has taken longer in the past several years due to a significant increase of the number of qualifying events statewide which has increased the number of requests submitted.”

LEAs are not required to submit a Form J-13A waiver for closures due to COVID-19. Instead, LEAs will be required to submit a COVID-19 Closure Form stating the number of days the LEA was closed, and attesting that the closure occurred due to COVID-19. However, if school closures recur in the Fall on a more intermittent and staggered basis as some models predict (Missler, Tedijanto et al, 2020; Furguson, Laydon et al, 2020) it has not yet been determined whether COVID-19 Closure Forms will be accepted, or if LEAs will be required to submit Form J-13A waivers.

While not a specified aim of the bill, requiring real-time reporting of temporary school closures, along with the duration of and reason for the closure, may streamline the Form J-13A request approval process by providing an up-to-date record to corroborate the information provided by LEAs when they later submit paper Form J-13A requests.

Recommended committee amendments. Staff recommend the bill be amended as follows:

- 1) Require the application to be operative no later than July 1, 2021
- 2) Require that in the case of a Governor’s proclamation of an emergency, a presidential declaration of an emergency, a presidential declaration of a major disaster, or at the discretion of the CDE, the CDE will make the reported closure information available on its website. In some emergencies, making this information more widely available to the public may facilitate a more comprehensive response to the emergency.
- 3) Specify that, at the choice of the county superintendent, the county superintendent may coordinate with LEAs in the county and submit school closure information on behalf of the superintendents of school districts and charter school administrators within the county. This would enable coordinated reporting for counties that already have a system to report school closures to the county superintendent.

- 4) Require the CDE to develop a survey, to be sent to LEAs during closures longer than five school days, to determine their plan for distance learning and provision of meals during the closure. During the COVID-19 related school closures, there has been pervasive uncertainty around how and if LEAs are providing instruction and meals to students. Requiring schools to submit to the department information on how and if they plan to provide continued instruction and meal service during school closures lasting longer than five days would create a system of accountability, and would allow the CDE to assess the scope of the student need resulting from the closure.

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 LEAs to continue to provide educational options to their students.

AB 2052 (O'Donnell) 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 2127 (O'Donnell) of the this Session requires 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.

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 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 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. This bill was held in the Senate Education Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

Children Now

Opposition

None received

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