

Date of Hearing: August 3, 2020

ASSEMBLY COMMITTEE ON EDUCATION

Patrick O'Donnell, Chair

SB 884 (Dodd) – As Amended June 18, 2020

SENATE VOTE: 39-0

SUBJECT: Education finance: emergencies: public safety power shutoffs

SUMMARY: Adds public safety power shutoffs (PSPS) to the list of emergencies for which a LEA must receive the same apportionment as it would have received had it not been prevented from maintaining the minimum number of required school days. Specifically, **this bill:**

- 1) Requires that a school district, county office of education (COE), or charter school that is prevented from maintaining its schools during a fiscal year for at least 175 days or is required to operate sessions of shorter length than otherwise prescribed by law because of PSPS must receive the same apportionment from the State School Fund as it would have received had it not been so prevented from maintaining school for at least 175 full-length days.
- 2) Requires that if the average daily attendance (ADA) of a school district, COE, or charter school has been materially decreased during a fiscal year because of PSPS, the fact be established to the satisfaction of the SPI by affidavits of the members of the governing board or body of the school district, COE, or charter school and the county superintendent of schools.

EXISTING LAW:

- 1) Provides funding to LEAs using the Local Control Funding Formula on the basis of ADA. (Education Code [EC] 2574 and 42238.02)
- 2) Requires the SPI, for apportionment purposes, to credit to a LEA a material loss of 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)

- 3) 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)
- 4) 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 of 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. (EC 46392)
- 5) Requires the SPI to make specified ADA calculations for a school district or charter school physically located where no less than 5 percent of the residences within the school district, or the school district's facilities were destroyed as a result of a state emergency that was declared by the Governor in November, 2018. (EC 46392)

FISCAL EFFECT: According to the Senate Appropriations Committee, “While school districts are typically held harmless from revenue losses that might otherwise result from a decline in ADA or instructional time during specified emergencies such as fire, floods, and earthquakes, this bill expands that list by adding ‘public safety power shutoffs.’ This could result in additional, unknown Proposition 98 General Fund costs that would depend on the frequency and nature of these emergencies.”

COMMENTS:

Need for the bill. According to the author, “The last five years have taken a toll on schools across California. Last school year wildfires, related outages, and smoke pollution kept more than 1.1 million of the state’s 6 million public school students out of school, setting an unprecedented record for student absences. During 2017, 40 Sonoma County school districts lost approximately 340 instructional days. In the fall of 2019, Sonoma County schools lost 258 instructional days. PSPS and lost school time are especially detrimental to low-income students, depriving them not only of instruction but also, in many cases, of critical health services, nutrition and child care.

With power shut-offs expected to continue in the years ahead, we can expect additional loss of instructional days each year, which is why it is essential to add ‘Public safety power shutoff’ to the list of emergencies that LEAs are not penalized if the emergency causes the LEA’s ADA to decline.”

School funding in California. Beginning in the 2013-2014 school year, California enacted an historic approach to distribute funds to LEAs through a system known as the local control funding formula (LCFF), which replaced a nearly 40-year-old financing system. Prior to the enactment of the LCFF, districts received financial support through a combination of general purpose funding and various categorical programs. In contrast, the LCFF is comprised of three categories which the California Department of Education (CDE) utilizes to determine how much to disburse to each district: base funds, supplemental funds, and concentration funds.

Base grant funding rates are established for pupils for each grade span, such as kindergarten through third grade, with varying amounts for different grade groups. The CDE calculates the base grant fund amount for a district and multiplies it by the ADA of each district. ADA is calculated by taking the average number of students in attendance on each schoolday divided by the number of school days in a year.

The supplemental and concentration grants are determined by the number of “unduplicated” pupils in the following student groups: English learner, eligible for the federal free or reduced-price meals program, or foster youth. A student who meets the requirements of multiple student groups generates the same amount of funding as only one of the groups and is classified as an unduplicated count. A district receives supplemental grants equating to an additional 20 percent of the base grant funding multiplied by the district’s unduplicated percentage of targeted disadvantaged pupils. Districts serving a student population with over 55 percent of the intended student groups receive concentration funds at 50 percent of base grant funding multiplied by the district’s unduplicated percentage of targeted pupils. The ADA of students is an important factor in a school district’s total apportionment. Significant losses of ADA due to natural disasters, illness, or other factors hinder a district’s budget, and jeopardize planned student supports and activities.

School closures due to PSPS. According to CalMatters’ Fall 2019 *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), the number and frequency of climate-driven school closures has increased significantly in recent years. Nearly two-thirds of the 34,000 school closures days recorded in California since 2002 have been directly or indirectly related to wildfires. Since 2015-2016, the state has recorded more school closures due to wildfires and subsequent poor air quality than at any point in the last twenty years.

High temperatures, extreme dryness, and high winds are prime conditions for wildfires. Under these conditions, a spark in the wrong place can lead to a major fire. For this reason, under high fire-risk conditions, utilities companies may choose to shut off power to prevent fires. In recent years, such PSPS events have been a leading cause of climate-related school closures.

Between September and November 2019, at least 34 counties issued temporary closures due to fires and preventative power shut-offs, according to CalMatters. Amador County Unified School District, which serves approximately 4,000 students in a rural community southeast of Sacramento, closed 12 schools for 6 days in 2019 due to PG&E power shutoffs, while Yuba County’s Marysville Joint Unified School District closed some schools for up to 10 schooldays due to PSPS.

Request for allowance of attendance due to emergency conditions. When LEAs make the decision to unexpectedly close schools, they risk losing funding for the closure days due to decreases in ADA and may also face financial penalties if they fail to meet minimum instructional day and time requirements. Therefore, school closures can carry a significant financial cost for LEAs.

However, state law specifies that LEAs are to be held harmless from revenue loss due to the loss of ADA or instructional time in emergencies. Schools that lose instructional time or ADA due to an emergency can submit a Request for Allowance Due to Emergency Conditions, Form J-13A (“J-13A waiver”) to the CDE to obtain approval for attendance and instructional time credit.

State law explicitly requires the SPI to hold LEAs harmless for material loss of ADA due to fire, flood, impassable roads, epidemic, earthquake, the imminence of a majority safety hazard as determined by the local law enforcement agency, or a strike involving transportation services to pupils provided by a non-school entity. A decrease in ADA is considered material if at least ten percent of the students who would normally attend a school do not attend on any one day. When the Governor declares a state of emergency, the 10 percent requirement does not apply. While PSPS events are not explicitly included in the list of emergencies for which the SPI must grant ADA credit, the CDE states on its website that "...to the extent LEAs have to close due to an unforeseen power outage that causes participation in school to be unsafe, or LEAs find that they can keep schools open but in doing so experience a material loss of attendance as a result of an unforeseen loss of power, they would most likely meet the conditions for a J-13A waiver." According to the CDE, no J-13A waiver request submitted due to a PSPS related closure has ever been denied. Over 540 J-13A waivers were submitted to the CDE in 2019-20, and while not all of the waivers have been processed yet, the CDE has approved 128 and denied 0 requests due to PSPS events so far. If an LEA has additional emergency days built in to its school calendar, the CDE recommends that LEAs use these days before requesting ADA and/or instructional time credit via a J-13A waiver.

Because the CDE has set a precedent of approving J-13A waivers submitted by LEAs due to PSPS events, *the Committee may wish to consider* whether this bill is necessary to protect LEAs from financial losses due to PSPS-related closures.

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) 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, 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 LEAs from superintendents and charter school administrators.

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, county office of education 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.

SB 97 (Committee on Budget and Fiscal Review), Chapter 357, Statutes of 2013, creates the LCFF, and specifies that the penalty for districts that fail to meet instructional day requirements is a maximum of five days' ADA apportionments.

REGISTERED SUPPORT / OPPOSITION:

Support

California Association of School Business Officials (CASBO)
California County Superintendents Educational Services Association (CCSESA)
California Federation of Teachers
California School Employees Association
California State PTA
California Teachers Association
Contra Costa County Office of Education
County of Napa
Humboldt County Office of Education
Lake County Office of Education
Napa County Office of Education
San Bernardino County District Advocates for Better Schools (SANDABS)
San Bernardino County Superintendent of Schools
San Diego County Office of Education
San Diego Unified School District
Sierra Club
Small School Districts Association
Solano County Office of Education
Sonoma County Office of Education
Sonoma County Superintendent of Schools
Yolo County Office of Education

Opposition

None on file

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