
THIRD READING

Bill No: AB 86
Author: Committee on Budget
Amended: 3/1/21 in Senate
Vote: 21

SENATE BUDGET & FISCAL REVIEW COMMITTEE: 18-0, 3/2/21
AYES: Skinner, Nielsen, Caballero, Cortese, Dahle, Durazo, Eggman, Grove,
Laird, McGuire, Melendez, Min, Newman, Ochoa Bogh, Pan, Roth, Stern,
Wieckowski

ASSEMBLY FLOOR: Not relevant

SUBJECT: COVID-19 relief and school reopening, reporting, and public health requirements

SOURCE: Author

DIGEST: This bill makes necessary changes related to funding for local educational agency operations during the COVID-19 pandemic, and other technical changes.

ANALYSIS:

This bill:

- 1) Requires the school administrator or other person in charge of a public or private school campus maintaining transitional kindergarten or any of grades 1 to 12, inclusive, to report cases of staff or pupils who have been present onsite and have tested positive for COVID-19, to the local health officer. Beginning March 15, 2021, a local educational agency (LEA) with two or more outbreaks of COVID-19 shall be subject to a safety review by the State Department of Public Health.
- 2) Requires every school district, county office of education, charter school, and private school maintaining transitional kindergarten or any of grades 1 to 12,

inclusive, to notify the State Department of Public Health of information relating to in-person instruction and activities twice per month.

- 3) Requires every school district, county office of education, charter school, and private school offering in-person instruction to transitional kindergarten or any of grades 1 to 12, inclusive, to post a completed COVID-19 school safety plan on its internet website home page. For LEAs not currently offering in-person instruction, the LEA must post a completed COVID-19 safety plan on its internet website home page at least five days before offering in-person instruction. For those LEAs offering in-person instruction while in the purple tier, the COVID-19 safety plan must be submitted to the local public health department and the State Department of Public Health for a review period, at least five days prior to offering in-person instruction.
- 4) Appropriates a total of \$6.6 billion in one-time Proposition 98 General Fund for In-Person Instruction and Expanded Learning Opportunities Grants. Funding will be provided in equal portions in May and August of 2021, and funds are available for expenditure until August 31, 2022. Funding requirements are subject to audit, as specified.
 - Of the total, \$2 billion in In-Person Instruction Grants are provided to LEAs, with the exception of non-classroom based charter schools, proportionate to each LEA's share of the Local Control Funding Formula allocation, conditional on offering in-person instruction, commencing on or before April 1, 2021, as follows:
 - For an LEA regardless of county tier: To all students with disabilities and the following student groups consistent with its COVID-19 school safety plan and in compliance with Guidance Related to Cohorts issued by the State Department of Public Health:
 - Foster youth.
 - Homeless pupils.
 - English learners.
 - Pupils without access to a computing device, software, and high-speed internet necessary to participate in online instruction, as determined by the LEA.
 - Disengaged pupils.

- Pupils at risk of abuse, neglect, or exploitation.

If the number of pupils in the prioritized pupil groups seeking in-person instruction exceeds the practical capacity of an LEA to maintain the health and safety standards in the LEA's COVID-19 School Safety Plan, an LEA may limit the number of pupils served in the prioritized pupil groups to its maximum practical capacity.

- For an LEA in a county in the purple tier with a case rate at or below 25 new daily cases of COVID-19 per 100,000: To all students with disabilities and student groups as described above and to all students in grades transitional kindergarten through grade two.
- For an LEA in a county in the red tier: To all students with disabilities and student groups as described above and to all students in grades transitional kindergarten through the highest elementary school grade (up to grade 6, inclusive), as applicable and at least one full grade for middle and high school (grades 6 or 7 to 12 inclusive), as applicable.

An LEA providing in-person instruction in a county in the purple tier must conduct asymptomatic testing for staff and pupils participating in in-person instruction consistent with the state-supported cadences set forth in the COVID-19 industry sector guidance for schools and school-based programs. An LEA providing in-person instruction in a county in the red tier, or lower, is not required to conduct or maintain asymptomatic testing for staff and pupils participating in in-person instruction consistent with the state-supported cadences set forth in the COVID-19 industry sector guidance for schools and school-based programs. An LEA that was providing in-person instruction on or before March 31, 2021, or has completed and posted a COVID-19 school safety plan to the LEA's internet website on or before March 31, 2021, is not subject to the requirement to conduct asymptomatic testing for staff and pupils participating in in-person instruction consistent with the state-supported cadences set forth in the COVID-19 industry sector guidance for schools and school-based programs. LEA's in the red tier must describe their testing plan in their COVID-19 Safety Plan.

An LEA that opens for in-person instruction after April 1, but on or before May 15, 2021, shall be subject to a reduction in grant funding equal to one percent per instructional day consistent with the LEA's adopted school calendar. An LEA that does not open for in-person instruction on or before May 15, 2021, forfeits their entire share of the \$2 billion grant funding.

LEAs must report on their compliance with the grant requirements by June 1, 2021, and any funds reduced from or forfeited by LEAs will be redistributed to participating LEAs.

As a condition of funding, LEAs must offer continuous in-person instruction through the end of the 2020-21 school year, unless closed by local or state health officer. LEAs offering in-person instruction are still subject to the distance learning instructional time requirements enacted for the 2020-21 school year.

Funds received under this section may be used for any purpose consistent with providing in-person instruction, including but not limited to COVID-19 testing, cleaning, personal protective equipment, facility needs, staffing costs, and social and mental health supports provided in conjunction with in-person instruction.

- Of the total, \$4.6 billion in Expanded Learning Opportunities Grants are provided to LEAs proportionate to each LEA's share of the Local Control Funding Formula allocation. State Special Schools would receive \$725 per average daily attendance and LEAs would receive \$1,000 per homeless pupil in addition to their LCFF-based allocation. These funds are for LEAs to provide supplemental instruction and support to students. Specified allowable uses include extended instructional learning time, accelerated learning strategies, summer school, tutoring or one-on-one support, professional development, and social-emotional wellbeing supports, among others.

LEAs may expend up to ten percent of funding to support school reopening for instructional services related to learning loss if the LEA did not receive a share of the \$2 billion provided to re-open schools.

In addition, an LEA must use ten percent of their allocation under this portion of the grant to re-hire, or expand the numbers of paraprofessionals.

Finally, an LEA must use at least 85 percent of its apportionment for expenditures related to providing allowable services in-person, and may use up to fifteen percent to increase or improve services for pupils participating in distance learning or to prepare an LEA to offer in-in-person instruction.

On or before June 1, 2021, the governing board or body of an LEA shall adopt at a public meeting, and post on its internet website, a plan describing how the apportioned funds will be used in compliance with the requirements of the funding. Plans must be submitted to the appropriate

oversight body, and LEAs must provide schoolsite staff and parents an opportunity to be involved in the development of the plan. The plan template will require a description of how an LEA assessed the needs of its pupils, informs students and parents of available learning recovery supports, involves parents and schoolsite staff, and planned for supplemental instruction and support. An expenditure plan is also required including the coordination of funds received under this act with related federal stimulus funds.

- 5) Specifies that neither funding conditions or other requirements established in this bill, nor the issuance of any nonmandatory guidance by the State Department of Public Health shall be construed as creating or establishing an affirmative obligation for an LEA to revise its completed COVID-19 school safety plan that is publically posted on its internet website on or before March 31, 2021.
- 6) Appropriates \$25 million one-time General Fund for the State Department of Public Health's Safe Schools for All Team to coordinate technical assistance, community engagement, transparency, and safety enforcement, subject to an expenditure plan and notification to the Joint Legislative Budget Committee and the appropriate legislative committees. Funds are available for expenditure until June 30, 2023.
- 7) Appropriates \$5 million one-time Proposition 98 General Fund for the California Collaborative of Educational Excellence for the purpose of providing support to LEAs in maximizing positive pupil outcomes and effectively using funds provided under the Expanded Learning Opportunities Grant, subject to an expenditure plan and notification to the Joint Legislative Budget Committee and the appropriate legislative committees. Funds are available for expenditure until June 30, 2023.
- 8) Requires the Government Operations Agency to prioritize COVID-19 vaccinations for all persons in Tier 1B of vaccination allocation guidelines equally statewide. This bill also requires that the Government Operations Agency to prioritize a set of set number of appointments for COVID-19 vaccinations for education sector staff under Tier 1B, and that of the first doses available to the state, 10 percent shall be offered to childcare and K-12 education sector staff. This bill specifies that this does not establish the vaccination of school staff or pupils as a prerequisite for providing in-person instruction.
- 9) Allows, for the 2021-22 award year, the California Student Aid Commission to waive the requirement to submit a test score in lieu of a qualifying grade point

average (GPA) for students who do not have a GPA and are unable to submit a test score due to unavailability of designated testing due to the COVID-19 pandemic.

- 10) Extends the date by which funds received by LEAs from the Coronavirus Relief Fund must be expended from December 30, 2020, to May 31, 2021. This bill also requires LEAs to recertify, as part of the quarterly reporting required for the period ending March 31, 2021, that funds shall be used pursuant to federal law by May 31, 2021. If an LEA does not recertify the ability to comply with the deadlines, funds may be reallocated upon order of the Director Finance pursuant to Section 11.90 of the Budget Act of 2020 (Chapters 6 and 7 of the Statutes of 2020).
- 11) Makes technical clarifications to the allocation of funds provided for additional emergency vouchers for children of essential workers and other specified children.

FISCAL EFFECT: Appropriation: Yes Fiscal Com.: Yes Local: Yes

According to the Senate Budget and Fiscal Review Committee, this bill appropriates \$6.6 billion in one-time Proposition 98 General Fund for LEAs, \$5 million in one-time Proposition General Fund for the California Collaborative for Educational Excellence, and \$25 million in one-time General Fund for the State Department of Public Health.

SUPPORT: (Verified 3/1/21)

None received

OPPOSITION: (Verified 3/1/21)

None received

Prepared by: Elisa Wynne / B. & F.R. / 916-651-4103
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