

**Introduced by Senator Dodd
(Principal coauthor: Senator McGuire)**

January 23, 2020

An act to amend Sections 41422 and 46392 of, and to add Chapter 4 (commencing with Section 46400) to Part 26 of Division 4 of Title 2 of, the Education Code, relating to education finance.

LEGISLATIVE COUNSEL'S DIGEST

SB 884, as introduced, Dodd. Education finance: emergencies: public safety power shutoffs.

Existing law prohibits a school district from receiving a state apportionment based upon average daily attendance unless it has maintained the regular day schools of the district for at least 175 days during the next preceding fiscal year. Existing law exempts from this prohibition a school district, county office of education, or charter school that is prevented from maintaining its schools during a fiscal year for at least 175 days because of a specified emergency or other extraordinary condition.

If the average daily attendance of a school district, county office of education, or charter school has been materially decreased during a fiscal year because of a specified emergency, existing law requires the Superintendent of Public Instruction to estimate the average daily attendance in a manner that credits to the school district, county office of education, or charter school approximately the total average daily attendance that would have been credited to the school district, county office of education, or charter school had the emergency not occurred.

This bill would add public safety power shutoffs to the list of emergencies for which the above-described provisions apply.

The bill would also establish the Disaster Relief Instructional Recovery Program for the purpose of allocating funding to eligible local educational agencies to make up instructional days lost due to emergency or other extraordinary conditions. The bill would require a participating local educational agency to be reimbursed at a specified rate for instructional days offered as part of the program. The bill would prohibit the total amount of funding received by a local educational agency pursuant to the program from exceeding the amount of funding that is attributable to the instructional time the local educational agency lost due to emergency or other extraordinary conditions. The bill would make the program operative only to the extent an appropriation is made for that purpose.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 41422 of the Education Code is amended
2 to read:
3 41422. (a) A school district, county office of education, or
4 charter school that is prevented from maintaining its schools during
5 a fiscal year for at least 175 days or is required to operate sessions
6 of shorter length than otherwise prescribed by law because of fire,
7 flood, earthquake, *public safety power shutoff*, or epidemic, or
8 because of any order of any military officer of the United States
9 or of the state to meet an emergency created by war, or of any civil
10 officer of the United States, of the state, or of any county, city and
11 county, or city authorized to issue that order to meet an emergency
12 created by war, or because of other extraordinary conditions, or
13 because of inability to secure or hold a teacher, or because of the
14 illness of the teacher, which fact shall be shown to the satisfaction
15 of the Superintendent by the affidavits of the members of the
16 governing board of the school district, the ~~governing~~ *county* board
17 of the county office of education, or the governing board or body
18 of the charter school and of the county superintendent of schools,
19 shall receive the same apportionment from the State School Fund
20 as it would have received had it not been so prevented from
21 maintaining school for at least 175 full-length days.
22 (b) This section shall also apply to school districts, county
23 offices of education, or charter schools that, in the absence of one

1 or more of the conditions prescribed by this section, would have
2 qualified for funds pursuant to Sections 46200 to 46208, inclusive,
3 or Section 47612.5, as applicable.

4 SEC. 2. Section 46392 of the Education Code is amended to
5 read:

6 46392. (a) If the average daily attendance of a school district,
7 county office of education, or charter school during a fiscal year
8 has been materially decreased during a fiscal year because of any
9 of the following, the fact shall be established to the satisfaction of
10 the Superintendent by affidavits of the members of the governing
11 board or body of the school district, county office of education, or
12 charter school and the county superintendent of schools:

13 (1) Fire.

14 (2) Flood.

15 (3) Impassable roads.

16 (4) Epidemic.

17 (5) Earthquake.

18 (6) *Public safety power shutoff.*

19 ~~(6)~~

20 (7) The imminence of a major safety hazard as determined by
21 the local law enforcement agency.

22 ~~(7)~~

23 (8) A strike involving transportation services to pupils provided
24 by a nonschool entity.

25 ~~(8)~~

26 (9) An order provided for in Section 41422.

27 (b) (1) ~~In the event~~ *If* a state of emergency is declared by the
28 Governor in a county, a decrease in average daily attendance in
29 the county below the approximate total average daily attendance
30 that would have been credited to a school district, county office
31 of education, or charter school had the state of emergency not
32 occurred shall be deemed material. The Superintendent shall
33 determine the length of the period during which average daily
34 attendance has been reduced by the state of emergency.

35 (2) The period determined by the Superintendent shall not extend
36 into the next fiscal year following the declaration of the state of
37 emergency by the Governor, except upon a showing by a school
38 district, county office of education, or charter school, to the
39 satisfaction of the Superintendent, that extending the period into

1 the next fiscal year is essential to alleviate continued reductions
2 in average daily attendance attributable to the state of emergency.
3 (3) Notwithstanding any other law, the Superintendent shall
4 extend through the 2018–19 fiscal year the period during which it
5 is essential to alleviate continued reductions in average daily
6 attendance attributable to a state of emergency declared by the
7 Governor in October 2017, for a school district where no less than
8 5 percent of the residences within the school district or school
9 district facilities were destroyed by the qualifying emergency.

10 (c) The average daily attendance of the school district, county
11 office of education, or charter school for the fiscal year shall be
12 estimated by the Superintendent in a manner that credits to the
13 school district, county office of education, or charter school for
14 determining the apportionments to be made to the school district,
15 county office of education, or charter school from the State School
16 Fund approximately the total average daily attendance that would
17 have been credited to the school district, county office of education,
18 or charter school had the emergency not occurred or had the order
19 not been issued.

20 (d) Notwithstanding any other law, for a school district or charter
21 school physically located within a school district, where no less
22 than 5 percent of the residences within the school district, or the
23 school district’s facilities, were destroyed as a result of a state of
24 emergency that was declared by the Governor in November 2018,
25 all of the following shall apply:

26 (1) In the 2020–21 fiscal year, for school districts, the
27 Superintendent shall calculate the difference between the school
28 district’s certified second principal apportionment local control
29 funding formula entitlement pursuant to Section 42238.02 in the
30 2020–21 fiscal year and the 2019–20 fiscal year and, if there is a
31 difference, allocate the amount of that difference to the school
32 district.

33 (2) In the 2019–20 and 2020–21 fiscal years, for charter schools,
34 the Superintendent shall calculate the difference between the
35 charter school’s certified second principal apportionment local
36 control funding formula entitlement pursuant to 42238.02 in the
37 current year and each respective prior year and, if there is a
38 difference, allocate the amount of that difference to the charter
39 school.

1 (3) For a county office of education funded pursuant to
2 paragraph (1) of subdivision (g) of Section 2575 that has within
3 the boundaries of the county school districts or charter schools
4 affected pursuant to this subdivision and that has in the schools
5 operated by the county office of education at least a 10-percent
6 decrease in average daily attendance in the current fiscal year, in
7 the 2019–20 and 2020–21 fiscal years, the Superintendent shall
8 calculate the difference between the county office of education’s
9 alternative education grant entitlement certified at the annual
10 principal apportionment pursuant to Section 2574 in the current
11 fiscal year and each respective prior fiscal year and, if there is a
12 difference, allocate the amount of that difference to the county
13 office of education.

14 (4) A school district may transfer funds received pursuant to
15 paragraph (1) to the county office of education for the portion of
16 the funds that represents pupils served by the county office of
17 education who are funded through the school district’s local control
18 funding formula apportionment pursuant to Section 2576.

19 (5) In each fiscal year, the allocations shall be made to school
20 districts and charter schools by the Superintendent as soon as
21 practicable after the second principal apportionment and to county
22 offices of education as soon as practicable after the annual principal
23 apportionment. The allocations made shall be final. The
24 Superintendent may provide a preliminary allocation of up to 50
25 percent no sooner than the first principal apportionment.

26 (6) (A) The amounts described in this subdivision shall be
27 continuously appropriated from the General Fund to the
28 Superintendent for these purposes.

29 (B) For purposes of making the computations required by
30 Section 8 of Article XVI of the California Constitution, the
31 appropriation made by this subdivision shall be deemed to be
32 “General Fund revenues appropriated for school districts,” as
33 defined in subdivision (c) of Section 41202, for the fiscal year in
34 which they are appropriated, and included within the “total
35 allocations to school districts and community college districts from
36 General Fund proceeds of taxes appropriated pursuant to Article
37 XIII B,” as defined in subdivision (e) of Section 41202.

38 (e) This section applies to any average daily attendance that
39 occurs during any part of a school year.

1 SEC. 3. Chapter 4 (commencing with Section 46400) is added
2 to Part 26 of Division 4 of Title 2 of the Education Code, to read:

3
4 CHAPTER 4. DISASTER RELIEF INSTRUCTIONAL RECOVERY
5 PROGRAM
6

7 46400. (a) (1) This section shall be known, and may be cited,
8 as the Disaster Relief Instructional Recovery Program.

9 (2) For purposes of this section, “local educational agency”
10 means a school district, county office of education, or charter
11 school.

12 (b) The Disaster Relief Instructional Recovery Program is hereby
13 established, to be administered by the Superintendent, for the
14 purpose of allocating funding to eligible local educational agencies
15 to make up instructional days lost due to emergency or other
16 extraordinary conditions.

17 (c) To be eligible for participation in the program, a local
18 educational agency shall demonstrate to the satisfaction of the
19 Superintendent, as shown by affidavits of the members of the
20 governing board or body of the school district, county office of
21 education, or charter school and the county superintendent of
22 schools, both of the following:

- 23 (1) That the local educational agency has either:
- 24 (A) Experienced a material decrease in average daily attendance
- 25 during a fiscal year as a result of one or more of the events
- 26 described in subdivision (a) of Section 46392.
- 27 (B) Failed to maintain its schools for at least 175 days during
- 28 a fiscal year for one or more of the reasons described in subdivision
- 29 (a) of Section 41422.

30 (2) That one or more of the events described in subdivision (a)
31 of Section 46392 resulted in the loss of at least five instructional
32 days in a single school year or the cumulative loss of at least 10
33 instructional days in two out of three consecutive school years.

34 (d) (1) A local educational agency that wishes to participate in
35 the program shall submit an application to the Superintendent.

36 (2) The Superintendent shall respond to an application submitted
37 by a local educational agency within 30 days. In considering
38 whether to approve the application, the Superintendent may request
39 additional information as needed.

1 (e) (1) Notwithstanding any other law, a certificated employee
2 or pupil of a participating local educational agency shall not be
3 required to attend instructional days offered by the local
4 educational agency pursuant to the program.

5 (2) A participating local educational agency may offer
6 instructional days pursuant to the program during a summer school
7 session or any other supplemental instructional program, in an
8 amount equal to or less than the instructional time the local
9 educational agency lost due to an event described in subdivision
10 (a) of Section 46392.

11 (f) (1) (A) Subject to the adjustments described in this
12 paragraph, the Superintendent shall reimburse a participating local
13 educational agency for instruction provided pursuant to the program
14 at a rate of seven dollars (\$7) per pupil per hour.

15 (B) The rate described in subparagraph (A) shall be adjusted
16 annually by the percentage change in the annual average value of
17 the Implicit Price Deflator for State and Local Government
18 Purchases of Goods and Services for the United States, as published
19 by the United States Department of Commerce for the 12-month
20 period ending in the third quarter of the prior fiscal year. This
21 percentage change shall be determined using the latest data
22 available as of May 10 of the preceding fiscal year compared with
23 the annual average value of the same deflator for the 12-month
24 period ending in the third quarter of the second preceding fiscal
25 year, using the latest data available as of May 10 of the preceding
26 fiscal year, as reported by the Department of Finance.

27 (C) If the amount appropriated for purposes of the program is
28 insufficient to reimburse each participating local educational
29 agency at the rate described in subparagraph (A), as adjusted by
30 subparagraph (B), the Superintendent shall adjust the rate of
31 reimbursement proportionally to ensure each participating local
32 educational agency is reimbursed at the same rate.

33 (2) The total amount of funding allocated to a participating local
34 educational agency pursuant to the program shall not exceed the
35 amount of funding that is attributable to the instructional time the
36 local educational agency lost due to an event described in
37 subdivision (a) of Section 46392.

- 1 (g) This section shall become operative only if an appropriation
- 2 is made in the annual Budget Act or other statute for its purposes.

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