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California State Senate

EDUCATION



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AGENDA

Wednesday, April 28, 2021
9 a.m. -- John L. Burton Hearing Room (4203)

MEASURES HEARD IN FILE ORDER

- | | | | |
|------|--------|--------|--|
| 1. | SB 217 | Dahle | Comprehensive sexual health education and human immunodeficiency virus (HIV) prevention education. |
| * 2. | SB 229 | Dahle | Pupil health: mental health services: grants. |
| 3. | SB 442 | Newman | School districts and community college districts: governing board elections: charter cities. |
| * 4. | SB 525 | Grove | School closures: mental health effects.(Urgency) |
| * 5. | SB 616 | Rubio | School facilities: proceeds from lease of surplus property: affordable rental housing facilities. |
| 6. | SB 723 | Rubio | Pupil instruction: tutoring program: learning loss mitigation. |
| 7. | SB 770 | Roth | College and Career Access Pathways partnerships: California LAW Pathways: appropriation. |
| 8. | SB 802 | Roth | Private postsecondary education. |

SENATE COMMITTEE ON EDUCATION

Senator Connie Leyva, Chair

2021 - 2022 Regular

Bill No: SB 217 **Hearing Date:** April 28, 2021
Author: Dahle
Version: April 7, 2021
Urgency: No **Fiscal:** Yes
Consultant: Brandon Darnell

Subject: Comprehensive sexual health education and human immunodeficiency virus (HIV) prevention education

Note: This bill was previously heard by this Committee on March 10, 2021 and failed passage, but reconsideration was requested and granted. The bill was subsequently amended and is now being reconsidered in its present form.

SUMMARY

This bill amends the California Healthy Youth Act by: (1) requiring local educational agencies (LEAs) to adopt a policy at a publicly noticed meeting specifying how parents and guardians of pupils may inspect the written and audiovisual educational materials used in comprehensive sexual health education and HIV prevention education, and (2) exempting the existing notification requirement from the existing translation requirement.

BACKGROUND

Existing law:

- 1) Establishes the California Healthy Youth Act (CHYA), which requires schools operated by school districts (defined as school districts, charter schools, county boards of education, county superintendents of schools, and the California Schools for the Deaf and for the Blind – hereafter referred to as “LEAs”), to provide comprehensive sexual health and HIV prevention instruction to all students in grades 7 to 12, at least once in middle school and once in high school. (Education Code § 51933)
- 2) Requires that pupils in grades 7 to 12, inclusive, receive comprehensive sexual health education at least once in junior high or middle school and at least once in high school. (EC § 51934)
- 3) Requires that the instruction and related instructional materials be, among other things:
 - a) Age appropriate.
 - b) Medically accurate and objective.

- c) Appropriate for use with pupils of all races, genders, sexual orientations, and ethnic and cultural backgrounds, pupils with disabilities, and English learners.
 - d) Made available on an equal basis to a pupil who is an English learner, consistent with the existing curriculum and alternative options for an English learner pupil.
 - e) Accessible to pupils with disabilities. (EC § 51934)
- 4) Authorizes an LEA to provide comprehensive sexual health education and HIV prevention education earlier than grade 7 using instructors trained in the appropriate courses and age-appropriate and medically-accurate information. (EC § 51933)
- 5) Requires LEAs, at the beginning of each school year, or, for a pupil who enrolls in a school after the beginning of the school year, at the time of that pupil's enrollment, to provide parents and guardians with a notice:
- a) About instruction in comprehensive sexual health education and HIV prevention education and research on pupil health behaviors and risks planned for the coming year.
 - b) Advise the parent or guardian that the educational materials used in sexual health education are available for inspection.
 - c) Advise the parent or guardian whether the comprehensive sexual health education or HIV prevention education will be taught by school district personnel or by outside consultant, as provided.
 - d) Advise the parent or guardian that the parent or guardian has the right to excuse their child from comprehensive sexual health education and HIV prevention education and that in order to excuse their child they must state their request in writing to the LEA. (EC § 51938)
- 6) Provides that the parent or guardian of a pupil has the right to excuse their child from all or part of that education, including related assessments, through a passive consent ("opt-out") process. (EC § 51938)
- 7) Prohibits a school district from requiring active parental consent ("opt-in") for sexual health education for pupils of any grade. (EC § 51938)
- 8) Requires all notices, reports, statements, and records sent to the parent or guardian of any pupil by the public school or school district, if 15 percent or more of the pupils enrolled in a public school that provides instruction in kindergarten or any of grades 1 to 12, inclusive, speak a single primary language other than English, as determined from the census data submitted to the California Department of Education (CDE) in the preceding year, to be written in that primary language, in addition to English, and may be responded to either in English or the primary language. (EC § 48985)

ANALYSIS

This bill amends the California Healthy Youth Act by: (1) requiring local educational agencies (LEAs) to adopt a policy at a publicly noticed meeting specifying how parents and guardians of pupils may inspect the written and audiovisual educational materials used in comprehensive sexual health education and HIV prevention education, and (2) exempting the existing notification requirement from the existing translation requirement. Specifically, this bill:

- 1) Requires LEAs to adopt a policy at a publicly noticed meeting specifying how parents and guardians of pupils may inspect the written and audiovisual educational materials used in comprehensive sexual health education and HIV prevention education that is consistent with all of the following:
 - a) The materials shall be made available at each schoolsite and publicly posted on the LEA's internet website, if the LEA maintains an internet website or upon establishing an internet website.
 - b) If the LEA is not authorized to post the materials on its publicly available internet website due to copyright protections, the material shall be made available through a parent or guardian portal if the school district already maintains a portal or upon establishing a portal.
 - c) The materials and updates or changes to the materials shall be made available at each schoolsite and publicly posted on the LEA's internet website, and, if applicable, through a parent or guardian portal, within 30 days of adoption of the policy, but in no event later than 14 days before the instruction is given.
 - d) Updates or changes to the materials shall be made available at each schoolsite and publicly posted on the LEA's internet website, and, if applicable, through a parent or guardian portal, within 30 days of adoption of the updates or changes to the materials, but in no event later than 14 days before the instruction is given.
 - e) If a school district contracts with outside consultants or guest speakers, the materials to be used by the outside consultants or guest speakers shall be made available at each schoolsite and publicly posted on the LEA's internet website, and, if applicable, through a parent or guardian portal, within 30 days of contracting with the outside consultants or guest speakers, but in no event later than 14 days before the instruction is given.
 - f) Specifically for outside consultants or guest speakers that were contracted for before January 1, 2022, the materials to be used by be made available at each schoolsite and publicly posted on the LEA's internet website, and if applicable, through a parent or guardian portal, pursuant to subparagraph (A), within 30 days of adoption of the policy, but in no event later than 14 days before the instruction is given.
- 2) Applies these requirements to materials adopted by the governing board of the school district before January 1, 2022.

- 3) Exempts the materials used in the comprehensive sexual health education from the existing requirement to translate all notices, reports, statements, and records sent to the parent or guardian of any pupil by the public school or school district, if 15 percent or more of the pupils enrolled in a public school that provides instruction in kindergarten or any of grades 1 to 12, inclusive, speak a single primary language other than English (as determined from the census data submitted to the CDE in the preceding year).

STAFF COMMENTS

- 1) **Need for the bill.** According to the author, "This bill makes instructional materials more transparent and provides access for parents of school aged children enrolled in public and charter schools. Specifically, it requires school districts to make any adopted curriculum available on their websites, while ensuring there is also reasonable accommodation for non-English speaking parents to provide resources in the appropriate language spoken by those parents."
- 2) **Back for reconsideration.** When this bill was originally heard in this committee on March 10, it included extensive new translation requirements on the actual materials used for instruction in the classroom. The primary difference between the prior version of the bill and the current version of the bill is the removal of those new, overly burdensome translation requirements. However, in the effort to remove what would have been new translation requirements, the bill now exempts all materials used for purposes of the CHYA from existing translation requirements. This *could* be read to include exempting the existing notification requirement from the existing requirement that notifications be translated if certain conditions are met. Under existing law, "materials" are not required to be translated, and the author's amendments to specifically remove the materials translation requirements throughout the bill accomplishes that purpose. Accordingly, **staff recommends that the bill be amended** to clarify that the existing translation requirement on notices is still applicable to notices under the CHYA by deleting subdivision (e).
- 3) **History of the California Healthy Youth Act.** The CHYA took effect in 2003 and was originally known as the Comprehensive Sexual Health and HIV/AIDS Prevention Education Act. Initially, the act authorized local educational agencies (LEAs) to provide comprehensive sexual health education in any grade, including kindergarten, so long as it consisted of age-appropriate instruction and used instructors trained in the appropriate courses. Beginning in 2016 with AB 329 (Weber, 2015) the act was renamed the CHYA and for the first time required LEAs, excluding charter schools, to provide comprehensive sexual health education and HIV prevention education to all students at least once in middle school and at least once in high school. Beginning this year, SB 2601 (Weber, 2019) requires charter schools to provide that same instruction. Throughout this time, from its inception in 2003 through today, the CHYA has always afforded parents the right to opt their child out of part, or all, of the instruction and required LEAs to notify parents and guardians of this right. Parents and guardians are able to exercise this right by informing the LEA in writing of their decision.

- 4) ***Teen pregnancies are at an all-time low in California.*** According to data released by the California Department of Public Health (CDPH) in 2019, California's teen birth rate for ages 15 to 19 fell from 46.7 per 1,000 births in 2000 to 13.9 per 1,000 births in 2017, the most recent year of data. Additionally, for teenagers younger than 15, the total number of births has decreased from 895 in 2000 to just 153 in 2017. These decreases are exceedingly important. According to the CDPH, "compared with births to adult women, infants born to adolescents are at greater risk for preterm birth, low birthweight, and death during infancy. Childbearing in adolescence has been associated with decreased likelihood of school completion and post-secondary education, decreased likelihood of future employment, and greater dependence on public assistance. Moreover, adolescent childbearing often leads to a cycle of disadvantage and poverty."
- 5) ***Why are teen pregnancy rates decreasing?*** According to the CDPH, "On a national level, evidence suggests that adolescent birth rates are declining largely because more youth are using contraception, including long-acting reversible contraception, known as LARC methods. Additionally, according to the CDPH, "youth also appear to be delaying sexual intercourse, although this accounts for much less of the decline. Public health prevention, evidence-based education and support programs, and increased outreach around youths' rights and improved access to sexual and reproductive health clinical services have contributed to these successes. Other contributing factors include declines in fertility rates during the recession. Finally, the CDPH has specifically cited the CHYA as an example of one of California's innovative sexual health policies that help create a multi-pronged approach for promoting adolescent sexual health and are consistent with the link between contraceptive use and reductions in early childbearing.
- 6) ***Comprehensive sexual health education in lower grades.*** Comprehensive sexual health education in lower grades has always been, and remains, optional. Under existing law, for grades 6 and below, an LEA must "opt-in" to offer that instruction to students. The LEA is then required by law to notify parents and guardians of their right to "opt-out" their child, whether in part or completely. Existing law has always required that all comprehensive sexual health education be age-appropriate, medically accurate, and objective – regardless of grade.

According to the CDE, in elementary school it is permissible to teach knowledge and skills related to comprehensive sexual health and HIV prevention education in grades kindergarten through grade six (K–6), inclusive. All instruction and materials in grades K–6 must meet the instructional criteria or baseline requirements of the CHYA and the content that is required in grades 7–12 may be also be included in an age-appropriate way in earlier grades.

- 6) ***Right to inspection.*** Existing law requires LEAs to notify parents and guardians of their right to inspect written and audiovisual materials. However, existing law does not prescribe how that inspection must be implemented. This bill proposes to prescribe some parameters for inspection, including that materials be translated, available online, and before the date of instruction. This bill helps ensure adequate lead-time and ease of accessibility for parents and guardians,

and also fosters a transparent development process for the inspection process. However, the bill also requires LEAs to translate all written and audio materials for inspection, potentially into several languages. The committee may wish to consider that, to the extent that LEAs determine this proposed requirement is overly burdensome or costly, it could cause some LEAs to forgo offering comprehensive sexual health and HIV prevention education in grades K–6.

- 7) **Previous legislation.** SB 673 (Morrell, 2019) was similar to this bill and would have amended the California Healthy Youth Act by: (1) requiring active parental consent (“opt-in”) with a signature for sexual health and HIV prevention education in grades lower than 7, (2) specifically requiring local educational agencies to make written and audio visual materials available for inspection before the date of instruction on the local educational agency’s Internet website, and (3) requiring those material to be translated. SB 673 failed passage in this committee.

SUPPORT

Alliance to Protect Children
 California Catholic Conference
 California Family Council
 March for Faith
 Pacific Justice Institute
 Right to Life League of Southern California
 The American Council for Evangelicals

OPPOSITION

ACT for Women and Girls
 American Civil Liberties Union of California
 American College of Obstetricians and Gynecologists District IX
 APLA Health
 Black Women for Wellness Action Project
 California Latinas for Reproductive Justice
 California LGBTQ Health and Human Services Network
 California School Boards Association
 Catelynn Kenner Consulting
 Children's Law Center of California
 Citizens for Choice
 Community Action Partnership of San Luis Obispo County, Inc.
 Desert Aids Project
 Equality California
 ETR
 Fresno Barrios Unidos
 GSA Network
 Health Connected
 LGBTQ Center OC
 Los Angeles LGBT Center
 More Than Sex-Ed
 Naral Pro-choice California

Our Family Coalition
Planned Parenthood Affiliates of California
Teen Success
The Los Angeles Trust for Children's Health
The Women's Foundation of California
Training in Early Abortion for Comprehensive Healthcare
Women's Health Specialists

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SENATE COMMITTEE ON EDUCATION

Senator Connie Leyva, Chair

2021 - 2022 Regular

Bill No:	SB 229	Hearing Date:	April 28, 2021
Author:	Dahle		
Version:	April 15, 2021		
Urgency:	No	Fiscal:	Yes
Consultant:	Brandon Darnell		

Subject: Pupil health: mental health services: grants

SUMMARY

This bill requires the California Department of Education (CDE), upon an appropriation, to provide up to five hundred million dollars (\$500,000,000) in grants each year for the exclusive purpose of providing mental health services for pupils affected by school closures and distance learning requirements resulting from the COVID-19 pandemic.

BACKGROUND

Existing law requires the governing board of a school district to give diligent care to the health and physical development of pupils, and authorizes the district to employ properly certified persons for the work. (Education Code § 49400)

ANALYSIS

This bill requires the CDE, upon an appropriation, to provide up to five hundred million dollars (\$500,000,000) in grants each year for the exclusive purpose of providing mental health services for pupils affected by school closures and distance learning requirements resulting from the COVID-19 pandemic. Specifically, this bill:

- 1) Requires the CDE, upon appropriation by the Legislature for these purposes, to provide up to five hundred million dollars (\$500,000,000) in grants each year to provide mental health services for pupils, as specified in the bill.
- 2) Requires the grants to be used for the exclusive purpose of providing mental health services for pupils affected by school closures and distance learning requirements resulting from the COVID-19 pandemic.
- 3) Requires CDE to allocate funding to each local educational agency (LEA) on a per unit of average daily attendance basis, using the most current data available pursuant to Section 41601 of the Education Code, and, to the extent permitted by the California Constitution, to each private school pursuant to a substantially similar methodology, as determined by CDE.
- 4) Requires each LEA that is in receipt of such a grant to submit a detailed report to the CDE, on or before August 31, 2024, and annually thereafter, on how the grant was spent, including direct services provided to pupils.

- 5) Requires the CDE, on or before December 31, 2024, and annually thereafter, to compile the information received from LEAs and submit a report to the Legislature.
- 6) Requires the information in the required reports, unless otherwise specified, to be for the academic year immediately preceding the reporting deadline and to not include any personally identifiable information for any individual.
- 7) Defines “local educational agency” for these provisions to mean a school district, county office of education, and charter school.
- 8) Specifies that the bill shall be implemented only if funds for its purposes are appropriated by the Legislature in the annual Budget Act. Any available state and federal funding may be the source of the appropriation for purposes of this bill.
- 9) States that it is the intent of the Legislature that moneys included in the annual Budget Act for purposes described in this article would count towards satisfying the minimum funding obligation under Section 8 of Article XVI of the California Constitution (Proposition 98 funds).

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, “Schools are not employing enough mental health providers, specifically school psychologists and counselors, to support the mental health needs in the school system. Millions of students are underserved and lack access to critical support systems. The psychosocial impact of COVID-19 may be related to the onset or exacerbation of pupil mental health problems. This bill would provide critical ongoing funding to increase staffing and services within school sites.”
- 2) ***California lags in providing social-emotional support to pupils.*** According to the CDE data for 2018-19, there were 6,329 school psychologists and 865 social workers employed in California schools. Further, 29 percent of California school districts have no counseling programs at all. The statewide ratio of students per counselor in this state is approximately 593 to 1, according to the most recent data from CDE. The American School Counselor Association (ASCA) recommends a 250-to-1 ratio of students to school counselors, and the national average, according to ASCA data, is actually 424-to-1 for the 2019–2020 school year, ranking California nearly last (ASCA has California with 601-to-1 for 2019-20). Additionally, as of 2018-19, there were only 2,720 credential school nurses, but there are more than 10,000 public K-12 schools in California.
- 3) ***COVID-19 has had an exacerbating effect on mental health issues.*** According to the 2020 report, “Roadmap for Resilience: The California Surgeon General’s Report on Adverse Childhood Experiences, Toxic Stress, and Health,” COVID-19 has only furthered the mental health issues children face. As the report notes, “For many children, the school is a bedrock of community belonging. The pandemic has not only disrupted children’s academic opportunities and connections with their peers and educators, it has also surfaced new and difficult experiences in the home: fear, anxiety, financial

distress, food and housing insecurity, and countless other challenges. Economic uncertainty is associated with increases in harsh parenting, which increases risk for child abuse and neglect, and the loss of friends and family through illness and isolation can also increase the total dose of acute stress and adversity and reduce the dose of buffering supports available from caregivers, educators, and other adults.”

- 4) ***Increasing occurrences of pupil mental health issues.*** However, even before COVID-19 the trend was not good. According to a Pew Research Center analysis of data from the 2017 National Survey on Drug Use and Health, in 2017, 3.2 million teens aged 12-17 said they had at least one depressive episode within the past 12 months. This is up by 1.2 million from the same survey conducted by the National Survey on Drug Use and Health in 2007. One-in-five (2.4 million) teenage girls reported experiencing one depressive episode in 2017, compared to 845,000 teenage boys. According to data from the Centers for Disease Control and Prevention, 13 percent of students in grades 9-12 in California in 2017 reported experiencing at least one depressive episode within the last 12 months. 32 percent felt sad or hopeless almost every day for 2 or more weeks in a row so that they stopped doing some usual activities within the past year, compared to 31 percent for the United States. 17 percent of pupils in grades 9-12 reported considering suicide attempts, while 9 percent reported they attempted suicide at least once within the past 12 month.

This trend is confirmed by data from the Office of Statewide Health Planning and Development. In 2019, emergency rooms throughout California treated 84,584 young patients’ ages 13 to 21 who had a primary diagnosis involving mental health. That is up from 59,705 in 2012, a 42 percent increase. Accordingly, **staff recommends that the bill amended** to remove the limitation that the grant funds be used exclusively for providing mental health services for pupils affected by school closures and distance learning requirements resulting from the COVID-19 pandemic, and instead be used for providing mental health services for all pupils, including those affected by school closures and distance learning requirements resulting from the COVID-19 pandemic.

- 5) ***Existing mental health services in schools.*** Mental health services in schools include a broad range of services, settings, and strategies. Mental health services that are provided in schools may include academic counseling, brief interventions to address behavior problems, assessments and referrals to other systems. Providing mental health services in a school-based setting helps address barriers to learning and allows for early intervention activities in a non-stigmatizing environment.
- 6) ***Constitutionality concern.*** Section 5 of Article XVI of the California Constitution states in part “Neither the Legislature, nor any county, city and county, township, school district, or other municipal corporation, shall ever make an appropriation, or pay from any public fund whatever, or grant anything to or in aid of any religious sect, church, creed, or sectarian purpose, or help to support or sustain any school, college, university, hospital, or other institution controlled by any religious creed, church, or sectarian denomination whatever.”

This provision clearly prohibits the state from providing direct financial to sectarian private schools. This bill proposes to allocate funding to private schools, many of which are sectarian. Accordingly **staff recommends that the bill amended** to remove the provision funding grants to private schools.

- 6) **Related legislation.** SB 14 (Portantino) (1) specifically adds “for the benefit of the behavioral health of the pupil” to the list of categories of excused absences for purposes of school attendance, and (2) requires the California Department of Education (CDE) to identify (A) an evidence-based training program for local education agencies (LEAs) to use to train classified and certificated school employees having direct contact with pupils in youth behavioral health, and (B) an evidence-based behavioral health training program with a curriculum tailored for pupils in grades 10 to 12, inclusive, for use by LEAs. SB 14 is pending in the Senate Appropriations Committee.

SB 224 (Portantino) requires each school district to ensure that all pupils in grades 1 to 12, inclusive, receive medically accurate, age-appropriate mental health education from instructors trained in the appropriate courses, and that each pupil receive this instruction at least once in elementary school, at least once in junior high school or middle school, and at least once in high school. SB 224 is pending in the Senate Appropriations Committee.

SB 508 (Stern) requires a health plan, health insurer, or a Medi-Cal managed care plan (MCP) that is required to cover mental health services to enter into a contract with all LEAs in which 15% or more of the students enrolled are insured by the plan, insurer, or Medi-Cal MCP, as specified. Requires DHCS, Department of Insurance, Department of Managed Health Care and CDE to develop a model contract for purposes of the contract between plans and LEAs. Authorizes an LEA to have an appropriate mental health professional provide brief initial interventions and additional services beyond that at a school campus when necessary for all referred students. Requires a health plan, health insurer, or Medi-Cal MCP to reimburse LEAs for brief initial interventions and additional services, as specified. Exempts the contracting and reimbursement provisions of this bill from applying to county MHPs. Requires telehealth be included as an approved modality for the Medi-Cal program for the specified services provided by an LEA. SB 508 is pending in the Senate Health Committee.

SB 525 (Grove) an urgency measure, requires the California Department of Public Health (CPHC), in consultation with the California Department of Education (CDE), to establish a policy to address the mental health effects of school closures on pupils in years when a state or local emergency declaration results in school closures; and requires local educational agencies (LEAs) to adopt that policy, subject to an appropriation for that purpose. SB 525 is scheduled to be heard in this committee on April 28, 2021.

SB 773 (Roth) requires DHCS, beginning the January 1, 2022, rating period through December 31, 2024, to make incentive payments to Medi-Cal Managed Care Plans (MCPs) that meet predefined goals and metrics that increase access to behavioral health services for children enrolled in kindergarten and grades 1 to 12. Requires DHCS, in consultation with Medi-Cal MCPs, county behavioral

health departments, schools, and other stakeholders to develop the interventions, goals, and metrics used to determine a Medi-Cal MCP's eligibility to receive the incentive payments. SB 773 is pending the Senate Appropriations Committee.

AB 58 (Salas) requires LEAs to provide suicide awareness and prevention training annually to teachers; states the intent of the Legislature to require DHCS to create a pilot program to establish a school health center at five LEAs in counties with high rates of youth suicide and self-harm; and requires DHCS to provide technical assistance to CDE and LEAs to ensure LEAs take full advantage of federal funds for Medi-Cal eligible students. AB 58 is pending in the Assembly Committee on Education.

AB 309 (Gabriel and O'Donnell) requires CDE to develop model pupil mental health referral protocols, in consultation with relevant stakeholders, subject to the availability of funding for this purpose. AB 309 is pending in the Assembly Committee on Education.

AB 552 (Quirk-Silva) authorizes LEAs and county behavioral health agencies to enter into partnerships to provide school-based behavioral health and substance use disorder services on school sites, and authorizes the billing of private insurance providers for these services under specified conditions. AB 552 is pending in the Assembly Appropriations Committee.

AB 563 (Berman and Ramos) requires CDE to establish an Office of School-Based Health Programs for the purpose of improving the operation of, and participation in, school-based health programs, as specified. Requires that \$500,000 in federal reimbursements be made available for transfer through an interagency agreement to CDE for the support of the office. AB 563 is pending in the Assembly Appropriations Committee.

AB 586 (O'Donnell and Wood) establishes the School Health Demonstration Project to expand comprehensive health and mental health services to students by providing intensive assistance and support to selected LEAs to build the capacity for long-term sustainability by leveraging multiple funding streams and partnering with county mental health plans, managed care organizations, and community-based providers, and to help scale up robust and sustainable school-based health and mental health services throughout the state. AB 586 is pending in the Assembly Appropriations Committee.

AB 883 (O'Donnell) requires Mental Health Services Act funds unused by counties, within a specified period, to be reallocated to LEAs in that county to provide student mental health services. AB 883 is pending in the Assembly Appropriations Committee.

AB 1117 (Wicks) establishes the Healthy Start: Toxic Stress & Trauma Resiliency for Children Program within CDE, in partnership with the Health and Human Services Agency, to oversee a grant program to fund innovative local collaboratives between schools, communities, county and city agencies, nonprofit

service providers, and early childhood service programs and agencies. AB 1117 is pending in the Assembly Committee on Education.

SUPPORT

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OPPOSITION

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to the governing body.

iii) One that combines at-large elections with district-based elections.

b) District-based elections” means a method of electing members to the governing body of a political subdivision in which the candidate must reside within an election district that is a divisible part of the political subdivision and is elected only by voters residing within that election district. (Elections Code § 14026)

City charters

3) Establishes that city charters may provide for the manner in which the members of school district or community college governing boards are elected or appointed. (EC § 5200, § 5221, § 5222, § 5228)

County committee on school district reorganization

4) Requires each county, except a city and county, to have a county committee on school district reorganization. (EC § 4000)

5) Provides a process for changing the method for electing members of governing board of school districts and community college districts with the approval of the county committee on school district organization as follows:

a) Authorizes the county committee, in any school district or community college district, *except in a school district governed by a board of education provided for in the charter of a city or city and county*, to establish trustee areas, rearrange the boundaries of trustee areas, abolish trustee areas, and increase to seven or decrease to five the number of members of the governing board, or adopt one of the alternative methods of electing governing board members described in #1 above. (EC § 5019)

b) Authorizes a proposal to make these changes to be initiated by a county committee, made to the county committee by a governing board of a district, or made by a petition signed by a certain number or percentage of qualified register voters residing in the district, as specified. (EC § 5019)

c) Requires that the county committee hold at least one hearing in the district before approving or disapproving a proposal. (EC § 5019)

d) Provides that the county committee’s approval of the rearrangement of trustee boundaries goes into effect 120 days after its approval, except as specified. (EC § 5019)

Presented to electors

6) Provides that the resolution of the county committee approving a proposal to establish or abolish trustee areas, to adopt one of the alternative methods of electing governing board members, or to increase or decrease the number of

members of the governing board constitutes an order of election, and requires the proposal to be presented to the electors of the district not later than the next succeeding election for members of the governing board. (EC § 5020)

- 7) Requires a petition requesting an election on a proposal to rearrange trustee area boundaries that is filed, containing at least 5 percent of the signatures of the district's registered voters as determined by the elections official, to be presented to the electors of the district at the next succeeding election for the members of the governing board, at the next succeeding statewide primary or general election, or at the next succeeding regularly scheduled election at which the electors of the district are otherwise entitled to vote, provided that there is sufficient time to place the issue on the ballot. (EC § 5020)
- 8) Requires a petition requesting an election on a proposal to establish or abolish trustee areas, to increase or decrease the number of members of the board, or to adopt one of the alternative methods of electing governing board members that is filed, containing at least 10 percent of the signatures of the district's registered voters as determined by the elections official, to be presented to the electors of the district at the next succeeding election for the members of the governing board, at the next succeeding statewide primary or general election, or at the next succeeding regularly scheduled election at which the electors of the district are otherwise entitled to vote, provided that there is sufficient time to place the issue on the ballot. (EC § 5020)
- 9) Authorizes the county committee to conduct one or more public hearings on the proposal before it is presented to the electors. (EC § 5020)

California Voting Rights Act

- 10) Establishes the California Voting Rights Act of 2001 (CVRA) which prohibits an at-large method of election, as defined, from being imposed or applied in a manner that impairs a protected class's ability to elect candidates of its choice or ability to influence the outcome of an election, as a result of the dilution or the abridgment of the rights of voters who are members of a protected class, as defined. (Elections Code § 14025).
- 11) Authorizes the governing board of a community college district to change election systems, in accordance with the CVRA, by passing a resolution and receiving the approval of the Board of Governors of the California Community Colleges (BOG) as follows:
 - a) The governing board may establish elections by trustee areas, where one member of the governing board is elected from each trustee area, in which the member shall reside and be registered to vote. The governing board sets the initial boundaries of each trustee area.
 - b) Establish a top-two primary election system, whereby candidates are nominated by trustee area at a district primary election. The two candidates receiving the highest number of votes within the trustee area are to be nominees for the district general election for that trustee area, and the

nominee who receives a majority of the votes cast by the voters of the trustee area in the district general election is to be elected to represent that trustee area. (EC § 72036)

ANALYSIS

This bill (1) authorizes a county committee on school district organization to approve a proposal to establish trustee areas for the governing board of a community college district or a school district, including a school district whose governing board is provided for in a city's charter, without a vote of the district's electorate, and (2) authorizes a county committee to, by resolution, approve a proposal to establish trustee areas and to elect governing board members using district-based elections *without* being required to submit the resolution to the electors of the district for approval. Specifically, this bill:

Resolution by county committee on school district reorganization

- 1) Repeals the exception preventing a county committee from establishing or abolishing trustee areas, rearranging the boundaries of trustee areas, changing the number of governing board members, or adopting an alternative method of electing governing board members in a school district governed by a board of education provided for in the charter of a city or city and county (thereby authorizing a county committee to make changes to school and community college district elections that are currently provided for in city charters).
- 2) Notwithstanding #1 above, prohibits the county committee from rearranging trustee area boundaries in a school district or community college district that has established a hybrid or independent redistricting commission for this purpose, the charter of a city or city and county, or a legal settlement.
- 3) Increases from 120 days to 125 days the date by which a resolution to rearrange trustee area boundaries are to take effect upon approval by the county committee.

No longer presented to electors

- 4) Authorizes a county committee to, by resolution, approve a proposal to establish trustee areas and to elect governing board members using district-based elections *without* being required to submit the resolution to the electors of the district for approval.
- 5) Requires a resolution adopted pursuant to this authorization to include a declaration that the change in the method of electing members of the governing body is being made in furtherance of the purposes of the California Voting Rights Act of 2001.
- 6) Requires the resolution to take effect upon adoption and to govern all elections for governing board members occurring at least 125 days after the adoption of the resolution.

Miscellaneous

- 7) States legislative findings and declarations relative to the need to allow county committees on school district organization to establish trustee areas, and thus save a school district's financial resources, even where the charter of a city or city and county specifies a different method of electing the governing board of the school district.
- 8) Makes related technical and conforming changes.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, "Since the passage of the California Voting Rights Act in 2001 to promote greater representation and equity in elections, more than 200 of California's 1,037 school districts have switched from at-large elections, where all trustees are elected by the entire school district, to district-based elections, where trustees are elected by a specific portion of the school district.

"In recent years, the Legislature has encouraged political subdivisions to adopt district-based elections while simplifying the process for doing so. ... Education Code section 5019 allows county committees that oversee school district organization to establish trustee-area elections in a prompt, inclusive and efficient process. Unfortunately, current code specifies that this same process is *not* available for school districts 'governed by a board of education provided for in the charter of a city or city and county.'

"As a consequence of this historical anomaly, school districts under these regulations are officially required to put any ordinance on establishing trustee-area elections to the electors in the district, and that often results in an official election. In practice, school districts can bypass that requirement by securing a waiver from the State Board of Education. This additional step nevertheless still adds time and additional costs to the adoption of trustee-area elections. ... These unnecessary complexities can result in costly litigation and subsequent, unlawful at-large elections that perpetuate the dilution of minority votes, in violation of either the spirit or letter of the CVRA."

- 2) ***County committee on school district reorganization.*** According to the California Department of Education's *School District Organization Handbook* (2016), "The county committee on school district organization has a major role in the review and approval of proposals to change school district organization in the county.

"In 35 counties, the county board of education acts as the county committee. In all other counties (except for San Francisco, which has no county committee), the county committee is an independent board, whose size and membership may vary based on the number of school or community college districts in the county.

"The county committee is the local initiator, coordinator, analyst, facilitator, and arbitrator for the reorganization of school districts. It formulates plans, responds to petitions, conducts public hearings, develops and releases information, and

analyzes proposals throughout the approval process of a reorganization. For petitions for transfers of territory (and certain formations of new school districts where state approval is not required) the county committee gives final approval or disapproval, subject only to appeal to the State Board of Education.

“The county committee is charged with the duty of studying the school district organization of its county and shall, under the direction of the State Board of Education or pursuant to a petition by local electors or certain local entities, hold hearings and formulate plans and recommendations for the unification or other reorganization of the districts in the county, including, if necessary, a portion of one or more adjacent counties.

“Common requests to waive school district organization statute include:

- Elimination of election requirement to establish trustee areas and by-trustee area methods of election.
- Elimination of election requirement for approval of territory transfers and formations of new school districts.
- Alteration of effective date for reorganized districts.
- Conditions and timelines for lapsation of districts.

“The nomination process for members of the county committee varies, depending upon the bylaws of each school district organization committee. In some counties any registered voter may be nominated by a school board or may nominate himself or herself, usually by a certain date before the annual caucus. The nomination may require the filing of a letter of candidacy and a biographical data sheet with the county superintendent prior to the election date. These are then sent to all board representatives prior to the election date. In other counties, nominations must be made by school board representatives and may be accepted up to the day of and at the meeting.

“Any registered voter residing in the appropriate supervisorial district may serve as a county committee member. Members of school district governing boards may serve concurrently as a school district trustee and county committee member. No county superintendent of schools, employee of the office of a county superintendent of schools, employee of a school district, or employee of a community college district shall be a member of the county committee.”

- 3) ***Existing methods of elections.*** As is noted in the Senate Elections Committee analysis of this bill, state law generally provides that the governing boards of school districts and community college districts can be elected in one of three ways:

- a) *At-Large*: where each member of the governing board is elected by the registered voters of the entire district.

- b) *By-Trustee Areas*: where each member of the governing board resides in a different trustee area and is only elected by the registered voters of that trustee area.
- c) *From-Trustee Areas*: where each member of the governing board resides in a different trustee area but is elected by the registered voters of the entire district.

Historically, most community college district governing boards are elected by-trustee area whereas most school district governing boards are or had been elected at-large. Primarily due to lawsuits or the threat of lawsuits brought under the CVRA, a large number of school districts that had at-large governing boards have since transitioned, or are in the process of transitioning to, by-trustee area elections.

- 4) ***How do school and community college districts transition to by-trustee elections?*** These transitions to by-trustee area elections can occur in a number of different ways, including by a court order or legal settlement resolving a CVRA claim or by a ballot measure; however, most transitions are done voluntarily by the governing board without an election. Community college district governing boards are currently allowed to voluntarily transition to by-trustee area elections, without requiring a popular election, by receiving the approval of the BOG.

School district governing boards may voluntarily establish trustee areas, without requiring a popular election, by receiving the approval of the county committee on school district organization and receiving approval of the State Board of Education (SBE) to waive the traditional requirement that the county committee's approval be subject to a vote of the district's registered voters.

This bill eliminates the requirement that the county committee's approval of a proposal to establish trustee areas in a school district or community college district go before the district's voters before it takes effect. This would also result in the elimination of the need for a school district governing board to take the extra step of seeking an election waiver from the SBE.

However, existing law prohibits county committees from approving changes to the organization or election method of a school district governing board that is provided for in the charter of a city or city and county. This bill eliminates this prohibition, enabling county committees to approve changes for school district governing boards that are provided for in the charter of a city or city and county.

- 5) ***State Board of Education waivers.*** Existing law authorizes school districts to request that the SBE waive the requirement to hold a popular election once a county committee approves a proposal to transition a governing board from at-large to by-trustee area elections. Elections waivers constitute a significant portion of the overall waiver requests received each year by SBE. Over the past five years for which data is available, there have been as few as nine and as many as 56 waiver requests in a year. According to CDE, no waiver request was rejected during this five-year period.

Year	2015	2016	2017	2018	2019
SBE election waiver requests	15	9	56	18	46

- 6) ***Should proposed changes go before the electors?*** As noted in #4 above, this bill eliminates the requirement that the county committee's approval of a proposal to establish trustee areas in a school district or community college district go before the district's voters before it takes effect. This would also result in the elimination of the need for a school district governing board to take the extra step of seeking an election waiver from the SBE.

Existing law authorizes a city that elects its city council at-large to enact an ordinance switching its election method to by-district without submitting the change to voters for approval. This bill provides similar parity to school districts governed by a board of education provided for in the charter of a city or city and county. As noted by the author, the goal is to change to by-trustee elections quickly and to avoid costly elections to do so.

SUPPORT

California Teachers Association
 Southwest Voter Registration Education Project
 An individual

OPPOSITION

None received

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SENATE COMMITTEE ON EDUCATION

Senator Connie Leyva, Chair
2021 - 2022 Regular

Bill No: SB 525 **Hearing Date:** April 28, 2021
Author: Grove
Version: March 22, 2021
Urgency: Yes **Fiscal:** Yes
Consultant: Brandon Darnell

Subject: School closures: mental health effects.

SUMMARY

This bill, an urgency measure, requires the California Department of Public Health (CDPH), in consultation with the California Department of Education (CDE), to establish a policy to address the mental health effects of school closures on pupils in years when a state or local emergency declaration results in school closures; and requires local educational agencies (LEAs) to adopt that policy, subject to an appropriation for that purpose.

BACKGROUND

Existing law:

- 1) Establishes the CDPH to be vested with all the duties, powers, purposes, functions, responsibilities, and jurisdiction as they relate to public health, as specified. (Health & Safety Code § 131050)
- 2) Requires CDE to encourage and assist school districts to improve and monitor the health of their pupils, and to provide guidance and assist school districts to secure the voluntary assistance of local health professionals, schools of medicine, schools of public health, schools of nursing, voluntary health agencies, and other appropriate entities in order to provide pupil health screening and appropriate medical referrals as well as to provide valuable health information to pupils and their parents. (Education Code § 33319)
- 3) Requires the governing board of a school district to give diligent care to the health and physical development of pupils, and authorizes the district to employ properly certified persons for the work. (EC § 49400)

ANALYSIS

This bill, an urgency measure, requires the CDPH, in consultation with the CDE, to establish a policy to address the mental health effects of school closures on pupils in years when a state or local emergency declaration results in school closures; and requires LEAs to adopt that policy, subject to an appropriation for that purpose. Specifically, this bill:

- 1) Requires CDPH, in consultation with CDE, to establish a policy, no later than six months after the effective date of the bill, to address the mental health effects of

school closures on pupils in years when a state or local emergency declaration results in school closures.

- 2) Requires LEAs to adopt the policy established pursuant to this chapter, subject to an appropriation in the annual Budget Act for that purpose.
- 3) States that the bill is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and requires it go into immediate effect.
- 4) States that the facts constituting the necessity are: The COVID-19 pandemic has resulted in a widespread and prolonged school closures. It is of urgent need that we learn of the effects of those closures are having on pupils in order for the Legislature to implement recommendations to help those pupils.

STAFF COMMENTS

- 1) **Need for the bill.** According to the author, “the COVID-19 pandemic has resulted in widespread and prolonged school closures. Tens of thousands of businesses have shuttered, millions of Californians are unemployed, the achievement gap in education appears to be widening, and Californians have reported depression and other mental illnesses at alarming rates, especially among our school aged children. Students are falling behind academically as well as emotionally and socially.”
- 2) **Increasing occurrences of pupil mental health issues.** According to a Pew Research Center analysis of data from the 2017 National Survey on Drug Use and Health, in 2017, 3.2 million teens aged 12-17 said they had at least one depressive episode within the past 12 months. This is up by 1.2 million from the same survey conducted by the National Survey on Drug Use and Health in 2007. One-in-five (2.4 million) teenage girls reported experiencing one depressive episode in 2017, compared to 845,000 teenage boys. According to data from the Centers for Disease Control and Prevention, 13 percent of students in grades 9-12 in California in 2017 reported experiencing at least one depressive episode within the last 12 months. 32 percent felt sad or hopeless almost every day for 2 or more weeks in a row so that they stopped doing some usual activities within the past year, compared to 31 percent for the United States. 17 percent of pupils in grades 9-12 reported considering suicide attempts, while 9 percent reported they attempted suicide at least once within the past 12 month.

This trend is confirmed by data from the Office of Statewide Health Planning and Development. In 2019, emergency rooms throughout California treated 84,584 young patients' ages 13 to 21 who had a primary diagnosis involving mental health. That is up from 59,705 in 2012, a 42 percent increase.

- 3) **COVID-19 has had an exacerbating effect on mental health issues.** According to the 2020 report, “Roadmap for Resilience: The California Surgeon General’s Report on Adverse Childhood Experiences, Toxic Stress, and Health,” COVID-19 has only furthered the mental health issues children face. As the report notes, “For many children, the school is a bedrock of community

belonging. The pandemic has not only disrupted children's academic opportunities and connections with their peers and educators, it has also surfaced new and difficult experiences in the home: fear, anxiety, financial distress, food and housing insecurity, and countless other challenges. Economic uncertainty is associated with increases in harsh parenting, which increases risk for child abuse and neglect, and the loss of friends and family through illness and isolation can also increase the total dose of acute stress and adversity and reduce the dose of buffering supports available from caregivers, educators, and other adults."

- 4) **Existing mental health services in schools.** Mental health services in schools include a broad range of services, settings, and strategies. Mental health services that are provided in schools may include academic counseling, brief interventions to address behavior problems, assessments and referrals to other systems. Providing mental health services in a school-based setting helps address barriers to learning and allows for early intervention activities in a non-stigmatizing environment.
- 5) **Related legislation.** SB 14 (Portantino) (1) specifically adds "for the benefit of the behavioral health of the pupil" to the list of categories of excused absences for purposes of school attendance, and (2) requires the California Department of Education (CDE) to identify (A) an evidence-based training program for local education agencies (LEAs) to use to train classified and certificated school employees having direct contact with pupils in youth behavioral health, and (B) an evidence-based behavioral health training program with a curriculum tailored for pupils in grades 10 to 12, inclusive, for use by LEAs. SB 14 is pending in the Senate Appropriations Committee.

SB 224 (Portantino) requires each school district to ensure that all pupils in grades 1 to 12, inclusive, receive medically accurate, age-appropriate mental health education from instructors trained in the appropriate courses; and that each pupil receive this instruction at least once in elementary school, at least once in junior high school or middle school, and at least once in high school. SB 224 is pending in the Senate Appropriations Committee.

SB 229 (Dahle) requires CDE, upon an appropriation, to provide up to five hundred million dollars (\$500,000,000) in grants each year for the exclusive purpose of providing mental health services for pupils affected by school closures and distance learning requirements resulting from the COVID-19 pandemic. SB 229 is scheduled to be heard in this committee on April 28, 2021.

SB 508 (Stern) requires a health plan, health insurer, or a Medi-Cal managed care plan (MCP) that is required to cover mental health services to enter into a contract with all LEAs in which 15% or more of the students enrolled are insured by the plan, insurer, or Medi-Cal MCP, as specified. Requires DHCS, Department of Insurance, Department of Managed Health Care and CDE to develop a model contract for purposes of the contract between plans and LEAs. Authorizes an LEA to have an appropriate mental health professional provide brief initial interventions and additional services beyond that at a school campus when necessary for all referred students. Requires a health plan, health insurer,

or Medi-Cal MCP to reimburse LEAs for brief initial interventions and additional services, as specified. Exempts the contracting and reimbursement provisions of this bill from applying to county MHPs. Requires telehealth be included as an approved modality for the Medi-Cal program for the specified services provided by an LEA. SB 508 is pending in the Senate Health Committee.

SB 773 (Roth) requires DHCS, beginning the January 1, 2022, rating period through December 31, 2024, to make incentive payments to Medi-Cal Managed Care Plans (MCPs) that meet predefined goals and metrics that increase access to behavioral health services for children enrolled in kindergarten and grades 1 to 12. Requires DHCS, in consultation with Medi-Cal MCPs, county behavioral health departments, schools, and other stakeholders to develop the interventions, goals, and metrics used to determine a Medi-Cal MCP's eligibility to receive the incentive payments. SB 773 is pending the Senate Appropriations Committee.

AB 58 (Salas) requires LEAs to provide suicide awareness and prevention training annually to teachers; states the intent of the Legislature to require DHCS to create a pilot program to establish a school health center at five LEAs in counties with high rates of youth suicide and self-harm; and requires DHCS to provide technical assistance to CDE and LEAs to ensure LEAs take full advantage of federal funds for Medi-Cal eligible students. AB 58 is pending in the Assembly Committee on Education.

AB 309 (Gabriel and O'Donnell) requires CDE to develop model pupil mental health referral protocols, in consultation with relevant stakeholders, subject to the availability of funding for this purpose. AB 309 is pending in the Assembly Committee on Education.

AB 552 (Quirk-Silva) authorizes LEAs and county behavioral health agencies to enter into partnerships to provide school-based behavioral health and substance use disorder services on school sites, and authorizes the billing of private insurance providers for these services under specified conditions. AB 552 is pending in the Assembly Appropriations Committee.

AB 563 (Berman and Ramos) requires CDE to establish an Office of School-Based Health Programs for the purpose of improving the operation of, and participation in, school-based health programs, as specified. Requires that \$500,000 in federal reimbursements be made available for transfer through an interagency agreement to CDE for the support of the office. AB 563 is pending in the Assembly Appropriations Committee.

AB 586 (O'Donnell and Wood) establishes the School Health Demonstration Project to expand comprehensive health and mental health services to students by providing intensive assistance and support to selected LEAs to build the capacity for long-term sustainability by leveraging multiple funding streams and partnering with county mental health plans, managed care organizations, and community-based providers, and to help scale up robust and sustainable school-based health and mental health services throughout the state. AB 586 is pending in the Assembly Appropriations Committee.

AB 883 (O'Donnell) requires Mental Health Services Act funds unused by counties, within a specified period, to be reallocated to LEAs in that county to provide student mental health services. AB 883 is pending in the Assembly Appropriations Committee.

AB 1117 (Wicks) establishes the Healthy Start: Toxic Stress & Trauma Resiliency for Children Program within CDE, in partnership with the Health and Human Services Agency, to oversee a grant program to fund innovative local collaboratives between schools, communities, county and city agencies, nonprofit service providers, and early childhood service programs and agencies. AB 1117 is pending in the Assembly Committee on Education.

SUPPORT

None received

OPPOSITION

None received

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SENATE COMMITTEE ON EDUCATION

Senator Connie Leyva, Chair

2021 - 2022 Regular

Bill No: SB 616
Author: Rubio
Version: March 25, 2021
Urgency: No
Consultant: Ian Johnson

Hearing Date: April 28, 2021

Fiscal: No

Subject: School facilities: proceeds from lease of surplus property: affordable rental housing facilities

SUMMARY

This bill specifies that a school district may use the proceeds from a lease of surplus property for one-time capital outlay costs and property maintenance costs if the proceeds from the lease will be used to construct new affordable rental housing facilities for school district employees.

BACKGROUND

Existing law:

- 1) Establishes a mandatory process for school districts seeking to sell or lease surplus property. Specifically, school districts must:
 - a) Identify surplus property and convene an advisory committee to develop a district-wide policy and hold hearings on the use of surplus property. (Education Code § 17387 et seq.)
 - b) Declare publically their intent to sell or lease surplus property, with the governing board considering the advisory committee's recommendation that the property be declared surplus and declaring its intent to dispose of the property in a resolution. (EC § 17466)
 - c) Until June 30, 2016, offer to sell or lease real property to any charter school that has submitted a written request to the school district to be notified of surplus property offered for sale or lease by the school district and that meets certain other criteria. (EC § 17457.5)
 - d) For property subject to the Naylor Act (property that has been used entirely or partially for outdoor recreational or playground purposes), offer the property to the following entities in order of priority (EC § 17489):
 - i. Until June 30, 2016, a requesting charter school.
 - ii. Any city within which the land is located.
 - iii. Any park or recreation district within which the land is located.

- iv. Any regional park authority in the area where the land is located.
 - v. Any county within which the land may be situated.
- e) For sale or lease with option to purchase, offer the property to the following entities in order of priority (EC § 17464):
- i. Until June 30, 2016, a requesting charter school.
 - ii. To any park or recreation department of the city or county, any regional park authority having jurisdiction within the area, and to the State Resources Agency or any agency that may succeed to its powers.
 - iii. In writing, to the Director of General Services, the Regents of the University of California, the Trustees of the California State University, the county and city in which the property is situated.
 - iv. By public notice, to any public housing authority in the county in which the property is situated, and to any public district, public authority, public agency, public corporation, or any other political subdivision in the state, to the federal government, and to nonprofit charitable corporations, as specified.
- f) Generally requires school district proceeds from the sale of property to be used for capital outlay costs, including rental housing facilities for district employees, and proceeds from the lease of property with option to purchase to be used for routine restricted maintenance. In addition, proceeds from the sale or lease with option to purchase may be used for one-time general fund purposes if the school district governing board and the State Allocation Board determines that the district has no anticipated need for additional sites or building construction for the next ten years, and the district has no major deferred maintenance.

ANALYSIS

This bill specifies that a school district may use the proceeds from a lease of surplus property for one-time capital outlay costs and property maintenance costs if the proceeds from the lease will be used to construct new affordable rental housing facilities for school district employees.

STAFF COMMENTS

- 1) **Need for the bill.** According to the author, "This bill seeks to address several issues at once. Declining enrollment across the state, but especially in Los Angeles County has resulted in schools being closed by districts. These properties are frequently closed or used for training or storage but the districts frequently continue to spend money on their landscaping and maintenance. School administrators typically have limited experience in either selling, leasing or developing property. This bill is aimed at adjusting the District Advisory (7-11)

Committee process to actively explore the development of school properties for housing under long-term not-for-sale leases. Long-term housing leases brings revenue to the district, which serves education purposes such as maintenance of facilities, while adding housing stock to communities, potentially bringing in new families and children to the district.”

- 2) **Teacher housing and affordability.** The Teacher Housing Act of 2016 authorizes school districts to establish and implement programs that address the housing needs of teachers and school district employees who face challenges in securing affordable housing. School districts can utilize these programs as an additional incentive for teachers to enter and stay in their schools. This bill specifies that school districts that lease excess real property to be used for teacher or school district employee affordable housing may use the proceeds of the lease for one-time capital outlay or property maintenance needs.
- 3) **Learning Policy Institute (LPI) report.** The LPI’s 2016 report, “Addressing California’s Emerging Teacher Shortage: An Analysis of Sources and Solutions” included the following summary: “After many years of teacher layoffs in California, school districts around the state are hiring again. With the influx of new K-12 funding, districts are looking to lower student-teacher ratios and reinstate classes and programs that were reduced or eliminated during the Great Recession. However, mounting evidence indicates that teacher supply has not kept pace with the increased demand.” The report included the following findings:
 - a) Enrollment in educator preparation programs has dropped by more than 70 percent over the last decade.
 - b) In 2014-15, provisional and short-term permits nearly tripled from the number issued two years earlier, growing from about 850 to more than 2,400.
 - c) The number of teachers hired on substandard permits and credentials nearly doubled in the last two years, to more than 7,700 comprising a third of all the new credentials issued in 2014-15.
 - d) Estimated teacher hires for the 2015-16 school year increased by 25 percent from the previous year while enrollment in the University of California and the California State University teacher education programs increased by only about 3.8 percent.

The Learning Policy Institute (LPI) report offered several policy recommendations for consideration, including the creation of more innovative pipelines into teaching.

- 4) **Legislative Analyst Office (LAO) assessment.** As part of the Proposition 98 Education Analysis for the 2016-17 Governor’s Budget released in February 2016, the LAO included a section on teacher workforce trends in which it examined evidence for teacher shortages in specific areas, identified and assessed past policy responses to these shortages, and raised issues for the

Legislature to consider going forward in terms of new policy responses. In the report, the LAO indicated that the statewide teacher market will help alleviate existing shortages over time and that the shortages may decrease without direct state action. However, the LAO noted there are perennial staffing difficulties in specific areas, such as special education, math, and science, for which they encouraged the Legislature to address with narrowly tailored policies rather than with broad statewide policies.

- 5) **Committee Amendments.** As currently drafted, this bill does not include a definition for affordable housing for district employees. Further, the bill would unintentionally limit the ways in which school districts are authorized to use surplus property proceeds by replacing the construction or renovation of "rental housing facilities" with "affordable rental housing facilities".

If it is the desire of the Committee to pass this measure, **staff recommends:**

- a) Adding "affordable rental housing facilities" to the existing list of permissible capital outlay expenditures within Education Code Section 17456 (d).
- b) Defining "affordable rental housing facilities" as a housing development with a majority of its rents restricted to levels that are affordable to employees of the district meeting the definition of persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code.

SUPPORT

San Gabriel Valley Economic Partnership

OPPOSITION

None received

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SENATE COMMITTEE ON EDUCATION

Senator Connie Leyva, Chair

2021 - 2022 Regular

Bill No: SB 723 **Hearing Date:** April 28, 2021
Author: Rubio
Version: April 21, 2021
Urgency: No **Fiscal:** Yes
Consultant: Brandon Darnell

Subject: Pupil instruction: tutoring program: learning loss mitigation

SUMMARY

This bill, contingent upon an appropriation, establishes the California Leadership, Excellence, Academic, Diversity, and Service-Learning (LEADS) Tutoring Program, requires the California Department of Education (CDE) to adopt regulations to govern the California LEADS Tutoring Program, and requires the geographic lead agencies (specific county offices of education) under the statewide system of support to use those regulations to facilitate and implement the program.

BACKGROUND

Existing law:

- 1) Appropriates approximately \$4.6 billion to local educational agencies (LEAs) to implement a learning recovery program that, at a minimum, provides supplemental instruction, support for social and emotional well-being, and, to the maximum extent permissible under the guidelines of the United States Department of Agriculture, meals and snacks to, at a minimum, pupils who are eligible for free or reduced-price meals, English learners, foster youth, homeless pupils, pupils who are individuals with exceptional needs, pupils at risk of abuse, neglect, or exploitation, disengaged pupils, and pupils who are below grade level, including, but not limited to, those who did not enroll in kindergarten in the 2020–21 school year, credit-deficient pupils, high school pupils at risk of not graduating, and other pupils identified by certificated staff. (Education Code § 43521)
- 2) Requires LEAs to plan supplemental instruction and support in a tiered framework that bases universal, targeted, and intensive supports on pupils' needs for academic, social-emotional, and other integrated pupil supports, and provides the services through a program of engaging learning experiences in a positive school climate. (EC § 43522)
- 3) Requires those funds to be expended only for any of the following purposes:
 - a) Extending instructional learning time in addition to what is required by existing law by increasing the number of instructional days or minutes provided during the school year, providing summer school or intersessional instructional programs, or taking any other action that increases the amount of instructional time or services provided to pupils based on their learning needs.

- b) Accelerating progress to close learning gaps through the implementation, expansion, or enhancement of learning supports including, but not limited to, any of the following:
 - i) Tutoring or other one-on-one or small group learning supports provided by certificated or classified staff.
 - ii) Learning recovery programs and materials designed to accelerate pupil academic proficiency or English language proficiency, or both.
 - iii) Educator training, for both certificated and classified staff, in accelerated learning strategies and effectively addressing learning gaps, including training in facilitating quality and engaging learning opportunities for all pupils.
 - c) Integrated pupil supports to address other barriers to learning, such as the provision of health, counseling, or mental health services, access to school meal programs, before and after school programs, or programs to address pupil trauma and social-emotional learning, or referrals for support for family or pupil needs.
 - d) Community learning hubs that provide pupils with access to technology, high-speed internet, and other academic supports.
 - e) Supports for credit deficient pupils to complete graduation or grade promotion requirements and to increase or improve pupils' college eligibility.
 - f) Additional academic services for pupils, such as diagnostic, progress monitoring, and benchmark assessments of pupil learning.
 - g) Training for school staff on strategies, including trauma-informed practices, to engage pupils and families in addressing pupils' social-emotional health needs and academic needs. (EC § 43522)
- 4) Requires LEAs to adopt at a public meeting a plan describing how the apportioned funds will be used in accordance with these provisions and within 5 days of adoption, to submit the plan to its county office of education, its chartering authority, or to the CDE, as applicable, and to provide an opportunity for parents and schoolsite staff to be involved in the development of the plan. (EC §43522)

ANALYSIS

This bill, contingent upon an appropriation, establishes the California LEADS Tutoring Program, requires the CDE to adopt regulations to govern the California LEADS Tutoring Program, and requires the geographic lead agencies (specific county offices of education) under the statewide system of support to use those regulations to facilitate and implement the program. Specifically, this bill:

- 1) Establishes the California LEADS (Leadership, Excellence, Academic, Diversity, and Service-Learning) Tutoring Program.
- 2) Establishes the following definitions for the program:
 - a) "COVID-19 learning loss" means the missed opportunities for in-person learning caused by school closures due to the COVID-19 pandemic. All public school pupils in kindergarten and grades 1 to 12, inclusive, in school districts that meet criteria adopted pursuant to subdivision (b) of Section 58552, shall be eligible to participate in the California LEADS Tutoring Program.
 - b) "Geo leads" means the geographic lead agencies selected by the California Collaborative for Educational Excellence and the CDE, with the approval of the Executive Director of the State Board of Education purposes of the statewide system of the support.
 - c) "LEADS participants" means school districts that decide to participate in the California LEADS Tutoring Program.
 - d) "Supplemental individualized learning assistance" means tutoring, taking place outside of normal school hours, both online and in-person, designed to help address COVID-19 learning loss.
- 3) Requires the geo leads to administer the California LEADS Tutoring Program under the statewide system of support to provide supplemental individualized learning assistance, both in-person and online, to pupils to address COVID-19 learning loss.
- 4) States that it is the intent of the Legislature that the California LEADS Tutoring Program continue in existence after the COVID-19 pandemic.
- 5) Requires the CDE to, on or before April 1, 2022, adopt regulations to govern the California LEADS Tutoring Program.
- 6) Requires the geo leads to use these regulations to facilitate and implement the program.
- 7) Requires regulations to include, but not be limited to, all of the following:
 - a) The subjects and modes of instruction for kindergarten and grades 1 to 12, inclusive, to be offered by the tutoring program.
 - b) Criteria for school districts that are eligible to participate in the program, including those that are in the red or orange tier based on the academic indicator on the California School Dashboard maintained by the CDE.
 - c) Guidelines on how school districts will conduct outreach to pupils to enroll in the program.

- d) Require instruction in English language arts and mathematics. The regulations may authorize instruction in other subjects.
 - e) Guidelines on selecting tutors that ensure all of the following:
 - i) All tutor applicants are thoroughly vetted.
 - ii) All tutor applicants who are themselves pupils or students are in good academic standing.
 - iii) All tutor applicants have passed a criminal background check.
 - iv) All tutor applicants have been interviewed and obtained relevant training.
 - v) Retired teachers are encouraged to become tutors.
 - vi) Recipients of the State Seal of Biliteracy are encouraged to participate in the program and become a tutor.
 - f) Proposed mechanisms for tutors enrolled in postsecondary educational institutions to receive college credit and work-study for tutoring.
 - g) Provide mechanisms for the California LEADS Tutoring Program to strengthen the teacher pipeline by encouraging tutors to pursue careers in education.
 - h) Guidelines for LEADS participants to compensate tutors with stipends for their work during the duration of the program.
- 8) Requires geo leads, on or before May 1, 2022, to notify CDE of school districts that have decided to participate in the California LEADS Tutoring Program.
 - 9) Requires the CDE, on or before June 1, 2022, to announce the list of school districts that have decided to participate in the California LEADS Tutoring Program.
 - 10) Requires, upon being announced as a LEADS participant and appropriation by the Legislature, that each LEADS participant be apportioned funding that shall be used for supplemental individualized learning assistance.
 - 11) Requires each LEADS participant, on or before August 1, 2023, and annually thereafter, to submit a report to the CDE detailing learning gains and program costs.
 - 12) Requires the CDE, on or before December 31, 2023, to submit a report to the Legislature on the California LEADS Tutoring Program that includes, but is not limited to, a recommendation on how to improve the program.

- 13) Makes these provisions operative only upon an appropriation by the Legislature in the annual Budget Act or in another statute for this purpose.
- 14) States Legislative findings and declarations related to these provisions.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, "This bill will create the California LEADS (Leadership, Excellence, Academic, Diversity, and Service-Learning) statewide tutoring program to assist K-8th grade students who are struggling with school and need supplemental individualized learning assistance. The transition to distance learning has presented many challenges for students, families, and educators. Concerns are rising about the opportunity gap being heightened by school closures amid the pandemic. Experts predict that low-income, K-12 Latino students will fall as much as nine months— a full academic year— behind non-Hispanic White and higher-income students from classes missed in spring 2020 alone. This bill will help address the learning loss students are experiencing during this global pandemic and provide students with additional learning instruction as needed."
- 2) ***Early indications about learning loss.*** As noted recently by the Legislative Analyst's Office, "a few early studies suggest a large number of students are performing below grade level, particularly in math. Recent findings published by Policy Analysis for California Education show that students in grades 4 through 10 experienced learning loss in both math and English language arts relative to the prior three years of learning in the same grades. (The findings are based on an analysis of data from 50,000 students in 18 California school districts.) They also found that students in earlier grades are experiencing the highest level of learning loss. Low-income students and English learners have relatively higher levels of learning loss across all grades."
- 3) ***Tutoring as learning loss mitigation strategy.*** A recent report by the Public Policy Institute of California (PPIC) looked at distance learning strategies used in California during the pandemic. PPIC notes that "learning loss—or learning delay—during the pandemic was most acute among English Learners and low-income students. Both groups are less likely to have reliable access to technology at home, are more likely to experience food insecurity and housing insecurity, may feel disconnected from online instruction, and may receive less support from parents." Through survey data and a review of LCAPs, PPIC found that 42% of school districts overall provided tutoring programs with teachers, peers, college students, and tutoring organizations to help struggling students, and that tutoring used more (at 50%) among school districts with high numbers of African American and Latino students. PPIC suggests that "establishing a statewide tutoring system could also help address learning losses and provide more opportunities for underserved and struggling students. COVID-19 is fueling a nationwide boom in private tutoring, but lessons from other states and countries, such as Tennessee and the UK, suggest that universal tutoring could be an effective strategy to close opportunity gaps."

- 4) ***AB 86 provides funding for COVID-19 related learning loss, including tutoring.*** As referenced above in existing law, AB 86 (Committee on Budget, Chapter 10, Statutes of 2021), enacted in March, appropriates \$4.6 billion in one time funding to expand learning and support for students affected by the COVID-19 related school disruptions. That bill requires that LEAs provide supplemental instruction and support to at least those students who have been particularly affected by the pandemic, such as students who are low income, homeless, in foster care, are English learners, and those who have had limited internet connectivity. The bill also requires that LEAs plan these supports based on a tiered framework with engaging learning opportunities in a positive school climate, and requires LEAs develop a plan for use of these funds consistent with these purposes. Authorized uses of the funds include, among other things, *tutoring or other one-on-one or small group instruction provided by certificated or classified staff.*

This raises several questions relative to this bill that the committee may wish to consider:

- Why have two tutoring programs that operate differently? For example, tutoring with funding from AB 86 must be done by certificated or classified employees. Conversely, this bill proposing funding tutoring by non-LEA employees, including college students and other pupils.
 - LEAs must submit their plans for AB 86 funds by June 1, 2021, which will be well before CDE adopts regulations for tutoring under this bill. Will LEAs' plans for tutoring under AB 86 comport with the regulations adopted by CDE for tutoring under this bill? Will LEAs want to operate two separate tutoring programs? For example, an LEA may offer tutoring for science under AB 86 but CDE might not authorize science tutoring under this bill.
 - The bill is contingent upon an appropriation. How much more will LEAs receive specifically for tutoring beyond the \$4.6 billion that can already be used in part for tutoring?
- 5) ***Roles of CDE, geo leads, and other county offices of education?*** This bill proposes to develop a statewide tutoring program developed by regulation by CDE, but implemented by the nine geographic lead agencies under the statewide system of support (Alameda, Kern, Placer, Riverside, Sacramento, San Diego, Shasta, Sonoma, and Tulare County Offices of Education (COE)). The geo leads are also required to facilitate and implement the program with the regulations adopted by the CDE. However, this structure misconstrues the relative roles of the geographic lead agencies, which according to CDE, "build the capacity of COEs to ensure that counties are equipped to build the capacity of their LEAs to support the continuous improvement of student performance within the state priorities and address the gaps in achievement between student groups" Accordingly, staff recommends that the bill be amended to restructure the roles of CDE, geo leads, and other county offices of education, as follows:

- 58552(a): The ~~geo-leads~~ department shall administer the California LEADS Tutoring Program under the statewide system of support to provide supplemental individualized learning assistance, both in-person and online, to pupils to address COVID-19 learning loss.
 - 58552(b) ~~Geo-leads~~ Each county office of education shall use these regulations to facilitate and implement the program in their county, and geo leads shall be available to provide technical assistance to county offices of education and LEADS participants, as appropriate.
 - 58553: On or before May 1, 2022, ~~geo-leads~~ county offices of education shall notify the department of school districts that have decided to participate in the California LEADS Tutoring Program.
- 6) **What about charter schools?** The bill as currently drafted does not appear to allow charter schools to participate in the California LEADS Tutoring Program. As the bill moves forward, the author may wish to consider whether to include charter schools within the program.

SUPPORT

California State PTA

OPPOSITION

None received

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- a. The primary mission of the California State University (CSU) is to offer undergraduate and graduate instruction through the master's degree. The CSU is authorized to establish two-year programs only when mutually agreed upon by the Trustees and the California Community College (CCC) Board of Governors. The CSU is also authorized to jointly award the doctoral degree with the University of California (UC) and with one or more independent institutions of higher education.
 - b. The UC is authorized to provide undergraduate and graduate instruction and has exclusive jurisdiction in public higher education over graduate instruction in the professions of law, medicine, dentistry and veterinary medicine. The UC is also the primary state-supported academic agency for research.
 - c. The mission and function of the CCC is the offering of academic and vocational instruction at the lower division level, and the CCC are authorized to grant the associate in arts and the associate in science degrees. The community colleges are also required to offer remedial instruction, English as a Second Language instruction, and adult noncredit instruction, and support services which help students succeed at the postsecondary level. (Education Code § 66010.4)
- 5) States the intent of the Legislature that the State Bar maintain its commitment to and support of effective policies and activities to enhance access, fairness, and diversity in the legal profession and elimination of bias in the practice of law by, among other things, continuing to increase diversity and inclusion in the legal profession. Requires the State Bar to develop and implement a plan to meet the goals of diversity and inclusion, as provided, which may include an assessment of needed revenue. Requires the State Bar to report to the Legislature, by March 15, 2019 and every two years thereafter, on the plan and its implementation, including a description of activities undertaken to support the plan, their outcomes, and their effectiveness. (Business and Professions Code § 6001.3)

ANALYSIS

This bill:

- 1) Provides a one-time \$10 million General Fund appropriation to the Chancellor of the CCCs for the purpose of expanding California LAW Pathways.
- 2) Requires funds to be used for purposes of expanding California LAW Pathways, which may include, but is not limited to, all of the following:
 - a) Establishing dual enrollment agreements between CCCs and local high school law academies.
 - b) Implementing partnership with the CSU system.
 - c) Establishing transfer models with the UC.

- d) Providing guidance to assist student in transferring.
- 3) States various legislative findings and declarations relative to the lack of diversity within the state's attorney workforce and the need to expand the educational pipeline from high school to law school through the California LAW pathways program to help close the diversity gap in the state's workforce population.

STAFF COMMENTS

- 1) **Need for this bill.** According to the author, "Despite significant growth in the proportion of attorneys who are women and people of color over the past 30 years, California's attorney population does not reflect the state's diversity. According to the State Bar of California's "First Annual Report Card on the Diversity of California's Legal Profession," white attorneys account for nearly 70 percent of California's active licensed attorney population, while people of color constitute 60 percent of the state's population. Similarly, while there has been increased focus on diversity within the ranks of justices and judges, white judges account for nearly 66 percent of justices in the trial courts, courts of appeal, and the California Supreme Court. This can significantly impact administration of justice and access to appropriate representation.

"A statewide initiative, established in 2011 through the California Partnerships Academy (EDC 54690 et al), focused on building a diverse educational pipeline from high school to law school. This unique partnership between the California Department of Education and the State Bar of California has expanded to include higher education partners with the creation of the Community College Pathway to Law School initiative. In 2015, California L.A.W. (Leadership, Access, Workforce) Pathways was formed to merge both statewide initiatives and is housed at the Foundation for California Community Colleges. There are currently more than 700 community college students and 3,000 high school students enrolled statewide. Of the high school students, 87 percent are underrepresented minorities and the program has a 98 percent graduation rate.

"This bill will provide funding to help expand law (L.A.W) pathways in California, thereby offering more students the opportunity to participate, establishing additional partnerships throughout the state, and, ultimately, diversifying our attorney workforce."

- 2) **Law themed educational pipeline programs.** Established by state legislation in 1984, as a model for preparing high school students to succeed in both college and careers, California Partnership Academies operate small learning communities within high schools that integrate a career theme into academic classes in grades 10 through 12 for "at-risk," students. Teachers work with the same group of students over several years and employers provide internships and other opportunities for students to learn outside the classroom. Under the partnership academy model, the CDE and the State Bar of California formed a partnership, referred to as the California Law Academy, to help diverse students enter the legal profession. That collaboration linked with the "California

Community Colleges Pathway to Law School Initiative,” a postsecondary education partnership among several CCCs, UC campuses and Law schools. Together the two secondary and postsecondary ventures form the California Leadership Access Workforce (L.A.W) pathway. The effort is coordinated by a nonprofit organization housed within the Foundation for CCCs. This bill seeks to provide one-time appropriation in the amount of \$10 million to the CCC Chancellor to expand the existing statewide initiative among high schools, community colleges, and UC and Law schools as well as incorporate the CSU system partnerships.

- 3) **Allowable use of funds.** The bill allows funds to be used to expand the California L.A.W pathway by, as suggested, establishing agreements with high schools, CSU and UC. Seemly, the agreements will improve articulation with and access to the next phase of a student’s academic career leading to law school completion. However, utilization of funds in the bill could benefit from greater specificity and clarity. As such, ***the author wishes, and staff agrees, that Section 2 of the bill be amended as follows:***

SEC. 2.

(a) For the 2021–22 fiscal year, the sum of \$10,000,000 is hereby appropriated from the General Fund to the Chancellor of the California Community Colleges.

(b) The funds appropriated pursuant to this section shall be used for the purpose of expanding ~~*pathways to law school programs*~~, ~~California LAW Pathways~~, which may include, but is not limited to, all of the following:

- (1) ~~*Supporting opportunities for*~~ Establishing dual enrollment agreements partnership between community colleges and local high school law academies.
- (2) ~~Implementing partnerships with the California State University system.~~ Implementing partnerships with the California State University system that incorporate Associate Degree for Transfer pathways that will prepare students for a career in the legal profession.
- (3) ~~Establishing transfer models with the University of California.~~ Expanding existing transfer agreements with the University of California that will prepare students for a career in the legal profession.
- (4) ~~Providing guidance to assist students in transferring.~~ Providing student advising and guidance to help participants in the California Community College Pathways to Law School Initiative, successfully transfer into the California State University or University of California.

(c) The board of governors, or its authorized designees, may contract with the Foundation for California Community Colleges for the purpose of providing administrative support for the expansion of these pathways.

(d) The Chancellor’s Office shall be required to submit a report to the appropriate Senate and Assembly budget and policy committees by July 1, 2025 regarding outcomes, including, but not limited to, number of students participating,

demographics of students, graduation and success rates, transfer pathways established.

- 4) **College Access and Career Pathways (CCAP) program.** This bill authorizes funds to be used for the establishment of dual enrollment agreements between community colleges and local high school law academies. Current law authorizes similar partnership agreements. Specifically, the CCAP program allows for partnerships between school and community college districts such that high school students dual-enroll in up to 15 community college units per term; students may enroll in no more than four courses per term. The goals of CCAP are to develop seamless pathways from high school to community college for career technical or general education transfer, improve high school graduation rates, or help high school students achieve college and career readiness. Courses must be part of an academic program defined in a CCAP agreement and meet criteria for both a high school diploma and an Associate of Arts or other credentials.

CCAP program offers dual enrollment as a pathway, rather than a series of disconnected individual courses, and provides greater flexibility in the delivery of courses at the high school campus.

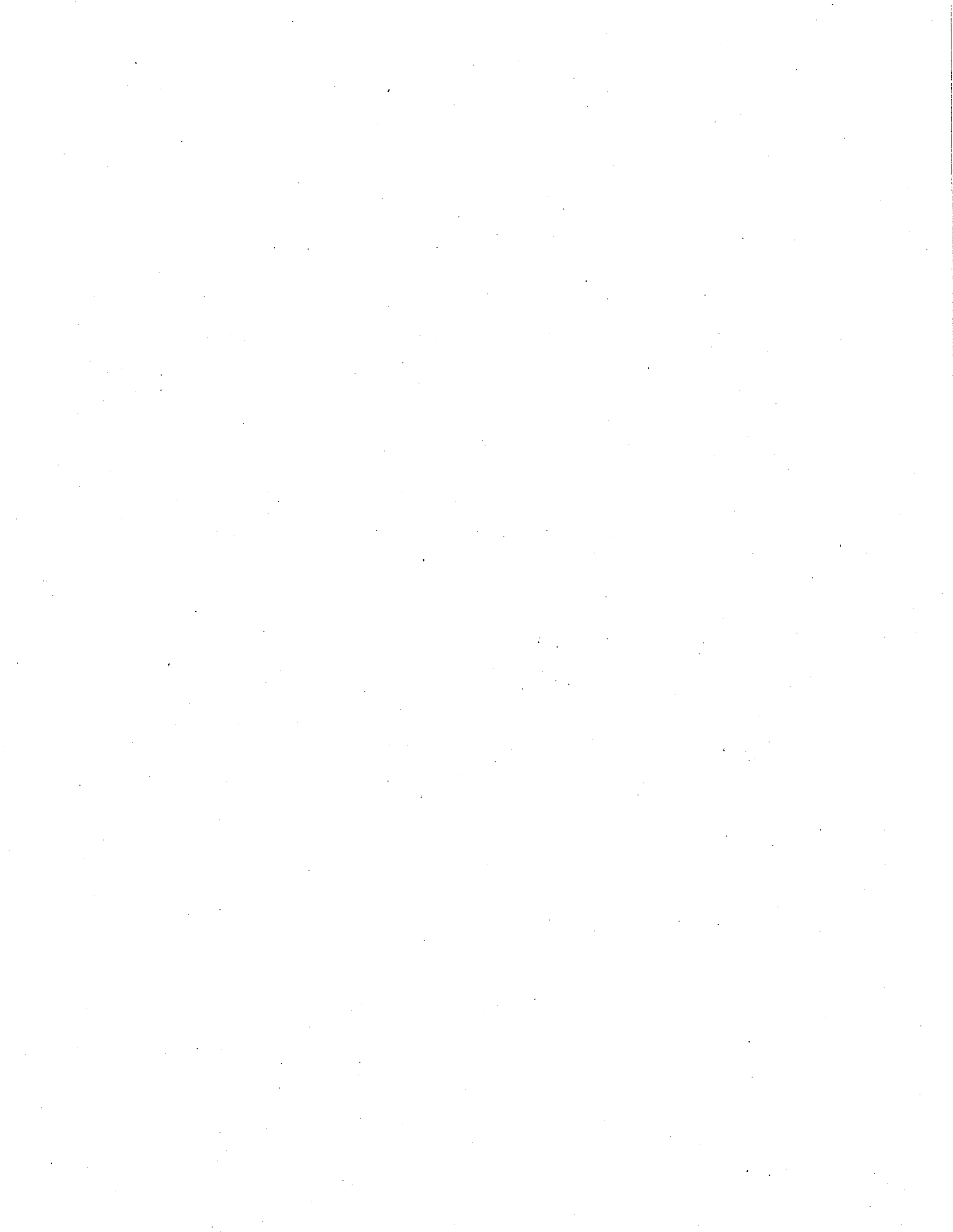
SUPPORT

None received.

OPPOSITION

None received.

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SENATE COMMITTEE ON EDUCATION

Senator Connie Leyva, Chair

2021 - 2022 Regular

Bill No: SB 802 **Hearing Date:** April 28, 2021
Author: Roth
Version: February 19, 2021
Urgency: No **Fiscal:** No
Consultant: Olgalilia Ramirez

Subject: Private postsecondary education.

SUMMARY

This bill updates the definition of continuing education in the California Private Postsecondary Education Act to expressly exclude instruction that leads to a degree, and updates the definition of postsecondary education.

BACKGROUND

Existing law establishes the California Private Postsecondary Education Act of 2009 (Act) until January 1, 2022, and requires the Bureau for Private Postsecondary Education (Bureau) to, among other things, review, investigate and approve private postsecondary institutions, programs and courses of instruction pursuant to the Act, and authorizes Bureau to take formal actions against an institution/school to ensure compliance with the Act and even seek closure of an institution/school if determined necessary. The Act requires unaccredited degree granting institutions to be accredited by an accrediting agency recognized by the United States Department of Education (USDE) by 2020. The Act also provides for specified disclosures and enrollment agreements for students, requirements for cancellations, withdrawals and refunds, and that the Bureau shall administer the Student Tuition Recovery Fund (STRF) to provide refunds to students affected by the possible closure of an institution/school. (Education Code § 94800 et seq.)

ANALYSIS

This bill revises the definition of continuing education to expressly exclude instruction that leads to a degree, and updates the definition of postsecondary education to establish that the instruction is designed primarily for specified students.

STAFF COMMENTS

- 1) **Need for the bill.** This bill is one of a number of "sunset bills" the author is sponsoring this year. This bill seeks to incorporate changes as outlined in the Business, Professions and Economic Development Committee (BPED Committee) background paper for the recent Bureau Sunset Hearing.
- 2) **California Private Postsecondary Education Act.** The state's program for regulation of private postsecondary and vocational education institutions has

historically been plagued with problems. During the late 1980's, California developed a reputation as the "diploma mill capital of the world."

After numerous legislative attempts to remedy the laws and structure governing regulation of private postsecondary institutions, AB 48 (Portantino, Chapter 310, Statutes of 2009) was enacted to establish the California Private Postsecondary Education Act of 2009 (Act), which took effect January 1, 2010. The Act provided the regulatory framework for oversight of private postsecondary educational institutions operating with a physical presence in California.

The Act requires all unaccredited colleges in California to be approved by the Bureau, and all nationally accredited colleges to comply with numerous student protections. It also establishes prohibitions on false advertising and inappropriate recruiting. The Act requires disclosure of critical information to students such as program outlines, graduation and job placement rates, and license examination information, and ensures colleges justify those figures. The Act also guarantees students can complete their educational objectives if their institution closes its doors while providing the Bureau for Private Postsecondary Education with enforcement powers necessary to protect consumers.

In 2014, SB 1247 (Lieu, Chapter 840, Statutes of 2014) amended the Act to require degree-granting institutions to be accredited, prohibit an institution that participates in federal veterans' aid funding from claiming an exemption from the Act, and expanded the use of Student Tuition Recovery Fund payments to cover economic loss.

The Act was subsequently amended in 2015, (SB 1192, Hill, Chapter, Statutes of 2015) to extend the Bureau sunset date until 2021. SB 1192, among other things, required an out-of-state online institution to register with and pay a fee to the Bureau, extended the sunset date for a degree-granting institution to obtain accreditation, increased certain institutional fees and established the Office of Student Assistance and Relief to provide outreach and individualized assistance to students impacted by unlawful activities or closure of a Bureau-approved institution.

This bill makes changes to the Act based upon information from a Joint oversight hearing of the Senate Business, Professions and Economic Development Committee (BPED Committee), Senate Education, Assembly Committees on Higher Education and Business, Professions and Consumer Protection. Staff notes that the act is currently scheduled to sunset on January 1, 2022.

- 3) **Joint Oversight Hearing.** On March 23, 2021, the BPED Committee convened a joint hearing that included the Senate Education, Assembly Higher Education, Assembly Business and Professions committees. The background paper prepared by the BPED Committee for the hearing identified 17 different issues for consideration at the hearing, including administrative, budget, licensing, and exemption, enforcement, student protection, approval, and accountability issues.

- 4) **Author's Amendments.** In response to a number of issues raised in the background paper, the author wishes that the bill be amended in order to reflect appropriate statutory updates to the Act as follows:
- a) *Advisory Committee terms and leadership.* Given that Advisory Committee members have no defined term limits or provisions governing the election or terms of Committee leadership, and the fact that some members have expressed a lack of clarity regarding their role and purpose, **the author wishes, staff agrees, that the bill be amended** to establish four-year terms for the appointment of Advisory Committee members and require the Advisory Committee to elect a Chair and Vice-Chair from its members.
 - b) *Exemptions.* The Act contains a number of exemptions for a variety of types of institutions. Current law provides an exemption for institutions offering educational programs *sponsored by* a bona fide trade, business, professional, or fraternal organization, solely for that organization's membership. However, current law does not specify whether an institution can sponsor its own educational programs. In order to reflect that many trade business, or fraternal organizations offering educational programs to their own members and ensure that this model is not a loophole for other institutions to qualify for an exemption, **the author wishes, staff agrees, that the bill be amended** to require institutions to be sponsored by a separate and distinct entity in order to qualify for exemption.
 - c) *Accreditation of degree granting institutions.* SB 1247 (Lieu, Chapter 840, Statutes of 2014) required California private postsecondary educational institutions offering degree programs to be accredited by an accrediting agency recognized by the United States Department of Education (USDE). An institution must submit an accreditation plan with its application for approval to operate and must achieve pre-accreditation or accreditation candidacy within two years of its provisional approval, and full accreditation within five years of its provisional approval. The Bureau has identified a number of challenges related to the implementation of these provisions and is requesting several changes to statute. As a result, **the author wishes, staff agrees, that the bill be amended** to clarify the timeframe for institutions to achieve pre-accreditation or accreditation candidacy; address the issue of institutions that achieve accreditation but then lose or surrender it; and restrict institutions operating under a provisional approval from changing ownership or control during the term of provisional approval, or until the institution achieves full accreditation.
 - d) *Statutory language limits the ability for Bureau to take formal disciplinary action.* The Bureau has been challenged in its attempts to take formal disciplinary action against schools for violations resulting in potential harm to students. In order to ensure that students are protected and the Bureau can suspend or revoke an institution's approval to operate if a violation of the Act has resulted in potential harm to students, **the author wishes, staff agrees, that the bill be amended** to update EDC § 94937 to authorize the Bureau to take disciplinary action based on potential harm to students, thereby aligning the Bureau to other Department of Consumer

Affairs agencies, such as the Bureau of Security and Investigative Services (BPC §7591) and Bureau of Household Goods and Services (BPC §9810), which are authorized to suspend or revoke certain licenses based on a finding the licensee has engaged in certain violations of law.

- e) *Technical changes.* In order to make necessary technical clarifications to improve Bureau operations and application of the Act, ***the author wishes, staff agrees, that the bill be amended to:***
- i) Remove the reference to "inactive status" for an approval to operate, and instead require institutions to use the appropriate licensure process.
 - ii) Revise the definition of "educational program" to extract short courses by making it clear that a single course or module that is part of a set of courses or modules does not, in itself, constitute an educational program, and provide for a minimum number of hours of instruction at which a short course qualifies an educational program.
- 5) **Heard by the Senate Business Professions and Economic Development Committee.** This bill was heard by the Senate Business Professions and Economic Development Committee on April 19, where it passed on a 13-0-1 vote.

SUPPORT

None received.

OPPOSITION

None received.

-- END --