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## SENATE COMMITTEE ON APPROPRIATIONS

Senator Anthony Portantino, Chair  
2019 - 2020 Regular Session

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### **SB 884 (Dodd) - Education finance: emergencies: public safety power shutoffs**

**Version:** March 16, 2020

**Urgency:** No

**Hearing Date:** June 9, 2020

**Policy Vote:** ED. 6 - 0

**Mandate:** No

**Consultant:** Lenin Del Castillo

**Bill Summary:** This bill would establish the Disaster Relief Instructional Recovery Program to allocate funding to school districts to make up instructional days lost due to emergency or other extraordinary conditions. This bill would also add public safety power shutoffs to the list of emergencies that a district's average daily attendance (ADA) is held harmless for.

**Fiscal Impact:** While the new instructional recovery program would be contingent upon an appropriation, this bill could result in significant Proposition 98 General Fund cost pressure, potentially in the tens to low hundreds of millions of dollars, for the state to fund it.

Additionally, while school districts are typically held harmless from revenue losses that might otherwise result from a decline in ADA or instructional time during specified emergencies such as fire, floods, and earthquakes, this bill expands that list by adding "public safety power shutoffs." This could result in additional, unknown Proposition 98 General Fund costs that would depend on the frequency and nature of these emergencies.

**Background:** Existing law requires the Superintendent of Public Instruction (SPI), for apportionment purposes, to credit to a local educational agency (LEA) a material loss of ADA due to the following reasons, provided the loss has been established to the satisfaction of the SPI by affidavits of the members of the governing board or body of the LEA: fire, flood, impassable roads, epidemic, earthquake, the imminence of a major safety hazard as determined by the local law enforcement agency, and a strike involving transportation services to pupils provided by a non-school entity.

In the event of a state of emergency declared by the Governor in a county, existing law requires the SPI to determine the length of the period during which ADA has been reduced by the state of emergency, and prohibits the SPI from extending the period into the next fiscal year except upon a showing by a LEA, to the satisfaction of the SPI, that extending the period into the next fiscal year is essential to alleviate continued reductions in ADA attributable to the state of emergency.

**Proposed Law:** This bill would establish the Disaster Relief Instructional Recovery Program, to be administered by the SPI, for the purpose of allocating funding to eligible LEAs to make up instructional days lost due to emergency or other extraordinary conditions.

This bill specifies that LEAs must demonstrate both of the following to be eligible for participation in the program:

- a) That the LEA has either experienced a material decrease in ADA during a fiscal year as a result of an emergency, as specified, or failed to maintain its schools for at least 175 days during a fiscal year as a result of an emergency, as specified.
- b) That an emergency, as specified, resulted in the loss of at least five instructional days in a single school year or the cumulative loss of at least 10 instructional days in two out of three consecutive school years.

This bill requires LEAs seeking program participation to apply to the SPI, and the SPI must respond within 30 days and may request additional information as needed. The bill also specifies that a participating LEA may offer instructional days pursuant to the program during a summer school session or any other supplemental instructional program, in an amount equal to or less than the instructional time the LEA lost due to an emergency, as specified.

The bill requires the SPI to reimburse a participating LEA for instruction provided pursuant to the program at a rate of seven dollars per pupil per hour, except for the following adjustments: the rate shall be increased annually for inflation, as specified; and if the amount appropriated for the program is insufficient to reimburse each participating LEA seven dollars per pupil hour, adjusted for inflation, the SPI shall prorate the reimbursement rate equally for all participating LEAs.

This bill specifies that the total amount of funding allocated to a participating LEA shall not exceed the amount of funding that is attributable to the instructional time lost due to an emergency, as specified.

This bill would also add "public safety power shutoff" to the list of emergencies that LEAs are not penalized if the emergency causes the LEA's ADA to decline.

**Staff Comments:** Existing law does not penalize school districts for losses in ADA during and immediately following an emergency. Two sections of law allow the SPI to grant normal apportionment credit to districts in emergencies—one section (Education Code Section (ECS) 41422) authorizes maintenance of apportionments in instances when schools must be closed because of "extraordinary conditions" while another section (ECS 46392) provides for the crediting of ADA whenever the average daily attendance of an LEA has been materially decreased because of fire, flood, impassable road, and other specified circumstances. Therefore, LEAs are held harmless from revenue losses that might otherwise result from the decline in ADA or instructional time in emergencies. This bill adds "public safety power shutoffs" to the list of emergencies that LEAs are not penalized if the emergency causes the LEA's ADA to decline.

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