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# SENATE COMMITTEE ON HEALTH

Senator Dr. Richard Pan, Chair

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**BILL NO:** SB 1479  
**AUTHOR:** Pan  
**VERSION:** March 21, 2022  
**HEARING DATE:** March 30, 2022  
**CONSULTANT:** Melanie Moreno

**SUBJECT:** COVID-19 testing in schools: COVID-19 testing plans

**SUMMARY:** Requires the California Department of Public Health (CDPH) to continue administering COVID-19 testing programs in schools that are currently funded by federal resources and organized under the California COVID-19 Testing Task Force. Requires CDPH to administer testing programs for teachers, staff, and pupils that help schools reopen and keep them operating safely for in-person learning. Requires schools to create a COVID-19 testing plan consistent with CDPH guidance, as specified.

**Existing law:**

- 1) Establishes CDPH, directed by a state Public Health Officer (PHO), to be vested with all the duties, powers, purposes, functions, responsibilities, and jurisdiction as they relate to public health and licensing of health facilities, as specified. Gives the PHO broad authority to detect, monitor, and prevent the spread of communicable disease in the state. [HSC §131050 and §120130, et seq.]
- 2) Permits certain school apportionments to be used for any purpose consistent with providing in-person instruction for any pupil participating in in-person instruction, including, but not limited to, COVID-19 testing, as specified. [EDC §43521 (c) and §43522 (f)]
- 3) Prescribes public health reporting requirements related to COVID-19 for local educational agencies (LEAs), including the development of a COVID-19 safety plan, as specified. [EDC §32090 and §32091(b)(1)]

**This bill:**

- 1) Requires CDPH to continue administering those COVID-19 testing programs in LEAs serving pupils in grades K-12 that are currently funded by federal resources and organized under the California COVID-19 Testing Task Force. Requires CDPH to administer testing programs for teachers, staff, and pupils that help LEAs reopen and keep LEAs operating safely for in-person learning. Defines “local educational agency,” for purposes of this bill, as a school district, county office of education, or charter school.
- 2) Requires CDPH to expand its contagious, infectious, or communicable disease testing and other public health mitigation efforts to include prekindergarten, onsite after school programs, and childcare centers.
- 3) Requires federal funds, if the state secures additional funds through the Centers for Disease Control and Prevention (CDC) Epidemiology and Laboratory Capacity for Prevention and Control of Emerging Infectious Diseases Program for the purposes of COVID-19 testing in LEAs, to be expended before allocating state funds for purposes of testing and mitigation efforts in 1) and 2) above.

- 4) Requires LEAs to create a COVID-19 testing plan consistent with CDPH guidance. Requires LEAs to designate one staff member to report information on its COVID-19 testing program to CDPH and requires schools to designate one staff member to report information to the school district. Permits a school within a school district to name a staff member to lead its COVID-19 testing program.
- 5) Requires COVID-19 testing data to be in a format that facilitates a simple process by which parents and LEAs can report data to CDPH.
- 6) Requires CDPH to determine which COVID-19 tests are appropriate for use for the testing programs created under this bill.
- 7) Makes the provisions of this bill contingent upon an appropriation in the annual Budget Act or another statute.

**FISCAL EFFECT:** This bill has not been analyzed by a fiscal committee.

**COMMENTS:**

- 1) *Author's statement.* According to the author, this bill is by students and for students to ensure their right to quality in-person education. Although vaccination remains the cornerstone of public health's response to COVID-19, testing at our schools is essential to preventing surges of the virus. At the federal level, key COVID-19 funding is lapsing due to congressional inaction, which is why this bill is contingent on an appropriation that would fund COVID-19 testing for the 2022-2023 fiscal year. This bill will help keep schools open and safe by ensuring schools have a plan to test for COVID-19 that is consistent with CDPH guidance. California must have its own testing plans and resources to reassure school districts that we will support them no matter what.
- 2) *COVID-19 public health emergency.* On March 11, 2020, the novel Coronavirus (SARS-CoV-2), which causes the infection known as COVID-19, was declared a global pandemic and set in motion public health emergency declarations across the U.S. The COVID-19 outbreak was declared a nationwide public health emergency on January 31, 2020 (retroactive to January 27, 2020), and a national emergency on March 13, 2020. On March 4, 2020, Governor Newsom declared a state of emergency to make additional resources available, formalize emergency actions already underway across multiple state agencies, and help the state prepare for broader spread of COVID-19. As of March 23, 2022, COVID19.CA.GOV reports 8,473,370 positive cases of COVID-19 and 87,702 deaths in California, with a disproportionate impact on communities of color.
- 3) *California COVID-19 Testing Task Force.* The California COVID-19 Testing Task Force was established in April 2020 to increase the state's COVID-19 testing capacity, with the goal of ensuring that every Californian who needs a test can get one. According to the Task Force's website, its role is to:
  - a) Guide the use and operations of a limited number of state-based testing sites;
  - b) Share information and track progress on testing and testing gaps;
  - c) Bring together experts to develop guidance to enable better testing;
  - d) Drive targeted initiatives to improve testing access, timeliness, and equity; and,
  - e) Provide informational resources to Californians and other partners and stakeholders (e.g., local health jurisdictions).

- 4) *Importance of COVID-19 testing in schools.* According to CDPH, regular testing of unvaccinated students and staff who have no symptoms is an important layer to help protect school communities, especially when paired with prevention measures such as masking and ventilation. Regular testing allows cases to be caught early before they can lead to the spread of COVID-19, to reassure the community, and inform policies based on comparison of school case rates to the community. Testing symptomatic children can also help them return to school faster. CDPH states that although vaccines are widely available and vaccinated individuals are less likely to be infected with or transmit COVID-19, not all students and staff who are eligible for vaccination have been vaccinated. This highlights the continued need for proven COVID-19 prevention strategies, including testing people in school communities. Therefore, COVID-19 testing in K-12 schools remains a powerful tool for preventing the transmission of COVID-19.
  
- 5) *COVID-19 Public Health Guidance for K-12 Schools in California, 2021-22 School Year.* On March 12, 2022, CDPH released a public health guidance for K-12 schools, which is designed to keep schools open for in-person instruction safely during the COVID-19 pandemic, consistent with current scientific evidence. According to the guidance, in-person schooling is critical to the mental and physical health and development of our students and the guidance is designed to help K-12 schools continue to formulate and implement plans for safe, successful, and full in-person instruction in the 2021-22 school year. It applies recommendations provided by the CDC and the American Academy of Pediatrics (AAP). Additional guidance, including additional requirements, may be issued by local public health officials and LEAs. Some components of the guidance include:
  - a) Masks: CDPH strongly recommends that all persons wear masks in K-12 indoor settings, with some exemptions. Persons exempted from wearing a face covering due to a medical condition are strongly recommended to wear a non-restrictive alternative, such as a face shield with a drape on the bottom edge, as long as their condition permits it. Schools must develop and implement protocols to provide masks to students who fail to bring a face covering to school and want to use one. In situations where use of masks is challenging due to pedagogical or developmental reasons, (e.g., communicating or assisting young children or those with special needs), a face shield with a drape may be considered instead of a mask while in the classroom.
  - b) Physical distancing: CDPH recommends focusing on the other mitigation strategies provided in this guidance instead of implementing minimum physical distancing requirements for routine classroom instruction.
  - c) Staying home when sick and getting tested: Follow the strategy for Staying Home when Sick and Getting Tested from the CDC. Get tested for COVID-19 when symptoms are consistent with COVID-19. Advise staff members and students with symptoms of COVID-19 infection not to return for in-person instruction until they have met CDPH criteria to return to school for those with symptoms.
  - d) Screening testing recommendations: CDPH has a robust school testing program and subject matter experts available to support school decision making, including free testing resources to support screening testing programs (software, test kits, shipping, testing, etc.). Resources for schools interested in testing include: California's Testing Task Force K-12 Schools Testing Program, K-12 school-based COVID-19 testing strategies and Updated Testing Guidance; The Safe Schools for All state technical assistance portal; and, the CDC K-12 School Guidance.

- 6) *2021-22 Budget actions.* AB 128 (Ting, Chapter 21, Statutes of 2021) allocated \$319,675,000 to CDPH for various programs related to the safe reopening of schools during the COVID-19 pandemic, including funds to support COVID-19 testing in schools allocated from the federal American Rescue Plan Act of 2021 (Public Law 117-2). AB 128 also permits augmentation of up to \$887,716,000 to support COVID-19 testing in schools allocated from those federal funds. AB 86 (Committee on Budget, Chapter 10, Statutes of 2021) allocates General Fund \$25 million for the Safe Schools For All Team to coordinate technical assistance, community engagement, increased transparency, and enforcement for public school health and safety during the COVID-19 pandemic.
- 7) *Double referral.* This bill is double referred. If it passes out of this committee, it will be referred to the Senate Committee on Education.
- 8) *Support.* ProtectUS, the sponsor of this bill, states that the current patchwork of testing regimens throughout California schools has shown that schools without frequent testing suffer while those with concrete testing plans remain open and safe. In a study of over 200 schools, the Public Health Institute found that on-site COVID-19 testing contributes to the safety of in-person learning and builds confidence in school safety for parents and staff, while a report from the Rockefeller Foundation found that weekly testing can reduce in-school infections by 50%. The California Pan Ethnic Health Network states that this bill ensures that all schools have a COVID-19 testing plan in place that is consistent with state public health orders and guidance, so that all students, no matter their background, can continue to access COVID-19 testing. It is equally important for all schools to continue to monitor their COVID-19 test positivity rates through a testing program to adequately protect the safety of all students, staff and teachers. The County Health Executives Association writes that this bill would allow for the continued testing of most of California's children as the COVID-19 pandemic continues to evolve, and as such local health departments strongly support these efforts to prevent and control the spread of infectious disease amongst Californians. Teens for Vaccines states that the COVID-19 pandemic has ravaged schools for over two years now, and we are facing unpredictable waves of the virus. We need schools to be a safe place, especially for the immunocompromised children who are at severe risk from COVID and underserved students for whom distance learning is inequitable. To prevent this cycle of school openings and closures, we need a concrete statewide testing plan so all students can have access to a safe, in-person learning environment. Primary Health states while we are hopeful that positivity rates will continue to decline, it is imperative that California schools continue to be supported in creating and implementing plans to manage COVID for the 2022-2023 school year. By embracing preparedness now schools can remain open and provide critical health care support to students and families.
- 9) *Opposition.* The Unity Project writes that COVID tests have the potential to have false positive results as well as false negative results; and, with a false positive result, you will be subjecting students to miss out on their education due to a faulty test. Educate. Advocate. writes that this bill redirects state funds to COVID testing plans and then COVID testing for schools that are overly overburdened by staff shortages and need to focus on the primary goal of educating students. Children's Health Defense - California Chapter states that they oppose this bill because there is no end date and "why are we creating a law for a temporary issue?" Let Them Breathe and Reopen California Schools states that now that California has decidedly entered the "endemic phase" of the COVID-19 pandemic, schools should be supported in their core mission of educating our state's children. Schools should not be required to continue to allocate resources to operate COVID-19 testing clinics and engage in

contact tracing and other mitigation measures for an endemic virus. Schools are not public health clinics and educators are not trained medical professionals or epidemiologists. A bill that shifts responsibility to operate COVID-19 testing clinics from local public health departments and medical facilities to schools and educators, imposes an undue burden on schools and their students, who will continue to suffer both academically, socially, and emotionally as a result of ongoing school-based restrictions. California Parent Power writes that routine testing of schoolchildren has not been shown to reduce the spread of COVID-19. Despite wide scale state testing programs for California schools during the 2021-2022 school year, California experienced an unprecedented surge in COVID-19 cases more than twice as large as the surge in the winter of 2020. According to the New York Times, California students missed more days of school in January 2022 than students in Arizona, Florida, and Texas. Multiple states abandoned their school test-and-trace programs during Omicron for these reasons.

- 10) *Policy comment.* This bill directs CDPH to “continue administering” testing programs in schools for students that are currently federally funded, and additionally requires CDPH to “administer testing programs for teachers, staff, and pupils” that help schools operate safely for in-person learning. The bill goes on to require schools to “create a COVID-19 testing plan” consistent with guidance from CDPH. Presumably, any testing plan created by schools would also be administered by the schools. The author should amend this bill to clarify which role CDPH and schools should play in administering testing programs.

**SUPPORT AND OPPOSITION:**

- Support:** ProtectUS (sponsor)  
 Advanced Medical Technology Association  
 California Medical Association  
 California Pan Ethnic Health Network  
 County Health Executives Association  
 GENup  
 Helix  
 Primary Health  
 Public Health Institute  
 Teens for Vaccines
- Oppose:** California Parent Power  
 California Parents United  
 Catholic Families for Freedom San Bernardino  
 Children’s Health Defense - California Chapter  
 Committee to Support Parental Engagement  
 Educate. Advocate.  
 Let Them Breathe  
 Los Angeles County Parents  
 Mom’s For Liberty, Yolo County  
 Protection of the Educational Rights of Kids  
 Reopen California Schools  
 San Joaquin Liberty Coalition  
 Stand Up Sacramento County  
 United California Patriots  
 Unity Project  
 Over 300 Individuals