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Senate Bill No. 117

CHAPTER 3

An act relating to education finance, and making an appropriation therefor, to take effect immediately, bill related to the budget.

[Approved by Governor March 17, 2020. Filed with Secretary of State March 17, 2020.]

LEGISLATIVE COUNSEL'S DIGEST

SB 117, Committee on Budget and Fiscal Review. Education finance: average daily attendance and timeline waivers: protective equipment and cleaning appropriation: COVID-19.

(1) Existing law requires the governing board of a school district to report to the Superintendent of Public Instruction during each fiscal year the average daily attendance of the school district for all full school months, and describes the period between July 1 and April 15, inclusive, as the "second period" report for the second principal apportionment. Existing law requires a county superintendent of schools to report the average daily attendance for the school and classes maintained by the county superintendent and the average daily attendance for the county school tuition fund.

For local educational agencies that comply with Executive Order N-26-20, this bill would specify that for purposes of attendance claimed for apportionment purposes pursuant to the provision described above, for the 2019-20 school year average daily attendance reported to the State Department of Education for the second period and the annual period for local educational agencies only includes all full school months from July 1, 2019, to February 29, 2020, inclusive.

(2) If a local educational agency fails to offer a specified minimum number of instructional days and minutes, existing law requires the local educational agency's apportionment of funds from the State School Fund to be reduced, as specified.

To prevent the loss of funding related to an instructional time penalty because of a school closed due to the coronavirus (COVID-19), this bill would deem the instructional days and minutes requirements described above to have been met during the period of time the school was closed due to COVID-19. The bill would require a superintendent of a school district, county superintendent of schools, or charter school administrator to certify in writing to the Superintendent that the school was closed due to COVID-19. By imposing additional duties on local educational agencies, the bill would impose a state-mandated local program.

(3) Existing law establishes the After School Education and Safety Program and describes the purpose of the program as creating incentives to establish locally driven before and after school enrichment programs that partner public schools and communities to provide academic and literacy support and safe, constructive alternatives for youth. If a program grantee is temporarily prevented from operating its entire program due to natural disaster, civil unrest, or imminent danger to pupils or staff, existing law authorizes the department to approve a grantee's request for pupil attendance credit equal to the average annual attendance that the grantee would have received had it been able to operate its entire program during that time period.

This bill would specify that a school closure due to COVID-19 is a qualifying event for the purposes described above. The bill would waive a grantee's obligation to submit a request for pupil attendance credits, and would require a grantee to be credited with the average annual attendance it would have received had it been able to operate its entire program during the time the school was closed due to COVID-19.

(4) Existing law requires a school district that has one or more pupils who are English learners, and, to the extent required by federal law, a county office of education and a charter school, to assess the English language development of each pupil in order to determine the pupil's level of proficiency. Existing law requires this assessment to be conducted upon a pupil's initial enrollment and at least annually during a 4-month period after January 1.

This bill would extend the deadline to conduct the English learner assessment by 45 days, unless otherwise determined by the Superintendent.

(5) Existing law establishes the California Assessment of Student Performance and Progress (CAASPP) as the statewide system of pupil assessments, under which various assessments are required or authorized to be administered in public schools, as specified. Existing law also requires the governing board of a school district maintaining any of grades 5, 7, and 9 to administer to each pupil in those grades a physical performance test, as specified.

This bill would extend the testing window for the annual English learner assessment described in (4), the CAASPP, and the physical performance test by the length of time a school is closed due to COVID-19, or until the end of the testing window, whichever comes first.

(6) Existing law establishes timelines affecting special education programs, including, among other timelines, requiring a proposed assessment plan to determine if a pupil is an individual with exceptional needs to be developed within 15 calendar days of referral for assessment, excluding calendar days between the pupil's regular school sessions or terms and calendar days of school vacation in excess of 5 schooldays.

This bill would require the State Department of Education to consider the days a school is closed due to COVID-19 as days between a pupil's regular school session for purposes of the timelines affecting special education programs. The bill would waive certain special education timelines if a local educational agency has closed due to COVID-19 up until the school reopens and the regular school session reconvenes. The bill would specify that is it not waiving requirements imposed by federal law.

(7) This bill would appropriate $100,000,000 from the General Fund to the Superintendent to be apportioned to certain local educational agencies for purposes of purchasing personal protective equipment, or paying for supplies and labor related to cleaning schoolsites, or both.

(8) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

(9) This bill would declare that it is to take effect immediately as a bill providing for appropriations related to the Budget Bill.

Vote Required: MAJORITY Appropriation: YES Fiscal Committee: YES Local Program: YES Immediate Effect YES Urgency: NO Tax Levy: NO Election: NO Usual Current Expenses: NO Budget Bill: NO Prop 25 Trailer Bill: YES

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

SECTION 1. (a) For local educational agencies that comply with Executive Order N-26-20, and for purposes of average daily attendance claimed for apportionment purposes pursuant to Section 41601 of the Education Code, for the 2019-20 school year average daily attendance reported to the State Department of Education for the second period and the annual period for local educational agencies shall only include all full school months from July 1, 2019, to February 29, 2020, inclusive. Any applicable contrary provisions in Sections 1244 and 41601 of the Education Code are waived.

(b) It is the intent of the Legislature that a local educational agency receiving a hold harmless apportionment pursuant to this section ensures that the local educational agency's employees and contractors are compensated and paid during the period of time a school is closed due to the coronavirus (COVID-19), as reasonably anticipated if the school has not been closed due to COVID-19.

SEC. 2. (a) To prevent the loss of funding related to an instructional time penalty because of a school closed due to the coronavirus (COVID-19), instructional days and minutes that a local educational agency would otherwise have offered pupils to meet the requirements of Sections 41420, 46207, 46208, and paragraph (1) of subdivision (a) of Section 47612.5 of the Education Code, and their implementing regulations, during the period of time the school was closed due to COVID-19 are deemed to be met.

(b) Pursuant to Executive Order N-26-20, the superintendent of a school district, county superintendent of schools, or administrator of a charter school of a school closed due to COVID-19 shall certify in writing to the Superintendent of Public Instruction that the school was closed due to COVID-19 and provide any additional information related to the school closure that is requested by the Superintendent.

SEC. 3. A charter school that does not have an independent study program, as described in Article 5.5 (commencing with Section

51745) of Chapter 5 of Part 28 of Division 4 of Title 2 of the Education Code, or a distance learning program in its currently-approved charter petition is not required to submit a request to materially revise its charter petition to its chartering authority in order to offer an independent study program or distance learning program during the period of time the school is closed due to the coronavirus (COVID-19) and complying with Executive Order N-26-20.

SEC. 4. For local educational agencies that comply with Executive Order N-26-20, and to ensure continuity of funding for the After School Education and Safety Program established by Article 22.5 (commencing with Section 8482) of Chapter 2 of Part 6 of Division 1 of Title 1 of the Education Code, a school closure due to the coronavirus (COVID-19) shall be considered a qualifying event for purposes of subdivision (d) of Section 8482.8 of the Education Code, and the obligation for a program grantee to submit a request for pupil attendance credits is waived. Program grantees shall be credited with the average annual attendance that the grantee would have received if it had been able to operate its entire program during the period of time the school was closed due to COVID-19.

SEC. 5. (a) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, on or before June 30, 2020, the Superintendent of Public Instruction shall develop informal directives and bulletins, in compliance with Executive Orders, to address contractual and reporting requirements applicable for the 2019-20 fiscal year for childcare and development programs impacted by the coronavirus (COVID-19).

(b) To ensure continuity of payments to state-subsidized childcare and development programs, the attendance and reporting requirements imposed on childcare and development programs pursuant to Sections 8221.5, 8230, 8235, 8240, 8245, 8250, 8351, 8353, and 8354 of the Education Code, and subdivision (a) of Section 18056 of Title 5 of the California Code of Regulations, are waived for programs that comply with an Executive Order, subject to guidance from the Superintendent of Public Instruction pursuant to this section. Pursuant to guidance and direction from the Superintendent, childcare and development programs shall be reimbursed using the most recent certified record or invoice available.

SEC. 6. For the 2019-20 school year, both of the following shall apply:

(a) The time required to assess pupils for English language proficiency pursuant to Section 313 of the Education Code and Sections 11511 and 11511.5 of Title 5 of the California Code of Regulations is extended by 45 days, unless otherwise determined by the Superintendent of Public Instruction.

(b) The testing window for assessments required by Sections 313 to 313.5, inclusive, 60640 to 60649, inclusive, and 60800 of the Education Code, and their implementing regulations, is extended by the length of time a school is closed due to the coronavirus (COVID-19), or until the end of the testing window, whichever comes first.

SEC. 7. The timelines established pursuant to Section 33315 of the Education Code and Chapter 5.1 (commencing with Section 4600) of Division 1 of Title 5 of the California Code of Regulations are extended by the length of time a school is closed due to the coronavirus (COVID-19).

SEC. 8. (a) If a school is closed due to the coronavirus (COVID-19), the State Department of Education, in order to determine a local educational agency's compliance with the special education timelines required by subdivision (a) of Section 56043 and subdivision (a) of Section 56321 of the Education Code, shall consider the days a school is closed due to COVID-19 as days between a pupil's regular school session, up until the time the school reopens and the regular school session reconvenes.

(b) The timelines established in subdivisions (n) and (o) of Section 56043 and Section 56504 of the Education Code, and subdivision (a) of Section 3024 of Title 5 of the California Code of Regulations shall be waived if a school is closed due to COVID-19, up until the time school reopens and the regular school session reconvenes.

(c) This section applies all local educational agencies, even if a local educational agency continues to offer educational opportunities through distance learning, or independent study, or both, during the period of time a school is closed due to COVID-19.

(d) The Legislature encourages local educational agencies to respond as expeditiously as possible to requests from parents or guardians received during the period of time a school is closed due to COVID-19.

(e) This section does not waive any federal requirements imposed under the federal Individual with Disabilities Education Act (20 U.S.C. Sec. 1400, et seq.).

SEC. 9. (a) For the 2019-20 school year, the sum of one hundred million dollars ($100,000,000) is hereby appropriated from the General Fund to the Superintendent of Public Instruction to administer the funds in the manner and for the purposes described in subdivision (b).

(b) The funds appropriated pursuant to subdivision (a) shall be apportioned by the Superintendent of Public Instruction on the basis of average daily attendance generated by local educational agencies that provide a classroom-based educational program to pupils after March 4, 2020, and before June 30, 2020. Funds apportioned to a local educational agency pursuant to this subdivision shall be used to purchase personal protective equipment, or to pay for supplies and labor related to cleaning schoolsites, or both. An eligible local educational agency shall not receive less than two hundred fifty dollars ($250) per schoolsite pursuant to this section.

(c) For purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation made by subdivision (a) shall be deemed to be "General Fund revenues appropriated for school districts," as defined in subdivision (c) of Section 41202 of the Education Code, for the 2018-19 fiscal year, and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIIIB," as defined in subdivision (e) of Section 41202 of the Education Code, for the 2018-19 fiscal year.

SEC. 10. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

SEC. 11. This act is a bill providing for appropriations related to the Budget Bill within the meaning of subdivision (e) of Section 12 of Article IV of the California Constitution, has been identified as related to the budget in the Budget Bill, and shall take effect immediately.

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