

Date of Hearing: July 11, 2023

ASSEMBLY COMMITTEE ON HUMAN SERVICES

Corey A. Jackson, Chair

SB 499 (Menjivar) – As Amended May 18, 2023

SENATE VOTE: 32-4

SUBJECT: School facilities: School Extreme Heat Action Plan Act of 2023

SUMMARY: Requires all schoolsites and child care facilities to develop and implement an extreme heat action plan to plant shade trees, install a school garden, and plant a coniferous tree barrier; requires the California Department of Education (CDE), in consultation with the California Department of Social Services (CDSS), to develop a template for an extreme heat action plan, make available a model program guidebook; and, requires CDSS to identify a liaison for child care facilities. Specifically, **this bill:**

- 1) Establishes the “School Extreme Heat Action Plan Act of 2023”.
- 2) Establishes it is the state’s policy that outdoor surfaces with high specific heat should be the preferred method of resurfacing outdoor surfaces at schoolsites and that the state, in order to reduce children’s exposure to extreme heat, should take the necessary steps to facilitate the adoption of effective high specific heat surfaces at schoolsites.
- 3) Requires, the next time the outdoor surfaces of a schoolsite are resurfaced or replaced, the schoolsite to replace low specific heat surfaces, such as cement, asphalt, brick, pebbles, sand, aggregates, rubber, and synthetic turf, with high specific heat surfaces, such as cool pavement technologies, natural grass, shrubs, trees, wood chips, or other natural systems that mitigate heat and pollution. Requires the school designee to make every effort to meet the specified requirements in the least costly manner, to the extent permissible under state law.
- 4) Requires all schoolsite decision-making personnel involved in the replacement or resurfacing of outdoor surfaces at a schoolsite to be trained in extreme heat mitigation measures.
- 5) Requires, on or before January 1, 2025, all schoolsites to develop an extreme heat action plan addressing all of the following:
 - a) The installation or planting of shade trees or mini-forests, positioned on schoolsites where pupils can access them when in attendance. Requires planting locations for shade trees to be selected to improve the thermal comfort of outdoor surfaces, including:
 - i) Directly protecting pupils from the effects of extreme heat; and,
 - ii) Casting shade on adjacent classroom windows in schoolsite buildings to help reduce temperatures indoors and save cooling costs during the warmest parts of the year.
 - b) The installation or planting of school garden infrastructure and plantings, such as raised garden beds, potting soil, hoses, and installation of native, low-water, and food-producing plants that may help block the wind or provide shade; and,

- c) The installation or planting of a green barrier, such as a hedgerow of native plants, fruit trees, or conifers, between the schoolsite and any adjacent high-polluting streets or commercial projects.
- 6) Requires, on or before January 1, 2027, all schoolsites to begin implementation of their extreme heat action plan. Requires the implementation of the extreme heat action plan to be contingent upon an appropriation for this purpose in the annual Budget Act or another statute.
- 7) Requires CDE, in consultation with CDSS, as appropriate, to do both of the following:
- a) Develop a template for an extreme heat action plan to be used by schoolsites; and,
 - b) Make a model program guidebook available to schoolsites and establish a process for systematically updating the guidebook and supporting documentation.
- 8) Requires CDSS to identify a liaison for child daycare facilities for purposes of this act.
- 9) Defines the following:
- a) “Child daycare facility” to mean a facility, owned or operated by a local educational agency, that provides nonmedical care to children under 18 years of age in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual on less than a 24-hour basis. The term “child daycare facilities” includes daycare centers, employer-sponsored childcare centers, infant centers, preschools, extended daycare facilities, and schoolage childcare centers.
 - b) “Local educational agency” or “LEA” to mean a school district or charter school.
 - c) “Outdoor surfaces” to mean any ground surface within the boundaries of the school property.
 - d) “School designee” to mean a schoolsite or LEA employee identified by the schoolsite or LEA to carry out and ensure that the specified requirements are met.
 - e) “Schoolsite” to mean any facility used as a child daycare facility or by an LEA for purposes of providing kindergarten or any of grades 1 to 12, inclusive, including buildings, structures, playgrounds, athletic fields, areas for vehicles, or any other area of property visited or used by pupils. “Schoolsite” does not include any institution of higher education facility attended by pupils or any private school offering kindergarten or any of grades 1 to 12, inclusive.
 - f) “Specific heat” to mean the heat necessary to raise the temperature of a substance by 1 degree Celsius, taking into account the mass of the substance and the amount of temperature change in Celsius.

EXISTING LAW:

- 1) Requires child care centers' outdoor activity space to be situated to provide a shaded rest area for children. (Title 22, California Code of Regulations [CCR] 101238.2)
- 2) Defines "child day care facility" to mean a facility that provides nonmedical care to children under 18 years of age in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual on less than a 24-hour basis. Child daycare facilities include day care centers, employer-sponsored child care centers, and family daycare homes. (Health and Safety Code Section [HSC] 1596.750)
- 3) Defines "family child care home" to mean a facility that regularly provides care, protection, and supervision for 14 or fewer children, in the provider's own home, for periods of less than 24 hours per day, while the parents or guardians are away, and is either a large family daycare home or a small family daycare home. (HSC 1596.78(a))
- 4) Defines "day care center" to mean a child day care facility other than a family day care home, and includes infant centers, preschools, extended day care facilities, and schoolage child care centers and including licensed child care centers, as provided. (HSC 1596.76)
- 5) Requires each licensee to have and keep on file a current written, definitive plan of operation and provide a copy of the plan to CDSS with the license application. Further requires the plan and related materials to contain a sketch of the building(s) to be occupied, including a floor plan that describes the capacities of the buildings and the uses intended, the room dimensions, and the rooms to be used for nonambulatory children; and, a sketch of the grounds that shows buildings, driveways, fences, storage areas, pools, gardens, recreation areas and other space used by the children, as provided. (Title 22, CCR 101173)
- 6) States legislative intent that all families have access to childcare and development services, through resource and referral where appropriate, and regardless of demographic background or special needs, and that families are provided the opportunity to attain financial stability through employment, while maximizing growth and development of their children and enhancing their parenting skills through participation in childcare and development programs. (Welfare and Institutions Code Section [WIC] 10207.5)
- 7) Defines "childcare and development services" to mean services designed to meet a wide variety of children's and families' needs while parents and guardians are working, in training, seeking employment, incapacitated, or in need of respite and states that these services may include direct care supervision, instructional activities, resource and referral programs, and alternative payment arrangements. (WIC 10213.5(j))
- 8) Designates CDSS as the single state agency responsible for the promotion, development, and provision of care of children in the absence of their parents during the workday or while engaged in other activities which require assistance of a third party or parties, and, further, requires CDSS to administer the federal Child Care Development Fund as defined in current federal law. (WIC 10211, 45 Code of Federal Regulations 98.2)

FISCAL EFFECT: According to the Senate Appropriations Committee on May 18, 2023:

- “While the bill’s requirement for schools to implement an extreme heat action plan would be contingent upon an appropriation, it could lead to one-time Proposition 98 General Fund cost pressure in the low to mid hundreds of millions of dollars. This estimate assumes a minimum cost of \$10,000 for each schoolsite in the state and is based on the amount that is currently provided for the existing Green Schoolyards grant program. Further, by requiring all schoolsites to replace low specific heat surfaces and develop extreme heat action plans, this bill could result in a reimbursable state mandate. The extent of these costs is unknown but could be significant, and would create additional cost pressure on the K-12 Mandate Block Grant.
- CDSS estimates ongoing administrative costs in the hundreds of thousands of dollars to comply with the bill’s requirements, including the development of guidance, future updates, and providing technical assistance.”

COMMENTS: This Committee has jurisdiction over childcare and CDSS. As such, this analysis is narrowly focused on these issues.

Background: *Childcare in California.* California’s childcare system has undergone a number of changes in recent years. In 2019, Governor Newsom signed AB 378 (Limon), Chapter 385, Statutes of 2019, which gave approximately 40,000 childcare providers the right to join a union and collectively bargain with the State of California. In 2021, AB 131 (Committee on Budget), Chapter 116, Statutes of 2021, transferred administration of certain childcare programs from CDE to CDSS, including, among others: General Child Care and Development Program (CCTR); Migrant Child Care and Development Program; Alternative Payment Program (APP); California Work Opportunity and Responsibility to Kids stages 2 and 3; Resource and Referral agencies; Local Child Care and Development Planning Councils; and, Head Start and Early Head Start. However, California State Preschool Program (CSPP) remains under the purview of CDE.

Community-based programs are often located in commercial-type buildings and many are private centers that rely on family tuition and fees as well as public funding. In a 2023 report by First 5, “Early care education in community-based settings can positively impact child development outcomes. Publicly funded high-quality preschool programs have proven to prepare children academically for school with lasting benefits into adulthood. In addition to academic preparation, many community-based settings facilitate parental access to social services and support parent engagement.” The following are considered community-based programs: APPs, CSPPs, and CCTRs.

Home-based settings are found in neighbors’, families’, and loved ones’ homes or a babysitter. This type of setting benefits the need for flexible hours, language and cultural needs, and children with a disability. Home-based settings include APPs, CSPPs and CCTRs that participate in a Family Child Care Home Education Network (FCCHE), Family Childcare (FCCs), a Family, Friend, or Neighbor (FFN), and nannies/babysitters. The most common home-based early care education program is an FCC.

School-based programs are set in an LEA. A school site can typically use Proposition 98 funding. These programs follow Title 5 regulations and require teachers to be credentialed. School-based programs also typically have a focus on school readiness. When a family has an

older sibling, school-based programs allow for a “one-stop shop” for family engagement. The following are the different types of school-based programs: CSPPs, CCTR, Head Start, and Transitional Kindergarten (TK).

This bill would only apply to childcare sites owned and operated by an LEA such as CSPPs or before and after school daycares. This bill would not apply to community or home-based programs.

California’s Extreme Heat Action Plan. Existing law requires the California Natural Resources Agency (CNRA) to update the state’s climate adaptation strategy every three years. California’s Extreme Heat Action Plan was released by CNRA in April 2022. The need for an interagency approach to extreme heat was identified. The plan provides a strategic set of state actions to adapt and build resilience to extreme heat, including supporting climate-smart planning in heat-vulnerable schools, promoting climate-appropriate shade tree cover and schools, and promoting increased use of green barriers between agricultural fields and schools.

Author’s Statement: According to the author, “Extreme heat events are expected to increase in frequency, severity, and duration. Extreme heat and climate change disproportionately impacts Black, Indigenous, and People of Color and low-income communities. One example of this has been seen in my district as on a 93- degree day, it was recorded that the school asphalt reached 145 degrees. Research supports that communities with the fewest resources usually have the least access to nature within and surrounding their school grounds, coupled with the highest heat, pollution, and environmental toxicology levels.

“Current measures to combat the impacts on our children are not stringent enough or moving at a pace comparable to the effects of climate change. Every year that passes without implementing robust mitigation strategies, our young people on school sites endure increasing discomfort, physical harm, and mental and emotional exasperation. These high heat emitting surfaces affect their academic performance, sense of well-being, and future. [This bill] will implement clear, actionable directives to protect our students and support their prosperity.”

Need for this bill: This bill seeks to help protect children from the impacts of extreme heat. Extreme heat can negatively impact a person’s cardiovascular, kidney, and respiratory health, It is not uncommon for extreme heat waves to cause health problems and those without shelter or protection from heat are left vulnerable.

Equity Implications: According to the United States Environmental Protection Agency, children are more susceptible to extreme heat. This is because:

“Physical characteristics – Children have a smaller body mass to surface area ratio than adults, making them more vulnerable to heat-related morbidity and mortality. Children are more likely to become dehydrated than adults because they can lose more fluid quickly.

“Behaviors – Children play outside more than adults, and they may be at greater risk of heat stroke and exhaustion because they may lack the judgment to limit exertion during hot weather and to rehydrate themselves after long periods of time in the heat. There are also regular reports of infants dying when left in unattended vehicles, which suggests a low awareness of the dangers of heat events.”

A study conducted by Harvard Kennedy School Associate Professor Joshua Goodman entitled *Heat and Learning* found that higher temperatures directly correlated with lower test scores. The study concluded, “Student fixed effects models using 10 million PSAT-takers show that hotter school days in the year prior to the test reduce learning, with extreme heat being particularly damaging and larger effects for low income and minority students.” Implementing a heat plan could help alleviate inequities in student outcome and child development.

Policy Considerations: This bill requires CDE to consult with CDSS to develop a template for an extreme heat action plan to be used by schoolsites, and make a model program guidebook available to schoolsites and establish a process for systematically updating the guidebook and supporting documentation. This bill also requires CDSS to identify a liaison for child daycare facilities. However, this bill only applies to child daycare facilities that are operated by LEAs which falls under CDE, not CDSS. It not clear if CDSS is the ideal department to consult with, or if CDSS should identify a liaison for childcare facilities.

Double referral: This bill will be referred to the Assembly Education Committee should it pass out of this committee.

RELATED AND PRIOR LEGISLATION:

AB 527 (Calderon) of the current legislative session, requires Cal Fire to develop a competitive grant process to support school greening, as defined, by providing grants to eligible LEAs (excluding child care facilities), nonprofit organizations, cities, counties, and districts. *AB 527 is set to be heard by the Senate Appropriations Committee on July 10, 2023.*

SB 394 (Gonzalez) of the current session, requires the State Energy Resources Conservation and Development Commission, upon an appropriation, to facilitate an interagency process and stakeholder engagement to develop a Master Plan for Healthy, Sustainable, and Climate-Resilient Schools in consultation with CDE, the Division of the State Architect, Office of Public School Construction, and Natural Resources Agency. *SB 394 is pending in the Assembly Appropriations Committee.*

REGISTERED SUPPORT / OPPOSITION:

Support

A Voice for Choice Advocacy (Sponsor)
 Amigos de los Rios
 Angelenos for Trees
 Arts District Community Council LA
 Bay Area Urban Forest Ecosystem Council
 Beyond Pesticides
 California Environmental Voters (formerly CLCV)
 California Health Coalition Advocacy
 California Parents Union
 California Releaf
 California Urban Forests Council
 Canopy
 Central Coast Urban Forests Council

Clean & Green Pomona
Climate Action Now
Climate Reality Project, Los Angeles Chapter
Climate Reality Project, San Fernando Valley
Community Forest Advisory Committee
Early Edge California
Educate. Advocate.
Glendale Environmental Coalition
Growing Together
Hills for Everyone
Industrial District Green
Inland Urban Forest Council
International Society of Arboriculture Western Chapter
Koreatown Youth and Community Center INC.
Los Angeles Beautification Team
Los Angeles Conservation Corps
Los Angeles Neighborhood Land Trust
Lumber Cycle
Madera Coalition for Community Justice
Non-Toxic Schools
North East Trees
Sacramento Tree Foundation
Sacramento Urban Forest Council
Safe Healthy Playing Fields, INC.
San Diego Regional Urban Forests Council
San Joaquin Urban Forest Council
Solano County Democratic Central Committee
Stand Up California
Street Tree Seminar
Sustainable Claremont
The Climate Center
Tree Fresno
TreePeople
Urban Ecos
Watsonville Wetlands Watch
Your Children's Trees

Opposition

County School Facilities Consortium

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