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## SENATE COMMITTEE ON EDUCATION

Senator Connie Leyva, Chair  
2019 - 2020 Regular

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**Bill No:** SB 328 **Hearing Date:** April 24, 2019  
**Author:** Portantino  
**Version:** March 25, 2019  
**Urgency:** No **Fiscal:** Yes  
**Consultant:** Brandon Darnell

**Subject:** Pupil attendance: school start time.

### SUMMARY

This bill prohibits middle schools and high schools, including those operated as charter schools, from beginning their schoolday before 8:30 a.m.

### BACKGROUND

Existing law:

- 1) Requires the governing board of each school district to fix the length of the schoolday for the several grades and classes of the schools maintained by the district. (Education Code § 46100)
- 2) Specifies that the minimum schoolday for purposes of average daily attendance for grades 4-12 is typically 240 minutes, except as otherwise provided for specialized programs. (EC § 46113, §46141)
- 3) Requires, generally, school districts and county offices of education to offer 54,000 instructional minutes annually for grades 4-8 and to offer 64,800 instructional minutes annually for grades 9-12, except as otherwise provided. (EC § 46200 et seq.)
- 4) Authorizes the governing board of a school district that maintains a junior high school or high school to schedule classes in these schools so that each pupil attends classes for at least 1,200 minutes during any five-schoolday period or 2,400 minutes during any 10-schoolday period and specifies that under that kind of schedule, any pupil may be authorized to attend school for less than the total number of days in which the school is in session as long as the pupil attends the required number of minutes per five-schoolday period or per 10-schoolday period to accommodate career technical education and regional occupational center and program courses and block or other alternative school class schedules. (EC § 46160)
- 5) Requires the governing board of a school district, before implementing an alternative schedule in any school of the district, to consult in good faith in an effort to reach agreement with the certificated and classified employees of the school, with the parents of pupils who would be affected by the change, and with the community at large, and requires the consultation to include at least one

public hearing for which the board has given adequate notice to the employees and to the parents of pupils affected. (EC § 46162)

- 6) Establishes collective bargaining rights for public school teachers, which gives teachers the right to elect an exclusive representative to bargain wages and working conditions with local school boards. Mandatory issues that fall under the “scope of representation” include wages, hours of employment, and other terms and conditions of employment such as health and welfare benefits, leave, transfer, and reassignment policies, safety conditions, class size, procedures to be used for the evaluation of employees, organizational security, and grievance procedures. (Government Code § 3540, et seq., § 3543.2(a)(1))

## ANALYSIS

This bill prohibits middle schools and high schools, including those operated as charter schools, from beginning their schoolday before 8:30 a.m. Specifically, this bill:

- 1) Prohibits middle schools and high schools, including middle schools and high schools operated as charter schools, from beginning their schoolday before 8:30 a.m.
- 2) Specifies that “schoolday” does not include a “zero period,” or an extra period offered before the start of the regular schoolday.
- 3) Requires the 8:30 a.m. or later start time to be implemented by middle schools and high schools by no later than July 1, 2022, or the date on which a school district’s collective bargaining agreement that is operative on July 1, 2020, expires, whichever is later.
- 4) Exempts rural school districts from its provisions.
- 5) Encourages the California Department of Education to post on its Internet Web site available research on the impact of sleep deprivation on adolescents and the benefits of a later school start time and examples of successful strategies for managing the change to a later school start time, and to advise school districts of this posting.
- 6) States the Legislature encourages school districts and community organizations to inform their communities, including parents, teenagers, educators, athletic coaches, and other stakeholders, about the health, safety, and academic impact of sleep deprivation on middle and high school pupils and the benefits of a later school start time, and to discuss local strategies to successfully implement the later school start time.

## STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, “The leaders of local school districts are or should be well-aware that requiring students – especially adolescents – to wake, travel to school, and learn during early morning hours is contrary to the developmental needs and biological sleep cycles of growing minds and bodies.

Yet, only a handful of districts have been proactive in doing what is right for students by making the change back to traditional school hours, which prior to the 1980s had most school opening between 8:30 and 9 a.m. Today, most middle and high schools begin at or way before 8 a.m. According to the most recent data available, the average start time among California-based public schools is 8:07 a.m.”

2) **Existing start times.** According to the Centers for Disease Control and Prevention, the average start time for middle and high schools in California was 8:07 a.m. in 2011-12. The distribution of start times was as follows:

- Before 7:30 a.m., 3.5 percent of schools
- 7:30 to 7:59 a.m., 27.7 percent of schools
- 8:00 to 8:29 a.m., 47.6 percent of schools
- 8:30 a.m. or later, 21.2 percent of schools

These data reflect the distribution of start times among schools; the distribution among students was not reported. In addition, these data were collected through a survey by the U. S. Department of Education, which asked the question: "At what time do most of the students in this school begin the school day?" The survey did not distinguish between the regular school day and zero periods, as this bill does. Therefore, the reported start times are likely to include zero periods from schools in which most students attend a zero period class, so they are not necessarily an accurate reflection of the start times for the regular school day. Nevertheless, these data suggest that about one-fifth of California's schools are already in compliance with this bill, about one-half would need to delay their start times by 30 minutes or less, about one-fourth would need to increase their start times by 31 to 60 minutes, and fewer than 5 percent would need to increase their start times by at least 60 minutes to be in compliance.

2) **Science of adolescent sleep.** According to the author, “The American Academy of Pediatrics, the American Medical Association (AMA) and the U.S. Centers for Disease Control and Prevention (CDC) are among the organizations and experts that have reported on the harm being done to the physical and emotional health of adolescents due to the sleep deprivation caused by such developmentally-misaligned school hours. Similarly, researchers report that academic success and school attendance is greatly improved by later starting school days. The recommendation made the American Academy of Pediatrics – and supported by the AMA, CDC, and others – states that no middle or high school should begin before 8:30 a.m. Other organizations add that no elementary school should begin before 8 a.m.”

A specific example of a research study supporting these contentions is Examining the Impact of Later High School Start Times on the Health and Academic Performance of High School Students: A Multi-Site Study, conducted by the Center for Applied Research and Educational Improvement (CAREI) in the College of Education and Human Development at the University of Minnesota. In its final report, CAREI’s major findings stated that “The results from this three-year research study, conducted with over 9,000 students in eight public high school in three states, reveal that high schools that start at 8:30 AM or later allow

for more than 60 percent of students to obtain at least eight hours of sleep per school night. Teens getting less than eight hours of sleep reported significantly higher depression symptoms, greater use of caffeine, and are at a greater risk for making choices for substance abuse. Academic performance outcomes, including grades earned in core subject areas of math, English, science, and social studies, plus performance on state and national achievement tests, attendance rates, and reduced tardiness show significantly positive improvement with the later start times of 8:30 AM or later. Finally, the number of car crashes for teen drivers from 16 to 18 years of age was significantly reduced by 70 percent when a school shifted start times from 7:35 AM to 8:55 AM.”

By moving the start time back to 8:30 a.m. or later for middle schools and high schools, this bill could improve attendance rates and reduce tardiness. A study involving 29 high schools and 30,000 students over seven states, *Delayed High School Start Times later than 8:30 a.m. and Impact on Graduation Rates and Attendance Rates*, concluded that “Attendance rates and graduation rates significantly improved in schools with delayed start times of 8:30 a.m. or later. School officials need to take special notice that this investigation also raised questions about whether later start times are a mechanism for closing the achievement gap due to improved graduation rates.”

- 3) ***Local control and local circumstances.*** In recent years, the state has transitioned to the Local Control Funding Formula (LCFF) and the utilization of Local Control and Accountability Plans to empower local school boards with the ability to tailor important educational decisions to the unique circumstances of their schools and communities. As stated above, under existing law, school boards can currently set their start time at 8:30 a.m. or even later. *The committee may wish to consider* if mandating a statewide prohibition against starting middle school or high school before 8:30 a.m. is consistent with the intent of the LCFF.
- 4) ***Home-to-school transportation (HTST) funding.*** As noted by the Legislative Analyst’s Office report: *Review of School Transportation in California*, “Because HTST allocations were locked in during the early 1980s, they fail to reflect districts’ current characteristics or level of transportation services. As a result, funding allocations now vary across similar districts for no apparent reason. Available data indicate that one-quarter of districts receive an HTST allocation sufficient to cover less than 30 percent of their costs, whereas another one-quarter of districts receive an HTST allocation that covers more than 60 percent of their costs... In addition to the disparities in funding among districts receiving HTST allocations, some local education agencies are excluded entirely from receiving any allocation. Most notably, all of the state’s approximately 1,100 charter schools (serving more than 450,000 students) do not receive HTST funding because charter schools were not authorized until the early 1990s. In addition, at least 20 school districts (serving more than 26,000 students) reported some transportation expenditures in 2011–12 but received no HTST funding. (These districts likely did not participate in the HTST program during the early 1980s, and therefore have been excluded ever since.)”

“Additionally, in contrast to some other states, California does not require districts to transport students who live far from school. Instead, state law allows the district governing board to provide pupil transportation ‘whenever in the judgment of the board the transportation is advisable and good reasons exist therefor.’ Generally, the state grants districts discretion over which students they will transport and how many school bus routes they will operate. The only students required to be transported are students with disabilities, students attending federally sanctioned schools, and homeless students.

According to the Assembly Appropriations Committee analysis for SB 328 (Portantino, 2017-18), which analyzed a very similar version to this bill, the fiscal impact of later school start times includes “significant local costs for school districts to provide home-to-school transportation services and for local collective bargaining activities. These activities would result from the bill’s prohibition and not a requirement, which is not reimbursable. Costs would have to be absorbed within existing school resources. Some schools districts stagger the start time of their K-12 schools in order to utilize the same school buses for student pick-up and drop-off. School districts that continue to provide home-to-school transportation services may need to purchase additional buses. The cost for just 150 buses statewide would be approximately \$10 million. Furthermore, under existing law, working hours are specifically included within the scope of representation for purposes of teachers’ collective bargaining rights. To the extent that teacher preparation periods or professional development activities are impacted by this measure and there are related provisions included in a local contract, there could be additional workload on school districts to negotiate and reach new agreements which could result in additional local school district costs.”

According to the California Association of School Business Officials, this bill “would make it difficult for school districts that choose to provide home-to-school transportation to maintain their current capacities without increased costs. For example, a school district who buses 10,000 students in 72 schools, would need an additional 142 buses, costing the district \$8.9 million.”

An economic analysis conducted by the RAND Corporation, “Later School Start Times in the U.S.,” states that “it is estimated that the largest cost of later school start time in the U.S. would incur from changes in school bus schedules from the current three-tier to a one-or two-tier school bus systems. Specifically, in order to reduce the total number of school buses, many school districts stack start times according to the three school levels, elementary, middle and high school, generally with middle and high schools starting first. Often high-school starts first because of safety concerns arising from having younger children walking to school or waiting for buses early in the morning when it is potentially still dark outside. That is, schools that currently provide transportation for students would likely have to reduce the bus tiers and invest and operate more buses amid a delay in school start time. Previously, these costs have been estimated to be approximately \$150 per student per year, or about \$1.950 over a student’s school career.”

In light of these concerns, **staff recommends that the bill amended** to apply only to high schools.

5) **Other potential unintended impacts.** This bill requires many school districts to push back their current start times to 8:30 a.m. or later, which for some schools would be almost an hour later and could have unintended impacts, including, but not limited to, impacts on each of the following:

a) **Equity concerns for working and single parent families.** It is nearly impossible for school boards to set their school start times at a time that is convenient for all parents and guardians because in any given community there is a variance of work schedules for parents and guardians. However, *the committee may wish to consider* whether pushing back school start times will disproportionately impact working families and single parent families who may not be able to take their children to school later or easily arrange for child care? Is this an issue that will exist regardless of school start time?

Moreover, for some families, older students may be called upon to help care for younger children who will still be getting out earlier in the day. For other students, they might have afterschool jobs to help support their family or themselves. *The committee may wish to consider* the potential impact of later start times on these students and families, as well.

b) **Extracurricular activities, including athletics.** Pushing back the time school starts necessitates pushing back the time school ends. Could shifting time in the afternoon that is currently free for extracurricular activities to in-class school time negatively impact extracurricular activities, including athletics? For example, in the Winter months, would schools that lack lighting on their fields be forced to install potentially expensive field lighting in order to ensure that students can practice their sport?

Conversely, by taking a statewide approach could requiring every school to start at 8:30 a.m. or later actually help athletics schedules?

c) **Before and afterschool programs.** Existing state and federal law establish various after school academic enrichment programs including the 21st Century High School After School Safety and Enrichment for Teens Program, the After School Education and Safety Program, and the federally funded 21st Century Community Learning Centers Program. While some of these programs may include a before school component, pushing school start time back to 8:30 a.m. does not seem likely to significantly decrease the need for afterschool programs, but it does seem likely to increase capacity demands on before school programs. Are there sufficient resources to meet those demands? If schools lack the necessary resources to expand before school programs, and parents – out of necessity – continue to drop their children off at school at the traditionally earlier times, will those students be appropriately supervised?

According to the Assembly Appropriations Committee analysis for SB 328 (Portantino, 2017-18), which analyzed a very similar version to this bill, the fiscal impact of later school start times includes “unknown Proposition

98/GF cost pressures, likely in the low millions, for schools to provide additional staff time for supervision before school, assuming schools need to open their doors by a specific time to accommodate pupils that need to be dropped off.”

Conversely, are there positive benefits to keeping students who are not engaged in after school extracurricular activities in school longer?

- 6) **Charter schools and private schools.** The Charter Schools exempts charter schools from the vast majority of laws that govern school districts, including significant topics such as curriculum requirements and teacher tenure and dismissal procedures. Charter schools were granted this exemption in order to be laboratories of innovation, which could then be infused into traditional public schools. But charter schools are not exempt from all laws that govern school districts, and in recent years the Legislature has included charter schools in many pieces of legislation.

This bill applies to charter schools but it does not apply to private schools. Unlike most traditional public schools, in which parents typically enroll their children in their assigned neighborhood school, parents voluntarily enroll their children in charter schools and private schools. *The committee may wish to consider* whether it would be more appropriate to allow charter schools, if they so choose, to be a public alternative with start times before 8:30 a.m. After all, private schools, which would be free to continue to start before 8:30 a.m., often are only available to those families that can afford the tuition.

- 7) **What is rural?** This bill exempts rural school districts from its requirements, but does not provide a definition for what qualifies as a rural school district, nor does existing law provide a definition. If the bill moves forward, the author may wish to clarify the meaning of rural school districts for purposes of the exemption.
- 8) **Related and previous legislation.** AB 760 (Cooper, 2019) requires, commencing with the 2019–20 fiscal year, the amount of funds received for specified pupil transportation programs to be adjusted by a specified cost-of-living calculation, and requires the Superintendent of Public Instruction to compute an add-on to the total sum of a county superintendent of schools’, school district’s, or charter school’s base, supplemental, and concentration grants in accordance with a certain formula to incrementally equalize pupil transportation program funding to 90 percent of the approved cost expenditures of the county superintendent of schools’, school district’s, and charter school’s pupil transportation programs.

SB 328 (Portantino, 2017-18) was identical to this bill, but was vetoed by Governor Brown, who stated:

***“This is a one-size-fits-all approach that is opposed by teachers and school boards. Several schools have already moved to later start times. Others prefer beginning the school day earlier. These are the types of decisions best handled in the local community.”***

**SUPPORT**

American Academy of Pediatrics, California  
American Academy of Sleep Medicine  
California Medical Association  
California Police Chiefs Association  
California Sleep Society  
California State PTA  
Center for Sleep Science at the University of California, Berkeley  
Educate.Advocate.  
First District PTA  
Fourth District PTA  
Fresno Unified School District  
f.lux software LLC  
High School Parent Engagement Group  
Kaiser Permanente  
Mental Health Alliance of California  
Ninth District PTA  
Pediatric Sleep Medicine Program at Rady Children's Hospital and UCSD  
South Pasadena Unified School District  
Start School Later, Inc.  
Several individuals

**OPPOSITION**

Alameda-Contra Costa Transit District (AC Transit)  
California Association of School Business Officials  
California Association of School Transportation Officials  
California Association of Suburban School Districts  
California School Boards Association  
California Teachers Association  
Charter Schools Development Center  
Clovis Unified School District  
Compton Unified School District  
Kern County Superintendent of Schools  
Oakland Unified School District  
Office of the Riverside County Superintendent of Schools  
Orange County Department of Education  
Rim of the World Unified School District  
San Bernardino County District Advocated for Better Schools (SANDABS)  
Torrence Unified School District

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